Regimes
1 Introduction

When the Dutch East India Company (VOC) captured Colombo from the Portuguese, they adapted, among other legacies, slave ownership in the city. Of course, this was not foreign to the Company, which not only condoned slave ownership among the populations of its towns and factories, but was itself involved in the trade and transport of human cargo around the Indian Ocean, and a corporate slave holder in its own right. This form of commodified, legal slavery existed alongside other forms of coerced labour in the Indian Ocean generally and, as is the focus of this chapter, specifically in Sri Lanka, the island then known as Ceylon.

The VOC used a variety of terms to designate different conditions of bondage and bonded labour on the island. Slaven and lijfeigenen appear in the ordinances as interchangeable labels for those individuals and groups of people who were slaves in terms of Roman, or Justinian, law: they were legally categorised as immovable property, over whom another person or the Company itself claimed possession and access to their labour. As a defining opposite, the ordinances also use the language of freedom, and in particular the designation vrijgeboorne (freeborn) to distinguish the enslaved from others. While this binary appears simple in theory, it was certainly not as clear-cut as the legal provisions would indicate, as addressed in this chapter. Moreover, this legal binary existed in a landscape of unfreedom of various forms. This complex landscape is reflected in the ordinances in the terms dienst (service), schuld (debt) and verplicht (obligated) and the regulations regarding access to coerced labour through corvée and caste.¹

Chandima Wickramasinghe is critical of the ‘careless rendering’ into English as ‘slaves’ or ‘slavery’ of labels for indigenous forms of servitude which encompass various circumstances and varieties of unfreedom. Problematically – teleologically – Wickramasinghe then settles on ‘pre-colonial’ and ‘colonial slavery’ as designations, which entrenches the brutal European slavery vs mild indigenous (Sinhalese) divide and

¹ It is worth noting that the source editor, Lodewijk Hovy, uses the Dutch term horigheid in the brief titles which he gives to the ordinances, however this term is not used in the original ordinances themselves. For example, ‘Plakkaat verbiedende om vrijgebooren inwoners tot horighed of slavernij te brengen [. . .]’. ‘Horigheid of slavernij’ can be translated as ‘serfdom or slavery’ perhaps signalling Hovy’s unwillingness to label practices with laden terms. Lodewyik Hovy, Ceylonees Plakkaatboek. Plakkaten en andere wetten uitgevaardigd door het Nederlandse bestuur op Ceylon, 1638–1796, vol. 1 (Hilversum: Verloren, 1991): ordinance 59 (1660), 62.
masks the slippage between coercive regimes. Wickramasinghe continues to refer to indigenous forms of unfreedom as slavery but sets up a sharp contrast between the indigenous and the foreign: Sinhalese slavery existed from the second century, while European slavery was introduced from the Portuguese period in the sixteenth century; Sinhalese slavery was mild, non-commercial and for the purposes of rank and prestige, while European slavery was the opposite – brutal, profit-driven and focussed on the extraction of labour from the enslaved. Caste played an important role in how slavery operated, and the dignity and status of caste remained the more important social distinction than slave or freeborn, which, Wickramasinghe suggests, contributed to the mildness of pre-colonial slavery.

The focus of this chapter is how the VOC regulated the boundaries of bondage. I will examine how the Company allowed certain routes into slaving and closed off others by establishing, or at least attempting to establish, the boundary between slave and free status. I address the questions of who could be enslaved, and how, in order to better understand slavery in VOC Ceylon from a legal, normative point of view. Recent research on the enslaved themselves has focussed on those imported into the island along Indian Ocean trade routes which connected the island to the nearby subcontinent, the islands of archipelagic Southeast Asia, and the distant east coast of Africa. Through this oceanic transport of enslaved individuals, thousands were forcibly relocated and entered new coercive regimes in their unchosen destinations. Among those transported around the Indian Ocean were enslaved designated van Ceilon (of Ceylon), whose ‘ambiguous identities’ and acts of resistance Marina Carter and Nira Wickramasinghe explore in a recent article. VOC regulations against the enslaving of populations present in the areas the Company conquered or claimed, for instance the Khoikhoi at the Cape and the Javanese in the area of Batavia, underpinned the importation of enslaved people.

