Diversity and Empires

Negotiating Plurality in European Imperial Projects from Early Modernity

Edited by Elisabeth Heijmans and Sophie Rose

DIVERSITY AND EMPIRES

Examining diversity as a fundamental reality of empire, this book explores European colonial empires, both terrestrial and maritime, to show how they addressed the questions of how to manage diversity.

These questions range from the local to the supra-regional, and from the management of people to that of political and judicial systems. Taking an intersectional approach incorporating categories such as race, religion, subjecthood, and social and legal status, the contributions of the volume show how old and new modes of creating social difference took shape in an increasingly globalized early modern world, and what contemporary legacies these 'diversity formations' left behind. This volume shows diversity and imperial projects to be both contentious and mutually constitutive: on the one hand, the conditions of empire created divisions between people through official categorizations (such as racial classifications and designations of subjecthood) and through discriminately applied extractive policies, from taxation to slavery. On the other hand, imperial subjects, communities, and polities within and adjacent to the empire asserted themselves through a diverse range of affiliations and identities that challenged any notion of a unilateral, universal imperial authority.

This book highlights the multidimensionality and interconnectedness of diversity in imperial settings and will be useful reading to students and scholars of the history of colonial empires, global history, and race.

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INTRODUCTION

Elisabeth Heijmans and Sophie Rose

'Diversity' is a term frequently thrown around in twenty-first-century parlance, from college recruitment campaigns to corporate and government policies, and usually in a decidedly celebratory way, explicitly avowing an embrace of previously marginalized groups. As such, it is often used in conjunction with the social concept of 'identity', connoting the qualities that meaningfully impact the groups and categorizations that someone belongs to, as well as the implications this has for social status, societal roles, power, and influence. As trendy as the terms may be, however, questions around diversity and social identity are not new. The creation, administration, and contestation of difference have been a matter of concern for populations and their rulers in a wide variety of historical contexts, for thousands of years. This book will approach diversity not as a value, but as an analytical tool, and apply it in a specific type of context: empires, and specifically early modern to modern European empires.

This is not an arbitrary choice. Diversity is a fundamental reality of empires, and conversely, many of the tenets of diversity as we understand them today found their origin in an imperial setting. Generally speaking, empires, whether terrestrial or maritime, by definition bring together a range of political entities and social groups. Consequently, imperial authorities invariably address questions of how to manage this diversity. These questions range from the local to the supra-regional, and from the management of people to that of political and judicial systems. The current volume explores the different ways of shaping diversity and using already-existing markers of difference in European imperial contexts through the interaction between imperial authorities and subject groups. Through a variety of angles and thematic lenses, the contributions in the volume will demonstrate that questions of diversity, or, as some scholars have put it, the 'politics of difference',[1] are key to

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understanding the dynamics of empires – and vice versa. Central in this argument is an understanding of diversity as marked by four essential features:

Firstly, diversity is not an objective, fixed reality, but historically and politically constituted. Or, perhaps more accurately, specific manifestations of diversity can be seen as the by-product of community formation and identification. In order for any kind of belonging to be meaningful, some form of exclusion is required, and criteria for defining the boundaries between groups need to be established. What these criteria are varies historically, but in imperial contexts, they have frequently included factors such as place of origin, ancestry, wealth and labor relations, color and other characteristics through which race came to be understood, religious practice or dogma, and the qualities constituting sex and gender. Because of this constitutive nature, it may be more useful to speak of 'diversity formations' than of diversity as such.

Secondly, this constitution is not a unilateral process. Although the creation of difference, in *divide et impera* fashion, has certainly been an important aspect of many imperial authorities' strategies, such impositions never happened in a vacuum. As the contributions in this volume will show, imperial subjects actively took part in the formation of difference through outright resistance, lobbying tactics, petitions, communal practices, migration, and the creation of personal networks through marriage, reproduction, commerce, and friendship. Diversity and imperial projects were thus both contentious and mutually constitutive: one the one hand, the conditions of the empire created divisions between people through official categorizations (such as racial classifications and designations of subjecthood) and through discriminately applied extractive policies, from taxation to slavery. On the other hand, imperial subjects, communities, and polities within and adjacent to the empire asserted themselves through a diverse range of affiliations and identities that challenged any notion of a unilateral, universal imperial authority. Appreciating this dynamic requires an examination of both sweeping imperial visions of race, religion, property, and power, and local, on-the-ground contestation of status. This volume seeks to showcase the interaction between colonial administrations and individuals under their power within different avenues such as court rooms, legislation, political treaties, and administrative apparatuses. Using diversity as a guiding concept, oscillating between the global and the micro level, and between *longue durée* and historically specific analyses, sheds light on the interconnectedness between empires' political and economic tools and strategies on the one hand, and the social realities and ramifications of empire on the other.

Thirdly, diversity formations can be highly resilient throughout time. Even though empires, and the way in which they organize differences, are subject to the constant change in the face of ongoing contestation, changing interests, and demographic developments, specific modes of understanding differences have been shown to leave a residue even where the imperial conditions that gave shape to them are gone.[2] This applies both where colonial control of an area switched from one empire to another – such as in several South Asian and Caribbean colonies, where Northern European powers, after their conquest, retained earlier Iberian modes of

racial classification – and in post-colonial and post-imperial contexts.[3] An example of the latter is race, which, centuries after the abolition of racial slavery and in the wake of formal policies of racial segregation, continues to be a meaningful category of difference in much of the world.

Fourthly, the 'axes of difference' through which diversity is shaped overlap and interact, thus changing each other's meaning.[4] Just as religion was rarely ever just about faith, race was never just about color: each could become intertwined with political allegiance, class, enslavability, sex, and more. Thus, the stigma of slavery could stick to racialized free people in the Americas, just as political and religious suspicions stuck to generations of New Christians in post-Reconquista Spain. The 'stickiness' of diversity formations, therefore, lies not just in their resilience through time but also in the remnants that categorizations left on each other and on people's identities.

While the present volume focuses primarily on European empires, it has been shown, and it is our conviction, that similar mechanisms of differentiation existed in other empires during other periods of time. In their volume *Empires in World History*, Jane Burbank and Frederick Cooper explore how empires used the politics of difference as a governing strategy across the world from Antiquity to modern times. This process varied from one empire to the other: in some, the strategy was to recognize the culture and customs of a wide variety of social groups, while for other empires it involved creating sharp distinctions between colonizers and colonized.[5] The latter case, where difference not only had to be created but also maintained, was by no means self-evident or natural and involved efforts from colonial administrations to regulate social, sexual, or other relations between colonizers and colonized. In the former case, the distinction is not so clear-cut, since empires could be a combination of a variety of peoples with their own religion, culture, or legal traditions under one imperial authority. Here, the recognition of the different social groups and their authority helped the empire function by assisting with administrative tasks such as tax extraction and the local maintenance of order. However, Burbank and Cooper stress that all empires relied to some extent on both 'incorporation and differentiation' strategies.[6] Indeed, while these different strategies are relevant to our understanding of imperial management of diversity, they are more often than not combined rather than mutually exclusive. The creation of difference happened not only between colonizers and colonized but also among colonized groups.

In a similar vein, a recent work on the government of 'others' analyses the construction of alterity in the Portuguese Empire and argues that imperial configuration where the difference is perceived and constructed as 'the other' was necessary to keep colonial power in place. Colonial administration exercised power through the creation of legal and social alterity and the management of these differences.[7] While this top-down 'divide to rule' approach is a source of inspiration for our volume, we seek to widen it and complement it by including as much as possible the reaction and contestation of individuals living under European colonial rule.

Historians have addressed the paradox of the high frequency of the use of the term 'diversity' and the great difficulty to define it, as is also pointed out by Margret Frenz

in her piece in this volume. The term describes the long-existing phenomenon that individuals of a wide variety of cultures, religions, classes, origins, or ethnicities live together in a society, but it is how diversity was managed by authorities and used by various individuals and social groups that changed over time. Early modern European empires administered diversity, took over already-existing modes of classification or created boundaries between groups under their authority to facilitate their capacity to assert power over people, extract labor, and exploit lands. These societal boundaries were by no means specific to the early modern period, as they were the origin of some modern colonial administrative strategies and have been inherited by new nation-states after decolonization.

In taking diversity as a guiding concept, this book aims to move beyond several conceptual dichotomies that have pervaded the historiography of empires. One, particularly applicable to the study of (early modern) colonial empires and of slavery and the slave trade, is the division between 'East' and 'West', or between the Atlantic and the Indian Ocean Worlds. In bringing together contributions on both hemispheres, we are following in the footsteps of a recent body of scholarship that has begun to challenge what it argues is an artificial divide.[8] This approach leaves room for meaningful differences between regions, while simultaneously revealing similar patterns in imperial dynamics and formations of diversity across and between global empires.

Secondly, the book challenges dichotomous thinking with regard to colonial categories, and especially the colonizer-colonized binary. This mode of categorizing people has been used both as an epistemological tool by empires themselves and as an analytical tool by post- and de-colonial scholarship, and as such is far from a meaningless abstraction. However, as the myriad chapters in this volume will show, using the many axes of diversity as a starting point in the study of empire sheds a new, multi-faceted light on its social hierarchies, revealing complexities and interactions that a binary view belies. When viewed in this light, significant distinctions emerge not just within so-called colonized populations (enslaved, free indigenous, etc.) but also within 'settler' groups (based on religion, national origin, class, etc.), while for other groups, it becomes clear that such a dichotomy is problematic to begin with, as with indentured servants, convicts, and non-European migrants. Similarly, using an intersectional approach, incorporating race, class, religion, gender, and other aspects of social diversity (or, put differently, modes of exclusion), not only avoids privileging one at the expense of another but also shows their interaction and co-constitution.

Finally, the volume aims to build bridges of inquiry between early modern empires and those of the nineteenth and twentieth centuries which, as a result of methodological as well as institutional demarcations, are often studied in a vacuum. This is understandable if regrettable: the challenges, ideas, and conflicts of the sixteenth century were not the same as those of the early twentieth century; nor do they constitute separate universes, however. The modes of exclusion and inequality that formed in early modern empires are marked by continuity even in the face of

transformation – in other words, by resilience. In modern imperial and post-colonial contexts, categories of difference such as race and subjecthood changed their meaning, but did not disappear or emerge out of nowhere. Thus, while the core of this book focuses on early modern colonial empires, one section – Part 4 – is dedicated to long-term approaches highlighting modern reverberations of diversity formations. This combination, we hope, can offer scholars and students of empires not just a concrete insight into long-term historical continuity but also a theoretical handle for approaching a multitude of imperial contexts across time and space.

The book is made up of four parts, each highlighting a particular way in which aspects of diversity can intertwine in imperial settings. The first departs from religion as a central lens through which difference and belonging were understood in the early modern world, and shows that this understanding was rarely a straightforward matter of religious affiliation. Tamar Herzog demonstrates how, in the wake of the Spanish *Reconquista* and subsequent Iberian forced Christianization campaign, conversion became a problematic concept and the relative 'newness' of one's Christian status became a meaningful distinction. She shows how elements of this old-new axis can also be identified in other approaches to social difference, such as civic status, ethnicity, and race, in various historical contexts. Ângela Barreto Xavier and Alexander Geelen's pieces, then, turn to eighteenth-century coastal India, to show the complex interplay between conversion to Christianity, the resilience of caste as a meaningful mode of social difference, and colonial power. Xavier, working on the Portuguese *Estado da India*, focuses on marriage rites as a site of contestation not just between but also *among* different colonial factions and local and regional population groups. Geelen, for Cochin on the Malabar coast (Kerala), examines the implications of the Dutch East India Company's self-appointed role as 'protector of Christians' in its area of control for the region's agrestic slavery system and vice versa, and what this interplay meant concretely for individuals of so-called slave castes as they navigated domestic authorities (i.e. masters) as well as colonial judicial authorities.

The relation of slavery to other modes of differentiating status as well as to individuals' agency in navigating (colonial) legal systems is explored further in the second section. André Luís Bezerra Ferreira takes a clear bottom-up perspective and tells us how enslaved individuals in the Portuguese Amazon region used the imperial categories of the judicial system for their own interest: their access to freedom. According to this legal system, individuals who could prove their Indigenous ancestry could petition for freedom. The 'enslavebility' of Indigenous and African people is also a theme explored by Rafaël Thiebaut in his chapter comparing the Cape with the Guianas. Ferreira and Thiebaut show the imperial rules surrounding who could (not) be enslaved, but most importantly, how these rules played out in practice in the context of the high demand for (enslaved) labor. Fereira demonstrates that imperial categories were often applied to Indigenous people and African individuals indiscriminately. This is echoed in Stef Vink's chapter which shows that racial categories were above the legal distinction between free and unfree people on the island of Curaçao. According to Vink, the administration of justice was a tool to implement

social control and keep people of color, both free and unfree, under colonial authority. Fereira complements this perspective on imperial justice, showing that the judicial system could also be used by enslaved people.

The third part, focusing on questions of subjecthood and belonging across imperial lines, shows how diversity formations are strongly context-dependent and tied to material concerns: intra-European differences, in colonial contexts, could change or even lose their meaning, with other modes of forming communities and creating distinctions taking priority. As Timo McGregor shows in his analysis of two moments of inter-imperial transfers of control (New Netherland and Suriname), local politics of property and debts tied individuals of different nationalities together, playing a more important role in settlers' and authorities' negotiations than distinctions between 'English' or 'Dutch' colonists. Tessa de Boer, asking who was considered 'foreign' in the context of the early modern French Caribbean, demonstrates that mechanisms of inclusion and exclusion in Europe were not transferable in colonial contexts.

The last two chapters open the volume to the nineteenth- and twentieth-century empires and post-imperial situations looking at two different contexts: South Africa and Russia. In her chapter, Margret Frenz chooses a theme where diversity formation and its evolution are highly visible: the education system. Through her focus on the Indian community of South Africa, Frenz shows the different phases of the management of diversity by the state and the ways the Indian community attempted to negotiate this diversity. According to Frenz, the control over education was a tool, more specifically a weapon, to implement social control and white supremacy over the South African population. The system was based on pseudo-scientific theories of racial categories. Turning to the *longue durée* analysis of Russia, from the Russian Empire through the Soviet era to the modern age, Jane Burbank also examines contemporary theories of diversity, but here twentieth-century Russian theorists focused on ethnic and religious diversity of the Russian territories. While diversity is fundamentally a part of empires, the way diversity was managed varied widely. Burbank argues that the Eurasian style of diversity management and its resilience come in stark opposition with European universalism.

Finally, Jean-Frédéric Schaub, in his concluding chapter, draws on the approaches to the diversity introduced in the preceding chapters to interrogate racialized modes of conceiving human difference as a political tool used by governing authorities throughout history, and then takes a step back, offering a methodological reflection for historians of empire and other diverse historical settings. Stressing the limitations of making universalizing claims from limited empirical perspectives, Schaub makes the case for an interdisciplinary, collaborative approach that draws on a diversity of linguistic and cultural competencies. He points to the study of empire, moreover, as a way to move, even within institutional and intellectual confines, beyond traditional frameworks such as that of the nation-state and toward more globally spanning questions of social plurality and power.

The goal of the book is not to give an exhaustive, or even strongly representative overview of European empires, but rather to open up a line of inquiry that

can also be applied to other imperial contexts. Theoretically, the proposed framework could even be extended to ancient and non-European empires, if more in form than content: the dynamics of diversity formation, as being historically constituted, multidirectional, resilient, and intersectional, can arguably be applied to a variety of imperial contexts. The specific themes that come to the fore in this volume (the construction of race, the opposition of Christianity to other belief systems, the economic exploitation of individuals, and continents to Europe's benefit), being more historically contingent, would be less relevant to such applications, and as such are what binds the contributions in the volume together: each deals with questions and conflicts around belonging, exclusion, and categorization that in one form or another laid the foundations for modern imperial and, later, post-colonial approaches to diversity and modes of inequality.

Notes

1 Jane Burbank and Frederick Cooper, *Empires in World History: Power and the Politics of Difference* (Princeton: Princeton University Press, 2010).
2 This notion is derived from the collaborative research project "Resilient Diversity: The Governance of racial and religious plurality in the Dutch empire, 1600–1800," funded by the Dutch research council NWO, which formed the inspiration for this volume.
3 See also Cátia Antunes and Miguel Bandeira Jerónimo, "The Inequalities of Empire: Comparative Perspectives," in *The Routledge Handbook of Contemporary Inequalities and the Life Course* (London: Routledge, 2021), 396–97.
4 On the concept of intersectionality that this point draws on, see Kimberle Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color," *Stanford Law Review* 43, no. 6 (1991 1990): 1241–300; Jennifer C Nash, "Re-thinking Intersectionality," *Feminist Review* 89 (2008): 1–15; Joya Misra, "Categories, Structures, and Intersectional Theory," in *Gender Reckonings: New Social Theory and Research*, eds. James W. Messerschmidt et al. (New York, NY: NYU Press, 2018), 111–30.
5 Burbank and Cooper, *Empires in World History,* 11–12.
6 Ibid., 13.
7 Ângela Barreto Xavier and Ana Cristina Nogueira da Silva, *O governo dos outros: poder e diferença no império português* (Lisboa, Portugal: Imprensa de Ciências Sociais, 2016), 22.
8 Examples of this include the special issue "Free and Unfree Labor in Atlantic and Indian Ocean Port Cities (Seventeenth-Nineteenth Centuries)," *International Review of Social History* 64, no. S27 (2019); Isabel Hofmeyr, "Southern by Degrees: Islands and Empires in the South Atlantic, the Indian Ocean, and the Subantarctic World," in *The Global South Atlantic* (New York: Fordham University Press, 2017), 81–96; Richard B. Allen, "The Constant Demand of the French: The Mascarene Slave Trade and the Worlds of the Indian Ocean and Atlantic during the Eighteenth and Nineteenth Centuries," *The Journal of African History* 49, no. 1 (March 2008): 43–72; Pepijn Brandon et al., *De slavernij in Oost en West: Het Amsterdam-onderzoek* (Uitgeverij Unieboek: Het Spectrum, 2020); Amélia Polónia and Cátia Antunes, eds., *Mechanisms of Global Empire Building* (Porto: Citcem, 2017).

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PART 1

Religion and the negotiation of belonging

1

OLD AND NEW MEMBERS

Religious and civic conversion in the Iberian worlds

Tamar Herzog

Introduction

Within Iberian history, the late medieval campaigns that first sought to forcefully convert Jews to Christianity and then expelled those who refused are extremely well known. Also extremely well-known is the fact that those who converted were identified as "New Christians" and, as such, were both integrated and rejected as their contemporaries constantly questioned whether their conversion was sincere and whether it was complete. This questioning reached a climax in the mid-fifteenth century with the adoption of *limpieza de sangre* decrees that permanently excluded converts of Jewish descent from occupying certain offices and positions. As a result of these decrees, it became necessary to distinguish Spaniards according to whether they were Old or New Christians.[1]

Many scholars suggested that these developments were a nativist response to economic, cultural, political, and social competition. Others concluded that they were propelled by anti-Jewish prejudice, perhaps even an early form of antisemitism. Yet a third group linked them to sincere religious anxieties.[2] In what follows, I take another route. I ask what "new" and "old" meant, and how our narrative changed if we placed these developments in a larger perspective and a longer context. Most particularly, I wish to demonstrate that the use of "old" and "new" was not particular to this case, but instead was a technology used in many other instances. It operated in both the religious and the civic sphere, in both Europe and the Americas. Applied to different individuals and groups in different moments and settings, it expressed the desire to reserve certain benefits to members who allegedly had always been a part of the community, and restrict eligibility to those considered newcomers.

I begin by reviewing canon law debates regarding the discrimination of new converts. I then examine how these debates were applied to former Jews who converted

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to Christianity. This application, I argue, alongside new theories regarding the consequences of coerced conversions and of family and inheritance enabled discussants to imagine that entire groups rather than individuals could be "new" regardless of the date in which they had converted. Applied in the Americas with regard to both the indigenous populations and persons of African descent, new and old became a marker of otherness also in the civic sphere, allowing to distinguish between Old and New Castilians, Old and New Spaniards, and Old and New Whites. By using such designations when observing those around them, Spaniards not only obeyed the logic of canon law but also adopted as their own distinctions established by *ius commune* jurists who from the twelfth to the fourteenth centuries constantly debated whether Italian municipalities could admit new members and how.

The aim of this exercise is twofold. On the one hand, I wish to demonstrate what we stand to learn from setting our study case in a wider and longer context. On the other, and as I have done before, I wish to suggest that categories of diversity are in themselves diverse.[3] Race and ethnicity certainly mattered, and mattered more over time, but contemporaries also used plenty of other methods to justify giving differential treatment to some social members. One such method was the powerful fiction according to which some members are original, while others are not. This fiction, which largely depended on what society wished to remember and what it preferred to forget, operated in Europe and was applied in the colonies, Spain being an excellent (but not unique) example of how this transpired. I, therefore, begin by reviewing pan-European debates regarding new converts. I then study how these, alongside new theories, justified the discrimination of converts of Jewish origin, how these debates crossed the Atlantic, how they operated in the civic sphere, and how all this was closely related to remembrance and forgetfulness.

Old and New in Canon Law

The categorization of some Christians as old and others as new was tied to debates within the church, debates that originated in antiquity, but which were particularly virulent from the late Middle Ages into modernity. At stake was answering the question of how to promote conversion while also ensuring that it would be both genuine and complete. The search for a response that would balance these seemingly contradictory impulses (maximum conversion but minimum jeopardy) led to the development of several rules. First and foremost, jurists and theologians cited the directive that cautioned the church against granting full privileges to new converts. Additionally, believing that the application of this directive was particularly important in the aftermaths of forced conversions, jurists suggested that there were good reasons to suspect the sincerity of those who were induced to convert. Third, with regard to the growing stigmatization of converts of Jewish decent, jurists debated whether the propensity to heresy could be inherited, and they described how genealogy and blood could affect judgment regarding the authenticity of belief.

Managing New Converts

The directive cautioning the church against new converts was already included in the New Testament, where it was specified that those who were not born Christians, nor had converted at a young age, were "neophytes," in Greek, "newly planted."[4] The directive set the rule according to which these individuals should be subjected to greater supervision and be discriminated against, for example, by their exclusion from priesthood. While marginalized in some ways, in theory at least, neophytes also merited a greater protection. Considered young in the faith, they were to be treated as children, their conversion being considered a re-birth and their re-education eliciting constant care and instruction.

Initially, converts were mostly discriminated against by their exclusion from office holding. However, by the late Middle Ages, additional measures were also considered. For example, in the mid-twelfth century, the Italian jurist Rufinus concluded that while it was legitimate for Old Christians to share meals with gentiles, neophytes who were recently baptized should be prohibited from doing so.[5] Following suit, other medieval jurists extended these prohibitions to social relations and marriage ties, most particularly, between recent converts and their former coreligionists.[6]

Although repeatedly asserted, these measures usually failed to define when the newly converted would cease being considered thus. This lack of definition unleashed constant debates, with different authors suggesting different solutions. By the late Middle Ages, many envisioned conversion not as a one-step experience but as a "lifelong journey" or a "work in progress."[7] According to this view, the initial rite of entry and recognition, that is, baptism, was but the mere beginning of a much longer process because experience demonstrated that a real change of heart required several steps and a lengthier temporality. Because at stake was the question of whether a true transformation had taken place, many concluded that constant proofs should be required of converts before they could be constituted as full-proof Christians.

In line with the casuistic thinking of medieval jurists, what completeness meant depended on whom, when, and where, as different individuals and contexts merited a differential treatment because each were said to display a distinct set of circumstances, including a distinct aptitude for change. Satisfaction that completeness had been achieved thus depended on the conditions of each case, but, according to jurists, it also depended on the question of whether at stake was discrimination (which, in theory, required a more stringent interpretation) or benefits (that allowed for a broader, more generous, reading). Also important was an emerging distinction between wide-ranging discrimination (which should terminate early) and limiting the access of neophytes to leadership roles, which could justify the adoption of a longer period.

Despite constant disagreements, most jurists adopted sixty years or the passing of three generations as the maximum length of time providing a satisfactory guarantee for a real change of heart. Nonetheless, in the fifteenth and sixteenth centuries,

some authors began arguing that in certain cases, suspicion should last forever. These authors also stated that suspicion, which in theory depended on individual behavior, could become attached to groups, which were said to exhibit certain tendencies.[8] By the end of this process, newness could refer to chronology, but it could also reference characteristics that allegedly barred certain types of converts from ever being truly modified. Presented as an exception to the general rule, this understanding was applied by some discussants to converts of Jewish descent. Their newness, these authors argued, should last forever. They were to remain New Christians independently of the date on which they or their forefathers had converted.[9]

Jurists who supported these views explained this paradoxical conclusion – permanent newness – by referencing two main arguments. The first was the long-term consequences of forced conversions. The second was the ways by which group membership was telling.

New Converts and the Long-Term Effects of Forced Conversion

Historians have long remarked that the discrimination of converts, which was justified by the need to ensure the sincerity and completeness of their transformation, was particularly pronounced in periods that followed forced conversions because campaigns to impose Christianity on non-believers habitually produced social anxieties regarding the prevalence of apostasy.[10] Answering to the urgent need to supply guidance, jurists turned to examine the theological and juridical consequences of forced conversions. In the twelfth century, many pointed to the canons of the Fourth Council of Toledo (633), which prohibited employing force to obtain a conversion, but which nonetheless stipulated that those forcefully baptized should be compelled to live as Christians because, regardless of this illegality, they had received the "divine sacrament and partook of the body and blood of Christ."[11]

But how could a coerced act (forced conversion) produce legitimate legal consequences (the obligation to live as a Christian)? Juridical explanation rested with a new distinction between absolute and conditional coercion. According to twelfth-century Huguccio, an absolute coercion existed only where actors had absolutely no choice, for example, when they were held down while baptismal water was poured onto them. While this type of coercion indeed produced no valid results, conditional coercion, on the contrary, could. Conditional coercion existed in cases, in which individuals acted under severe intimidation, for example, the admonition that they would be beaten, robbed, injured, or even killed if they failed to obey. Though these menaces seriously limited their options, according to this view, they did not entirely eliminate their will. After all, these individuals willfully chose to convert rather than perish. The conclusion was that, even if there was no free choice, following Roman law dictum *coacta enim voluntas voluntas est*, forced will was nevertheless a will.[12] Hence, a forced conversion could be valid whenever coercion was conditional rather than absolute, that is, allowing for some measure, even if tiniest, of choice.

In the following centuries, this interpretation became the most widely accepted opinion. Although some continued to express the conviction that true free will must be present for conversion to be valid, most suggested otherwise.[13] Pope Innocent III (1161–1216), for example, concluded in the early thirteenth century that "he who is dragged violently by torture and fear and accepts the sacrament of baptism to avoid loss, (nonetheless) receives the impressed character of Christianity. . . . Such a person is to be compelled to observe the Christian faith as one conditionally willing."[14] Even as late as the mid- sixteenth century, the distinction between absolute and conditional coercion stood firm, cardinal Pietro Paulo Parisio (1473–1545) advising the pope to adopt it, and the Italian jurist Marquardus de Susannis (1508–1578) arguing that only absolute force (*coactio praecisa*) that rendered the convert completely passive (*pati quam agere*) invalidated conversion.[15]

On occasions, these guidelines produced debates regarding their concrete application, namely, how to distinguish absolute from conditional coercion and whether the information considered should be individual to each case, or could be learned from what "usually" happened. Nonetheless, in most instances, most jurists concluded that most forced conversions were valid and therefore produced individuals who could be compelled to live as Christians.[16] At the same time, most jurists also admitted that, in such cases, vigilance was particularly pertinent because it was credible that, regardless of their juridical status as Christians, those who did not exercise free choice might not be true believers. Thereafter, jurists agreed that there should be an a priori distinction between converts according to whether they converted by force or exercised free will. While the first type (converts by force) could not be trusted and should be presumed to have falsely converted, the second (willful converts) could enjoy the protection of a legal presumption that they were true believers.

The distinction between coerced and free converts was the way most jurists who supported the continuous discrimination of converts of Jewish descent (against others who resisted it) justified the differential treatment allotted to Iberian converts.[17] In Iberia, they argued, Jews were compelled or at least "strongly advised" to convert. Thus, while under normal circumstances no permanent distinctions should be instituted between old and new Christians, such a distinction was nonetheless justified in the case of Iberian Jews because they had converted under duress. Because their conversion was involuntary, they should be permanently suspected.

New Converts, Blood, and Inheritance

Hesitation regarding the status of former Jews as permanent neophytes was thus tied to debates concerning the juridical effects of forced conversions. Yet, if the circumstances under which Iberian Jews converted were deemed relevant, so were theories concerning who could change and how fast.[18] Medieval jurists tended to agree that the application of rules regarding neophytes required attention to the circumstances of each case. But which characteristics made certain people more accepting or resistant to conversion? Did family? Did inheritance?

Here too, the late Middle Ages were crucial for the development of new theories that substantially modified contemporary practices. In antiquity, families were perceived as voluntary unions allowing individuals to associate with one another. The willful decision to form a family – or to accept a new member – had wide-reaching social, economic, legal, and political consequences because it was understood to express the intention to enable the transmission of inheritance between those belonging to the unit, including name, reputation, relations, traditions, rights, responsibilities, and material goods. In the Middle Ages, however, with the adoption of new rules regarding marriage as well as a new understanding regarding procreation, family units were radically redefined. No longer voluntary social structures, families were now reimagined as natural bodies dependent on biological reproduction.[19] Thereafter, jurists began arguing that the Roman concept of consanguinity, which despite appearances did not describe blood relations, should no longer apply to individuals who associated with one another voluntarily but, instead, should only designate those who shared an ancestry. With the same token, parentage was no longer presented as a flexible and modifiable status, which could or could not depend on biological ties. Instead, in the late Middle Ages, it became the automatic and involuntary byproduct of procreation.

The combined result of these developments was that, by the late Middle Ages, both family and inheritance were no longer associated with free choice but instead depended on natural filiation. They could thus not be terminated by agreement or even law.[20] This new *jussanguinism* (as some have called it) championed the natural and inevitable transmission of a multiplicity of things, among them, a shared adhesion, indeed a propensity, to certain ways of being. Thereafter, it became possible to imagine that, by virtue of their common descent, people could share certain attributes. Among these would eventually be a permanent inclination to heresy, an incapacity to truly convert, and a belligerent attitude toward Christianity, which Jews were now said to have inherited from their ancestors.[21]

Those who espoused this understanding said surprisingly little about the mixing of former Jews with non-Jews. The general assumption among historians of the Jewish experience was that during this period, even a drop of Jewish blood would produce these harmful effects.[22] Thus, although procedures instituted to verify Jewish descent mostly restricted the inquest to two or three generations, asking only about the identity of parents and grandparents, this limitation was understood by these historians as practical rather than theoretical. It expressed the conviction that going backward in time beyond three generations would be highly unfeasible. Nonetheless, if information regarding earlier generations was available, then an earlier ancestor would matter *ad infinitum*.

Despite the general silence in most historical sources regarding mixing, there are nonetheless ample proofs that inquisitorial proceedings against suspected heretics did take mixing into account.[23] These proceedings, for example, distinguished those who fully descended from Jewish converts from others with only a partial Jewish

descent. Employing terms such as "New Christian on four sides" (*quatro costados*) or only "two sides" and referring to individuals as "half" or "quarter" New Christian, inquisitors usually applied a different treatment to each category. They thus established a presumption linking religious orthodoxy to the percentage of Jewish blood, assuming that heresy was proportional to that ratio. António Vieira did the same when he observed that the author of a crime that produced calls for the elimination of former Jews from Portugal was an Old Christian that only had "diluted converso blood" in his veins.[24] He equally argued that, eventually, because of mixing, Jewish blood would go "unnoticed."

The few contemporary authors who dealt with these issues reached similar conclusions. For example, in 1613, Pedro de Valencia (1555–1620) asked whether mixed offspring should be classified as Old or New Christians.[25] He advised to consider them "old" because this would be the best method to eliminate pernicious divisions. Furthermore, given frequent mixing, if distinctions were to be maintained, overtime, the logical conclusion would be that all Spaniards would be by definition neophytes. Colonialism pushed others in the opposite direction. In 1614, his contemporary Prudencio de Sandoval (1552–1620) asked if the mixing of men of African descent with European women produced dark descendants, why assume a different result with those who mixed with former Jews?[26]

The late-medieval reimagination of family and inheritance also affected conversion in other ways. For example, canon law jurists agreed that baptism was a sacrament that conferred belonging. However, by the late Middle Ages, many argued that it operated differently depending on whether those baptized were or were not of Christian descent. According to this vision, if aversion to the church could be inherited, so could inclination. Under this guise, ties to the church could be envisioned as hereditary and innate because naturally springing among descendants of Christians. Indeed, they could even persist without baptism. The implication was that, in the case of individuals of Christian descent, baptism only operated to acknowledge as members individuals who were already thus. These individuals were "natural" rather than artificial, or adopted, Christians.[27]

Jurists who elaborated on these arguments used them to explain why the church had rights over the children of Christian parents regardless of the question of whether they were baptized or not, and why Christian parents could be compelled to baptize their offspring. While this was the original intent, eventually, this new interpretation also affected the status of the newly baptized who were not of Christian descent. It allowed for concluding that if the baptism of individuals of Christian descent was in essence the sacramental transmission of an existing Christian identity, then in the case of individuals who did not descend of Christian parents, baptism necessarily had a different function: it was a means to create new ties. Furthermore, converts who had no-Christian descent were not Christians by nature, but they were Christian by adoption. As a result, their baptism could carry radically different consequences, as would be the case with an adopted compared to a natural child.[28]

From Europe to the Americas

Discussions regarding the effects of forced conversions and inheritance, which led to the emergence of permanent neophytes, clearly affected former Jews, but they were also applied to other social sectors. Particularly famous was their use against converts from Islam, but equally interesting was how they were applied vis-à-vis the indigenous populations of the Americas. As is well known, in the sixteenth century, many indigenous peoples were baptized in ceremonies of mass, if not also outright forced, conversion. Those that had converted as adults were considered neophytes, that is, new in the faith and suffered the consequences, including exclusion from priesthood on the one hand, and constant instruction on the other.

The image of the indigenous as neophytes was clear in contemporary records. Solórzano Pereira, the famous seventeenth-century Peruvian judge and author of the most commonly cited textbook of colonial law, for example, concluded that they were new vine shoots planted in the vineyard of the church that required constant watering in order to ensure that they established deep and safe roots and grow to maturity.[29] In their condition as "recently converted," he argued, indigenous individuals must be protected and awarded all the corresponding privileges.

Other similarities between Europe and the Americas were also evident. As happened in Europe, indigenous forced conversion was prohibited, yet could carry valid consequences if coercion was conditional rather than absolute. This led, for example, to the conclusion that inducing fear to compel indigenous individuals to convert, though illegal, nonetheless produced individuals who could be obliged to live as Christians.[30] Furthermore, as happened in Europe, although in theory the indigenous could not be compelled to convert, they could be forced to listen to preachers. These convictions, which rejected forced conversion, yet allowed coercing non-believers to attend to missionaries, were pan-European in origin and dated back to Thomas Aquinas (1225–1274). They were closely followed in Spain, where in the thirteenth and fourteenth centuries, the kings of Aragon decreed that Jews and Muslims must congregate to listen to preachers "silently and patiently."[31] Royal officials were to guarantee that this would be the case, and they were allowed to use force to make sure it would.

Building on these experiences, in the 1530s, Francisco Vitoria (1483–1546) explained that the "natural partnership and communication" that Spaniards enjoyed included the right to preach (*ius praedicandi*).[32] While Spaniards were free to preach even against the wishes of locals, refusal to listen would be an "unpardonable mortal sin," which would merit punishment. Thereafter, in order to ensure that the indigenous would listen, Spaniards would be authorized to forcefully congregate and relocate them to new colonial centers and mission towns.[33]

Similar questions were asked with regard to individuals of African descent, but these had no simple answer. On the one hand, the church often considered such individuals "Old World peoples" who had converted before they crossed the Atlantic and rarely categorized them as New Christians.[34] On the other, it was well

known that at least those arriving directly from Africa, even if they had converted, were mostly baptized in haste, at the last moment, and without true instruction. Many contemporaries also suspected that some Africans at least might have had contact with Islam, or were even outright Muslims whose conversion would certainly produce neophytes, perhaps even permanent New Christians.[35] Yet, because it was impossible to verify if such was the case – the conditions under which enslaved persons arrived to the Americas made any inquiry as to their genealogy or religion unfeasible – the question contemporaries faced was whether to err on the side of prudence or overconfidence.[36]

Taking all this into account, several seventeenth-century authors concluded that individuals of African descent were necessarily neophytes. Others, however, either did not adopt an unequivocal decision or assumed that they were not. Historians have also hesitated as to which result was more accurate. Many pointed out that regardless of their formal classification, African-descent individuals were often treated as new converts either because policies devised in the Peninsula against Jews and Muslims were applied to them or because they were outright granted the privileges and burdens of neophytes.[37] Others argued on the contrary that the subjection of those of African but not indigenous descent to the inquisition implied that the former but not the later were recognized as Old Christians.[38]

Although individuals of indigenous (and sometimes of African) descent were classified as neophytes, contemporaries constantly asked – as they did with regards to other groups – whether their newness was transitory or it should stigmatize them forever, leading, for example, to their enduring exclusion from priesthood.[39] The initial tendency was to reject permanent discrimination yet, in 1555, the church council meeting in Mexico adopted the rule that no person descending of mestizos, indigenous individuals, or mulatos could ever become a priest. Similar prohibitions were also adopted by the second council of Lima (1576–1568).[40] On occasions, measures were taken by the Spanish kings to forbid the ordination of indigenous individuals or mestizos, and even as late as 1698, some could still argue that descendants of both individuals of indigenous and African descent were permanent neophytes, the passing of multiple generations changing nothing.[41]

As always, not everybody agreed. For example, in the mid-seventeenth century, the already-mentioned Solórzano Pereira expressed his conviction that one should distinguish between privileges and prohibitions. While privileges granted to indigenous individuals because of their status as neophytes, such as several dispensations from onerous religious duties, marriage prohibitions, or religious surveillance by the inquisition, should last forever, discrimination on the contrary should not. Solórzano also explained that in the case of the indigenous, exclusion from priesthood should continue only as long as they would be judged unfit for office, or during the first ten years after conversion.[42] Solórzano was silent regarding the status of individuals of African descent, but he nonetheless suggested that individuals of indigenous descent and Mestizos (a term in which he also sometimes included *mulatos*), even if neophytes, should be allowed to hold office. This he reasoned by arguing that

the original sixteenth-century prohibitions were enacted because it was "too soon" to do otherwise, but that conditions in the mid-seventeenth century when he was writing were radically distinct and merited a different conclusion.[43]

The colonial application of debates regarding neophytes also unleashed discussions as to the juridical results of biological mixing.[44] If not only forced conversion but also blood and inheritance determined the ability to convert, then it was vital to understand who was whom and which was their ancestry. And when would the so-called stigmatized blood dilute sufficiently to justify ending discrimination?

Here again, ideas regarding family and inheritance intersected with discussions concerning the exclusion of neophytes. Spanish American church councils tended to agree that heresy and neophytism could both be inherited, but they also concluded that mixing could gradually lead to their disappearance. Following the determination of the Fourth Lateran Council (1215), according to which four degrees of separation between spouses allowed for a union that would not be considered incestuous, American speakers often suggested that the lesson was that a shared ancestry beyond four generations was irrelevant.[45] As a result, a candidate who was either three-quarters or sometimes seven-eighth or fifteen-sixteenth Spanish should not be considered neophyte, nor be discriminated against.

These conclusions were on occasions seconded by the Spanish monarchs and even the popes, who declared in the seventeenth and early eighteenth centuries that indigenous individuals and "mestizos and those who have some part of Indians, except the cuarterón" (i.e., a person with only a quarter indigenous-blood), were permanent neophytes. Others concluded that individuals who had more than a third-degree relation to indigenous or African ancestry were permanent neophytes.[46] Their argument, like Solórzano's, returned to the vineyard: these individuals were like wine. When mixed with only a slight amount of water, it could still serve for the performance of sacraments.

Old and New in the Civic Sphere: Europe and Elsewhere

These debates, which sought to establish when outsiders who became insiders be allowed to enjoy full rights as members, what could faithfully account for this transformation, and which was the role of blood and inheritance in these processes, were a part of a much larger inquiry that preoccupied many Europeans. If religious conversion could lead to the formation of neophytes, and if it justified enduring distinctions between New and Old Christians, across Europe discussions regarding civic conversion were just as important and just as prominent. They too indicated the social, political, and juridical difficulty in defining the moment in which the transition from outsider to insider had been completed, a moment that theoretically justified –perhaps even compelled – the receiving community to allot equal privileges to the newly admitted.

Jurisprudence from late medieval Italian city states speaks to some of these issues. Italian city states admitted newcomers to citizenship, yet many instituted a

discriminatory regime that generated permanent distinctions between "true and original citizens" and newly adopted ones, "birthright members" and naturalized immigrants. In some places, such as sixteenth-century Venice, these distinctions metamorphosed into incredibly idiosyncratic characterizations that not only distinguished old from new but also classified original members according to the number of generations their forefathers were citizens and created multiple categories for newcomers.[47] In tune with debates regarding religious conversion, during this period, one of the fundamental differences between old and new was the right to hold public office. At stake in judging civic neophytism was the period of residence in the new city but also, often, descent.

The distinction between old and new citizens, and the discrimination of the latter, placed newcomers (*novi cives*) in a meddling position between foreigners and true citizens. Discrimination was often explained by competition for resources, yet contemporaries nevertheless insisted that it was justified by reference to loyalty. When can newcomers be trusted to care sufficiently for the new community? When did they sufficiently convert, having abandoned their allegiance to the community of birth and having acquired fidelity to the community of reception? While some cities allowed newcomers to achieve full rights after a year-long citizenship, others demanded a longer probation, sometimes as long as ten or twenty years, the assumption being that such a prolonged test period would enable the community to evaluate the newcomers best. New citizens who failed the test would be de-naturalized.

In accordance with the emerging view of the family as a natural unit dependent on procreation that led to inheritable traits, initially, debates among Italian jurists departed from the assumption that newcomers should and must be discriminated against. Following such convictions, in the twelfth century, many jurists insisted that birth and descent had a strong imprint that no individual could easily undo. Azo of Bologna (1150–1230), for example, suggested as much when he concluded that citizenship should automatically pass from father to son regardless of the intentions and, often, the wish and behavior, of both.[48] Birth to a citizen, he argued, created a unique tie, which was cultural, emotional, and identarian that even the passage of 1,000 years could not undo. Similarly, Alberico da Rosciate (1290–1360) affirmed that one was born citizen. That is, even if local statutes recognized naturalized individuals as citizens, they were not true citizens. They were only held as if they were.[49]

Nonetheless, in the thirteenth and fourteenth centuries, seeking to endorse local sovereignty and facilitate commerce, as well as influenced by intellectual currents that insisted on the importance of intent and the freedom of choice, some jurists began adopting a more volitional view of citizenship. Typical of this mutation were the opinions of Bartolus de Saxoferrato (1313–1357), the most notable jurist of his time. In the fourteenth century, Bartolus concluded that the distinction between true and naturalized citizens was utterly absurd.[50] Cities, he stated, could legitimately institute several types of citizenships, each with a different set of rights and duties. However, it was illogical to pretend that some citizens were more natural than others because citizenship was instituted by human conventions, and was introduced by

civil, not natural, law. As a result, no one was born a citizen. Rather, it was municipal recognition that made them thus. Because cities made and unmade citizens and because citizenship was created by the sovereign power to legislate, all citizens were equally artificial, and none was more artificial than the other.

Following suit, Baldus de Ubaldis (1327–1400) rejected the claim that the natural inclination (*habitus*) toward the community of origin, born out of repeating acts over a long-time span by a long line of progenitors and gained through inheritance, was by definition stronger than the ties newcomers could form with the community of reception.[51] His argument was simple: the practice of citizenship in a new community could become a "second nature" that could be as strong, perhaps even stronger, than the first nature, inherited through birth. Individuals, he said, were like transplanted trees. They could take perfect roots in a foreign territory, roots that could grow deeper than those they had allegedly obtained in their place of origin. According to Baldus, it was even possible to imagine that individuals were more citizens of the place where they performed as such in both body and mind, than in their place of origin.

Back to Iberia: Old and New in the Civic Sphere

Discussions regarding civic integration were just as prevalent in Iberia, where they also indicated to the difficulty in determining the moment in which newcomers became worthy of privileges as full members. Although in these debates, discrimination was sometimes based on chronological newness, often, it hinged on the descent. One famous example was the case of the Roma, known in the early modern period as Gypsies. In the sixteenth, seventeenth, and eighteenth centuries, repeating royal orders instructed the Roma to change their way of life, admonishing them that, unless they did, they would be persecuted, incarcerated, or even sentenced to death.[52] The orders prohibited the Roma from residing in separate neighborhoods, using distinct clothing, or speaking their language. The expulsion of the Roma from Spain was decreed in 1695 of which only Roma residing permanently in large municipalities and occupied in agricultural activities would be exempt.

The decrees censoring and potentially punishing the Roma identified them as "Gypsies." Yet, those who sought protection against these harsh measures used the terminology of old and new, suggesting that, in Spain, there were Old and New Castilians (*castellanos viejos* and *castellanos nuevos*). While the first were "ordinary" Spaniards, who should not be punished nor banned, the second were Gypsies, that is, New Castilians, who merited the unforgiving treatment mandated by the decrees. Those making these arguments of course insisted that they belonged to the first rather than the second type and therefore should be allowed to remain in Spain and enjoy all the privileges of Spaniards.

As was the case with neophytes, none of the speakers who invoked these categories (Old and New Castilians) defined newness or distinguished it unambiguously from oldness. Nonetheless, the ensuring discussions clarified that at stake was not chronology. The distinction between one type (New Castilians also called Gypsies) and the other (Old Castilians) was not linked to the length of residence in Castile.

Instead, it demarcated a status that allegedly depended on individual behavior, but that, in reality, was tied to prejudice linked to group membership.

Old and New were also employed in Spain and Spanish America to advocate for a permanent distinction between natives of Spain and naturalized foreigners or, said differently, between *españoles antiguos* and *españoles nuevos*. This distinction, which was already invoked in the seventeenth century, became central to eighteenth-century debates regarding the naturalization of Catholic foreigners of European descent.[53] These debates pitted locals against foreigners who had immigrated to Spain and Spanish America and who had requested to benefit from the privileges of Spaniards, for example, the right to hold public office or ecclesiastical benefice, or to trade in Spanish America. Naturalized individuals, locals argued, could never be equal in rights to "real and original" natives (*verdaderos y originales naturales*) because they were new rather than old Spaniards.[54] Old Spaniards should be preferred to New Spaniards because their Spanishness was more perfect and more complete. They descended from Spanish families who had lived in Spain and were in the habit of obeying the king for hundreds of years. Their love of the community was more radical, and they were thus more trustworthy.

By the late eighteenth century, the language of new and old also permeated debates regarding the status of individuals of African descent. While many of them argued that they were worthy of the privileges of Spaniards, those who opposed these requests stressed their enduring foreignness. They suggested that, even if Afro-Spaniards were born in the territory to locally born parents, they could not be trusted because they were new rather than old whites (*nuevos y viejos blancos*). Far from looking to Spain as the center of their interests, those of African descent allegedly "kept their eyes on the dark people of Africa," from where they had originated.[55] Those who wished to bar Spaniards of African descent from obtaining privileges asked: was it sensible to pretend that the new whites were more loyal to Spain than the old whites? Could those of African descent ever wish the well-being of the country as those who truly originated in it? If such were not the case, why should they qualify for the benefits reserved to old whites?

Paradoxically, the well-known fact that the immigration of individuals of African descent to Spanish territories was involuntary helped justify discrimination. As happened with those coerced into Christianity, these individuals did not freely choose to become Spaniards. Instead, abducted from their home countries and reduced to slavery, they were forced into the residence in Spanish territories. Their eventual conversion to Spaniards by virtue of this residence was therefore by definition unfree and justified – as in the case of forced religious conversions – the suspicion that it was both incomplete and insincere.

Remembering and Forgetting

Old and new were of course categories that depended on what society (and its individual members) chose to remember and what it (and they) chose (or pretended) to forget. Both recollection and oblivion merit an examination impossible here.

However, they can be quickly described by bringing in yet another example, that of Iberian Muslims. As is well known, in the seventeenth century, several decrees ordered the expulsion from Spain of all Christians of Muslim descent.[56] Although the decrees did not specify who these individuals were, it was usually assumed both at the time and by historians that their identification would be easy because former Muslims continued to exhibit several cultural and social traits that clearly distinguished them from other social members, such as the use of Arabic, the wearing of different clothing, and the ongoing association with former coreligionist.

Despite these observations, we have ample proof and multiple examples that while those who preserved such distinctive traits were easily targeted and indeed expelled, others, whose behavior was normative or whose ancestry was forgotten (or considered irrelevant), were left untouched.[57] The distinction between those who were expelled (those easily identifiable as descendants of Muslims) and those who were not (because their Islamic past was not easily recognizable or was deemed irrelevant) led some scholars to conclude that the orders mandating expulsion were, paradoxically, the final and perhaps most successful attempt to assimilate Spaniards of Muslim descent. These scholars reasoned that the expulsion guaranteed that no one looking like a Muslim, behaving like a Muslim, or having a known Muslim past, would remain in Spain. Rather than truly eliminating the presence all individuals of Muslim descent, what the decrees did was to mandate the removal of all indications for their subsistence. The hope was that, after this would be accomplished, recollection would also cease.

Yet, the order to forget was accompanied by the revindication of memory. It was precisely at this conjuncture that some social actors, preoccupied with oblivion, sought to ensure remembrance. As the actual numbers of subjects categorized as former Muslims diminished from historical records, most particularly in Castile where integration was particularly successful, the memory of their once-upon-a-time existence, some argued, had to perdure. The instrument selected for this purpose was *limpieza de sangre*, now applied also to former Muslims by instituting them as New Christians precisely because of the fear (and perhaps the reality) of recollection fading away.

If accusations of newness rested on memory (or supposed memory, or efforts at remembering), claims for antiquity were based on oblivion (or supposed oblivion). Discussions regarding old and new adopted as historically true the phantasmagoric convention that all communities, whether religious or secular, had some members (but not others) whose ancestors had always belonged to the community.[58] Affirmations of authenticity and fantasies of purity depended on such fictions, which, in turn, were contingent on either the absence of information or the unwillingness to look for it, as those pushing for discrimination remembered who others were, but generally refused to recollect whom they and their forefathers had been. Eventually, the recognition that there were limits to what could possibly be (or should be) remembered led to the conclusion in Spain that even Old Christians were only "immemorially" believed to be thus.[59]

In Guise of a Conclusion

Observing the discrimination of Iberian New Christians from a juridical perspective, its extension to the Americas, and the tying of religious to civic newness, adds new dimensions to already-flourishing and -fascinating debates. Placing specific conversations in larger contexts and searching for how similar discussions could mutually illuminate one another, these new dimensions suggest that the question of how to certify the transition from one status – that of outsider – to another – that of insider – was an interrogation that many European communities faced both in Europe and overseas as they wished to receive newcomers yet feared the consequences of their arrival. The need to balance these seemingly contradictory desires – opening and closure – led to the production of a great variety of practices meant to explain, justify, but also regulate, both acceptance and rejection. These practices produced a multiplicity of results, which were then debated, interpreted, and, sometimes, abandoned. They also led to the emergence of new distinctions regarding existing or new groups.

Debates regarding old and new formed a part of a wider repertoire that sought to justify the privileging of certain members over others. Encompassing what could be described as a legal, political, and social technology, they enable one to imagine, comprehend, and impose diversity, whether real or inexistent. Among other things, old and new explained the colonial paradox that had colonists insist on the need to convert, even civilize, the indigenous populations, yet rarely allowed for a true integration precisely because of the permanent horizon of inequality tied to newness. In other words, old and new send us to much larger questions regarding the propensity of outsiders to become insiders, and the willingness of communities to allow for, facilitate, impede, or hinder this mutation.

Notes

1 Albert A. Sicroff, *Les controverses des statuts de "pureté de sange » en Espagne de XVe au XVII siècles* (Paris: Didier, 1960). Also see David Nirenberg, "Mass Conversion and Genealogical Mentalities: Jews and Christians in fifteenth-Century Spain," *Past and Present* 174 (2002): 3–41; Mercedes García-Arenal, "Creating Conversos: Genealogy and Identity as Historiographical Problems (after a Recent Book by Ángel Alcalá)," *Bulletin for Spanish and Portuguese Historical Studies* 38, no. 1 (2013): 1–19, 2.

2 These diverse interpretations can be found, for example, in Jaime Contreras, *Sotos contra Riquelmes. Regidores, inquisidores y criptojudíos* (Madrid: Anaya and Muchnik, 1992), Benzion Netanyahu, *The Origins of the Inquisition in Fifteenth-Century Spain* (New York: Random House, 1995); Henry Kamen, *The Spanish Inquisition. A Historical Revision* (New Haven: Yale University Press, 1998), but many others had expressed similar opinions.

3 Tamar Herzog, "Beyond Race: Exclusion in Early Modern Spain and Spanish America," in *Race and Blood in the Iberian World*, eds. Max S. Herring Torrres, María Elena Martínez, and David Nirenberg (Berlin and Vienna: LIT Verlag, 2012), 151–67; Tamar Herzog, "Judíos, musulmanes, conversos, indígenas y gitanos: Sobre la ida y vuelta de categorías jurídico-sociales entre el Viejo y el Nuevo Mundo," in *Les processus d'américanisation. Vol. 2: Dynamiques spatiales et culturelles*, eds. Louise Bénat-Tachot, Serge Gruzinski, and Boris Jeanne (Paris: Éditions Les Manuscrit, 2013), 59–84; Tamar Herzog, "Imaginando

as comunidades e explicando a Imigração: o caso da Europa moderna e seus territórios ultramarinos," in *Olhares sobre as migrações, a cidadania e os direitos humanos na história e no século XXI*, eds. Teresa Pizarro Beleza, Cristina Nogeuira da Silva, Ana Rita Gil, and Emellin Oliveira (Lisbon: Petrony-CEDIS, 2020), 105–18; Tamar Herzog, "The Colonial Expansion and the Making of Nations: The Spanish Case," in *Cambridge History of Nationhood and Nationalism*, eds. Cathie Carmichael, Matthew D'Auria, and Aviel Roshwald (Cambridge: Cambridge University Press, 2022), vol. 1, 145–62.

4 The main reference in the New Testament is to 1 Timothy 3:6 (and the interpretations that ensued). This rule was included in the twelfth-century compilation of canon law, the *Decretum Gratiani,* Distinctio 48 (in its edition Rome, 1582, on 310). On neophytes in canon law, see, for example, Justo Donoso, *Diccionario teológico, canónico, jurídico* (Valparaiso: Imprenta i librería del Mercurio, 1859), vol. 4, 9–11; Carlos J. Errázuriz, "Il battesimo degli adulti come diritto e come causa di effetti giuridico-canonici," *Ius ecclesiae. Rivista internazionale di diritto canonico* 2, no. 1 (1990): 3–21; Andrea D'Auria, "Il concetto di neofita nell'ordinamento canonico," *Ius Missionale* 10 (2016): 203–13.

5 Rufinus worried that commensality, implying an intimate gathering enabling private conversations, would allow new converts to associate with non-Christians and would lead to a return to the "old habits": David M Friedenreich, "Sharing Meals with Non-Christians in Canon Law Commentaries, circa 1160–1260: A Case Study in Legal Development," *Medieval Encounters* 14 (2008): 41–77, 52 and 55.

6 Stefan K. Stantchev, "Apply to Muslims what was Said of the Jews: Popes and Canonists Between a Taxonomy of Otherness and *Infidelitas,*" *Law and history Review* 32, no. 1 (2014): 65–96, 81–82; Max Deardorff, "The Ties That Bind: Intermarriage between Moriscos and Old Christians in Early Modern Spain, 1526–1614," *Journal of Family History* 42, no. 3 (2017): 250–70, 255–56.

7 Paola Tartakoff, *Between Christians and Jews: Conversion and Inquisition in the Crown of Aragon, 1250–1391* (Philadelphia: University of Pennsylvania Press, 2012), 68.

8 Isabelle Poutrin, "La condition juridique du juif converti dans le Traité sur les juifs de Giuseppe Sessa (1717)," in *Pouvoir politique et conversion religieuse. Normes et Mots,* eds. Thomas Lienhard and Isabelle Poutrin (Rome: École Française de Rome, 2017), 18–19. Also see Ruth Hill, "From neophyte to Non-White: Moral Theology and Race Mixture in Colonial Brazil," *Journal of Early Modern Christianity* 4, no. 2 (2017): 167–93, 184.

9 On how converts from Jewish descent became identified as neophytes, see Yosi Yisraeli and Yanay Israeli, "Defining 'Conversos' in Fifteenth-Century Castile: The Making of a Controversial Category," *Speculum* 97, no. 3 (2022): 609–48.

10 Kenneth R. Stow, *Catholic Thought and Papal Jewry Policy, 1555–1593* (New York: Jewish Theological Seminary of America, 1977), 198–200; Kenneth Stow, "Conversion, Apostasy, and Apprehensiveness: Emicho of Flonheim and the Fear of Jews in the Twelfth Century," *Speculum* 76, no. 4 (2001): 911–33, 912, 920 and 923. Also see Nadia Zeldes, "The Mass Conversion of 1495 in South Italy and its Precedents, a Comparative Approach," *Medieval Encounters* 25 (2019): 227–62, 254.

11 The Fourth council of Toledo, canon 57, reproduced in the *Decretum,* Distinction 45, cannon 5. On these questions see Kenneth Pennington, "Gratian and the Jews," *Bulletin of Medieval Canon Law* 31 (2014): 111–24, mainly 115–19 and 123 and Rebecca Rist, *Popes and Jews, 1095–1291* (Oxford: Oxford University Press, 2016), 75–78.

12 Anna Sapir Abulafia, "Jews in the Glosses of a Late Twelfth-Century Anglo-Norman Gratian Manuscript (Cambridge, Gonville and Caius College, MS 283/676)," in *Anglo-Norman Studies XXXVIII. Proceedings of the Battle Conference 2015,* ed. Elisabeth van Houts (Martlesham: Boydell and Brewer, 2016), 19–33, 28–29.

13 Marina Caffiero, *Forced Baptism: Histories of Jews, Christians and Converts in Papal Rome,* trans. Lydia G. Cochrane (Berkeley: University of California Press, 2012), 61–62; Giuseppe Marcocci, "Remembering the Forced Baptism of Jews: Law, Theology, and History in Sixteenth-Century Portugal," in *Forced Conversion in Christianity, Judaism and*

Islam: Coercion and Faith in Premodern Iberia and Beyond, eds. Mercedes García-Arenal and Yonatan Glazer-Eytan (Leiden: Brill, 2020), 328–53, 333–34 and 337 describe some of the arguments of those insisting on free will.

14 Cited in Nadia Zeldes. "Legal Status of Jewish Converts to Christianity in Southern Italy and Provence," *California Italian Studies* 1, no. 1 (2010): 1–17, 7.

15 Stow, *Catholic Thought*, 172, studying the tract *De Iudaeis* by de Susannis (1558). Somewhat similar were the conclusions of the bishop of Algarve in 1531: Marcocci, "Remembering," 337–39. On these questions, also see the more extended Giuseppe Marcocci, ". . . Per capillos adductos ad pillam." Il dibattito cinquecentesco sulla validità del battesimo forzato degli ebrei in Portugallo (1496–1497)," in *Salvezza delle anime disciplina dei corpi. Un seminario sulla storia del battesimo,* ed. Adriano Prosperi (Pisa: Edizioni della Normale, 2006), 229–423, most particularly, 370 and 375–77. John Duns Scotus (1265–1308) made a similar distinction between different types of coercion: Mercedes García Arenal, "Theologies of Baptism and Forced Conversion: The Case of the Muslims of Valencia and Their Children," in *Forced Conversion in Christianity, Judaism and Islam: Coercion and Faith in Premodern Iberia and Beyond,* eds. Mercedes García-Arenal and Yonatan Glazer-Eytan (Leiden: Brill, 2020), 354–85, 363–64.

16 See, for example, the conclusions regarding the conversion of Portuguese Jews in Marcocci, ". . . Per capillos adductos," 378–80.

17 Similar conclusions were reached in the thirteenth and fourteenth centuries regarding the Neapolitan Jews who were coerced to convert in 1292 and who, even two hundred years after their conversion, were still identified as *neofiti* or New Christians: Martha Keil, "What Happened to the 'New Christians?' The 'Viennese Geserah' of 1420/21 and The Forced Baptism of Jews," in *Jews and Christians in Medieval Europe: The Historiographical Legacy of Bernhards Blumenkranz*, eds. Philippe Buc, Martha Keil, and John Tolan (Turnhout: Brepols, 2015), 97–114, 97. Some have even argued that the conversion of Iberian Jews involved absolute coercion and therefore was invalid: Anna Foa, "*Limpieza* versus Mission: Church, Religious Orders, and Conversion in the Sixteenth Century," in *Friars and Jews in the Middle Ages and the Renaissance*, eds. Steven McMichael and Susan Myers (Leiden: Brill, 2004), 299–311, 310–11.

18 The status of converts of Muslim descent as permanent neophytes was studied, for example, in Mercedes García-Arenal, "Mi padre moro, yo moro: The Inheritance of Belief in Early Modern Iberia," in *After Conversion. Iberia and the Emergence of Modernity*, ed. Mercedes García-Arenal (Leiden: Brill, 2016), 304–35.

19 Maaike van der Lugt and Charles de Miramon, "Penser l'hérédité au moyen âge: Une introduction" and Franck Roumy, "La naissance de la notion canonique de *consanguinitas* et sa réception dans le droit civil," in *L'Hérédité entre Moyen Âge et Époque moderne. Perspectives historiques,* eds. Maaike van der Lugt and Charles de Miramon (Florence: Sismel-Edizioni del Galluzzo, 2008), 3–37, most particularly 9 and 12–15 and 41–66. Also see Teofilo F. Ruiz, "Discourses of Blood and Kinship in Late Medieval and Early Modern Castile," in *Blood and Kinship. Matter for Metaphor from Ancient Rome to the Present,* eds. Christopher H. Johnson, Bernhard Jussen, David Warren Sabean, and Simon Teuscher (New York and Oxford: Berghahn Books, 2013), 105–24, for example 109.

20 *Siete Partidas,* partida VII, title XXIV, role 34.

21 Steven F. Kruger, *The Spectral Jews. Conversion and Embodiment in Medieval Europe* (Minneapolis and London: University of Minnesota Press, 2006). On how ideas regarding the naturalization of cultural characteristics also operated in the background, see Nirenberg, "Mass Conversion."

22 Particularly well-known and constantly cited is the opinion of Francisco de Quevedo y Villegas, *Execración contra los judíos* (Barcelona: Red Ediciones, 2011 [1633]), 14.

23 Elias Lipiner, *Santa Inqusição. Terror e linguagem* (Rio de Janeiro: Editoria Documentário, 1977), 38, 55, 96–97; Nadia Zeldes, *The Former Jews of this Kingdom: Sicilian Converts after the Expulsion, 1492–1516* (Leiden: Brill, 2003), 96 and 256.

24 Claude B. Stuczynski, "A Message from the 'Parliament of Love': The Admonishment on New Christians Attributed to Father António Vieira," (manuscript), 17 and 24. I would like to thank prof. Stuczynski for allowing me to read and cite his manuscript.
25 Pedro de Valencia, *Tratado acerca de los moriscos de España (manuscrito del siglo VII)*, ed. Joaquín Gil Sanjuán (Málaga: Algazara, 1997 [1613]), 132 and 137–39.
26 Prudencio de Sandoval. *Historia de la vida y hechos del emperador Carlos V*, ed. Carlos Seco Serrano (Madrid: Ediciones Atlas, 1956 [1614]), Book 29, chapter 38, 319.
27 Isabelle Poutrin, "La captation de l'enfant de converti. L'évolution des normes canoniques à la lumière de l'antijudaïsme des XVIe-XVIIIe siècles," *Revue d'histoire moderne et contemporaine* 62, nos. 2–3 (2015): 40–61, 51–52 and Isabelle Poutrin, "El hijo de convertido en el derecho canónico. El aggiornamento de la doctrina en relación con la conversión de los judíos, Estados Pontificios, s.XVI-XVIII)," *Erasmo: Revista de Historia Bajo medieval y Moderna* 3 (2016): 125–42 most particularly 135–36.
28 These interpretations were adopted in late fourteen- and fifteenth-century Iberia: Yisraeli and Israeli, "Defining 'Conversos'," 6 and 8. On natural Christians vs. non-natural Christians see, for example, Nirenberg," Mass Conversion," 24.
29 Juan de Solórzano Pereira, *Política Indiana,* ed. Miguel Ángel Ochoa Brun (Madrid: Ediciones Atlas, 1972 [1648]), book II, chapter 29, 1, vol. 1, 431–32 and chapter 28, 3, vol. 1, 418.
30 Carlos Zeron, "Different Perceptions on the Topic of Forces Conversion, after the South Atlantic Experience," in *Compel People to Come in: Violence and Catholic Conversions in the Non-European World*, eds. Vincenzo Lavenia, Stefania Pastore, Sabina Pavone, and Chiara Petrolini (Rome: Viella, 2018), 49–68, 49–50 and 52.
31 D. M. Lantigua, "The Freedom of the Gospel: Aquinas, Subversive Natural Law and the Spanish Wars of Religion," *Modern Theology* 31, no. 2 (2015): 312–37, 322. In sixteenth-century Rome, Jews were also forced to do so: Emily Michelson, "Conversionary Preaching and the Jews in Early Modern Rome," *Past and Present* 235 (2017): 68–104, 80. On Aragon see J. Riera i Sans, "Les LLicències reials per predicar als jueus i als sarraïns (Segles XIII-XIV)," *Calls* 2 (1987): 113–43, 113–14.
32 Francisco Vitoria, "On the American Indians," in *Francisco Vitoria, Political Writings*, eds. Anthony Pagden and Jeremy Lawrance (Cambridge: Cambridge University Press, 1991), 231–93, question 2, article 4 and question 3, article 2, 260–71 and 284–85. On these issues see Daniel S. Allemann, "Empire and the Right to Preach the Gospel in the Second School of Salamanca, 1535–1560," *The Historical Journal* 62, no. 1 (2019): 35–55.
33 Zeron, "Different Perceptions," 51–52, 59 and 63–64.
34 Herman Bennett, *Africans in Colonial Mexico: Absolutism, Christianity and Afro-Creole Consciousness, 1570–1640* (Bloomington: Indiana University Press, 2003), 53–54 and Chloe Ireton, "'They are Blacks of the Caste of Black Christians': Old Christian Black Blood in the Sixteenth- and Early Seventeenth-Century Iberian Atlantic," *Hispanic American Historical Review* 97, no. 4 (2017): 579–612.
35 Kenneth B. Wolf, "The 'Moors' of West Africa and the Beginnings of the Portuguese Slave Trade," *Journal of Medieval and Renaissance Studies* 24 (2003): 449–69 and Giuseppe Marcocci, "Blackness and Heathenism. Color, Theology, and Race in the Portuguese World, c.1450–1600," *ACHSC* 43, no. 2 (2016): 33–58, 44–45. The possibility that enslaved Africans were of Muslim origin or at least had some contact with Islam was sometimes verified: Kent Russel Lohse, "Africans and Their Descendants in Colonial Costa Rica, 1600–1750" (PhD diss., University of Texas at Austin, 2005), 276–78. On these questions also see Larissa Brewer-García, *Beyond Babel. Translations of Blackness in Colonial Peru and New Granada* (Cambridge: Cambridge University Press, 2019), 8–9.
36 Solange Alberro, *Inquisición y Sociedad en México, 1571–1700* (Mexico: Fondo de Cultura Económica, 2015), 456–57.
37 Brewer-García, *Beyond Babel,* 10–11.
38 Krystle F. Sweda, "Black Catholicism: The Formation of Local Religion in Colonial Mexico" (PhD diss., The City University of New York, 2020), 47.

39 Tomas Duve, "Derecho canónico y la alteridad indígena: los indios como neófitos," in *Esplendores y miserias de la evangelización de América. Antecedentes europeos y alteridad indígena*, ed. Roland Schmidt-Riese (Berlin and New York: De Gruyter, 2010), 73–94; Stafford Poole, "Church Law on the Ordination of Indians and *Castas* in New Spain," *Hispanic American Historical Review* 61, no. 4 (1981): 637–50, 640–42.

40 The situation in Brazil was similar: Anderson José Machado de Oliveira, "Trajetórias de clérigos de cor a América portuguesa: Catolicismo, hierarquias e mobilidade social," *Andes* 25, no. 1 (2014), www.redalyc.org/articulo.oa?id=12735596002.

41 María Elena Martínez, *Genealogical Fictions. Limpieza de Sangre, Religion, and Gender in Colonial Mexico* (Stanford: Stanford University Press, 2008), 219 citing fray Agustín de Vetancur (c.1620-c.1700), a Mexican missionary and the author of multiple volumes.

42 Solórzano Pereira, *Política Indiana,* book II, chapter 29, 23–34, vol.1, 436–38.

43 Ibid., chapter 30, 20–24, vol.1, 445–46 and book IV, chapter 20, vol. 4, 303–11.

44 Peter B. Villella, "'Pure and Noble Indians, Untainted by Inferior Idolatrous Races': Native Elites and the Discourse of Blook Purity in Late Colonial Mexico," *Hispanic American Historical Review* 91, no. 2 (2011): 633–63; Hill, "From Neophyte," Ruth Hill, "Late Scholastics in the New World: Racial probabilism's *Mestizo* Ontology" (manuscript: I would like to thank prof. Hill for allowing me to read and cite her unpublished work).

45 Ruth Hill, "How Long Does Blood Last? Degeneration as *Blanqueamiento* in the Americas," in *The Eighteenth Centuries: Global Networks of Enlightenment*, eds. David T. Gies and Cynthia Wall (Charlottesville: University of Virginia Press, 2018), 72–94, 79–80. On how discussions on incest led to the reimagining of blood ties see Simon Teuscher, "Flesh and Blood in the Treatises on the *Arbor Consaguinitatis* (Thirteenth to Sixteenth Centuries)," in *Blood and Kinship. Matter for Metaphor from Ancient Rome to the Present,* eds. Christopher H. Johnson, Bernhard Jussen, David Warren Sabean, and Simon Teuscher (New York and Oxford: Berghahn Books, 2013), 83–104.

