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The usurpation of legal roles by Suriname's Governing Council, 1669–1816

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Suriname was one of the most emblematic slave societies of the Atlantic world and saw a court system in which a Governing Council functioned simultaneously as political council to the governor, as a criminal court and also elected the Civil Court. Studies of the practice of the Governing Council have been limited to a small number of spectacularly brutal cases canonised by abolitionist campaigners. This article reconstructs how various forums for arbitration related to the Governing Council, and how this relationship changed by comparing its practices across the long eighteenth century. I conclude that the Governing Council interacted with *several forums, both formally recognised as well as informal, in the colony.* Over time, adjudication became increasingly dependent on the authority of the Governing Council. The combination of the political and legal roles contributed to the process of colonial state formation in Suriname. Studies of the practices of similar courts will clarify how the Dutch Empire successfully governed its diverse populations.

Keywords: slavery; colonial law; Dutch Empire; Suriname

1. Introduction

The legal institutions that were introduced by colonists importantly shaped social relations in the formative years of colonial societies. In their relation to pre-existing, competing and coexisting legal practices, the legal systems in colonies were uniquely dynamic, balancing pluralistic practices while aspiring to singularity. Although the European colonies of the Atlantic world (ca. 1500–ca. 1800) – existing in parallel to indigenous legal systems – could be expected to be relatively free to shape a singular system, there too plurality remained structural.

Suriname was one of the most emblematic slave societies of the Atlantic world and saw a court system in which a Governing Council (*Raad van Politie en Criminele Justitie*) functioned simultaneously as political council to the governor, as a criminal court and also elected the Civil Court. Members of the Governing Council were nominated from the Protestant plantocracy, which made the court central to maintaining social control based on race, religion and legal status.

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Studies of the practice of this court have been limited to a small number of spectacularly brutal cases canonised by abolitionist campaigners. This article reconstructs how various forums for arbitration related to the Governing Council, and how this relationship changed by comparing its practices across the long eighteenth century. A broader examination of the court cases corrects the understanding of the role of this court as merely an instrument in the hands of the plantocracy. I conclude that the Governing Council interacted with several formally recognised as well as informal forums in the colony. Over time, all adjudication became increasingly dependent on the authority of the Governing Council, contributing to the process of colonial state formation. Studies of the practices of similar courts will clarify how the Dutch Empire successfully governed its diverse populations.

From its founding in 1651 by English settlers to the abolition of slavery under Dutch rule in 1863, Suriname was a borderland between the Atlantic Ocean and the South American interior. Its settlement by Europeans and Africans in areas of resilient indigenous civilisation resulted in a society of entangled and interacting communities.[1] In this colonial context a plurality of the legal systems mediated between the legitimising colonial authority on the one hand, while allowing for the perpetuation of conflicts on the other.[2] This situation was far from static. Over time, the Governing Council in Suriname was able to usurp practically all other forums for adjudication of both civil and criminal cases. The one exception was the indigenous population, who from the onset remained outside the purview of the Governing Council. They 'remained recognised as their own masters', as governor Jan Nepveu stated in 1765.[3] This was in part the result of an attempt by governor Cornelis van Aerssen van Sommelsdijck in 1686 to adjudicate what he perceived to be the murder by an indigenous king of one of the king's wives. The governor had the king beheaded, prolonging the conflict between the colonists and the indigenous population until peace was reached later the same year in 1686. The treaty, which has been lost to posterity, established the autonomy of the indigenous population and their right to settle anywhere in the colony. The prescription to the colonists was to not interfere in indigenous affairs and for government representatives to diffuse conflicts to the best of their abilities.[4]

In all other areas the Governing Council had the authority to pass by-laws and develop its own practices. The autonomy of the Governing Council in the colony made law a semi-autonomous field that was not determined by metropolitan

[1]Rudie van Lier, *Frontier Society: A Social Analysis of the History of Surinam* (Martinus Nijhoff, 1971).
[2]Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900* (Cambridge University Press, 2010).
[3]Jean Nepveu, 'Annotaties bij: Beschrijvinge van de volk-plantinge Zuriname' (unpublished manuscript, 1765).
[4]Eric Jagdew, *Vrede te midden van oorlog in Suriname: Inheemsen, Europeanen, Marrons en vredesverdragen 1667–1863* (Anton de Kom Universiteit, 2014) 468; Nepveu (n 3).

authority. This resulted in law-as-process in which the court's role was designed to actively participate in adapting the legal system to changing local contexts. The social and economic limitations on participation in the Governing Council set limits on the interests that were served by its rule. This was also expressed by who were allowed to vote for the nomination of members of the council. Jews were excluded from the court, but were allowed to vote. Non-landholding merchants were not enfranchised, although this changed with the rise of plantation administrators who managed plantations on behalf of absentee landowners. The eighteenth century also saw the introduction of the distinction between freed and freeborn people of colour, excluding the former from participation in the electoral process.

In this part of the Dutch Empire colonial hegemony rested not only on brute force, but on dynamic adaptation by local courts to shifting social forces and their associated normative orders. Given that in the colonial context metropolitan power was at odds with the development of local power, locally shifting class-alliances were part of the development of the colonial state.[5] In Suriname, the Governing Council's political decisions and legal verdicts formed a constitutive element in shaping these alliances.

The legal practice of the Governing Council shows that the council was able to increasingly move the colony away from a pluralistic legal system to a more singular one. What has remained unstudied for Suriname (and the early modern Dutch Empire generally) is which forums were available to its diverse populations, how these forums related to Dutch authority and how the Governing Council was able to adapt over time and increase its authority. Given that the Dutch practices of social control through judicial institutions proved to be resilient and succeeded in maintaining empire across four centuries, makes this an all the more pertinent question.

2. The jurisdiction of the Governing Council

Although not fundamentally different from other slave-based settlements in the American tropics, the complexity of the Dutch colonial context warrants explanation. First, it should be noted that the Dutch Atlantic in the eighteenth century was home to diverse religious communities. There were various flavours of Protestantism (Reformed, Lutheran, Moravian), Catholics and Jews (divided between Sephardim and Ashkenazim) as well as communities with West African roots.[6] All of these had particular systems for dispute resolution within

[5]Karwan Fatah-Black, *White Lies and Black Markets: Evading Metropolitan Authority in Colonial Suriname, 1650–1800* (Brill, 2015).

