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FREE BLACKS AND COLOREDS, AND THE ADMINISTRATION OF JUSTICE IN EIGHTEENTH-CENTURY CURAÇAO

During their annual meeting in early April 1766, the *Heren Tien* – the general board of directors of the Dutch West India Company (WIC, 1621-1791) – discussed a letter from Hubertus Coerman, fiscal (public prosecutor) of the colony of Curaçao. Coerman, who was a young professional lawyer and a stranger to Curaçaoan society when he arrived two years earlier, had questioned the way justice was administered in the colony and especially the customary judicial practice of distinguishing between Whites and non-Whites rather than between free and enslaved people. He also criticized the presumptuous attitude of Whites vis-à-vis the black and colored population, which in his view lay at the root of such an attitude. Showing off his academic background, Coerman informed his superiors that "The *status seu conditio personarum* is not divided *quod homines sunt vel liberi vel servi, sed quod sunt vel albi vel negri*; yes, this goes so far that all who are white arrogate a formal jurisdiction *cum imperio* over the negroes and Mulattoes, no matter whether they are slave or free."[1] The fiscal did not see any legal ground for this, and he also established that this was much to the detriment of the free Blacks and Coloreds in the colony. The Company directors took his criticism seriously and it was decided that a copy of Coerman's letter was to be sent to the island's council with the request for elucidation.[2]

This decision might very well have been prompted by a case which was discussed by the *Heren Tien* in a meeting only a day earlier, and which seemed to confirm Coerman's criticism. A free black woman from Curaçao, called Mariana Franko, had turned up in the United Provinces and had contacted the Amsterdam chamber of the WIC. She asserted that she had been

1. All translations in English by the author. National Archive The Hague (NL-HaNA), Archive of the New or Second West India Company (NWIC), 1674-1791, inventory 1.05.01.02, 604, Hubertus Coerman to Amsterdam chamber, August 23, 1765, p. 1419.
2. NL-HaNA, NWIC, 1.05.01.02, 14, minutes of the meetings of the *Heren Tien*, April 5, 1766, fol. 258r-v.

falsely accused of theft and receiving stolen goods and that, after a mock trial, she had been stripped of all her possessions and sentenced by the Curaçao council to eternal banishment from the territories of the West India Company. She had been put on a ship to Jamaica, but managed to travel from there to England and then to Holland, determined to have her trial revised, to have her good name and reputation restored, and to receive compensation for the material losses she suffered. After learning Mariana Franko's story, the Amsterdam chamber of the WIC appeared willing to issue an order to the Curaçao council on her behalf to send over all the documents pertaining to her case. After the documents had been received, the case was discussed by the *Heren Tien* which decreed that copies of all the documents were to be supplied to Mariana Franko.[3] This would enable her to bring her case before the States General which, within the organization of the Dutch administration of justice, acted as a court of review.

The two cases shed light not only on the daily practice of the administration of justice with regard to the free Blacks and Coloreds in Curaçao, but also on the functioning of the early modern Dutch legal system pertaining to colonial and slavery-related matters. Both cases also reveal that the application of the law, when free non-Whites were involved, was apparently open to interpretation and, as will be shown, there was a divergence in this respect between the colony and the metropolis; there seemed to be a conflict between the theory of the law and the practice of the administration of justice in the colonies involving free Blacks and Coloreds. How is this to be assessed? First the cases of fiscal Hubertus Coerman and Mariana Franko will be considered more closely. Then both cases will be discussed against the background of the formal organization of the administration of justice and legislation within the orbit of the WIC and the fabric of eighteenth-century colonial society in Curaçao. Finally the administration of justice in the Dutch American colonies will be looked at in a wider, comparative regional perspective.

FISCAL HUBERTUS COERMAN AND HIS CRITICISM ON THE ADMINISTRATION OF JUSTICE IN CURAÇAO

On 17 June 1763 fiscal Hubertus Coerman informed his superiors about his arrival in Curaçao five days earlier "at eight o'clock in the morning," to which he added that obviously his stay in the colony was far too short to report about any questions relating to his office. But he promised to do so after having obtained some more experience.[4] Thus, Coerman showed him-

3. Ibid., minutes of the meetings of the Heren Tien, April 4, 1766, fol. 239v.
4. NL-HaNA, NWIC, 1.05.01.02, 1163, copy of a letter from Coerman to Amsterdam chamber, June 17, 1763.

self to be a very precise and diligent man; it was precisely these traits of character that would bring him into conflict with the island's council.

A few months later a more elaborate letter followed in which he advised the Company directors to give more authority to the fiscal's office. The fiscal who, in the end represented the sovereign authority of the States General, should be given a higher rank within the colonial administrative hierarchy. This would make it easier for him to carry out his instructions and thus duly perform his office and, when necessary, to correct the other Company servants in the discharge of their duties. He also advised that criminal procedures be bought on the same footing as in the Dutch Republic and to staff the office of the sheriff (*schout*) with more officers in order to improve the maintenance of law and order.[5]

Coerman's criticism and advice induced the Company directors to ask governor Jean Rodier (1758-1761; 1762-1782) to react to the fiscal's letter.[6] Rodier was not amused about this and he, in turn, started to complain about Coerman. The fiscal was criticized for the way in which he had handled a case regarding an alleged insult of the governor, accused of being absent without leave, and generally behaving as though he was not subordinated to the governor's authority.[7]

But there was more. Complaints by the white inhabitants about the hostile and impertinent behavior of the "negroes and Mulattoes," seemed to be ignored by the fiscal. He refused to chastise alleged non-white perpetrators only on the basis of accusations, as was customary. Instead he started an official lengthy procedure with the result, according to the governor and councillors, that the offenders managed to get away unpunished. Coerman's opponents predicted that if the fiscal was allowed to continue with this practice of treating non-Whites as equals of Whites, while there were "twenty Blacks and Coloreds to one White," this would have serious consequences for the maintenance of law and order. The fiscal was especially criticized by the militia captain who designated himself as the protector of the interests of the white citizens. It was not clear, according to the governor, whether the attitude of the fiscal was to be attributed to a fear of the non-Whites, premeditated misbehavior, or childish and foolish pride. The directors should not be surprised, the governor and councillors warned, that if things did not improve, the council would be forced to take extreme measures.[8]

5. Ibid., copy of a letter from Coerman to Amsterdam chamber, October 14, 1763.
6. Ibid., copy of a letter from Jean Rodier to Amsterdam chamber, June 1, 1764.
7. Ibid., copy of a letter from the Curaçao council to Amsterdam chamber, July 3, 1765; copy of a letter from Rodier to Amsterdam chamber, July 4, 1765.
8. NL-HaNA, NWIC, 1.05.01.02, 604, governor and councillors to Amsterdam chamber, July 3, 1765, pp. 1104-8.

