IN SEARCH FOR JUSTICE

Legal and judicial inequality in eighteenth-century Suriname

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Acknowledgements

This thesis started in January 2015 when Karwan Fatah-Black reached out to me with the request to conduct a preliminary investigation into the archives of the Surinamese Governing Council and Civil Court. As his research assistant, I started to index a few sample years of the judicial records, first in his research project 'Paths through slavery: urban agency and empowerment in Suriname, 1700-1863' and currently in his project 'Resilient diversity: The governance of racial and religious plurality in the Dutch empire, 1600-1800'.[1] Because there were no seminal works available that described the applicable civil and criminal procedure of early modern Suriname, soon, it appeared to be a more challenging task to comprehend the different sorts of judicial documents than we had initially expected. In an effort to get more feeling with the judicial documents, I started to research other archival sections of the Governing Council as well. As it turned out, more (and even new) material came to the fore. As a result, during our next meetings, we ended with more questions than when we began our search, both about how criminal proceedings functioned in the Governing Council, as about the manner on which its archives had been categorised over the years.

During my encounters with the archives, I became fascinated by the richness of the stories of the daily lives of the 'commoners' that inhabited the colony of Suriname in the early modern period. I was especially attracted by the unique insights that the judicial documents provided with regard to functioning of Surinamese society and the varying degrees of access that different population groups had to the judicial courts. All the more, I was astonished by the fact that these civil and criminal records had been used so little in historical research. As a result, I continued to further scrutinise the judicial documents of the Governing Council on my own behalf, of which this thesis is the final product. I want to thank, first of all, Karwan for the opportunity to work in his projects and for the fact that I could make use of the preliminary findings that I had collected for him as a research assistant. I am also grateful for his supervision of this thesis and his invaluable feedback, support and interest throughout the entire process.

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Introduction

> *'[…] the strictest discipline is absolutely necessary, but I ask why in the name of humanity should [slaves] undergo the most cruel racks and tortures entirely depending upon the despotic caprice of their proprietors and overseers […], and why should theyr bitter complaints be never heard by the magistrate that has it in its power to redress them? Because* his worship *himself is a planter, and scorns to be against his own interest […] but also and chiefly for that of one of the finest colony's in the West Indies being such unfair proceedings put in the utmost danger and difficulty'.*
>
> – John Gabriel Stedman, 1790.[2]

John Gabriel Stedman's depiction suggests that justice in eighteenth-century Suriname was extremely cruel, arbitrary and disparate, and above all outrageously biased. His travelogue is full of the most gruesome examples of executions, particularly of slaves. Consequently, the book caused quite a stir when it was published in the late eighteenth century, both among contemporaries and historians. Stedman's itinerary was especially ground-breaking because his story was supported by images – based on his own drawings – that depicted the cruelty of slavery. The iconic engravings for the book's many editions were made by famous artists such as William Blake for the English and Francesco Bartolozzi for the Italian editions. The images depicted corporal punishments for slaves down to their monstrous details. Several of those images frequently reappear in scholarly studies about Atlantic slavery to this very day.

Stedman's criticism was not one of its kind. Several other contemporary chroniclers such as Herlein, Voltaire and Hartsinck have similarly denounced Suriname's arbitrariness in justice and its subsequent severe penal practices. Therefore, it sounds plausible to blindly take his findings as truth. Because colonial Suriname was primarily a slave society, it comes to no surprise that those contemporary voices fully emphasised on slaves as the single population group that had been genuinely affected by the unjust colonial judicial system. In general, contemporaries argued that enslaved suspects were not granted any forms of fair trial, while simultaneously, they were exposed to the most repugnant arbitrary punishments. Indeed, examples abound. Severe mutilations such as branding, cutting off tongues, noses and ears and amputations of limbs. Notorious forms of corporal punishments such as the Spanish buck and hexagonal Spanish buck. And sadist capital punishments such as breaking on the wheel and the

[2] There are various editions of Stedman's itinerary. I used the version of Price & Price because of their extensive introductory remarks. See: J.G. Stedman, 'Narrative of a five years expedition against the revolted negroes of Suriname' in: R. Price and S. Price (eds.) *Narrative of a five years expedition against the revolted negroes of Suriname. Transcribed for the first time from the original 1790 manuscript* (2nd edition; New York [1988] 2010). For quote, see page 68 (emphasis is Stedman's).

hanging of slaves to the gallows by perforating hooks through their ribs while still being alive. In addition, contemporaries also argued that enslaved victims hardly had access to forums of justice and even when they did, they were simply unable to substantiate their accusations because their testimonies would be considered as null and void when opposing a white defendant. The reason why slaves were judicially treated so poorly was ascribed to the fact that legal protection was lacking entirely.[3]

In the nineteenth century, numerous new voices followed up on the chronicles of Herlein, Voltaire, Hartsinck and Stedman, who continued to report about the unjust judicial system in early modern Suriname. Central in their reports stood the domestic jurisdiction of planters and the almost unlimited scope of penalties that planters could deploy under that mandate.[4] As a

Left: 'The execution of breaking on the rack'. Right: 'A negro hung alive by the ribs to a gallows'. Both drawings are originally engravings made by William Blake in respectively 1793 and 1796. Source: J.G. Stedman, 'Narrative of a five years expedition against the revolted negroes of Suriname' in: R. Price and S. Price (eds.) *Narrative of a five years expedition against the revolted negroes of Suriname. Transcribed for the first time from the original 1790 manuscript* (2nd edition; New York [1988] 2010) 105 and 548.

[3] J.D. Herlein, *Beschryvinge van de volk-plantinge Zuriname* (Leeuwarden 1718) 84-116; Voltaire, *Candide, or optimism* (translation; London [1759] 2005) 51-55; J.J. Hartsinck, *Beschryving van Guiana, of de wilde kust in Zuid-America* (Amsterdam 1770) in particular 916-918; see also: Stedman, *Narrative of a five years expedition*, passim, inter alia 39, 68-69, 95-96, 102-103, 246, 264-268, 280, 340-341, 472, 408-482, 488, 495, 531-532, 544-550, 554-557 and 571.

[4] M.D. Teenstra, *De negerslaven in de kolonie Suriname en de uitbreiding van het Christendom onder de heidensche bevolking* (Dordrecht 1842) in particular 132-176; W.R. van Hoëvell, *Slaven en vrijen onder de Nederlandse wet* (Zaltbommel 1855) 83-104; J. Wolbers, *Geschiedenis van Suriname* (Amsterdam 1861) 128-135.

result, Surinamese slavery became (internationally) notoriously known as the harshest variant of pre-modern Atlantic slavery. This reputation lasted – even among historians - far into the twentieth century.[5]

Only more recently, some scholars have endeavoured to evaluate the voices that denounced Surinamese slavery and its punitive components. Particularly Oostindie's reassessment of the sources is worth mentioning.[6] Key question is whether the recorded chronicles were representative for the daily practices in the colony of Suriname or that they were rather depictions of excesses that solely served the agendas of whistle-blowers. On the one hand, one can argue that, generally, planters and government representatives were not willing to hang themselves out to dry. As a result, silence about malpractices was usually broken only once less solidary actors such as outsiders or (foreign) travellers reported about the excesses. Therefore, the contemporary records might indicate only the tip of the iceberg.[7] On the other hand, as Oostindie remarks, contemporary opinion-makers were often bent on focusing on the spectacular. Therefore, much of the established representation of Surinamese slavery could stem from that mechanism as well.[8]

With that in mind, Oostindie has questioned the veracity of several alleged 'eyewitnesses' that reported about the poor circumstances in early modern Suriname. Voltaire and Hartsinck, for instance, had never been in Suriname at all (neither were nineteenth-century critics such as Wolbers and Van Hoëvell). In addition, Oostindie argues, Voltaire only alluded to Surinamese malpractices because he still had a score to settle with the Dutch publisher Van Duren.[9] As a result, only the itinerary of the Scottish-Dutch soldier Stedman can be seriously considered as an authentic report about the eighteenth-century judicial (mal-)practices. His story had been based on his personal experiences while serving the Dutch troops at the end of the eighteenth century in the combat against rebelling maroons. The downsides of Stedman as source are, however, that he only started to write down his memories twenty years after his actual visit and

[5] See e.g.: A. de Kom, *Wij slaven van Suriname* (2nd edition; Amsterdam [1934] 1971) in particular 43-49; F. Tannenbaum, *Slave and citizen* (reprint; Boston [1946] 1992) 65n153; C.R. Boxer, *Zeevarend Nederland en zijn wereldrijk 1600-1800* (translation; Leiden [1965] 1976) 217-218 and 334-336; R. Price and S. Price, 'Introduction' in: idem (eds.) *Narrative of a five years expedition against the revolted negroes of Suriname. Transcribed for the first time from the original 1790 manuscript* (2nd edition; New York [1988] 2010) ix-xcvii, there inter alia page xiii.

[6] G. Oostindie, 'Voltaire, Stedman and Suriname slavery', *Slavery and Abolition, Vol. 14, No. 2* (1993) 1-34, there passim; B. Paasman, 'Leven als een vorst. De planter-directeur in de literatuur over Suriname', *Kruispunt, Vol. 161, No. 36* (1995) 386-406, there passim; P.C. Emmer, *De Nederlandse slavenhandel 1500-1815* (Amsterdam and Antwerp 2000) 178-181; K.J. Fatah-Black, 'Met gerechtelijke bronnen naar de achterkant van het koloniale borduurwerk', *Acta Historica. Vol. 3, No. 4* (2014) 40-45, there passim.

[7] Emmer, *De Nederlandse slavenhandel*, 178-179.

[8] Oostindie, 'Voltaire, Stedman and Suriname slavery', in particular page 4.

[9] Ibidem, 1-3; Voltaire, *Candide, or optimism*, 143n8.

that he had quite a keen eye for the spectacular aspects of life in the colony as well.[10] Thus, yet again, it must be questioned how representative his reports were for the daily practices in colonial Suriname. It would not be a surprise that, after so many years, Stedman would have particularly recollected the excesses that he had encountered. His biographers correctly adduce that, in the meantime, his memories had been strongly romanticised.[11]

Reassessments of the sources, such as Oostindie's study, have proved that the reliability of the eighteenth-century reports must be weighed very prudently. Therefore, it is even more interesting to observe that the lion's share of the nineteenth-century stakeholders indiscriminately (and sometimes eagerly) adopted those previously recorded depictions to serve their own political agendas. Especially the mismanagement of the white planter, its domestic jurisdiction over slaves and the resulting abuse against slaves were targeted and used as arguments by nineteenth-century abolitionists in their effort to abolish slavery. The judicial administration of the Governing Council – Suriname's daily board that had also been mandated to administer criminal justice – was criticised as well. Eighteenth-century criticism, in contrast, did not propagate abolition but rather plead to moralise contemporaries and to ameliorate living conditions of slaves (and thereby, to strengthen or revitalise the institution of slavery).[12]

As a result of the blindly copying of unsubstantiated claims, the same assumptions about arbitrary, disparate and biased justice with regard to slaves still dominate the historical debates until today.[13] Although probably the major part of the assertions might be true after all, they cannot be taken for granted without being substantiated by thorough historical research. In general, criminal history of early modern Suriname is still in its infancy. Most studies only contain lateral remarks about the administration of criminal justice and have been based on the same limited information from contemporary records.[14] Other studies, in particular

[10] Oostindie, 'Voltaire, Stedman and Suriname slavery', passim.
[11] Price and Price, 'Introduction', xxvi-xxxviii.
[12] Cf. Oostindie, 'Voltaire, Stedman and Suriname slavery', passim; Paasman, 'Leven als een vorst', passim; for an overview of (eighteenth and) nineteenth-century publications about Suriname, see also: Teenstra, *De negerslaven in de kolonie Suriname*, 309-380.
[13] See e.g. De Kom, *Wij slaven van Suriname*, 43-49; F. Dragtenstein, *'De ondraaglijke stoutheid der wegloopers'. Marronage en koloniaal beleid in Suriname, 1667-1768* (dissertation; Utrecht 2002) 221-223; R.A.J. van Lier, *Samenleving in een grensgebied. Een sociaal-historische studie van de maatschappij in Suriname* (The Hague 1949) 132-133 and 137-140. Van Lier has nuanced his interpretation, stressing that one should not consider the eighteenth century as a sequence of excesses only. In contrast, he argued that circumstances improved consistently throughout time. However, even still, he assumed that there was solid proof for Suriname's poor reputation with regard to the treatment of slaves.
[14] Brief descriptions about the composition and functioning of the colonial courts can mainly be found in contemporary records such as: Hartsinck, *Beschryving van Guiana*, 872-897; Wolbers, *Geschiedenis van Suriname*, 128-136 and 163-170; see also: Stadsarchief Amsterdam (NL-SAA), Archief van de Familie Bicker en Aanverwante Families (AFB), 195, inv. no. 1025B, *'Memorie betrekkelyk de colonie van Suriname', eerste redactie van de door Jan Nepveu vervaardigde tekst t.b.v. een geactualiseerde heruitgave van de Beschryvinge van de Volk-Plantinge Zuriname van Herlein uit 1718. Afschrift (ca. 1766)*, fol. nos. 110-121.

microhistories, such as the works of McLeod, Dragtenstein and Vrij, incidentally provide some insights about how litigation 'might have worked' through bottom-up narratives of specific people, communities or incidents.[15] But, in general, one simply does not know how early modern litigation exactly functioned in Suriname. In comparison, criminal history has been considerably better scrutinised for the Dutch Republic, as over the years, a broad range of seminal works has been published about legislation, justice, crimes and punishments.[16] In Suriname, in contrast, the judicial process remains almost completely unknown from accusation to verdict, whereas, the severe punishments that have been mentioned in the eighteenth-century chronicles, still echo in historiography to this very day. Yet, it is unclear how, and on what grounds, these verdicts came about. Although a brief introduction about Surinamese criminal law and procedure has been provided by Wijnholt, unfortunately, he remains fairly superficial with regard to the early modern period.[17] Research about other mechanisms with respect to Surinamese justice, such as legal protection of citizens, remains quite unexplored as well, despite that the issued bylaws have been made easily accessible by Schiltkamp and De Smidt.[18] Only one study, conducted by Quintus Bosz, actually scrutinised legal positions quite thoroughly. However, his research was limited to the position of the slaves.[19]

As a result, it is impossible to make any bold statements about justice in early modern Suriname. The limited research that has been conducted, primarily focused on crime and

[15] C. McLeod, *Elisabeth Samson. Een vrije zwarte vrouw in het achttiende-eeuwse Suriname* (Utrecht 1993); J.J. Vrij, 'Bosheren en konkelaars. Aukaners in Paramaribo 1760-1780' in: P. Meel en H. Ramsoedh (eds.) *Ik ben een haan met een kroon op mijn hoofd. Pacificatie en verzet in koloniaal en post-koloniaal Suriname. Opstellen voor Wim Hoogbergen* (Amsterdam 2007) 19-34; F. Dragtenstein, *'Trouw aan de blanken'. Quassie van Nieuw Timotibo, twist en strijd in de 18de eeuw in Suriname* (Amsterdam 2004); cf. K.J. Fatah-Black, 'Access to justice. Suriname, 1683-1863: race, class and gender before the court in the "other Netherlands beyond the sea" ', unpublished article 2017 (fictive pages 1-16), there 3-4.

[16] Mayor contributions are (in order of publication date): L.Th. Maes, *Vijf eeuwen stedelijk strafrecht. Bijdrage tot de rechts- en cultuurgeschiedenis der Nederlanden* (Antwerp and The Hague 1947); P.C. Spierenburg, *Judicial violence in the Dutch Republic. Corporal punishment, executions and torture in Amsterdam 1650-1750* (dissertation; Amsterdam 1978); S. Faber, *Strafrechtspleging en criminaliteit te Amsterdam, 1680-1811. De nieuwe menslievendheid* (dissertation; Arnhem 1983); H.A. Diederiks, S. Faber and A.H. Huussen Jr., *Cahiers voor lokale en regionale geschiedenis. Strafrecht en criminaliteit* (Zutphen 1988); S. Faber (ed.), *Nieuw licht op de oude justitie. Misdaad en straf ten tijde van de Republiek* (Muiderberg 1989); H.A. Diederiks, *In een land van justitie. Criminaliteit van vrouwen, soldaten en ambtenaren in de achttiende-eeuwse Republiek* (Amsterdam 1992); M.-Ch. le Bailly and Chr.M.O. Verhas, *Procesgids. Hoge Raad van Holland, Zeeland en West-Friesland (1582-1795). De hoofdlijnen van het procederen in civiele zaken voor de Hoge Raad zowel in eerste instantie als in hoger beroep* (Hilversum 2006); M.-Ch. le Bailly, *Procesgids. Hof van Holland, Zeeland en West-Friesland. De hoofdlijnen van het procederen in civiele zaken voor het Hof van Holland, Zeeland en West-Friesland zowel in eerste instantie als in hoger beroep* (Hilversum 2008); M.P.C. van der Heijden, *Misdadige vrouwen. Criminaliteit en rechtspraak in Holland 1600-1800* (Amsterdam 2014).

[17] M.R. Wijnholt, *Strafrecht in Suriname* (dissertation; Deventer 1965) 6-40.

[18] Most of the in Suriname issued bylaws have been collected in: J.A. Schiltkamp and J.Th. de Smidt, *West Indisch plakaatboek. Plakaten, ordonnantiën en andere wetten, uitgevaardigd in Suriname. Delen I en II. 1667-1816* (Amsterdam 1973).

[19] A.J.A. Quintus Bosz, 'De ontwikkeling van de rechtspositie van de vroegere plantageslaven in Suriname' in: Surinaams Historische Kring (eds.), *Emancipatie 1863-1963. Biografieën* (Paramaribo 1964) 5-22.

punishments of slaves. Worth mentioning are the works of Beeldsnijder and Davis who have analysed justice of slaves on plantations respectively from a top-down and bottom-up point of view.[20] However, those results have never been qualitatively nor quantitatively placed into a comparative perspective vis-à-vis other Surinamese population groups. Therefore, it cannot be ascertained whether judicial processes have been relatively grim for slaves or that a severe judicial system was the harsh reality for all Surinamese inhabitants in general. After all, modern-day perceptions of justice and punishments are at odds with the practices of the early modern period.

In addition, it is hard to draw any conclusions with regard to intangible, immaterial concepts such as 'judicial inequality' and, so far, there is no consensus about an appropriate methodology that could measure the degree of inequality. Egmond, for instance, argues that, with regard to the Dutch republic, judicial inequality can be measured by a structural comparison of *treatments* and *punishments* of different sorts of culprits that perpetrated similar offences.[21] In Suriname, however, this methodology does not suffice because of the presence of the institution of slavery. With the distinction between people of 'free' and 'unfree' statuses, the concept of slavery introduces another dimension that complicates the measurability of inequality. For that reason, other aspects need to be taken into consideration as well.

Because the Surinamese colonial society was primarily a slaveholding plantation society, a sole focus on slave justice sound fairly logic. However, such analyses only represent one side of the colonial story as, in reality, Surinamese society was much more complex. From the onset, the mainstay of Suriname's inhabitants was of non-Dutch origin. Dutch colonists had been accompanied by a motley crew of English, French, Portuguese, German and Swiss migrants. The hinterlands of the colony provided shelter for several indigenous peoples and for runaway slaves, the so-called maroons. The colonial authorities waged several wars with the Amerindians and marrons before peace treaties were gradually reached during the late seventeenth and eighteenth century.

The different population groups formed various religious communities, such as Protestants (Reformers, Lutherans, Walloons and Moravians), Jews (Portuguese Sephardim and Polish and

[20] G. Oostindie, *Roosenburg en Mon Bijou. Twee Surinaamse plantages, 1720-1870* (Leiden 1989) 176-188 and 270-274; A. van Stipriaan, *Surinaams contrast. Roofbouw en overleven in een Caraïbische plantagekolonie 1750-1863* (2nd edition; Leiden [1991] 1993) 369-385; R.O. Beeldsnijder, *"Om werk van jullie te hebben". Plantageslaven in Suriname, 1730-1750* (dissertation; Utrecht 1994) 236-253; N.Z. Davis, 'Judges, masters, diviners: slaves' experience of criminal justice in colonial Suriname', *Law and History Review. Vol. 29, No. 4* (2011) 925-984, there passim.

[21] F. Egmond, 'Fragmentatie, rechtsverscheidenheid en rechtsongelijkheid in de Noordelijke Nederlanden tijdens de zeventiende en achttiende eeuw' in: S. Faber (ed.) *Nieuw licht op oude justitie. Misdaad en straf ten tijde van de Republiek* (Muiderberg 1989) 9-23, there passim, in particular 9.

High German Ashkenazim), Catholics, as well as various West African animistic and voodoo denominations. Suriname's total population varied from five thousand inhabitants at the time of the Dutch take-over to sixty thousand at the end of the eighteenth century. On average, less than eight per cent of the eighteenth-century population was white, ninety per cent enslaved and three per cent free non-white. Although hard numbers of Amerindians and maroons are not available, they are estimated at a few thousand. For that reason, and because they lived relatively isolated from the rest of the Surinamese population, they are usually not included into the numbers of the colonial population.

The lion's share of the Surinamese population had its residence and place of work on the plantations: between thirty and fifty per cent of the white population and approximately ninety-four per cent of the enslaved population. The plantation economy had initially been focused on sugar cultivation but, over the course of the eighteenth century, gradually expanded to coffee and cotton cultivation as well. An average plantation consisted of a handful of white planters at the most (that is, plantation owners, administrators, managers and/or overseers) and an enslaved population varying from one hundred to two hundred people. As lifelines and contact between the capital and the plantations were relatively scarce, planters were often on their own in controlling the numerical preponderance of their unfree residents. Paramaribo, in contrast, had a much more varied social composition. Within the city, whites were better represented in terms of population numbers, where they worked as government officials, civil servants, artisans, merchants and militaries. In addition, the urban population was complemented by several merchants, sailors and militaries that resided, or had been stationed, in the capital on a temporary base. Approximately six per cent of the slaves lived in the capital, where most of them served as house slaves of white residents. During the course of the eighteenth century, a relatively small part of the enslaved population had been granted manumission; most of them resided in Paramaribo as well.[22]

In addition, Suriname offered an eclectic mix of different races as well. Skin colour of the white population was directly associated with the 'free' status of Western colonists that resided in Suriname, whereas other forms of complexion such as, initially, coloured ('red') indigenous

[22] Wolbers, *Geschiedenis van Suriname*, 65-67 and 171-174; K.J. Fatah-Black, *White lies and black markets. Evading metropolitan authority in colonial Suriname, 1650-1800* (Leiden and Boston 2015) 32-40; K.J. Fatah-Black, 'The usurpation of legal roles by Suriname's Governing Council, 1667-1815', *Comparative Legal History* (Online published 2017) 1-19, there 3-4; K.J. Fatah-Black, 'A Swiss village in the Dutch tropics. The limitations of empire-centred approaches to the early modern Atlantic World', *BMGN – Low Countries Historical Review, Vol. 128, No. 1* (2013) 31-52, there passim; Davis, 'Judges, masters, diviners', 929-930; Van Lier, *Samenleving in een grensgebied*, 33-36; demographic numbers have been derived from: Schalkwijk, *The colonial state in the Caribbean*, 119; Van Stipriaan, *Surinaams contrast*, 28 and 311; E. Neslo, *Een ongekende elite. De opkomst van een gekleurde elite in koloniaal Suriname 1800-1863* (dissertation; De Bilt 2016) 43.

peoples, and later, ('black') West Africans, became intrinsically linked with the institution of slavery. However, over the course of the eighteenth century a much wider variety of complexions developed due to creolisation (i.e. miscegenation). Their offspring became known as 'mulattoes' (descendants of a black and a white), 'mestizos' (an Amerindian and a white), 'quadroons' (a mulatto and a white) and '*karboegers*' (cf. 'sambo', a black and an Amerindian or a black and a mulatto).[23]

Since the hodgepodge of different racial, class and religious backgrounds did not stem from one particular culture, colonial Suriname can be considered as anything but a single society. To the contrary, Suriname was rather a 'plural society', as the sociologist Van Lier minted, because its social stratification had been highly determined and divided by people's race, status, language, customs, religion and socioeconomic class. As a result, several disparate communities arose that had strong solidarity within their individual communities but entirely lacked a common public spirit. They only had one binding factor in common: the imposed Western norm.[24]

Due to the presence of this plural society, it is necessary to take into account the establishment of the rule of law in colonial Suriname as well, before one can deepen into Suriname's criminal history. For a long time, historiography has depicted the formation of the rule of law, and thus, the formation of the legislature and judiciary, as an institutional spin-off of upcoming nation-states; even in colonial settings.[25] This thesis argues, in contrast, that during the consolidation of the colonial legislature and judiciary, top-down and bottom-up interests have been at cross-purposes, and consequently, that the presence of the plural society has played a dominant part in that formation.[26] On the one hand, each of the newly arriving communities initially had their own set of customs and rules; and forums for dispute resolution. Once they were put under the authority of the Governing Council, they always endeavoured to preserve those intrinsic values and customs as much as possible. But, because on the other hand, the state authorities aspired to impose their own ethics under one single, centralised rule, concessions had to be made on both sides of the bargain.

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[23] See e.g.: McLeod, *Elisabeth Samson*, 25; cf. D. Baronov and K.A. Yelvington, 'Ethnicity, race, class and nationality' in: R.S. Hillman and T.J. D'Agostino (eds.) *Understanding the contemporary Caribbean* (2nd edition; London [2003] 2009) 225-256, in particular 227-234.

[24] Van Lier, *Samenleving in een grensgebied*, passim, in particular 1-19.

[25] See in particular the contributions of the New Institutional Economics academics, e.g.: D. North, *Institutions, institutional change and economic performance* (Cambridge 1990) 89-91; see also: S. Sassen, *Territory, authority, rights. From medieval to global assemblages* (4th edition; Princeton and Oxford [2006] 2008) passim; in colonial settings, the analysis about the development of the rule of law has generally been confined to first contact only. That is, the moment of acquisition has been depicted as the (static) moment of the imposition of the rule of law. See e.g.: S. Greenblatt, *Marvelous possessions. The wonder of the New World* (Oxford 1991) 52-84.

[26] Cf. Fatah-Black, 'The usurpation of legal roles', passim; Fatah-Black, 'Met gerechtelijke bronnen', passim.

This hypothesis is consistent with scholars such as Benton and Herzog, who refute the formerly predominant Eurocentric top-down approach.[27] In contrast, they ascribe the emergence of the colonial legislature and judiciary rather as a process that arose conjointly with the development of the state. By transcending the vertical social control mechanism as the single research method, individual narratives show that rule of law rather came about through miscellaneous cultural encounters varying from contacts, collisions and long-term relationships. This authority could have either been imposed voluntarily, mediated or brutally forced. In addition, those encounters cannot be simplified to static, traditional dichotomies in which the colonial authorities had to act in reaction to internal (vis-à-vis domestic yet non-subjected people), external (vis-à-vis foreign sovereignties) or factionalist (and thus more disunited) antagonists.[28] To the contrary, the authorities rather had to face an 'amorphous plethora' of individuals and agents that had a wide range of possibilities at their disposal to act and react against the state authorities: they could either accommodate, advocate, subtly delegitimise, defy, protest and revolt against the commanding authorities. This 'jurisdictional jockeying' between culturally different subjects both collided with and streamlined legal authority concurrently.[29]

As a result, colonial legal systems have been fairly hybrid and changeable, because the authorities continuously had to adapt to changes in local contexts. This makes legal history more complex than previously thought. Different situations asked for different strategies that had various outcomes. Rather than that a single legal system was imposed, in many cases, multiple legal systems were (initially) left intact in order to preserve a peaceful local order – despite the aspirations of governments to centralise their colonies. Within this system of 'legal pluralism', as Benton calls it, inhabitants were allowed to litigate and adjudicate within their own spheres as long as they acknowledged the supremacy of the colonial authorities.[30] Dinges

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[27] L. Benton, *Law and colonial cultures. Legal regimes in world history, 1400-1900* (3rd edition; New York [2002] 2005) passim; L. Benton, *A search for sovereignty. Law and geography in European empires, 1400-1900* (New York 2010) passim; another thoughtful contribution, although confined to land rights, has been made by Herzog. Questioning the traditional metanarrative that portrays the New World's legislature and judiciary as an extension of the institutions of the Old World, Herzog argues that the Iberian powers simultaneously created one unified imperial space that stretched to both sides of the Atlantic Ocean. See: T. Herzog, *Frontiers of possession. Spain and Portugal in Europe and the Americas* (London and Cambridge, Massachusetts 2015) passim.

[28] Herzog, *Frontiers of possession*, 2; Benton, *Law and colonial cultures*, 27.

[29] Benton, *Law and colonial cultures*, in particular 1-30 and 279; Herzog, *Frontiers of possession*, 1-3; P.C. Spierenburg, 'Social control and history. An introduction' in: H. Roodenburg and P. Spierenburg (eds.) *Social control in Europe. Vol. I, 1500-1800* (Columbus 2004) 1-22, there passim, inter alia 13 and 17.

[30] Benton, *Law and colonial cultures*, passim; the idea of legal pluralism stems from Berman, who adduced that 'perhaps the most distinctive characteristic of the Western legal tradition is the coexistence and competition within the same community of diverse jurisdictions and diverse legal systems. It is this plurality of jurisdictions and legal systems that makes the supremacy of law both necessary and possible'. Benton, subsequently, argued that legal pluralism was not per se a European characteristic nor invention but occurred in the entire world simultaneously. See: H.J. Berman, *Law and revolution. Vol. I. The formation of the Western legal tradition* (Cambridge, Massachusetts 1983) passim, for quote see page 10.

has shown that in many early modern Western societies appealing to a (formal) court was often a deliberate choice that was made in case people expected that switching forums would improve their chances compared to their chances in extrajudicial (informal) settlements (*Justiznutzung*).[31] It is, however, not tested how that mechanism precisely functioned in societies of legal pluralism. The availability of multiple courts suggests that people had the possibility to deliberately choose whether to file a complaint with the legal forum of their own community or to appeal to a colonial court. In Benton's works, she laterally hints that *Justiznutzung* was common in societies of legal pluralism as well.[32] In any case, the possibility to deliberately choose legal forums was probably in increasingly less applied from the late eighteenth century onwards, when generally, (the more fluid) forms of legal pluralism were embroiled into a fixed, state-centred legal formation that served both the colonisers, indigenous and other subjects.[33]

The Surinamese early modern rule of law fits perfectly into Benton's pluralistic framework. The consolidation of power of the Surinamese Governing Council and the incorporation of different population groups into the colonial fold, was a process that gradually took place during the eighteenth century.[34] Initially, the Governing Council had to make different arrangements with different groups of populations, ranging from granting full citizenship and franchise, relative autonomy and privileges, to mandatory, full obedience. When the variety of the above-mentioned population groups met and interacted with one another, a wide range of different law codes and judicial practices had been introduced – either voluntary or forced. Some of those had been based on experiences with homeland institutions, whereas others had been adopted or adjusted in response to domestic or regional circumstances or encounters in the Atlantic World.[35] Judicially, the variety of interactions shaped the conditions for a system of multiple, co-existing legal forums. Within this system of legal pluralism, each group of actors had access to individual judicial forums, in which one could adjudicate (often petty) disputes internally at first instance. However, the Governing Council always retained supreme judicial authority. Criminal offences, cases on appeal and disputes that involved actors of different communities were automatically adjudicated in the Governing Council.

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[31] M. Dinges, 'The uses of justice as a form of social control in early modern Europe' in: H. Roodenburg and P. Spierenburg (eds.) *Social control in Europe. Vol. I, 1500-1800* (Columbus 2004) 159-175, there passim.
[32] Cf. Benton, *Law and colonial cultures*, inter alia 15-17; Benton, *A search for sovereignty*, 279.
[33] Benton, *Law and colonial cultures*, 6.
[34] J.M.W. Schalkwijk, *The colonial state in the Caribbean. Structural analysis and changing elite networks in Suriname 1650-1920* (The Hague 2011) passim, in particular 251-303; Fatah-Black, 'The usurpation of legal roles', passim.
[35] Fatah-Black, 'The usurpation of legal roles', in particular 4.

Hitherto, most historians have depicted the Surinamese Governing Council as the colony's single stronghold of authority in which power was imposed top-down to maintain order, to discipline society and to forestall insurgencies. This form of 'hard power' eventually enforced social differences by disparate treatments mainly based on distinction in statuses.[36] However, because multiple legal forums have existed, a sole view on the colonial authorities will not suffice to reconstruct the Surinamese judiciary. More recently, valuable contributions about legal pluralism in Suriname have been made by Davis and Fatah-Black, who have plead to 'decolonise' legal history.[37] Whereas Davis confined her research to legal pluralism among slaves, Fatah-Black has been the first who has juxtaposed the various legal forums of different population groups. In *Access to justice*, he rightly argues that 'the dominant understanding of the law court in early modern Suriname as vertical social control is […] based on a very myopic view of what was going on in the colony and its courts. It takes for granted (but fails to explain) that the enslaved and free people of colour managed to use the courts for their own purposes, despite the obvious disadvantages of a racist system of government and justice administration that was largely defined by and privileged those with (human) property'.[38] Therefore, Fatah-Black started to examine *all* the institutional mechanisms that were available and scrutinised how these legal forums related to the Governing Council and how these relationships changed over time. He concludes his plea arguing that, over the course of the eighteenth century, adjudication became increasingly dependent on the authority of the Governing Council.[39]

In sum, due to the complexity of the Surinamese plural society and the multiple systems of legislation and justice that have existed, one can simply not take the contemporary claims about unequal treatment for granted without any form of comparative research. Only by taking into account *both* the various individual legal and judicial forums *and* the supreme courts of the colonial authorities, one is truly able to draw conclusions about inequality between the various population groups that inhabited early modern Suriname. This thesis will endeavour to verify to what extent the assertions about inequality are true, not only by comparing the obvious contradictions between whites and slaves, but also by juxtaposing them with other (numerically less represented) population groups such as Jews, manumitted slaves, freeborn non-whites, Amerindians and (entitled) maroons. As guidance through this analysis, this thesis will mainly

[36] Van Stipriaan, *Surinaams contrast*, 369-385; Oostindie, *Roosenburg en Mon Bijou*, 176-188 and 270-274; Beeldsnijder, *"Om werk van jullie te hebben"*, 236-253.
[37] Davis, 'Judges, masters, diviners', passim; Fatah-Black, 'Access to justice', passim; Fatah-Black, 'Met gerechtelijke bronnen', passim; Fatah-Black, 'The usurpation of legal roles', passim.
[38] Fatah-Black, 'Access to justice', 5.
[39] See in particular: Fatah-Black, 'The usurpation of legal roles', passim.

build on Fatah-Black's preliminary findings about the functioning of the various individual forums and their mandates with respect to the Governing Council. In addition, it will further scrutinise his premise that, over the course of the eighteenth century, adjudication became increasingly centralised, and therefore, that different population groups became increasingly incorporated into the colonial realm of the Governing Council. For that reason, my research will be principally confined to the eighteenth century.

There has not yet been conducted any extensive research on the functioning of the Surinamese judiciary, nor on its legal fundaments such as criminal law and criminal procedure. Therefore, the first two chapters of this thesis will start completely from scratch. Both will scrutinise the conditions that have facilitated the phenomenon of 'legal inequality' from a colonial, top-down perspective. Chapter 1 will examine the legislative power of the Governing Council and will argue that neither the managerial board in the Netherlands, the so-called Suriname Company, nor the Dutch State General, issued any systematic or comprehensive legislation with regard to Suriname. Because a uniform, basic legal framework of civil rights had been lacking, the governing councillors – mainly local planters – had almost unlimited power to issue legislation that could serve their own interests at best. As a result, social stratification was enforced by disparate legislations, although this was not a policy that actively propagated legal inequality but rather a policy that implicitly implemented legal disparities over time. Chapter 2 will reconstruct how the colonial judiciary functioned in practice and will be mainly based on qualitative archival research. It will conclude that there were hardly any predetermined blueprints for the administration of justice in early modern Suriname. The lack of a uniform code of criminal law and procedure, in combination with the lack of a separation of powers, in theory, provided the governing councillors much leeway in administering justice. Therefore, it is fair to raise the question whether the councillors had always been unequivocal in reaching a verdict. This hypothesis will be scrutinised in the subsequent chapters.

Chapter 3 to 6 will be the core of my thesis' analysis and will separately zoom in to justice among respectively whites and Jews, slaves, manumitted slaves and freeborn non-whites, and Amerindians and entitled maroons. The degree of (in-)equality will be examined on three different levels. First of all, in the primary part of each of these chapters, I will determine per population group how its position had been legally embedded within the colonial laws. The examination of legal positions cannot be omitted because legal embedment is essential for gauging the degree that people enjoyed legal protection, both in daily life and in court. As eighteenth-century Suriname had not yet been acquainted with the concept of 'constitutions', nor with the protection of civil rights in general, legislation had been mainly characterised by a

jumble of locally issued bylaws. The fact that a uniform civil law code was absent, was rather a global characteristic of the early modern period.[40] However, what makes legislation in the particular case of Suriname exceptional, was the fact that laws were made on the spot and mainly served the interests of planters. Because the Governing Council continuously had to adapt the legal system to changes in local contexts, regulations primarily took shape through ad hoc decision-making. As a result, civil laws varied greatly between the different population groups. Whereas, obviously, whites had been best protected in legislation, slave' rights (and the rights of free non-whites, Amerindians and maroons to a lesser extent) had been particularly more marginally embedded within the law. For them, the mainstay of the issued bylaws rather consisted of rules of engagement and obligations than of legal protection.

The second part of each chapter, will scrutinise the various legal and judicial forums that population groups had at their own disposal. Did these forums have any political powers, and if so, how autonomously could they function? To what kind of disputes (or crimes) were they mandated to resolve (or adjudicate)? How sophisticated were these forms of litigation? And what was their relation with respect to the Governing Council? As will turn out, there was a certain correlation between the degree of autonomy and the geographical distance between local courts and Paramaribo. In examining the different legal forums, it will appear that it is methodologically difficult to decolonise legal history due to the unfortunate lacuna of non-colonial written sources. For most population groups, there are no official judicial documents that have been preserved, particularly due to the simple fact that most community members were not able to read or write. As a result, these subchapters will be primarily based on (the limitedly available) historiography, although, in case of preserved written material, additional context will be provided.

Thirdly, the final parts of the chapters 3 to 6 will examine the criminal adjudication of the various population groups in the Governing Council. These subchapters will be substantiated with data of more than seven hundred criminal cases that have been reconstructed from the judicial documents in the Governing Council archives for the years 1722, 1750, 1775 and 1799. These sample years have been deliberately spread through time in order to provide a fair representation of criminal justice throughout the century. Although the archives are in a

[40] Uniform legal codes or constitutions even lacked in the Dutch Republic. Only at the very end of the eighteenth century – under influence of the principles of natural law that flourished during the Enlightenment – one increasingly endeavoured to establish 'accountable' legal systems through providing both uniformity of law and legal certainty. See: N. Jörg, C. Kelk and A.H. Klip, *Strafrecht met mate* (12th edition; Deventer 2012) 25-26; cf. R. Aerts, 'Een staat in verbouwing. Van republiek naar constitutioneel koninkrijk 1780-1848' in: idem et al., *Land van kleine gebaren. Een politieke geschiedenis van Nederland 1780-1990* (7th edition; Nijmegen and Amsterdam [1999] 2010) 11-95.

workable state for conducting research, they are certainly not in a perfect condition. As it was initially my intention to take a sample at a regular interval of twenty-five years, that simply turned out to be impossible because documents of criminal proceedings have not been preserved for every year. In addition, several other documents appeared to be in an appalling state: traces of ink corrosion, water damage and fungus are all common sorts of damage that can make the readability of the documents complicated.

The archives of the Governing Council are poorly organised, which has hindered many previous researchers. During my encounters with the archives, I experienced that the section labelled 'proceedings of criminal cases' provided a far from complete overview of the absolute number (and content) of criminal cases that appeared before the Council. More additional information, in particular about the indictments, recommended sentences and verdicts, can be found spread around in various sections of the archives. Finding out the different places where these documents were located is one of the major contributions of this study. Discovering their location and bringing them together to provide a complete overview of the cases, highlights how all the previous studies regarding criminal justice (in particular Beeldsnijder's chapter about slave justice, as will become clear in chapter 4), have hitherto relied on an incomplete corpus of sources. By making the source base more complete, the corpus of this study is richer both in terms of the quantity and quality of the material.[41] Nevertheless, one disclaimer is essential with regard to my samples as well. The results from my sample years will primarily be used to substantiate my arguments qualitatively. The purpose of my study is by no means to provide a quantitative overview of cases (nor of verdicts or crimes), for the simple fact that my samples are not sufficiently representative to do so, and above all, because it will not be of particular use for my central argument. Notwithstanding, some quantitative overviews will be provided along the way to highlight patterns throughout time and will be graphically illustrated in the appendices III to VI.

During the analysis of the criminal court archives, legal inequality will be measured according to four recurring criteria. Firstly, I will gauge how much access different population groups had to colonial justice. Could they freely file complaints and/or start criminal proceedings? What were their rights during litigation? And could they *actively* represent themselves? Secondly, the purposes of colonial justice will be examined. On what grounds were cases redirected to the Governing Council at first instance, and thus, would local judicial forums be side-lined? And when did people voluntarily decide to file their complaints with the

[41] Beeldsnijder, *"Om werk van jullie te hebben", 236-253.*

Governing Council instead of dealing with matters internally? This part will test the phenomenon of *Justiznutzung* by examining whether Surinamese inhabitants deliberately 'shopped' legal forums by weighing which forum would work out the most advantageous for their personal interests. The way that justice was used, will also provide some insights about litigants' confidence in colonial justice. Thirdly, these subchapters will take into account whether there are any indications of discrimination to be found in the judicial documents. An important parameter is the way how colonial subjects were mentioned in these documents. It will become clear that, in many instances, racial adjectives were used to describe people. Other indicators of discrimination will be taken into consideration as well. However, these will turn out to be very hard to gauge, because the documentary evidence does not offer us a view of the deliberations that took place behind closed doors and were never written down. That will bring us to the fourth and final criteria: the sentencing. It will become clear that the character of punishments will be the most tangible parameter to measure judicial inequality.

This thesis will conclude that the Surinamese legal and judicial systems were utterly discriminatory. In accordance with eighteenth-century contemporaries such as Stedman, particularly the least protected inhabitants, namely slaves, have suffered tremendously due to legal and judicial inequality. However, once one zooms in deeper, one can conclude that Stedman was only partially right and that justice has been more thorough and less arbitrary than could be expected. In addition, this thesis will prove that the pattern in which culprits were punished has been very similar to what scholars such as Egmond have observed for the eighteenth-century Dutch Republic. There, the authorities took into account all the aggravating or mitigating circumstances, such as confessions, recidivism, age, gender, alcohol abuse and the combination with other crimes. Despite an observable inequality of sentences between Dutch population groups, in particular with regard to certain minority groups such as Jews, gypsies and vagrants, there seems to have been a certain structural equality in the composition of verdicts *within* each population group. Eventually, all these circumstances influenced the pattern in which the culprits were punished (*strafpatroon*).[42] The existence of structural equality within an environment of inequality will prove to be in accordance with Suriname, although the case of Suriname is more complicated to grasp due the presence of the institution of slavery.

It is hard to explain on what grounds legal and judicial inequality in Suriname have been justified. Framing my findings into a broader perspective, will only provide limited additional

[42] In particular: Egmond, 'Fragmentatie, rechtsverscheidenheid en rechtsongelijkheid', 9-23; see also: Faber, *Strafrechtspleging en criminaliteit te Amsterdam*, 15-19; Spierenburg, *Judicial violence in the Dutch Republic*, 100-112.

insights. Only a few studies have been published about criminal history in the Dutch Atlantic colonies, although efforts have increased significantly in the last few decades. For the Dutch Atlantic, recently, a valuable contribution has been made by Jordaan about justice for free non-whites in eighteenth-century Curaçao. By means of an analysis of the local bylaws and a reconstruction of a trial before a 'kangaroo court', he suggests that Curaçao law and administration of justice had been strongly racially biased with regard to free non-whites.[43] In contrast, my research will show that eighteenth-century Suriname did not know any predetermined disparities in penal provisions between whites and free non-whites and there are no indications that similar show trials took place in Suriname either. With regard to the realm of the Dutch East India Company (*Vereenigde Oostindische Compagnie*, VOC), studies have especially augmented in the last couple of years. However, their research angles do not contain the right conditions to draw any parallels with Suriname. They fail to come up with comparative analyses of all the present population groups or do not comprise the (entire) eighteenth century.[44] With regard to the non-Dutch Atlantic, significantly more criminal research has been conducted, although these works have been principally confined to crime and punishments of slaves.[45] Despite the indispensable value of these publications particularly with regard to legal

[43] H. Jordaan, 'Free blacks and coloreds, and the administration of justice in eighteenth-century Curaçao', *New West Indian Guide. Vol. 84, No. I-II* (2010) 63-86, there passim; H. Jordaan, *Slavernij & vrijheid op Curaçao. De dynamiek van een achttiende-eeuws Atlantisch handelsknooppunt* (Zutphen 2013) 105-124.

[44] Groenewald and Worden have transcribed a considerable selection of slave trials with regard to Cape of Good Hope, although they do not draw any conclusions on those trials. See: N. Worden and G. Groenewald, *Trials of slavery. Selected documents concerning slaves from the criminal records of the council of justice at the Cape of Good Hope, 1705-1794* (Cape Town 2005); Ward has reconstructed the flows of political banishment and penal deportation of exiles within the Cape of Good Hope-Batavia circuit, see: K. Ward, *Networks of empire. Forced migration in the Dutch East India Company* (Cambridge 2009); Van Rossum has shed light on justice of VOC sailors, see: M. van Rossum, *Werkers van de wereld. Globalisering, arbeid en interculturele ontmoetingen tussen Aziatische en Europese zeelieden in dienst van de VOC, 1600-1800* (Hilversum 2014), in particular 255-370; see also his reconstruction about the (considerably unexplored) enslaved society in Dutch Asia, which has been primarily based on criminal archive material as well: M. van Rossum, *Kleurrijke tragiek. De geschiedenis van de slavernij in Azië onder de VOC* (Hilversum 2015); for racial inequalities in criminal justice of the colonial courts of Java in the nineteenth century, see: S. Ravensbergen, *Courtrooms of Conflict. Criminal Law, Local Elites and Legal Pluralities in Colonial Java* (dissertation; Leiden 2018).

[45] For a comparative study about the Roman fundaments of the Atlantic slave laws, see: A. Watson, *Slave law in the Americas* (Athens, Georgia 1989) passim; Lazarus-Black has shown that, in the British Caribbean, slaves sometimes deliberately used courts to right grievances and even to challenge the institution of slavery itself, despite the limited access to formal law. See: M. Lazarus-Black, 'Slaves, masters, and magistrates: Law and the politics of resistance in the British Caribbean, 1736-1834' in: M. Lazarus-Black and S.F. Hirsch, *Contested states. Law, hegemony and resistance* (New York and London 1994) 252-281; M. Lazarus-Black, *Legitimate acts and illegal encounters. Law and society in Antigua and Barbuda* (Washington and London 1994); P.J. Schwarz, *Twice condemned. Slaves and the criminal laws of Virginia, 1705-1865* (Baton Rouge 1988); J. Landers, *Black society in Spanish Florida* (Urbana, Illinois and Chicago 1999) 183-201; for a reconstruction of mutual slave conflicts in the antebellum Southern United States, see: J. Forret, *Slave against slave. Plantation violence in the Old South* (Baton Rouge 2015); particularly interesting is the recently published study of Browne about the colony of nineteenth-century Berbice, then British but, as a former Dutch colony, still based on a Dutch judicial bedrock. Browne has proved that Berbice's slaves had unprecedented access to justice, which they deliberately used to lodge thousands of complaints against their plantation managers and overseers, slave owners and, less commonly,

and judicial inequality of slaves, they do not contain the right conditions to draw a comparison either, for the same temporal limitations and lack of comparative analyses of population groups. In addition, they generally tend to explain inequality as a result of a racist society. Schwarz, for instance, argues that the unequal position of slaves has been built on 'white supremacy'.[46] Watson, in addition, pinpoints in his comparison about the different forms of slave law that English America knew the most racist form of slave law, but stresses elsewhere that the 'legal rules […] are no guide for determining whether English America was more racist than Latin or Dutch America'.[47] However, he does not come up with any historical evidence to substantiate any of his arguments with regard to racism. Interesting is that all of these works share a general consensus about the fact that inequality did not automatically disappear after emancipation.

My thesis will show that, at least for the eighteenth century, disparate legislative and judicial treatments were based on status (free or unfree) in order to uphold the institution of slavery. This statement is perhaps the most compatible with Paton's findings, who has shown for late eighteenth and nineteenth-century British Jamaica that judicial racism was rather a nineteenth-century phenomenon that arose during the transition period of slavery to emancipation. After the abolishment of slavery, slaves obtained a free status, which assumed that, henceforth, the Jamaican society was liable to 'no bond but the law'. However, quickly, the law became a new form of bondage ('no bond *but* the law') that stratified society based on racial distinctions. Racism thus became the instrument to restrain the emancipated population, likewise to the manner that the distinction on status had been previously used to keep the enslaved population in check.[48] In accordance with Paton's findings, this thesis will conclude that, Suriname's historians such as Van Stipriaan have therefore been correct in emphasising on the importance of the divide and rule strategy to uphold the institution of slavery.[49] However, that is only one side of the story. Based on bottom-up narratives, it is also necessary to stress that the end product was not a system that was *imposed* but rather a system that came about by means of jurisdictional jockeying of the different population groups in their search for justice. This thesis will show that, among others, the significant privileges of the Jewish community, the relative autonomous position of Amerindians and maroons, and the slowly improved position of slaves (and free non-whites) in court, are all examples of that.

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other slaves. However, Berbice must be considered as an anomaly. See: R.M. Browne, *Surviving slavery in the British Caribbean* (Philadelphia 2017).

[46] Schwarz, *Twice condemned*, passim.

[47] Watson, *Slave law in the Americas*, 63-82 and 133. For quote see page 133.

[48] D. Paton, *No bond but the law. Punishment, race, and gender in Jamaican state formation 1780-1870* (Durham 2004) passim.

[49] Van Stipriaan, *Surinaams contrast*, in particular 369-385.

1. Contextualising early modern Suriname's colonial legal system

This chapter will demarcate the Governing Council's mandate and the legal mechanisms it had at its disposal to impose authority on the inhabitants of the colony. It will demonstrate that the WIC charter, granted by the Dutch States General, gave white male Protestant landowners a uniquely powerful position in Suriname. The authorities employed policies of social stratification to govern the colony. It is striking, that this stratification had never been explicitly legally embedded from the very start of the colony and the establishment of the institution of slavery. Conversely, the governing councillors both explicitly and implicitly incorporated several distinctions between categories of inhabitants over the course of time.

1.1 The political structure of the colony

After the English sugar colony, adjacent to the homonymous Suriname River, had been conquered by the Zeelanders in 1667, colonial governance had been placed under the auspices of the States of Zeeland. For the Zeelanders, Suriname was considered as a suitable substitute for the lost colony New Holland, located in present-day Brazil. The loss of Brazil was blamed on Amsterdam and the Dutch West Indian Company (*Geoctroijeerde West-Indische Compagnie*, WIC). Therefore, Zeeland refused to cede authority to the WIC, which held the charter for the entire Atlantic realm. However, already quickly after the take-over, Zeeland faced several problems. Many English colonists left after the seizure and, a year later, several plantations were looted during a counterattack of Englishmen from Barbados. In addition, provisions were lacking and wars with several indigenous peoples formed a continuous threat to the colonists. Moreover, rumours of an English recapture had also been looming; especially during the Third Anglo-Dutch War (1672-1674). Eventually, the financial burden of protecting the colony became so heavy and the prospects so grim that the Zeelanders offered to cede the colony to the WIC in 1682 in return for a reimbursement of the cost for capturing it.[50] In order to ease the financial burden, other investors had been attracted as well. In 1683, the WIC found two like-minded partners in the city of Amsterdam and the family Van Aerssen van Sommelsdyck; all three parties were allocated to one-third of the costs and benefits. For the general management of the colony, the actors had chartered the Suriname Company (*Sociëteit van Suriname*) that was located in Amsterdam.[51]

[50] G.W. van der Meiden, *Betwist bestuur. Een eeuw strijd om de macht in Suriname 1651-1753* (Amsterdam 1987) 17-30; Fatah-Black, *Suriname and the Atlantic World 1650-1800* (dissertation; Leiden 2013) 12; H. Buddingh', *De geschiedenis van Suriname* (5th edition; Amsterdam [1995] 2017) 19-24.
[51] Van der Meiden, *Betwist bestuur*, 31-40; Fatah-Black, *Suriname and the Atlantic World*, 12-13.

At the basis of the colonial administrative structure stood the WIC charter that had been granted by the Dutch States General in 1682. The managerial merger between the WIC, the city of Amsterdam and Van Sommelsdyck into the Suriname Company in 1683, did not make any fundamental changes to the charter. In a separate convention ('*conditien*') between the three parties to the company, only some small adjustments had been made. In essence, the 1682 charter remained intact until the Suriname Company was abolished in 1795. According to the charter, the States General held supreme authority. The States' delegates had been allowed to intervene when necessary, were co-responsible for financing the colony's defence and had to approve the governors that were appointed by the Suriname Company.[52]

The governor of Suriname enjoyed supreme jurisdiction in the colony over all civilians and soldiers overland and on waters; and had the privilege to grant amnesty. Yet, in case of important matters, he was required to convene political and/or military assemblies.[53] The governor was assisted by the Governing Council (*Hof van Politie en Criminele Justitie*). Besides its advisory role to the governor, this council functioned as the colony's most important legislative, executive and judicial institution. Within the margins of the charter and instructions of the Suriname Company directors (see article XXI of the 1682 charter), the Governing Council had been authorised to adapt existing bylaws and to introduce new ones. These bylaws mainly concerned the maintaining of public order, the guaranteeing of safety issues and the imposition of economic regulations such as licenses and local taxes and duties. However, at all times, decisions could be revoked, substituted or complemented by their superiors in patria. For legislation with larger implications, the Governing Council always required the consent of the metropolitan directors. The council also had the right to independently appoint councillors for the subaltern governmental forums.[54]

The Governing Council consisted of thirteen persons. Chaired by the governor, the council consisted of the military commander, nine unpaid councillors (often planters), one public prosecutor (*raad-fiscaal*) and one secretary. The nine councillors had to be of Protestant religion

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[52] The octroy ('*Octroy ofte fondamenteele Conditien, onder dewelke haar Hoog: Mog: ten besten ende voordeele van de Ingesetenen deser Landen, de Colonie van Suriname hebben doen vallen in handen ende onder directie van de Bewinthebberen van de Generaale Nederlantsche Geoctroyeerde West-Indische Compagnie*') has been transcribed in: Hartsinck, *Beschryving van Guiana*, 622-637; for the convention between the WIC, the city of Amsterdam and Van Sommelsdyck ('*Conditien, onder de welcke de West-Indische Compagnie, de Stadt van Amsterdam, ende den Heer van Sommelsdyck in den eygendom, &c. van de Colonie van Suriname heeft geadmitteert en aangenomen*') see: Hartsinck, *Beschryving van Guiana*, 638-645.

[53] For the governor's authority, see articles XVII and XX in the 1682 charter in: Hartsinck, *Beschryving van Guiana*, 632-633.

[54] Hartsinck, *Beschryving van Guiana*¸ 872-897; for article XXI of the 1682 charter, see page 633; Wolbers, *Geschiedenis van Suriname*, 164-170; Fatah-Black, 'The usurpation of legal roles', 6; Jordaan, *Slavernij & vrijheid op Curaçao*, 34.

and were nominated by 'housed and well-off' (*gehuisd en gehoofd*) gentlemen, that is, male heads of landowning households. Jews were enfranchised but were not allowed to stand for election. Citizens could prove that they were entitled to vote by showing a land certificate (*warrant*); citizens that had not been entitled, but did (try to) vote anyhow, risked to be fined three hundred guilders. Out of a double-figured number of nominees that had been elected by the electorate, the governor selected the nine most suitable. The councillors were assigned for life; new elections were only proclaimed in case of death, repatriation or discharge by the Suriname Company. The council's other three positions were tenures as well, although they were in fact appointed directly by the Suriname Company. The military commander was both commander of the soldiery as well as chief of the fortifications and had been accredited as a full honorary council member and as vice-chairman. The role of the raad-fiscaal was merely an advisory one, whereas the secretary had generally no right to speak at all. The functions of the two latter had initially been unsalaried, although that changed in the second half of the eighteenth century. Thus, in decision-making the Governing Council usually had ten votes to count: nine of the councillors and one of the military commander. In case of an electoral tie the governor had the casting vote.[55]

Initially, the council intended to assemble four times a year, but *de facto* congregated several days a week. They gathered on the ground floor of the town hall (in the *raadskaamer*), which also accommodated the court's secretariat and archives. The first floor housed the Dutch Reformed Church that held services on Sundays, when the council was closed. Paramaribo's town hall had been located at the church square (*Kerkplein*, previously named *Oranjetuin*) in Paramaribo and lodged the Governing Council until 1821 when the building caught fire. Fortunately, the colonial archives safely survived the fire and were subsequently transferred to the governor's residence. [56]

Particularly striking to the administrative structure of colonial Suriname is that colonists had an exceptional position in local politics.[57] Compared to the Dutch East Indian Company (*Geoctroijeerde Vereenigde Oostindische Compagnie*, VOC) which enjoyed a full monopoly

[55] Hartsinck, *Beschryving van Guiana*¸ 872-897; Wolbers, *Geschiedenis van Suriname*, 164-170; Fatah-Black, 'The usurpation of legal roles', 6; Schiltkamp and De Smidt, *West Indisch plakaatboek*, 558-559 and 797-798; for a more elaborate description of the function of secretary, see: J.A. Schiltkamp, *De geschiedenis van het notariaat in het octrooigebied van de West-Indische compagnie. Voor Suriname en de Nederlandse Antillen tot het jaar 1964* (The Hague 1964) 106-115.

[56] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 307; Hartsinck, *Beschryving van Guiana*, 568; C.L. Temminck Groll, *De architektuur van Suriname 1667-1930* (Zutphen 1973) 54-55 and 63-64; Inventaris van het digitaal duplicaat van het archief van het Hof van Politie en Criminele Justitie en voorgangers, in Suriname, 1669-1828 (consulted on 2017-10-04) page 7.

[57] Fatah-Black, 'Access to Justice', 8; Schalkwijk, *The colonial state in the Caribbean*, passim.

on trade, government and administration of justice in the East Indies, the WIC's participation in Suriname's economics, politics and justice had been limited by charter. Although some privileges had been granted to the WIC, such as the monopoly on slave trade (which was perpetuated until 1738), the charter primarily demarcated and safeguarded the interests of Surinamese planters and of those who conducted business there.[58] The possibility for colonists to elect their own councillors, resulted in an unparalleled power of the planter elite, especially compared to other Dutch colonies in the Atlantic.[59] Partially, this policy had been inherited from the English, who had temporarily acquired relative colonial self-control during the period of the English Civil War and the Cromwellian protectorate (1642-1658).[60] In order to accommodate the remaining English colonists, the same policy had been adopted by the Zeelanders. Fatah-Black has argued that the incorporation of colonists' rights in Suriname may also have been a deliberate choice made by the WIC board members (*Heeren XIX*): the decision might have been a reaction to the poignant loss of Dutch Brazil. Indeed, one of the reasons that fostered rebellion of Portuguese colonists against the Dutch authorities, was the rigid exclusion of Portuguese inhabitants in the colonial government.[61]

As a result to the colonists' unprecedented influence in Surinamese politics, the metropolitan authorities fully relied on the governor's key function. One of the mechanism to pivot the balance of interests between the planters and the directors in patria, was the governor's right to select or veto certain nominees for the Governing Council. Fatah-Black has shown that the governor and the electorate usually agreed on who were the best fitting candidates, but demonstrated that, sporadically, the governor used his privilege to deviate from the original election results at his own discretion.[62] However, due to incompatible interests of the colonists versus the metropolitan directors, the governor was not always able to keep the balance in check. Tensions frequently led to competence disputes between (plantation-owning) councillors, often backed by the States General, and the governor who, as principal representative in the colony, was expected to defend the economic interests of the Dutch merchant-regents of the Suriname Company. Particularly until the first half of the eighteenth

[58] Van der Meiden, *Betwist bestuur*, 31-32 and 39; H. den Heijer, *Goud, ivoor en slaven. Scheepvaart en handel van de Tweede Westindische Compagnie op Afrika, 1674-1740* (Zutphen 1997) 336-354.
[59] Cf. in Curaçao, local governance had been directly in the hands of the WIC. There, planters had a more marginal role in local political representation, as they had to share political power with the (by the WIC appointed) military delegates. See: Jordaan, *Slavernij & vrijheid op Curaçao*, 36.
[60] C.G. Pestana, *The English Atlantic in an Age of Revolution, 1640–1661* (Cambridge, Massachusetts 2004) 1; Schalkwijk, *The colonial state in the Caribbean*, 90.
[61] Fatah-Black, 'Access to Justice', 8; see also: J.A. Schiltkamp, 'Legislation, government, jurisprudence and law in the Dutch West Indian colonies. The Order of Government of 1629', *Pro memorie: bijdragen tot de rechtsgeschiedenis der Nederlanden. Vol. 5, No. 2* (2003) 320-334, there passim.
[62] Fatah-Black, 'Access to justice, 9-11 and 16.

century, several major political issues arose when councillors endeavoured to strengthen their position with regard to the governor and the Suriname Company. Disputes already started during reign of the first governor Van Sommelsdyck (r. 1683-1688). After the latter independently decided to issue a bylaw to raise taxes, his councillors embroiled in a controversy about his authority. However, this dispute was short-lived, as Van Sommelsdyck was murdered by mutinous soldiers in 1688. The careers of his successors were not long-lived either; many of them had to relinquish control prematurely. Disputes culminated in the 1740s and 1750s, when some councillors led by Salomon du Plessis started a procedure to remove governor Mauricius (r. 1742-1751) from office.[63] One of the major political problems in which the councillors had been diametrically opposed to the governor, was the issue of runaway slaves. Whereas Mauricius preferred to make peace with the maroons and wanted to acknowledge them as free people, some councillors were dead set against any peace initiatives. Through bypassing the Suriname Company and directly addressing the States General, the rebellious councillors (known as *De Cabale*) stirred up relations with the Suriname Company even more. Eventually, the dispute had to be settled by means of an intervention of the States General and Stadtholder William IV (r. 1747-1751). Mauricius was forced to abdicate and an entirely new board of councillors was appointed as well.[64]

At long last, the planters' power was fully constrained in 1816 when colonists were excluded from the Governing Council. Since then, councillors were directly appointed and sent by the new-made United Kingdom of the Netherlands (1815). This imposition signified the start of the transition from a relatively independent colonial state into a colonial (i.e. imperial) administration directly managed from patria. As the rules of the game were increasingly determined by the metropole, the position of the governor was strengthened even more.[65]

1.2 Legislative foundations

Before the nineteenth century, legal systems were rarely uniform and constitutions rather an anachronism. However, an unusual attempt had been made by the WIC in 1629, when a governmental order had been implemented to (legally) incorporate the entire Dutch Atlantic Empire under one central colonial government located in New Holland, Dutch Brazil. The idea to uniform law and legal institutions – modelled on a Dutch bedrock – for all Atlantic colonies

[63] Van der Meiden, *Betwist bestuur*, 41-127.
[64] For more information about these tensions, see: Van der Meiden, *Betwist bestuur*, passim; for the dispute with governor Mauricius, see pages 91-127.
[65] Schalkwijk, *The colonial state in the Caribbean*, 251-303, in particular 267; Fatah-Black, 'Access to justice', 9.

was mimicking the practices of the VOC, where administrative justice had been centralised in Batavia – which was again following the Portuguese example of Goa. It was an ambitious choice to centralise the empire overseas and organise uniform institutions, since uniformity did not exist in the Dutch Republic itself. However, the plans for uniformization and centralisation failed from the outset. Before it could be implemented in full, New Holland had been reconquered by the Portuguese in 1654. Although probably never revoked officially, the 1629 Order of Government tacitly sank to oblivion shortly thereafter.[66] It is not entirely clear what the legacy of the order has been with regard to legislation in later administrations in the Dutch Atlantic colonies. In the case of Suriname, this is particularly hard to prove because many of the legal aspects that were applicable, were never explicitly embedded. Nevertheless, it appears that at least two important features were conformable to those of the 1629 Order, although it is unverifiable whether they have actually been based on it. In chapter 1.4 we will see that the Surinamese criminal procedure was in accordance with the order and in chapter 4.1 we will see the emphasis on Roman law in Surinamese slave law was shod on the same legal bedrock as well.

Aside from this historical aberration, Dutch early modern legal foundations were rather a fragmented assemblage of ordinances that had been (sporadically) issued by the States General, laws of the States of Holland and West-Friesland, municipal laws (*keuren*) and (local) bylaws. This collection of laws was inherited and adjusted throughout the centuries. Surinamese legal foundations were very much a copy of the Dutch model.[67] Rights and obligations of Surinamese residents had been regulated by an amalgam of various laws and bylaws. At the legal fundament stood the WIC charter and the instructions of the Suriname Company directors. Supplementary legislation had been mainly based on ad hoc decision-making as the Governing Council continuously had to adapt the legal system to changes in local context.[68] One of the most time-consuming tasks of the councillors consisted of the appointing of persons, providing of assignments, and granting or refusing of requests (*rekesten*). If the councillors deemed that a decision of one of these cases would affect more than one person, or would be applicable for third parties, legislative measures would be promulgated in either a bylaw, resolution,

[66] Schiltkamp, 'Legislation, government, jurisprudence and law', 322-327; A.J.M. Kunst, *Recht, commercie en kolonialisme in West-Indië. Vanaf de zestiende tot in de negentiende eeuw* (Zutphen 1981) 57-61; Fatah-Black, 'The usurpation of legal roles', 4-5.
[67] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 28.
[68] Fatah-Black, 'The usurpation of legal roles', 3; see also: J.Ph. de Monté ver Loren, *Hoofdlijnen uit de ontwikkeling der rechterlijke organisatie in de Noordelijke Nederlanden tot de Bataafsche omwenteling* (Utrecht 1951) 13.

ordinance, notification, publication or warning.[69] As there are no indications of explicit criteria of these categories, for convenience, this study will deal with them all together under the epithet of 'bylaws' (*plakaten*). Most bylaws were imposed to maintain order and guarantee safety of its citizens; others served as administrative or economic regulations. Bylaws could have been proclaimed either by the Governing Council and governor or by the governor at his personal discretion. Copies of these decisions always needed to be sent to the Suriname Company directors, who could revoke the bylaws whenever they did not agree with the councillors' view.