[6]On the Protestants in Suriname see Johannes WC Ort, *Surinaams verhaal: vestiging van de Hervormde Kerk in Suriname (1667–1800)* (Walburg Pers, 2000). The Jewish community and the working of the *Mahamad* are discussed in Robert Cohen, *Jews in Another Environment, Surinam in the Second Half of the Eighteenth Century* (Brill, 1991); Wieke Vink,

their communities, and several of these systems were officially recognised by the colonising authorities. Secondly, since the majority of people in the Dutch Atlantic were non-Dutch migrants (from the governors down to the plantation slaves), we are confronted with a variety of traditions for disciplinary action and arbitration that made their way from Europe, West Africa and the Americas to the colonies, not to mention the copying of practices between colonies or the institutional arrangements inherited from before the Dutch conquest.[7] Lastly, the Dutch Atlantic was politically fragmented. Different institutional arrangements existed in the various colonies, adapted to a wide range of local specificities and a variety of legal statuses.[8]

When the Dutch West India Company (*Geoctroyeerde West-Indische Compagnie*, WIC) established its first landed dominions overseas, it had to regulate how government, which meant political authority, taxation, ecclesiastical matters and civil and criminal justice, was organised. The practice had been to carry naval and military practices from Holland and Zeeland to land, but with the presence of people who were not the property or personnel of the company, provisions had to be made for settlers and inhabitants, including indigenous as well as former Portuguese and Spanish subjects in the conquered lands. In the 1629 'Order of Government' the practice of the Asian colonies was mimicked. In cases of marriage and inheritance law the Political Ordinance of Holland of 1580 was, in effect, supplemented with the local customary laws of Zeeland and Holland. Where this did not suffice, Roman laws were used as subsidiary laws. Contracts were governed through Roman laws and for real estate there

'Creole Jews. Negotiating Community in Colonial Suriname' (PhD thesis, Erasmus Universiteit Rotterdam 2008). For the African legacy see Natalie Zemon Davis, 'Judges, Masters, Diviners: Slaves' Experience of Criminal Justice in Colonial Suriname' (2011) 29 *Law and History Review* 925.

[7]Jan Lucassen, 'The Netherlands, the Dutch, and Long Distance Migration, in the Late Sixteenth to Early Nineteenth Centuries' in Nicholas Canny (ed), *Europeans on the Move. Studies on European Migration 1500–1800* (Clarendon Press, 1994); Gijs Kruijtzer, 'European Migration in the Dutch Sphere' in Gert Oostindie (ed), *Dutch Colonialism, Migration and Cultural Heritage* (KITLV Press, 2008); Gert Oostindie and Jessica Vance Roitman, 'Repositioning the Dutch in the Atlantic, 1680–1800' (2012) 36 *Itinerario* 129; Karwan Fatah-Black, 'A Swiss Village in the Dutch Tropics: The Limitations of Empire-Centred Approaches to the Early Modern Atlantic World' (2013) 128 *BMGN – Low Countries Historical Review* 31.

[8]Anthonie JM Kunst, *Recht, commercie en kolonialisme in West-Indië vanaf de zestiende tot in de negentiende eeuw* (Walburg Pers, 1981); Jacob A Schiltkamp, 'Legislation, Government, Jurisprudence, and Law in the Dutch West Indian Colonies: The Order of Government of 1629' (2003) 5 *Pro Memorie. Bijdragen tot de rechtsgeschiedenis der Nederlanden* 320. With the founding of the Suriname Company the *Hoge Raad* was explicitly mentioned as the highest instance for appeal for colonists: *Conditien, tussen de dry respective leden van de Societeyt van Suriname, geconvenieert in dato 21 May, 1683* (Erfgenamen Paulus Matthysz, 1683).

were local feudal regulations in place. The indigenous population was allowed to continue to adhere to their own laws without interference by the colonists.[9]

According to the Order of Government, authority should be vested with a local body known as the High Government, resembling the later Governing Council in Suriname. Some differences between the regulation of 1629 and the Governing Council in Suriname should be emphasised. While the colonists had no voice in the composition of the High Government – the various chambers of the WIC were allowed to elect their representatives – the Governing Council in Suriname was composed of colonists. The question of appeal is unclear under the Order of 1629, but it seems there was, as in Asia, no appeal beyond the High Government other than that the legal and governmental decisions taken by it had to be approved by the *Heeren XIX* (directors of the WIC) in the Netherlands.

In Suriname the legacy of the preceding English period in the colony (1651–1667) forced the conquering Zeelanders to make some important adaptations to the format of the Order. Most importantly, the metropolitan authorities in the English period – which had been marked by the chaotic conflicts between King and Parliament – had been forced to give colonists a vote in the composition of the council and even had developed a practice of colonists electing their governor. This was the legacy that governor Julius Lichtenberg, a student from the Leiden law school was confronted with when he founded the Governing Council in 1669. In order not to alienate the remaining colonists from the English period the Zeelanders continued some of the earlier practices and allowed for two Englishmen to be included in the Governing Council. These local adaptations to the Order of Government were given firmer footing in 1682 when the States of Zeeland transferred the colony to the WIC, who were on this occasion granted a charter for Suriname by the States General. This charter made old-Zeeland and old-Holland laws effective in Suriname in relation to persons and inheritance, and Roman law in relation to movable goods and slaves. Regarding real estate there was a continuation of the aforementioned feudal laws.[10] With the founding of the Suriname Company in 1683 the *Hoge Raad van Holland, Zeeland en West-Friesland* was made the highest court of appeal for the colony.[11] This indicates that the aim of developing an administratively and legally centralised Atlantic empire with its own overseas administrative centre (like Batavia in Asia) had been completely abandoned.