Coerman, at this point, was no longer invited to attend the meetings of the council and must have realized that the governor and councillors would try to incriminate him before his superiors. But instead of keeping a low profile he leveled even more criticism against the administration of justice in Curaçao as well as the presumptuous behavior of the white inhabitants. In a letter written in August 1765, Coerman asserted that the white citizens assumed that they had a privilege that prevented the fiscal or the sheriff from searching their property or entering a house in order to arrest a White. This led to a situation, according to Coerman, where the maintenance of law and order became a mockery. Whites who had been punished with banishment openly appeared in public and when the sheriff came to arrest them, they simply entered the house of a fellow citizen where they could not be touched. The fiscal had had arguments regarding this question during the council meetings on various occasions, especially with the captain of the militia, whom he described as a man of little knowledge and a short temper, reflecting "the true character of most of the inhabitants of this island." The captain of the militia had, according to Coerman, even stated openly that he would have no problem using violence against the fiscal in case he ever attempted to arrest a white person in his house. In this way the white inhabitants, according to Coerman, put themselves above the law while asserting their independence from the Company authorities.[9]

Coerman observed that it was especially the free black and colored population that suffered from this attitude of the Whites who had room to maneuver in the interpretation of assumed customary law in order to bend the course of justice to their advantage. When a charge was brought against a non-white person, the fiscal stated, this was usually preceded by a "*narratio factio*" without any proof and mostly consisting of lies. Next it was demanded that justice be administered immediately, or otherwise the plaintiff had no choice but to take the law into his own hands, if necessary with the assistance of his family. The fiscal confided to his superiors that on occasion he nearly had to use force to remove these plaintiffs from his office. This lopsided legal relation between Whites and non-Whites had even come to a point that when a white person killed a black or colored person, irrespective whether the latter was free or enslaved, punishment would usually only consist of a fine. The fiscal had brought this up in the council meetings which immediately led to severe clashes with the captain of the militia, who openly declared that he would never permit one of his citizens to receive any corporal punishment for any wrongdoing against "some negro or Mulatto," a statement condoned by the governor. Roman law was applicable to slavery-related questions,

9. Ibid., Coerman to Amsterdam chamber, August 23, 1765, pp. 1422-25.

according to the instructions of the States General, but this happened only rarely.[10]

The integrity of justice, according to Coerman, suffered from the fact that court sessions were organized on a yearly basis with the consequence that a great number of cases had to be dealt with in a very short period of time; sometimes even up to 50 or 60 cases in one morning. There was little hope of improvement, unless the directors would send more capable administrators to the island. The fiscal also recommended that a body of formal laws for Curaçao be drawn up, to be approved by the States General, in order to counter the practice of referring to so-called tradition and customary law as one saw fit: "This, in my opinion, would be very beneficial work for this country, and all the assumed privileges of those being white and citizen would swiftly disappear."[11]

After deciding to ask the council of Curaçao for a reaction to Coerman's critisism, the *Heren Tien* entrusted the Amsterdam chamber with the responsibility of settling the matter.[12] The receipt of the letter from the Company directors with the enclosed copy of Coerman's letter of August 1765 exploded like a bomb at the meeting of the island's council. After the documents were read the citizens that held a seat in the council, including the captain of the militia, immediately announced their resignation. Although governor Rodier prevented them from leaving right away, they still threatened to resign if they were not given an official apology for what was felt as a gross insult. Coerman was considered no less than a traitor. There was even talk of causing him bodily harm and Rodier reported that he had to seriously warn the militia captain to keep his fellow citizens under control.[13]

The council was now on the defensive. An extensive letter was drawn up to refute the fiscal's accusations. It was stated that on "all continents" Blacks and their "bastard descendants" were considered a distinct group, although not in the way that the fiscal was suggesting. It was denied that Blacks and Coloreds were at the mercy of the arbitrariness of justice. It was just that "decent people" did not converse or put themselves on the same level with representatives of this group. But free non-Whites, according to the council, were treated nowhere better than on Curaçao. Associating too closely with

10. Ibid., pp. 1420-22.
11. Ibid., p. 1425.
12. NL-HaNA, NWIC, 1.05.01.02, 14, minutes of a meeting of the *Heren Tien*, April 5, 1766, fol. 258r-v.
13. NL-HaNA, NWIC, 1.05.01.02, 605, Rodier to Amsterdam chamber, October 24, 1766, pp. 441-45.

them was to be avoided in order to prevent them from becoming too self-assured.[14]

In its letter the council discussed the various legal procedures applicable to Whites, slaves, and free non-Whites at length. A slave who had either beaten a white person or wounded or threatened him with a weapon would, depending on how serious the crime was, receive corporal punishment or the death penalty. These incidents were to be reported to the fiscal immediately. In instances where the opposite was the case, sometimes a fine was imposed or damages were claimed when another person's slave was wounded. It has never happened that a white person received corporal punishment for an act of violence against a slave. In cases of slaves versus slaves, they were considered and punished as equals, but the possible damage for the slave owner was also considered. A criminal slave was sometimes sold abroad in order to limit the damage for the master. The most difficult cases, however, according to the governor and councillors, were issues involving Whites and free non-Whites. The testimony of a black or colored person against a White was not accepted. But the possibility was left open for a white person – provided that person enjoyed a good reputation – to intervene on behalf of a non-White. If a free person was beaten by a White and there were white witnesses who could state that the victim was innocent, the free person was free to lodge a complaint at the fiscal's office. The fiscal was then in turn free to consider the case as he saw fit and if a white person could be found who was willing to give testimony in court on behalf of the colored victim, the white offender could be sentenced to pay a fine. Cases of verbal offense against non-Whites by Whites could only be brought before court in exceptional cases. In the past fiscals had always been very careful in handling these questions, weighing local circumstances and the interests of the government and the inhabitants against the "arrogant nature of the Blacks." Since there were "twenty Blacks to one White," it was stated, the former should be kept in check. When it was necessary to reprimand a white person, this had to be done quietly and in a "civil way" and not publicly, for otherwise "the negroes would be confirmed in their self-assuredness."[15]