How could residents take notion of the issued bylaws without having a uniform law corpus available to consult? In the beginning, it was an inefficient, time-consuming activity to access previously issued bylaws as the only method to consult them was through rereading the board minutes of the Governing Council. Over time, several bylaws had been assembled and codified into particular periodic volumes by local government clerks.[70] In 1702, the councillors decided to assemble and bundle the previously issued bylaws in order to serve as a reference work for the councillors' board room, which resulted in a volume that comprised the period of 1683 to 1713.[71] Governor Mauricius pleaded for an updated volume in 1743 in order to provide public access to decisions as, in his opinion, inhabitants had to be able to consult the bylaws at all times. This collection covered the period of 1713 to 1743.[72] In 1761, all bylaws that originated *from patria* predating the 2nd of February 1760 were annulled. In less than a year, more than fifty new bylaws had been issued, collected and printed in an Amsterdam publication.[73] Another study, conducted by the 'white overseer' (*blankofficier*) Winkels (1818-1893) covered the period of 1745 to 1815.[74] The most recent publication about the issued bylaws has been assembled by Schiltkamp and De Smidt in 1973 and comprise the period of 1667 to 1816. As their collection has been the most complete, their volumes will be leading in this research.[75]

There have been no clear-cut instructions provided about how the councillors' decisions needed to be announced to its citizens. When reading the bylaws against the grain, it appears that several customs were known for notifying local residents. Since 1702, bylaws frequently mention that 'lest no one will purport ignorant, this [bylaw] will be publicised on the spot where

[69] Schiltkamp and De Smidt, *West Indisch plakaatboek*, viii.
[70] Ibidem, ix-xii.
[71] Nationaal Archief (NL-HaNA), Hof van Politie en Criminele Justitie (HPCJ), 1.05.10.02, inv. no. 215, f. 182-183; for the particular volume of bylaws see: NL-HaNA, HPCJ, 1.05.10.02, inv. no. 217.
[72] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 23, f. 486-487; unfortunately, the original volume has been lost to posterity.
[73] Ibidem, inv. no. 63, f. 67-68; for the volume of printed bylaws see: NL-HaNA, HPCJ, 1.05.10.02, inv. no. 223.
[74] F. Oudschans Dentz, *Alphabetisch register op de publicatien en andere verordeningen betreffende de kolonie Suriname anterieur aan het jaar 1816. Verzameld door W.E.H. Winkels* (The Hague 1944).
[75] Schiltkamp and De Smidt, *West Indisch plakaatboek*, passim.

one is used to publicise bylaws'.[76] Publications were usually posted at Paramaribo's town hall, but presumably, on several other spots as well. Moreover, it is highly likely that people would have been convoked for some sort of ceremony, since various bylaws mention that their issuance had been heralded by trumpeting, beating drums or tolling church bells. After citizens had assembled, bylaws were read out loud because of the high number of illiterates among the inhabitants.[77] Ceremonial announcements were intended for official purposes only; when Salomon Machiels and Jacob Fetter beat the drums to announce private matters, respectively in 1742 and 1764, they were fined five hundred guilders each.[78] If decisions had been aimed at particular actors, copies were often also put on a spot near the targeted audience(s), such as masts of disembarking ships, doors of taverns and on plantations. Local clerks and the civil militia had also been instructed to make sure that every inhabitant in their district was notified about the newly issued bylaws. In case a political decision concerned slaves, planters were responsible to convey its content.[79] Obviously, authority was most effective in Paramaribo itself. If (by-)laws were not abided in the hinterlands, the government was heavily dependent on declarations of witnesses and reports by civil militia (*burgercompagnieën*) to enforce their control.[80]

From the following example, one can conclude that another method to inform planters was to send a copy of a bylaw to each district. This copy needed to be read, signed and forwarded to the next plantation manager, and when completed, returned to the secretary of the Governing Council. In 1799, plantation manager Wolff had alerted captain Pfannenstihl of the civil militia in the upper Cottica and Perica district, after Wolff had noticed that the distributed copy had been besmeared with the libellous words 'liberty, equality'. Through the instruction that had been attached to the copy, the councillors could easily reconstruct the sequence of distribution. Plantation manager Frederik Eisener of plantation Jagerswoud became lead suspect of this slander, because he was the last person who laid eyes on the document without notifying the authorities. However, Eisener denied that he was guilty and argued that he did not notice the words that were written down in pencil, as he read the document by nightfall. Eventually, the raad-fiscaal deemed him not capable of being guilty because of his old age and bad physical

[76] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 250 and so forth. Original quotation: '[…] opdat niemand eenige ignorantie pretendeere, sal deese alomme werden gepubliceert ende geaffigeert ter plaatse, daer men gewoon is publicatie en affictie te doen'.
[77] Ibidem, viii-ix and e.g. 46, 170 and 178; Temminck Groll, *De architektuur van Suriname*, 63.
[78] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 497-498 and 787.
[79] Ibidem, ix and e.g. 257, 496, 870-871, 935, 1003, 1030 and 1298.
[80] Schalkwijk, *The colonial state in the Caribbean*, 206-250; for the civil militia, see: Hartsinck, *Beschryving van Guiana*, 891-893; Buddingh', *De geschiedenis van Suriname*, 126-127.

condition. He was condemned to affirm his innocence to the councillors by oath but passed away before he was able to do so.[81]

1.3 Criminal law

Someone who threatens, harms or in any other way jeopardises a person's property, health, safety or moral well-being, will be held liable for violating the law. The corpus of precepts (*rechtsregels*) that proscribes this negatively perceived conduct has been enacted in criminal law. Criminal law focuses primarily on punishing the offender either by deprivation of liberty, fines or corporal (and sometimes capital) punishments. It differs fundamentally with civil law which focuses more on dispute resolution and compensation of victims. Nowadays, a distinction is made between physical 'criminal law' (*strafrecht*), in which criminal offences and penalties are recorded, and 'criminal procedure' (*strafvordering*) which regulates how perpetrators need to be adjudicated once a law has been violated.[82] In the early modern period, in contrast, the two aspects were jointly known under the denominator of 'criminal law'. Knowledge about criminal law and procedure is essential to understand the process of criminal prosecution and its consequent sentences. Both aspects will be recurrently addressed in this thesis but, for clarity, will be disassembled and treated separately in this chapter.

Surinamese early modern criminal law was far from unified. The Zeelandic governor Lichtenbergh (r. 1669-1671) – who had studied law at Leiden University – made a first start with criminalising certain acts in 1669, when he enacted a resolution concerning the 'formation and publishing of laws'. Part of this statute were the 'Criminal and Penal Laws and Ordinances' which formed the backbone of Surinamese criminal law until the first full-fledged codification of criminal law in 1869. The 1669 Ordinances consisted of sixteen articles that mainly determined that felonies such as treason, rebellion, lese-majesty, murder, manslaughter, burglary, adultery, but also church robbery, cattle robbery and beating your parents, would be punished by death. Penal provisions for less serious misdemeanours remained unspecified and were left 'to the considerations of the judges [i.e. councillors], lest that the largest and the smallest sinners will not be punished equally but rather sentenced justifiably, according to the

[81] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 179, f. 86-94, 102-106 and 149-150; inv. no. 471, f. 243-250; inv. no. 864, f. 667-730.
[82] P.B. Cliteur and A. Ellian, *Inleiding recht* (5th edition; Deventer [2001] 2015) 10-13; see also: http://wetten.overheid.nl/BWBR0001854/2017-09-01 for modern Dutch criminal law and http://wetten.overheid.nl/BWBR0001903/2017-06-17 for modern Dutch criminal procedure (consulted on 2017-10-05).

degree and severity of the committed crime'.[83] The conciseness and superficiality of the ordinance, however, do question its value in Surinamese legal practice. First of all, there appears to be a significant inconsistency between its penal provisions and the actual penalties imposed, as in practice, the capital offences that had been criminalised in 1669, were seldom punished by death. Chapter 3.2.3 will show that, out of the 323 white civilians, only two were sentenced to death (both in absentia); and chapter 4.3 will show that even slaves were not always punished to death even though the penal provisions stated otherwise. Secondly, the incorporated penal provisions of less serious crimes were unambiguous, and therefore, probably hardly consulted at all. Consequently, supplementary penal provisions were initiated per crime per bylaw diachronically. In general, local bylaws were particularly more specified than the ordinances. Their structure was usually threefold: first a problem was perceived after which the particular act was described and criminalised, and subsequently, penal provisions were defined for the case of violation. When applicable for all population groups, sometimes different penal instructions were set for different population groups. As a result, in practice, the bylaws were consulted way more frequently than the 1669 Ordinances.

How did those criminal bylaws come about? An analysis of the issued bylaws shows that they usually arose on an ad hoc basis, in reaction to incidental or endemic problems. Sometimes issuance only sought to tackle minor issues. For example, in 1711, a bylaw was issued to counteract the incidental abuse, killing and theft of (freely roaming) cattle. Penal provisions determined that white perpetrators had to compensate the owner for the incurred damage, whereas for the same crime, slaves were flogged on the street corners of Paramaribo while their owners had to compensate the damage. Reoffending slaves were sentenced to death. Valuable information that would lead to prosecution would be rewarded with a five-hundred-guilder reward. More measures were taken in 1739. Beside financial compensation, white offenders were now obliged to pay a hundred-and-fifty-guilder fine, whereas recidivists three hundred guilders. Slaves were punished corporally 'according to the severity of the committed crime'. In addition, the 1739 bylaw also attempted to contain the problem by requiring landowners to fence in their farmland.[84]

[83] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 28-35. Original quotation on page 28-29: 'Ende opdat niemandt vremt vinde dat in sommige wetten de peinen en straffen niet sijn gespecifeert maer aen de rechters gelaeten werden, hier in de wetten breeder geexperimenteert, so wordt een yegelijck verseeckert mitsdeesen dat hetselve alleenlijck gedaen is opdat de meest ende minst sondigende in sodaenige voorvallende saecken niet mogen egaliter gepunitieert werden, maer dat yegelijck volgens de groote ende swaerte van sijn feyt sijn regtveerdige sententie daerover ontfange'.
[84] Ibidem, 281-282, 346 and 456-458.

Some problems were of more pressing matters. In the 1740s, for instance, a significant series of (attempted) homicides had been committed by poison; numerous slaves had been prosecuted.[85] Consequently, in 1745, poisoning (*vergeeven*) was criminalised per bylaw. The decision stated that poisoner slaves were 'not afraid of torture nor death' because of their 'pagan delusion', and therefore, they had to be punished severely. Slaves that were found guilty, would be branded on the forehead and their tongues and both ears would be cut off. Subsequently, they would be condemned to lifelong cuffed prison work. In addition, suspicion was already enough to cut off both ears and to be banished for one to two years.[86] The cruel countermeasures seem to have been effective, as these 'witch-hunts' appear to have vanished almost completely after the 1740s. Thereafter, no further bylaws had been issued concerning poisoning, whereas poisoning cases pop up in the criminal records only incidentally.[87]

Continuous reissuing of bylaws shows that the Governing Council also faced problems of more endemic nature, such as marronage and smuggling. This was also the case with the regulation of alcohol consumption. Already in 1669, an attempt had been made by governor Lichtenbergh to counteract abuse of alcohol. He considered binge drinking as a daily recurrent problem that caused many 'broils, quarrels, disagreements and insolences' and 'was of blasphemous effect, scandalised honest people and was highly disadvantageous to the morality of the colony'.[88] He initiated a curfew that prohibited inhabitants to sell beverages after nine o'clock in the evening. The curfew was announced by military tattoo (*taptoe*): once the drum beat at the Fort Zeelandia, vendors were required to 'turn off the tap' (*doe den tap toe*) and soldiers obliged to return to their barracks. Vendors who violated the law were fined two thousand pounds of sugar for each infringement and consumers that had been caught red-handed were fined one thousand pounds.[89] However, alcohol consumption appeared to be too tenacious to be confined by one simple regulation. Consequently, a myriad of bylaws was issued over time. Curfew regulations were reiterated (*gerenouvelleerd*) in new bylaws in respectively 1699, 1715, 1746, 1761 and 1784. Sale was prohibited during church services and sale to

[85] A sample of the year 1742 indicates the significance of the problem, as nineteen out of the twenty-five slave trials concerned poisoning cases. See: I.R. Canfijn, *Database of sample years in Suriname's Criminal Court* (2017).
[86] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 550-551.
[87] Ibidem, 550-551; Canfijn, *Database of sample years in Suriname's Criminal Court*. However, witch-hunts do frequently reappear among maroon societies during the nineteenth century, see: Buddingh', *De geschiedenis van Suriname*, 171.
[88] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 47. Original quotation: 'Also het seer notoir is ende mij daeglijx ter oren comt dat veele krackeelen, twisten, oneenigheden ende insolentien werden geperpetreert, ontstaende uyt het onordentelijck drincken en deboucheren, dat hier al te veel tot onteringe van Godt, schandael van eerlijcke lieden ende groot nadeel van den welstant van dese colonie in swanck gaet'.
[89] Ibidem, 47, for the military tattoo see also 231.

particular groups, such as soldiers and sailors, curtailed to four until eight past midnight. Moreover, the vending or bartering of alcohol to slaves was declared strictly forbidden because 'drinking, gambling and mixing up in bacchanals with white people, corrupted them and incited them to thievery and other unpermitted matters'.[90] Since 1684, vending had been confined to licensed innkeepers only, while illicit pubs (*smokkelkroegen*) had been declared prohibited but, again, regulations had to be reaffirmed on several occasions.[91] Excise duties (here: *impost op natte waren*) were also imposed and adjusted numerous times.[92] In addition, restraints were imposed on gambling as well.[93] All of these bylaws incorporated penal provisions in case of violation, varying from fines up to six hundred guilders, confiscation of licenses, to smashing jugs and glasses of military and seafaring offenders. Selling alcohol to slaves was punished more severely: perpetrators would be fined three hundred guilders, reoffenders six hundred guilders whereas third time offenders would be banished. Whites that were responsible for causing a slave bacchanal were fined five hundred guilders and a corporal punishment. Punishments for enslaved offenders have not been regulated in advance.[94]

The do's and don'ts that had been defined in bylaws were applicable for people of all races and statuses, unless explicitly mentioned otherwise. In many instances, the Governing Council deliberately determined disparate penal provisions for slaves and whites. For first time white offenders, sanctions were usually set at monetary fines, whereas the mandate to punish slaves was generally much larger. With regard to slaves, penal provisions usually stated that they had to be punished corporally according to the severity of the crime. It is striking that neither the 1669 Ordinances nor preceding bylaws *explicitly* embedded legal statuses of whites and slaves (neither had it been stressed in the 1629 Order of Government). A universal legal fundament that would properly protect civilians' rights or would legally embed social stratification was clearly absent. Only some rudimentary rights of white colonists were protected by the 1682 WIC Charter. However, the salutations of the bylaws actually do suggest *implicit* social

[90] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 218-219, 231, 459, 506, 534-535, 559-560, 645, 708-710, 725, 729-730, 898-899 and 1063-1064. Original quotation on page 708: '[…] alwaar veele slaven met drinken, speelen, gelaagen zetten zelfs met blanke, werden bedorven en tot dieverij en andere ongepermitteerde dingen werden aangezet; alles tot groot nadeel van hunne meesters in 't particulier en alle onze goede ingeseetenen in 't generaal'.
[91] Respectively in 1689, 1708, 1722, 1739, 1740, 1743, 1745 and 1761. See: Schiltkamp and De Smidt, *West Indisch plakaatboek*, 142, 186-187, 271, 459, 463-464, 506-508, 527-529 and 708-710.
[92] Respectively in 1670, 1685, 1691, 1702, 1717, 1723, 1724, 1742, 1747, 1753, 1755, 1759, 1761, 1781, 1782, 1788 and 1789. See: Schiltkamp and De Smidt, *West Indisch plakaatboek*, 76-77, 160-161, 190, 246-247, 322, 353-355, 370-371, 371-373, 493-496, 575, 609, 622-623, 656, 713-716, 1030-1034, 1047, 1118-1119 and 1141-1142.
[93] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 256-257 and 732.
[94] Ibidem, 506 and 708-710.

stratification. Decisions were primarily addressed to the 'inhabitants and planters' and only subordinately to 'their slaves', thereby automatically classifying them as property. The very first indirect reference to the distinction of social statuses stems from a 1668 bylaw in which slaves had been categorised as goods next to cattle and 'other species'.[95]

Because social stratification had not been explicitly embedded, the Surinamese social contract was put under massive strain. Precisely this lack of social stratification (and legal protection) in the colony's legal fundaments, gave Surinamese local rulers much leeway in governing the colony. The fact that councillors could shape (and suppress) society through issuing bylaws whenever they deemed that necessary, made them very powerful, yet their subordinates so vulnerable. They implicitly enhanced stratification through specific bylaws that had been issued over the years. In general, the nature of these bylaws emphasised the instrumental value for social control: most bylaws concerned regulations of freedom of movement, codes of (moral) conduct and the criminalisation of this conduct.[96] Per population group, these particular bylaws will be dealt with more extensively in the chapters 3 to 6.

1.4 Criminal procedure

Similar to criminal law, there was also no centrally codified Surinamese criminal procedure available. During prosecution, the governing councillors had been ought to take into account several legal fundaments. It appears that Surinamese criminal procedure was conformable to article LV of the 1629 Order of Government.[97] This article determined that regarding 'the policy of criminal procedures, torture, sentences and execution of verdicts, the ordinary usages of the United Provinces [will be applicable] and otherwise the commonly prescribed rights; in order to prevent culprits either from going unpunished as well as being punished too severely'.[98] Accordingly, almost a direct duplicate of the Dutch law system had been introduced in Suriname. Also applicable were a combination of Surinamese local bylaws, bylaws of the States

[95] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 14.
[96] See: Ibidem, passim.
[97] Wijnholt, *Strafrecht in Suriname*¸ 21.
[98] C. Cau (ed.), *Groot placaet-boeck inhoudende de placaten ende ordonnantiën van de Hoogh-Mog. Heeren Staten Generael der Vereenighde Nederlanden, ende van de Ed. Groot Mog. Heeren Staten van Holland ende West-Vriesland, mitsgaders van de Ed. Mog. Heeren Staten van Zeelandt: waer by noch ghevoeght zijn eenige placaten vande voorgaende Graven ende Princen de selver landen, voor soo veel de selve als noch in gebruyck zijn. Deel 2* (The Hague 1644), Placaten 5, Boeck 5, Tit. 9, Deel 1, 'Ordre van Regieringe soo in Policie als Justitie, inde plaetsen verovert, ende te veroveren in West-Indien. In date den 13 October 1629', 1235-1248. Original quotation on page 1244: 'In 't beleyt vande Criminele Proceduren, scherpe examinatie, sententieren over de misdadige, ende executeren vande straffe, sal ghevolght werden het ordinaris ghebruyck vande Vereenighde Provintien, ende voorts de ghemeene geschreven Rechten, die selve applicerende naer meriten van saecken, in sulcker voegen, dat de boose niet ongestraft ghelaten, noch oock al te groote rigeur en werde gebruyckt'.

General and the States of Holland and West-Friesland, and sixteenth-century imperial edicts. This legal patchwork was known as Old-Dutch law (*Oud-Hollands*).[99] Similar to the Dutch Republic, Roman law (here: *Rooms-Hollands*) functioned as subsidiary law. Because inhabitants could not be punished for acts that were not criminalised by law, councillors often turned to other legal fundaments in which the performed act was deemed as an offence. For instance, if an offence was not criminalised by Surinamese bylaws, the Governing Council would have presumably consulted the *Groot Placaet-boecken* of the States General first.[100] In case judicial processes were not soluble by Old-Dutch law, one would most likely look at unwritten customs first, before one turned to the more systematically codified Roman *corpus juris civilis* of emperor Justinian.[101] Wijnholt stresses, though, that not in every case it was clear to which legal fundament the councillors appealed.[102] The vacuum of criminal procedure suggests that councillors were able to tactically manoeuvre between the different legal fundaments to serve their own interests at best. The next chapters will show, however, that that presumption is very hard to substantiate.

Similar to the courts in the Netherlands, other guidelines for criminal procedure were offered by imperial ordinances. The *Constitutio Criminalis Carolina*, initiated between 1530 and 1532 by Charles V, for instance, was known for its doctrines about accountability, self-defence and complicity. Although never incorporated explicitly in Suriname (nor in the Dutch Republic), this ordinance was applied in case of particular crimes such as infanticide, manslaughter, wrongful death and abuse of trust.[103] More influential were the criminal procedures of the Criminal Ordinances introduced by Philip II in 1570 that legally defined the distinction between accusatorial and inquisitorial procedures. Under accusatorial procedure (that is, ordinary processes) a trial would start when a plaintiff had filed a formal complaint about an accused. Both parties were treated equally: they were both allowed to be represented by a lawyer and could present their supporting documents and witnesses during a (often public) hearing. Usually, accusatorial procedure was applicable only in civil lawsuits. Under inquisitorial procedure (or: extraordinary processes) the initiative to prosecute was in the hands of the authorities and could either result from a formal complaint by a plaintiff, a continuation

[99] Wijnholt, *Strafrecht in Suriname*, 22.
[100] Evidence shows that, at least from 1773, the councillors have been in possession of the collection of *Groot Placaet-boecken* after the deputy raad-fiscaal Bernard Texier donated them to the Governing Council when he changed jobs. Presumably, there were more examples in circulation in Suriname. See: NL-HaNA, HPCJ, 1.05.10.02, inv. no. 88, f. 924.
[101] De Monté ver Loren, *Hoofdlijnen uit de ontwikkeling der rechterlijke organisatie*, 125-131; Schiltkamp, 'Legislation, government, jurisprudence and law', 327.
[102] Wijnholt, *Strafrecht in Suriname*, 29-30.
[103] Ibidem, 27-28.

of a penal process after intervention by police forces and also on the basis of rumours. Prior to extraordinary trials, suspects were often apprehended and isolated and trials took place behind closed doors and left only little room for defence of the accused. Examinations were confidential and often involved an element of physical torture (*tortuur*).[104]

The Criminal Ordinances of Philip II were a fundamental asset to the Dutch systems of control, particularly to constrain less privileged or subservient people in society. The presence (and size) of these groups was often seen as a threat to the ruling order, and therefore, they were continuously under suspicion. In the Dutch Republic, for example, severe constraints were imposed on the freedom of beggars, vagrants and sometimes Jews.[105] In early modern Suriname, the extraordinary procedure was the basis of most criminal processes involving free white people and enslaved Africans. Because the ordinances provided a larger range of examination methods, the Governing Council had more liberty to prove a suspect's guilt, which was especially disadvantageous for slaves. The ordinances remained in use until legal reforms were initiated in the Dutch Republic between 1795 and 1809.[106] The following chapter will examine how criminal procedure functioned in practice.

[104] M. van de Vrugt, *De criminele ordonnantiën van 1570. Enkele beschouwingen over de eerste strafrechtcodificatie in de Nederlanden* (dissertation; Zutphen 1978) 134-135; Le Bailly, *Procesgids. Hof van Holland, Zeeland en West-Friesland*, 26-27; Kunst, *Recht, commercie en kolonialisme in West-Indië*, 58-59; Jörg, Kelk and Klip, *Strafrecht met mate*, 26; although the distinction between these 'ordinary' and 'extraordinary trials' seems to be semantic *contraditiones in terminis* because, in the early modern period, the ordinary trial had become 'less ordinary' than the extraordinary trial, the terms originated from a time when the extraordinary procedure was still relatively new and uncommon. See: Spierenburg, *Judicial violence in the Dutch Republic*, 26.

[105] Van der Vrugt, *De criminele ordonnantiën van 1570*, 135-136; Diederiks, Faber and Huussen Jr., *Cahiers voor lokale en regionale geschiedenis*, 10-11.

[106] Davis, 'Judges, masters, diviners', 960-962.

2. The colonial judicial system

The administration of justice was one of the most important mechanisms of state control in early modern societies.[107] This chapter will scrutinise the administration of justice in colonial Suriname. Hitherto, there has been no seminal work that has reconstructed the practices of justice in colonial Suriname.[108] Consequently, this chapter will be the first to reconstruct how the course of judicial proceedings functioned in both civil lawsuits and criminal cases. Due to the general lack of uniformly codified laws and procedures, this chapter's analysis will be mainly based on archival research into the practice of the court. The examined judicial documents from my sample years will be at the centre of the reconstruction. These samples have been deliberately spread throughout time and comprise the years 1722, 1750, 1775 and 1799. The material will be analysed qualitatively in order to reconstruct the course of the judicial administration from accusation to verdict. The execution of the sentence and the possibility to appeal will be taken into account as well. My findings will be complemented with literature about legal practices in the Dutch Republic, as in most instances, the colonial authorities simply adopted the Dutch legal framework.[109] In order to stimulate future research, I will also provide some additional methodological guidelines in the notes.

It is essential to realise that there were hardly any predetermined blueprints for the administration of justice in early modern Suriname. Because no comprehensive instructions were imposed by the authorities in patria, nor developed by the Governing Council, the procedure of justice was dynamic. The system invented itself along the way and additional guidelines were often only introduced when necessary. Many practices were adopted somewhere over the course of the eighteenth century, while it is not always clear precisely when they came into force. This chapter will show that the lack of a uniform code of criminal law and procedure, in combination with the lacking separation of powers, in theory, provided the governing councillors much leeway in administering justice. It is, therefore, fair to raise the question whether the councillors had always been unequivocal in reaching a verdict. How that turned out in practice, will be scrutinised in the subsequent chapters.

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[107] Spierenburg, 'Social control and history' 1.

[108] A good starting point has been provided by Fatah-Black, although his research rather focuses on access to justice than on how the procedure of justice actually worked, see: Fatah-Black, 'The usurpation of legal roles', passim; Fatah-Black, 'Access to justice', passim.

[109] See: Le Bailly, *Procesgids. Hof van Holland*, passim; Le Bailly and Verhas, *Procesgids. Hoge Raad van Holland, Zeeland en West-Friesland*, passim; Maes, *Vijf eeuwen stedelijk strafrecht*, passim; Spierenburg, *Judicial violence in the Dutch Republic*, passim; Diederiks, Faber and Huussen Jr., *Cahiers voor lokale en regionale geschiedenis*, passim; Faber, *Strafrechtspleging en criminaliteit te Amsterdam*, passim.

2.1 The raad-fiscaal

The driving force behind the administration of colonial justice was the raad-fiscaal, the public prosecutor *avant la lettre*.[110] He was appointed (and after 1745 also salaried) directly by the Suriname Company directors. In general, his task was 'to foster justice in the name of the Dutch States General and Suriname Company' and 'to monitor that one abided by both local bylaws and instructions of the Dutch Republic'.[111] Along with the governor, the raad-fiscaal served on the board of the Governing Council, Civil Court and Court Martial on a regular base. Because the governor was normally chosen from the military, the raad-fiscaal was often the only person present with a training in law. Therefore, he had a significant influence in council meetings, although his opinion always remained advisory. In all three courts, he functioned as public prosecutor. Officially, he had to be asked per individual lawsuit or criminal case, although, in practice, he always acted as such. At least, for both Governing Council and Court Martial, this study has found no evidence of convicts that have been prosecuted without interference of the raad-fiscaal. In the Civil Court, to the contrary, his role seems to have been more marginal. Additional tasks of the raad-fiscaal were to keep a close eye on illegitimate slave trafficking and, in times of war, to check whether confiscated goods were lawfully seized. In case of resignation, dismissal or death of the incumbent raad-fiscaal, the governor appointed an interim that exercised office until the Suriname Company had chosen a new candidate. This temporary position was usually granted to one of the governing councillors and had to be approved by the rest of its council members. When in 1746 governor Mauricius had appointed the Civil Court secretary Jacob van Baerle as interim instead, this led to commotion among the councillors.[112]

In 1754, the Suriname Company decided to appoint a deputy raad-fiscaal (*tweede raad-fiscaal*); at that time against the will of the incumbent governing councillors. The directors' decision did not come out of the blue, as previous raad-fiscaals had repeatedly requested them to appoint a separate military prosecutor in order to lighten their workload. With the appointment of a deputy prosecutor, the raad-fiscaal could focus solely on prosecution of

[110] See appendix I for a list of appointed raad-fiscaals.

[111] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 129-133; Original quotation on page 129: 'Den raed fiscael sal gehouden sijn het recht van den hoge overheyt ende van de Societeyt alomme soo in rechten als daer buyten, met alle ernst, [eerlick]heyt ende candeur te bewaren, beschermen ende [voorsta]en […] Ende daeromme nauwkeurigh letten dat de placaten, ordonnantien ende bevelen van den staet deser landen, waeronder mede den generalen articulbrieven van de West-Indische Compagnie mitsdesen wert verstaen begrepen te sijn, ende alle ordres, instructien ende reglementen bij de Societeyt van de colonie van Suriname albereyts gegeven ende aengeschreven, mitschaeders die van Gouverneur ende Raeden exactelijck ende naer haeren inhoudende werden geobserveert ende opgevolght'.

[112] NL-SAA, AFB, 195, inv. no. 1025B, f. 110-116; NL-HaNA, HPCJ, 1.05.10.02, inv. no. 32, 84-88; Hartsinck, *Beschryving van Guiana*, 882-884; Wolbers, *Geschiedenis van Suriname*, 165 and 168; Schiltkamp and De Smidt, *West Indisch plakaatboek*, 129-133.

criminal offences. Similar to the raad-fiscaal, the deputy was appointed by the directors of the Suriname Company. Although his main task was to assume the raad-fiscaal as military prosecutor, he also had to substitute the raad-fiscaal in council meetings in case of the latter's illness or absence and would take office as interim raad-fiscaal when the position became vacant. In addition, he served as pre-advising councillor (*prae advijserend lid*) of the Civil Court.[113]

Occasionally, the presence of the raad-fiscaal led to tensions. Major issues particularly concerned the raad-fiscaal's position, such as disputes about his rank in seniority and the seating chart during assemblies. Important decisions about the raad-fiscaal's competences were made by respectively governor Mauricius (r. 1742-1751) and governor Crommelin (r. 1757-1768) who determined that the raad-fiscaal (and deputy raad-fiscaal) would rank after the governor and military commander, but before governing councillors. However, in contrast to the others, the raad-fiscaal or deputy raad-fiscaal was not considered as a standing member of the council. He had no right to participate in the courts' assemblies without an invitation and had to withdraw himself from sessions whenever the others deliberated about judicial matters.[114]

However, conflicts rose about litigations as well. The following example shows that the commanding authorities took their responsibility to administer justice very seriously, irrespective of someone's status. Mid-June 1750, the councillors Hendrik Talbot and Isaak Godefroij had sued their interim raad-fiscaal Samuel Paulus Pichot (r. 1750-1751) for several reasons. According to them, they had been 'impertinently, despicably and deceitfully' taunted by the raad-fiscaal on more than one occasion. Feelings ran especially high after Godefroij had spread the rumour that Pichot had hanged one of the slaves of Miss Van Hertzbergen without any form of judicial process. Godefroij accused the raad-fiscaal of prosecuting and executing the slave on a personal title. According to Pichot, the slave definitely had been taken to the

[113] NL-SAA, AFB, 195, inv. no. 1025B, f. 110-116; NL-HaNA, Sociëteit van Suriname (SvS), 1.05.03, inv. no. 44, f. 60; NL-HaNA, HPCJ, 1.05.10.02, inv. no. 51, f. 132-138; Hartsinck, *Beschryving van Guiana*, 882-883; Schiltkamp and De Smidt, *West Indisch plakaatboek*, 129-133; see appendix II for a list of deputy raad-fiscaals.
[114] Hartsinck, *Beschryving van Guiana*, 884; for the dispute between governor Raye and raad-fiscaal Van Meel, see: Van der Meiden, *Betwist Bestuur*, 86-87; Buddingh', *De geschiedenis van Suriname*, 42-43; for the dispute between the governor Mauricius and raad-fiscaal Halewijn van Werve, see: Van der Meiden, *Betwist bestuur*, 94-95; NL-HaNA, SvS, 1.05.03, inv. no. 36, f. 13-14; NL-HaNA, HPCJ, 1.05.10.02, inv. no. 22, f. 107-109 and 124-126; inv. no. 24, f. 214; inv. no. 28, f. 83-89, 92-96 and 129-135; for the dispute between several governing councillors and the Suriname Company, in which the former had accused the latter of nepotism after the directors had appointed one of their nephews (named Kohl) as raad-fiscaal, see: NL-HaNA, HPCJ, 1.05.10.02, inv. no. 32, f. 131, 135-141 and 208-210; for the dispute between military commander Crommelin and raad-fiscaal Curtius, see: NL-HaNA, SvS, 1.05.03, inv. no. 34, f. 2-4 and 309-310; inv. no. 44, f. 59-60; NL-HaNA, HPCJ, 1.05.10.02, inv. no. 51, f. 132-138; Wolbers, *Geschiedenis van Suriname*, 246; for the dispute over the rank of the deputy raad-fiscaal between several councillors and deputy Texier, see: NL-HaNA, HPCJ, 1.05.10.02, inv. no. 81-82, 85-86, 88-89, 264 and 268-271.

court, where he had been prosecuted in absence of Godefroij. Governor Mauricius chose the side of the raad-fiscaal, after he had taken account of the rumour with great disconcert. He argued that Godefroij's allegations of injustice could risk a rebellion among slaves and were 'of the utmost disregard to the office of justice' of which Godefroij was part of as well.[115] Unfortunately, it is not clear how this dispute has been solved, as no verdict against Pichot has been recorded in the board minutes nor judicial documents. Strikingly, neither has there been any evidence concerning the prosecution of Van Hertzbergen's slave. Nevertheless, the allegation against raad-fiscaal Pichot is very illustrating for this research, as the example shows that the Governing Council held the administration of justice in high esteem and endeavoured to provide a genuine trial to every human being, including slaves.

2.2 The colonial courts: criminal versus civil competences

In early modern Suriname, a distinction was made between civil lawsuits and criminal cases.[116] All criminal cases were litigated in the Governing Council, whereas civil cases were adjudicated in either the Civil Court or Council for Minor Affairs. The distinction between civil lawsuits and criminal cases can be explained by the legal tradition to differentiate between capital and non-capital offences. Capital offences were among others murder, rape, arson, banditry and lese-majesty; and were always adjudicated criminally. Criminal litigation focused primarily on punishing the perpetrator, either through fines, deprivation of liberty (by banishments, incarceration or community services) or corporal (and sometimes capital) punishments.[117] In Suriname, criminal offences varied from physical offences (such as murder, infanticide, manslaughter, assault, abduction, poisoning and suicide), property offences (theft, burglary, trespassing, fencing, vandalism, fraud and smuggling), renegade offences (desertion, marooning, conspiring, revolting, mutinying, insubordination and negligence), public order offences (violation of bylaws, disruption of the public order, resistance to the commanding authorities, insolences and blasphemy) to sexual offences (adultery, sexual abuse, incest, sodomy and bestiality). With the exception of marooning, all offences were commonly reported in the Dutch Republic as well.[118]

Legal practices show that other offences were adjudicated in the Governing Council as well, although distinctions had not always been that clearly embedded within the law. For instance,

[115] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 45, f. 49-50, 80-83, 141-143, 177-176 and 285-296; inv. no. 550, f. 83-84, 89-90 and 95-98.
[116] Note that cases concerning militaries were generally treated separately under military law (see chapter 2.5).
[117] Le Bailly, *Procesgids. Hof van Holland*, 26.
[118] Cf. Spierenburg, *Judicial Violence in the Dutch Republic*, 63-73 and 84-96.

crimes against civil servants, servants of the courts and other people that were under the protection (*sauvegarde*) of the colonial government were also adjudicated in the Governing Council. In addition, abuse of office and other forms of misconduct perpetrated by civil servants, such as *schouten* (cf. sheriffs), bailiffs, secretaries and notaries, fell under the purview of the council as well. Cold cases, appellate cases and other offences that were not (or insufficiently) prosecuted by the subordinate courts were also redirected to the Governing Council.[119]

The Surinamese civil courts dealt with fundamentally different issues, as they rather focused on dispute resolution and compensation of victims. Disputes between two civilian parties usually arose when one party claimed that its rights had been violated by the other, whereas vice versa, the other claimed that the undertaken action had been conducted lawfully. Civil (*civielrechtelijke*) lawsuits concerned either 'non-property law' or 'property law' disputes. Non-property law (*familierecht*) regulated all relations between civilians mutually (such as marriages, custodies and divorces), whereas property law (*vermogensrecht*) regulated everything between (multiple) civilians and goods (like property rights, usufruct, collateral, mortgages but also contracts).[120] So far, no research has been conducted on Suriname's civil lawsuits but samples indicate that non-property law issues only sporadically led to conflicts. The mainstay of the cases in civil courts appears to have consisted of property law disputes, such as debt, defaults and other controversies regarding possession or cession of property.[121] Depending on the seriousness of the disputes, litigation was either administered in the Council for Minor Affairs or in the Civil Court.

In Dutch legal history, the distinction between civil and criminal cases has been subjected to several changes in the past. Offences that were once categorised as 'civil', were sometimes considered as 'criminal' at later stages in time. As a result, offences are not always documented in the archives where one would normally look. Especially petty offences appear to have been situated in these legal 'grey zones', such as defamation, neighbourhood quarrels, small brawls and negligence during exercise of profession.[122] One would assume that this was the case in Suriname as well, as no clear-cut rules had been drafted to demarcate the jurisdictions of the Governing Council and the Civil Court.[123] Indeed, this legal lacuna provided relative freedom for Surinamese plaintiffs to initiate a trial at the court that he or she deemed appropriate for

[119] Cf. Le Bailly, *Procesgids. Hof van Holland*, 26-27.
[120] Cliteur and Ellian, *Inleiding recht*, 11-12.
[121] NL-HaNA, Hof van Civiele Justitie (HCJ), 1.05.10.04, inv. nos. 365-366.
[122] Diederiks, Faber and Huussen Jr., *Cahiers voor lokale en regionale geschiedenis*, 20.
[123] Hartsinck, *Beschryving van Guiana*, 634; Schiltkamp and De Smidt, *West Indisch plakaatboek*, 23 and 1082.

their particular case. But both the councillors of the Civil Court and Governing Council could decide to redirect the matter to the other court whenever they deemed that better suited. In my experience, offences that ideally should have fallen into the 'criminal' category only rarely appear in the Civil Court archives. A sample of July 1750 shows that only one out of one hundred cases concerned such a 'grey zone' lawsuit; in this particular case the lawsuit involved a small quarrel between Christina Elisabeth Slippert and Johanna Henriette du Bruijel, that eventually, had been dismissed due to lacking evidence.[124]

Occasionally, these 'grey zones' led to discontents between the two courts. Especially the governing councillors deemed that their civil counterparts interfered too much in their affairs. Another thorn in the flesh was that the Civil Court councillors sometimes decided to sentence severe punishments without notifying the Governing Council. Eventually, tensions were soothed by the States General in 1740. In a new bylaw, the States' delegates reaffirmed that they Civil Court councillors had to accept the superiority of the Governing Council, exactly as it had been regulated in the 1682 charter.[125]

2.3 The Council for Minor Affairs

For petty issues, one normally pressed charges at first instance (*rau actie*) at the Council for Minor Affairs (*Kamer van Kleine Zaaken* or *Subaltern Collegie*).[126] This civil court originated from 1691 and consisted of six honorary councillors. It convened once a fortnight on Friday mornings and was presided by a former member of the Civil Court. The council was accredited to hold trials in minor civil cases regarding disputes of no more than twenty-five guilders. In addition, the council was responsible for the surveillance of the commons (until 1773), maintenance of the streets and the docks of Paramaribo, inspection of the cattle, and taxation on houses and cattle. Consequently, it was also empowered to adjudicate disputes concerning such matters. Preceding civil trials, accused people were subpoenaed by a judicial servant, the so-called bailiff (*deurwaarder*). Defendants were obliged to turn up in court or send a representative in case of illness or other impediments. Usually, justice was administered

[124] NL-HaNA, HCJ, 1.05.10.04, inv. no. 365-366.
[125] Hartsinck, *Beschryving van Guiana*, 881; I. Scheltus (ed.), *Groot placaet-boeck inhoudende de placaten ende ordonnantiën van de Hoogh-Mog. Heeren Staten Generael der Vereenighde Nederlanden, ende van de Ed. Groot Mog. Heeren Staten van Holland ende West-Vriesland, mitsgaders van de Ed. Mog. Heeren Staten van Zeelandt. Deel 6* (The Hague 1746) 1421-1422.
[126] See: NL-HaNA, College van Commissarissen voor Kleine Zaken (CCKZ), 1.05.10.05, inv. nos. 1-305.

immediately (*de plano*), that is, the council reached a verdict solely based on the interrogation of the defendant and claimant, without any further form of process or investigation.[127]

The council had initially been located under the same roof as the Governing Council but, in 1743, moved to the building of the neighbourhood watchmen (*Burgerwacht*), where it shared the upper floor with the *collegium medicum* and later with the overseers of the commons as well.[128] In the same year, the number of councillors was extended to ten and the maximum value of lawsuits raised to two hundred and fifty guilders. From then on, the council was allowed to adjudicate *de plano* in lawsuits valuing up to fifty guilders. Court hearings for lawsuits higher than one hundred guilders were scheduled on a separate day and would be adjudicated in the same way as in the Civil Court (see below). Moreover, both a secretary and usher (*kamerbewaarder*) of the Civil Court were required to attend these hearings. The governor could join whenever he deemed that necessary.

Defendants that had been declared guilty, had to comply with the sentence within six weeks, but were allowed to lodge an appeal (*appel*) to the Civil Court for cases valuing between one hundred and two hundred and fifty guilders.[129] The appellant had to request permission to appeal (*mandement in cas d'appel*) within ten days after the verdict had been rendered, and subsequently, had to insinuate the defendant within ten days after permission had been granted. The appellant also had to pay a fifty guilders caution (*boete van fol appel*) in advance, that would be forfeited in case the Civil Court did not alternate the previously sentenced verdict.[130]

2.4 The Civil Court

The Civil Court mostly dealt with civil cases at first instance valuing above two hundred and fifty guilders, but also functioned as appellate court to the Council for Minor Affairs.[131] The Civil Court consisted of six honorary councillors (ten since 1744), a secretary and the governor who presided the court. On demand, the raad-fiscaal could be asked to advise on matters. Similar to the election process of the governing councillors, twice as much candidates were

[127] Hartsinck, *Beschryving van Guiana*, 885-887; Wolbers, *Geschiedenis van Suriname*, 165-166; Schiltkamp and De Smidt, *West Indisch plakaatboek*, 193-194, 265-267, 519-520, 788 and 821; Inventaris van het digitaal duplicaat van het archief van het College van Commissarissen voor Kleine Zaken in Suriname, 1740-1828 (consulted on 2018-01-23) page 7.
[128] Temminck Groll, *De architektuur van Suriname*, 63; NL-HaNA, HPCJ, 1.05.10.02, inv. no. 133, f. 14-15.
[129] Hartsinck, *Beschryving van Guiana*, 885-887; Wolbers, *Geschiedenis van Suriname*, 165-166; Schiltkamp and De Smidt, *West Indisch plakaatboek*, 193-194, 265-267, 519-520, 788 and 821; Inventaris van het digitaal duplicaat van het archief van het College van Commissarissen voor Kleine Zaken in Suriname, 1740-1828 (consulted on 2018-01-23) page 7.
[130] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 1091; cf. Le Bailly and Verhas, *Procesgids. Hoge Raad van Holland*, 19.
[131] See: NL-HaNA, HCJ, 1.05.10.04, inv. nos. 1-1397.

nominated (although this time by the members of the Governing Council instead of the electorate), after which the governor selected the most suitable. The newly chosen councillors were appointed for a period of four years. Every year some positions became vacant, varying from one to four per year. The Civil Court initially resided on the same floor as the Governing Council but, due to space issues, was relocated in 1773 to another building situated at the church square, on the corner intersecting the *Heerenstraat*. In 1790, the building was evacuated because of disrepair and temporarily moved to an adjacent, vacant building.[132]

Despite the fact that the records of civil cases are available in abundance, no research has been conducted on the Civil Court yet. Samples indicate that most disputes in the Civil Court consisted of property law issues, especially debts higher than two hundred and fifty guilders.[133] Beside dispute resolution, the Civil Court also dealt with numerous civil requests (*rekesten civiel*) where petitioners (*rekwiranten*) could ask for permission to personal guarantees (*borg* or *cautie*), appointment of assessors (*priseurs*), access to the benefit of inventory (*beneficie van inventaris*) or for permission to assign bonds, houses, yards or shares in plantations. In addition, neither are there any historical studies that have tried to scrutinise how Surinamese civil justice functioned. Instructions of civil procedure did not exist until 1785 and were only drafted after the Civil Court itself had requested for more specific directives. The 1785 instructions also became the basic legal framework for more pressing affairs in the Council for Minor Affairs.[134] In order to reconstruct the legal practices of Suriname's civil procedure, for this subchapter, the 1785 instructions will be supplemented with the legal practices in the Dutch Republic. With the exception of succession laws, Dutch civil laws and procedure were almost the same in Suriname.[135] A very helpful guideline for early modern Dutch civil procedure is the *Procesgids* written by Le Bailly, and therefore, will be leading in this investigation.[136]

There were two paths to follow in civil procedures. Firstly, one could ask for an expedited procedure (*communicatoire procedure*) in which one only adjudicated in writing. Because all supporting documents (*munimenten*) had to be submitted simultaneously with the submission of the request, litigation was relatively fast and cheap. Secondly, and most commonly, one could request for a scheduled hearing (*rolprocedure*). In theory, hearings would be scheduled during

[132] Hartsinck, *Beschryving van Guiana*, 634 and 879-880; Wolbers, *Geschiedenis van Suriname*, 165; Temminck Groll, *De architektuur van Suriname*, 63-64; NL-HaNA, HPCJ, 1.05.10.02; inv. no. 133, f. 144-145.
[133] The Civil Court archives are enormous and cover almost one hundred meters of judicial documents. For this subchapter, I have taken a sample of the month of July 1750. See: NL-HaNA, HCJ, 1.05.10.04, inv. no. 365-366.
[134] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 1081-1104.
[135] P.A. Samson, 'De "Maniere van procedeeren" in Suriname van 1785', *Verslagen en mededeelingen. Vereeniging tot Uitgave der Bronnen van het Oud Vaderlandse Recht,* Vol. 12 (1960) 281-291, there 282.
[136] See: Le Bailly, *Procesgids. Hof van Holland*, passim, in particular 29-59.

the months of January, April, July and November from Mondays until Fridays, but in practice, these hearings took place in all the other months as well – except in September and October when the court had been closed due to holidays.[137] On a weekly basis, several types of hearings were scheduled. Ordinary disputes and civil requests were scheduled on the *ordinaris rolle*, whereas prioritised disputes were scheduled on the *gepriviligeerde rolle*. The latter concerned matters like incarceration of people, (a wide range of) possessory actions (*bezitsvorderingen*) but also cases of appeal and expedited procedure. Debt disputes were treated separately on the *rolle van praeferentie en concurrentie*.[138]

The debt dispute between Jacobus Toeberts and Gerrit Paater perfectly illustrates how such a scheduled civil lawsuit operated. Toeberts and Paater came into conflict with one another after Toeberts had purchased a one-sixth share in the plantation called Tout Lui Faut from Paater. When Toeberts had defaulted the second instalment of six thousand guilders – that was due on the 27th of February 1750 – Paater decided to go to court. Despite that only an extract of the prosecution has been preserved, one can easily reconstruct the process. To start a trial, Paater had to file a formal request to subpoena Toeberts. As there was no central institution or public prosecutor that took civil disputes to trial, civilians had to go to court individually whenever they deemed that their rights had been violated. Petitioners (here: *supplianten*) could submit their complaints between Mondays and Fridays at the two councillors in charge (*commissarissen ter rolle*). The duty of these two councillors alternated on a daily base. After a warrant (*mandement van citatie*) had been granted, Toeberts, the defendant (*gedaagde* or *beklaagde*), was subpoenaed by the bailiff. At the same time, Paater's hearing was scheduled on the agenda (*rolle*) on the 4th of May 1750. At the day of hearing, the secretary would read the scheduled cases out loud. After their names had been summoned, the involved parties were granted an audience at the councillors in charge. At most instances, the plaintiffs (*impetranten*) and defendants (*geimpetreerden*) were assisted by an attorney (*advocaat* or *procureur*); both legal servants were accredited by the Governing Council, although the former position required a completed legal education whereas the latter did not necessarily.[139] Paater had been assisted by *procureur* Jan Nepveu, who presented his statement of claim (*conclusie van eis*) during trial. In addition, for unknown reasons, Paater was not able to attend the hearing himself, and

[137] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 1081-1104, especially 1082 and 1098.
[138] Ibidem, 1082-1083 and 1092-1100; cf. Le Bailly, *Procesgids. Hof van Holland*, 42-43; for an overview of the different forms of possessory actions (*mandementen van arrest, interdict, indemniteit, maintenue, complainte, immissie, spolie, inductie, atterminatie, cessie, benefitie van inventaris, brieven van respijt*) see: Le Bailly, *Procesgids. Hof van Holland*, 156-158.
[139] Cf. Maes, *Vijf eeuwen stedelijk strafrecht*, 66-68.

therefore, had empowered Ephraim Comans Scherpingh as his substitute (*qualitate qua* or *q.q.*). The sources are silent about what happened next. Normally, Toeberts (or his attorney if he had one) would have had the chance to defend himself and would be able to propose a counterstatement of claim (*contraconclusie*). Subsequently, after the hearing, both parties would have had the chance to refute the other's arguments in writing (*repliek* and *dupliek*) for which they consecutively had a fortnight each.[140] Considering the long period between the trial and the verdict, it stands to reason that this happened in Toeberts' trial as well. In more serious or more comprehensive trials, the councillors could decide to render an interlocutory verdict (*appointement dispositief*). In theory, this could have been the case here as well, due to the high sum of money involved. Subsequently, the supporting documents were assessed by the councillors on duty, about which they would report to the entire Civil Court.[141] On the 31st of July 1750 the full council convened and deliberated about Toeberts' trial. Similar to the Governing Council, all ten councillors had one single vote, while the governor held the casting vote. Because deliberation usually took place behind closed doors, it is unknown what has been discussed by the councillors about the matter. Nevertheless, we do know the Civil Court had reached a verdict (*dictum*) that same day. Paater's advocacy had been favoured by the court. Toeberts was sentenced (*gesententieerd*) to pay off the owed six thousand guilders and had to reimburse the cost incurred during trial. Most likely, the verdict would have been read out loud (*gepronuncieerd*) to the involved parties during the consecutive hearing.[142]

2.5 The Court Martial

Suriname's armed forces grew from two hundred to fifteen hundred men during the eighteenth century. As most of the militaries were garrisoned in Paramaribo, they represented a large part of the white urban society.[143] Their presence could put a lot of pressure on the citizens of Paramaribo, especially in times of (internal) peace when the role of the troops was marginalised. In order to prevent conflicts, the Governing Council had implemented a curfew and had allocated timeslots for selling alcohol to the military (cf. chapter 1.3). Yet, despite the imposed

[140] In more comprehensive lawsuits it was not uncommon to also submit a *tripliek*, *quadrupliek* and so forth.
[141] However, the councillors on duty could also pronounce verdicts individually. Unfortunately, similar to criminal justice (see chapter 2.6.5), it is not clear when verdicts were reached by the councillors on duty instead of taking the matter to full court.
[142] NL-HaNA, HCJ, 1.05.10.04, inv. no. 366, f. 55-56 and 61-62; Schiltkamp and De Smidt, *West Indisch plakaatboek*, 795-796 and 1081-1104; cf. Le Bailly, *Procesgids. Hof van Holland*, 29-59.
[143] M.J. Lohnstein, *De militia van de Sociëteit c.q. directie van Suriname in de achttiende eeuw* (Velp 1984) 42-63; see also: Hartsinck, *Beschryving van Guiana*, 893-894; K.J. Fatah-Black, 'Desertion by sailors, slaves and soldiers in the Dutch Atlantic, c. 1600–1800' in: M. van Rossum and J. Kamp (eds.) *Desertion in the Early Modern World: A Comparative History* (London 2016) 97-124, there 102-104.

measures, soldiers appear to have been involved in conflicts quite a lot. Whenever a soldier came into discord with a civilian or committed a crime off-duty (*delicta communia*), the matter would come before the Civil Court or Governing Council. The armed forces often protested against civilian litigation, arguing that appearing before a civilian court was a dishonour and insulted their position as military men. They strongly preferred to be adjudicated in the Court Martial (*militaire krijgsraad*).[144] This court dealt with internal disputes between multiple soldiers but also in criminal matters such as desertion, insubordination and negligence. The court did not assemble on a regular base but only convened when required. It consisted of the governor (who presided), the military commander, lieutenant colonels, majors and all other military officers up to the *vaandrig* (cf. ensign). The raad-fiscaal functioned as the military prosecutor (*auditeur*), until this task was transferred to the deputy raad-fiscaal in 1754. The raad-fiscaal took note of the military offences and would act in the same manner as he would in the Governing Council, but then according to military law. Besides prosecution of military offences, the Court Martial also deliberated on military affairs. In times of crisis, the governor would convene the Grand Court Martial that consisted of the military commander, the nine governing councillors and an equal number of high-ranking military officers.[145]

Military cases have only been preserved for (most of) the period of 1739 to 1762.[146] A sample of the court-martial documents of 1747 counts seventeen cases for that particular year, although only five verdicts have been included. Obviously, all persons who stood trial were men. A good example of a court martial is the case against Michiel Harder, a soldier of the company under the command of military commander Larcher van Kenenburg. After a night of drinking, Harder had been accused of conspiring and desertion by his fellow soldiers. Although Harder repented the day after, arguing that he had been intoxicated, he was sentenced to be led through the *spitsgarde* on three consecutive days. The *spitsgarde* or *spitsroede* was a harsh punishment that was exclusive to soldiers. To endure this punishment, Harder had to walk between two lines of soldiers, consisting of the entire garrison, while being hit by each soldier once. After the execution of the punishment, Harder was transferred to an outpost in the Surinamese hinterlands.[147] Ten other men of Larcher van Kenenburg's company were

[144] Hartsinck, *Beschryving van Guiana*, 873; civil citations of military personnel had to be approved by the governor first. This decision resulted from a dispute between interim raad-fiscaal Van Sandick and interim governor Van de Schepper in 1737, after Van Sandick had summoned the governor's military son, Hermanus van de Schepper, who had to appear in the Governing Council without the governor had been notified in advance. See: NL-HaNA-HPCJ, 1.05.10.02, inv. no. 18, f. 574-588.
[145] Hartsinck, *Beschryving van Guiana*, 873, 884 and 893; NL-SAA, AFB, 195, inv. no. 1025B, f. 116.
[146] NL-HaNA, HPCJ, 1.05.10.02, inv. nos. 937-948.
[147] Ibidem, inv. no. 938, f. 49-54 and 104-108.

interrogated with regard to Harder's case, but the sources are silent about whether they were found guilty.[148]

It seems that, compared to punishments for white civilians, military punishments were generally harsher. The soldier Jan Hendrik Jochem Meyer had been banned for life after he had ignored a ships captain's explicit instructions not to touch any of the wares from his stranded vessel.[149] The corporal Samuel de Stando was sentenced to be lead through the *spitsgarde* twelve times on three consecutive days after he had insulted and assaulted his sergeant. He also had to ask him for forgiveness on his bare knees and was discharged from the military thereafter.[150] In contrast to civilian adjudication, where capital punishments hardly occurred among whites, military perpetrators were regularly sentenced to death. The soldier Willem Voogt, for example, was court-martialled for insubordination and attempted murder of his superior. He had tried to shoot his corporal after the latter had given him three or four strokes of the cane because he had refused to stand watch. Voogt was sentenced to be executed by firing squad (*gehaakebuseert*).[151]

2.6 Criminal justice in the Governing Council

Besides its function as political institution, the Governing Council also operated as criminal court and as appellate court for Civil Court cases. A central role in criminal prosecution was reserved for the raad-fiscaal. He led the entire process of prosecution from accusation to indictment. Based on his advice, the councillors eventually formulated a verdict. Because the sources are silent about how these verdicts came about, it hard to reconstruct the considerations of the councillors. When needed, the governor could play a decisive role in the composition of a verdict. He not only had the casting vote in judicial decisions, but also enjoyed the privilege to mitigate or pardon sentences. This subchapter will focus only on the administration of criminal justice and, where necessary, will be substantiated by sources on the Dutch Republic. A good starting point on early modern criminal justice in the Dutch Republic has been provided by Maes in his *Vijf eeuwen stedelijk strafrecht*.[152]

[148] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 938, f. 73-103.
[149] Ibidem, inv. no. 938, f. 7-32.
[150] Ibidem, inv. no. 938, f. 39-48.
[151] Ibidem, inv. no. 938, f. 57-70.
[152] Note that this work has been primarily focused on criminal justice in Mechelen. Notwithstanding, the administration of justice in Mechelen can be considered as the bedrock of criminal justice for the entire Dutch Republic. See: Maes, *Vijf eeuwen stedelijk strafrecht*, passim.

2.6.1 The accusation

In most instances, prosecution of criminal offences started with an accusation by someone who fell victim to, or was witness to, a perpetrated crime. Normally, a plaintiff would turn to the Governing Council in order to file a formal complaint (here: *rekest*) in which he or she would elaborate what had happened and on which grounds the perpetrator should be prosecuted. Two councillors on duty (*ter rolle crimineel*) would evaluate the accusations and decide to either accede (*fiat ut petitur*) or deny (*nihil ut petitur*) the request.[153] However, in contrast to civil disputes, the Governing Council could also decide to file a lawsuit without anyone that had pressed charges. This usually occurred in case of felonies that were punishable by death (cf. chapter 1.3) and in case perpetrators were caught red-handed. Moreover, the councillors could also initiate an investigation simply after rumours would circulate on the streets of Paramaribo.[154]

2.6.2 Gathering precedent information

In cases where the Governing Council decided to initiate a prosecution, further research and interrogations were conducted. Depending on the seriousness of the crime, certain delegates were mandated to investigate the crime scene. For hearsays on plantations, the council often sent a division captain of the civil militia or an alderman (here: *heemraad*) to conduct a field report, whereas more aggravated rumours normally required one or two councillors to be present. According to the bylaws, civilians were always obliged to alert the Governing Council in case of suspicious deaths. The unlucky finder first had to call in two of its neighbours to behold the deceased body. Subsequently, he or she had to summon the raad-fiscaal, who would examine the body along with a medical surgeon.[155] However, in practice, the raad-fiscaal was not always summoned to investigate a crime; sometimes councillors were deployed instead. Mostly, the raad-fiscaal was sent whenever a suspect came into the picture. For example, when Michael Driscol's storehouse had been burgled in 1799, councillor Johan Christiaan Opitz investigated the *locus delicti* instead of the raad-fiscaal.[156] In this particular case, the councillor's visit would probably have been sufficient, as there were no hints of the culprit's identity, and thus, prosecution would be in vain. Several examples of investigations of drowning

[153] The decision was usually written down on the left corner (*apostille*) of the first page of the original request.
[154] Cf. Maes, *Vijf eeuwen stedelijk strafrecht*, 106-107; Le Bailly, *Procesgids, Hof van Holland*, 29-33.
[155] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 518-519 and 711-712.
[156] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 864, f. 1017-1018.

victims illustrate that, in case of unnatural deaths, autopsies could have been conducted by one or two councillors as well, whenever one presumed that the death was innocent.[157]

In short, whenever the Governing Council decided to prosecute a suspect, they would request the raad-fiscaal to examine the crime. Examination included a visit to the crime scene and a brief questioning of the neighbours in search for witnesses. During these preliminary investigations, the raad-fiscaal was assisted by a secretary who would draw up judicial deeds and arrange the evidence. Usually, the raad-fiscaal prosecuted on demand of the court, but whenever he deemed that necessary, he could also investigate, bring matters to court and formulate a claim independently. But for any step that he undertook, he always had to ask the Governing Council for approval in advance.[158]

2.6.3 Summons and apprehension

After the investigation, the raad-fiscaal would present the collected evidence to the court. If he deemed the proof sufficient, he would continue the prosecution by requesting the Governing Council to mandate him to press charges. Subsequently, his secretary would schedule a lawsuit in the agenda (*rolle*) of the Governing Council. Meanwhile, a bailiff (*deurwaarder*) would summon (*citeren*) the accused and would inform him or her what the citation was about. Subpoenas for inhabitants on the plantations had to be submitted to the bailiff fifteen days before the date of hearing, whereas three days would suffice for citizens residing in Paramaribo. Pending the trial, most whites were allowed to await in freedom, provided that the risk they would flee was low. Whenever the flight risk was higher, and in case of serious felonies, the raad-fiscaal could request to apprehend (*mandement van apprehensie*) the accused. After the *schout* (cf. sheriff) had arrested the suspect, the raad-fiscaal had to notify the Governing Council within twenty-four hours of incarceration.[159] Perpetrators that were caught in flagrante delicto were usually transferred to, or directly incarcerated by, the local authorities (*dienaren van*

[157] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 862, f. 565-570; inv. no. 864, f. 7-14, 23-28, 425-430, 983-991 and 1077-1081; inv. no. 865, f. 568-571.
[158] Hartsinck, *Beschryving van Guiana*, 882-884; Wolbers, *Geschiedenis van Suriname*, 165; Schiltkamp and De Smidt, *West Indisch plakaatboek*, 129-133; cf. Maes, *Vijf eeuwen stedelijk strafrecht*, 106-107.
[159] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 41, f. 35-36; Hartsinck, *Beschryving van Guiana*, 882-884; Schiltkamp and De Smidt, *West Indisch plakaatboek*, 130-132 and 544-549; cf. Maes, *Vijf eeuwen stedelijk strafrecht*, 107-113; N.B. the function of a Surinamese *schout* was slightly different than in the Dutch Republic. A Dutch *schout* combined the functions of public prosecutor and police-head, whereas a Surinamese *schout* only embodied the latter; cf. Spierenburg, *Judicial violence in the Dutch Republic*, 24-27 and 37.

justitie) without consent of the council. In addition, enslaved suspects were usually incarcerated without the council's approval as well.[160]

At least until the end of the eighteenth century, prisoners were primarily detained on remand (*voorlopige hechtenis*). Notwithstanding, several examples of short-term penal incarcerations can be retrieved at the final quarter of the eighteenth century as well; all of them concerned petty offences perpetrated by whites.[161] Prisoners were detained in Fort Zeelandia, although we do not know precisely where the cells were located initially. What we do know is that the colonial authorities were continuously complaining about a cell shortage and about the poor security against jailbreaks. On several occasions the councillors deliberated about expanding the cellblocks or moving to a better location. The first plans to expand or move out were already made in 1744 but were postponed 'due to certain unspecified causes'.[162] Finally, in July 1774 the governor and military commander agreed to remodel the ground floor of the former material storage house of the fort. There, in five months' time, eight prison cells were created.[163] However, it is questionable whether the expansion had permanently solved the cell shortage. Quarterly figures of 1799 suggest that cells were often shared by more than one person, as numbers varied between eight to seventeen simultaneously detained people.[164]

2.6.4 Interrogation

The accused were summoned to be interrogated by the raad-fiscaal, in presence of two witnessing councillors on duty.[165] Suspects that could await their trials in freedom were subpoenaed to justify themselves in the Governing Council, whereas interrogations (*interrogaties*) of detainees probably took place in Fort Zeelandia instead.[166] Slaves had to be

[160] See: appendix III. Statistics of suspects, figure 3: Detention on remand; cf. Diederiks, Faber and Huussen Jr., *Cahiers voor lokale en regionale geschiedenis*, 18.
[161] NL-HaNA, HPCJ, 1.05.10.02, inv. nos. 768-780. Unfortunately, as the sources only start in 1776 it is not clear whether penal incarceration occurred already before 1776; for the development of the Western system of prisons at the end of the eighteenth, beginning of the nineteenth century, see: M. Foucault, *Discipline and punish. The birth of the prison* (translation; London [1975] 1977) passim.
[162] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 90, f. 53.
[163] Ibidem, inv. no. 27, f. 166-168; inv. no. 32, f. 75-76; inv. no. 46; f. 196-197; inv. no. 79, f. 130; inv. no. 86, f. 645-646; inv. no. 90, f. 53-54, 718-719 and 723-724; inv. no. 111, f. 193-194; Temminck Groll, *De architektuur van Suriname*, 21; original quotation has been derived from inv. no. 90, f. 53: '[…] den Hove rappelleerende er reeds voor lang geprojecteerd was, een gevangenhuijs te laaten bouwen, maar zulx door deze of geene oorsaak niet is werden geeffectueerd'.
[164] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 114, f. 115, 305, 409 and 535-536; in February there were fifteen prisoners (four whites, nine slaves and two free non-whites); in May eight (three whites and five slaves); in August fourteen (eight whites and six slaves); in December seventeen (six whites, ten slaves and one free non-white).
[165] Ibidem, inv. no. 25, f. 35-36.
[166] This can be assumed from the previously mentioned conflict between Talbot and Godefroij versus raad-fiscaal Pichot. See: NL-HaNA, HPCJ, 1.05.10.02, inv. no. 45, f. 49-50, 80-83, 141-143, 177-176 and 285-296; inv. no. 550, f. 83-84, 89-90 and 95-98.

interrogated within twenty-four hours after incarceration and whenever the Governing Council did not assemble on the same day as the interrogations, the raad-fiscaal had to report about it to the governor.[167] The governing councillors enjoyed legislative immunity for civilian citations and could only be summoned whenever the Governing Council itself deemed that necessary.[168]

The two councillors on duty confronted the interrogees with (often pre-arranged) questions that contained one fact (*artikel*) each about the committed crime. After that, the suspect would have the opportunity for defence, in case he or she denied the allegations. Subsequently, witnesses (and accomplices) would be heard. Whenever their statements were contradictory to the suspect's defence, the suspect would be confronted with the witnesses' statements (*confrontatie*). A secretary or other sworn clerk would take minutes during the entire process of the interrogations. Not all statements were considered equally. This can be concluded among others by the lawsuit against Nicolaas Perij.[169] In 1775, this thirty-six-year-old Greek boatswain's mate of the ship De Vis got away with a lifelong banishment after he had been accused of multiple attempts of sodomy (*crimen nefandum* or '*de stomme zonde*'). Three young sailors, aged seventeen to eighteen, had claimed that Perij had repeatedly entered their cabins and had harassed them while they were asleep. After he had been turned in by the ship's council, he was interrogated but denied all allegations. Two days later, the three sailors were separately questioned. After Perij had been confronted with their written statements, he kept persisting his innocence. Consequently, the sailors were brought in to confront Perij, one after the other. After they were dismissed, he remained in denial, despite his final chance of defence (*verschoning*). In Suriname, it was common to punish sodomy according to a particular bylaw of the States General.[170] Therefore, Perij's act was, in theory, punishable by death. However, the raad-fiscaal deemed the evidence insufficient, partially because all statements were made by men who were underaged, whereas in criminal affairs, witnesses had to be at least twenty years old. In the end, these considerations moved the Governing Council to plead Perij guilty under mitigating circumstances. Perij thus got lucky; he escaped death sentence and was banned instead.[171]

If a suspect continued to persist its innocence, while the raad-fiscaal had substantial grounds to presume that he or she was guilty, he could ask the Governing Council permission to torture

[167] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 31, f. 42.
[168] Ibidem, inv. no. 49, f. 282-283.
[169] The same will be argued for slaves and free non-whites in respectively chapters 4 and 5.
[170] Scheltus, *Groot placaet-boeck. Deel 6*, 604-605; cf. in the Dutch Republic sodomy was punishable by death until the final quarter of the eighteenth century, see: Faber, *Strafrechtspleging en criminaliteit*, 80-81 and 167-168.
[171] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 92, f. 1187 and 1216; inv. no. 828, f. 933-1023.