The charter of 1682 had formalised a degree of autonomy allowing the Governing Council to issue its local by-laws in cases that were not covered by laws of the higher authorities. These local by-laws mainly pertained to local questions of a

[9]AJA Quintus Bosz, 'De weg tot de invoering van de nieuwe wetgeving in 1869 en de overgang van het oude naar het nieuwe burgerlijk recht' in *Een eeuw Surinaamse codificatie. Gedenkboek 1869–1969* (Surinaamse Juristen Vereniging, 1969).
[10]Ibid, 7.
[11]*Conditien, tussen de dry respective leden van de Societeyt van Suriname, geconvenieert in dato 21 May, 1683* (n 8).

specifically Surinamese nature as well as dealing with social dynamics of race and slavery that were alien to the contexts of Holland and Zeeland. This system remained almost completely unaltered until 1816. Furthermore, the English conquest of 1799 did not introduce any drastic changes in the local legal practices. Between 1799 and 1816 there was no significant development in the legal system.[12] The continuation of slavery until 1863 delayed the adaptation of the civil code until 1869.

The Governing Council, with its dual function as political council and criminal court, carried by far the most weight in dealing with criminal cases and political decisions in Suriname. The Governing Council appointed the members of the Civil Court for four-year terms, as well as the members of the *krijgsraad* (Military Court) for cases pertaining to military personnel. Meetings of these three courts were all chaired by the governor, who was appointed by the Board of the Suriname Company (*Sociëteit van Suriname*) in the Netherlands and affirmed by the States General. The Suriname Company, sometimes also translated as Society of Suriname, resembled the chartered colonial companies that were common to northwestern Europe in the early modern period. The company consisted of three shares: one held by the WIC; one by the city of Amsterdam; and one, until 1770, by the family Van Aerssen Van Sommelsdijck. The Board of the Suriname Company in Amsterdam mediated conflicts and approved decisions by the Governing Council. Conflicts were brought to the attention of the board through direct requests or through the Governing Council. The States General mediated in conflicts that the Board of the Suriname Company felt unable to handle. The States General also served as the Appeal Court for the West Indies, for which they in turn employed the *Hoge Raad van Holland, Zeeland en West-Friesland* as councillors.

The governor chaired the Governing Council and was also the highest-ranking official in military affairs.[13] The members of this Council were male Dutch Reformed planters nominated by the male heads of landowning households (including Jews) in the colony. Given the fact that the Governing Council consisted of slave owners by definition, the colony has been characterised as a plantocracy in which planter interests were dominant.[14] As a result, the legal system has been understood as strongly biased in favour of slave owners and strongly biased against slaves and non-whites. The term plantocracy, however, should not be taken to suggest a monolithic power block of plantation owners. An overemphasis on social control misses the fact that the Governing Council changed its role over time and increasingly became a point of reference and

[12]Quintus Bosz (n 9) 8.
[13]Jan Jacob Hartsinck, *Beschryving van Guiana, of de Wildekust in Zuid-America* (Gerrit Tielenburg, 1770) vol 2, 872–73.
[14]Ruud Beeldsnijder, *'Om werk van jullie te hebben' Plantageslaven in Suriname, 1730–1750* (Vakgroep Culturele Antropologie, 1994) vol 16, chapter 12.

authority for communities who were not free Protestant landowners. Given the propensity of the governor to side with the planters, it seems justified to say that, despite their differences on matters of taxation, defence costs and regional trade, the appointed governor and the plantation elite did not disagree on what people they thought were most fit to rule the colony in matters of policy and criminal justice.

3. The autonomy of religious communities

The Dutch Reformed Protestants and Jews (both Portuguese and German) formed the largest religious communities among the free landowning people in the colony. Ecclesiastical bodies in Suriname, primarily a *Mahamad* for each of the Jewish communities and the *Kerkenraad*, were very active in dealing with disputes among their co-religionists and enforcing discipline within the community. The Jewish *Mahamads*, one Portuguese and one German, were uniquely positioned in dealing with both religious as well as civil cases. Records of these institutions are available, although the literature on the *Kerkenraad* is extremely limited.[15] The Sephardic Jewish community in Suriname has been studied in greater detail, using among other sources the records of the court to trace the intercommunal relationships between Amsterdam, Curaçao and Suriname, as well as the forging and protection of Jewish identity in the colony.[16] The German Jewish community was formally separated from the Portuguese Jews in 1724. The separation had grown out of the unhappiness of German Jews with the dominance of the Sephardic Jews. After the separation of the communities conflicts between them continued. While the role of the Governing Council in the *Kerkenraad* had been important from the beginning, it took until the late 1780s before the *Mahamad* was brought more definitively into the fold. The *Mahamad* kept the Governing Council at arm's length and often emphasised and fostered its relationship with the governor and the company directors in the Netherlands.

The highest authority in the Dutch Reformed Church in Suriname was the *Conventus Deputatorum*, also known as *Generale Kerkenraad* or *Classis Surinamensis*.[17] A member of the Governing Council was always present at its meetings, which took place twice a year. The overlap between religious and worldly authorities in the membership of the Kerkenraad might explain the relative paucity

[15]Ort (n 6); Jan Marinus van der Linde, *Surinaamse suikerheren en hun kerk: plantagekolonie en handelskerk ten tijde van Johannes Basseliers, predikant en planter in Suriname, 1667–1689* (H Veenman, 1966).

[16]Cohen (n 6); Vink (n 6); Jessica V Roitman and Aviva Ben-Ur, 'Adultery Here and There: Crossing Sexual Boundaries in the Dutch Jewish Atlantic' in Gert Oostindie and Jessica V Roitman (eds), *Dutch Atlantic Connections, 1680–1800* (Brill, 2014) http://booksandjournals.brillonline.com/content/books/b9789004271319s010 (accessed 29 March 2016).

[17]Ort (n 6) 237.

of cases with which it dealt. The *Kerkenraad* mostly dealt with practical matters concerning the organisation of the church and the provision of instructions for teachers active in the colony, as well as questions of morality regarding intimate relations and marriage. In 1698, the *Kerkenraad* requested that the Governing Council deport to Holland a widow who was behaving badly. Two years later it requested that an entire family 'that leads a vexatious life' be relocated, and discussed matters concerning the discipline of the congregation.[18] Because of their close connection to the state, the ecclesiastical authorities were not free to do as they pleased, although their direct access to members of the Governing Council made them powerful figures.