When a White lodged a complaint against a non-White for physical abuse or an offense, provided the former was of blameless conduct, the white person was believed, especially when marks on the victim's body were visible. But fiscal Coerman was of the opinion, according to the governor and councillors, that this was not enough evidence, "which is cause for much bitterness and gives ample opportunities to negroes and Mulattoes who encounter a White who is alone to abuse him." But in general in these cases non-white

14. Ibid., governor and councillors to Amsterdam chamber, December 30, 1766, pp. 470-72.
15. Ibid., pp. 472-76.

offenders were sentenced to corporal punishment or banishment. And when, as often happened, the white person had hit first, the colored person was nevertheless sentenced although "considering mitigating circumstances and especially the quality and conduct of the White in relation to that of the negro, for we must admit with shame that there are Whites here with black souls and vice versa, but in all other reasonable cases a free negro or Mulatto may file a case in court."[16]

Coerman's assertion – that a White who killed a non-White was only punished with a fine – was termed as "passionate and malicious." If a case like that occurred, the first step would always be to establish the intention and to consider the effect of the crime. There was a difference between murder and manslaughter committed in a state of rage. There were examples of the latter, but in order not to make things worse these cases were treated quietly and with caution. But when fiscal Coerman had to deal with such a case, he openly discussed it with other "academic lawyers" which in turn prompted the Blacks to speak out and defy the Whites. The Blacks and Coloreds felt all the more supported since the fiscal had stated that to him "a negro or Mulatto was just as good as any white person." The governor and councillors asserted that there were no known cases of free Blacks or Coloreds being murdered by Whites, but if such a case should occur the offender would probably be sentenced to a fine or banishment. There was on the other hand one example of a ship's captain who had one of his colored crew members beaten up for theft, after which this man died. But according to the council it could not be determined whether the death of this sailor was caused by the trashing or by some other "accident." Besides there had been only one white witness and two Mulattoes. The captain was to be sentenced to banishment, but the case awaited review by the States General.[17]

Curaçao had always been administered without directives or specific laws. There was no body of charters, by-laws, or resolutions, at least these could not be found at the secretary's office. The few that did exist were isolated and random. So customary law had to be followed, which had always been effective, ensuring peace and stability on the island. The introduction of academic theories by learned lawyers, who did not understand or refused to understand daily practice and the nature of the colony and the people, just caused instability and commotion. This only led to complicated procedures and recurring complaints, the governor and councillors concluded, which were annoying both to the state and to the Company as the directors knew all too well.[18]

16. Ibid., pp. 476-77.
17. Ibid., pp. 477-81.
18. Ibid., pp. 491-93.

The council declared that it would gladly receive further instructions on the administration of justice from its superiors; it was easier to obey than to practice. It was left to the judgment of the Company directors whether the slaves in antiquity could, considering their morals and character, be compared to African slaves, on whom Roman law was applicable according to the instructions of the States General. If the non-Whites were to be treated as dictated by the law, according to the governor and councillors, the consequence would be that they should also be educated and instructed, which implied that schools were to be set up, to be paid for by the slave owners. The council was certainly willing to be taught but preferably not by "confused learned young men." All of the other accusations by the fiscal regarding the administration of justice were dismissed as mere ignorance, slander, and contempt of the island's council. Finally the directors were asked to mete out an exemplary punishment on Coerman.[19]

The militia captain reacted in a separate, equally extensive letter with many examples of conflicts and cases between Whites and non-Whites in which the fiscal, in his opinion, acted inadequately.[20] He stressed the necessity of segregation between Whites and non-Whites and the submission of the latter. Although it proved necessary to issue special legislation to prevent non-Whites from engaging in impertinent behavior, the "free slaves," as he called the free non-Whites, had never been treated unfairly in court. The fiscal on the other hand, according to the militia captain, actually oppressed the Whites while favoring the non-Whites, which was in conflict with the common law of "all America." It was predicted that the Blacks and Coloreds would most certainly rise if they were not forced to pay proper respect towards the Whites for "this sort of people is always out to dominate the Whites … and in the end it will come to a situation where no white person will dare to go out in the streets for fear of being molested or attacked."[21]

After receiving the letters from the council and the captain of the militia, the Amsterdam chamber decreed that Coerman was to be "relieved" of the "burden" of his session in the council and the related obligation to advise, in order to allow him to concentrate more fully on the fiscal's office. The governor and councillors were informed that their account, together with that of the militia captain, was considered to be fully satisfactory. The fiscal was no longer to interfere with the affairs of the council and the council was to pay proper respect to the fiscal. Regarding any difficulties in the timely execution of the fiscal's office, stemming either from real or imaginary inconsistencies, Curaçao's customary law was to be followed and the accepted privileges of the citizens were to be respected. It was not judged "proper" to assign a jurist

19. Ibid., pp. 486-542.
20. Ibid., 605, Gerrit Specht to Amsterdam chamber, January 21, 1767, pp. 463-582.
21. Ibid., p. 565.

to the council. The councillors were free, however, to consult any "able, neutral, and honest lawyer" in complicated cases. The council at the same time was expected to guarantee a fair administration of justice, the maintenance of public peace and security, and the protection of the public interest.[22]

When this decision reached Curaçao, Coerman was highly disappointed. He demanded in the council session that this resolution of the Amsterdam chamber be sanctioned by the *Heren Tien* and he stated that he intended to write to the Company directors. But governor Rodier made it clear that in Curaçao the resolutions of the Amsterdam chamber were always obeyed. Coerman then asked to resign and demanded that this request be recorded in the minutes. But this was vetoed by Rodier.[23] Coerman felt unjustly treated and discredited. Again he appealed to the Amsterdam chamber, writing:

> Is it a crime to freely air one's feelings and undauntedly speak the truth? Is it disrespectful when one speaks of what is just and when one tries to free one's heart and conscience? Never have I stooped so low that for some favor, or out of hatred, have I spoken against my own better judgment, or slavisly shaped my views according to someone else's; no … I am candid by nature and since my youth I have always been an enemy of all falseness and hypocrisy.[24]

Coerman's reaction and the letters of the council and the militia captain were read and discussed in the meetings of the *Heren Tien* on 4 and 8 November 1768. The policy of the Amsterdam chamber in this matter was reported upon by its representative, which was fully approved by the board of directors. It was decided to inform the governor and councillors of Curaçao about this decision. The fiscal was to be ordered with immediate effect to concern himself only with carrying out of his duties as fiscal to the letter.[25]

It was clear that the main concern of the directors was to maintain law and order in the colony and that it was left to the judgment of the island's council as to how this was to be done. Coerman was regarded as a troublemaker and his removal from the island's council was intended to restore the peace within the island's administration. He was to keep quiet and do his job.