Slavery, understood as a condition characterised by possession, and, stemming from that possession of one person by another, claims over labour, existed alongside other coercive regimes in VOC Ceylon: corvée, caste and convict labour. Corvée entailed a claim (or partial claim) over labour without possession. The Company drew on corvée labour from the Salāgama caste (Chalias) who were obliged to peel cinnamon and deliver it to the Company; similarly, in the north of the island, some people of the Caddeas caste were obliged to deliver dye roots (sāyavēr in Tamil) to the

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3 Wickramasinghe, “The Abolition of Colonial and Pre-Colonial Slavery.”
Caste too shaped labour obligations between groups and relationships of dependence. None of these categories was homogenous, nor were the hierarchies static. Company courts in Ceylon and across the VOC world convicted criminals to hard labour, and put these convict labourers to work locally and, via Company shipping routes which also functioned as routes of forced migration, elsewhere in the VOC world. Slavery in VOC Ceylon was at least in theory a condition distinct from other forms of unfreedom or bondage on the island.

As ruler and judge, the VOC in coastal Ceylon regulated enslavement via its ordinances and thereby legislated the boundaries of bondage on the island. The ordinances also regulated access to coerced labour through limits on mobility and marriage for instance, but that remains a separate question for a separate study. My focus here is the Company’s ordinances pertaining to slavery and, specifically, the routes into slavery which the Company condoned and those which it condemned.

The next section of this chapter sets the legal scene, placing the Ceylon ordinances within the wider legal framework of VOC regulations. The third section deals with the Roman legal principle that ‘that which is born follows the womb’, by which the Company allowed enslavement by birth. However, the Company also diverged from this principle out of expediency. Following a discussion of slave castes in section four, section five addresses the necessary corollary to this principle which was protecting the freedom of the freeborn. The Company condemned enslaving free people and bureaucratized the boundary between slavery and freedom by requiring documentary evidence of slave status; criminalising slave transport; and forbidding self-sale into slavery. While together these regulations seem to indicate that the VOC prized freedom, it was the Company’s own commercial and labour priorities which informed policy. The specificities of time and place often outlined in the ordinances themselves shape this reading. Section six continues on the issue of routes into slavery which the Company tried to close off, focussing on debt. Through ordinances against individuals pawning themselves, the Company tried to close off debt as a route into slavery on the island. This, however, was not applied to slave imports, many of whom had likely entered slavery through impoverishment and debt. Finally,

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in section seven, I address an uncommon route into slavery in Sri Lanka: judicial enslavement. In contrast to penal labour, enslavement was a rare punishment in VOC Ceylon, but nevertheless existed.

2 **Plakkaten and the Legal Setting**

Reflecting on a past relatively more recent to him than to us, the nineteenth-century British imperial official Stamford Raffles stated that the VOC ‘carried with them into their eastern empire, the Roman law regarding slavery in all its extent and rigour’.\(^9\) In Dutch Ceylon, a colony under Company rule, criminal law bore a close relationship to that of the United Provinces. With regards to slavery, however, the law of the United Provinces was silent. Because slavery did not exist in the United Provinces and there was no body of slave law to transplant from the metropole to the colony, Company authorities looked elsewhere to regulate slaving.\(^10\)

Nigel Worden and Gerald Groenewald explain that in response to a 1619 query from Batavia, the Company headquarters in the Indian Ocean, the Gentlemen Seventeen (Heeren Zeventien) announced that the laws and practices in effect in the provinces of Holland should be in effect in Batavia too, and specifically local issues were to be dealt with in an *ad hoc* manner via ordinances (*plakkaten*) following common civil and Roman law.\(^11\) Slavery was one such local issue, ubiquitous in Company settlements and factories. In 1642, the numerous ordinances that had already been issued in Batavia were gathered together and adopted as the foundation of government in