(*scherpere examinatie*, i.e. 'sharper examination') the suspect.[172] Both Surinamese sources and literature are fairly silent about these alternative means of interrogation. As interrogations took place behind closed doors, the only hints that torture was regularly applied in Suriname can be found in the descriptions of the confessions. Whenever culprits confessed during torture, their confessions had to be repeated and written down again after the exposure to torture (*buiten pijn en banden van ijzer*).[173] Slaves who kept persisting their innocence were much more easily exposed to torture than whites. Whenever the councillors 'deemed to have sufficient reasons' for suspicion, they were allowed to apply torture to slaves without permission of the entire Governing Council.[174]

In case a suspect would default (*verstek laten gaan*) a summons, he or she would be fined.[175] The defaulter (*defaillant*) had four chances to justify itself at a court hearing. After the fourth time of non-appearance (*non-comparitie*), the defaulter lost its right to defend itself and had to go along with the indictment (here: *intendit*) of the raad-fiscaal.[176] Default judgements often took place in case of fugitive suspects, like the white Frans Carl Zee (alias Fransé). During the first half of 1798, he had been accused of a series of incidents varying from trespassing, vandalising to double attempted murder. After he had shot David, the slave of the free non-white Johanna van Catharina van Wijne – he had hit him on his forehead, although the wound was nonlethal – he fled. Fransé defaulted all four scheduled hearings, which were due date on the 19th of June, 5th of July, 18th of August and 23rd of October. On the same day as the fourth default, the raad-fiscaal submitted his request to bring Fransé to justice in default. The verdict, that was sentenced on 27th of December 1798, condemned him to be flogged, branded, sentenced to six years of cuffed prison work, and subsequently, to be banned for life – in case he would ever fall into the hands of the colonial authorities. Fransé was unlucky; in August 1799 he was caught by the commanding authorities and his sentence was executed on the 23rd of September.[177]

[172] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 132; cf. Diederiks, Faber and Huussen Jr., *Cahiers voor lokale en regionale geschiedenis*, 18-19; Maes, *Vijf eeuwen stedelijk strafrecht*, 121-131.
[173] More has been written about torture in de Dutch Republic, see: Van de Vrugt, *De Criminele Ordonnantiën van 1570*, 140-148; Maes, *Vijf eeuwen stedelijk strafrecht*, 131-146; Faber, *Strafrechtspleging en criminaliteit*, 111-149; Spierenburg, *Judicial violence in the Dutch Republic*, 147-161.
[174] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 23, f. 101-103; inv. no. 165, f. 409.
[175] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 445.
[176] Cf. Le Bailly, *Procesgids. Hof van Holland*, 34; Maes, *Vijf eeuwen stedelijk strafrecht*, 114-116.
[177] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 144, f. 338-340, 375-376, 391, 409 and 535; inv. no. 864, f. 473-622.

2.6.5 Indictment

Based on the supporting documents (*munimenten*) such as examinations, interrogations, witness testimonies, confrontations and written statements (*memories*), the raad-fiscaal would formulate his indictment (*conclusie van eis*). In this plea, he would list all the perpetrated criminal acts and offences and would refer to the particular bylaws that criminalised the offences. Moreover, he would take into account the conditions of the suspect, such as intoxication and recidivism, but also the aggravated circumstances, for example whether an offence was committed on public streets, on duty, or if any resistance had been provided against the commanding authorities. In the final part of his indictment, the raad-fiscaal would present his demand (here: *eis* or *strafeis*) where he advised the councillors to condemn (*condemneeren*) the suspect to a specific punishment. This sanction had to be in accordance with the fixed sentence (*strafmaat*) that had been included in the referred bylaw.[178] My research indicates that in nine out of ten proceedings, the raad-fiscaal would plead for the guilt of the accused. The exceptions were cases in which the motivation for the initial prosecution turned out to be unfounded due to lack of evidence. In the majority of these cases, the Governing Council would follow the raad-fiscaal's advocacy and would find the accused guilty. Only in a limited number of verdicts, the councillors would deem it necessary to mitigate or increase the demanded punishment.

The raad-fiscaal was only allowed to prosecute suspects. In order to preserve his impartiality, he was not permitted to serve as an attorney or to advise or consult in private matters that came before the court. Nor was he allowed to settle, resolve or arbitrate. In contrast, arbitration between the plaintiff and accused would be conducted by the councillors on duty.[179] In practice, settling (*composeeren*) of criminal offences did not occur often and appeared to be a privilege for free people only.[180] Yet, the raad-fiscaal did have the possibility to advise the councillors on duty against taking the matter to full court. In those instances, the councillors could decide to administer justice in an expedited procedure and resolve the matter per *rolle fiscaal*. After taking notice of the raad-fiscaal's indictment, the councillors on duty would deliver a judgement on their own authority. This form of procedure was significantly faster than justice in full court, which could easily take months. When in doubt, the councillors on duty

[178] Cf. Faber, *Strafrechtspleging en criminaliteit*, 208-211.
[179] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 130-131; cf. Maes, *Vijf eeuwen stedelijk strafrecht*, 116-121.
[180] Sixteen of the six hundred criminal verdicts that I have studied were settled; in fifteen cases the suspect was of white descent and in one case free non-white. See: Canfijn, *Database of sample years in Suriname's Criminal Court*.

sometimes decided to refer the case to the Governing Council after all.[181] It remains an interesting question under which circumstances the councillors on duty chose to resolve the matter individually instead of bringing it to the full court. As the oldest preserved *rolle fiscaal* originates from 1776, it is also uncertain whether this form of criminal administration has been the practice in the entire colonial period or rather a late eighteenth-century development.[182] For a large part, expedited procedures concerned petty disputes like insolences, quarrels and brawls between two parties that both decided to go to court. However, the councillors on duty also resolved criminal cases concerning poisoning, burglary, theft, fencing, desertion, marronage and smuggling of slaves – all capital offences that one should expect to end up in full court.[183] A possible answer might be that cases resolved at the *rolle fiscaal* were generally of less serious matters, what can be indicated by the relatively more 'moderate' sentences. White suspects that were condemned at the *rolle fiscaal* were mostly incarcerated and/or fined; only four of them (all sailors) were punished corporally. Slaves were usually punished by flogging or Spanish buck (*Spaanse bok*, see chapter 4.2.2). None of these sentences involved any capital punishments.[184]

2.6.6 Reaching a verdict

After the raad-fiscaal had presented his indictment to the Governing Council, the councillors would evaluate his plea. Normally, criminal justice was administered at the end of the ordinary (political) council meetings, which made it logistically easier for the raad-fiscaal to withdraw himself from the council chamber.[185] After all, the raad-fiscaal merely had an advisory role in judicial matters, and therefore, had to withdraw himself whenever the councillors would deliberate about a verdict.[186] In case the councillors could not agree on an appropriate sentence, the governor had the casting vote. If a suspect had been pled guilty, he would receive a particular punishment and was obliged to pay the incurred costs during trial (*kosten en mise van Justitie*),

[181] NL-HaNA, HPCJ, 1.05.10.02, inv. no 144, f. 440-441; inv. no. 770, f. 234-235, 253-254, 363-367 and 387-390; inv. no. 862, f. 591- 599; inv. no. 864, f. 1025-1026.
[182] Ibidem, inv. no. 768-780.
[183] Ibidem, inv. no. 770.
[184] Ibidem, inv. no. 770.
[185] Other decisions that concerned criminal prosecutions (i.a. the granting of permission to examine, prosecute and apprehend a suspect) were made over the course of the entire meeting, depending on the order in which they had been set on the agenda.
[186] Interesting is the conflict between the Governing Council and raad-fiscaal Halewijn van Werve between 1742 and 1745. During this dispute, the latter refused to withdraw himself from assembly as he considered himself a 'permanent member' of the council, and therefore, claimed he did not have to leave during deliberations about civil and criminal civil matters. See: NL-HaNA, HPCJ, 1.05.10.02, inv. no. 22, f. 107-109 and 124-126; inv. no. 28, f. 83-89 and 129-135.

unless stated otherwise. Sentenced verdicts were promulgated (*gepronuncieert* or *met open deuren voorgeleezen*) in the consecutive court hearing but could also have been announced by the bailiff; the latter was probably done in case citizens resided at greater distances from Paramaribo.[187] In case of default judgments, the verdict was probably publicly announced or hung on (wanted) placards in public places.[188]

In general, early modern criminal procedure took place behind closed doors. After the interrogations, the entire procedure – from indictment to verdict – remained opaque not only to the public but also to the suspect itself. [189] Only the components that served as evidence had to be documented, and therefore, the councillors' actual considerations that had affected the verdict, remain in the dark. It is an interesting hypothesis that the lack of a uniform criminal corpus provided relative freedom for the governing councillors in reaching verdicts. Indeed, they had so-called 'discretionary powers', that is to say, they could personally determine punishments in case specific penal provisions lacked.[190] However, sheer arbitrariness of verdicts was certainly out of question, as the councillors could not plead someone guilty without following one of the legal fundaments that had criminalised the act. As one cannot reconstruct in which sequence these fundaments were consulted, the question remains whether the councillors had room to tacitly manoeuvre within the margins of the fundaments. Although it is presumable that one usually considered the local bylaws first before consulting Dutch and Roman laws, it is also plausible that one took all the legal fundaments into account simultaneously and chose the one most suitable to plead a suspect guilty.[191] Notwithstanding, the next chapters will prove that criminal justice has been quite thorough and that – although the councillors had a considerably large mandate – they always operated within the boundaries of this mandate.

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[187] Methodologically seen, it is not clear why verdicts sometimes ended on the final pages of the original judicial documents (see: NL-HaNA, HPCJ, 1.05.10.02, inv. nos. 781-918) whereas others have been written down in the ordinary board minutes of the Governing Council (NL-HaNA, HPCJ, 1.05.10.02, inv. nos. 1-164) or on the *rolle fiscaal* (NL-HaNA, HPCJ, 1.05.10.02, inv. nos. 768-780). Sometimes, criminal cases ended up in all three archives, while in other instances they occur in only one or two of them. A handful guideline in search for a particular verdict is the reference in the upper left-hand corner (*apostille*) on the first page of the documents. There, one usually mentioned where the verdict had been disposed ('gedisponeert bij de ordinaire politieke notulen de dato […]/per rolle crimineel/per fiscaalsrolle').

[188] NL-SAA, AFB, 195, inv. no. 1025B, f. 111; Hartsinck, *Beschryving van Guiana*, 882; Wolbers, *Geschiedenis van Suriname*, 165; Schiltkamp and De Smidt, *West Indisch plakaatboek*, 129-133 and 544-545; cf. Maes, *Vijf eeuwen stedelijk strafrecht*, 147-149; Diederiks, Faber and Huussen Jr., *Cahiers voor lokale en regionale geschiedenis*, 18.

[189] Foucault, *Discipline and punish*, 35.

[190] Kunst, *Recht, commercie en kolonialisme in West-Indië*, 59.

[191] Wijnholt, *Strafrecht in Suriname*, 21-30; cf. Spierenburg has proved for Amsterdam that, in many cases, placards and *keuren* left the choice of penal provisions up to the judges. Whenever they did not leave it open, judicial practice was hardly guided by penal legislations and crimes were usually punished more mildly. See: Spierenburg, *Judicial violence in the Dutch Republic*, 63-118.

Under some circumstances sentences were mitigated. First of all, mitigation was often the result of insubstantial proof. In contrast to modern-day dualistic conceptions of 'guilty' versus 'not guilty', the early modern period also knew several degrees of 'semi-guilty'. This meant that a suspect could be sentenced with a more moderate punishment when evidence was slim but suspicion was high, as we have seen, for example, in the case of Nicolaas Perij.[192] My presumption is that this would have been applied especially in correcting suspicious slaves whenever proof was not satisfactory. Secondly, certain categories of people were eligible for mitigation in particular. Especially children and pregnant (and nursing) women were generally treated more mildly.[193] Remarkably enough, this can be only substantiated by examples from the final quarter of the eighteenth century.

For instance, after Gompert Simon and Israel Benjamin Jacobs, two Jews of respectively seventeen and nineteen years old, had been detained in 1799 for insulting a sentry, their parents had requested the governor to condemn them in submission (*in submissie*). In this form of litigation, the culprit(s) came to terms with the perpetrated facts and asked for a verdict without any further investigation. According to their parents they were not only juvenile, but probably also 'had drunk more than they could handle'. In the end, the Governing Council condemned them to ask the victim for forgiveness in presence of the other sentries that were on duty.[194]

In addition, the councillors usually considered to postpone (*surcheren*) the execution of corporal sentences to women that claimed to be pregnant. The free non-white maid named Assiba van Lobo and the slave Adoe both stood trial in 1799 in suspicion of assault. Assiba was sentenced to be flogged, to six years of cuffed prison work and to be banned subsequently. Adoe was sentenced to a hexagonal Spanish buck (for that punishment, see chapter 4.2.2). However, both claimed to be pregnant, Assiba even claimed that she had had intercourse during incarceration on several occasions, among others with the slave of the prison's superintendent (*provoost*). Therefore, their sentences were postponed until they had been examined by a medical doctor and midwife. Assiba turned out not to be pregnant, whereas the sources remain silent about Adoe's conditions.[195]

Mitigation was granted in other circumstances as well. For instance, the indigent Philip Friedenheim, who had been convicted of illegitimately selling alcohol to whites and slaves, had initially been sentenced to a three-hundred-guilder-fine and to be remained incarcerated until

[192] Foucault, *Discipline and punish*, 35-42 and 96-97.
[193] Cf. Spierenburg, *Judicial violence in the Dutch Republic*, 100-118.
[194] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 144, f. 429-432; inv. no. 471, f. 351-361; inv. no. 864, f. 933-979.
[195] Ibidem, inv. no. 144, f. 7-8, 23-24, 29-31, 115 and 119; inv. no. 665, f. 22-23 and 34-35; inv. no. 860, f. 65-288; inv. no. 862, f. 441-533; inv. no. 864, f. 433-462.

payoff. However, he appeared to be financially incapable to make any payments, and five months later, he was still incarcerated in Fort Zeelandia. After the raad-fiscaal explained to the Governing Council that Friedenheim was unable make any money due to a physical disability, he was transferred to the colony's poorhouse.[196]

The governor had a particularly decisive role in reaching a verdict. He was privileged to mitigate (*mitigeren*), adjust (*altereren*) and pardon (*verlenen van brieven van abolitie* or *gratie*) imposed sentences.[197] In 1799, governor De Friderici (r. 1790-1802) had been approached with a request to pardon a convict twice. In both cases, the pardon was solicited by a convict that had been pled guilty of manslaughter. Gothliep Jan Frederik Gunther, manager of the leper colony called Voorsorg, had incidentally shot one of his patients in the femoral artery during a scuffle. Johannes Ewout had lethally punished the slave boy of Mr Sluiter, although he had reconciled with the boy's owner after the incident. After the governor had consulted the Governing Council first, both culprits were granted a pardon.[198] More striking is the mitigation that the governor had granted to the slave boy called Fortuijn, who belonged to Jansje Rood, widow of Pedel. Fortuijn had abused and violated Anna Barbara, the five-year-old daughter of the white Victor Willaume, in a 'very horrible manner'. On the 27th of December 1798, the councillors had sentenced Fortuijn to be hanged, beheaded and his head impaled. Although governor De Friderici initially supported the verdict of the councillors, apparently, serious doubt had casted his mind over time. Due to Fortuijn's juvenility, De Friderici questioned 'his mental capacity to comprehend the consequences'. Moreover, he wondered 'whether the sentence would have been just as severe in case the same crime was perpetrated by a white'. On the 4th of January 1799, the Governing Council accepted De Friderici's mitigation proposal and sentenced Fortuijn to be punished with a Spanish buck, to be branded and to be sold abroad. As a reminder of being pardoned from death sentence, he had to undergo his punishment underneath the gallows with a noose around his neck.[199]

[196] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 144, f. 46-47, 56-57, 115, 305 and 330-332; inv. no. 862, f. 129-312.
[197] Hartsinck, *Beschryving van Guiana*, 872.
[198] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 144, f. 50-51, 60-61 and 228-231; inv. no. 469, f. 229-232; inv. no. 862, f. 319-354.
[199] Ibidem, inv. no. 144, f. 115; inv. no. 665, f. 23-25 and 34-38.

2.6.7 Execution of the sentence

After the verdict, the raad-fiscaal was responsible to check whether the verdicts were executed correctly. He also had to make sure that duplicates of all judicial deeds, claims and verdicts were sent to the Suriname Company within six months' time.[200]

Corporal punishments were executed just outside of Paramaribo in the savannah, somewhere behind the Wanica path. The colonial authorities observed the punishments from a small cabin. Slaves' punishments had to be conducted in presence of the *schout* and a sworn clerk, while punishments of white people were executed in presence of the raad-fiscaal, at least two councillors and a secretary. Convicts were probably kept in custody until there were enough of them to be penalised at once. The executions were announced by drumbeat, lest that no outsiders would intrude the place of executions at that particular moment. Initially, the place of execution was located closer to Paramaribo but, due to urban sprawl, both gallows and cabin had been relocated in 1769.[201]

However, in 1757, interim governor Jan Nepveu (r. 1768-1779) considered it necessary to separate the punishments of white and slaves. From then on, executions of corporal punishments were conducted on fixed locations determined by status. For punishing whites, one would construct a gallows or pillory in front of the church against the façade of the Governing Council's board room, which was deconstructed directly after executions. The transfer of the site to the centre of Paramaribo had a deterrent effect as well, because it made the executions public to its citizens. Only in case of banishment from Paramaribo, whites were sent to the savannah. Military execution most commonly took place internally on one of the three forts.[202]

The earlier mentioned default trial against Fransé, provides an unusual glimpse about the place of execution for free non-whites, as his sentence mentions that 'he should be brought to the place where one is used to execute justice to whites *and free people*'.[203] This interesting reference originates from the period in which free non-whites began to increase in numbers and might indicate an equalisation of punishments between whites and free non-whites.

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[200] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 131-132.
[201] NL-SAA, AFB, 195, inv. no. 1025B, f. 117; NL-HaNA, HPCJ, 1.05.10.02, inv. no. 32, f. 58; inv. no. 68, f. 255-256; inv. no. 71, f. 33; inv. no. 79, f. 441.
[202] NL-SAA, AFB, 195, inv. no. 1025B, f. 117-118; NL-HaNA, HPCJ, 1.05.10.02, inv. no. 56, f. 133-134; Stedman, *Narrative of a five years expedition*, 102 and 115.
[203] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 144, f. 338-340, 375-376, 391, 409 and 535; inv. no. 864, f. 473-622. Original quotation (emphasis is mine): 'Omme […] te werden gebragt ter plaatse men gewoon is crimineele justitie aan blanken en vrije persoonen ter executie te leggen'.

Slave punishments, in contrast, continued to take place in the savannah after 1757. Initially, owners of slaves were reimbursed for their losses in case their slaves were sentenced to death, with the exception of slaves that had been condemned to death for murder, but this compensation was abolished in 1758. According to the memoires of governor Nepveu (originating from circa 1762 or 1763), slave executions were now also watched by the councillors on duty, the raad-fiscaal and the secretary.[204] Under exceptional circumstances, plantation owners could also request the Governing Council to execute slaves' punishments on the plantations in order to set an example. In 1750, Petrus IJver, owner of the plantation d'Eendragt and Reverend of the Dutch Reformed Church, had requested to punish his slave Cezar on his plantation. Cezar had been condemned guilty of killing his plantation manager Hoppe with a knife, after which he had fed Hoppe's corpse to the pigs. IJver's request had been granted and Cezar was transferred to d'Eendragt, where he was tied to a pole, buried alive, and subsequently, beheaded and his head impaled.[205] Even more strikingly, in 1722, Gerard de Vree had requested to posthumously mutilate the body of his slave Gallant after the latter had attempted to poison seven of his fellow slaves. When De Vree had tried to interrogate Gallant, the latter had fled into the waters and had drowned himself. Not only was De Vree's request granted, the Governing Council also decided that in future cases of suicide, planters were allowed to do whatever they deemed necessary with the deceased bodies in order to deter the rest of enslaved population from committing suicide.[206]

In general, corporal punishments were executed by a hangman (*scherprechter*), although the sources are inconsistent about its character. The Governing Council board minutes show that, at least until the 1770s, punishments were executed by a permanently employed white male. They also demonstrate that it was challenging to find suitable candidates as several of them were fired due to continuous drunkenness, incompetence or desertion. Nepveu's memoires, to the contrary, mention that punishments were executed by a permanently employed slave who could be assisted by some other Suriname Company slaves if needed.[207] The contradictory sources give rise to the question whether punishments for whites and slaves were

[204] NL-SAA, AFB, 195, inv. no. 1025B, f. 117-118; NL-HaNA, HPCJ, 1.05.10.02, inv. no. 59, f. 267; Stedman, *Narrative of a five years expedition*, 102; Hartsinck, *Beschryving van Guiana*, 917.
[205] NL-HaNA, SvS, 1.05.03, inv. no. 142; NL-HaNA, HPCJ, 1.05.10.02, inv. no. 801, f. 23-58; Wolbers, *Geschiedenis van Suriname*, 846.
[206] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 9, f. 237-238; exposure of corpses was also the common practice in the Dutch Republic until 1795, whereas public executions even took place until the middle of the nineteenth century. See: Spierenburg, *Judicial violence in the Dutch Republic*, 142-145; a more general overview of public executions and its functions has been provided by: Foucault, *Discipline and punish*, 1-194, in particular 42-69.
[207] NL-SAA, AFB, 195, inv. no. 1025B, f. 117-118; NL-HaNA, HPCJ, 1.05.10.02, inv. no. 19, f. 331-333; inv. no. 77, f. 7, inv. no. 78, f. 222; inv. no. 80, f. 95-96.

executed by a man of their own or whether the councillors decided to switch to slave hangmen in the 1760s or 1770s.

2.7 A supreme court across the ocean

Whenever a Surinamese inhabitant did not agree with a verdict that was sentenced by a local court, he or she could turn to the Dutch Republic to lodge a complaint. However, Surinamese civilians had only restricted access to appeal in the Dutch Republic compared to Dutch inhabitants. Therefore, this subchapter will first deal with the Dutch appeal system separately, before it will explain which forms of appeal were accessible to Surinamese inhabitants.

The highest appellate court in the Dutch Republic was the Supreme Court of Holland, Zeeland and West-Friesland (*Hoge Raad van Holland, Zeeland en West-Friesland*, HRHZW). It consisted of a president, ten ordinary councillors and a court clerk. Its primary task comprised the adjudication of civil disputes in final resort (*in hoogste ressort*), while in principle, it did not deal with criminal appeals. Moreover, it did not accept civil lawsuits at first instance, but only dealt with verdicts that were sentenced by Court of Appeal of Holland, Zeeland and West-Friesland (*Hof van Holland, Zeeland en West-Friesland*).[208] The HZHZW knew three sorts of appeal. First of all, one could re-evaluate a lawsuit while the previously sentenced verdict (*dictum a quo*) would be temporarily suspended (*appel*). In this mode of appeal, the appellant had to convey its wish for appeal to the defendant within ten days after the verdict and had to notify the HRHZW within six weeks thereafter. Secondly, appeal could take place without suspending the previous verdict (*reformatie*) as well, which was possible until one year after the verdict had been pronounced. Thirdly, but less commonly, one was also able to appeal in arbitral verdicts (*reductie*). In all three forms of appeal, the judicial authority of the HRHZW was supreme. Rulings (*arresten*) sentenced by its councillors were considered definitive while no further appeal was possible. However, as a last resort, Dutch inhabitants were able to apply for a retrial (*revisie*). Whenever a retrial had been requested, the councillors of the HRHZW would only check whether the applied judicial rules had been abided during prosecution, without re-evaluating the supporting evidence on which the previously sentenced verdict had been based.[209]

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[208] See: Le Bailly and Verhas, *Procesgids. Hoge Raad van Holland*, passim, in particular 12-17; Le Bailly, *Procesgids. Hof van Holland*, passim.

[209] Le Bailly and Verhas, *Procesgids. Hoge Raad van Holland*, 19-20; apropos, the pre-1795 legal jargon does not entirely correspond with the contemporary jargon. The present-day Supreme Court (*Hoge Raad der Nederlanden*) that the Netherlands has known since 1838, differs fundamentally with the HRHZW. Nowadays, the Supreme Court only functions as court of cassation (cf. *revisie*) whereas modern-day appeal is only conducted at the courts of appeal (*gerechtshoven*). See: Le Bailly and Verhas, *Procesgids. Hoge Raad van Holland*, 7.

In Suriname, civil disputes could, in theory, be brought to appeal twice: lawsuits from the Council for Minor Affairs could be lodged anew respectively in the Civil Court and Governing Council. Criminal cases, on the other hand, could not be brought to appeal in the colony at all. If litigants did not agree with the sentenced verdict, they could lodge a complaint with the Dutch States General that, until 1795, functioned as supreme court for verdicts handed down by the Governing Council, Civil Court and other local courts in the West Indies. In those instances, the members of the States General usually requested the councillors of the HRHZW for legal consult. The possibility to object against colonial justice at the authorities in patria, allowed Atlantic citizens to move their lawsuits to a different judicial context where slavery nor racial bylaws existed.[210] This was in stark contrast with litigation in the Asian colonies that were subordinate to the VOC charter, where the Court of Justice (*Raad van Justitie*) in Batavia functioned as final resort. Higher-ranking VOC personnel, nevertheless, was able to take its lawsuits to the States General well.[211]

Strikingly enough, Suriname litigants had more restricted access to higher instances than the inhabitants of the Dutch Republic. According to a 1744 bylaw, they were only allowed to apply for a retrial, and thus, were not granted to lodge any appeal at all. Once a Surinamese appellant (here: *impetrant van mandement van revisie*) had conveyed its intention to apply for a retrial, he or she was required to submit a formal request within two years after its announcement, on pain of being punished for desertion.[212] Most appellants stayed in Suriname during trial and authorised substitutes to handle their retrial lawsuits in the Dutch Republic. Pleadings and other supporting documents were collected in presence of two governing councillors and were sent to the States General by a government secretary. The States General would normally send the documents to the HRHZW councillors that would re-evaluate the procedure. Based on their advice, the States General would reach a verdict.[213] In an average retrial lawsuit, it could take up to five years before the final verdict would reach the Surinamese appellants again. Retrials mostly consisted of civil disputes such as conflicts about (division of) estates, testamentary successions, custodies and matrimonial issues. In less than a dozen of cases, litigants also applied for retrials against criminal verdicts, until in 1769, the States

[210] Fatah-Black, 'Access to justice', 12.
[211] Ibidem, 12-15; J.Th. de Smidt, 'Ons hoogste rechtscollege in het verleden' in: W.E.J. Tjeenk Willink (ed.) *De Hoge Raad der Nederlanden, 1838-1988. Een portret* (Zwolle 1988) 17-31, there 28-31.
[212] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 523-524.
[213] Hartsinck, *Beschryving van Guiana*, 879-880; Fatah-Black, 'Access to justice', 12-15.

General decided that they no longer wanted to revise Atlantic matters concerning 'wantonness, malfeasance or criminal [offences]'. Non-white suspects only rarely appear in retrials.[214]

West Indian retrials can be found in the States General archives.[215] These archives contain 140 cases between the period of 1716 and 1795, of which 59 pertained to Suriname. It is not clear what the precise criteria were for incorporating lawsuits into the States General archive. In any case, the number does not correspond with the 104 cases that had been subsequently submitted to the HRHZW for advice.[216] My samples indicate a higher frequency of appellate cases that were annually lodged from Suriname than the one or two per year that have been included into the States General archives. Namely, for the years of 1750 and 1775, the HRHZW archives count a dozen of additional lawsuits compared to the four appeal cases that have been included in the States General archives. Three of those cases were complete retrials that did not end up in the States General archives at all.[217] Four others concerned cross-boundary disputes between the Dutch Republic and Suriname, although it is not clear whether these concerned retrials or appeal cases.[218] For two other cases, verdicts were found in later years of the States General archives.[219] In sum, it is doubtful that the States General archives contain a complete collection of the Surinamese retrials. Further research should be pursued with regard of both States General and HRHZW archives, whereas the Governing Council board minutes can function as a useful supplement to provide more information.

[214] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 80, f. 300-303; Fatah-Black, 'Access to justice', 12-15.
[215] See: NL-HaNA, Staten-Generaal (SG), 1.01.02, inv. nos. 9488-9628.
[216] See: NL-HaNA, Hoge Raad van Holland, Zeeland en West-Friesland (HRHZW), 3.03.02, inv. nos. 968-970; De Smidt, 'Ons hoogste rechtscollege', 28; Fatah-Black, 'Access to justice', 13.
[217] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 92, f. 1211-1212; inv. no. 93, f. 11-14; inv. no. 413, f. 947-948 and 966; NL-HaNA, HRHZW, 3.03.02, inv. no. 360, f. 69; inv. no. 969, f. 104-106.
[218] NL-HaNA, HRHZW, 3.03.02, inv. no. 335, f. 102; inv. no. 360, f. 62-63 and 120; inv. no. 675, f. 174-176; inv. no. 968, f. 40-41.
[219] NL-HaNA, SG, 1.01.02, inv. no. 9543 and 9549-9550; NL-HaNA, HPCJ, 1.05.10.02, inv. no. 91, f. 92-93, 115, 218-219, 224 and 702-703; inv. no. 92, f. 203-205, 711-717, 1103-1104, 1141 and 1170; inv. no. 933, f. 1-616; NL-HaNA, HRHZW, 3.03.02, inv. no. 969, f. 100-101, 107 and 109-111.

3. Tolerance for colonists: (foreign) whites and Jews

The Dutch Republic, which earned its bread and butter by trade and shipping, was naturally inclined to adopt a tolerant policy towards foreigners.[220] Similar to the Dutch metropolis, colonial Suriname has known such tolerance towards foreigners as well. Across the ocean, the Surinamese authorities adopted a remarkably open-minded attitude towards (white) foreign migrants, which can be partially explained by the continuous scarcity of experienced colonists and investment capital during Suriname's entire colonial period.

The early modern white population of Suriname was quite heterogeneous: it consisted of Dutch, English, French, Portuguese, German and Swiss migrants who belonged to various Protestant, Catholic and Jewish denominations. Professions of the white community varied from government officials, planters, militaries, artisans, merchants and sailors. Of all population groups, rights for whites were most clearly protected by law. The WIC charter offered migrants freedom of movement and freedom of conscience. In addition, it granted suffrage to every male, landowning Protestant, regardless of his ethnic background. A similarly tolerant attitude was adopted by the Surinamese authorities. With the exception of Jews, the Governing Council treated foreigners equally with Dutch migrants. In general, there was a high degree of social mobility among white foreigners. Jews, instead, were unprecedentedly privileged too, although, this chapter will show, in many aspects, they were not entirely considered or treated as full-fledged citizens.

This chapter will show that, in everyday life, the Protestant consistories and Jewish Mahamad fulfilled central roles within the white communities. The mandates of these local administrative bodies varied. The Protestant consistories primarily dealt with small religious, interpersonal and marital affairs. Judicially, their role was confined to religious and moral issues, whereas more momentous matters were directly transferred to the Civil Court or Governing Council. In contrast, the consistories had hardly any political influence. With regard to decision-making, the Governing Council fully called the shots in local political, organisational and even religious affairs. The mandate of the Mahamad, in contrast, was relatively larger than that of its Protestant counterparts. The Mahamad could govern relatively autonomous and was allowed to adjudicate in both religious and (small) secular civil affairs. In addition, as will become clear, the Jewish authorities sometimes deliberately pushed the boundaries of their legal competences for their own benefits.

[220] A.Th. van Deursen, *De Last van veel geluk. De geschiedenis van Nederland 1555-1702* (Amsterdam 2006) 315-320; for quote see page 318.

This chapter will also reconstruct an overview of justice among whites and will argue that there were no indications for ethnic or religious discrimination of whites in criminal justice. This reconstruction will be used as a starting point for the comparisons with the enslaved, free non-white, Amerindian and maroon communities that will follow in the subsequent chapters. Compared to those communities, white civilians were relatively highly represented in criminal justice, both as suspects, victims and submitters of complaints.

3.1 Rights for whites

Foreign colonists have always been warmly welcomed by the Suriname authorities. After the Zeelanders took over control from the English in 1667, an especially tolerant attitude had been adopted towards Englishmen. The new-fangled colonial government wanted them to stay, as it did not want to risk an exodus of the entire planter population, and with them the loss of the slaves, mills and sugar-planting acumen. For this reason, the acts of capitulation, which had been signed between the English and Zeelanders in 1668, were very accommodating towards the conquered Englishmen. It determined, among others, 'that all present inhabitants of what nation soever shall enjoye all equal priviledges [sic] as the Netherlanders that shall cohabite with them'.[221] Existing rights and possessions of English families were promised to be left unhindered, provided that they would swear loyalty to the Dutch States General, would abide by the local laws of the colony and would collectively pay a ransom of one hundred thousand pounds of sugar. In addition, the pact agreed on liberty of conscience in matters of religion for all inhabitants of whatsoever nation. Future bylaws would be published in both Dutch and English. The English were granted the privilege to appoint two members for the new government's judicial council. All previously issued proceedings and verdicts, sentenced by the English, remained valid and ratified. More importantly, future disputes between different ethnicities, of what nation so ever, were to be punished neutrally and equally.[222]

However, counteracting measures to prevent an exodus after the Zeelandic take-over were to no avail. Because Englishmen had also been allowed to freely leave Suriname (along with their slaves and goods), Suriname's population had been reduced from fifteen hundred to five hundred white citizens in twelve years' time. Of the approximately fifteen hundred Englishmen that lived in Suriname during English rule, only thirty-nine remained in 1680.[223] The reason for

[221] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 4.
[222] Ibidem, 3-18; Hartsinck, *Beschryving van Guiana*, 585-598; Wolbers, *Geschiedenis van Suriname*, 39-47; Van der Meiden, *Betwist bestuur*, 22 and 29.
[223] Van der Meiden, *Betwist bestuur*, 20-33; A. Games, 'Cohabitation, Suriname-style. English inhabitants in Dutch Suriname after 1667', *The William and Mary Quarterly, Vol. 72, No. 2* (2015) 195-242, there 217.

this optimistic yet failing experiment of cohabitation had to do with factors on both Zeelandic and English sides. Seventeenth-century interactions between English and Dutch were generally characterised by violence and conflict, and thus, in 1667, mutual trust was still a long way off. Moreover, although the treaty had promised colonists to freely leave Suriname, during the first two decades thereafter, the choice to leave appeared to be not so 'free' after all. Colonist that decided to leave, had to face several administrative and financial impediments that the Zeelandic authorities had imposed, whereas, at the same time, English commissioners actively encouraged them to leave Suriname after all. Mistrust reached its nadir during the Third Anglo-Dutch War (1672-1674). After 1680, tensions between the two ethnicities attenuated significantly.[224]

As a result of the English exodus, at the end of the seventeenth century, the colony was in dire need of manpower.[225] After the WIC had acquired the colony in 1682, provisions were made to attract new colonists. Migrants from all over Europe as well as from other European colonies were warmly welcomed; a custom that was not very different from the recruitment of employees for the Dutch East and West India Companies. According to the WIC charter, new colonists that would settle in Suriname were exempted from (most of the) taxes during the first ten years of their settlement and were partially reimbursed for their travel costs as well.[226] Although the WIC charter did not contain the same explicit wordings of equal rights for foreigners, as those stated in the capitulation pact between the Zeelanders and the English, in practice, tolerance was in strong continuance. Despite the failure of the Zeelanders to retain English colonists, a tolerant attitude towards foreigners proved to be the key to success in future Dutch colonisation of Suriname. Freedom of movement, freedom of conscience and (census) suffrage continued to apply for all residing white colonists under the rule of the Suriname Company. The right to freedom of movement, for example, embedded in the charter, allowed all migrants to enter and leave the colony along with their families and goods whenever they wanted. The only provision in this regard was that one always had to request permission (here: *passepoort*) from the governor to enter or leave the colony. From 1804, people who were about to depart from the colony also had to publicly announce their departure in the local newspapers two weeks in advance, lest that none of the inhabitants would stay behind with unpaid debts.[227]

[224] Games, 'Cohabitation, Suriname-style', passim.
[225] Ibidem, 217-219.
[226] Hartsinck, *Beschryving van Guiana*, 626; Schiltkamp and De Smidt, *West Indisch plakaatboek*, 48-49; Fatah-Black, *White lies and black markets*, 32-40.
[227] Hartsinck, *Beschryving van Guiana*, 631; Schiltkamp and De Smidt, *West Indisch plakaatboek*, 36, 1252-1253 and 1280-1281.

For the white society, ethnicity proved to be not as important as other features like religion and landownership. Just like in the Dutch Republic, the Reformed Church (*Nederduitsche Gereformeerde Kerk*) was the official state church in Suriname. Although there was freedom of conscience, there was no freedom of worship (except for Jews). Other religions were therefore acquiesced but not allowed to practice their services in public. Only in respectively 1740 and 1785, the Evangelical Lutheran Church and Roman Catholic Church were permitted to hold services and establish buildings and consistories. The establishment of other religious denominations reiterates the tolerance of the colonial state towards its white inhabitants. This was also reflected in the position taken by individual colonists. For instance, several important inhabitants provided financial aid for the construction of the Catholic church in 1785, among whom many Protestants and Jews. The Governing Council, on the other hand, still kept the unorthodox denominations at bay. Because the latter's religious adherents were still not treated on a par with the Reformed citizens, their aspiration for religious, political and personal prerogatives had only just begun. It took the Lutherans, for instance, nine years to acquire passive suffrage, because they were thwarted by several governing councillors. In addition, practice of worship was still confined. Catholics, for example, were only allowed to convene in one single residence, while public practice was still prohibited. The authorities kept a strict eye on them. Infringing or misbehaving clergymen could risk to be banned from the colony without any form of judicial process.[228]

The influence of religion on society can be explained at best by the political prerogative it entailed. Namely, early modern Suriname knew a form of census suffrage, in which only male, landowning Protestants were fully enfranchised and allowed to run for political office. That is to say, all non-Dutch male migrants could enjoy the same political privileges as the Dutch, as long as they owned a plot of land and adhered to the right faith. The possession of land as a requirement to vote, initially resulted in the composition of a Governing Council that was highly dominated by plantation owners, at least until the end of the eighteenth century.[229] Plantation administrators were granted suffrage as well, although they did not necessarily have to possess any plots of land. Sometime prior to 1711, the Governing Council had apparently considered them important enough to allow them to stand for election. In 1711, the councillors also granted

[228] Buddingh', *De geschiedenis van Suriname*, 75-78; Fatah-Black, *White lies and black markets*, 33; A. Sens, *´Mensaap, heiden, slaaf'. Nederlandse visies op de wereld rond 1800* (The Hague 2001) 63n3; J.W.V. Ort, *Surinaams verhaal. Vestiging van de Hervormde Kerk in Suriname (1667-1800)* (Zutphen 2000) 146-153; R. Abbenhuis, alias friar M. Fulgentius, *Een paapjen omtrent het fort. Het Apostolisch Vindicaat van Suriname. Een historische schets* (Paramaribo 1983) 75-93, in particular 76-77; Van Lier, *Samenleving in een grensgebied*, 82.
[229] Hartsinck, *Beschryving van Guiana*, 875; Wolbers, *Geschiedenis van Suriname*, 164; Fatah-Black, 'The usurpation of legal roles', 6.

passive voting rights to chief representatives (i.e. administrators or managers) of plantations in possession of foreign owners. However, the privilege was tightened up in 1719 to those representatives that were able to cover the required 'extraordinary taxes' and was revoked shortly thereafter.[230]

Freedom of trade made Suriname an attractive colony for temporary residents as well. In theory, the Dutch metropolitan authorities restricted non-Dutch merchants to trade with or in Suriname. Article XII of the WIC charter determined that goods, crops and fruits that had been produced or cultivated in Suriname had to be consigned to the Dutch Republic and had to be transported by Dutch ships only. However, intercolonial exchange of goods (and ideas) was utterly essential for the viability of the colonial Atlantic system. For provisions, Atlantic colonists relied on thin lifelines of metropolitan ships that arrived only on an irregular base. Therefore, colonist often helped one another through providing supplies that lacked in nearby colonies. In practice, the Surinamese colonial authorities often turned a blind eye to the mercantilist regulations and tacitly condoned trade of non-protected goods with foreign merchants. After all, the interests of the authorities in patria were not always on a par with those of the Surinamese colonists. Mainly foodstuff (such as meat, fish, flour and linseed oil), tobacco, candles and horses were imported in exchange for Surinamese molasses, dram and timber. Over the course of the eighteenth century, the Atlantic economies became more and more interdependent, which created a vivid interplay in Paramaribo's port and taverns. Especially the North Americans started to become dominant actors in trade with Suriname and started to supply in (the illicit trade of) finished products as well. Mercantile barriers were sustained until the pressures of the Fourth Anglo-Dutch War (1780-1784) pushed the Dutch to temporarily suspend their monopolies on freight shipping and slave trade in the Dutch Atlantic.[231]

The majority of the foreign migrant influx was set into motion by push factors as well. A significant part of the non-Dutch migrants that initially settled in Suriname was of Portuguese Sephardic and French Huguenot origin. Many of these religious dissidents had sought safe haven under English and Zeelandic rule, because Suriname offered them freedom of conscience

[230] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 7, f. 429; inv. no. 8, f. 125-126; Hartsinck, *Beschryving van Guiana*, 875; Wolbers, *Geschiedenis van Suriname*, 164-165.

[231] Fatah-Black, *White lies and black markets*, passim; J.M. Postma, 'Breaching the mercantile barriers of the Dutch colonial empire. North American trade with Surinam during the eighteenth century' in: O.U. Janzen (ed.) *Research in Maritime History, Vol. 15. Merchant organization and maritime trade in the North Atlantic, 1660-1815* (St. John's, Newfoundland 1998) 107-131, there passim; Hartsinck, *Beschryving van Guiana*, 630; see also: I.R. Canfijn, ' "Den handel ende vaert op ende van de voorszegde colonie alleen, sal mogen geschieden directelyck uyt en na dese landen". Mercantilisme versus liberalisme in achttiende-eeuws Suriname', (BA thesis, online published 2014) passim.

and worship. Many Portuguese Sephardim had either fled the inquisition in patria or Brazil after the Portuguese reconquered New Holland in 1654. In the same period, numerous French Huguenots had crossed the border as a result of mid-seventeenth century Amerindian attacks in Cayenne. Others had crossed the ocean after the Edict of Nantes had been repealed in 1685. Due to the unprecedented privileges they had acquired, Sephardim and Huguenots continued to emigrate to Suriname under Dutch rule as well. French Huguenots are a perfect example of an external Protestant group that was very smoothly adopted into the colonial fold. Many of these *Réfugiés* became owners of plantations that existed until well into the nineteenth century, whereas some of them made their name as governing councillor or even as governor.[232]

However, high hopes for better times did not always turn out that well for newly arrived migrants. Prospects were generally less attractive for poor migrants. The envisaged hope often quickly faded away once they were confronted with the harsh reality in Suriname. Migrants who entered the colony without any form of financial capital often remained in poverty. Although Suriname did not formally know a guild system, it was usually hard to find a new career, as the exercise of several artisanal professions such as bread makers, grocers (*vettewariers*), carpenters, blacksmiths, and inland skippers (*pontevaarders*) required the permission of the Governing Council. Newly arrived migrants who were granted permission to exercise a governmentally protected job were often lucky. Many others automatically ended up anew with poorly paid jobs across the ocean, such as low-ranking militaries, bearers, dock-workers, petty tradesmen and other seasonal and unprotected professions.[233]

Officially, white women were subjected to the authority of their male guardians. Although women were legally capacitated (*rechtsbekwaam*), they certainly had their rights, they were generally without legal capacity to act (*handelingsonbekwaam*). In civil matters, unmarried women were usually assisted by a guardian (often the *pater familias*). A married woman was entirely under the guardianship of her spouse and could only act on her own behalf in specific matters: in case of insanity or long-term absence of her husband, in case she had been mandated to represent someone (often her husband) in trading, in case she wanted to draft a separate will or in case she wanted to start a legal procedure against her husband. Under all other circumstances, the husband acted on behalf of his wife (*nomine uxoris* or *nom.ux.*) both in civil

[232] Fatah-Black, *White lies and black markets*, 32-40; Van Lier, *Samenleving in een grensgebied*, 84-85.
[233] R.O. Beeldsnijder, 'Op de onderste trede. Over vrije negers en arme blanken in Suriname 1730-1750', *OSO: Tijdschrift voor Surinaamse taalkunde, letterkunde en geschiedenis. Vol. 10, No. 1* (1991) 7-30, there 18-25. For the 'protected' professions, see one of the many almanacs of Suriname. Here I have used: W.W. Beeldsnyder, *Surinaamsche Almanach op het jaar onzes Heere Jesu Christi. Anno 1798* (Paramaribo 1798) 20-23. Job applications that have been submitted to the Governing Council, can be found in section '*ingekomen rekesten*' of the council's archives, see: NL-HaNA, HPCJ, 1.05.10.02, inv. nos. 297-547.

matters and in criminal cases. Divorced women and widows, in contrast, could largely act on their own behalf.[234]

3.2 The Dutch Reformed Church

3.2.1 Autonomy of the Dutch Reformed Church

Above we have seen that Surinamese whites cannot be considered as a simple homogeneous group – despite their small numbers. Instead of a distinction between ethnicities, the division between Protestants and non-Protestants proved to be more important.[235]

The Reformed Church, the official state church, was the most dominant institute among Christian whites on the local level. Central stood the three Reformed church buildings: one that resided in Paramaribo's town hall, one that was located in the upper-Commewijne district and one that was situated on the corner of the Cottica and Perica districts. The church in the town hall held services on Sundays twice, one in Dutch and one in French. Every church was managed by a consistory (*Kerkenraad*); an ecclesiastical forum that functioned to enforce discipline within the community. The three consistories autonomously dealt with petty disputes among their community members and focused – besides religious affairs – primarily on interpersonal and marital matters. Moreover, the consistories were allocated to some small additional tasks as well, such as quality checks on education and mental healthcare of the soldiery. Each consistory consisted of a pastor, three elders and two deacons. Once or twice a year, the pastors and elders formed a supreme consistory (*Generale Kerkenraad* or *Conventus Deputatorum*). This assembly was held in Paramaribo and was alternately presided by the four pastors to deliberate about the needs of the churches, municipalities and the colonial state.

Remarkable is that, politically, the consistories were nothing but empty shells; executive bodies that solely served the governing councillors' will. All religious, political and even organisational decisions that involved local matters were directly instructed by the Governing Council, where there was absolutely no separation of church and state. In contrast, the consistories rather owned their right of existence thanks to their important advisory role. Instead of being administrators, the clergymen mainly functioned as the government's eyes and ears on the ground. Because they stood at the centre of the religious communities, they dealt with interpersonal, marital and moral matters that dominated the daily lives inside the communities. Besides propagation of the Christian faith, their main objective was to keep their community

[234] D. Heirbaut, *Privaatrechtsgeschiedenis van de Romeinen tot heden* (Gent 2005) 190-197; Van der Heijden, *Misdadige vrouwen*, 37 and 209-211.
[235] Cf. Schalkwijk, *The colonial state in the Caribbean*, 118.

members on the straight and narrow. Pressing issues were usually raised with the political commissioner (*Commissaris Politiek*), a governing councillor that attended to the consistories' assemblies on a regularly base. He would monitor the assemblies and would notify the entire Governing Council when needed.[236] The limitations on the consistories' self-rule obviously led to occasional disputes between the clergymen and the Governing Council, especially because the former were often more loyal to the Reformed Congregation (*classis*) in Amsterdam than to the governing councillors.[237]

3.2.2 The Dutch Reformed Church and its administration of justice

So far, studies on the consistories' administration of justice have been considerably limited, because there are no particular entries regarding their judicial affairs. Litigation can be retrieved from the administrative minutes of the consistories and although a reconstruction is not impossible, it would be quite a time-consuming matter.[238] The consistories did certainly not adjudicate civil disputes nor criminal offences; those matters were managed by respectively the Civil Court and the Governing Council. In contrast, litigation was confined to religious and moral issues such as bad behaviour, bad-mouthing and other relatively innocuous-looking matters such as the refusal of confessions. A small encounter of the sources, conducted by Ort, suggests that community members often got away with admonishments; in another case, exclusion of the Lord's Supper was sentenced to a woman for bad-mouthing.[239] In case of continuing misbehaviour, the consistories could request the Governing Council to relocate perpetrators from their communities or to deport them to Holland.[240]

Given the fact that the Governing Council pulled the strings in most of the consistories' political affairs, it can be assumed that the councillors also tried to meddle in judicial disputes.[241] However, cases that recur in the Governing Council's board minutes and judicial documents, do not contain any proof for that assumption. My samples count ten cases that involved a consistory or clergymen that ended up in the Governing Council for litigation. In only one case, a dispute was directly transferred to the Governing Council. After former Civil

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[236] Ort, *Surinaams verhaal*, 20-23, 201-204 and 237-238; Hartsinck, *Beschryving van Guiana*, 520 and 890-891; Temminck Groll, *De architektuur van Suriname*, 63; Fatah-Black, 'The usurpation of legal roles', 7-8.
[237] Ort, *Surinaams verhaal*, 122-129, 133-134, 160-162 and 177-178; Wolbers, *Geschiedenis van Suriname*, 194-195 and 244-245; Inventaris van de op Suriname betrekking hebbende stukken in het Stadsarchief Amsterdam (consulted on 2017-11-09) page 4.
[238] Cf. Ort, *Surinaams verhaal*, 19-24; see also: NL-SAA, Archief van de Nederlandse Hervormde Kerk, Classis Amsterdam (ANHK-CA), 379, inv. nos. 157-176 and 214-222.
[239] Ort, *Surinaams verhaal*, 134-137.
[240] Fatah-Black, 'The usurpation of legal roles', 8; Ort, *Surinaamse verhaal*, inter alia 244 and 246.
[241] Cf. Fatah-Black, 'The usurpation of legal roles', 8.

Court councillor Samuel van Heijst had accused elder Gerrit Sijffken of provocative behaviour, the incumbent political commissioner had deemed it necessary to inform the entire Governing Council. However, the council did not consider the incident urgent enough and disposed the case at the supreme consistory.[242] Four other cases involved appeals to the Governing Council. In three of those cases, a pastor or deacon requested the Governing Council to enforce their verdicts, probably after the defendant had refused to comply with the imposed sentence.[243] In one case, the victim decided to complain at the Governing Council. It concerned the organist Ronsendaal who had had a dispute with church pastor Icard about fifteen months of unpaid salary. Because Ronsendaal had not played the church organ for quite a while, Icard had refused to pay for his remuneration. Ronsendaal, in contrast, explained to the councillors that he was not able to play the organ because it was broken and that, for months, Icard had been negligent to repair the instrument. In the end, the Governing Council instructed Icard to remunerate half of Ronsendaal's salary, provided that he would explain by letter why the organ had not been repaired yet.[244]

The other five cases concerned criminal offences that had occurred in and around the church. One investigation took place after plantation manager J.A.W. Grosse had accused pastor J.C. de Cros of trespassing his house where the latter had allegedly taken the former at gunpoint. Grosse and De Cros had initially got into a dispute with one another after Grosse's black overseer had stolen De Cros' his dog because the dog had eaten some of the overseer's eggs. Because evidence lacked and G.W. Raveij eventually supported the pastor's innocence, the case was eventually dismissed.[245] Despite one would expect religious matters to be adjudicated with the consistories, blasphemy was apparently considered as a criminal offence as well. Investigations were conducted against the eldest son of Mrs Scherpingh and against the juvenile Leonard van den Beets and Jan Willem Pichot. Along with the Jew named Jacob Henriques de Barrios, the two latter had disturbed the Sunday service and had insulted Pastor Emanuel Vieijra. Unfortunately, none of the judicial documents contained verdicts for the committed offences.[246]

[242] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 91, f. 122-124, 141 and 226-227.
[243] Ibidem, inv. no. 9, f. 224, 355-356 and 357-358.
[244] Ibidem, inv. no. 45, f. 96-97, 108, 201-204 and 313-320.
[245] Ibidem, inv. no. 92, f. 261; inv. no. 828, f. 50-62 and 71-72.
[246] Ibidem, inv. no. 46, f. 123-125 and 411-412; inv. no. 550, f. 157-172 and 175-178; inv. no. 756, f. 33-36; inv. no. 800, f. 147-216.

3.2.3 Colonial litigation for whites: a model for criminal justice

This subchapter will provide a brief overview of the litigation statistics of whites.[247] However, it will only function in a comparative point of view. At the base of the analysis stands the assumption that white people were relatively little discriminated in court. At least, within my sample years, no indications of judicial discrimination against whites have been discerned, neither based on ethnicity nor on religion.[248] That assumption is supported by the aforementioned acts of capitulation with the English in which one deliberately mentioned the intention to neutrally adjudicate future disputes between ethnicities of whatsoever nation. The reconstruction of the practice of justice among whites, enables us to juxtapose a relatively fair and unbiased judicial environment with criminal justice of other (arguably less privileged) population groups in society, like slaves, free non-whites, Amerindians and maroons. The comparison with these groups will be elaborated on in the following three chapters and have been graphically illustrated in the appendices III to VI.[249]

My sample years contain 742 criminal cases that have been processed in respectively 1722, 1750, 1775 and 1799. Forty-four per cent of the suspects were whites, whereas fifty per cent enslaved, four per cent free non-white and two per cent unknown.[250] In contrast, seventy-one per cent of the victims was white, whereas eight per cent was enslaved, two per cent free non-white, two per cent of mixed origins and seventeen per cent unknown.[251] Of the cases where the petitioners are known, the mainstay of the petitioners was of white descent as well.[252] Since less than eight per cent of the total population was white, the presence of whites in criminal justice is high. The same pattern can be observed among victims of crimes perpetrated by whites: sixty-five per cent of the crimes was perpetrated against a white casualty, in contrast to only eight per cent of (registered!) crimes committed against slaves and two per cent against free non-whites.[253] It would be too hasty to conclude that the high frequency of whites in criminal cases would imply a higher degree of criminality among whites than among other population groups. Such a comparison would be in vain anyways, because a considerably large share of crimes (by slaves) was adjudicated under domestic jurisdiction, and therefore, never

[247] Although this chapter has disassembled white civilians between Christians and Jews, they will be jointly treated in the analysis of this particular subchapter, as there have been no indications of disparate treatments between Jews and Christians in criminal justice.
[248] Canfijn, *Database of sample years in Suriname's Criminal Court*.
[249] Note that the appendices only provide an overview of whites, slaves and free non-whites, for the simple fact that I have found not enough data to illustrate statistics of Amerindians and maroons.
[250] See: appendix III. Statistics of suspects, figure 1: Population composition of suspects.
[251] See: appendix IV. Statistics of victims, figure 6: Population composition of victims.
[252] See: appendix IV. Statistics of victims, figure 7: Composition of petitioners per victimised population group.
[253] See: appendix III. Statistics of suspects, figure 5: Suspect-victim ratio per population group.

registered at all. To the contrary, the high presence of whites rather indicates that whites had easy access to justice and a certain trust in the colonial judicial system. One might assume that the lion's share of whites would have reported the Governing Council in case they would fall victim to, or would be a witness of, a committed criminal offence; or at least, were prepared to do so to a much higher degree than other population groups.

Litigation of whites was largely a male affair in criminal court; besides the all-male Governing Council representatives, the litigants were usually male as well. In court, they could represent themselves or could act in the name of their spouses, both in the position of defendants and claimants. Ninety-five per cent of the crimes perpetrated by whites had a male perpetrator as well.[254] Gender of white victims was slightly more varied: seventy per cent of the white victims were male, only three per cent female, two per cent of mixed gender and twenty-six per cent unknown.[255] Thirty-one per cent of the committed crimes concerned physical violence (mainly assaults), thirty-one per cent public order offences (such as insolences, defamation and petty violations of bylaws), eighteen per cent property offences (like theft, burglaries, trespassing, fencing, smuggling, fraud, vandalism and debts), fourteen per cent desertion (mainly insubordination and revolting) and three per cent moral offences (like blasphemy, adultery and sexual offences).[256] It was not very common to incarcerate a white suspect and was only done in one-quarter of the court cases, whenever the Governing Council deemed it necessary.[257]

White casualties mainly fell victim to offences committed by slaves, namely, fifty-seven per cent, whereas forty per cent had been perpetrated by whites and one per cent by free non-whites.[258] The high number of enslaved perpetrators can be explained by the fact that many white slave owners fell (financially) victim to marronage of their slaves. Consequently, forty-two per cent of the crimes against white casualties can be categorised as desertion offences, while twenty-five per cent consisted of physical violence, seventeen per cent of public order offences, fourteen per cent of property offences, one per cent of moral offences and two per cent remained unknown.[259]

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[254] See: appendix III. Statistics of suspects, figure 2: Gender of suspects per population group.
[255] The high number of anonymous white casualties can largely be ascribed to the fact that many whites fell financially victim to marronage of slaves. However, not in every instance the identity of the slave's owner became known. See: appendix IV. Statistics of victims, figure 10: Gender of victims; figure 11: Gender of victims per population group.
[256] See: appendix V. Statistics of offences, figure 12: Offences per population group; figure 13: Offences of white suspects per year; Canfijn, *Database of sample years in Suriname's Criminal Court.*
[257] See: appendix III. Statistics of suspects, figure 3: Detention on remand.
[258] See: appendix IV. Statistics of victims, figure 8: Victim-suspect ratio per population group.
[259] See: appendix IV. Statistics of victims, figure 9: Categories of crimes population groups fell victim to.

More than three-quarters of verdicts of trials against white suspects have been preserved. Seventy-five per cent of the reached verdicts contained non-corporal sentences. This could either implicate that a suspect had been acquitted, that a settlement was reached or that the suspect had been convicted to a non-corporal punishment. Most common non-corporal punishments for whites were monetary fines and temporary incarcerations, the latter were especially sentenced from the second half of the eighteenth century onwards. Fines had to be paid within three days, on pain of incarceration in case of default. In case fines had been imposed in conjunction with incarceration, and jail time had been served while the fine had not yet been redeemed, the convict would be kept in custody until the sum was fully reimbursed. Other white convicts were reprimanded or ordered to beg for forgiveness 'on their bare knees' in presence of the Governing Council, victims and (sometimes) witnesses. The harshest non-corporal punishment that could be sentenced to a white person was (lifelong) banishment. However, banishment occurred only intermittently; my samples count just fifteen instances of expulsion of whites. Corporal punishments were hardly sentenced either: only one per cent of the white convicts was sentenced to a corporal penalty, whereas two per cent was condemned to a combination of corporal and non-corporal penalties. Corporal punishments for whites usually consisted of exposure, flogging and in rare (often recidivist) instances branding. Of the 323 trials processed against white suspects, the death sentence was sentenced only twice. It is questionable whether those punishments were ever executed, as both convicts were at large, and thus, condemned in default.[260]

3.3. The semi-privileged position of the Jews

3.3.1 Jewish autonomy

Throughout most of early modern Europe and its overseas domains, Jews struggled to assert their rights. Generally, they were tolerated but not granted citizenship; in some places, Jewish settlement was even prohibited. Jews were often withheld the right to vote and to stand for election in both local and central politics and were not allowed to hold office in municipal functions. In addition, they were generally confined economically through exclusion of guilds, chartered trading companies and common poor relief. In the Dutch Republic, Jews were treated as second-class inhabitants as well, although they were allowed to organise themselves socially

[260] See: appendix VI. Statistics of verdicts, figure 16: Verdicts per population group; figure 17: Verdicts for white convicts per year; Canfijn, *Database of sample years in Suriname's Criminal Court.*

and religiously to some extent.[261] In the Atlantic colonies, to the contrary, Dutch (and British) metropolitan government officials vigorously encouraged Jewish settlement. As a result, Jews were unprecedentedly privileged in Suriname compared to the rest of the early modern Western world.[262]

In Suriname, privileges for Jewish settlers were already granted under English rule. The English authorities particularly welcomed Sephardic refugees from New Holland, not only because of the financial capital they brought along, but also for their knowledge about sugar cultivation.[263] In 1665, Jews were granted freedom to plant, trade and worship; exemption from military and public services; and a small plot of designated land where they could build a synagogue, school, orphanage and cemetery. In addition, they could independently administer justice in civil cases, could marry according to their own customs and had their own sworn clerk (*jurator*) to close nuptial agreements and secure last wills.[264]

Both Zeelandic and Dutch authorities reaffirmed the previously acquired privileges after their respective take-overs. In 1669, governor Lichtenbergh (r. 1669-1671) designated the 'Jew' Savannah (*Jodensavanne*) as the primary site for Jewish settlement. This place was located in the Thorarica district, a more remote area south of Paramaribo, where most Jews already resided. There, they lived relatively autonomous and isolated from colonial society, which enabled them to easily maintain a separate identity. Moreover, in the Jew Savannah, they were allowed to work (and let their slaves work) on Sundays and to take their Sabbath on Saturdays instead.[265] Although, during the course of history, Surinamese Jews have proudly carried the title 'Portuguese Jewish Nation' (*Portugeesche Joodse Natie*) – and are sometimes still referred to as such in historiography – its international-law mandate was entirely non-existent.[266]

Like the Protestant consistories, an autonomous local body had been empowered to exercise administration and justice over its co-religious citizens. This so-called *Mahamad* consisted of four board members (*parnassim* or *regenten*) – each of them presiding the office three months

[261] J.V. Roitman, 'Creating confusion in the colonies. Jews, citizenship, and the Dutch and British Atlantics', *Itinerario, Vol. 36, No. 2* (2012) 55-90, there passim; for Jewish rights in the Dutch Republic, see pages 58-61.
[262] Roitman, 'Creating confusion in the colonies', passim; R.A.J. van Lier, 'Preface' in: R. Cohen (ed.), *The Jewish nation in Surinam. Historical essays* (Amsterdam 1982) 11-12, there 11; R.A.J. van Lier, 'The Jewish community in Suriname. A historical Survey' in: R. Cohen (ed.), *The Jewish nation in Surinam. Historical essays* (Amsterdam 1982) 19-27, there passim.
[263] Wolbers, *Geschiedenis van Suriname*, 45; Van Lier, *Samenleving in een grensgebied*, 84.
[264] L.L.E. Rens, 'Analysis of annals relating to early Jewish settlement in Suriname' in: R. Cohen (ed.), *The Jewish Nation in Surinam. Historical Essays* (Amsterdam 1982) 29-46, there 34; Schiltkamp, 'Legislation, government, jurisprudence, and law', 324; Schiltkamp, *De geschiedenis van het notariaat*, 42-43.
[265] Hartsinck, *Beschryving van Guiana*, 875-876; Wolbers, *Geschiedenis van Suriname*, 48; Buddingh', *De geschiedenis van Suriname*, 58-61; Van Lier, *Samenleving in een grensgebied*, 86.
[266] Buddingh', *De geschiedenis van Suriname*, 61.

per annum – who convened on a daily base to deliberate about religious affairs. Compared to the consistories, the Mahamad was significantly more autonomous as it could also deal with small political and civil matters. From 1754, Jews had their own communal law corpus (*hascamoth*) for mainly religious but also political and organisational issues. These communal laws were quite static; alternations had to be accepted unanimously by a universal junta (*Adjuntos*), which consisted of the parnassim and several elderly. As a secondary check, the unanimous decisions had to be approved by the Suriname Company directors as well.[267]

Although Jews were relieved from service in the colonial civil militia, an independent Jewish civil militia (*het Joden quartier*) was created in 1671. This was in contrast to the Dutch Republic, where Jews did not have to serve in civil militias but paid fees in exchange for exemption instead. Because Jews represented at least one-quarter of the total white population in seventeenth-century Suriname – and had grown to about one-half by the end of the eighteenth century – military exclusion or exemption of Jews would have made control in the Surinamese hinterlands dangerously feeble. Over the course of time, the Jewish civil militia played an important role in the perpetual contestation against plantation marauders, first against the Amerindians and later against the maroons.[268]

During the eighteenth century, many High German and Polish Ashkenazic Jews settled in Suriname as well. They were granted the same privileges as their Sephardic co-religionists but stayed in Paramaribo where they were shopkeepers or craftsmen. From the second half of the eighteenth century, larger numbers of Sephardim began to move to Paramaribo as well. Approximately two-thirds of the Jewish city dwellers lived in indigent circumstances, of which most were of Ashkenazic origin. As a countermeasure, the Governing Council restricted access to new Jewish settlers that were financially unable to buy themselves a plot of land. Economic differences were one of the main reasons for tensions between the Ashkenazic and Sephardic denominations. In 1724, animosity resulted in an official separation of the two communities, after which both decided to build a separate synagogue in Paramaribo. Jewish privileges remained intact until 1825, when, by royal decree, all privileges were abolished and all religious denominations declared equal. This decision ended the dominance of the Dutch Reformed Church, and thus, formally acknowledged full citizenship to Jewish inhabitants. As it also

[267] Fatah-Black, 'The usurpation of legal roles', 7-10; Hartsinck, *Beschryving van Guiana*, 875-876; R. Cohen, *Jews in another environment. Surinam in the second half of the eighteenth century* (Leiden 1991) 149-153; Van Lier, 'The Jewish community in Suriname', 20; for a Dutch translation of the 1754 hascamoth edition see: NL-HaNA, HPCJ, 1.05.10.02, inv. no. 239.