22. NL-HaNA, NWIC, 1.05.01.02, 422, Resolutions Amsterdam chamber, May 12, 1767; NL-HaNA, NWIC, 1.05.01.02, 476, Amsterdam chamber to governor and councillors of Curaçao, May 12, 1767, pp. 12-14.
23. NL-HaNA, NWIC, 1.05.01.02, 606, Coerman to Amsterdam chamber, January 8, 1768, pp. 31-34.
24. Ibid., pp. 37-38.
25. NL-HaNA, NWIC, 1.05.01.02, 15, Minutes of the meeting of the *Heren Tien*, November 4, 1768, fol. 87r-v and November 8, 1768, fols. 119v-120.

THE CASE OF MARIANA FRANKO

It is ironic that only a few years later Hubertus Coerman would find himself as the defendant in the States General's review of the case of the free black woman Mariana Franko, who asserted that she was sentenced by the Curaçao council after a show trial for a crime which she did not commit. The case dated to before Coerman's arrival at Curaçao, so personally he was not to be blamed, but in his function as fiscal he had to account for the actions of his predecessors.

Mariana Franko in her initial petition to the States General dated April 1766, introduced herself as a "free negress," originally born at St. Eustatius and a member of the Dutch Reformed Church. The latter must, in a sense, have made her an exception in church, since the Dutch Reformed Church in Curaçao was almost exclusively white. Mariana Franko was employed at the Sorgvliet plantation, owned by the Lamont family, where she was entrusted with the supervision over the slave children and, since she was literate, with some administrative tasks: she was made responsible for the registration of the produce of the plantation that was taken to Willemstad to be sold by the slaves as well as registration of the goods that were brought back on their return. She also recorded the changes that took place among the plantation's livestock.[26]

In early 1758 Mariana's partner, a slave called Pedro Anthonij who was the *factoor* (foreman/overseer) of the plantation, was accused of theft and arrested. Several months later Mariana was also arrested under the charge of being Pedro Anthonij's accomplice. Although she was imprisoned under harsh conditions and put under enormous pressure she kept denying the accusations. [27]

The interrogations of both Mariana and Pedro Anthonij, which were recorded, were intimidating and insulting in tone. Pedro Anthony is referred to as Mariana's *boel* or *pul*, a derogatory old Dutch term for a man who cohabits with a woman out of wedlock, while Mariana was called Pedro Anthonij's "whore," with her "insolent face and flattering tongue." Both were threatened with severe punishment if they kept refusing to tell the "truth." There was in fact no incriminating evidence against Mariana, but there were a number of statements from some slaves and also from three white men who declared that Pedro Anthonij had confided to them that he had stolen goods from the plantation. When confronted with these statements Pedro Anthonij

26. NL-HaNA, Archive of the States General (SG), 1576-1796: The appendices to the resolutions, 1576-1796, inventory 1.01.04, 7878, petition from Mariana Franko handed over on April 17, 1766; 7884, petition from Mariana Franko handed over on December 9, 1767.
27. Ibid.

at first confessed, but in a subsequent interrogation withdrew this confession. Mariana, when confronted with Pedro Anthonij's confession, however, remained adamant that she was completely innocent. No goods or money were found that could not be accounted for by Mariana or Pedro Anthonij.[28] At the same time, according to Mariana, exculpatory evidence in the form of a written statement from the person in charge of the plantation's store rooms was ignored by the council.[29] Mariana from her prison cell turned for help to her former lover and protector, Moses Levij Maduro, but her note addressed to "Sjoor Mosa Maduro" ended up in the island's government secretariat.[30]

In February 1760 the council finally came to a conclusion of the case. Pedro Anthonij was deemed guilty. There was no incriminating evidence against Mariana but, so the council reasoned, she of course had had ample time after Pedro Anthonij's arrest to rid herself of any money that was received for the stolen goods. She was thought to have sent it to St. Eustatius, where she allegedly intended to marry a white man. Since Pedro Anthonij was guilty, and even had confessed his guilt, Mariana, according to the council, must be guilty too. Both defendants were sentenced to banishment, and Pedro Anthonij, since he was a slave, was to be sold abroad. He also had to undergo a humiliating public flogging.[31] The fiscal obtained permission from the island's council to have all Mariana's possessions – she was a well-to-do woman who possessed five slaves – confiscated and sold in a public auction, the proceeds of which would be used to recover the costs of her imprisonment and trial. On 28 November 1760 she was finally put on a ship to Jamaica.[32]

It is not clear when exactly Mariana Franko arrived in Holland and managed to contact the Amsterdam chamber. But it was only in February 1765, after being urged by the Company directors several times, that the governor and councillors of Curaçao dispatched the copies of the judicial documents regarding the criminal cases against both Mariana and Pedro Anthony: the interrogations, various depositions of witnesses, the sentences demanded by the fiscal, the sentences passed by the council, and the petition from

28. NL-HaNA, NWIC, 1.05.01.02, 604, see for the documents regarding the case against Mariana Franko, pp. 769-806; documents regarding the case against Pedro Anthonij, pp. 815-85.

29. NL-HaNA, SG, 1.01.04, 7878, petition from Mariana Franko handed over on April 17, 1766; 7884, petition from Mariana Franko handed over on December 9, 1767.

30. NL-HaNA, NWIC, 1.05.01.02, 604, copy of a note from Mariana Franko to Mozes Levij Maduro, August 30, 1758, pp. 785-86.

31. Ibid., documents regarding the case against Mariana Franko, pp. 769-806; documents regarding the case against Pedro Anthonij, pp. 815-85.