Their authority lessened somewhat once other varieties of Protestantism were allowed to practice their faith in the colony. After 1740, the Lutheran Church was officially recognised in Suriname. The first Lutheran minister Ds Phaff interestingly became embroiled in a dispute with the Reformed Church that was taken all the way to the States of Holland. Phaff needed a Reformed minister for his own wedding ceremony, but complaints against the marriage had been filed at the Reformed Kerkenraad. Phaff filed an appeal with the Governing Council but simultaneously persuaded the Lutheran Church council to send a request to the States of Holland. Although the States of Holland stated they could not revise the decision about Phaff's intended marriage, escalation of the case to the higher level did move the Governing Council to allow the wedding to take place.[19]

The differences between the Protestant Kerkenraad and the Jewish Mahamad are clear. The autonomous jurisdiction of the Jews extended beyond religious matters as the Mahamad was allowed to hold trials in minor civil cases up to 10,000 pounds of sugar.[20] This right had been established under English rule in 1665, a few years before the Dutch conquered Suriname. A sample of cases held by the *Mahamad* in 1775 makes clear that it primarily dealt with debts within the community. In that year, it dealt with about 40 cases, involving sums between *fl* 10 and *fl* 562, sometimes individual debts, sometimes claims against estates of deceased members of the congregation.[21]

In religious matters, the *Mahamad* could request the Governing Council banish members of the congregation from the colony. To request excommunication or *herem*, the *Mahamad* had to convene the *Adjuntos* (universal council) of the community.[22] Issues of banishment and excommunication brought to the fore the question of the *patrocinio* (patronage) of the Amsterdam community of Jews over the diaspora. Should communities in London, Hamburg and Bordeaux, as well as across the Atlantic in Suriname and Curacao, revert to Amsterdam in

[18]Ibid, 244: 'dat een ergerlijk leven leidt'.
[19]Ibid, 148.
[20]Rudolp AJ van Lier, 'The Jewish Community in Surinam: A Historical Survey' in Robert Cohen (ed), *The Jewish Nation in Surinam* (S Emmering, 1982) 20.
[21]NL-HaNA, Portugees-Israëlitische Gemeente Suriname, 1.05.11.18, inv nr 300.
[22]Cohen (n 6) 150–51.

cases of appeal?[23] An informative case on the relationship between the jurisdictions of these various courts is the trial of Salomon Montel, inhabitant of Suriname and a member of the Portuguese Jewish Nation. The *Mahamad* wanted to banish Montel and found the governor on their side. It argued that Montel had committed usury, which is forbidden under Mosaic law. Rather than going to the rabbinical court in Amsterdam, Montel took his case to the 'Appeal Court of the West Indies' (this was for all intents and purposes the *Hoge Raad van Holland, Zeeland en West-Friesland* on behalf of the States General) and won his case there.[24] Although the case itself was rather straightforward, the intervention of the Appeal Court reveals a tension between the *Mahamad*, the governor and the Governing Council. Based on a request made by Montel to the States General, the Governing Council in Paramaribo was ordered to supply the States General with documents of the trial held in the Mahamad of the Portuguese Jewish community in Suriname. The Governing Council in turn requisitioned the narratio facti from the Mahamad. The States General formulated their original request on 11 March 1763. Almost a year later, on 16 February 1764, the governor and council met again and discussed a letter drafted by two councillors (Steenberg and Dandiran) to answer the request from the States General. The governor wanted to take over the writing of the letter from the commissioned councillors, but the councillors prevented this since the request of the States General had been made to 'Governor and Councillors'. The letter was approved. The military commander, a member of the council, then intervened, arguing that the States General could not have intended to alter the system of government by the letter address. Obviously, the tiptoeing around sensitive issues in consequence of such a simple request points to a more complex power relation than a simple order for the local governing council to requisition the paperwork of an ecclesiastical court would imply. With some delay, the regents of the Jewish Nation, in the wording used by the Governing Council, honoured the request by the council of 3 June 1763 to supply them the narratio facti of the Montel trial. In this paper-pushing we get a sense of the power play that was involved in mediating the relationship between the Mahamad, the governor and the Governing Council. The intervention by the States General was quite disruptive but had, for Montel, the desired effect.[25]

For its authority, the *Mahamad* relied on the help of the governor, stating: 'it will please the Governor to protect the College and lend a strong hand, so that the same may be respected and obeyed'.[26] The dependence of the community on

[23]Evelyne Oliel-Grausz, 'Patrocinio and Authority: Assessing the Metropolitan Role of the Portuguese Nation of Amsterdam in the Eighteenth Century' in Yosef Kaplan (ed), *The Dutch Intersection* (Brill, 2008) http://booksandjournals.brillonline.com/content/books/10.1163/ej.9789004149960.i-450.39 (accessed 29 March 2016).
[24]Vink (n 6) 76; Cohen (n 6) 128–44.
[25]NL-HaNA, Staten Generaal, 1.01.02 inv no 9515.
[26]Cohen (n 6) 151.

Dutch authority also stretched into defining its *Ascamoth* (body of laws). To change these laws, which were akin to a local constitution, the *Mahamad* had to convene the *Adjuntos*, and its decision had to be approved by the directors of the Suriname Company.[27] Over time, the Jewish community lost much of its autonomy. By 1787, it could no longer pronounce excommunication over Jews who lived in violation of its civil laws or the *Ascamoth*. They were to be taken to Fort Zeelandia to be incarcerated instead, merging the practices of the *Mahamad* with those of the Governing Council.[28]

4. The Maroon communities

Not all communities were formally recognised by the Governing Council. The *kuutu* (literally a meeting, also spelled *krutu*) of the Maroon communities is an example of an uneasy but increasingly entangled informal relationship between the Maroons and the Governing Council. The *kuutu* was a meeting of Maroons living outside the borders of the colony, but connected to the colonial sphere, in which they practiced self-rule. The Maroons were the descendants of slaves who had escaped the plantations and had managed to settle in enduring communities subdivided into *lo* (clan or sub-tribe) and consisting of multiple *be* (literally belly, meaning matrilineal family). In these communities, the *kuutu* dealt with issues arising among the Maroons at the level of the *lo*, including criminal and witchcraft trials. In case of problems within the community or conflicts between different *lo* a neutral village elder or *lanti* would preside over a trial.[29]