[268] J.V. Roitman, 'Portuguese Jews, Amerindians, and the frontiers of encounter in colonial Suriname', *New West Indian Guide, Vol. 88* (2014) 18-52, there 28-29; Van Lier, *Samenleving in een grensgebied*, 86.

heralded the end of the Jewish communal authority, within a few years' time, the Jew Savannah was almost completely abandoned. By that time, the Jewish planter had made room for the urban dweller.[269]

Despite the unprecedented privileges, Jews were never treated as full-fledged citizens. Indeed, they were granted passive suffrage but they were not permitted to stand for election. Nor were they allowed to fulfil any other high-ranking public offices, except than that of notaries and assistant tax collectors. In daily live, especially urban Jews had a tough time to find their way into the Christian-dominated society. They were continuously defied by devout civilians and colonial representatives that attempted to downsize their privileges.[270] Especially the right to work on Sundays was a big thorn in the flesh of many Christian citizens. During the first decades, the Governing Council received several complaints about Jews who displayed and peddled their goods through the streets of Paramaribo on the Lord's Day, even during church services. Under the pretext of its 'demoralising character', in 1718, the Governing Council eventually decided to prohibit Jewish residents to open their stores on Sundays.[271]

Although Jews were tolerated by their fellow plantation owners, there was a latent anti-Semitism in Surinamese society. Like elsewhere, Jews were easy scapegoats, in particular during moments of crisis. In Suriname, Jewish slave owners had a bad reputation because they allegedly treated their slaves worse than their Protestant counterparts. As a result, they were accused of inciting slaves to run away. In addition, they were blamed for the economic crisis of the 1770's, even though they were the ones who, in fact, suffered the most from the credit shortages that followed the 1773 market crash. After the crash, they were excluded from professions like bakers and grocers, and could barely find creditors willing to reinvigorate their dilapidated plantations.[272] Another seedbed for conflicts was the exceptional loyalty of the Jews to the Suriname Company and its colonial representative – the governor. Many eyebrows were raised about the long-standing practice in which Jews used to address the governor on the eve of elections to inform which of the candidate-councillors would be most compliant with his wishes. In addition, whenever Jews felt that their privileges were threatened, they usually

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[269] Buddingh', *De geschiedenis van Suriname*, 58-61; Van Lier, 'Preface', 11; Cohen, *Jews in another environment*, 66-93 and 126-127; Fatah-Black, 'The usurpation of legal roles', 7; Van Lier, *Samenleving in een grensgebied*, 85 and 93.

[270] Roitman, 'Creating confusion in the colonies', 61-71; for legal confinements see page 66; Cohen, *Jews in another environment*, 124-144; Van Lier, *Samenleving in een grensgebied*, 84-95; Van Lier, 'The Jewish community in Surinam', 21-26.

[271] Van Lier, 'The Jewish community in Surinam', 20-21; Cohen, *Jews in another environment*, 125-126; Schiltkamp and De Smidt, *West Indisch plakaatboek*, 323-324.

[272] Van Lier, *Samenleving in een grensgebied*, 89-92; Van Lier, 'The Jewish community in Surinam', 21-26; Roitman, 'Creating confusion in the colonies', 61-71.

appealed to, or sought protection at, the Suriname Company, while keeping the Governing Council at bay. Political tensions reached their zenith in the 1750s, when many Jews aligned with governor Mauricius (r.1742-1751) in his political dispute against *De Cabale*. Moreover, as will become clear in the subchapter below, Jews also tried to expand their own authority at the expense of the Governing Council. All these tensions incited the councillors to curb Jewish autonomy. In the 1750s, some of them had tried to abolish active suffrage for Jews but the proposition was rejected by the Suriname Company. A suggestion of some councillors to segregate Jews in a separate ghetto, in 1761, was taken off the table as well. A proposition to exclude Jews from public theatre, to the contrary, did pull through. In response, Jews single-handedly established a separate theatre in 1776. Because several non-Jewish citizens also performed at the Jewish theatre, one can assume that anti-Semitism was certainly not omnipresent.[273]

3.3.2 The Mahamad and its administration of justice

In daily life, Sephardic communal members had to abide by both local (*hascamoth*) and colonial laws. In case of infringements of the former, the Mahamad could administer justice individually. Despite that a considerable number of judicial records have been preserved, an in-depth study of the sources has yet to be conducted.[274]

What were the Mahamad's legal competences? Principally, the Mahamad dealt with religious affairs. Compared to the consistories, the Governing Council hardly interfered in Jewish religious disputes. Therefore, the Mahamad's range of legal cases was more varied than moral issues alone and treated more contentious judicial affairs such as cases regarding blasphemy as well. When several Jews had disrupted a religious service in 1797 by hammering on the pews, the Mahamad imposed a five-hundred-guilder fine to every member that had participated in producing the noise.[275] In addition, contrary to the consistories, the Mahamad also functioned as civil court for small cases – primarily debts – valuing less than ten thousand

[273] Van Lier, 'The Jewish community in Surinam', 21-22; Van Lier, *Samenleving in een grensgebied*, 88-89 and 92-93; Fatah-Black, 'The usurpation of legal roles', 7-9; G.W. van der Meiden, 'Governor Mauricius and the political rights of the Suriname Jews' in: R. Cohen (ed.), *The Jewish nation in Surinam. Historical essays* (Amsterdam 1982) 49-55, there passim; Buddingh', *De geschiedenis van Suriname*, 42-43.
[274] See: NL-HaNA, De Nederlandse Portugees-Israëlitische Gemeente in Suriname, 1678-1909 (NPIGS), 1.05.11.18, inv. nos. 251-330. Note that all documents are in Portuguese.
[275] A. Ben-Ur, 'Purim in the public eye. Leisure, violence, and cultural convergence in the Dutch Atlantic', *Jewish Social Studies, Vol. 20, No. 1* (2013) 32-76, there 47-48.

pounds of sugar (i.e. five hundred guilders).[276] Lawsuits up to one hundred guilders were adjudicated de plano. Lawsuits valuing between one hundred and five hundred guilders were adjudicated according to civil law procedure (cf. chapter 2.4) and had to be written down and reported to the colonial authorities. Moreover, more pressing civil matters had to be handed over directly to the colonial authorities in writing and would be resolved at the Council for Minor Affairs (for cases higher than thirty guilders) or at the Civil Court (for cases valuing more than hundred and fifty guilders).[277] Under extreme circumstances, the Mahamad could request the Governing Council to expel disobedient members from the colony. Excommunication (*herem*) was only possible after a two-third majority of the universal junta was reached. The practice of herem was officially abolished in 1787. From then on, insubordinate members were sent to Fort Zeelandia for incarceration.[278]

Other judicial regulations were never clearly demarcated. This lacuna had been eagerly exploited by Jews in their urge to expand (here: *usurpeeren*) their judicial competences. In the 1740s, this legal lacuna evolved into a long-lasting dispute between the Mahamad and the Governing Council. In particular the Mahamad's claim to be privileged to subpoena Jews for interrogations antagonised the governing councillors, because that claim would indirectly place the Mahamad on equal footing with the Civil Court. According to the arguments of the Governing Council, the claim had not been addressed in the WIC charter. Therefore, the Mahamad had to be considered as an informal courtroom without any officially acknowledged judges, which solely served the purpose of its own religious adherents. The Mahamad, in contrast, invoked its plea on its decades-old customary rights. Moreover, it argued, that according to Jewish beliefs, a Jew was simply not allowed to subpoena another Jew for a secular court if the matter had not been submitted to a synagogue representative beforehand.

As the polemic with the Mahamad continued, the Governing Council decided in to present the matter to the directors of the Suriname Company in 1742. In their answer, the directors reiterated that Jews were allowed to administer civil justice up to ten thousand pounds of sugar and that their verdicts had to be respected by the colonial authorities. However, they continued, because the parnassim were not sworn in as actual judges (*magistraten*), they were not permitted to subpoena for interrogations or depositions in *secular* civil affairs, nor were they

[276] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 922, f. 464-465; Hartsinck, *Beschryving van Guiana*, 875-876; Van Lier, 'The Jewish community in Suriname', 20; note that Hartsinck speaks of six hundred guilders instead of five hundred.
[277] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 922, f. 533-535.
[278] Fatah-Black, 'The usurpation of legal roles', 8; Cohen, *Jews in another environment*, 149-153; for *herem* see also the pages 128-144.

allowed to insinuate or protest. Nevertheless, the directors attenuated, the Governing Council had to maintain the status quo with regard to the claimed Jewish' customary rights. That is, in case of *religious* civil affairs, the governing councillors had to continue to condone the Mahamad in insinuating and interrogating its own community members. As a side note, the Suriname Company directors dictated that, because the parnassim were not considered as full-fledged judges, they were no longer allowed to be named 'regents' (*regenten der Portugeesch Joodse Natie*) when it came to judicial affairs. From then on, they had to be called 'delegates' (*gedeputeerden*) instead.

However, the decision of the Suriname Company did not bring the matter to a close. In the subsequent years, the Mahamad persisted its claim to be privileged in secular civil affairs. This claim eventually got the Mahamad involved in a dispute with the Jew named Joseph Abarbanel, who lived in Paramaribo. When, in 1745, the Mahamad subpoenaed Abarbanel to witness in the lawsuit against Salomon Levij Ximenes, Abarbanel refused to come to the Jew Savannah and argued that he was unable to attend his interrogation as he could not leave Paramaribo. Consequently, the Mahamad sued him once more and condemned him to pay the incurred costs in case he would default the interrogation. Nevertheless, Abarbanel continued to refuse to travel to the Jew Savannah for his deposition. In response to the summons, he argued that the Mahamad did not had the mandate for obligatory civil subpoenas and that, when the Jewish representatives wanted to make a case against his refusal, they could sue him in the Civil Court. As a result, the parnassim Joseph Samuel Cohen Nassy requested governor Mauricius to detain Abarbanel for failure to comply with a judicial order (*civiele gijseling*) and to extradite him to the Jew Savannah for interrogations. In response, raad-fiscaal Halewijn van Werve (r. 1741-1746) requested to institute legal action against the offensive attitude of the Mahamad, still baffled from the fact that it had been so disrespectful to the instructions of the Suriname Company. The lawsuit stumbled through until 1750, among others because Halewijn van Werve was dismissed from office in 1746 and, in five years' time, at least four different (interim) raad-fiscaals had been in office. In 1750, the Governing Council decided to wrap up the still pending cases that were initiated under former raad-fiscaal Halewijn van Werve. Although they initially agreed to take the matter up with the Suriname Company for advice, one week later, they announced to dismiss the lawsuit because, apparently, they deemed that Halewijn van Werve had not fully played the prosecution by the eyes of the law.[279]

[279] NL-HaNA, SvS, 1.05.03, inv. no. 137, f. 151-161; NL-HaNA, HPCJ, 1.05.10.02, inv. no. 28, f. 135; inv. no. 45, f. 25-26 and 35-36; inv. no. 922, f. 301 and 323-774; as a result of the dispute, Jewish privileges were written

Another 'grey area' of the Mahamad's legal competences concerned the adjudication of criminal justice over Jew Savannah slaves. According to the 'domestic jurisdiction', which had been prevalent in Suriname's slaveholding society, slave owners were allowed to individually punish their slaves as long as those punishments were executed within the margins imposed by the Governing Council (see chapter 4.2.2). This was the common practice among Jewish slave owners as well. However, the following suggests that it was also possible to adjudicate criminal justice in the Mahamad. The example concerned the slave named Purim, who was owned by the Savannah Jew called Ribca, widow of Abraham Mendes Vais. Purim came into contact with the local judicial authorities on several occasions. In 1771, on the day preceding Yom Kippur, Purim had murdered a charity slave that belonged to the Jew Savannah's synagogue. Unfortunately, the Mahamad's board minutes do not mention any punishment. One year later, he was prosecuted twice for outrageous behaviour and insulting a white person. The first time, he was condemned to be punished by his owner, on pain of being forever expelled from the Jew Savannah. After the second infringement, Purim was actually condemned to be expelled, although the sources are silent about whether the sentence was ever complied with. If so, Purim was expelled only temporarily, as he reappears in the Mahamad's board minutes in 1782. That year, Purim was put on trial again, after he had slaughtered one of Isaac Lopez Nunes' goats without the latter's permission. Because, meanwhile, numerous Jewish inhabitants had complained to the Mahamad about Purim's recurrent misbehaviour, the Mahamad once again ordered Purim's owner to expel him from the Jew Savannah. In case of non-compliance, the board minutes mentioned, Purim would be handed over to the raad-fiscaal.[280]

The trial against Purim indicates that, when able, the Mahamad endeavoured to adjudicate *criminal* slave offences within their own sphere. However, it also suggests that the Jewish mandate was merely limited, as it could not compel slave owners to execute the demanded punishments; it could only kindly ask to do so. In case of negligence, or in case of untenable recidivists, they could only (threaten to) hand over the matter to the colonial authorities. The question remains whether Purim's trial was merely an anomaly because other Jews had filed complaints with the Jewish authorities, or that, in general, Jewish slave owners had to make mention of all the (more momentous) criminal offences perpetrated by their slaves. Even more remarkable is that one should expect that slaves like Purim, who had committed serious felonies such as theft from white people and murder, were directly handed over to the colonial

down and collected by the Governing Council between 1746 and 1754. See: NL-HaNA, HPCJ, 1.05.10.02, inv. no. 238.

[280] Ben-Ur, 'Purim in the public eye', 42-44.

authorities. It is not clear whether these practices of the Mahamad were acquiesced by the Governing Council or simply not known; the colonial sources are silent about that.

3.3.3 Jews in colonial justice

Access to criminal justice for Jews was similar to access for other white civilians. Whenever a Jew committed a crime, or ended up in a dispute, he or she would be brought to trial in the Governing Council – irrespective of whether the claimant would be of Jewish or non-Jewish descent. Criminal offences that had been perpetrated in the Jew Savannah had to be brought to trial in the capital as well. Of the cases involving Jewish claimants or defendants (that contained any specified location), roughly three-quarters originated from Paramaribo, whereas only one-quarter originated from the Jew Savannah.

The Governing Council's criminal records mention a variety of crimes that were perpetrated in the Jew Savannah. A few trials were initiated by complaints of the colonial authorities and concerned insubordination against colonial delegates. The Jewish civil lieutenant J. de Abraham de la Para, for instance, was taken to court for refusal to lend his slaves for assistance to the colonial sergeant Wijchard.[281] Other cases were initiated by Jews themselves. In 1749, Joseph Samuel Cohen Nassy, one of the newly constituted Jewish orphanage councillors, had turned to the Governing Council for a managerial quarrel with the former councillors Abraham and Izhak de Britto, because they had not properly transferred the financial administration to Nassy. The Governing Council condemned the De Britto's to be taken into custody until they had complied with the agreed terms.[282] In another case, two Jew Savannah black overseers of the plantation Toledo had fled to Paramaribo to press charges against their plantation owner Isak Monsanto, who had mutilated them with a machete as punishment for falling asleep on watch. However, the case was dismissed.[283] In addition, runaway slaves of Jewish owners that had been caught by, or extradited to, the colonial authorities, were brought to trial in the Governing Council as well.[284] It is striking that, with the exception of one managerial dispute, the Jew Savannah cases did not contain any examples of disputes with both Jewish claimants and defendants.[285] This can either implicate that the Savannah Jews lived in perfect harmony with one another; that Jews were relatively reluctant to complain at the Governing Council, and thus,

[281] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 44, f. 249-250; inv. no. 45, f. 20-21 and 74-80; inv. no. 550, f. 85-88.
[282] Ibidem, inv. no. 346, f. 111-112 and 118; inv. no. 922, f. 11-84.
[283] Ibidem, inv. no. 91, f. 220-221; inv. no. 828, f. 12-13 and 17-28.
[284] Ibidem, inv. no. 91, f. 172-173; inv. no. 92, f. 9-11, 14, 93-96, 678-683, 1170, 1197-1198 and 1535-1536; inv. no. 144, f. 461-463, 502-504 and 535; inv. no. 756, f. 21-23; inv. no. 801, f. 761-808; inv. no. 827, f. 107-118 and 310-312; inv. no. 828, f. 320-336; inv. no. 865, f. 317-332; inv. no. 922, f. 303-306.
[285] Canfijn, *Database of sample years in Suriname's Criminal Court.*

that some crimes simply stayed under the colonial radar due to the more remote and isolated setting of the Jew Savannah; or that the Mahamad had more sway among its community members than Governing Council imagined.

Moreover, in only one case, a cross-border dispute between a Savannah Jew and a Christian was brought to colonial court. In this instance, the Governing Council started an investigation into plantation owner David Isaak Cohen Nassy because he had been accused of defrauding his Amsterdam financier Roelof Hageman. Nassy's plantation had been mortgaged by Hageman but had been placed under sequestration since 1771, probably due to financial default. Although the plantation was scheduled to be sold publicly, in 1773, Nassy had allegedly manipulated the plantation's appraisal and had concealed several slaves for his own benefit. Moreover, he had reportedly embezzled several to-be-liquidated assets in order to build a private residence on the Jew Savannah. As a result of the allegations, Nassy went on the run. It is not clear whether he got caught or turned himself in but the sources mention that he was put on trial in 1775. The Governing Council fired him as Jewish clerk and translator but, for some unknown reasons, temporarily postponed the prosecution. It remains in the dark whether Nassy was acquitted or the case was reopened after all.[286]

For urban Jews, access to criminal justice appears to have been similar to access for other white inhabitants as well. The willingness of among urban Jewish victims to press charges in the Governing Council seems to have been relatively higher than their co-religionists in the savannah. About three-quarters of the complaints that were submitted by Jews concerned offences perpetrated in Paramaribo. Remarkable is that, even urban Jews seem to have maintained to be a separate community, as more than the half of the cases had both a Jewish claimant and defendant.[287]

There are no indications of discrimination against Jewish defendants in the judicial records. Therefore, it can be assumed that the judicial position of the Jews was as solid as those of other white civilians. In two instances, the criminal records contain the word *smous*, a derogatory term for Jews, but both times, the term was used by litigants and not by the judicial authorities.[288] One single outlier has been found among the petition documents of 1750, in

[286] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 91, f. 116 and 152-154; inv. no. 92, f. 260-261 and 1248-1249; inv. no. 93, f. 130-131; inv. no. 414, f. 1143-1147; inv. no. 828, f. 551-588.
[287] Of the forty-three criminal cases concerning Jewish victims, at least twenty-seven complaints had been submitted by Jews and three by others, whereas the identity of thirteen submitters has been unknown. Of these forty-three crimes, twenty-seven had been perpetrated in Paramaribo, nine in the Jew Savannah and seven locations were unknown. Of the twenty-seven urban crimes, fourteen had both Jewish claimants and defendants.
[288] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 46, f. 171-175; inv. no. 542, f. 487-499; inv. no. 770, f. 262-263; inv. no. 862, f. 573-580.

which raad-fiscaal Jacob van Baerle (r. 1749-1750) demanded the prosecution of a certain Robles de Medina, 'not only [because he had] impertinently beaten a Christian but also [because he had] responded disrespectfully to the resulting correction of the governor'. In addition, Robles de Medina had visited Van Baerle twice and had insulted him in his own house. Therefore, Van Baerle argued, 'suchlike actions of a Jew ought to be rigorously corrected'.[289] As the judicial documents of 1751 have been lost to posterity, it is not known how Governing Council responded to this anti-Semitic plea nor whether a prosecution was initiated. In the verdicts that have been sentenced to Jews there seem to have been no anomalies either. The sentences are in accordance with those of other white civilians and do not contain severe punishments, let alone for the fact that the convict was a Jew. Of the thirty-five known sentences, fifteen convicts were fined, four apprehended, four detained for failure to comply, four ordered to ask for forgiveness and one banned. Six other cases were dismissed, one settled and two sent to the Suriname Company for advice.[290]

One quintessential impetus for Jewish offences was the annual celebration of Purim, a Jewish holiday during which crowds of masked Jews revelled on the streets of Paramaribo. Reports frequently mentioned boisterous and rowdy behaviour of celebrating Jews, often inebriated and sometimes yelling obscenities against their Christian co-inhabitants. Many of those revelries lead to complaints to the Mahamad and Governing Council. Especially in the final quarter of the eighteenth century, when the Jewish community gradually moved from the Jew Savannah to the capital, the celebrations became a recurring issue for the colonial authorities. Consequently, the Governing Council tried to curb such public disturbances.[291]

An example of an excess that occurred during the Purim festivities, took place on the 16th of March 1775, when several Christians were insulted and assaulted by the Jews named Benjamin Belmonte, Haim Salom and Haim Saruco. Various reports of Christian casualties and bystanders mention that, during the afternoon, the three adult men had rioted on the public streets, masked and dressed up in military uniforms with exposed sabres, sticks and machetes. They had violently trespassed the house of the surgeon Frederik Behr and had attacked him with a sabre. Subsequently, they had insulted and molested several bystanders on the public streets with sticks and sabres. Among the casualties were (among others) C.C. Ramm, C.H.

[289] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 550, f. 173-174; Original quotation: '[…] sig niet alleen heeft ontsien om een Christen op een ongepermitteerde wijse te slaan, maer ook de correctie van den Wel.Ed.Gestr. Heer Gouverneur dieswegens met valjerie te beantwoorden […] dat diergelijke behandeling van een Jood rigoreuselijk diende te werden gecorrigeerd en dierhalve aan UWelEd. Gestr. en Ed. Agtb. is overlatende om 't officie fiscaal sodanigen satisfactie te geeven, als uwelEd. Gestr. en Ed. Agtb. sullen bevinden te behoren'.
[290] Canfijn, *Database of sample years in Suriname's Criminal Court.*
[291] Ben-Ur, 'Purim in the public eye', passim, in particular 49-53.

Mathourné and G.J. Hulscher. The three Jewish culprits downplayed all allegations, arguing that they had got into a simple 'hand-to-hand' with one another and that they had no intentions for animosity or molestation. Therefore, the defendants requested the Governing Council to settle the matter, which request was denied after the raad-fiscaal demanded corporal punishments. Two weeks later, the defendants once again addressed the Governing Council; this time for submission and this time with more success. Belmonte, Salom and Saruco were condemned to pay a two-hundred-guilder fine each. Moreover, they were sentenced to reimburse the incurred litigation costs, medical costs and one hundred guilders to both Behr and Hulscher as settlement money.[292] As a result of the occurred excess, the Governing Council issued a bylaw that prohibited public masquerades on the Heerenstraat, on pain of arbitrary punishment.[293] Interesting about this particular lawsuit, is that there were no indications of discriminatory treatment. The Jewish origin of the perpetrators seems to have played no role in the process at all, despite that the disturbance took place on a Jewish holiday and that all casualties were of Christian religion.

[292] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 91, f. 667-668, 707, 716-717 and 728-729; inv. no. 413, f. 775-782, 863-866 and 895-910; inv. no. 827, f. 471-598.
[293] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 883-884.

4. The unfree: slaves

Of all Surinamese population groups, the legal position of slaves was undoubtedly the most marginalised.[294] Historiography has shown that the living conditions of slaves were utterly deplorable and that many slaves were exposed to the most gruesome atrocities committed by whites. Because legal protection of slaves lacked almost completely, many white culprits went unpunished for committing atrocities.

Many (often abolitionist) sources have emphasised that enslaved suspects did not have a chance to defend themselves in court and were usually punished with the most extreme (capital) punishments. In addition, enslaved victims were simply denied access to justice.[295] More recently, these assertions have been endorsed by Beeldsnijder's study, which can be considered as the most extensive quantitative and qualitative analysis of criminal justice for plantation slaves. This chapter will show that both the legal and judicial treatments of slaves have indeed been extremely discriminatory. The lack of legal protection of slaves, their limited legal capacity, the many restrictive bylaws, the disparity in punishments and the almost unlimited mandate of domestic jurisdiction, are all indications of that. However, this chapter will also challenge many other assertions, in particular those made by Beeldsnijder. It will show that the adjudication of slaves needs to be considered as more thorough than deemed before. None of the slaves has been denied a trial. All of them have at least been interrogated. In addition, before the councillors reached a verdict, they would take into account the mitigating or aggravating circumstances. In the end, an appreciable share of slaves has even been exonerated of the uttered accusations.

Although there have been a few attempts to improve legal and judicial protection of slaves, in particular by the governor and raad-fiscaal, most initiatives were thwarted by the governing councillors in order to maintain the status quo on the plantations. It would take at least until the second half of the eighteenth century before punishments of slaves would become slightly more moderate. At the same time, more wrongdoings of whites against slaves were adjudicated. Some slaves even submitted complaints on their own behalf, despite the risks they would expose

[294] See inter alia: Van Stipriaan, *Surinaams contrast*, 310-427; Van Lier, *Samenleving in een grensgebied*, 118-180; Beeldsnijder, *"Om werk van jullie te hebben"*, passim; Buddingh', *De geschiedenis van Suriname*, 79-118 and 183-204; K.J. Fatah-Black, *Eigendomsstrijd. De geschiedenis van slavernij en emancipatie in Suriname* (forthcoming, Amsterdam 2018).

[295] Van Lier, *Samenleving in een grensgebied*, 132-133 and 137-140; Wolbers, *Geschiedenis van Suriname*, 128-135; Stedman, *Narrative of a five years expedition*, passim, inter alia 39, 68-69, 95-96, 102-103, 246, 264-268, 280, 340-341, 472, 408-482, 488, 495, 531-532, 544-550, 554-557 and 571; Herlein, *Beschryvinge van de volk-plantinge Zuriname*, 111-114; Hartsinck, *Beschryving van Guiana*, 916; De Kom, *Wij slaven van Suriname*, 43-49; Dragtenstein, *'De ondraaglijke stoutheid der wegloopers'*, 221-223; Beeldsnijder, *"Om werk van jullie te hebben"*, 242-247; Davis, 'Judges, masters, diviners', 959-971.

themselves to. This chapter will conclude that the Governing Council did not always adopt a one-dimensional stance in favour of whites at the expense of slaves.

4.1 A marginal position

In all slaveholding societies, legal protection of slaves has been marginal at best. In the slave regulations that did exist, the interests of slave owners clearly prevailed over the protection of slaves. Generally, regulations primarily consisted of rules of engagement and obligations (*geboden en verboden*) to keep the enslaved population in check.[296]

In Suriname, a solid legal framework for slaves was lacking as well. This needs to be partially explained by the fact that slavery was never officially recognised in the Dutch Republic; there are even examples of slaves who were directly manumitted once they set foot on Dutch soil (see chapter 5.1).[297] In addition, laws imposed by the Suriname Company were mostly confined to peacekeeping and generating revenues, whereas the Dutch States General did not issue any systematic or comprehensive slave regulations either.[298] Generally, Dutch legal frameworks were almost standardly adopted in Suriname. Therefore, laws and jurisprudence to protect the enslaved society had to be imported from elsewhere. In the Dutch Republic, it was customary to turn to Roman law as subsidiary law in case legal matters were insoluble by Old-Dutch law (see chapter 1.4). As a result, Roman law became the primary basis of slave law in Suriname as well. The adoption of Roman law as applicable slave law was never made explicit in Surinamese or Dutch managerial documents but probably originates from a vague clause of the 1629 governmental order of the Dutch States General to the WIC. That particular clause determined that 'in all other matters of all kinds of contracts and practices, the

[296] Watson, *Slave law in the Americas*, passim; O. Patterson, *Slavery and social death. A comparative study* (London and Cambridge, Massachusetts 1982) 1-101.
[297] Van Stipriaan, *Surinaams contrast*, 7. The lacuna in Dutch legislation was not exceptional compared to other Western slaveholding societies; the English and Danes did not know any slave legislation in patria either. They simply improvised and eventually created a patchwork of local customary laws. In contrast, on the Iberian Peninsula slave rights had actually been properly regulated, what can be ascribed to the fact that, there, in contrast to Northern Europe, continental slavery never totally disappeared throughout the medieval period. Both states had incorporated slavery into their own legal systems, the Spanish in their *Siete Partidas* in 1265 and the Portuguese in their *Ordenações Filipinas* in 1603. The French followed in 1685. With the ratification of their *Code Noir*, they introduced a law corpus solely focused on slave law. See: S. Peabody and K. Grinberg, *Slavery, freedom, and the law in the Atlantic World. A brief history with documents* (Boston and New York 2007) in particular 1-28; Neslo, *Een ongekende elite*, 87-91. Note that the presence or absence of genuine slave laws are no guideline for the severity of treatment by slave owners. The function of the colony and the economic form of slavery were significantly more decisive with regard to the treatment of slaves. See: Quintus Bosz, 'De ontwikkeling van de rechtspositie', 7-9; Neslo, *Een ongekende elite*, 90; Watson, *Slave law in the Americas*, passim, in particular 133.
[298] Watson, *Slave law in the Americas*, 102-114; Neslo, *Een ongekende elite*, 87.

common written laws [of the Dutch Republic] should be followed'.[299] The implicit adoption of Roman law as slave law probably needs to be explained by the fact that, in cases of legal lacunae, usage of Roman law was so taken for granted that it was never officially restated with regard to Suriname.[300]

Suriname has not been exceptional in using Roman law as slave law. To the contrary, Roman law has played a key part in constituting the legal framework of the institution of slavery in all Western slaveholding societies. Striking is, however, that there were hardly any private slave laws incorporated into Roman law at all. The only substantial law corpus that genuinely related to slaves, has been Roman manumission law.[301] More revolutionary than Roman private law was the creation of a new legal concept of 'absolute ownership' that the Romans developed for the purpose of the institution of slavery. Initially, slaves had an ambivalent legal position, as their status balanced between those of property and legal persons. On the one hand, slaves were legally incapacitated: they were prohibited to be proprietors and could not be held liable for civil torts and contracts. They were only allowed to possess a *peculium*, a temporary investment of a certain range of goods provided by the owner, over which the slave had usufruct, but on which the owner remained to preserve a claim at any moment. On the other hand, slaves could not be regarded solely as property either, because they could still be held legally and morally responsible for their own deeds, for instance, in criminal justice.

To incorporate this legal ambiguity into the law, the Romans developed a new paradigm in which property was no longer defined by a relation between persons but rather between persons and things. By starting to distinguish between categories of owner (*persona*), thing (*res*) and absolute ownership (*dominium*), the Romans legally embedded the relationship between slave owner (cf. persona), slave (cf. res) and enslavement (cf. dominium). Moreover, the concept of dominium also became associated with absolute power, which did not only imply the owner's capacity to economically derive the value of a particular object, that is, to use (*usus*) and enjoy its fruits *(fructus*), or even to use it up (*ab-usus*), but also to have the 'inner power over that object' at its disposal. As a result, the legal ambiguity became a reality: the slave became an

[299] Watson, *Slave law in the Americas*, 102-114; Cau, *Groot placaet-boeck. Deel 2*, Placaten 5, Boeck 5, Tit. 9, Deel 1, Artikel 61, 'Ordre van Regieringe soo in Policie als Justitie, inde plaetsen verovert, ende te veroveren in West-Indien. In date den 13 October 1629', 1235-1248. Original quotation on page 1245: 'In andere saecken van allerley Contracten ende behandelingen, sullen gevolght werden de gemeene beschrefen Rechten'.
[300] Watson, *Slave law in the Americas*, 104-105 and 110.
[301] Ibidem, 22-23.

unfree human object that functioned as a 'surrogate' of its owner, solely serving his owner's will (albeit still legally liable for his own wrongdoings).[302]

The same ambiguous position of slaves can be discerned in early modern Suriname as well.[303] In many instances, slaves were considered as disposable goods. Already in the very first reference in which colonial legislative sources distinguished between social statuses (in a 1668 bylaw), slaves had been categorised as goods next to cattle and 'other kinds of species'.[304] This description suggests that, similar to Roman law, Surinamese slaves were anything but legally incapacitated. However, no clear-cut laws have ever been issued to formally regulate the legal status of slaves. In contrast, practices were rather tacitly adopted along the way, which can be inferred from the context that historiography has provided over the years. First and foremost, slaves were not allowed to dispose of their own lives but were only to serve their owners' will. In addition, slave parents were not recognised any custodial powers over their offspring either; their statuses were matrilineally hereditary, and therefore, their newborns would fall directly under their owners' command. Slave owners had a full mandate on their slaves' lives, with the exception of power over life and death.[305] As proof that their slaves had been proprietary to them, slave owners had to brand their slaves on a visible location of their bodies and had to register that particular mark with the colonial secretary.[306] Secondly, slaves were not allowed to engage themselves in civil contracts nor in civil lawsuits.[307] Thirdly, any form of personal relationship was not recognised as legally binding. However, in practice, slaves were acquiesced (and sometimes even encouraged) to engage in non-marital unions with the opposite slave sex in order to stimulate procreation.[308] Finally, slaves were not allowed to convert to Christianity either, although some exceptions are known.[309] Other religious slave

[302] Patterson, *Slavery and social death*, 21-32, in particular 31; Watson, *Slave law in the Americas*, 22; for the peculium, see: Patterson, *Slavery and social death*, 182-186.
[303] Watson, *Slave law in the Americas*, 112.
[304] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 14.
[305] Van Lier, *Samenleving in een grensgebied*, 157-160; cf. Patterson, *Slavery and social death*, 139-141.
[306] The practice of branding continued to exist until the abolition of slavery in 1863, see: C.L. ten Cate, *Tot glorie der gerechtigheid. De geschiedenis van het brandmerken als lijfstraf in Nederland* (Amsterdam 1975) 174-180; see also: Schiltkamp and De Smidt, *West Indisch plakaatboek*, 150-151, 158-159, 538-539, 741, 825, 988 and 1212-1213.
[307] Cf. Watson, *Slave law in the Americas*, 30.
[308] Van Stipriaan, *Surinaams contrast*, 377-378; Watson, *Slave law in the Americas*, 30-31 and 112; cf. Patterson, *Slavery and social death*, 186-190; interracial marriages were certainly out of question, see: Schiltkamp and De Smidt, *West Indisch plakaatboek*, 277.
[309] In 1760, governor Crommelin authorised the Moravian Brethren (or: *Hernhutters*) to evangelise slaves after all, provided that their owners granted permission beforehand. However, as the vast majority of owners had been adamantly opposed to the christening of slaves, in practice, permission was barely granted. It would take until the second quarter of the nineteenth century before Christianity started to play a modest role within the enslaved society. Religion, however, did not become a connecting factor but upheld segregation instead. Slaves were mainly baptised by Moravians and Roman Catholics, whereas the Dutch Reformed and Lutheran Churches, did hardly meddle with the evangelism of slaves at all, and thus, remained fairly white until far into the nineteenth century.

denominations, in particular West African beliefs, were officially prohibited as well but were often condoned by planters in practice.[310]

With regard to the principle of property-holding, Surinamese slaves appeared to have been better capacitated compared to the Roman legal prototype. For instance, Surinamese slave laws (or manumission laws), did not include any legal references to the acknowledgement of a peculium. In contrast, the colonial authorities often turned a blind eye to the acquisition of possessions among slaves, and consequently, partially acknowledged the legal capacity of slaves in an implicit way. Slaves were, for example, acquiesced to barter and vent certain goods in street sale, such as vegetables and poultry, provided that they were in the possession of a letter of permission of their owners to go out and trade. In addition, slaves could also rent themselves out to an artisan. With these earnings, some slaves were able to buy their own freedom in the long run.[311] Nevertheless, trade had been restricted halfway the eighteenth century, primarily because many owners imposed sales quota (*tantums*), which frequently incited their slaves to commit malpractices out of fear to be punished in case of negligence. Common recurring malpractices were theft, begging, prostitution and forcing their services to third parties. As a result, slaves were no longer allowed to individually rent themselves out, while trade was restricted and redirected to a designated spot in the Oranjetuin.[312] Apropos, property-holding rights were not fully acknowledged to Surinamese slaves either. They were not allowed to pawn their own possessions or take someone else's possessions as collateral, on pain of a hexagonal Spanish buck in case of infringement.[313] In addition, in contrast to Roman laws, Surinamese slaves were forbidden to possess another slave (*servus vicarius*) as well.[314]

In sum, Roman law provided Suriname a basic legal framework that primarily determined that slaves were unfree, and therefore, only limitedly legally capacitated. The mainstay of additional slave regulations was issued during the course of time. Because legislative powers were in the hands of the Governing Council, which until the end of the eighteenth century had

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See: Sens, *'Mensaap, heiden, slaaf'*, 90-95; Van Lier, *Samenleving in een grensgebied*, 175-179; Van Stipriaan, *Surinaams contrast*, 377-378; some examples are known of slaves that were baptised prior to 1760, see: Beeldsnijder, 'Op de onderste trede', 9; Van Lier, *Samenleving in een grensgebied*, 175-176; Christians, on the other hand, could never be enslaved according to Dutch legislation, see: Sens, *'Mensaap, heiden, slaaf'*, 102.

[310] Oostindie even argues that, compared to other plantation societies in the Americas, Surinamese slaves had been virtually autonomous in a cultural/religious sense, see: Oostindie, 'Voltaire, Stedman and Suriname slavery', 22.

[311] Neslo, *Een ongekende elite*, 102-103; cf. Jordaan, *Slavernij & vrijheid op Curaçao*, 55-62; N.B. Watson, in contrast, does argue that Surinamese slaves possessed a peculium, see: Watson, *Slave law in the Americas*, 112.

[312] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 142-143 (1670), 219-221 (1698), 400-401 (1731), 549 (1739), 481-484 (1741), 490-492 (1742), 580 (1749), 593-954 (1750), 605 (1753), 679 (1763), 808-809 (1767), 925-926 (1777) and 1006-1007 (1781).

[313] Ibidem, 686.

[314] Ibidem, 808-809; cf. Patterson, *Slavery and social death*, 184.

been mainly represented by plantation owners, the Surinamese slave regulations predominantly served the interests of the slave-owning elite. The character of these bylaws perfectly highlight that slave regulations primarily functioned as a mechanism that kept the institution of slavery sustainable. The mainstay of the Surinamese population had its residence and workplace on the plantations, where a small white minority governed over a large number of slaves, relatively isolated from, and with thin communication lines to, the colonial authorities. As a result, planters were often on their own to keep the numerically preponderant enslaved population in check. In order to forestall excessive behaviour of slaves, such as insurgencies, conspiracies and running away, the mainstay of the locally published bylaws with respect to slavery consisted of rigid instructions about the do's and don'ts of the enslaved population. On the other hand, legal protection of slaves did barely occur in those bylaws. To the contrary, it was in the interests of the plantation owners to legally ostracise protection of slaves as much as possible, because, the better slave protection was incorporated into colonial legislation, the more the mechanisms that kept the institution of slavery in check, would be undermined.[315]

The vast majority of the slave bylaws had a public dimension and was either restrictive or moralising of nature; or a combination of the two.[316] The recurring character of the slave bylaws, over the course of history, signifies that regulations were continuously violated by slaves. Many bylaws restricted slaves' freedom of movement in order to prevent desertion (*marronage*). For instance, slaves were not allowed to be on the public streets after sundown, although exceptions were made for slaves that were out past curfew in presence of their owners or were in the possession of both a burning lantern and a letter of permission (*passeerbriefje*). These bylaws were reiterated and more tightened on numerous occasions, especially with respect to (border) locations that bore higher risks of desertion or revolts, such as Fort Zeelandia, Wanicapad and seashore.[317] Slaves were not allowed to navigate the rivers without the presence of a white person or a letter of permission either; nor were they allowed to possess any vessels.[318] Slaves that did not possess a letter of permission, had to be detained and handed over to the raad-fiscaal immediately, whereas slaves who would stonewall identification, would

[315] Van Stipriaan, *Surinaams contrast*, 369-407; Buddingh', *De geschiedenis van Suriname*, 79-122, in particular 92-103; Van Lier, *Samenleving in een grensgebied*, 128-151.
[316] See also: Van Stipriaan, *Surinaams contrast*, 376-385; Buddingh', *De geschiedenis van Suriname*, 79-122; Van Lier, *Samenleving in een grensgebied*, 128-151; Beeldsnijder, *"Om werk van jullie te hebben"*, 238-242; Quintus Bosz, 'De ontwikkeling van de rechtspositie', passim.
[317] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 71 (1672), 144 (1684), 348-349 (1722), 687-688 (1760), 696-697 (1760), 815 (1767), 820 (1769), 871 (1774), 903 (1776), 926-929 (1777), 967 (1779), 1006-1007 (1781), 1179-1180 (1794), 1190 (1799), 1230 (1804) and 1294-1295 (1811).
[318] Ibidem, 102 (1679), 302-303 (1714), 445-446 (1738), 578-579 (1748), 697 (1761), 731 (1761) and 936-937 (1778).

be considered as runaways, and therefore, could risk to be shot. Incarcerated slaves could be bailed out by their owners (in exchange for a monetary fine) or could be punished corporally. Other bylaws restricted slaves' freedom of organisation and self-expression, particularly in order to prevent conspiracies (*complotteeringen* or *clandestinelijke tezamenrottingen*) and revolts (*opstanden*). Slaves were, for instance, strictly prohibited to carry any rattan, sticks, batons, sabres or machetes on the public streets, especially by night.[319] Neither were slaves allowed to carry any rifles in the vicinity of Wanicapad, nor to hunt or fish without permission of their owners.[320] Whites, in turn, were not allowed to sell any rifles, gunpowder or shots to slaves; nor allowed to sell any lanterns to slaves without consent of their owners.[321] Other bylaws had more directly impeding consequences for the congregation of slaves. Slaves were not allowed to walk or convene on the public streets with more than three people at the same time, on pain of being incarcerated on suspicion of conspiring. Nor were slaves allowed to publicly hustle, yell, whistle or play any instruments, but instead, they had to carry on their pace silently.[322] The Governing Council especially feared for uprisings during slave gatherings such as dances and drum plays (*bailiaaren*). Therefore, numerous bylaws were imposed to regulate and restrict these slave rites. Dances were prohibited within Paramaribo but were allowed under certain circumstances on plantations, except on Sundays and Christian holidays. The notorious *watermama* dance, a religious ceremony that took place by night, was strictly prohibited instead.[323] Other forms of slave gatherings were restricted as well. Slaves were, for instance, not allowed to attend to burials with more than twelve people (nor allowed to dance or sing during the ceremonies) and were strictly forbidden to participate in slave associations or fellowships.[324]

Moral slave bylaws had two intertwined purposes: on the one hand, those bylaws would teach slaves some respect with regard to their white superiors, whereas on the other hand, it would simultaneously create a deliberate symbolic distance between the two actors. The mainstay of the moralising slave bylaws had been issued to restrict social intercourse and sexual miscegenation between slaves and whites. Although sexual intercourse had been deprecated by the colonial authorities, it was not forbidden as long as it took place between white men and

[319] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 219-221 (1698) and 926-929 (1777).
[320] Ibidem, 942 (1778) and 967 (1779).
[321] Ibidem, e.g. 481-484 (1741) and 752 (1761).
[322] Ibidem, 587-588 (1750), 926-929 (1777) and 1006-1007 (1781).
[323] Ibidem, 219-221 (1698), 280 (1711), 348-349 (1722), 409 (1733), 663-665 (1759), 690-961 (1760), 721-722 (1761), 896-897 (1776) and 926-929 (1777); cf. Van Lier, *Samenleving in een grensgebied*, 147-149; Buddingh', *De geschiedenis van Suriname*, 103-107.
[324] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 926-929 (1777) and 1181 (1794).

slave women. In practice, miscegenation was fairly commonplace.[325] Intercourse between a white woman and a slave man, on the contrary, was utterly out of question and would be punished by flogging and banishment of the female perpetrator, whereas her male counterpart would be punished by death.[326] The restrictions on social intercourse had been inspired by the fear that social mix-ups with whites would lead to disrespect and wantonness among slaves. Therefore, slaves were, for instance, not allowed to gamble, drink or smoke in presence of whites, lest that none of them would forget how to behave against their superiors.[327] Selling or serving alcohol to someone else's slaves was, in fact, prohibited in general.[328] In addition, in order to enlarge the social distances with whites, the Governing Council also determined that slaves were not allowed to smoke a pipe nor to wear shoes, stockings or decorated hats. Gold and jewellery, in contrast, were only permitted to a limited extent.[329] Even the slaves' burial ceremonies had to proceed more modestly.[330] In addition, whenever slaves crossed paths with whites on the public streets, they had to divert their course in order clear some space. In case they wore headdresses at that time, they were obliged to take them off and kindly greet the people passing through.[331] Violations of the above-mentioned regulations carried at least corporal penalties.

In contrast to the numerous restrictive slave bylaws that had been issued throughout the eighteenth century, protection of slaves was almost non-existent. As a result, living conditions of slaves had been extremely poor. In general, working days of slaves were extraordinarily long and were often enforced by the cadence of the whip. During harvest periods, it was even common to work at least sixteen to seventeen hours per day. Children started to conduct lighter forms of fieldwork from the average age of ten and were fully incorporated into the common workforces at the average age of fifteen. Even pregnant women had to continue working until they went into labour. In addition, nutrition, housing and medical healthcare conditions were horrible as well.[332] In the first half of the eighteenth century, almost no rights had been legally embedded for slaves, although there were two exceptions. First of all, slave owners had been prohibited to let their slaves work on Sundays and holidays. Under a few conditions, owners

[325] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 166-169 (1686), 381-384 (1725), 666-675 (1759) and 1066-1075 (1784); Buddingh', *De geschiedenis van Suriname*, 69-74 and 93; Quintus Bosz, 'De ontwikkeling van de rechtspositie', 14.
[326] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 277 (1711).
[327] Ibidem, 219-221 (1698), 481-484 (1741), 591-593 (1750) and 926-929 (1777).
[328] Ibidem, e.g. 534-535 (1745).
[329] Ibidem, 496-497 (1742), 587-588 (1750), 591-593 (1750), 820 (1769) and 926-929 (1777).
[330] Ibidem, 496-497 (1742), 591-593 (1750) and 926-929 (1777).
[331] Ibidem, 219-221 (1698) and 587-588 (1750).
[332] Van Lier, *Samenleving in een grensgebied*, 156-157; Van Stipriaan, *Surinaams contrast*, 349-368.

could breach those requirements, but in those instances, one still had to provide for an alternative day off. [333] Secondly, slave owners had also been prohibited to manumit any old-aged slaves that had lost their economic value, and therefore, had turned into financial burdens only. The Governing Council had decided only to grant manumission to slaves that were able to provide for their own maintenance, in order to prevent an unnecessary burden on charity institutes and to suppress the number of urban derelicts.[334] It is, however, questionable whether these issued bylaws had been fostered by humanist opinions to ameliorate the living conditions of the enslaved population or had been solely incited to extend the viability of human capital. Certainly, the boundaries between the two incentives are fairly vague.

Thus, in general, the guarantee for proper living conditions was still a long way off. Since 1686, several so-called 'plantation regulations' existed, but those consisted mainly of basic labour regulations for plantation managers, overseers, artisans and other white plantation inhabitants. The regulations did not contain any legal protection for slaves with regard to medical care, clothing or housing.[335] As a result, until far into the eighteenth century, quality of life was rather dependent on the prosperity of the planter and on the degree that he was prepared to share that prosperity with his slaves. In case that a slave was ill, he or she could turn to a priest-diviner (*lukuman*) or a slave orderly (*dresneger* or *dresiman*). But in case of more serious medical conditions, the slave was fully dependent on the whims of its owner whether to be referred to a colonial doctor or surgeon. The only eighteenth-century medical care bylaws that were issued, consisted of measures to prevent the spread of slave diseases such as smallpox, leprosy, cholera and venereal diseases. With regard to the quality of clothing or slave housing there were no regulations published either; slaves were therefore fully dependent on whatever their owners would provide to them.[336]

From 1759 onwards, the Governing Council started to issue a few bylaws that slightly contributed to the improvement of the legal position of slaves. The effect of the enhanced legal protection was directly visible, as other studies have proved that the living conditions of slaves gradually improved between the period of 1750 and 1850.[337] Especially the imposition of new

[333] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 44-46 (1669), 341-342 (1721), 426-428 (1736), 832-833 (1771) and 1058-1061 (1783).
[334] Ibidem, e.g. 411-412 (1733); cf. Beeldsnijder, 'Op de onderste trede', 9.
[335] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 166-169 (1686), 209-210 (1695), 381-384 (1725) and 666 (1749).
[336] Van Stipriaan, *Surinaams contrast*, 357-368; Van Lier, *Samenleving in een grensgebied*, 151-175; for bylaws concerning slave diseases, see: Schiltkamp and De Smidt, *West Indisch plakaatboek*, 395-396 (1728), 707-708 (1761), 780-781 (1764), 971-972 (1780), 1144-1147 (1790), 1159-1160 (1791), 1167-1168 (1792), 1170-1171 (1792) and 1204 (1800).
[337] Van Stipriaan, *Surinaams contrast*, 347-368; cf. Quintus Bosz, 'De ontwikkeling van de rechtspositie', 11-15; Beeldsnijder, *"Om werk van jullie te hebben"*, 238-239.

sets of plantation regulations, first in 1759 (and later in 1760, 1761, 1784 and 1799) had a big impact.[338] Two major improvements of those regulations stand out in particular: the restriction of corporal punishments within domestic jurisdiction (see chapter 4.2.2) and the amelioration of nutrition for slaves. With regard to the latter, the Governing Council determined that a minimum proportion of the agricultural acreage had to be destined for cultivation of food for slaves (the so-called *kostgronden*) and that, in case of negligence, planters would be held liable. In addition, the Governing Council also imposed a concrete minimum quota for quantities of bananas, cassava roots and tayer (an edible, starchy corm) that a planter had to provide to each of his slaves per fortnight. However, the fact that bylaws had to be republished on several occasions, leaves no doubt that nutrition only improved piecemeal. Similar requirements for planters' to 'properly provide' their slaves with loincloths, medical care and boards to sleep on, have to be nuanced though. As, compared to the nutritional improvements, no concrete requirements had been formulated, it is highly questionable how 'properly' these requirements were pursued by the planters.[339]

In 1782, an end was made to another abomination, when the Governing Council decided that it was no longer legitimate to separate children from their slave mothers. Although separation of families hardly occurred during the first century of Dutch rule in Suriname, the practice became increasingly common in the 1770s, probably as a result of the economic credit crunch and the consequent public sales of bankrupt plantations.[340] The impact of the same economic deteriorations can be found in the undertone of the introductory wording of the plantation regulations of 1784. There, the Governing Council argued that 'because agriculture has been the first and foremost source of this colony's existence, well-being and prosperity, while the agricultural sector cannot be practiced without the effort of slaves, […] one has to aspire to make the situation for slave bearable and in accordance with the reasons and obligations of humanity'.[341] Elsewhere, one continued, plantation owners and administrators

[338] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 666-675 (1759), 691 (1760), 724 (1761), 1066-1075 (1784) and 1188-1190 (1799).
[339] Ibidem, 666-675 (1759), 724 (1761), 852 (1773), 889 (1775), 987-988 (1780) and 1066-1075 (1784); cf. Van Stipriaan, *Surinaams contrast*, 350-357.
[340] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 1048 (1782); Van Lier, *Samenleving in een grensgebied*, 157-158.
[341] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 1066. Original quotation: '[…] doen te weten dat gelijk de landbouw de eerste en voornaamste bron is waaruit het bestaan, de welvaart en voorspoed deezer colonie en alle derzelver op en ingesetenen voortvloeid, mitsdien nimmer genoeg kan worden gezorgt omme dezelve op alle mogelijke wijze te bevorderen; en dewijl die landbouw niet geoeffend word dan door de handen van slaaven, welke wel daar toe door een behoorlijke ondergeschiktheid en geduurig toesigt moeten gehouden worden, dog egter hun slaafsche staat zoo veel doenlijk en overeenkomstig de reden en pligten van menschelijkheid behoort dragelijk gemaakt te worden'.

were seriously recommended and ordered to consider it as their principal task to take care of the slave nutrition 'as being the soul of a plantation'.[342] The moralising undertone of these new plantation regulations suggests that the Governing Council slowly started to change its perception of slavery and started to come to the realisation that the living conditions of slaves had to be improved urgently. Therefore, it is all the more remarkable that the 1784 regulations did not contain any new improvements with regard to the living conditions of slaves but, instead, simply extended the conditions imposed in 1759.[343]

Only in the nineteenth century, legal protection of slaves started to develop at an accelerated rate.[344] The existing legal slave paradigm remained intact up until 1828, when, on behalf of King William I of the Netherlands (r. 1815-1840), Commissioner-General Johannes van den Bosch (r. 1827-1828) initiated a set of reforms for the entire Dutch West-Indies. Van den Bosch was one of the main protagonists that believed that the wellbeing of slaves was of major concern to the viability of the Surinamese economic society. In his reforms, he endeavoured to ameliorate the legal position and living conditions of the slaves, mainly to boost human procreation, which would provide for a more sustainable solution to the (since 1814) abolished slave trade. As a result, Van den Bosch instructed the governing councillors to protect slaves against maltreatment and abuse (article 115) and ordered the councillors to properly regulate their working hours, clothing and nutrition (article 118). Most worth mentioning is article 117, which abolished the perception that considered slaves as legal 'goods'. In contrast, slaves had to be considered as 'persons', albeit as 'disempowered (*onmondig*) persons' that were still subjected to their 'guardians' (like children would be under parental custody). However, Van den Bosch was a man ahead of his time. The contemporary planters were dead set against the fundamental legal change that article 117 would engender, out of fear for disturbance of the status quo. After they had uttered their objections, the Dutch government succumbed and revoked the article in 1832.[345]

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[342] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 1073. Original quotation: '[…] hier tegens worden de eygenaaren en administrateurs van plantagien gerecommandeerd en des noods serieuselijk geinjungeerd, dat in hunne te gegeevene bevelen wegens de plantagie werken de principaalste mag zijn te sorgen voor de slaven kost als zijnde de ziel van de plantagie'.

[343] Ibidem, 1066-1075 (1784).

[344] Quintus Bosz, 'De ontwikkeling van de rechtspositie', 16-21.

[345] NL-HaNA, Archief van J. van den Bosch, 2.21.028, inv. no. 107, *Verbaal van het verhandelde van de commissaris-generaal, met bijlagen (1828 maart 19 - 1828 juli 21)*, Reglement opgesteld door Johannes van den Bosch op het beleid der regering van de Nederlandsch West-Indische bezittingen; Wijnholt, *Strafrecht in Suriname*, 31; Buddingh', *De geschiedenis van Suriname*, 185-188; J.J. Westendorp Boerma, *Een geestdriftig Nederlander. Johannes van den Bosch* (Amsterdam 1950) 57-58; for a more recent work about Johannes van den Bosch, see the forthcoming biography by Sens, see: A. Sens, *De kolonieman. Johannes van den Bosch (1780-1844), volksverheffer in naam van de Koning* (Amsterdam 2018).

In sum, the lack of legal slave protection and the rigid system of slave bylaws were important factors that defined and confined the unfree status of slaves. To the contrary, there are hardly any indications to observe for legal discrimination based on race or ethnicity, with the exception of the simple fact that they were pigeonholed as 'negros' or 'mulattoes' in bylaws.

4.2 Justice on plantations

4.2.1 Justice among slaves

Slave justice was quite common on the plantations, although its practices are very hard to reconstruct as none of the litigation processes have ever been written down. On the one hand, this can be explained by the fact that hardly any slaves were able to read or write, whereas, on the other hand, slave justice was often a deliberate choice to keep disputes off the radar of their white superiors. Notwithstanding, an extensive reconstruction of dispute resolution among plantation slaves has recently been made by Davis.[346]

Dispute resolution among slaves enabled enslaved communities to deal with their own perpetrators before deciding whether or not to report committed crimes to their owners. Under most circumstances – mainly in case of petty crimes – enslaved communities would prefer to solve disputes internally, especially when they would deem that less severe punishments would suffice compared to the corporal punishments that their owners would probably have sentenced. Most common offences that were adjudicated internally concerned insults, defamation, theft, improper sexual relations or behaviour, adultery and physical harm. These crimes were fuelled by many incentives, varying from poverty, hunger, envy, love affairs, revenge and hostility against new arrivals; the latter had sometimes even been fuelled by deep-rooted political disputes and tribal loyalties carried over from the African continent. Under other (often more uncontrollable) circumstances, slaves would rather prefer to report a crime to their owners, especially when the safety of the enslaved community would be endangered, for instance, due to poisoning or sorcery (*wisi*). According to some bylaws, the possibility to accuse fellow slaves at their owners' addresses was also used as a proxy to get rid their adversaries in case of jealousy or long-lasting disputes.

The slaves' system of justice had largely been carried over by newly enslaved people from West Africa, who introduced their customs on the plantations and adapted them to the circumstances of the institution of slavery. The more coherent a plantation community was, and the more effective its leadership, the more sophisticated its judicial system probably was. Slave

[346] Davis, 'Judges, masters, diviners', 925-984.

justice on plantations was very similar to justice among maroons, although the latter was significantly more sophisticated because maroons were much better able to organise litigation individually (cf. chapter 6.2.2).[347] On many plantations, the key part in slave litigation was played by the priest-diviner or seer (*lukuman*). If a crime had been committed but no possible suspect had been identified yet, the diviner would help to find the perpetrator. Once a suspect had been found, he or she had to undergo some kind of ordeal that would be prepared by the diviner. During the course of trial, the diviner would gather information and adjust the scenario and choice of ordeal correspondingly. Ordeals were largely inspired by West African customs. Several variations were known in Suriname but two stand out in particular. During the practice of *kangra*, the diviner would smear the suspect's tongue with a special herbs or leaves paste, and subsequently, would try to pass a chicken feather through it. When the feather went through easily, the suspect would be deemed innocent, and if not, deemed guilty. The other common way to test a suspect's guilt was the practice of *sweri* (or: *sweli*) and was often applied when someone had been accused of sorcery. During this ordeal, the suspect had to take an oath of innocence and had to drink a beverage that had been prepared by the diviner. The suspect would prove innocent when remaining unaffected.[348]

After the ordeal, the diviner could consult with other authoritative figures within the enslaved community, such as plantation craftsmen and the 'black overseer' or 'black officer' (*bastiaan*, *basja* or *negerofficier*), who would supervise the enslaved community in the fields and factories. If the West African customs were completely adopted in Suriname, prestigious women, such as cooks, senior house servants and midwifes, would have been consulted as well. Verdicts were usually of non-corporal character and rather consisted of compensation of the casualties than of punishing the perpetrator, although the black overseer sometimes had to use his whip to enforce the punishment. Corporal punishments only occurred under more aggravated circumstances and were significantly less severe than those sentenced by planters, as the executions had to be kept low-profile. Since the enslaved community obviously wanted to keep the (unauthorised) trials secret from their planters, punishments had to be executed in silence and could not leave behind any serious physical marks.

[347] Fatah-Black, 'The usurpation of legal roles', 12-14; Davis, 'Judges, masters, diviners', 953-959; for West African judicial practices see also pages 930-937; the deliberate use of justice among slaves to get rid of their adversaries has been suggested in several plantation regulations, see: Schiltkamp and De Smidt, *West Indisch plakaatboek*, inter alia 672 and 1072; cf. Fatah-Black, 'The usurpation of legal roles', 13; Beeldsnijder, *"Om werk van jullie te hebben*", 251.
[348] Davis, 'Judges, masters, diviners', 933-965, in particular 956-658; Wijnholt, *Strafrecht in Suriname*, 16.

Diviners and black overseers played a pivotal but complex role on plantations, as frequently, they were both revered and feared at the same time. From the colonial perspective, the black overseer was merely a stooge of his white superiors. He had been obliged to monitor the plantations' labour processes and had to report to his planter about whatever was necessary. Consequently, at his planter's command, the black overseer had to execute any imposed punishments as well. Although the overseer had the eyes and ears of his white superiors, he often possessed the trust of his fellow slaves too. Therefore, he could never risk to punish on his own behalf. In several instances, examples are known of black overseers that even played both sides at the same time and condoned conspiracies or took part in it themselves. Diviners had a similarly ambivalent function. They were usually consulted to deliver prophecies, among others about love, death, diseases and future evil. Due to their knowledge of local plant and herb lore, they also provided elixirs to prevent the predicted evil. As these 'seers' or 'healers' were often associated with sorcery and incantations, they were usually feared and despised as well.[349]

Probably the most illustrative example of a slave diviner concerned the story of Quassie of the plantation Nieuw Timotibo. Besides that Quassie has been primarily renowned for his invention of the *Quassibita,* an elixir against indigestion, intestinal parasites and malaria fever; he had served as diviner on numerous plantations, first as a slave diviner while later as manumitted diviner in service of the colonial justice. Whenever Quassie was invited to track down a culprit, he would start with a thorough investigation of the mutual slave relations on the particular plantation. During the examinations he would confront potential suspects by walking past them, while spinning a glass of bird feathers. With the aid of the feathers – and probably a lot of manipulation and intimidation – Quassie got to a conviction. Obviously, he did not always appoint the right perpetrator, as numerous examples have proved. In its nadir, Quassie had been shortly placed under house arrest in 1741 after a governing councillor had proved that Quassie had condemned two innocent slaves to death. Apparently, his aid was considered as indispensable, as the authorities already started to consult him again a half year later. Quassie was manumitted in 1755.[350]

[349] Davis, 'Judges, masters, diviners', 947-952; for black overseers, see also: Van Stipriaan, *Surinaams contrast*, 276-283.
[350] Dragtenstein, *'Trouw aan de blanken'*, in particular 31-38 and 49.

4.2.2 Domestic jurisdiction

Van Stipriaan has argued that during the entire period of slavery, the Surinamese planters lived in fear of the numerically superior slaves on the plantations. In order to prevent the anxious visions of rebellion and murder from becoming a reality, planters deliberately used strategies of divide and rule to control and undermine the position of their slaves. This 'iron fist' that ruled over slaves, as Van Stipriaan minted it, had been established among others through a strict hierarchal organisation (among both slaves and whites) and a fixed ratio of white representatives in proportion to the slave population, varying from one per ten slaves at the onset of the eighteenth century to circa one per thirty at the end of the century.[351]

A rigid system of (corporal) punishments formed an important part of the social control on the plantations. There, planters had the right to personally adjudicate offences of their slaves according to the Roman procedure known as 'domestic jurisdiction' (*huiselijke jurisdictie*) or 'disciplinary jurisdiction' (*tuchtrecht*). Domestic jurisdiction applied to both planters and urban slave owners and allowed them to correct their slaves at their own discretion.[352] This subchapter will primarily focus on the legal boundaries of domestic jurisdiction, whereas it will largely rely on previously conducted studies for the judicial and penal practices.[353] It will focus solely on plantation practices although urban domestic jurisdiction was probably very much alike.[354]

Domestic jurisdiction on plantations was in the hands of the physically present planter, either a plantation owner (*eigenaar*), administrator (*administrateur*), manager (*directeur*) or white overseer (*blankofficier*). Planters had a full mandate to internally correct any wrongdoings of their slaves by means of almost any kind of punishment. However, domestic jurisdiction did not imply that complete lawlessness reigned on plantations, because slaves (as well as planters) still had to abide by the colonial laws as well. In contrast, it rather provided a supplementary judicial forum that enabled planters to correct any kind of act that they would personally consider inappropriate too. Those acts varied from dereliction of duty, such as indolence, sluggishness, faking indispositions or negligence of tasks; insolence and defamations; to innocuous-looking slip-ups such as breaking utensils.[355] In all instances, the

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[351] Van Stipriaan, *Surinaams contrast*, 276-309 and 369-407, in particular 370-371; for the fixed whites-slaves ratios see: Schiltkamp and De Smidt, *West Indisch plakaatboek*, 137, 196-197, 368-370, 777-779, 785, 816, 817, 851 and 1078-1079.
[352] Wijnholt, *Strafrecht in Suriname*, 35-39; Van Lier, *Samenleving in een grensgebied*, 23-27 and 128-141.
[353] Fatah-Black, 'The usurpation of legal roles', 14-18; Van Lier, *Samenleving in een grensgebied*, 23-27 and 128-141; Beeldsnijder, *"Om werk van jullie te hebben"*, 242-247; Wolbers, *Geschiedenis van Suriname*, 128-135; Stedman, *Narrative of a five years expedition*, passim.
[354] Slave conditions were probably slightly more bearable in the city as, there, despotism and atrocities were more intensively counteracted by colonial justice and public opinions (although control on slaves might have been more thorough in the capital as well). See: Van Lier, *Samenleving in een grensgebied*, 149 and 153-154.
[355] Cf. Wijnholt, *Strafrecht in Suriname*, 38; Van Lier, *Samenleving in een grensgebied*, 135.

planter could sentence any punishment that he would see fit, with the exception of death sentences and extreme mutilations.[356]

Normally, the administration of domestic justice would take place during the planter's daily inspection after his workforces had returned from duty.[357] Slaves who had been lacking in their duties and were, therefore, eligible for correction, were usually reported by the overseer that had been present during duty. More serious crimes were of course reported immediately. The overseer would convey his complaints to the planter in presence of the accused.[358] The subsequent course of the trial fully depended on the urgency of the committed offence. The possibility for planters to personally give shape to the particular form of litigation was an important feature of the domestic jurisdiction.