46 Hill, From Neophyte 173–7, citing Cardinal Juan de Lugo (1583–1660) and bishop Alonso de la Peña Montenegro (1596–1687).

47 Anna Bellavitis. *Identité, mariage, mobilité sociale: citoyennes et citoyens à Venise* (Rome: École Français de Rome, 2001), 5 and 65–66.

48 Peter Riesenberg, *Citizenship in the Western Tradition Plato to Rousseau* (Chapel Hill and London: The University of North Carolina Press, 1992), 131–84.

49 Patrick Gilli, "Comment cesser d'être étranger: citoyens et non-citoyens dans la pensée juridique italienne de la fin du Moyen Âge," in *L'Etranger au Moyen Âge. Actes des congrès de la Société des historiens médiévistes de l'enseignement supérieur public (Göttingen, 1991)* (Paris: Publications de la Sorbonne, 2000), 59–77, 68.

50 Julius Kirshner, "Civitas Sibi Faciat Civem: Bartolus of Sassoferrato's Doctrine on the Making of a Citizen," *Speculum* 48, no. 4 (1973): 694–713. On the wish to treat newcomers and natives equally also see Peter Riesenberg, "Citizenship and Equality in Late Medieval Italy," *Studia Gratiana* 15 (1972): 423–39. On the move from "natural" citizenship based on origin to a voluntary one, based on consent, also see Sara Menzinger, "Diritti di cittadinanza nelle *quaestiones* giuridiche duecentesche e inizio-trecentesche," *Mélanges de l'École Français de Rome* 125, no. 2 (2013): 441–60, 257–58.

51 Osvaldo Cavallar and Julius Kirshner, "An Anonymous Opinion and Baldus de Ubaldis, *Concilium* (ca.1376–1379)," in *Jurists and Jurisprudence in medieval Italy. Texts and Contexts* (Toronto: University of Toronto Press, 2020), 534–40. Also see Julius Kirshner, "Between Nature and Culture: An Opinion of Baldus of Perugia on Venetian Citizenship as Second Nature," *The Journal of Medieval and Renaissance Studies* 9, no. 2 (1979): 179–208.

52 Some of this legislation can be found in Archivo de la Chacillería de Valladolid, Secretaría del Acuerdo, cédulas y pragmáticas, C.8–66, C.8–88, C.10–88, C.10–139, C.12–8, C.12–18 and C.12–53 and in Archivo General de Simancas, Gracia y Justicia, 1004. It was partially reproduced in the *Novísima Recopilación*, a 1805 Spanish compilation of many royal orders, book 12, title 16.

53 Tamar Herzog, *Defining Nations: Immigrants and Citizens in Early Modern Spain and Spanish America* (New Haven: Yale University Press, 2003), 64–118. *Españoles antiguos* was also a term used by Solórzano Pereira, *Política Indiana,* book II, chapter 29, 31, vol. 1, 437 to refer to conquistadors who married indigenous women.

54 "Noticia de las diligencias . . .," Archivo General de Indias, consulados 892A, 7, 48, and 51.

55 The city of Caracas on 28 Nov. 1796, in *Documentos para la historia de la vida pública del libertador*, ed. F. Blanco (Caracas, "La Opinión Nacional," 1875), vol. 1, 267–75. In the citation, I use the translation in John Lynch ed., *Latin American Revolutions 1808–1826. Old and New World Origins* (Norman: University of Oklahoma Press, 1994), 181–87.

56 The literature on this topic is enormous. I found the following most useful: Antonio Domínguez Ortiz, "Los moriscos granadinos antes de su definitiva expulsión," *Miscelánea de Estudios Árabes y Hebraicos* 12–13 (1963–4): 113–28; Enrique Soria Mesa, *Los últimos moriscos. Pervivencias de la población de origen islámico en el reino de Granada (siglos XVII-XVIII)* (Valencia: Universitat de València, 2014), Trevor Dadson, Los *moriscos de Villarubia de los Ojos (siglos XV-XVIII). Historia de una minoría asimilada, expulsada y reintegrada* (Madrid-Frankfurt am Main: Iberoamericana-Vervuert, 2007), Rafael M. Pérez García and Manuel Fernández Chaves, "La política civil y religiosa sobre el matrimonio y la endogamia de los moriscos en la España del siglo XVI," *Dimensioni e problemi della ricerca storica* 2 (2012): 61–103, Manuel Lomas Cortés, *El proceso de expulsión de los moriscos de España (1609–1614)* (Valencia: Universitat de València, 2011), Rafael Benítez Sánchez-Blanco, *Trípico de la expulsión de los moriscos. El triunfo de la razón de estado* (Montpellier: Pulm, 2012) and Carlos Garriga, "Enemigos domésticos. La expulsión católica de los moriscos (1609–1614)," *Quaderni fiorentini* 38, no. 1 (2009): 225–87.

57 James B. Tueller, "*Los* moriscos que se quedaron o que regresaron," in *Los moriscos: expulsión y diáspora. Una perspectiva internacional*, eds. Mercedes García Arenal and Gerard Albert Wiegers (Valencia: Universidad de Valencia, 2013), 191–209. Also see: F. Martinez, "La permanence morisque en Espagne après 1609 (discours et réalités)" (PhD diss., Université Pau Valèry, 1997), William Childers, "Disappearing Morisco," in *Cross Cultural History and the Domestication of Otherness*, eds. Michael J. Rozbicki and George O. Ndege (New York: Palgrave, 2012), 51–56, Sara N. Cavanaugh, *The Morisco Problem and the Politics of Belonging in Sixteenth-Century Valladolid* (Toronto: University of Toronto, 2016), M. F. Gómez Vozmediano, *Mudéjares y moriscos en el Campo de Calatrava* (Ciudad Real: Diputación Provincial, 2000), and Esteban Mira Caballos, "Unos se quedaron y otros volvieron: moriscos en la Extremadura del siglo XVII," in *XXXIX Coloquios Históricos de Extremadura dedicados al arte romántico en Extremadura: Trujillo del 20 al 26 de septiembre de 2010* (Trujillo: Asociación Cultural Coloquios Históricos de Extremadura, 2011), 459–88.

58 Ernst Renan, *Qu'est-ce qu'une nation?* (Paris: Calmann Lévy, 1882), 7–8. Renan continues affirming that, as a result, history was a dangerous pursuit for any national project because it illuminated the violence that had been at the origin of all political formations. On memory as an affair of state, see Marcocci, "Remembering," 330–31. In Spain, the pretense was often that Old Christians had Visigoth blood, thus oddly identifying these Spaniards as descendent of invaders, not locals: Ruiz, "Discourses of Blood," 110–12.

59 Immemoriality was a category of proof that indicated that the otherwise necessary evidence exceeded the memory of men: Michaele de Reinoso, *Observationes practicae* (Typis Petri Craesbeeck Regii Typographi, 1625), 359–60. On neophytes and immemoriality see, for example, Sicroff. *Les controverses*, 229 and 233, citing Escobar del Corro (1633) and Agustín Salucio, *Discurso acerca de la justicia y buen gobierno de España, en los estatutos de limpieza de sangre: y si conviene o no alguna limitación en ellos* (circ.1598–9), BNE Mss. 4501. http://bdh-rd.bne.es/viewer.vm?id=0000050275&page=1, fols. 3r and 6v.

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2

IN AND BEYOND THE PORTUGUESE EMPIRE

Coping with marriage ritual diversity in early modern Goa

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Introduction

Between the 16th and 18th centuries, the Portuguese crown attempted the cultural conversions of many populations of its overseas territories as a way of reducing diversity in its empire. If in certain places *métissage* was unavoidable to implement the Portuguese power, Christianization was the most important strategy to homogenize the imperial populations and establish Portuguese-like communities in different lands. Following the attempts to convert the kingdom of Kongo, by the end of the 15th century, Goa was the first Asian laboratory where Christianization as a political tool was observed.

As highlighted by scholarship, the Christianization of the Goan population involved various devices, from law and institutions to language and education and from health to rituals. Among the multiple attempts to transform the local ritual order, the transformation of marriage rituals of Goa's Christian and non-Christian inhabitants was crucial. However, these attempts were simultaneously successful and unsuccessful. For example, when the Portuguese rule ended in Goa in 1961, the marriage festivities of Goan Catholics entailed practices that did not belong to the Catholic tradition: they assembled hundreds of people and involved the celebration of two parties, one in the house of the groom (*boda*) and another in the house of the bride (*torna-boda*), including other 'Hindu' rites, too. On the other hand, only in the Civil Code of 1867, which applied to Goa in 1869, the practice of 'Hindu marriages' was formally accepted in the territories of Goa.[1]

Why was Christianizing and controlling marriage rituals central to the Portuguese authorities, and why were these policies simultaneously a failure and a success? How did they reflect the Portuguese attitudes toward diversity? Furthermore, what role did the local populations play in these processes?

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This chapter tries to answer these questions by examining the many debates, conflicts, setbacks, and solutions designed to cope with the 'gentile' marriage rituals in early modern Goa. Firstly, I consider the Portuguese crown's problems in managing marriage rituals of the different populations under its rule. Then, directly interlinked with this aspect, I observe the role played by the local populations in this process from a perspective *from within*. This perspective focuses on the experiences of the *established* (the local populations) when facing simultaneously the challenges posed by the arrival of the *outsiders* (the Portuguese/European imperial, religious agents, etc.) and those already part of their lives before and beyond the empire. The same is to say: it tries to overcome the binomial colonizers/colonized embodied in the perspective *from below*, by imagining the various populations and colonial factions as pieces on a chessboard engaged in multiple clashes of power, rather than conceiving of either as homogenous entities.[2]

The relevance of controlling marriage (and marriage rituals) in Goa transcended the classical race and desire theories, which associate colonial desire with intermarriages and *métissage*.[3] While this dimension was also present in some Goan discussions about marriage, the Portuguese's obsession with controlling ritual diversity was also related to other issues: Controlling ritual diversity was fundamental for shaping a new political community since rituals were fundamental for social cohesion and old rituals re-enacted memories that the Portuguese wanted to obliterate. Simultaneously, the ritual debates taking place in Europe, after the Protestant divide, had consequences for the Catholic general perception of rituals, framing, the debates that happened *in loco* concerning which 'Indian' cultural rituals were 'civil' (therefore permitted) or 'idolatrous' (therefore forbidden). At the same time, and as a counterpoint, certain castes' ritual performance – namely the Brahmans' – was also under local and regional control. Therefore, keeping their wedding rites was critical in maintaining their local and regional identity for the Brahmans.

The centrality of the links between marriage rituals and empire in Portuguese Asia is attested by the extensive 'marriage archive' in many libraries and historical archives that maintain this period's documents. At least four bodies of information and knowledge were produced between the 16th and 18th centuries concerning marriage rituals. This 'marriage archive' is constituted by: written accounts and visual representations provided by travelers, missionaries, merchants, Portuguese or other Europeans during all the periods under analysis; debates and norms produced in the ecclesiastic, administrative, and political contexts; petitions made by the local people concerning their right to maintain their marriage rituals[4]; and the early modern 'Indian' marriage encyclopedia, that is to say, data on the worlds of reference of the inhabitants of Goa concerning their marriages and their ritual practices, which, in some cases, had a textual tradition that lasted for two thousand years.[5]

The following pages are divided into two parts to discuss these aspects. The first part focuses on the several layers of problems involved in performing local marriage rituals in Christian lands and the solutions proposed by the Portuguese authorities to cope with them. The second part focuses on the relevance of keeping marriage

rituals for the non-Christian social groups, namely the Brahmans. The final section discusses the difficulties the Portuguese encountered in coping with diversity in Goa as an emblematic case that invites us to think about the rest of the Portuguese Empire.

In empire: reasons of God versus reasons of state

The attempts to transform the marriage practices of the local population of Goa started in the 16th century. For the Portuguese, who shared a political culture with Aristotelian roots, where the government of the self, the government of the house, and the government of the *polis* were interlinked, marriage was a central moment in constituting a political community.[6] This centrality turned marriage into an object of what we would term 'public policy' today. One of the first problems to solve was the necessity of 'making empire respectable' by controlling the sexual behavior of the Portuguese themselves. Albuquerque's intermarriages between Portuguese men and local women were simultaneously a way of 'legalizing' the many free unions, and concubinage and as a form of physically and culturally rooting the Portuguese in those places.[7] However, Lisbon's negative perception of these intermarriages led to an alternative way of building the *polis* locally: the Christianization of the local population, their marriages, households, and families included. Since then, the marriages of the Indians, whether Christianized or not, were for political, legal, and religious reasons, under systematic observation and interference.[8]

The outcomes of the Council of Trent were essential for this turn: there were several decrees concerning marriage as a sacrament, and many others about marriage as a ritual, attempting to simplify and homogenize Catholic ritual practices. On the one hand, they responded to the criticisms made by Protestants, who accused Catholics of being idolatrous, a debate well described by Edward Muir and others.[9] These debates entailed changes in understanding the function of the rituals and specific rites, either as sites where the secular and the divine were interconnected or, as Protestants asserted in what concerned the Eucharist, as mere symbolic representations. On the other hand, they increased with extra-European evangelization, being crucial to creating a Catholic community worldwide that shared the same beliefs (orthodoxy) and practices (orthopraxy). As Sabine Pavone put it, these debates led to 'an ambiguous dichotomy between highly structured doctrine and actual church rituals . . . considering idolatrous everything ritual that conflicted with doctrinal standards'.[10] Trent's spirit and norms were explicitly adopted in Goa from 1567 on and framed many decisions concerning the relationship between the Portuguese Crown and the populations under the jurisdiction of the Archbishop of Goa. For theologians and canonists, it was crucial to decide which local marriages were legally valid before the conversion to Christianity and how to solve situations of bigamy.[11] Subsequently, it was necessary to Christianize the unions of those that had converted to Christianity. Finally, it was also necessary for the new Christian unions to follow the proper rites to fulfill the Christian sacrament, abandoning all

rites considered idolatrous. With regard to the parts of the Goan population that had not been Christianized, theologians and canonists stressed the importance of forbidding local ceremonies and punishing the local population with imprisonment when they engaged in such practices.[12]

A case on the island of Chorão in 1559, even before the reception of Trent's decrees, is illustrative. By then, circa 500 non-Christians imprisoned while participating in a local wedding and persuaded or obliged to convert to Christianity.[13] That situation, Luís Fróis wrote on the 14th of November of 1559, led the Goan Brahmans to celebrate their wedding ceremonies during the night, at 10 or 11 p.m., when they could not be seen.[14] Yet, one year later, the Portuguese discovered five other big weddings and imprisoned those who participated in them, too.[15]

The wedding rites of the 'gentiles' were defined as lavish, devilish, and idolatrous in the decrees of the 1st and 2nd Provincial Councils of Goa of 1567 and 1575. In decree 4 of the 'Reform of Customs' of 1575, it was explicitly stated that any idolatrous or superstitious ceremony, dancers, theater plays, and 'gentile' songs were prohibited in the marriages of those that had converted recently.[16] Similar words had already been used in the decrees and laws of the Crown of the decade of 1550, which prohibited local marriage ceremonies. Moreover, the visual hierarchy between colonizers and colonized was inverted in those ceremonies, which was unacceptable for the Portuguese. In his *Itinerario*, published in 1596, Jan Hugues van Linschoten explained that the Portuguese marriages assembled only 50 to 100 people and had a light meal following the religious ceremony. In contrast, as we know from missionary letters and other correspondence, the locals assembled more than 500 people and engaged in festivities that lasted for 10 or 15 days in the bride's and groom's houses.

To counteract this asymmetry, the 3rd Provincial Council of Goa, in 1585, urged the Goan Catholics to be discrete in their marriage ceremonies,[17] and royal decrees tried to stop the Portuguese 'from imitating the heathens', that is to say, from celebrating opulent weddings.[18] In 1596, for example, King Filipe II of Spain (I of Portugal) decreed that one day of festivities was enough to celebrate marriages.[19] However, the effectiveness of these decrees was limited, as evidenced by the constant warnings of the same type. Thus, in the third quarter of the 17th century, we still find a royal order restricting the number of guests present at the weddings of the 'gentiles': the Brahmans, Chardos, and Vaisyas could have 30 guests; the other castes were limited to 15.[20]

In any case, in the second half of the 16th century, theology and politics saw a general convergence, with regard to marriage issues, between 'reasons of God' and 'reasons of State' – expressions that I use here to contrapose positions that were frequently mingled in the Portuguese monarchy of this period, even if they were not used by the historical actors involved in these disputes. In other words: in this period, and in general, the political conservation of the overseas territories was not in contradiction with the politics of evangelization and Catholic orthodoxy.

However, this convergence was challenged during the 17th century. Conflicts between the ecclesiastic and secular jurisdictions became increasingly frequent, each party trying to revendicate their authority to judge certain situations that others also considered under their tutelage, as a document produced by the Portuguese crown in 1578 to respond to several complaints done by the ecclesiastic authorities testifies.[21]

Diversity of opinions already characterized the group of theologians, other ecclesiastic authorities, and missionaries discussing marriage rites and rituals of the 'gentiles' of Goa. As Ines G. Županov has said recently, 'The disputes about rituals were a global phenomenon in the early modern Christian world . . . and in the long run ended in more division than ever'.[22] However, ritual disputes also characterized the early modern Indian subcontinent in various parts, and Goa was located at the crossroads of these multiple debates.

Invoking the doctrine of Saint-Thomas and historical examples, a group of clerics and lay people that I call the 'liberals' considered that marrying was a natural right enjoyed by the 'gentiles' of Goa. Therefore, they defended the suspension of the previous prohibitions against local marriages, considering that their celebration did not compromise the Christian community and the salvation of their souls. Headed by the theologians and canonists of the Goan Inquisition, another group, the 'strictly orthodox', defended a radical position: None of the wedding ceremonies of the 'gentiles', private or public, should take place in the lands of a Christian king unless the King did not care about his conscience and the salvation of Christian souls.[23] A third group, the 'legalists', proposed a *via del mezzo*. For them, the 'gentile' marriages were composed of private and public parts. They considered that the private rituals were the only ones needed to legalize the marriage contract. Therefore, it was sufficient that the 'gentiles' uttered, in private, 'some words' and made 'some signs' to express their will to marry to make their contract valid. Consequently, all the public rituals, namely the *hōma* (a fire ritual that the locals considered essential to make their marriages valid, in its form of *saptapadī*), the presence of Brahman priests, dancers, banquets, and other festivities were unnecessary.

In the same years, other debates over rituals characterized the Iberian presence in different parts of the world, forging a ritual encyclopedia that was constantly changed, adding new information.[24] But, precisely at the end of the 16th century and first decades of the 17th century, two situations heightened the debates in India: the one that concerned the Syrian Christians and their particular rituals, textualized in the decrees of the Synod of Diamper of 1599, which aimed at their obedience to Rome,[25] and the debates taking place in South India, in Madurai, in the beginning of the 17th century (which went well on into the 18th century),[26] known as the Malabar rites controversy.[27]

The marriage issue was also discussed in this debate, even if it was not its central topic. The protagonists of the Malabar rites controversy, the Italian Jesuit Roberto di Nobili and the Portuguese Jesuit Gonçalo Fernandes Trancoso, disagreed about

the meanings of *upanayana* (the ceremony of imposition of the Brahman's thread), the *sikhā* (tuft on the head) and the *tilakam* (the spot of sandal and vermillion on the forehead). However, they somehow converged regarding marriage. The attitude of Roberto di Nobili toward the marriage of Śivadharma – converted by him to Christianity and named Bonifacio – is enlightening. Bonifacio 'had performed certain pagan rituals on the occasion of his wedding' since 'performing the rites . . . allowed him to remain a member of his Brahmanical community'.[28] However, Nobili was unhappy with this situation, proposing the Christian marriage as *saṃskāra*, accompanying it with local devotional music.[29] Since the 12th century, many considered marriage a *saṃskāra*, that is, a sacrament that linked the microcosmos populated by humans to the macro cosmos populated by gods, making it a justified compromise for Nobili.

Albeit from Madurai, Bonifacio's case illustrates the Goan dilemmas well. Like Bonifacio, the upper-caste locals wanted to keep their caste status after converting, so they had to keep previous rituals, namely marriage rituals. However, many of these rites were considered pagan even by the most liberal clergy, which Nobili represented. The same is to say, in contrast with the *upanayana*, the *sikhā* and the *tilakam* – which Nobili considered civil and not idolatrous rites – wedding rites posed more of a problem.

Some Malabar rites controversy debates took place in Goa precisely in the same years when the 'gentile' weddings were discussed. The intertextualities between both debates have not been studied yet, but it is reasonable to think that theologians, ecclesiastic authorities, and missionaries involved in one debate were also interested (or involved) in the other.[30]

On 23 March 1604, after a Jesuit's request, King D. Filipe III of Spain (II of Portugal) asked the Archbishop of Goa whether the 'gentiles' could pay a sum of money to celebrate their marriages in Goa. The money collected should entirely be used in the conversion.[31] Unfortunately, we cannot access Archbishop D. Aleixo de Meneses' answer. However, nine years later, in 1613, viceroy D. Jerónimo de Azevedo issued a decree allowing those marriages to take place in the parishes of the Estado da Índia in the presence of their priests, even if these ceremonies were prohibited during Advent (November/December) and Lent (February/March/April), without any monetary transaction involved.[32]

Many did not welcome this decree, which led to a *Junta*, an assembly convoked by the viceroy of Estado da Índia to help him decide on particular issues of political interest. Taking place in 1617, this assembly congregated 'liberals', 'legalists', 'strict orthodox', and 'politicians' (i.e., decision-makers who perceived this question from the perspective of the 'reasons of State') to discuss the dilemmas involved in the practice of 'gentiles' wedding rituals. In that assembly, 'politicians', 'liberals', and 'legalists' converged, defending the 'gentiles' right to perform their marriage rituals in the lands of Goa. However, the 'strict orthodox' insisted that they should be forbidden.

The next decade witnessed a meandering of decisions, from suspending Azevedo's decree, reintroducing it, or even demanding money in exchange for the authorization of 'gentile' weddings in Goa. In 1624, viceroy D. Francisco da Gama informed the King on the 23rd of January of that year that the 'gentiles' had given 32,000 xerafins to the Royal Treasure for being allowed to celebrate their weddings. This money was not channeled to conversion but to the Treasury to alleviate the financial problems of Estado da Índia. The viceroy D. Miguel de Noronha supported the same idea a few years later, but the King was not entirely convinced of its morality. Azevedo, Gama, and Noronha were genuine 'politicians', for whom the 'reasons of State' superimposed the reasons of God. For the conscience of the King, however, this hierarchy was not so clear. His hesitation in supporting Noronha's view expresses his moral dilemmas even after receiving a collection of documents intending to persuade him of its validity.[33]

The same is to say: there was no linear sociological division between religious and lay people. Instead, the groups of 'liberals' and 'politicians', for example, assembled some religious and secular people, as did the 'strict orthodox'. For clergy and lay people alike, a diversity in attitudes toward the role played by religion in relation to politics was the rule, complicating decision-making throughout the 17th century.[34]

The 'politicians' continued to defend the celebration of marriages of the 'gentiles' and the wedding rituals associated with them in lands of Christian rule, and Goa in particular: Inside the houses, in boats in the river, in deserted places, where nobody could see them (with the presence of a Christian guard or not), many were the solutions proposed. Some clergy agreed with them. A *Junta* celebrated in December of 1677 had the majority of the ecclesiastics favor the 'gentiles'' rights to celebrate their weddings inside their houses to avoid public scandal. Among them was none other than the Archbishop of Goa, the Dominican Fr. António Brandão.[35] Two years later, the Governor António Paes de Sande allowed 'gentile' marriages in public: in boats, in the rivers of Goa, on the border between Christian and Muslim lands, with a priest and without a Christian guard to control them.[36] In 1681, however, a royal letter from Prince D. Pedro (the future D. Pedro II) canceled this decision, allowing these marriages to take place only inside the houses, 'às portas fechadas' (behind closed doors).[37]

The decisions of these *Juntas* and the Crown were always contested by the 'strict orthodox', who were consistent in their idea that these ceremonies should not occur in Goa. Already in the *Junta* of 1617, they had considered the decision of viceroy D. Jerónimo de Azevedo unacceptable, arguing that the marriages of the 'gentiles' were only valid with the public ceremonies and rites associated with them. Therefore, they had to be celebrated outside Goa to avoid public scandal. Their rhetoric was so convincing that Governor Fernão de Albuquerque revoked the decree of 1613 in 1620, adding that the Christians and other 'gentiles' that were not directly involved in the ceremonies were prohibited from leaving the territory to participate in those ceremonies.[38]

The 'strict orthodox' clergy was also behind the reports sent to the King of Portugal to convince him to suspend decisions favoring the 'gentiles' interests. That happened, for example, in the decade of 1630 and 50 years later, when, still discontent with the 1681 decision, the inquisitors of Goa assembled a new *Junta*, asking for its suspension.[39] They convinced the Council of State of Goa to suspend these marriages, a decision later sanctioned by a royal order of 1 February 1683.[40]

The exchange of letters and documents between Goa, Lisbon, and Madrid, between the 'gentiles' and the government of Goa, and vice versa, concerning the marriages of 'gentiles' did not stop; neither did the new *Juntas* convoke to dissolve previous decisions or to make different ones. On the contrary, the tension between the inquisitors, their 'reasons of God', and the Crown, and its 'reasons of State', was evident. Moreover, as stated in the royal letters of 1701, 1704, 1705, 1709, 1715, and 1717, the boycott *in loco* of royal decisions favoring the 'gentiles' demonstrated that the King's will was frequently not respected.[41]

During the 18th century, the Crown was more and more consistent in this matter, allowing the 'gentiles' to perform their marriages in the lands of Goa. However, the gap between royal decisions and local practices illustrated the weakness of the power of the Crown, which continued to characterize the first decades of the 18th century.[42] For example, between 1721 and 1740, the government of the Archbishopric by Fr. Inácio de Santa Teresa fueled the opposition between the Crown and the Church, as clearly expressed in Santa Teresa's report *Estado do Estado da Índia*, of 1725.[43] It was not by chance that the Inquisition's edict of 1736 prohibiting the converted Indians from performing certain rites in their Christian marriages was issued during Santa Teresa's government. In the same years, the viceroy D. João Saldanha da Gama explained to the King that if the Archbishop's arguments prevailed, the risk of having the 'gentiles' abandoning Goa, again, was considerable, compromising the very survival of Estado da Índia.[44] By then, for the Portuguese Crown and secular agents, the State's reasons clearly superseded God's reasons.[45]

Beyond empire: the Brahman's questions of rites

The 18th-century decision-making scenario was favorable to the interests of the 'gentiles', specifically of the Brahmans. However, it is difficult to assess the number of 'gentile' Brahmans that inhabited Goa by that time. At the beginning of the 17th century, the majority of the population of Goa was 'gentile'. However, this number progressively declined. In the counting of the population of Goa in 1718, they were c. 10% of the total. Among them were Brahman merchants, financers, and scribes, especially those whose collaboration was crucial for the political, financial, and administrative survival of Estado da Índia and who thus had been able to keep their faith.[46] The progressive decline of Estado da Índia, attacked by the English and Dutch East Indies companies, the Mughals, the Sultanate of Bijapur, and the Marathas, increased even more its dependency on the Brahman elites. Keeping them

'quiet' and 'confident', as stated in a 1617's letter of King D. Filipe III of Spain (II of Portugal), was, therefore, fundamental.

Before that, when the reasons of State and the reasons of God converged, the destruction of local temples, the expulsion of priests and temple officers, the burning of sacred books, the transfer of lands, people, and other properties to the Christian church, and the prohibition of local cults and rituals had prevailed. By that time, those that remained 'gentiles' (or those that had recently converted) had to practice clandestinely or reconstruct the temples and other structures to be able to perform their *dharmic* religious duties outside the territories of Goa, like in the taluka of Ponda, or places in today's Maharashtra, Karnataka, or Kerala.[47]

Nevertheless, it was impossible to eradicate the ritual framework and wedding practices that operated in Goa and, of course, the marriage imagination of the locals. Among other sources, today difficult to recover, were the Goan versions of the *Vedas* – where ritualization of life was central – and the *Puranas*, which circulated in Goa during the 17th century.[48] Also, local versions of the *Mahabharata*, *Ramayana*, and Krishna history included marriage models common to other parts of India, namely, the stories of Rama and Sita, Draupadi and the five Pandava brothers, and Krishna and Radha.[49]

Documentation produced under the Portuguese rule, like the *Foral de Mexia* of 1526, the *Codex Casanatense*, the inventories of lands and other properties that belonged to the temples, as well as missionary chronicles, histories, and letters, not only from the time of the Portuguese arrival but also from later periods, also helps us access some of the practical dimensions of the ritual order in Goan villages. Big villages concentrated on ritual officers and services, then provided to small villages. Many parcels of land were given to village temples to finance ceremonial needs and several festivities. Besides rice (much used in sacrifices), there was financial support for singers and trumpeters, drummers, tanglers, dancers, theatre writers, men hanging on hooks during the festivals, the performance of fire sacrifices, buffalos and goat sacrifices,[50] as well as for those officers responsible for plants and flower decorations. There were also specific rituals to be performed to the village's elders.[51]

Some of the rituals associated with marriages were visually represented in the *Codex Casanatense*, in three folios that depicted a wedding of 'canarins'. 'Canarins' was a word used to describe either the (poor) inhabitants of Goa, in general, or those of Kanara, the regions in the neighborhood of Goa. Whatever the meaning intended by the compiler of *Codex Casanatense*, these images are one of the first visual representations of a wedding in the region of Goa.

The first image depicts the groom's cortege arriving at the marriage venue, including dancing by 'professional' dancers (*bailadeiras*), friends, and guests. A second image represents part of a *mandapa*, the four pillars construction under which the bride and groom were seated, taking their vows and receiving the blessings of the elders. A third image depicts some guests bringing gifts (*dana*) to offer the new couple. Unavailable, a fourth image perhaps included the most important ritual,

FIGURE 2.1 "Professional dancers participating in the groom's cortege", *Album di disegni, illustranti usi e costumi dei popoli d'Asia e d'Africa* (Codex Casanatense), Biblioteca Casanatense, Roma, Ms. 1889, cc. 100–101.

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the *saptapadī*, a fire ritual essential to making the union official: the couple took seven steps around a fire (the sacred Agni) and declared seven vows. These vows represented nourishment, strength, prosperity, happiness, progeny, long life, and harmony.[52]

At the beginning of the decade of the 1630s, a report sent by Buru Chatim to King Filipe IV of Spain (III of Portugal) about marriage rituals referred to some of these ritual traditions. Consciously or unconsciously using some marriage regulations present in the classical texts, Chatim (who presented himself as a Brahman but belonged to the caste of goldsmiths, considered Dayvadnya Brahmans, degraded Brahmans) described Brahman ceremonies preceding the marriage, the marriage itself, and the ceremonies taking place immediately after. For example, Chatim said that when a man looked for a wife for his son, he sent messengers to the girl's house, whose heads were then covered with caps to signal the future alliance. After that, Chatim explained, both families' Brahman *Joshis* consulted the stars to verify whether the bride and the groom were compatible and which was the auspicious day to celebrate the wedding. The groom went to the bride's house that day, followed by his relatives and guests (probably a cortege similar to the one depicted in *Codex Casanatense*). When arriving there, the bride's father and the groom exchanged a

FIGURE 2.2 "Couple seated under the mandapa receiving the blessings from the elders", *Album di disegni, illustranti usi e costumi dei popoli d'Asia e d'Africa* (Codex Casanatense), Biblioteca Casanatense, Roma, Ms. 1889, c. 99.

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piece of coconut to seal the moment. Then, the groom was taken to wait under an arbor prepared for the occasion. After that, he and his closest relatives were taken inside the bride's house, waiting for the precise time when the marriage would be celebrated. At that moment, the Brahman *Joshis* declared the bride's and the groom's will to marry each other. Only then did the couple, who had been hiding behind two curtains, see each other and hold hands to go out and perform the *saptapadī*. After that, the guests arrived to greet the new couple with rice, and the marriage was considered complete. Chatim admitted that the other ceremonies and banquets that followed were superfluous and that their opulence depended on each family's wealth.[53]

Another report of the same period reminded, however, that there were differences between the Brahmans' marriage rituals, of those that, like the Baneanes, wanted to imitate them, and the marriages of the low castes, like the Sudras, the Chaudharins, the shoemakers, the painters, and the *farazes* (the untouchables of Goa). Pero Amaral Pimenta, the author of this second report, argued that the latter did not perform the *saptapadī*. For him, the 'gentile' marriage problem was only the Brahmans, arguing that 'where we found Brahmans, all is superstition, ceremonies, offerings and sacrifices that are devilish and songs praising their false deities'.[54]

FIGURE 2.3 "Cortege of guests bringing gifts", *Album di disegni, illustranti usi e costumi dei popoli d'Asia e d'Africa* (Codex Casanatense), Ms 1889, c. 98.

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The dismantlement of these religious and ritual orders, with all their subtleties and social differences, had dramatic consequences for the population of Goa. In particular, the social pre-eminence of the elites depended heavily on the links between power and ritual, which were annihilated for those who had not converted to Christianity. They were prohibited from wearing the traditional power insignias, like palanquins (*pālakhī*), umbrellas (*abadāgīra*, *catrī*), and tails to whisk flies (*cavarī*) and from being the recipients or the officers of ritual sacrifices and other ceremonies. In short, they were prevented from performing the *dharmic* sacrifices that distinguished them from the rest of society.[55]

Therefore, it is not surprising that many abandoned the Goan lands and that those who remained in Goa and who were bestowed with the power of negotiation – like the Brahman merchants and financers – did all they could to keep their rituals. We know that in the first decades of the 17th century, public purification rituals (like bathing ceremonies) in the river in front of the Goan island of Divar were still performed, against the will of the Inquisition, of course. In the same period, a group of Goan Brahmans from the village of Kunshashtali in Salcete went to Banaras to persuade their guru, Shrimat Bhavananda Saraswati Swami Gauḍapādāchārya, who had left Goa during the campaigns of destruction, to return to the Kaivalya Mutt

Samsthan in that village. Refusing to return, Gauḍapādāchārya bestowed one of the representatives of the village, the Brahman Shri Vittal Shyama Sharma Shenavi Ranganekar, with the status of *swami*. From that moment onward, he had the right to perform all sixteen rituals of purification, returning to Goa to teach and initiate the Brahmans of Kunshashtali and the rest of Goa in the different life stages, namely the *brahmachārin* (the chaste student of the *Vedas*), instituted by the *upanayana* ritual, also under attack in the same period, and the *grihastha* (the householder), instituted by marriage, a status that was fundamental for the constitution of families, performance of caste duties, and the rituals associated with them.[56] Marriages were also the central locus of the cult of ancestors, linking the past, the present and, the future. Because of all this, marriage was central for building or keeping local and regional alliances.[57] However, the new *swami* ended in the Shantadurga temple and mutt of Kavle, in Ponda (in the Sultanate of Bijapur), established in 1630, to host the deities of the neighboring village of Keloshi.[58] Even if unsuccessful, his case illustrates the attempts of the 'gentiles' to keep their religious and ritual order simultaneously when inquisitors and many missionaries tried to annihilate it.[59]

These dynamics affected Brahmans' interests in the neighborhood polities, like the Sultanate of Bijapur and others. As Noelle Richardson has pointed out, Goan merchant family networks extended through various territories of South India. Goan Brahmans also occupied administrative and business positions in the neighborhood kingdoms, namely in the Sultanate of Bijapur. However, rival Brahmans did not always welcome their regional expansion, who frequently accused them of being lesser because they did not perform all the rituals that identified a true Brahman.[60] In this context, one bone of contention was rituals, as the internal conflict that opposed *Smartas* and *Vaishnavas* of Goa in the first decades of the 18th century also demonstrates. In this conflict, the rites performed (or not performed) by either party, each claiming a superior position to the other, led to a long-lasting process.[61]

The *Sahyadri Khanda*, a 16th–17th century *Purana* presenting itself as a part of the *Skanda Purana*, subsisting in a Goan version of 1700, and the *Konkana Khyana*, composed in 1721, helps us to understand the extension of the Goan Brahmans' problems. These two treatises illustrate the regional rivalries among four Brahman groups of today's Maharashtra, Karnataka and Kerala, supporting the claims of supremacy by Goan Brahmans, namely their Shenvi branch. Urmila Patil argued that the Goan Brahmans were challenged by other Brahmans, like the Kharadas Brahmans. These alternatively argued that the Goan Brahmans were only *trikarmi* and not *sat karma*; that is to say, they were only able to perform three Brahman duties (to learn the Vedas, to give alms and to propitiate sacrifices through others) and not all the six (adding to those, to teach the Vedas, to receive alms and to perform sacrifices, the *homa* included). For this reason, they were considered lower Brahmans. In 1664, this alternative perception of Goan Brahmans' identity led to a *dharmasabhā* (assembly), ordered by the Maratha ruler Shivaji, where Brahman intellectuals came from various parts of India, mainly from Banaras, discussing the Brahmanhood of the Shenvi Brahmans of Goa.[62] In the *Sahyadri Khanda* and the *Konkana Khyana*, this dispute

was favorable to the Brahmans of Goa, while in other treatises, like the *Nirnaya*, it was the opposite.[63]

To be a lower or an upper Brahman, entailed considerable consequences for Goan Brahman's recognition at the local and regional levels and, therefore, for their economic, political, and social success.[64] In this scenario, the Goan Brahman's ability to perform – or not to perform – their marriage rituals was everything but inconsequential.

These local contexts help us understand the meanings *beyond the empire* of the several reports and petitions sent by the 'gentiles' of Goa to the viceroy and the King of Portugal throughout the 17th and 18th centuries. Besides being part of the imperial relationship between the King and his Goan subjects, these documents also express the 'Indian' dimension of the lives of the people of Goa, their regional interests, networks, and forms of recognition and distinction. In the second part of the 18th century, when the territories of Goa more than doubled, integrating a population that was totally 'Hindu', the complaints were even louder.[65] At that time, some 'gentiles' were granted unexpected privileges, like marrying twice (with two living wives) if the first wife could not procreate.[66] Nevertheless, as mentioned at the beginning of this essay, only in the 19th century was their right to celebrate their marriages in lands under Christian rule definitively and legally recognized without future setbacks.

Conclusion: the impossibility of controlling marriage ritual diversity

Controlling marriage and marriage ritual diversity was crucial for an imperial power interested in homogenizing society through Christianization. However, as the aforementioned examples demonstrate, that was neither an easy task nor a consensual one.

Since the end of the 16th century, while some theologians, decision-makers, and Brahmans attempted to find a consensus about which marriage rituals could be performed in Christian lands, the Inquisition, other theologians and ecclesiastic authorities tried to prevent their performance. However, contrasting with the second half of the 16th century, when the alliance between theology and politics, Church and political power, was solid, since the 17th century, the reasons of God and the reasons of State rarely converged, frequently due to the fragile situation of Estado da Índia and its dependence on the local elites, primarily (but not exclusively) the Brahmans.

Nevertheless, even in a context where the 'strict orthodox' paths were submitted to the will of the 'politicians', there were still attempts to convert the 'gentiles' and completely control the orthodoxy and orthopraxy of those already converted to Christianity.[67] The edict of 1736, issued by the Inquisition of Goa, which imposed ritual restrictions on converts and has already been studied by Rowena Robinson, is a good testimony of these attempts and their failure.[68]

Almost two centuries after the process of Christianization had begun in the Goan lands, the local Christians continued to practice marriage rituals considered idolatrous (many of which continued to be performed well through the 20th century). Albeit the rite of *saptapadī* had been abandoned, there were at least 27 other rites that the inquisitors wanted to prohibit: Rites of reverence to the elders of each family and of the village that invoked the cult of ancestors[69]; rites of purification of the bride and the groom, such as the ritual bath before the marriage[70]; greeting rites with flowers, aromatic rice, flowers, milk, and saffron; protection rites, like covering the couple with a cloak when arriving at home; fertility rites related with eating specific foods in specific days; and so forth. Also forbidden was the singing of *voviós*, songs with particular metrics that the elder women sang at the weddings.[71]

Besides its synchronic depiction of Goan Catholic marriage practices that enacted the previous ritual order, the Inquisitorial edict of 1736 invites further reflection for other reasons. The documents produced in the previous centuries, namely the Brahman reports and the pastoral visits by the Archbishops of Goa, were much more schematic, giving us the impression that the Portuguese authorities were unaware of the dozens of marriage rites that characterized the Goan scene (or these had been successfully concealed from them). It is known that abolishing life-cycle rituals like marriage rituals is difficult. However, that still does not explain why the 'ethnographies' of Goa concerning this issue are so scarce, while those produced for other parts of South India, like Nobili's or Jacopo Fenicio's treatise, are comparatively much more detailed. The same is to say: in a territory like Goa, where the Portuguese rule was quotidian, affecting the lives of all their inhabitants, the knowledge shared by the Portuguese about fundamental institutions of the local society seemed to be limited. Is it possible that the Portuguese authorities thought that their knowledge was enough, convinced as they were that their political and military power (more imposing in Goa than elsewhere in Estado da India) sufficed for them to impose their will? However, how were Portuguese authorities to control ritual diversity if it was not evident for all, what this diversity was?

One explanation for this contradiction relates to the intellectual, political, institutional, and sociological fragmentation of the Portuguese colonizers and their understanding of which diversity mattered for the (financial) survival of the colonial order. Maybe the political authorities (among which we can find the 'politicians') were not particularly interested in the subtleties of local ritual diversity and the persistence of idolatrous behavior among the local Catholics if these did not menace Christianity and the relationship between 'colonizers' and 'colonized'. In that sense, turning a blind eye to the multiple rites that marked the local people's daily life was probably the wisest decision. In contrast, the 'strict orthodox' (headed by the inquisitors), always keen on completing their catalogue of idolatry and persecuting those that practiced it, had a different perspective on the same issues. Most likely, the multiple rites identified in the Edict of 1736 were already of their knowledge. Nevertheless, its publicity that year resulted from a particular moment in the Goan church, which allowed them to strike more

repressive policies again. The intermediate space between one and other positions allowed for different knowledge, understandings, and behaviors, which are difficult to access from the remaining documentation.

Not accessible to most colonizers, the internal diversity and the particularities of their rituals were crucial for the Brahmans and other local castes. Ironically, and particularly in the case of Goa, we have access to part of these particularities due to the several conflicts that arose around them and ended up in the colonial courts and institutions. Moreover, the converted Goans frequently denounced the 'gentiles' to their benefit, providing information about them to missionaries, priests, and inquisitors.

That said, it is not surprising that treatises on idolatry were more frequent on mission territories where Christian political power was not directly present, like the Malabar coast or, later, China. In these missions, conversion and Christianization could be fully achieved only by knowing the local populations' religious structures. In Goa, in contrast, the daily and long-lasting presence of the colonial power allowed for a different relationship with the local situation.

The difficulty in controlling marriage ritual diversity in Goa increased when we look at this problem, again, from the perspective of its 'gentile' inhabitants, namely the Brahmans. As mentioned earlier, when the Goan Brahman identity was disputed regionally, the ability to perform their rituals, namely life-cycle rituals like the *upanayana* and marriage, was critical. Although there was no consensus in Goa about which rituals and rites they could perform or not, the financial dependency of Estado da Índia on these Brahman elites empowered them in the moment of negotiating the protection of their ways of living in Goa. Their lives and interests *beyond the empire* help to explain the normative meandering of the 17th and 18th centuries that I have tried to describe in this essay.

This case also invites us further to understand the peculiarities, tensions, and contradictions generated by the government of diversity in imperial contexts. In particular, we should continue to complement our imperial histories, frequently too focused on the relationship between 'colonizers' and 'colonized', with a deeper understanding of the horizontal ties that linked the different 'colonized', as well as the relationships they had with other authorities, polities, and social and cultural spaces. To deepen this understanding, adopting a perspective *from within* becomes more and more crucial. Finally, the fragmentation of positions among the 'colonizers' and the balance between 'liberals/politicians', 'legalists', and 'strict orthodox', between reasons of State and reasons of God, is also enlightening. It was almost impossible to find a consensus regarding this hot issue, and this impossibility exemplifies the difficulties the Portuguese found, in different parts of its empire, at the moment of controlling cultural diversity.

Only after understanding the lives *beyond the empire* can we produce better histories of imperial experiences and the difficulties found by different political and religious authorities at the moment of managing cultural diversity. Today, as in the past.

Notes

1 On that, see Luís da Cunha Gonçalves, *Direito hindú e mahometano. Comentário ao Decreto de 16 de Dezembro de 1880 que ressalvou os usos e costumes dos habitantes não cristãos do distrito de Goa na Índia Portuguesa* (Coimbra: Coimbra Ed., 1923). I am grateful to Susana Sardo for her help with some vocabulary related with music, and to the participants of the Panel "Sex & Marriage" at the Conference *Diversity & Empires: Governance of racial and religious plurality overseas (16th-20th centuries)*, Leiden University (9–11 June 2021).

2 Albeit with the same name, what I propose here differs from Jeremy Burman's, "History from Within? Contextualizing the New Neurohistory and Seeking Its Methods," *History of Psychology* 15 (2012): 84–99. It is naturally inspired by Edward P. Thompson's, *The Making of the English Working Class* (London: Victor Gollancz, 1963) and Nathan Wachtel's, *La Vision des Vaincus. Les Indiens du Pérou devant la Conquête espagnole (1530–1570)* (Paris: Folio, 1971) and many others, by combining them with the proposals of Norbert Elias and John Scotson, *The Established and the Outsiders*: *A Sociological Enquiry into Community Problems* (London: Frank Cass & Co. Ltd, 1965).

3 On these theories, see Robert J. C. Young, *Colonial desire: Hibridity in Theory, Race and Culture* (London: Routledge, 1994); Ann Laura Stoler, *Race and the Education of Desire. Foucault's History of Sexuality and the Colonial Order* (Durham and London: Duke University Press, 1995); Les Black and John Solomos, eds., *Theories of Race and Racism* (London-New York: Routledge, 2000).

4 Besides the many documents included in the collection *Livro das Monções* (Book of Monsoons) in the Historical Archives of Goa (from now onward, HAG) and Torre do Tombo, in Lisbon (from now onward, ANTT), some of them published or summarized (namely in the collection Filmoteca Ultramarina Portuguesa, from now onward FUP), and in the codex and manuscripts of Arquivo Histórico Ultramarino, in Lisbon (from now onward, AHU), the topic was also object of debate among jurists, like João Baptista Fragoso, *Regimen Reipublicae Christianae, ex sacra teologia* (London: Anisson, 1667), Disp 22: De conjugio Indorum, § 4, "De reliquis quae spectant ad matrimonia inter fideles jure naturae & na inter eos vera sint?".

5 Besides the *Vedas*, the *Mahabharatha,* the *Ramayana* and a history of Krishna, with early modern Goan versions, the *Laws of Manu*, the *Artha-shastra* of Kautilya, a *Dharma-sutra* of three centuries BC, the *Kama-Sutra*, described the types of marriage and their characteristics. See Wendy Doniger, *The Hindus. An Alternative History* (London: Penguin Books, 2009), 228–31; and also the edition of Max Müller, *The Grihya-sûtras, Rules of Vedic Domestic Ceremonies: Gobhila-Grihya-sûtra. Hiranyakesi-Grihya-sûtra. Âpastamba-Grihya-sûtra. Âpastamba's Yagña-Paribhâshâ-sûtras* (London: Clarendon Press, 1892). However, we only have scattered information on the reception of these texts in the Goan territories.

6 Discussions on the role of the household in the polity in Aristotle's thought can be found in Anthony Kronman, "Aristotle's Idea of Political Fraternity," *The American Journal of Jurisprudence* 24 (1979): 114–38; David J. Riesbeck, "Aristotle on the politics of marriage: Marital rule in the Politics," *The Classical Quarterly*. New Series, 65–71 (May 2015); Vallerie Marie Stein, "Husband and Wife in Aristotle's Politics" (PhD thesis, Boston. Boston College, 2016).

7 Ann Laura Stoler, "Making Empire Respectable: The Politics of Race and Sexuality Morality in 20th Century Cultures," *American Ethnologist* 16, no. 4 (November 1989): 634–60; Ann Laura Stoler, *Carnal Knowledge and Imperial Power Race and the Intimate in Colonial Rule* (Berkeley, Los Angeles and London: University of California Press, 2002).

8 On this process, see Ângela Barreto Xavier, *Religion and Empire in Portuguese India. Conversions, Negotiation and Resistance in the Making of Goa* (New Delhi: Permanent Black, New York: SUNY, forthcoming) and "Reducing Difference in the Portuguese Empire? A Case Study from Early-Modern Goa," in *Changing Societies: Legacies and Challenges. Vol. i. Ambiguous Inclusions: Inside Out, Inside In*, eds. Sofia Aboim, Paulo Granjo, and Alice Ramos (Lisbon: Imprensa de Ciências Sociais, 2018), 241–61.

9 See on that Andrew E. Barnes, "Religious Reform and the War Against Ritual," *Journal of Ritual Studies* 4, no. 1 (1990): 127–33; Edward Muir, *Ritual in Early-Modern Europe* (Cambridge: Cambridge University Press, 1997); Susan Karant-Nunn, *The Reformation of Ritual: An Interpretation of Early Modern Germany* (London: Taylor & Francis, 1997); José Pedro Paiva, ed., *Religious Ceremonials and Images (1400–1750). Power and Social Meaning* (Coimbra: Centros de Estudos da Sociedade e Cultura-European Science Foundation – Palimage, 2005); Christian Grosse, *Les rituels de la cène: le culte eucharistique réformé à Genève (XVIe – XVIIe siècles)* (Genève: Librairie Droz, 2008); Victoria Christman e Marjorie Elizabeth Plummer, eds., *Cultural Shifts and Ritual Transformations in Reformation Europe*: *Essays in Honor of Susan C. Karant-Nunn* (Leiden: Brill, 2020).

10 In Sabine Pavone, "Jesuits and Oriental Rites in the Documents of the Roman Inquisition," in *The Rites Controversies in the Early Modern World*, dir. Ines G. Županov and Pierre-Antoine Fabre (Leiden: Brill, 2018), 166.

11 Walter Menski, "Hindu Marriage Law," in *Hindu Law: Beyond Tradition and Modernity*, ed. Walter Menski (Oxford: Oxford University Press, 2008).

12 Joaquim Heliodoro da Cunha Rivara, ed., *Archivo Portuguez Oriental* (from now onward APO) (Goa-Daman-Diu: Asian Educational Services, 1992, 6 vols.), vol. 5, 389; APO, vol. 4, *Concílio of 1567*, I, decrees 9, 10, 12, 32 and 42 *Concílio of 1592*, II, d. 80, 197. *Concílio de 1606*, IV, d. 3).

13 APO, vol. 5, 389.

14 António da Silva Rêgo, ed., *Documentação para a História das Missões do Padroado Português do Oriente* (from now onward DHMPPO) (Lisboa: Agência Geral das Colónias, 1947–1958), vol. 5, 331.

15 Luís Fróis, "Carta ânua," November 13, 1560, in DHMPPO, vol. 7, 61–63.

16 APO, vol. 4, *Concílio of 1575*, II, d. 4.

17 APO, vol. 4, *Concílio of 1567*; *Concílio of 1585,* I, d. 24, II, d. 11, d. 24; *Concílio of 1595*, II, d. 26; APO, vol. 4, *Concílio of 1606*, IV, d. 3. Another question related with the marriage rituals of the gentiles was the prohibition of widows to remarry and the practices of shaving the heads and of sati (APO, vol. 4, *Concílio of 1585*, II, d. 11–12).

18 APO, vol. 3, 659–60; HAG-FUP, *Livro das Monções*, nº 46-A (1681–82), fl. 207.

19 Jan Hugues van Linschoten, *Itinerario. Viagem ou Navegação de Jan Huygen van Linschoten para as Índias Orientais ou Portuguesas* (Lisbon: CNCDP, 1997), 153–54.

20 José Ignacio de *Abranches* García, ed., *Archivo da Relação de Goa* (Nova Goa: Imprensa Nacional, 1872, 2 vols.), vol. 1, nº 168.

21 Carlos Renato Gonçalves Pereira, *História da Administração da Justiça no Estado da Índia*, Lisbon: Agência Geral do Ultramar, 1964), vol. 2, 397–410.

22 Ines G. Županov, "Against Rites: Jesuit *Accommodatio* as Pietist *Preparatio Evangelica* in Eighteenth Century South India," in *The Rites Controversies in the Early Modern World*, dir. Ines G. Županov and Pierre-Antoine Fabre (Leiden: Brill, 2018), 364.

23 Giuseppe Marcocci, "Rites and Inquisition: Ethnographies of Error in Portuguese India (1560–1625)," in *The Rites Controversies in the Early Modern World*, dir. Ines G. Županov and Pierre-Antoine Fabre (Leiden: Brill, 2018), 145–46.

24 Talal Asad, *Genealogies of Religion. Discipline and Reasons of Power in Christianity and Islam* (Baltimore: Johns Hopkins University Press, 1993) 77. Gita Dharampal-Frick, "Revisiting the Malabar Rites Controversy: A Paradigm of Ritual Dynamics in the Early Modern Catholic Missions of South India," in *The Rites Controversies in the Early Modern World*, dir. Ines G. Županov and Pierre-Antoine Fabre (Leiden: Brill, 2018), 130, considers that the Malabar Rites Controversy was another expression of "Asia in the making of Europe". My understanding is different: In my view, these 'Indian' controversies were part of the same ritual debates.

25 Sanjay Subrahmanyam, "Dom Frei Aleixo de Meneses (1559–1617) et l'echec des tentatives d'indigenisation du christianisme en Inde," *Archives des Sciences Sociales des Religions* 103 (1998): 21–42.

26 Gita Dharampal-Frick, "Revisiting the Malabar Rites Controversy," 123.

27 I. G. Županov, *Disputed Mission: Jesuit Experiments and Brahmanical Knowledge in Seventeenth-Century India* (New York: Oxford University Press, 1999); Ines G. Županov, "'One Civility, but Multiple Religion': Jesuit Mission among St. Thomas Christians in India (16th–17th centuries)," *Journal of Early Modern History* 9, no. 3–4 (2005): 284–325. Missionaries, theologians, canonists, inquisitors – as well as the Papacy – were involved in the Malabar rites controversy, and in the decisions about which Indian rituals were allowed to be kept without disturbing the Christian theology, morals and polities. See Ines G. Županov and Pierre-Antoine Fabre, "Introduction," in *The Rites Controversies in the Early Modern World*, dir. Ines G. Županov and Pierre-Antoine Fabre (Leiden: Brill, 2018), 22.
28 Margherita Trento, "Śivadharma or Bonifacio? Behind the Scenes of the Madurai Mission Controversy (1608–1619)," in *The Rites Controversies in the Early Modern World*, dir. Ines G. Županov and Pierre-Antoine Fabre (Leiden: Brill, 2018), 107–9.
29 Gita Dharampal-Frick, "Revisiting the Malabar Rites Controversy," 132.
30 Marcocci, "Rites and Inquisition," 156.
31 HAG-FUP, *Livros das Monções N.os 9, 10 e 11* (1604–1609).
32 HAG-FUP, *Livro das Monções N.° 46-A (1681–82)*; HAG, *Inventário da Relação de Goa*, nº 8799, fl. 114; APO, vol. 6, 1235–36. One year later, the same viceroy wanted to map the cases of bigamy, considering, however, that these were to be judged by civil and not religious courts. Luís da Cunha Gonçalves, *Direito Hindu e Mahometano* (Coimbra: Coimbra Ed, 1923), 202.
33 HAG-FUP, *Livro das Monções,* nº 23, fl. 209; HAG-FUP, *Livro das Monções,* nº 22, fls. 30–30v, fls. 133–4, fl. 209; Arquivo de Simancas, Secretarias Provinciales, Cód. nº 1520 (Fls. 43–43 v.). Instead of the 39.000 cruzados that were supposed to be paid, the population of Goa had paid more than 50,000, due to the corrupt behavior of some agents of the Crown. The King asked the viceroy and the Inquisitor should investigate what had happened and punish the agents that had done wrong (HAG-FUP, *Livro das Monções*, nº 23, fl. 220).
34 Panduronga S. S. Pissurlencar, ed., *Assentos do Conselho de Estado* (from now onward ACE) (Goa: Tip. Rangel, 1953–1957, 2 vols), vol. 2, doc. 45, 159–61; ANTT, *Livro das Monções* nº 22, fl. 298, fls. 311–20; fl. 363, fl. 430. HAG – FUP*, Livro das Monções*, n° 19-B (1634–1635), fl. 547; HAG-FUP, *Livro das Monções,* nº 46-A (1681–82), fl. 258; On the 29th of March of 1679, a dossier with the orders relative to the orphans and the marriages of 'gentiles' was assembled, concerning the petitions about them (HAG-FUP, *Livro das Monções,* nº 45 (1678–1681), fls 51–52.
35 ACE, vol. 4, doc. 114, 280–88. Another *Junta* took place on 12 January 1678. Its members reiterated the resolution taken in the previous December (ACE, vol. 4, 299–303.). On this issue, other documents can be found (HAG-FUP, *Livro das Monções,* nº 46-A (1681–82), fls. 192, 224, 230, 240.
36 HAG-FUP, *Livro das Monções,* nº 46-A (1681–82), fl. 255–6, 258, 190–2, 202.
37 Twenty years later, the same Prince complained that the local authorities did not respect his previous decisions (HAG-FUP, *Livro das Monções,* nº 143, fl. 545; APO, vol. 6, suppl. 2, 132).
38 HAG-FUP, *Livro das Monções,* nº 46-A (1681–82), fl. 214, 220, APO, vol. 6, suppl. I, 1222; Luís da Cunha Gonçalves, *Direito Hindu e Maometano*, 171.
39 HAG-FUP, *Livro das Monções,* nº 46-A (1681–82), fls. 168, 170, 178–80; ACE, vol. 4, 378–82; HAG, *Inventário da Relação de Goa,* nº 8799, fl. 95.
40 HAG-FUP, *Livro das Monções,* nº 46-A (1681–82), fl. 93, 129, 160.
41 HAG-FUP, *Livro das Monções,* nº 68, fl. 102; nº 71, fl. 20; nº 74, fl. 418; nº 81, fl. 41; nº 83, fl. 268 (published in APO, vol. 6, Suppl. 2, 18–19, 132, 157–9; 182, 217–8, 95–96). On that, see also Noelle Richardson, "'Industrious Gentiles': Hindu Merchants and Middlemen in the Portuguese Estado da Índia, c. 1730–1850" (PhD thesis. EUI, Florence, 2019), 278, 292–93.
42 For example, by 1768, the issue was still discussed in the Overseas Council, in Lisbon, as can see by the copies of letters of 1624, 1704, 1709, and 1726 concerning these unions

(AHU, Índia, cx. 134). In 1781, the gentile merchants of Goa continued to complaint against the restrictions to their unions (AHU, Índia, Cx. 163).

43 Fr. Inácio de Santa Teresa, *Estado do Estado da Índia, 1725* (ANTT, Manuscritos da Livraria, nº 1816), cited by Ana Maria Ruas Alves, *O "Reyno de Deos e a Sua Justiça". Dom Frei Inácio de Santa Teresa (1682–1751)* (Coimbra: Faculdade de Letras da Universidade de Coimbra, 2014), 77–79.

44 HAG-FUP, *Livro das Monções,* nº 99, fl. 123 (published at APO, vol. 6, Suppl. 1, 369–40).

45 "Provisão régia em resposta aos pedidos do povo gentio de Goa para poder realizar os seus casamentos no território. 22 de Fevereiro de 1704" (AHU, Índia, cx. 88); "Requerimento do 'povo gentílico da cidade de Goa' a respeito da provisão que lhes fora concedida a respeito dos seus casamentos", 22 de Janeiro de 1708 (AHU, Índia, cx. 95); "Consulta sobre o requerimento do povo gentílico da cidade de Goa, escrito a 22 de Janeiro de 1708, a respeito da realização dos seus casamentos", 2 de Março de 1709; "Requerimento do povo gentio da cidade de Goa sobre as várias representações que tinha feito à Coroa a respeito dos seus casamentos", 28 de Janeiro de 1710 (AHU, Índia, cx. 97, doc. 14); "Representação do povo gentílico vassalo da coroa na Índia sobre por lhes ter sido proibido (depois de anteriormente ter sido autorizado) a graça de transportarem com gaitas e instrumentos, cantos e danças, os botos que iam realizar os seus casamentos" (AHU, Índia, cx. 86; Academia das Ciências de Lisboa, Série Vermelha, Ms. 717, nº 276); "Carta régia para o governador da Índia sobre os requerimentos do povo gentílico de Goa e Damão, pedindo os primeiros licença para fazerem cerimónias dentro de suas casas e os segundos a conservação dos seus pagodes, 24 de Março de 1781 (AHU, Índia, cx. 121).

46 Panduronga S. S. Pissurlencar, *Agentes da Diplomacia Portuguesa na Índia (Hindus, Muçulmanos, Judeus e Parses)* (Bastora: Goa, 1952); M. N. Pearson, "'*Indigenous* Dominance in a colonial economy: The Goa Rendas, 1600–1670'," *Mare Luso-Indicum,* II. Genève (1973): 61–73; Geoffrey Scammell, "The Pillars of Empire: *Indigenous* Assistance and the Survival of the 'Estado da India' c.1600–1700," *Modern Asian Studies* 22, nº 3 (1988): 473–89. Forthcoming book by Jorge Flores, *Words without bounds: The Persianate in Portuguese India, c. 1570–1690* (Philadelphia: Penn State University Press, 2023) enlightens the omnipresence of locals in the administrative processes taking place in Estado da Índia.

47 On this process, see A. K. Priolkar, *The Inquisition of Goa* (Bombay: Bombay University Press, 1961); Teotonio de Souza, *Medieval Goa: A Socio-Economic History* (New Delhi: Concept, 1979); Délio Mendonça, *Conversions and Citizenry*: *Goa Under Portugal, 1510–1610* (New Delhi: Concept Publishing Company, 2002); Xavier, *Religion and Empire in Portuguese India*.

48 For an overview on the Indian marriages in the *Vedas*, and the ways scholarship has discussed them, see Walter Menski, "Hindu Marriage Law and Child Marriage Law," in *Hindu Law: Beyond Tradition and Modernity*, ed. Walter Menski (New Delhi: Oxford University Press, 2008).

49 On wedding rituals in *Mahabharata* and *Ramayana*, see Johann Jakob Meyer, "Marriage Ceremonies in Ancient India. As Portrayed in its Epic Literature," translation of chapter three of *Das Weib im altindischen Epos* (Leipzig, 1915), consulted on the 26 April 2021 in https://opensiuc.lib.siu.edu/cgi/viewcontent.cgi?referer=www.google.com/&httpsredir=1&article=3155&context=ocj.

50 Manuel Magalhães, "Pequenos reis, grandes honras. Culto, poder e estatuto na Índia ocidental" (PhD thesis, Lisbon. ISCTE-IUL, 2012), 125.

51 HAG, *Foral das Ilhas de Goa* (18th-century copy of 16th-century document), nº 7594, fls. 11–20v; 39–59v. See also Rochelle Pinto, "The Foral in the History of the Communidades," *Journal of World History* 29, no. 2 (2018): 185–212; Ângela Barreto Xavier, "Village Normativities and the Imperial Order. The case of Goa in the 16th cent," in *Norms Beyond the Empire. Law-Making and Local Normativities in Iberian Asia, 1500–1800*, ed. Manuel Bastias Saavedra (Leiden: Brill, 2021).

52 The roots of this tradition are found in hymn 10.85 of the *Rigveda*, which is also called the "Rigvedic wedding hymn."
53 HAG-FUP, *Livro das Monções,* nº 30, fls. 319–20.
54 HAG-FUP, *Livro das Monções,* nº fls. 311–411v.
55 Manuel Campos Magalhães, "Pequenos Reis, Grandes Honras," 31–37, 227. Magalhães shows how narratives of foundation of villages located in the neighbouring talukas of Goa associated a lord that granted the village, the founder or founders of the village (*sthāpake*) and his/their duty of "povoamento", a ritual order and a main divinity that is associated to that village (118).
56 Ângela Barreto Xavier and Ines G. Županov, "Ser Brâmane na Goa da época moderna," *Revista de História* (São Paulo) 172 (January–June 2015): 15–41 namely in the *Latika*, as referred by Urmila R. Patil, "Conflict Identity and Narratives, The Brahman Communities of Western India from the 17th through 19th Centuries" (PhD thesis, Austin. University of Texas, 2010), 112.
57 On that see Richardson, "Industrious Gentiles," 130, 154, 160.
58 Shri Gowdapadacharya & Shri Kavale Math (A Commemoration volume), in Wikipedia, https://worddisk.com/wiki/Shri_Gaudapadacharya_Math/ Gaudapadacharya Math, Consulted on the 4 April 2021.
59 Manual Magalhães, "Pequenos Reis, Grandes Honras," 211–12.
60 Richardson, "Industrious Gentiles," 126, 36, 142, 144–45.
61 Ângela Barreto Xavier, "Purity of Blood and Caste. Identity Narratives among Early Modern Goan Elites," in *Race and Blood in the Iberian World*, eds. Max S. Hering Torres, Maria Elena Martínez, and David Nirenberg (Münster: Lit Verlag, 2012), 125–50.
62 On the 1664 meeting see Rosalind O'Hanlon and Christopher Minkowski, "'What Makes People Who They Are?' Pandit Networks and the Problem of Livelihoods in Early Modern Western India," *The Indian Economic and Social History Review* 45, no. 3 (2008): 381–416.
63 Urmila Patil, 136–37, 143, This was the case of a treatise probably composed by Kharadas, the *Nirnaya*.
64 On that see also Richardson, "Industrious Gentiles," 159.
65 "Representação do povo gentílico vassalo da coroa na Índia sobre por lhes ter sido proibido (depois de anteriormente ter sido autorizado) a graça de transportarem com gaitas e instrumentos, cantos e danças, os botos que iam realizar os seus casamentos" (AHU, Índia, cx. 86); "Carta régia de D. João V sobre os casamentos gentílicos", 3rd March 1715 (APO, vol. 6, Suppl. 2, 18–19); "Carta régia para o governador da Índia sobre os requerimentos do povo gentílico de Goa e Damão, pedindo os primeiros licença para fazerem cerimónias dentro de suas casas", 24th March 1781 (AHU, Índia, cx. 121).
66 This was the case of a provision of viceroy Count of Ega, o 9 April 1763 and of 29 April 1765 (Luís da Cunha Gonçalves, *Direito Hindu e Mahometano*, 22).
67 APO, vol. 6, Suppl. 2, 162. It was said, for example, that the Christians that lived in Bardez were more prone to apostasy, given their continuous communication with the lands of the Bounsulo, while those of Ilhas and Salcete were, apparently, more orthodox.
68 Rowena Robinson, "Taboo or Veiled Consent? Goan Inquisitorial Edict of 1736," *Economic and Political Weekly* 35 (July 1–7, 2000): 2423–31.
69 Édito de 1736, in Joaquim Heliodoro da Cunha Rivara, *Ensaio historico da Lingoa Concani* (Nova-Goa: Na Imprensa Nacional, 1858) doc. n. 59, paragraphs 2, 16 and 19, 21, 23 and 24.
70 Édito de 1736, paragraphs 9, 10, 18.
71 Édito de 1736, paragraphs 1,3,4,5, 6, 7, 8, 17, 21–22, 25, 26, 27. See also Nilakshi Sengupta, "Magic and Symbolism in Hindu Rituals," *Proceedings of the Indian History Congress* 22 (1959): 115–18. Already in 1734, there was a prohibition of clerics to be present in marriages or other festivities where these songs were sung (Casimiro de Nazareth, *Mitras Lusitanas no Oriente: Catalogo Chronologico-historico Dos Prelados da Egreja Metropolitana de Goa e das Dioceses Suffraganeas* (Nova Goa: Imprensa Nacional, 1987, 2 vols., vol. 1, 243).

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3

BARRIDO: A THIEF, CHRISTIAN, AND PULAYA

The implications of categorization on the eighteenth-century Malabar coast

Alexander Geelen

Introduction

On a night in 1752, a man called Barrido was apprehended trying to break into a shop.[1] This event occurred in Baijpin (present day, Vypin), an island next to the city of Cochin on the Malabar coast, the most important settlement of the VOC (Dutch East India Company) in the region. Barrido was brought to the VOC Court of Justice and in the trial that followed, much was revealed about Barrido's background. During the trial, Barrido was categorized as a slave, a Pulaya, and a Catholic Christian. All these categorizations influenced Barrido's court case, but also his experiences on the Malabar coast, which were, in turn, strongly impacted by the presence of the VOC. Through the lens of this court case, this chapter will unpack what it meant to be a Pulaya, a slave, and a Catholic and what the Company's relationship with all these separate categories were. What did it mean for Barrido to fall under these three categories, and how did the VOC interact with them? These questions reveal an entanglement of the VOC with traditions and institutions, caste, slavery, and religion on the coast. These entanglements are revealed through sources from the macro level – memoirs of governors and legislation – but also through the micro level – the court case against Barrido, which shows how this involvement of the VOC had impact on people's daily lives. The case also displays Barrido's agency and voice, and how he maneuvered in this world of local kingdoms and the Company.

Slavery on the eighteenth-century Malabar coast was defined by what has been called 'agrestic slavery', whereby certain castes, mainly Pulaya and Bettua, were seen as 'slave castes' and were purportedly attached to the land owned by members of the elite. A large percentage of the population consisted of people who could be sold, mortgaged, and rented like chattel slaves. Agrestic slaves were vulnerable to abuse and lived in a completely subjugated state. Catholics, on the other hand, were a

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privileged group under VOC rule, who fell under the protection of the Company. What did it mean for Barrido to belong to these categories that were seemingly at odds? By discussing each of Barrido's categorizations in detail, this chapter will detail the far-going involvement of the VOC with the existing institutions of the Malabar coast. Barrido's story brings into focus the institutions of caste, slavery, and Catholicism, and the VOC's interaction with him reveals much about the VOC's interaction with these institutions. These interactions are often ambivalent, inferred by the Company's desire for profit, but also by a desire to rule and attempts to adhere to centuries-old contracts and even older traditions, both local and imported by the company. They reveal the tensions that occurred when the Dutch Merchant Company interacted with the local society, coming there intending to profit from the pepper trade, but having to deal with caste, a political landscape of competing local kingdoms, and the heritage of the Portuguese.