32. NL-HaNA, SG, 1.01.04, 7878, petition from Mariana Franko handed over on April 17, 1766; 7884, petition from Mariana Franko handed over on December 9, 1767.

the fiscal addressed to the council for permission to have Mariana's possessions publicly auctioned as well as the subsequent permission obtained from the council. Other additional documents sent were: a statement dated 18 December 1764 from Mariana's former lover Moses Levij Maduro, a copy of the already-mentioned intercepted note from Mariana to the same Moses Levij Maduro written from her prison cell, and a final concluding document drawn up by the council.[33]

It was only after Mariana had received the copies of these documents that she could petition the States General to review her case. Her solicitor stated in an address to the States General:

> That the petitioner subsequently not only has the intention to have her good name and reputation restored (which to her, in spite of being born a negress, is just as dear as it is to a free Dutchman), to defend herself against the treatment received, and, when this is accomplished, will also try to get back her goods, money, and securities, which were taken from her in an outrageous manner, including her manumission deed, sealed with the grand seal of the West India Company.[34]

Mariana also intended to sue all those responsible for her misfortune for insult and to demand reparations as well as compensation of interest on her seized possessions. The States General were in the first instance requested to issue an order of review (*mandament van revisie*) of the sentence from the island's council of 18 February 1760.[35]

A meticulous but also lengthy procedure was started. After receiving Mariana Franko's petition, in May 1766 the States General sent a copy to the directors of the West India Company with a request for a reaction. After this was received, a copy of the petition was also sent to the governor and councillors of Curaçao with a similar request.[36] Governor Rodier answered exactly one year later by stating that in Curaçao the plantations were always managed by the *bombas* or "negro officers." In the case of the Sorgvliet plantation, it had been Pedro Anthonij who was in charge. "So," Rodier argued, "Their High Mightinesses will very easily understand that for one exposed to similar cases daily, if one did not punish the receivers of goods or accom-

33. NL-HaNA, NWIC, 1.05.01.02, 604, pp. 758-898; copy of a note from Mariana Franko to Mozes Levij Maduro, August 30, 1758, pp. 785-86; copy of a sworn statement from Mozes Levij Maduro Aronzoon, December 18, 1764, pp. 809-10.
34. NL-HaNA, SG, 1.01.04, 7884, petition from Mariana Franko handed over on December 9, 1767.
35. Ibid.
36. NL-HaNA, SG, 1.01.04, 7884, Mariana Franko to States General, handed over on December 28, 1767.

plices to theft as severely as the thieves themselves, notwithstanding whether he is a slave or free, like in the case under consideration, for the negro officers on the plantations would be able, together with their kept women or concubines, to loot in a short time a complete plantation as can be seen from the attached documents and papers regarding this case of Pedro Anthonij and Mariana Franko."[37] The fact that no stolen goods or money were ever found was again explained by the supposition that Mariana Franko, alarmed by the arrest of Pedro Anthony, had had ample time to dipose of these. The existence of any exculpatory statement, as mentioned in Mariana's petition, was said to be unknown to the governor and councillors. Mariana's sentence had been based on the evidence that was known at that time.[38]

The States General by a resolution of 9 December 1767 ordered a review of the sentence. Mariana intended of course to dispatch this resolution to Curaçao as soon as possible, but in the meantime, since all her possessions had been taken from her, she was left without any means of subsistence. She therefore again addressed the States General petitioning for a grant that would make it possible for her to meet the costs of living:

> Therefore the petitioner turns to Her High Mightinesses, humbly begging that Her High Mightinesses will feel compassion for her unhappy misfortune, roaming about in this country to complain about the injustice in an outer province under the jurisdiction of Her High Mightinesses done to her, petitioner, originating from the island of St. Eustatius and consequently a born subject of Her High Mightinesses, asking for such a gratuity as Her High Mightinesses in accordance with their usual charity and in relation to the degree of her unhappy situation will judge right.[39]

Mariana also again turned to the WIC asking for the payment of an amount of 687 pesos, the proceeds of the public sale of her slaves. The Amsterdam chamber on her behalf ordered the council of Curaçao to send over the requested sum, since it was already clear that the fiscal's office owed her this money. But the council objected that it could not transfer the money since the case was still unresolved.[40]

The procedure dragged on for another three years. Mariana in the end apparently did not contend herself with a mere order of reversal of the sen-

37. NL-HaNA, SG, 1576-1796: Sequel to the appendices to the resolutions, 1576-1796, inventory 1.01.05, 9527, Rodier to States General, dated May 14, 1767.
38. Ibid.
39. NL-HaNA, SG, 1.01.04, 7884, Mariana Franko to States General, handed over on December 28, 1767.
40. NL-HaNA, NWIC, 1.05.01.02, 476, Amsterdam chamber to Curaçao council, December 19, 1769.

tence, but demanded that the trial be declared invalid, to have all her possessions restored, and to be indemnified. Coerman had to account for the fact that his predecessors had never kept a proper administration of the costs of justice and that consequently it remained unclear what had happened to Mariana's money, clothes, gold, and silver. Coerman was the first to admit that Mariana had suffered a gross injustice and that this was directly caused by his predecessors *in officio*. He was also most willing to do anything to have her rehabilitated immediately. But he was clearly not happy with a trial that could possibly award indemnity to Mariana Franko for her lost property.[41]

The States General finally decreed in September 1772 that Mariana's conviction of February 1760 was to be considered null and void, that Mariana Franko was absolved of the sentence demanded by Coerman's predecessor, and that she was to receive indemnity for her seized property. The defendant, Coerman, was ordered to see to it that the costs of Mariana's imprisonment and trial, paid from the proceeds of her confiscated property were, as was explicitly stated, officially, so not at his own expense, reimbursed. The States General did not adjudicate her further demands for compensation of other losses. But she was free to sue the parties concerned in this matter and also to start judicial procedures for injury.[42]

It is improbable that Mariana ever undertook further legal action. After several more petitions and complaints on her part, the Amsterdam chamber in November 1777 again had to order the council of Curaçao to send over the money that Mariana was entitled to. With the sentence pronounced by the States General in September 1772 all grounds for further delay on the part of the Curaçao council had been removed. The Amsterdam Company directors by now clearly had become irritated by the council's attitude and in strong words remarked that they had every reason to expect that the Curaçao administration would have done everything in its power to send to this "unfortunate human being" the amount of the proceeds of the wrongful sale of her slaves as soon as possible, especially since it was clear in what unfavorable light the criminal procedures undertaken against Mariana were considered by the States General. Mariana was at that time living in poverty in Amsterdam. She apparently had been forced to incure debts, for the money that she was entitled to had already been awarded to a creditor. In March 1778 the Curaçao council finally informed the Company directors that the money was shipped to Amsterdam.[43] It is not clear if Mariana finally received any of it.

41. NL-HaNA, SG, 1.01.05, 9527, Thierrij de Bije to States General, handed over on July 24, 1770.

42. NL-HaNA, SG, 7900, Mariana Franko to States General, handed over on September 22, 1772.

43. NL-HaNA, NWIC, 1.05.01.02, 476, Amsterdam chamber to Curaçao council, November 11, 1777; NL-HaNA, NWIC, 1.05.01.02, 211, Curaçao council to *Heren Tien*, March 18, 1778.