A very illustrative reconstruction of the forms of trials under the mandate of domestic justice has been provided by Fatah-Black. By means of the trials against the slave Manuel of the plantation Cortenduur, that took place in 1752, he has shown that planters had basically three options at their disposal. Initially, the incumbent plantation manager of Cortenduur, named Van Deventer, had interrogated Manuel in front of the plantation house after rumours circulated that some of his slaves had been drinking. As a result of the interrogation, Van Deventer ordered the black overseer to flog Manuel, probably due to insolence and intoxication. Two days later, Manuel ran away with three fellow slaves but was caught on an adjoining plantation shortly thereafter. For this second infringement, Van Deventer decided to examine Manuel indoors, where the plantation clerk took minutes of the interrogation. After that, Manuel once again managed to escape but was caught again two days later. Consequently, the plantation manager decided to turn him over to the colonial authorities, where he was found guilty and sentenced to death for mutiny and marronage.[359]

The trials against Manuel indicate that, for trivial allegations like intoxication, slaves were usually interrogated immediately. The planter would sentence on site, often outdoors and in presence of the other slaves. In case of Manuel, Van Deventer confronted his suspect with the allegation and asked him to confess his faux pas. To substantiate the allegations, he interrogated a few other slaves as well. However, in general, it is questionable to what extent accusations

[356] Historiography mentions that death sentences and mutilations appear to have been excluded from domestic jurisdiction since the 1680s, although there has been no evidence preserved to endorse that. See: Van Lier, *Samenleving in een grensgebied*, 129; Wijnholt, *Strafrecht in Suriname*, 36; Quintus Bosz, 'De ontwikkeling van de rechtspositie', 11-12.
[357] Initially, planters were required to sweep the fields and factories at least once a day, although after 1759 they were required to do a check-up at least twice a day. See: Schiltkamp and De Smidt, *West Indisch plakaatboek*, 666-675.
[358] Wijnholt, *Strafrecht in Suriname*, 38.
[359] Fatah-Black, 'The usurpation of legal roles', 15-17.

were actually examined and whether one is able to speak of genuine 'trials' on plantations, as other (often abolitionist) sources frequently mentioned that slaves were unabashedly denied any form of defence. The reality probably lies somewhere in the middle, as the 'fairness' of domestic trials fully depended on the nature and attitude of the planter.[360] Manuel's second infringement was more serious of character and had defied Van Deventer's authority more directly. Probably in order to give the trial more weight, the investigation had been formalised and litigated behind closed doors. After the third infringement, Van Deventer extradited Manuel to the Governing Council.

It is an interesting question what motivated planters like Van Deventer to hand over their slaves to the colonial authorities, instead of dealing with them domestically. Within the Surinamese laws, there were hardly any legal guidelines that demarcated the division between personal judicial discretion and the option to file a formal report with the authorities. In practice, that decision differed per individual crime. Undoubtedly, hardly any planters turned in their enslaved perpetrators for trivial infringements, whereas probably all of them would in case of felonies such as murder. Litigation of crimes that were found somewhere in between that range of offenses, fully depended on the judgement of the planter. Whenever a serious crime came to the attention of a planter, he had to consider to what degree his authority had been challenged. Obviously, when his own safety (or that of others) would be at stake, for instance due to serious insults, assaults or attempts of murder by his slaves, he should have alarmed the colonial authorities. Other risk-bearing circumstances were situations that would endanger the plantation's status quo, such as (rumours of) conspiracies, rebellions and marronage. In case of doubt, the planter could ask for advice from the plantation owner or administrator.[361] Van Deventer's assessment fits well into this description. Initially, he endeavoured to deal with Manuel internally but he had turned him in once he realised that Manuel's behaviour had become untenable and started to adversely affect the rest of the enslaved community. By the way, planters could also deliberately make use of colonial litigation in case they wanted to impose a more severe punishment than they were entitled to sentence themselves. It is, however, hard to gauge how frequently planters made use of that mechanism, although the practice probably became more common after the spectrum of punishments had been restricted in 1759.

[360] Wijnholt, *Strafrecht in Suriname*, 38-39; Wolbers, *Geschiedenis van Suriname*, 129; cf. Fatah-Black, 'The usurpation of legal roles', 15-17.
[361] Cf. Fatah-Black, 'The usurpation of legal roles', 15; Wijnholt, *Strafrecht in Suriname*, 36; Wolbers, *Geschiedenis van Suriname*, 129.

Plantation punishments mainly consisted of corporal punishments. Other adequate punishments were the withholding of the distribution of crude rum (*dram*), the prohibition of slave dances and the chaining of slaves. Execution of corporal punishments often took place in front of the planter's house, in the cookhouse or in the factory hangars.[362] The most commonly sentenced corporal punishment was flogging and usually varied between a few to a few hundred lashes. During the execution of a flogging, slaves were often tied to a stake or sometimes even hung up in a tree. A crueller penalty was known as the Spanish buck (*Spaanse bok*). During this notorious undertaking, the hands of the condemned slave were lashed together, through which its legs were thrust, while a stick was put through the tied-up hands and pulled-up knees. After the stick was firmly stabbed into the ground, the slave was flagellated with a whip that mostly consisted of a handful of knotty tamarind branches. When the slave's skin was flogged sorely, the body was turned over to thrash the other side of the body as well. An even more severe punishment was the hexagonal Spanish buck. A hexagonal Spanish buck could only be sentenced by the colonial authorities and implied a regular Spanish buck that was executed on six different locations around Paramaribo.[363]

During the course of history, penal executions of slaves under domestic jurisdiction (and criminal justice) have been attentively discussed and condemned for their extreme cruelty.[364] Many examples are recorded of the most horrific atrocities that far exceeded the usual penalties such as flogging. Stories of victims that had been deliberately chained to a kettle of a sugar distillery in order to let the heat cause blisters on their bodies.[365] Achilles tendons that had been cut through or entire legs deliberately amputated, in retaliation for running away.[366] Open wounds that had been rubbed with salt, lime and allspice in order to aggravate the pain of the executed penalties.[367]

The key question is how representative these reports were with regard to the daily practices under domestic jurisdiction. Of course, the occurred atrocities cannot be denied, since examples are abundant. But because the administration of domestic justice has been hardly written down,

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[362] Wijnholt, *Strafrecht in Suriname*, 32-39; Van Stipriaan, *Surinaams contrast*, 371.
[363] Hartsinck, *Beschryving van Guiana*, 916; Stedman, *Narrative of a five years expedition*, 556; Van Stipriaan, *Surinaams contrast*, 372.
[364] Van Lier, *Samenleving in een grensgebied*, 132-133 and 137-140; Wolbers, *Geschiedenis van Suriname*, 128-135; Stedman, *Narrative of a five years expedition*, passim, inter alia 39, 68-69, 95-96, 102-103, 246, 264-268, 280, 340-341, 472, 408-482, 488, 495, 531-532, 544-550, 554-557 and 571; Herlein, *Beschryvinge van de volk-plantinge Zuriname*, 111-114; Hartsinck, *Beschryving van Guiana*, 916; De Kom, *Wij slaven van Suriname*, 43-49; Dragtenstein, *'De ondraaglijke stoutheid der wegloopers'*, 221-223; Beeldsnijder, *"Om werk van jullie te hebben"*, 242-247; Davis, 'Judges, masters, diviners', 959-971.
[365] Stedman, *Narrative of a five years expedition*, 95-96.
[366] Ibidem, 246; Wolbers, *Geschiedenis van Suriname*, 129; Voltaire, *Candide, or optimism*, 51-55.
[367] Hartsinck, *Beschryving van Guiana*, 916.

it is very difficult to reconstruct patterns of excesses that did not end up in the Governing Council (petty punishments were even less commonly registered). It would take until the middle of the nineteenth century before domestic penal executions would started to be registered.[368] Therefore, it is very hard to provide a well-founded answer to this delicate question. Nevertheless, a few observations can be made. First of all, domestic jurisdiction has undoubtedly been the most non-transparent judicial system in early modern Suriname. Moreover, the legal competences of its judges – the slave owners – have been the most extensive of all Surinamese judges. Secondly, the overall absence of legal protection of slaves only aggravated the situation and, without doubt, facilitated that many slaves have been exposed to the most inhumane and degrading penal practices. It leaves no doubt that slaves have been unprecedentedly vulnerable during domestic litigation. However, the same sources that have denounced these malpractices, also mentioned examples of slave owners that used to provide more bearable living conditions for their slaves.[369] In conclusion, the treatment of slaves was fully dependent on the whims of their owners.[370] That capriciousness can be ascribed to at least three factors (besides their personal idiosyncrasies). Firstly, since plantation managers and overseers were often ex-soldiers or sailors, they were very much accustomed to coercive labour relations and to judicial systems in which superintendents preserved the right to adjudicate offences arbitrarily and impromptu.[371] Secondly, the thin communication lines with the colonial authorities could have made planters more likely to reign and administer justice at their own discretion. The presumption that not every planter abided by the colonial laws with regard to the treatment of their slaves, can be endorsed by the fact that numerous plantation bylaws had to be renewed more than once. Thirdly, judicial arbitrariness could also have been a deliberate component of the divide and rule strategy of some planters, in order to undermine the enslaved population. Several examples are known of arbitrariness in sentences, in which trifles were punished more severely than felonies, solely to keep the slave society in limbo.[372]

[368] Cf. Van Stipriaan, *Surinaams contrast*, 373-375; Van Lier, *Samenleving in een grensgebied*, 133.
[369] See e.g.: Stedman, *Narrative of a five years expedition*, 68-69.
[370] Patterson has shown that in every form of slavery, the playing field between owner and slave has been a continuous struggle, in the effort of the former to benefit as much as possible from the latter, to the least possible loss, and the effort of the latter to minimise the burden of exploitation and to improve its situation of existence. Within this playing field, the owner sought for the best balance between reward and punishment and, by holding the perspective of redemption, he could manipulate the principle means of motivating a slave. See: Patterson, *Slavery and social death*, 1-101. The average Surinamese planter must be placed somewhere in between of those extremes: daily excesses would more likely incite slaves to run away, rebel or complain at the colonial authorities, whereas too moderate treatment could have inflamed defiance of authority as well.
[371] Fatah-Black, 'The usurpation of legal roles', 14.
[372] See e.g.: Stedman, *Narrative of a five years expedition*, 280.

It cannot be assumed that the Governing Council simply condoned the above-mentioned malpractices. Disapproval was uttered several times, at the earliest occasion in the 1730s.[373] Nevertheless, proper improvements were long past due. Only in 1759, the range of penalties that planters could apply was slightly curbed by means of a new set of plantation regulations. From then on, planters were advised to correct their slaves with a penalty between twenty-five to fifty lashes, whereas the maximum number of lashes was set at eighty in total. The penalties had to be imposed by either a plantation manager or white overseer and had to be executed by the black overseer. In addition, one was no longer allowed to carry out floggings with sticks (the notorious *hoepelstokken*). Henceforth, floggings had to be carried out with whips instead, while its lashes had to be aimed at the lower part of the convict's body. More severe punishments could still be imposed but had to be approved by the plantation's administrator or owner. Finally, planters were no longer allowed to threaten their slaves at gunpoint either, with the sole exception of self-defence.[374]

In the 1784 plantation regulations, the planters' penal competences were curbed further. From then on, planters had to punish their slaves untied or, at best, tied to a stake in case a slave resisted to stand up straight. One was no longer allowed to flog a slave that was hoisted from the ground. Other forms of tied-up punishments, such as the Spanish buck, were outlawed on plantations as well, and henceforth, were only allowed to be executed at the Fort Zeelandia. However, practice has shown that the abolishment of the Spanish buck on plantations has not always been complied with unequivocally.[375] Infringements of all of the above-mentioned limitations would be punished with a three-hundred-guilder fine. In addition, in case of profound maltreatment, the owner would be condemned to sell the slave and, in case of detected mutilations, would be adjudicated in criminal court accordingly.[376]

Since the second half of the eighteenth century, the limitations of the planters' penal competences have very slightly improved the legal position of slaves and has been part of a

[373] Beeldsnijder, *"Om werk van jullie te hebben"*, 242.
[374] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 666-675.
[375] Two criminal cases illustrate the ambivalent attitude of the Governing Council with regard to the compliance of the abolishment. A 1775 lawsuit against the plantation manager Borchart shows that he had been found guilty of manslaughter after he had given an enslaved victim a Spanish buck. The Governing Council argued that he had broken the law, as planters were not allowed to convict slaves to any other sentences than floggings (which might even indicate that Spanish bucks were already implicitly abolished in the 1759 plantation regulations). See: NL-HaNA, HPCJ, 1.05.10.02, inv. no. 92, f. 265 and 1192-1193; inv. no. 828, f. 915-920 and 927-930. In contrast, a 1799 lawsuit against the plantation manager Varenhorst, who had also killed one of his slaves during the execution of a Spanish buck, has shown that the governing councillors exonerated Varenhorst because he had 'merely given the deceased slave a Spanish buck'. See: NL-HaNA, HPCJ, 1.05.10.02, inv. no. 144, f. 362-369 and 378-386; inv. no. 864, f. 627-664; cf. Van Stipriaan even mentions that the Spanish buck was not abolished on plantations until 1828, see: Van Stipriaan, *Surinaams contrast*, 372.
[376] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 763-765 and 1066-1075.

slow-moving shift in the divide and rule strategy on the plantations. Whereas physical punishments were the key component to restrain the enslaved population in the eighteenth century, the 'iron fist' that ruled over slaves was gradually 'gloved' in the nineteenth century and exchanged for a more psychological approach.[377] However, it must be nuanced that genuine impediments on slave punishments were only imposed in 1851, twelve years before the abolishment of slavery in Suriname. As a result, one can conclude that the vast majority of punishments that have been discussed above, belonged to the legal competence of the planters practically during the entire period of slavery.[378]

4.3 Slaves in criminal justice

That slaves were hardly legally capable did certainly not imply that, in terms of criminal justice, slaves would ever go unpunished. In the eyes of the contemporaries, it was not more than logic to hold slaves liable for their own deeds. In fact, until the end of the eighteenth century, it was customary under Dutch law to even criminally prosecute other legally incapable forms of *res* such as cattle.[379]

That said, it should not require very much imagination to presume that chances for slaves were not more than negligible in criminal justice. The same contemporaries (and historians), who have vilified domestic jurisdiction have also criticised criminal justice for slaves – and with good reason.[380] There is no question that an accusation made by a slave would have been taken less seriously against the words of a white defendant or witness. There is also no doubt that slaves had considerably less access to justice due to their unfree status. Moreover, many sources have recollected the cruellest (arbitrary) punishments for slaves. For some offences, disparate penal provisions for slaves and whites were even embedded within the bylaws.

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[377] Van Stipriaan, *Surinaams contrast*, 369-407; cf. Fatah-Black, 'The usurpation of legal roles', 15.
[378] Wijnholt, *Strafrecht in Suriname*, 36-37.
[379] Ibidem, 31. According to a 1750 criminal lawsuit concerning bestiality, the same observation can be concluded for early modern Suriname. After the creole slave named Quassie had been pled guilty of sexual intercourse with a horse, the Governing Council deemed that not only Quassie had to be punished (he was put in a bag and dumped into the sea) but that the horse had to be held liable as well (the horse was eventually shot in the head by the *schout*). See: NL-HaNA, HPCJ, 1.05.10.02, inv. no. 756, f. 21-22; inv. no. 801, f. 717-728.
[380] Van Lier, *Samenleving in een grensgebied*, 132-133 and 137-140; Wolbers, *Geschiedenis van Suriname*, 128-135; Stedman, *Narrative of a five years expedition*, passim, inter alia 39, 68-69, 95-96, 102-103, 246, 264-268, 280, 340-341, 472, 408-482, 488, 495, 531-532, 544-550, 554-557 and 571; Herlein, *Beschryvinge van de volk-plantinge Zuriname*, 111-114; Hartsinck, *Beschryving van Guiana*, 916; De Kom, *Wij slaven van Suriname*, 43-49; Dragtenstein, *'De ondraaglijke stoutheid der wegloopers'*, 221-223; Beeldsnijder, *"Om werk van jullie te hebben"*, 242-247; Davis, 'Judges, masters, diviners', 959-971.

In what will follow, this study will build on several previously conducted studies on the administration of criminal justice of slaves.[381] In addition to that, this subchapter will critically analyse whether there were any improvements in the access to (and trust in) criminal justice throughout the years. The same will be reconsidered for shifts in penal sentences. My taken sample years have provided sufficient evidence to extract patterns of developments throughout time. In these years, precisely fifty per cent of all the crimes had been litigated against enslaved suspects (compared with forty-four per cent against whites).[382] Although this share sounds substantial in relative numbers, in proportion to the entire population the number of recorded slave crimes are still low. In contrast to the number of trials against enslaved suspects, only nine per cent of the registered crimes had been perpetrated against an enslaved victim (cf. seventy-four per cent against whites).[383] The reason that slaves were highly represented among culprits, whereas they were not among casualties, can be explained by two reasons: the limited access to criminal justice for enslaved casualties and the high preparedness of slave owners to report enslaved perpetrators.

This subchapter will come to the obvious conclusion that criminal justice for slaves has been extremely discriminatory. It is, however, very difficult to disentangle on what grounds judicial discrimination has been based. Similar to slave legislation – where discrimination needs to be largely explained by the slaves' unfree status – some indications of racial discrimination can be observed in criminal justice as well. The judicial documents are permeated with the same racial adjectives as those found in legislation. Slaves were pigeonholed as 'blacks', 'creoles', 'mulattoes' or '*karboegers*'; whereas, strikingly enough, the appellation 'slaves' is barely used at all. Except from that turn of phrase, the investigated judicial documents do not contain additional, tangible evidence of racial discrimination by the court's representatives. Racial discrimination must undoubtedly have played a role in the administration of justice, to at least some extent, but, as deliberations of the councillors took place in private and were never written down, it is simply too hard to prove that race has been a decisive factor in the composition of verdicts. In contrast, this chapter will argue that discrimination was largely fostered in order to uphold disparities in status.

[381] The most important contributions are made by: Fatah-Black, 'The usurpation of legal roles', 13-18; Beeldsnijder, *"Om werk van jullie te hebben"*, 242-253; Davis, 'Judges, masters, diviners', 959-971.
[382] See: appendix III. Statistics of suspects, figure 1: Population composition of suspects.
[383] See: appendix IV. Statistics of victims, figure 6: Population composition of victims.

4.3.1 Victims

For a long time, historiography has argued that access for slaves to criminal justice has been almost non-existent. According to the generally accepted view, slaves were not allowed to move freely, and therefore, were usually unable to file a complaint with the colonial authorities. Even if they could manage to gain the attention of the colonial authorities, they were seldom able to make a solid case against a white perpetrator. Slave testimonies were considered negligible, especially once they were contradicted by depositions of whites. The governing councillors often feared that once slaves would realise that they were allowed to testify in court, they would accuse their masters of literally everything, which could incite vengeance, murder and rebellion. Slave testimonies against their owners were not allowed at all; with the exception of accusations of high treason. On top of that, whenever a slave would complain at the Governing Council and its claim would be deemed unsubstantiated, the plaintiff would risk to be severely punished.[384]

For a large part, my samples seem to endorse the previously rendered assertions. One of the most obvious conclusions that can be drawn is the enormous discrepancy between the number of cases concerning enslaved victims (seventy; merely nine per cent of the total number of registered victims) and the fact that slaves made up no less than ninety per cent of the Surinamese population.[385] Of the seventy cases, thirty-four crimes had been committed by another slave, thirty by a white, three by a free non-white, one by an Amerindian and one by a maroon; one slave had been drowned by accident.[386] This extremely low number of enslaved casualties can indeed be ascribed to the fact that access to criminal justice has been very difficult for slaves. As a result, the crimes that are recorded in the judicial documents of the Governing Council need to be considered merely as the tip of the iceberg. Most of the cases had been filed by whites (thirty-seven, of which at least twenty-five by the casualties' owners), one by a free non-white, eight by enslaved victims themselves on their own behalf, whereas twenty-four petitioners are unknown.[387] The frequency of the submitting of crimes against enslaved victims seems to have increased slightly in the second half of the eighteenth century, as more than four-fifths of the recorded cases originated from either 1775 or 1799.[388]

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[384] Beeldsnijder, *"Om werk van jullie te hebben"*, passim, in particular 242-247; Dragtenstein, *'De ondraaglijke stoutheid der wegloopers'*, 221-223; Wijnholt, *Strafrecht in Suriname*, 31-32; Wolbers, *Geschiedenis van Suriname*, 132-133; cf. Watson, *Slave law in the Americas*, 30-32; Patterson, *Slavery and social death*, 192 and 194.
[385] See: appendix IV. Statistics of victims, figure 6: Population composition of victims.
[386] See: appendix IV. Statistics of victims, figure 8: Victim-suspect ratio per population group.
[387] See: appendix IV. Statistics of victims, figure 7: Composition of petitioners per victimised population group.
[388] Canfijn, *Database of sample years in Suriname's Criminal Court.*

Fifty-three per cent of the victims were males, twenty-nine per cent females, fourteen per cent of mixed gender and four per cent unknown. Compared to white casualties, a relatively larger part of the victims consisted of females. The high number of registered mixed-gender victims can be explained by the fact that slaves often lodged their complaints in groups.[389] Almost all of the crimes – four-fifths of the total amount – concerned physical violence, of which more than the half consisted of serious felonies such as (attempted) murder, manslaughter and aggravated assault. The share of physical violence has been extremely higher than in other population groups and can be chiefly explained by the fact that physical violence offences against slaves were often the only ones that had been criminalised by law.[390]

One can assume that, generally, the Governing Council has not been applied as a forum to solve disputes between slaves. Although half of the registered crimes concerned incidents between slave versus slave, none of those cases had been filed by an enslaved victim at all. Incidentally, the Governing Council has been used as proxy to solve mutual slave disputes, but those cases had been generally referred to the Governing Council by the slaves' master after one slave had accused another (most commonly of poisoning).[391] The slave Quacoe of the plantation Beekvliet, for instance, had been accused by four of his fellow slaves of poisoning the late Quamina. Plantation manager H.C. Dörfeld had extradited the four plaintiffs and the accused to the Governing Council to investigate the matter but assured the councillors that he was almost certain of Quacoe's innocence. Consequently, Quacoe had been absolved but placed on another plantation in order to prevent 'future misfortunes'. Two of the plaintiffs were sentenced to a Spanish buck and the two others to a hexagonal Spanish buck.[392] However, my samples do not contain any cases in which enslaved victims individually went to the Governing Council to lodge any complaints about another slave. Thus, although the Governing Council has been indirectly used by slaves on a sporadic basis, there are no reasons to assume that criminal justice has been commonly used by proxy for mutual slave conflicts.

Of the thirty-four crimes of slave versus slave that had been adjudicated in criminal court, at least twenty-one of the cases had actually been filed by a white person – of which at least seventeen concerned the victim's slave owner. The origin of the rest of the petitioners is unknown. As the vast number of crimes consisted of physical violence, the main incentive for

[389] See: appendix IV. Statistics of victims, figure 11: Gender of victims per population group.
[390] See: appendix IV. Statistics of victims, figure 9: Categories of crimes population groups fell victim to.
[391] Schiltkamp and De Smidt, *West Indisch plakaatboek*, inter alia 672 and 1072; cf. Fatah-Black, 'The usurpation of legal roles', 13; Beeldsnijder, *"Om werk van jullie te hebben*", 251.
[392] Fatah-Black, 'The usurpation of legal roles', 13-14; NL-HaNA, HPCJ, 1.05.10.02, inv. no. 91, f. 143-144; inv. no. 827, f. 155-158 and 163-166.

a slave owner to bring mutual slave disputes to justice was probably to seek redress for the incurred financial loss (that is, damage to, or the deprivation of, the slave's working capacity) from the slave culprit's owner.[393] Therefore, it can be assumed that the majority of the unknown petitioners were, in fact, slave owners as well. For instance, in 1799, a lawsuit had been filed against the slave Alexander of the plantation Gelderland, who had broken into the residence of the slave named Coquette and had cut her throat with a sailor's knife while she was asleep. Miraculously enough, she survived. The incident had probably been reported by Coquette's owner, Abraham Arlaud, in order to redress the incurred damage from the owner of the plantation Gelderland. Alexander was condemned to a hexagonal Spanish buck and was handed back to his plantation, provided that his administrators would reimburse the incurred costs beforehand.[394] Preparedness of whites to report crimes could have been different if both the enslaved culprit and victim came from the same plantation. In case a slave owner would have already lost one of his slaves at the hands of another, he would probably not have been inclined to report the crime to the colonial authorities whenever the incident did not involve a serious felony such as murder or poisoning.[395] Verdicts of enslaved convicts against enslaved casualties mainly consisted of corporal punishments: two convicts had been flogged (and branded), twenty-five punished with a (hexagonal) Spanish buck, two banned and sold abroad, one hanged, one posthumously mutilated and two verdicts remained unknown. Only in one case, the enslaved suspect had been acquitted and moved to another location.[396]

With regard to the adjudication of whites, there are plenty examples of atrocities on plantations, or in domestic realms, against slaves that did not stay unnoticed. Historiography has generally argued that despite numerous investigations were put into motion after excesses had been reported, whites were seldom punished for malpractices against slaves.[397] Although I do not intend to deny that injustice was ubiquitous, I do contest the statement that whites remained generally unpunished. Over the course of the eighteenth century, the number of cases against white perpetrators rose slightly. Within my samples, more than four-fifths of the cases had been registered in the second half of the eighteenth century. These numbers seem to correspond with Fatah-Black's observation that, during the eighteenth century, the jurisdiction of the Governing Council expanded at the expense of slave owners. Not only did the council

[393] Canfijn, *Database of sample years in Suriname's Criminal Court.*
[394] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 861, f. 523-526.
[395] Of the eight mutual slave conflicts that involved one single owner, seven concerned poisoning and the other concerned murder. See: Canfijn, *Database of sample years in Suriname's Criminal Court*; cf. Patterson, *Slavery and social death*, 193-196.
[396] Canfijn, *Database of sample years in Suriname's Criminal Court.*
[397] In particular: Beeldsnijder, *"Om werk van jullie te hebben"*, 236-253.

impose several restrictions on the execution of domestic penalties but the council also started to gain a firmer grip on the malpractices of planters as well.[398] The increasing numbers in my samples support that assertion.

In the second half of the eighteenth century, there was also an augmentation noticeable in the number of cases initiated by slaves, who defected to the Governing Council to complain about their masters' atrocities. Of the thirty registered cases concerning crimes committed by whites, eight had been initiated by slaves (in contrast to thirteen by whites and nine by unknown petitioners). Although such a limited number of examples cannot be extrapolated to draw any bold conclusions with regard to the access to justice for slaves, they do refute that it was virtually impossible for slaves to bring cases to the criminal court. In addition, the emergence of slave complaints indicates a certain increase in confidence by slaves in colonial justice as well, despite the high risk of being punished for marronage and defamation of their masters. All of the complaints submitted by slaves concerned accusations about manslaughter or aggravated assault and were often aimed at the plantation manager. That the mainstay of the complaints centred on plantation managers instead of plantation administrators or owners needs to be largely explained by the emergence of plantation absenteeism from the second half of the eighteenth century. In many instances, the enslaved petitioners supplemented their complaints with more general accusations about the heavy workload, obligatory work on Sundays, malnourishment and denial of medical attention. After the enslaved petitioners' complaints had been heard, they were usually incarcerated pending the trial.[399]

In my conviction, all accusations concerning abuse of slaves have been taken seriously by the Governing Council, irrespective of the petitioners' descent – as long as there were sufficient grounds for suspicion. Whenever an allegation had been made, the Governing Council would send a delegate to inspect the purported crime scene, varying from a division captain of the civil militia, alderman (here: *heemraad*), *schout,* plantation administrator to governing councillor. Within Paramaribo, investigations would have been mostly conducted by the *schout* or a governing councillor. On the plantations, one was rather inclined to send an alderman or division captain at first instance, whereas an administrator or governing councillor would be sent for more thorough research. During preliminary investigations, white plantation employees, such as the white overseer and the plantation scribe, were usually interrogated on the spot. Sometimes neighbouring planters were interrogated as well. In case of high suspicion,

[398] Fatah-Black, 'The usurpation of legal roles', 17-18.
[399] Canfijn, *Database of sample years in Suriname's Criminal Court.*

the accused planter would be summoned to justify himself in the court, whereas otherwise a written statement would have sufficed.

The main obstacle to adjudicate crimes of whites against slaves was the indefinitely large mandate of the domestic jurisdiction. Although there are several examples of eyewitnesses that had been disgusted by excessive penal executions, and therefore, made complaints with the Governing Council, the authorities had to condone the practices as long as they occurred within the margins of the law. Since the councillors could only adjudicate offences that had been criminalised by law, it was sometimes very hard to convict a white person for its deeds. Initially, only killing and mutilating of slaves had been prohibited, although more limitations had been imposed during the second half of the eighteenth century through the various plantation regulations. As a result, the vast majority of crimes that had been reported, consisted of physical violence such as manslaughter and aggravated assault.

Several examples perfectly illustrate these legal obstacles. For instance, when the slave named Dia of the plantation Clemensburg had deceased as a result of a corporal punishment in 1775, the Governing Council started an investigation. After plantation manager Jan Hendrik Borchart had punished Dia with a Spanish buck, she succumbed to her injuries two days later. The only judicial step that the Governing Council could take was to investigate whether Borchart had abided by the imposed penal proceedings. As the 1759 plantation regulations had determined that planters were only allowed to punish their slaves by flogging, Borchart had clearly violated the rules by punishing Dia with a Spanish buck. Therefore, he was condemned to a three-hundred-guilder fine, the standard sum of money for killing a slave. In addition, he also had to reimburse Dia's legal owner, Mr Clemen, for her value.[400]

However, the colonial authorities did certainly not adopt a one-dimensional attitude in favour of whites at the expense of enslaved victims, as can be deduced from the following example. After the black overseer called Minos and two other slaves named Chocolaat and Coridon, of the plantation Rust tot Lust, had filed a complaint in 1775 against their manager Rudolff Hendrik Salsman, the latter became subject of an investigation for killing one of his slaves during a penal execution. However, the surgeon on the spot, J.D. Heijsler, vouched for the manager's innocence, as he had determined that the enslaved victim, named Fortuna, did not succumb from her wounds but rather died from asphyxiation: she swallowed her tongue when she lost her consciousness during the flogging. In addition, the raad-fiscaal concluded that Salsman had abided by the penal regulations as he had sentenced her to between sixty and

[400] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 92, f. 265 and 1192-1193; inv. no. 828, f. 915-920 and 927-930.

seventy lashes – at that time, floggings were set at a maximum number of eighty lashes in total. Moreover, two white witnesses testified in Salsman's favour as well, although the three defected slaves stated otherwise. Despite that the Governing Council found only marginal grounds to prove Salsman's guilt, they continued with the prosecution anyways. Eventually, Salsman was sentenced to a three-hundred-guilder fine and had been obliged to reimburse the slave's value. In addition, he had been fired from office as well.[401]

Other white perpetrators got away with their deeds more easily, despite the available evidence. For instance, Anna Elisabeth Sweerts, divorcée of J.B. de Bolonge, had killed her slave girl named Odille in a fit of rage. The raad-fiscaal adduced that 'prompted by a simple futility, [Sweerts] had let her anger and imprudence guide her, which had resulted in Odille's death'. Although the raad-fiscaal's plea charged Sweerts with manslaughter, for unknown reasons, the Governing Council only condemned her to pay for the incurred costs.[402] Not everyone was equally resistant to the harsh malpractices against slaves. For instance, J.C. Angerman, manager of the plantation Practica, had turned himself in after he had 'accidentally' stabbed and killed his slave cook in a frenzy of fury. He repented in front of the Governing Council and requested a pardon for his deeds. When Angerman learned that the raad-fiscaal started an ordinary prosecution against him after all, he ended his life and cut his throat with a razorblade.[403]

In case a third party would have harmed a slave, the offence would not be penalised in the interest of a slave but rather in order to protect the owner's property. Therefore, punishments were chiefly focused on the payment of settlement money to the affected owner. Never did an enslaved victim receive any compensation for its injuries.[404] For example, after the soldier Johannes Ewout had severely flagellated the slave boy Sabinus with a bull pizzle (*bullepees*), Sabinus died from his injuries. As a result, a criminal prosecution was initiated against Ewout, especially because he had no legal mandate for correcting that slave at all. However, as Ewout had individually come to terms with the culprit's slave owner, named J. Sluiter, before the trial had started, Ewout requested a pardon from the governor. As the governor acceded to the request, Ewout perfectly dodged the criminal justice.[405]

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[401] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 92, f. 1190-1191; inv. no. 828, f. 763-798; Schiltkamp and De Smidt, *West Indisch plakaatboek*, 666-675.
[402] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 144, f. 11-12. Original quotation: '[…] ter zaake dat zij haar om een zeer geringe oorzaake door eene onmaatige gramschap heeft laaten vervoeren in voegen dat zij door haare onvoorzichtigheid de bewerkster is van den dood van een mensch zijnde geweest haar slaavinne het neger meisje genaamt Odille'.
[403] Ibidem, inv. no. 92, f. 1127, 1169 and 1205-1206; inv. no. 414, f. 717-736 and 893-899.
[404] Cf. Patterson, *Slavery and social death*, 193-196.
[405] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 144, f. 50-51 and 228-231; inv. no. 469, f. 229-232.

All the above-mentioned cases illustrate that the Governing Council closely investigated every reported allegation about whites that had harmed a slave. However, obviously, it was much harder to prosecute a white person for harming a slave than the other way around. As hardly any acts had been criminalised, it was difficult to find sufficient legal grounds to prosecute a white. In addition, for slaves, it was often hard to substantiate the allegations, because it was their words against the words of a white suspect. Nevertheless, the Governing Council did certainly not adopt a one-dimensional stance in favour of whites, as Salsman's prosecution has proved. In his particular case, the Governing Council granted the enslaved plaintiffs the benefit of the doubt and condemned Salsman. Salsman's lawsuit was not an anomaly. The manager Barend Hendrik Beekman of the plantation La Jalousie, was also condemned to pay eight hundred guilders, after eight of his slaves fled to Paramaribo to complain about some gruesome penal executions. Despite that the Beekman's white overseers had testified in his favour, the Governing Council deemed that he 'had gone too far'.[406] The manager of the plantation Slootwijk, Christiaan Smit, was condemned to a monetary fine as well, after the slave called Mars had lodged a complaint about excessive punishments and manslaughter. Smit's defence was assisted by depositions of his two white overseers.[407] Other variants are known as well. The two black overseers named Coffij and Donau, for instance, had complained at the colonial authorities about their planter, Isak Monsanto, who had allegedly stabbed them with a machete. It is very unique that these slave depositions were endorsed by the plantation's white overseer, Adriaan Cooijwijk, who had accused the plantation manager of managing 'an entirely irregular regime'. Monsanto, in contrast, accused Cooijwijk of being 'a very bad person' and responded by sending several depositions of neighbours that were in his favour. The Governing Council eventually acquitted Monsanto and handed the two incarcerated enslaved petitioners back to the plantation. On top of that, Cooijwijk was condemned to reimburse the incurred costs.[408] Thus, not every lawsuit needed a white witness in order to make a case. Verdicts rather depended on the circumstances and the judgement of the councillors.

It is remarkable that verdicts for whites who had been found guilty of malpractices against slaves were exceptionally moderate. Compared to the verdicts of crimes of enslaved suspects versus enslaved victims, white suspects were more often acquitted. Of the thirty cases, seven whites were acquitted and four reprimanded. Six others were fined, one was fined and fired,

[406] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 91, f. 204-205; inv. no. 827, f. 251-282.
[407] Ibidem, inv. no. 91, f. 704-705; inv. no. 827, f. 403-438.
[408] Ibidem, inv. no. 91, f. 220-221; inv. no. 828, f. 27-30 and 37-60.

two had settled the matter, one was incarcerated and six other verdicts are unknown.[409] The variation of sentences did not only differ per committed crime but probably depended on the conclusiveness of the evidence and other contributing factors, such as the person's intention, age and history as well. Only in rare instances, a white perpetrator was punished more severely. For instance, the slave owner C.F. Steinmets had been banned for 'accidentally' (although non-lethally) shooting his slave in the mouth, thereby hurting someone else's slave as well.[410] Jan Michiel Thiel, the manager of the plantation Vissershoop, was sentenced to be pilloried, flogged and banned for life for shooting a carpenter slave to death.[411] The previously mentioned Frans Carl Zee was flogged, branded, sentenced to six years of cuffed prison work and banished for life thereafter, for attempted murder on several free non-whites and slaves.[412] No records have been found of white people that were sentenced to death for crimes against slaves.

White suspects of crimes that had been submitted by slaves on their own behalf, appeared to be luckier: of the eight cases, three defendants were fined and the rest was acquitted. In case that the allegations of enslaved petitioners had been found unsubstantiated, they could risk to be punished. Of the eight cases, retaliatory measures were only sentenced once. After eight slaves of the plantation La Simplicité came to report their manager C. Varenhorst for beating the slave October to death, two aldermen were sent to investigate the allegations. Because they had been able to debunk most of the accusations, the petitioners were condemned with a Spanish buck.[413] However, the denounced countermeasure had in fact been imposed more often. Among the judicial documents, six other examples are included of slaves that had addressed the colonial authorities to report abuse by their owners. However, their complaints had never led to criminal prosecution of the accused white in question. Of the twenty-two enslaved petitioners in total, nineteen were condemned to a (hexagonal) Spanish buck, one was banned and two were handed back to their owners, with the strong recommendation not to punish their slaves for running away or lodging a complaint.[414]

The relatively moderate punishments for whites signify the limited spectrum of punishments that the Governing Council could impose. Some attempts have been made to

[409] Canfijn, *Database of sample years in Suriname's Criminal Court.*
[410] As two trials were simultaneously pending against Steinmets – the other for defamation of the public servant Arlaud – it is not entirely clear for which crime the above-mentioned verdict was sentenced. See: NL-HaNA, HPCJ, 1.05.10.02, inv. no. 91, f. 148-149, 575 and 626-627; inv. no. 92, f. 1100-1101; inv. no. 413, f. 245-266, 527-539 and 553-558; inv. no. 827, f. 117-150.
[411] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 92, f. 38-39, 261-262, 268 and 282; inv. no. 828, f. 61-88.
[412] Ibidem, inv. no. 144, f. 338-340, 375-376, 391, 409 and 535; inv. no. 864, f. 473-622.
[413] Ibidem, inv. no. 144, f. 362-369 and 378-386; inv. no. 864, f. 627-664.
[414] Ibidem, inv. no. 91, f. 572-573; inv. no. 92, f. 13-14, 299 and 1198-1199; inv. no. 827, f. 283-334, 599-636 and 643-646; inv. no. 828, f. 135-138, 144-146, 249-256 and 555-558.

expand the existing legal boundaries with regard to prosecution and punishments of whites but these attempts never succeeded due to contradictory actors within the composition of the Governing Council. For instance, in 1762 governor Crommelin had attempted to impose new criminal proceedings in order to equally prosecute murder for whites and slaves (i.e. by corporal or capital punishments). However, the governing councillors rejected the proposition, as they feared for the loss of the planters' authority once slaves would find out that their owners were no longer allowed to freely dispose over life and death.[415] This political deadlock perfectly illustrates the hesitant attitude of the councillors to adopt new legislation that improved legal protection of slaves at the expense of planters. Because most of the councillors were plantation owners of profession, the Governing Council was used as an adequate instrument for planters to maintain their rule of law.[416] Whereas it was usually the governor or raad-fiscaal who wanted to hold white offenders judicially accountable for their deeds, the governing planter elite often counteracted their initiatives.[417] The most recurring argument they adduced was that whites could not be condemned based on testimonies of slaves alone, as that would enable slaves to accuse whites of 'literally everything'. History shows that the result of this deadlock has been twofold. Firstly, only in a limited number of times, justice has prevailed in favour of slaves. Many whites went unpunished for their atrocities against slaves. Secondly, the mainstay of the sentenced punishments against whites has been merely a travesty.

4.3.2 Suspects

For a long time, Beeldsnijder's chapter about slaves and justice has functioned as the seminal work about criminal justice for enslaved suspects.[418] However, this subchapter will show that Beeldsnijder's reconstruction only represents one side of the story and will argue that his qualitative findings need to be nuanced whereas his quantitative findings need to be considered non-representative.

Beeldsnijder has conducted an elaborate research about criminal cases against slaves for the period of 1730 to 1750. In total, he has reconstructed 146 cases against slaves based on which he draws several conclusions that have dominated the general conception about justice for

[415] Van Lier, *Samenleving in een grensgebied*, 135-136; Quintus Bosz, 'De ontwikkeling van de rechtspositie', 13-14; Dragtenstein, *'De ondraaglijke stoutheid der wegloopers'*, 222; for other disagreements between the governor/raad-fiscaal and councillors, see e.g.: Beeldsnijder, *"Om werk van jullie te hebben"*, 242-247; Davis, 'Judges, masters, diviners', 966-969.
[416] Fatah-Black, 'Access to justice', 11-12 and 16.
[417] Beeldsnijder, *"Om werk van jullie te hebben"*, 242; Van Lier, *Samenleving in een grensgebied*, 135; Wolbers, *Geschiedenis van Suriname*, 134-135.
[418] Beeldsnijder, *"Om werk van jullie te hebben"*, 247-253; even recently, scholars have made use of his results. See inter alia: Davis, 'Judges, masters, diviners', 961-962; Fatah-Black, 'Access to justice', 5.

enslaved suspects hitherto. Most importantly, he argues that almost eighty-two per cent of the enslaved suspects was condemned to death, by means of the most gruesome punishments and mutilations, whereas almost none of them were absolved.[419] However, as my study has reconstructed already 131 criminal slave cases for the year 1750 alone, Beeldsnijder's numbers must be considered incomplete.[420] That does not imply that my collection of cases is complete either. Because many enslaved perpetrators had escaped to the rainforests and had not been recaptured thereafter, the so-called 'dark number' must have been considerable at least. Of the 370 slave trials from my samples, fifty-six per cent concerned desertion, twenty-four per cent physical violence, thirteen per cent property offences, five per cent public order offences, one per cent moral offences and two per cent is unknown. Compared with whites and free non-whites, the share of physical violence and property offences was almost similar, whereas slaves received more punishment for desertion and less for public order offences. The prime offence among slaves consisted of marronage.[421] Beeldsnijder comes up with entirely different percentages: sixty-five per cent of his trials concerned physical violence, twelve per cent property offences, fifteen per cent desertion and eight per cent remained unknown.[422] Similar to whites and free non-whites, the lion's share of crimes had been perpetrated by men; seventy-eight per cent of the perpetrators was male, in contrast to fifteen per cent female.[423] As most of the crimes had been reported by whites, often due to incurred (financial) damage, more than eighty-one per cent of the victims of slave crimes were white as well.[424]

Criminal prosecution of slaves usually started with an extradition of a slave by its owner, along with a shortly written statement that outlined the committed offence. Other slaves were handed over by third parties, after they had been caught red-handed or in case they lingered in public streets without sufficient proof or reason of being there. Almost all of the extradited slaves were detained immediately: at least sixty-six per cent was incarcerated on remand,

[419] Beeldsnijder, *"Om werk van jullie te hebben*", 236-253, in particular 247-253.
[420] The differences between Beeldsnijder's and my results can be partially explained by the scope of our researches: whereas Beeldsnijder's research focused solely on plantation slaves, my research has incorporated urban slaves as well. However, these different scopes cannot fully explain the discrepancies in our numbers, because approximately ninety-four per cent of the enslaved population resided on the plantations. In addition, it is not entirely clear on what kind of sources Beeldsnijder's study has primarily been based. During my encounters with the Governing Council archives, I experienced that the section of 'judicial documents', is far from complete. Much more information about criminal cases can be found in either the 'board minutes' or '*rolle fiscaal*'. Sometimes, the three archive sections complemented one another but they also contained entirely different cases. I presume that Beeldsnijder did not examine the archives all together.
[421] See: appendix V. Statistics of offences, figure 12: Offences per population group; figure 14: Offences of enslaved suspects per year.
[422] Beeldsnijder, *"Om werk van jullie te hebben*", 249.
[423] See: appendix III. Statistics of suspects, figure 2: Gender of suspects per population group.
[424] See: appendix III. Statistics of suspects, figure 5: Suspect-victim ratio per population group.

whereas only one per cent was not. Thirty-two per cent is unknown.[425] Slave interrogations took place in Fort Zeelandia and were led by the raad-fiscaal in presence of two witnessing governing councillors and, when necessary, a Sranan or Saramaccan translator.[426]

In twenty-four per cent of the trials, enslaved suspects confessed voluntarily.[427] In those cases, litigation was often brief and a verdict would follow quickly. Whenever a slave denied the allegations, mentioned any accomplices or started a new recrimination instead, the enslaved suspect would remain in prison, pending its sentence, until all third parties had been heard. If an enslaved suspect continued to persist its innocence, the raad-fiscaal could decide to examine the suspect under torture (*scherpere examinatie*). Since 1743, the councillors were allowed to apply torture to slaves without the permission of the entire Governing Council whenever they deemed to have 'sufficient reasons' for suspicion.[428] This particular resolution made it much easier to torture slaves compared to whites and free non-whites. Both Surinamese sources and literature are fairly silent about these alternative means of interrogation. As interrogations took place behind closed doors, the only hints that torture was regularly applied can be found in the descriptions of the confessions. Within my samples, torture had been registered only in seventeen per cent of the trials. Eleven per cent of the slaves confessed under torture, whereas the other six per cent insisted on its innocence. As the lion's share of torture seems to have occurred during the first half of the eighteenth century, the question must be raised whether torture became less commonly applied in the second half of the eighteenth century or that the practice became significantly less transparent due to the 1743 resolution. It is certainly plausible that the numbers were much higher than those registered in the judicial documents. In any case, the practice of torture remained unknown in forty-three per cent of the slave interrogations; in an additional seventeen per cent torture cannot be ruled out either, as those sources only mentioned that slaves 'denied the allegations'. Whenever an enslaved suspect confessed during torture, he or she had to repeat its confession after the torture had ended (*buiten pijn en banden van ijzer*).[429]

According Beeldsnijder (and the previously discussed contemporaries), the Governing Council punished slaves with the most horrible punishments that usually consisted of 'flogging, breaking on the wheel, amputating limbs, cutting off noses, ears and tongues, torching slaves

[425] See: appendix III. Statistics of suspects, figure 3: Detention on remand.
[426] Davis, 'Judges, masters, diviners', 962.
[427] See: appendix III. Statistics of suspects, figure 4: Confessions per population group.
[428] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 23, f. 101-103; inv. no. 165, f. 409.
[429] See: appendix III. Statistics of suspects, figure 4: Confessions per population group; see also chapter 2.6.4.

alive, branding, mutilating by hot pincers, hanging, decapitating, quartering, and so forth'.[430] That gruesome description is, unfortunately, largely true. An illustrative example of the application of severe slave punishments is the slave revolt on the plantation Bethlehem in 1750, which then counted a population of approximately two hundred slaves. After a large part of the enslaved population rebelled against their plantation owner, Amand Thomas, they had looted his belongings and had run away into the woods. During the rebellion, both Thomas and his plantation scribe had been murdered by several of the defecting slaves. The concerning judicial documents show the most horrendous tortures and penalties that were sentenced to the caught prime suspects. The mastermind of the revolt, Coridon, was condemned to several forms of ordinary tortures for a few consecutive hours, while he was mutilated by searingly hot pincers, and consequently, quartered by four horses. Posthumously, his body was beheaded and his head impaled on a stake while his body was placed on four different places in the savannah, until the vultures would have devoured his remains. Seven of his co-conspirators, who had been part of the mob as well, were pilloried and burned alive or hanged beneath the gallows by a hook through their ribs, while also being mutilated by hot pincers. Eight accomplices were broken on the wheel until death followed. Dozens of others were hanged, beheaded or condemned to lifelong cuffed prison work.[431]

Slave punishments in criminal justice were, therefore, at least as inhumane as in domestic justice. However, the Bethlehem trials only illustrate one side of the story of criminal slave trials, since only twenty per cent of the slaves from my samples was condemned to a capital punishment. In addition, thirty-four per cent was condemned to corporal punishments, twenty-six per cent to non-corporal punishments and six per cent to both corporal and non-corporal punishments. Fourteen per cent of the verdicts is unknown. The average number of annual capital punishments probably needs to be estimated much lower in reality, since 1750 has been quite an anomalous year due to the Bethlehem revolt. In contrast to the sixty-three death sentences in that particular year, the other sample years saw a number of two to six death sentences per year.[432] In in any case, the frequency of death sentences provided by Beeldsnijder – a percentage of eighty-two per cent of the sentences – is thus simply incorrect.[433]

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[430] Beeldsnijder, "*Om werk van jullie te hebben"*, 248.

[431] NL-HaNA, SvS, 1.05.03, inv. no. 142; NL-HaNA, HPCJ, 1.05.10.02, inv. no. 44, f. 133-142, 144-150, 168-169, 184-186, 191-192, 200-202, 205-206, 210-211, 215-217, 230-232 and 280-282; inv. no. 45, f. 18-21, 70-71 and 74-80; inv. no. 46, f. 11-14 and 45-47; inv. no. 348, f. 131-134; inv. no. 550, f. 77-80 and 85-88; inv. no. 801, f. 59-234, 247-432, 491-510 and 567-652; see also: Davis, 'Judges, masters, diviners', 969-971.

[432] See: appendix VI. Statistics of verdicts, figure 16: Verdicts per population group; figure 18: Verdicts for enslaved convicts per year.

[433] Canfijn, *Database of sample years in Suriname's Criminal Court*; cf. Beeldsnijder, "*Om werk van jullie te hebben"*, 249.

Corporal punishments mainly consisted of Spanish bucks and hexagonal Spanish bucks. Flogging was only sentenced sporadically, which can be explained by the fact that flogging was already a daily practice on the plantations. Visible mutilations, such as cutting off ears, noses and tongues, were rather a seventeenth century practice but were still sporadically sentenced during the first half of the eighteenth century, especially with regard to poisoning cases. With the exception of the practice of branding, mutilations probably entirely disappeared in the second half of the eighteenth century. This is in accordance with the Dutch Republic, where mutilations had been customary during the seventeenth century and seem to have vanished thereafter.[434] Slaves that had been convicted of a corporal punishment would remain in Fort Zeelandia until their penalties were executed. Punished slaves could be retrieved from the fortress thereafter, provided that their owners would reimburse the incurred costs. Sometimes, a slave owner would relinquish to retrieve its slave from incarceration. In those instances, he or she would be offered another chance to retrieve the slave; in case of negligence, the slave would be sold publicly or donated to the Suriname Company´s public domains.[435] Whenever slaves were sentenced to a combination of a corporal and non-corporal punishments, punishments usually consisted of flogging or a Spanish buck together with a lifelong banishment or cuffed prison work.[436]

In addition, contrary to what Beeldsnijder has argued, exonerations occurred much more frequently.[437] Almost two-thirds of the sentenced non-corporal verdicts from my samples consisted of exonerations. A total of sixty slaves was acquitted; sixteen per cent of the entire number of conducted slave trials (cf. whites were exonerated in twenty-four per cent of the trials). Acquitted slaves could be retrieved from Fort Zeelandia as well, in exchange for the incurred costs. Other forms of non-corporal punishments were lifelong banishments and sentences to cuffed prison work in the Suriname Company's public domains, such as in one of the fortifications or on the leper colony Voorzorg (which had been established in 1791). In case of banishment, the slave would be sold abroad, often in New England, while its revenues – minus the incurred costs – would be handed over to the owner of the convicted slave.[438]

Despite the cruel character of the punishments that were sentenced to slaves, the judicial processes of slaves seem to have been generally thorough. First of all, the Governing Council

[434] Canfijn, *Database of sample years in Suriname's Criminal Court*; cf. Ten Cate, *Tot glorie der gerechtigheid*, 99-111; Spierenburg, *Judicial violence in the Dutch Republic*, 76-77 and 113-116.
[435] See e.g.: NL-HaNA, HPCJ, 1.05.10.02, inv. no. 91, f. 96-97; inv. no. 92, f. 1109-1110.
[436] Canfijn, *Database of sample years in Suriname's Criminal Court*.
[437] Beeldsnijder, "*Om werk van jullie te hebben"*, 251-252.
[438] Canfijn, *Database of sample years in Suriname's Criminal Court*.

endeavoured to provide a genuine trial to every human being, including slaves. This can among others be deduced by means of the previously discussed dispute between governing councillor Godefroij and interim raad-fiscaal Pichot, in which the former had accused the latter of executing a slave without any form of judicial process (see chapter 2.1). Secondly, the relatively frequent number of exonerations endorses the fact that the Governing Council certainly looked at the available evidence before sentencing a verdict. In addition, it also suggests that the councillors did not want to punish innocent slaves intentionally. Thirdly, of the 370 reconstructed trials against enslaved perpetrators, there are no indications that slaves had been convicted without being interrogated. Fourthly, the Governing Council would always look at the mitigating or aggravating circumstances in advance of sentencing a verdict. Whenever a slave would specify a particular excuse for committing the crime, its alleged incentives could be investigated as well. However, notwithstanding the above-mentioned nuances, the fact that the average size of slave trials was considerably smaller than the size of trials against whites, still indicates a significant disparity in adjudication. Judicial documents of slave trials often consisted only of the slaves' interrogations, the indictments of the raad-fiscaal and sometimes depositions by their owners. To the contrary, slaves did not have an attorney at their disposal and, as the majority was not able to read or write, they generally did not submit any additional supporting documents for their defence either.

A fine illustration of the process of reaching verdicts can be provided by means of the prosecution of marronage. Although marronage was punishable by death since 1721, certainly not every slave was punished accordingly.[439] Of the 249 slaves that was adjudicated for marronage, a maximum of thirty-six slaves was hanged or decapitated.[440] However, various factors could mitigate or aggravate the severity of the punishment. For instance, when a slave had dwelled in a maroon village or had simultaneously committed other crimes (often conspiring, physical violence and property offences) sentences would have been more severe. Other circumstances that could influence the sentence were recidivism and the duration of desertion. Marronage was especially strictly punished once the act had been preceded by a violent offence against a white. The slave named Quatre Cheveux, for instance, had been condemned to death after he was found guilty of preparing a plot to kill his owner. Allegedly, he had planned to run away and to establish a village in the woods thereafter. As a result, Quatre

[439] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 342-343 and 755.
[440] These verdicts concerned slaves that were condemned solely for the act of marronage. Another twenty-eight slaves were condemned for multiple crimes, including marronage.

Cheveux was broken on the wheel until death followed, and subsequently, was beheaded and its head impaled.[441]

Most decisive in composing a verdict was often the voice of the slave owner, who had almost complete disposal of the lives of his slaves. In case that a slave had been a nuisance to its owner, the latter could request the Governing Council for more severe punishments. For example, after the slave Ceango of the plantation Cannawapibo had been caught for a second time of marronage – he had been enchained after the first attempt but managed to break his shackles and ran away again – his owners, Jan Willem Engelbert de Man and Coenraad Rappard, requested the Governing Council for help. They suspected Ceango of encouraging other slaves to run away as well, which was especially dangerous because he knew the routes to the forests. Therefore, the owners requested the Governing Council to amputate one of his legs, lest that he could never run away again. In the end, the councillors granted permission to the owners and burdened Ceango with the hard choice which of his legs he loved the least.[442]

Voices of owners could mitigate sentences as well. The slave Tonetta of the plantation Hamburg, for instance, had been fully absolved from running away, after her owner had requested the Governing Council for exoneration. According to her owner, Van Stuyvesant, incumbent governing councillor at that time, Tonetta had perfectly behaved herself in the past and had been seduced to run away by the slave named Bastian.[443] Five slaves of the plantation Cornelis Vriendschap, who had been accused by a fellow slave of planning a plot to run away and kill their master, were acquitted as well, after the owner, De Raineval, had declared that the allegations were merely an illusion (‘*hersenschim*’).[444] Mitigation was also granted in case a plantation slave had been kidnapped by the (illegitimate) maroons or whenever extreme abuse had been detected. The slave of the widow Buttner, named Mignone, for example, was acquitted after Buttner had stated that Mignone had been kidnapped by some marauding maroons.[445] The slaves November, Askaan and Masongo of the plantation Houttuyn and Mingo of Vreedenburg, were absolved from death sentence and condemned to lifelong cuffed prison work on Fort Nieuw Amsterdam instead, after the authorities had concluded that they had run away due to severe abuse by their owners.[446] Runaways who had been extradited by the entitled maroons or

[441] NL-HaNA, SvS, 1.05.03, inv. no. 142; NL-HaNA, HPCJ, 1.05.10.02, inv. no. 801, f. 467-474 and 487-491.
[442] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 414, f. 367-376; inv. no. 828, f. 509-512, 519-528 and 542; for another example see e.g.: inv. no. 414, f. 977-980.
[443] Ibidem, inv. no. 828, f. 505-506 and 516.
[444] Ibidem, inv. no. 827, f. 87-89.
[445] Ibidem, inv. no. 92, f. 1140 and 1199; inv. no. 828, f. 563-566; for another example see e.g. inv. no. 92, f. 9-11, 14 and 93-96.
[446] Ibidem, inv. no. 91, f. 20-22; inv. no. 827, f. 104-116.

who had turned themselves in voluntarily after running away, were eligible for mitigation as well.[447]

In sum, a quick encounter with the reconstructed marronage trials shows that litigation of slaves was more thorough than deemed before. Of the 249 caught runaway slaves only sixty-four were sentenced to death, which would have been much higher in case that the governing councillors had complied with the existing penal provisions. To the contrary, the councillors took into consideration other factors as well. As a result, sixty-one slaves were punished corporally, of which forty-five with a Spanish buck, thirteen with a hexagonal Spanish buck and three with other corporal punishments. Twenty slaves had been banned and twenty-two sentenced to lifelong cuffed prison work, of which respectively nine and five received corporal punishments as well. Fifty-one slaves had been acquitted and thirty-one sentences are unknown.[448]

To recap, criminal punishments for slaves were considerably more varied than depicted by Beeldsnijder *cum suis*. Nevertheless, without any doubt, punishments were exceptionally crueller compared to punishments for whites and free non-whites.[449] The disparity between the sentences of white citizens and slaves can be illustrated at best by means of a comparison of similarly committed crimes. In 1775, for instance, Jan Michiel Thiel, manager of the plantation Vissershoop, was condemned to be pilloried, strictly flogged and banned for life, for lethally shooting his carpenter slave called Prins with a musket. In case Thiel would violate his ban, he would have risked more severe punishments.[450] Three months earlier, a similar crime had been committed by a slave against his master. When the cooper slave November had cut his plantation manager J.D. de Jong with his cooper's axe and had wounded the latter's foot, knee and arm, November was condemned to be bound on a cross, where his right hand was chopped off, with which he was slapped into his face. Subsequently, he was broken on the wheel until death followed and beheaded thereafter. His head was impaled on a stake and his cadaver buried underneath the gallows.[451] The contrasts between the two analogous crimes are irrefutable. Whereas the white plantation manager had been condemned to be flogged and banned for killing one of his slaves, merely the *attempt* of murder by a slave against his white superior was considered sufficient enough to condemn the slave to a horrendous death. These disparate

[447] See e.g.: NL-HaNA, HPCJ, 1.05.10.02, inv. no. 92, f. 263, 678-683, 1098, 1197-1198, 1170 and 1535-1539; inv. no. 144, f. 461-463, 502-504 and 535; inv. no. 828, f. 175-181 and 659-692; inv. no. 865, f. 317-332.
[448] Canfijn, *Database of sample years in Suriname's Criminal Court.*
[449] Cf. Beeldsnijder, *"Om werk van jullie te hebben"*, 251-252; Davis, 'Judges, masters, diviners', 960 and 966-971; Van Lier, *Samenleving in een grensgebied*, 131-140.
[450] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 92, f. 38-39, 261-262, 268 and 282; inv. no. 828, f. 61-88.
[451] Ibidem, inv. no. 91, f. 706-707; inv. no. 92, f. 4-5; inv. no. 827, f. 439- 469.

verdicts are in accordance with the rest of my samples. In general, slaves were very easily sentenced to death, whereas whites were hardly sentenced to death. Compared with the seventy-five capital punishments that were sentenced to slaves, whites were only sentenced to death twice; both in absentia.

The key question is on what grounds slaves were sentenced disparately. Higher penalties for slaves than for whites were already embedded within the penal provisions of certain bylaws.[452] In chapter 4.1 we have seen that there were almost no indications that these legal disparities had been based on racist motives. In my samples, there has been found no proof for racial discrimination in criminal justice either. Therefore, the extremely harsh punishments for slaves must be rather explained by their unfree status. Building on what Van Stipriaan has adduced for domestic justice, I believe that the severe penalties for slaves in criminal justice functioned as an instrument to keep the enslaved population in check. Within the divide and rule strategy, sentences primarily contained an educative component, in which corporal punishments functioned as deterrent for other slaves to prevent them from committing crimes in future.[453] An important factor that determined the severity of the crimes, was the role of the white victim. As we have seen in several examples of this subchapter, crimes in which whites fell victim to violence, theft or uprisings, were particularly severely punished.

Examples of the deterrent character of slave justice are the displaying of the bodies of executed slaves and the impalement of their decapitated heads on the shoreline next to the gallows or on plantations. The execution of penalties underneath the gallows, sometimes executed with a noose around the culprit's neck, also contained an educative element: it symbolised the punishment that the culprit had actually deserved – namely death sentence – but from which he or she was granted clemency due to a certain mitigating circumstance (*poena proxima mortis*). Another example of deterrence has been the execution of criminal punishments on plantations (see chapter 2.6.7). In addition, in some instances, the Governing Council incorporated symbolic 'mirror punishments' into the sentences as well. This form of redistributive justice implicated that the nature or means of the crime were incorporated in the nature or means of the corporal punishment.[454] The slave Cojo, for example, who was found guilty of causing Paramaribo's big fire in 1832, was condemned to be burned alive at the place where he had initially set fire.[455] In addition, in case of the previously mentioned November,

[452] Schiltkamp and De Smidt, *West Indisch plakaatboek*, passim; cf. Van Lier, *Samenleving in een grensgebied*, 131.
[453] Cf. Foucault, *Discipline and punish*, 1-69.
[454] Wijnholt, *Strafrecht in Suriname*, 28-29.
[455] Ibidem, 28-29; Davis, 'Judges, masters, diviners', 980-984.

the Governing Council had deliberately chosen to amputate his right hand because that particular hand had harmed his plantation manager with a cooper's axe. Other forms of mirror punishments were Achilles tendons that had been cut through or amputations of entire legs, as a result of repeated marronage.

Over the course of the eighteenth century, one can observe a small shift in criminal slave punishments. The verdicts from my samples indicate a slight alleviation in the severity of sentences throughout the years. This development ostensibly occurred simultaneously with the limitation of corporal punishments in domestic justice. In 1743, governor Mauricius already attempted to diminish the imposition of capital punishments, not out of a humanist conviction, but rather in order to save human capital. In addition, he argued, that the measure would have been more efficient because slaves often 'did not fear death'. Instead of imposing death sentences, Mauricius suggested to cut off the enslaved culprits' tongues, and thereafter, to deploy them to lifelong cuffed prison work for the public benefit.[456] Although Mauricius' proposal was not adopted by the Governing Council (although it had been applied in case of crimes of poisoning), my sources indicate that his ideas had been implemented somewhere during the second half of the eighteenth century after all. Over time, the frequency of death sentences seems to have decreased whereas the number of slaves that were banned and sold abroad or that were condemned to lifelong enchained prison work increased significantly. Simultaneously, the number of corporal punishments, mainly (hexagonal) Spanish bucks, augmented significantly as well.[457] Moreover, the extreme forms of death sentences, that have generally dominated historiography so far, seem to have disappeared over time and seen to have evolved into 'more moderate' death sentences such as hanging or breaking on the wheel; capital punishments that were then still common in the Dutch Republic as well.[458]

[456] Wolbers, *Geschiedenis van Suriname*, 134-135.
[457] See: appendix VI. Statistics of verdicts, figure 18: Verdicts for enslaved convicts per year.
[458] Cf. Faber, *Strafrechtspleging en criminaliteit te Amsterdam*, 151-160; Spierenburg, *Judicial violence in the Dutch Republic*, passim, in particular 74-83 and 211-212.

5. Neither fish nor fowl: manumitted people and freeborn

Manumitted people and freeborn non-whites had an ambivalent position within colonial society. The manumitted often remained under the guardianship of their former owners but lived independently in conglomerated, poorer quarters of the capital.[459] The legal position of these free non-whites was never properly regulated. In practice, they turned out to be legally neither fish nor fowl. Consequently, this legal lacuna provided the Governing Council ample leeway to adopt discriminatory policies against free non-whites. To keep free non-whites under control, the authorities imposed several bylaws that curbed their freedom and dictated them behavioural codes, especially after the number of free non-whites began to grow significantly at the end of the eighteenth century. Notwithstanding those restrictions, there are plenty examples of free non-whites who were actually able to manoeuvre themselves into better positions than previously thought.[460]

This chapter will explore the position of the free non-whites. It will nuance that their situation was more complicated to grasp than deemed before. Generally, historians have treated free non-whites as one homogeneous population group or have treated only one specific part of that group.[461] This chapter, in contrast, will argue that it is impossible to generalise the free non-whites. Over the course of history, the Governing Council adopted different kinds of treatments, based on distinctions between manumitted and freeborn, between their (former) status and race and between their economic and social positions. In this chapter, I have tried to apply terms like 'free non-whites', 'manumitted', 'freeborn', 'free blacks' and 'free mulattoes' as consistently as possible but I also experienced that it is not always that simple because the colonial authorities used these terms interchangeably.