Categorization or identification is an important recurring theme throughout VOC court cases on the Malabar coast. Categorization was usually done through references to membership of a community, like a caste or religious group. One reason categorization was deemed so important was due to the frequent issue of 'enslavebility' (a literal translation of the Dutch word *slaafbaarheid*). The word refers to the question of whether or not a person could be enslaved or if an enslaved person could be legitimately transacted. The legitimacy of the transaction was partly determined by how the enslaved person was categorized: a transaction would only be deemed legitimate if the transacted person belonged to a category that was deemed enslavable. Categories that determined a person's enslavebility include caste and religion: the majority of enslaved people belonged to the traditional agrestic slave castes of the Malabar coasts and were not Christian.[2] How a person was categorized by the Company could therefore have an enormous impact on people's lives. Since who could be enslaved was largely determined by local traditions of caste-based slavery, it could be argued that this is another example of the VOC negotiating law with local communities, because as a 'marginal empire' the VOC was incapable of imposing its own policy in full.[3] It has often been argued that the VOC took a passive stance in its dealings with local powers and peoples, as its main goals were profitmaking and not ruling. This view is also found in Winius and Vink's *Merchant-Warrior Pacified*. Winius and Vink describe the Dutch as 'the best-behaved and most beneficent of all the major European powers once present on Indian soil'.[4] The VOC is described as *emporialist*, rather than imperialist; the Company did not intend to create a territorial empire but targeted emporia (markets).

Yet, the fact that so few Christians were enslaved and enjoyed protection of the Company implies that the Company was employing what Burbank and Cooper have dubbed the 'politics of difference', describing the various ways in which empires dealt with diversity among their subjects, for example how colonizers differentiated between colonized and colonizers, creating a 'self/other' distinction.[5] In this particular context, rather than only making a distinction between European company employees and locals, the VOC made distinctions between local groups, including

Christians and local castes. Christians were important local allies for the VOC, as they were employed as soldiers (lascorins) and were important links between the Company and other local communities. The Company used the Christian population as their intermediaries, which was a recurring imperial strategy.[6] The VOC was therefore not just adhering to local traditions when it categorized certain peoples as enslavable or not, but was pursuing an active strategy of differentiation. The special status of Christians was in fact inherited from the Portuguese, who in their contract with the king of Cochin stipulated that all Catholics fell under their protection and rule. As shall be discussed in further detail, this arrangement was a cause of great headache for the VOC rulers, as many subjects used the special status of Christians to escape prosecution of the king of Cochin through baptism, who, in turn, accused the Company of stealing his subjects. Yet the fact that the Company held on to this policy throughout their presence on the Malabar coast shows that they saw the value in this strategy.

With these 'politics of difference' in mind, Barrido's status of being enslaved and Catholic seems paradoxical. How could a person belong to two categories, where one was privileged and one was disadvantaged by the VOC? Another court case that will be discussed concerns the enslaved woman Cali, who had converted to Catholicism. Although she belonged to the same categories as Barrido, her court case had a very different conclusion. Whereas Barrido was punished, Cali was treated with leniency. This chapter will explore the politics of difference as described earlier through these two cases and explain the different outcomes. Through Barrido's and Cali's testimonies, we gain insight about their condition from their own stories. Combining these with travel accounts, inquiries, laws, and memoirs provides a detailed description of life as a slave, Pulaya, and Christian on the eighteenth-century Malabar coast. This will also reveal how both Barrido and Cali were able to contest their imposed differentiation and reveal their agency. This chapter will first discuss the historiography on agrestic slavery and the status of Christians on the Malabar coast, before turning to a description and in-depth analysis of the mentioned court case involving the capture and interrogation of Barrido and a brief discussion of the case of Cali.

Agrestic slavery

As mentioned, the Pulayas made up what was called the slave caste. In the literature, they have been described as agrestic slaves, owned, bought, and sold like property, working as agricultural laborers.[7] Most of the literature written about Pulayas (or Cherumans as they are also often called in English sources)[8] is based on English sources from the early nineteenth century like census reports and writings of commissioners and travel accounts, like Francis Buchanan Hamilton's *A Journey from Madras through the Countries of Mysore, Canara, and Malabar* (London 1807). Dutch sources, which can offer insight into the functioning of slavery and caste and the intermingling of the colonial state, remain underused. Consistently missing from

British sources are the voices of the Pulayas themselves. Nevertheless, works that focus on the early nineteenth century provide some insight into how slavery and bondage functioned in the previous period.

Basing much on Buchanan's account, Benedict Hjejle gives an extensive description of bondage in Malabar in the early nineteenth century.[9] What was denoted as Malabar in the nineteenth century does not completely correspond with the Dutch idea of Malabar in the eighteenth century: the state of Travancore conquered a large chunk of the southern region and by the nineteenth century had become a British princely state. Hjejle explains that a large percentage of the population in Malabar, between 9 and 15 percent, consisted of slaves. These slaves were almost all members of the Paraiya and Cheruman (Pulaya) castes. Besides these major groups, enslaved people consisted of members of 'mountain tribes'.[10] According to Hjejle:

> It was quite common among the slave owners to mortgage or rent out the services of their slaves. If this was done the borrower was responsible for providing the slaves with subsistence as long as they worked for him; but having no permanent interest in their welfare he generally exacted as much labour as possible on the smallest provisions conceivable.[11]

Dharma Kumar, writing much earlier in 1965, based much of his work on the writings of Buchanan but also on that of the British commissioner H.S. Graeme, who described slavery in a report on the revenue administration of Malabar in 1822. Kumar also describes the three modes of transferring slaves:

> (i) janmam or sale, where the full value of the slave was given and the property entirely handed over; (ii) kanam or mortgage, where the proprietor got a loan and a quantity of rice, to show that his property in the slave was not extinguished, but could be resumed once the loan was repaid; (iii) pattam or rent, where the slave was hired out for an annual sum, the hirer paying the cost of maintenance.[12]

Slaves were often bought and sold separately from the land they lived on, but according to Kumar, there were restrictions: in some areas, they could not be removed too far from their village and the wife and husband could not be separated.[13]

Kumar argues that the agricultural systems in which Cherumans labored for a landowner can be called 'slavery', but the close connection with the caste system makes it different from a European view of 'slavery' or 'serfdom'. 'In fact, the caste system not only confirmed the economic and social disadvantages of the agricultural laborer, but also gave him some rights, some economic, others of a social and ritual nature'.[14] Kumar mentions that Cherumans had fixed daily wages and that they could escape from a master if their wages were not paid. Though they could not escape their caste or servile state, they could find work with another master.[15] Though Kumar gives a somewhat optimistic account of the Cherumans' circumstances, a common theme in British historiography is the abominable condition in

which the slaves lived. Buchanan for example wrote: 'The slaves are very severely treated; and their diminutive stature and squalid appearance show evidently a want of adequate nourishment'.[16]

Saradamoni, writing in 1980, also bases much on Buchanan and Graeme when she gives a bleak account of the circumstances in which Pulayas lived:

> Pulayas in the beginning of the 19th century did not have a life of their own. They never worked or earned a living for themselves. Their entire life was dependent on the masters. They did not even own their children. They begot children so that the master could have a continuous supply of workers.[17]

Regarding the wages she writes:

> The slaves were given a subsistence allowance by the landlords. Buchanan found that in South Malabar, a man or woman while capable of work received two measures of paddy weekly. This was two-sevenths of the allowance that Buchanan considered reasonable for 'persons of all ages'.[18]

Saradamoni describes how some Pulayas were able to find extra sustenance by working in towns or villages, and lived in better circumstances, but those that lived further inland in more remote parts could not find anyone that needed their labor and lived in extreme wretchedness. Furthermore, they were subject to cruelties and punishment by their owner who was 'not accountable to any person for the life of his own Cherumas. He was the legal judge of their offences and could punish them by death if they should appear to deserve it'.[19] Saradamoni relates the conditions of the Pulayas to their caste status, which 'condemned them to slavery and abject poverty, and made their degraded existence harsher than that of animals'. Saradamoni describes how Pulayas were considered polluting and impure, meaning that they could not even approach or enter the houses of members of higher castes, lest they pollute them. The 'untouchable castes' themselves were further divided into many sub-castes, separated by rigid rules and special customs, whereby a Pulayan would be seen as a higher than a Parayan and practice 'polluting distance' with them, meaning they kept their distance lest they too be 'polluted'.[20]

From the descriptions of Pulayas in literature based on the British sources set out above a certain image appears of Pulayas living in early nineteenth-century Kerala: a large percentage of the population consisted of the agrestic slave castes, occupied primarily with agrarian labor. They could be sold, mortgaged, and rented like chattel slaves and were completely dependent on their masters for sustenance. Caste played an important role in the subjugated status of Pulayas, as they were deemed untouchable and impure and not allowed near the members of the higher castes. It also functioned as a kind of divide-and-rule system, whereby the untouchable castes were divided amongst themselves through the concepts of purity and pollution. Importantly, it appears that being a Cheruman or Pulaya automatically meant being

someone's slave, so much so in fact, that the word Cheruman became synonymous with slave.

Let us now turn to Dutch primary sources to complement the nineteenth- and twentieth-century British perspective. Any mention made of Pulayas in Dutch sources is usually in association with slavery. In 1756, the Governor Weijerman described them in his *memorie* when he discussed the VOC territory of Paponettij (also known as Paponetty or Paponette), which they had conquered from the Zamorin of Calicut in 1717. The land was developed by the VOC for agricultural purposes. Weijerman writes:

> [My successor] wants further elucidation about wherefrom the slaves of the conquest [meaning Paponettij] are, and therefore I hereby note that those people according to the nature of their caste named Pulayas are born slaves of the landlord under whom they belong, this right has, with the transfer of this land from the power of the Zamorin, transferred to the noble Company, and these subservient souls now work under the tenants of the noble Company's grounds'.[21]

An account detailing what land was rented to whom in Paponettij reveals that each plot of land had a certain number of Pulayas living on it, who were rented out together with land. One section of an account from 1736, for example, states: 'To the Christian Ittoepoe 40 Th: and 1128 Mallabarian Parras of sowing lands rented for 109.5 fanums and 2600 nelij, including 53 slaves of the Pulaya caste and 9 slaves of the Bettua caste'.[22]

Another source in which Pulayas are often mentioned is in the acts of transport; these documents were meant as a proof of the transaction of an enslaved person. They typically contain information about the buyer and seller but importantly also about the enslaved, showing their age, gender, and caste.[23] Table 3.1 shows the caste

TABLE 3.1 Caste of enslaved people in acts of transports 1753–1793

Caste	*Numbers*	*Percentage*
Pulaya	2,818	45%
Chego	1,136	18%
Bettua	882	14%
Parea	467	7%
Canaka	300	5%
Naijro	255	4%
Moor	197	3%
Oelada	93	1%
Mocqua	89	1%
Total	**6,237**	**100%**

Source: van Rossum, Matthias; Geelen, Alexander; van den Hout, Bram; Tosun, Merve, 2018, "Slave Transactions (Acten van Transport) – VOC Cochin, 1706–1801," IISH Data Collection, V1

of transacted slaves between 1753 and 1793. The acts of transport show that a very large percentage of the traded enslaved people were of the Pulaya caste.

The Dutch on the Malabar coast were active in the slave trade and exported great numbers from Malabar to other regions under VOC control, which contradicts the view voiced in literature based on British sources that it was impossible to move agrestic slaves away from their community of origin. The *Memorie van Overgave* of Fredrik Cunes (who also signed Barrido's verdict in 1752)[24] written in 1756 makes a brief mention of this trade. A *memorie van overgave* was an instruction a governor wrote to his successor when he left his post, describing the economic, political, or religious situation he deemed relevant. Caspararus explains:

> Slaves are brought from the Mallabarian inlands in plenty of numbers, but those miserable are often killed by smallpox, which often rages here, and to avoid the spread of pestilence and disease in ships and places to which the slaves are transported, the high honorable have ordered to not send any slaves to Batavia that are unpoxed. . . . I have therefore ordered that the letters of transport should proclaim that the slave can be transported, only if he has already had the pox, so that the transporter cannot feign ignorance.[25]

The letters of transport Cunes refers to are permissions for exporting slaves off the Malabar coast. These letters were how the VOC made money off the slave trade: they did not actively trade the slaves themselves but required a toll to be paid. A letter of export was required to export slaves off the coast, for which the transporters had to pay the VOC. An account of all the profits made from tolls and rents made by the VOC on the Malabar coast in 1770 reveals that in that year, they earned 2,000 *Ropijen*[26] from tolls for the export of slaves, which is around the same they made of renting out lands in Paponettij.[27] The same account includes instructions for how the toll should be calculated, showing that for each slave, eight *Ropijen* were to be paid. The right to collect toll for each slave was leased to one person each year, for instance, in 1770, the right to collect toll was leased for 2,000 *Ropijen* to the Jewish merchant Salomon Saddij.[28] From these sources, it becomes clear that the VOC facilitated a substantial export of slaves of the Malabar coast, of which many were of the Pulaya caste. In Cochin itself, there were many slaves: throughout the second half of the eighteenth century, they amounted to over half of the population (see Table 3.2).

TABLE 3.2 Slaves in fort Cochin in Kerala

Year	*1760*	*1790*
Total population of fort Cochin	2,040	2,317
Total number of slaves	1,275	1,299
Slaves per 100 inhabitants	62.5	56.1

Source: Anjana Singh Fort Cochin in Kerala 1750–1830 (Leiden 2010) 97.

Travel accounts also contain mentions of Pulayas. The preacher Jacobus Canter Visscher described Pulayas in a letter in the early eighteenth century. He described how Pulayas were allowed to sell their own children if they were in need of money, but never for more than 60 fanums. When Pulayas married, the first child would become the property of the owner of the father and the others would become the property of the owner of the mother. The owner of the mother was allowed to sell the first child that came into his ownership for 16 fanums, and the owner of the father was not allowed to refuse this. Furthermore, outside of Cochin, owners of Pulayas were allowed to kill them whenever they saw fit. When Pulayas were into the ownership of Europeans, their children were into the property of the owner of the mother, because the owners did not recognize a marriage between the slaves as legitimate. Though the owners of the slaves in Cochin were allowed to punish them in any way they wished, they were not allowed to kill them. According to Canter Visscher, the slaves did have the right to file a complaint about their owners at the Court of Justice and would be freed or resold if the court deemed their complaint justifiable. Whenever a slave attacked his owner, they were punishable by death.[29] With this context in mind, a description of the court case against Barrido will follow below.

Barrido the thief

It was a dark July night in 1752 when the Christians Raijmoend and Coetje Pedro arrived at Baijpin on their boat. Raijmoend had invited Coetje Pedro to his house and in order to find their way they lighted a torch. During their walk home, they came upon Barrido sitting in front of a store. It seems the Christians thought Barrido was out of place, sitting in the dark in front of a store, because they asked him what he was doing there. The 25-year-old Barrido explained that he was simply waiting for a friend. Raijmoend and Coetje Pedro feigned to be convinced, but called for another Christian, Choemi, who was sleeping in another *botiq* (store) and returned to the *botiq* where they found Barrido. In their testimony, they said that upon returning, they found Barrido attempting to break in by removing a plank from the store. They immediately apprehended him and bound him with a rope. He was brought to the VOC court of Cochin the next day.[30]

In the court case that followed, the prosecutor seemed to be primarily concerned with the question of whether Barrido was *onnosel*, a fool attempting his first crime, or a professional thief. During his hearing, the 25-year-old Barrido claimed to be the former. He furthermore confessed to be a slave in the ownership of a Toepas named Chichi who lived in Angecaijmaal (Toepas being a word used to describe people of mixed Indian and Portuguese descent who were usually Catholics).[31] Barrido stated that he did not commit his crime alone, but with his friend and fellow slave of Chichi, Matthaij. Barrido explains that they had sailed from Paroe[32] to Baijpin together, where they sought shelter under an overhang of one of the *botiqs*. There Matthaij used a wrench to open the store and took a container with

chestnuts, which he gave to Barrido to hide, which he did. Upon returning to the *botiq*, Barrido found that Matthaij was gone and replaced with four or five persons who immediately apprehended him.[33] It is clear that Barrido attempted to shift the blame on his friend and try to appear as *onnosel* as possible. Matthaij himself was not arrested and seems to have fled the scene before the Christians arrived. When asked whether he and Matthaij came to Baijpin to rob stores Barrido answered 'No, but my friend said to me, we shall open a *botiq* here and then we shall steal something and then leave'.[34] When asked whether Barrido had the tools that he used to break open the *botiq* made for him he answered 'I am an *onnosel* young man, I have no knowledge of such things, but my friend does know more of this'.[35]

An important detail that is revealed in this hearing is that Barrido was a Christian. The interrogator asked where and by whom he was baptized, but made no further inquiry. Barrido explained that he was baptized by his owner in Poetenchera. It is likely that this is another spelling for Pattencherij (modern-day Puthenchira). The fact that Barrido was a Christian and a slave appears to be no issue.[36] It is highly likely that this is because Barrido's owners were also Christian, an important distinction that will be explained in more detail further. Though the fact of his baptism is hardly discussed, it is still telling that the prosecutor felt the need to ask. It implies that in some way the fact that Barrido was a Christian was important to the case. The prosecutor is not just inquiring into Barrido's background and past to figure out whether or not he was *onnosel* but also to find out more about how he should be categorized. This categorization, in turn, could impact how Barrido was tried and perceived by the court.

One way through which the prosecutor sought to find out more about Barrido's past was by questioning the son of his previous owner named Pasqual the Costa. Pasqual, described in the source as a Toepas, told the prosecutor that he knew Barrido, and explained that Barrido was indeed a slave of his father Chichi, and had lived with him at Angecaijmaal three years ago. When asked if the 'prisoner sought and gained his freedom through flight', Pasqual responded that his father had freed Barrido.[37] This is peculiar, as Pasqual did not deny that Barrido had run away, stating that he fled together with the slave Matthaij after stealing goods out of Pasquals sister's house in a similar manner, by removing a board from the wall and crawling in. The stolen goods included five rupias worth of silver, three rupias worth of cash and a silver spoon, which Pasqual remembered quite well even after three years.[38] When asked if Matthaij helped Barrido in his crime, Pasqual answers that he does not know, though as Matthaij ran away at the same time as Barrido, it is not unlikely that he was somehow involved. Though this hearing answers the prosecutor's most burning question – whether or not Barrido had a history as a criminal – it leaves us with more questions: why was Barrido freed by Pasqual's father? Why were the authorities not involved when he ran away three years prior?

It is possible that Chichi took pity on Barrido and did not want to add escaping from slavery to his crimes, while protecting Matthaij in a similar way by denying his involvement in the break-in of his sisters' house. It is also possible that he released

Barrido in order not to lose face, making his getaway seem like a magnanimous gesture on his part? Another reason could be that Pasqual thought that the VOC would not be happy knowing that Chichi let Barrido and Matthaij get away without notifying the Company and perhaps lied about Barrido's manumission in order to stay out of trouble. Whatever Chichi's motivation may have been, his testimony convinced the prosecutor that Barrido was a runaway slave who committed similar crimes before. In the eyes of the prosecutor, he was anything but *onnosel*.

In a later hearing, Barrido confessed that this assessment was correct and explained that he ran away because Chichi used to beat him.[39] The prosecutor asked Barrido: 'If the prisoner now three years ago on a certain night made a hole in the wall of the house of his owner, and stole from this [a collection of goods]'.[40] To which Barrido responded: 'Yes, during that time I was still in the house of my owner, but because he beat me once, I did so, and after that I ran away'.[41] The prosecutor used this as evidence that Barrido was a professional thief, arguing that he lied in the previous hearing. The prosecutor asked if Barrido 'shouldn't confess that he isn't *onnosel* [. . .] but in fact has better knowledge than his friend Matthaij?'.[42] Barrido had to admit that indeed he was not *onnosel*. A week later Barrido was interrogated one last time (on the nineteenth of August 1752). During this confession, he admitted once again that he robbed the house of his *lijfheer's* daughter and *botiq* in Baijpin. On the basis of his confessions, the council of justice condemned Barrido to be flogged and to work as a forced laborer for the Company for ten years. It was noted that Barrido stated: 'The Lord God gives to the lords all that is good'.[43]

Notably, Barrido was convicted for the crime of theft, not for his desertion two years previously, nor was he returned to his owners. It is possible that this is because Pasqual testified that Barrido had been released by Chichi, but Barrido himself attested that this was a case of running away rather than manumission. If Barrido had been prosecuted for 'desertion', his punishment would likely have been much more severe, as these cases usually ended with the death penalty.[44] It is possible that Barrido's category played a role in this verdict. But why was his status as a Christian barely discussed? As was mentioned, the status of Barrido's owners plays an important part. It is possible that Barridos Christianity was a less urgent issue because he was baptized while in the ownership of Chichi who was himself a Christian. However, this does not mean that his categorization as Christian had no impact. More context and information regarding Christians and their status on the Malabar coast will provide more insight into this possible influence. It should further be noted that despite the prosecutor ignoring Pasqual's statement that Barrido had been freed, rather than being returned to Pasqual de Costa's ownership, Barrido became a forced laborer for the VOC.

Barrido's caste was another important factor. Barrido was a Pulaya, which is defined as an agrestic slave, but he worked as a house slave. It is unclear whether his caste identity could be discerned from his physical appearance. The fact that the Christians who apprehended him saw him as 'out of place' could imply this, but it could also be the time and place where they found him that made them suspicious.

Barrido's caste identity could be an explanation for his crime as it may have been difficult for a Pulaya to find work, and it forced Matthaij and Barrido into a life of crime. Even so, despite their caste, they appear to have been able to move freely from place to place until Barrido's capture, implying that social control was relatively weak. The case against Barrido raises more questions than answers, but a closer look at other primary sources reveals more about his circumstances.

Barrido the Christian subject

Barrido was a catholic, owned by a catholic on the Malabar coast. This meant that officially he was under the protection of the VOC. Why that is, has been described succinctly by the Governor Johan Gerard van Angelbeek in his *memorie van overgave* to his successor Jan Lambertus van Spall. It should be noted that governors had to personally approve the verdict in each criminal court case, meaning that the views they describe in their *memories* not only impacted how they governed Malabar but also had a very direct consequence for the people tried before the Court of Justice (including Barrido). This particular *memorie* explains that the VOC was the protector of the Catholics on the coast as they had taken over this tradition from the Portuguese. In 1663, they signed a contract with the king of Cochin (essentially the VOC's vassal and most important ally on the coast) that stipulated that the VOC had sovereignty over and protected all Catholics, this specifically did not include the Syrian Christians (also known as Saint Thomas Christians or Mapoeles) who were already present on the coast before the arrival of the Portuguese.[45] Angelbeek explains that this contract caused the VOC to be in conflict over sovereignty with the king of Cochin, as the Catholics living in his land were officially also his subjects. The 'protection' of the Catholics, Angelbeek explains, meant that 'These Christians, if they have committed crime or accused of any crime, shall not be judged by the ministers of the king nor by his highness himself, but by us'.[46] Angelbeek explains that besides conflicts with the king of Cochin, their protection of the Catholics caused trouble for the VOC because it was used as a kind of loophole for criminals:

> Of this, the heathen subjects of the King frequently took advantage, since, whenever they had committed some type of crime they would travel to Verapoli [a Catholic stronghold as the seat of the Bishop], and let themselves be baptized, to by that way escape from the king's jurisdiction, and we cannot deny, that the king has lost many subjects in this way, and that the Roman Catholic municipalities are filled with as many evildoers as well as scoundrels.[47]

Besides this right to be judged by the VOC, Christians were not to be burdened by new taxes unless there were extreme circumstances (such as war), furthermore Christians were protected from imprisonment by the king of Cochin and their possessions, like their houses or plantations, could not be impounded.[48] Angelbeek,

seemingly practically inclined, quite honestly remarks what downsides this protection had for the VOC:

> The Company has no advantages to gain from this protection of her vassals, not from any income nor any personal services, and the [Company] has nothing but the greatest effort and conflicts with the court [of the King of Cochin], which is constantly acting against these privileges and tries in any way to regain authority of the Christians.[49]

Indeed, the conflicts with the king of Cochin over the Christian subjects were so frequent that Angelbeek devised a set procedure to placate him whenever he complained. Angelbeek explains:

> [The Christians] make themselves guilty of drunkenness, theft, stealing and other violence against the King's subjects. If there are any complaints about this, a prompt inquiry and a fitting punitive expedition, should convince the King that the Company does not seek to maintain her vassals unjustly, but is prepared to punish them appropriately.[50]

The position of the Catholics can be described as privileged, with some protections from the king of Cochin, but at the same time, the VOC appears as an unwilling master, and did not refrain from punishing Catholics in order to keep the peace with the king of Cochin. It is interesting to note the ambiguity with which the VOC officials describe their role as protectors of the Christians of the coast: on the one hand as noble protectors of the one true faith (but not the Syrian Christians), and on the other, as unwilling masters who seem to think that their subjects are more trouble than they are worth. They seem to deem the Catholics as unequal to the Protestants, often denoting them as superstitious or poorly educated. It is also noteworthy that the VOC seems to lack control over who was baptized and who was not, since many priests and bishops who baptized individuals were outside VOC control. Angelbeek describes how he tried to make a deal with the bishop of Verapoli, commanding him that if any 'heathen' tried to be baptized, that he should first research if that person did not do so with any malicious intent.[51]

The baptizing of any willing person, including criminals or enslaved people wishing to escape persecution and prosecution by the king of Cochin, was by no means a new problem in Angelbeek's time. Governor Moens, one of Angelbeek's predecessors as governor of Malabar, wrote the following ten years earlier:

> The protection of the Christians is a delicate matter in which one has, so to speak, to give and take, because experience teaches that most of the Christians rely too much on the protection of the Company and try with the help of this influence to get out of paying what they are bound to pay their king. On the other hand, however, as the Christians are much despised by the heathen they would have to suffer much humiliation and ill-treatment if we did not protect them.[52]

Moens mentions that the protection extended further, and that

> if they are obstructed in the exercise of their religion, or ill-treated in other matters and come and complain to the Company or seek relief, the company espouses their cause and may be induced to take their cases to heart and make even the king or his ministers listen to reason.[53]

Moens also makes mention of the tendency of locals to convert to Christianity in order to avoid punishment for crimes punished less severely by the VOC, an example that he puts forward was the killing of cows, which according to local law meant that the accused would be executed, even if the killing was not premeditated.[54] Moens even received a letter from the pope Clement XIV, commending the Dutch governor for his efforts to protect the Christians on the Malabar coast, bestowing upon Moens the Apostolic Blessing.[55]

What did this mean for Barrido? In the court case against him, the prosecutor specifically asked him whether he was a Christian and where he had been baptized. It reveals that this categorization was indeed important to the prosecutors. He would be tried as a subject of the VOC and with the privileges of being a Catholic in mind. A detail that can be easily overlooked is how Barrido was described. Though the men who apprehended him, Raijmoend and Coetje Pedro consistently described as *Christen* (Christian), Barrido is described as *Christen geworden*, literally meaning, someone who became a Christian, a recent convert. This way of describing Barrido indicates that he was not baptized at birth but later in life. Recent converts were not looked upon favorably, mostly seen as potential troublemakers and thugs that were trying to escape justice. Even so, as a Christian, Barrido was entitled to all the privileges Catholics enjoyed. Knowing that the VOC was keenly aware of Barrido's status, what role did his caste and slave status play? How did it interact with his other identities? Did one of these categories override the other?

The Placards issued by the *Hoge Regering* in Batavia shed some light on these questions. These placards were meant as legislation and instructions and were usually extracted from the *resoluties*[56] of the Raad van Indië in Batavia, officially acting as an advisory council for the governor general and one of the highest governing bodies of the VOC in Asia. The placards were often specifically written for Batavia but applicable to all VOC settlements. A stipulation from 1714 stated that no slaves could be sold to Moors (meaning Muslims) or heathens.[57] A later placard from 1759 stated that no local Christians could be sold into slavery, reasoning that this stipulation would be 'the most adequate way to motivate the heathens to convert to Christianity'.[58] A placard issued on 31 March 1778 decreed that any slave who was baptized was no longer allowed to be sold.

> The masters or mistresses, at their passing or when they leave these regions, shall have to release all slaves out of slavery . . . or be given to those who would be willing to take them and then free them, or allow the slaves to buy their own freedom, if a tax is paid.[59]

Another placard from 1770 mentions that preachers in Batavia were refusing to baptize any slaves unless they were released:

> Since preachers refused to baptize child-slaves before they were declared to be free, the Government declared that those, who want to baptize one or more child-slaves and incorporate them into the Christian church, shall not have to free the slaves.[60]

From the placards, it follows that no Christians could be enslaved, but slaves could be baptized and become Christians. When slaves converted, they could not be sold to non-Christians, as only Christians were allowed to keep Christian slaves. The reason the VOC stipulated these specific rules is related to its 'politics of difference'. The Christians of the Malabar coast and the other regions where the placards applied were an important group for the Company. In Malabar, Christians were favored with a privileged position because they functioned as the Company's intermediaries on the Coast. They functioned as the Company's soldiers (called lascorins) and, because they spoke the local language, functioned as a link between the Company and the world outside of the VOC forts. Furthermore, when locals converted to Christianity, this meant that they became subjects of the Company, loyal to the VOC alone. It was therefore in the interest of the Company to protect Christians and encourage locals to convert. This explains why, despite the many headaches it caused the Company officials, the VOC continued the Portuguese policy of claiming jurisdiction over Catholics. Stipulating that Christian slaves could only be owned by Christians further reinforced the division between Christians and non-Christians. Christian slaves had a greater potential to be freed and were guaranteed to be owned by Christians, whom the VOC believed would be better owners than 'heathens'. All this helped to remove potential barriers to conversion and potentially expand the local population of Christians. It might be argued that the placards were issued to conform to the social reality on the ground: Enslaved people converted, which did not fit with the idea that Christians were to be a privileged group. However, the fact that the VOC benefited from a larger Christian population indicates that protecting and privileging Christians, including Christian slaves, was a purposeful strategy.

Being a Christian slave, therefore, meant that you belonged to a more privileged group than non-Christian slaves in the eyes of the VOC government. Yet the status of being enslaved and belonging to the Pulaya caste remained 'stuck' to Barrido's other status. What it meant to be a Pulaya has been discussed earlier. The image that appears from Dutch primary sources is quite similar to the one that can be found in English sources of the early nineteenth century. Hundreds of Pulaya slaves were rented out by the Dutch together with the land they inhabited. They were bought and sold in large numbers, to be employed on the coast but also to be exported. Pulayas had little to no rights, were subject to punishment and cruelties, and were completely dependent on their owners. If they had children, they would be enslaved at birth. Furthermore, as in the English sources, the Pulaya caste was

deeply associated with slavery, almost to the extent that Pulaya became a synonym for slave. Governor's Weijerman's description of the Pulayas seems accurate: 'born slaves'.[61] All this reveals much about Pulayas and their connotations: they were living in the lowest rungs of society. What did it mean, then, for Barrido to be a Pulaya, and does the image of Pulayas that is given in the other sources still hold up?

Barrido describes himself as 'a slave of the Toepas Chichi who lives in Angicaijmaal'. During the trial, he is frequently referred to as '*slave jongen*' meaning slave boy. This would indicate that Barrido lives the life of a typical Pulaya slave, as described in the aforementioned sources. Even so, from Barrido's testimonies also reveal that he lived as a free man in Paroe, together with his friend Mathaij for several years after fleeing their owner. This could indicate a few things: Pulayas were not always subject to strict social control, allowing them to live freely in communities, or their caste identity could not be derived from their appearance, allowing them to simply integrate themselves into the local population, or Barrido and Mathaij lived as outlaws in hiding, which would also explain their attempts at theft, as that would have been needed for their survival. It is clear that in the eyes of the Court of Justice, Barrido was a slave. Even after Pasqual indicated that Barrido had been freed by his owner, he was consistently referred to as a slave. This underlines that though Barrido was recognized as a new Christian, his caste and status as a slave remained a part of him in the eyes of the court. Yet, despite this status, he was allowed to move relatively freely, implying that social reality was more complex than might be derived from English literature concerning agrestic slavery.

The case of Cali, a comparison

In another court case, against the girl Cali, the categories of Christian and slave also overlap. In this case, however, Cali is eventually freed because of her status as a Christian. This section will briefly reflect on, and explain the different outcome of this court case.[62] Cali's case took place in 1743 in Cochin. She was 14 or 15 years old and of the Bettua caste, a caste of land-bound slaves belonging to a landowner. She ran away from the house of the soldier Joan Dias after she found out that she was about to be sold. Joan Dias rented Cali, but she was in the ownership of the Paijencherij Naijro, a major landowner in the region. After hiding with her mother for three days, she found out that the commander of Joan Dias had sent out men to find her and to buy her from the Paijencherij Naijro. She fled to Pattencherij where she was baptized by the Jesuit bishop Anthonio Pimentel and renamed Francisca. Francisca then traveled to Cranganore, a VOC-controlled city, where she came into service with another soldier, named Jan La Port, and where she was found by the wife of Joan Dias, and she was brought to court.[63] In this particular case, the fact that Cali had become a Christian posed a problem for the Court of Justice. They debated whether she had to be returned to her owner the Paijencherrij Naijro, because as a Christian she had become the subject of the VOC and was under the Company's protection. There was a friction between the

VOC's claim of sovereignty over Christians and its relation with the local elite. In the end, it was decided that Cali should not be returned to her owner, since it was feared that as a Christian she would be mistreated by her owner, and she was released from slavery.[64] Where this particular fear came from is unclear, but it seems that the VOC officials debating this case had the preconception that the 'heathen' Paijencherrij Naijro hated Christians so much that he tried to harm them when able.

This case reveals the importance of social categorization for what the VOC called '*slaafbaarheid*': enslavebility.[65] In this particular case, how Cali or Fransisca was categorized by the VOC was important to how she was treated by this state and whether or not she was eligible to be a slave. Religion was crucial in this, because of the sovereignty claim by the company. The case also reveals the importance of the status of the owner of the slave, confirming the politics of difference employed by the VOC described earlier. As a Christian slave, Cali could not be owned by a 'heathen', even if he was an important landowner. The different outcomes of the two cases can be explained by the politics of difference employed by the VOC. Since Barrido's owners were also Christian, the fact that Barrido was a Pulaya slave and a Christian did not represent a threat to the order envisioned by the Company. This was an entirely different matter in the case of Cali. Cali had converted, but was in the ownership of a local 'heathen', a prospect that seemed to frighten the VOC employees presiding over the case. Therefore, though there are important differences in the outcome of the cases, they both represent the same social order based on religion envisioned by the Company.

Conclusion

This chapter has shown the entanglement of the VOC with slavery and religion on the Malabar coast. The court case that was discussed concerned an enslaved man named Barrido who was a Pulaya slave and a Catholic. These categories were seemingly at odds, because of the politics of difference employed by the VOC. Catholics were a privileged group while Pulayas were enslaved. What did it mean for Barrido to belong to these categories, and how did the VOC interact with them?

The privileging of Catholics by the VOC was a deliberate strategy – despite the many diplomatic headaches, the VOC held on to this strategy of favoring Christians. Enslaved people were baptized and allowed into Christianity, thus expanding the local population of Christians. Barrido was noted as a 'Christen geworden', a recent convert. Recent converts were looked upon differently by the VOC as they were the source of their conflicts with the king of Cochin: criminals who let themselves be baptized in order to escape the king's laws and fall under the Company's protection. Despite any associations, the VOC might have had with recent converts, Barrido's punishment was relatively mild and he was not returned to his owners, which could be because the Court of Justice saw him as a Christian.

Being a Christian slave changed Barrido's status, but the categories of slave and Pulaya were still 'stuck' to this category. Being a Christian did not cancel out the other categories, and the court still saw him as a slave and a Pulaya. The Dutch sources on agrestic slavery discussed in this chapter indicate that many facets of agrestic slavery described in British sources were already present in the eighteenth century. Dutch sources show that a large number of Pulayas and Bettuas were enslaved and that these castes were strongly associated with slavery. Pulayas lived lives of abject poverty and fragile dependency and were subject to immense cruelties. Barrido had been a slave, and according to his own testimony, he had been subject to cruelty, having been beaten by his former master. At the same time, Barrido was able to move throughout Malabar relatively freely, indicating little social control. He ran away from slavery in order to build a new life together with his friend Matthaij. What this life looked like exactly remains unclear. It is possible that they had to live as 'outlaws' and survive by stealing, but it is also possible that they simply became a part of the community. Whether or not they were immediately recognizable as Pulayas or former slaves would help answer these questions. The son of his former owner professed that Barrido had been freed, implying that a free Pulaya was not unthinkable. Furthermore, Barrido lived as a free man for several years before his capture and court case. This meant that despite his caste category and the fact that he was a former slave, Barrido was able to identify himself as a free man and move within Malabar seemingly unhindered. It was only the fact that he was caught during his attempted crime that his years-long freedom ended.

Cali's court case had a different outcome, though she, like Barrido, was an enslaved person and a member of an agrestic slave caste who escaped her owners. Both cases are however representative of the differentiating strategy employed by the VOC. In both cases, the status of the enslaved person and the status of the owner are important. Cali was allowed to go free because her owner was a 'heathen'. His ownership of the Christian Cali would represent a threat to the politics of difference envisioned by the VOC, whereby all Catholics fell under the Company's protection. It was feared that her owner would harm her, which would reflect badly on the Company. Since Barrido's owners were also Christian, the fact that Barrido was a Pulaya slave and a Christian did not represent a threat to the order envisioned by the Company. In fact, as becomes clear from the placards, owners of slaves were allowed to baptize them and were encouraged to release them at some point in order to increase the free Christian population.

By fleeing their owners and through baptism, both Cali and Barrido were able to change their status. By becoming Christian, both officially enjoyed the protection of the Company, even allowing Cali to escape prosecution completely. Barrido was able to live as a free man for years before he was apprehended. This shows that categories are very important to how a person interacts with the Company and other local powers, but that they are not set in stone. Through their actions, even people belonging to the lowest social rungs of society could change their position by altering their categories.

Notes

1 National Archive The Hague, Archive number 1.11.06.11, inventory number 538. The court case has been found through the VOC Court Records Cochin dataset. Matthias van Rossum, Alexander Geelen, Bram van den Hout and Merve Tosun, VOC Court Records Cochin, 1681–1792, International Institute of Social History (Amsterdam 2018).
2 M. Van Rossum, A. Geelen, B. van den Hout, and M. Tosun, *Testimonies of Enslavement, Sources on Slavery from the Indian Ocean World* (London: Bloomsbury Publishing, 2020), 16.
3 J. Gommans and P. Emmer, *The Dutch Overseas Empire, 1600–1800* (New York: Cambridge University Press, 2021), 415.
4 George D. Winius and Marcus P. M. Vink, *The Merchant-Warrior Pacified, the VOC (The Dutch East India Company and Its Changing Political Economy in India* (New Delhi: Oxford University Press, 1991), 1.
5 J. Burbank and F. Cooper, *Empires in World History: Power and the Politics of Difference* (Princeton: Princeton University Press, 2010), 12.
6 Ibid., 13.
7 K. Saradamoni, *Emergence of a Slave Caste: Pulayas of Kerala* (New Delhi: People's Publishing House, 1980), 10.
8 The names of castes are often a source of confusion. Cheruman in the early nineteenth century was also a word used to designate slaves in general, as well as the name for a specific caste, which was a synonym for Pulayah. Saradamoni, *Emergence of a Slave Caste*, 47, Benedicte Hjejle, "Slavery and Agricultural Bondage in South India in the Nineteenth Century," *Scandinavian Economic History Review* 15, no. 1–2 (2011): 83.
9 Benedicte Hjejle, "Slavery and Agricultural Bondage in South India in the Nineteenth Century," *Scandinavian Economic History Review* 15, no. 1–2 (2011): 71–126.
10 Ibid., 89.
11 Ibid.
12 Dharma Kumar, *Land and Caste in South India Agricultural Labour in the Madras Presidency during the Nineteenth Century* (Cambridge: Cambridge University Press, 1965), 36.
13 Ibid.
14 Ibid., 34.
15 Ibid., 38.
16 Francis Buchanan Hamilton, *A Journey from Madras through the Countries of Mysore, Canara, and Malabar Volume II* (London: T Cadell, D.W. Davies, 1807), 370, 371. Citation taken from Hjejle, "Slavery and agricultural bondage in South India in the Nineteenth Century," 90.
17 Saradamoni, *Emergence of a Slave Caste*, 53.
18 Ibid., 56.
19 Ibid., 58.
20 Ibid., 63.
21 P. Groot, *Selections From the Records of the Madras Government, Dutch Records, No 12, Memoir of Commandeur Godefridus Weijerman Delivered to his Successor Cornelis Breekpot on the 22nd February 1765 Copied by the Rev* (Madras: Superintendent Government Press, 1910), 16. Original: 'Haar hoog edelheedens verderen elucidatie hoedanig of van waar de lijfiegenen en 't conqeust oorspronkelijk sijn, en daar om noteere dientwegen hier dat die menschen volgens den aard hunner casta gen't poeliassen gebooren slaven sijn van den landheer onder wiens bestek se gehooren.'
22 National Archive The Hague, VOC archive 1.04.02 inventory number 2375 scan number 751.
23 Using the acts of transports, a database was created, called the 'Acten van Transport Database' as a part of the NWO project Between Local Debts and Global Markets. This database contains 7,209 different slaves that appeared in the acts, which date from 1753 to 1793. It contains all the aforementioned variables that can be found within the acts of

transport and allows researchers to get a good grasp and overview of the large amount of data that is contained within these acts of transport.

24 National Archive The Hague, 1.11.06.11 inv. Nr. 538, scan 375.

25 P. Groot, *Selections from the Records of the Madras Government. Dutch Records, nr. 3 Memorie door den afgaanden commandeur Fredrik Cunes aan desselfs vervanger den weledelen heer, aankomende commandeur Casparus de Jong Overgegeven de Dato Laatsten December 1756* (Madras: Superintendent Government Press, 1908), 24. Original: 'Slaven werden uit de Mallabaarsche binnenlanden genoeg aangebracht, maar die ellendige schepsels werden door de inderpokken, die hier doorgaans grasseren, scheilijk weggerukt, en om d'aansteking van die pestilentie als ziekte op de scheepen en plaatzen, werwaarts de slaven vervoert werden, voor te komen, hebben haar Hoog Edelheeden wijzelijk gelieven te ordonneeren, om geen ongepokte slaven na Batavia te zenden of door de scheepsvrienden te laten vervoeren, dat volgens onze gehoudenisse stiplijk werd nagekomen, en zedert die ordre heb ik altoos bij de vervoer briefjes doen bekend stellen, dat de slaaf mocht vervoert werden, mits dat hij de pokken gepasseert had, opdat dus den vervoerder geen ignorantie kan voorwenden.'

26 A silver coin, the value of which fluctuated around 30 Dutch *stuivers*.

27 National Archive The Hague Archive nr. 1.11.06.11 inv. Nr. 879 scan 1.

28 Ibid., scan 45.

29 B. van der Pol, *Mallabaarse Brieven, de brieven van de Friese predikant Jacobus Canter Visscher (1717–1723)* (Zutphen: Walburg Pers, 2008), 210.

30 National Archive The Hague Archive number 1.11.06.11, inventory number 538.

31 Anjana Singh, *Fort Cochin in Kerala 1750–1830* (Leiden: Brill, 2010), xiv. Angecaijmaal is possibly present day Angamaly, east of Cochin, but no clear description of the location is provided.

32 This is possibly present-day Parumala, a village to the south of Cochin but the location of the place is unclear.

33 National Archive The Hague Archive number 1.11.06.11, inventory number 538 scan 360, 361.

34 Ibid., scan 362. Original: 'Mijn maat seijde tegens mij we sullen hier een botiq open maaken en daer iets uit steelen'.

35 Ibid. Original 'Ik ben een onnosel borst en weet van sulke dingen niet af, maar mijn maat die heeft daer beter kennis van'.

36 Ibid., scan 361.

37 National Archive The Hague Archive number 1.11.06.11, inventory number 538 scan 365. Original: 'dat den gev: Desselfs vrijdoom door de vlugt gesogt en bekomen is.'

38 Ibid.

39 Ibid., 367.

40 Ibid. Original: 'Of den gevangen niet 3 jaren of daer omtrent geleden op een sekere nagt een gat in de muur van t huis van zijn lijfheer gemaakt hebbende?'

41 Ibid. Original: 'Ja ik was te dien tijd nog in 't huis van mijn lijfheer maar om dat hij mij eens geslagen heeft, so heb ik sulx gedaan en daarmede weggelopen.'

42 Ibid., 368. Original: 'Of den gev: insgelijx niet moet bekennen dat hij niet onnosel is [. . .] maar daar omtrent beter kennis heeft, als sijn maet Matthaij?'

43 Ibid., 370. Original: Den gev: segt De Heer God geeft de Heeren alles wat goed is.'

44 For examples see: Alexander Geelen, Bram van den Hout, Merve Tosun, Mike de Windt, Matthias van Rossum, "On the Run: Runaway Slaves and Their Social Networks in Eighteenth-Century Cochin," *Journal of Social History* 54, no. 1 (2020): 66–87.

45 P. Groot, *Selections from the Records of the Madras Government, Dutch Records No. 4. Memorie van den Raad Ordinair van Nederlandsch Indien en Geeligeerde Goeverneur van Ceilon Johan Gerard van Angelbeek aan zijn opvolger in het bestuur van Malabaar de Heer Jan Lambertus van Spall overgegeven 1793 gecopieerd door den wel eerw. Heer P. Groot S.S.J* (Madras: Superintendent Government Press, 1908), 3.

46 Ibid., 4. Original: 'Dit ons recht van protexie bestaat in de eerste plaats hierin, dat deeze Christenen, als zij iets misdaan hebben, of van misdaaden beschuldigt worden, niet voor de ministers van den Koning en ook niet voor zijn Hoogheid zelve maar voor ons moeten te recht gesteld worden.'
47 Ibid.
48 Ibid., 5.
49 Ibid.
50 Ibid., 6.
51 Ibid., 4.
52 A. Galetti, A. J. van der Burg, and P. Groot, *Selections from the Records of the Madras Government Dutch Reords No. 13 The Dutch in Malabar a Translation of Selections Nos. 1 and 2* (Madras: Supt. Govt. Press, 1911), 121.
53 Ibid., 122.
54 Ibid.
55 Ibid., 123.
56 *Resoluties,* literally resolutions, were proceedings of the council of India or other governing councils that became legislation.
57 J. A. van der Chijs, *Nederlandsch-Indisch Plakaatboek 1602–1811 Elfde Deel 1788–1794* (Batavia: Landsdrukkerij, 1893), 574.
58 J. A. van der Chijs, *Nederlandsch-Indisch Plakaatboek 1602–1811 Zevende Deel 1755–1764* (Batavia: Landsdrukkerij, 1890), 361. Original: "t bekwaamste middel zoude wezen om de heydenen tot het omhelsen van 't Christendom te animeren'.
59 J. A. van der Chijs, *Nederlandsch-Indisch Plakaatboek 1602–1811 Tiende Deel 1776–1787* (Batavia: Landsdrukkerij, 1892), 161. Original: 'Dat slaven, die belydenis van bel. Christen geloof hebben gedaan, niet verkogl. zullen mogen worden, maar derzelver meesters of vrouwen, by baar overleiden of vertrek uit deze gewesten, al zulke lyfeigenen moeten stellen buiten slaverny of, onder dezelfde verpligting, wegschenken of vermaken aan anderen, dan wel dezelve, by vertrek uit Indien, by redelyke taxatie'.
60 Van der Chijs, *Nederlandsch-Indisch Plakaatboek 1602–1811 Achtste Deel 1765–1775* (Batavia: Landsdrukkerij, 1891), 922.
61 P. Groot, *Selections From the Records of the Madras Government, Dutch Records, No 12, Memoir of Commandeur Godefridus Weijerman Delivered to his Successor Cornelis Breekpot on the 22nd February 1765 Copied by the Rev*. (Madras: Superintendent Government Press, 1910), 16.
62 Cali's court case has been described and analyzed in an earlier article: M. Van Rossum, A. Geelen and M. Tosun, "Enslaveability, Slavery and Global Micro Histories: Reflections through the Case of Cali," *Slavery and Abolition* 43, no. 3 (2022): 482–98.
63 Ibid., 2, 3.
64 Ibid., 10.
65 For more examples of court cases concerning *slaafbaarheid*, see: M. Van Rossum, A. Geelen, B. van den Hout, and M. Tosun, *Testimonies of Enslavement, Sources on Slavery from the Indian Ocean World* (London: Bloomsbury Publishing, 2020).

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PART 2

Slavery and legal status

4

THE USES AND MANAGEMENT OF INDIGENOUS, AFRICAN, AND MIXED-RACED IDENTITIES IN THE LEGAL SPHERE IN PORTUGUESE AMAZONIA (18TH CENTURY)

André Luís Bezerra Ferreira

Introduction

This chapter analyzes the coexistence of indigenous, African, and mixed-race slavery in the Portuguese Amazon during the 18th century.[1] I will demonstrate the agency of these individuals within the dynamics of the society's *mestizaje* by highlighting their access to colonial justice to plead their freedoms. The research goes beyond a polarized and dichotomous analysis between freedom and slavery and rather seeks to elucidate the complexity and diversity of the historical, political, and social processes that surrounded enslaved individuals' attempts at attaining freedom in court. I intend to point out the issues surrounding disputes over the property of litigants to demonstrate its fundamental role in the development of the colonial society in the Amazon region and the laws that regulated *mestizaje*.

Slavery was an institution that was intertwined in the formation of diverse societies around the world. However, being a social practice as well, slavery was shaped by the surrounding contexts of each region. It developed under different types of work, legal conditions, habits, and forms of qualification (identification) of individuals. Regarding the Amazon, at first, the exploitation of its rivers and *sertões* (hinterlands) was sustained by the labor, free or enslaved, of indigenous people and their descendants. Gradually, the work of enslaved Africans was included. These subjects, in addition to being "workers", were important agents of historical processes and in the formation of social identities marked by the dynamics of *mestizaje* in the area.

In this region, connections between Amerindians, Africans, and mixed-race people began during the 17th century, especially in its last quarter of the century, when the State of Maranhão e Grão Pará entered a growing process of "atlantization". The Portuguese monarch D. Pedro II adopted political and economic measures to increase the conquests of the Amazon region with the explorations of *sertões*.[2] In

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this context, a first transformation began for Amazonian slavery: the labor force that until then had been predominantly indigenous came into contact with African regions.[3]

In the 1680s, a set of political and administrative measures related to the government of the indigenous was promulgated by D. Pedro II, such as the Law of Freedom of the Indians (1680), the implantation of the Court of the Junta das Missões (1681), the institution of the Missions Regiment (1686), and the Alvará Régio (1688). This was a fundamental period for the formulation of indigenous legislation in the Amazon, where these laws regulated the forms of indigenous labor, free or slave, in the colonial dynamics. These laws were in force until 1750 when the experience of slavery entered a profound process of transformation due to the implementation of the political measures adopted by the Marquis of Pombal.

Daily life of the ports of São Luís and Belém was deeply altered as global connections between the Amazon and Africa increased. The number of canoes continued to rise in the Amazon River's *sertões*. On their return, they brought drugs from the *sertões* and indigenous people who, while remaining free, would come to inhabit the settlements of the "Directory of Indians". At the same time, slave ships crossed the Atlantic transporting African captives by force. In the cellars of the ships, along with the chains, various habits, customs, and, above all, human experiences were transplanted, which would later mix with the indigenous and Europeans and transform the Amazonian culture.

Although there were legal distinctions, indigenous and Africans did not fail to establish a range of sociability, whether in the context of work, in the construction of solidarity networks, in the constitution of mixed-race families, or social conflicts. These relationships occurred across all parts of America. Historians such as Carmen Bernand,[4] Stuart Schwartz,[5] and Giuseppe Marcocci signaled that studies on the history of the coexistence of these groups constitute an important perspective for understanding the formation of American societies. As Giuseppe Marcocci points out, to a certain extent, it is "a unitary history" because, "since the middle of the 16th century, especially in the Atlantic world, the living conditions of some were closely linked to those of others. This makes room for an attempt to make a connected story between Amerindian slaves and black Africans".[6]

This chapter aims to shed light on how sociabilities were established between indigenous, African, and mixed-race individuals through the "dynamics of *mestizaje*" in the Amazon. This concept was developed by Eduardo França Paiva in order to understand historical practices – biological and cultural mixes, intersections, mobilities, transits, overlays, markets, and so on – that shaped social relations in Ibero-American spaces, resulting in indelibly mixed societies mainly in urban spaces. However, the concept is not restricted to understanding the cultural and biological product classified as *mestizo*. The core problem lies in the understanding, definition, and identification of non-mixed groups – indigenous, Europeans, Africans, Creoles, and so on – in the production processes of biological and cultural mestizaje.[7] Thus, Paiva argues:

> dynamics of mestizaje, were not defined from the fusion between pure (agents, cultures, blood) and different or between pure and impure – sometimes placed in a kind of equation in which the sum and the fusion of the parts (that is, of the races) resulted in a mixed product, a perspective still often triggered by evolutionary schemes that continue to seek "civilization".[8]

The choice of the concept of dynamics of *mestizaje* is useful to analyze petitions for freedom by enslaved people, mostly Amerindians and mixed-race, living in the main cities of the Portuguese Amazon in the Captaincy of Maranhão during the 18th century. As mentioned, from 1755 onward, the slave system underwent a process of reformulation, due to the rise of Sebastião José de Carvalho e Melo, future Marquis of Pombal, to the post of Secretary of State of the Kingdom. He implemented a set of political-administrative measures aimed at further developing the region. This time, two legislative provisions were enacted – the Law on Freedom of the Indians (1755) and the Directory of Indians (1757) – as well as the establishment of the commercial company of the State of Grão-Pará and Maranhão (1755). On the one hand, these laws were aimed at making the Indians and their mixed-race descendants vassals of the Portuguese Crown, by guaranteeing their freedoms and negotiating spaces for the exercise of work in that society. On the other hand, one of the main tasks of the aforementioned Company was to boost the economy of that region, where the workforce from the Atlantic traffic of Africans was indispensable.

The qualification of slaves

"Quality" [pt. *qualidade*] is one of the main points to understand how Africans, indigenous, and mixed-race were introduced in early modern societies. In the Old Regime in Europe, the term "quality" was used to differentiate people of "good lineage" from those who were deprived of it. In that context, individuals of "good quality" were those who did not have "infected" blood or who did not have a birth defect or a disability. These aspects were used to legitimize privileges and to differentiate "good men" from Moors, Jews, blacks, and mixed-race.[9]

During the Iberian globalization, the term "quality" came to designate the complexion of individuals who were not part of the nobility. Since then, this category has been used to qualify people through the intersection between different social groups – indigenous, blacks, creoles, *mestizos*, and so on. According to Paiva, given the possibilities, these qualities "differentiated, hierarchized and classified individuals and social groups from a set of aspects (family ancestry, provenance, religious origin, traits, phenotypes, such as skin colour, the type of hair and the shape of the nose and mouth)". However, given the impossibility of taking into account all these aspects, "the most apparent and/or convenient elements were activated so that the identification could be carried out, which certainly varied from region to region, from season to season in the same season and in the same region". Therefore, quality was a dynamic term that varied according to social perceptions, individual

experiences, "which changed over the course of a lifetime, to suit conveniences and circumstances".[10]

With regard to the "indigenous" and "African" quality, these terms conceal the plurality of nations of the sociocultural mosaic of individuals from Africa or America. An important caveat must be made to the term "African" because in the colonial period, it was not used to designate the quality of a person of African origin. Usually, these were classified as "blacks", "negros", "gentiles of Guinea", "gentiles of Costa da Mina", "*tapamunhos*", and so on. Furthermore, it should be noted that Amerindians and Africans shared the quality of "negro". This is because throughout Portuguese America, colonial agents used the term "negro *da terra*" (of the land) to designate the native enslaved individuals of those lands, that is, the indigenous.[11] In the Amazon, it is only with the declaration of the Law Freedom of 1755 that it became forbidden to classify indigenous people and their descendants as "negros". According to the law,

> Among the pitiful principles, and pernicious abuses, and abatement that has been brought upon the Indians, being called Negros is undoubtedly unjust, and scandalous; perhaps wanting with the infamy and vileness of this word, to persuade them that nature had destined them for slaves of the Whites, as is regularly imagined about the Blacks of the Coast of Africa. And because, in addition to being extremely harmful to the civility of the same Indians, this abominable abuse is unseemly to His Majesty's Royal Laws to call Negros to some men, whom the same Lord was served to honour, and to declare exempt from any and all infamy, enabling them for all honorary employment: the Directors will hereafter not consent that one calls the Indians Negros, nor that they use this word among themselves, as until now practiced; so that they understand that they do not have the vileness, and that they can conceive those noble ideas, which naturally instil in men esteem, and honour.[12]

Regardless of what qualities they were identified with, indigenous and Africans were producers of biological *mestizaje* through their sociability, which resulted in the emergence of other qualities. In the wills and inventories of the masters of the Captaincy of Maranhão, there is a diversity of taxonomies on the quality of enslaved individuals. To date, twenty-six classifications have been identified: *caboclo*, *cafuzo*, creole, black creole, gentile from the land, gentile from Pará, gentile from red black, gentile from Costa da Mina, gentile from Guinea, gentile from Guinea de Cachéu, indian, *mameluco*, *mestizo*, *mine*, *mulatto*, negro, negro amulated, negro creole, negro from gentile land, negro from gentile land creole, negro from land creole, black, born of black, black Creole, *tapuia*, and red.

Usually, in regions where African slave labor prevailed, categories such as "*negro*", black, Creole, and *mulatto* were used to designate these enslaved Africans and their mixed-race descendants. Thus, these categories became related to individuals of African origin in the social imagination. However, a detailed analysis of the sources

has shown that in Maranhão, where, until the middle of the 18th century, the workforce, free or enslaved, of the indigenous people prevailed, the different qualities were closely related to the place and classifications of indigenous people in the colonial dynamics. In this context, those classified as negros, creoles, *mulattos*, *cafuzos*, *caboclos*, and other "mixed" categories started to make use of family memories to demonstrate their indigenous origins.

Mestizaje in indigenous legislation

The processes related to *mestizaje* and formation of "qualities" were extremely important aspects in the legislation referring to indigenous people and their descendants in the Amazon. Both processes had their meanings linked to the transformation of the context in the region and to the adaptations of metropolitan policies. Thus, in relevant legislation, *mestizaje* was a constitutive element for the establishment of the governance of the indigenous population and their descendants, being directly linked to the socio-cultural development of the Amazon region. In the range of *mestizaje* processes, mixed marriages constituted a key element in the establishment of laws regulating sociability between indigenous and African individuals. In the years after 1680, new laws prohibited and restricted mixed marriages between indigenous people living in villages with people of other qualities. Restriction and prohibition measures were established in the Missions Regiment (1686) regulating the introduction of villagers, thereby free or "*forro*" (manumitted) in colonial society.

In its fifth paragraph, the Regiment regulated marriages between free indigenous villagers and enslaved individuals of any quality who lived in the villages. This was because "marriage is one of the sacraments of the Church which requires all freedom, and the right, and deliberate will of the people who will contract it", but there were residents who used it as a strategy to have indigenous people under their power. According to this Regiment, people "with the ambition to bring more Indians to their service, induce, or persuade those from the villages, to marry male slaves or their female slaves". This persuasion resulted in the "injustice of taking [the Indians] out of these villages, and bringing them to the [residents'] homes, which is the same, as the unjust captivity" that the laws prohibited.[13] In this paragraph, the Council convened by Governor João Teles de Miranda to deliberate on the implementation of the Missions Regiment proposed an even more severe reformulation. At the Summit held on July 30, 1687, in the city of Belém, the council determined: "Indians who are married to male or female slaves cannot serve their masters or relatives within the fourth degree". For the counselors, this would be "the most convenient way to avoid allowing the masters to misinterpret the Rules", since they could use the spouses and children of "their slaves" to fulfill their family legacies, such as donations to heirs and payment of dowries for their daughters' weddings.[14]

However, the Council was against the restitution of free Indians to the villages of their origins. This setback resulted in a conflict of jurisdiction with the Indigenous Freedom Law of 1680, "which by this new Regiment is not derogated". In the

referred law, it was determined that all the free Indians belonging to villages "should be conducted to them and distributed by other parties, instructing the Governor, who would make them return without admitting a request or a reply to the contrary". But, to avoid conflicts, there was a caveat referring to people who possessed the Indians after the law was issued, it excluded "those [Indians] who were not from the Catholic villages or administered by missionaries". In order to control this situation, the council imposed the declaration of free Indians on the people who had them in their possession. As such, "they will be obliged to give them a role and to preserve their freedom at all times", assuring the right of the Indians "that when some [Indians] want to return their villages, they [Masters] could not prevent them".[15]

Marriages between indigenous villagers and enslaved individuals of different qualities is a fruitful field for understanding important facets of the slave society in the Portuguese Amazon showing connections between the formation of mixed-race families, debates about their legal and social statutes, and the relations of Indians and enslaved individuals with masters and the secular and ecclesiastical authorities. But, above all, marriage was a religious ceremony that made it possible to receive one of the most important Christian sacraments used for the maintenance of social order in colonial times.[16]

Despite the Missions Regiment forbidding such mixed marriages, the Church did not fail to legitimize these unions. Since 1585, the papal bull promulgated by Gregory XIII, under the influence of the Jesuits, regulated the marriages of Africans and "Indians" who were married in the cultural traditions of their nations. In 1707, the establishment of the First Constitutions of the Archbishopric of Bahia further fostered this classic debate in canon law, since "the marriage of slaves was a human and divine right and a religious obligation for both masters and slaves". According to Charlotte Castelnau-l'Estoile, in the constitution, the matter was summarized in three propositions: "a. slaves can marry, according to the divine and human law, with other captives or free people; b. masters cannot prevent slaves from marrying or enjoying marriage; c. once married, slaves remain slaves". If in Roman law there was no concession of marriage to enslaved people, the Church began to recognize their rights to marry based on the moral and Christian equality of the children of God.[17]

In a functionalist perspective, for the Church, these mixed marriages were fundamental strategies for outlining a profile of a Christian slave society: asserting that slaves were able to marry was equivalent to saying that a Christian society was possible, despite the presence of slavery. According to Castelnau-L'Estoile, "[I]n this view, trafficking and slavery gain meaning in the construction of a Christian society whose pivot is Christian marriage, a sign of conversion, Christianization and the salvation of slaves". In this sense, the drafting of the constitution demonstrates the Church's clear adaptation to the formation of a slave society. "It tries to Christianize it, and, in doing so, participates in the justification of slavery. The main function of these canonical texts, the bull of 1585 and the constitutions of 1707 was then to enunciate an ideal of a Christian slave society".[18]

In the village of São Luís, the indigenous people who came from the *sertões* established various forms of sociability with slaves of different qualities and origins when integrating into urban and domestic spaces. In fact, the diversity in origins, qualities, and conditions did not prevent the marriage of *forro* "Indians", from the villages, with enslaved individuals living in the villages. This is shown by the case of Thereza, an indigenous woman described as "*forra* gentile of the land", and Jozé, a black enslaved man of the widow Ângela dos Anjos, who wished to be married in São Luís. On November 18, 1753, in the Parish of Nossa Senhora da Vitória da Sé do Maranhão, the wedding was initially allowed. However, João Marques, canon of the cathedral of that city, raised an impediment "saying that Thereza was married in the *sertões*, or villages of the Bishopric of Pará". The canon claimed "that he still was not sure whether her husband was dead, since rumor had it that her husband was still alive. Thus, Thereza would be unable to marry Jozé".[19]

On January 11, 1754, in the inquiry made by the prosecutor Francisco Matabosque, the canon ratified his version of the terms in the initial complaint, "and that he knew this by hearing a black man named João, a slave of the widow Ignacia da Silva". On January 19, the enslaved man João gave his testimony stating that "he knew the Indian woman Thereza very well because he lived in the same village, called São Paulo, of the cannibal gentile of the Amazonian sertão". There, João continued, Thereza "was married to an Indian named João Mirim, from the village of Paraguary, and the said Indian, her husband, was alive when she left for this land". And he knew "that the said Indian was alive and after his testimony, he had left and afterwards had no news whether João was deceased or not".[20]

On January 21, Thereza was asked about the legitimacy of her first marriage to the Amerindian João Mirim. Promptly, she declared that "she does not deny that she was once married only to this said Indian and that he is already deceased in the present life". To prove the death of her first husband, Thereza asked for permission to present a certificate issued on December 5, 1753, by Father Jozé da Conceição, a missionary who came from the village of Paraguary, on the Solimões River. In the missive, the missionary stated that he was "public and notorious that the João Mirim Indian had died in his so-called Paraguary village, the so-called Indian woman Thereza being already in this City". However, he emphasized that Thereza "had fled from her husband" to São Luís. Seeking to remedy this situation, another missionary named Father Antonio de Sá "wanted to bring him [João] to this city to live with his wife". However, João Mirim "replied that he did not leave his village because he was born in it with the position of main [Indian]". Missionary Antonio de Sá "let him stay in his village and [João Mirim] died there". That said, Father Jozé da Conceição passed this certificate to Thereza.[21]

After examining the inquiry, prosecutor Matabosque issued his opinion on the impediment. According to him, the arguments of Thereza in and of themselves "do not fully prove the death of her husband João Mirim, with whom she confesses in her petition she was married", but the certificate of the missionary Jozé da Conceição as a person of considerable moral authority, left more "moral certainty".[22]

In fact, Father Jozé da Conceição's certificate was a key element to solve that impediment in its final decision. On January 26, 1755, Francisco Rocha Lima pointed out the missionaries' prudence in exercising their profession intending to "bringing the referred Indian jointly with the impeded woman, and the provincial would have to do the same diligence if the said Indian was alive, or to take the said Indian woman [Thereza] to the village". For this reason, "I judge the said to be the unimpeded woman to receive [the wedding], as she intends, without having any other impediment". However, with the condition that Thereza would have three years to search for some of the missionaries from those villages, "to have the death certificate of her first husband, João Mirim, come to present in this judgment".[23]

Access to justice

In the Portuguese Amazon, during the transition between the 17th and 18th centuries, the systematization of laws and administrative instances made it possible for enslaved individuals to be closer to colonial justice to plead for their freedoms. The main laws were related to the regulations of indigenous labor. However, mixed-race descendants, including children of Africans, made use of them in their favor to plead their freedoms. Important administrative spheres were the Court of the Junta das Missões, the Private Judge of Freedoms (General Ombudsman) and the position of *Procurador dos Índios* [Indian Lawyer].

The Indian Lawyer was a fundamental agent in the intermediation between the enslavesd people and the justice system. This position was instituted in the Amazon in the 17th century and had the task of representing the "Indians" and their mixed-race descendants in the colonial justice system. As the dynamics of colonization intensified and the reliance on indigenous and mixed-race labor increased, the Portuguese Crown extended its jurisdiction after the establishment of the Indian Lawyer Regiment in the State of Maranhão and Grão-Pará. It should be noted that the Indian Lawyer also obtained jurisdiction to advocate in favor of African slaves. In a royal letter dated July 12, 1748, the monarch D. João V determined "that any male or female slave willing to prove the act of labor harassment that the Law allows them to litigate their freedom, cannot do so from any other house than their own *Procurador dos Índios*".[24]

The General Ombudsman also played a central role in processes related to the freedoms of the slaves. In addition to being the main representative of metropolitan justice in the overseas colonies, the General Ombudsman also took on the role of Private Judge of Freedoms, following the royal order of March 29, 1735, issued by Dom João V.[25] Since then, the magistrates, in their respective areas of jurisdiction, were tasked with "when in acts of Correction, trying to declare whether the freedom of the Indians found in captivity, was just or not, when taking corrective measures, for their incapacity and poverty may prevent them to defend themselves by ordinary means".[26]

This instance was also repeatedly used by African slaves to plead for their freedoms and other demands. Marinelma Costa Meireles analyzed how the slave experiences of these individuals made possible their insertions in the areas of colonial justice. According to the author, enslaved people did not passively receive the rules and norms that were imposed on them. As vassals of the king, when they felt injured in some way, they resorted to the justice system to plead what interested them. Thus, they appeared in the lawsuits in different ways: "at times they were seen as defendants, other times as informants, and in some cases, they appeared as central agents when opening legal processes through prosecutors, curators or tutors".[27]

In turn, the Court of the *Junta das Missões* was part of the political strategies of the Portuguese Crown in the process of its expansion in the Amazon region. The organ was of paramount importance, not only for missionary activity whose purpose was to convert the "Indians" into Christians and vassals of the king but also for economic goals, since it was the main deliberative instance about legal forms – ranson (pt. *resgate*), descents (pt. *descimentos*), and just wars – for the recruitment of the much-needed indigenous labor. The court was configured as an administrative interface of constant debate among the various colonial agents: the Crown, religious orders, the secular ecclesiastical authority (the Bishop). Therefore, the *Junta das Missões* corroborated the legitimation of the colonial project expansion through the propagation of the faith and, more concretely, helped in the application of justice regarding the (il)legality of captivity and, above all, the freedom of indigenous people and their *mestizo* descendants in the Amazon.[28]

However, the court's activities were directed at the indigenous and their descendants but excluded enslaved Africans. For example, a request dated from March 30, 1743, written by the General Ombudsman Francisco Raimundo de Moraes Pereira presented the petitions of freedom for the slaves of Antonio de Almeida Serram who kept them "in prisons for too long". However, the case was not a matter for the *Junta das Missões* because the slaves were "black" from Minas Coast and the deputies agreed that "the records should be sent to the General Ombudsman and the Magistrate proceeded in the terms of justice".[29]

I have mapped 114 petitions for freedoms. Far beyond the polarization and dichotomy between freedom and slavery, these processes show the intertwined nature of several aspects that permeated colonial society: the (un)just titles of captivity, the heritage determined by testament, indigenous marriages, mixed-race families, illegitimate children, violence, physical inability, obtaining mercy, and the dynamics of *mestizaje*.

An important caveat to be made concerns the profile of the enslaved individuals who featured in the freedom cases in the court of the *Junta das Missões*. Although these slaves were predominantly classified as urban, domestic, and mixed-race, they were also from indigenous groups that originally inhabited the *sertões* of the Amazon and who, at least for two or three generations, were in direct contact or integrated into colonial society. This shows how these individuals were inserted in areas marked by cultural and biological *mestizaje* but did not fail to recognize their origins. When

pleading for their freedoms toward *the Junta das Missões*, the indigenous individuals and people of mixed descent routinely made use of their family memories to prove their indigenous origins. These people in their freedom records denounced the illegalities of the captivity they were subjected to. To this end, they reported on the trajectories of their grandparents and great-grandparents to denounce the illegalities in which they were imprisoned or taken from the *sertões* by the trans-Amazonian slave route to colonial cities.[30]

The cafuzos

Among the categories of qualification of slaves, the quality of "cafuzos" is commonly used to designate mixed-race people of indigenous and African descent. In the 1720s, Raphael Bluteau defined the expression "*carafuz*" as an adjective for *cara escura* (dark face).[31] According to this definition, it referred to a person of "Negro" origin, whether indigenous, African, or from the biological mix of both. "Cafuzos" were concentrated in regions marked by the coexistence of Afro-indigenous labor, as was the case in Portuguese America.