THE FORMAL ORGANIZATION OF THE ADMINISTRATION OF JUSTICE AND LEGISLATURE AND THE POSITION OF CURAÇAO'S FREE BLACKS AND COLOREDS

The cases of Hubertus Coerman and Mariana Franko make clear that the legal position of the free non-Whites in Curaçao was vulnerable. Although Coerman's opponents in the Curaçao council denied this was the case, the fiscal without a doubt rightly assessed that free Blacks and Coloreds ran the risk of being at the mercy of arbitrary administration of justice. This is confirmed by the way the Mariana Franko case was handled. At the same time this treatment of free non-Whites did not seem to have a very solid judicial foundation. Coerman's criticism on the different legal treatment of the free non-Whites and the curbing of their legal rights made clear that this could be disputed on legal grounds, and his arguments in turn were taken seriously by the authorities in the United Provinces. Mariana Franko as a free Black was similarly treated as her partner Pedro Anthonij who was a slave. Her rights as a defendant were ignored and she was sentenced without any convincing evidence. The directors of the West India Company and the States General, however, treated Mariana as a Dutch citizen, quashed her sentence, and criticized the Curaçao council for its performance in her case. How is this difference between colony and mother country to be explained?

The foundation for the government, legislation, and administration of justice in the American colonies was laid by the "Order of Government, for Police as well as Justice, in the places captured or still to be captured in the West Indies" (*Ordre van Regieringe, soo in Policie als Justitie, inde Plaetsen verovert, ende te veroveren in West-Indien*), issued by the States General in 1629. One of the principal purposes of this document, containing only 69 articles, was to apply the same Dutch laws and legal institutions to all the colonies under the jurisdiction of the WIC. The Order contained stipulations not only regarding government, legislation, and civil and criminal administration of justice, but also on religion, military organization, and land-use policy, and so on. The Order dictated the application of large portions of law as practiced in the Dutch Republic (Schiltkamp 1964:21-24, 2003:320-22; Kunst 1981:57-58).

In the United Provinces, when applying the law in a certain case, first written law (privileges, regulations, proclamations, ordinances) was consulted. If no written laws could be found that were applicable to the case under consideration, unwritten (local) customs were to be followed. If customary law did not provide any solution, Roman law, emperor Justinian's *Corpus Juris Civilis*, was to be followed. Roman law in the Dutch Republic was subsidiary law. In the colonies usually the laws of the province of Holland predominated. Besides, since the institution of slavery was unknown in the United Provinces and hence there was no existing legislation dealing with this subject, Roman law was to be used to fill this lacuna. For questions

related to slavery, Roman law was not so much subsidiary law but primary law (Schiltkamp 2003:322; Watson 1989:112, 129).

In addition, local laws could be issued in the colonies. The governor, who was entrusted with the highest authority, presided over a council of police which possessed (limited) legislative powers and could, according to article 62 of the Order of Government, issue local rules and regulations on matters such as public order, markets, trades, taverns, and so forth (Schiltkamp 1972:41). These by-laws could, however, at all times be replaced or supplemented by legislation issued by the superior authorities in the mother country, namely, the directors of the WIC and the States General (Schiltkamp 2003:326; Kunst 1981:224; Klooster 1998).

The directions for the procedures in criminal court cases, as formulated in the Order of Government, were not very clear. Only reference was made to the "ordinary practice in the United Provinces" and to the "common written law," that is, Roman law. The merits of the case dictated what law was to be applied. Punishments were to be just, without being too harsh. And it was stated in article 51 of the Order of Government that all persons, irrespective of nation or condition, should be tried according to the "ordinary justice" applicable in the colony. The administration of justice in both criminal and civil cases was to be carried out without any hatred or prejudice. The discretionary power of judges left them much room to determine the punishments where these were not clearly defined. And this was the case in numerous examples of locally issued legislation. This consequently led to general arbitrariness and insecurity. The 1570 Criminal Ordinance regarding the Procedure in Criminal Cases (*Ordonnantie op de stijl van procederen in criminele zaken*) could be considered part of the "ordinary practice" in the Dutch Republic. This gave certain rights to the defendant, but it also allowed the use of torture (Kunst 1981:58-59, 218-19; Schiltkamp 1972:10, 52-53).

The fiscal, who acted as public prosecutor, played a prominent role in criminal cases. He was usually assisted by a sheriff and his deputies. In Curaçao during the eighteenth century there was no separate court of justice; the same councillors who were in charge of police matters, also functioned as judges in both civil and criminal cases (Kunst 1981:219-20; Schiltkamp 1972:46-47). According to the second article of the 1674 charter of the WIC, the legal force of sentences pronounced by courts in the colonies was similar to those pronounced at the highest level of court in the United Provinces; the administration of justice in the colonies was seen as a predominantly local affair. There was, however, a possibility of review by the States General, which can be considered as a form of appeal (Kunst 1981:223; Schiltkamp 1972:55-57).

So basically the legal practice and legislature of the United Provinces were transplanted to the American colonies, supplemented with Roman law as primary law in slavery-related questions. But early modern Dutch legal practice left much room for interpretation and the possibility of implement-

ing local customary law. At the same time colonial administrations could also add local laws with a public character.

An important problem in the colonies was a general lack of legal knowledge and professionalism. The judicial libraries in the colonies were usually poorly equipped (Schiltkamp 1964:46-60), while the codification of locally issued legislation was not well organized. As a consequence, legislation was forgotten and fell into disuse. The same applied to the resolutions dispatched by the Company directors and by the States General. In Curaçao this legislation was hardly accessible because a register was lacking (Kunst 1981:207-9, 218). At the same time fiscals were not always trained lawyers. According to Schiltkamp, at least until the 1780s the general lack of legal knowledge, among councillors and fiscals alike, almost certainly came home to roost in the administration of justice (Schiltkamp 1972:46-47). He concluded: "In the course of time one hardly knew what laws to apply. Perhaps not even the text of the Order of Government was available" (Schiltkamp 1972:64).