This chapter will conclude that the lacking legal protection provided stories of both failure and success. Obviously, the legal and judicial positions of free non-whites were considerably better than those of slaves. They had full access to the colonial systems of justice and, aside from a few excesses, they could adequately defend themselves and their interests. In general, they were treated on a par with white civilians, except when their presence would endanger the

[459] In the nineteenth century, segregation in Paramaribo became less significant. With the emergence of a free non-white elite, more and more free non-whites began to reside the more prosperous quarters of Paramaribo. Cf. Neslo, *Een ongekende elite*, 216-221.
[460] See e.g.: Neslo, *Een ongekende elite*, passim; McLeod, *Elisabeth Samson*, passim.
[461] Cf. Beeldsnijder, 'Op de onderste trede', passim; Neslo, *Een ongekende elite*, passim; Hoefte does distinguish between blacks and coloureds and between economic and social positions, but omits the crucial distinction between manumitted and freeborn, see: R. Hoefte, 'Free blacks and coloureds in plantation Suriname', *Slavery and Abolition, Vol. 17, No. 1* (1996) 102-129, there passim.

interests of a white person. In those events, free non-whites were clearly considered second-class civilians.

5.1 The acquisition of freedom

There were many ways for a slave to obtain its freedom.[462] In eighteenth-century Suriname, the most common way to receive manumission was by the grace of a slave's patron – either by purchase of freedom (*inter vivos*) or by testamentary disposition (*post mortem*). In the nineteenth century, alternative methods became more regular, such as 'buy-outs' by relatives or 'phased instalments' financed by individual savings of slaves. Another, although rarer, path to acquire freedom was to set foot on Dutch soil, where the institution of slavery had disappeared a long time ago. Initially, this practice was acquiesced by the Dutch authorities, yet often contested by slave owners. In 1776, the States General resolved this legal ambiguity: henceforth, the authorities would forfeit the unfree status of slaves after they had stayed in the Dutch Republic for more than a half year (although owners could still protest their losses for another half year). In addition, in the final quarter of the eighteenth century, quite a few male slaves were deliberately granted freedom (and a plot of land) by the colonial government, in exchange for their service to fight against the maroons (in the so-called *Neeger Vrijcorps* or *Redimusu*).[463]

In general, it was easier to obtain freedom in the capital than on the plantations. Especially house slaves were more eligible to earn their manumission because they stood in closer contact with, and often lived under the same roof as, their owners. Chances were also higher for women (and their children) who lived in concubinage with white men. Other more eligible candidates were artisan slaves and slaves that rented themselves out for their services, and in that way, were able to save some money to amortise their own freedom. On plantations it was significantly harder to obtain manumission. Given that a plantation slave was but one of the

[462] See: Patterson, *Slavery and social death*, 209-239.

[463] Neslo, *Een ongekende elite*, passim, in particular 119-137; Hoefte, 'Free blacks and coloureds', 105-109; for the purchase of freedom by relatives, see e.g.: McLeod, *Elisabeth Samson*, 33-52; for manumission as a result of visits to the Dutch Republic, see: Sens, *´Mensaap, heiden, slaaf'*, 103; R. Buve, 'Surinaamse slaven en vrije negers in Amsterdam gedurende de achttiende eeuw', *Bijdrage tot de Taal-, Land-, en Volkenkunde. Vol. 119, No. 1* (1963) 8-17, there passim; J. van der Linden (ed.), *Groot placaatboek, vervattende de placaaten, ordonnantien en edicten van de Hoog Mog. Heeren Staaten Generaal der Vereenigde Nederlanden en van de Edele Groot Mog. Heeren Staaten van Holland en Westvriesland; mitsgaders van de Edele Mog. Heeren Staaten van Zeeland. Deel 9* (Amsterdam 1796) 526-528; Schiltkamp and De Smidt, *West Indisch plakaatboek*, 897-898; for the *Neeger Vrijcorps*, see: Wolbers, *Geschiedenis van Suriname*, 319-324; Dragtenstein, *'Trouw aan de blanken'*, 70-72.

many, it was more challenging to bond with its owner; especially from the second half of the eighteenth century when absenteeism became common among plantation owners.[464]

Initially, manumission had not been legally embedded in Suriname. Granting freedom was a private matter based on a stipulation between owner and slave, without any interference of the colonial state. Legally seen, manumission had been of paradoxical proportions: because a slave was not considered as a fully capable legal person, transfer of ownership was *de jure* impossible. *De facto*, transfer of property happened unilaterally. Prior to 1733, newly freed slaves were not registered, nor was any form of citizenship legally embedded for them.[465] Based on indirect sources, such as church books, last wills and microhistories, the number of manumitted people can be estimated at a few hundred in total.[466]

In 1733, the colonial government monopolised the granting of manumission and imposed a set of regulations for all manumitted people. Before slaves would become eligible for manumission, three fundamental requirements needed to be met. Firstly, slave owners had to submit a request for freedom at the Governing Council. Secondly, owners were obliged to baptise and educate their manumitted candidates into the Christian doctrines. And thirdly, the manumitted had to be able to provide for their own maintenance. In addition, the regulations also imposed two ground rules for the manumitted. First of all, they were obliged to honour and respect their former owners and support them in case of bitter times (the *obsequium* principle). In other words, the manumitted were still considered 'obsequious'. In case they would defame or abuse their former owners, they could even risk losing their freedom. Secondly, the manumitted were prohibited to marry and have sexual intercourse with slaves.[467]

Because slavery was not known on Dutch soil, the rules for manumission were, to the utmost extent, directly derived from Roman law. The only locally made-up regulations were measures of social control, to prevent social tensions between the free and unfree. Even the requirement of conversion to Christianity can be considered as an instrument to separate the manumitted from the enslaved population.[468] For almost a century, the 1733 manumission regulations have served as the legal fundament for the liberation of slaves, and concurrently, functioned as moral guidelines for the manumitted. In the next subchapter we will see that, over time, a few

[464] Neslo, *Een ongekende elite*, 129-132; Hoefte, 'Free blacks and coloureds', 108-109; Watson, *Slave law in the Americas*, 131; for concubinage in Suriname, see also: Buddingh', *De geschiedenis van Suriname*, 69-74.
[465] Patterson, *Slavery and social death*, 210; Neslo, *Een ongekende elite*, 97-100.
[466] Neslo, *Een ongekende elite*, 98-99; particularly known are the stories of Quassie van Nieuw Timotibo and Elisabeth Samson. See: Dragtenstein, *'Trouw aan de blanken'*, passim; McLeod, *Elisabeth Samson*, passim.
[467] Neslo, *Een ongekende elite*, 100-104; Hoefte, 'Free blacks and coloureds, 107; Schiltkamp and De Smidt, *West Indisch plakaatboek*, 411-412.
[468] Watson, *Slave law in the Americas*, passim, in particular 22-39 and 112-114; Neslo, *Een ongekende elite*, 101-104; Jordaan, *Slavernij & vrijheid op Curaçao*, 57-61.

adjustments have been made to the 1733 regulations and that other (additional) bylaws were issued as well, the latter often to reiterate or sharpen the former.[469]

Although it sounds obvious, perhaps it ought to be made explicit that Surinamese freeborn did not have to acquire their freedom over and over again but inherited their status matrilineally. That is to say, in Suriname, a newborn automatically adopted its mother's status. Children who were delivered after their mother's manumission were automatically acknowledged as 'freeborn', while children who were born in the period that their mother was still enslaved, would remain in slavery. According to Roman law, the law would operate in the favour of the unborn child. Thus, status would be determined at the time of birth and not at the time of conception. Even if the mother was still a slave at the time of delivery but was already entitled to manumission, the child would become free as well. Note that the Surinamese society of free persons was set up patrilineally, and thus, that once free, rights of the free non-whites (such as succession laws and domestic jurisdiction) were transferred via male family members instead.[470]

5.2 The position of free non-whites within a white-dominated society

The 1733 regulations were anything but all-encompassing. There was no legal procedure that properly facilitated the process of manumission.[471] More importantly, the allocation of citizenship and political rights, of both manumitted and freeborn, remained indistinct in the regulations as well. Compared to the Romans, who granted partial citizenship to manumitted people and full citizenship to freeborn – equating the latter to white citizens in theory – Suriname did not know any regulations that either incorporated or excluded free non-whites explicitly. This is a striking difference, since Suriname almost completely adopted Roman manumission law. It remains unclear whether one deliberately or inadvertently omitted these regulations in the Surinamese variant.[472] In practice, in Suriname one automatically applied the same laws to free non-whites as those applicable to whites, unless mentioned otherwise. For example, prior to 1775, the Governing Council had not made any statements about suffrage with regard to free non-whites. This implied that, out of convenience, both manumitted and

[469] For the manumission regulations of 1733, see: Schiltkamp and De Smidt, *West Indisch plakaatboek*, 411-412; for the adaptations of the manumission regulations, see respectively the pages: 471-472 (1741), 690 (1760), 726-726 (1761), 789 (1764) and 841 (1772); for additional bylaws concerning free non-white people, see respectively the pages: 508-509 (1743), 510 (1743), 815 (1767), 820 (1769), 879 (1775), 967 (1779) and 1230 (1804); see also: Neslo, *Een ongekende elite*, 104-117.
[470] Patterson, *Slavery and social death*, 139-140; for Suriname, see also: McLeod, *Elisabeth Samson*, 25.
[471] Neslo, *Een ongekende elite*, 119-122.
[472] Watson, *Slave law in the Americas*, 22-39 and 112-114.

freeborn males were automatically granted active and passive voting rights, provided that – similar to whites – they were of Protestant religion and head of a landowning household. Only in 1775, the council ended this legal ambivalence and drew up some conditions that legally embedded electoral rights for freeborn, whereas henceforth, the manumitted were excluded from elections.[473]

Despite that a legal framework was lacking, overall, free non-whites certainly possessed some basic civil rights. In Paramaribo, they could settle anywhere they wanted, although in fact, most of them lived together in the poorer quarters of the city, particularly in the *Frimangron* neighbourhood (lit.: country of the free people). In addition, free non-whites could possess real estate, houses, plantations and even slaves; all facts that prove their full right of ownership. They were (relatively) legally capable, as they were allowed to marry, take out mortgages, secure last wills and freely use all the available judicial instruments. Nonetheless, they were not entitled to public charity.[474]

The socioeconomic position of the free non-white population was better than thought before, and moreover, considerably better compared to the socioeconomic position of slaves. They were able to accumulate (sometimes even significant) wealth and managed to integrate economically into society. Especially former slaves who had been artisans by profession, could take care of themselves. Manumitted slaves who had adequate funds at their disposal at the moment of manumission, were also more easily incorporated in society. In addition, support of well-off family members has probably played an important role as well. Not much resistance was offered against economic integration; except in the lower strata of whites, who feared and despised the newly freed people because the latter often took their jobs as artisan, bearer or dockworker.[475] However, economic successes were not guaranteed. The lion's share of the free non-whites still lived in dire circumstances and was not able to find sufficient employment.

In contrast, within the social and political segments of society, discrimination against free non-whites was ubiquitous.[476] Because free non-whites' rights had never been properly embedded in the colonial laws, the governing councillors could easily impose new bylaws whenever they deemed that necessary. In practice, several discriminatory regulations were imposed that exalted whites above free non-whites; and freeborn above manumitted people. A

[473] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 879.
[474] Neslo, *Een ongekende elite*, passim, for free non-whites' residences, see pages 216-221; Schiltkamp and De Smidt, *West Indisch plakaatboek*, 690; cf. Jordaan, *Slavernij & vrijheid op Curaçao*, 60.
[475] Neslo, *Een ongekende elite*, passim, in particular 143-199; McLeod, *Elisabeth Samson*, passim; Watson, *Slave law in the Americas*, 131; Beeldsnijder, 'Op de onderste trede', 24-25.
[476] Van Lier, *Samenleving in een grensgebied*, 96-97 and 103-117; Hoefte, 'Free blacks and coloureds', passim, in particular 110, 117-119 and 121-122.

more active discriminatory policy was adopted especially after the number of free non-whites started to increase considerably in the second half of the eighteenth century. Because the Governing Council probably feared that the group of free non-whites would become too big or too powerful, several new bylaws were introduced to restrain them and to weaken their position. This discriminatory policy is remarkable, considering that the Roman manumission laws were not that biased at all.[477]

It stands out that most of the newly imposed bylaws particularly affected manumitted people. The manumitted were constantly remembered of their moral obligation to abide by the rules and were even threatened to lose their freedom in case of frequent violations. The new moral codes of conduct that had been introduced by the Governing Council in respectively 1743 and 1761, for instance, not only reminded the manumitted of good behaviour towards their former patrons but reminded free non-whites of good conduct towards white people in general. More striking is that the above-mentioned bylaws considered manumitted people legally equated to freeborn, except when one offended a white person. In that case, a manumitted perpetrator 'had to be remembered of the irredeemable debt that he or she owed towards whites for obtaining its freedom'.[478]

In the final quarter of the eighteenth century, when the free non-white population began to outnumber the white population, discrimination became more vicious. Access to manumission was curbed by more stringent criteria such as raised manumission taxes and obligatory registrations. In addition, to ensure that manumitted people were financially able to take care of themselves, personal guarantees were required, lest that none of them had to fall back on public charity in case of financial default.[479] At the same time, other repressive bylaws were imposed against manumitted people to restrain their freedom of movement. For instance, their interaction with the enslaved community was curbed more strictly, as they were prohibited to participate in slave festivities such as dances (*balliaren*), on pain of beholding the execution of the caught slaves. In case of recidivism, they could be condemned to be re-enslaved for the benefit of the colony.[480] In addition, a curfew was imposed after nine o'clock, on pain of a five guilder fine in case of violation, whereas second infringements would be punished corporally.[481]

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[477] Watson, *Slave law in the Americas*, passim, in particular 24 and 130-131.
[478] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 508-510 and 726-727. Original quotation on page 509: '[…] werdende deselve bij deese wel uytdrukkelijk gewaarschouwt dat schoon sij lieden in andere saaken egaalen regten genieten met vrijgeboorne, sij egter in sulken geval geconsidereert sullen werden als sulke die het onwaerdeerlijk pand van vrijheid aan blanken verschuldigt sijn'.
[479] Ibidem, for these bylaws see respectively the pages 680-681 (1760), 690 (1760), 840 (1772), 980-981 (1780), 1019 (1781), 1117-1118 (1788), 1225-1226 (1804) and 1295 (1811).
[480] Ibidem, 727 (1761), see also pages 1322-1325 (1814).
[481] Ibidem, 820 (1769), see also pages 815 (1767), 1190 (1799) and 1230 (1804).

It is questionable, however, to what extent the curfew was solely implemented to restrict movement of the manumitted alone. Considered the fact that, by appearance, it was sometimes impossible to discern between free non-whites and (runaway) slaves, especially by night, it could also have been a pragmatic measure against the increase of (lootings by) runaway slaves that occurred in the same period.

In addition, it seems that the Governing Council almost deliberately adopted a policy that sought to weaken and divide free non-whites into more disunited factions at the end of the eighteenth century. Disparate treatments between manumitted and freeborn became especially conspicuous in 1775, when the Governing Council decided to confine suffrage to freeborn Protestants only. This decision was the result of an increasing fear that the growing number of manumitted people would lead to the appointment of free non-whites to vacant positions in the Governing Council.[482] Legal segregation between the manumitted and freeborn remained present until 1832, when an entirely new set of manumission regulations was issued. From then on, newly freed slaves were granted full citizenship after two years of living in freedom, provided that they had behaved themselves properly in the meantime.[483] Nevertheless, eighteenth-century favouritism towards freeborn did not imply that, in daily life, they were not discriminated at all. They were still socially excluded from actively participating in higher segments of civil society. For instance, they were withheld from civil services and often barred from social associations by admission ballots.[484] However, I have found no proof that those exclusions had been embedded in any bylaws.

It is hard to pinpoint whether legal discrimination against free non-whites can be explained by status or race; both seem to have played their part. As we have seen above, for manumitted people the stigma of former slavery often lingered, which resulted in the fact that they were rarely perceived as equals.[485] However, freeborn were not bound by status. This implies that, in theory, there were no grounds for unequal treatments of freeborn vis-à-vis whites. Therefore, of all population groups, freeborn are the best example that discrimination based on race was present in colonial society after all. However, racial discrimination in daily (social) life does not imply that racial discrimination was also present in legislation (or justice). No indications of inequality have been found in the bylaws. The above-mentioned social exclusions of freeborn were rather the result of discriminatory sentiments among Suriname's white inhabitants.

[482] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 879; Neslo, *Een ongekende elite*, 107 and 111.
[483] Neslo, *Een ongekende elite*, 112-115.
[484] Ibidem, passim, in particular 143-199; Buddingh', *De geschiedenis van Suriname*, 110-118.
[485] Patterson, *Slavery and social death*, 247.

Nevertheless, the example of social acceptability of interracial relationships proves that the social and legal domains could also have been intrinsically linked in terms of racial inequality. During the entire eighteenth century, the Governing Council had turned a blind eye to concubinages and co-habitations between white men and non-white women, despite the several bylaws that had criminalised it. The fact that these practices were acquiesced by the colonial authorities did not mean that they were socially accepted. Especially interracial marriages were considered as 'immoral, outrageous and repugnant'. Nevertheless, it was not impossible to marry interracially. It is interesting that the degree of social acceptance of interracial marriages had been dominated by distinctions in skin colour. For instance, when in 1767 the freeborn Elisabeth Samson requested permission to marry a white man, the Governing Council was divided whether to grant her permission. Instead of being considered as a freeborn woman – in Elisabeth's case, a woman of significant economic welfare – the governing councillors hesitated because they considered her as a *black* woman in the first place. In the end, after being advised by the Suriname Company, the councillors granted Elisabeth permission to marry – although not wholeheartedly. Free mulatto women, on the contrary, could marry more easily with their white lovers. Since the beginning of the eighteenth century, several marriages had been registered between white men and mulatto women. Conversely, white women were prohibited to even engage in affairs with black men, let alone get married. If caught, they would be flogged and banned from the colony (married women were branded and banned instead), whereas their black accomplices would be punished by death immediately.[486] The selective refusal of interracial marriages based on skin colour has been emphasised elaborately here, not only to stress racial discrimination in social spheres, but also because it underlines the deprivation of a fundamental right. After all, the right to marry can be considered as the legal commitment that made free non-white women, and their offspring, legally entitled to the possessions of their white husbands (or fathers).

In the end, the social position of free non-whites slightly improved during the nineteenth century. A small free non-white elite emerged that began to operate as employees in the lower strata of the government departments and became more socially intertwined with the white population. However, aside from this particular elite, discrimination against free non-whites in general, continued to poison society for a long time.[487]

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[486] McLeod, *Elisabeth Samson*, passim; for interracial relationships, see in particular pages 28-30, 106-108 and 131-135; Hoefte, 'free blacks and coloureds', 104 and 111-113; for the bylaws, see: Schiltkamp and De Smidt, *West Indisch plakaatboek*, 168, 277, 383 and 669.
[487] Van Lier, *Samenleving in een grensgebied*, 109-117; Hoefte, 'Free blacks and coloureds, 117-122.

5.3 Free non-whites in colonial justice

In theory, free non-whites had equal access to the systems of justice compared to whites. They fell directly under the purview of the colonial systems of civil and criminal justice and were not entitled to any autonomous forms of justice. But did equal access also imply equal treatment in court or were they rather considered as second-class civilians, like they were in the social sphere?

Research about judicial discrimination of free non-whites is still in its infancy. Neither legal positions of, nor litigation by, free non-whites have been examined in Neslo's dissertation, the seminal work about manumission in Suriname.[488] So far, only five criminal cases of manumitted suspects have been documented by Beeldsnijder. He presumes that racial prejudices undoubtedly influenced colonial litigation, but his examples lack any hard evidence to prove that hypothesis.[489] A couple of other criminal cases (and civil lawsuits) can be found in microhistories such as the biographies of the free non-whites Elisabeth Samson and Quassie of the plantation Nieuw Timotibo.[490]

Notwithstanding, judicial records of the Governing Council demonstrate that plenty examples are within grasp. My sample years already count twenty-seven criminal cases involving free non-white suspects and sixteen free non-white victims.[491] These numbers might have been even larger in reality, as it is not always possible to determine whether actors were white or free non-white, for the simple fact that, once manumitted, free non-whites often adopted a new christened (and thus Western) name. Nevertheless, in the majority of the criminal cases it is possible to extract whether actors were free non-white by the manner they were mentioned in the judicial documents. Usually, the documents described them as the 'free black' or 'free mulatto' and additionally mentioned their guardians as well (often their former owners). For example, because the previously mentioned Quassie had been a former slave of the plantation Nieuw Timotibo owned by Willem Bedloo, he became known as 'the free black Quassie van Bedloo van Nieuw Timotibo'.[492] However, because freeborn probably did not had to have a registered guardian, it is possible that some of them might have stayed off the grid during this research.

[488] See: Neslo, *Een ongekende elite*, passim.
[489] Beeldsnijder, 'Op de onderste trede', 14-17.
[490] McLeod, *Elisabeth Samson*, 55-62 and 77-78; Dragtenstein, *'Trouw aan de blanken'*, 73-79, see also the pages 34-35, 42-50 and 56-57 for cases that took place prior to Quassie's manumission.
[491] Canfijn, *Database of sample years in Suriname's Criminal Court*.
[492] Cf. Dragtenstein, *'Trouw aan de blanken'*, 13.

The following subchapters will further scrutinise the free non-whites' position in colonial justice. It would be too simplistic to extrapolate whether the number of crimes against, or perpetrated by, free non-whites were higher than in other groups of society, or that daily life was dominated by discrimination against free non-whites; the number of free non-white litigants in my samples is simply too small for that. Therefore, the examples used below, will only be used to gauge inequality in colonial justice. A few conclusions can be made in general. With the exception of the fact that the Governing Council often pigeonholed free non-whites as 'free blacks and mulattoes', the investigated judicial documents do not contain much other tangible evidence of discriminatory treatment by the court representatives at first glance. This stands out, as there is ample evidence of prejudicial treatment against free non-whites in legislation. We will never know how heavy the stigma of free non-whites weighed in the composition of the verdicts, as deliberations of the councillors took place in private. The judicial processes that will be scrutinised below, will show that, generally, access to justice for free non-whites was considerably open but could also turn out worse under some circumstances. In those instances, more veiled forms of judicial discrimination took place.

5.3.1 Victims

Of the sixteen free non-white casualties in my samples, most fell victim to physical violence and property offences. Compared to white victims, the relative number of desertions were smaller because probably less free non-whites fell victim to marronage of slaves. The relative numbers of victims of public order and moral offences remain equal compared to those of whites.[493] Gender-wise, crimes against free non-whites seem to have differed from crimes against whites or slaves, as a relatively larger part of the victims were females. There is no solid explanation for that, although it might be explained by the simple fact that females represented a relatively large part of the free non-white population.[494] Ten out of the sixteen crimes were perpetrated by whites, two by slaves and four by other free non-whites.[495]

In general, free non-whites were protected against random abuse, destruction of their property and deprivation of their liberty. In case of violation of their rights, they could individually lodge a complaint with the Governing Council and after their allegations had been considered sufficient, the raad-fiscaal would have acted in the same manner as he would with regard to white victims. The fact that free non-whites deliberately used colonial justice indicates

[493] See: appendix IV. Statistics of victims, figure 9: Categories of crimes population groups fell victim to.
[494] See: appendix IV. Statistics of victims, figure 11: Gender of victims per population group.
[495] See: appendix IV. Statistics of victims, figure 8: Victim-suspect ratio per population group.

a certain trust in the colonial system.[496] But how serious were depositions of free non-whites considered in court? To some extent, unequal treatment can be assumed for manumitted because of the fact that, according to the Roman *obsequium* principle, manumitted people were not allowed to sue nor witness against their former owners, except in case of high treason.[497] Other than that, this study has found no evidence in the criminal courts that depositions of free non-white suspects were systematically assessed as less reliable or even unaccountable.[498]

On the contrary, the following example will endorse the fact that free non-whites could not only sue but even make a solid case against white criminals. It concerned the trial against the white Frans Carl Zee alias Fransé in 1799 (see also chapter 2.6.4). In 1798, Fransé temporarily resided in the house of the husband of the free non-white Acouba. In a series of incidents, he had made himself utterly infamous in the free non-white neighbourhood. He had vandalised Acouba's tableware and had hindered the free non-white Adjuba van Moron to enter her own house for two consecutive weeks. Subsequently, while Adjuba was bedridden, Fransé had trespassed her house and threatened her with a loaded gun. In addition, he had tried to shot the slave Fortuin belonging to the free non-white Louis van Paria [Pereira], but fortunately, the gun failed. In a second attempt, he (nonlethally) shot the slave David. As a result, David's owner, the free non-white Johanna van Catharina van Wijne, filed a complaint with the deputy raad-fiscaal. The trial that followed is remarkable, as the raad-fiscaal made a case against the white Fransé solely based on testimonies of free non-whites and their slaves. After the deposition of Johanna, depositions followed of the fellow victims Acouba and Adjuba, and of the free non-white witness Coffij van Kokswoud. The raad-fiscaal argued in his claim that even the depositions of the slaves David and Fortuin 'had to be considered admissible as well, despite that they were slaves, because their testimonies were consistent with the testimonies of the

[496] Of the sixteen criminal cases in only five cases the plaintiff is known. Four of these plaintiffs were free non-white. All four complaints led to prosecution in which the accused were successfully prosecuted (cf. appendix IV. Statistics of victims, figure 7: Composition of petitioners per victimised population group). Apropos, a small nuance is required here, as the percentage of free non-white victims in my samples is considerably small (only two per cent) compared to whites and slaves, whereas free non-whites were much better represented in absolute numbers of the total population, at least at the end of the eighteenth century. Therefore, the hypothesis that not all crimes perpetrated against free non-whites ended up in court (simply because they were less prepared to litigate or had restricted access to justice) cannot be fully refuted. Nevertheless, this presumption sounds less plausible once one takes into account the percentage of free non-white suspects, which appear to be relatively small as well (only four per cent). Cf. appendix III. Statistics of suspects, figure 1: Population composition of suspects; appendix IV. Statistics of victims, figure 6: Population composition of victims.

[497] Watson, *Slave law in the Americas*, 30-35.

[498] Cf. This was, for example, frequently the case in early modern Curaçao, see: Jordaan, *Vrijheid & slavernij op Curaçao*, 112-115.

irreproachable witnesses'. Fransé was condemned to be flogged, branded, six years of cuffed prison work and lifelong banishment thereafter.[499]

In general, the criminal court cases do not reflect continuous or gross violations of free non-whites' rights by white inhabitants. The case against Fransé is just one of the two sole exceptions. The other one concerned a complaint that the free non-white man named Jack van William Nijts submitted against C.S. Bertholst in 1722. For quite some time, Bertholst had defied and troubled the lives of Jack and his free wife. Bertholst had prohibited them to cultivate a plot of land, which Jack owned by the Motkreek, and had continuously threatened to destroy everything they would plant on the plot. Moreover, Bertholst had also kidnapped their two children, who he refused to hand back. After deliberation, the Governing Council instructed Bertholst to stop interfere with the lives of Jack and his wife, so that they could 'enjoy the privileges granted by their late owner'. In addition, Bertholst had to release their children immediately.[500]

It is striking, that Bertholst simply got away with his deeds without even receiving a reprimand. A possible explanation remains in limbo; at least for now. Because free non-whites were still insignificant in numbers in 1722, they could have easily been considered the underdog. Future research must scrutinise whether free non-whites were badly protected against discrimination prior to the 1733 regulations and whether discrimination became less problematic over time. In any case, Jack's story seems exceptional. In all other criminal cases there is no evidence of discrimination by the judicial authorities against free non-white victims. Nor are there any indications of mitigation of the sentences for white convicts, simply because their victim was of free non-white descent.

5.3.2 Suspects

My samples count twenty-seven free non-white defendants in total. The lion's share of their committed offences consisted of physical violence (mainly brawls and small assaults), desertion and public order offences such as insolences and other petty crimes. This crime pattern is quite similar to offences perpetrated by whites, although, free non-whites appear to have committed

[499] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 144, f. 338-340, 375-376, 391, 409 and 535; inv. no. 864, f. 473-622. Original quotation (emphasis is mine) has been derived from inv. no. 864, f. 594: '[…] vermeende de eisscher R.O. dat het getuigenis van deze twee laatstgenoemde [Fortuin en David], hoe zeer dezelve slaaven zijn, egter tot deezen alle zints admissibel is, nademaal het zelve is strekkende, tot het aantonen van nadere indices en omstandigheeden van een fait, dat reeds alle zints door irreprochabele getuigen is geattesteerd'.

[500] Ibidem, inv. no. 9, f. 366-368. Original quotation: '[…] te ordonneeren den suppl[iant] ongemolesteert te laten en te doen jouisseren van die voordeelen als waer mede zijn geweesene meester hem heeft willen begunstingen gelijk ook op den ontfangst deses landen het minste dilaij zijne twee kinderen aen hem te laten volgen'.

relatively less property offences and somewhat more desertion and public order offences.[501] Again, most of the perpetrators were male but, compared to whites and slaves, a slightly larger percentage of female perpetrators had been adjudicated.[502] The frequency of detention on remand and torture during interrogations seems to have been equal to the frequency among whites as well.[503] The main difference between white and free non-white perpetrators can be identified by a comparison of the victims of the perpetrators. In contrast to white offenders, the victims of free non-white offenders were quite varied: five victims were white, one was slave, three were free non-white, two were white and slave, and one white and free non-white.[504]

There is limited literature available to consult on discrimination against free non-white suspects in the Governing Council. Frequently mentioned in historical research is the trial against the freeborn Elisabeth Samson.[505] In 1736, Samson had accused the white coppersmith named Matthias Peltser of calling governor Johan Raye (r. 1735-1737) scum ('*canaille*'). After investigations had been conducted, raad-fiscaal Van Meel (r. 1736-1740) deemed that there was no reason to prosecute Peltser as depositions of three white witnesses would exonerate him. Samson's deposition, in contrast, Van Meel argued, had to be considered unaccountable because of her infamous reputation as 'public prostitute', which was a common way to vilify an unmarried black woman who cohabited with a white man. Instead of prosecuting Peltser, Van Meel sued Samson for defamation. He argued that her false accusations had risked Peltser to be convicted to death for lese-majesty, which made her guilty of committing perjury. The fact that her allegations were eventually enforced by two white witnesses, had been rejected as evidence by the Governing Council. Without any incriminating evidence, the councillors pleaded her guilty and banned her from the colony. Samson went in revision in the Dutch Republic, where the verdict was declared null and void by the States General. Curiously, the section in which governor Raye had expressed his indignation about the councillors' rejection of the two depositions in favour of Samson, had been omitted from the judicial documents that had been sent to the States' delegates.[506]

The repeatedly quoted example of Samson's mock trial suggests that the administration of justice in Suriname was not unbiased. However, emphasis on a single example might obfuscate

[501] See: appendix V. Statistics of offences, figure 12: Offences per population group; figure 15: Offences of free non-white suspects per year.
[502] See: appendix III. Statistics of suspects, figure 2: Gender of suspects per population group.
[503] See: appendix III. Statistics of suspects, figure 3: Detention on remand; figure 4: Confessions per population group.
[504] See: appendix III. Statistics of suspects, figure 5: Suspect-victim ratio per population group.
[505] McLeod, *Elisabeth Samson*, 55-62; Van der Meiden, *Betwist Bestuur*, 86-87; Buddingh', *Geschiedenis van Suriname*, 43.
[506] McLeod, *Elisabeth Samson*, 55-62.

the perception regarding the Governing Council. My samples urge to nuance the reputation of the Governing Council with regard to discrimination against free non-whites and indicate that Samson's process must be considered as an excess. Of the twenty-seven free non-white suspects that this study has investigated, there is not much tangible evidence of discrimination to observe. At least, no indications can be found that would suggest that similar mock trials or other forms of arbitrariness against free non-white suspects were used.

On the contrary, the following examples will illustrate that free non-whites could defend themselves quite adequately in court. The slave Quamina, who had been wrongfully accused of beating the white court officer called Jannes Meijer in 1749, was successfully acquitted due to active advocating of his manumitted owner, the free non-white Maria Jansz. Initially, five white witnesses had submitted a deposition in favour of Meijer and had reaffirmed that Quamina had beaten him. However, on request of Maria Jansz, three of the five witnesses recanted their statements and declared that Meijer had pressured them to give statements. Contrary to their initial depositions, they now declared that Meijer had been drunk and had confiscated a pig that belonged to Quamina. When Quamina tried to retrieve the pig from Meijer's hands, he fell. Due to the witnesses' recantations, Quamina was successfully saved from public execution in 1750. This example illustrates that free non-white citizens were certainly able to defend their own rights and interests. Of course, much depended on a person's social position as well. Maria Jansz was the sister of Elisabeth Samson and had also been of significant welfare. She had been married to the late governing councillor Frederik Coenraad Bossé, and thus, had been widely accepted as one of Paramaribo's community members.[507]

Another example that endorses the right to full trial, is the lawsuit against the free non-white Louis van Paria [Pereira]. In 1774, Louis had been incarcerated for accidentally shooting one of Hacquet Berenger's slaves. At that time, he had stand guard for a voluntary neighbourhood service against invasive runaway slaves, because the latter recurrently looted the neighbourhood by night. That particular December night he had aimed his rifle at someone who appeared to be a runaway slave. Louis confronted the slave thrice, demanding to reveal and identify himself. Because the slave did not respond and ran away instead, Louis had shot him. Since 1753, one was allowed to shoot at runaway slaves, provided that the shooter would aim at non-lethal parts of the fugitive's body. If that shot resulted to be lethal after all, the shooter would not be kept responsible in case he could declare that the killing was unintentional. In his defence, Louis had ample room to prove that he believed he had faced a runaway slave and that he had shot

[507] Fatah-Black, 'Access to justice', 1-2 and 15-16; NL-HaNA, HPCJ, 1.05.10.02, inv. no. 346, f. 199-206; inv. no. 550, f. 15-18; NL-HaNA, SvS, 1.05.03 inv. no. 142.

Berenger's slave unintendedly. Therefore, he requested the councillors to release him from detention and to settle the matter. In an attached letter, the witness A.C.D.P. Baron de Courval endorsed that the shooting had been merely an accident. The Governing Council approved to settle the matter. Louis was punished corporally for wrongful death and had to reimburse Berenger two hundred guilders for his loss.[508]

Ample room for defence and examination of evidence was also provided in the lawsuit against the manumitted Assiba van Lobo. Assiba was the prime suspect of several atrocious punitive undertakings that took place on the property of Mordochay Haim Sigala in 1798. An investigation into the excesses started after the ten-year-old slave boy named Present was found dragging his bloodied, partly skinned and paralysed body through the public streets. The authorities reported that Present had been bound, whipped and punished with a Spanish buck, while his feet were branded by hot flat irons. Another of Sigala's slaves, called Onverwacht, declared that he had been severely punished in the past as well. During the investigations, it turned out that the neighbours were not entirely surprised by the excesses. Six people testified that they had repeatedly heard cries of pain coming from Sigala's property. Although they did not witness any of the atrocities in person, on several occasions, they had noticed that the skins of the two slave boys showed many marks of flogging, binding and branding.

Initially, the raad-fiscaal submitted an arrest warrant for Assiba, Sigala's housekeeper-in-residence. During the interrogations, both Present and Onverwacht testified that Assiba had punished Present because three of Sigala's geese went missing. They also declared that Assiba had been assisted by the slave Quamina (alias Taba) and that Sigala was not present at the penal executions nor instigator of the punishments. However, other parts of their depositions were contradictory. Whereas Present argued that Sigala had condoned Assiba's actions, Onverwacht declared that Sigala had reprimanded her after the undertaking. Their statements were endorsed by two slave witnesses, and as a result, Quamina confessed that he had committed the crimes on the instructions of Assiba. Despite all allegations, Assiba denied and accused Sigala instead. She argued that she was 'unlucky to be in this particular position' and ascribed her situation 'to the malicious and ungracious heart of the Jews she was living among'.[509]

[508] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 91, f. 172 and 636-637; inv. no. 413, f. 685-696; inv. no. 827, f. 337-170; for the 1753 bylaw, see: Schiltkamp and De Smidt, *West Indisch plakaatboek*, 605-607.

[509] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 860, f. 234. Original quotation: '[blijft persisteren] dat zij geenzints schuldig was aan de haar ten lasten gelegde wreedheeden en bedrijven, waartoe zij veel te goeden inborst had, maar dat zij 't ongeluk, waarin zij haar bevond, toeschreef aan 't boos en ondankbaar hart der jooden waaronder zij verkeerd en behoord heeft'.

Particularly interesting about this lawsuit is that the allegations of a free non-white lead suspect were considered sufficient enough to start an investigation into the white Sigala. During preliminary interrogations, Sigala admitted that he had punished the two boys on several occasions, for example, after they had run away or had broken something. However, he emphasised, his punishments had never been so cruel that they would leave any physical marks behind. Moreover, he also stressed that Assiba had never touched the boys at all. The raad-fiscaal sensed that Sigala's deposition was flawed and that he tried to protect Assiba. When the raad-fiscaal wanted to continue the investigations against Sigala, it turned out that he had fled the colony. Consequently, he was summoned to justify himself to the court but defaulted thrice. After the fourth summon, his relatives requested the Governing Council to settle the matter. They argued that Sigala had not been present at the time of the punishments and, despite his awareness of the recurring atrocities, he had turned a blind eye to the practices as he was blinded by his love for Assiba. The Governing Council approved to settle, provided that Sigala would reimburse the incurred costs. Sigala's protective attitude towards Assiba turned out to be to no avail, because in 1799, she was convicted to be flogged, six years of cuffed prison work and lifelong banishment thereafter.[510]

What do these above-mentioned examples tell us? First, that free non-white suspects were certainly able to make a case on their own. The examples above have shown that free non-whites could defend themselves quite adequately in trial, and thus, that Elisabeth Samson's trial has to be considered as an excess. Despite almost all evidence pointed at Assiba van Lobo, the investigation into Sigala indicates that the councillors took her arguments in defence quite seriously. Even though the trial did not turn out that well for Assiba herself, the process does illustrate that justice prevailed. Her trial had been based on facts, whereas her free non-white descent had only played a marginal role. It would have helped if her deposition had been endorsed by testimonies of white witnesses, as it had benefitted Maria Jansz's and Louis van Pereira's in their litigation. However, as we have seen in Elisabeth Samson's trial, free non-whites' depositions could also be considered less reliable or unaccountable. How the governing councillors would receive free non-whites' statements fully depended on the circumstances,

[510] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 144, f. 7-8, 23-24, 29-31, 115 and 119; inv. no. 469, f. 373-386; inv. no. 665, f. 22-23 and 34-35; inv. no. 860, f. 65-288; inv. no. 862, f. 441-533; apropos, the story of Assiba fits well into the description of contemporary historiographers that used to emphasise the callousness of free non-white treatments towards their own slaves compared with treatments by whites. Although sufficient proof to endorse that supposition is not available, there are also no grounds to suppose that free non-whites generally treated their slaves better due to the simple fact that, at some point, they used to be of enslaved origin themselves. Cf. Van Lier, *Samenleving in een grensgebied*, 154-155.

especially when their depositions were self-contained and would adversely affect whites or would be contradicted by depositions of whites.

In sum, evidence of discriminatory treatment against free non-white defendants was generally more veiled than Elisabeth Samson's trial suggests. The most obvious indications of discrimination against free non-whites can be found in the verdicts. In general, sentences for free non-whites were considerably more lenient than sentences for slaves (who were punished corporally in more than half the reached verdicts).[511] In my samples, only five free non-whites were sentenced to corporal punishments (flogging and Spanish buck), three were deprived of their liberty (banishment and re-enslavement), six were fined, six were incarcerated and seven were acquitted. Seventy-five per cent of the sentenced punishments were non-corporal, which is fully in accordance with the sentences that whites received.[512] Nevertheless, differences remain noticeable regarding the severity of punishments. This is remarkable, because no separate penal provisions between whites and free non-whites have been incorporated into the bylaws.[513]

Especially anomalous are the sentences that have been imposed for offences against white persons. Time and again, offences against whites have been considered as an aggravated circumstance. For example, in 1749, the free non-white Eva had insulted and assaulted the bread baker Christiaan Lebrecht Kinau in and around his house and had thrown rocks at his maid. Because Eva 'owed her freedom to the whites', incumbent raad-fiscaal Jacob van Baerle (r. 1749-1750) adduced, 'she had to be grateful to all of them, and therefore, [she] had to treat them with the kind of respect that the [Governing] Council had instructed to manumitted people'.[514] During interrogations, Eva explained that she had been Kinau's concubine for a while. Although she was aware of her obligation to respect white people, she had acted as such because Kinau had beaten her very badly. Nevertheless, the Governing Council sentenced Eva to be exposed at the particular crime scene for an hour, and subsequently, to be flogged and

[511] See: appendix VI. Statistics of verdicts, figure 16: Verdicts per population group; figure 19: Verdicts for free non-white convicts per year.
[512] See: appendix VI. Statistics of verdicts, figure 16: Verdicts per population group; Canfijn, *Database of sample years in Suriname's Criminal Court*.
[513] In only one bylaw a distinction is made between whites and free non-whites, although this clause rather focuses on criminal proceeding than on penal provisions. This particular bylaw implies that, in case of harassment against or betrayal of free Amerindians, white perpetrators had to be reported to the raad-fiscaal, whereas free non-whites had to be incarcerated first. See: Schiltkamp and De Smidt, *West Indisch plakaatboek*, 603-604; this is in contrast with for example Curaçao, where the number of free non-whites was also significant in the eighteenth century. Curaçao bylaws often mention different punishments for whites and free non-whites. Cf. Jordaan, *Slavernij & vrijheid op Curaçao*, 33-42 and 105-124, in particular 109.
[514] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 801, f. 7. Original quotation: '[…] te meer de negerin de vrijdom schuldig is aan blancken, dat in plaats van diesweegens teegens alle blanken dankbaar te sijn en 't respect te bewijsen haar volgens reglemente aan de vrijgemaakte bij deesen hove gegeeven te gedraegen'.

banned from Paramaribo for a year.[515] Verdicts of other crimes against white people sound alike. The manumitted Jan Breukelerwaard was flogged and banned for life, for a simple brawl with the white Armbregt in 1738. The raad-fiscaal argued that Jan 'had spurned his freedom', despite that Jan had denied all allegations.[516] The free non-white Pieter, who had been caught for *balliaren* with the slaves in 1739, was convicted to be flogged and banned for life, because he had allegedly resisted his arrest and had concurrently hit a patrol sergeant. He had denied all accusations as well.[517]

Notwithstanding, punishments of crimes against whites seem to have alleviated over time. The free non-white called Francois Cadet Herbold van Cordora, for example, had defied Isack Cohen Lobato and his pregnant wife in the house of Lobato's brother in 1799. Cadet had insulted them and claimed that 'no one could touch him because he was a free man'.[518] Subsequently, Isack had correctively slapped Cadet and got into a scuffle with him thereafter. As we have seen above, such kind of offence against a white was usually corrected with a corporal punishment and a banishment. Cadet, in contrast, was merely incarcerated for three weeks.[519] Other verdicts sound similar. In general, the verdicts that have been sentenced in 1799 indicate an equalisation of punishments between free non-whites and whites, especially in small crimes such as insolences and brawls. The free non-white Mietje van Hermanus van de Schepper and the white Aron d'Afonseca, for instance, were both sentenced to a fifty-guilder fine because they had gotten into a fight with one another.[520] The free non-white Philip van Buttini and the white valet Pieter Mulder were both fined twenty guilders after Philip had called Pieter 'a donkey' for which Pieter had beaten him four times.[521] Even unilateral offences against whites were punished more mildly. The free non-white Lucia van Brandon, who had assaulted the free non-white Antje van Cortius and insulted the white Jan Eginger, was fined twenty guilders for her offences.[522]

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[515] NL-HaNA, SvS, 1.05.03, inv. no. 142; NL-HaNA, HPCJ, 1.05.10.02, inv. no. 801, f. 7-21.
[516] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 792, f. 35-42; Beeldsnijder, 'Op de onderste trede', 11 and 16. Original quotation has been derived from inv. no. 792, f. 35: '[…] en uyt dien hoofde zijner manumissie zijn eerbied meer en meer ten reguard der blanke persoonen had behooren te vergrooten, in erkentenisse van dat onwaardeerlijk weldaad zijner dierbaere vrijheijt: hij eghter gedetineerde tot versmadingh van die hem gedetineerde de vrijheijt zoo goedgunstigh hebbe verleent: zijne insolentie zoo vergaande heeft derven pousseeren van sijne handen en voeten te slaan aen een blanke persoon volgens getuijgenisse annex'.
[517] NL-HaNA, HPCJ, 1.05.10.02, inv. no 793, f. 181-184 and 194-196; Beeldsnijder, 'Op de onderste trede', 16-17; note that, contrary to what Beeldsnijder states, Pieter was not sentenced to be branded.
[518] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 861, f. 532. Original quotation: 'Niemant kan mijn wat doen, en niemant kan mijn koopen, ik ben een vrij man'.
[519] Ibidem, inv. no. 144, f. 115; inv. no. 770, f. 232-233 and inv. no. 861, f. 529-533.
[520] Ibidem, inv. no. 770, f. 251-252.
[521] Ibidem, inv. no. 770, f. 359-360; inv. no. 864, f. 925-931.
[522] Ibidem, inv. no. 770, f. 230-231.

5.3.3 Contesting liberties

Although legal grounds for the manumission procedure lacked in Suriname, there are no indications that its absence led to structural judicial complications with regard to the process of obtaining freedom.[523] After the permission of freedom was granted by the Governing Council, the newly freed would receive a letter of proof (*brief van vrijdom* or *brief van vrijlating*) that would suffice to substantiate its liberty in case of doubt.[524] But what if someone's status was contested after all? Assuming that Roman laws had been copied in Suriname, a formerly enslaved person who claimed to be (or seemed to be) free but was claimed as a slave, could appear in court on his or her own behalf.[525] My research indicates that disputes about a person's status occurred sporadically. These examples do not only show that the allegedly free received fair trials to prove their right, but moreover, also illustrate that the Governing Council took this kind of contestation exceedingly serious.

In 1799, the raad-fiscaal investigated two cases that concerned deprivation of liberty (*menschendieverij*) of free non-whites. In the first case, the eight-year-old black girl named Diana had been sold by her employer despite her allegedly free status. To Diana's own admission, she was born and baptised in Jamaica, but was purchased by the Philadelphian skipper named Thomas Hughes. In 1795, Hughes manumitted Diana, provided that she would serve him for another fifteen years as his employee. However, after Hughes had sailed to Suriname to deliver a batch of tobacco and flour, he had sold Diana to the Surinamese merchant called Johannes Stuger. Although Hughes could not be confronted with the illegitimate sale – he quickly left the colony thereafter – Diana could easily prove that she was a free girl. Namely, she was in the possession of her service contract, which had been concluded with Hughes in presence of the gentlemen Becker and Harrison of the Philadelphian Committee of Slave Registry. Consequently, the raad-fiscaal wrote the associated gentlemen for verification, and although it is not clear whether they ever replied, the Governing Council deemed the proof sufficient to release Diana from custody.[526]

In a similar case, the two free non-white sailors named Azor and Jean Louis fell victim to illegitimate enslavement as well. They had sailed to Paramaribo on a Martiniquais schooner

[523] Neslo, *Een ongekende elite*, 119-122; Neslo mentions that in only one case appeal was made to the Supreme Court in The Hague, see page 127. Cf. Several cases were in fact known for Curaçao, see: Jordaan, *Slavernij & vrijheid op Curaçao*, 90-92.
[524] Unfortunately, it is not clear in what way freeborn non-whites could prove their freedom.
[525] Watson, *Slave law in the Americas*, 35.
[526] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 144, f. 305, 409, 494-498 and 535; inv. no. 538, f. 267-272; inv. no. 865 49-94; Schiltkamp and De Smidt, *West Indisch plakaatboek*, 254; for the 1704 bylaw and the smuggling of slaves, see also: Canfijn, 'Den handel ende vaert op ende van de voorszegde colonie', 17-21.

and had both been sold by their skipper William Lloijt to Theodorus Petrus van Wijngaarden and a *nomen nescio* respectively. After the sale, Azor and Jean Louis went to the raad-fiscaal to complain about what had occurred to them. During the precedent investigations, Lloijt had declared that he was unaware of the fact that the two sailors were free men. However, before he could be prosecuted, he fled the colony by night. Both skippers Hughes and Lloijt got away unpunished. Due to the transboundary nature of their crimes, they could easily return to patria. Warrants were issued in case they would trespass the harbour of Paramaribo ever again. In Lloijt's case, the Governing Council also sent a request (here: *letteren requisitoriaal*) to the Martinique authorities to either extradite Lloijt or to punish him there.[527]

Criminal cases concerning illegitimate deprivation of liberty were, of course, also important because the raad-fiscaal had to act on behalf of the WIC in the combat against illegitimate slave trade. According to a 1704 bylaw, all foreign merchants were prohibited from selling slaves in Suriname. Caught buyers and sellers of slaves would both be condemned to a fine of fifty 'pieces of eight' (*stukken van agt*), also known as the *real de a ocho* or 'Spanish dollar' (*Spaanse mat*); a generally accepted silver currency in the early modern West Indies. Johannes Stuger, the buyer of Diana, cooperated during the prosecution and confessed that he had bought Diana illicitly. He abided by the claim of the raad-fiscaal and paid the imposed fine of fifty 'pieces of eight'. The buyer of Azor, Theodorus Petrus van Wijngaarden, confessed that he had immediately nullified his purchase once he found out that Azor was a free man. The sources are silent about whether he has been prosecuted for his offence.[528]

Of an entirely different nature were prosecutions that resulted in either the granting or the deprivation of liberty. It was, for instance, possible for slaves who stood trial in criminal court, to be granted amnesty and manumission for their merits.[529] A few examples are known of caught runaway slaves whose trials had been postponed after they had declared that they had stayed at (or had knowledge of) an illegal maroon village. Under those circumstances, suspects could be instructed to guide the Suriname Company's military forces to the concerned village. The slave named Cojo, for example, had run away from his owner Jacques Boin and had temporarily resided at an illegal village near seashore. In 1750, he had turned himself in out of fear that Borkoe, the village chieftain, would kill him. After his confession, Cojo successfully guided the authorities to the village, and subsequently, several maroons were taken into custody.

[527] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 144, f. 515-517; inv. no. 538, f. 339-343.
[528] Ibidem, inv. no. 144, f. 305, 409, 494-498, 515-517 and 535; inv. no. 538, f. 267-272 and 339-343; inv. 780, f. 375-389; inv. no. 865, f. 49-94.
[529] Hoefte, 'Free black and coloureds', 105.

As a result, the Governing Council pardoned Cojo for his crimes, rewarded him with his freedom and employed him at the colony's coffee weigh house.[530] With the help of the previously mentioned Quassie van Nieuw Timotibo, another runaway guide called Palm was also granted liberty, after the expedition that he guided resulted in the capture of twelve maroons in 1763. Freedom was often granted under the condition that once manumitted, the former slaves would be permanently available for new manhunts for maroons. Some of them were more permanently deployed as spies or maroon 'bounty hunters'.[531]

Outstanding service of deployed runaways was definitely not a guarantee for manumission. Former runaway slaves still remained defendants in criminal court in the first place and the councillors evaluated each situation separately. The slave Pompeus, for instance, had initially been sentenced to death for five years of marronage, during which he had occasionally returned to his former plantation Sinabo to steal tools and sheep, and to abduct slave women. Because he had lived in a maroon village for a few years, his execution had been postponed to guide the *Neeger Vrijcorps*. As Pompeus had successfully led them to several villages in 1775, the free non-white soldiers had requested the Governing Council to grant Pompeus his freedom and to employ him among their troops. However, because raad-fiscaal Wichers (r. 1771-1783) and former councillor Fellman were vehemently against Pompeus' manumission, the request was denied by the Governing Council. In contrast, Pompeus was absolved from the death sentence and was banned and sold abroad.[532]

Under rare circumstances, free non-whites could also be convicted to be re-enslaved. Assuming that Roman law was applicable, free non-whites could not be condemned to slavery anew for a simple breach of the *obsequium* but only for worse forms of ingratitude or in case of frequent contact with criminal justice. Former slaves who were freed by testamentary disposition or who had financed their own freedom, could not be re-enslaved.[533] It appears that the Governing Council deemed re-enslavement only necessary under extreme circumstances and rather chose to convict manumitted perpetrators to banishment instead.[534] In my samples, a manumitted culprit was convicted to re-enslavement only once. It concerned the *Neeger Vrijcorps* soldier called Profeijt van Appecappe. In a letter to the Governing Council, colonel Fourgeoud complained that Profeijt had utterly misbehaved during an expedition in 1775.

[530] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 44, f. 29-33, 158-159 and 175-176; inv. no. 346, f. 429-432.
[531] Dragtenstein, *'Trouw aan de blanken'*, 70 and 88-89.
[532] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 91, f. 25-26 and 67-70; inv. no. 92, f. 262-263, 727-728 and 1221- 1222; inv. no. 827, f. 45-60; inv. no. 828, f. 1134-1139.
[533] Watson, *Slave law in the Americas*, 35.
[534] Cf. Beeldsnijder, 'Op de onderste trede', 14-16.

Profeijt had taken shelter during an enemy ambush and had loaded his rifle wrongfully. It was not clear to Fourgeoud whether he had acted out of cowardice or because of collusion with the enemy. Other incidents followed: Profeijt had insulted the plantation manager of Wajamoe, had absented himself from service and returned to Paramaribo where he had taken a rifle and had threatened to shoot the free non-white called Isaak. As a result, the Governing Council discharged Profeijt from the *Neeger Vrijcorps* and condemned him to be re-enslaved and sold abroad. The fact that he was in duty of – and his freedom financed by – the Governing Council, must have played a considerable role in composing such an exceptional verdict.[535]

In another case, the free non-white Jan Pattoe, who had obtained his freedom from pointing out an illicit maroon village, was accused of a conspiracy in 1750. He allegedly planned to return to the maroons and to facilitate safe passage for some slaves. As there were multiple complaints against Jan Pattoe, the Governing Council decided to launch an investigation.[536] It is not clear what the outcome of the investigation resulted in, possibly because the judicial documents of 1751 have been lost to posterity. But if suspicions had been confirmed, he would have probably risked losing his freedom as well.

[535] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 92, f. 321; inv. no. 828, f. 257-261.
[536] Ibidem, inv. no. 45, f. 68-69.

6. Upon the fringes of the lands: Amerindians and maroons

The mainstay of Suriname's population inhabited either the city of Paramaribo or one the many plantations that surrounded the Suriname, Commewijne and Saramacca rivers that meandered and bifurcated southbound through the countryside. Amerindians and maroons, in contrast, inhabited the densely overgrown jungles in the hinterlands of the colony.[537] Their isolation eventually made them legally the odd men out. As they were located on the geographical fringes of the colonial purview, the Governing Council had simply been unable to fully place them under their command. Initially, several prolonged wars were fought with both population groups. Peace agreements were reached with the Amerindians in the late seventeenth century and with several maroon peoples during the second half of the eighteenth century. The rights acquired in those peace treaties lasted well into the second half of the twentieth century and are still invoked by Amerindian and maroon descendants in disputes with the Surinamese government that prevail to this very day.[538]

This chapter will examine the legal and judicial rights that the Amerindians and maroons had been granted after peace treaties were signed. It will show that their relationship with the colonial government was determined by a suzerainty-like hierarchy in which they were granted relative political and judicial autonomy, as long as colonial superiority was acknowledged and assistance was provided when appealed to. For instance, the Governing Council could demand their military support in case of foreign assaults and rebellion. In addition, Amerindians and maroons had also been obliged to turn in runaway slaves that trespassed their grounds. Besides that, they could politically organise themselves, could individually settle disputes and (as far is known) were not required to pay any tributary money or taxes. The various peace treaties were almost similar in character, although the Governing Council managed to incorporate the maroons somewhat more tightly into the colonial fold than the Amerindians. Maroons became subjected to different mechanisms of control, were placed under regulated contact with the colonial authorities, and above all, were significantly less free in their movement.

This chapter will conclude that the geographical isolation of Amerindians and maroons was advantageous for their local autonomy and made the frequency of encounters with the outside world merely sporadic. Beyond their own realm, the Governing Council tried to contain them both economically and judicially. Their trade with other actors had been restricted and regulated by the colonial government. Exchange of arms, gunpowder and shot was prohibited to prevent

[537] Van Lier, *Samenleving in een grensgebied*, 13.
[538] E.-R. Kambel and F. MacKay, *The rights of Indigenous Peoples and Maroons in Suriname* (Copenhagen 1999) 50-80.

Amerindians and maroon communities from becoming too powerful. Colonial prosecution did hardly occur, not only because of limited contacts, but also because offences often occurred on the geographical margins of society, which made it easier for culprits to flee into the woodlands after perpetrating a crime. As a result, colonial justice only prevailed once a culprit had been caught red-handed or got involved into a dispute with a white person. As far as my research stretches, no indications are found of flagrant judicial discrimination based on their origins, although some, more subtle indications can be traced after all.

6.1 Amerindians

6.1.1 Amerindian sovereignty

During the English rule in Suriname, colonists hardly interacted with the Amerindians. Their relationship with these native peoples was simply confined to trade of slaves and provisions. Enslavement was a long-standing practice that existed already before the arrival of the Europeans; many slaves were captured as prisoners of war in feuds between the different Amerindian peoples. Although the English did not introduce slavery, they eagerly exploited the pre-existing hostilities to enhance the number of enslaved victims.[539] That the Amerindians were initially left in relative peace, can be assumed from the preservation of landownership rights as well. Under English colonial constitutional law, colonist could only acquire ownership rights of uninhabited territories (*terra nullius*), and therefore, in theory, could not obtain rights over domains occupied by – and held under customary law of – the Amerindians. After the Dutch take-over, property rights of the indigenous were recognised in accordance. The Dutch colonial legislation determined that the Suriname Company (as a delegate of the Dutch States General) could solely obtain property rights from the Amerindians through cession and/or purchase. The capitulation treaty between the English and Dutch negotiators once again reaffirmed that 'all persons of what nation soever [sic] […] shall [continue to] enjoy their estates'.[540] The fact that Amerindians were included is not mentioned explicitly, but can be presumed as such, because in the eleventh article of the same treaty they were referred to as

[539] Fatah-Black, 'White lies and black markets', 27; Roitman, 'Portuguese Jews, Amerindians and the frontiers of encounter', 44.
[540] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 4. Original quotation: '3. That all persons whatsoever and of what nation soever, whether they be English, jewes etc., that at present doe personally inhabit Suriname with their families, shall have absolutely reserved and continued unto them estates, lands, goods, of what nature and condition soever, to enjoye, inherit and posesse them selves and their heires forever, without the least opposition, molestation and hindrance […].

separate 'Indian nations'.[541] Although the above-mentioned legal protection should have prevailed in theory, one must question to what extent these rights were respected in practice. There is no consensus among historians about that.[542]

Under Dutch rule, trade with the Amerindians intensified. Independent merchants, the so-called *bokkenruylders*, started to travel inland to trade with the Amerindians (or: *bokken* as they were offensively called) on a regular base. At the same time, tensions aggravated as well. Not only the augmented territorial interference, but in particular the aggressive economic exploitation of the Amerindians, often in pursuit of acquiring slaves, became a thorn in the flesh. After two *bokkenruylders* had been killed during a squabble with some indigenous people in 1675, interim governor Versterre (r. 1671-1677) undertook a punitive expedition. These events incited the Kalina (Carib), Arawak and Warao people to start a guerrilla war (ca. 1678-1686) against the colonial authorities, thereby systematically looting plantations, killing white planters and encouraging African slaves to escape and to join forces.[543]

Hostilities culminated in 1686 after governor Van Sommelsdyck (r. 1683-1688) intervened in internal indigenous affairs. He incarcerated and adjudicated an Amerindian leader named Tararica who had allegedly killed one of his three wives who, he claimed, committed adultery. The adjudication of this leader perfectly illustrates the asymmetric conceptions between Western and indigenous standards of justice. The colonial government perceived the incident as an act of murder, and therefore, the indigenous leader was sentenced to be beheaded. This verdict severely upset the Amerindians because they did not deem the judgement justified at all. According to their own customs, it was utterly incomprehensible to sentence a man to death for killing a woman while he still possessed two others. Furthermore, in their view, Tararica's actions had been justified, because corporal (and capital) punishments were the common reprisals for adultery in the Amerindian societies.[544]

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[541] Kambel and MacKay, *The rights of Indigenous Peoples and Maroons*, 21-47; for the capitulation treaty, see: Schiltkamp and De Smidt, *West Indisch plakaatboek*, 4-5. Original quotation: '11. That the Carribees, our neighbours, shall bee used civilly, and that care shall be taken that wee and our estates shall not be endammaged by the Dutch, French and other indian nations'.

[542] Kambel and MacKay argue that indigenous rights were protected by both international and English and Dutch colonial constitutional law. Quintus Bosz, however, refutes this theory and argues that private landownership was only valid in case it had been issued and entitled by the colonial government. See: Kambel and MacKay, *The rights of Indigenous Peoples and Maroons*, 21-47.

[543] Fatah-Black, 'White lies and black markets', 27-32; Roitman, 'Portuguese Jews, Amerindians and the frontiers of encounter', 24-27; Buddingh', *De geschiedenis van Suriname*, 18-24; Kambel and MacKay, *The rights of Indigenous Peoples and Maroons*, 51; E.R. Jagdew, *Vrede te midden van oorlog in Suriname. Inheemsen, Europeanen, marrons en vredesverdragen. 1667-1863* (dissertation; Paramaribo 2014) 37-47.

[544] Fatah-Black, 'White lies and black markets', 27-32; Fatah-Black 'The usurpation of legal roles', 2; Roitman, 'Portuguese Jews, Amerindians and the frontiers of encounter', 39-40; Jagdew, *Vrede te midden van oorlog in Suriname*, 48-49.

Strikingly enough, Van Sommelsdyck still managed to achieve peace later that same year. What probably would have soothed the wounds, at least to some extent, was the fact that the governor married a daughter of one of the indigenous leaders as a gesture of reconciliation. Although the peace treaties have been lost to posterity, in general, historians do agree on the broad outlines. In the peace agreements, the Kalina, Arawak and Warao people were officially recognised as independent Amerindian communities and were granted freedom of movement. This decision made them – for a long time – the only acknowledged communities that were allowed to exist beyond the purview of the Governing Council and its (by-)laws. They were permitted to settle, hunt and fish anywhere they wanted and could live according to their own laws, customs and systems of justice. Freedom of movement was once again endorsed in 1747 when the Governing Council introduced obligatory sailing permits (to travel on rivers) for every inhabitant of the colony except for Amerindians.

In addition, the treaty prohibited the enslavement of Amerindians, unless they had been convicted of committing a felony. Runaway slaves that tried to seek shelter at the Amerindian communities, on the other hand, had to be captured and extradited. The Governing Council seriously endeavoured to uphold their end of the bargain and meticulously inspected whether the Amerindians were rightfully condemned to slavery. This can be illustrated by the bylaw of 1781, which required that Amerindian slaves who were offered for sale had to be closely examined by a sworn Amerindian clerk in presence of the governor. Nevertheless, the treaty did not fully end Amerindian slavery. Nothing had changed for the Amerindians (and their offspring) that had been enslaved before 1686. Moreover, the colonial government probably had a different, more precise perception of the treaty than the Amerindians themselves. The colonial authorities probably envisaged that the peace conditions only protected the entitled Kalina, Arawak and Warao peoples from becoming enslaved and that they were arguably not applicable for other 'unfree' Amerindian peoples. Dragtenstein, for example, suggests that numerous other indigenous peoples have been enslaved after the ratification of the peace treaty after all.[545]

Post-war encounters between colonists and Amerindians have been poorly researched. We do know that Amerindians were successfully deployed to hunt for maroons in the 1720s by the Jewish community, led by David Nassy. This cooperation was rewarded with gratitude: in

[545] Wijnholt, *Strafrecht in Suriname*, 6; Sens, *'Mensaap, heiden, slaaf'*, 104-105; Fatah-Black, 'The usurpation of legal roles', 2; Buddingh', *De geschiedenis van Suriname*, 24 and 178; Schiltkamp and De Smidt, *West Indisch plakaatboek*, 570 and 1029; Jagdew, *Vrede te midden van oorlog in Suriname*, 49-52; Dragtenstein, *'Trouw aan de* blanken', 44-48 and 50-53; for the historical debate about the content of the treaties, see: Kambel and MacKay, *The rights of Indigenous Peoples and Maroons*, 50-55.

exchange for their services, they were provided with vast quantities of goods. Too much though, if you would have asked the governing councillors. According to them, the Amerindians had become too 'picky and greedy' about the goods they received. Therefore, in 1717, trade and barter with the Amerindians was restricted and monopolised to the *bokkenruylders*, provided that their hand-made goods were approved by the governor first.[546] Unfortunately, the sources are silent whether cooperation endured after the 1720s. In any case, since the Amerindians only occasionally appear in the colonial archives, a relatively harmonious co-existence can be assumed. This can be partially explained by the fact that the Governing Council held them economically and military under constraint to prevent them from becoming too powerful. Beside the above-mentioned restriction on trade of colonial goods, Amerindians were also allowed to hunt with bow and arrow only. Whites, in contrast, were prohibited to sell them any firearms, gunpowder and shots. Amerindians were not restricted to sell any foraged foodstuff, although these exchanges must be considered of marginal relevance.[547] For trade, they hardly visited Paramaribo. Exchanges of goods – and presumably contraband – mostly took place at the (near-coastal) military post called Wayombe in the Coppename area.[548]

6.1.2 Autonomous administration of justice

Not much has been known about the administration of law and justice among Amerindians. Although several Europeans have chronicled their encounters with the Amerindians, accuracy is fairly dubious as writers heavily drew on one another's work. Because the Amerindians lacked any written form of language prior to the arrival of the Europeans, one is dependent on archaeology, material culture and oral narratives to provide unbiased insights. Studying 'Amerindians' is even more complicated as the term encompasses many different individuals, tribes and peoples that were far from culturally coherent.[549] In general, Amerindians lived isolated (and often semi-nomadically) in small villages with fewer than two dozen inhabitants per average village. It is assumed that due to these small numbers of inhabitants, Amerindians generally lived quite harmoniously with one another. Except for the pre-pacification period, no real leaders came to the fore, simply because there was no need for that. The role of village

[546] Roitman, 'Portuguese Jews, Amerindians, and the frontiers of encounter', 29-33; Schiltkamp and De Smidt, *West Indisch plakaatboek*, 314-316 and 1029-1030.
[547] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 236-237, 240 and 752.
[548] Dragtenstein, *'Trouw aan de blanken'*, 46.
[549] Roitman, 'Portuguese Jews, Amerindians and the frontiers of encounter', 20-21.

head was often negligible and only became relevant once its function coincided with that of a priest (*piai* or *sjamaan*) who performed as healer and intermediary with the spirit world.[550]

Within the Amerindian societies, advanced legal systems were clearly absent. Legislation was based on rudimentary and sketchy forms of common law. According to Wijnholt, some general presumptions can be made about Amerindian crime and justice. As these societies were anything but materialistic, theft occurred sporadically. Conflicts seem to have occurred more often during festivities that went hand in hand with excessive drinking but were unpunishable under those circumstances. An often-presumed Amerindian form of administrating justice is frontier justice, in which the eye-for-an-eye principle (*lex talionis*) was central. In this form of vigilant justice, offences were retaliated by mirror punishments, for example blood feud in case of murder. For less severe offences, victims probably took the law into their own hands. Presumably, the victim would whack the culprit with a stick, paddle or whip; or would strap him or her up with a mat of stinging ants. It also appears to have been common for perpetrators to exchange one village for another in case of guilt or simply out of fear for punishment.[551] It remains unclear whether the village head or priest had an intermediary role in administering justice.