In the State of Brazil, the quality of "*cabra*" was also used to designate the children of indigenous people with Africans. However, Marcia Amantino stresses the impossibility of restricting the conception of the term to a single meaning, because it was operationalized in accordance with the desires of those who classified and who were classified in the specific contexts of each region. The author notes that in the first half of the 18th century, the quality of a "*cabra*" was used to designate the children of indigenous people and Africans. Concomitantly with the intensification of cultural mixes and the Africanization of the world of work during the second half of that century, the term came to have new meanings, distancing itself from indigenous ancestry. From then on, "what defined the '*cabra*' was no longer the presence of Indians in his past, but the existence of a black ancestry mixed with any other quality".[32]

In the context of Maranhão's captaincy, the quality of "cafuzo" prevailed to designate the mixed race of indigenous and "blacks" or the other way around. However, in that locality, the management of this quality was not restricted to these combinations but was also related to the socio-cultural dynamics and practices of urban and domestic slavery. This is because the quality of "*cafuzo*" was used by administrative authorities and residents to distinguish descendants, mixed-race or not, of indigenous people from the *sertões* who were born in the cities. Furthermore, in the testamentary declarations, the qualification of "*cafuzo*" was also associated with the transition from the legal status of the indigenous people of enslaved to "*forro*" (free)s.

On January 7, 1696, D. Pedro I informed Antônio de Albuquerque Coelho de Carvalho, governor of the State of Maranhão, about the need for concession of "Indians of the land called *Cafuzos* and *Cafuzas*" to the farmer Francisco do Amaral, resident of São Luís city, for the production of indigo plants on his farm. The monarch was not against the concession of twenty-four Amerindians, men or women, as long as Amaral could pay for his working hours, considering the "declaration that

these Indians will not be subjected, and they seem to keep their freedom". If there was any discontent on the part of the indigenous people of the land or "*cafuzos*", the royal letter emphasized the possibility of them changing their "master and service as often as they want because otherwise, their freedom will be denied". To this end, D. Pedro I emphasized that care should be taken so "these wretched people [Amerindians] did not suffer extortion, and as they should be *forro* (free), and that was he will of those masters who gave them this status".[33]

The situation of the "*cafuzos* Indians" in Maranhão is similar to the "*cabras*" in the State of Brazil. In other words, they were Amerindians who lived in limbo between slavery and freedom, because "they were not free nor were they slaves". According to Marcia Amantino, "the administration of the Indians was a crucial point and was directly related to the various processes of social *mestizaje* that occurred in colonial society".[34] On farms or in urban and domestic spaces, these subjects lived with enslaved indigenous or Africans, and established with them various forms of sociability and shared experiences. This closeness, Amantino asserts, "generated a mixed population that formed the bases of many slave societies of various sizes in different areas of Portuguese America".[35]

The management of the categories of "*cafuzos*" and "*cabra*" elucidates how the attribution of qualities not only were the result of mixed descent but also identified the indigenous people who were in the process of transition from legal conditions of enslaved into "*forro*". Therefore, qualification was a complex act that linked social practices and the Portuguese legal system. This, in turn, as Amantino points out, "needed to be adapted to local realities and needs. This does not mean, however, that the classification categories used to order the different social segments were permanent or that they did not undergo adaptations whenever necessary".[36]

In the captaincy of Maranhão, over the years, especially in the times when indigenous slavery was legitimate, the (re)insertion of the "*forros cafuzos* Indians" into the dynamics of the labor market resulted in controversial debates between local and metropolitan administrations, including, on the way these individuals would be (re)qualified. In accordance with the royal letter of October 6, 1720, written by Dom João V, the "Indians or cafuzos labeled Manumitted, were those who their masters in their testaments declared forro", were born and raised in the houses of their masters, "where they intensely worked for their own will, and were treated well, and paid for their service". However, after the death of the testators, the "*cafuzos* Indians" would "experience the contrary", being treated "worse than slaves". Thus, "many masters with this knowledge allowed some slaves to be freed, and moreover wished to make them this benefit, but the referred slaves even refused to accept it because they had experienced better treatment in captivity". Therefore, in an attempt to solve the (re)insertion of the "*Cafuzo* Indians" in colonial dynamics, the King ordered Bernardo Pereira de Berredo, governor of the State of Maranhão and Grão-Pará, not to deter them to work "anywhere and only serve those who they want, who treated them better and to live in their freedom, without any subordination". Nevertheless, there was a provision that the governor could use them "when royal services were

needed, and once these services were finished, they [*cafuzos*] would return to their free condition".[37]

However, it appears from the testamentary statements that, during the 18th century, the practices of slavery of the *cafuzos* prevailed. In the set of fifty-one *cafuzos* in my sample, thirty-four were declared enslaved, ten were manumitted, seven had their manumission conditioned to the fulfillment of the legacies, and another seven had their conditions not declared. From the second half of that century, in the notary sources, the sales deeds and the letters of freedom of the *cafuzos*, constantly refer to their maternal ancestry that reported the quality of "black" and, in some cases, their African origins. This was not a casual attitude. This is because, in the context that the Indigenous Freedom Law came into force (1755), the masters and the notaries themselves made use of these family trajectories to reaffirm the legitimacy of slavery that the *cafuzos* were in, since the maternal womb could determine the slave condition.

The petition of freedom of the two "*cafuzas*", Rita and Cecília, residing in São Luís, against Francisco Pereira of the Captaincy of Pará, elucidates the controversial qualifications of *cafuzos*, as being children of only indigenous people rather than black mestizos (descendants) as this could result in their enslavement. On November 8, 1760, Gonçalo Pereira Lobato e Sousa, governor of the State of Maranhão, sent a letter to the Secretary of State for the Navy and Overseas, Francisco Xavier de Mendonça Furtado, reporting the challenge made by Rita and Cecília after being "judged as slaves" at the court of the *Junta das Missões*. The "*cafuzas*" argued about the need to

> prove [the] enrolments concerning the quality and condition of their grandmother, from whom they had inherited the right of nativity, in which there is a great favor and diligence due to Judge Manoel Sarmento, as well as other similar causes.[38]

At the meeting of the court of the *Junta das Missões*, held in the city of São Luís on August 29, 1761, the sisters, with the intention of freeing themselves from captivity, made use of their family memories to demonstrate their indigenous origins, since "all indigenous, and their descendants are people free from slavery".[39] Rita and Cecília were daughters of Brígida, granddaughters of the *cafuza* Clara and great-granddaughters of the "Indian" Inês, from the *sertões* of Pará.

In the conflict, the objection about the indigenous origin of the appellants was related to the legitimacy of their grandmother Clara's quality of "*cafuza*", who was declared "black" by her master. Firstly, Rita and Cecília argued against the master's declaration, making reference to their grandmother's brother, the "*mameluco*" Pedro, son of the "Indian" Inês and, supposedly, of a "white man". Therefore, there would be no doubt about Clara's maternal and indigenous origin. Thus, it was proved that the appellants were free from slavery. It could be confirmed, without controversy or false witnesses, through documentation, that their grandmother Clara was *cafuza*.[40]

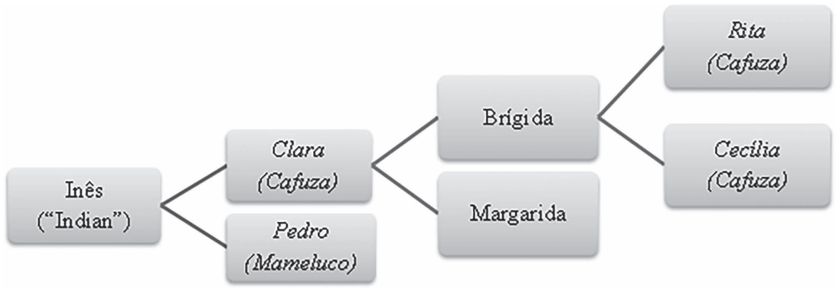

FIGURE 4.1 Graphic representation of Rita and Cecilia's ancestry.

Source: AHU, Avulsos Pará, Cx. 50, D. 4605.

A sinuous point for this case's outcome was in the record of the dowry deed that Captain Mor Jacinto de Araújo Pestana and his wife Dona Maria made, in 1691, to Antônio Varrigozo de Lemos, when he was preparing to marry their daughter. At that time, Clara was declared *cafuza*, a designation used for both – children born from black parents ("black" x "black") or "Indian" parents ("Indian" x "Indian"). One should remember that at that time, although there were some enslaved Africans, indigenous labor prevailed in Maranhão. Thus, Rita and Cecília endorsed their argument stating that it was a "time when there was no dispute about freedom [and] slavery was admitted to the Indians for the sake of trade". In Antonio Varregozo's own inventory, "the so-called Clara also declared *cafuza*".[41]

However, a new obstacle to granting freedom to Rita and Cecília arose. It concerned Margarida, "aunt of the authors [who] finds herself as a slave because she is a descendant through the maternal part of the same Clara". On April 15, 1752, Margarida, "daughter of Indian Clara", demanded her freedom in the court of the *Junta das Missões*. As a strategy, Margarida qualified her mother directly as an "Indian". However, this was not enough to be successful, since her request was "sent to the Ombudsman as a Judge of Freedoms", so that the case could be considered.[42] Unfortunately, the outcome of Margarida's case does not appear in the sources, but in 1761, in the process of her nieces Rita and Cecília, Margarida was designated as enslaved.

During this nine-year interval, there were significant changes in the legislation regarding Amerindians and their descendants, guaranteeing them their freedom. However, in social practice, the injustices of these individuals' captivity remained, as it was the case with Margarida. In their files, Rita and Cecília pointed to their aunt's "negligence", for "not defending herself, only harming herself". Moreover, they claimed that the sentence delivered against Margarida was based on "judgments that law of freedom did not follow". On August 29, 1761, after the analysis of the records of Rita and Cecília, the members of the court of the *Junta das Missões* judged the plaintiffs "as people free from slavery, reputed without contradiction of any person". In addition, it was stated that Rita and Cecilia could make use of their freedom, even though they had to work to earn a living.[43]

Final considerations

There is no doubt that slavery was intertwined in the social formation of several global communities, being legitimized by treaties, regulated by legal provisions, and (re)modeled according to the specificities of each region. In Portuguese America, slavery occurred in two ways, one directed toward indigenous people and the other toward Africans. But, although there was a social and legal distinction between these groups, on several occasions, the experiences of African and indigenous slavery were connected whether in the dynamics of the worlds of work or in the constitution of mixed-race families that resulted in the formation of new social identities. However, the connections between indigenous history, Africans, and mestizos are still underexplored by historiography. In this chapter, I have attempted to show new aspects and nuances of colonial dynamics in the Amazon region, emphasizing the access of enslaved individuals to colonial justice to plead for their freedom and their relations with *mestizaje*.

For a long time, historiography has adopted a dichotomic view according to which the oppressors and the oppressed were clearly separated, with any kind of contact between them being suspected of co-option, manipulation, betrayal, and self-interest. In this view, the exploitation inflicted by some and the resistance of others has large dimensions, as the focus is on general structures, and less on particular experiences. In recent years, however, there has been a growing interest in the latter and there is greater attention to the breaches within the oppressive system, whether they are in the informal field of human relations and interactions or in the formal field of laws and rules valid in that society. The immersion in the sources shows that indigenous, African, and mixed race people, although subjected to a logic that aimed to exploit them, were also perceptive agents, knowing how to take advantage of both the ambiguities and the specificities of certain clauses within the complex legislation of the colonizers for claiming one's freedom.

Therefore, I emphasize the agency of these individuals in the face of a colonial justice that kept, in view of the multiple realities within the Portuguese monarchy, a deliberative character and even – to refer to a more recent judicial concept – restorative. However, much remains to be done and the documentary material available allows historiography to advance further in understanding the fundamental importance of indigenous, Africans, and mixed-race, as key agents in the expansion of the Amazon region, because, to quote Father Antônio Vieira, "enslaving Indians, Africans and their mixed-race descendants taking red gold out of their veins has always been the biggest mine in that State".[44]

Notes

1 I would like to thank Professor Catia Antunes, Elisabeth Heijmans, and Sophie Rose for inviting me to participate in the Conference, and also their detailed text review, might as well I am thankful to Mr. Ewerton Cunha and Ms Giselle Ramalho for the text translation and review.

2 Karl Arenz and Frederik Luizi Matos, "Informação do Estado do Maranhão: uma relação sobre a Amazônia Portuguesa no fim do século XVII," *R. IHGB*, Rio de Janeiro, ano 175, no. 463 (2014): 349–80.
3 See: José Maia Bezerra Neto, *Escravidão negra no Grão-Pará: (séculos XVII – XIX)*, 2ª ed. (Belém: Paka-Tatu, 2012); Rafael Chambouleyron, "Escravos do Atlântico equatorial: tráfico negreiro para o Estado do Maranhão e Pará (século XVII e início do século XVIII)," *Revista Brasileira de História. São Paulo* 26, nº52 (2006): 79–114.
4 Carmen Bernand, *Negros esclavos y libres em las ciudades hispano-americanas* (Madrid: Fundación Histórica Tavera, 2001).
5 Stuart Schwartz, "Tapanhus, negros da terra e curibocas: causas comuns e confrontos entre negro e indígenas," *Afro-Ásia, Salvador* 29, no. 30 (2003): 13–40.
6 Giuseppe Marcoccia, "Escravos ameríndios e negros africanos: uma história conectada. Teorias e modelos de discriminação no império português (ca. 1450–1650)," *Tempo, Niterói* 16, no. 30 (2011): 41–70.
7 Eduardo França Paiva, *Dar nome ao novo: uma história lexical da Ibero-América, entre os séculos XVI e XVII (as dinâmicas de mestiçagens e o mundo do trabalho)* (Belo Horizonte: Autêntica, 2015), 42.
8 Ibid., 42.
9 Ibid., 32.
10 Ibid., 35.
11 See: John Monteiro, *Negros da terra: índios e bandeirantes nas origens de São Paulo* (São Paulo: Companhia das Letras, 1994).
12 Antonio Delgado da Silva Silva, *Colleção da Legislação portuguesa* (Lisboa: Typografia Maigrense, 1830), 510.
13 Biblioteca Pública de Évora [hereafter: BPE], *Regimento & Leys das Missoens do Estado do Maranham, & Pará* (Lisboa: Oficina de Antonio Manescal, 1724), Cód. CXV/2–12.
14 Arquivo Público do Estado do Maranhão [hereafter: APEM]. *Correspondências recebidas pela Câmara de São Luís*, Livro 66. Fl. 11v.
15 APEM, *Correspondências recebidas pela Câmara de São Luís*, Livro 66. Fl. 11v.
16 Charlotte Castelnau-l'Estoile, "O ideal de uma sociedade escravista cristã: direito canônico e matrimônio dos escravos no Brasil colônia," in *A Igreja no Brasil: Normas e Praticas a Vigência das Constituições Primeiras do Arcebispado da Bahia*, eds. Bruno Souza Feitler and Sales Evergton (São Paulo: Unifesp, 2011), 355.
17 Ibid., 370–71.
18 Ibid., 379.
19 APEM, *Câmara Eclesiástica do Maranhão. Autos de Impedimento*, Caixa 140. Doc. 4539.
20 Ibid.
21 Ibid.
22 Ibid.
23 Ibid.
24 *Carta para a Câmara de Belém. Cartas Régias para o Maranhão e Pará*. Códice 1275 (1648–1797).
25 Arquivo Histórico Ultramarino [hereafter AHU], *Avulsos Maranhão*, Cx. 22, Doc. 2236.
26 AHU, *Avulsos Maranhão*, Cx. 22, Doc. 2236.
27 Marinelma Costa Meireles, "Por meio da justiça e das leis: escravos e libertos nos tribunais do Maranhão (1750–1822)" (Thesis Programa de Pós-Graduação em História Social da Amazônia, Belém, 2018), 13.
28 André Luís Bezerra Ferreira, *Injustos cativeiros: os índios no Tribunal da Junta das Missões no Maranhão* (Belo Horizonte: Caravana Grupo Editorial, 2021).
29 APEM, *Fundo: Secretaria de Governo. Série 01: Livro de Assentos da Junta das Missões (1738–1777)*, Fl. 8.
30 I am developing this argument in my doctoral thesis that analyzes the issues related to captivity, slavery, and the freedom of "Indians" and *mestizos* in Maranhão (1680–1777).

Among the multiple processes related to the slavery of these individuals, it is fundamental to me to understand how in the Captaincy of Maranhão there was a route of slave trade connected with the Amazon River since the beginning of the 17th century.

31 Bluteau, *Vocabulario Portuguez & Latino*, vol. 1, 646.
32 Marcia Amantino, "Cabras," in *De que estamos falando? Antigos conceitos e modernos anacronismos – escravidão e mestiçagens*, eds. Eduardo França Paiva, Manuel Fernández Chaves, and Rafael Pérez García (Rio de Janeiro: Garamond, 2016), 83–97.
33 Associação Biblioteca Nacional [hereafter: ABN], *Livro Grosso do Maranhão*, vol. 66, 157.
34 Marcia. "Cabras," 88.
35 Ibid., 89.
36 Ibid.
37 ABN, *Livro Grosso do Maranhão*, vol. 67.
38 AHU, *Avulsos Maranhão*, Cx. 40, D. 3881.
39 Ibid.
40 AHU, *Avulsos Pará*, Cx. 50, D. 4605.
41 Ibid.
42 APEM, *Livro de assentos do Tribunal da Junta das Missões*, Fl. 27.
43 AHU, *Avulsos Pará*, Cx. 50, D. 4605.
44 Antônio Apud Vieria and João Lúcio de Azevedo, *Os Jesuítas no Grão-Pará: suas missões e a colonização* (Lisboa: Tavares Cardoso & Irmão, 1991), 136.

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5

EXPERIENCES OF ENSLAVED PERSONS WITH CRIMINAL JUSTICE AND SOCIAL CONTROL IN CURAÇAO, 1730–1740

Stef Vink

Introduction

In 1740, the *fiscaal* (public prosecutor) of Curaçao, Jan van Schagen, wrote to the board of directors of the West India Company (WIC), the *Heren X*, about the chaos that threatened the island. According to Van Schagen, Curaçao was 'bottled up . . . with inhabitants, strangers of all kinds of nations, and a large multitude of negros and mulattos.' To prevent 'revolts and conspiracies' of the latter group, people of color should be prohibited from being on the streets after 9 o'clock, on penalty of flogging. In order to control these large groups of 'delinquents,' the fiscaal would need the help of additional sheriff's officers, Van Schagen argued.[1]

Because the Dutch colony lacked space and fertile lands, it did not develop as a plantation colony but established as a maritime nexus in the Caribbean and became an important slave-trading hub in the Americas. Until 1730, the WIC had a monopoly on the slave trade to Curaçao and shipped most slaves to Spanish America as a part of slave trade contracts with the Spanish crown, the *Asiento*.[2] After 1730, the WIC lost its monopoly on the slave trade but remained central in the provisioning of enslaved labor to the Americas. Over the seventeenth and eighteenth centuries, around 100,000 enslaved Africans were brought to the island of which 66,450 between 1670 and 1730.[3]

Although the white population of Curaçao tended to overestimate the size of the population of people of color, the group was still considerable. Due to the lack of sources for the first half of the eighteenth centuries, it is difficult to determine its exact size. However, it is estimated that between 8,000 and 13,000 enslaved individuals of private owners lived on Curaçao in the eighteenth century's first three decades. In 1715, Willemstad's white population, by contrast, consisted of 815 individuals.[4] As Van Schagen's letter shows, Curaçao's white minority experienced the

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large majority of both enslaved and free black and colored inhabitants as a severe threat to public order and their safety. Two aspects of the letter stand out. First, specific rules were imposed upon the black and colored population, making no distinction between free and enslaved persons, and second, the administration of justice was a means to keep these groups under control. Repression and prosecution were thus a means to maintain the racial hierarchy. However, the authorities also had to take the enslaved population's size into account. This size was the group's *power recourse*, allowing them up to a certain extent to 'negotiate and bend the rules of the game.'[5] Consequently, the introduction, and the enforcement of rules, was not merely a top-down process but also a result of the 'negotiation' of the diverse population. This chapter will examine this process by tracing how criminal justice was employed to control the enslaved population on Curaçao.

Colonial jurisdiction

The historiography on Curaçao's administration of justice focuses primarily on jurisdiction and legal regimes. J.A. Schiltkamp argues that the charter of 1629, titled *Ordre van Regieringe soo in Policie als Iustitie*, issued by the States-General at the very beginning of Dutch colonial expansion, enforced a relatively uniform Dutch legal system upon Dutch colonies in America. The 'order' organized the colonial administration of justice and implied a juridical hierarchy. Colonial authorities were to follow metropolitan law and in cases where this law would not suffice, colonial administrations could turn to local customary law and additionally to Roman law.[6]

Other scholars have justly questioned the uniformity of this legal system. Alan Watson points out, for instance, that there was no Dutch codification of slavery while this institution was of utmost relevance in Atlantic colonies. France had, for example, issued the Code Noir for that purpose. Furthermore, in practice, Roman law was hardly used in Dutch colonies.[7] Indeed, in an exploration of the position of free people of color in the justice system of Curaçao, Han Jordaan shows that local ordinances were dominant, rather than Roman or metropolitan law. According to his study, the Dutch States-General did consider treating free colored persons equal to a slave a deprivation of the rights of free citizens. However, the States-General did not act against the colonial elite that treated juridically free persons as slaves – only if mistreated free persons of color litigated up to the States-General itself. Moreover, persons of color, both free and enslaved, had hardly any rights in court. For instance, they could only make a case against white individuals under exceptional circumstances, and could only testify if a white person ratified it.[8] In other colonies in the Americas, enslaved persons' position in criminal justice was similar.[9]

The development of colonial justice regimes was a battleground that did not strictly follow European legal developments. Colonial contexts stimulated the emergence of various coexisting legal regimes, in other words, 'legal pluralism.'[10] Different regimes were imposed to enforce social order but could also be employed by subjugated persons to consolidate their status. In Suriname, for example, many

religious groups, such as German and Portuguese Jews, and protestants, had their own jurisdiction until over the course of the eighteenth century, colonial authorities enforced a more state-centered legal order.[11] Another significant jurisdiction in Atlantic colonies was the slave owners' legal authority over their slaves. According to eighteenth-century property ideals, masters should have full autonomy over their slaves. However, colonial governments claimed the right to limit this autonomy in light of the maintenance of public and economic order – a challenging task in societies founded upon racial subjugation and slavery. Consequently, the borders between colonial authorities' and masters' jurisdictions were a continuous battleground.[12] Natalie Zemon Davis has also drawn attention to the position of an African-Creole jurisdiction in Suriname, and has shown the conflicts between the different jurisdictions.[13]

Despite the juridical boundaries, the Curaçao administration could practice justice at its own discretion. Criminal justice was closely tied to local ordinances and aimed at maintaining the economic and racial order by controlling the majority group of persons of color. Consequently, ordinances to control enslaved persons often also targeted free persons of color. The authorities thus ignored the juridical distinction between free and enslaved persons. The position of free people in the Curaçao courts of justice has received considerable attention.[14] The relation between enslaved people and the administration of justice, however, requires more exploration. This chapter explores experiences of enslaved persons through criminal court cases. It tries to shed light on the everyday decisions that people living under slavery made and how the colonial authorities attempted to control the enslaved population.

Rather than a statistical inquiry of the subject, a qualitative analysis of the administration of justice will clarify the experiences with the justice system and the measures of control of the colonial administration. An examination of Curaçao's criminal court cases between 1730 and 1743 yields 27 cases against enslaved individuals.[15] These court cases were all supervised by the same prosecutor who took office in 1730: Jan van Schagen. Besides this *fiscaal*, the Council of Curaçao played an important role, since the Council both rendered justice and created legislation. After 1743, the criminal court cases have not been documented centrally up to 1757. Although the documents are frequently verbose, readers should be aware of some silences and limitations. The criminal court cases contain only those offenses that the authorities deemed threatening to public order and transcended masters' jurisdiction. As will be discussed later, most 'crimes' were not trialed by the *fiscaal* but settled by masters. Furthermore, although enslaved persons give a rare glimpse of their personal lives in the inquiries' interrogations, they were often tortured, as was common in the early modern world, and as a result of that their testimonies presumably contain distortions of the events they reported about.

In parallel to the analysis of court cases, local ordinances of the first half of the eighteenth century are examined. These regulations show the authorities' concerns about contemporary problems on the island and how they tried to control these issues. It is important to bear in mind that only what was not considered ordinary

features in these sources. The chapter focuses on three main types of offenses in Curaçao, which were frequently prosecuted: running away, robbery, and violence. Lastly, the experiences with informal justices will be covered.

Running away

On 13 February 1740, several enslaved men from the plantation Altena caught a man named Christoffel slaughtering a stolen sheep. Christoffel tried to run away, but was brought to the public prosecutor where he was interrogated. It appeared that the thief was a runaway slave, who had left his owner Lucas Copius eight days before. According to his interrogation, Christoffel used to work at his master's house, where his food rations were sufficient. However, at times, Christoffel was sent to work in the harbor, where he transported water and firewood on his canoe and had to deliver Copius nine shillings a week. If he failed to do so, he was severely beaten. In February 1740, Christoffel was beaten severely and ran away after he had turned over with his canoe spoiling the wares. As the days passed, he became too afraid of the prospective punishment to return to Copius. Christoffel grew hungrier, and slaughtered two unattended turkeys and later the aforementioned sheep from the plantation. He ate parts of the meat but also tried selling it.[16]

Around the same time, two other enslaved individuals, Jamais and Tjico, ran away too. Jamais left after an argument with the boatswain of his owner's ship. By hiding in a forest and on the plantation St. Jan, he managed to evade the authorities for about three months.[17] Tjico deserted as the rations his master provided were too meager. After being expelled from the plantation St. Cruijs by the *bomba* (foreman of the slaves who was enslaved himself), he encountered Jamais on his next hiding spot: the plantation St. Jan. Together, they stole and slaughtered five sheep from the plantation Klijn St. Martha, where they were apprehended. They claimed that they had no chance to sell the meat.[18] All three runaways received severe flogging and branding as a punishment, and Jamais was exiled.[19] Exile was a harsh punishment as one was forced to start a new life with a stigma. Running away was considered a severe and dangerous offense and runaways were always stigmatized by being branded. The *fiscaal*, Van Schagen, had initially demanded a heavier sentence for Tjico and Jamais. He required the death penalty, and that their corpses should remain hanging on the gallows, 'until [the corpses] will be consumed by air and birds of the skies.' However, as the trial was delayed for over a year and the suspects remained imprisoned, the council requested Van Schagen to mitigate the penalty.[20]

The cases against Christoffel, Jamais, and Tjico show some considerations and strategies of runaways in Curaçao. The way the master or superior treated the slave was crucial in the decision making. Although the act of deserting was an individual choice, if lucky, one could collaborate with other runaways. Even when working together, however, it was hard to stay out of the hands of the authorities in Curaçao. Unlike Suriname, for example, the terrain was not fit for hiding, and the island was too small to create distant maroon communities. So, Curaçao runaways tried

to hide on plantations in the hope of not being not discovered by the *bomba*. The other enslaved persons on plantations tolerated runaways among their ranks to some extend as they were also willing to apprehend runaways who tried to steal their owner's goods. Most likely because other enslaved people would be held accountable for the disappearance of livestock.

Therefore, desertion primarily had to happen overseas – which was a viable option due to Curaçao's maritime structure. The WIC registered 585 runaways fleeing the island or Curaçao's vessels between 1729 and 1774. Most of the men were enslaved seamen and most female runaways were sellers. These runaways could rely on or turn to smuggle routes, their maritime network, or hide on ships. Often, they moved to Spanish America, where the Spanish crown promised freedom to slaves of protestant nations if they would convert to Catholicism.[21] Of course, the Curaçao Council tried to control the desertion of slaves overseas. In 1693, measures were introduced to increase the Council's control over ingoing and outgoing ships. Skippers had to provide the *fiscaal* with a list of the officers and sailors.[22] In 1710, the council complained that both indebted (white) inhabitants and

> mulattos, and negro slaves that want to escape their masters, yes even murderers and homiciders as other delinquents, to the great detriment of justice . . ., and sometimes with knowledge of the skippers or officers run away from this island.[23]

Consequently, skippers now had to provide the *fiscaal* with a list of all passengers and crew, everyone aboard had to carry passports and enslaved passengers had to show a letter of permission from their owner. The fiscaal could come aboard at any moment and hand out fines of 50 pieces of eight for any offense.

In 1714, however, the Council saw a need to tighten the rules on ships. A new rule required that the governor should be informed if there was any slave aboard. If a hiding slave was encountered on a voyage, the skipper was obliged to send the refugee back to Curaçao. Lastly, the fine for transporting undocumented persons rose from 50 to 200 pieces of eight. The Council felt compelled to repeat the ordinance in 1715 and 1717, which indicates that the rules were not sufficiently followed.[24] The rules were extended in 1742 to all free persons of color who had to prove their freedom with a special passport costing two reals. Again, the measures had only a moderate effect, and the Council drew attention by repeating the ordinances in the subsequent years.[25]

Another strategy of the authorities was to make free people of color take part in further controlling slave mobility. The black and colored militia probably already existed before 1738 but was formalized by Governor Isaac Faesch in 1740.[26] A few years later, all free men of color over 16 years old were obliged to participate in the militia. A major assignment for the militia was to prevent marronage to the Spanish coasts by standing watch in the harbor. Moreover, the militia was to apprehend and return Spanish maroons that fled to Curaçao to convince the Spanish of their 'friendship,' which would help retrieve Curaçao's citizens' runaways. Furthermore,

the Curaçao authorities tried to recapture the runaways in Spanish America by making agreements with the Spanish and indigenous groups. In 1748, the Council announced a trade of runaways with Venezuela and encouraged all inhabitants that lost slaves to report the names.[27] While initially the cooperation with Venezuela played out well, from the 1750s, the alliances deteriorated.[28]

For Christoffel, Tjico, and Jamais, these policies made an escape overseas extremely difficult, except if they had the connections to escape abroad. However, the real issue that might have decreased desertion of enslaved people would have been the improvement of the treatment of slaves. Although the interrogators of the three apprehended runaways were aware of the direct relation between mistreatment and flight (one of the first questions in the interrogations concerned how their owners treated the slaves), it would take up to 1750 until the Council asked its inhabitants not to molest *free* people of color. More serious warnings to masters toward their slaves were years away.[29]

Robbery

Many of the court cases against enslaved persons concern robbery. Ordinances show that theft was a recurring problem: in nearly all regulations or restrictions regarding people of color, the Council referred to theft. For example, a curfew had to prevent burglary during the night.[30] Moreover, the Council repined that many 'negros and other slaves commit publicly, also surreptitiously and illicitly, robberies of various sorts of wares,' which they sold to 'malicious and greedy Christians and Jewish people.' These actions all led to significant damages for the 'righteous' merchants and shopkeepers. As merchants had the habit of sending enslaved workers with their wares to vend on streets, one could not distinguish honest trade from 'thievish negros and other slaves.' Consequently, the Council prohibited all street vending by people of color, except for food products, such as fruits, vegetables, and meat.[31]

Similarly, to desertion, these ordinances hardly helped to prevent stealing. Theft was omnipresent and happened in domestic spheres, on plantations, in the city, and at sea. The loot sometimes barely had any value. In other cases, it was humongous. All convicted enslaved thieves received flogging, and most also were branded. If the thief repeatedly committed crimes or was considered a leader, he would be banned. In a few cases, the death penalty was given for robbery. In 1737, a man accused of theft, Cupido, received the death penalty by hanging. He belonged to a Company plantation and broke into the plantation's storehouse where he stole twelve bushels of corn. The Council recalled in the verdict that all burglars of 'houses, storehouses, bars, and all other private yards' would be punished by death, although no death penalty is given in other cases of burglary.[32] However, no such ordinance has been encountered, neither has it systematically been practiced.

That robbery was considered a serious crime, can be further illustrated by the case of Jantje, owned by Jacob Senior. On a night in July 1740, Jantje quietly visited his wife Toemba, who lived in the house of her owner, Juan de Palma. Around the same

time, a window of the stockroom reportedly broke, and the lock was forced. De Palma, alarmed by the noise, found Jantje with Toemba. Jantje admitted to De Palma that he had broken into the stockroom and was brought to the fiscaal. However, to the authorities, Jantje denied being responsible for breaking in and said De Palma broke the window himself to catch the couple red-handed. Jantje had only confessed to De Palma because he was afraid of beating. Having two contradictory stories, the interrogators threatened Jantje with torture, who then 'voluntarily' admitted to having forced the lock with a nail and stealing three bushels of corn and giving them to Toemba to sell, but he persisted that De Palma broke the window himself in order to catch him with Toemba. According to the fiscaal, the thief committed a severe crime. What did not help Jantje's case was the fact that two years prior, he had run away and robbed an iron cup and a turkey for which he was flogged and branded. This all attested to 'overgiven boldness' and the husband got beaten, branded, and exiled.[33] It is possible that De Palma had set Jantje up. Presumably, De Palma was incensed with Jantje's nightly visits to Toemba and had to find a way to apprehend the visitor. Although it was not ordained until 1767, it is not likely that inhabitants could freely punish or beat other's slaves.[34] After 1767, the aggressors could receive at most a fine to diminish the financial damages of the impaired owner.[35] In order to avoid being prosecuted, or trouble with Jantje's master and the authorities, De Palma might have decided to trap Jantje and let the fiscaal resolve a serious robbery.

As the runaways Christoffel, Tjico, and Jamais already have shown, robbery of livestock was omnipresent. The Council considered this very problematic. In 1731, an enslaved man named Souka chased one of his master's costly foals outside the plantation and slaughtered the animal. According to his confession, Souka had no opportunity to sell the meat. As the Council wanted to deter other enslaved persons from stealing, Souka was condemned to the gallows and would remain hanging until his corpse would be disembodied. His co-conspirator, Juan Domingo, who helped Souka skinning the foal and was rewarded with a piece of meat, was condemned to severe flogging.[36]

Yet, the reasons why an enslaved person slaughtered livestock and which animal was killed were considered relevant facts to the Council. For instance, an enslaved man named Barkentijn was trialed for slaughtering livestock. He caught three horses on two different occasions, but he ultimately got apprehended in the very act. Barkentijn should be punished by death, like all thieves of cows, horses, and sheep, the Council wrote in the verdict. However, three considerations brought the Council not to condemn the thief to death. First, Barkentijn did not steal the horses, but he ate the horses and his hunger was his sole motivation to slaughter the animals. Second, Barkentijn did not choose the 'sweet scent' of mutton, which was edible by 'other humans.' Last and possibly most important, Barkentijn had no intention to sell meat, get 'free of chains,' and refuge from his owner. Despite these considerations, Barkentijn did break the rules and severe punishment should still deter others. Although he did not receive a death penalty, he was nevertheless flogged with a rope around his neck, was branded, and for eternity exiled to work in Bonaire's saltpans.[37]

Barkentijn's case illustrates many dilemmas of the Council. Even though the authorities might have sympathized with an enslaved person due to the circumstances of the crime, they would never pick his or her side in a trial or demand of the class of masters a better treatment of slaves. The Council was intertwined with the colonial, merchant, and planter elites who had no benefit of reducing a master's power over one's slave. In addition, fighting robbery by slaves meant opposing possible financial consolidation of enslaved people. This was important, because it could result in manumission. As mentioned in Barkentijn's verdict, the fact that he did not choose to vend the meat and accumulate money was an alleviating circumstance.

Capital was an essential means to pursue one's freedom. There were various formal routes to freedom in Curaçao. As in other colonies, manumission was relatively more accessible for those working in urban areas, where enslaved persons often worked as a day laborer or specialized in a craft or trade. In eighteenth-century Curaçao, some 2,787 manumission letters were handed down and around a third of these manumissions were bought by enslaved persons. They saved up money or received a loan from an acquaintance. Nearly 60% of the manumissions were granted. Masters might choose to release someone from bondage, for example, as a reward for their loyalty, because they were their own child, or, in times of economic adversity, to dispose themselves of the costs of feeding their slaves. Lastly, from the 1740s, a pro forma manumission existed in Curaçao, a temporary manumission for seamen of color, who could be sold as a slave if pirates or privateers captured them. Often the pro forma manumitted sailors had to make a deposit, so they were more likely to return.[38]

The prospect of freedom, or hope for a better future, was necessary to keep an enslaved population under control. If there would not be such a perspective, enslaved persons might have more reason to revolt against their oppressors. However, if one had no means to earn money or an owner that seemed willing to release the chains, there was little hope for manumission. Desperate needs led to desperate deeds. Early on a summer morning in 1735, two enslaved women, Martha Patta and Anika, sneaked into the mill and residence of Gijsbert Gales. Rather than quietly robbing belongings, Martha and Anika left off with an enslaved African woman that just arrived in Curaçao and was recently bought by Gales. The captors hid the captive with an accomplice, an old black man. They planned to sell the hostage on the first occasion and use the profits to buy Martha's freedom. Presumably, afterward, Martha would help to free her co-conspirators. However, the authorities found out and trialed Anika. She was condemned to hanging and her corpse to remain a deterrent.[39] The court case against Martha has not been found, but it is unlikely that she received a mild sentence.

Violence

Violence was omnipresent in Atlantic slave societies, and Curaçao was no exception. Most daily violence of slave owners or white inhabitants against slaves did not

make the records. The slave owner's jurisdiction was hardly challenged and regulated by the authorities. Violence originating from persons of color, however, was being strictly controlled.

A thorn in the white population's flesh were continuous gatherings of colored inhabitants. In October 1740, Governor Isaac Faesh grumbled about unbearable chaos, caused by 'coloreds and negros, both free as slave.' At night, the 'good inhabitants' were being disturbed and ill-treated. Besides their unseemly lifestyle, the population of color also dared to play their instruments all day and night while they drunk and danced. Often, these rallies resulted in 'fights with knives, sticks, fists and such.' Consequently, the Council saw the need to dictate 'regulations for negros and mulattos.' After 9 p.m., all persons of color were to carry only a lantern and, if they had any, a sign of their master. If they brought any other belonging, it would be confiscated. Furthermore, playing the violin, drum, trumpet, or any other instrument was prohibited. This applied to streets, ships, vehicles, and even homes. The first violation of these rules would result in rigorous flogging, the second in penal servitude in Bonaire's salt pans, the third in eternal exile. In addition, pubs could not serve alcohol after 9 p.m. to persons of color. The (white) owner would be fined, or the pub might even be closed if they did so. Presumably, customers would be condemned to the abovementioned punishments. Moreover, fighting would be penalized. Enslaved persons would receive corporal punishment, while free people would have to pay fines, which would increase if weapons were used. If free people had no means to pay, they would receive corporal punishment as well. Violence against whites would aggravate the penalty and always lead to corporal punishment, as was 'customary' in Curaçao.[40] Similar measures against the population of color were also enforced in other Dutch slave societies. In Suriname, for example, a curfew from 8 o'clock was effectuated in 1747, and from 1749 onward, enslaved persons were obliged to carry a lantern. Moreover, the Paramaribo pubs were also subject to strict rules for nightly interactions between white and colored persons.[41]

In the eyes of the Council, gatherings of people of color led to chaos, hubbub, and violence. Only through rigorous repression could this be contained. For decades, the Council had already noticed a relation between late-night gatherings, music, and violence. In 1710, the administration remarked that 'malicious negros and mulattos, both free and slave, on all nights to 9 o'clock occupy the streets and alleys with bases, violins, and guitars to deliberate, rake and assemble . . . to plan various insolences, thieveries, burglaries.'[42] In 1720, once more, a prohibition of gatherings was implemented. The Council complained about the musical rallies and felt threatened by the large stick fights held by persons of color.[43] In both ordinances, the Council advocated repression.

However, these measures seem to have been ineffective. The 1740 'regulation for negros and mulattos,' for example, was republished in 1741, 1743, 1745, 1749, 1750, 1754, 1768, and 1794. Often an ordinance was repeated when rules were not respected. For instance, on 6 June 1741, Juantje Metselaar attended the funeral of Claas. After the funeral, a group of free and enslaved persons went to the free

woman Susanna's house. Around 7 p.m., Juantje and his buddy Barthool went for a walk. There they encountered Codjo, who also attended the funeral, with a bloodied knife. Juantje asked Codjo what the matter was, and the astonished Codjo responded that Abba had cut him, but Codjo 'gave' Abba 'more.' Then Codjo ran off. Juantje and Barthool rushed back to the house and, indeed, encountered a mortally wounded Abba. A day after, two surgeons declared that Abba had died quickly because the stab wound under the left shoulder cut Abba's lung.[44]

The Council was outraged. Besides republishing the 1740's regulations, a publication was spread announcing that Abba, slave of the militia, was murdered by Codjo, who had fled after his felony. As Codjo would hardly be able to take refuge without any help, the Council directly turned to Curaçao's inhabitants. A bounty of 25 pieces of eight was put on Codjo's head. Helping the fugitive would be punished firmly: white inhabitants would receive a fine of 200 pieces of eight, persons of color, both free and enslaved, would be flogged and branded.[45]

In a new placard from the same date, the Council complained about the continuous and increasing disorder. Free and enslaved persons, it wrote,

> divide themselves into troops and parties under the presumption of being invited to funerals, weddings, and alleged combites,[46] . . . employing the cry or the name of Birosi and Japans and attacking each other with fists, sticks, stones, knives, and other weapons.'[47]

The Curaçao elite perceived the gathering as a nexus of aggression. Moreover, it appeared if there was recurring violence of the groups 'Birosi and Japans' in play. They seemed to attack each other with sticks and other weapons systematically. Nonetheless, it is improbable that this violence emerged around gangs. Jordaan points out that Curaçao's colored population held festivities with loud drum music and traditional mock fights with sticks and that it is conceivable that celebrations, dance, music, alcohol, and the miserable circumstances of enslaved life resulted in conflicts that white persons misunderstood as recurring gang violence.[48] Nevertheless, the administration further constrained all gatherings of people of color with these regulations of 1741. Combites and conventicles in houses were no longer permitted, as was attendance to these gatherings. Furthermore, at most six persons of color were allowed to attend weddings and funerals. After the ceremony, attendees were to head home directly. Ignoring these rules would result in flogging, branding, and banishment. All this was to be enforced by the black and colored militia.[49] For Codjo's prosecution, all these stringent measures were in vain. The murderer was nowhere to be found. Three times the Council spread a publication to summon the fugitive and ultimately trialed to felon by default to eternal exile.[50]

Most violent offenses among people of color trialed by the Curaçao administration of justice were not due to cultural gatherings of festivities. The administration only prosecuted this violence if it was excessive, involving the mutilation, or murder of a person of color, or it had to involve white victims. The reasons for violence

often emerged from personal grudges and happened in domestic spheres, on streets, and at work. In 1730, for example, Juan was prosecuted for the murder of his wife, Catherina. We can only guess the reason, as it was not mentioned in Juan's verdict. We only know that he wrung Catherina's neck and then cut her throat. Juan condemned to be flogged and burned alive.[51]

Not all violence prosecuted by the Council resulted in the death penalty. On 9 November 1742, Dianora, a woman that belonged to Samuel Fransisco Stuijlingh, reported to the fiscaal that 'a while ago,' Cocoroco had been hitting an enslaved woman, Mitje, with a stick. A white man that passed by tried to stop the violence by throwing a stone at Cocoroco. 'Thank God,' Dianora said out loud, 'because it does not suit a big negro to hit a negress with a stick.' Another enslaved man, Juan Pedro, overheard Dianora's relief and responded: 'I will find you, you who blesses a white because he throws stones to the negro.' He finished his threat with a blow of his stick. Dianora fell on the ground, fainted, and had to be treated by a doctor with an injury on her head.[52] A while later, the son of Dianora's master, Johannes Stuijlingh, saw Juan Pedro passing through his father's properties. The son followed the enslaved man and asked him if it was not him who attacked Dianora. Naturally, Juan Pedro denied it, but other enslaved persons of the Stuijlingh family confirmed it was indeed the aggressor. Johannes then detained Juan Pedro and brought him along the way to the fiscaal. However, Juan Pedro managed to extricate himself, throwing Stuijlingh on the ground, and ran off. He was apprehended a little later and was condemned to flogging and branding for Dianora's injury and throwing Stuijlingh on the ground.[53]

Naturally, in a society where human beings are subjugated because of their color or descent, much violence targeted the subjugators. Resistance against the hierarchy and the lawlessness with which the colored population was treated was omnipresent and rigorously punished. Violence from people of color, enslaved and free, was indeed the anguish of the white population. Whether some crimes happened as ascertained by the administration of justice or whether they were wrung a confession by torture, some stories must have stimulated the fears of Curaçao's white inhabitants. In 1734, Louis was held captive for three months by his master Nicolaas Willemsz after running away. According to the verdict, Louis asked Annika to 'invent a means' to get him out of the chain and provided Louis with poison, which he then cooked through a cauldron of water. The water was used to prepare a plate with beans and cornmeal porridge sent to Nicolaas Willemsz. Another white man, Hendrick van Purmerent, visited the caboose and got provided with tea of the same poisoned water by Louis. Both Nicolaas and Hendrick ended up vehemently vomiting, losing consciousness, and ultimately demising. Whether Louis and Annika were responsible for the death of the two men or not, they awaited a grim fate. The council wanted to show other 'malicious' people what happened to murderers. Louis would be 'broken upon the wheel vividly, furthermore, his body cut to pieces and the head put on a stake, after that the pieces put to hang on the gallows on the roads.' The accomplice Annika was humiliated too. Although she passed away

in prison, her corpse was to be mutilated and displayed similarly to Louis's and her organs were to be cut out and thrown in the sea.[54]

Enslaved persons stood up for each other when mistreatment occurred. Aletta Elisabeth Thielen reported on 1 November 1742 that three enslaved women attacked her. Around 5 o'clock in the afternoon, Thielen saw two enslaved women fighting. According to her own and other witnesses' statements, Thielen tried to interfere by hitting the fighters with a bull's pizzle. Three other enslaved women who lived nearby, Agnietje, Grasie, and Lucresia, noticed the scene and tried to prevent Thielen from further beating the fighters. Lucresia grabbed the bull's pizzle out of Thielen's hand, Agnietje slapped the assaulted woman in her face, and Grasie hit her twice on the shoulder. If Agnietje and Lucresia had not held Grasie back, she would have attacked Thielen more fiercely, two witnesses remarked. While retreating, the three attackers loudly called out 'abusive terms and malicious expressions' against Thielen and her family. Agnietje, Grasie, and Lucresia were condemned to flogging and branding.[55]

As was custom on the island and in slave societies, violence against the subjugators could not be tolerated, so Louis and the three women's punishment was also meant as a deterrent for other people of color, both free and unfree. Heavy punishments awaited any person of color attacking white inhabitants. White people were, however, not entirely above the law and they were prosecuted for committing violent crimes against other white persons. Some punishments consisted of fines that would turn into corporal punishment if the payment would not be fulfilled.[56] Others were condemned to flogging and exile, like people of color.[57] The death penalty could also be imposed, although less painful and gruesome than executions of persons of color. In 1735, a firing squad executed a white man condemned for murder.[58] However, no white individuals were trialed for violence against people of color, either free or enslaved. Only in 1774, an assault from a white inhabitant against another inhabitant's slave made it to court, but merely because of invasion of the master's jurisdiction and devaluating of his properties.[59]

The loss of 'capital' due to the mutilation or death of enslaved persons was an issue, according to the slave-owning elite. In October 1738, the Council established a tax, the *swarte hoofdgeld*, at inhabitants' request. The Council would charge inhabitants for every slave they possessed and two weeks later, free persons of color were charged with the tax too. The tax was intended to compensate owners of murdered enslaved persons, enslaved who died in prisons awaiting their trial, or were executed. No compensation would be given to the owners for runaways or persons committing suicide.[60]

Protecting the racial hierarchy was essential to the colonial elite. To that end, the Council resisted significant pressure from the metropolitan authorities. In the late 1730s, the public prosecutor remarked that Governor Juan Pedro van Collen, who then had to approve of any investigation by the public prosecutor, had prohibited him from summoning Claes Vischer and Jurriaen Pool. These brothers lived on Curaçao, and according to some rumor, they had murdered the merchant of color

Andries Sotto in Caracas. The Council argued that the murderers could not be trialed as the assassination did not happen in Curaçao. The board directors of the WIC in the Dutch republic contended that this argument was invalid, as it would also imply, for instance, that pirates could not be prosecuted on the island. Consequently, the investigation had to occur, and the board of directors demanded to be informed about the true reason behind the opposition of the Council.[61] Neither Van Collen's response, who was fired around that time, nor an investigation or a court case against the brothers can be found. However, Van Collen's answer would presumably not be any different than letters the board of directors received some 30 years later from the Council: custom dictated that whites are not prosecuted for assaulting any person of color.[62]

Informal justice

Only a fractional part of offenses found their way to the criminal court of Curaçao. The studied court cases and ordinances show that criminal justice was used if either white people or public order were threatened or disadvantaged by offenses of persons of color. What happened if no white person was involved? How could enslaved individuals procure 'justice'? Minor offenses were likely treated under the master's jurisdiction, which arguably was one of the most significant jurisdictions for enslaved persons' daily lives. The limits of the Council's jurisdiction and the master's regime were vague and difficult to reconstruct, mainly because punishments were hardly registered. In Suriname, crimes that were deemed a threat to public order, or crimes for which a master intended to whip an enslaved person more than 50 times, were to be trialed by the authorities from 1759 onward.[63] Similar written regulations of the master's and the Council's jurisdiction were not introduced in Curaçao until the 1790s.[64]

However, presumably more crucial for enslaved persons' quotidian experience with justice in slave societies were African-Creole jurisdictions. In Suriname, for example, so-called *Lukamans* (diviners), *Bassias* (foreman who was a slave himself), and other enslaved skilled individuals played an essential role in this jurisdiction. The *bassia* introduced new enslaved Africans to the plantation, had an important role in maintaining order, and executed punishments. He was furthermore a kind of middleman between the slaves and their master. Offenses were investigated and trialed by the *lukaman*, a diviner who was said to be able to talk to corpses and gods and use enchantments for hunting down perpetrators. He prosecuted people for violations or immoralities like theft (between persons of color) or adultery, mostly between enslaved individuals.[65] So far, the African-Creole jurisdiction in Curaçao has hardly been studied. A rare exception is Bastiaan van der Velden's monography on the developments of jurisdictions in Curaçao. Van der Velden describes various African legal traditions, several African-Creole juridic organizations throughout the Caribbean but found no empiric foundations for the existence of African-Creole legal practices on Curaçao.[66]

Nonetheless, a 1719 criminal court case confirms the presence of an African-Creole legal tradition on Curaçao. Two enslaved workers of a free black inhabitant, Anthonij Ambree, were denounced by the carpenter Jan Kock for stealing three cedar planks. Jan Kock wrung a confession from the two workers, Manuel and Domingo, but both maintained that Kock forced them to admit stealing the plank and during their interrogation by the *fiscaal*, both denied stealing it. Their master, Anthonij Ambree, was also interrogated by the public prosecutor and denied the theft. A fascinating little glimpse of the existence of an African-Creole legal tradition is given by a witness statement of Kock's enslaved worker, Guacoe. He mentioned that the wife of Anthonij Ambree provided him with money to hand over to the *fiscaal*'s *bomba* to 'practice his arts to know who had stolen the planks.' However, the wife of Anthonij Ambree was not the only one that called for the help of the *bomba*. The *bomba* declared to Guacoe that he would only reveal the truth if 'he had the money, that Jan Kock promised him but did not give.'[67] Both Ambree and Kock had the intention to request the 'arts' of the *bomba* to find a solution in their case. This indicates that both white and colored inhabitants procured 'truth' through an African-Creole jurisdiction. Remarkably, it was the public prosecutors' *bomba* that played a crucial role in this jurisdiction. Sadly, the interrogation does not reveal if this was coincidental or not. Although this little glimpse raises more questions than it answers, is likely that this legal tradition played a significant role in persons of color's experiences with justice in Curaçao.

Conclusion

This analysis of Curaçao's criminal court cases, ordinances, and correspondence with the board of directors in the Dutch Republic shows that the Council sought to control enslaved and free people of color to prevent running away, robbery, and violence. In order to oppose the refuge of enslaved persons, authorities primarily focused on regulating mobility on ships: skippers had to provide lists, and people of color had to provide special passports. Running away on the island proved difficult as the ways to stay out of the authorities' and slave owners' hands were limited. Fugitives had to hide on plantations and steal to provide a livelihood. This offense was considered grave and consequently heavily punished. Although authorities noticed the direct correlation between masters' treatment of a slave and running away, the Council did not intervene in the owners' jurisdiction.

Theft by enslaved individuals was also severely prosecuted. The strong penalties, ranging from beating to death, were meant to frighten people of color. Besides protecting white inhabitant's property, authorities also tried to oppose enslaved persons' financial consolidation. If they acquired capital, they might be able to buy their freedom, which would result in a double loss for the white population. The motives behind theft and the intentions of the person prosecuted for theft played a role in the severity of verdicts but the punishments remained harsh.

The most significant fear of the white inhabitants was violence by persons of color. Any event that could lead to an eruption of violence was under close attention of the Council. The many regulations primarily show us that the authorities failed in repressing the population of color and indicate that many frictions took place. Most cases of violence present in the criminal court involved severe injuries or death of enslaved persons caused by people of color. Most cases of violence by enslaved people were probably dealt with within the domestic jurisdiction. Most importantly, any minor violence of people of color against white persons was severely punished. The subjugator could not tolerate any minor breach of colonial social and racial order. Court cases do not show the full experience of enslaved persons with justice since the limits between domestic and authorities' jurisdictions remain vague. However, proof for the existence of an African-Creole jurisdiction, significant for in daily slave life, was found.

Essentially, any offense by people of color was perceived as a threat to the racial hierarchy, public order, and white inhabitants' properties. Criminal justice was employed to enforce these rules. The court cases described in this chapter and the continuous repetition of ordinances also demonstrate how people of color both free and unfree resisted and defied repression, found ways to bend the rules and, accordingly, illustrate experiences of enslaved persons with the criminal court in Curaçao. The criminal court cases against enslaved persons and people of color shed light on their experiences with the court and daily life in Curaçao, even if they remain fragmentary.

Notes

1 National Archives, Den Haag, Second West India Company (WIC), access number 1.05.01.02, inventory number *209*, Letter from Jan van Schagen to the Heren X, November 29, 1740.
2 See, for example, Johannes Postma, *The Dutch in the Atlantic Slave Trade 1600–1815* (Cambridge: Cambridge University Press, 1990), chapter 2.
3 Han Jordaan, *Slavernij en vrijheid op Curaçao. De Dynamiek van een achttiende-eeuws Atlantisch handelsknooppunt* (Zutphen: Walburg Pers, 2013), 26–27 and appendix 1.12.
4 Han Jordaan, "The Curacao Slave Market: From *Asiento* Trade to Free Trade, 1700–1730," in *Riches from the Atlantic Commerce: Dutch Transatlantic Trade and Shipping, 1585–1817*, eds. Victor Enthoven and Johannes Postma (Leiden: Brill, 2003), 219–57, 222.
5 Pieter Spierenburg, "Social Control and History: An Introduction," in *Social Control in Europe Volume 1, 1500–1800*, eds. Herman Roodenburg and Pieter Spierenburg (Columbus: Ohio State University Press, 2004), 1–22, 17.
6 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* 5, no. 2 (2003): 320–34, 327–28.
7 Alan Watson, *Slave Law in the Americas* (Athens: University of Georgia Press, 2012: first issue 1989), 102–14.
8 Han Jordaan, "Free Blacks and Coloreds, and the Administration of Justice in Eighteenth-Century Curaçao," *Nieuwe West-Indische Gids* 84, no. 1 & 2 (2010): 63–86.
9 For example: Frederik Thomasson, "Thirty-Two Lashes at Quatre Piquets: Slave Laws and Justice in the Swedish Colony of St. Barthélemy ca.1800," in *Ports of Globalisation,*

Places of Creolisation. Nordic Possessions in the Atlantic World during the Era of the Slave Trade, ed. H. Weiss (Leiden: Brill, 2016), 280–305, 288–92.

10 Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History 1400–1900* (Cambridge: Cambridge University Press, 2002), 2–3.
11 Karwan Fatah-Black, "The Usurpation of Legal Roles by Suriname's Governing Council, 1669–1816," *Comparative Legal History* 5, no. 2 (2017): 243–61.
12 Rasmus Sielemann, "Governing the Risks of Slavery: State-Practice, Slave Law, and the Problem of Public Order in the 18th Century Danish West Indies," *Political Power and Social Theory* 33 (2017): 81–108.
13 Natalie Zemon Davis, "Judges, Masters, Diviners: Slaves' Experience of Criminal Justice in Colonial Suriname," *Law and History Review* 29, no. 4 (2011): 925–84.
14 See, for instance, Jordaan, *Slavernij en vrijheid op Curaçao*.
15 NL-HaNA, WIC, 1.05.01.02, inv.nr.*216, 217*.
16 NL-HaNA, WIC, 1.05.01.02, inv.nr.*217*, interrogation Christoffel, 13 February 1740.
17 Ibid., interrogation Jamais, 2 July 1739.
18 Ibid., interrogation Tjico, 7 July 1739.
19 Ibid., verdicts Christoffel, Jamais and Tjico, 7 October 1740.
20 Ibid., Fiscaal's demand for punishment against Tjico and Jamais, without date; Letter from the Council to fiscaal concerning the case against Tjico and Jamais, 7 October 1740.
21 Linda M. Rupert, "Marronage, Manumission and Maritime Trade in the Early Modern Caribbean," *Slavery and Abolition* 30, no. 3 (2009): 361–82, 364–66.
22 J. A. Schiltkamp and J. Th. de Smidt, J. Th. eds., *West Indisch plakaatboek: publikaties en andere wetten alsmede de oudste resoluties betrekking hebbende op Curaçao, Aruba, Bonaire 1638–1782* (Amsterdam: S. Emmering, 1978), vol. I resolution #52 (1693, repeated in 1699).
23 Ibid., #69 (1710).
24 Ibid., #88 (1714).
25 Ibid., #162 (1742, repeated in 1743 and 1744).
26 Jordaan, *Slavernij en vrijheid*, 171–73.
27 Schiltkamp and De Smidt, *West Indisch plakaatboek*, #204 and #205 (1748).
28 Bram Hoornhout and Thomas Mareite, "Freedom at the fringes? Slave flight and empire-building in the early modern Spanish borderlands of Essequibo-Venezuela and Louisana-Texas," *Slavery and Abolition* 40, no. 1 (2019): 61–86, 65–71.
29 Schiltkamp and De Smidt, *West Indisch plakaatboek,* #215 (1750).
30 Ibid., #67 (1710).
31 Ibid., #65 (1710).
32 NL-HaNA, WIC, 1.05.01.02, inv.nr.*217*, Verdict Cupido, 22 May 1737.
33 Ibid., interrogation Jantje, 31 August 1740; Verdict Jantje 14 October 1738; Verdict Jantje 7 October 1740.
34 Schiltkamp and De Smidt, *West Indisch plakaatboek*, #290 (1767).
35 Jordaan, "Free Blacks and Coloreds," 68.
36 NL-HaNA, WIC, 1.05.01.02, inv. nr. *216*, Verdict Souka and verdict Juan Domingo, 6 November 1731.
37 Ibid., Verdict Barkentijn, 11 October 1736.
38 Jordaan, *Slavernij en vrijheid*, Chapter 2; Rupert, "Marronage, Manumission and Maritime Trade," 367; Jessica Roitman, "A Mass of *Mestiezen, Castiezen, and Mulatten*: Contending with color in the Netherlands Antilles, 1750–1850," *Atlantic Studies* 14, no. 3 (2017): 399–417, 403.
39 NL-HaNA, WIC, 1.05.01.02, inv. nr. *216*, Verdict Anica.
40 Schiltkamp and De Smidt, *West Indisch plakaatboek*, #143 (1740).
41 Pepijn Brandon, "Between the Plantation and the Port: Racialization and Social Control in Eighteenth-Century Paramaribo," *International Review of Social History* 64 (2019): 95–124, 118–19.
42 Schiltkamp and De Smidt, *West Indisch Plakaatboek*, #67 (1710).

43 Ibid., #97 (1720).
44 NL-HaNA, WIC, 1.05.01.02, inv. nr. *217*, Witness statement Juantje Metselaar, 7 June 1741; Surgeons' statement, 7 June 1741.
45 Ibid., Publication, 7 June 1741.
46 Dances or festivities.
47 Schiltkamp and De Smidt, *West Indisch plakaatboek*, #150 (1741).
48 Jordaan, *Slavernij en vrijheid*, 109. Jordaan states that no other source mentions the Birosi or Japans.
49 Schiltkamp and De Smidt, *West Indisch plakaatboek*, #150 (1741).
50 NL-HaNA, WIC, 1.05.01.02, inv. nr. *217*, First, second and third 'edicate citatie,' respectively 10 August 1741, 3 October 1741 and 6 February 1741; Verdict Codjo, 11 July 1742.
51 Ibid., inv. nr. *216,* Verdict Juan, 15 June 1730.
52 Ibid., inv. nr. *217,* Report Dianora, 9 November 1742; Doctor's statement, 30 September 1742.
53 Ibid., Verdict Juan Pedro, 13 November 1742.
54 NL-HaNA, WIC, 1.05.01.02, inv. nr. *216,* Verdict Louis, 5 March 1734.
55 Ibid., inv. nr. *217*, Report Aletta van Thielen, 1 November 1732; Witness statement Michiel Nerom, 3 November 1742; Witness statement Miss dela Maniere and Jaquez Bera, 6 November 1742; Verdicts Agietje, Lucresia and Grasie, 8 January 1743.
56 For example: ibid., inv. nr. *216,* Verdict Jan Amsterdam, 1 August 1732.
57 For example: ibid., Verdict Pierre Bernard and Germain Andie and Arnegon, 1 August 1732.
58 Ibid., Verdict Hans Jurgen, 25 May 1735.
59 Sophie Rose, "Authorities' Responses to Violence Against Enslaved Africans: Comparisons Between Eighteenth-Century Curaçao and Berbice," *Basiton: Working Papers on Slavery and its Afterlives* 1, no. 2 (2020): 15–19.
60 Schiltkamp and De Smidt, *West Indisch plakaatboek*, #133 #134 (1738) and #155 (1741).
61 NL-HaNA, WIC, 1.05.01.02, inv. nr. *71*, Letter from the Heren X to Governor Juan Pedro van Collen, 20 May 1738.
62 Jordaan, "Free Blacks and Colereds," 68.
63 Zemon Davis, "Judges, Masters, Diviners: Slaves," 941.
64 Elisabeth Heijmans, "Controlling Slave Owners in 18th Century Curaçao: A Dutch Atlantic comparison," *Basiton: Working Papers on Slavery and its Afterlives* 1, no. 2 (2020): 8–14.
65 Zemon David, "Judges, Masters, Diviners," 946–59.
66 Bastiaan van der Velden, *Ik lach met Grotius, en alle die prullen van boeken. Een rechtsgeschiedenis van Curaçao* (Willemstad: CARIB Publishing, 2011), chapter 10.
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6

INDIGENOUS POPULATIONS AND LABOR IN THE DUTCH COLONIAL EMPIRE – THE EXAMPLE OF THE CAPE AND THE GUIANAS

Rafaël Thiebaut

Introduction

At the Dutch Cape Colony in 1761, *knecht* Johan Spring in 't Veld ordered two Khoisan, Adriaan and Cobus, as well as a slave named Hermanus to plow the land, even though it was a Sunday. The latter criticized the fact that they had to work on a day when they normally rest and received support from Adriaan and Cobus. This infuriated the European *knecht* who grabbed his musket and shot Hermanus who fell dead to the ground.[1] This case underlines the fact that the Khoisan, the indigenous African population of the Dutch Cape Colony, of free status, worked alongside imported slaves in similar conditions. To what extent can we suppose that their treatment bore similarities with other colonial societies dominated by Europeans?

The Dutch Colonial Empire of the Early Modern Age extended from the Americas via Africa to Asia. The Dutch, like other Europeans, installed themselves in these regions, taking with them diverse institutions from the Seven Provinces. At the same time, they mimicked practices that were introduced by the Iberian powers, like the institution of chattel slavery and the transatlantic slave trade, which was indispensable to develop most colonies, which lacked sufficient labor force.[2] So slaves were introduced from different regions, often far away, to work on the land. Yet, at the same time, a free indigenous population subsisted in the shadow of these slave societies. This created a heterogeneous population that lived under one colonial government. The Dutch had to find a way to manage this diversity in an effective way.

Historiography has studied extensively the diversity within colonial societies and the role of labor in these social relations.[3] The Dutch Colonial Empire has been no exemption with historians covering important colonial settlements like Batavia, Colombo, New Amsterdam, Paramaribo and Cape Colony.[4] Here, the top-down relationship between colonizer and colonized has received more attention than the

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horizontal social exchanges that existed between social groups whose coerced labor was used in a similar way. Also, the labor role of these indigenous populations is often omitted, while historians focused on their political and economic roles. Little is known about the interactions between free indigenous populations and imported servile people. What was the role of the colonizer in controlling these individuals of different origins, ethnicity and status?

A comparative approach to the phenomenon of diversity within different Dutch colonial societies is also lacking. The Indian Ocean and the Atlantic World, both dominated by different Dutch political entities, the VOC for the East and the WIC and other trading societies in the West, are still largely treated as separated worlds. One of the points of debate concerns how diversity was regulated in both regions, opposing the preponderance of Dutch-controlled plantation slavery and the racialization of colonial societies in the Atlantic against the heterogeneous diversity and openness of the Indian Ocean World.[5] Building on the recent historiographical trend partially refuting this dichotomy, the Resilient Diversity research project made an important step toward a comparative approach to social history between different Dutch colonies.[6] As part of this project, this chapter will analyze the developments that occurred as Europeans organized diversity from a labor point of view. To this end, it will compare two examples taken from the Dutch Colonial Empire: the Dutch Cape colony and the Dutch Guianas: Suriname, Berbice, Demerara, and Essequibo.[7]

Ever since Richard Elphick and Hermann Giliomee edited *The Shaping of South African Society, 1652–1840*, the social history of the Dutch Cape Colony has received important attention, also thanks to the accessibility of archival documents.[8] Following this publication, a whole generation of South African historians like Nigel Worden, Nigel Penn, Robert-Heinz Shell, Robert Ross, and Susan Newton-King all contributed to a better knowledge of the social history of the Cape.[9] Their research has given some important reflections on the social and political role of Khoisan over a period of 150 years. Their role as free laborers, alongside slaves, however, lacks recent study.

Amerindian labor in the Caribbean and New World plantation slavery has received even less attention from scholars.[10] Probably also due to the political fragmentation of the region and to the difficulty to access the archives. And research has only exclusively focused on "red slaves" and nearly nothing is known about the work done by free Amerindians.[11] This also applies to the Guiana region. Although Lodewijk Hulsman wrote extensively on this topic, as well as other historians, like Pepijn Brandon, Karwan Fatah-Black, and Alvin Thompson as well as more recently Bram Hoonhout and Marjoleine Kars touched upon aspects of the social role of Amerindians in the Guianas, a thorough comprehension of their labor role in the colonies is still missing.[12]

A comparison between these two regions in studying the pragmatic approach of the Dutch to diversity is an important step forward. These two regions offer compelling case studies to explore the role of labor in the relationship between European

colonizer, indigenous free populations, and enslaved workers brought from overseas. Although situated on different continents, containing different flora, fauna, and inhabitants, as well as being administrated by different entities, both case studies show many similarities: a temporary European presence before the Dutch colonial conquest, presence of sizeable indigenous populations, an economy dominated by agriculture, and governance by Dutch private companies.

Indeed, as slave societies, they faced similar problems to maintain the status quo. The reliance on enslaved workforce and the irregular influx of new captives meant that both colonies were constantly short of manpower. In addition, it was difficult to exert control over the servile population in these socially stratified societies, as the extensive hinterland offered many opportunities for marooning. Finally, there was a permanent fear of revolts as slaves outnumbered white settlers. But, although imported slaves and European planters arrived from overseas,[13] neither the Cape nor the Guianas were *terra nullius* as they were inhabited by indigenous populations.

The latter played an ambiguous role as they held a status distinct from the free and unfree portions of these slave societies. Christoph Strobel, in one of the few works involving the comparison between African and American colonization, analyzes the transformation of the Amerindian and African communities in Ohio country and Eastern Cape due to European expansion.[14] Indigenous populations were seen as a military threat, a political ally, and an economic asset. But the fact remains that Europeans had to cope with their presence in a delicate balance so as to assure the fragile status quo in these far-away lands. His results show the importance of a cross-continental comparative approach, though he largely omits the labor question. This chapter will explore the role of labor in shaping the social status of indigenous populations in the Cape and the Guianas. Indeed, assuring sufficient manpower and maintaining order were crucial elements in ruling these different social groups. The need to respond to the day-to-day realities of these slave societies meant that pragmatic local solutions were required that could diverge with metropolitan rules. This chapter analyses how the social status of indigenous populations changed over time, through changing social situations and with the importation of a servile workforce and political dominance by the Dutch.[15]

This will be done both on a macro level, by analyzing the measures taken by the colonial authorities to manage these free and servile populations, and on a micro level, by studying the day-to-day practices of their co-existence. Local ordinances, or *plakkaten*,[16] were issued by Dutch colonial authorities, often concerning public policy. These show how the local colonial government tried to rule over a diverse population comprising of Europeans, free indigenous populations and slaves of various backgrounds. Another important source consists of court records from the Dutch Guianas and from Cape Colony. Though both were compiled by the ruling class, they offer a view into the daily living and working conditions of the colonized. Together they provide a unique insight in Early Modern Dutch colonial rule.

The chapter starts with a short context of the Dutch overseas possessions in question, then analyzes the role of the Amerindian and African free indigenous

populations within these colonies. Thirdly, it explores their working relations within these regions and their relations with the other workers. Finally, it shows the changes that occurred in respect to the status of autochthones as free laborers.