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11 Interestingly, the English (later British) Empire diverged from colonial rivals in not basing slave law on Roman precedent. Hoffer argues for the spreading influence of the 1661 Barbados ‘Black Code’, developed when planters were confronted with the problem of developing and justifying slave law – imperative considering their reliance on slaves for the increasingly profitable production of sugar. According to Hoffer, planters ‘simply assumed that slavery existed [. . .] and then passed laws to deal with disorders expected of slaves. In effect, they reformatted what was a category of labor relations as a subject of criminal law, the latter of which their assembly was legally competent to treat.’ Peter C. Hoffer, *The Great New York Conspiracy of 1741: Slavery, Crime and Colonial Law* (Lawrence: University Press of Kansas, 2003): 15. Similar to the Dutch ordinances, the contingent and piecemeal nature of the development is also notable in British slave law.
all Company territories. Schrikker and Lyna point out that along with the implementation of Roman Dutch law, the Batavia ordinances were part of the Company’s attempts at creating a uniform legal framework over the diversity of place, custom and circumstance in VOC ports, settlements and factories. Yet at the same time and in tension with that, ordinances were issued in the Company world outside of Batavia in response to specific local circumstances. They incorporated and codified local customary law, and were publicized in Dutch and local languages.

Legal matters in Ceylon, therefore, were dealt with according to the Statutes of Batavia augmented with local regulations drawn up in response to local issues which arose throughout the Company period. The Ceylon ordinances were by nature reactive, and regulated all aspects of life from trade and commerce to marriage and religion, and set out punishments ranging from fines to hanging. The fact that Dutch colonial law was a civil code – as opposed to the common-law tradition in Britain – made the ordinances all the more important. As Jones points out,

In a civil law tradition, judges viewed the law code as a comprehensive body of rules and regulations, always referring the facts in a given case back against that original corpus. Juries and defense attorneys, for example, were deemed unnecessary because justice in the form of the court, far from being blind, looked directly at the accused and decided if and to what extent they stood in violation of the statutes.

This indicates that the statutes were paramount.

In some of the Statutes of Batavia it is difficult, as Fox points out, to separate the general rules for all Company territories from the specific conditions in Batavia. From the point of view of slavery, one of the most significant of the general Statutes of Batavia dealt with the subject of punishment. First issued in 1625, the ordinance limited the owner to domestic correction of his slave, warning that he was not allowed to chain his slave and that the punishment for maltreatment consisted of both a fine and confiscation of the abused slaves. This ordinance also established the enslaved’s right to complain against their master, but included the warning that unfounded accusations would be punished by a severe public whipping.

16 Fox, “‘For Good and Sufficient Reasons’”: 256; NA VOC 638 ‘Leijfeigenen en vrijgemaekten nevens derselver afkomelingen’, Article 11, f. 730.
The core principles embedded in the Statutes of Batavia were applied to the specifics of the local situation in Ceylon via ordinances. Lodewijk Hovy collected, transcribed and published these ordinances as the *Ceylonees Plakkatboek* (1991). The seventeenth- and eighteenth-century ordinances operated with the Statutes of Batavia to govern all aspects of life in coastal Ceylon, interaction with the Company world in the Indian Ocean, and relations with the independent Kingdom of Kandy in the interior of the island. They can be read as the Company’s rule book and at the same time, as a window onto day-to-day life in coastal Ceylon. Regarding slavery, the Ceylon ordinances reveal both the legal theory and the everyday practice. They touched on all aspects of slaving, from importation and transportation of the enslaved, to concubinage and sumptuary laws. My focus here is on those regulations which dealt with enslavement.

### 3 That Which is Born Follows the Womb

In the VOC world across the Indian Ocean, the Roman legal principle that that which is born follows the womb (*partus sequitur ventrem*) established birth as a legitimate entrance into the condition of legal slavery. This system is known as uterine descent in the comparative slavery studies literature. Robert Shell notes that in the North American colonies uterine descent was introduced as a reversal of English common law according to which the status of the father defined the child. In the North American colonies, as at the Cape, uterine descent was ‘the final solution to the problem of mixed unions with the slave population’.

In Ceylon, as at the Cape of Good Hope, Batavia and various other Company places, uterine descent applied to the wombs of enslaved women who were owned by private individuals, as well as by the Company itself. That is, the VOC’s own slaveholdings increased through birth in the same way that private slaveholdings did.