Witch trials were the most frequent trials and they could even take place posthumously. Witchcraft or *wisi* was regarded as the result of jealousy, which drove people to summon dark forces to hurt the object of their spite. Members of the Maroon community often understood misfortune to be the result of witchcraft by jealous people within the community. Witch trials were performed after a complaint had been made to the *kuutu*. If the accused party was found guilty the trial could have various outcomes, predominantly either banishment or capital punishment. In posthumous trials their goal was to establish if a person had been a witch during their life. Posthumous trials were held by having two entranced bearers carry the deceased's body on a bier while a spirit was asked questions by a priest. The bearers would function as medium between the spirit and the *kuutu* and would provide an answer to the priest's questions by walking in a certain direction. Bearers had an economic interest in findings of guilt since they could keep some of the accused's possessions. As a result, the competence of the

[27]Ibid, 152.
[28]Ibid, 153.
[29]Wilhelmina van Wetering and HUE Thoden van Velzen, *Een zwarte vrijstaat in Suriname (Deel 2): de Okaanse samenleving in de negentiende en twintigste Eeuw* (Brill, 2013) 228–29.

bearers was mistrusted to a degree. If the *kuutu* suspected foul play the bearers could be replaced mid-trial.[30]

The *kuutu* initially functioned beyond the reach of the colonial authorities, and the Governing Council in particular. This changed after the first peace treaty between the colonial state and the Okanisi (also known as Aucaners or Ndyuka Maroons) in 1760. From that year onwards the peace treaties made between the Maroons and the colonial state brought these groups increasingly into the purview of the colonial authority. Initially, with the Okanisi Peace of 1760, the colonial government tried to push for a clause in the treaty stating that capital punishment could not be meted out by the Maroons themselves, but could only be delivered by the colonial state. The Maroons refused to accept this loss of autonomy and the clause was removed from the treaty. In a second peace treaty, that of 1762 with the Saamaka (Saramacan Maroons), the treaty obliged this group to handle criminal cases in the Maroon-controlled areas and included the privilege of meting out capital punishment. Even so, the colonial state did make two exceptions in Article XI of the treaty of 1762. Both parties agreed that white colonists who came into conflict with the Maroons or committed a crime would be tried in Paramaribo before the Governing Council, and the colonial state retained the prerogative to prosecute any Maroons who may have been involved.[31]

The treaty does not make clear if this particular clause only applied when Maroons were suspected of committing a crime outside the Maroon-controlled areas. Cases are known regarding Maroons in Paramaribo who refused to be tried before the Governing Council and insisted that their trial be held in their own settlement. On 4 June 1762, a group of four Maroons got into a brawl with public prosecutor Rocheteau and were detained. Because the four claimed that the Governing Council could not adjudicate the case, colonial officials contacted the *gaanman* (leader, sometimes spelled *granman*) Pamoe in the interior. At his request, the four were extradited.[32]

The longer the peace lasted, the greater the control of the Governing Council became. When two years later, on 7 December 1764, a Maroon man attempted to break open a door in a fence connecting two plots of land in Paramaribo, the men on the other side of the fence warned him to stop or they would take him to the governor. To this the Maroon answered '*abon, mie granman soo bon leeke joe granman*' ('good, my *granman* is as great as your governor'). Despite these

[30]Ibid, 137–40.

[31]Hartsinck (n 13) 807: 'gelyk zy ook gehouden zullen zyn te straffen alle de zodaanige onder hen, die eenig kwaad of molest komen te pleegen zelfs tot Doodstraffen toe'. Which translated to 'they will be held to punish, those among them who come to commit any evil or damage, this even includes capital punishment'.

[32]Jean Jacques Vrij, 'Bosheren en konkelaars: Aukaners in Paramaribo 1760–1780' in Peter Meel and Hans Ramsoedh (eds), *Ik ben een haan met een kroon op mijn hoofd: pacificatie en verzet in koloniaal en postkoloniaal Suriname: opstellen voor Wim Hoogbergen* (Bert Bakker, 2007) 26.

proud words, in this specific case and in similar ones afterwards, the Governing Council did prosecute and punish the Maroon, although the punishment was relatively light and was administered by other free Maroons.[33] By letting other free Maroons execute the sentence, the Governing Council chose to combine the exercise (and extension) of their authority in the adjudication of Maroon cases with the incorporation and therewith implication of Maroons in the judicial process. This had the further advantage of avoiding the Maroons' humiliation of being punished by an official executioner in the service of the colonial state, who would most likely have been a slave.

In the years after the first treaties, other Maroon groups were also brought into the colonial fold. The Maroons sent representatives to the city of Paramaribo and the colonial authority stationed *posthouders* with the Maroons. The purview of the colonial authority increased over time. After peace had been concluded with the Okanisi (1760) and Saamaca (1762) the colonists were confronted by a new round of sustained attacks by the Boni Maroons, also known as the Aluku. In a draft for a peace agreement with the Boni Maroons, Article VI demanded 'a final and unqualified submission to our judiciary, law courts and fiscals'.[34] With the renewal of the peace with the Okanisi in 1809 the article on justice was amended. The colonial government pledged to extradite Maroons who fled justice in their own villages. The Okanisi were held to extradite Maroons who had abused slaves or free people on the plantations or in Paramaribo, and the Governing Council would punish them accordingly, as they would those Maroons who committed crimes within the jurisdiction of the Governing Council.[35]

In the early nineteenth century several conflicts rose about the execution of witches by the Maroons, and the Maroons' right to autonomous capital punishment of witches was contested by the colonial government.[36] Over time, the authority of the *kuutu* eroded. In 1972, the anthropologists Thoden van Velzen and Van Wetering heard a Maroon conclude a trial by saying that he would like to have had the guilty party whipped, but that the *Bakaa* (whites) had forbidden this. Instead, the defendant was ordered to cook a *wan gaanyanyan* (great meal) and remain in the shade for the remainder of the *kuutu* while other cases were brought before the oracle.[37]

5. Slave justice

Among the enslaved on the plantations similar African traditions were adapted to the circumstances of American slavery as among the Maroons. Their freedom to organise dispute resolution was of course far less than that of the Maroons.