Context of the Dutch colonization in cape colony and the Guianas

Both regions were initially sites of temporary European presence before becoming Dutch colonial possessions. The Cape Colony started as a refreshment stop for English and later Dutch ships *en route* to and from the East Indies. In the first half of the seventeenth century, contacts with the indigenous African inhabitants, the Khoisan, remained limited to the barter of cattle. Khoisan is the generic name for the Khoikoi, herders, and San, hunter-gatherers, respectively called *Hottentotten* and *Bosjesmannen* by the Dutch.[17] The Khoikoi's silvo-pastoral communities had been living off cattle and sheepherding in the Western Cape. While being reluctant to exchange their precious livestock, they were interested in tobacco, copper, and iron provided by foreign merchants.[18] At the Cape, the Dutch, eager to assure a continuous trade and better control the prices of cattle, decided to settle there under the command of Jan van Riebeeck in 1652. The goal was to develop agriculture in wheat and wine as well as livestock as cheaply as possible for passing VOC ships.

During the same period, Europeans explored the coast of Guyana and engaged in limited trade with the Amerindians, especially the Kalina.[19] The latter were interested in ironware and textiles, which were exchanged for tropical products like cacao, tobacco, indigo, letterwood, balsam copaiba, and annatto.[20] Nevertheless, this volatile trade situation changed in the middle of the seventeenth century, and in 1651, the trading posts that the English had created on the Paramaribo River were converted into sugar plantations modeled on the European slave societies of the Caribbean. During the Second Anglo-Dutch War, in 1664, the Dutch took Suriname by force.

While Cape Colony was governed by one institution, the Dutch East India Company, the Dutch Guianas were divided in four distinct colonies, each governed differently. Berbice and Essequibo were founded respectively in 1627 and 1616. Essequibo was governed directly by the Dutch West India Company or WIC, and Berbice was ruled from 1720 by the *Sociëteit van Berbice*. This society was created by rich Dutch entrepreneurs similarly to the *Sociëteit van Suriname* some 37 years earlier. These societies were private colonial enterprises that organized and ruled these territories with as goal to make profit. They were granted the right to issue legislation, which all inhabitants had to comply with. Demerara became a separate colony from Essequibo in 1745, and was mostly settled by English planters from Barbados and Jamaica. Essequibo and Berbice remained very modest colonies in plantation slavery terms: a couple of thousand slaves each at most.[21] Both the Dutch

Guianas and Cape Colony remained in Dutch hands until the Republican and Napoleonic wars.

Violence was common during the first decades of Dutch presence in both regions. At the Cape colony, it took three Dutch-Khoikoi wars for colonial authorities to install themselves durably in the area as the dominant political and commercial actor. Up to the 1680s, the Dutch authorities in Paramaribo fought against the Kalina people, who were finally forced to make peace. From then on, relatively stable coexistence between colonizers and indigenous populations was effective, with the Dutch preventing these local communities from growing too powerful.[22] The terms of peaceful coexistence were different in both regions. While the Amerindians seem to have been treated with caution, the Africans at the Cape were forced to either submit to Company rule or leave.[23] Indeed, their lands were simply taken over by the Dutch on their eastward expansion, while land that was in the possession of the Amerindians could theoretically only be obtained through cession or purchase. They retained the right to settle, hunt, and fish anywhere they wanted and could live according to their own laws, customs, and systems of justice.[24] One of the reasons that explains the greater need for cooperation in the Guianas, which contrasts with the Cape, is the lack of a solid European population and the presence of tropical diseases.

Dutch territorial expansion was essential in the role of the indigenous population vis-à-vis the European colonizer. As more land was colonized, and the imported number of slaves lagged behind, the economic development of the colony was hindered. Private planters were regularly complaining about the lack of manpower. Development was also hampered by an important number of runaway slaves. Indeed, territorial expansion and marooning went hand in hand as the more distant from the seat of power, the more difficult it was to control the servile population without help from the indigenous population.

While both the Amerindian and the Khoisan populations were demographically quite substantial, this changed over time. At the Cape, the indigenous population was more and more driven to the outskirts of the colony. The smallpox epidemic of 1713 killed many Khoisan, but at the end of the century, it is estimated that the Khoisan still made up half of the population inside VOC-controlled territory or more than 20,000 individuals.[25] The Amerindians must have numbered more than 100,000 before the arrival of the Europeans in the Guianas, and they remained a majority among the free population in most of the Dutch Guianas, numbering more than 5,000 in Berbice for example against only a few hundred Europeans.[26] In comparison, at the end of the eighteenth century, slaves numbered around 15,000 in Cape Colony and some 10,000 in Essequibo.[27]

The indigenous population was thus demographically important and was considered a potential labor force. In both the Guianas and the Cape, the Dutch struggled to determine how to make use of these laborers without forcing them. Their legal status within these social stratified societies was both essential and subject to change for the benefit of the colonizers.

Legal status

In these Dutch colonial possessions, under Roman-Dutch law, slavery was institutionalized. In these colonies, governed by local colonial authorities, the status of the indigenous population was problematic for the Dutch. Indeed, they often lived outside of the effective colonial control and the political boundaries of the colonies changed regularly. At the Cape Colony, the land of the Khoisan was gradually absorbed by the expanding colony to the north and east. As a result, the Khoisan were either pushed eastward and northward or forced to live in VOC-controlled territories.[28] The situation was different on the coast of Guyana, where the territorial power of the Dutch did not go beyond the riverbed. Consequently, the majority of the Amerindians remained outside of the Dutch legal system. This made their legal status when interacting with this system ambiguous at best.

The imposition of Dutch legal authority in these regions was a gradual, unplanned process. The Dutch were not really interested in ruling indigenous populations, but preferred controlling their leaders.[29] Thus, generally speaking, both groups could exercise justice among their own subjects, but if there was a conflict between the members of different groups, the Dutch justice system took over. This was especially the case in the Cape during the eighteenth century as Khoikoi political power was mostly absent. The Khoisan were convicted by Dutch courts but often through their own customs.[30] The important exception was their protection against Dutch enslavement and maltreatment. For the rest, their legal status remained fluid and ambivalent, though different from slaves and free Europeans. For example, Khoisan who killed a European would receive a particularly severe capital punishment, while Europeans who killed members of the former groups would be punished with banishment and confiscation of their property.[31]

Thus, the legal conception of real frontiers was blurred, creating an important gray "frontier" zone; some kind of no man's land where compliance with existing bylaws was impossible to enforce as political power was slim.[32] Amerindians were clearly in a more privileged situation than the Khoisan. In case of maltreatment, they could retreat to the interior, which was much more difficult for the Khoisan as their lands were absorbed by the Dutch.[33] In Suriname, for example, the Amerindian population enjoyed total autonomy, being exempted from the "pass" system[34] and they had the right to settle anywhere in the colony. As such, they were the only social group that remained outside of the scope of the Governing Council of Suriname.[35]

Legally, the Dutch prohibited the enslavement of indigenous inhabitants. Both the VOC and the WIC wanted to keep up peaceful terms with them.[36] Indeed, the Dutch rulers feared that the enslavement of indigenous populations would eventually be counterproductive. One important difference: Amerindian slaves existed, while Khoisan could under no circumstance be enslaved by the Dutch. This difference can be seen in locally written documents: in Guyana, they speak of *vrije bokken* or *indianen*, as opposed to *rode* or *indiaanse slaven*. The former category denoted

certain groups of Amerindians, like the Arawaks, Kalina, Waraus, and Akawaios, who were living nearby enough to pose a threat to the colony, and who for that reason were protected against enslavement in theory.[37] At the Cape, where unlike in the Guianas, slavery was uncommon prior to the arrival of the Europeans, mention is only made of *Hottentotten* or *Bosjesmannen*.

From the beginning of European settlement in the Guianas, Amerindian slaves played a crucial role as labor force that would be taken over by imported slaves of Africa during the eighteenth century. While enslaving Amerindians was prohibited in theory, the multiple repetitions of the legislation imply that it was not always respected. For example, a 1793 *plakkaat* stated: "that no Person or Persons whatsoever shall be permitted in these Colonies either to Purchase, Possess or treat as Slaves any of the Free Indians of this Country".[38] It was reissued in 1808. Nonetheless, the use of Amerindian slaves by the Dutch remained authorized and desirable in food agriculture; though they were considered unsuitable for heavy work and most of them seem to have been women involved in domestic tasks.[39] And the Dutch themselves could not enslave the Amerindians but only buy them from local merchants, though this phenomenon was of little economic significance and heavily regulated.[40] The number of Amerindian slaves declined after 1686, becoming negligible by the end of the eighteenth century, though the slave trade, mostly by the Kalina, never completely stopped.[41]

The social status of these indigenous populations was largely outside colonists' control and changed over time. The – near – absence of enslavement of indigenous populations forged the exchanges that existed between the colonizer and these communities. However, in what measure did the Dutch make a real distinction between slaves and indigenous laborers? The Khoisan, for example, though a heterogeneous category, were all treated alike; only at the end of the eighteenth century did distinctions start to be made between different ethnic groups.[42] In Suriname, the Dutch obtained peace with indigenous populations especially through banning enslavement of specific Amerindian groups, while others continued to be subject to servitude among the Dutch.[43]

While diversity in most colonies was complicated, with race and social status going hand in hand, racial stratification in the Guianas and the Cape Colony was even more complex than in the Caribbean slave societies. Indeed, the free Khoisan were African, though different from the wide variety of ethnicities, including Malagasy, Indian, Malay, that composed the slave population at the Cape. At the same time, the Dutch enslaved some Amerindians, and colonists may not always have been able to distinguish a free from an unfree Amerindian. This gray zone was prone to confusion and abuse, and even for the administrators, it was often difficult to make the legal difference between these social groups. Although thousands of slaves were introduced in both the Guianas and the Cape Colony, the need for labor remained important, making these indigenous populations a possible labor force.

Contacts between the Dutch and the indigenous populations

Trade for food was initially the most important type of contact between the Dutch and indigenous populations of the Cape Colony and the Guianas but this gradually changed. The Dutch, from their first arrival, heavily regulated trade with Khoisan – and later Xhosa – especially concerning cattle or alcohol.[44] Trade was even banned in 1700, because of the bad treatment of the Khoisan, who were often beaten and stolen from, which led to Khoisan retaliations through violent raids on the outer Dutch settlements.[45] Trade was reopened in 1707 up to 1727 when it was again banned for the rest of the century due to violence in this "free for all" competition.[46]

Dutch trade with Amerindians in the Guianas continued to be important throughout the first half of the eighteenth century, and became increasingly regulated. In 1714, for example, trade in slaves, annatto (a condiment), and copai balsam was prohibited.[47] Some 70 years later, in the case of Suriname, all trade with free Indians was illegal, unless the trading goods were shown to the governor.[48] This was probably linked to the violence that the Amerindians experienced from the European traders. This trade dwindled from the middle of the eighteenth century and remained limited to a local, strictly controlled, trade.[49] The contact between Europeans and indigenous populations was often a theater of violence, even after the wars ended well before 1700. It mostly involved individual planters and farmers eager to obtain advantageous trading relations with these groups. Maltreatment of indigenous people was also an important issue; we see dozens of *plakkaten* against this in Suriname, Berbice, Demerara, and Essequibo.[50] Similarly, bad treatment of the Khoisan was prohibited from the first *plakkaat* issued by Jan van Riebeeck in 1652.[51] Despite this legislation, incidents remain a recurrent problem. In 1658, for example, the Khoisan complained about a Dutchman, Jan Reijniersz, who used force to take goods from them.[52]

While political military action was largely absent during the eighteenth century, the settlement of freeburghers as farmers in the Cape frontier made individual violence between European and indigenous people inevitable. The Dutch authorities tried to control this by placing a continuous restriction on the trade in guns and powder.[53] There was also a constant fear of the Amerindians, which is why Whitehead states that "trade in 'red-slaves' was an intermittent affair of little economic significance, but of persistent political concern".[54] This was not the case for the Khoisan in the Cape Colony, as most of their military resistance was crushed with the outcome of the last Dutch-Khoikoi War (1674–1677) and was completely exterminated in the Western Cape by 1740.[55] The encounters between Dutch and indigenous populations have thus been a mix of violence and trade during the seventeenth century, before becoming more regularized from the eighteenth century in both regions. Peaceful coexistence was achieved in most cases though the "frontier zone" remained out of the Dutch authorities' grasp due to its continuous shift.[56] Still, through bylaws, the Dutch authorities in the Cape tried to protect the indigenous populations from abuse, especially in the Cape where the numerous sailors and

soldiers passing did not distinguish African slaves from free Khoisan, as well as against Dutch farmers in the interior where more Khoisan were present.[57]

It is important to make a difference here between violence that occurred within de facto Dutch territory and the frontier zone. As such, the Khoisan, who were both controlled and protected within Cape territory could be attacked by Dutch farmers within this frontier zone.[58] Or Khoisan could form a threat to the latter: in 1787, the Cape authorities were anxious about the growing number of vagabond – unproductive – Khoisan that formed stealing gangs.[59] But the frontier zone shifted, especially with the ever-expanding boundaries. Amerindians who resided close to plantations often worked there and were vulnerable to abuse; others could be robbed of their trade items.[60] There are multiple examples of complaints to the governor from the Amerindians about bad treatment.[61] For instance, in Essequibo, where in 1789, the *posthouder* – a Dutch resident administrator who manned trading forts along the inland going river – Daniel Sternbergh and his assistant were murdered by the Akawaios. The latter had repeatedly complained that the *posthouder* had taken their trading items without payment and that he would not remunerate them for the woodcutting they did.[62]

Work in service of the Dutch

Within the Dutch Empire, the question of labor requirements was resolved by state measures, most importantly through the importation of slaves.[63] It is interesting to see that the Dutch did not allow for readily available labor sources to be exploited, as did the Portuguese who had indigenous populations perform labor on large scale or engaged in the military apparatus of the colony.[64] Instead, the Dutch relied primarily on an imported servile population for all manual labor and more. In the Guianas, those came in large numbers from West Africa via the transatlantic slave trade. During the eighteenth century, more than 700 slaving expeditions took place, accounting for more than 200,000 slaves transported toward the Dutch Guianas.[65] The majority worked on plantations. At the Cape, the slaves came from many different places in the Indian Ocean World: Madagascar, Mozambique, Malabar, Bengal, and the Malay Archipelago, among others.

Despite this costly and extensive transport of enslaved workers, the Dutch were still chronically short of labor. Therefore, the Khoisan and the Amerindians were involved in multiple services for the Dutch, as both free and enslaved colonial populations were not numerous enough to fill the gap. Where Khoisan were considered expert cattle herders, Amerindians were seen as excellent fishers and woodcutters.[66] Furthermore, both Amerindians and the Khoisan were employed in recovering runaway slaves and thus maintaining the slave society.[67] Indeed, the extensive hinterland and the isolated plantations made that many slaves marooned and some were successful in creating permanent maroon societies in inaccessible terrain. Besides rewards, called *premies*, for returning *drosters*, another motivation for the local populations

to hunt marooned slaves was the threat they could pose to them.[68] Indeed, violent conflicts could arise between maroon communities and Amerindian villages. The importance of Amerindians in recovering runaway slaves in the Guianas is great: most court cases where Amerindians are mentioned concern their *premie* for capturing maroons.[69] In one case, they return as many as 26 slaves at once.[70] Khoisan were also regularly employed to recover runaway slaves, but their success was more limited.[71]

Besides recovering runaway slaves, both the Amerindians and Khoisan had a military alliance with the Dutch. This meant that when the colony was threatened by a European enemy, they could be summoned to arms.[72] The Kalina, for example, assisted the Dutch in defending the settlements against foreign European aggression. Another example is the 1763 Berbice slave revolt, which was made possible because a good number of Amerindians had left the region due to an epidemic. They later assisted the Dutch to recover the colony from the revolted slaves.[73] At the Cape, the Khoisan composed two-thirds of the Dutch armed forces that clashed with the British at the Battle of Muizenberg in 1795.[74]

Demographically the Amerindians were only surpassed by African slaves in the last quarter of the century and especially in Demerara and Suriname. Amerindians formed 6% of the slaves in Berbice in 1762, and in 1788, for example, Essequibo counted 120 Amerindian slaves against 9,558 African captives or some 1%.[75] The court cases from Suriname are nearly silent on Amerindian slaves, implying that there was only a low number of them: only one court case against an Amerindian slave called Frans was found.[76] He went with his *baasje*, the mulatto Semboë, in a *corjaar* to the plantation Dijkveld to get some bananas but, without having the proper authorization, he was accused of marooning. Indeed, marooning by Amerindian slaves was also an important problem due to the extensive hinterland: in 1726, twenty-three slaves of Pieter La Rivière, all Amerindians, escaped.[77]

Free Khoisan worked from the very beginning for the Dutch, mostly as herders or to carry wood and water.[78] The expansion of the Cape Colony to the interior destroyed the social system of the Khoisan as well as their independent existence.[79] Thus, they were often employed in grain and wine agriculture; especially during the grain harvest, many Dutch farmers hired Khoisan.[80] In general, Khoisan workers were fairly numerous, particularly before the eighteenth century when the number of slaves was relatively low.[81] Territorial expansion embraced more indigenous labor. Indeed, slaves were more difficult to control in isolated frontier districts, and there was a greater availability of Khoisan.[82] Worden argues also that Khoisan laborers were an economically more viable labor force.[83] A census from 1806 indicated that more than half of all the farms included both Khoisan and slaves as laborers.[84]

Contrary to the Khoisan in the Cape, free Amerindians did not seem to be generally employed for agricultural work on plantations. The Amerindians were often hired to hunt and fish for individual planters and clearing land for planting as well as rowing were other standard occupations.[85] Notably, Berbice had an important

Arawak and Warau population who often resided close to plantations to work. The Dutch encouraged these indigenous populations to settle close to them, especially at the outposts where their services were required.[86] The *posthouder* in Maroco (Essequibo) was summoned to salve goods from a landed ship "with all his Indians" while in another case, they were employed to cut a path.[87]

The taxation of employees, both free and unfree, on plantations is another indication of indigenous labor. Berbice planters were required to pay a head tax for each plantation worker – free or enslaved – but not for fishermen, hunters, *et cetera* who were considered independent workers.[88] These seem to have been mostly temporary jobs, though some Amerindians worked on plantations on a more permanent basis and the Dutch tried to encourage this.[89] In 1730, in Essequibo, instructions for plantation directors of the WIC insist on the good treatment and reasonable remuneration of free Indians to encourage them to work on the plantations.[90] This practice existed in French Guyana and there is no reason why it would not have been used in the Dutch Guianas.[91]

It appears that the colonial organization of the Dutch at the Cape at the end of the eighteenth century was better consolidated than was the case in the Guianas. This can be explained by the larger European population and the territorial expansion that absorbed the Khoisan communities which limited the threat they could pose to the Dutch colonizers. And those who lived in the continuously shifting frontier were vulnerable to local farmer settlements. In the Guianas, the dependence of the Dutch on indigenous groups to safeguard the colonial system seems to have been more important than at the Cape. Indeed, Bram Hoonhout underlines an "interdependence" between the two groups, the Amerindians on trade, and the Dutch on military assistance.[92] However, the local colonial authorities in the former had considerably more difficulty contracting Amerindian assistance than colonists in the Cape, who could more easily count on the Khoisan in this respect, first voluntarily and later through coercion.

Working relations

We have seen that the indigenous free population was employed as laborers on different occasions to assist both the Dutch authorities as well as private planters and settler farmers in their work. They did this often alongside unfree laborers, slaves, who were the backbone of the agricultural economy of both the Guianas and the Cape. But what was the reality of their status vis-à-vis unfree laborers? And how did they perceive their situation? For this, I use court cases that bring to light the working conditions of these free workers in a slave society, in order to explore the relationship between indigenous free laborers and other workers, notably slaves as well as their overseers.

In the Cape, most of the Khoisan were employed in agriculture and especially in pastoralist tasks on the frontier farms where the need for labor was the highest because of their expertise in herding, the low number of slaves and the difficulties to control

the latter. On these farms, slaves and free Khoisan lived and worked alongside each other.[93] Most of the time, both had a European overseer, called a *knecht*. And while in theory, Khoisan had the same freedom and legal status as Europeans, in practice their treatment was more akin to that of slaves. In one case, Jean de Thuillot, suspecting his slave Andries and the Khoisan worker Kaffer from stealing, beat them both to death.[94]

The case of Johan Spring in 't Veld at the beginning of this chapter showed the solidarity between Khoisan and slaves. This is also evident in other events as maroon societies could contain both slaves and Khoisan. And Swedish explorer Anders Sparrman, for example, witnessed a "drinking fest" in the frontier zone, involving a Khoisan servant, a European vagabond, a Bastaard-Hottentot, and a slave.[95] Even though they shared the same living and working conditions, there was not always the same solidarity. In 1724, on the farm of Barend Buijs, the slave Andries van Ceijlon was often insulted and mocked by the Khoisan worker Pieter. When Andries was beaten by his master for stealing wine, he suspected Pieter of having betrayed him. When Pieter came to him to make fun of him as he was in tears for the physical pain, the enslaved man attacked Pieter with a knife and left him for dead.[96]

This example suggests that although slaves and Khoisan often lived and worked together, differences in legal status and treatment resulted in frictions and sometimes violence.[97] Indeed, Khoisan defended their free status, which could come in conflict with the servile status of slaves, especially when slave *mandoors* – overseers – were used to oversee the work of hired Khoisan laborers.[98] This was the case in 1735 when the enslaved man Titus was appointed overseer by his master Adriaen Louw to supervise three Khoisan herders named Varken, Toontje, and Ruijter. This overseer behaved brutally against Varken and Toontje, beating them continuously. Possibly compounded by anger concerning the free status of the workers and the servile status of the overseer, Varken and Toontje resolved to kill him in getting their revenge.[99]

A key factor differentiating slaves from Khoisan was the fact that the latter could simply leave their employers. This is shown in a court case from 1763 where a certain Catherina Strang exercised a real reign of terror on her farm, leading to the death of multiple slaves and inciting all adult Khoisan to leave the farm.[100] Unfortunately, we lack the same sources about Amerindian free laborers working alongside slaves. It does not seem that many free Amerindians worked alongside African slaves on Guyanese plantations, as they were seen "unfit" for this work and "had the greatest aversion" to it.[101] Maybe also because they associated this type of work with slavery and had other ways of sustain their lives through fishing and temporary jobs. Nonetheless, free Amerindians certainly interacted with plantation life: in one court case, a free Amerindian shot and killed a slave on plantation Rustveld.[102] Unfortunately, we do not know the exact reasons for this incident.

Between free and unfree

There was only a thin line between free and unfree for the indigenous population. Indeed, forced labor by the free indigenous people was a real concern. One

lawsuit from 1750 Suriname draws particular attention: Johanna, a free Amerindian woman, living among Amerindians, went to Paramaribo. The family Schoorman had their live-in Amerindian servant Kakani lure Johanna into their house under false pretenses, and Schoorman tried to enslave her. As a result, Johanna's husband, a free Amerindian named Coupa, pressed charges with the governing Council, and it soon became apparent that this incident was only one of the many complaints the Council had received about the Schoorman couple. They were also accused of abuse, theft, and blackmail by other – Amerindian – litigants. Johanna was finally liberated by a free Amerindian woman, who saw her entering the house of Schoorman.[103] The threat of enslavement was indeed real in the practice of the Guianas. In 1736, a white settler had taken a daughter from a free Amerindian, which he had hit during a confrontation. The white man threatened to enslave his children and "he still keeps the daughter as a slave with him". This much displeased the father, but the planter argued that he had endured much damage due to the delays that occurred in his works for which he had hired Amerindians.[104]

In the Cape, Khoisan were generally free. But the situation was not that clear in the "frontier zone". In practice, it was up to the negotiations between the individual European and indigenous laborers that the labor contract was agreed upon. In case of bad treatment on farms or non-payment, they could in theory simply quit their service and leave.[105] But there was no real legal protection against abuse.[106] Most importantly, they could not quit before the end of their contract. In one case, a Khoisan left the service of his master before the end of his time and he was captured by the slaves of his master, and taken back to him. Unfortunately, we do not know how the story ends.[107] However, often disgruntled Khoisan workers would form raiding bands, roaming the countryside.[108]

But it is clear that Khoisan were no equals to Europeans. And over time, through local bylaws, the Dutch controlled more and more the freedom of the Khoisan mostly due to the need for labor. Indeed, Dutch farmers often complained about the lack of laborers.[109] Shell indicated that this, combined with the expansion, brought more and more tension between white settlers and Khoisan.[110] Therefore, we see more and more cases of coercion where the only difference between slaves and Khoisan workers was the fact that the latter could not be sold. It became more and more common for them to receive no payment, receive corporal punishments and be bound to the land.[111] This intensified in the 1780s with the economic depression in the Cape: from 1787, they even had to register and could not freely move without presenting a pass, as had already been the case for slaves since 1709.[112] According to Elizabeth Eldredge, this was done to meet the labor shortfall.[113]

In one court case, taking place in 1793 around Swellendam, far from Cape Colony, eight Dutch *vrijburgers* captured an entire community of Khoisan, enslaving the women and children and torturing the men, whom they accused of planning to murder Christians of the area. The Cape authorities strongly condemned their actions and started a judicial procedure against the Dutchmen.[114] However, by this time, the VOC authorities could not impose their authority on the frontier, creating a zone

where the will of the famers was law.[115] As a result, the Dutch farmers would and could perform raids on indigenous populations without much opposition. Under *vrijburger* pressure, a law was passed in 1795 that made the Khoisan community the property of the farmer who captured them and in 1809, the Caledon Code made them serfs to their master's land.[116] Indeed, they could not leave their land without permission, while Amerindians could move around freely in the Dutch Guianas.[117]

One of the recurrent problems in both the Cape and the Guianas was the matter of underage Amerindians or Africans who were born free and were educated by Europeans. It happened that they were subsequently held in a state of quasi-slavery even if authorities tried to suppress this practice. The aforementioned court case from 1736 mentions a white settler threatening to enslave the children of a Free Amerindian and keeping his daughter as a slave.[118] At Berbice, a *plakkaat* of 1750 indicates that these underage Amerindians have to be released upon adulthood.[119] In Dutch Cape colony, this concerned especially the *Bastaard-Hottentotten*, children of male slaves and female Khoisan. While born free, in practice, they were often obliged to work on the farm they were born up to the age of 25. This was instituted in 1721 and legally framed in 1775. The confusion between slaves and *Bastaards* was widespread: in 1752, for example, the enslaved April van de Caab run away from his master and took employment on another farm as a free *Bastaard*, until he was recognized by other Khoisan.[120]

Similarities in regulating the indigenous populations include the interdiction to trade firearms with them and the heavy regulations on trade in general and the impossibility for Dutch to enslave either Amerindians or Khoisan. The labor shortage is significant and the wish, especially of the local *vrijburgers*, to be able to force indigenous populations to engage in slave-like conditions on their fields. This led to several court cases and bylaws trying to prevent this. The encouragements from local colonial authorities to treat the Khoisan gently and to incite them to employ themselves were not successful. Nonetheless, over time, the social conditions of the indigenous population in the two regions started to diverge. In the Cape, the colonial authorities and settlers managed to restrain more and more the social rights of the Khoisan; this was never achieved in the Dutch Guianas where the Amerindians remained effectively outside of the grasp of Dutch legal system.

Over time, both the Amerindians and the Khoisan lost their economic independence to European settlers.[121] As their economic survival became more and more linked to agricultural life, the Khoisan were forced to take up quasi-permanent jobs as agricultural workers on Dutch farms. With their working conditions steadily worsening, there was little apparent difference between slaves and free Khoisan after 1770. White colonists often had to engage Khoisan as laborers because work force was scarce and the latter had to accept having no other means to live.[122] Amerindians followed the Dutch expansion to the interior, which took place through the creation of *posthouders*. But Dutch authorities always insisted on the fact that they could not be forced to work and were to be well threated.[123] While the Amerindians

remained mostly in their own communities, the Khoisan were over time completely absorbed by the Dutch.

Conclusion

At the end of the Napoleonic period, the Cape Colony and part of the Dutch Guianas, Essequibo, Berbice, and Demerara – later unified as British Guyana – came into the hands of the British in 1815. Only Suriname remained a Dutch colony until its independence in 1975. Did this change of rule alter the ruling of indigenous populations? It does not seem so. The "pass" system for the Khoisan was abolished in 1828, but reintroduced for the entire black population in the twentieth century. The British seem to have abolished Indian slavery upon their arrival in the Guianas, though cases continue to emerge during the British administration.

Both in the Guianas and at the Cape, though inhabited by culturally and ethnically diverse groups and ruled by different Dutch commercial companies, we see similar attitudes of the Dutch authorities toward the local populations. European relations with both Khoisan and Amerindians were mostly regulated by interdictions of maltreatment and strong regulation of trade with them. However, the strong need for labor, incited by a constant lack of slaves, high marooning rates and regular steady expansion, meant that the employment of free laborers recruited from the local population became indispensable for the economic growth of both colonies. Amerindians assured invaluable services to the Europeans, while without the Khoisan, agriculture at the Cape would have been in a worse state.[124] Therefore, free Europeans and slaves worked alongside a free – and sometimes servile – local population, of whom the status was not always clear. This, among other aspects, created tensions in the workplace.

The local bylaws were adapted to govern and control these diverse populations, but also to encourage them to work in agriculture alongside slaves. In the Cape, the local authorities could go further in this development, and private entrepreneurs in frontier farms definitely went further. Indeed, the territorial expansion of the Dutch absorbed the Khoisan population who became fully incorporated in the Dutch legal system. As such, the security of the colony was assured, and keeping the local populations from being enslaved was no longer necessary. At the same time, the call for labor became more and more urgent. To satisfy both parties, the *enserfment* of the Khoisan appeared during the eighteenth century. By the British takeover of 1795, the difference between a slave and a Khoisan consisted only in the impossibility of selling the latter.

The Amerindians of the Guianas, on the other hand, remained mostly outside of the juridical apparatus of the Dutch authorities. Indeed, the areas of actual political control were limited to the coastline and along the rivers at best. The Amerindians were left to live their own lives, but were nonetheless important as a temporary labor force and could be summoned in case of conflict with other Europeans and against

the maroons. This proved vital in the 1763 Berbice uprising when the Amerindians saved the Dutch colony from a slave revolt.

Diversity in both Cape Colony and the Guianas was organized according to the political security and the economic profit through labor. As such, we can state that, once the political security of the colony was achieved, the rule of labor was decisive in bringing about diversity in these Dutch colonies.

Notes

1 Court case against Johan Spring in 't Veld, 1761. Western Cape Archives [WCA], 1/STB 3/11, Criminele Verklaringen, s.f. Worden and Groenewald 2005.
2 Piet Emmer, *Geschiedenis van de Nederlandse slavenhandel* (Nieuw Amsterdam: Amsterdam, 2019).
3 Ulbe Bosma and Remco Raben, *De Oude Indische Wereld. De Geschiedenis van Indische Nederlanders* (Amsterdam: Bakker, 2003).
4 Remco Raben, "Batavia and Colombo: The Ethnic and Spatial Order of Two Colonial Cities 1600–1800" (Ph.D. Thesis, Universiteit Leiden: Leiden, 1996); J. G. Taylor, *The Social World of Batavia* (Madison: University of Wisconsin Press, 2004).
5 Peter Linebaugh, *The Many-Headed Hydra: Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic* (Boston: Beacon Press, 2000). Matthias van Rossum, *Kleurrijke Tragiek: de Geschiedenis van Slavernij in Azië onder de VOC* (Hilversum: Uitgeverij Verloren, 2015).
6 https://iisg.amsterdam/en/research/projects/resilient-diversity.
7 Indeed, we will address these four colonies as one region, wherever possible. Of course, there are important differences between these, but geographically, economically, and socially, they resembled each other.
8 Richard Elphick and Robert Shell, "Intergroup Relations: Khoikhoi, Settlers, Slaves and Free Blacks, 1652–1795" in *The Shaping of South African Society, 1652–1840*, eds. R. Elphick and H. Giliomee (Johannesburg: Masker Miller Longman, 1979), 184–241.
9 Worden 1985, S. Newton-King, *Masters and Servants on the Cape Eastern Frontier* (Cambridge: Cambridge University Press, 1999).
10 John Whitaker, "Amerindians in the Eighteenth Century Plantation System of the Guianas," *Tipití* 14, no. 1 (2016): 30–43.
11 Fernando Santos-Granero, *Vital Enemies. Slavery, Predation, and the Amerindian Political Economy of Life* (Austin: University of Texas Press, 2009).
12 Martijn van den Bel, Lodewijk Hulsman, en Lodewijk Wagenaar, The Voyages of Adriaan van Berkel to Guiana: Amerindian-Dutch Relationships in 17th Century Guyana. (Leiden: Sidestone Press, 2014).
13 Slaves generally came from the African continent, although Cape Colony also received a sizeable number of Asian slaves.
14 C. Strobel, *The Testing Grounds of Modern Empire. The Making of Colonial Race Order in the American Ohio Country and the South African Eastern Cape, 1770s–1850s* (New York: Peter Lang, 2008).
15 Erik Green, "The Economics of Slavery in the Eighteenth-Century Cape Colony: Revising the Nieboer-Domar Hypothesis," *International Review of Social History* 59 (2014): 39–70.
16 The content of the *plakkaten* was addressed to the Europeans: "free colored inhabitants, bijna geen geleegentheid hebben om zig na het Fort-eiland te begeeven en meestendeels geheel ignorant zijn van de publicatien". Plakkaat of 28.10.1800. National Archives Guyana [NAG], AB3/65, 165–72.
17 Shula Marks, "Khoisan Resistance to the Dutch in the Seventeenth and Eighteenth Centuries," *Journal of African History* 13, no. 1 (1972): 55–80, 55. The two groups are often considered together even though not identical. Ross 2017, XVI.

18 Richard Elphick and V. C. Malherbe, "The Khoisan to 1828," in *The Shaping of South African Society, 1652–1840*, eds. R. Elphick and H. Giliomee (Johannesburg: Masker Miller Longman, 1979), 3–65, 9; Marks 1972, 60–62.
19 More generally known as Caribs.
20 Whitehead 1988, 160–63; Anna Benjamin, "A Preliminary Look at the Free Amerindians and the Dutch Plantation System in Guyana During the 17th and 18th Centuries," *Guyana Historical Journal*, 4–5 (1992): 1–21, 4; Eveline Bakker et al., *Geschiedenis van Suriname van stam tot staat* (Zutphen: Walburg, 1994), 21.
21 Benjamin 1992, 5.
22 Imran Canfijn, "In Search for Justice. Legal and Judicial Inequality in Eighteenth-Century Suriname" (MA Thesis, Universiteit Leiden, 2018), 156.
23 R. Elphick, *Khoikhoi and the Founding of White South Africa* (Johannesburg: Ravan Press, 1985).
24 Karwan Fatah-Black, "The Usurpation of Legal Roles by Suriname's Governing Council, 1669–1816," *Comparative Legal History* 5, no. 2 (2017): 243–61.
25 Worden 1985, 11 & 35.
26 Benjamin 1992, 1.
27 Piet Van Duin and Robert Ross, *The Economy of the Cape Colony in the Eighteenth Century, Intercontinental No.* 7 (Leiden: Centre for the History of European Expansion, 1987), 114–15.
28 Alvin Thompson, "Amerindian-European Relations in Dutch Guyana," in *Caribbean Slavery in the Atlantic World. A Student Reader*, ed. V. Shepherd (Kingston: Ian Randre, 2000), 86–99, 91.
29 Robert Ross, *Cape of Torments. Slavery and Resistance in South Africa* (London: Routledge, 1983), 68–73.
30 Ibid.
31 Ibid.
32 Roitman evokes the banishment of a European jew from Suriname "to live with the free Indians". J. V. Roitman, "Portuguese Jews, Amerindians, and the Frontiers of Encounter in Colonial Suriname," *The International Journal of African Historical Studies* 88 (2014): 18–52, 19.
33 Canfijn 2018, 159; Christoph Schult, "Een noodzakelijk bondgenootschap. De rol van de indianen in de kolonies Essequibo en Demerary, 1770–1800" (MA Thesis, Universiteit Leiden, 2014), 50.
34 The pass system was introduced to limit the mobility of certain social groups, especially slaves. They were prohibited to wander outside of the plantation without a written authorization or pass.
35 Fatah-Black 2017, 244.
36 Marks 1972, 63–64. An identical situation existed in French Guyana. Jean-Marie Hurault, *Français et Indiens en Guyana, 1604–1972* (Cayenne: Guyamne Presse Edition, 1989), 101–2. We should note that the Dutch had a bad experience with enslaving the local population in Brazil, which arguably cost them this valuable colony. Pepijn Brandon and Karwan Fatah-Black, "For the Reputation and Respectability of the State: Trade, the Imperial State, Unfree Labor, and Empire in the Dutch Atlantic," in *Building the Atlantic Empires: Unfree Labor and Imperial States in the Political Economy of Capitalism, ca. 1500–1914*, eds. J. Donoghue and E. P. Jennings (Leiden: Brill, 2016), 84–108, 94; Meuwese 2012.
37 Benjamin 1992, 9; Fatah-Black 2017.
38 "*iemand zal vermoogen in deese rivieren of de districten van dien eenige vrije Indianen, waaronder ook verstaan werden te behooren alle zoodanige jonge Indiaanen, die door de Indianen zelfs te koop worden aangebooden, van wat staat, sexe en ouderdom of conditie die ook moogen zijn, te koopen, verkoopen, als slaaven behandelen of van deesen landen zonder dat daartoe hun eygen vrijen wil aan ons zal zijn gebleeken, onder wat project ook vervoeren*". Plakkaat of 01.05.1793, repeated in 1808. NA, Raad der Koloniën, 1.05.02, 62-II; UTBLAC film 19243 EDRG18080213. Menezes 1977, 181–82.

39 Silvia Kouwenberg, "The historical context of creole language emergence in Dutch Guiana", *Revue belge de philologie et d'histoire*, 91, no, 3 (2013): 695–711, 700. One court case indicate that the free Eva had lived under the guardianship of Armand Thomas. Canfijn 2018, 157–15; Roitman 2014, 44–45.
40 Plakkaat of 21.04.1746. NA, SvB, 1.05.05, 219, 105–6; Plakkaat of 28.04.1752. National Archives Great Britain [NAGB], CO/116, 31, #40.
41 After 1686, the number of red slaves quickly dropped from 500 to 60. Brandon and Fatah-Black 2016, 102.
42 Elphick 1985.
43 Roitman 2014, 44; Canfijn 2018, 155.
44 Dagregister, 26.09.1652, 1654, 1657, 1661, 1684. Kaapse plakkaatboek [KPB], I, 196–97. The regulations changed over time and there could be geographical limits: At a certain point, trade is prohibited beyond the Great Fish River. Plakkaat of 29.07.1786, repeated in 1793. KPB, III & IV; Plakkaat of 04.05.1658, repeated 12 times up to 1774. KPB, I, 139, 143–45, 282–83, 300–1, 308–9 II & III; Plakkaat of 11.12.1669. KPB, I, 107.
45 Plakkaten of 17.02.1700; 27.10.1702. KPB, I, 315–16 & 326–29.
46 Marks 1972, 69.
47 Plakkaat of 14.05.1714. *Guyana's Western Border*, no. 215.
48 Plakkaat of 30.08.1781. Surinaams plakkaatboek [SPB], II, 850.
49 Benjamin 1992, 5–6.
50 Plakkaat of 03.06.1749, herhaling in 1760. NA, Sociëteit van Berbice [SvB], 1.05.05, 16, 64–86 & 130, #23. 1751 in Essequibo, herhaling in 1764; 1772: NAG, AB3/9A, 181; NAGB, CO/110, 34, #74; NA, SvB, 1.05.05, 140.
51 Plakkaat of 08.04.1652, repeated 7 times until 1681. KPB, I, 140, 180, 271–72.
52 Plakkaat of 24.10.1658. KPB, I, 43–44.
53 Plakkaat of 07.06.1772. NA, CVWIS, 1.05.06, 140; Plakkaat of 24.09.1677, repeated in 1792. KPB, I, 142; IV; Schult 2014, 53.
54 Whitehead, 1988, 186; Schult 2014, 55.
55 Penn 1992, 9.
56 As such, the world of the frontier zone, the world in which Native and Stranger become bound together, in this case the Dutch and the local populations. See, for example, Penn 2005.
57 Plakkaat of 18.04.1708, repeated 3 times until 1727. KPB, II.
58 Marks 1972, 70–75. Note the murder of a Dutch herder by a Khoisan. Dagregister of 21.10.1653. KPB, I.
59 Plakkaat of 29.06.1787. KPB, IV, 9–12.
60 Benjamin 1992, 7–8.
61 Plakkaat of 07.07.1756. NA, SvB, 1.05.05, 219, 178–80.
62 Plakkaat of 08.01.1789. NA, WIC, 1.05.01.02, 560.
63 Pepijn Brandon and Karwan Fatah-Black, " 'For the Reputation and Respectability of the State': Trade, the Imperial State, Unfree Labor, and Empire in the Dutch Atlantic," in *Building the Atlantic Empires: Unfree Labor and Imperial States in the Political Economy of Capitalism, ca. 1500–1914*, eds. J. Donoghue and E.P. Jennings (Leiden: Brill, 2016), 84–108, 85.
64 Ibid., 101.
65 Slavevoyages.org.
66 Schult 2014, 51–52.
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70 Court case from 1751. NA, WIC, 1.05.10.02, 48.
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73 Benjamin 1992, 14–15; M. Kars, *Blood on the River: A Chronicle of Mutiny and Freedom on the Wild Coast* (New York: The New Press, 2020).

74 Penn 2005, 144.
75 Schult 2014, 55; Pieter Netscher, *Geschiedenis van de koloniën Essequebo, Demerary en Berbice, van de vestiging der Nederlanders aldaar tot op onzen tijd* (The Hague: M. Nijhoff, 1888), 191.
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79 Marks 1972, 68.
80 Worden 1985, 25–33. They are considered "more skillful" in transporting grain and keeping the grain clean than slaves. Resolutie van de Raad van Justitie, Cape Colony, 17.01.1787. WCA, C/174, 17.01.1787.
81 Green 2014, 51.
82 Worden 1985, 27.
83 Ibid., 82. The same might be true for the Guianas.
84 Worden 1985, 35.
85 Benjamin 1992, 7.
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PART 3

Subjecthood and imperial states

7

MAKING PEACE BEYOND THE LINE

Capitulations, interpolity law, and political pluralism in Suriname and New Netherland, 1664–1675

Timo McGregor

Introduction

On 3 March 1667, following several hours of pitched battle, an unsuccessful retreat into the forest, and an ultimatum from his near-mutinous subjects, William Byam decided to surrender Suriname. Surrender was not difficult. Indeed, it was expected. Byam had already exchanged hostages with Abraham Crijnssen, commander of the invading Dutch fleet, whose own envoys had been spreading promises of fair treatment among the planters in the English colony. Byam came to the table with a list of 27 conditions required for his surrender. Constant back-and-forth translation made for lengthy negotiations, and Byam complained of treacherous planters who weakened his hand by revealing the parlous state of the English supplies and defenses. Nevertheless, on 6 March, Byam signed an amended list of 21 articles of surrender, rendering Suriname a colony of the Dutch province of Zeeland.

This scene in Suriname would have seemed familiar to the inhabitants of New York, formerly New Amsterdam. Less than three years earlier, Dutch settlers in Manhattan had surrendered to a similar fleet, this one English and under the command of Richard Nicolls. Those settlers had also scrambled frantically to build makeshift defenses, only to sue for peace almost as soon as the enemy fleet appeared. Like Byam, the Dutch director general of New Netherland, Petrus Stuyvesant, presided over a settler population unwilling to fight on behalf of their sovereign and comfortably familiar with the process of a quick capitulation. Stuyvesant, too, soon signed articles of surrender that established the terms of the English takeover.

The parties to the Suriname and New Netherland surrenders confronted a political challenge that reoccurred across the Atlantic world: how to incorporate foreign subjects into a newly conquered colony. Like many Atlantic colonies, Suriname and New Netherland depended on a culturally diverse settler population that included

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French Huguenots, English dissenters, Scandinavian and German migrants, and Sephardic Jews.[1] Such religious and cultural heterogeneity often worried colonial officials, but they expressed particularly deep anxiety about the uncertain status and loyalty of recently conquered subjects with political and cultural ties to competing colonies.[2] At the same time, officials recognized the vital importance of retaining inhabitants in demographically precarious settlements, where population size was critical to security and prosperity. Such pressures were perceived as particularly acute in plantation colonies, where officials feared that the demographic imbalance between free settlers and enslaved laborers would undermine the stability of burgeoning slave societies. Settlers, meanwhile, were wary of losing political influence or religious and economic rights under a new regime, but could also use a change of government to negotiate for new privileges. With competition for experienced planters high, neighboring colonies tried to tempt these settlers away by offering economic incentives or simply a return to more familiar government. Amid these conflicting interests and competing jurisdictions, the surrenders in Suriname and New Netherland marked the starting point in a gradual process of negotiating new 'diversity formations' to incorporate conquered subjects within composite colonial communities.

This chapter uses the capitulations of Suriname and New Netherland as a lens through which to examine the interplay between inter- and intra-imperial legal arguments in this process of community (re-)formation. Capitulations provide a revealing window onto the process of imagining and constituting colonial political communities.[3] Surrenders generated a substantial paper trail, producing articles of capitulation but also extensive (self-)justifications, accusations of treason, and sometimes years of subsequent litigation. Such high-stakes moments of transition between political regimes compelled participants to articulate assumptions about the nature and purposes of subjecthood and the terms of belonging within the colonial polity. Localised conflicts and peace negotiations also significantly influenced colonial institutions and regional legal orders. Episodes of military conquest marked acute but not final inflection points in ongoing processes of raiding, open warfare, and peace-making.[4] Articles of capitulation took on important legal meanings in such processes, serving as quasi-constitutional documents for both the inter-imperial legal order and the domestic government of occupied settlements. It was here that participants drew the contours of legal and political frameworks for governing the culturally and politically diverse populations of newly conquered colonies.

Diversity and the politics of difference has proven a fruitful framework for analyzing the political culture and institutional development of empires. Much of this work has focused on the hierarchies of difference produced and maintained through imperial institutions.[5] Another highly influential approach has been to focus on the role of cross-cultural encounters and intermediaries in creating the contact zones of legal pluralism and political hybridity that characterized early modern European empires.[6] Whether focused on metropolitan government or borderlands disputes,

these approaches have helpfully illuminated the internal development of colonial governments and served as an analytical lens for comparisons between empires.

Less attention has been paid to how the politics of diversity shaped and was shaped by emerging inter-imperial legal regimes.[7] Contests over diversity within communities frequently spilled out into wider disputes between colonial polities about migration, trade, and fugitivity across imperial boundaries. Warfare and peace-making inevitably blurred distinctions between foreign and domestic politics, reconfiguring legal and political institutions in the process.[8] Negotiating a political settlement to retain foreign subjects in conquered colonies necessarily involved engaging with both political actors in neighboring colonies and legal questions about how the rights of strangers and subjects travelled across boundaries. As officials and settlers strained to define terms of belonging and subjecthood in this protean political space, repeated surrenders and peace negotiations contributed to an emerging inter-imperial legal repertoire for managing mobility and diversity within and between empires.

This chapter argues that frequent capitulations contributed to a rough but widely replicated set of protocols for establishing terms of government in pluralistic Atlantic colonies. These protocols, I contend, centered on an expansive understanding of private property as a global domain of political rights. I support these arguments through a roughly chronological analysis of the stages of surrender in New Netherland and Suriname. Though the articles of capitulation in both colonies were brief documents, they required lengthy justification, involved protracted negotiation, and produced long-running contestations. At each stage of this process, colonial officials faced a concerted challenge from settlers anxious to secure their political and property rights or to win the right to depart the colony. The resulting articles of capitulation established expansive protections for property claims and commercial rights while leaving questions of subjecthood and political belonging deliberately ambiguous. Settlers used this ambiguity to launch appeals to multiple authorities, but the local politics of property and debt ultimately served to tie people to colonial political communities, binding together settlers of all nationalities. I conclude the chapter with a brief reflection on how practices of war and peace-making shaped an emerging inter-imperial legal regime for adjudicating political status and property claims.

Justifying capitulation

Capitulation was a risky business that required careful justification. Opportunistic raiding, privateering, and the seasonal cycles of maritime warfare in the Atlantic world made it challenging to gauge how long an occupation might last. Settlers weighed their political allegiances with at least one eye on the future, factoring in the possibility of a speedy reconquest by their previous rulers. Quick capitulation might come to be framed as treasonous surrender or even collusion if the old regime was restored. Such risks were especially great for colonial officials who could face professional and legal repercussions for losing their imperial sponsors'

colonies. Both Stuyvesant and Byam faced accusations of treason on their return to Europe and had to pen lengthy accounts of their actions to save their lives and careers.[9] Surrender thus needed to be legally and politically justified. In the days and even months prior to their capitulations, settlers in Suriname and New Netherland sought to convince their leaders that surrendering to a new suzerain was not only permissible but necessary. Officials generally did not take much convincing, but their subjects' petitions provided a useful rationale for surrender and a degree of legal cover in case of a quick return to the original government. However strategically deployed, these justifications for surrender reveal prevailing currents of colonial thought about the relationship between ruler and subject and the constitution of political community.

The 1664 English invasion of New Netherland was prefigured by years of legal maneuvering and strategically targeted violence. A planned attack on New Amsterdam had previously been averted at the last minute by the end of the First Anglo-Dutch War. A decade later, as relations between England and the United Provinces deteriorated once more, ambitious English colonists in Connecticut and on Long Island saw an opportunity to expand into the Dutch colony. Officials in Hartford insisted that several Dutch villages had voluntarily placed themselves under Connecticut's jurisdiction.[10] At the same time, English soldiers began raiding and extorting Dutch settlements, while the Connecticut governor Winthrop Jr. petitioned Charles II to fund an expeditionary force to capture Manhattan.[11] In August 1664, a fleet under the command of Richard Nicolls arrived in New England intending to 'restore' English rule over the interlopers occupying New Netherland – a legal framing necessary in part because England and the United Provinces were not yet formally at war.

When the English invasion finally arrived, New Netherland's settlers had a legal response ready at hand. Between July 1663 and April 1664, director general Peter Stuyvesant called three *landdag* assemblies to discuss how best to defend the colony against the growing English threat. At these meetings, colonists drew up several petitions emphasizing the importance of legal protections to secure their property from the dangers of Atlantic geopolitics. The settlers reminded the Dutch West India Company (WIC) directors that had 'oblige[d]' themselves to provide 'reasonable protection' for the 'enjoyment of the bona fide property of the lands.' In return for their defence against 'all intestine and foreign wars,' the colonists had 'exhibited such willingness in bearing all imports and taxes.' Because the Company had failed to establish a secure legal basis for its claim to New Netherland, it had left its inhabitants and their property rights 'upon black ice.' Nor was it only the Dutch left in this 'state of anxiety.' The 'well-intentioned English' inhabitants of the colony were 'held in a labyrinth and maze,' unsure of their legal status or how to comply with their oaths of loyalty. As much as military assistance, the colonists thus demanded that the Company take diplomatic and legal steps to extend its 'fatherly care to the protection and preservation of many hundred families' by securing the legality of their property claims.[12]

The petitioners' emphasis on legal protections for property rights is instructive.[13] They were less worried about the English killing them than about the possibility of their land titles being wiped out as a consequence of the English argument that the WIC had never held legitimate possession of the Hudson Valley. The inhabitants of New Netherland had gambled on the institutions of the Dutch Empire as a solid foundation for their settlements; increasingly it seemed the English empire was a safer bet. Nor were colonists shy about making this point. 'Most of us are now advanced in life,' explained a February 1664 petition, and 'we have invested all our means in the improvement of New Netherland.' Without greater Company protection, they faced being 'stripped of all our property and deprived of our land, to be forced to wander abroad with our wives and children in poverty.' With no military or legal security, colonists declared they could no longer 'dwell and sit down on an uncertainty.' To their 'heart's grief,' they would be forced to 'seek, by submission to another government, better protection.'[14]

In addition to a genuine anxiety, there was a strategic legal logic to these repeated protests and requests for WIC assistance. In establishing the unprotected state of the colony and arguing that this voided the social contract between settlers and company, petitioners presented a pre-emptive justification for capitulation to foreign invasion. Their vehement declarations that New Amsterdam could not possibly be defended in its present condition foreshadowed city magistrates' later efforts to persuade Stuyvesant to surrender the colony without bloodshed. Colonists may well have viewed their petitions as a part of a documentary record that might protect them from charges of treason down the road. Indeed, the multiple remonstrances did end up as part of a treason trial. Following his capitulation, Stuyvesant returned to Europe and spent the better part of two years submitting some 50,000 words of evidence to the States General to contest the WIC's claim that he had been negligent in his duties and treasonous in his surrender.[15]

The Dutch invasion of Suriname came as more of a surprise, but there too planters argued for a speedy surrender in language that closely matched the New Netherland petitions. When Abraham Crijnssen's Zeelandic fleet first arrived on the coast of Suriname and demanded that the English surrender, governor Byam resolved to defend Fort Willoughby 'against all opposers.' The Dutch fleet approached and the parties 'mutually played our guns as fast as we could,' but Byam soon realized his half-completed fort was no match for the Dutch cannons. The following day, Byam parleyed with Crijnssen who agreed to let the English forces depart the fort, leaving behind all cannons and powder as well as some of the more persuadable soldiers who joined sides with the Dutch. Byam now retreated upriver to the settlement of Torarica where he took stock. The English commander found his men 'divided' with some convinced by the Dutch promises that 'they came not to destroy but to build' while others 'were for war and would stand it out till the last.' Byam called an assembly of the planters to ask them for support and badly needed supplies. Mirroring Stuyvesant's *landdag* assemblies, this meeting became a forum for planters to agitate for surrender.[16]

In a show of patriotic loyalty, the Suriname planters agreed that Byam could take what he needed from their estates to 'serve our King,' but they also submitted a 'humble address of representation' suggesting that war was not the best course of action. This petition began by enumerating the various disadvantages the planters suffered against the Dutch invaders. Disease, food shortages, mutinous soldiers and 'dishonest' servants and enslaved people, a lack of medicine and munitions, and the vulnerability of their homes and families all meant that 'entering into blood' promised 'little hope of success.' If forced into 'the miserable refuge of Flying into the woods with our wives Children and Families for safety,' the planters predicted that eventually 'the Necessities of nature will force us to a shameful yielding up our selves.'[17] With supplies running low and little hope of relief, the planters suggested, surrender was an inevitable necessity to preserve their families.

As in New Netherland, the debate in Suriname centered on protection and property. Surrender was justified, planters argued, because neither proprietor nor sovereign could provide the necessary protection for their families and the property in land and people that they controlled. Without this protection, the planters were incapable of 'preserving of those fortunes and estates which many of us brought hither and others by many years industry and the painful sweat of their brews have attained.' Fighting the Dutch would 'unavoidably procure the utter ruining of us, all our Children, and posterity.' As such, the petitioners requested that Byam 'seek a speedy accommodation' rather than pursue a 'war we have no abilities to perform.' The planters asked only that any capitulation would 'secure us in our estates and Liberties and have noe staine [*sic*] of dishonor or Cowardice upon us nor have any Consequence of Abjuring that allegiance we owe to our natural Sovereign.'[18]

Endorsing the planters' assessment, Byam expressed further concern about enemies within. As well as increasing numbers of English defectors, Byam particularly worried about 'the Insolencies of our Negroes, killing our stock, breaking open houses, threatening our women, and some flying into the woods in rebellion.'[19] Given a choice between external invasion and internal slave rebellion, Byam quickly resolved to surrender to the Dutch. In his proposed articles of capitulation, Byam further highlighted his overriding concern for maintaining the repressive order of plantation slavery. As part of the surrender, the English governor demanded that Crijnssen ensure escaped and captured slaves were returned to their previous enslavers. Though Crijnssen did not agree to the demand, a telling clause in the final capitulations did stipulate that the planters could keep 'as many arms as every one in his family shall need to keep his Negroes in awe and to defend themselves against the Indians.'[20]

In both New Netherland and Suriname, then, settlers sought to justify and advocate for swift surrender as a licit act of desperation brought on by their government's inability to protect their property and families. Rhetorically, their petitions echoed each other in striking ways. Settlers emphasized the labour and wealth they had invested in improving their properties and the destitution that would befall their children and families if the property were lost. These accounts positioned settlers

as selfless investors in the common good, concerned primarily for the wellbeing of their familial dependents and the survival of the community. More fundamentally, these justifications of surrender drew on the idea that subjecthood was predicated on the sovereign's ability to protect. Insufficient protection could justify surrendering to an invading power or even actively seeking out a new protector. Adequate protectors had to preserve life and property against both 'intestine and foreign wars,' as settlers put it. Such protection involved repelling raids and invasions but also preserving domestic order and preventing slave rebellions. In colonies like Suriname, where settlers were vastly outnumbered by enslaved Africans, planters often prioritized the preservation of plantation slavery over imperial sovereignty.[21] Blending the politics of household, plantation, and empire, settlers framed the imperative to preserve property as a trans-political right that superseded obligations of allegiance to imperial sovereigns.

Negotiating capitulation

Though Byam and Stuyvesant penned defiant letters to their would-be conquerors, both soon came to the negotiating table. Under pressure from their subjects and with no hope of relief, the two officials had little choice. The resulting negotiations were 'tedious,' Byam complained. Each proposal had to be laboriously translated, allowing the invading Zeelanders more time to discover the true weakness of the English negotiating position through the 'insinuating infidelity of some of our men.'[22] And yet the invading forces did not hold all the negotiating leverage. Critically, the conquests would mean relatively little if the new government was not able to retain a colony's inhabitants. People and their property gave colonial spaces political meaning and economic value. As a result, settlers' threats to depart for other colonies held real weight, compelling occupying forces to enter genuine if unequal negotiations over how the new regime would operate.

The resulting articles of capitulation reveal shared currents of thought about how to build flourishing colonies as well the political and legal institutions officials believed necessary to retain control over a diverse population of conquered colonists. Occupying forces were primarily concerned about restricting or disincentivizing the departure of settlers from the colony. Anxious conquerors promised a range of rights and privileges, intended to assure settlers they would prosper if they remained under the new government, while also setting limits on when and how settlers might depart if they wished. Settlers meanwhile sought to secure their existing property claims while retaining commercial privileges and a degree of political and religious autonomy. These agendas found considerable common ground by focusing squarely on the protection, distribution, and mobilization of property. Seeking to render a moment of imperial rupture as social and political continuity, both colonists and invaders sought to downplay the significance of the change in political affiliation and emphasize the continuation of existing property rights and social privileges.

Richard Nicolls went to considerable lengths to convince the inhabitants of New Netherland they would retain all their property rights under the new English government. The New Netherland articles of capitulation pledged that all inhabitants and even the WIC itself would continue to 'freely enjoy' all their lands and property. Dutch inhabitants could continue to 'enjoy their own customs concerning their inheritance,' and all prior court judgements and private contracts would remain valid and be 'determined according to the manner of the Dutch.' Perhaps most remarkably, Nicolls agreed to honor existing payment arrangements for any 'public engagement of debt by the town of the Manhatoes,' as well as organizing the compensation of those owed money by the WIC.[23] Both private property and public debts, the articles of capitulation promised, would be respected by the new English regime.

The post-conquest accounting of property was more complex and contested in Suriname. In part, this reflected the fact the Crijnssen expedition was fitted out for the purpose of conquest while England and the Dutch Republic were openly at war. Suriname would thus explicitly be a conquered province – rather than a supposedly errant jurisdiction restored to the fold – and subject to the seizure of booty to cover the cost of the invasion. Unlike New Netherland, English Suriname was also a proprietary colony controlled by the powerful Willoughby family from Barbados, who stood to lose considerable power and wealth from the Dutch takeover.[24] Crijnssen thus faced a more complex calculus than Nicolls, but he too sought to convince the majority of the planters that their property was safe. All inhabitants of Suriname, the articles of capitulation promised, 'whether they be English, Jews, &c,' would continue to enjoy absolute ownership over their lands, property, and inheritances. But absentee planters who were not resident in Suriname were 'absolutely excluded out of these articles' and their estates would be confiscated for the province of Zeeland. This measure effectively removed the Willoughbys from Suriname and supplied the new government with revenues without alienating the smaller landholders and aspiring planters whose support would be critical for the Dutch regime.

As well as retaining their land and property, the invaders reassured settlers they would continue to enjoy their customary social rights and privileges. Demarcating access to the resources of the commons and permission to carry out commercial activities, such rights were critical to settlers' subsistence but also formed a key marker of membership in the political community.[25] The Suriname articles of surrender stipulated in considerable detail that inhabitants would continue to enjoy the right to fish, hunt turtles, cut specklewood, and trade with Indigenous groups. Beyond access and usage rights, Crijnssen guaranteed Suriname's inhabitants commercial rights in the commons with the promise that there would be 'no prohibition upon the Planters to make any thing a Commodity.'[26] In New Netherland, Nicolls similarly promised continued freedom to 'travel or traffic' with both Indigenous polities and the United Provinces.[27] Expanded commercial privileges were a considerable enticement for keeping settlers in New Netherland and Nicolls promised that inhabitants would now gain free access to trade in England or any of its colonies.

Alongside economic privileges, settlers sought to secure or even expand their existing social and political freedoms. Freedom of worship was a critical concern for settlers. The relative religious congruence between the Dutch and English and the expectation of religious tolerance certainly influenced settlers' appetite for a speedy surrender. Indeed, the articles of capitulation in both New Netherland and Suriname promised 'liberty of conscience' for the inhabitants. In Suriname this loose tolerance encompassed a substantial Jewish community who had previously received similarly nebulous religious freedoms from Byam's English government.[28] Spiritual matters were not divorced from material concerns. The Suriname document stipulated that properties previously reserved to the Church would continue to fund an English minister. Funds and offices of local government were also covered, particularly for the municipal institutions of New Netherland, where Nicolls agreed to allow the local magistrates to remain in office until replaced in free municipal elections.

The capitulations also set the terms for when and how settlers could depart the newly conquered colonies. The New Netherland articles stipulated that any inhabitant would have a year and six weeks to 'remove himself, wife, children, servants, goods, and to dispose of his lands here.'[29] Nicolls also promised a safe passport for any WIC soldiers seeking to return to Holland, although he tried to tempt them with the promise of 50 acres of land for any willing to remain in New Netherland as servants. In Suriname, the Dutch conquerors granted all inhabitants the right to freely depart the captured colony, but the status of their property was less clear. Two clauses discussed inhabitants' right to depart the colony. One declared that settlers would be allowed to sell their estates and leave at any time while the other promised only that inhabitants could leave with their slaves and goods if they quit Suriname immediately, along with the departing Crijnssen fleet.[30] The central question was thus how long inhabitants retained the right to leave and how many of their enslaved laborers they could take with them. The articles also established that debts incurred prior to the conquest would not prevent emigration but debts taken on post-conquest would have to be settled prior to departure. As we will see, these clauses and their seemingly minor distinctions would become critically important in the years of legal contestation that followed the Dutch takeover.

As they sought to emphasize and secure the continuity of existing property claims and local privileges, the negotiators of the capitulations also tried to downplay or sidestep the political significance of their change in imperial subjecthood. The subject status of conquered colonists certainly formed a significant part of negotiations. Byam, playing to the metropolitan galleries, claimed that the question of allegiance to the King was the 'first and sharpest' disagreement in his negotiations with Crijnssen.[31] But the ultimate outcome in Suriname, much as in New Netherland, was deliberately ambiguous. Both articles of capitulation recognized that subjecthood status was complex, sensitive, and largely unsettled. Rather than attempting to resolve it, the negotiators opted to create a framework to accommodate such ambiguous allegiances.

The solution involved a kind of suspended subjecthood, in which settlers could remain subject to their previous sovereigns outside of the colony but would owe full allegiance to the new government inside the colony. Conquered colonists were not required to renounce their former sovereigns or pledge permanent allegiance to their new rulers. Instead, settlers took an oath promising obedience to local authorities as long as they were resident in the colonies. This was a localized and situational form of political belonging. Such arrangements allowed colonists to remain as fully-fledged members of the political community, enjoying greater rights than sojourners or visitors without having to permanently renounce their suzerain.

This tenuous arrangement could come under pressure in the event of further military conflicts in the colonies. The oaths of loyalty, therefore, required settlers to pledge not to take arms in support of any potential invasion by the former sovereign. Both articles of capitulation likewise promised that no settlers would be impressed or forced to fight against their former countrymen. In New Netherland, the articles also stipulated that the English would peaceably surrender the colony back to the Dutch should the Crown and the United Provinces make peace on those terms. The distinct possibility of a later reconquest suggested that overly strong commitment to a change in subjecthood might be unnecessary and unwise. Articles of surrender, and the forms of subjecthood they delineated, were crafted in the expectation of future warfare and geopolitical changes that would again realign political configurations.

The capitulations' solution to the conundrum of how to govern conquered foreigners was thus to meticulously arrange the local distribution of property and commercial privileges while largely bracketing questions of subjecthood and allegiance. Just as it served as a justification for swift surrender, the imperative of protecting property also shaped the terms by which settlers sought to define membership of their political communities. This approach was far from unique and the terms on which settlers eventually surrendered did not emerge in isolation. The inhabitants of New Netherland and Suriname were well aware of political conditions in other Atlantic settlements, which served as both examples and competitors to the negotiators of the capitulations. Settlers could point to the privileges and protections on offer in neighboring colonies as a benchmark their new government would have to meet if it wanted to retain inhabitants. Crijnssen acknowledged this regional competition by arguing forcefully that the English planters would not find a better deal outside of Suriname, promising they would 'be granted as many privileges and libertys as ever was customary in any Country in these parts.'[32] Indeed, Crijnssen's offer to the planters of Suriname closely matched the religious freedoms, lenient oaths of loyalty, and tax exemptions advertised by competing English governments in Jamaica and Antigua.[33]

The similar terms of surrender in New Netherland and Suriname thus reflected their adherence to an emerging consensus on the kind of government that could create flourishing colonies out of diverse settler populations. The basic package involved some combination of tax breaks for new planters, freedom of conscience, expansive trading rights, a supply of cheap credit and enslaved people, and robust

protections against external threats and internal disorder. Such terms were advertised or advocated by officials and settlers in colonies across the Caribbean, often accompanied by promises that foreigners need only uphold a local oath of loyalty to settle. Negotiations over capitulations – accompanied by the threat of leaving for neighboring colonies – offered an opportunity to enshrine some of these commitments in quasi-constitutional form. Once established, these documents became touchstones for lengthy and expansive legal disputes over the right to move across empires.

Contesting capitulation

The articles of capitulation signed in New Netherland and Suriname were the starting point of much longer processes of negotiation and contestation over the government of these colonies and their inhabitants. As with most treaties in early modern diplomacy, the capitulations did not finally resolve questions of subjecthood, ownership, and political autonomy but simply added another layer of argument to complex legal claimsmaking.[34] In this context, the capitulations had a significant legal afterlife. Despite their ad hoc nature and origins on the outskirts of the empire, colonists and metropolitan authorities would continue to refer to these documents for decades to come. As late as 1760, the descendants of one English planter in Suriname referred to the articles of capitulation in their long-standing efforts to claim compensation for the seizure of his plantation.[35]

Many of these disputes centered on the unresolved issue of subjecthood. The capitulations' focus on the local politics of property and residence rather than imperial sovereignty and subjecthood left open a potential avenue for future legal disputes, as settlers claimed protections from multiple sovereigns. But despite the involvement of metropolitan authorities and their rhetorical emphasis on subjecthood and suzerainty, local imperatives of property and debt frequently proved critical in resolving or side-lining matters of subjecthood and loyalty.

Contests over the subject status of planters in Suriname offer a particularly vivid example of these dynamics. The articles of capitulation allowed settlers full membership in the Suriname polity while remaining subjects of the English Crown. The key question was how long this state of suspended (and therefore suspect) subjecthood remained valid. Early on, Willoughby had threatened planters that if they did not leave Suriname for an English colony immediately they would be 'excluded from the privileges of their nation and branded with dishonor.'[36] This threat of denaturalization was a fabrication for which the Crown privately reprimanded Willoughby. Stripping the Suriname settlers of their English subjecthood was the last thing the Crown wanted. Without a sovereign–subject relationship, English officials would have no legal basis to interpose with the States General on the Surinamers' behalf. Losing their status as English subjects would have seemed equally unappealing to the settlers in Suriname, who maintained their potential claim to sovereign protection from the English Crown even as they petitioned for grants of greater rights and protections from Dutch authorities. Settlers' ambiguous post-conquest legal status

allowed them to claim rights and protections from multiple sovereign bodies as the circumstances demanded.

Dutch officials sought to foreclose this double-subjecthood and position themselves as the sole legal arbiter in Suriname. Questioning the legal validity of the English Crown's interventions on behalf of the Suriname settlers, the Dutch insisted that the Treaty of Breda had settled their status as Dutch subjects. Johan de Witt, the Grand Pensionary of Holland and de facto political leader of the Dutch Republic, submitted a lengthy memo to the English Ambassador William Temple explaining this interpretation. Once the Treaty of Breda converted Dutch possession into sovereignty, De Witt argued, all the inhabitants of Suriname became subjects of the States General, 'to the Exclusion of all other [sovereigns].'[37] De Witt offered the example of den Bosch and Breda – towns whose conquest by the Dutch had been confirmed by Spain in the treaty of Muenster. Following the treaty, the inhabitants of these towns had to direct any complaints about the initial terms of their surrender to their new sovereigns. Any attempt to appeal to Spain would render them 'notoriously guilty of the Cryme of Rebellion' while any attempt at intersession by the King of Spain would be a violation of Dutch sovereignty.[38] Thus, while the inhabitants of Breda and den Bosch had been granted the right to leave their cities in the articles of capitulation, if that right was denied to any of them, they could only take up the question with their new sovereigns, the States General.