The principle was handled somewhat flexibly in the VOC world as the Batavian Statutes and Ceylon ordinances on concubinage indicate, albeit in different directions. We can read into the Statutes of Batavia ‘that that which is born follows the womb’ had limits of ethnicity and religion. According to the Statutes, concubinage was declared a crime in December 1620. J. Fox concludes that the laws were ineffective, despite the severe punishments promised for contravention. When the idea of importing Dutch women as marriage partners was abandoned in 1633, authorities

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encouraged mixed marriage and turned a blind eye to concubinage. However, the regulations against concubinage were never revoked.\textsuperscript{19} A very telling issue dealt with in the Statutes was what should happen to the children of slave owners and their enslaved concubines. Initially, it was decided that a child of such a union could not be sold by the executors of the will in the event that the father/slave owner died.\textsuperscript{20} If the child was born to a Christian man and his slave, the child could be sent to a willing family to be brought up in a Christian way, but if no such families were available and the child’s father was European, the child could be sent to the orphanage.\textsuperscript{21} It is possible that the same limits on the heritability of slave status were in force in Ceylon, by virtue of the applicability of the Statutes across the VOC world.\textsuperscript{22}

When it was expedient to do so, the Company abandoned the principle that that which is born follows the womb. This is revealed in ordinances against concubinage which established the ownership of children born to slave fathers. Numerous Ceylon ordinances dealt with sexual relations between enslaved and free people, framed in the language of concubinage. The first of these, issued in 1704, prohibited male Company slaves from living in concubinage with free indigenous women or with privately-owned female slaves. The children of those unions, as the ordinance pointed out, were not Company slaves because of the principle that that which is born follows the womb. However, the Company established that free women who contravened the prohibition of concubinage would have their hair cut off, be chained, and put to labour on the Company works for a period of three years. The children of unions between Company slave men and free women would be declared Company slaves.\textsuperscript{23} Thus, that which was born did not follow the womb.

Interestingly, the ordinance did not address the matter of female Company slaves who lived as concubines of free men or privately-owned male slaves, perhaps because it was not a common occurrence, or because the labour needs of the Company were served by such arrangements in which the offspring would inherit their mother’s slave status. The regulation instructed slave men to choose their wives or concubines from among the Company’s slave women, so that their children would remain with the slave-owner.\textsuperscript{24}

\textsuperscript{19} Fox, “‘For Good and Sufficient Reasons’”: 254–55.
\textsuperscript{20} NA VOC 638, Article 35, f. 737.
\textsuperscript{21} NA VOC 638, Article 36, ff. 737–38.
\textsuperscript{22} Alexander Geelen explores the role of religion – specifically conversion to Christianity – in protecting people otherwise vulnerable to enslavement because of caste in Cochin. See Alexander Geelen, “Defining Slavery in Cochin: Social Backgrounds, Tradition and Law in the Making of Slaafbaarheid in Eighteenth-Century Dutch Cochin” (MA thesis, Leiden University, 2018). Baptism is a topic that has received a lot more attention in the historiography of slavery at the Cape, particularly in the context of manumission: Shell, \textit{Children of Bondage}.
\textsuperscript{23} Hovy, \textit{Ceylones Plakkaatboek} I: 206 (14 June/14 October 1704), 309–310.
\textsuperscript{24} Hovy, \textit{Ceylones Plakkaatboek} I: 206 (14 June/14 October 1704), 309–310.
Twenty-eight years later the ordinance was reissued, but this time the prohibition was turned around – free indigenous people were forbidden to sleep with Company slaves. Of course the intended outcome of the law was exactly the same, however it was worded and to whomever it was addressed. It was issued in a very specific context: as part of a regulation which required all indigenous inhabitants who had made their homes in the slave quarter, situated outside the Rotterdam Gate, to move out.

A century later issues of sexual relations resurfaced in the ‘Announcement against all possible crimes’. Article 12 set out the punishments for slaves caught in inappropriate – according to the authorities – sexual relationships. A slave found to be in a sexual relationship with a woman of free origin would be clapped in chains and set to labour on the Company works for the rest of his life. A slave found to have committed adultery with his master’s wife or daughter would be put to death. Once again, the regulations applied to male slaves belonging to the Company.

The principle of uterine descent established birth as a legitimate entrance into the condition of legally sanctioned slavery. Yet, as the Statutes of Batavia indicated, the principle was limited by the ethnicity and religion of free men who fathered children with enslaved women. At the same time, it was flexible enough to extend the heritability of slave status to the paternal line when a Company slave man fathered a child with a free woman. It appears that Company labour concerns were at the centre of this: the child did not follow the womb when it could provide the Company with labour.