6.1.3 Amerindians in colonial justice

The peace treaty allowed the Amerindians to freely administer justice, as long as they stayed out of the circle of interest of the colonial government. The situation was entirely different once an Amerindian crossed his or her path with someone not originating from its own community.[552] In that case, both in civil affairs as well as criminal offences, Amerindians were redirected to the jurisdiction of the colonial authorities. Criminal records of the Governing Council seem to confirm the limitedness of interactions between Amerindians and other peoples. In my samples, only two Amerindian suspects were incarcerated and adjudicated.[553] One of them was the free Eva who had lived under the guardianship of the late Amand Thomas. After the latter had been murdered by rebellious slaves on his plantation Bethlehem in 1750, all people that were present had been automatically incarcerated for examination. Eva had been interrogated but was found innocent and was released shortly thereafter.[554] The other suspect was a 'John Doe' Amerindian who had allegedly shot and killed one of the slaves of the plantation Rustveld. He defended

[550] Buddingh', *De geschiedenis van Suriname*, 181.
[551] Wijnholt, *Strafrecht in Suriname*, 7.
[552] Schiltkamp, 'Legislation, government, jurisprudence and law', 331.
[553] Canfijn, *Database of sample years in Suriname's Criminal Court*.
[554] NL-HaNA, SvS, 1.05.03, inv. no. 142.

himself arguing that he could not remember anything because he was intoxicated. Eventually, he was acquitted due to lack of evidence.[555] The cases against Eva and the John Doe do not contain any indications of discriminatory judicial treatments towards Amerindian suspects (except for the fact that they were racially labelled as '*Indiaan*' in the judicial documents). In both cases it is explicitly emphasised that the suspects were free of status, which indicates that their rights were taken into consideration quite well.

Cases of Amerindian casualties are scarce in the sources too. One lawsuit in particular draws attention, as it mentioned that Amerindians were treated 'under special protection of the Governing Council'. It concerned the abduction of the Amerindian Johanna by the innkeeper Bartel Hendrik Schoonman and his spouse. After their live-in Amerindian Kakani had lured Johanna into their house under false pretences, the couple tried to enslave her. As a result, her husband, the free non-white Amerindian called Coupa, had pressed charges with the Governing Council. However, soon it became apparent that this incident was just one of the many complaints the Governing Council had received about the Schoonman couple. They were also accused of abuse, theft and blackmail by other litigants. Unfortunately, the claim and verdict remain in limbo because the judicial documents of 1751 have not been preserved. Consequently, we cannot reconstruct what this 'special protection' of the colonial authorities implied, although it slightly fills in a blind spot of the vanished treaty conditions.[556]

The three other cases in my samples that involved Amerindian victims, concerned victims of violent lootings by maroons. This is not a bolt from the blue, as of all peoples, the Amerindians most frequently encountered the maroons because they often resided the same fringes of the colonial borders. During these incidents, three Amerindians were killed, five non-lethally assaulted and two missing or abducted. In two of the three incidents rifles and gunpowder were stolen. After the first assault, the three Amerindians casualties deliberately chose to file a complaint with the Governing Council. The second and third were submitted by white witnesses, although in the latter case, the two Amerindians were incapable to press charges as both deceased as a result of the crime. In none of the events any culprits were caught; after precedent information had been collected by the raad-fiscaal, the cases were dismissed.[557]

[555] NL-HaNA, SvS, 1.05.03, inv. no. 142; NL-HaNA, HPCJ, 1.05.10.02, inv. no. 550, f. 91.
[556] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 348, f. 391-392; inv. no. 542, f. 551-555; inv. no. 756, f. 35-37; inv. no. 801, f. 839-885. Original quotation has been derived from inv. no. 801, f. 839: '[…] de Indianen, waarmede door wijlen den Heer Gouverneur van Sommelsdijk hoog loffelijken gedagtenis de vreede is gesloten, en die volgens de conditien van dien, onder de bijsondere protextie van desen Ed. Achtb. Hove sijn'.
[557] Ibidem, inv. no. 91, f. 565; inv. no. 92, f. 246-247, 303-304, 455-456, 466, 1150-1151, 1511-1512 and 1517.

The relative paucity of criminal cases that involved Amerindians can be partially explained by the fact that the Amerindians lived more remote and thus had fewer encounters with the outside world. On the other hand, it was quite simple to flee back into the overgrown woodlands after committing a crime, and thus, adjudication was often only initiated in case an Amerindian was caught in the act. Occasionally, testimonies mentioned crimes in which Amerindians were caught red-handed but fled into the woods. For instance, when in 1775 the free non-white Jan Baas and Quacoe found two Amerindians aboard of their small pirogue (*courjaar*), they decided to confront them. The Amerindians were spooked and quickly ran away. Jan Baas and Quacoe were not able to catch them.[558] In those instances, the Governing Council could decide to conduct precedent investigations, but that was often to no avail. Hardly any perpetrators were retrieved, and thus, cases were usually dismissed.

6.2 Maroons

6.2.1 Maroon sovereignty

For as long as Suriname has known slavery, slaves have tried to flee from colonial tyranny. Runaway slaves (*wegloopers*) often fled into the forests adjacent to the plantations. From improvised villages within these densely grown woods, these 'maroons' repeatedly looted plantations in search for food, weapons and other supplies; sometimes not hesitant to kill the residing whites and abduct slave women. The colonial government undertook numerous military expeditions against the maroons, until peace treaties were signed in the 1760s with respectively the Ndyuka (also: Okanisi or Aukaners), Saramacca and Matawai people. Later, prolonged expeditions were undertaken against the Boni maroons as well, with whom peace was reached in 1860.[559] This subchapter will only deal with entitled maroons (*bevredigde marrons* or *boschnegers*), that is to say, former runaway slaves that were granted amnesty, and thus, officially acknowledged as free and legitimate inhabitants by the Governing Council. It will focus on the Ndyuka, Saramacca and Matawai people and will not take the Boni people into account, simply because their treaty falls far beyond the temporal scope of this research. This subchapter will take the treaty with the Ndyuka people as starting point, whereas the

[558] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 828, f. 469-470.
[559] For a chronologic overview of war and peace with the maroons see: Jagdew, *Vrede te midden van oorlog in Suriname*, passim; for the Ndyuka, Saramacca and Matawai maroons, see: Dragtenstein, *'De ondraaglijke stoutheid der wegloopers*', for the Boni maroons, see: W.S.M. Hoogbergen, *De boni-oorlogen 1757-1860. Marronage en guerrilla in Oost-Suriname* (dissertation; Utrecht 1985) passim; for an extensive report of several of the military expeditions against the Boni maroons, see: Stedman, *Narrative of a five years expedition*, passim.

subsequent Saramacca and Matawai treaties will be examined only briefly as they do not fundamentally differ with the former.

The treaty that had been concluded with the Ndyuka in 1760 contained nine articles. Many conditions were probably similar to those agreed with the Amerindians, only this time, more restrictions were imposed and freedom of movement was slightly constrained. The peace treaty empowered the Ndyuka to settle anywhere they wanted, provided that they would inform the colonial government in advance and that they would settle at a distance of at least ten hours away from the nearest plantation. Maroons that had fled their owners before the 14th of October 1759, were granted amnesty, whereas newly escaped slaves had to be extradited (for which the maroons received financial compensations in exchange). The treaty also agreed that 'befriended' Amerindians had to be left alone. In case of rebellion on plantations, or foreign assaults, the maroons were obliged to send military support. In the event of death of the chieftain (*granman*), the Ndyuka were required to notify the Governing Council and had to ask for approval for their chosen successor. Interaction with colonial society was confined by regulations, as only ten to twelve maroons were allowed to simultaneously enter Paramaribo for trade, provided that they would address the governor on their arrival first. To empower the peace agreement, a blood oath was sworn and several 'hostages' were exchanged. An envoy (*posthouder*) was installed in the village of the Granman to check whether one complied with the peace agreements. In addition, a handful of maroon hostages (*ostagiers*), often children of influential maroons, were sent to live and to be taught in Paramaribo. In general, the Ndyuka were forthcoming during peace negotiations about all but one clause: when the Governing Council wanted to include an article that would fully submit the Ndyuka to colonial justice, the proposition was rejected unequivocally. An attempt by the councillors to monopolise execution of capital punishments through an extradition agreement for convicted maroons, failed as well. In the end, the treaty concluded that the Ndyuka were judicially autonomous as long as no whites were involved.[560]

In the first years after implementation of the agreement cooperation was quite capricious. Time and again, the two parties were in disagreement about matters that were not well-elaborated in the peace conditions. First of all, the Ndyuka were reluctant to comply with the extradition of runaway slaves, especially when they had absconded due to abuse by their owners. In addition, they were also unwilling to meet the expectations of the colonial

[560] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 692-694; Dragtenstein, *'De ondraaglijke stoutheid der wegloopers'*, 195-197; Kambel and MacKay, *The rights of Indigenous Peoples and Maroons*, 55-59; Fatah-Black, 'The usurpation of legal roles', 11; Buddingh', *De geschiedenis van Suriname*, 132-133.

government to actively hunt against these fugitives, particularly because that was not agreed on in the treaty. As a result, only small numbers of caught slaves were extradited in the first years after the treaty had been signed. Secondly, 'misdemeanours' on plantations by Ndyuka people continued to take place after the treaty had been concluded. Consequently, a bylaw was issued in 1761 to outlaw maroons from plantations, unless they were in possession of a permit issued by the *posthouder*. Because the maroon authorities did not succeed in preventing its citizens from misconduct, in 1783, the Governing Council once again reiterated planters to apprehend any 'wantonly and disorderly' maroons that trespassed their plantations.[561]

By the time that peace was negotiated with the Saramacca and Matawai maroons, the Governing Council had learned from the deficiencies in the Ndyuka treaty. To prevent future discontents from happening, the terms and conditions of the 1762 peace agreements were stricter and more elaborate. First of all, all actors had agreed that the Saramacca and Matawai peoples had to extradite fugitive slaves, even when the captives claimed to be abused by their owners. Runaways would be 'punished by death or according to justice'. As a side note, in 1806, the same clause was incorporated in a renewed peace agreement with the Ndyuka after all. Secondly, in case Saramacca or Matawai maroons were deemed guilty of concealing runaway slaves, they could risk losing their freedom. Thirdly, the new treaties officially incorporated the requirements to hunt for runaways and to exchange hostages.[562] Shortly after the agreements, the Matawai broke peace and resumed their attacks on plantations, until a new treaty was accomplished in 1767. Although the document has been lost to posterity, historians presume that it would have been quite similar to the treaty agreed in 1762.[563]

Approximations of population sizes at the time of the peace treaties vary slightly. Both Ndyuka and Saramacca societies are estimated at twenty-five hundred to three thousand inhabitants each. The number of Matawai people would not have been higher than three hundred citizens.[564] Interaction of the maroons with colonial society had been fairly limited. Because maroons were usually not permitted entrance to plantations, most encounters with colonists and slaves took place in Paramaribo. Although the treaties authorised access for a

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[561] Dragtenstein, *'De ondraaglijke stoutheid der wegloopers'*, 198-220, especially 200; Kambel and MacKay, *The rights of Indigenous Peoples and Maroons*, 59; Jagdew, *Vrede te midden van oorlog in Suriname*, 144-146; for the 1761 and 1783 bylaws see: Schiltkamp and De Smidt, *West Indisch plakaatboek*, 754 and 1055.

[562] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 757-762; Jagdew, *Vrede te midden van oorlog in Suriname*, 237-239; Kambel and MacKay, *The rights of Indigenous Peoples and Maroons*; 59-60; Dragtenstein, *'De ondraaglijke stoutheid der wegloopers'*, 223-227; for original quotation, see: Schiltkamp and De Smidt, *West Indisch plakaatboek*, 758: '[…] en sullen die wederom gebragte slaaven nae welgevallen der blanken met de dood off anders na exigentie gestraft werden'.

[563] Kambel and MacKay, *The rights of Indigenous Peoples and Maroons*; 59-60; Dragtenstein, *'De ondraaglijke stoutheid der wegloopers'*, 228-234; Jagdew, *Vrede te midden van oorlog in Suriname*, 306-308.

[564] Buddingh', *De geschiedenis van Suriname*, 163.

limited number of maroons to Paramaribo, for a limited period of time, in practice, more than a few dozen appear to have permanently resided in the capital. Many argued that they were better off in the capital than in the villages. A small number of them, in contrast, had sought safe haven and protection after village authorities had convicted them to death or to enslavement. Relationships between maroons and inhabitants of Paramaribo were strained and ambivalent. Many white citizens feared for frustration, moral disarray and rebellion among their own slaves, mainly because they did not know how to extenuate the fact that the 'wrongdoings' of these 'runaway criminals' had been rewarded with amnesty. Especially the dissimilar position of manumitted people, who had been 'bestowed' with freedom, versus the position of maroons, who had rather 'seized' than 'received' theirs, distorted social relations.

Several reports mentioned tensions on both sides. On the one hand, in various encounters, maroons were insulted, blackguarded and assaulted. When in 1801 a maroon had been wounded after someone had thrown rocks at him, the Governing Council decided to issue a bylaw to prevent inhabitants from harassing maroons and Amerindians, on pain of proper penalties. On the other hand, tensions were enhanced by the high expectations the maroons had of the treaty. They considered themselves as a befriended, foreign nation that aspired to be respected and handled reciprocally. Illustrating is the story of the *ostagier* Jeboa, son of the Ndyuka chieftain Jakje, who was sent to Amsterdam for education but was sent back to Paramaribo due to bad behaviour. Back in the colony, Jeboa no longer wanted to comply with the colonial authorities nor with the existing social relations. When he witnessed a slave woman being punished, he interfered and demanded the owner to stop. The slave owner did not let Jeboa get away with his interference and incarcerated him consequently. As a result of the incident, the Governing Council stated that Ndyuka were no longer allowed to interfere in whites' affairs. As we will see below, at least a dozen other maroons overstepped their 'guest position' in the colonial capital as well.[565]

6.2.2 Autonomous administration of justice

It is hard to provide an accurate reconstruction of local Maroon justice, as no concrete judicial cases have been preserved.[566] Similar to Amerindians communities, frontier justice was presumably customary. However, maroon justice was more sophisticated than that alone. One knew several other forms of dispute resolution, even though it is unclear for what reasons one

[565] Vrij, 'Bosheren en konkelaars', 20-25 and 28-29; Schiltkamp and De Smidt, *West Indisch plakaatboek*, 1205; for the story of Jeboa, see: Buve, 'Surinaamse slaven en vrijnegers in Amsterdam', 12-15.
[566] Wijnholt, *Strafrecht in Suriname*, 8-19.

appealed to a judicial body instead of taking justice into its own hands. We do know that there were firm rules to abide; maroons knew exactly which punishment was prescribed for which infringement.[567] Just like in the Governing Council, separation of powers was absent, as political representatives usually assumed the role as judges as well.

A schematic description will shed more light on the administration of justice in local courts. In Ndyuka communities, complaints were handled at first instance by the family council (*kroetoe* or *kuutu*), in which the eldest men of all involving families were convened. In case no agreement was reached within the *kroetoe*, a village assembly (*pranasi*), consisting of delegates from all concerning villages, would be convoked. If still insoluble, a next step would be to convene an assembly with the *granman* and the concerning district captains. Supreme authority was held by the *grankroetoe*, consisting of the *granman* – who could exercise his veto power – and all district captains. In Saramacca, where verdicts were often sentenced by a captain and its councillors, the *granman* only played a marginal role in administrating justice. Presumably, administration of maroon justice was not statically shaped. Several other forms of justice could be convoked, such as the *lantikroetoe*, which consisted of all male villagers, and the *lô kroetoe*, for which all wise men of one clan (*lô*) were assembled.[568] In case of conflict between different clans, or internal community problems, a neutral village envoy could mediate in the trial.[569]

During trial, the defendant was usually absent or only passively present, and was represented by an advocate (often a family member or village captain). Witness testimonies were probably regularly employed as a form of evidence. To extract a confession, torture was also a legitimate instrument, at least among the Saramacca maroons. If a Saramacca suspect persisted in denial, he or she could be tied up to a tree branch by the thumbs, while its body was weighed down by a stone, and could beaten by the victim's kin until a confession followed. Similar to slave justice, ordeals played a central role to test whether a suspect was guilty or innocent (cf. chapter 4.2.1). We do know, for example, that both *kangra* and *sweri* practices were frequently applied by the Saramacca maroons, often to get a confession from people accused of poisoning or sorcery (*wisi*). Someone found guilty of *wisi* was often mutilated and burned thereafter.[570]

Murder, sorcery and incest were accounted as the most serious felonies among maroon communities. More regular offences were hunting and fishing in prohibited territories,

[567] Wijnholt, *Strafrecht in Suriname*, 11-12.
[568] Ibidem, 15.
[569] Fatah-Black, 'The usurpation of legal roles', 10.
[570] Wijnholt, *Strafrecht in Suriname*, 16; Davis, 'Judges, masters, diviners', 959 and 965-966; Buddingh', *De geschiedenis van Suriname*, 167-168 and 172-174.

destroying someone else's pirogue, breaking promises and taking false oaths. Other offences were of a more animalist nature, such as the felling of the holy kapok tree (*kankantrie*) and the killing of tigers and red-tailed boa constrictors. Probably most common disputes were about sexual intercourse. Men were prohibited to seduce and fornicate with someone else's wife and women were not allowed to have intercourse with men from other tribes. Within their own communities, theft did hardly occur, but probably was more problematic beyond communal control.

Punishments varied a lot. A convict could be banned, corporally punished (mostly flogging) and capitally punished (one could be hanged, burned alive or beheaded by machete). Economic penalties were also common. Delinquents could be sentenced to community services or to pay compensation (in liquor, hammocks or pirogues) in favour of the judicial representatives or the victims. Fines and imprisonment, on the other hand, were not known within maroon justice. Apropos, one probably feared the wrath of the Gods more than the earthly punishments. Especially *koenoe*, God of Vengeance, was feared because he would avenge many offences (especially murder, sorcery and incest) with doom and gloom.[571]

6.2.3 Maroons in colonial justice

Colonial prosecution of maroons was somewhat similar to the Amerindians. Despite that maroons enjoyed relative legislative and judicial autonomy in communal spheres, they still had to obey to the colonial laws beyond their own realms. A remarkable difference is that the Ndyuka treaty knew the principle of 'judicial extraterritoriality' once cross-border cases were filed. That is to say, Ndyuka perpetrators had the privilege to be extradited to their own authorities for adjudication and correction in case they violated a colonial law, even if a crime was committed against a white person.[572] However, the colonial authorities demanded that extradited perpetrators had to be punished properly by the maroon authorities, '*even* by death, if necessary'. Conversely, whenever a Ndyuka fell victim to a crime perpetrated by a white person, he or she could file charges with the raad-fiscaal.[573] In the Saramacca and Matawai treaties, judicial inequality between maroons and whites was elaborated more extensively.

[571] Wijnholt, *Strafrecht in Suriname*, 12-15.
[572] In contrast to other forms of extraterritoriality, *in casu*, this privilege did not imply that the Ndyuka laws were applicable beyond their own domains of authority.
[573] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 694; Dragtenstein, *'De ondraaglijke stoutheid der wegloopers'*, 196; Fatah-Black, 'The usurpation of legal roles', 11; Vrij, 'Bosheren en konkelaars', 26; for original quotation, see: Schiltkamp and De Smidt, *West Indisch plakaatboek*, 694 (emphasis is mine): 'Dat daar in tegen sij bosneegers ook sullen gehouden sijn goede sorge te draage geene blanke te ledere of ongelijk aan te doen, of denselve daar na merites voor te sullen straffe, waartoe sij sig bij deese ook verbinde en beloove, ja tot de straffe des doods aan sodanige neeger te sulle oefene'.

Whenever a white person had perpetrated an offence against a Saramacca or Matawai, the Governing Council would 'examine the case' and punish the perpetrator 'according to justice' but only 'if deemed necessary'. Again, vice versa, any maroons who would harm or injure a white, would be 'punished *even* by death'.

Contrary to the Ndyuka maroons, the Saramacca and Matawai were not granted any extraterritorial privileges. Whenever cross-border disputes occurred, the Governing Council pulled the strings. Maroons 'who would violate the agreement or disrupt peace' or 'who would misbehave in presence of a white' had to be caught, handed over to the colonial authorities and punished correspondingly.[574] It seems that the Ndyuka privilege of judicial extraterritoriality was merely short-lived; within a few years the practice vanished tacitly. Still in June 1762, four Ndyuka men refused to be adjudicated before colonial court and demanded their extradition, after they got into a clash with the colonial attorney Rocheteau. Later that month, the previously mentioned 'intermediary' Quassie van Nieuw Timotibo (cf. chapters 4 and 5) had been instructed to inform the Ndyuka that their citizens would be punished by the Governing Council in case of assaults or theft on plantations and in Paramaribo. It remains unclear, though, how the Ndyuka authorities reacted to this imposition. Nevertheless, it appears that, from then on, the Governing Council held control on adjudication of all caught entitled maroons. However, probably to prevent jeopardising peace, the councillors adopted a relatively moderate form of prosecution in which fellow maroons were (slightly) included during prosecution. Punishments were often mitigated and its executions often conducted by fellow maroon residents. Sometimes, the local village chieftains were consulted during the trial.[575]

Due to the limited interaction with colonial society, few cases have taken place that involved maroon perpetrators or victims. A dozen cases have been researched by Vrij, but likely, reveal only a small part of the disputes that occurred in total. His results indicate that maroons stood trial for various crimes such as insolences, brawls, theft and conspiring with (and recruitment of) slaves. Most perpetrators were punished corporally or were banished from the city. In one

[574] Schiltkamp and De Smidt, *West Indisch plakaatboek*, 760; Kambel and MacKay, *The rights of Indigenous Peoples and Maroons*; 59-60; Dragtenstein, *'De ondraaglijke stoutheid der wegloopers'*, 225; Fatah-Black, 'The usurpation of legal roles', 12; for original quotation, see: Schiltkamp and De Smidt, *West Indisch plakaatboek*, 760 (emphasis is mine): 'In gevalle van differente met eenige blanken offdat hun eenig quaad off molest word aangedaan sullen sij gehouden weesen hunne klagten te brengen bij den Heer Gouverneur, die na exigentie van saaken hetselve sal laaten ondersoeken en regt weedervaeren; gelijk sij ook gehouden sullen sijn te straffen alle de soodaanige onder hun die eenig quaad off mollest koomen te pleegen, selfs tot doodstraffe toe, en dezelve desnoods aan de blanken overleeveren, vooral die iets koomen te doen teegen deese accoord off tot verbreeking der vreede, gelijk de blanke ook bevoegt zijn om alle die van hen bij de blanke pexeeren te vangen en te straffen'.

[575] Vrij, 'Bosheren en konkelaars', 25-33; Dragtenstein, '*Trouw aan de blanken'*, 65; Fatah-Black, 'The usurpation of legal roles', 11-12; see also the previously mentioned bylaw of 1783 in: Schiltkamp and De Smidt, *West Indisch plakaatboek*, 1055.

exceptional case the Ndyuka named Purim was hanged after he had tried to recruit a few slaves to leave for the woods in 1765.[576] My samples do not shed more light on the administration of criminal justice of maroon offenders. Only two issues were raised in the board assemblies of the Governing Council, both in 1775, although it is unlikely that these complaints resulted in prosecution. One issue was broached by the plantation manager Hubler of the plantation Wijklust, who had been insulted by the previously mentioned *ostagier* Jeboa. Deliberation about the matter was postponed due to Hubler's absence. In the other instance, two Amerindians were assaulted and their rifles stolen by a group of approximately twenty maroons, allegedly of Ndyuka descent. As far as is known, they never got caught.[577] In my samples, only one maroon has fallen victim to a crime but he did not file a complaint on his own behalf. It concerned the maroon boy Jan, who had been hit in 1799 by Pieter Mulder at the house of A. Lemmers. After the latter intervened, Mulder battered him with profanities. Consequently, Lemmers had sued Mulder, and thereafter, Mulders was confined at Fort Zeelandia to bread and water for eight days.[578]

[576] Vrij, 'Bosheren en konkelaars', 24-33.
[577] NL-HaNA, HPCJ, 1.05.10.02, inv. no. 91, f. 103; inv. no. 92, f. 246-247, 303-304, 455-456 and 466.
[578] Ibidem, inv. no. 770, f. 315-316; inv. no. 864, f. 17-19.

Conclusion: In search for justice

Similar to almost every other eighteenth-century state, Suriname did not know any uniformly codified legal systems nor a constitution that enshrined the rights of its inhabitants. To the contrary, legislation was fragmented, hybrid and often arose impromptu. In addition, Suriname did not know any comprehensive criminal laws or criminal procedure either. These legal lacunae have been the principal foundations of legal and judicial inequality in eighteenth-century Suriname and shaped the conditions for the colonial authorities to impose the rule of law in the way they did. However, over the course of the eighteenth century, the Surinamese population was gradually but increasingly incorporated into the colonial legislature and judiciary. This was a process that was not solely imposed top-down by the colonial authorities, but rather came about by jurisdictional jockeying between various actors. Due to the presence of a plural society – Suriname accommodated peoples from all over the world that introduced their own sorts of values, customs and judicial forums – eighteenth-century Suriname evolved into a society of legal and judicial pluralism. The transition of that pluralist system into a more singular state-centred government, has been a common thread throughout this thesis.

Hitherto, scholarly works on the history of early modern Suriname have paid little attention to the colonial legislative and judicial powers. Contributions mainly consisted of lateral remarks that were based on travel accounts. These accounts were very critical of the cruel and unequal treatment by planters (and the colonial authorities), in particular with regard to slaves, and were generally based on juxtaposing the 'subservient' slaves vis-à-vis the 'supreme' white authorities. This thesis has endeavoured to test these assertions, not only by comparing the positions of slaves and whites but rather by juxtaposing all the mayor population groups (i.e. whites, foreign whites, Jews, slaves, manumitted slaves, freeborn non-whites, Amerindians and maroons) that inhabited the colony of Suriname during the eighteenth century. In addition, it has aimed to breach with the top-down, colonial perspective as the sole point of view by including the practice of both the Governing Council and the subsidiary institutions. Because Suriname has been a plural society, one can simply not omit the (voices of the) many subaltern inhabitants that, initially, each had their own legal and judicial systems.

The first two chapters of this thesis started by contextualising the conditions that have shaped the legal and judicial margins from which the colonial authorities operated. At the core of the colony's legal basis stood the WIC charter, which provided supreme legislative, executive and judicial power to the Governing Council. This council was elected by the white male landowning elite of Protestant (and Jewish) descent. Consequently, at least until the

beginning of the nineteenth century, Suriname's primary administrative body mainly consisted of Protestant planters. This has been an essential condition for the case of Suriname, because the colony was primarily a plantation economy that was sustained by the upholding of the institution of slavery. Due to the lack of uniform legal codes, the governing councillors had unprecedented power at their disposal to reign over their inhabitants. As they were empowered to issue bylaws at any time and for any reason, they could deliberately mould the social stratification of the Surinamese society to serve their own interests. It is striking, however, that stratification had never been explicitly legally embedded from the very start of the colony and the introduction of the institution of slavery. No set of regulations had been issued that properly regulated the legal positions of the different sorts of population groups that inhabited Suriname. In contrast, the councillors both explicitly and implicitly incorporated several distinctions over the course of time, by means of bylaws that curbed the power of the Surinamese inhabitants step by step. In general, these bylaws did not contain any marks of civil rights nor legal protection, at least not during the eighteenth century. The mainstay of the bylaws rather consisted of codes of conducts and the criminalisation of certain acts. Both deliberately constrained the freedom of the more subservient inhabitants of the colony.

The Governing Council consisted of the governor, the military commander, the secretary, nine councillors and the raad-fiscaal. The councillors and the military commander had one vote each in both legislative and judicial decisions. The governor held supreme conclusive power: he had the casting vote in case of electoral draws and could mitigate or pardon sentences at his own discretion. The raad-fiscaal had merely an advisory role and was often the only academically qualified legal expert present at the meetings of the Governing Council. Within the judiciaries, he functioned as a public prosecutor who would lead the entire process of prosecution from accusation to indictment. His advice was the bedrock on which the councillors eventually formulated a verdict. In order to safeguard his neutral position, the raad-fiscaal would withdraw himself from the assembly to enable the Governing Council to freely deliberate about a verdict. There were hardly any predetermined blueprints for the administration of justice in early modern Suriname. No comprehensive instructions were introduced by the authorities in patria nor developed by the Governing Council. In contrast, criminal procedure was rather dynamic. Many procedures were simply copied from customs in patria whereas others were invented along the way. Additional guidelines were often imposed only when necessary.

Thus, the Governing Council had exceptional power that, in theory, could be used to bend both laws and judicial decisions to the councillors' own interests. Chapter 3 to 6 have examined how the colonial authorities actually used these mechanisms in practice and whether they have

been deployed to deliberately enforce social stratification among its different population groups. The simple answer to the latter question is obviously affirmative. Different sorts of population groups have been unabashedly treated on unequal legal and judicial footing. Contemporaries such as Stedman and historians such as Beeldsnijder have been definitely correct about the disparate legal and judicial treatment – and its consequent cruel punishments – with regard to slaves. But the situation was far more complex. In practice, early modern Surinamese society was structured by a social hierarchy in which, without any doubt, (Protestant) whites were superior. Jews followed, with their unprecedented privileges. Next in line were respectively freeborn non-whites and manumitted people. After that came the Amerindians and subsequently the maroons. Obviously, the slave population stood at the bottom of society. This social hierarchy dominated the Surinamese society during the entire eighteenth century.

This thesis has scrutinised three criteria to gauge the various degrees of inequality among the different population groups. Firstly, it has examined how the legal positions of the different population groups have been embedded within the colonial laws. During the entire eighteenth century, legal positions have not been concretely predetermined for every population group. However, rights of whites and Jews (the latter to a lesser extent) were relatively well enforced by legislation. Both the metropolitan authorities and the Governing Council warmly welcomed white migrants, no matter whether they were Dutch, foreign European or coming from other colonies. Jews, in contrast, held a more ambivalent position within colonial society. Compared to almost every other eighteenth-century Western state, Jews were granted unprecedented privileges in Suriname. However, despite that colonial society was not permeated with discrimination of Jews, anti-Semitism was still latent. Occasionally, similar voices resonated in the Governing Council by councillors who wanted to curb the power of the Jewish community, although these attempts seldom succeeded. Nevertheless, Jews were never treated or regarded as full-fledged citizens, at least until in the second quarter of the nineteenth century when all religious denominations were declared equal.

The farther one descended the social ladder, the less civil rights were embedded within the laws, whereas the number of prejudicial, restrictive bylaws blatantly augmented. The best example is of course the legal position of slaves, which has been marginal at best. Slaves had an ambivalent legal position that balanced between those of ‘persons’ and ‘goods’. Based on the Roman *persona-res-dominium* paradigm, slaves were legally defined as ‘unfree’ humans that could not dispose of their own bodies or lives but, in contrast, had to fully obey the (sometimes capricious) will of their white superiors. Notwithstanding, slaves could still be held

morally and legally liable for their own deeds. The issuance of bylaws with regard to slaves perfectly illustrates the Governing Council's discriminatory policy. Over the course of time, a rigid system of restrictive bylaws had been imposed to instruct the enslaved populations about their do's (i.e. codes of conduct) and don'ts (i.e. acts that had been criminalised by law). In those bylaws, slaves were almost completely deprived of their liberties, whereas any form of legal protection was almost non-existent. At least until the second half of the eighteenth century, slaves' nutrition, working conditions, medical healthcare, housing and clothing were almost entirely unregulated and, instead, fully left at the mercy and whims of their owners. Thereafter, the Governing Council imposed some regulations.

The legal position of free non-whites was poorly regulated as well. Free non-whites had either obtained their freedom by manumission (the manumitted) or by parental inheritance (the freeborn). Although the process of manumission was regulated in the manumission regulations of 1733, these regulations did not embed any rights or legal protection for the manumitted, and thus, not for their freeborn descendants either. One could argue that this lack of legislation would, in theory, equalise free non-whites' civil rights with those of other *free* citizens. Unfortunately, in practice, they were legally neither fish nor fowl. The colonial authorities acknowledged free non-whites some fundamental rights but those were merely based on customary laws. Therefore, the governing councillors had much leeway to introduce discriminatory bylaws. Especially in the second half of the eighteenth century, after free non-whites started to grow in numbers, the Governing Council imposed discriminatory regulations that limited the rights and liberties of free non-whites.

Amerindians and (entitled) maroons were legally the odd men out. During the end of the seventeenth century and the course of the eighteenth century, the Governing Council had waged wars with various Amerindian and maroon peoples. Because both were located on the fringes of the colonial purview, the Governing Council had never been able to fully place them under colonial command. After peace treaties were signed, these peoples were entitled to live relatively autonomously in the hinterlands of the colony, according to their own laws and values. In general, no particular discriminatory bylaws were imposed to the Amerindians and maroons, except from a few economic restrictions in trade and the prohibition of exchanges of arms. The Governing Council managed to incorporate the maroons somewhat more tightly into the colonial fold than the Amerindians. Maroons became subjected to different mechanisms of control: they were placed under more regulated contact with the colonial authorities and were confined in their freedom of movement.

As for the second criteria, this thesis has scrutinised the different kinds of legal and judicial forums that each population group had at its disposal to internally deal with crimes and conflicts. Analysing these particular forums, enabled us to gauge the degree of autonomy per population group. By means of this method, this thesis has reaffirmed that the colonial rule of law took shape through jurisdictional jockeying. During the eighteenth century, the consolidation of power of the Governing Council was especially impeded by geographical distances. Urban dwellers such as whites and free non-whites were easily incorporated into the colonial purview. The Protestant community was the most exemplarily integrated. Their consistories functioned as the eyes and ears of the Governing Council within their communities and primarily dealt with small religious, interpersonal and marital matters that dominated the daily lives inside these communities. The consistories' judicial competences mainly consisted of correcting moral issues. However, politically, their clergymen were often nothing but stooges of the colonial authorities. Even the tiniest local decisions – whether they were of religious, political or organisational nature – were instructed by the Governing Council.

Free non-whites did not have any autonomous political or judicial forums but, instead, became directly incorporated into the colonial fold. As long as they met the same requirements as whites, they were granted suffrage, although previously enfranchised manumitted people were deprived of their voting rights after 1775. In addition, because freeborn had to be baptised directly after birth, and manumitted people as a requirement to become eligible for manumission, the free non-white community fell directly under the authority of the Protestant consistories. As it is beyond the scope of this research, it is unknown whether free non-whites were discriminated within these local administrative bodies.

There are no indications that political organisations ever existed among slaves but there are several insights about justice among slaves. They could individually deal with petty crimes or disputes whenever they wanted to keep them off the radar of their white superiors. For that reason, adjudication was mostly conducted clandestinely. However, whenever it would suit their own interest, they could also decide to report crimes or disputes to their superiors. Under (often more uncontrollable) circumstances slaves would rather prefer to file a report, especially when the safety of the enslaved community would be endangered. In addition, sporadically, slaves used the colonial legal forums as a proxy to accuse adversary slaves.

To the unfortunate fate of the slaves, they were subjected to another form of local justice as well: domestic justice. Under the (almost unlimited) mandate of this notorious jurisdiction, slave owners (or planters) could correct their slaves at their own discretion. Besides offences that had been criminalised by colonial law, owners could punish any other acts that they deemed

inappropriate as well. During domestic trials, they could personally give shape to the form of litigation and punishment. Domestic punishments mainly consisted of corporal punishments and varied from flogging to the most gruesome practices; only capital punishments and severe mutilations were prohibited to sentence. It is, however, very hard to gauge how often whites overstepped the (legal) line, because domestic litigation was hardly legally embedded (nor were its practices registered). In any case, domestic jurisdiction must be considered as the most non-transparent judicial system in early modern Suriname. The treatment of slaves was fully dependent on the capriciousness of their white superiors. Enslaved suspects that had committed a felony, endangered the safety of their master (or that of others) or challenged their master's authority, would usually be handed over to the colonial authorities.

The Governing Council had a more challenging time to incorporate other population groups into the colonial purview, such as the Savannah Jews, Amerindians and maroons. All of them were spatially separated from the colonial authorities by savannahs and densely overgrown jungles. Probably largely due to the geographically limited realm of the Governing Council, all of these population groups were granted relative legal and judicial autonomy. The local administrative body of the Sephardic Jews, the Mahamad, which was located in the Jew Savannah, could adjudicate in both religious and secular civil affairs, although its competence in the latter was fairly more limited. In addition, Jews could deliberately make use of the colonial forums whenever they would assess that they had better chances in colonial court. Because Jews were not considered as full-fledged citizens, they had to continuously fight for their rights. As a result, the Mahamad made several attempts to expand the jurisdictional boundaries in favour of its own competences. However, because the lion's share of the Jews started to abandon the Jew Savannah and migrated to the capital at the end of the eighteenth century, Jews probably became more closely incorporated into the colonial fold after all.

Amerindians and maroons were even more autonomous than Jews and managed to sustain that autonomy for a considerably long time. They only touched the laws of the colony by inches, and therefore, could relatively autonomously govern their communities according to their own laws and customs. In addition, they could independently adjudicate internal crimes and conflicts, for which they usually applied forms of frontier justice. However, maroon justice was more sophisticated than that alone: it also knew various forms of more institutionalised dispute resolution, although it is unclear for what reasons maroons appealed to a judicial body instead of taking justice into their own hands.

The forms of political autonomy of the Jews, Amerindians and maroons cannot be considered as decentralised forms of government, like it had been the case for the Dutch

Republic, but rather as forms of suzerainty, in which a certain degree of independence was granted in exchange for tributes. Although they had their own laws and judicial forums at their disposal, at any time, they had to acknowledge the supremacy of the colonial laws and judiciaries. In exchange for relative independence, the local administrative bodies had to repay their debts in services, such as military assistance and extradition of runaways. However, with the exception of the Jews, the communities were not compelled to pay any taxes.

For the third criteria, this thesis has examined how the different population groups have been criminally prosecuted in the Governing Council. Generally, the council had a monopoly over the adjudication of criminal offences in the entire colony. This implied that every Surinamese inhabitant that was linked to a committed crime, whether as suspect, victim or witness, could be summoned to justify itself to the criminal court. Similar to inequality in legislation, the same social hierarchy was observable in the judicial realm. The lack of legal protection, combined with the large mandate from which the governing councillors could judicially operate, were the prime conditions for judicial inequality.

No indications have been found of ethnic or religious discrimination against whites, despite the motley crew of Western foreigners that inhabited Suriname. In order to juxtapose this relatively fair and unbiased judicial climate with other population groups, a model has been reconstructed of justice for whites. Based on those results, a few things stand out in particular. Compared to the other communities, whites were much more represented in the sources as suspects, victims, witnesses and submitters of criminal cases. This high frequency confirms that whites had easy access to the colonial system of justice and used it whenever it suited them. They had several judicial instruments at their disposal to support their claims or defences during litigation. The sorts of crimes perpetrated by whites were quite varied both in nature and enormity but, in general, all of the related verdicts were relatively mild. In three-quarters of the cases, the Governing Council sentenced a non-corporal punishment, whereas corporal punishments were imposed sporadically. Capital punishments occurred hardly at all.

The statistics on criminal justice of Jews have been included in this model of justice for ‘whites’, as there have been no indications that the Governing Council treated Jews judicially different than other white inhabitants, not in access and use of justice nor in the judicial documents or verdicts. Interesting is, though, that only in a few instances, cases have been submitted from the Jew Savannah. The scarce number of savannah cases either implicates that Savannah Jews were relatively reluctant to complain to the Governing Council, and therefore, several crimes simply stayed off the grid; or that the Mahamad had more sway among its community members than the governing councillors imagined, and thus, clandestinely dealt

with criminal matters internally. The frequency of cases concerning urban Jews appear to have been significantly higher, among both defendants and claimants.

Conversely, slaves had only marginal access to justice or to additional judicial instruments. The considerably shorter length of their judicial documents suggests that slaves were less able to defend themselves in court compared to other population groups. Their defences were often limited to their own interrogations and the deposition of their owners. Generally, slaves were not assisted by any additionally supporting documents during trial and most certainly not by an attorney. Enslaved suspects that had been convicted, could be sentenced to the most abhorrent punishments that were extremely disparate compared to punishments for whites. Crimes in which whites fell victim to violence, theft or uprisings by slaves were especially severely punished. Enslaved victims had very poor chances in criminal justice as well. The mainstay of the criminal cases with regard to enslaved victims concerned physical violence offences that had been filed by their owners in order to redeem incurred financial damage. The victims themselves, to the contrary, had merely limited access to individually file complaints. Even when they succeeded to acquire access, they had a very slim chance to make a solid case. Because barely any acts against slaves had been criminalised by law, it was simply very hard to find sufficient grounds to prosecute whites for committing excesses. Therefore, hardly any whites have been punished for their atrocities against slaves. For the same reason, the lion's share of the registered enslaved victims consisted of aggravated assaults or (attempted) murder. Punishments for whites that had actually been convicted of crimes against enslaved victims, were exceptionally moderate. Although attempts have been made to impose more severe punishments for whites, those proposals were usually rejected by the governing councillors.

The other population groups stood somewhere in between of those two extremes, according to their sequence on the social ladder. Based on the origin of the suspect's or victim's population group, he or she was treated correspondingly in court. Access to justice, use of justice, the value of depositions and the severity of punishments were all relatively better compared to slaves, but still unequal compared to whites. The higher one was positioned on the social ladder, the better one could present itself in court. However, whenever whites would be adversely affected by the actions of a minority litigant, chances were usually worse for the latter. In most of those cases, whites were still considered supreme.

For the adjudication of free non-whites, historiography usually refers to the trial against Elisabeth Samson which example displayed undeniable judicial discrimination against a free non-white. However, emphasis on a single example might obfuscate perceptions. My samples, in contrast, indicate that Samson's trial must be considered as an exception. Generally, free

non-whites appear to have had open access to criminal justice. Several examples are known of free non-white victims that deliberately made use of the colonial courts to defend their own rights and interests. Their complaints were taken seriously, especially when their freedom was contested. In several instances, free non-whites victims could even make solid cases against white perpetrators. The mainstay of free non-white suspects, appear to have been equally treated in criminal justice as well. They could defend themselves adequately enough to prove their innocence, although it would have helped if their depositions had been endorsed by a white witness. However, free non-whites were certainly not judicially treated on equal footing with whites. Firstly, under some circumstances, their depositions could be considered less reliable or even unaccountable. Manumitted people, for instance, were not allowed to sue nor witness against their former owners. In addition, whenever free non-whites' depositions were merely self-contained and would be contradicted by depositions of whites, or would adversely affect whites, their depositions would be considered less accountable as well. Secondly, although free non-whites were sentenced to considerably more lenient punishments than slaves, there were still significant differences in punishments compared to whites. Especially offences perpetrated against whites were considered as an aggravated circumstance, and therefore, punished more severely. This disparity is remarkable, because there were no separate penal provisions registered for whites and free non-whites (like there were in eighteenth-century Curaçao).

As a result of the peace treaties, Amerindians and maroons could freely administer justice, for as long as they stayed out of the circle of interest of the colonial government. Probably as a lesson learned from the peace conditions with the Amerindians, the Governing Council endeavoured to incorporate the maroons more closely into colonial justice; but to no avail. For both the Amerindians and maroons, judicial mechanisms were entirely different once one of its community members had crossed its path with someone that did not originate from that same community. In those instances, litigants were redirected to the colonial authorities. After all, Amerindians and maroons could still be held liable for not obeying the colonial laws beyond their own realm. Criminal records of the Governing Council have shown the limitedness of interactions between Amerindians and maroons vis-à-vis other peoples. The relative paucity of criminal cases can be partially explained by the fact that their communities lived more remote and thus had fewer encounters with the outside world. On the other hand, it was quite simple to flee back into the overgrown woodlands after committing a crime, and thus, adjudication was often only initiated when someone was caught in the act. It would be too risky to draw any bold conclusions about judicial inequality for Amerindians and maroons based on the limited material found in my samples.

To recap, historiography has been certainly correct about the extreme inequalities in legislation and justice in eighteenth-century Suriname. However, one mayor caveat must be broached as historiography has been entirely wrong about the *character* of criminal justice. The depiction that Surinamese justice was arbitrary must be revoked without any doubt. Despite the disparate and biased forms of treatment, colonial justice has been considerably more thorough than deemed before, even with regard to slaves. There have been no signs that the Governing Council has functioned as a kangaroo court. The councillors operated within the margins of their (large) mandate but there seem to have been no gross violations of those rules. No examples have been found of suspects that had been convicted without any form of trial; all suspects were (at least) interrogated before a verdict was reached.

Moreover, from the second half of the eighteenth century several minority litigants started to search for justice on their own behalf, in particular free non-whites. A small number of slaves voluntarily went to the colonial court as well – despite the risks that they would expose themselves to. This development indicates a certain increase of confidence among minority groups in colonial justice. Generally, every complaint that was reported to the colonial authorities, was taken seriously and investigated to at least some extent, irrespective of the petitioner's descent. However, that did not imply that every accusation would result in a prosecution. If the governing councillors decided to initiate a prosecution after all, it was still quite a challenge for minority litigants to make a case. Nevertheless, the Governing Council did certainly not adopt a one-dimensional stance in favour of whites at the expense of other population groups. Although the former were more easily to be proved right, in practice, verdicts could vary in favour of both litigant parties. In the end, not every lawsuit that had been petitioned by a minority claimant did necessarily have to have the support of white witness to make a case against a white defendant.

In addition, this thesis has shown that verdicts of suspects did not come about arbitrarily either but were rather based on jurisprudence. In reaching a verdict, the authorities weighed the conclusiveness of the evidence and took into account aggravating or mitigating circumstances, such as confessions, recidivism, age, gender, alcohol abuse and the combination with other crimes. All these circumstances influenced the pattern in which culprits were punished. In the end, an appreciable share of the suspects was exonerated, even among enslaved suspects. Moreover, despite the significant inequalities in sentences between the different population groups, there seems to have been a structural equality in the composition of verdicts *within* each population group. The existence of structural equality within an environment of judicial inequality has been in accordance with the pattern that has been observed by Egmond for the

Dutch Republic, where certain minority groups such as Jews, gypsies and vagrants were treated judicially unequal as well. In Suriname, the presence of the institution of slavery introduced a whole new dimension to the structural equality within a system of inequality.

The assertions of both contemporaries such as Stedman and historians such as Beeldsnijder, that all slaves were corrected by extreme punishments, must be nuanced as well. The hitherto sole focus on these punishments is merely one-sided. Because the colonial authorities took any mitigating or aggravating circumstances into consideration, slave punishments were not always as strict as depicted in historiography. In practice, the range of punishments was much wider. Especially the share of sentenced capital penalties must be downsized considerably. Generally, for all population groups, punishments were milder than those prescribed in the penal provisions of the Penal Ordinances of 1669. This pattern was in accordance with the practices in the Dutch Republic as well.[579] Moreover, during the second half of the eighteenth century, severity in punishments seems to have diminished, both for whites, slaves and free non-whites.

An additional question that can be raised based on this thesis, is on what grounds the discriminatory policies of the Governing Council have been justified. Hitherto, historiography about the slaveholding Atlantic has tended to explain inequality primarily as a result of racist societies. Interesting is, however, that these works generally agree that inequality did not disappear after emancipation. This precisely stresses the crux of the matter: in my conviction, most historians have too easily used the concepts of 'race' and 'status' interchangeably, without properly explaining the real causes of inequality. Through our twenty-first-century perspective, it is very tempting to explain inequality as a result of racial or ethnical prejudices. However, this thesis has shown that it is extremely hard to prove that legal and judicial discrimination had been fostered by racism. No discriminatory regulations have been found in the bylaws that can be explained by race. In addition, for none of the population groups, racial utterances have been found in criminal justice. The judicial documents seem to have consisted primarily of summations of facts. Moments in which one should expect to find value judgements were, first of all, the indictments that had been submitted by the raad-fiscaal, in which the latter assessed the suspect's guild. However, these advocacies seem to have been very professional for its time and do not contain any racial utterances at all. Other value judgements were the moments of deliberation about verdicts. Unfortunately, these deliberations took place behind closed doors and were never written down. It would be merely conjecture to draw any conclusions about

[579] Cf. Spierenburg, *Judicial violence in the Dutch Republic, 63-118.*

what has been discussed by the governing councillors behind those doors. Therefore, it is impossible to gauge whether race played a decisive role in reaching discriminatory verdicts.

Notwithstanding, both the bylaws and the (introductory pages of) judicial documents have been permeated with racial adjectives. One could argue that, in theory, these frequently mentioned racial terms are proof of racial discrimination. Whenever the colonial authorities referred to slaves, they were often pigeonholed as 'blacks', 'creoles', 'mulattoes' or '*karboegers*', whereas the epithet 'slaves' was barely used at all. Free non-whites were usually referred to as 'free blacks' or 'free mulattoes'. Amerindians were systematically labelled as '(free) Indians' and maroons as '(entitled) bushmen' (*bevredigde boschnegers* or *marrons*). Whites were *mutatis mutandis* never categorised as 'whites'. Their (baptised) names would normally suffice. However, it is questionable whether these racial adjectives had any discriminatory connotations or whether they were rather deployed to categorise between population groups, and thus, to distinguish in status. In my conviction, racial adjectives primarily served to describe the appearance of a suspect; a custom that was common ever since the onset of the Age of Discovery.[580] In the same way, this thesis has used similar racial categories such as 'whites' and 'free non-whites' purely out of methodological convenience. Because I have found no clues to connect the usage of these racial adjectives to direct racial discrimination in legislation or justice, I believe that, at least with regard to legal and judicial inequality, racism is rather a nineteenth-century phenomenon.[581]

Conversely, this thesis has shown that, at least with regard to eighteenth-century Suriname, inequality was rather based on status in order to uphold the Surinamese plantation economy and the institution of slavery. This statement is compatible with Paton's findings on early modern British Jamaica, where she concluded that judicial racism was rather a nineteenth-century phenomenon that arose during the transition period of slavery into emancipation. Racism thus became the instrument to restrain the emancipated population, in a similar way that distinction based on status had been previously employed to keep the enslaved population in check. In accordance with Paton's findings, I argue that Suriname's historians such as Van Stipriaan have been correct in emphasising on the importance of the divide and rule strategy to uphold the institution of slavery. During the entire existence of the colony, legislation and justice have

[580] Cf. E. van den Boogaart, 'Colour prejudice and the yardstick of civility: the initial Dutch confrontation with black Africans, 1590-1635' in: R. Ross (ed.) *Racism and colonialism. Essays on ideology and social structure* (The Hague 1982) 33-54, there passim.
[581] Cf. Peabody and Grinberg, *Slavery, freedom, and the law in the Atlantic World*, 27; Paton, *No bond but the law*, passim; F. Sysling, *De onmeetbare mens. Schedels, ras en de wetenschap in Nederlands-Indië* (Nijmegen 2015) passim.

been used to deploy social stratification in order to restrain the subservient enslaved population. Legal and judicial inequality were the main instruments to justify and strengthen the status quo that was, at the eighteenth century, almost completely revolved around slavery. Because, until the end of that century, the Governing Council mainly consisted of planters that had both legislative, executive and judicial powers at their disposal, the status quo could be very easily bent to their own interests. The lack of legal protection, the limited legal capacities, the multitude of restrictive bylaws and the severe punishments with regard to slaves, are clear indicators that kept the enslaved population in check and prevented them from successfully challenging the institution of slavery on the plantations and in court. The fact that the (few) attempts to improve legal and judicial protection of slaves have been mostly thwarted by the governing councillors, endorses that assumption.

Although these mechanisms primarily served to uphold the institution of slavery, similar distinctions took root in other subservient population groups as well, such as manumitted people and entitled maroons. For both population groups, discrimination based on status should, in theory, have played no role anymore because they were no longer enslaved. However, in practice, their previously unfree status often continued to haunt them both in daily life and in court. Both actors were frequently reminded to be grateful to whites for granting them freedom. This was particularly the case for the manumitted. The *obsequium* principle, which had been encapsulated in the conditions of their freedom, legally determined that they still considered obsequious whenever a white person was involved.

The fact that legal and judicial inequality were primarily deployed to justify and enforce differences in statuses, does not imply that discrimination based on racial bias can be ruled out entirely. In Suriname, freeborn were the only eighteenth-century exception. Whereas, in case of the manumitted, the stigma of former slavery often lingered, freeborn were the first minority group that was not bound by status. Their legal position highlights that the transition from slavery to emancipation was not a static phenomenon that simply occurred overnight. In theory, there were no legal grounds for unequal treatments of freeborn vis-à-vis whites and no indications of deliberate social stratification have been found in the bylaws. However, in daily (social) life, the first signs of racial discrimination started to appear when freeborn were socially excluded from particular activities and places. The selectivity of the Governing Council to deny freeborn the right to marry interracially, based on one's skin colour, has been the best proof of that. Another indication are the disparities in verdicts between white and freeborn convicts in the verdicts. Although freeborn were but one of the few non-white eighteenth-century citizens that were fortunate to enjoy their lives in liberty, their search for justice had only just begun.

Archival sources

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1.01.02: Staten-Generaal (merendeel 1576-1796).

9504 Dossier betreffende het proces voor de Staten-Generaal van Joseph Samuel Cohen Nassy, wonende in Suriname, impetrant bij mandement van revisie contra Joseph de Meza, wonende in Suriname, gedaagde, gezonden aan de Staten-Generaal. In tweevoud (1749 t/m 1750).

9507 Brief met bijlagen van gouverneur en raden van Politie en Criminele Justitie van Suriname aan de Staten-Generaal naar aanleiding van het proces van hun fiscaal mr. G. Curtius R.O., impetrant in cas penaal contra Andries Godfried Dietz, beheerder van de plantage 'Zoelen' in Suriname, gedaagde (1749 t/m 1759).

9543 Conclusie van verzoek van defaute aan de Staten-Generaal overgegeven door Cornelis Thierry de Bye als procureur van Juda Jacobs Courlander, zijnde van de Hoogduitse Joodse Natie, gewoond hebbende te Paramaribo, impetrant van mandement van revisie contra mr. I.G.W. Wicher, fiscaal van Suriname, gedaagde (1773).

9549-9550 Dossier betreffende het proces voor de Staten-Generaal van Laurens Brandligt als directeur van een fonds van negociatie ten behoeve van diverse planters in Suriname, impetrant bij mandement van revisie contra de insolvente boedel van Barend Constantijn Doris van Rees, gewezen eerste exploiteur van deze kolonie, gedaagde. In tweevoud. Omslag 1 (1775).

1.05.03: Sociëteit van Suriname (merendeel 1682-1795).

Registers van resoluties.

17 (1683-06-03 t/m 1684-12-22).
22 (1702-01-02 t/m 1705-12-30).
23 (1760-01-18 t/m 1710-12-05).
26 (1722-01-07 t/m 1725-12-05).
27 (1726-03-06 t/m 1729-12-01).
32 (1741-01-04 t/m 1742-12-19).
36 (1746-01-05 t/m 1746-12-21).
39 (1749-01-02 t/m 1749-12-17).
41 (1751-01-06 t/m 1751-12-15).
43 (1753-01-03 t/m 1753-12-24).
44 (1754-01-02 t/m 1754-12-18).
51 (1761-01-07 t/m 1761-12-16).
52 (1762-01-06 t/m 1762-12-15).
58 (1768-01-06 t/m 1768-12-21).
61 (1771-01-02 t/m 1771-12-18).
62 (1772-01-02 t/m 1772-12-29).
63 (1773-01-20 t/m 1773-12-15).
66 (1776-01-03 t/m 1776-12-18).
67 (1777-01-15 t/m 1777-12-17).
74 (1784-01-03 t/m 1784-12-31).
78 (1788-01-09 t/m 1788-12-31).
81 (1791-01-19 t/m 1791-12-27).

82 (1792-01-08 t/m 1792-12-19).

Resoluties van Gouverneur en Raden. Met bijlagen. Afschriften.

131 (1719-01-16 t/m 1724-05-13).
137 (1745-02-01 t/m 1745-12-14).
142 (1750-02-02 t/m 1750-12-17).
167 (1774-12-26 t/m 1776-01-05).

1.05.10.02: Hof van Politie en Criminele Justitie in Suriname (1684-1816).

Minuut-notulen van de ordinaris en extra-ordinaris vergaderingen van het Hof van Politie en Criminele Justitie.

7 (1709-04-10 t/m 1711-06-24).
8 (1719-01-16 t/m 1720-12-06).
9 (1721-04-17 t/m 1722-12-17).
16 (1735-01-26 t/m 1735-12-26).
17 (1736-01-05 t/m 1736-12-11).
18 (1737-01-21 t/m 1737-01-18).
19 (1738-01-13 t/m 1738-01-12).
20 (1739-02-16 t/m 1740-12-07).
22 (1742-01-19 t/m 1742-12-07).
23 (1743-01-21 t/m 1743-06-08).
24 (1739-01-05 t/m 1743-11-14).
25 (1743-08-01 t/m 1743-12-24).
27 (1744-08-04 t/m 1744-12-22).
28 (1745-02-01 t/m 1745-06-09).

Minuut-notulen van de ordinaris en extra-ordinaris vergaderingen van het Hof van Politie en Criminele Justitie betreffende politieke zaken.

31 (1746-01-07 t/m 1746-07-26).
32 (1746-08-15 t/m 1747-01-03).
35 (1747-08-15 t/m 1747-11-09).
39 (1748-07-15 t/m 1748-11-13).
41 (1749-05-05 t/m 1749-07-10).
42 (1749-08-04 t/m 1749-11-25).
44 (1750-02-02 t/m 1750-05-08).
45 (1750-05-20 t/m 1750-08-22).
46 (1750-08-24 t/m 1751-01-27).
48 (1751-04-13 t/m 1751-07-10).
49 (1751-08-31 t/m 1752-12-27).
51 (1754-01-05 t/m 1754-12-28).
56 (1757-05-31 t/m 1757-08-03).
59 (1758-06-03 t/m 1758-12-16).
62 (1760-01-02 t/m 1760-12-20).
63 (1761-01-17 t/m 1761-07-30).
65 (1761-12-24 t/m 1762-08-27).
68 (1763-05-26 t/m 1764-01-28).
70 (1764-07-13 t/m 1765-01-21).
71 (1765-02-04 t/m 1765-07-10).
73 (1765-12-20 t/m 1766-06-30).
74 (1766-08-05 t/m 1766-12-19).
77 (1767-12-22 t/m 1768-05-20).
78 (1768-05-21 t/m 1768-12-16).
79 (1768-12-17 t/m 1769-05-19).
80 (1769-05-22 t/m 1769-12-13).
84 (1771-05-24 t/m 1771-12-20).
86 (1772-05-22 t/m 1772-12-21).
88 (1773-05-21 t/m 1773-12-23).
90 (1774-05-24 t/m 1774-12-15).
91 (1774-12-26 t/m 1775-05-24).
92 (1775-05-26 t/m 1775-12-22).
93 (1775-12-27 t/m 1776-05-24).
94 (1776-05-25 t/m 1776-09-02).

102 (1778-06-03 t/m 1778-08-20).
111 (1780-09-06 t/m 1780-12-18).
112 (1780-12-19 t/m 1781-03-09).
122 (1783-09-08 t/m 1783-12-23).
125 (1785-01-17 t/m 1785-05-31).
126 (1785-06-06 t/m 1785-12-29).
130 (1788-01-11 t/m 1798-01-12).
133 (1790-08-02 t/m 1790-12-28).
144 (1799-01-14 t/m 1799-12-27).

Chronologisch-alfabetische index op de minuut-notulen van de ordinaris en extra-ordinaris vergaderingen van het Hof van Politie en Criminele Justitie betreffende politieke zaken.

165 (1733 t/m 1761).
166 (1762 t/m 1772).
167 (1773 t/m 1775).
168 (1775 t/m 1778).
169 (1775 t/m 1778).
170 (1779 t/m 1788).
171 (1789 t/m 1791).

Minuut-notulen van het Hof van Politie en Criminele Justitie betreffende zaken van defensie; met bijlagen ('insertiën').

178 (1798-02-09 t/m 1799-01-04).
179 (1799-01-14 t/m 1799-12-27).

Minuut-notulen van de gecombineerde vergaderingen van het Hof van Politie en Criminele Justitie en het Hof van Civiele Justitie, met bijlagen.

197 (1739 t/m 1750).

Register van de 'Poincten', waarvan de behandeling door het Hof van Politie en Criminele Justitie is uitgesteld tot een volgende vergadering.

199 (1767-05 t/m 1786-12).

Register van plakkaten, ordonnantiën, resoluties van de Raad van Politie, van de Raad van Politie en Justitie, van het Hof van Politie en Criminele Justitie en van de gouverneur.

215 (1700-01 t/m 1705-07).

Register van plakkaten, publicaties, notificaties ('Placaetboek').

217 (1683 t/m 1713).

Gedrukte plakkaten, publicaties, notificaties.

223 (1760 t/m 1762).

Recueil van de privileges, vergund aan de Portugese Joden in de kolonie Suriname.

238 (1746 t/m 1754).

Askamoth of kerkelijke instellingen van de Portugees-Joodse natie in Suriname, in 1754 geapprobeerd door de Prinses van Oranje; uit het Portugees vertaald in 1784.

239 (1754 t/m 1784).

Ingekomen rekesten met daarop genomen beschikkingen, benevens de op de rekesten ingewonnen berichten enz.

346 (1750-02).
347 (1750-03 t/m 1750-06).
348 (1750-07 t/m 1750-12).
413 (1775-02 t/m 1775-05).
414 (1775-08 t/m 1775-12).
469 (1799-02).
470 (1799-05).
471 (1799-08).

Ingekomen rekesten met daarop genomen beschikkingen, benevens de op de rekesten ingewonnen berichten enz. (voornamelijk aanvragen om brieven van vrijdom voor slaven).

538 (1799-12).

Ingekomen rekesten (voornamelijk ongedisponeerde), buiten de algemene serie gehouden.

542 (1750 t/m 1751).
543 (1750 t/m 1753).
546 (1769 t/m 1787-05).

Ingekomen memories met daarop genomen beschikkingen, benevens de op de memories ingewonnen berichten enz.

550 (1750 t/m 1753).
558 (1774 t/m 1776).

Opgaven van blanken, vrijen en slaven: roosters van opgecommandeerden; rapporten betreffende weggelopen en wedergekregen slaven, enz., ingezonden door de burger-kapiteins.

582 (1766 t/m 1775).

Opgaven van blanken, vrijen en slaven: roosters van opgecommandeerden; rapporten betreffende weggelopen en wedergekregen slaven, enz., ingezonden door de burger-kapiteins. Hierin uitsluitend stukken betreffende weggelopen slaven. C. Rapporten van wegggeloopene en wegergekomene slaaven van den jaare 1774 tot augustus 1778.

583C (1774 t/m 1778).

Opgaven van blanken, vrijen en slaven: roosters van opgecommandeerden; rapporten betreffende weggelopen en wedergekregen slaven, enz., ingezonden door de burger-kapiteins.

603 (1799).
604 (1800).

Kopie notulen van de ordinaris en extra-ordinaris vergaderingen van het Hof van Politie en Criminele Justitie.

644 (1774-12-26 t/m 1775-12-22).
645 (1774-12-26 t/m 1775-12-22).
646 (1775-12-22 t/m 1776-08-30).
665 (1798-12-17 t/m 1800-01-10).

Notulen van de vergaderingen van het Hof betreffende politieke zaken; met bijlagen.

678 (1798-08-06 t/m 1799-01-04).

Notulen van de vergaderingen van het Hof betreffende criminele zaken; met bijlagen.

756 (1750-08-27 t/m 1750-11-27).

Rol van politieke en criminele zaken.

761 (1768-06 t/m 1777-05).

764 (1794 t/m 1801).

Rol van fiscaalszaken.

770 (1795-04 t/m 1801-01).

Processtukken betreffende criminele zaken. Met alfabetische naamwijzer.

783 (1722).

784 (1722-12-30 t/m 1723-08-07).

792 (1738).

793 (1739 t/m 1740).

800 (1750).

801 (1750).

827 (1775).

828 (1775).

855 (1792).

856 (1793).

861 (1798-12 t/m 1799-01).

862 (1799-02).

863 (1799-05).

864 (1799-08).

865 (1799-12).

Processtukken betreffende politieke en criminele zaken.

922 (1750).

932 (1772 t/m 1775).