This is confirmed both by Coerman's observations regarding the lack of professionalism of the administrators and the general legal obscurity, and also by the statement of the island's council – in its response to the fiscal's criticism – that there was no body of charters, by-laws, or resolutions to be found in the secretary's office and that the few regulations that could be found were isolated and random. But where Coerman argued for the issuing of a formal body of law to counter the insecurity and arbitrariness of "assumed" customary law, according to his opponents following local customs had always been for the benefit of peace and stability on the island. The council feared that the introduction of "academic theories" by "learned lawyers" who did not understand the nature of the colony and its people only led to instability and commotion. This fear of the disturbance of public order and security (of Whites) in the colony and the related argument of the necessity to keep the numerically superior non-Whites under strict control was used repeatedly by Coerman's opponents to counter his criticism. And also in the case against Mariana Franko and Pedro Anthonij, the governor defended the actions taken by the council as being necessary to protect the possessions of the citizens from the alleged thievish behavior of the Blacks, both freedmen and slaves.

That there were twenty Blacks to a single White, as was contended time and again, was clearly an exaggeration. But the argument does show that the presence of a large number of Blacks and Coloreds, of which a relatively sizable proportion was free, was experienced by the white population as a threat. According to population figures dating from 1789, there were nearly 21,000 people living on Curaçao: 12,864 slaves, 3,564 Whites (2,469 Christians and 1,095 Jews), and a more or less equivalent number of 3,714 free Blacks and Coloreds. A little over half of the total population at that time lived in Willemstad and its immediate surroundings; 42 percent of the slaves, 95 percent of the Whites, and nearly 90 percent of the free non-Whites were town

dwellers. Like many of the Whites, free Blacks and Coloreds as well as many slaves worked in the commercial and maritime branches of the Curaçaoan economy (Klooster 1994:286, 289).

Curaçao was not a typical Caribbean plantation colony since, due to its climate and geophysical circumstances, it was not suited for the cultivation of tropical cash crops; the plantations mainly concentrated on the production of food crops and on cattle ranching. The island's favorable location close to the colonies on the Spanish main, its role as an important regional slave market during the late seventeenth and early eighteenth centuries, its excellent natural harbor, and its status as a free port, all contributed to its development into a busy trade hub.

The relatively large number of free Blacks and Coloreds may in part also be attributed to the economic characteristics of the colony. According to Hoetink, as a consequence of the mercantile character of Curaçaoan society, slaves were relatively easily liberated. Since slaves were in many cases "luxury servants" their masters were more apt to manumit them in times of economic depression to be free of feeding and clothing them (Hoetink 1972:67).

But equally important, or maybe even more important, was the fact that Roman law was applicable to slavery and consequently also to the act of manumission. Alan Watson in his analysis of slave law in the Americas, as it was issued by the major European powers in their colonies, makes clear that where, directly or indirectly, use was made of Roman law, such as in the Dutch, French, Spanish, and Portuguese colonies, there were generally fewer legal barriers to free slaves. This is to be attributed to the fact that in ancient Rome, slavery was not based on race, which is reflected in the law: slaveholding was strictly considered a matter between master and slave and manumission by the owner was relatively unrestricted. Citizenship was also relatively easily granted to a freed slave. Although in the Dutch, French, Spanish, and Portuguese American colonies slavery was based on race, each colony at the onset received a system of law based on Roman law and insofar as slave law remained unchanged or developed from its European tradition, the law remained nonracist in its rules. Law for the Latin American colonies was primarily made in the mother country, and hence nonracist by character. Lawmakers in the colonies, however, were in favor of more racist law. And in the course of time in the Spanish and French colonies, under the influence of local developments, the law became more racist: masters were allowed to punish more, manumission was made more difficult, as was giving financial support to free non-Whites; the treatment of free Blacks and Coloreds was closer to that of slaves (Watson 1989:128, 130-33).

In the English American colonies Roman law was never introduced, while the law was made on the spot. Consequently English American slave law was racist from the start and with the passage of time even became harsher on both slaves and free Blacks. According to Watson, in racist slave societies slave

law usually has a stronger public dimension. For example, in the English colonies this was revealed in regulations setting limits to the education of slaves, obliging the owners to punish slaves for certain behavior, and also in stringent restrictions on manumission. In the Dutch colonies, law was also made on the spot, but it was limited to relatively minor public regulations regarding law and order. However, the acceptance of nonracist Roman law as primary law exercised a mitigating effect on slavery-related matters; basically there were no legal barriers against manumission (Watson 1989:128, 130-33).

It is not inconceivable that from the earliest years of the Dutch settlement in Curaçao, slaves were manumitted. A small group of free Blacks and Coloreds probably already existed by the end of the seventeenth century. During the War of the Spanish Succession (1701-1713) slaves as well as freedmen, able to bear arms, were organized in military units. In 1710 there were three companies of free Blacks consisting of 15, 18, and 25 men respectively.[44] At that time the group of free non-Whites as a whole, including women and children who were usually manumitted in larger numbers than men, may have comprised a few hundred people. Representatives from this group were already economically successful; during the first decades of the eighteenth century there was a small number of free Blacks that were wealthy enough to purchase slaves in the Curaçaoan slave market, while free Blacks and Coloreds were listed as taxpayers (Jordaan 2003:249; Visman 1981:39; Klooster 1994:287-88).

The majority of the free non-Whites, however, were probably paupers, some of whom were even worse off than the slaves. According to Hoetink, affective ties between the freedmen and other segments of society were weak. In a response to this, during the 1740s, when their numbers had significantly grown, freedmen organized themselves into gangs which regularly clashed. According to Klooster this tendency to hooliganism among the free Blacks and Coloreds can be explained from the peculiar nature of the Curaçaoan economy, which made it possible for both free and enslaved non-Whites to make a living in a fairly independent way. This resulted in conflicting demands of the "pattern of slave behavior" on the one hand and a lack of servitude in everyday life on the other (Hoetink 1972:67, 69; Klooster 1994:295).

Not only wanton behavior displayed by Blacks and Coloreds and fear of public disturbance, but also a presumed lack of respect shown to Whites by non-Whites paired with uneasiness about the growing number of free Blacks and Coloreds and the numerical superiority of the black and colored population as a whole were translated into a series of rules and regulations

44. NL-HaNA, NWIC, 1.05.01.02, 568, Jacob Beck to Amsterdam chamber, April 10, 1706, fol. 475; NL-HaNA, NWIC, 1.05.01.02, 203, Abraham Beck to *Heren Tien*, March 4, 1710, appendix no. 1, January 18, 1710, fols. 450r-52v; Abraham Beck to *Heren Tien*, March 4, 1710, appendix no. 1, January 10, 1710, fols. 454r-55v.