The principle that the sovereign–subject relationship was unitary and exclusive seemed necessary to de Witt for the basic functioning of international order. Given how many territories had historically changed hands between sovereigns, 'the whole world would bee disturbed, and turned up syde Downe' if previous sovereigns could 'plead that they had a right of Protection upon their former Subjects.'[39] An internal English response to de Witt's memo, possibly written by the ambassador William Temple, suggests that these arguments carried some weight. Recognizing 'great Maturenesse in the discourse of my Lord De Witt,' the English author agreed that if conquered places had 'their Jurisdiction, or Dominion soe mixed as that any beside the present soveraigne of them should Challenge a Right of interposition, Mediation, or Arbitration' there would 'never be any peace, or any end putt to the settlement of the Soveraignty or Dominion of them.' 'Mixed soveraignety,' in the author's eyes, would 'in it's owne nature introduce a manifest confusion, and Create Endlesse Disputes, about the Lawfullnesse of the said Dominion.'[40]

However sound these theoretical objections, 'mixed soveraignety' – meaning people sustaining claims to protection from multiple sovereigns – continued to be the norm in Suriname. Following the ratification of the Treaty of Breda, English planters submitted a petition promising 'loyalty and fidelity' to the States General while they resided in Suriname. The planters requested various 'encouragements' and 'immunities' including relief from taxation and the publication of laws to secure 'good governance' of the colony and particularly the punishment of runaways and maroons.[41] With these promises, and with confirmation that the articles of surrender allowed them the right to depart whenever they wished, the planters pledged to

'remain here with great contentment.' Crijnssen – the acting governor – agreed to most of these demands but maintained that settlers would not be allowed to move or sell enslaved people or sugar kettles outside the colony.[42] Unsatisfied, the leading English agitator James Bannister returned with another petition in which he demanded 'as a free subject to his matie' the liberty to 'repaire to some one of his Maties colonies' together with 'all his estate of what nature soever that is moveable.' If denied this, Bannister threatened to petition the King and the States General to 'obteyne from them the Benefits and privileges common to him, with all other English subjects.'[43]

Crijnssen did not take this appeal to royal intervention well and promptly deported Bannister to the United Provinces. In Europe, however, Bannister's lobbying found a receptive audience with Charles II, who was eager to relocate the Suriname planters to Jamaica. The resulting diplomatic dispute, interwoven with the complexities of Anglo-Dutch geopolitics, eventually culminated in Bannister's return to Suriname in 1671. Now appointed as a royal commissioner, Bannister was authorized by the States General and sponsored by the English Crown to transport any English settlers who so wished to Jamaica. Crucially, they would be permitted to 'carry away with them all their Slaves except such as they shall have bought since the Surrender of Surynam.'[44]

Bannister's appeal for royal protection appeared wholly successful, but once again the local politics of property would prove more than equal to the authority of imperial subjecthood. Though he made a public show of compliance, the new Dutch governor, Philip Julius Lichtenbergh, made every effort to inconvenience Bannister and discourage English planters from leaving Suriname. He quickly determined that the complex networks of credit sustaining Suriname's plantation economy offered the best means of binding inhabitants to the colony.[45] Invoking the terms laid out in the articles of capitulation, Lichtenbergh declared that any departing English settlers had to resolve all outstanding debts incurred since the Dutch conquest without using promissory notes. Though the Dutch framed this policy as a necessary protection for creditors' property, Bannister saw it as a deliberate strategy to prevent the English from departing by 'leaveing them noe way to pay their Debts but money.'[46] Bannister proposed various solutions but Lichtenberg insisted he could not compel creditors to amend their contracts with the English, and in the end, Bannister departed for Jamaica with far fewer planters than he had hoped.

As Bannister told it, there was something coercive about the credit contracts that left planters 'intangled with Debt to the Dutch.' The planters had been convinced by manipulative Dutch 'Placcatts, and other politicke instruments' to build up their plantations and become 'soe deeply indebted to the Dutch that without apparent ruine . . . it was altogether at this tyme impossible to remove.'[47] A combination of misinformation and market pressures forced them into an economic bind they could not escape, compromising their political rights as English subjects. But for others, cheap credit was precisely what drew them to Dutch colonies. In 1669, the inhabitants of Suriname had argued that 'the unfailing maxim for the cultivation of these

lands and the advancement of the same is credit.'[48] There was truth to both interpretations of credit. As Lichtenbergh put it, cheaper credit provided 'the means to make this colony flourish' and would 'attract planters from all quarters' to Suriname. 'In addition to this,' he observed, 'all those people will be so fixed here that they will never leave the country.'[49]

A subsequent dispute in Suriname further highlights the enduring influence of the capitulations in shaping this legal politics of inter-imperial subjecthood. In 1675, another Crown-sponsored expedition arrived in Suriname to transport more English planters to Jamaica. The expedition's commander, Edward Cranfield, had learned from Bannister's mistakes and came prepared to help settle and arbitrate planters' debts. With the financial obstacles removed, the Dutch governor Versterre raised a new set of objections centering on the subject status of the colony's substantial Jewish population.[50] When 12 Jewish planters requested permission to depart with Cranfield, Dutch and English officials confronted the question of whether the Jewish inhabitants of Suriname counted as English subjects who were entitled to the rights and protections negotiated by the English Crown. Initially, Versterre rejected the Jewish petition to leave, claiming his instructions were only to permit English subjects to depart. Interposing on behalf of the Jewish planters, Cranfield argued that this violated both the articles of surrender and the Treaty of Westminster, which had granted all inhabitants the right of departure. Cranfield presumed these rights applied to the Jewish inhabitants as well as the English, as there had been no separate articles of surrender for the two groups. Versterre nevertheless insisted that the relevant clauses mentioned only English inhabitants, which did not, in his view, include Jews.[51]

Versterre, Cranfield, and the Jewish planters focused their debate on the meaning of subjecthood and how it was established. One Jewish planter was able to produce a bill of naturalization by the English Parliament. For most others, establishing their status as English subjects proved much less straightforward. Versterre maintained that unless they had received a patent of naturalization or denization, Jews in English-governed Suriname had merely been residents and could make no lasting claim to royal protection as natural subjects could. Cranfield and the Jewish planters argued that as free inhabitants of English Suriname they had been granted status as 'free denizens': a form of political incorporation somewhere in between residency and full subjecthood that granted a right to Royal protection. Each side had a plausible case. Willoughby's government had sought to attract Jewish settlers by granting them 'all the privileges and freedoms . . . as if they were born English.'[52] But this was not explicitly an act of naturalization or denization – which could only be granted by Parliament and the Crown respectively – and in practice, the English did not grant the Jewish planters full political rights in the colony's government. Ultimately, Versterre refused to allow the Jewish planters to depart Suriname, fearing their loss would lead to the destruction of the colony.[53]

Bonds of property and credit could outweigh those of subjecthood. While they disputed the origins of their debts and their ability to settle them, Suriname's settlers

did not contest the underlying principle that they should be prevented from leaving the community to which they were indebted. Protections for the private property of creditors carried more weight than the rights of free movement granted by English subjecthood. Meanwhile, for all de Witt's warnings about the dangers of 'mixed sovereignty,' settlers continued to leverage their ambiguous subjecthood by seeking protections and privileges from multiple authorities. Yet subject status still mattered, and, as the Jewish planters discovered in 1675, the negotiated and ambiguous nature of colonial subjecthood carried risks as well as advantages. Despite ostensibly being superseded by the Treaty of Breda, the articles of capitulation continued to be an important legal resource in contests over the nature and strength of subjecthood. Both Dutch and English officials and planters continued to refer to the rights and categories of belonging established by the capitulations. But amid these shifting constellations of subjecthood and sovereignty, the local politics of property continued to hold the greatest gravitational pull.

Conclusion

Though particular in certain respects, the surrenders of Suriname and New Netherland are indicative of influential legal dynamics and political ideas that shaped the development of pluralistic colonies across the Atlantic world. Through the quasi-constitutional qualities of truces, surrenders, and peace treaties, small- and large-scale warfare shaped evolving legal and political practices for governing foreign subjects. Surrenders were relatively common and not always permanent. Some inhabitants of New Netherland and Suriname had previously lived in Dutch Brazil and other colonies in the Guianas, where they experienced multiple occupations and capitulations. This frequency and familiarity gave capitulations a convergent quality, as a familiar set of protocols and demands began to emerge for securing successful takeovers. The relative mobility and demographic importance of colonial families gave further impetus to this convergence, as settlers threatened to relocate to competing colonies that offered better political terms. Waves of warfare and peace-making gradually sculpted an emerging trans-imperial constitutional landscape, subtly eroding major differences between colonies' treatment of diverse settler populations.

Most strikingly, the negotiations and contestations over capitulation in Suriname and New Netherland illuminate how this emerging field of inter-imperial legal and political practice was underpinned by settlers' understanding of property as a universal domain of trans-political rights. Colonists pre-emptively and retroactively justified their surrenders by positioning their subjecthood as conditional upon the adequate protection of their property and the households that contained it. Possession of property, in these accounts, seemed to convey not merely a right but almost an obligation – to dependents and posterity – to seek the protection of another sovereign when facing threats of external invasion or internal disorder. For the same reason, occupying forces were keen to stress their commitment to preserving or even expanding property rights as they negotiated terms of surrender. Both articles of

capitulation focused on the distribution of property and commercial privileges as the primary determinant of political belonging, largely side-lining complex determinations of subjecthood and loyalty.

This is not to say that subjecthood and suzerainty did not matter. On the contrary, colonial and metropolitan officials spent a great deal of time worrying about the suspect loyalties of their foreign subjects. Dutch officials in particular lived in fear of repeating their experience in Brazil, where the Portuguese planters eventually turned on the Dutch occupiers. Such anxieties were not unreasonable. As in Suriname, settlers did not hesitate to invoke ties to multiple sovereigns when conditions made it advantageous – a possibility in part enabled by the ambiguous legal precedent of the articles of capitulation. In such circumstances, the politics of subjecthood could matter acutely. But these contests also took place within local political frameworks geared towards protecting the property and policing the membership of colonial communities. Processes of peace-making and capitulation played a small but significant role in shaping and codifying the underlying vision of political pluralism predicated on the preservation of property and policing of mobility.

Notes

1 While cultural and ethnic diversity, both among colonizers and enslaved African and Indigenous people, was a hallmark of many Atlantic colonies, Dutch imperial ventures were particularly dependent on settlers and soldiers from across Europe due to the relatively small population of willing and suitable settlers in the Dutch Republic. For a good overview, see Wim Klooster, *The Dutch Moment: War, Trade, and Settlement in the Seventeenth-Century Atlantic World* (Ithaca: Cornell University Press, 2016), Chapter 7.

2 The example of Dutch Brazil loomed large over Anglo-Dutch colonizing ventures in the second half of the seventeenth century. Colonial officials and boosters dreamed of establishing sugar-producing colonies that could become a 'second Brazil,' but they also feared repeating the uprising of Lusophone planters against Dutch rule in Brazil. On the enduring influence of Brazil on the colonial imagination, see Stuart B. Schwartz, "Looking for a New Brazil: Crisis and Rebirth in the Atlantic World after the Fall of Pernambuco," in *The Legacy of Dutch Brazil*, ed. Michiel van Groesen (Cambridge: Cambridge University Press, 2014).

3 My focus on colonial capitulations joins a growing literature emphasizing the vernacular production and development of colonial law and political thought. Rather than national culture or metropolitan institutions, this approach suggests that the political institutions governing diverse populations in conquered colonies emerged through local processes of legal and political contestation. See, for example, Tamar Herzog, *Frontiers of Possession: Spain and Portugal in Europe and the Americas* (Cambridge, MA: Harvard University Press, 2015); Lauren Benton and Lisa Ford, *Rage for Order: The British Empire and the Origins of International Law, 1800–1850* (Cambridge, MA: Harvard University Press, 2016).

4 On the complex nature of early modern conquest and the role of peace treaties in these processes, see Lauren Benton, "The Legal Logic of Wars of Conquest: Truces and Betrayal in the Early Modern World," *Duke Journal of Comparative & International Law* 28, no. 3 (May 10, 2018): 425–48.

5 For the classic programmatic synthesis, see Jane Burbank and Frederick Cooper, *Empires in World History: Power and the Politics of Difference* (Princeton, NJ: Princeton University Press, 2010).

6 Again, the literature is vast. Classic works include Richard White, *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815* (Cambridge: Cambridge University Press, 2010); Marshall Sahlins, *Islands of History* (Chicago: University of Chicago Press, 1985); James H. Merrell, *Into the American Woods: Negotiators on the Colonial Pennsylvania*, (New York: W W Norton & Co Inc, 1999). On legal pluralism as a feature of European empire building, see Richard J. Ross and Lauren Benton, eds., *Legal Pluralism and Empires, 1500–1850* (New York: NYU Press, 2013).

7 For an analysis of early modern interpolity law as recurring and overlapping protocols embedded in everyday encounters, see Lauren Benton and Adam Clulow, "Legal Encounters and the Origins of Global Law," in *Cambridge History of the World*, eds. Sanjay Subrahmanyam and Merry Wiesner-Hanks (Cambridge: Cambridge University Press, 2015), vol. 6. On inter-imperial legal regimes as a central feature of the Caribbean in the early nineteenth century, see Jeppe Mulich, *In a Sea of Empires: Networks and Crossings in the Revolutionary Caribbean* (Cambridge: Cambridge University Press, 2020).

8 My approach centers the importance of warfare and violence in constituting imperial law. Attention to the drawn-out processes of war and peacemaking, I suggest, reveals how multiple European empires converged on similar legal and political frameworks for managing diverse subject populations in pluralistic colonial polities. See also, Benton, "The Legal Logic of Wars of Conquest," On the role of warfare in shaping formal constitution-making, see Linda Colley, *The Gun, the Ship, and the Pen: Warfare, Constitutions, and the Making of the Modern World* (New York, NY: Liveright, 2021).

9 On Stuyvesant's justification of his tenure before a hostile WIC committee, see Donna Merwick, *Stuyvesant Bound: An Essay on Loss Across Time* (Philadelphia: University of Pennsylvania Press, 2013), 109–20. On Byam's account of his surrender as a response to being court-martialled, see Alison Games, "Cohabitation, Suriname-Style: English Inhabitants in Dutch Suriname after 1667," *The William and Mary Quarterly* 72, no. 2 (April 2015), n1.

10 Hartford leaders framed this as a spontaneous change of affiliation by protection-seeking colonists over which they had little control: "what can we do now that they are included in our Patent, and desire to be received and protected by us, which we cannot deny them?" Journal kept by Cornelis van Ruyven, Oloff Stevensen van Cortland and John Lawrence of their visit to Hartford, October 1663. New York Colonial Manuscripts (NYCM), vol. 15, 69; digital id NYSA_A1810-78_V15_0069.

11 On the factional interests and lobbying by Winthrop Jr. that shaped the Crown's decision to dispatch a fleet to New Netherland, see L. H. Roper, "The Fall of New Netherland and Seventeenth-Century Anglo-American Imperial Formation, 1654–1676," *New England Quarterly* 87, no. 4 (December 2014).

12 All quotes, translated from Dutch, from "Remonstrance of the convention to the directors of the West India Company at Amsterdam, 2 November 1663." NYCM vol. 10 pt. 2, 369; NYSA_A1809-78_V10_pt2_0369.

13 On 'protection talk' as a recurring rubric of early modern legal and political thought, and interpolity law in particular, see Lauren Benton, Adam Clulow, and Bain Attwood, eds., *Protection and Empire: A Global History* (New York, NY: Cambridge University Press, 2017); Lauren Benton and Adam Clulow, "Empires and Protection: Making Interpolity Law in the Early Modern World," *Journal of Global History* 12, no. 1 (March 2017).

14 E. B. O'Callaghan, *Documents Relative to the Colonial History of the State of New-York* (hereafter *DRCHNY*) (Albany: Weed, Parsons and Co., 1858), vol. 2, 375.

15 Merwick, *Stuyvesant Bound*.

16 Stuyvesant and Byam's sudden and uncharacteristic enthusiasm for democratic decision making may have been an attempt to share responsibility for the surrenders. Byam was at pains to emphasize that he had 'never yet Levied any thing without [the planters'] Consent so neither would I none in time of war without their approbation,' but he had previously been accused by Suriname planters of operating a tyrannical government. All quotes from William Byam, 'An Exact Narrative of the State of Guiana as it Stood Ano 1665

Pticularly of ye English Colony in Surynam, Beginning of the Warr and of its Actions Dureing the Warr, And the Takeing Thereof by a Ffleet from Zeland,' Sloane 3662, fols. 30v, 31v, British Library (BL), London. All quotes from English-language sources in this chapter are in their original spelling.

17 Byam, "An Exact Narrative," Sloane 3662, fols. 32v, 33.
18 All quotes from Byam, "An Exact Narrative," Sloane 3662, fol. 33.
19 Byam, "An Exact Narrative," Sloane 3662, fol. 33v.
20 Byam, "An Exact Narrative," Sloane 3662, fol. 34v, 36f. For another copy, see The National Archives of the UK (TNA), CO 278/3, fol 64.
21 Justin Roberts estimates Suriname's population in 1663 at around 5000 people, of whom approximately 1250 were free Europeans and 3750 were enslaved African and Indigenous people. Justin Roberts, "Surrendering Surinam: The Barbadian Diaspora and the Expansion of the English Sugar Frontier, 1650–75," *The William and Mary Quarterly* 73, no. 2 (2016): 235.
22 Byam, "An Exact Narrative," Sloane 3662, fol. 35; TNA, CO 278/3, fol 64.
23 O'Callaghan, *DRCHNY,* vol. 2, 250–52.
24 On the Willoughby family, see Sarah Barber, "Power in the English Caribbean: The Proprietorship of Lord Willoughby of Parham," in *Constructing Early Modern Empires: Proprietary Ventures in the Atlantic World, 1500–1750*, eds. L. H Roper and Bertrand Van Ruymbeke (Leiden: Brill, 2007).
25 On the role of the commons in shaping the legal and political vernaculars of Atlantic colonizing, see Gabriel de Avilez Rocha, "Empire from the Commons: Making Colonial Archipelagos in the Early Iberian Atlantic" (Ph.D. Dissertation, New York, New York University, 2016); Gabriel De Avilez Rocha, "Politics of the Hinterland: Taxing Fowl in and beyond the Ports of Terceira Island, 1550–1600," *Early American Studies: An Interdisciplinary Journal* 15, no. 4 (November 1, 2017).
26 Byam, "An Exact Narrative," Sloane 3662, fol. 36; TNA, CO 278/3, fol 64.
27 O'Callaghan, *DRCHNY,* vol. 2, 251.
28 Aviva Ben-Ur, *Jewish Autonomy in a Slave Society: Suriname in the Atlantic World, 1651–1825* (Philadelphia: University of Pennsylvania Press, 2020), 80–82.
29 O'Callaghan, *DRCHNY,* vol. 2, 250.
30 The latter stipulated that those who 'now or hereafter intend to depart' would be allowed to sell their estates and receive transportation from the government at a reasonable rate 'to transport themselves, with their slaves and Goods etc with a Passe from Commander Crynsens.' Byam, "An Exact Narrative," Sloane 3662, fol. 36v; TNA, CO 278/3, fol 64.
31 Byam, "An Exact Narrative," Sloane 3662, fol. 34v.
32 'soo veele privilegien ende vrijheyt sal gegeven werden, als oyt in eenig Landt alhier ghebruijckelyck is geweest.' Zeeuws Archief (ZA), Staten van Zeeland (2.1), inv. 2035.1, no. 62.
33 Suze Zijlstra, "Competing for European Settlers: Local Loyalties of Colonial Governments in Suriname and Jamaica, 1660–1680," *Journal of Early American History* 4, no. 2 (2014).
34 On this claimsmaking dynamic and the indeterminate nature of early modern treaties, see Herzog, *Frontiers of Possession*.
35 *The Conduct of the Dutch, Relating to Their Breach of Treaties with England. Particularly Their Breach of the Articles of Capitulation, for the Surrender of Surinam, in 1667; and their Oppressions committed upon the English Subjects in that Colony. With A full Account of the Case of Jeronimy Clifford . . . whereby the Treachery and Injustice of the Dutch, towards the English, are displayed in a very interesting Light* (London, 1760). On this case, see Jacob Selwood, *At Kingdom's Edge: The Suriname Struggles of Jeronimy Clifford, English Subject* (Ithaca: Cornell University Press, 2022).
36 ZA, 2.1, 2035.1, no. 88. Quoted in Zijlstra, *Anglo-Dutch Suriname,* 41. 'De wederspannige ende haere naekoomelingen moogen uitgheslooten worden van de privilegien van haer natie, ende met oneere ghebrandtmerckt werden,' ZA, 2.1, 2035.1, no. 88.

37 TNA, CO 278/2/1, fol. 7 'Discourse by Mr. de Witt concerning Surynam.' 'None can forme any pretence, but only the said Soveraigne and the said Subjects reciprocally,' de Witt argued, 'noe not hee, or those who before the date of such Capitulations might have beene Soveraignes to the same Subjects, after an entry, Cession and Confirmacon by a Treaty of peace.'
38 'Discourse by de Witt,' TNA, CO 278/2/1, fol. 7. 'in soe doeing [the king of Spain] would still attribute to himself some right of Superiority, or at least of protection over those which have quitted his protection and Subjection.'
39 'Discourse by de Witt,' TNA, CO 278/2/1, fol. 7.
40 TNA, CO 278/2/1, fol. 13 'Answer to Mr. de Witt's Paper Concerning Surynam.'
41 All quotes from ZA, 2.1, 2035.1, no. 61, 'Requeste van Majoor Bannister.' This petition is not transcribed in *Zeeuwse Archivalia*. Dutch officials took seriously the issues of social order raised by the English petition. In 1669, the Suriname government posted the new Dutch laws for Suriname, framing them as the product of the 'articles of agreement with the inhabitants.' Amongst these were laws forbidding the inhabitants from insulting either the English Crown or the Dutch States General and from using nationality as an insult or curse word. ZA, 2.1, 2035.1, no. 114. Laddy van Putten and Philip Dikland, eds., *Zeeuwse Archivalia Uit Suriname En Omliggende Kwartieren, 1667–1683* (Paramaribo: Surinaams Museum, 2003), 99.
42 'carrying away slaves or livestock' was, in Crijnssen's view, 'directly in contradiction with the intent of the articles [of surrender].' As he read them, the articles promised the English freedom to depart but they would have to sell their possessions in the colony before leaving. This was especially true of the enslaved laborers who were essential to the colony's sugar economy. Perhaps in future settlers would be permitted to sell enslaved people outside of Suriname, but for now 'the Colony has the greatest need [of them].' ZA, 2.1, 2035.1, no. 62.
43 ZA, 2.1, 2035.1, no. 67.
44 TNA, CO 278/2/1, fol. 21.
45 Dutch credit enabled less affluent English planters to expand their plantations while Dutch planters paid premium wages to English laborers with experience of local conditions and sugar planting. Many of these newly affluent English planters held debts to the colony's Dutch and Jewish settlers, with two-thirds of debtors in Suriname owing money to colonists from other ethnic groups. Lichtenbergh reported confidently in February 1670 that 'all in general say they want to remain here, and even if they wanted to [leave], they could not do so because of the many debts in which they are entangled.' Zijlstra, *Anglo-Dutch Suriname,* 43–47. 'Brief Lichtenberg februari 8,' ZA, 2.1, 2035.1, no. 204. Van Putten and Dikland, *Zeeuwse Archivalia*, 159.
46 TNA, CO 278/2/1, fol. 33.
47 All quotes from TNA, CO 278/2/1, fol 58. 'The petition from the remaining English at Surynam to his Matie.'
48 'De onfeijlbaere maxime van de culture van deese lande, ende het advancement derselven, bestaet uijt credit, dat vergunt wert aen de planters, twelck genauwer ende besnedener hetselve is, hoemeer dat het tendeert tot onderdrucking van den colonie, principaelijck die maer even op de beene gewascht is.' ZA, 2.1, 2035.1, no. 129. Van Putten and Dikland, *Zeeuwse Archivalia*, 116.
49 All quotes from 'Brief Julius Lichtenbergh' ZA, 2.1, 2035.1, no. 124. Transcribed in Van Putten and Dikland, *Zeeuwse Archivalia,* 108. 'Sijnde dit het rechte middel om dese Colonie te doen floreeren, van alle kanten planters herwaerts te trecken, ende groote quantiteijt Suickeren te maecken'; 'en komt daer oock bij dat alle die luijden soo vast alhier geset worden dat nimmermeer van t' lant sullen afgaen.'
50 Around 60 Jewish settlers lived in Suriname, largely concentrated in a cluster of plantations, the Dutch called the 'Jodensavanne' [Jews' savannah]. Like the colony's other inhabitants, many of these Jewish settlers came to Suriname by way of other colonial ventures. Some had been part of Dutch colonies, in Brazil, Tobago, and Essequibo, or

came from other Atlantic colonies including some from French Guiana. Zijlstra, *Anglo-Dutch Suriname*, 90; Wim Klooster, "Networks of Colonial Entrepreneurs: The Founders of the Jewish Settlements in Dutch America, 1650s and 1660s," in *Atlantic Diasporas: Jews, Conversos, and Crypto-Jews in the Age of Mercantilism, 1500–1800;* Ben-Ur, *Jewish Autonomy in a Slave Society*.

51 To some extent, this was a question of translation. Cranfield pointed out that the Dutch copy of treaty specified Englishmen, but the English copy and – crucially – the Latin original referenced English *subjects*. In Cranfield's view, the Jewish inhabitants surely had to be considered subjects of the King for if cultural or ethnic origins precluded subjecthood then inhabitants of Scottish or Irish descent would also be barred from leaving. TNA, CO 278/3, fol. 142. Also available in print: J. H. Hollander, "Documents Relating to the Attempted Departure of the Jews from Surinam in 1675," *Publications of the American Jewish Historical Society*, no. 6 (1897): 9–29.

52 Quoted in Zijlstra, *Anglo-Dutch Suriname*, 121: 'alle de privilegien en vrijheeden, de burgers ende inwoonders van dese colonie vergunt, als oft sij Engelse gebooren waeren.'

53 For a longer account of this dispute, see Jacob Selwood, "Left Behind: Subjecthood, Nationality, and the Status of Jews after the Loss of English Surinam," *Journal of British Studies* 54, no. 3 (July 2015).

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8

IMPERFECT STRANGERS

Frenchmen, foreigners and illegality in 18th-century Guadeloupe

Tessa de Boer

Introduction

On 1 February 1727, Guadeloupe Governor Alexandre Vaultier de Moyencourt sat down to compose an update on the island to Versailles.[1] He was, literally and figuratively, not in a happy place. The letter seeps utter exhaustion. Guadeloupe is ailing. Its inhabitants are starving and dying – those with some vivacity left are either emigrating or revolting. Currency is becoming a rarity. However, there might just be a lifeline. Foreign ships, freighted to the brim with basic necessities, have appeared on the horizon and have gently nudged Guadeloupe's ports: would its population perhaps be interested in purchasing or trading some of their wares on offer? However interested the population might have been, de Moyencourt would not have it. He proudly announces his staunch refusal to give permission to these foreign ships to trade in Guadeloupe – all of them, no exceptions. To provide some extra reassurance to the metropole, he vouches for the following: if even a single barrel of foreign merchandise should be found on Guadeloupe, he would voluntarily commit himself to the Bastille for life.

De Moyencourt's decision to refuse foreigners to introduce their wares onto the island despite the desperate necessity for these same wares seems paradoxical. However, the economic governance of the French Empire goes a long way – though not all the way – in explaining this decision. From the late seventeenth century onward, the French Empire was subjected to increasingly protectionist policies aimed at eliminating foreign stakeholders and keeping the empire's gains within the French sphere. This (and especially its long-awaited 'official' codification in Letters Patent of October 1727) came to be known as the *Exclusif colonial*.[2] For the French West Indies, this concretely meant that foreign trade and provisioning was prohibited, and all supply circuits had to run between the metropole and the French colonies, on

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French vessels, operationalized by French *armateurs*. However, putting these ideals into practice resulted in a fundamental commercial imbalance within the French Empire, and particularly in smaller colonies such as Guadeloupe: metropolitan *armateurs* consistently neglected to supply it, and thus French provisioning would but rarely meet the inhabitants' needs. The structural lack of it would (in case of non-intervention) result in incessant famine and shortages of industrial supplies. This, in turn, threatened the entire social and economic cohesion of the colonial society in question.

Foreign merchandise, brought on foreign ships and sent by foreign entrepreneurs, could significantly alleviate these shortages. Indeed, a myriad of foreign merchants had identified this as an opportunity for economic gain, as basic necessities would beget premium prices. However, the *Exclusif* was the institutional barrier that had to be overcome. Thus, (senior) administrators in Guadeloupe such as de Moyencourt found themselves in an impossible position. There was a clear discrepancy between the law of *l'état* and the law of necessity[3] – between metropolitan ideology and colonial reality. In the day-to-day governance of Guadeloupe, they were to carefully assess and tread this balance. Regulating foreigners, and specifically their attempts at trade, was at the heart of this. For Guadeloupe, even more neglected than more impressive colonies such as Martinique and St. Domingue, and geographically positioned at a crossroads with foreign-held colonies crawling with opportunist vultures waiting to sell their wares, this regulatory task was at its most challenging.[4]

The challenging nature of regulating foreign activity on Guadeloupe was not solely due to the delicate realities on the island. The very letter of the law, too complicated this decision-making process. The *Exclusif* of 1727[5] and the ordonnances, edicts and regulations that pedigreed it were as staunch in their insistence on the respective privileges of 'Frenchmen' over 'foreigners', as they were utterly vague in what those categories actually *entailed*. Extensive historiographical discussions on the conceptualization of subjecthood in the early modern have above all else revealed that it was not easily defined.[6] What exactly determined who was to be considered 'French' and who was 'foreign', especially in the context of the West Indies, where individuals amalgamated in the mishmash of ever-shifting imperial spheres, and (attempts at) metropolitan categorizations were at best awkwardly applicable to colonial societies, which were much more diverse to begin with? Subsequently – if a 'foreign' element could be indisputably identified – *what* specifically was 'illegal' about it in the context of the *Exclusif*? Was it tied to the individual's 'foreign' identity, to the 'foreign' production of his merchandise on offer, to the 'foreign' location of the port of provenance? Historiographical analyses of the *Exclusif* but rarely seek to pinpoint the exact source of illegality on foreign trade, and instead generalize it as an illegal activity at large. However, as we will see, this can be (and was) subjected to considerable nuance.

This chapter investigates the understanding of the notions of 'foreignness' and 'illegality' in eighteenth-century Guadeloupe in the context of the *Exclusif colonial*, wherein they were closely interrelated. It takes as its principal source the series of

correspondence from its governors and other senior administrators, and seeks to contrast this with the integral texts of the Letters Patent, ordonnances and edicts whose application they describe in this correspondence. As senior administrators (such as the governors) were tasked with the execution and supervision of the *Exclusif*, it was *their* understanding and interpretation of these notions that resulted in concrete impact on the daily realities in the colonies, because they pertained to the obtainment of basic necessities. This chapter argues that these everyday decisions (and, as time progresses, the precedent/repertoire) on regulating foreigners and their possibly illegal activity on Guadeloupe provide a much more grounded understanding of early modern colonial subjecthood than legalistic sources.[7] This case study, furthermore, is found in a context wherein a specific subjecthood could create substantial (economic) privileges; therefore, it also contributes to a better understanding of how early modern individuals were able to access or create opportunities in the realm of business, judicial support, and privileges in general, as the gray areas of subjecthood could be exploited in the face of institutional barriers.

The French Empire and Guadeloupe: historical background and exclusionary policies

The French colonization of the Americas began in the sixteenth century, in tandem with similar activities by several other European states. Most early efforts focused on Canada; however, by the mid-1630s, the French also took possession of several islands in the West Indies that would later play a crucial role in the (political) economy of the French Empire by means of its cash crop output – most famously, sugar. Guadeloupe was among them, and in the decades that followed its settlements were increasingly expanded and operationalized. After formal ownership had passed through the hands of several up-and-coming monopoly companies, in 1674 the colony was formally transferred to the French state. As slavery was increasingly institutionalized, the sugar plantation complex developed to maturity in the late seventeenth century, and cash crop output generally flourished throughout the eighteenth century.[8]

From the earliest stages of the systematic colonization of Guadeloupe, the colony sparked the interest of foreign and especially Dutch entrepreneurs, who sought to obtain a share of the potential profits in different sectors of exploitation.[9] For example, as early as 1650, freight contracts to dispatch ships from Amsterdam to trade in Guadeloupe (and neighboring Martinique) are steadily found,[10] as are accounts of Dutchmen physically traveling to the island to 'make their fortunes' as merchants or craftsmen,[11] or powers of attorney to claims due on the island, evidencing the early incorporation of Guadeloupe into transimperial credit networks.[12] These activities are generally representative of the prominent share that of foreign stakeholders occupied in the first few decades of French colonization in the West Indies at large. In the West Indies themselves, the Portuguese *reconquista* of 'Dutch' Brazil in 1654 triggered a diaspora of Dutch (sugar) planters seeking to apply their skills elsewhere,

settling among others on the French isles and aiding in the setup of what would later become its ruthlessly efficient sugar plantation complex.[13] In Europe, as evidenced by Jonathan Webster's study on colonial entrepreneurship in Bordeaux in the seventeenth century, communities of foreign merchants and *armateurs* in metropolitan ports were often more willing to take on the risks of colonial trade than their French counterparts, as they had (in case of the Portuguese and the Dutch) observed and participated in the booming colonial trade conducted in and by their respective home states, and were financially and infrastructurally (ships) better equipped to expedite these enterprises.[14]

From the mid-seventeenth century onward, institutional anxieties about foreign stakeholdership of one's 'own' empire started to emerge. As mercantilist thought matured, as English trade was subjected to protectionist Navigation Acts, and as Jean-Baptiste Colbert acceded as the leading minister in France, increasingly exclusionary policies were implemented in the political, social and economic governance of the French Empire.[15] For example, an ordinance of June 1670 issued a general prohibition for foreign vessels to dock or come within one league of French colonial coasts. In addition, coming into contact with foreign merchandise (introducing it into the colonies or trading it on) also became a punishable offense. Another significant addition to the legal corpus prohibiting foreign trade was the *règlement* of August 1698, meant to re-install the protectionist measures after they were temporarily eased due to the Nine Years' War (1688–1697). Again, this stipulated the general prohibition for foreign vessels to dock in a colonial port, as well as trading in or being in possession of foreign merchandise, or to lend one's name to act as a front for foreign businessmen and *armateurs*. The Letters Patent of April 1717, too, proscribed these mechanisms.[16] Whether these 1717 Letters Patent can be viewed as the establishment of 'the' *Exclusif*, as some literature presents it, is debatable.[17] Equally rigorous and content-wise comparable regulations were already in place before 1717. In addition, in documentation post-1727, it is the Letters Patent of October 1727 that are consistently synonymized/identified with the *Exclusif*. In referring to anti-foreign, protectionist measures, senior administrators nearly always cite the *Lettres Patentes d'Octobre 1727*,[18] even after significant modifications or newer regulations were issued, suggesting that these Letters Patent were considered the unequivocal standard or basis of the *Exclusif*, and that 1727 was not merely an addition to 1717. On a more methodological level, this also justifies the selection of the Letters Patent of 1727 as the central legal framework in this chapter to investigate notions of foreignness and illegality.

To some extent, the *Exclusif* did what it ought to do. The concentrated (though, as we will see, not watertight) transfer of colonial cash crops to the metropole caused tumultuous economic growth in France. The quick saturation of its domestic markets (around 1730) triggered the large-scale and profitable re-export of French colonial resources abroad, creating a large trade surplus, one of the principal aims of mercantilist economies.[19] However, the flow of merchandise from the metropole to the colonies was not as impressive, and was one of the causes of the aforementioned

structural imbalance: Guadeloupe, for example, was chronically undersupplied and could barely sustain its population and industry without additional foreign resources.[20] At several points in the eighteenth century, these problems were exacerbated when France and Britain went to war: massive losses to British privateering rendered French shipping all but impossible, which crippled the already meager supply of necessities to the French West Indies. Under these circumstances, the *Exclusif* would be formally or informally suspended, and 'neutral' foreigners in possession of passports would be openly welcomed to trade in the colonial ports.

The devastation caused by the Seven Years' War (1756–1763) in particular left an impression.[21] Guadeloupe had been invaded and occupied by the British, but was returned to France in exchange for Canada with the Treaty of Paris in 1763. The lessons learned on the fragility of the *Exclusif*, the commercial networks and innovations introduced by the British occupiers, and by then, proven benefits of (some types of) foreign trade to remedy supply deficits did not leave policy makers unmoved. Several ordinances, edicts and regulations liberalizing certain aspects of the *Exclusif* were implemented from the late 1760s onward – for example, certain free ports were established (in case of Guadeloupe, the island of St. Lucia) and trading certain types of products was allowed there. The number of these ports and products increased steadily, and in the late 1770s, free trade (within limitations) was established in Guadeloupe.[22] Foreigners were finally granted significant leeway, and their close association with illegality started to unravel.

Defining illegality

The central tenet of the *Exclusif colonial*, or the Letters Patent of 1727, was its general prohibition of *commerce étranger*. All individual articles of the document were instructions on how to enforce this: which activities were illegal, what punishments would those nevertheless partaking in these activities meet, and under which very specific circumstances would normally illegal activities be sanctioned?

Curiously, for a document so vehemently interdicting 'foreign trade', it is difficult to pinpoint *which* element of it made it unacceptable. 'Trade' by definition at minimum involves more than one actor and a product. In the context of colonial trade in Guadeloupe, it generally involved multiple *actors*, *things* and *geographies*. Any of these elements could be 'foreign', and thus be 'the' source of illegality. A typical transaction could also involve non-foreign elements: crudely put, French actors, things and geographies. Did French involvement in a transaction have a permeable impact on the degree of illegality?

Before delving into the specifics of the illegal nature of foreign *trade*, it is important to acknowledge that not *all* foreign presence or activity in the French West Indies was outlawed. The Letters Patent outline one important sector where foreigners could in fact exist: basic settlement. Foreigners were allowed to own property (real estate and land) and reside in the French West Indies, and thus in Guadeloupe. No comments are made regarding the professions they could exercise or the ways

they could earn their keep, aside from the repeated assertion that they could *not* involve themselves in any kind of merchantry, brokerage or trade, the exception being the sale of crops that they would grow on their own land. Any foreigner that was involved in merchantry at the time of the issuing of the Letters Patent was to cease operations within three months.[23]

As it comes to foreign trade, close reading of the Letters Patent allows the distillation of four potential 'bases' of illegality. Simply, four ingredients had the potential to make trade 'foreign' in the context of the *Exclusif*. One of these ingredients was sufficient, but a combination of them could only further incriminate the transaction. Even then, with every single ingredient, one can subsequently wonder what made this particular ingredient foreign in the first place.

Firstly, the foreignness of the *ship* that entered the French West Indian port was arguably the most important factor. Numerous articles contain references to 'vaisseaux & autres batimens de mer estrangers' or 'navires estrangers'. Their very presence within one league of the colony's coast was prohibited; entering the port was equally condemnable.[24] The only exceptions were foreign ships in distress, seeking entry to get essential repairs. However, they would be subjected to considerable paperwork and surveillance.[25] Complications immediately arise with a ship-based assessment of foreignness. The Letters Patent at no place define what makes a ship foreign, and instead seems to assume this as an essentialized characteristic. However, it is (and was) not as straightforward an exercise as it seems to determine a ship's 'nationality' in the early modern era. The flag was in many cases the prime indicator, but what determined the flag? The subjecthood of the captain? That of the owner? The location of the shipyard? The harbor of provenance? It appears that this was to some extent not legally standardized; it was also vulnerable to opportunistic fraud – many incidents of flag-swapping are recorded, including in Guadeloupe.[26]

Secondly, the foreignness of the *merchandise* that is destined for trade was considered. It was not permitted to introduce 'Negres, effets, denrées & marchandises' from a foreign source in the colonial ports. By extension, it was also forbidden to have it in one's possession in the colony in general, either with the purpose of concealing/storing it, or to trade it on.[27] Again, what exactly made merchandise foreign is not consistently explained in the *Exclusif*. Was it the location of its production (and then, which stage in the commodity chain?)? The last port that it was trafficked through? The owner or seller of the merchandise? The bottom it was transported on? With merchandise, an added difficulty was that more often than not, its origin was not clearly identifiable – try and distinguish, at first glance, British flour from French flour. This was a widely recognized problem, judging from the contemporary reflections of Émilien Petit, a creole lawyer and judge from St. Domingue[28]: he recommended paying extra attention to small merchant's markers on the packaging, or, in case of enslaved people, analyzing the language(s) they speak. However, he admits that after some time passes or the merchandise changes hands a few times, these subtle clues would soon fade, and it would be impossible to establish any (foreign) origin.[29]

Thirdly, the foreignness of the *location* that was involved in the transaction mattered. The Letters Patent certainly seem to take the fact whether a transaction or activity in trade was conducted in 'pays estrangers' or 'colonies estrangers' into account when assessing its legality. For example, several articles explicitly forbid sending merchandise to these foreign places or importing merchandise from these places to the French colony ('nosdites isles & colonies').[30] Out of all four 'foreign' ingredients in trade, location is arguably the least ambiguous when it comes to *what* exactly made it foreign in the first place. Territorial sovereignty was relatively well-established and well-defined in peacetime, and aside from the occasional shift or dispute in wartime, it would be clear which locations and ports could be considered 'foreign'.

Lastly, the foreignness of the *actor(s)* conducting the trade seems to be taken into account. Several types of actors reoccur/are explicitly mentioned in the Letters Patent' discussion of illegal activity: among others, the operations of captains, crews, merchants, factors and commissioners are subjected to its regulations. There are surprisingly few articles that, in discussing these actors, identify them as 'foreigners' ('estrangers')[31]; in other words, there are not many instances where the *foreigners* themselves are identified as the core of what made trade foreign. However, it seems unlikely that this factored so little in the assessment. What is more probable is that, particularly as it pertained to the labeling of ships or merchandise as foreign, the actors themselves were a base condition: the involvement of a foreign freighter, buyer, seller, commissioner, captain, crew and so forth went a long way in subsequently identifying these other ingredients as foreign. This might have been so self-evident, that it escaped any explicit clarification in the literal text of the Letters Patent. Nevertheless, the 'classic' problem remained – *who* was a foreigner, and who was not? What determined this?

What emerges from these discussions is that, while any of these ingredients was independently sufficient to make an attempt at trade 'foreign' in the eyes of the *Exclusif*, they were highly interrelated, and rarely occurred in isolation. In most articles (and in historical practice), the illegality of a stint of foreign trade was composed of multiple foreign ingredients. The appearance of foreign ships carrying foreign merchandise, sent from a foreign port by a foreign entrepreneur, was a daily occurrence in the French West Indies, and attempting to define the intricacies of foreignness in these cases was a superfluous exercise – even the admittedly vague terminology of the *Exclusif* was clear enough to condemn these instances.

One important question arises however when it comes to the 'composition' of trade. Again, with a typical (foreign) trade transaction in the French West Indies consisting of more than one *actor, thing* and *geography*, what happens when foreign elements mix with French ones? The Letters Patent extensively take this mixing into account, and a variety of different scenarios and combinations are sketched out and appropriately interdicted: French merchants exporting French merchandise to foreign localities,[32] foreign merchants corresponding with French commissioners[33] and so forth. Analyzing this 'mixed' trade further affirms the central assertion of

this section, namely that any detectable foreign element (a ship, merchandise, location or actor) was enough to incriminate the procedure – French involvement was not enough to 'whitewash' the transaction. In fact, it was the contrary: implicated Frenchmen were equally as condemnable and punished even more severely than foreigners that were caught in the act. In this particular regard, the *Exclusif* was more rigorous than comparable systems of British commercial legislation of the time. Whereas the British maintained similar restrictions on foreign trade with(in) its West Indian territories, British law only sought to penalize the foreign elements, rather than any British subjects that were found to be complicit.[34]

Defining foreignness

It is more than evident that the supposed illegality of trade in the French West Indies was inextricably tied to the involvement of foreigners. Equally as evident is the lack of somewhat comprehensive definitions on *what* exactly is foreign, or a foreigner, in this context. In the Letters Patent, there is but one characteristic that sets apart Frenchmen from foreigners – subjecthood. Frenchmen are consistently identified as 'nos(dits) Sujets', or, in some minor instances, as the adjective 'François' (e.g. *négocians François*). Foreigners are 'estrangers'.

Thus, in the eyes of the law, Frenchmen were French subjects, and foreigners were not. Subjecthood was what divided them, in the metropole and in the colonies alike, in law and in practice. In the early modern age, subjecthood determined whose sovereignty an individual fell under. A certain subjecthood came with a set of institutions to utilize, obligations to fulfill and privileges to claim. A typical site where all of these things manifest is the judicial system (physical courts, but also legislation): one's subjecthood to a large extent determined which system was available or chosen to channel personal or property-related injustices, and which would administer justice when one was caught trespassing the law.[35] The institutions and obligations, but especially the privileges, were not only dependent on domestic affairs. Developments in international relations could exercise a significant influence on the privileges of a particular subjecthood beyond 'its' territorial borders. For example, a commercial treaty between two countries could attribute collective privileges to each other's merchants on each other's markets: from slightly lower tariffs, to entire monopolies on the exploitation of valuable resources. The opposite could also be true: trade embargoes, a staple of early modern and modern history alike, are a mechanism to exterminate the privileges of another's subjecthood.[36] What follows is that in the context of early modern mercantilist political economies and empires, these subjecthood-related discussions are extremely relevant. The *Exclusif* was a system that privileged or restricted actors based on subjecthood, and stakeholdership in the French Empire was nominally reserved for French *sujets*, as evidenced by the terminology of the Letters Patent.

What were the legal bases of French subjecthood in the early modern age? French subjecthood could be sourced from either *jus soli* (being born on French territories,

including the colonies) or *jus sanguinis* (being born wherever, but to French parents).[37] *Jus soli* is also referred to in the Letters Patent, in the only instance wherein 'sujet' is slightly elaborated upon: 'tous nos Sujets *nez dans nostre Royaume & dans les Colonies soûmises à notre obéïssance*'.[38] For those not meeting these requirements, a third avenue toward French subjecthood was available, namely naturalization. However, this was a rare occurrence at approximately 45 cases per year between 1660 and 1789, and generally, the only applicants were elites.[39] Additionally, as we will see, naturalization was all but invalid in colonial contexts.

Those non-subjects that remained were foreigners. While dwelling on French territory, they encountered barriers in their professional as well as personal environment – for example, they could not hold royal office. The most important general restriction was their subjection to the *droit d'aubaine* – the inability to pass assets on to any heirs, and instead have those assets automatically transferred to the state upon their passing while on French soil.[40] This was a significant hindrance for foreign entrepreneurs to establish their business in France: the *droit d'aubaine* was a sword of Damocles to 'foreign' business organizations, because the risk of seizure of assets if (unexpectedly) deceased while in France limited the sustainability of more long-term accumulation of assets.[41]

As Silvia Marzagalli rightly points out, these general principles were the subject of numerous exceptions.[42] Droves of individuals treaded the margins of French subjecthood in the metropole and in the colonies alike, and had to make their case as to why in fact they would qualify for subjecthood and its adjacent privileges. The Huguenot diaspora loomed at the core of many of these cases, especially in the eighteenth century as second or third generation of descendants emerged. Anti-Huguenot legislation of the mid-to-late seventeenth century generally contained terms that competed with the (mostly Renaissance period) principles of French subjecthood, and there were plenty of Huguenots (and their descendants) who still wished to make a claim to the privileges of French subjecthood while on French soil.

Diplomatic documentation is rife with these cases, and excellently illustrates the chaotic situations that could arise from stringent, but non-comprehensive laws, especially when large sums of money and assets were on the line.[43] For example, in 1724, a dispute arose between the Dutch States General and the French state after a petition by Pierre Testas Jr. He was a prominent merchant born in Amsterdam to a Huguenot father, and a prominent 'Dutch'/'foreign' interloper in the French West Indies. Testas Jr. desired to claim his grandfather's inheritance in France, but this was rejected. The French authorities cited regulations dating to 1669 and 1698 that offered Huguenots (such as Testas Jr.'s father) the opportunity, after renouncing their heresy, to repatriate to France and have their property rights fully restored 'on an equal basis to natural subjects', once again evidencing the close connection between property rights and subjecthood, but keeping the subject status of Huguenots vague.[44] This is further complicated when the authorities add a subtly threatening reminder that all those Huguenot 'subjects' who had not made the decision to

repatriate under these olive-branched conditions, had caused great offense to the French King, implying that they were *still* considered to be accountable to the King's sovereign power. The Dutch ambassador writing on this case specifically states that he and all others involved found the matter highly confusing: he was personally unable to deduce whether the French authorities ultimately considered the foreign-born offspring of a Huguenot as legitimate foreigners, or just disobedient/estranged subjects.[45] With many similar or even more complicated situations detailed in diplomatic and stately documentation, it is evident that while the legal dimension of French subjecthood readily distinguished between Frenchmen and foreigners, this difference was not always clear in practice.

Turning back to the colonial sphere, these matters were subject to even more exceptions and complications. It has been thoroughly established that European, metropolitan classifications of subjecthood – but also social classifications in general – were not applicable to colonial societies, which were inherently more diverse. For example, the presence of large, enslaved or free(d) colored populations could provoke endless debates on the subjecthood status of these people, and what the political, legal, social and moral consequences of this would be.[46] When it comes to the rights of non-subjects, or foreigners, the *Exclusif* and the Letters Patent are also inherently symptomatic of the different legal situation in the metropole versus the colonies: it ensured that non-subjects had substantially more economic and commercial rights in metropolitan France, compared to the West Indies.

A very concrete difference that can be established between the legal bases of French subjecthood in the metropolitan versus the colonial sphere is the nonrecognition of naturalization. Whereas in France itself, a foreigner could attain French subjecthood and all its attached privileges through naturalization, this was not the case in the French West Indies. On two separate occasions, the Letters Patent explicitly invalidate naturalization as a mechanism to circumvent the barriers imposed on foreigners:

> Les estrangers establis dans nos Colonies, *même ceux naturalisez*, *ou qui pourroient l'estre à l'avenir*, ne pourront y estre Marchands, Courtiers & Agens d'Affaires de Commerce, en quelque sorte & maniere que ce soit.[47]
>
> Faisons deffenses à tous Marchands & Négocians establis dans nosdites Colonies, d'avoir aucuns Commis, Facteurs, Teneurs de Livres, ou atres personnes qui se mestent de leur commerce, qui soient Estrangers, *encore qu'ils soient naturalisez*.[48]

These articles seem to go as far as to consider those naturalized still 'foreigners' after all, unable to get rid of this essence with a piece of paperwork.

Some remarks remain on the regulations regarding religion in the French West Indies, and the role it played in attempts to distinguish foreigners from Frenchmen. As previously discussed, Huguenots and their descendants very much complicated the notion of French subjecthood. At the core of this was, of course, religion: Catholicism was an integral part of French monarchical identity and sovereign

power, and protestant/Huguenot subjects fit but awkwardly into this constellation, and their possibly divided loyalties were a liability.[49] Whereas Catholicism was not an absolute prerequisite to French subjecthood, it was very closely associated with it.[50] In the West Indies, and particularly on Guadeloupe, the association between 'Frenchman/Catholic' and 'foreigner/Protestant' was especially strong, because (as we will see) the two major groups of foreigners interacting with Guadeloupe were the Dutch and the British, both of them famously protestant. What followed from all this is that the anxiety surrounding foreign presence in the colonies was not exclusively economically motivated – socially, too, foreigners could negatively impact French colonial society through their adverse religious beliefs. To negate these potential liabilities, non-Catholics had limited rights in France and the French West Indies alike. For example, whereas non-Catholic religious beliefs were not prohibited as such, only the Catholic religion could be exercised in public.[51] These policies stand in stark difference with the British or the Dutch Americas, where religious diversity was not as much regarded as an issue, and freedom of religion was more widely guaranteed.[52]

Attempting to define foreignness in France and the French West Indies is, all in all, a challenging endeavor. As with illegality, the legal terminology is strict and concise: subjecthood is what sets apart a Frenchman from a foreigner, and privileges access to (the resources of) the French West Indies to one, but not to the other. However, subsequently attempting to define the next step – subjecthood – is much more convoluted, and it is evident that metropolitan legal frameworks did not necessarily provide for the diversity of backgrounds and identities on the ground, certainly not with regard to religion, and especially not in colonial settings.

Putting ideas into practice: foreign trade on Guadeloupe

The vast majority of physical foreign presence and the regulation of it in the French West Indies is found in the context of trade; differently put, most direct foreign engagement with a colony such as Guadeloupe was commercial in nature. The legal texts constituting the *Exclusif*, such as the Letters Patent, do/did not provide a comprehensive enough definition of illegality and foreignness to account for all subtle varieties and shades of 'foreign trade', opening plenty of windows for opportunity for Frenchmen and foreigners alike. French administrators could exploit loopholes to justify urgently needed foreign provisioning, and foreign merchants could reason their way out of perceived illegality. Close analysis of this rhetoric and behavior will grant more nuanced and grounded insights into notions of illegality and foreignness in the French West Indies. Patterns of decision making by the governors, and the justification thereof, when confronted with 'illegal' foreign activity, is especially revealing. In order to administer justice, a governor had to take the abstract law, actively interpret and mold it, and could only then apply it – sprinkling personal and professional prejudices throughout this process was an option.[53] Arguably, the collective of these judgments is a more accurate and dynamic indicator of notions

of illegality and foreignness in the French West Indies and the historical *Systeme de l'Exclusif* than any legal text.

Before moving onto a couple of specific instances, it is important to provide an outline of foreign activity (primarily trade) in Guadeloupe. It has been widely recognized, both in contemporary sources as well as in historiography, that foreign trade in the French West Indies was widespread in spite of the *Exclusif*.[54] As we have seen, foreign stakeholdership in the French West Indies and in Guadeloupe had been present from the beginning, and increased exclusionary legislation as time progressed did not succeed in exterminating this phenomenon – it perhaps pushed it to more covert corners and coves, but even that is somewhat debatable when reading the daily reports of happenings on Guadeloupe. The presence of foreign vessels, ranging from large frigates to small canoes, in and around its ports and coast was structural, especially in times of great dearth, typically the result of wars, natural disasters or imbalances in the *Exclusif* itself (no supplies from France). Foreign entrepreneurs and companies steadily identified Guadeloupe's general lack of resources as an opportunity to attempt to sell wares at premium prices; these premium prices, in turn, further increased Guadeloupe's foreign ties, because many of its inhabitants were subsequently burdened by significant debts to foreign parties. This included the Dutch West India Company, who at several points sent a dedicated debt collector to the island. Nearly all recorded instances of foreign activity in Guadeloupe concern either British or Dutch actors; generally, the British feature most frequently, but depending on developments in the generally volatile Anglo-French relations, the Dutch could take the upper hand.

The British generally had their basis (vessels, commissioners) on Dominica, the Dutch on St. Eustatius. Dominica in particular was excellently positioned for both legal trade and smuggling to Guadeloupe: the stretch of water in between the islands was crossable in small, inconspicuous barks and in a relatively short time, as Guadeloupe's governors wearily complained.[55] Foreign trade was conducted both openly and covertly. Plenty of times, the foreigner would present himself and his wares in the port, and seek permission to openly trade – the bare continued existence of this phenomenon evidences that there was a realistic chance of success for getting permission to openly trade on Guadeloupe despite the Letters Patent prohibiting it. However, the majority of trade was covert – smuggling – and absolutely endemic throughout the West Indies.[56] The governors' correspondence evidences that most of the time the infrastructure and motivation to combat it was lacking, and that as a result, foreign smuggling found continuation despite the authorities being well aware of its existence.[57] Overall, the ambitious *Exclusif* seems to have been but tepidly enforced. A mid-eighteenth-century Dutch treatise on Dutch trade in the French West Indies even seems to consider it so inconsequential in fact, that the fundamental illegality of it is not even touched upon once – it happily outlines the large volume of trade, and announces that the French coast guard in the West Indies are known to never stop Dutch ships.[58]

This does not necessarily match the governors' own reflections on their dealings with foreigners – of course, the fundamental difference is explained by the respective source audience. The governors' correspondence was addressed to the relevant ministers in Versailles, and primarily served to advance their own personal and professional standing. Generally, the governors express their zeal to combat all foreign activity on Guadeloupe in line with the King's law. They detail the confiscation of ships suspected of foreign trade, or the arrest of foreign merchandise or individuals. In instances where they do not succeed in preventing foreign trade, they sketch it as force majeure, blame it on fellow administrators, or – most interestingly – point to the dysfunctionality of the law that they were handed ('forcing' them to permit to foreign trade to prevent a worse disaster), and openly criticize the metropole's policies.[59] Their accounts of the (non-)punishments dealt to those involved in foreign activity, are revealing when it comes to investigating illegality and foreignness on Guadeloupe. The respective decisions and the rhetoric to justify it unravel the understanding of these notions in French colonial contexts.

Intercepting foreigners and their trade on Guadeloupe was – according to the Letters Patent – the prerogative of any French subject, not just the authorities.[60] Any seaworthy Frenchman was allowed to chase vessels engaged in illegal activity, and Frenchmen snitching on foreigners were to be rewarded with (half of) the fine money that the foreigner would be forced to pay.[61] However, these incentives did little to encourage the population and even the administration to do their part in combating foreign activity in Guadeloupe. The personal benefits to letting foreign provisions onto the island were just too great – avoiding starvation was but one of these many benefits. To the stated frustration of the governors, there appears to have been a broad mutual understanding among Guadeloupe's society that reporting foreign activity to the authorities was not desirable.[62] Mutually assured destruction also factored into this: as significant chunks of society were actively or passively involved in foreign trade, not reporting one's foreign-buying neighbor or corrupt colleague was often an act of self-preservation. This significantly hindered the authorities' ability to catch foreigners in the act. Catching them in the act, however, was almost an essentiality to be able to administer justice, because establishing proof of illegal activity in retrospect was exceedingly more difficult.[63] The difficulty (and rarity) of constructing an actual case is evidenced in the correspondence. Only in 1731, decades after the introduction of anti-foreign legislation and years after the implementation of the Letters Patent, an administrator writes about a judicial first on Guadeloupe: for the first time, three men suspected of foreign (slave) trade had been prosecuted to the very end, and had now received sentencing – Rousseau (from Guadeloupe), Ruotte (from Martinique) and Billard (their skipper) were the unlucky convicted in this legal triumph.[64]

Most of the time, the patrols, inspections and arrests were performed by vessels and officers of the French West Indian tax farm, the *ferme d'Occident*. The *ferme* was the bureaucratic agency responsible for overseeing and collecting tax – critically, customs revenue – in New France and the French West Indies, including Guadeloupe.

However, they too had insufficient means to establish a watertight surveillance of the coasts and ports of the *ferme's* jurisdiction, and frequently, governors had to write to France to beg to provide the *ferme* with more (navy) ships.[65] If a successful arrest was made, however, the next step was to administer the appropriate amount of justice. The administration of justice is very closely tied to subjecthood. Did a sovereign entity, in this case, the French state, have (or claim) the prerogative to submit non-subjects to its own laws, and dole out the punishment accordingly? In the Letters Patent, we can already distill that there is a clear difference in the measure of justice that one could administer to subjects versus non-subjects caught in foreign trade. Four types of penalties are prescribed: a monetary fine, confiscation of assets (mainly vessels/merchandise), imprisonment, or the galleys. The particular mix and intensity of each penalty varied per specific infraction. Foreigners could expect to receive any of the first three punishments; the galleys, however, are exclusively added to the arsenal for punishing French subjects in breach of the *Exclusif*. As the galleys were generally regarded as a particularly brutal (non-capital) punishment,[66] it is a testament to the limited jurisdictional power that the French state claimed over foreigners in breach of its law, compared to natural subjects, in colonial settings.

Accepting the premise that the full extent of the law could only be unleashed onto subjects, analyzing the judicial treatment of some individual cases will reveal the nuances of the subject versus non-subject distinction in the French West Indies. Aside from the *measure* of punishment, the bare fact that the case was judged to be illegal in the first place is also an important indicator. Upon assessing the corpus of 'foreign incidents' mentioned in the governor's correspondence, three themes/cases emerge as particularly elucidating.

Firstly, the hunt for *St. Eustatius slave traders*. The Dutch colony of St. Eustatius was a hotbed for illegal slave trade, due to its location at a crossroads of imperial spheres, its neutrality, and (from the mid-eighteenth century onward) its status as a free port.[67] Governor's complaints about the presence of illegally introduced enslaved people in Guadeloupe nearly always concern those brought in from St. Eustatius. Two slave traders were particularly prolific in this scheme and taunted the Guadeloupe administration by brazenly conducting an open illicit slave trade for years on end. The first, who was mostly active during the 1730s, is identified as 'Coms', 'Come' or 'Combes' by the governors.[68] This likely refers to John/Jan Combes, a merchant and slave trader based on St. Eustatius, attested to in Amsterdam powers of attorney around the same date. The French authorities had difficulty in establishing whose subject Combes was, but eventually designated him as Dutch.[69] All four 'ingredients' of Combes' trade were illegal: he is attested to have used British ships, carrying British-grown crops (in his non-slaving endeavors), operated from Dutch soil, and was a foreign entrepreneur. It is therefore easy to identify his activities as illegal, per the Letters Patent. At several points, Combes' enterprises were intercepted and penalized, mostly through confiscation. His status as a repeat offender eventually turned the authorities to targeting his person, as opposed to his assets, and sought his arrest. In early 1730, something resembling an international arrest warrant was issued on Guadeloupe: public orders to arrest Combes, and announcing

a punishment for all those found to conceal him, were nailed on the doors of every church on Grand Terre. Evidentially, the French authorities were not deterred from taking drastic action against a foreigner; however, as a non-resident of Guadeloupe (or the French West Indies at large), Combes was safe and sound in the Dutch West Indies, and the governor begrudgingly admits that the warrant had produced no results whatsoever.[70]

The second culprit for illegal slave trade from St. Eustatius, around the mid-1750s, similarly sought refuge in the Dutch West Indies – however, this time the fugitive was a French subject. Estienne Ricord seems to have been somewhat more mobile than John Combes, and is mentioned to have frequently traveled between Guadeloupe and St. Eustatius in person to arrange the illegal shipments of enslaved persons.[71] The perceived illegal nature of his trade seems to have been firmly based on location, as both Ricord and his accomplices were Frenchmen, but they sourced their 'freight' from a foreign colony. Ricord was arrested by a local officer in March of 1755, and his assets were seized and sold. However – as the local officer in question details in a complaint to the Minister – rampant corruption and nepotism in the government of Guadeloupe (up to governor Mirabeau) ensured that Ricord got all opportunity to conceal himself, 'escape', and flee back to St. Eustatius.[72] This case evidences an oft-mentioned complication with the penalization of subjects versus non-subjects: pre-established relationships, especially in relatively small-scale societies such as that (among whites) in Guadeloupe, could drastically corrupt the administration of justice. This could swing both ways. The harsh sentencing of an upstanding, wealthy or well-connected member of the community (as merchants could very well be) was always awkward, evidenced by the general lack of galley sentences.[73] On the other hand, the numerous individual rivalries attested to in the administrators' correspondence – the local officer calls governor Mirabeau 'his worst enemy' – ensured that many were very much willing to eliminate and incriminate their kin.[74] This dynamic featured overall less in cases concerning foreigners, who were bound to be (relative) strangers. In all, the cases of foreigner Combes and Frenchman Ricord evidence that similar illegal activities could count on similar penalties (confiscation of assets, and arrest of the person); however, the difficulties encountered when attempting to execute the penalties could differ with subjects versus non-subjects.

Secondly, the *reactive nature* of judgments on cases of foreign activity in Guadeloupe. In many instances, the administrator explicitly states to have taken into account the possible reaction of the sovereign power to which the foreigner belongs; for example, would the sentencing of a British subject anger Great Britain? Could France and French subjects expect retaliation? As a general rule, many decisions were made on the basis of perceived bilaterality. Harsh French sentencing of a foreigner would mean that the foreigner's sovereign would likely retaliate by harshly sentencing Frenchmen in its custody, caught for similar crimes; consequently, warmer relations would ensure smooth prisoner exchanges in respectful recognition of each other's sovereign power to judge their own. Guadeloupe's authorities generally swung between these

provocative or complacent modi. This had concrete consequences for the decision making on foreign activity and its perceived illegality. A case of deliberate provocation is found in May of 1731, after seven Irish soldiers presented themselves in Guadeloupe. They had deserted from the British army whilst stationed in Antigua and were now requesting asylum in the French colony. Writing on the case, a certain administrator called de la Chapelle states that, although the Letters Patent forbid foreigners to settle in Guadeloupe (an interesting misinterpretation, as this was in fact very much allowed[75]), he and governor du Poyet still granted the Irishmen the asylum they requested. De la Chapelle states that his main motivation for this was the staunch British refusal to extradite French deserters – in that case, they would certainly not return the favor.[76] Evidentially, it was even worth 'breaking' *French* laws on foreign presence in the colonies for this. In an attempt to win the authorities for his controversial decision, he adds that the soldiers were very well-behaved, had never pillaged or stolen anything, were not armed, and were even to be pitied, because they only deserted due to the brutal treatment they received from British army officers. One Irishman among them had even more virtues than just good character – he might just be a compatriot:

> Il s'en est trouvé un qui quoyqu'irlandois d'origine, est natif de Rouen, ou il a esté elevé, il a demandé a servir dans les trouppes, M. Dupoyet la engagé pour 6 ans.

Though described as Irish in origin, the man in question was a 'native' of Rouen and was brought up there. Although serving in the French forces was not exclusively beholden to French subjects in this era,[77] this particular man's request to serve among the French troops serves to further strengthen his perceived 'French' identity. The granting of asylum to the Irish soldiers is not the only 'foreign incident' in which a decision was justified to the French authorities using the (potential) British reaction as its main reason. In 1728, governor du Poyet's anxiety was heightened by the appearance in the port of a British vessel claiming distress.[78] He first pondered for a long time whether to permit the British ship access for repairs, eventually deciding in favor because the King, in his goodness, would surely want them to help all those in distress. However, after a thorough inspection by the *ferme*'s officials, it was concluded that the boat would still need to be arrested. This caused further hesitation with du Poyet, who realized that the arrest would set a precedent for foreign authorities to be similarly hostile to French ships in distress. Moved by his 'zeal to combat foreign trade' he eventually sanctioned the arrest but did ask for further guidelines/introductions on these situations to be sent over in order to avoid provoking conflicts in the future.

Four years later in 1732, the aforementioned de la Chapelle similarly details his hesitation to arrest British vessels, this time those blown near Guadeloupe's coast in a storm, technically violating the prohibition of coming within one league of the island's shore – he feared that petty arrests such as these would surely spur the

British to retaliate against French ships in similar, non-purposeful navigational difficulties.[79] Navigational difficulties were also the cause of a serious conflict in 1767 when a British slave ship – sailing from Dominica to Montserrat, according to its crew and owner – docked in Guadeloupe for repairs, possibly after having been attacked by a French ship.[80] The ship and (human) cargo were subsequently arrested and confiscated by the *ferme*, not only for coming into Guadeloupe's waters, but also for fraudulent flagging – it was at first flying a French flag, then a white one, and was eventually exposed as a British vessel. Its owner filed a complaint with the British governor of Dominica, who transmitted to the Guadeloupe authorities that the arrest was an insult to British subjects, and demanded that a full restitution would take place. However, this time Governor Pierre Gédéon de Nolivos and his subordinate de Moissac stood their ground. They argued that while their actions undoubtedly damaged the Franco-British relationship, if they refrained from seizing ships such as these, they could simply not combat foreign trade. There was even a slight benefit to be had – Nolivos promised to claim the 'six most beautiful' among the 98 enslaved persons for the King.[81]

Lastly, a closer look at the administered justice in some cases of specifically stated *collaborations between foreigners and Frenchmen* will provide some insight into how these were viewed and handled. In a 1728 recapitulation of his common dealings with foreigner-related incidents, councilor Mesnier recounts that he usually settles on confiscation, but recounts a recent incident wherein a Spanish corsair – a rare instance of non-British/Dutch infractions – was arrested, and its captain, a French 'mulatto', was sentenced to life on the galleys, with an interesting added remark that the death penalty was not uncommon in cases such as these.[82] Evidently, the French subjecthood of the captain did not determine Mesnier's estimation of the ship's (foreign) nature; on the contrary, his French subjecthood did not cancel out the ship's foreignness and thus illegality. Mesnier's references to the death penalty seem tied to the French captain's race, as he goes on to describe the executions of specifically black people caught in similar situations, adding complex, but well-known dimensions to the varied measure of administered justice 'within' subjecthoods, hinging on other characteristics such as race or sex.

That the involvement of French parties was not enough to whitewash certain types of foreign-associated trade of its illegality is further evidenced in a case from 1744, as described by governor Gabriel-Mathieu Francois D'ceus de Clieu.[83] It equally evidences the influence of wider political and military considerations that could override all of these factors. De Clieu was confronted with a vessel he deemed Dutch, due to it having been freighted in Curacao; however, its freighters were French merchants on Martinique. The ship claimed to dock to stock up on drinking water. However, the (Austrian Succession) wartime situation made him suspicious, and de Clieu guessed it was actually a spy mission to gauge whether some other ships close by were British privateers. The abnormal circumstances due to the war caused him in the end to not perform an arrest or a routine confiscation, but instead order the ship to stay and sell its merchandise (flour, ropes and gunpowder) on

Guadeloupe, to alleviate existing shortages and to prevent the provisions from falling into the hands of the British. This is also symptomatic of the general dilution of the *Exclusif* during wartime, in response to intensified provisioning issues.

The final case to be discussed must also be viewed in this context. During the Austrian Succession War, Dutch ships were expedited and permitted on a regular basis to trade in Guadeloupe – despite the Dutch Republic and France being on opposing sides of the war. One of these, *De Dageraat* (1746, from Amsterdam), had a mixed Anglo/French/Dutch crew and had first attempted to dock in Martinique, where they were denied entry (even after faking damage to the ship) and where some of the French crew deserted. In Guadeloupe, however, they were able to covertly trade a bit. The remaining Dutch crew was very uncomfortable with their complicity in trade deemed illegal by the local authorities, and conducted an 'unfree port'. Their demands for increased wages were met with the skipper's wrath, who sent them ashore, causing them to be arrested and imprisoned by the French authorities.[84] It is heavily implied in the crew's testimony that skipper Lieve Lolkes van Nes collaborated with the French administrators to conduct the scheme of their arrest, signaling further traces of institutional corruption as it pertained to matters of foreign trade, and the enforcement of the *Exclusif*. The showy arrest was mutually beneficial – for the officers to keep up appearances of anti-foreign zeal, and for the skipper to terrorize his crew into obedience, as both enjoyed the fruits of foreign trade on Guadeloupe.

Conclusion

The French Empire, and particularly its commerce, was regulated by a legal framework that included or excluded individuals based on their status as respectively a French subject or a foreigner. While these categorizations were seemingly very clear, and historiography has often employed them as a given, a close comparison of the foundational legal texts and precedents found in historical reality (administrators' decision making) demonstrates that metropolitan legal categorizations were not readily applicable to complex, colonial realities. This was a regular cause for confusion, opening up a gray area that was promptly exploitable by Frenchmen and foreigners alike. Ultimately, each case required an individual assessment regarding the privilege that was to be distributed, or the punishment to be administered.