[33]Ibid, 26–27, 299.
[34]Jagdew (n 4) 488.
[35]Ibid, 493.
[36]Van Wetering and Thoden van Velzen (n 29) 118, 159, 337.
[37]Ibid, 229.

Formally, slaves had the option to refer their conflicts to the slave master on the plantation or to the Governing Council. Yet informal modes of dispute resolution also existed. On the plantations in Suriname the language Sranantongo (literally 'Suriname tongue') was developed as a creole out of African and European languages. To this day the word for court is *krutu* and the word for trials is *krututori* (literally 'court story'). *Krutu* can refer to a court ruling, but is also used for chatting, criticising, complaining, or quarrelling. Although the actual institution of a meeting in which verdicts were reached and judgments were passed was not present on the plantation, or only in hidden form, the word for the practice of adjudicating cases is virtually the same as with the Maroons. In Sranantongo the judges are to this day referred to as *krutubakra* (literally 'court white man'), *krutubasi* ('court boss') or *krutuman* ('court man') and the courthouse is a *krutu-oso* ('court house'). This overlap in meaning between the words for the Maroon practice of dispute resolution and the much more restricted practices among the enslaved is striking.

The role of the *lukuman* ('seer') in the plantation trials is likely to have been similar to that of the Maroon priest or oracle. Because of the more hierarchical social relations on the plantations, the *basja* ('overseer', often a slave) is also seen in central roles in settling differences. Some written sources survive that testify to their role in conflict resolution amongst the enslaved.[38] Among the slaves there was a practice of organising ordeals, modelled on West African practices, to establish the truth of accusations. Since this topic has been discussed more extensively in a recent article, I restrict myself here to the relationship between plantation trials among the slaves and the Governing Council.[39] In this respect the accusation of witchcraft was a very grave one, and in combination with poisoning it was severely punished if it came to the attention of the Governing Council. Cases of poisoning among slaves, a proxy for witchcraft, reached the written records of the colonial court in several instances.[40] It appears that plantation slaves would refer an accusation of poisoning to the plantation owner, who would in turn refer such cases to the Governing Council, and that slaves would also try to reach the Governing Council directly. Cases of poisoning were often punished capitally, a fact that slaves were aware of, making the accusation of poisoning between slaves an option for capital punishment by proxy. As will be illustrated by the case discussed below, the Governing Council did take the existence of informal courts on the plantations into account.

This can be seen in the trial of Quacoe, decided by the Governing Council on 21 February 1775.[41] The case centres on the poisoning of the slave Quamina, from plantation *Beekvliet* under the management of director D.H. Dörfeld. A group of

[38]Davis (n 6).
[39]Ibid.
[40]NL-HaNA, Hof van Justitie, 1.05.10.02, inv nr 801 and 756.
[41]NL-HaNA, Hof van Justitie, 1.05.10.02 inv nr 827, folio 72 t/m 73; 76 t/m 77.

slaves accused a slave named Quacoe of poisoning Quamina. The accusing slaves, Beijman, Tamboer, Prins and Present, testified that Quacoe was a poisoner and had been involved in another violent assault as well. The plantation director Dörfeld, however, suspected that Quacoe was not guilty but feared that Quacoe would be killed by the other slaves if he was not executed first by order of the Governing Council. The Governing Council found that Quacoe was innocent and moved to condemn Prins and Present to receive the Spanish buck (punishment by lashing) at the fortress Zeelandia. They also sided with Dörfeld in his fears for Quacoe's fate. In the verdict, the plantation administrators (Dörfeld's superiors) are instructed not to let Quacoe back on the plantation *Beekvliet* to prevent 'further accidents', a euphemism for Quacoe being killed by the other slaves.

6. Plantation managers and the Governing Council

Slave owners, managers and overseers on a plantation were formally governed by local by-laws in exercising their rights as proprietors of slaves. Ruud Beeldsnijder found that it was virtually impossible for slaves to bring cases of abuse to the criminal court and that the complaining slaves were often punished harshly.[42] The position of the governors on this issue, based on their lamentations in letters to the colonial directors in the metropolis, was often that they were appalled by the brutal behaviour of the plantation managers, but unable to successfully change it. This situation, however, was not static. Before 1750 the legal methods by which the local government could curb the domestic jurisdiction of plantation owners or managers were the regulations regarding the white overseers and the plantation regulations. From 1750 onwards the plantation regulations included limits on the form and severity of punishments.[43]

The overseers on the plantations were often former soldiers or sailors, and as such they were accustomed to coercive labour relations in which the captain or officer had the right to adjudicate crimes, including insubordination and labour related conflicts. In the absence of a Dutch equivalent of the slave codes, the prerogative of the plantation managers was regulated by locally issued by-laws and Roman law regarding slaves. Slave owners and plantation managers had the right to domestic correction and as a result the trials on the plantation only surface sporadically in written sources. The *plantaadjeregelement* ('plantation regulations') regulated the jurisdiction of the plantation manager and that of the Governing Council in Paramaribo. In a series of plantation regulations the Governing Council limited the severity of punishment that a manager could mete out, and on occasion plantation managers faced prosecution for the ill-treatment of their slaves. The first of the regulations was issued in 1684 and updated versions were circulated in 1695, 1686, 1725, 1749, 1760, 1761, 1784, 1799 and 1817;

[42]Beeldsnijder (n 14) vol 16, chapter 12.
[43]Ibid.

and closer to the abolition of slavery in 1863, two more regulations were issued, one in 1851 and one in 1856.[44] While the plantation regulations stated what kinds of cases were to be tried before the court in Paramaribo, the divide between a case that may be tried by the planter on the spot and one that must be referred to the Governing Council is unclear. A vague notion such as 'the atmosphere on the plantation' (as perceived by the manager) could be cause for referring a case to the city. In these instances, the Governing Council offered a way to resolve a dispute away from the physical context of the plantation, and in that way prevent escalation and possibly generalised revolts of slaves against the manager and the overseers.