designed to keep the entire non-white population under strict control, usually without distinction between slave and free. Local legislative authority was used to issue a series of *placaten* with a racist bias: gatherings of Blacks and Coloreds were forbidden; Blacks and Coloreds were not allowed to play loud music or to carry sticks or any other weapons; non-Whites were not permitted to be out in the street after dark – unless they carried a lantern – while slaves also had to have a note from their masters explaining why they were sent out. At the end of the eighteenth century Whites were allowed to punish by wielding a single blow of a cane on black or colored persons for behavior that they considered impertinent. Some of these regulations were repeated on several occasions. In the 1750s attempts were made to reduce the number of manumissions with a stipulation that an amount of money (50 to 100 pesos) was to be paid for each slave that was officially freed.[45] Legal measures specifically aimed at curbing the economic opportunities of the free non-Whites were less common. The only known regulation dates from 1749 when free Blacks and Coloreds were barred from keeping a shop in town (Klooster 1994:289). Also laws which for instance limited the amount of money that free non-Whites could inherit (from their white fathers), as were issued in the English colonies, were unknown in Curaçao. This is not so much due to a more liberal attitude, but to the fact that nonracist laws from the United Provinces were in force on Curaçao. The same goes for the institution of matrimony.

Sections of the white elite at Curaçao were worried about the frequent ocurrence of intermarriage between Whites and non-Whites. There were complaints that the free people of color managed to "tempt" Whites into marriage and that they were also becoming so self-assured that they even imagined themselves "to be the equals of Whites" (Kunst 1974:56). Around the middle of the eighteenth century, a number of white Curaçaoans petitioned the States General to issue a ban on the solemnization of marriages between Whites and non-Whites. It was stated in the petition that under the then prevailing marriage regulations it was more difficult to prevent mixed marriages and it was feared that "pure white families, which until now are free of such unions, are exposed daily to the danger of being contaminated with this stain" (Schiltkamp 1972:66; Kunst 1981:205-6). A copy of the petition was sent over to Curaçao with a request for advice. It was thereupon decided by the council to appoint a commission to investigate the consequences of such a ban. The commission appeared to be no advocate of any measures that could be taken as an insult by the free non-Whites and would consequently lead to tensions within society, for "among the families descending from blacks or liberated male or female slaves, or related

45. Hoetink 1972:68; Schiltkamp & de Smidt 1978, vol. 1, nos. 67, 97, 143, 150, 223, 256, 288, 290; vol. 2, nos. 391 (7), 395 (4), 430; and Watson 1989:109.

with these through blood ties, there are already some which are wealthy and powerful, originating from grandmothers and grandfathers who concluded lawful marriages and which are from time to time also related to many white families and are now considered or consider themselves … nearly white."[46] The States General decided to declare the marriage regulation of 18 March 1656 applicable to Curaçao, which extended the number of blood relatives (even to third- and fourth-degree relatives) whose explicit permission was needed before a marriage could be concluded. No doubt much to the disappointment of the petitioners, however, the States General did not distinguish between Whites and non-Whites; the regulation was applicable to all groups (Schiltkamp 1972:66; Kunst 1981:205-6).

The Curaçao council tried to preserve a delicate balance between control over the Blacks and Coloreds on the one hand, while avoiding alienating the group of free non-Whites at the same time. An important reason for this was that the government by the middle of the eighteenth century had become in large part dependent on the cooperation of the free Blacks and Coloreds for the island's defense and the maintenance of public order. Around 1740 there were two armed units of freedmen, one "Mulatto" and one "negro" company, serving under their own officers and directly under the command of the governor. Since the garrison of Company soldiers was usually weak, due to high mortality and frequent desertion, and the white militia was not always reliable, the two non-white companies occupied a key position in the military organization of the colony. The free black militia played an important role in crushing a slave rebellion in 1750. Its daily task, however, was to patrol the streets in the predominantly black neighborhood of Otrobanda after nightfall. They also controlled the shores south and west of Otrobanda to prevent slaves from escaping in small boats to the nearby Spanish mainland. Although white citizens were eager to incorporate the free non-white companies into the line of command of the militia, with the captain of the militia as its highest ranking officer, the governor was not willing to give up his command; he even sought and obtained support from his superiors in this matter. The military role of the free non-Whites was considered so important that they were even exempted from taxes for some time, which stressed their special position and was intended to bind them to the Company administration (Klooster 1994:288, 290, 294; Jordaan 2010).

46. NL-HaNA, NWIC, 1.05.01.02, 599, copy of a letter from Gerard Pax, Christiaan Raphoen, and Herman Rojer to governor Isaac Faesch, December 22, 1752, pp. 348-49.

CONCLUSION

The organization of the administration of justice in the Dutch Atlantic colonies was set up with the overarching goal to create a uniform judicial system that concurred with the situation in the Dutch Republic. Dutch law was basically nonracist as was Roman law which was applied to slavery. But the Order of Government, which was at the foundation of the legislature and administration of justice in the Dutch American colonies, left much room for interpretation and made the development of local customs into a major source of uncodified law. A general lack of legal professionalism and information in the colonies, where local authorities in this regard were also largely left to fend for their own, facilitated a situation where insecurity and arbitrariness regarding the legal position of free Blacks and Coloreds could thrive.

The threat to their dominant position, felt by the white population of Curaçao, was at the root of an urge to keep both the enslaved and the free non-Whites under strict control, which in turn led not only to a growing body of restrictive locally issued legislature but which was also perpetuated in the daily practice of the administration of justice. The alleged dangers to social stability posed by a numerically superior non-white population constituted the recurrent argument used to defend oppressive and restrictive measures towards the free and enslaved non-Whites and to counter any criticism on this policy. This situation was condoned by the Company directors and the States General, both of which were also interested in the maintenance of law and order in the colonies.

There were, however, also limits to the possibilities for local authorities to translate a racist attitude into regulations restricting the freedom of behavior on the part of free non-Whites. Firstly, limits were set to local legislative powers; only by-laws with a public character could be issued. It was not possible for colonial administrators to fundamentally change for instance the regulation of manumission, law of inheritance, or the institution of matrimony to the disadvantage of free non-Whites. Secondly, the very existence of a relatively large number of free non-Whites, the economic and social importance of some of its representatives, existing blood ties between white and non-white families, and the military importance of the group as a whole forced the governor and councillors to be careful not to alienate the free Blacks and Coloreds. But the Dutch colonial legal system did allow an individual free Black, as in the case of Mariana Franko, to be treated in Curaçao almost as a slave without a legal personality or rights – the use of the term "free slaves" to designate free non-Whites in Curaçao speaks volumes in this regard – while the same person in the United Provinces was legally considered and treated no differently than any other Dutch subject of the States General.

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