933 (1768 t/m 1777).

Processtukken betreffende criminele zaken voor het Hof en de militaire krijgsraad.

938 (1747 t/m 1748).

945 (1721 t/m 1759).

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NWO Veni (2015). Paths through slavery: urban slave agency and empowerment in Suriname, 1700-1863 (consulted on 2018-07-14).
Https://www.universiteitleiden.nl/en/research/research-projects/humanities/paths-through-slavery-urban-slave-agency-and-empowerment-in-suriname-1700-1863

NWO Vrije competitie (2017). Resilient diversity: The governance of racial and religious plurality in the Dutch empire, 1600-1800 (consulted on 2018-07-14).
Https://www.nwo.nl/onderzoek-en-resultaten/onderzoeksprojecten/i/76/28076.html

Appendices

Appendix I: List of appointed raad-fiscaals

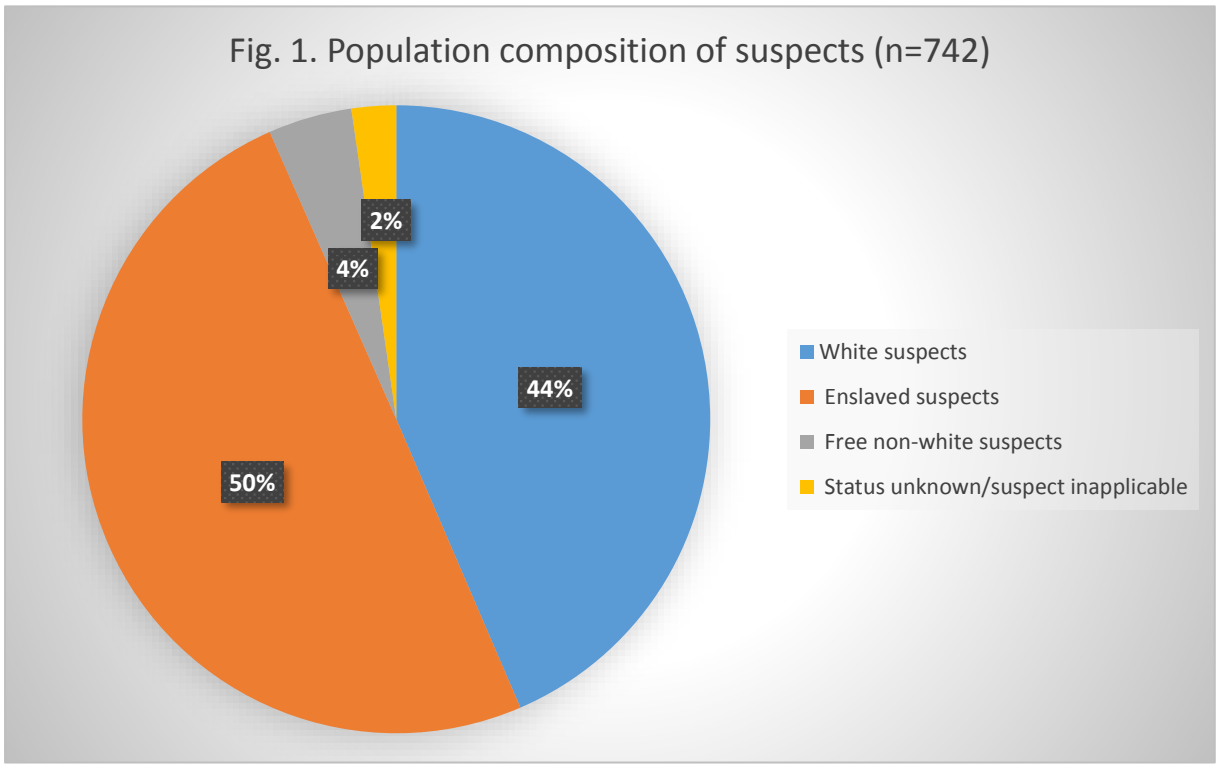
Name	*Date of appointment*	*Date of termination*	*Reason for termination*	*Substitute*	*Previous position*
Mr. C. Glimmer	Ca. 1682	Ca. 1683	-	-	-
Mr. Pieter Muenix [Munnincx]	1683-06-04	Ca. 1702	-	-	-
Mr. Henrik Muilman	1702-05-16	Ca. 1703	Death	-	-
Mr. Cornelis de Hubert	1703-04-04	Ca. 1708	Death	-	Captain in Suriname
Mr. Samuel Althusius	1708-12-28	Ca. 1727	Death	A. Wiltens	-
Mr. Adriaan Wiltens	1727-03-08	1735-08-10	Resigned due to health reasons	W.G. van Meel	Governing Councillor
Mr. Willem Gerard van Meel	Ca. 1736-04	1740-11-12	Death	J. van Sandick; H. Talbot	Secretary of the Civil Court
Mr. Jacobus Halewijn van Werve	1741-08-02	1746-01-05	Dismissal	J. van Baerle	-
Mr. Nicolaas Anthony Kohl	1746-05-04	1748-10-27	Death	H. Talbot Jr.	Lawyer in The Hague
Mr. Jacob van Baerle	1749-04-10	1750-09-25	Death	J.B. de Vries; S.P. Pichot	Secretary of the Civil Court
Mr. George Curtius	1751-05-05	1753-07-04	Suspended by the governor	J. Nepveu	Lawyer in the Dutch Republic
Mr. George Curtius	1754-06-24	1760-11-26	Death	J. Nepveu	Raad-fiscaal
Mr. Jan Nepveu	1761-12-16	1768-06-08	Appointed as governor a.i.	B. Texier	Deputy raad-fiscaal
Mr. Jan Gerhard Wichers	1771-04-10	1783-09-25	Appointed as governor a.i.	C. Karseboom	-
Mr. Cornelis Karseboom	1784-11-04	Ca. 1791	Resigned	-	Deputy raad-fiscaal
Mr. Arend Ludolphe Sichterman	1791-11-30	1791-11-07	Death	W.J.P. Muntz	Deputy raad-fiscaal
Mr. Jonathan Sichterman	1792-07-18	Ca. 1796	-	W.J.P. Muntz	Treasurer of the SC
Mr. J.J. Wohlfahrt	Ca.1798	Ca. 1802	-	-	-

Appendix II: List of appointed deputy raad-fiscaals[582]

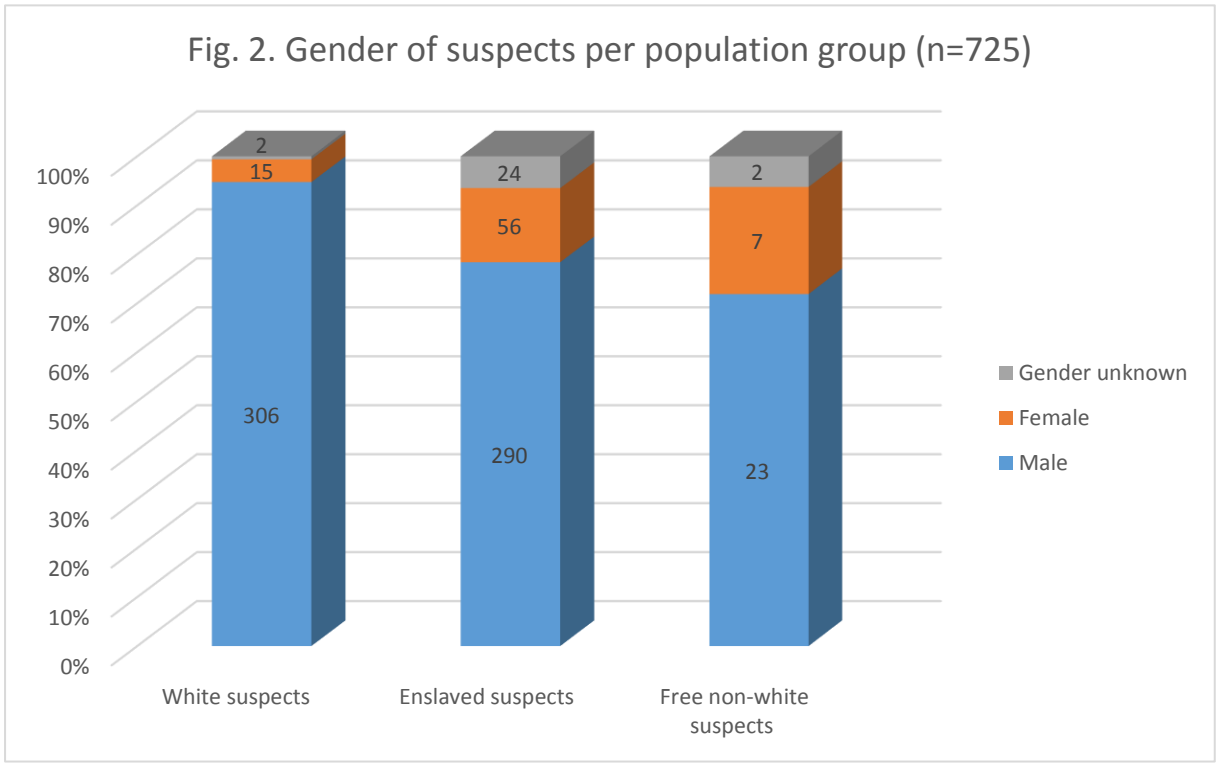
Name	*Date of appointment*	*Date of termination*	*Reason for termination*	*Previous position*
Mr. Jan Nepveu	1754-06-24	1762-12-16	Appointed as raad-fiscaal	Interim raad-fiscaal
Bernard Texier	1764-08-07	1772-05-06	Appointed as military commander	Captain lieutenant in Suriname
Mr. Jan Henrij van Heemskerk	1773-05-19	1776-04-18	Appointed as overseer in the office against marronage	Schepen of the city of Haarlem
Mr. Cornelis Karseboom	1777-11-05	1784-11-04	Appointed as raad-fiscaal	-
Mr. Cornelis Willem Jacob Meurs	1784-11-04	Ca. 1787	Death	Lawyer in Suriname
Mr. Arend Ludolphe Sichterman	1788-04-09	1791-11-07	Death (although appointed raad-fiscaal by the SC)	Secretary of the Court for Minor Affairs
Mr. Werner Johan Philip Muntz	1791-11-30	Ca. 1798/99	Death	Lawyer in Suriname

[582] Appendices I and II have been derived from: NL-HaNA, SvS, 1.05.03, inv. no. 17, f. 21; inv. no. 22, f. 10, 16, 55-56, 61-62; inv. no. 23, f. 191-192 and 228; inv. no. 27, f. 54-55; inv. no. 32, f. 94 and 108; inv. no. 36, f. 13-14, 62-63, 70, 183 and 268; inv. no. 39, f. 68-69; inv. no. 41, f. 6-7, 20-21 and 84; inv. no. 43, f. 2-4, 309-310, 352 and 364; inv. no. 44, f. 60-61 and 196; inv. no. 51, f. 43 and 222-223; inv. no. 52, f. 99-100 and 179-180; inv. no. 58, f. 147-148; inv. no. 61, f. 54-55, 72-73, 140-141, 172-173 and 186; inv. no. 62, f. 103, 130 and 366; inv. no. 63, f. 193-194, 212-213 and 413; inv. no. 66, f. 111-112; inv. no. 67, f. 436-437; inv. no. 74, f. 74, 390-391 and 434-436; inv. no. 78, f. 20, 22, 29-30 and 41-42; inv. no. 81, f. 47-48 and 394-396; inv. no. 82, f. 62-63, 65, 127-128, 146 and 163; NL-HaNA, HPCJ, 1.05.10.02, inv. no. 4, f. 5; inv. no. 16, f. 323-324 and 326-327; inv. no. 17, f. 122-123; inv. no. 18, f. 133-135; inv. no. 19, f. 253-256; inv. no. 20, f. 633-634; inv. no. 24, f. 214; inv. no. 31, f. 283-285; inv. no. 32, f. 131, 135-141 and 208-210; inv. no. 39, f. 72-73; inv. no. 42, f. 148-149; inv. no. 46, f. 96-97; inv. no. 48, f. 18-19; inv. no. 51, f. 132-138; inv. no. 62, f. 123; inv. no. 65, f. 925-926; inv. no. 70, f. 19 and 473; inv. no. 71, f. 27-30; inv. no. 74, f. 433; inv. no. 84, f. 968 and 867-868; inv. no. 86, f. 560-561; inv. no. 88, f. 667, 669-670 and 677; inv. no. 94, f.95-96; inv. no. 102, f. 19; inv. no. 122, f. 39-44; inv. no. 125, f. 174; inv. no. 126, f. 46-47; inv. no. 130, f. 40, 409 and 419-420; inv. no. 855 f. 3-4; inv. no. 856, f. 3; see also: Hartsinck, *Beschryving van Guiana*, 895-896; Wolbers, *Geschiedenis van Suriname*, 214-250, 298, 360, 398 and 499-500; Van der Meiden, *Betwist bestuur*, 94-95; W.H. Poppelman, *Surinaamsche Almanach op het jaar onzes Heere Jesu Christi. Anno 1789* (Paramaribo 1789); C. Brouwn, *Surinaamsche Staatkundige Almanach voor den jaare* 1793, 1794, 1795 and 1796; W.W. Beeldsnyder, *Surinaamsche Almanach op het jaar onzes Heere Jesu Christi. Anno 1798* (Paramaribo 1798); D. Nassy et al., *Essai Historique sur la colonie de Suriname* (Paramaribo 1788) 105-107.

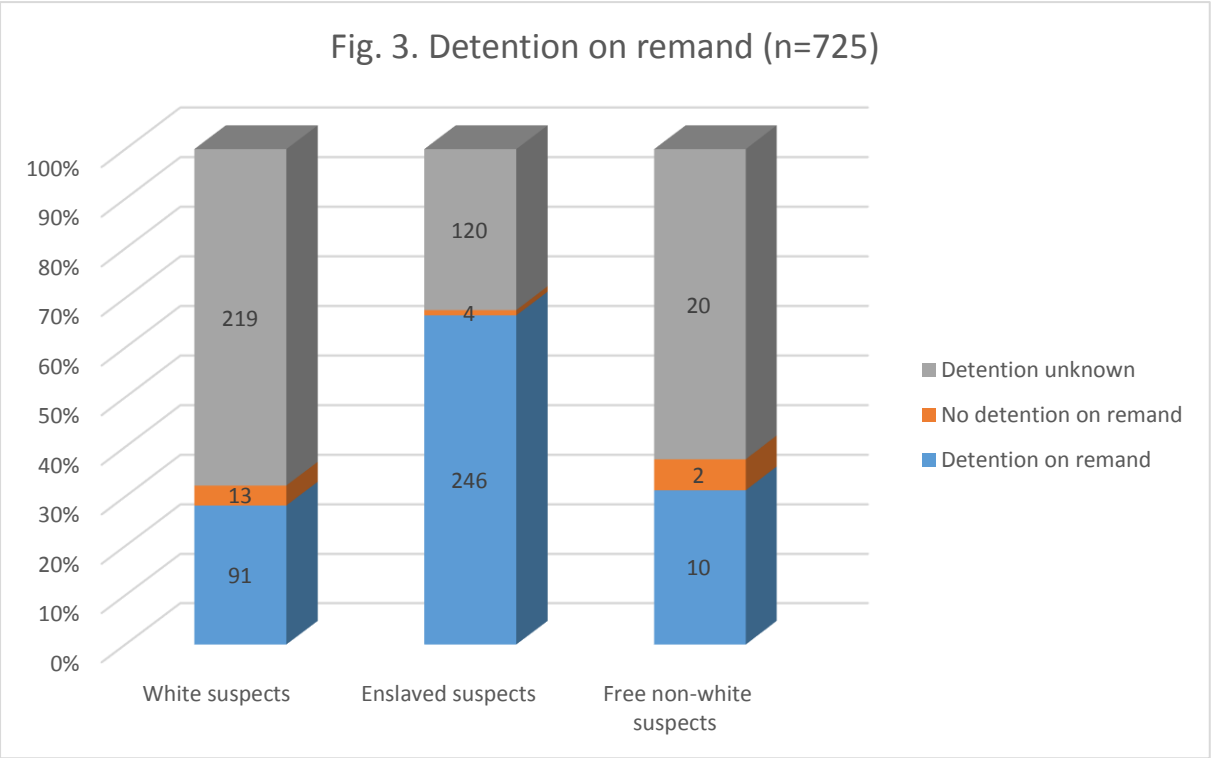
Appendix III: Statistics of suspects



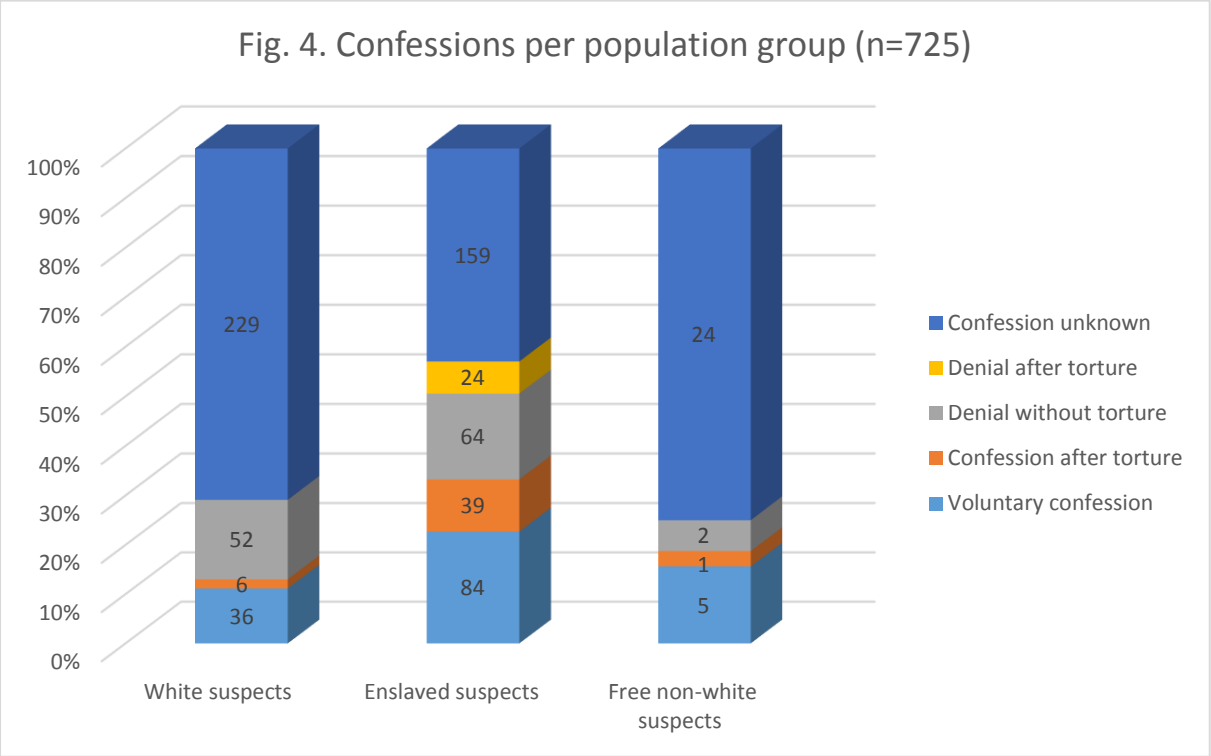
Source: I.R. Canfijn, *Database of sample years in Suriname's Criminal Court*.



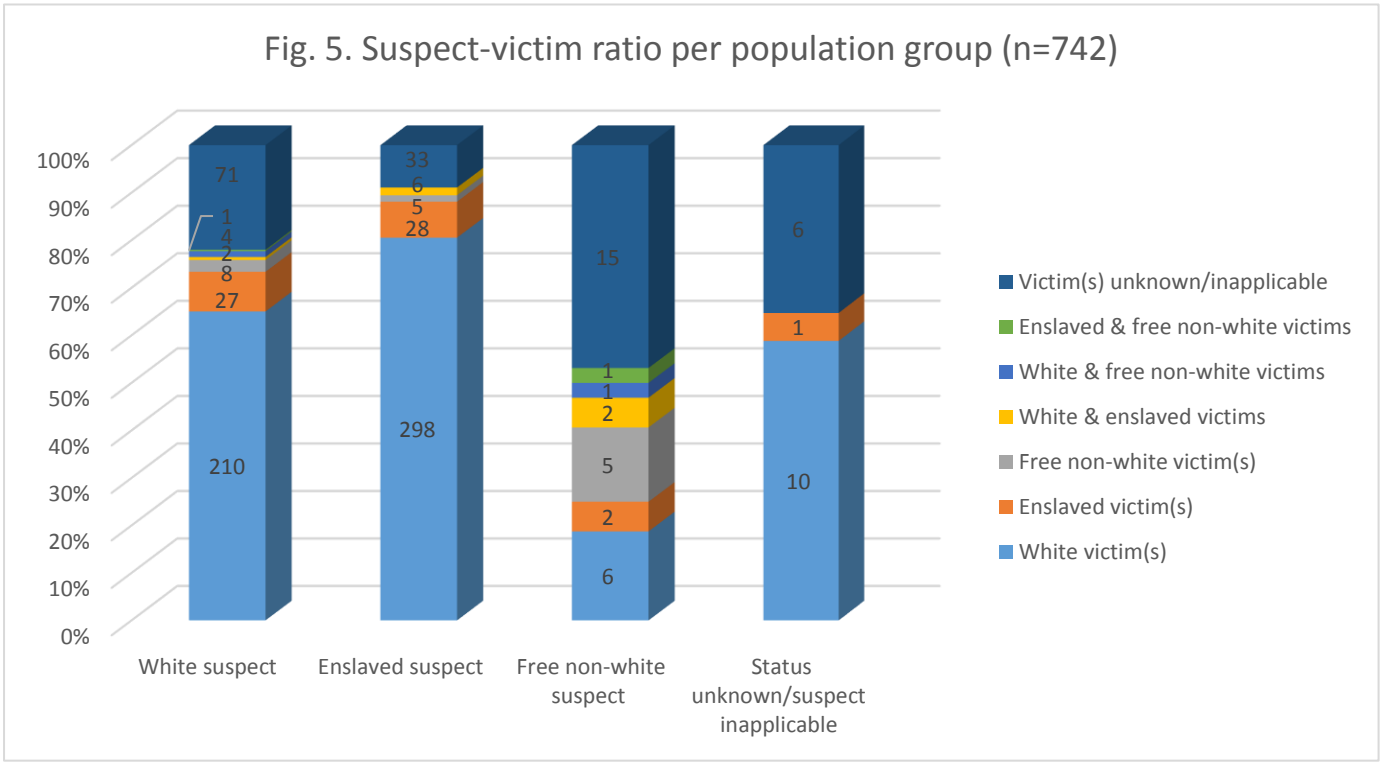
Source: I.R. Canfijn, *Database of sample years in Suriname's Criminal Court*.



Source: I.R. Canfijn, *Database of sample years in Suriname's Criminal Court*.

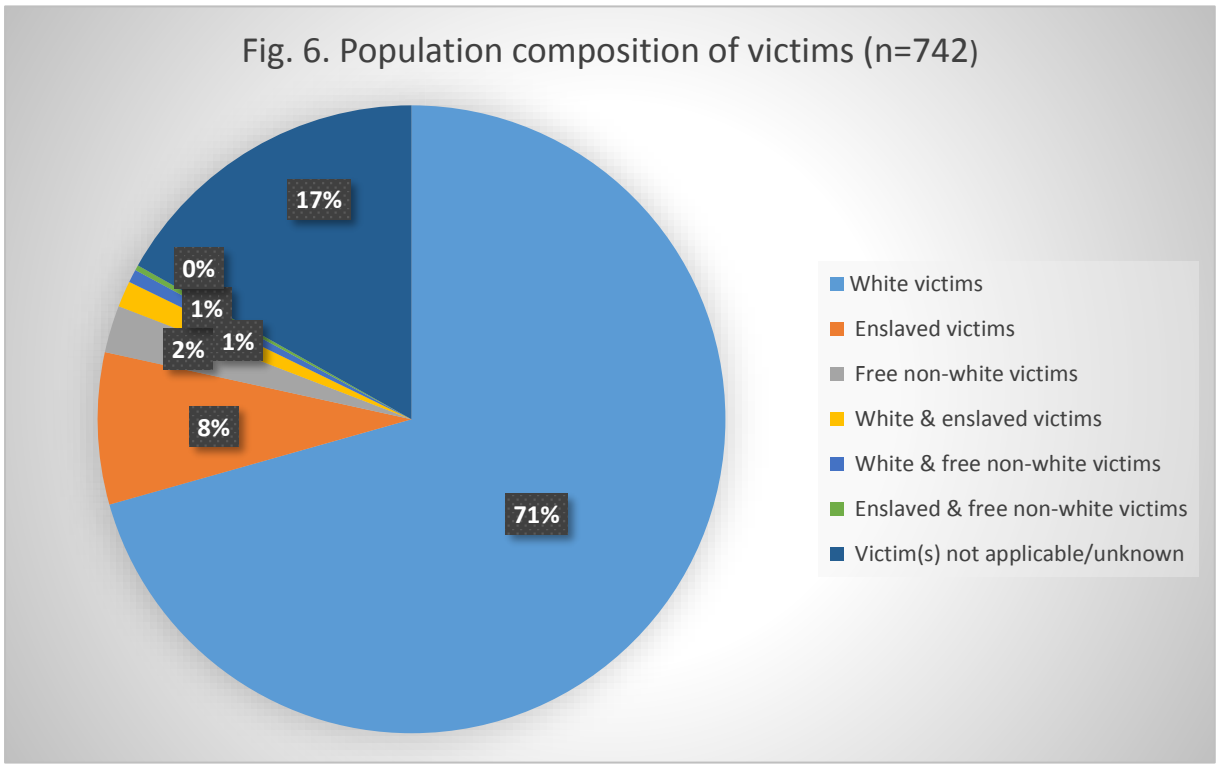


Source: I.R. Canfijn, *Database of sample years in Suriname's Criminal Court*.

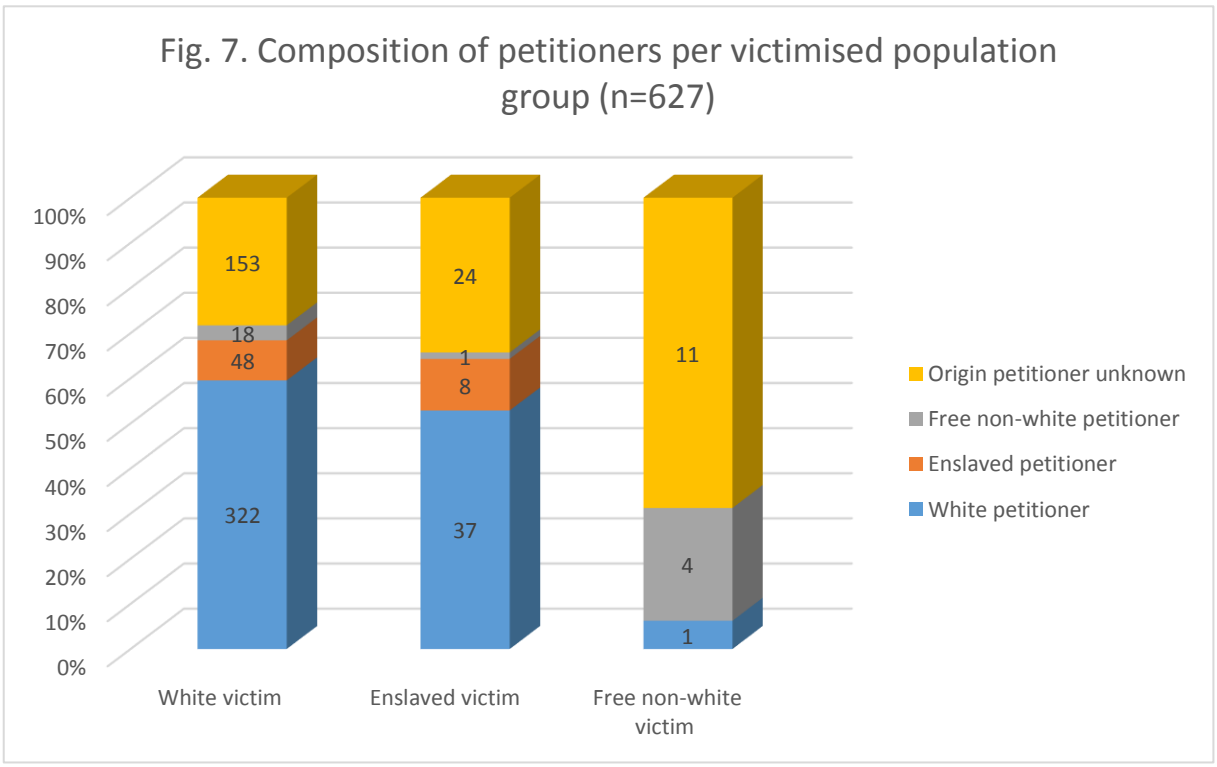


Source: I.R. Canfijn, *Database of sample years in Suriname's Criminal Court*.

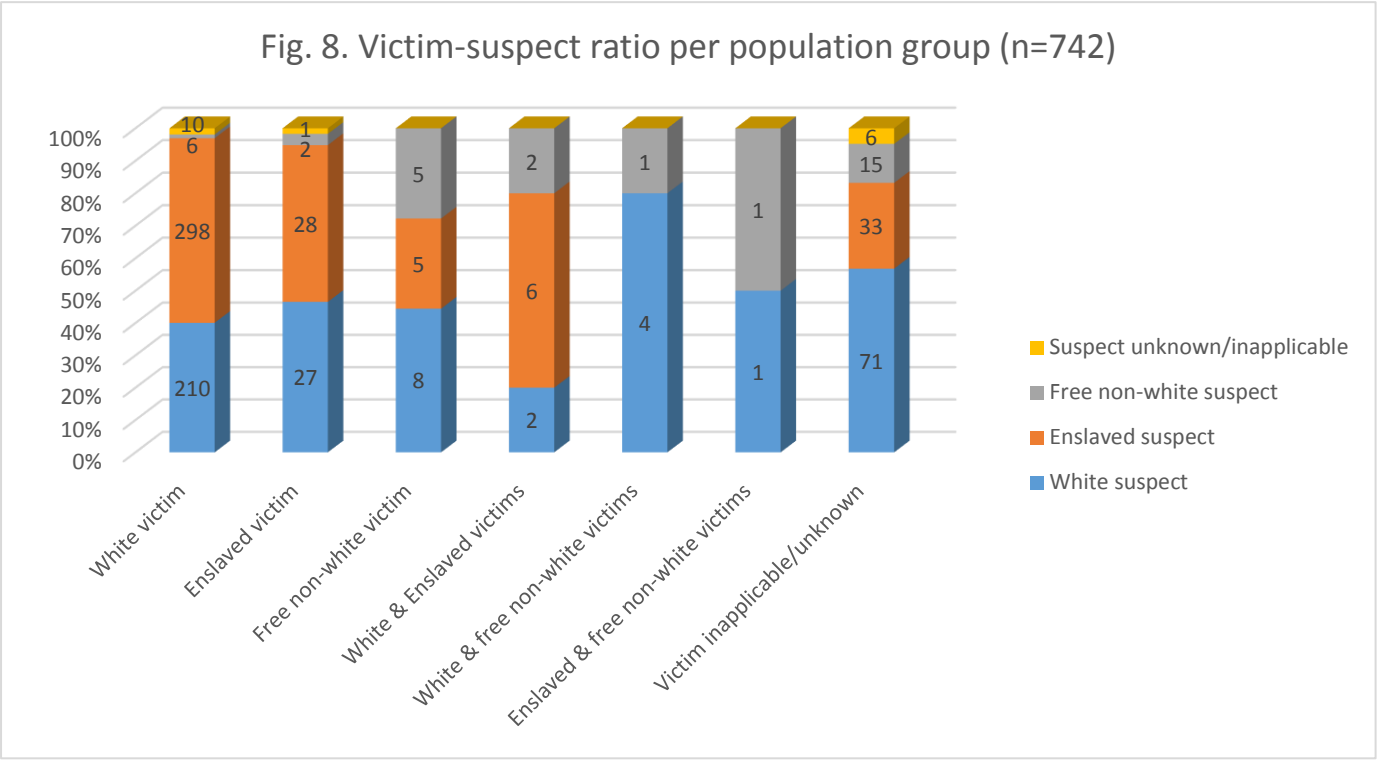
Appendix IV: Statistics of victims



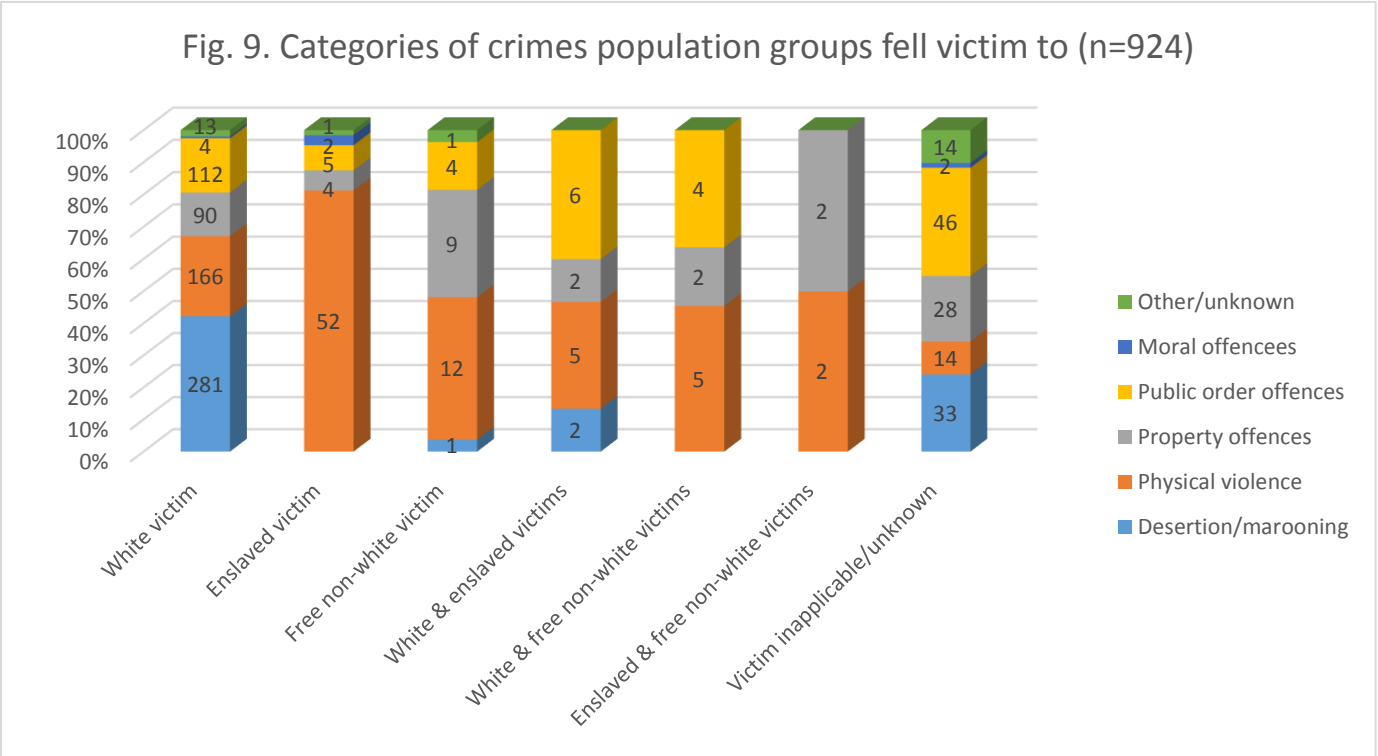
Source: I.R. Canfijn, *Database of sample years in Suriname's Criminal Court*.



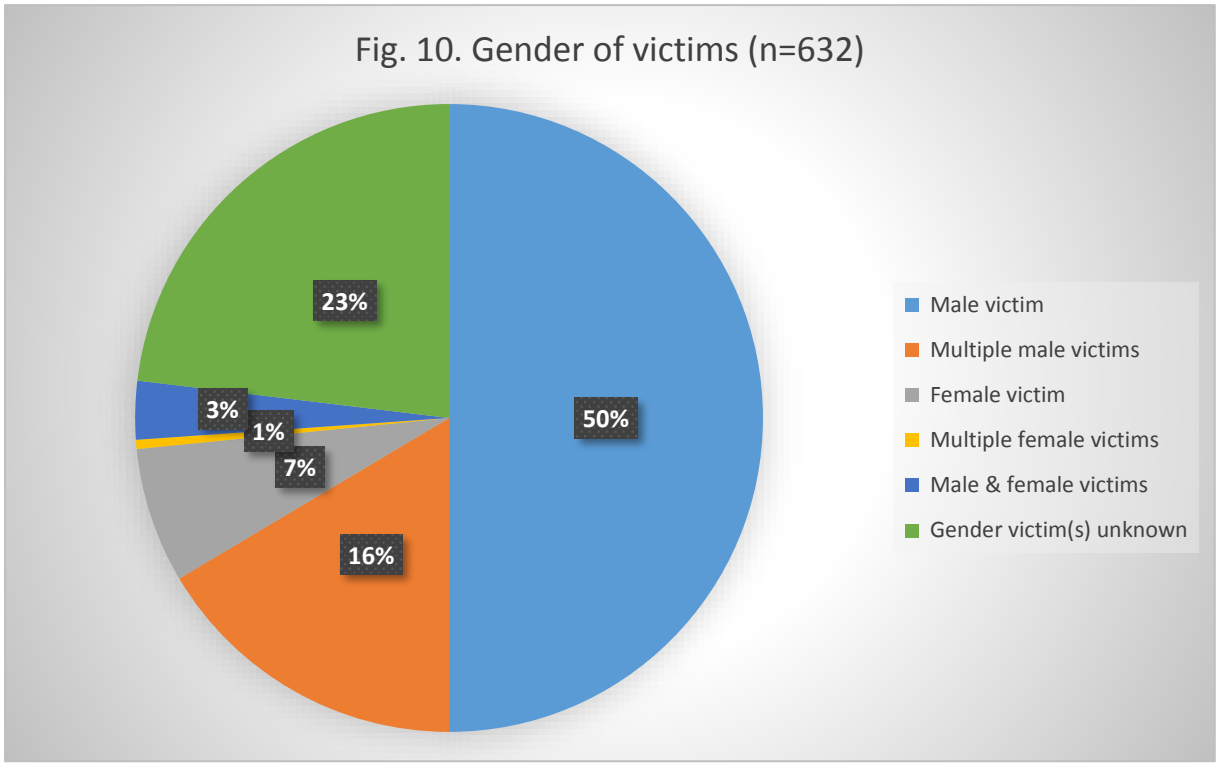
Source: I.R. Canfijn, *Database of sample years in Suriname's Criminal Court*.



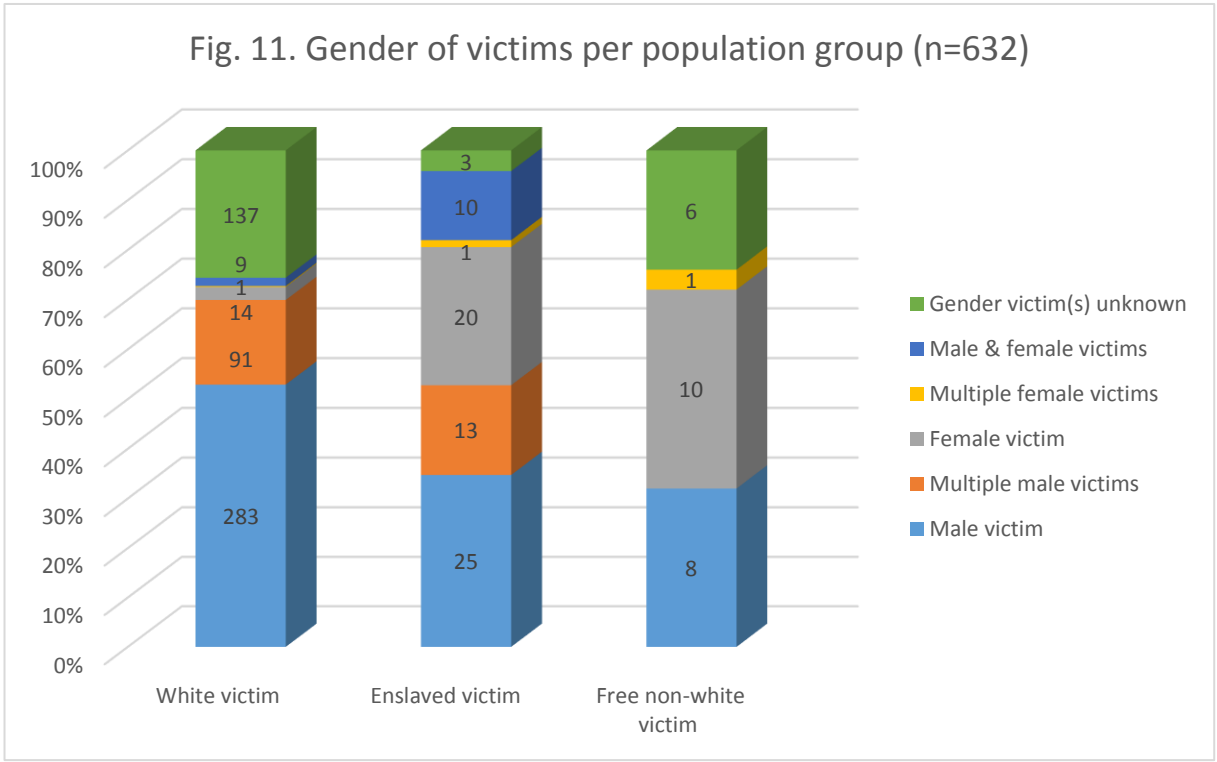
Source: I.R. Canfijn, *Database of sample years in Suriname's Criminal Court*.



Source: I.R. Canfijn, *Database of sample years in Suriname's Criminal Court*.

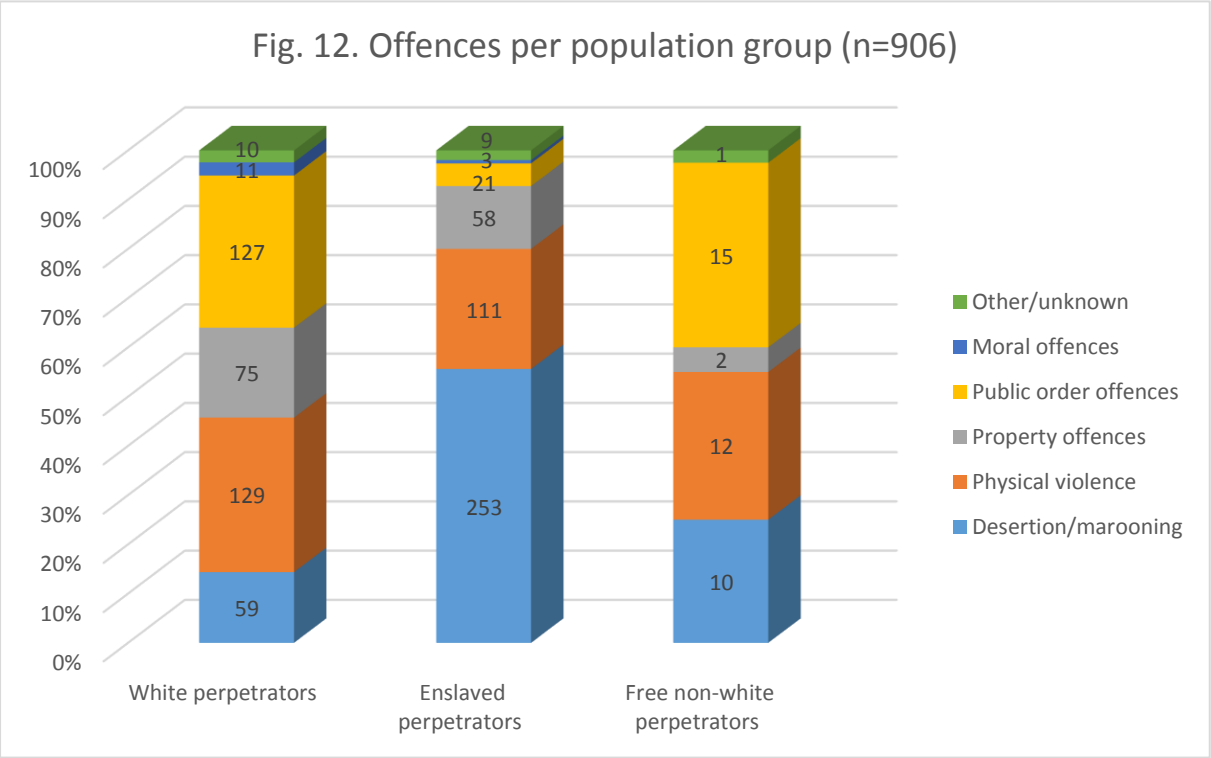


Source: I.R. Canfijn, *Database of sample years in Suriname's Criminal Court*.

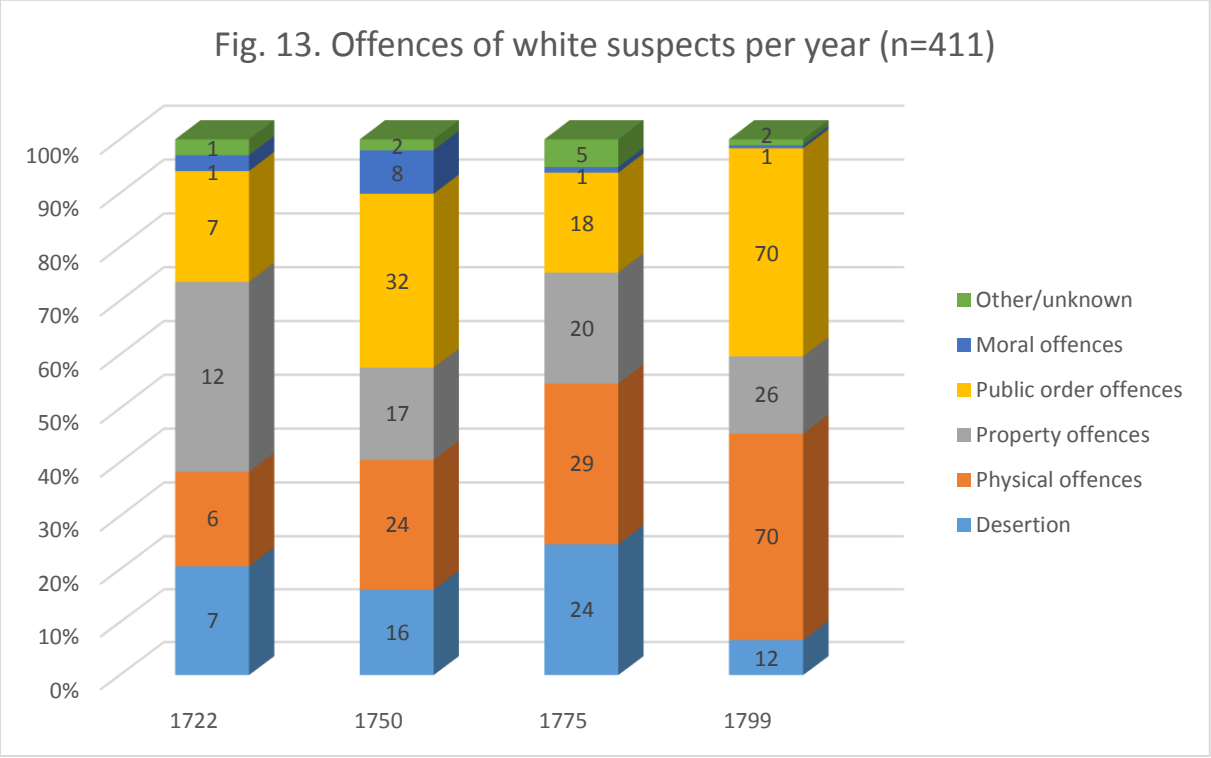


Source: I.R. Canfijn, *Database of sample years in Suriname's Criminal Court.*

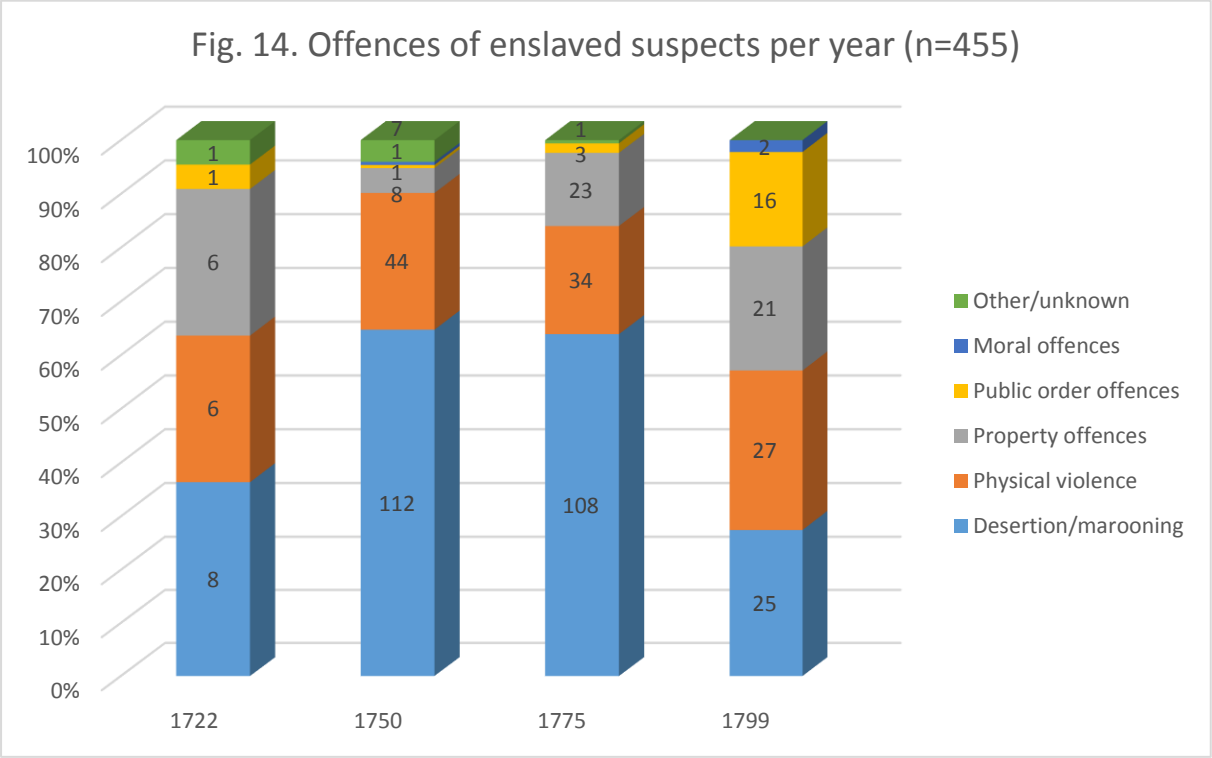
Appendix V: Statistics of offences



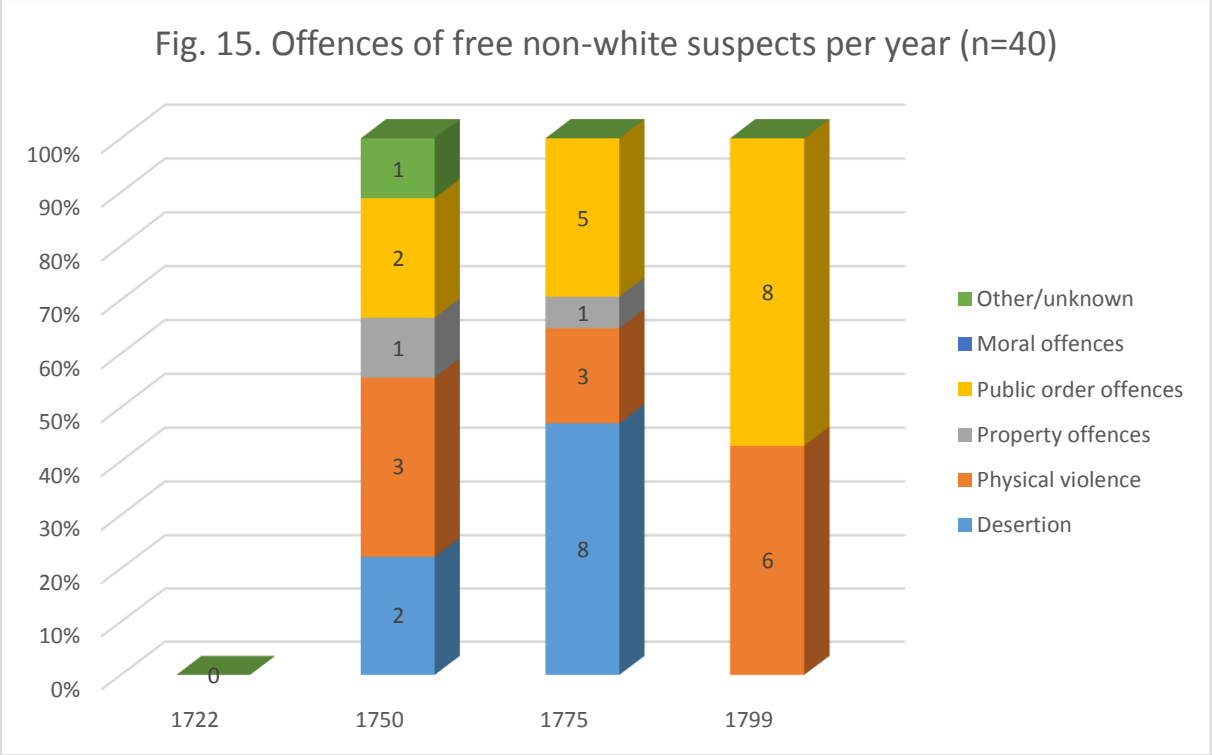
Source: I.R. Canfijn, *Database of sample years in Suriname's Criminal Court*.



Source: I.R. Canfijn, *Database of sample years in Suriname's Criminal Court*.

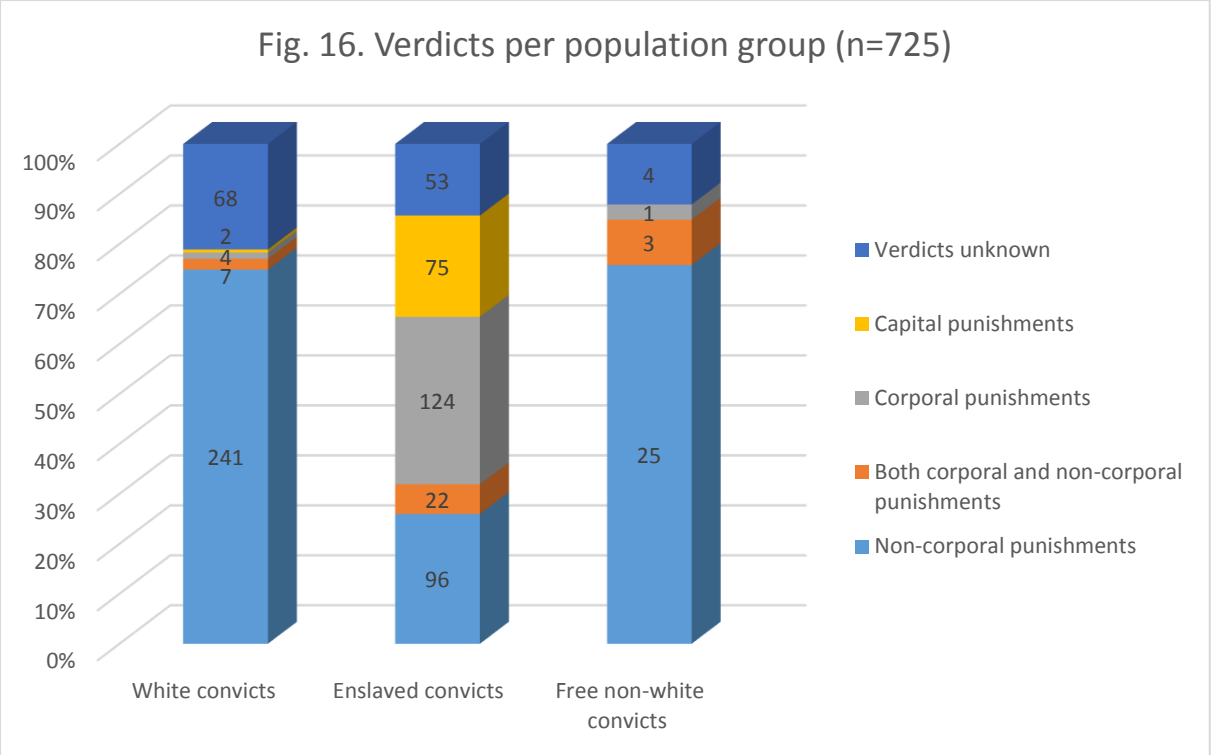


Source: I.R. Canfijn, *Database of sample years in Suriname's Criminal Court*.

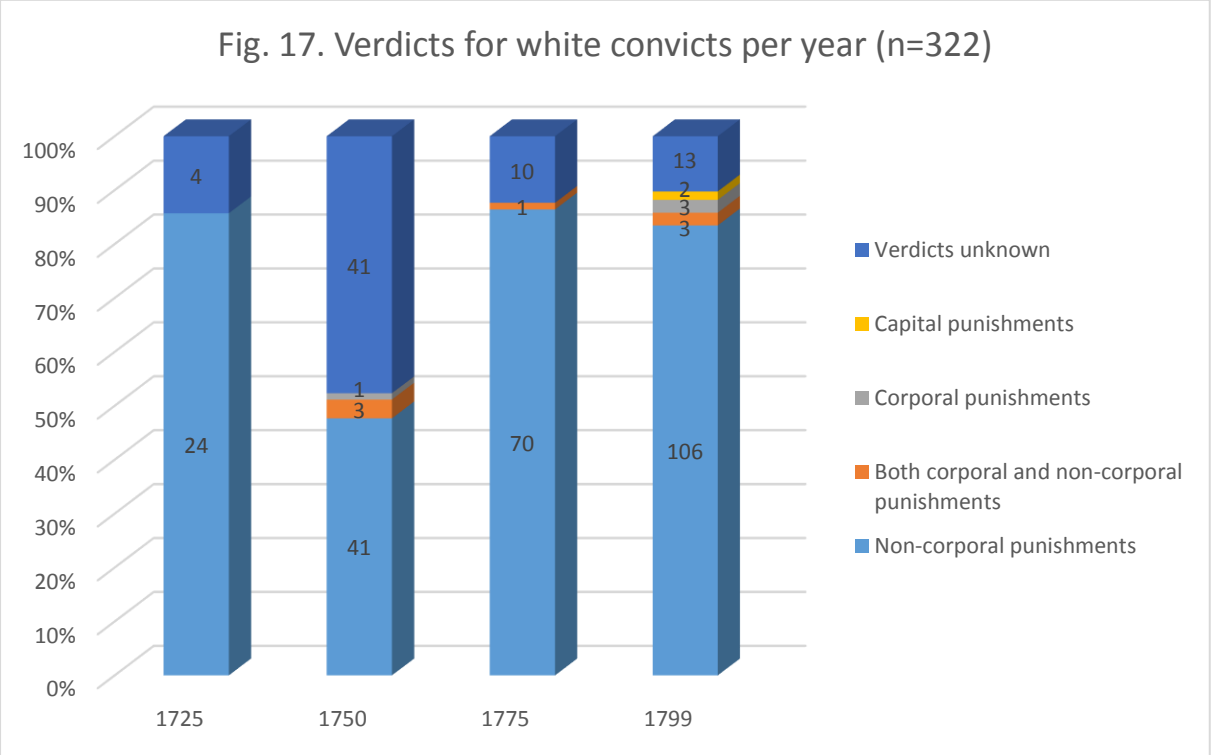


Source: I.R. Canfijn, *Database of sample years in Suriname's Criminal Court.*

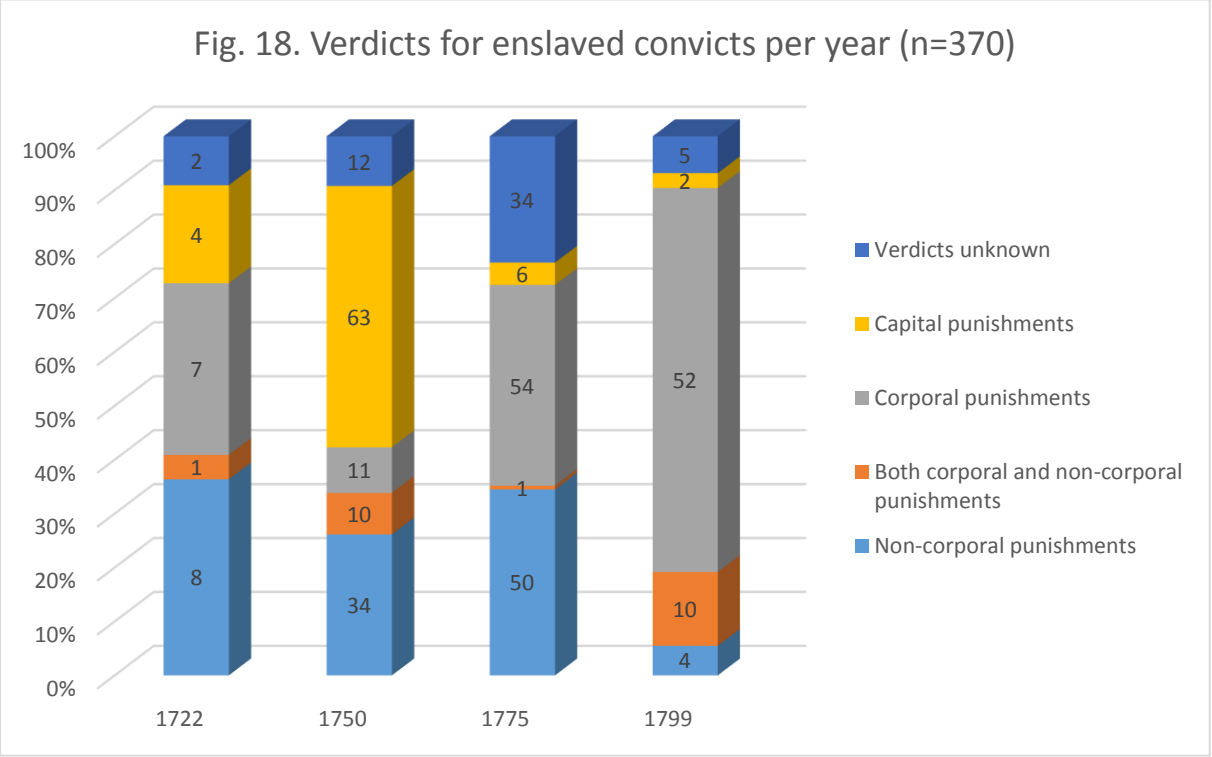
Appendix VI: Statistics of verdicts



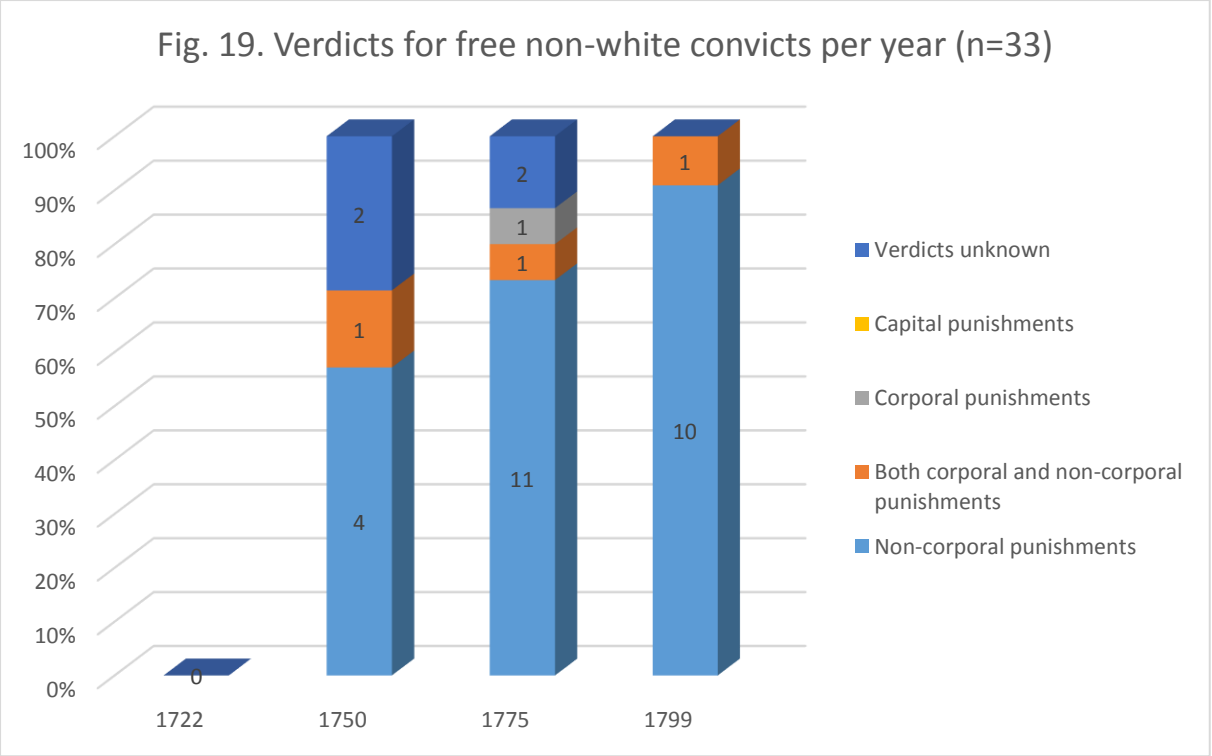
Source: I.R. Canfijn, *Database of sample years in Suriname's Criminal Court.*



Source: I.R. Canfijn, *Database of sample years in Suriname's Criminal Court.*



Source: I.R. Canfijn, *Database of sample years in Suriname's Criminal Court.*



Source: I.R. Canfijn, *Database of sample years in Suriname's Criminal Court*.