By studying these cases, and the decision-making process of those central to them, we can come to a more nuanced understanding of how rigid laws pertaining to diversity (in this case, foreigners versus subjects) were applied in practice. It can even be argued that practice and precedent (instead of the law) offer a more grounded and dynamic view of how early modern subjecthood was understood and therefore regulated. Many more individual cases still await discussion, but all aid our understanding of how (non-) subjecthood was defined, operationalized, and exploited in the French colonial sphere.

Notes

1 ANOM (Archives Nationales d'Outre Mer), COL C7A (Correspondance à l'arrivée de la Guadeloupe (1649–1815)), 10, f.75.
2 See, among others, J. Tarrade, *Le commerce colonial de la France à la fin de l'Ancien Régime: l'évolution du régime de l'exclusif de 1763 à 1789* (Paris: Presses Universitaires de France, 1972), 2 vols; P. Røge, *Economistes and the Reinvention of Empire. France in the Americas and Africa, c.1750–1802* (Cambridge: Cambridge University Press, 2019); P. Butel, *Européens et espaces maritimes (vers 1690-vers 1790)* (Talence: Presses Universitaires de Bordeaux, 1997).
3 ANOM, COL C7A, 34, f.5.
4 Tarrade, *Le commerce colonial de la France*, vol. 1, 100–1, 111; Røge, *Economists and the reinvention of Empire,* 24, 29, 39.
5 *Lettres Patentes du Roy, en forme d'edit, Concernant le Commerce estranger aux Isles & Colonies de l'Amerique. Données à Fontainebleau au mois d'Octobre 1727*. See BnF Gallica, accessed June 30, 2022, https://gallica.bnf.fr/ark:/12148/btv1b8624879g.image (hereafter *Lettres Patentes*).
6 For an extensive overview, see Muller's bibliography and introduction on the topic: H. W. Muller, "Subjecthood in the Atlantic World," *Oxford Bibliographies* (Oxford 2017). See *Oxford Bibliographies*, accessed June 30, 2022, https://www.oxfordbibliographies.com/display/document/obo-9780199730414/obo-9780199730414-0143.xml.
7 Following similar arguments and approaches by Tamar Herzog, *Defining Nations: Immigrants and Citizens in Early Modern Spain and Spanish America* (New Haven: Yale University Press, 2003), on the importance of studying social practices over legal texts.
8 W. Reinhard, *Empires and Encounters, 1350–1750* (Cambridge, MA and London: The Belknap Press of Harvard University Press), 914–38; M. Morineau, "La balance du commerce Franco-Néerlandais et le resserrement économique des Provinces-Unies au XVIIIème siècle," *Economisch-Historisch Jaarboek. Bijdragen tot de Economische Geschiedenis van Nederland* 30 (1965): 170–235, 172–78; Butel, *Européens et espaces maritimes,* 64; S. Marzagalli, "The French Atlantic World in the Seventeenth and Eighteenth Centuries," in *The Oxford Handbook of the Atlantic World: 1450–1850*, eds. N. Canny and P. Morgan (Oxford: Oxford University Press, 2011), 235–51; S. Marzagalli, "The French Atlantic and the Dutch, late Seventeenth-late Eighteenth Century," in *Dutch Atlantic Connections, 1680–1800. Linking Empires, Bridging Borders*, eds. G. Oostindie and J. V. Roitman (Leiden: Brill, 2014), 101–18.
9 J. Webster, *The merchants of Bordeaux in the trade to the French West Indies, 1664–1717* (Minneapolis: University of Minnesota, 1972), 33–37; Butel, *Européens et espaces maritimes,* 64–66; Røge, *Economists and the reinvention of Empire,* 62.
10 See, for example, NL-SAA (Stadsarchief Amsterdam; Amsterdam City Archives), 5075 (Notarissen ter Standplaats Amsterdam), inv.nr. 2111, f. 353 or inv.nr. 2112, f. 254.
11 NL-SAA, 5075, inv.nr. 2281, f. 230.
12 NL-SAA, 5075, inv.nr. 1115, f. 29.
13 J. I. Israel, *Dutch Primacy in World Trade, 1585–1740* (Oxford: Clarendon Press), 206; Webster, *The Merchants of Bordeaux,* 33; J. de Vries and A. van der Woude, *The First Modern Economy: Success, failure and Perseverance of the Dutch Economy, 1500–1815* (Cambridge: Cambridge University Press, 1997), 401–2; S. Lachenicht, "Refugee 'Nations' and Empire-Building in the Early Modern Period," *Journal of Early Modern Christianity* 6, no. 1 (2019): 99–109, 104; A. Ben-Ur, Jewish Autonomy in a Slave Society. Suriname in the Atlantic World, 1651–1825 (Philadelphia: University of Pennsylvania Press) 32–39.
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15 S. Marzagalli, "The French Atlantic World," 243; Webster, *The Merchants of Bordeaux,* 31; Pritchard, *In Search of Empire,* 191; Banks, *Chasing Empire Across the Sea,* 24; Marzagalli, "The French Atlantic and the Dutch," 105–6; Røge, *Economistes and the Reinvention of Empire,* 26.

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31 One of the major exceptions is article III of the first part: "Les *estrangers* ne pourront aborder avec leurs Vaisseaux ou autres bastimens dans les Ports, Ances & Rades de nos Isles & Colonies . . . ni naviguer à une lieuë autour d'icelles Isles & Colonies"; on the restricted form of allowed settlement mentioning 'estrangers', see *Lettres Patentes,* titre VI, article I, II.
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33 *Lettres Patentes,* titre VI, article III.
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PART 4

Diversity in theory and practice

A *longue durée* perspective

9

COLONIAL SEGREGATION, APARTHEID STATE, AND RAINBOW NATION

Negotiating diversity in twentieth-century South Africa

Margret Frenz

> The genius of apartheid was convincing people who were the overwhelming majority to turn on each other. Apart hate, is what it was. You separate people into groups and make them hate one another so you can run them all.[1]

Introduction

Trevor Noah's sharp analysis of apartheid reflects on how human diversity has been used as a divisive tool to achieve power and wealth. Though separating and segregating people on the basis of their 'diverse' physical appearance was a strategy employed in colonial times already, the South African apartheid state took segregation to unprecedented extremes. 'In addition to denoting spheres of physical and social demarcation, [apartheid] carries with it a sense of moral or spiritual imperative', as Saul Dubow contends.[2] The South African government invested large sums of the national budget to implement their policies, which were based on a negative attitude towards human diversity.[3]

As the chapters in this volume have yet again demonstrated, the term 'diversity' as such is quite opaque and open to many interpretations. Over and over again, the term has been used as a negative foil to justify segregation policies – like in South Africa. At the same time, 'diversity' has also been envisioned as a utopian concept for societies. Either policy, be it aiming at negating diversity or striving for the beauty of diversity, has shaped many a society around the globe. Diversity is, as Jane Burbank outlines in her chapter, a fact of life.

Therefore, some reflections on how diversity is perceived, lived, and dealt with by individuals, groups, and rulers, and how state governments use diverse characteristics of groups in order to ascribe certain qualities to them, is in order here.

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Conspicuously, the term 'diversity' is used as frequently as adjectives of basic colors such as 'red' and 'blue'. Despite the high frequency of its occurrence, it remains difficult to define exactly what 'diversity' means – both in practice and as a historical, sociological, or ethnographical idea or concept.

What has changed over time is the perception, description and practice of diversity in and by societies – and the way in which it is dealt with and employed by governments. That is, the phenomenon has been around for a long time, but its framing and application have been transformed, as has the discourse on diversity. Discourses on diversity have been used to administer 'otherness' and, in so doing, have opened up the possibility for the development and implementation of differentiated forms of power relations. Today, 'diversity' is seen as a normative, positive category or even as a metanarrative.[4] According to the UNESCO, diversity is 'vital to the well-being of the human race', is crucial to exercising cultural freedom, and has a unifying function 'defined by a global ethics'.[5]

This chapter opens a window into how 'diversity' was practised, understood, framed, and conceptualized across imperial, union, apartheid, and post-apartheid phases in South Africa. In this chapter, I take South Africa and the educational policies employed there during these eras as a case in point as it offers distinct local insights that reflect more general considerations. Looking at the situation in South Africa across a time span of about 150 years is particularly instructive due to its highly differentiated society. Whilst attempting to keep in view South African society as a whole, the main focus of my chapter will be on Indian communities and their quest for education. The field of education is decisive in any society, because every generation is shaped by curricula and structures of educational institutions, the opportunities and limitations offered by them, and how diversity is negotiated. I argue that diversity was seen, employed, and implemented in quite distinct ways over the span of the four phases in South African history mentioned earlier, and that throughout the past century, diversity, that is (dis)similarities of communities and how these were/are negotiated, differed significantly over space and time. To illustrate my argument, I look at the developments in the educational sector in South Africa with a particular focus on what these meant for Indian communities.

Diversity and Education in South Africa

By the late nineteenth century, imperialism entered its high phase: European colonial regimes of whichever nationality introduced rigid measures to ensure the segregation of communities and established top-down state structures intended to secure their rule, governing diversity through separating and dividing societies, often under the guise of providing security.[6] Conducting demographic surveys and creating categories and classifications were procedures intended to allow European colonial governments to rule and exploit their empires 'more effectively'. Perhaps the most well-known survey of this kind is the census the British carried out in their Indian and African colonies since the nineteenth century. *Recensement*s were a

regular feature in French Algeria and French West Africa, in which information on social, economic, and cultural aspect of the local population was collected. In the German empire, the main focus of the surveys in the so-called *Schutzgebiete* (protectorates) was to note their economic condition and how they could benefit Germany's economy.[7]

Towards the end of the nineteenth century, all European empires employed the 'rule of colonial difference – of representing the "other" as inferior and radically different'.[8] This often encompassed an essentializing of identity markers such as race, caste, religion, gender, and others, ascribing to them static characteristics of 'otherness'. In order to be able to recognize differences, it was deemed necessary to establish systematic classifications, hierarchies, and assigned qualities.[9] In practice, the divisions became palpable in the segregation of villages, towns, and cities, layered legal systems, and (non-)opportunities for education, to name just three areas of daily life that were affected profoundly.[10]

In South Africa, competition between Dutch and British settlers as well as their conflicts with local kingdoms ran high during the nineteenth century, culminating in the Boer wars at the turn of the nineteenth to the twentieth centuries. Indians came to South Africa for trade, and as indentured laborers to work on plantations. In case they were indentured, they were free to stay in South Africa or return to India after completing their term. The majority remained as they had put down roots over the years. Roughly, Indian individuals made up around 3 per cent of the population across South Africa. In Natal, they constituted around 10 per cent of the population, and made up about a quarter of Durban's and its surrounding area's inhabitants.[11] Whether it was the colonial, the union, or the apartheid state, individuals of Indian descent were categorized into one group, 'the Indians', although they hailed from different regions in India, were affiliated to various religions, spoke multiple languages, and had various economic and social backgrounds. It is difficult to get away from this terminology of categorizing people into certain compartments. In this chapter, I mostly write about 'Indian communities' to denote how diverse they were and are, and to illustrate that they did and do not represent one monolithic bloc. Actually, everybody was assigned a group along racial categories by the colonial and apartheid states. I would prefer not to reproduce these labels, but have to refer to the terminology when writing about historical periods.

Looking at diversity in South Africa with a particular focus on education crosses several fields of research: as governments were very influential in how the educational sector developed, political history provides one of the main entry points into the topic. Secondly, the field of education, its conceptual framework, and practical operationalization in forms of creating curricula and building schools form another important aspect. And last, but certainly not least, social and cultural aspects such as questions of identity and community are significant factors. Literature on South Africa is remarkable in that it replicates its segregated society almost across all themes: Studies often deal with one or two communities only, leaving out others. Frequently, it is pitting racially denoted groups against each other. It means that information has to be gleaned across a broad range of literature. In terms of sources, government and other official reports are valuable as they offer the official point of view.

School brochures and other grey literature are not easy to get, but are occasionally available; and newspapers such as *Indian Opinion* discussed the topic of education frequently.[12] Ernst Malherbe's hefty two-volume history of *Education in South Africa* can be seen as the pioneering study of the topic, providing analytical and statistical insights.[13] Peter Kallaway has most widely researched and written on educational history in South Africa, individually and with different colleagues. He and Rebecca Swartz note that 'the investigation of the impact of those forces [educational change] on imperial or colonial contexts has not kept pace'.[14]

In the following, I analyze how diversity and education intersected, and how these intersections changed over time. I explore how different political frameworks and changes in territorial affiliation affected how diversity was approached in South Africa. The multifaceted history of South Africa, shaped by a variety of political powers, offers particularly rich insights into the process of negotiating diversity. I distinguish four major phases: The first phase encompasses Dutch and British colonial times in the nineteenth century up to the founding of the Union of South Africa in 1910. The Union of South Africa and its continuation of colonial policies forms the second phase. In a third phase, the apartheid state took segregated education to an unprecedented level. The fourth phase in which education has been recalibrated begins with the foundation of the Rainbow Nation in 1994. My examples are taken from across South Africa, with a focus on Natal.

Colonial Segregation in Dutch and British (Imperial) South Africa

Colonial segregation was established successively in Dutch and British Imperial South Africa. As in other colonies, this happened in all walks of life, with education building one of the focal areas of imperial policy. As Peter Kallaway and Rebecca Swartz note, schools and other educational institutions provided a space where colonizer and colonized came in close contact with each other, and where colonial rulers intended to mold the minds of the colonized.[15] Policies of education were contested – and debates on how to best educate young people in the colony and in the metropole continued throughout the nineteenth century. Depending on political inclinations, answers to questions of who should receive which type of education for what purpose in which local context varied significantly. One example of a contested discourse on education in colonial South Africa is John Herschel's initiative to establish education for children in government schools irrespective of race or class in the Cape in the 1830s. This approach did not go down well with the settlers who did not want their children to learn side by side with children from families of formerly indentured or enslaved parents. Unsurprisingly, such debates did not only take place in the colonies but in the metropoles as well, where joint education of children of all backgrounds in one classroom certainly was not the norm during the nineteenth and much of the twentieth century. Herschel's approach was not successful, as in the long run, politicians who favored the 'politics of difference and exclusion' and asserted their claims.[16]

In contrast to government and its exclusionary policies on education, missionary societies founded schools that included Indian and African children. Anglican, Catholic, and Wesleyan societies were given grants-in-aid by the colonial government to run those schools. This remained the case throughout the colonial period. In the Cape Colony, for instance, missionary societies insisted on using the same curriculum for any children attending their schools as the one used in schools for Europeans. Individuals who had received such an education were deemed 'eligible to be citizens of the Colony'.[17]

Turning back to education provided by the government, African and Indian children in British colonial Natal did, for some time at least, enjoy co-education with their white peers. First steps towards taking children of different skin color apart in schools was the foundation of an Indian immigrant school board in 1878 to take care of schooling for children of indentured parents. In 1893, the Council of Education passed a resolution that put an end to the co-education of European, Indian, and African children. This is generally seen as the beginning of segregation at schools in Natal along the category of race. The often-quoted, pseudo-scientific rationale behind the government's policy was the assumption that human 'races' were equipped with widely differing intellectual capabilities and thus had to be offered schooling in accordance with these imagined variations. Curricula were developed along those lines.[18] In addition, non-white children were to be provided with fewer years of schooling than their white peers. Until 1899, schools for children of Indian descent went up to grade 4 only. Subsequently, Indian communities in Durban took up various initiatives to improve the educational landscape for their children. For instance, they were successful in having school years extended to standard 7 through community pressure, and with sizeable financial philanthropic support from local Indian merchants. By 1909, five government schools and 31 aided schools had opened their doors for Indian children.[19] These figures reflect how little the Natal government invested in educating Indian children. Thus, Indian communities continued to write and submit petitions to open more schools for their children. They also appealed to the British Indian government across the ocean to support their quest.

Initiatives for and financial support of educational institutions from members of all Indian communities at the time are remarkable, even though a debate arose within the communities as to whether Indians did enough to increase educational opportunities. One of the more well-known political activists pressing for further opportunities in the education of Indian children was Mahatma Gandhi.[20] He had a two-pronged approach, aiming to create even more awareness among Indians about the significance of education, and demanding more financial support by the government to facilitate the building of schools and employment of teachers. The topic of Indian education across the South African regions was debated frequently in his journal *Indian Opinion*. For instance in 1912, the opening of a government Indian school was announced – and the conditions under which the government was willing to open such a school: the Indian community had to provide 'a suitable building', including payment for its rent and all utility bills as well as for Indian – male – teachers;

the – white (!) – principal of the school would be selected and paid for by the government and simultaneously act as a superintendent; government would equip the school with furniture and school material; and finally, the school would be open to all Indian children irrespective of caste, creed, language, or other background. These conditions were accepted 'gratefully' by the Indian community, and the task of establishing the school was undertaken.[21]

Throughout the debates on which child should receive which type of education, perhaps the two most characteristic questions were firstly, how many grades a school could or should make available to pupils, and secondly, what a curriculum should entail to equip pupils with the desired skills. The authors of articles on Indian education in the weekly *Indian Opinion* also refer to the hugely disparate amount of money the government spent on children of different communities. At the same time, the issue of whether co-education was appropriate, or whether girls should rather be schooled separately from boys led to heated discussions for a number of years.[22]

Another recurrent theme in the discussions between Indian communities and government with respect to schools was the language question: Should Indian languages be taught alongside English in schools? In Natal, the government's Education Board employed a firm policy of 'English only' schools for Indians. Representatives of Indian communities did not have the same stance towards this aspect of schooling: some advocated for English as the medium of instruction for everyone, others insisted on Gujarati, Punjabi, or Tamil as a medium of instruction. Language was seen as an identity marker, a bridge to the ancestral country, and at times, was perceived as an important factor for business. The language debate continues to this day; over the past 120 years or so the pendulum swung between permission for schools to teach Indian languages or even use them as a medium of instruction to not allowing any so-called vernacular to be spoken in schools.[23]

In the early years of Dutch and British colonial rule, education played a marginal role. At that time, education was mostly provided by missionary societies which in their schools offered a relatively open space for all children, irrespective of their background. With increasing efforts of both colonial regimes to regulate the educational sector, schooling was seen as one of the instruments to operationalize the overarching policy of 'divide et impera'. Consequently, children were taught from an early age that diversity equaled inequality, with most privileges being accorded to individuals of European extraction. However, across the four southern African states, schools designated for Indian and African children were by far not enough to cater to their numbers. In turn, this led to community initiatives: Indian communities made efforts to compensate for the strategic neglect by the colonial rulers and established schools for their children themselves. These schools had to be paid for and maintained by Indians themselves to a large extent. Only comparatively little financial aid flowed from government which shows how ambivalent state representatives were towards education for non-whites, even if this was paid for out of private pockets.

Looking at education in colonial Dutch and British South Africa shows how during the late nineteenth and early twentieth centuries, education came to be used as a tool to govern the diversity around of the Cape of Good Hope. Both colonial regimes increasingly regulated the educational sector, thus shifting the focus away from missionary schools, where children of any background had been welcome. Education had now become a means for state authorities to manage diversity and thus, to compartmentalize a diverse society into 'neat' categories that suited the state's policies.

Colonial Segregation Continued in the Union of South Africa

After lengthy negotiations, the Union of South Africa was established in 1910 as a self-governing dominion of the British Empire. It included Natal, the Transvaal, the Orange Free State, and the Cape Colony. From 1931, the political entity of South Africa was accorded the status of a sovereign nation-state. Arguably, the Union government ruled the newly united provinces along similar lines as the previous two governments, following colonial policies – just under a different flag. In practice, colonial policies continued to shape the Union government's rule, with Dutch and British colonial legacies intersecting and remaining visible. In order to placate Dutch and British interests in the educational sector, the Union government established single-stream bilingual schools for white children as opposed to 'native' and 'Indian' schools. The significantly uneven financial investment in schools for different communities was also kept in place. It disadvantaged all non-European children. Education was not the only contested issue between the government and Indian communities. Actually, it was the Indian communities' very existence in South Africa that was disputed. Throughout the 1920s, the so-called Indian question produced – and was a product of – growing tensions in the population.[24]

Even in this tense climate, there was room for maneuver: Although Indian communities did not receive the same investment per one child's education from the Union government, they could – and did – invest in education themselves. New initiatives to improve the education of their young sprang up. For instance, the Durban Indian Educational Institute opened its doors to pupils in 1911. The institute was the first educational institution to provide education beyond standard 7 for Indian children. It had an interreligious outlook and taught boys and girls co-educatively. Nearly a decade later, the Durban and District Indian Educational Committee was created to 'secure education for Indians in the Province not inferior to that provided for other sections' (*Indian Opinion*, 1921).

The year 1927 saw the passing of the so-called Cape Town Agreement, reached after the Round Table Conference. The agreement stipulated that Indians were now to be seen as a permanent part of the population of and in South Africa, a major change in the government's attitude towards Indian communities. They should now receive 'adequate education', promised in one of the agreement's paragraphs that became

known as the 'upliftment-clause'. However, at the same time, Indians were given incentives to return to India. One representative of Indian communities pinned down the language of promise, which did not commit to concrete action: 'There are very many vague and misty sentences'.[25]

Representatives of Indian communities contested the Cape Town Agreement because of its ambivalence towards them. Nevertheless, it made the establishment of institutions for tertiary education for young Indian adults possible. College education for Indian young men and women was achieved in the 1920s for the first time. However, the funding needed to come from the communities like previously under the colonial governments. Still, the ascribed limits of education opportunities could be pushed further. For instance, the Orient Islamic Educational Institute was founded in 1927. It imparted secular education as well as Muslim faith in equal parts.[26] A couple of years later, Sastri College was opened. It was a boys' secondary school and teacher training college, and was mostly funded by Indian merchants. The successful establishment of higher education institutions for Indians deepened educational achievements and broadened professional opportunities. It also strengthened the social and economic position of many individual Indians in particular and South African Indian communities in general.

Although the Cape Town Agreement was ambiguous from the outset, Indian communities managed to push the limits of education further towards higher education for a sizeable number of their youth. Representatives of Indian communities did so by investing large sums, and by lobbying in political circles for their goals. Their achievements were substantial and, included social and economic aspects. Within larger society, Indians continued to find themselves in mid-ranking positions between 'African', 'Coloured', and 'white' communities.

Although the Union government administered education in a way that played into its segregationist leanings, communities could maneuver within a certain frame to create their own schools. Indian communities were able to navigate within the educational sector and to open higher education institutions, at least for some of the young adults. Despite the government's mechanisms of employing social control through a school system based on racial categories, diversity could flourish in certain urban quarters such as District Six in Cape Town and Sophiatown in Johannesburg. This should change profoundly in the decades ahead.

Separate Development in the Apartheid State

In 1948, the Afrikaner-aligned National Party won the elections with a narrow margin against the British-aligned United Party. With this election result, political fault lines between both parties, which represented the two different groups of European descent in South Africa, deepened. The National Party set out to ensure white supremacy, to hold up Christian civilization, and to achieve these two goals by employing racial populism. Saul Dubow illustrates that in this setting,

anti-Indian sentiment 'featured high on the agenda', as did anti-Coloured sentiments.[27] The apartheid state in some ways continued policies of racial segregation established during colonial times. On top, the South African apartheid state added its own policies that were based on a strict division of human beings according to attributed racial categories. Looking at political developments across the globe, this rather particular understanding of diversity in South Africa happened around the same time at which the Universal Declaration of Human Rights was passed at the United Nations in 1948.

In the years after taking over, the new South African government ensured that its policies were implemented at good pace through new legislation. The apartheid state established statutory racial discrimination through a series of legal acts. One example is the Group Areas Act of 1950. It decreed the forceful removal of mostly 'Black', 'Coloured' and 'Indian' inhabitants across South Africa to newly laid-out, often poorly connected areas according to a new grid which was to ensure – strictly – segregated living quarters for everyone according to the 'color scheme' of the state. Going even deeper into every individual's life was the Population Registration Act of 1950, which entailed the ascription of a racial category to every child at birth. The two acts of 1950 were tools with which operationalize the National Party's vision of segregating people according to skin color. From these also followed strictly segregated opportunities for learning – at the same time as rapid industrialization and urbanization created a significant need for education.

The apartheid state's educational policies turned out to be an ideological break with the pre-1948 educational policies. In practice though, existing and new measures were blended. In one respect, the new policies stood out: the National Party explicitly strove to bring education to the masses. This goal was achieved in parts. Still, both policy and practice in the educational sector showed continuities in that educational policies corresponded with a strict division of the population along racial categories. Every ethnic group was assigned specific characteristics, which were linked to imagined (cap)abilites. These, in turn, determined the government's approach to the type of education an individual was to be offered. The apartheid state did not only distinguish its inhabitants by the color of their skin but invented further sub-categories: there were separate schools for Afrikaans- and English-speaking white children, separate universities for Zulu-, Xhosa-, and other African language-speaking youth, and schools and universities for 'Coloured' and 'Indian' young adults. The rigid compartmentalization of South African society was seen as a step towards controlling the country's social and cultural diversity and to ensure white supremacy – the ultimate aim of the apartheid state.

Consequently, one of the steps to achieve this compartmentalized approach to education was for the apartheid government to disentangle responsibilities in order to regulate the educational sector. Education for 'Indian', 'Coloured', and 'African' children was outsourced from the Ministry of Education. Instead, the oversight over education of non-whites was distributed across three units: the Department of Indian Affairs, the Department of Coloured Affairs, and the Department of Native

Affairs. The latter was established after the passing of the Bantu Education Act in 1953. From then on, education for 'African' children was moved from under the care of mission schools to the new Bantu Education Department, that is, under direct state control. Mission societies decided to step away from schooling children as they did not wish to be a part of the endeavor of 'Bantu education'. It was to be part of the larger vision of the apartheid government to establish a segregated society both in social and economic respects. Individuals who wished to go beyond the standardized low-level education provided under the 1953 Act needed to look for alternative education in night schools, at non-governmental organizations (NGOs) and in exile.[28] In the end, all measures were part of the state's ambition to ensure social control over each and every individual.[29]

During the apartheid era, education was strictly segregated. In addition, curricula were what was perceived as 'culturally adapted' for different sections of society. Whilst apartheid brought education to the masses, the quality of education left much to be desired. In addition to the lack of quality-teaching, numbers of high school leavers or university graduates among non-white youth and young adults remained far behind numbers for whites, deepening the gaps in education created by colonial and union policies. Peter Kallaway contends that education under the apartheid regime was 'a great evil'.[30] Even so, Indian communities carried on with their support for their educational institutions. They played an important role in the fight against apartheid.

Also, the apartheid government set out to standardize higher education institutions along their vision of a segregated nation with the 1959 Extension of University Education Act. The Act stipulated that non-whites were no longer allowed to attend universities that had kept their doors open until that point. Instead, the government decreed that even at university level, ascribed racial, ethnic, and linguistic categories would outweigh intellectual curiosity and the ability to study.[31] Consequently, the University College at Durban was restricted for Indians, the University of the Western Cape for Coloured, the former University College of Fort Hare for Xhosa-speaking Africans, the University College of Zululand at Ngoye for Zulu- and Swazi-speaking Africans, and the University of the North at Turfloop for Sotho-, Venda-, and Tsonga-speaking Africans. Up to this point, four Afrikaans-speaking universities had existed in South Africa which had a strict whites-only policy, and three English-speaking universities which offered seats for non-whites, albeit with partly segregated facilities and restrictions on attending events. This relatively liberal policy of Southern African English universities were stopped. As with schools, the main aims of the apartheid state was the implementation of social control and a fully segregated population – even if it did not make much sense, as Kogila Adam remarks: 'While in terms of acquiring intellectual and academic expertise ethnic grouping is an irrelevant category, it was obviously an important aspect of the Government's tribal fragmentation scheme'.[32] The actual reason behind this move was the impetus to ensure social control – as was the case with respect to sending children to segregated schools.

Besides the segregation along racial, ethnic, and linguistic categories, the geographical location of non-white universities was not conducive for students' easy access to study. The curricula of non-white colleges and universities offered, according to Kogila Adam, an 'implicit anti-intellectual trend [that] rejects theoretical exploration and social criticism in favour of guided efforts'.[33] The gaps between the curricula of the segregated higher education institutions were remarkable.

Although the state spent comparatively more on the education for 'African' children from the mid-1950s, the spending per child remained at a massive imbalance. In 1960, the annual spending per child added up to R20.40 for 'whites', R4.89 for 'Coloureds', R5.08 for 'Indians', and R0.72 for 'Africans'.[34] The overall levels of education of non-white children remained at a fraction of that of white children. In 1970, for instance, 82% of 'white', 73% of 'Indian', 68% of 'Coloured', and 51% of 'Bantu' children attended school in the age bracket 6 to 19.[35] These few figures illustrate how unequal and inadequate education was for non-white children and how this impeded their opportunities in life.

With the division of education into the different ministries based on racial categories, the curricula were made to fit the projected occupations for each ethnic group. In the apartheid logic, this meant 'adjusting' the curricula for 'Coloureds', 'Indians', and 'Africans' to suit the compartments of society the apartheid state pushed everyone into. The curricula for the different groups were 'adapted' to correspond with their 'appropriate' place in society that the government ascribed to them. Unsurprisingly, many students perceived state education to be oppressive as it put 'people into different racial and cultural groups and thus political compartments'[36] However, people resisted this compartmentalization on several levels: school strikes, university strikes, and the activities of political organizations were often organized across communities. They characterized the 1960s, 1970s, and 1980s South Africa. For instance, the Durban Women's League, a cross-ethnic activist group, organized marches in Pietermaritzburg in 1952 to fight for free and compulsory education for all South African children.[37]

An outstanding example of political activist groups working together across boundaries is the Congress of the People of 1955, a meeting of the African National Congress (ANC) and its partners, the South African Indian Congress, Coloured People's Organisation, women's organizations, and the Congress of Democrats. At this meeting, around 3,000 delegates passed the Freedom Charter. It was based on liberal-democratic principles and the idea of a multi-racial nation in which individuals would be free irrespective of race, color, or sex; in which they had, as a people, the right to govern; and in which they would have equal access to education, housing, and medical care. Although some aspects of the charter were contested by a few individuals, the Freedom Charter was to be the conceptual crystallization and pillar of the anti-apartheid opposition for the following four decades until 1994.[38]

The strong administrative grip of the government executing apartheid policies through its segregated departments also included some community-based

educational initiatives of Indian communities to operate within official structures. For instance, the ML Sultan College, founded in 1927, was transformed into the first Indian technical college in 1956, and named the ML Sultan Technikon. Today it is part of the Durban University of Technology. It was upgraded to a full tertiary education institution in the 1980s. In line with the state policy of establishing ethnically separate higher education institutions, the University College for 'Indians' was opened in Salisbury in 1961, and the University of Durban-Westville in 1972. The latter remained the only university in South Africa individuals of Indian descent could attend during the apartheid era. In 2004, it was merged with the University of Natal and now constitutes one of the campuses of the University of KwaZulu Natal. During the apartheid years, government financial support to higher education institutions varied significantly: Whereas between 1960 and 1970, annual spending per student increased from R0.10 to R2.64 for 'Indians', it only tripled from R0.07 to R0.11 for 'Africans', and slightly more than doubled for 'Coloureds' from R0.20 to R0.44. In stark contrast, the apartheid state spent R11.55 per white student by 1970, fourfold the amount of 1960.[39]

Like in other countries of the global South, universities in South Africa offered spaces not only for intellectual exchange but also for political awareness. Universities became meeting places for activists fighting against discrimination by the apartheid state. A sizeable core of young activists committed to non-racialism and the overthrow of the apartheid regime, inspired by the education boycotts of the 1980s, joined the underground ANC, the South African Indian Congress (SAIC), and the burgeoning union movement.[40] Thus, universities even in their South African incarnation gave young adults the opportunity to use them as 'a basic for the unification . . . by virtue of the confrontation with, and rejection of, white structures, as well as an increased sense of moral dignity in being non-white'.[41]

Why was the apartheid state so keen on controlling education? Better education led to better job opportunities which, in turn, led to higher income which, in turn, led to better life opportunities. Or, if reversed, a lower quality of education led to lower job prospects and opportunities for life choices. The majority of the South African population was caught in this vicious cycle. Jeremy Seekings argues that 'education was central to the state's project of ensuring that all white people enjoyed advantaged positions in society. Differential education was integral to the apartheid distributional system. . . . Education was important because it ensured that white South Africans were given huge advantages in the labor market, which in turn meant higher incomes'.[42]

Rather than seeing diversity as an asset, during the apartheid era, diversity was used as a weapon. It was instrumentalized to widen the gulf between different groups of society as much as possible, with the calculated potential of turning members of different ethnic groups - based on racial categories but deepened through divisions between people of the same skin color - against each other. The apartheid state engineered all areas of life in such a way, that animosities between

individuals and groups inevitably had to arise. Educational policy came in handy as a major tool to achieve separation and segregation. Over and over again it resulted in putting each and every one into their ascribed corner. Diversity was projected as the greatest obstacle of a functioning society – which by the apartheid state was seen in terms of maintaining white supremacy. Thus, the aim to control diversity was channeled into segregating people in order to ensure that privileges would only go to whites, and non-whites would be economically exploited and politically ignored.

Recalibrating Education in the Rainbow Nation

The first ever democratic elections in South Africa took place in 1994. In his inaugural speech, President Nelson Mandela proclaimed the birth of 'a rainbow nation at peace with itself and the world'.[43] In line with Mandela's vision of transforming South African society into a multi-racial, multi-ethnic, multi-lingual, peaceful society offering equity to all, educational policies were to be given priority to achieve this. Consequently, the African National Congress (ANC) promised 'to make education a priority in building a nonracial society. It would introduce a single free schooling system to replace the racially divided apartheid system and a new curriculum to promote humane ideals'.[44]

Following the election manifesto, the racially divided education departments of the apartheid era were brought together under one roof: the Ministry of Education. Moreover, all provincial departments of education became a part of this ministry. The White Paper of 1995 regulated the shift from education based on racial categories to an envisaged integrated education with equal opportunities for all South African children. Perhaps most importantly, the finances were now to be distributed equally.[45]

A year later, the South African Schools Act of 1996 decreed school education to be compulsory for every learner up to ninth grade.[46] The declared aim of the ministry was and still is the provision of non-racial schools across the country, as well as reaching equity in the allocation of finances to schools. Given the legacy of the apartheid system with its highly segregated living quarters, this became a major challenge: if pupils continued to go to their local schools, this would mean a perpetuation of the existing division; if pupils needed to be ferried to schools outside their neighborhoods, this would mean additional financial costs.[47] In the years that followed, new challenges to implementing equality appeared: the growing disparity between rural and urban schools as well as a disadvantageous teacher-pupil ratio with up to 40 pupils to one teacher in state-run schools in the early 2000s.[48] In addition, the distinction between private and state schools became more pronounced over the past couple of decades. Despite the claim that access to schools now is merit-based, reality shows that access is market-based. Thus, the category of race has re-entered the picture via class: Those who have the money to pay for their

children's school education can make the best choice, in contrast to those without the financial means.[49] Consequently, the educational sector has seen profound changes on all levels, including higher education, in the past 25 years. The government's declared goal is integration. The post-apartheid reforms are aimed at removing disadvantages of the previous decades. Indeed, the employed measures have led to a partial deracialization of privilege, but so far have not achieved a fundamental reduction in inequality. Nowadays, inequality is mostly no longer based on skin color but on economic status.[50] Despite new legislation and the already visible transformation process, the overall quality of public education remains poor. Thus, young people in South Africa still receive an education with huge differences from one to the other end of the spectrum of schools, colleges, and universities. Mark Hunter even contends that education in South Africa 'remains one of the (or perhaps the) most unequal in the world'.[51]

What do the developments since 1994 mean for Indian communities in South Africa? For the majority of families of Indian descent, education has been attributed the highest priority. Their focus was and is on facilitating the best possible education for their young. If families of Indian descent can afford to pay the fees, their children go to private schools, which are mostly formerly 'white' schools. Children of less well-off parents continue to visit what were formerly 'Indian' schools.[52]

In line with the educational policy of the rainbow nation, community-based institutions of learning have been integrated into the grid of state-run education, overcoming previously segregated structures. Whilst this transformation benefits society as a whole, not all mergers in tertiary education institutions were welcomed. For instance, in 2002, the ML Sultan college was merged with the erstwhile Natal Technikon, also known as the Durban Technical Institute, to form the Durban University of Technology (DUT). Efforts of the Sultan family to retain the founder's name were rejected.[53] Nonetheless, the centenary brochure of 2007 states that the DUT 'takes its place among the distinguished seats of learning in our country and on our continent'.[54] Currently, a quota system operates at all higher education institutions in order to achieve equity between communities. This has been met with apprehension by students of Indian heritage, as it means that they need to achieve significantly higher scores in their matric exam than other non-white students.[55] The dissatisfaction with curricula in higher education became more than obvious with the *#RhodesMustFall* Movement: students demanded the decolonization of the education system in South Africa in terms of easing access to higher education and in terms of decolonizing the curriculum.[56]

Despite all reforms and despite partial success in restructuring institutions, Kallaway notes, 'very little direct attention has been placed on issues like curriculum reform or direct school level intervention to rectify the racial and class bias in educational provision'.[57] Overall, the transformation from a compartmentalized to an integrated society has encountered various issues. In order to improve the opportunities for formerly oppressed groups, the democratic state refers to the same categories along racial lines as the colonial and apartheid states did. Kathryn Pillay argues that 'the changes in political power in South Africa then did not alter the

psyche of "race" thinking that is still profoundly engrafted in South African society, as the racial discourse is also entrenched firmly in legislation'. Pillay emphasizes that in everyday life, individuals encounter racialized spaces at every nook and corner: in their neighborhoods, in schools, at universities.[58]

The fault lines the apartheid regime has imprinted on South African society to estrange groups from each other run deep. How Nelson Mandela's message of diversity being an asset for South African society will be put into practice and ensure that everyone plays an equally respected role in society will remain a challenge. The practical implementation of letting everyone partake in educational and other life opportunities has, so far, been to manage diversity through positive discrimination. The objective of the first South African democratic state of creating an integrated society that carries with it a long history of being compartmentalized has proven more complex, difficult, and challenging than seems to have been imagined. In order to 'connect the dots' between segregated neighborhoods, segregated schools, segregated universities, and segregated work places, it would be necessary to get away from classifications based on racial categories. At the same time, however, it is politically and practically necessary to acknowledge past disadvantages. Bringing these opposing requirements together come close to squaring the circle.

Conclusion

In this chapter, I have argued that education was used as a tool to channel the diversity of South Africa's communities during colonial and apartheid times to suit the state's objective of segregating its inhabitants. Since 1994, education is envisaged to enable people to move away from the legacy of apartheid.

Education in early colonial times in South Africa was mostly offered by mission schools. They welcomed children of any background and taught them side by side. With increasing control of the educational sector by the colonial Dutch and British governments, the sector became increasingly formalized and regulated. Thus, the colonial state channeled diversity through education, basing its ideas on pseudo-scientific projections and on an evolutionist discourse of racial categories. Diversity, then, was perceived as an indicator of different abilities which had to be assigned distinct levels in a society. The apartheid state cemented the divisions between different sections of society, based not only on racial categories but also on ethnic and linguistic criteria. The main aim was to establish a state in which people were segregated from each other. The apartheid state was to exercise maximum social control in order to maintain white supremacy. After the end of the apartheid state, since 1994, diversity has been heralded as an asset. In the rainbow nation-state, every individual is meant to be offered equal opportunities, particularly in education. Despite profound changes in the structure of educational provision and in access to schools and universities, education remains contested and commodified with streaks of colonial and apartheid features still visible to this day. Diversity continues to be negotiated – in the educational realm as well as in all other spheres. Throughout the analyzed

time period, communities in South Africa contested these categories, as well as claimed and asserted what they saw as their entitlements to education.

Trevor Noah's statement, with which I opened my chapter, can be applied not only to apartheid times but can also be seen as an appropriate description of colonial times, even if in different measure. Beneath gradual variations of segregation, the same pattern appears: diversity is employed in order to take people apart from each other, or in other words, to differentiate between and to segregate people. The hope remains that current approaches to diversity in the rainbow nation and to the education of its people valorizes diversity within a society and thus enables unity in diversity.

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Notes

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4 Yudhishthir Raj Isar, "Cultural Diversity," *Theory, Culture & Society* 23, no. 2–3 (2006): 372–75, 372.
5 UNESCO Report, *Our Creative Diversity. Report of the World Commission on Culture and Development* (Paris: UNESCO, 1995), 9, 15, 16.
6 See, for instance, Miguel Bandeira Jerónimo and António Costa Pinto, *Portugal e o fim do colonialismo. Dimensões internacionais* (Lisboa: Edições 70, 2014) for the Portuguese Empire.
7 The first census in British India was taken in 1872 and, from 1881, conducted every 10 years; although there was an aspiration to conduct a census, this regularly across the British Empire, the ones in British East Africa were carried out with larger time gaps between them. For a critical engagement with surveys such as the census, see for instance, Bernhard Cohn, "The Census, Social Structure and Objectification in South Asia," in *An Anthropologist Among the Historians and Other Essays* (New Delhi: Oxford University Press, 1987), 224–54. Arjun Appadurai, "Number in the Colonial Imagination," in *Modernity at Large: Cultural Dimensions of Globalization*, ed. Arjun Appadurai (Minneapolis: University of Minnesota Press, 1996), 114–35. For Germany, see *Kaiserliches Statistisches Amt, Statistisches Jahrbuch für das Deutsche Reich* (Berlin: Verlag von Puttkamer und Mühlbrecht), from volume 15 (1894).
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21 Anonymous, "The Johannesburg Indian School," *Indian Opinion* (December 7, 1912), 413.
22 See, for instance, Anonymous, "An Important Decision," *Indian Opinion* (August 19, 1911), 321; Anonymous, "Indian Education in Natal," *Indian Opinion* (May 25, 1912), 175.
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10

DIVERSITY AS A FACT OF IMPERIAL LIFE

A long-term perspective from Russia

Jane Burbank

Introduction

Diversity was a normal, accepted, and, for centuries, unexamined condition in Eurasian empires. This chapter focuses on Russia, an empire that took shape in the aftermath of the Mongol conquest and continued for the next six centuries and still counting to govern a multitude of different ethnic, social, and religious groups. Starting out as a small princely domain under Mongol overlordship, the Russian empire expanded over an enormous geographical space, across Asia to the Pacific, onto European territory, and into conflicts against and among European empires. The polity's borders with Europe remain unstable to this day and Russia's relationship to Europe has been a matter of controversy for both Russians and others since the 18th century.

Russia offers a strong case for the long-term resilience of attitudes toward diversity, both those of the populations of this Eurasian space and those of their imperial rulers. I argue that diversity was an ordinary, demanding, and defining presence in Russia's imperial politics. The incorporation of different societies was formative for the Russian state from the start. Both Russian and European rulers of empires had to confront the challenge of controlling multiple peoples, bringing particular and dissimilar experiences and expectations to this task. The resource environment and spatial dimensions of Russia's Eurasian terrain made effective inclusion of unlike peoples essential to any large-scale political project but did not generate widespread demands for equality and likeness. Instead, both imperial rulers and imperial subjects engaged in a politics of distinctive group rights. Structures designed to contain and give expression to diverse populations in Russia's space have both overlapped and shifted over time, from regional military rule, division into provinces and territories, designation of ethnically named dependent "republics" (the USSR), to

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mixtures of regional and national subunits (the Russian Federation). What remains intact is the commitment to diversity, as a foundation for Russia's internal coherence and external projection of power.

This chapter is about both practice and theory. I examine both the politics of diversity that have inflected Russia's succession of imperial regimes over the long term and theories about diversity produced by Russian intellectuals in the 20th century. I first trace out the characteristics of Russia's imperial governance, arguing that the empire interacted with its populations in a Eurasian mode. In the 14th century, the makers of what would become the Grand Princedom of Muscovy shared assumptions about power and sovereignty with their Mongol overlords and with the peoples who inhabited the sparsely populated spaces of the Eurasian north (Siberia, Mongolia, Central Asia, most of today's Russian Federation). The political culture that underpinned Russia's later success as an empire was honed when Russian princes were dependent on the Mongol khan. The recognition of multiple religions and the devolution of authority to disciplined local elites were part of the Mongol way of rule; these practices entered the habits of governance as the Russian empire took its various shapes from the 16th to the 20th century.

The second, more empirical, part of this chapter engages with explicit considerations of ethnic and religious diversity produced by 20th-century Russian theorists and political figures. It was only in the last decades of the Romanov empire that diversity became a matter of political concern for Russian elites, rather than a normal condition. Rebellions and tensions among the empire's multiple minority populations were major factors in the breakdown of tsarist regime during World War I. After taking control of the war-torn state, Bolshevik leaders reconfigured the polity to recognize ethnic diversity and to incorporate representatives of the major national groups into Communist party rule. As the "fact" of diversity acquired political salience in Soviet and post-Soviet times, intellectuals developed theories that wove diversity in new ways into representations of Russia's historical tradition, way of life, and future as a great power.

Part I: empires of difference

Diversity as a default condition

According to most definitions of empire, diversity is a requisite condition of this type of political formation. Empires exist because ambitious regimes succeed in extending their power over other groups, externalizing sources of wealth – in many forms – for the imperial leadership. The maintenance of distinctions among the peoples of an empire is an ordinary strategy of imperial rule.[1]

But if diversity is the default condition of empire, the task of managing difference has no single answer. Empires took various approaches to their unlike populations, and their repertoires of power could change over time. The politics of distinction might tend in the direction of strong hierarchy, dividing the "civilized" from the

"barbaric," or toward a more horizontal approach that recognizes multiple social groups, each with its particularities. In an earlier publication, Frederick Cooper and I described what we regarded as two contrasting styles of imperial rule. The "Roman" model emerged through the extension to qualified subjects of citizenship and access to a civilization presumed to be superior; this practice produced a sharp divide between insiders and outsiders in relationship to Roman culture. The "Mongol" approach was manifold belonging. Mongol khans recognized the multiplicity of their populations, did not try to alter traditions internal to each group, and, as paramount rulers, facilitated peaceful and productive co-existence among their various subordinated peoples.[2]

Empires over time changed their tactics; they could combine these two ideal types of integration in multiple and fungible ways. The Russian state in its many guises – a Grand Princedom, a domain of the Tsar, the Russian Empire, the Union of Soviet Socialist Republics, and the Russian Federation – has retained and exploited its multicultural composition. Diversity could be manipulated, but not done away with. This Eurasian style offers a contrast to the uneasy relationship of sovereignty to diversity in European states of imperial descent.

A Eurasian pathway to a Russian empire

The Mongols expanded in an area – a great transcontinental steppe region – where federations of nomadic peoples had produced empires in the past. The critical resources for nomads were grasslands for their animals, productive relations with sedentary peoples, and long-distance trade. Nomads' adaptations to their environmental condition included a flexible politics of alliance and subordination that allowed spatially distanced and mobile units to coordinate both acquisition and distribution of wealth. Leaders of nomadic empires sustained their control by creating or absorbing dependent power brokers, including spiritual leaders. Leaving local customs alone and vaunting the khan's protection of subjects' various religions and laws was an effective tool of imperial rule. This "Eurasian" style was woven into the practices of empires in the steppe region and beyond. Difference in these empires was a fact of life, not something to be overcome.[3]

Russian empire took shape on the western edge of the Eurasian plain. A first try at wide-ranging control was centered in Kiev, under the Riurikid dynasty. In the 9th century, the Rus' clan expanded their power along trade routes, capturing towns and controlling scattered tribes as they tried to make the most of the eastern connection between the Baltic and Mediterranean. Defeated by the Mongols and undermined by Byzantine decline, in the 13th century the dynasty survived in the small towns of what is now central Russia. As subordinates of the khans of the Golden Horde, the Moscow branch of the Riurikids gradually secured their position as Grand Princes over the various populations who lived in an area of little importance to their Mongol overlords.

Mongol administrative practices and Mongol approaches to difference facilitated Moscow's success and enabled the formation of a state that would become the world's physically largest empire. Administrators of both the Riurikid and the subsequent Romanov dynasties were able to ingest tribes, territories, religions, and resources with a fluid politics of diversity. Elites of non-Slavic ethnicity could be assigned privileges and appropriate degrees of localized authority. For the most part, the Orthodox Church held back from aggressive campaigns of conversion. This multiplex approach facilitated Russia's expansion to the east. With the conquest of the Khanate of Kazan in 1552, Russia absorbed a largely Muslim population, along with various animists, Christian monks, Buddhists, and practitioners of other faiths. Exploration and conquest in Siberia brought in an even more motley array of unlike populations. As the vestigial Mongol khanates weakened, Russian rulers promoted their connections to a different empire and its glories: in 1547, Grand Prince Ivan IV (the Terrible) took the title *Tsar* – Caesar.[4]

Expansion outward from Moscow eventually put Russia at odds with the great powers outside the borderlands of the imperial upstart's growing domain. After formative centuries of contestation with Mongol, Lithuanian, Baltic, Tatar, and Turkic competitors, by the 17th and 18th centuries, Russia was embroiled in conflicts and deal-making with China, the Ottomans, Persia, and a number of powers to the west. As European empires launched themselves into history, Russia's rulers took notice. Peter the Great appreciated the technological advances of his European rivals and pushed his noble servitors into "western" clothes, entertainments, and education.[5] He claimed the formal status of "Emperor" in 1721.[6]

In the 18th century, European fashion, arts, and sciences became the obsessions of Russian elites. As Russia competed with rival empires, and as the imperial family acquired German genes, history and ethnicity became entangled in a search for a "Russian" past. Connecting the Slavs to the glories of antiquity, to the founding of the Russian state (in Kiev), and to Christianity provided a distinguished lineage in the European style.[7]

But this effort to belong to Europe did not mean and could not mean the creation of a Russian nation. The empire was already too multi-ethnic for a nationalist ideology. As Russia continued its conquests to the south and east, even more Muslims would become subjects of the empire. Still, a European vocabulary could have its uses. In 1773, Catherine the Great, informed by her enlightenment education, issued a "decree on tolerance." This law declared that the sovereign would act in accord with "eternal God, who tolerates all beliefs, languages, and confessions on the earth," to protect, among other things, the building of mosques from interference by Orthodox clerics.[8]

As the Mongol past fell into oblivion or opprobrium, Russian administrators continued their practice of recognizing and naturalizing the multiplicity of the empire's peoples. Russian law, collected and codified in the 19th century, was pluralistic, with myriad allowances for variations in civil and criminal adjudication across

the empire.[9] Scholars confronted with the task of designing a "national" museum struggled with how to manage the myriad cultures and their artifacts in a way that would somehow turn out to be "Russian."[10] Count Sergei Uvarov's ideological formula for Emperor Nicholas I's conservative regime was "Orthodoxy, Autocracy, Nationality," but it did not suggest that the nationality was Russian.[11] (The Russian word, "narodnost," translates literally as "peoplehood.")

It was only in the late 19th century that the multiplex politics of Russian empire came into question – from two directions. Liberal reformers assaulted the autocracy with calls for change. Alienated by inequality, their notion was, in principle, the same rules for all. The other attack came from nationalists, who since the 1880s had pushed for "Russification" and the suppression of cultural endeavors of non-Russian activists. Publications in Ukrainian were forbidden in connection with the Polish revolt against Russian rule in 1963.[12] After the revolution of 1905, political organizers were able to campaign for the rights of "their" ethnic or religious group in the elections to Russia's parliament, the Duma,[13] but Russia's first experiment in democracy also mobilized Russian nationalists who defended the claims of ethnic Russians against Jews, Poles, Germans, and others.[14] The successes of several nationalist parties in the elections to the Dumas came as a shock to the imperial administration, as did the outburst of pogroms against Germans in Moscow during the world war.[15]

Although most of the peoples of the empire demonstrably supported their governors in the first years of what was imagined to be a short-lived conflict,[16] by 1916, the stresses of the war had shredded the skein of Russia's protected diversity. The drafting of Central Asian Muslims, earlier not subject to conscription, triggered a massive rebellion of native populations against Russian settlers in this region.[17] Liberals took the opportunity of wartime failures to discredit the Romanovs; popular resentment in St. Petersburg led to the emperor's abdication. The Provisional government's refusal in 1917 to recognize the demands of Finns, Poles, and Ukrainians for autonomy or more contrasted with the Bolsheviks' support for the slogans of self-determination. After the Bolshevik takeover, the new regime adroitly played on ethnic (but not religious) sentiments in the civil war. By 1922, the Soviet Union was configured as a Union of Soviet Socialist Republics. Diversity as a principle of governance was back in a Communist reconfiguration of the Russian empire.[18]

Part II: theorizing difference

Trubetskoi: diversity versus European imperialism

The federal and national/ethnic form of the Bolshevik state was the most conspicuous result of a half-century of political adjustments and struggles over the management and status of Russia's diverse populations.[19] But intellectual reflection upon Russia's multicultural foundations and desirable affiliations was not new and not over. The significance and interpretation of Russia's complex composition had concerned

Russian scholars and writers since the early 19th century and continued into the 20th century. For many engaged commentators, the empire's diversity was not just a fact; it had to be understood, interpreted, and theorized.

A major concern in the first half of the nineteenth century had been Russia's relationship with Europe. Did the empire's history and culture permit it to be considered a European state, or was Russia a polity apart, with its own values, inferior or superior (depending on the writer's stance) to those of Europeans? This was a painful question for intellectuals who became known as "Slavophiles" or "westernizers" in the 1840s.[20] The angle of self-reflection tilted as the Russian empire moved further east and south, incorporating with targeted violence the huge region we now call Central Asia, and vying with Japan for the best bits of vulnerable Chinese territories and ports.[21] The new territories and their histories became topics of archaeological, artistic, and anthropological interest, inspiring philosophers, writers, and artists to reimagine Russia's past and its place on the globe.[22] This fascination with "Russia's Orient"[23] persisted through World War I, the 1917 revolutions, and the ensuing civil war.

In the 1920s, as the murderous wars for and against Communist power were extinguished by the Red Army, an explicitly "Eurasianist" group of theorists and commentators emerged in the Russian emigration. Many of the ideas promoted by these emigrés had been introduced earlier,[24] but their aggressive appropriation of the term Eurasia,[25] the post-revolutionary timing of their publications, and their targeted political claims turned them into the founders of a "Eurasian" movement.[26]

The foremost theorist of Eurasianism was Prince Nikolai Sergeevich Trubetskoi, a brilliant young linguist who had been teaching and doing research in southern Russia and the Caucasus since 1918; he was evacuated from Crimea with the retreating White army in 1920.[27] That same year, from his refuge in Bulgaria, Trubetskoi published a small book, entitled *Europe and Humanity*.[28] The book was a sustained argument against European hegemony – against what Trubetskoi called "Romano-Germanic" culture, European imperialism, and in particular against the European notion that their civilization represented "universal" values. Trubetskoi seemed to be positing an opposition between diversity and empire, but as we will see his analysis used the "fact" of diversity to advance the cause of Russia's kind of multinational state.

The diversity of humanity was the principle underlying Trubetskoi's argument in *Europe and Humanity*. People lived in multiple "organic civilizations," each with its distinctive culture. It was impossible, he argued, for one culture to ever become the same as another and not desirable. A "borrowing" culture would always lag behind. In a verbal cartoon, he sketched out the consequences of Europeanization:

> Exactly like a man trying to match stride for stride a fellow traveler who walks faster and who therefore resorts to the strategy of periodic leaps, and in the end inevitably wears himself out and falls down in total exhaustion, the Europeanizing

> people, having started on the path of evolution, inevitably perishes, having pointlessly wasted its national forces.[29]

Trubetskoi insisted that the idea of a single universal culture was a particularity of European culture. European "cosmopolitanism" was just the result of the historical trajectory of the Europeans' unique "ethnographic-anthropological unit." This "civilization" had been created by the merger of Romanic and Germanic peoples and nourished the ideals of classical antiquity. To Europeans, the idea of universal values came naturally, but in fact this notion was just a myth derived from their "Romano-Germanic chauvinism."[30] Moreover, attempts at Europeanization were devastating for any other civilization. As European values were differentially diffused, they created generational, class, and other divides within the assaulted society. People from another culture who tried to Europeanize themselves looked down on those who did not, and simultaneously lost their own self-respect.[31]

What were the alternatives to predatory Europeanization? Trubetskoi concluded *Europe and Humanity* with a blustery call for an uprising of all "real" humanity – "Slavs, Chinese, Indians, Arabs, Negroes and all tribes, all those without distinctions of the color of their skin, who groaned under the heavy yoke of the Romano-Germans." To organize this, though, a "revolution in the psychology of the intelligentsia of the non-Romano-German people" was essential. Elites who had been trying to Europeanize themselves had to free themselves from the mystique cast by the Romano-Germans, begin to appreciate their own culture, and expose the "unconditional evil" of Europeanization.[32]

In a series of essays published in the 1920s, Trubetskoi fine-tuned the provocations of *Europe and Humanity*. The way forward, he argued in a Eurasian manifesto, was not nationalism in the narrow one-people/one-territory sense. The "self-determination" of nations was just one more European invention that would destroy the cultures of others. The "national" cultures of emergent states would be sacrificed to their leaders' efforts to emulate the Europeans. After "independence," even the local languages on which political activists had staked their claims would become distorted by a "huge quantity of Romano-Germanisms and awkward neologisms" and become "almost incomprehensible" for the "real people, who had not yet been denationalized and depersonalized by 'democracy for all.'"[33]

Rather than promoting nationalism with its divisions and dependencies, Trubetskoi asked Russian intellectuals to liberate themselves from their fixation on becoming European and to recognize instead their own cultural and political lineage. Russia's historical mission was to take up the "legacy of Chinggis Khan" and to unite the peoples and territories that the great conqueror had once ruled. A "whole rainbow of Eurasian cultures" could be nurtured and united if Russians "embarked on their natural historical path" after the "too long diversion of imitating western European models and teachings."[34] A key element of this conceptual turn was the recognition of Russia's multi-ethnic, multi-confessional past, expressed both in its myriad peoples – with their Turkic-Mongol, Finno-Ugric, as well as Slavic roots

and in the ideals that Russian leaders had absorbed and blended into a resilient ruling practice.

Several elements of Trubetskoi's proposals are relevant to this book's theme of empire and diversity. First, despite Trubetskoi's stand against European imperialism, his proposals promote empire, in the form of a great, multiethnic Eurasian state. The question for him was not how to destroy the Bolshevik polity – by this time it had taken, nominally, the form of a union of nationally designated republics – but how to put the Russian empire back together on what he saw as morally and scientifically correct principles. He liked Bolshevism's capacity to scare Europeans. But communism, for him, was yet another alien European philosophy imposed on Russia. In its stead, he proposed that Russia become a religiously inspired multiethnic Eurasian polity; in short, he advocated a return to empire, but on a different conceptual basis from that of the Romanov past. Empire was the desirable form of state, but not if founded on European principles.

Second, Trubetskoi offered his propositions for how a state should incorporate diversity into its cultural projects. That a great state had to have guiding ethical principles was a given for Trubetskoi; he credited Chinggis Khan for his instantiation of a "system" of ideals and practices.[35] Chinggis valued "truth, loyalty, and hardiness," and chose people who valued honor above material well-being and personal safety to be his military commanders and administrators.[36] Trubetkoi described Chinggis as a "deeply religious man, always aware of his personal tie to the divine," who supported multiple faiths and "actively supported" the multiple religions of his subjects.[37]

Russia's leaders inherited the practice of religious tolerance from the Mongols, but they had enhanced the spiritual dimension of their way of rule. Shocked by the Mongol conquest into an outburst of creative engagement with their own Christian heritage, the Muscovite princes gave their budding polity a suitable state religion. The Mongol idea of a great state based on a religious principle was transformed into "the Orthodox Russian idea."[38]

Trubetskoi's description of this "miraculous"[39] reconfiguration of state power was consistent with his theory about how a great state could emerge in a multicultural region. Elements of different civilizations – in Russia's case, Mongol and Byzantine – could be absorbed creatively into an evolving state culture. The foundation for this vision of a manifold politics was the existence of large geophysical units, where over time peoples had interacted to produce shared, but specific, civilizational conditions. Both history and environment shaped the possibilities for future configurations of allegiance and daily life. What took hold in any cultural arena was a blend of elements that was psychically satisfying and hence lasting. There was no national kernel that produced one kind of fruit. Instead, there were proclivities and affinities that were allowed to develop over time into an absorptive, diversified, yet strong cultural sphere.

Applied to Russia, Trubetskoi insisted that the cultural space in which Russian people had always lived was not exclusively Slavic, but a specific geographical zone also inhabited by Finno-Ugric and Turkic peoples. This zone spread gradually into

the steppe, making contacts with Turkic-Mongol peoples – the "Turanian East"– and continuing on to the cultures of Asia.[40] On the western edge, the zonal culture extended over Belorussians and White Russians into uneasy relations with western Slavs. (Here the problem would turn out to be Catholicism – for Trubetskoi, the church was the West in one of its pernicious guises.)[41] Russia's intermediate condition meant strong affiliations with Finns, Volga Turks, and steppe peoples. These geographical intersections with multiple cultural formations had created "Russian" culture.

But how, internal to the transforming polity, could the multiple peoples and cultures be linked to projects of the rulers? Why would these many peoples become loyal and contributing members of a multicultural state? Trubetskoi tackled this problem in his essay, "The Heights and Depths of Russian Culture," published in the Eurasian miscellany, *Exit to the East* in 1921. Elaborating his theories of cultural transmission and transfiguration, Trubetskoi proposed that each cultural formation possessed a "top" and a "bottom" floor. (A culture was a "building" in his metaphor.) The bottom floor was the "store of cultural values that satisfy the needs of the wide layers of the national whole, the so-called popular masses." The top story contained cultural elements that are more "refined," the collective product of individuals who bring values from the bottom and adjust them to the more complex tastes of those in dominant positions. A "normal culture," he insisted, fosters an ongoing exchange and interaction between the bottom and the top.[42]

Trubetskoi's design for the multicultural state recognized, without apology, a divide between what we might call elite and popular culture. But neither cultural realm was supposed to be homogenous, and both were spaces of cultural creativity. The bottom story of daily life with all its different particularities produced cultural artifacts, attitudes, and ideas. The top story of refinement attracted talent from below and reworked a multiplicity of inputs into ideas and policies that could be shared out across the diverse polity. Trubetskoi's explicit designation of "lower" and "upper" stories flew in the face of nationalist (and democratic) conceptions of "the people" as the source of sovereignty: it placed the responsibility for ideology with elites, and blamed them, not the bottom story, for the disastrous and divisive choices made in the past.

The top story, where cultural creations were taken in, sorted out, and harmonized, was also a place where phenomena from outside the national arena could be absorbed. But, Trubetskoi observed, this process could impact the top and the bottom layers equally or differently. In a healthily interactive culture, innovations introduced in the "heights" could penetrate to the "depths." An example was the Russian church: Byzantine Christianity, introduced from outside, had been absorbed by Russian culture, and transformed and enracinated into the people. But if an import from a foreign culture caused a rift between the top and the bottom, this meant that the "source of the foreign influence is too alien to the given national psyche."[43] The Russian elite's devotion to European culture since the 18th century was Trubetskoi's evident reference.

The top layer is not static or permanent in content or membership. Talented individuals from the "depths" can enter it. But if a ruling "part of the national whole" loses its "prestige" – its capacity to inspire imitation – another social group, closer to the bottom, can take its place, bringing with it values from the lower story's reserves.[44] This formulation fit the recent changes in Russia's elites that had taken place after the 1917 revolution.

Each element in Trubetskoi's theory of culture – its origins in difference, its transformations in interaction, its layerability – was an assault on nationalist conceptions of political organization and legitimacy. He rejected the notion of fixed national cultures, with their distinctive starting points and well-defended boundaries. Cultures were not static, impermeable, or homogeneous spaces: they formed and transformed over time. The critical factor was geography – the physical proximity of groups of humans, each with inherently unlike habits, who then interact with their neighbors, sharing activities, language, music, techniques of daily living, and in so doing create larger identifiable cultural worlds.

Trubetskoi insisted that people could have two kinds of loyalties – to their particular cultural sphere and to a larger polity that recognized the diversity of its population. According to his theory, cultural transmission inside the state should facilitate these dual attachments. The distinctions between the "top" and the "bottom" need not be fatal or disruptive, he insisted, as long as there is communication and interchange between the two levels. Those at work in the high culture are supposed to be absorbing, refining, making choices about cultural values, and accepting talented individuals from the "depths" into their ranks. Problems arise when the two levels are out of touch, and when the top's values do not click with those of the bottom. This can bring down the building.

In his Eurasianist publications, Trubetskoi made intriguing propositions about complex kinds of political belonging. He recognized and celebrated the multiplicity of differentiated cultures, while insisting on the fluidity of the ways that they could change, combine, and transform in interaction with each other. Nationality was not fixed at any point in time, but nationalisms did have histories that impacted their indeterminate futures. Nations could be reconfigured and they could combine into large units without losing their particularity. Rather than accepting the convention that a great state must homogenize its subjects into nationhood, Trubetskoi drew the opposite conclusion. A great state would bring together different nations, celebrate their distinctive qualities, and be the more "unique," precisely because of its multiple components.

Eurasianism in the early twentieth century was more than a negation of European achievements; it offered an alternative way of thinking about politics. Political imagination did not have to be limited to the nation; political loyalty was not reserved for those who think and speak alike. Instead, people could find satisfaction in a great overarching polity that recognized unlikeness and celebrated it. National feeling could be both local and trans-continental, and the two could augment each other.

Gumilev: the origin and life course of ethnic diversity

In the 1930s, Eurasianism as a political project seemed to vanish into the graves of Nazi terror and camps of Stalin's Russia or to sublime into artistry and historical scholarship in the "west." Trubetskoi, who had moved to Vienna, was interrogated by the Gestapo in March 1938, and died three months later. Other founding members of what was nominally a movement perished in the USSR. The geographer Petr Savitskii, who pioneered a theory of "place development" of knowledge and culture, spent 10 years in the Gulag, returned to communist Czechoslovakia, was arrested again in 1962, released in 1964, and died in 1968.[45]

But in Russia intellectual concern with the "fact" of diversity was perennial. The multiplicity of nations inside the polity was recognized in the structuring of the first communist state as a federation of republics, each purportedly the homeland of a different ethnic group.[46] In the 1920s, efforts to educate each of these myriad "peoples" in their spoken languages unleashed campaigns of alphabetization, schooling, and cultural awareness. "National" elites were incorporated, conditionally, into positions of power in the units and subunits of the USSR.[47] The study of the diverse population was encouraged in the reformed Soviet academic and research institutions. Ethnography, a discipline inherited from imperial Russia, continued to attract and sometimes endanger Soviet researchers.[48] Taking the wrong line during Stalin's murderous campaigns could result in the loss of position and much worse.[49] In 1939, the Academy of Sciences formed a committee to study *etnogenez* – "ethnogenesis." The goal was to uncover the ancient roots of each group and its geographical origins.[50]

In the Soviet cauldron of intellect and persecution, Lev Nikolaevich Gumilev developed what would later become a theory of ethnic diversity with widespread impact in the Soviet Union and Russia in the 1990s. His writings set forth propositions about ethnic development, state formation, and world history that inspired Russian nationalists, Eurasianists, environmentalists, critics and preservationists of Soviet power, theorists of Russian governance, and makers of Russia's foreign policy. Gumilev promoted a totalizing account of how ethnicities formed, transformed, and, in the case of great powers, provided the basis for cultural coherence. For Gumilev, diversity was both a fact and a process.

Gumilev was the child of superstars of Russian Silver Age poetry. His father, Nikolai Gumilev, was accused of participation in a monarchist conspiracy and executed by the Bolsheviks in 1921. His mother was the famous Anna Akhmatova, who survived Stalin's purges. Lev Gumilev was arrested three times, in the 1930s, and after his military service in World War II; he spent 13 years in the Gulag. Educated in Leningrad as best as he could manage with this compromising parentage, he eventually received doctoral degrees in history and geography. His academic research focused on steppe peoples – the Xiongnu, Khazars, Mongols, and Turkic khanates. Assisted by supportive academics, he held research positions, but never received an

appointment as a professor. He lived to see the end of the Soviet Union, an event he did not celebrate, and died in June 1992.[51]

It must be noted, as we turn to Gumilev's theories of diversity, that his work, while it attracted interest from scholars, has been rejected by professional historians, both Russian and foreign.[52] On the other hand, his theories became wildly popular and widely known in late Soviet and post-Soviet times.[53] As Mark Bassin points out in his superb study, Gumilev's ideas were malleable and adaptable; advocates for various, sometimes conflicting, causes have extracted or emphasized useful elements from his works or his imagined positions, and exploited his fame to enhance their own.[54]

Gumilev gave the "fact" of ethnic difference between a past and a future, and, in accord with this processual approach, entwined diversity and empire into an explanation of world history. Seemingly taking up where Trubetskoi left off,[55] Gumilev turned to the question of where ethnic groups came from in the first place, before they could be grouped into the cultural formations that had interested the Eurasianists. Gumilev defined the basic unit of human society as the *etnos*, a group based on shared behaviors and habits. An *etnos* was not determined by race or genetics; it emerged in a particular geographical environment that nurtured its particular "stereotypical" behaviors. These then were then passed on from generation to generation; the transmission and sustenance of ethnicity was cultural not biological. But what triggered the formation of such a group?