Alex van Stipriaan has argued that the 'iron fist' that ruled over the slaves had become gloved in the nineteenth century, indicating that punishment became less harsh, and that a wider range of options was deployed for plantation managers to alleviate tension on the plantations.[45] This description makes sense after 1815, since from that year the colonists no longer had the right to nominate local people for the Governing Council. However, the process of providing access to the Governing Council to slaves had already been set in the mid-eighteenth century. In the nineteenth century the purview of the colonial court in Paramaribo clearly increased. In 1828, the colonial government decided that the Spanish buck could no longer be meted out by plantation managers, but only by the government in town. In 1842, the number of lashes that a plantation manager could order was also reduced to a maximum of 25 for adult males, 15 for adult females who were not pregnant and for adolescents between the age of 14 and 16 between 10 and 15 lashes.[46]

A clear example of the balance between domestic correction and trials before the Governing Council is the case of Manuel, a creole man enslaved on the *Cortenduur* in Suriname, along the Pirika Creek which was under the management of Abraham van Deventer.[47] The temporal and spatial implications of referring a case from this isolated place to the court in the city are obvious.[48] Given the small

[44]Aksel Quintus Bosz, 'De ontwikkeling van de rechtspositie van de vroegere plantageslaven in Suriname' (1981) 35 *Surinaams juristenblad: orgaan van de Surinaamse Juristen-Vereniging* 490; Meindert Rutgert Wijnholt, *Strafrecht in Suriname* (Rijksuniversiteit Groningen, 1965); Johannes A Schiltkamp and JTh de Smidt (eds), *West Indisch Plakaatboek* (Emmering, 1973).

[45]Alex van Stipriaan, *Surinaams contrast: roofbouw en overleven in een Caraïbische plantagekolonie, 1750–1863* (KITLV Uitgeverij, 1993) 372.

[46]Ibid, 372–73.

[47]The case can be found in NL-HaNA, Raad van Politie 1.05.10.02 inv no 803. NL-HaNA, Sociëteit van Suriname, *Resoluties van de Raad van Politie, 1752*, 1.05.03 inv no 144.

[48]Alexander de Lavaux, 'Generale Caart van de Provintie Suriname : Rivieren & Districten Met Alle D'Ondekkingen van Militaire Togten Mitsgaders de Groote Der Gemeetene Plantagien Gecarteert Op de Naauwkeurigste Waarnemingen: Rechterhelft Boven' (1737) UBM: Kaartenzl: 107.08.59 (Kaart), Surinamica, Universiteit van Amsterdam, Amsterdam, http://resources21.kb.nl/gvn/SURI01/SURI01_Kaartenzl-107-08-59_X.jpg (accessed 4 October 2017).

number of white colonists available, one would have needed a willing and trustworthy group of slaves to row those involved to the city. So, when Abraham van Deventer on 4 July 1752 suspected that some of his slaves had been drinking, he knew that he had the highest authority to serve as prosecutor, judge and maybe even executioner if he were to pursue this issue. He asked Manuel if 'he knew slaves on the plantation who had been drinking'.[49] Van Deventer had withheld the distribution of *dram* (a crude rum) for some time, which was a common form of collective punishment used by plantation managers.[50] Van Deventer called the *basja* to mete out lashes to Manuel, probably for his impertinence and drunkenness. The *basja*, however, informed Van Deventer that the *dramstijlder* (rum distiller) Joela had given the *dram* to Manuel. Joela in turn pointed a finger to Christiaan Vrijburg, the *blankofficier* ('white overseer'), as the one who had been distributing the *dram*. As a result, Joela was given lashes for having sold the *dram* to Christiaan Vrijburg. Vrijburg was not punished for his supposed transgression. None of this was cause for any alarm, as it was all part and parcel of the daily workings of a plantation. Van Deventer had to weigh the evidence and decide how to handle things further. Deciding who was guilty of what and how this should be punished was done on the spot without much ceremony.[51] However, these were only the opening moves in a conflict that would end with the execution of Manuel in Paramaribo. While these events unfolded, Manuel had left the gathering before he could be questioned further. Two days later Manuel fled the plantation with three *timmernegers* ('enslaved carpenters'). The escapees were later caught on a nearby plantation, after which a more sophisticated 'trial' began at *Cortenduur*. The recaptured escapees were interrogated by Van Deventer while the scribe Jean Nicolas Gertoua took minutes of the investigation. Manuel once again managed to escape, only to be recaptured two days later, on Saturday 8 July 1752, after which Van Deventer brought him before the criminal court in Paramaribo on 11 July, on charges of mutiny and escape. Manuel was found guilty and executed.[52]

In this particular case Van Deventer used three legal forums to deal with Manuel, whom he did not own himself, but over whom he clearly exercised a right of control. First he initiated an investigation and imposed punishment in front of the plantation house. When the challenge to his authority increased, he held a plantation trial indoors assisted by his clerk. Once the situation began to slip from his control he referred the case to the Governing Council in Paramaribo. We can only guess what Van Deventer's intentions may have been, although some possibilities are obvious. The immediate, rather chaotic gathering that started when Van Deventer asked Manuel about slave drinking was impromptu, although

[49]NL-HaNA, Raad van Politie 1.05.10.02 inv no 803.
[50]Van Stipriaan (n 45) 371.
[51]NL-HaNA, SvS, 1.05.03 inv no 803.
[52]Ibid.

it followed an established pattern of ad hoc questioning and immediate punishment by the *basja* and the white overseer. The escape of Manuel and his co-conspirators was handled more formally. The accused were detained, questioned and a scribe took their statements. The escape was a direct challenge to the working of the plantation and even more threatening since it happened at the outer reaches of the plantation area, in a period when Maroon attacks were becoming more frequent.[53] By formalising the trial and holding it behind closed doors, Van Deventer may have hoped to diffuse the situation. Manuel's case was treated individually and in the end the trial against him was moved off the plantation site to the city, several days of travel away. As events unfolded, the informal power of Manuel became painfully clear when he managed to draw three skilled slaves into a plot to escape. He also displayed an understanding of the power relations between the local manager and the actual owner of the plantation. It was clear that Manuel was becoming a threat to Van Deventer's authority, and after the second escape to *Rietveld* Van Deventer had an argument to get rid of Manuel once and for all.[54] Van Deventer likely understood that the charge of escape was a grave one in the context of increasing marronage, and the members of the Governing Council dealt with the matter swiftly.

The situation as it was in 1750, at the time of the case of Manuel, was about to change. Comparing the criminal cases held before the Governing Council in 1750 to those held in 1775, it is possible to see a change in the legal status of both the suspects and the victims. In 1750 the picture is clear. White suspects were accused of inflicting harm on 12 white victims in total and on 1 mixed group of freed and enslaved victims. Slaves were accused of crimes against 15 white victims and 3 enslaved victims in total. A manumittee was accused of harming a group of whites and slaves. We find no free white suspect accused of a crime against a slave in 1750. In 1775, however, we find 14 slaves as victims of free white people.[55]

Over the course of the eighteenth century, the jurisdiction of the Governing Council expanded at the expense of the slave owners. Slave owners became restricted in the kinds of offences they could deal with, as well as the punishments they could administer. There was a clear rise in the number of cases initiated by slaves to challenge the brutality of the slave owners. The outcomes of these cases, however, greatly favoured slave owners, rarely resulting in the punishment of the accused. Out of five cases in which slaves accused their master or plantation director of mistreatment, three ended in punishment for the accusing slaves. An example is the complaint in 1775 of a diverse group of slaves from the *D'Eendragt* plantation. The slaves are listed in the record with either their craft or their status,

[53]Frank Dragtenstein, *'De ondraaglijke stoutheid der wegloopers': marronage en koloniaal beleid in Suriname, 1667–1768* (Utrecht Inst voor Culturele Antropologie, 2002) 146–86.
[54]NL-HaNA, SvS, 1.05.03 inv no 803.
[55]NL-HaNA, toegang 1.05.10.02, inv nr 800, 801, 827 and 828.

suggesting that these were craftsmen and field slaves operating together. They had complained about the plantation manager before, but now brought their grievances before the Governing Council and requested that the 'plantation government was examined'.[56] The Governing Council investigated the case by examining the white overseer and clerk on the plantation. However, it concluded that the 'complaints by the slaves had been made on frivolous pretexts' and decided to 'condemn the complaining negroes to the Spanish buck at the fortress'.[57]

Although incidents were indeed investigated, the result usually favoured the plantation managers. When the meting out of a Spanish buck to a female slave Dia resulted in her death two days later, the plantation director was sentenced to pay a fine of *fl* 300.[58] More severe punishment for white violence followed when lower-ranking whites mistreated, wounded, or killed slaves. After accidentally firing a lethal shot at a slave on the plantation *Vissershoop*, the free white plantation director Jan Michiel Thiel was sentenced to be tied to a pole, flogged and banished from the colony.[59] In a fencing game the free white man Pierrot van Phannekoek accidentally wounded an enslaved man named Alert. Alert was owned by the Suriname Company and, although he was the victim in this case, he was condemned to receive the Spanish buck at fortress Zeelandia.[60]

During the quick expansion of the plantation system, between 1750 and 1775, it is already visible that the Governing Council was not taking a simple one-dimensional stance with regards to white violence against slaves. Although the outcome of the legal process remained heavily in favour of the white elite, the possibility to arraign masters and the occasional punishment of (lower-class) whites for violence against slaves points to an adaptation by the Governing Council to the growing numerical superiority of, as well as increasing resistance by, the enslaved.

7. Conclusion

This article has investigated the changing role of the Governing Council in Suriname during its existence from 1669 to 1816. Historians of Suriname have often cited clashes between local elites, represented by the councillors, and metropolitan

[56]NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv nr 827 folio 293–309. The slaves were listed as Soliman, Kees *dresneger* (medic), Sambo *metselaar* (mason), Maart *timmerman* (carpenter), Joris *crioolen* (creole), Saturdag and Pieter *soutwater* (slaves born in Africa).

[57]NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv nr 827 folio 293–309: 'dat de klagte van gemelde slaaven op frivoole pretexten sijn voorgebragt hebben goed gevonden de gemelde klaegende negers te condemneere, soo als deselve gecondemneert worden bij deesen, om met een spaanse Bock op het fortresse te worden afgestraft en aan de administrateur de Bije te worden gerestitueerd mits betaalende de kosten ten dese gevalle.'

[58]NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv nr 828, folio 446 t/m 449 and 452 t/m 453.

[59]NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv nr 828, folio 29–43.

[60]NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv nr 828, folio 256.

interests, represented by the governor, as the main dynamic in the Governing Council. The broad variety of legal statuses, ranging from Protestant landholder, landowners of other religions, enslaved people, those who had been manumitted, freeborn persons of colour, free Maroons and indigenous people, were all treated differently by the Governing Council. Multiple forums for arbitration – mostly based on religious affiliation – existed in the colony. By studying how these forums related to the Governing Council, it becomes clear that their relationship with the Governing Council changed over time. In all cases the Governing Council, which combined legal and political authority, was able to increase its authority. The ecclesiastical bodies, especially the Jewish *Mahamad*, expressed communal autonomy vis-à-vis the Governing Council and the governor. Among the Maroons, who were beyond the formal boundaries of the colony, the Governing Council was able to increment its authority after the first peace negotiations were concluded – although their autonomy seems to have remained respected far into the nineteenth century. With the growth of the plantation sector and the increasing imbalance between the number of free people and slaves, the Governing Council began to offer limited judicial access to slaves. Although slaves did not stand a fair chance to win a case, the Governing Council conducted extensive research into the complaints lodged by slaves, giving the impression of a serious trial both to the accusing slaves and to the modern-day researcher. Overall, the Governing Council was better able to adapt to changing communitarian concerns in the colony than the literature has acknowledged.

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