Here is where Gumilev's ideas become a bit wild, although he insisted that they were grounded in science. He postulated that all ethnic groups were the result of cosmic energy, from the "biosphere."[56] His major book, *Ethnogenesis and the Biosphere of the Earth*, was published in the USSR in 1990.[57] According to Gumilev's theory, cosmic interventions energized dynamic individuals who subsequently stimulated the formation and development of ethnic groups. He called this energy *passionarnost'*, a neologism that caught the imagination of many a Gumilev disciple. Alexander the Great had *passionarnost'*, Chinggis Khan had it, Mohammad had it, and so on. Ethnic groups were thus the product not of race, but radiation.[58]

But this was not the end of the story. Gumilev gave diversity a destiny: ethnic groups had life stages. After an initial mutation inspired the formation of an *etnos* in a particular environment, this group would follow a life cycle of incubation, growth, intensive activity, entrance into world history, well-being, followed by breakdown, stasis, and finally disappearance. The time frame for an ethnic group's passage into each stage was not fixed: bursts of "*passionarnost*," interactions with other groups, invasive destruction by a parasitical *etnos* – all this could speed up or slow down the life course of an ethnic unit.[59]

Gumilev's theories went far beyond this summary sketch. He described, among other topics, the layering and interlacing of ethnic groups, the creation of subgroups within an etnos, and, most important for the empire, the formation of a *super-etnos* made of several ethnic groups in the same geographical region. These

large units, based on shared systems of values, cannot merge with one another. They are in an antagonistic relationship with other *super-etnos* formations.[60]

World history was driven by these ethnic processes, in Gumilev's account. The interactions of ethnic groups could destroy or enhance the energies of each. The outcomes of these civilizational encounters were not pre-determined. While the process of ethnic growth and decline was "natural," and applied to all ethnic units, people living in strong ethnic "systems" had choices about how to engage with other groups. On a large-scale peaceful co-existence was an option.[61] A threat, but also an inspirational push, to an ethnic system could come from purposeful assault by an outside group. In Gumilev's worst case, a dislocated and degenerate ethnic group could invade and subvert a *super-etnos*. The energy of the outsider *etnos*, which had lost its original geographical homeland, is negative; it is hostile to the cultural transmission ongoing in its host *etnos* and produces an "anti-system" effect.[62] (This concept of an invading deterritorialized "chimera" caught on with Russian anti-Semitic nationalists.) In the longer run – and Gumilev's perspective was eternal, it seems – the energy of the cosmos and the responses of natural life on earth would keep our human ethnic creativity in motion.[63]

Gumilev thus put diversity – the diversity of human collectivities – at the center of not just Russian, not just world, but cosmic history. In the concluding pages of his masterwork, he cited an American scientist's observation of sunspot activity over 5,000 years; the data showed that outbursts of *passionarnost'* and ethnic mutations coincided with the penetration of cosmic rays.[64] This mix of scientific claim with singular and insistent social theory put Gumilev beyond the pale, so to speak, of what we like to think of as real scholarship, but his narratives, abundant in imaginative formulations and creative terminology (much of it with "western" echos),[65] proved enormously influential in Russia.

Diversity and ideology in Russia today

To conclude, let us go to post-Soviet space, where the linkage of diversity and empire is both taken for granted and worried over. Gumilev's theories of ethnicity, historical process, and cosmic connection appealed to people making their ways through the years of uncertainty and fearful state reconstruction. And not just to Russian ethnics. In 1996, the Kazakh president Nursultan Nazarbaev created the Lev Gumilev Eurasian National University in Kazakhstan's new capital, Astana.[66]

The most well-known of the Russian Eurasianists, or neo-Eurasianists, as some want to call them, is Alexander Dugin.[67] Dugin entered the political scene in the late 1980s as an activist with right wing nationalist and anti-semitic youth groups. Before the fall of the Soviet Union, he was in contact with extreme nationalists in western Europe. He founded his own printing house during perestroika and in 1991 published *Mysteries of Eurasia*, a lengthy exploration of spiritualism and ethnicity.[68] Dugin claimed the Eurasianist label, but in his publications gave the concept a new twist. His version of the Eurasian civilizational domain ranged beyond those of

Trubetskoi and Gumilev: for him, the main political divide was between Eurasia and the "Atlantic powers."[69] Russia's Eurasian qualities gave its leadership the capacity to lead an alliance against the Atlantic threat, that is, the US.

By the early 2000s, Dugin had managed what no Eurasianist had accomplished earlier or even tried to do: insert his theories into the policies of the Russian administrative elite.[70] His textbook, *The Foundations of Geopolitics*,[71] began to be used in Russian institutes. Meanwhile the Russian government took up Nazarbaev's project for a Eurasian Union. Initially a customs union between Russia, Kazakhstan, and Belorussia, the Eurasian Economic Union now includes Armenia and Kyrgyzstan, with other countries in the wings.[72]

The reorientation of Russia's politics toward the east in the 21st century constituted a sharp break with the European orientation of most reformist politicians in the last years of the Soviet Union.[73] A favorite slogan of Gorbachev had been "Our Common European Home," but Putin repositioned Europe as Russia's enemy. This anti-western ideology pervaded Russian media from well before the attack on Ukraine in 2022; it is a prominent theme in the massive exhibit, "Russia, My History," that has been displayed since 2017 in cities across the empire. Gumilev figures as a highlighted philosopher in the multimedia reconstructions of historical events. The Mongols are no longer blamed, as in conventional accounts, for Russian backwardness; instead, it is Europe that has assaulted Russia and its people repeatedly. The Romanovs are presented as martyrs, victims of yet another dangerous European import – Marxism. The expansion of the empire is shown as grand and life-enhancing for its subjects. Their diversity is highlighted in folkloric glory.[74]

Vladimir Putin, Russia's de facto and mostly de jure President since 2000, has put extensive effort into developing a suitable ideology for the Russian Federation. The structure of the state, like that of the USSR, is nominally "federal," uniting multiple territorially distinguished subdivisions represented in a Federation Council. Initially, the state was composed of 89 "federal subjects"; since that time some units have been merged; others, in Ukraine, have been annexed without international recognition. These federal components vary in their degrees of devolved sovereign powers; most of them are named for the majority ethnic group in their territory. But the number of ethnicities far exceeds even these units: the 2010 census included data on 193 distinct nationalities.[75] As in Soviet times and earlier, most nationally identified groups inhabit multiple regions; no ethnicity can be completely isolated from others inside a homogeneous territorial unit. In the absence of the Communist party's control over political levers throughout the country, the leaders of Russian Federation must struggle with an old dilemma: how to ensure the loyalties of the myriad regional and local authorities in this highly diversified and nominally federalized structure.

The re-imagination of post-Soviet empire in the 21st century is a highly conscious effort, in which leading political figures and scholars collaborate and compete. Vladimir Medinskii, Minister of Culture from 2012 to January 2020, produced a Plan for a State Cultural Project that explicitly located Russia's "unique civilizational identity" in a global struggle for power. In Medinskii's telling, both the Communist

revolution of 1917 and the "Liberal-Western path" of the 1980s and 1900s were attempts (failed) to change Russia's "cultural-civilizational identity." "Multiculturalism" and "tolerance" – maligned as western slogans – are to be rejected as the state takes up its task of carrying out a "unified state cultural policy."[76]

But what could that state cultural policy be? From his early years in power, Putin has followed the traditional strategy of incorporating entitled and loyal representatives of Russia's ethnicities into state governance. The trick was to overcome the explosive centrifugal pressures released by the engineered dismemberment of the USSR.

An example of this dualism is the central government's engagement with the affluent Republic of Tatarstan. Tatarstan is a typically diverse, but atypically wealthy component of the Russian Federation. Its ethnic majority used to be Russian, but is now Tatar; in 2021, the republic's official site lists 37 national groups.[77] Tatarstan's inhabitants speak many languages – Turkic, Finn-Ugric, Altaic, as well as Slavic – and belong to various Muslim, Christian, and other confessions.

After 1991, Tatarstan's leaders – ethnic Tatars and veterans of compromise with Russian power[78] – managed to retain a significant slice of sovereignty for themselves. They did not like the Russian constitution as drafted in 1993, and did not sign it. Instead, they were able to insist on drawing up bilateral agreements with Moscow. But after Putin's accession to power, Tatarstan's sovereignty shrank. Under pressure from the central administration, the Tatar Republic's constitution was amended to bring it in line with the Constitution of the Russian Federation. The Tatar administration's decision to use Latin letters for writing Tatar was sacrificed to the Russian Federation's insistence on Cyrillic. There were carrots accompanying Putin's stick. Putin supported the proposed millennium celebration of Kazan's founding in 2005 – a controversial project because it made Kazan older than Moscow – with funds for Kazan's new metro and for the costly festivities. Appearing at the celebration, Putin opened his speech in Tatar and presided over a special "Kazan" session of the Russian Federation Council alongside Tatarstan's long-term strongman, Mintimer Shaimiev.[79] This vision of friendly collaboration appeared to validate both the cooperative relations between Russia and the Tatar Republic and the multiculturalist policies that some were bold enough to call the "Tatarstan model."[80]

Putin's demonstrative celebration of Tatar history and culture signaled his embrace of multi-ethnicity as an essential component of Russian governance. Within a few years, Putin was applying the full Gumilev treatment to his description of Russian culture and Dugin's rhetoric to Russia's foreign relations.[81] In speeches for both internal and external consumption, Putin emphasized the need for a "new national idea" that could not be copied from abroad. Addressing the Valdai Forum in 2013, he proclaimed that "extreme, western-style liberalism" was "far from reality." Similarly, a return to Soviet ideology and a conservative idealization of pre-1917 Russia were both inadequate. Citizens had to be able to "identify with their own history, values, and traditions," and this required recognition of our "multi-ethnic character."

Calling this multi-ethnicity into question or exploiting nationalism and separatism would mean "that we start to destroy our own genetic code."[82]

In his 2013 speech, Putin repeatedly stressed his and Russia's devotion to multi-culturalism:

> This multiculturalism and multi-ethnicity lives [sic] in our historical consciousness, in our spirit and in our historical makeup. Our state was built in the course of a millennium on this organic model. . . . [The] state civilization model . . . has always sought to flexibly accommodate the ethnic and religious specificity of particular territories, ensuring diversity in unity.[83]

Russia has outdone the west in protecting minorities, Putin insisted. In contrast to the Europeans' struggles over multiculturalism: "Over the past centuries in Russia . . . not even the smallest ethnic group has disappeared. And they have retained not only their internal autonomy and cultural identity, but also their historical space." Moreover, "Christianity, Islam, Buddhism, Judaism and other religions are an integral part of Russia's identity," and the Russian constitution defends the right to freedom of conscience for all.[84]

Putin claimed Eurasia as the "major geopolitical zone" where these values could be defended on an even larger scale. The Eurasian Economic Union was to be built on the "principle of diversity"; it is to be a "union where everyone maintains their identity, their distinctive character and their political independence."[85]

This program took many pages from Gumilev's book – the notion of a Russian genetic code, the creation of a super-ethnos that would unite multiple groups, the organic growth of a civilization, and the antipathy toward other civilizations – without an inkling of ethnic decline. As Russia's civilizational world transgressed state borders and extended into international politics, Putin's Eurasianism, like that of Trubetskoi, turned into a recipe for imperial enlargement. This tendency became reality the following year with the annexation of Crimea and the start of Russia's war on Ukraine. In 2014, Crimea was made into a republic of the Russian Federation (like Tatarstan) and its capital city, the famous Sevastopol, became a "federal city" (like St. Petersburg).[86]

The flexible capacity of the multiethnic tradition figures in the ideological stance Putin took on Crimea after the annexation. Speaking in March 2021, by videoconference with "representatives of society of the Republic of Crimea and the federal city Sevastopol," Putin adroitly integrated Crimea into Russian history well before the earlier annexation by Catherine the Great in 1783. The critical date in Putin's speech turned out to be the putative baptism of Prince Vladimir as a Christian in 988 in the ancient city of Chersones, next door to Sevastopol. This, according to Putin, made Crimea the "cradle of our spiritual self-awareness." From that time began the "creation of one Russian nation from the many Slavic tribes that lived on this territory."[87]

Putin conveniently cut off his chronological story at that point, but lest his audience might imagine that he was taking an ethnic Russian or Christian perspective on culture, he made it clear in his responses to a Tatar questioner that Crimea was a multinational space:

> It is important that all people who live in Russia in general . . . and Crimea specifically – the multinational territory of Crimea – feel themselves on their land as if really part of their homeland. And that they help each other, feel the support of their neighbors, no matter to what confession they belong. That they feel their common homeland – is Russia which relates to all citizens of our country as to its own children.[88]

Putin went on to say that he "regularly attends . . . religious institutions, Orthodox, Muslim, Jewish and those of our other confessions." In response to questioners, he supported construction of cultural "hearths" for all of Russia many cultures.[89]

In his remarks on Crimea, Putin made a point of contrasting Russia's treatment of its populations to conditions in the US. While Russia incorporated the natives of Siberia, the Americans carried out a genocide of Indian tribes; the US then suffered through the "cruel, long, terrible period of slavery," leading to the injustices of the present, expressed in the "Black Lives Matter movement." He insisted that Russians are "different people, we have a different genetic and cultural-moral code."[90]

Just how far back in time Russia's history extended was not taken up with precision in Putin's televised answers. But he avowed, in response to a request for support for scientific projects, that "in general this territory was developed by our ancestors in pre-historic times, even when they weren't called our ancestors. All the same, our ancestors were Huns and Scythians and other peoples and so on." These were Russia's ancestors, even if it was only in the 10th century "that a part of this territory became part of the Old Russian state." Russia, it seems, can put all the peoples who ever lived in Crimea into its multi-ethnic composition.[91]

Conclusion

Putin's speeches on Crimea underline a dominant narrative of Russian history: the state is the protector of multiple populations. Nationality and ethnicity in post-Soviet space are not just residues of Communist politics: they have a long-term role in a powerful imperial culture. The representation of difference is a field on which politics is played, both internally and externally, as elites jockey for their fungible share of allocated resources and rights. The emperor retains ultimate authority over the whole in a highly personalized version of controlled democracy, but councilors are quick to do the work of refashioning ideology to fit the commander's demands.

Putin announced all-out war on Ukraine on February 21, 2022, with a heart-stopping, mind-blowing spew of hatred that may seem to undermine the multicultural premise of the Russian Federation.[92] On March 4, a historian followed up with

a nine-part recipe for genocide in the official Russian international news agency. The false Ukrainians (Nazis) should be eliminated, the rest reeducated, and even the name Ukraine obliterated; it would take 25 years to reprogram the next generation.[93] This plan to eradicate Ukraine and Ukrainians may see hard to square with the required diversity of the "Russian World" Putin claims to defend. But Putin's repeated mantra that Ukraine had never possessed sovereignty and that Ukrainians were really the same people as Russians is compatible with his Eurasian take on Russia's history and culture.

Following both Trubetskoi and Dugin, Putin condemned Ukraine for falling into a too-close relationship with Europe and moving out from under Russia's rightful imperial control. Calling Ukrainians Nazis was a perverse shorthand for their ties to the West. At the same time, Putin continues to highlight Russia's connections to the East – to the Central Asian states and to China – and to drag people of the Federation's multiple ethnicities into pro-war propaganda and army service. A full break with Europe and a demonstrative turn to the East are the Russian president's latest variants on a Eurasian configuration of empire and difference.

Today's Russian Federation is a reconfiguration of imperial governance, based on the incorporation of distinctive groups whose distinctiveness will be recognized and accommodated to the extent that they are perceived to be loyal. An unremarked but underlying condition throughout most of Russia's history, ethnicity emerged as a topic for theorists in the 20th century. Trubetskoi's anti-European stance stressed Russia's amalgam of Eurasian peoples; Gumilev provided a "scientific" explanation of where ethnic groups came from and how they developed; Dugin managed to educate post-Soviet elites in the geopolitics of great power along a Eurasian axis. As in Trubetskoi's formulation, the resilient diversity of Eurasian-style power has provided both ideas and resources for resisting European universalism and for the ongoing transformation of the Russian empire.

Notes

1 On these definitional positions, see Jane Burbank and Frederick Cooper, *Empires in World History: Power and the Politics of Difference* (Princeton: Princeton University Press, 2010), 8–11.
2 Ibid., 11–13.
3 On nomadic empire building, see Burbank and Cooper, *Empires in World History*, 93–99. A classic source is David Morgan, *The Mongols*. 2nd ed. (Malden: Blackwell, 2007). See also, from a rich historiography, Reuven Amitai and Michal Biran, eds., *Mongols, Turks, and Others: Eurasian Nomads and the Sedentary World* (Leiden and Boston: Brill, 2005). Karen Barkey puts difference at the center of her analysis of the Ottoman Empire: Karen Barkey, *Empire of Difference: The Ottoman Empire in Comparative Perspective* (New York: Cambridge University Press, 2008).
4 On the Mongol impact and controversies over it, see Donald Ostrowski, *Muscovy and the Mongols: Cross-Cultural Influences on the Steppe Frontier, 1304–1589* (Cambridge, UK: Cambridge University Press, 1998).
5 On Peter's shock to Russian culture, see Ernest A. Zitser, *The Transfigured Kingdom: Sacred Parody and Charismatic Authority at the Court of Peter the Great* (Ithaca: Cornell University Press, 2004).

6 The adoption of the title was intended to enhance Russia's status among European sovereigns. See Jan Hennings, *Russia and the Culture of Diplomacy, 1648–1725* (Cambridge, UK: Cambridge University Press, 2016), 237–46.
7 See Wladimir Berelowitch's elegant article on this quest: "Les origines de la Russie dans l'historiographie russe au XVIIIe siècle," *Annales* HSS, janvier-février 2003, no. 1, pp. 63–84.
8 Catherine the Great's law on tolerance was issued as an ukaz by the Holy Synod on June 17, 1773: *Polnoe sobranie zakonov Rossiiskoi imperii*, 1 series, t. 19, no. 13.996, s. 775–76. On the history of Russia's treatment of non-Orthodox confessions, see Paul Werth, *The Tsar's Foreign Faiths: Toleration and the Fate of Religious Freedom in Imperial Russia* (Oxford: Oxford University Press, 2014).
9 Jane Burbank, "An Imperial Rights Regime: Law and Citizenship in the Russian Empire," *Kritika: Explorations in Russian and Eurasian History* 7, no. 3 (2006): 397–431. On the codification of Russian law, see Tatiana Borisova, "The Digest of Laws of the Russian Empire: The Phenomenon of Autocratic Legality," *Law and History Review* 30, no. 3 (August 2012): 901–25.
10 Kevin Tyner Thomas, "Collecting the Fatherland: Early-Nineteenth-Century Proposals for a Russian National Museum," in *Imperial Russia: New Histories for the Empire*, eds. Jane Burbank and David L. Ransel, 91–107 (Bloomington: Indiana University Press, 1998).
11 On Uvarov's formula, see Cynthia Whittaker, *The Origins of Modern Russian Education: An Intellectual Biography of Count Sergei Uvarov, 1786–1855* (DeKalb: Northern Illinois Press, 1984), 94–110. Uvarov, a fervent advocate of European education and Russian empire, was one of many high-ranking nobles of Tatar descent: Whittaker, *The Origins of Modern Russian Education*, 12. In the beginning of the twentieth century, half of the titled members of the State Council came from non-Russian families: Dominic Lieven, *Russian Rulers Under the Old Regime* (New Haven: Yale University Press, 1989), 48–49.
12 Serhii Plokhy, *The Gates of Europe: A History of Ukraine*, rev. ed. (New York: Basic Books, 2021), 166–67.
13 Rustem Tsiunchuk, "Peoples, Regions, and Electoral Politics: The State Dumas and the Constitution of New National Elites," in *Russian Empire: Space, People, Power, 1700–1930*, eds. Jane Burbank, Mark von Hagen, and Anatolyi Remnev (Bloomington, IN: Indiana University Press, 2007), 366–97; R. A. Tsiunchuk, *Dumskaia model' parlamentarizma v Rossiiskoi imperii: Etnokonfessional'noe i regional'noe ismereniia* (Kazan: Fen, 2004).
14 Faith Hillis, *Children of Rus': Right-Bank Ukraine and the Invention of a Russian Nation* (Ithaca: Cornell University Press, 2013), 181–243.
15 On the pogroms, see Eric Lohr, *Nationalizing the Russian Empire: The Campaign against Enemy Aliens during World War I* (Cambridge: Harvard University Press, 2003), 31–54.
16 Melissa Stockdale, *Mobilizing a Nation: Patriotism and Citizenship in Russia's Great War, 1914–1918* (New York: Cambridge University Press, 2016).
17 Joshua Sanborn, *Imperial Apocalypse: The Great War and the Destruction of the Russian Empire* (New York: Oxford University Press, 2014), 175–83; Alexander Morrison, Cloé Drieu, Aminat Chokobaeva, eds., *The Central Asian Revolt of 1916: A Collapsing Empire in the Age of War and Revolution* (Manchester, UK: Manchester University Press, 2020).
18 For a recent account and interpretation of Soviet approaches to multi-ethnicity, see Brigid O'Keeffe, *The Multiethnic Soviet Union and Its Demise* (London: Bloomsbury, 2022).
19 On the influence of scholars of nationalities, including some of minority status, on the structure of the Soviet Union, see Vera Tolz, "Imperial Scholars and Minority Nationalisms in Late Imperial and Early Soviet Russia," *Kritika: Explorations in Russian and Eurasian History* 10, no. 2 (Spring 2009): 261–90.
20 See from an enormous historiography on this topic, the classic study, Andrzej Walicki, *The Slavophile Controversy: History of a Conservative Utopia in Nineteenth-Century Russian Thought* (Notre Dame: University of Notre Dame Press, 1975), 394–455.
21 On the expansion over Central Asia, see Alexander Morrison, *The Russian Conquest of Central Asia: A Study in Imperial Expansion, 1814–1914* (Cambridge, UK: Cambridge University Press, 2021). On the move into the far East, see David Schimmelpennick van

der Oye, *Toward the Rising Sun: Russian Ideologies of Empire and the Path to War with Japan* (DeKalb: Northern Illinois University Press, 2001).

22 Vera Tolz, "The Eurasians and Liberal Scholarship of the Late Imperial Period: Continuity and Change Across the 1917 Divide," in *Between Europe and Asia: The Origins, Theories, and Legacies of Russian Eurasianism*, eds. Mark Bassin, Sergey Glebov and Marlene Laruelle (Pittsburgh: University of Pittsburgh Press, 2015), 27–47. The major figure was Vladimir Soloviev. For Soloviev's writings on "Eastern" themes, see Vladimir Wozniuk, *Enemies from the East? V. S. Soloviev on Paganism, Asian Civilizations, and Islam* (Evanston IL: Northwestern University Press, 2007).

23 On this term, see Daniel R. Brower and Edward J. Lazzerini, eds., *Russia's Orient: Imperial Borderlands and Peoples, 1700–1917* (Bloomington: University of Indiana Press, 1997).

24 On the origins of the movement, see Olga Maiorova, "A Revolutionary and the Empire: Alexander Herzen and Russian Discourse on Asia," in *Between Europe and Asia: The Origins, Theories, and Legacies of Russian Eurasianism*, eds. Mark Bassin, Sergey Glebov and Marlene Laruelle (Pittsburgh: University of Pittsburgh Press, 2015), 13–26; Tolz, "The Eurasians and Liberal Scholarship of the Late Imperial Period"; and Isabelle Grimberg, "La recherche d'une identité qui se dérobe: Les sources slavophiles de l'eurasisme," in *Eurasie: Espace mythique ou realité en construction*, ed. Wanda Dressler (Brussels: Etablissements Emile Bruylant, 2009), 49–67; Georges Nivat, "Du 'Panmongolism' au 'mouvement Eurasien'," *Cahiers du monde russe et soviétique* 7, no. 3 (July–September 1966): 460–78; Sergey Glebov, *From Empire to Eurasia: Politics, Scholarship, and Ideology in Russian Eurasianism, 1920s-1930s* (DeKalb, IL: Northern Illinois University Press, 2017), 5–6, 9–37.

25 The first usage of the word "Eurasia" is a matter of competitive dispute. Mischa Gabowitsch claims that the "first verifiable occurrence" of the term was in a geographical handbook, published in Stuttgart in 1858. Gabowitsch notes that British administrators in India may have used the term earlier to describe people of "mixed" European and Indian parentage. Mischa Gabowitsch, "'Eurasie': Eléments pour une histoire conceptuelle et sémantique comparée du terme," in *Eurasie: Espace mythique ou realité en construction*, ed. Wanda Dressler (Brussels: Etablissements Emile Bruylant, 2009), 15.

26 On the Eurasianist movement of the 1920s, see among many studies: Glebov, *From Empire to Eurasia*; Jane Burbank, *Intelligentsia and Revolution: Russian Views of Bolshevism 1917–1922* (New York: Oxford University Press, 1986), 208–22; Nicholas V. Riasanovsky, "The Emergence of Eurasianism," *California Slavic Studies* 4 (1967): 39–72; Otto Böss, *Die Lehre der Eurasier: Ein Beitrag zur russischen Ideengeschichte des 20. Jahrhunderts* (Wiesbaden: Otto Harrasowitz, 1961); Glebov, *From Empire to Eurasia*.

27 On Trubetskoi's life, see Anatolyi Liberman, "Postscript: N. S. Trubetskoy and his Works on History and Politics," in *Nikolai Sergeevich Trubetzkoy, The Legacy of Genghis Khan and Other Essays on Russia's Identity*, ed. Anatoly Liberman (Ann Arbor: Michigan Slavic Publications, 1991), 295–337; Glebov, *From Empire to Eurasia*, 13–19; Jindřich Toman, *The Magic of a Common Language: Jakobson, Mathesius, Trubetzkoy, and the Prague Linguistic Circle* (Cambridge, MA: MIT Press, 1995), 186–211.

28 Nikolai Sergeevich Trubetskoi, *Evropa i chelovechestvo* (Sofiia: Rossiisko-bulgarskoe isdatel'stvo, 1920).

29 Ibid., 69.

30 Ibid., 2–6.

31 Ibid., 62–70.

32 Ibid., 76, 79, 81, 82.

33 Nikolai Trubetskoi, "Ob istinnom i lozhhnom natsionalizme," in *Nasledie Chingiskhana*, ed. N. S. Trubetskoi (Moscow: Agraf, 1999), 113. The essay was first published in *Iskhod k vostoku: predchuvstviia i svershenia: utverzhdenie evraziitsev* (Sofiia: Rossiisko-bolgarskoe kn-1921), 71–85.

34 The quotations are from Trubetskoi's provocatively titled essay, The Legacy of Chinggis Khan. The essay is available in English translation in N. S. Trubetzkoy, *The Legacy of Genghis Khan*, ed. Anatoly Liberman (Ann Arbor: Michigan Slavic Publications, 1991).

Here I cite the Russian text as published (without the title) in a recent edition: Nikolai Trubetskoi, *Evropa i zapada* (Moscow: Algoritm, 2014), 296–98. The Russian text can also be found in N. S. Trubetskoi, "Nasledie Chingiskhana," in *Nasledie Chingiskhana*, comp. A. Dugin and D. Taratorin, ed. O. Razumenko, N. S. Trubetskoi (Moscow: Agraf, 1999), cited below as Trubetskoi, "Nasledie Chingiskhana," [Dugin 1999].

35 "As a typical representative of the Turanian race, he [Chinggis] was not capable himself of clearly formulating this system in abstract philosophical expressions, but all the same [he] felt and recognized this system, was completely imbued with it, and every one of his actions, every step or order flowed logically from this system." N. S. Trubetskoi, "Nasledie Chingiskhana," [Dugin, 1999], 230.

36 Trubetskoi, "Nasledie Chingiskhana," [Dugin, 1999], 230–34.

37 Ibid., 235–36.

38 Ibid., 242–43.

39 Trubetskoi, *Evropa i zapada*, 249.

40 Ibid., 231–33.

41 Ibid., 268.

42 N. S. Trubetskoi, "Verkhi i nizy russkoi kul'tury: (Etnicheskaia osnova russkoi kul'tury," *Iskhod k vostoku* (Sofiia: Rossiisko-bolgarskoe kn-1921), 86–87. The text has been republished in N. S. Trubetskoi, *Nasledie Chingiskhana*, comp. A. Dugin and D. Taratorin, ed. O. Razumenko (Moscow: Agraf, 1999).

43 Trubetskoi, "Verkhi i nizy russkoi kul'tury," 87, 93–94.

44 Ibid.

45 Glebov, *From empire to Eurasia*, 26–32, 155–60. Savitskii's 1927 study, *The Geographical Specificities of Russia-Eurasia*, argued that distinct morphological situations gave rise to different ways of thinking about geography. Russia's open-ended territories demanded the study not just of separate objects, but of relationships between humans, territory, plants and animals. The great literary critic, Prince Sviatopolk-Mirskii, returned to the USSR in 1932 and was executed in 1939: Gerald Stanton Smith, *D.S. Mirsky. A Russian-English Life, 1890–1939* (Oxford, UK: Oxford University Press, 2000), 295–96.

46 On the formation of the U.S.S.R., see Francine Hirsch, *Empire of Nations: Ethnographic Knowledge and the Making of the Soviet Union* (Ithaca: Cornell University Press, 2005).

47 See Krista A. Goff, *Nested Nationalism: Making & Unmaking Nations in the Soviet Caucasus* (Ithaca: Cornell University Press, 2020) on the politics and consequences of "nesting" minority nations inside the republics named for another nationality.

48 On the history of ethnographic scholarship and institutions in imperial Russia, see Marina Mogilner, *Homo Imperii: A History of Physical Anthropology in Russia* (Lincoln: University of Nebraska Press, 2013).

49 On the politics of ethnographic research in the USSR, see Marlène Laruelle, "The Concept of Ethnogenesis in Central Asia: Political Context and Institutional Mediators (1940–50)," *Kritika: Explorations in Russian and Eurasian History* 9, no. 1 (Winter 2008): 169–88. On the travails of ethnographers in the 1930s, see Juliette Cadiot, *Le laboratoire impérial: Russie-USSR 1860–1940* (Paris: CNRS Editions, 2007), 174–84.

50 Mark Bassin, *The Gumilev Mystique: Biopolitics, Eurasianism, and the Construction of Community in Modern Russia* (Ithaca: Cornell University Press, 2016), 151. Bassin's superb study provides an extensive survey of Gumilev's works and a convincing analysis of their place in Soviet and post-Soviet Russian politics. See also Jafe Arnold, "Mysteries of Eurasia: The Esoteric Sources of Alexander Dugin and the Yuzhinsky Circle" (Research Master's Thesis, University of Amsterdam, the History of Hermetic Philosophy and Related Currents, Department of History, European Studies and Religious Studies, 2019).

51 Bassin, *The Gumilev Mystique*, 6–19.

52 See Ronald Grigor Suny's "Foreword" to *The Gumilev Mystique*, ix–xi.

53 On Gumilev's extraordinary popularity: in the 1980s and 1990s, he became both a "veritable living monument" to the cultural riches of the early twentieth century and

an acclaimed and venerated commentator and theorist on Russian politics: Bassin, *The Gumilev Mystique*, 17–18.

54 Bassin, *The Gumilev Mystique*, 306.

55 Gumilev's connection to Trubetskoi is murky. Gumilev knew Trubetskoi's works, "agreed" with Trubetskoi, and called himself a Eurasianist, but exactly when his reading took place, and which texts, is not clear. What has been established is Trubetskoi's contact with Savitskii, with whom he carried on an extensive correspondence. See Bassin, *Gumilev Mystique*, 103–10.

56 According to Bassin, the great Soviet scientist V. I. Vernadskii had popularized the notion of the "biosphere" in the 1920s: *Gumilev Mystique*, 46–49. Gumilev references Vernadskii's work in his discussion of the biosphere: L. N. Gumilev, *Etnogenez i biosfera zemli* (Leningrad: Gidrometeoizdat, 1990), 316–18.

57 L. N. Gumilev, *Etnogenez i biosfera zemli* (Leningrad: Gidrometeoizdat, 1990).

58 On passionarnost': Gumilev, *Etnogenez*, 258–98.

59 Gumilev, *Etnogenez*, 351–451. A table of the "phases of ethnogenesis" is provided, op cit., 400.

60 Gumilev, *Etnogenez*, 112–19.

61 On the coexistence of "super-ethnoses," see Gumilev, *Etnogenez*, 138–43.

62 On chimeras and the effects of ethnic collisions, see Gumilev, *Etnogenez*, 312–16.

63 On the long run: Gumilev, *Etnogenez*, 484–85.

64 Gumilev, *Etnogenez*, 485.

65 *Etnogenez* included a five-page dictionary of terms, drawn up by Gumilev's editor. Gumilev, *Etnogenez*, 495–500.

66 On the university, see Marlène Laruelle, *Russian Eurasianism: An Ideology of Empire* (Washington, DC: Woodrow Wilson Center Press and Baltimore: Johns Hopkins Press, 2012), 178–79.

67 The following account is drawn in part from Andreas Umland, "Formirovanie fashistskogo 'neoevraziiskogo' intellektual'nogo dvizheniia v Rossii. Put' Aleksandra Dugina ot marginal'nogo ekstremista do vdokhnovitelia postsovetskoi akademicheskoi i politicheskoi elity (1989–2001gg.)," trans. A. Kaplunovskii, *Ab Imperio*, 2003, no. 3: 289–304.

68 Aleksandr Dugin, *Misterii evrazii* (Moscow: Arktogeia, 1991). On this extraordinary text, see Jafe Arnold's excellent thesis, "Mysteries of Eurasia: The Esoteric Sources of Alexander Dugin and the Yuzhinsky Circle," Research Masters Degree in Theology and Religious Studies/Western Esotericism, University of Amsterdam, 2019.

69 See his Eurasian map, accessed March 14, 2023, www.wikiwand.com/en/Eurasianism.

70 Dugin's website, www.4pt.su/en is open for your perusal in Russian and English, accessed March 14, 2023. His Eurasianism has morphed into what he calls "the Fourth Political Theory." The main enemy appears to be liberalism.

71 Aleksandr Dugin, *Osnovy geopolitiki. Geopoliticheskoe budushchee Rossii* (Moscow: Arktogeia, 1997).

72 See the Union's website, accessed March 14, 2023, www.eaeunion.org/?lang=en#about-countries.

73 On the European orientation of Russian intellectuals in the second half of the twentieth century, see Eleonory Gilburd, *To See Paris and Die: The Soviet Lives of Western Culture* (Cambridge: Harvard University Press, 2018).

74 For an account of the exhibit in 2019, see Sergei Khazov-Cassia and Robert Coalson, "Russian 'History Parks' Present Kremlin-Friendly Take on the Past, Radio Free Europe/Radio Liberty," October 13, 2019, accessed March 14, 2023, www.rferl.org/a/russian-orthodox-church-gazprom-history-parks/30214143.html, and Karen Petrone, "The 21st-century memory of the Great Patriotic War in the 'Russia – My History' Museum," in *The Memory of the Second World War in Soviet and Post-Soviet Russia*, ed. David L. Hoffmann (London and New York: Taylor & Francis Group, 2022), 340–60.

75 *Itogi Vserossiiskoi perepisi naseleniia 2010 goda* (Results of the All-Russia Census of the Population 2010). Federal'naia sluzhba gosudarstvennoi statistiki, 2001–2013, vol. 4,

section 3, Naselenie po natsional'nosti i vladeniiu russkim iazykom, 25–28, accessed March 14, 2023, https://web.archive.org/web/20220411051753/https://www.gks.ru/free_doc/new_site/perepis2010/croc/vol4pdf-m.html.

76 From Medinskii's program, cited in Izvestiia, April 10, 2014, accessed March 15, 2023, https://iz.ru/news/569016. Medinskii became a chief negotiator for Russia in the first months of Russia's war on Ukraine: Rebecca Adeline Johnston, "The Only Russian Official Angrier Than Putin at How Things Are Going in Ukraine," *Slate*, March 22, 2022.

77 The 37 groups are described as each having a "site of national/cultural autonomy." See "Portal Assamblei i Doma Druzhby narodov Tatarstana," accessed March 15, 2023, https://addnt.ru/en. The census of 2010 listed people of 139 different nationalities registered in Tatarstan: *Itogi Vserossiiskoi perepisi naseleniia 2010 goda*, Federal'naia sluzhba gosudarstvennoi statistiki, 2001–2013, vol. 4. Section 4. Naselenie po natsional'nosti i vladeniiu russkim iazykom po sub'ektam Rossiiskoi federatsii, 88–90, accessed March 15, 2023, www.gks.ru/free_doc/new_site/perepis2010/croc/vol4pdf-m.html. The change from a Russian to Tatar majority may be caused by out-migration of Russian ethnics, in-migration of Tatars, and redefinition of ethnicity after 1991 and the more favorable positioning of Tatars in this unit of the Russian Federation.

78 On Tatarstan's deeper past, see Matthew P. Romaniello, *The Elusive Empire: Kazan and the Creation of Russia, 1552–1671* (Madison: University of Wisconsin Press, 2012) and Danielle Ross, *Tatar Empire: Kazan's Muslims and the Making of Imperial Russia* (Bloomington: Indiana University Press, 2020).

79 Kate Graney, "Making Russia Multicultural: Kazan at its Millennium and Beyond," *Problems of Post-Communism* 54, no. 6 (November–December 2007): 17–27. On Tatarstan and the question of sovereignty in Russia, see Jane Burbank, "Eurasian Sovereignty: The Case of Kazan," *Problems of Post-Communism* 62, no. 1 (2015): 1–25.

80 Rafael' Khakim, *Ternistyi put' k svobode (Sochineniia. 1989–2006)* (Kazan: Tatarskoe knizhnoe izdatel'stvo, 2007), 364. Kate Graney describes Khakimov as President Shaimiev's "closest political advisor," and observes that Khakimov in the early 1990s advocated a federal relationship between Kazan and Russia, analogous to that of Puerto Rico's status with respect to the United States: Katherine E. Graney, *Of Khans and Kremlins: Tatarstan and the Future of Ethno-Federalism in Russia* (Lanham: Lexington Books, 2009). See also one of Tatarstan's most eminent historians: I. R. Tagirov, "Istoricheskie i politicheskie osnovy gosudarstvennogo suvereniteta Tatarstana," in *Suverenitet Tatarstana: Pozitsiia uchenykh (Materialy nauchno-prakticheskoi konferentsii "10 let suvereniteta Tatarstana: itogi i perspektivy")* (Kazan: Izdatel'stvo "Fen," 2010), 46.

81 Aware of Gumilev's ideas and influence, Putin visited the Lev Gumilev University in Kazakhstan repeatedly. He was awarded an honorary professorship there in 2004, accessed March 15, 2023, https://enu.kz/en/about-enu/enu-faces/index.php?sphrase_id=352710. See hostile reactions to Putin's "Eurasianism" in 2012, accessed March 15, 2023, https://newsland.com/user/4297767027/content/evraziistvo-gosudarstvennaia-ideologiia-putinskoi-rossii/4426513.

82 "Meeting of the Valdai International Discussion Club," President of Russia official site, accessed March 15, 2023, http://en.kremlin.ru/events/president/news/19243.

83 Ibid.

84 Ibid.

85 Ibid.

86 "Putin Signs Law on Reunification of Republic of Crimea and Sevastopol with Russia," TASS, 21 March 2014, https://tass.com/russia/724785, accessed March 15, 2023.

87 See the Crimean speech of March 18, 2021 on the official site of the President of Russia: Vstrecha s obshchestvennost'iu Kryma i Sevastopolia, President Rossii, accessed March 15, 2023, http://kremlin.ru/events/president/news/65172.

88 Ibid.

89 Ibid.

90 Ibid.
91 Ibid.
92 On July 12, 2021, Putin gave a speech on the "historical unity of Russsians and Ukrainians": "Stat'ia Vladimira Putina 'Ob istoricheskom edinstve russkikh i ukraintsev'," July 12, 2021, accessed March 15, 2023, http://kremlin.ru/events/president/news/66181. This presaged his furious war speech on February 21, 2022: "Obrashchenie Prezidenta Rossiiskoi Federatsii," February 21, 2022, accessed March 15, 2023, http://kremlin.ru/events/president/news/67828.
93 For the Russian text on RT, accessed March 15, 2023, see https://archive.ph/78PuH.

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CONCLUSION

Diversity and empire – old question, new answers

Jean-Frédéric Schaub

From the end of the 1970s and during the following three decades, legal historians from Spain and Portugal – countries of the first overseas empires in Europe – and from Italy – land of legal renaissance since the end of the eleventh century – forged the notion of legal pluralism and demonstrated its relevance for understanding the normativity in Ancien Régime societies. The importance of this discovery can be gauged by the welcome it has received from twenty-first-century US and North-European historians. But neither in the legal history of the 1970s nor in its more recent revivals is the idea of pluralism subject to confusion. The composite character of the legal order did not govern pluralistic societies where modern freedoms would have developed. On the contrary, legal pluralism went hand in hand with the execution of Giordano Bruno, with the persecution of Romanis, with the hunting of witches and sorcerers in the Andes, and with the intensive chattel slave trade.

Among political historians, the institutional structures of empires have been the subject of reflection and research because they were seen as an alternative to our nation-states, in which the sovereignty of the people is only acknowledged if it is manifested in the form of a strong collective cultural identity. The study of empires has made it possible to describe political regimes characterized by the plurality of the governed populations. But here again, the plural character of empires is not subject to confusion. Internal diversity does not mean that imperial structures anticipated our cosmopolitanism, our forms of hospitality, our multicultural compositions, and our pluri-national constitutions. In empires, as the preceding chapters have shown, diversity often took the form of a hierarchy of differentiated statuses for different groups within the same political society, along with prohibitions of all kinds. In what follows, these threads of hierarchy and difference will be connected to two larger discussions: firstly, that concerning processes of racialization as a political tool and

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the question of their spatial and temporal location within and beyond the history of empires; secondly, concerning the methodological problems that come with diversity in (world) history and the imitations posed by scholars' positionality within it.

Racialization as a tool of empire

At the very end of Ancien Régime, Abbé Grégoire published in Paris the famous work *De la Littérature des nègres* (1808), translated into English in 1810 under the title *An Enquiry Concerning the Intellectual and Moral Faculties, and Literature of Negroes*. His translator was David Bailie Warden, an Irish patriot who had taken part in the rebellion of 1798, who became a citizen of the United States in exile, and then consul in Paris. In reaction to the re-establishment of slavery by Napoleon and to the racist arguments of the "colonial party," Grégoire, cofounder of the *Société des Amis des Noirs*, demonstrated that African societies had given birth to writers and artists. But his argument did not only draw from French history: he also thought of the persecution of the Jews in Spain, of the Irish by the English, and of the enslaved Africans in the Atlantic. Grégoire thus erased the distinction between racial persecutions of local, imperial and colonial origin:

> The same reflections apply to . . . Jews of all colours, for there are also blacks of this profession at Cochin, whose history since the dispersion, is nothing but a bloody tragedy; to the Irish Catholics, condemned, like the negroes, by a black code, the popery laws. Thus a resemblance offers equally injurious to the inhabitants of Africa and of Ireland, who are represented as hordes of brutes, incapable of self- government. The latter like the oppressed of other countries, were to submit irrevocably to the iron sceptre, which, for so many ages, has been kept suspended over them by the English government. This infernal tyranny will exist till an epoch, not far distant, when the brave sons of Erin shall erect the standard of liberty, adopting the sublime invocation of Americans – an appeal to the justice of Heaven. Irishmen, Jews and negroes, your talents are yours; your vices are the work of nations called Christians.[1]

The excerpt from Grégoire's text is interesting because it reflects the presence in his reasoning of several historical layers that add up without canceling each other out. Discrimination, segregation and persecution have afflicted Jews, Irish, and Blacks in the long-term history of Europe. The embodiment of diversity within the European monarchies, these populations had suffered greatly under the regimes of the empires. These political phenomena have taken place within medieval and modern societies on the scales of kingdoms, intra-European imperial expansions, and overseas colonization. The question we can ask is whether the processes of the racialization of minorities in the metropolis and of colonized populations overseas are related to the imperial nature of the regimes.

The discrimination according to race is a political weapon whose use can be detected on the domestic scale (the Jews and converted from Jewish ancestry), in close neighborhood imperialism (the Irish), in faraway overseas imperialism (the Amerindians or the Indians of Goa), in the trans-imperial dimension of the Atlantic slave trade (enslaved Africans).[2]

Spain (and later Portugal) was one of the places where racialization was in the first place a domestic issue. After the 1391 pogroms and the theological disputes that Vincent Ferrier had imposed on the Jewish authorities in the 1410s, many Jewish families accepted to convert. The first to submit to it belonged, in general, to the wealthiest and best-educated circles. They gave in under the constraint of violence, but some were convinced that the law of their ancestors was obsolete, others finally acted out of interest. Whatever the mix of these three components for each family, between the last decade of the fourteenth century and the first three of the fifteenth century, many converts proved to be able to establish matrimonial alliances in the most elite old Christian circles – especially in the aristocracy – and as applicants had access to the most desirable positions. First, families whose resources were declining found it interesting to join forces with formerly Jewish lines with capital. An enthusiasm of a millenarian nature had then taken hold of Christian society. It wanted to achieve the conversion of the Jews, that is, of all the Jews, who until then had been obstinate in not identifying Jesus as the Savior son of God. For if all the Jews admitted their error, then the end of history, the return of Christ, and the Last Judgment would take place. Finally, after the dream of a conversion of all Jews had failed, there remained faith in the effectiveness of the grace and sacrament of baptism.[3] After about four decades, when the children of the children of the first alliances between new and old Christians came of age, that is, when descendants of converts with one or both parents of converse origin appeared throughout society, hostile reactions occurred. In all kinds of institutions or communities, it was the time of the creation of the "clean blood statutes," which intended to reject the applicants whose lineage was stained by the existence of an ancestor who converted.[4] After one generation their genealogy, that is, the presence of Jewish blood, even if diluted by the effect of marriages, in the veins of candidates for places or matrimonial alliances. The Portuguese Jesuit António Vieira in 1674 wrote:

> A Portuguese baptized the day after his birth, grandson and great-grandson, of fourth, fifth, sixth and seventh generations of baptized ancestors is still considered a new Christian! What a misfortune! What a pain! This goes against the sentiment of the Holy Fathers and against natural reason. All new things grow old with time; here we see just the opposite, for he who once had a reputation for being a new Christian, no matter how much time passes, all his descendants will be new Christians and will remain so for ever.[5]

To understand Antonio Vieira's indignation, the reflection proposed by Tamar Herzog in this volume offers an extraordinary insight. She goes beyond the narrow

confines of the exclusively Iberian relationship between Christians free of any doubtful origin and Christians of converted lineage. The "old" versus "new" Christian labels had the capacity to effectively change the fate of persons and families during centuries. Her proposal places this divide in a broader, anthropological framework. It shows the social, political, and institutional consequences of the phobia of the new and its counterpart, the valorization of the old. In so doing, she allows us to understand the persecution to which converts from Judaism and Islam were exposed in the Iberian empires, a variant of a broader classification that favors the timeless rootedness of identities, which is a fiction, just as autochthony is fictional. As Tamar Herzog's argument shows, the authority of the ruling elite rested in large part on the monopoly of invoking and interpreting earlier times. Thus, control over the experience and meaning of time was one of the major sources of authority in early modern (and modern) societies.

This link between time, ancestry, and the politics of difference also becomes clear in the Irish experience as an example of neighborhood imperialism. In the context of English imperial expansion in the East of Ireland, segregation rules also took a formalized shape. In 1366, the English Parliament of Ireland adopted the Statutes of Kilkenny, that forbade mixed marriages, concubinage, the fosterage of children, and sexual intercourse between Irish and English settlers. The Anglo-Irish lost the right to speak Gaelic. These rules aimed to put an end to the social process by which the families of the Anglo-Norman chivalry settled in Ireland had come to transform their way of life in contact with the Gaelic society. The bonds of service, affection, or companionship, illicit love, and many other phenomena of social life had come to transform the families described as "Old English," that is, long established in the Pale. The aim of the Kilkenny statutes was therefore to re-establish natural differences where the spontaneous movement of community life had built bridges between people from different ancestry and reduced the sense of social, political, and cultural distance.[6] The main tool for re-establishing this difference was the prohibition of all family ties, starting with marriage, the birth of mixed-race children and the trans-racial wet nursing. Edmund Spenser's *A View of the Present State of Ireland* (1599), with its ruthless racism, is direct fruit of this conception of Gaelic otherness.[7]

But the bulk of this volume is about how diversity has been managed in distant empires. One of the most obvious interests of the Leiden meeting that prepared this book is the significant attention given to the history of the *Ancien Régime* Dutch Colonial Empire, which is given less attention than the Spanish, Portuguese, British, and French Empires in the general historiography. Rafaël Thiebaut's comparative approach to labor and exploitation in two Dutch colonies, Guyana and the Cape of Good Hope, proves how the undertakings of the WIC and the VOC deserve the attention of all historians interested in the long-term history of European colonialism. Similarly, Timo McGregor's meticulous research provides a close-up understanding of the inter-imperial shifts that occurred between English Surinam – which Aphra Behn made unforgettable – and the WIC on the one hand, and between New Amsterdam and the English settlers on the other. Finally, Stef Vink takes advantage

of the judicial records of the prosecutor of the Dutch island of Curaçao in the 1730s to draw a portrait of a Caribbean slave trade hub and a society in which the number of Europeans was tiny compared to the black and mulatto populations. These three studies focus on the Atlantic dimension of the Dutch Empire. Two conclusions can be drawn about the place of Dutch endeavors in the Atlantic. On the one hand, on the ground the social systems they created did not deviate in their functioning from the solutions adopted by the other European powers in colonial situations. On the other hand, in comparison with the other four empires, the Dutch colonies in the Americas settled in the interstices of an inter-imperial system that allowed them to prosper, but without managing – with the exception of the period of Dutch Brazil 1630–1654 – to establish a colonization as powerful as that of the VOC in the Indonesian world. Finally, Alexander Geelen's research on the "enslavability" (*slaafbaarheid*) of Catholic individuals in the shared sovereignty relations between the VOC and the King of Cochin on the Malabar coast is an example of the complexity of colonial relations in the Dutch Empire.

But earlier, in the Americas, within a few decades, three populations, Amerindians, Europeans, and Africans, deported by the latter, formed a common society on a large demographic scale. From these processes, for about a century, the idea has been derived that Latin America is the historical model of universal miscegenation that awaits humanity.[8] This has been the dominant framework for interpreting the phenomena of classification that have organized these societies since the arrival of the Spanish and Portuguese. However, the archival sources that come closest to recording people's lives, namely church records and notarial documents, paint a social landscape marked by discrimination not only according to social but also natural differences. In the absence of European women, the majority of first-generation Iberian conquistadors fathered mixed-race children with Indian women.[9] This was the result of sexual exploitation and relationships motivated by shared desire, but more importantly, it was the desire of the conquistadors to secure the transmission of the estates and status that the conquest had earned them to a subsequent generation. However, the vast majority of these children were not legitimate, even though they were recognized and raised in their father's house as if they were Europeans. Indeed, only the sacrament of marriage between the parents conferred the status of a legitimate child. Most Spanish fathers were either already married in the peninsula or they were betting on the possibility of European women coming to America to marry. Illegitimate children were excluded from blood purity because of their bastardy (although the mothers, pagan converts to Roman Christianity, were considered pure-blooded).[10] On the one hand, in each phase of the conquest, openness to mestizos ceased after an initial phase in which legitimate mestizo daughters (rarely boys) married a Spaniard, often of lower rank than the father, and gave birth to legitimate children. Subsequently, "Spanish" society reproduced itself within a racially defined circle that no longer favored the inclusion of mestizos. On the other hand, the social and spatial mobility described in relation to the American cities (Mexico City, Lima, Cuzco, Trujillo, etc.) still concerns the society of the subalterns, that is,

all those for whom belonging to the Spanish society of America and its privileges remains inaccessible.[11] In this sense, these societies are not static, but the border that separates the "Spaniards" from the others remains watertight.

Considering the case of the Portuguese Empire, André Luís Bezerra Ferreira's meticulous work in the secular and ecclesiastical archives of the Portuguese Amazon draws a fascinatingly complex historical sociology of enslaved populations. Attentive to the agency of slaves, but without falling into the excesses of such an approach, he shows us that Amerindians, Africans, and mestizos played many social roles in an imperial context. On the one hand, without denying that an equivalence between black color and slave status was made in the Portuguese language, the author gives due importance to the history of the enslavement of Amerindians up to the eighteenth century, which makes it possible to avoid a naive Afrocentrism. It should be noted that Rafaël Thiebaut's comparative description of the Cape and Dutch Guyana colonies shows that it was possible to enslave the Amerindians of the Amazon but not the Khoisan in Africa. On the other hand, Ferreira shows that the mark of emancipation or freedom, in a society that links autonomy and whiteness, can be achieved for Afro-descendants or mestizos of Amerindian origin through the ownership of slaves. The analysis of this complexity does not, however, seek to undermine the appalling harshness of the slave trade system or the brutality of labor exploitation.

Finally, the trans-imperial racism against Africans is closely linked to the phenomenon of the slave trade, which started to be increasingly controversial in the late seventeenth century. Indeed, from the earliest times, that is, the sixteenth century, Catholic theologians and jurists questioned the compatibility of this large-scale social practice with Pauline universalism. When the enslavement of an individual was the consequence of an accident in his life, either because his society has sentenced him or because he has been defeated in war, there was no contradiction between the ethics derived from the Gospel and the practice of slavery. But while slavery may not be incompatible with the Gospel, the slave status of the unborn child of a pregnant slave woman, even if based on the tradition of Roman law, cannot be covered by the category of the accidental.[12] It is thus an essentialization of the character of slave, which entails the imperative to extend the ownership of the slave beyond the person purchased, that is, to the pregnant woman and the children born. The chattel slavery must essentially be justified by the assertion that blacks are of an inferior, even subhuman nature. Indeed, since the promise of equality among men in the eyes of God is at the heart of the Gospel, it is essential to exclude from humanity those men whom one wishes to enslave, if one wishes to trade and remain a Christian.[13] In order to carry out this ideological operation, driven by the necessities of plantation exploitation, the Europeans who practiced the slave trade and slavery could resort to all sorts of means: the Bible (the myth of the curse of Ham, the son of Noah), medical treatises, references to Aristotle, epic poetry, drama, and others.

The particular case of blacks in America is the subject of an immense historiographic literature in the United States on African Americans descended from slaves

in the former British colonies. Among the lines of research on Africans in Latin American history, there has long been a tendency to emphasize the fact that Iberian slave societies were less harsh than English, Dutch, and French societies.[14] This belief is based on the fact that Iberian slaveholders manumitted a large proportion of their slaves, much more than their counterparts in other American colonial empires. In addition, beginning with the wars between Portuguese and Dutch colonists in the Northeast in 1630 and 1654, colonial rules prohibiting blacks from carrying arms and riding horses were broken. In the eighteenth century, "black militias" were formed to protect colonial cities from foreign invaders on the coasts and even from unsubdued Indian populations in the interior.[15] These military formations had been portrayed as avenues of social advancement available to descendants of slaves. It is doubtful that such a conclusion is correct. Other colonial and racist regimes formed defense units composed of members of some of the most discriminated populations without denying racial supremacy. As Stef Vink's research on the prosecution of enslaved in the Dutch trade hub of Curaçao shows, life courses of the victims of the Atlantic slave trade are not limited to one pattern. Nevertheless, in the context of such an unbalanced society, ruled by a tiny minority of white people, the fear of colored men, enslaved or freed, first-generation Africans or mulattoes, drove the behavior and decisions of the authorities. Different research has focused on the existence of a Hispanic model of passing. That is, the sale of "whiteness" certificates by officers of the Crown to descendants of blacks or Native Americans whose skin was white enough to pass for European.[16] This institution has also been interpreted as a manifestation of the flexibility of the racial system. But one can see the limitation of this argument: if you try to escape your racial condition, and if you succeed, it is because it was intolerable.

As Tessa de Boer shows, in the context of the *Exclusif colonial* of the Kingdom of France, the definition of the foreign and the natural, be it the ownership of the ships, the nature of the cargoes, the country of departure or the identity of the crew, can depend on circumstances. Careful study shows that it is difficult to determine exactly when the prohibition of trade with foreigners was enacted, and to what extent it was enforced. The fact that company owners who had become naturalized French citizens on French soil continued to be considered foreigners in the French colonies shows that the standard was meant to be strict. But arrangements brought about by necessity and, in the case of Guadeloupe, by terrible shortages, seem to work in the opposite direction. In the end, prohibitions were neither ignored nor always respected: legal pluralism and space for negotiation do not mean anomie. The same conclusion can be reached from the inter-imperial legal arrangements that Timo McGregor has studied, between English and Dutch, metropolitan and local legality. As in the previous case, the property rights of the colonists and the necessities of trans-imperial trade were elements of identification of individuals and firms that were sometimes as decisive as whether the individuals were born or naturalized into the English monarchy or the Dutch republic.

Thus, it is not certain that the overseas colonies and the miscegenation that occurred there gave rise to more open societies or more fuzzy or negotiable

classification systems than in the old world.[17] Anglo-centric historiography mistakenly imagines that only Protestantism fueled a sectarian and utopian mentality among settler communities.[18] In reality, it can be argued that, for the most part, Catholic colonization and its missionary work were equally utopian.[19] But this utopia was nothing other than the creation of a Catholic society in the Spanish or Portuguese style, but even more intransigent, because it could detach itself from a peninsular past that the Jewish and Muslim presence made not very honorable. The mestizos and mulattos had no other place than marginal, even when they were the most numerically important part of the society.

One of the regions where this utopian project of a newly formed Catholic society confronted the reality posed by local (converted) inhabitants was Goa, the capital of the Estado da India, that is, of Portugal's Asiatic empire. Ângela Barreto Xavier's research focuses on the conditions of insertion of Goa Indians who converted to Roman Christianity into a political society that conforms to the norms of the Church. With great subtlety, her research shows that the celebrations that follow the marriages are indicative of a greater or lesser proximity to the standards expected of new Christians. The surveillance refers, for example, to the number of guests invited to the banquet: too many guests would indicate an attachment to the rites of the pre-Christian era. The magistrates of the Inquisition Court of Goa, the only overseas inquisitorial court in the Portuguese Empire, have identified no less than 27 rites associated with the celebration of weddings that denote an attachment to an orthopraxy (and perhaps a spirituality) that remains underlying after conversion to Christianity: purification of the bride and groom, and reverence for the ancestors in particular. The study shows the gap between the norms laid down in Lisbon and their implementation locally, but also the tensions within Portuguese society between pragmatists and orthodox: these differences were in large part due to the need to find common ground with the Brahmin elites in order to make Goa function as the capital of an empire. Once again, in an imperial context, copping pragmatically with diversity and deploying brutal policies went hand in hand. Alexander Geelen's work calls for a comparison with the Goa situation, as it is a case study of the condition and tribulations of an individual, Barrido, of Pulaya or Cheruman caste, slave status, and Catholic religion, who was tried for burglary by a VOC court in the mid-eighteenth century. It should be noted that Barrido is defined as a *Christen geworden*, that is, as a convert and not as a Christian by birth, which raises the suspicion of a conversion aimed at emancipation. In any case, this distinction is an interesting indication that the religious and normative categories in the Dutch Empire were not so different from the longer experience of classifying diversity in the Iberian Empires.

While the contributions of this volume thus far have primarily focused on European colonial empires of the Ancien Régime, the often violent and hierarchical modes of creating difference are not unique to empires of this type. Neither the Sinicization of East Asia by the Han Empire, nor the Incaisation of the Central Andes, nor the various avatars of the Islamic Empire up to the Ottoman Empire,

among many other examples, escape the model of conquest by force of arms. Everywhere we find the administrative domination of the conquered populations, even if it remains indirect. Everywhere we find the seizure or even confiscation of the best economic resources. Everywhere we find the imposition of ideological models, if only to distinguish the elite that conforms to the model on the one hand, and a large part of the colonized abandoned to their beliefs and previous mores, on the other hand. One can, in exactly the same way, demonstrate that the naturalization of social differences, that is to say racialization as a political weapon, is not a European specificity.

The works presented in this volume on the management of diversity in colonial empires provide the best demonstration that neither the legal pluralism of the Ancien Régime nor the composite character of empires can be understood as the forerunner of our contemporary preference for plurality, for hybridity, for the fluidity of identities. As the two chapters that address contemporary times, Jane Burbank's on pre- and post-Soviet Russia and Margret Frenz's on pre- and post-colonial South Africa, show, the question of diversity remains at the heart of the study of empires and colonial situations. The first case, that of Russia, remains disconcerting insofar as respect for the diversity of peoples governed by an imperial political structure is no guarantee of respect for individual freedoms and social equity. The second case, that of education within South Africa, demonstrates to anyone who might doubt it that any colonial situation, is based on a differential organization of the status of people according to their assignation to an ethnic or racial identity, and has no relation to a universalist conception of humanity and citizenship.

Diversity and universalism: a methodological critique

Finally, it is worth addressing a much larger question. This is a question for all historians who study empires, whether these empires are the result of territorial aggregations or whether they are the result of colonization far away. As soon as historians work outside the limits of their country of birth, they face all sorts of methodological challenges. As seen earlier, the first challenge consists in making two movements: one is to abandon the framework of the nation-state in which and for which history as a scholarly discipline was constituted during the nineteenth century, the other is to improve historian's capabilities by getting knowledge that is not given in the most intimate heritage – starting with the mother tongue. In the pantheon of reflection on the future of historiography, several models have been presented since the aftermath of the Second World War.

In the first place, a great effort has been made to criticize Eurocentrism and the cultural hegemony of the West in the wake of the processes of decolonization. A decolonial movement was born in Latin America, a few decades after Indian universities developed the program of Subaltern Studies. The soil in which these proposals, so different from each other, took root was the deconstruction of the straitjacket imposed by the structuralist program of the 1950s and by the Marxist

orthodoxy. The not-so-recent post-colonial tradition creates expectations that it is unable to satisfy, the largest of which being the pretension of opening the way to an alternative, that is a non-Western, epistemology. One can object to this program on the following terms: (1) It does nothing but transfer the old aporias of a confrontation between elite culture and popular culture to a "global" geopolitical scale; (2) it produces a Westernism similar to the Orientalism denounced by Edward Saïd, inventing a West that never existed; (3) it cannot deny the inevitable asymmetry of available records from past societies; (4) its virulence is most impressively manifested by researchers who, unlike the conservative Claude Lévi-Strauss, the progressive Marshall Sahlins, or the Marxist Maurice Godelier, do not learn the native languages of the cultures they study; (5) it accepts the epistemology of the "North" when it comes to launching satellites and producing vaccines, but claims an epistemology of the "South" when it comes to studying societies. By promoting this double standard, it sacrifices the aspiration of the humanities and social sciences to be recognized as scientific knowledge. Once researchers have invented a daunting neologism, such as "epistemicide," they have nevertheless produced no solid knowledge about the societies or fractions of societies that they intend to protect from the risk of being analyzed through the concepts of social sciences. It should be added that the obsessive hunt for Eurocentrism ends up by forgetting the immense production of reflexive and self-critical discourses that the West has not ceased to produce on itself for at least five centuries.

Unrelated to this first trend, for the last 20 years or so, the ambition to print a global history has come to the fore. The only common point that could be detected between the two tendencies is a common will to reduce the weight of European societies and of the social sciences they have produced thanks to the diffusion of a discourse on a world scale. Global history intends to emancipate itself from the intellectual tradition of universal histories written during the nineteenth and the first half of the twentieth century, which operated in the mode "the West and the rest."[20] Again, it should be remembered that while these universal histories were being written from the point of view of the European conception of the world, philologists, historians of religions, and archaeologists, among other scholarly disciplines, from Lisbon to St. Petersburg and from Edinburgh to Vienna or Leipzig, accumulated treasures of competence and firsthand knowledge about the societies of the world through the mastery of vernacular languages. There is no doubt that the Eurocentric biases of universal histories needed to be corrected. There is no doubt that the juxtaposition of self-centered histories of different regions of the world drew a world made of discrete societies, in the mathematical sense of the word. We must therefore welcome the emphasis placed over the last 30 years on the connections between societies at different scales and without presupposing the respective weights of the societies in contact.[21]

Very commendable efforts have been made to define, in theory and a priori, what a global story might look like. But whatever the solutions brought to this debate, it remains that the implementation of a narrative posited on the scale of the

whole world could, in practice, neither rely on the erudite study of the primary and vernacular sources from the societies described in such a narrative, nor even (what is more worrying) be nourished by the researches scholars are conducting in a large variety of vernacular scientific languages. Therefore, such a current does not explicitly claim to be universal, certainly because universalism is nowadays portrayed as one of the most insidious forms of Eurocentric colonialism. Nevertheless, the dominant form of global history writing and the overarching system of references on which it is based responds to an academic model standardized by Euro-American universities and is deployed from a very small number of Northern and Western European languages.[22] Everything rests on the choice of a scale, the world, which historians intend to address by repudiating any universalistic claim but, in most cases, without having the means of a sincere dialogue with the researchers of the different regions of the world, at least those who conduct their research in their regions of belonging and in their mother tongue.

In many European countries, the universities are now at a crossroads. They criticize the way in which the US academia segments its own labor market by paying attention to the development of specific "studies" (the global one being, ironically, one of them) or by marking the novelty through the identification of "turns." But, at the same time, not enough intellectual and institutional means are made available throughout European universities to study histories other than that of the nation of belonging. From this point of view, the history of empires has served as a very useful propaedeutic by offering the opportunity to do research beyond the modern borders of the Nation-States. The example of Spain is striking: on the one hand, the Spanish medievalism has opened the door to the study of Arabic polities and culture; on the other hand, Hispanic imperial history in early modern period has opened doors to the history of Italy, Portugal, the Netherlands, France, Ireland, the Ottoman Mediterranean, the native societies of the Americas, Chinese, and local populations in the Philippines. The same can be said about the rediscovery of overseas history in Portugal. In most of the cases, the expansion of Iberian historians' curiosity by following the imperial path and past has opened ways toward the history of race relations, xenophobia, xenophilia, hybridity, and so on. But a distinction must be made between research on empires that relies exclusively on sources produced by imperial administrations and those that are able to mobilize sources from the societies under the authority of empires, in their vernacular expressions. It is perfectly futile to be ironic about global history, while remaining fixated on one's national history. What is needed today is to demand much more from global history. And to do this, we must learn from the contemporary development of social anthropology.

Outside of these scholarly tendencies, quite powerful in today's academia, it is worth resurrecting an older alternative, which is still illuminating for historians. In 1952, the French anthropologist Claude Lévi-Strauss was invited by the recently founded UNESCO to publish a short book, *Race and History*. The purpose of this book was to delegitimize forever the racialist and eugenicist reasoning that has played such an important role in the consolidation of the nation-states, both dictatorships

and democracies, in Europe and the Americas since the mid-nineteenth century. Nineteen years later, in 1971, once again invited by UNESCO to open the international year of the struggle against racism, Lévi-Strauss delivered a lecture entitled *Race and Culture*, which provoked a scandal: the French anthropologist was accused of justifying – even approving – racist behaviors and policies, after having condemned them in 1952. Given the firmness of the definition of racism Lévi-Strauss gave as late as 1988, this accusation is totally unfounded. I quote:

> As an anthropologist, I am convinced that racist theories are both monstrous and absurd. But by trivializing the notion of racism, applying it this way and that, we empty it of its meaning and run the risk of producing a result counter to the one we seek. For what is racism? A specific doctrine, which can be summed up in four points. One, there is a correlation between genetic heritage on the one hand and intellectual aptitudes and moral inclinations on the other. Two, this heritage, on which these aptitudes and inclinations depend, is shared by all members of certain human groups. Three, these groups, called "races," can be evaluated as a function of the quality of their genetic heritage. Four, these differences authorize the so-called superior "races" to command and exploit the others, and eventually destroy them.

Now, here the passage that provoked scandal and outrage in 1971:

> It cannot be denied that, despite the practical urgency and high moral purpose of the struggle against all forms of discrimination, it none the less forms part of the movement driving humanity towards world civilization, itself likely to destroy that ancient individualism to which we owe the creation of the aesthetic and spiritual values which make our lives worthwhile, and which we painstakingly accumulate in libraries and museums because we feel less and less sure of ever again being able to produce anything so outstanding. . . . But if humanity is not to resign itself to becoming a sterile consumer of the values it created in the past and of those alone, capable only of producing hybrid works and clumsy and puerile inventions, it will have to relearn the fact that all true creation implies a certain deafness to outside values, even to the extent of rejecting or denying them. For one individual cannot at the same time merge into the spirit of another, identify with another and still maintain his own identity. Integral communication with another, if fully realized, sooner or later dooms the creative originality of both.[23]

Now, for anyone who has read the 1952 text closely, *Race and History*, one knows that Lévi-Strauss' denunciation of racism ended with these words:

> The need to preserve the diversity of cultures in a world which is threatened by monotony and uniformity has surely not escaped our international institutions. They must also be aware that it is not enough to nurture local traditions and to

> save the past for a short period longer. It is diversity itself which must be saved, not the outward and visible form in which each period has clothed that diversity, and which can never be preserved beyond the period which gave it birth.[24]

In other words, one of the main architects of structuralism, that is to say of an ultra-universalistic epistemology for the humanities and the social sciences, pleaded for the distinction between cultural heritages, between languages, between artistic productions, and between codes of behavior. He called for curbing the culturally devastating effects of a cosmopolitanism that was undoubtedly politically desirable. In other words, the French anthropologist defended on the one hand the universal design and ambition of one of the most formalist methods produced within the humanities and the social sciences, and on the other hand, he pleaded for the attention that should be paid to historical and cultural singularities through the observation of human societies from their diversity that only the learning of vernacular symbols makes possible.

Conclusion

The lesson we can take from Lévi-Strauss is that the ambition of the human sciences – for us here history – to be sciences and not simple feelings and opinions paired with footnotes, supposes a universal ambition and a plurality of competences to approach the human diversity as close as possible to its reality. The history of empires, as several of the historians participating in this volume have shown in their work, offers the appropriate opportunity to develop such an intellectual program.

Empires are extremely appropriate objects and scales of analysis when, for example, we are interested in the management of diversity. Many other political, economic, social, and cultural phenomena benefit from being observed in the framework of empires, which offer a much richer range of repertoires than national histories.[25] This work must be conceived from the outset as a collaborative enterprise, insofar as the command of a very limited number of languages imposes today the most serious bias when approaching the diversity of the world's societies. The studies that Elisabeth Heijmans and Sophie Rose have gathered in this volume demonstrate the effectiveness of a collaborative framework between researchers who are able to work with firsthand sources, far from the compilations of compilations that present themselves as original works and are only textbooks with a cosmetic presentation.

It is worth remembering the candor and modesty of Max Weber when trying to compare several civilizations in his attempt to compare the way religions shape the socioeconomic evolution of societies. A century ago, in the prefatory remarks of his *Collected Essays in the Sociology of Religion*, Max Weber noted:

> Scholars in the fields of Sinology, Indology, Semitic studies, and Egyptology will certainly find nothing in them that is substantially new to them. It is merely to be hoped that at least they will find nothing essential that they would have to judge to be untrue to the facts. The author cannot tell to what extent he has succeeded

> in at least approaching this ideal as closely as a layman is able. It is perfectly clear that anyone who is dependent on the use of translations, and must learn to use and assess monumental inscriptions, and documentary and literary sources, in order to find his way about the often highly controversial specialist literature, the value of which he himself is unable to judge independently, has every reason to be very modest about the value of his achievement. . . . Nowadays, fashion or the yearnings of the literati encourage the belief that the specialist can be dispensed with or reduced to the level of subordinate provider for the "viewer." Almost all the sciences owe something to the dilettante; they often owe him very valuable insights. But dilettantism as a principle of science would mean the end of science. Those who desire a "show" should go to the cinema.[26]

Are we, a century later, wiser? Are we strong enough to resist the charm of the show?

Notes

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4 Albert Sicroff, *Les controverses des statuts de " pureté de sang" dans l'Espagne du XVe au XVIIIe siècle* (Paris, Didier, 1960).

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