Decades later the principle that that which is born follows the womb was abandoned in order to achieve gradual emancipation of the enslaved in Sri Lanka. The process of gradual emancipation by freeing the children of enslaved women at birth was also discussed at the Cape, albeit a few years later, but was dismissed because of the lack of compensation to slave owners for freeing otherwise enslaved people.

4 Slave Castes and Enslaveability

In the north of the island, in Jaffna, a complex situation of caste-based service labour and slavery emerged under the VOC, visible at least in part through the VOC’s codification of customary law. In the Thesalawamai we can read both Dutch adaptation to

26 Hovy, Ceylonese Plakkaatboek I: 259 (30 April 1732), 395.
27 Hovy, Ceylonese Plakkaatboek II: 530/12 (1 July 1773), 770.
local practice and imposition of their own norms. In their recent article, Nira Wickramasinghe and Alicia Schrikker show that Dutch/European conceptions of slavery in the Justinian sense were applied to caste groups whom the Dutch perceived as slaves, labelling the Chandos, Coviyar, Nalavar and Pallar castes as slave castes. The latter two groups in particular entered into legal slavery as Company slaves, owned by the VOC. The effect of this was of course not limited to the Company’s supply of labour, but influenced caste and social hierarchies in Jaffna: in establishing the slave status of the Nalavar and Pallar castes through codification of practices and norms as established through Dutch-Vellalar ‘synergy’, the VOC bolstered the position of the high-caste Vellalar masters over the subjugated Nalavar and Pallar. Yet at the same time these processes opened up spaces for negotiation and resistance, including disputing property in civil proceedings in court.

The ‘Jaffna Compendium’ of ordinances from 1704 – published three years before the codification of customary law in the Thesalawamai and a contributor to it – referred to the Nalavar and Pallar people of Jaffna as ‘inlandse slaven’ (indigenous slaves). As Wickramasinghe and Schrikker have stated, ‘the Dutch preferred to equalize the legal status of the Nalavar and Pallar to the enslaved they imported from overseas’. This is seen very clearly in the Jaffna Compendium, where the VOC stipulated prices for the sale of Nalavar and Pallar slaves. Article 22 of the Compendium set out a maximum price for Nalavar and Pallar slaves, who could be sold for no more than 10 Rijksdaalders (Rds) but could be sold for less. The VOC also established that these inlandse slaven could not be removed from Jaffna by purchasers, on forfeit of the slave and value in money for the Company. Forfeit was one way in which the Company’s holding of Nalavar and Pallar slaves could have increased. Partial application of the principle of uterine descent was the other: the Company claimed ownership of some of the children born to Nalavar and Pallar Company slave men and slave women from the countryside. It is not clear whether the enslaved women were also owned by the Company, but if they were privately owned, as seems probable from the context, Company ownership of the children of enslaved men was a reversal of the usual line of ownership whereby uterine descent enlarged the slaveholdings of the person who claimed ownership over the mother of the children.

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30 Schrikker and Ekama, “Through the Lens of Slavery”: 188–91, esp. 190.
31 Wickramasinghe and Schrikker, “The Ambivalence of Freedom.”
32 Wickramasinghe and Schrikker suggest that the compendium contributed to the Thesalawamai; the latter was the product of consultative processes between the VOC and mudaliyars (headmen) of the Vellalar in Jaffna. But the relationship between the 1704 ordinances and the 1707 Thesalawamai is not crystal clear. Wickramasinghe and Schrikker, “The Ambivalence of Freedom”: 8–9.
34 Hovy, Ceylonees Plakkaatboek I: 205/22 (1704), 293.
35 Schrikker and Ekama, “Through the Lens of Slavery”: 190.
5 Closing off Routes into Slavery

If birth was a legitimate entrance into slavery in the Roman sense in which the VOC defined it, then being freeborn was of great significance, at least in theory. This is clear in the ordinances which deal with enslaving free people, and passing them off as enslaved people, which was a grave crime from the Company’s point of view. The VOC ordinances consistently forbid enslaving people who were freeborn. The Company tried to regulate this through insisting on formal proof of ownership of enslaved people; criminalising the slave trade and transport; forbidding self-sale into slavery and later setting up a mortgage system in place of the sale of children.

While on the one hand, much recent scholarship has shown the importance of resisting the urge to impose a slave-free binary onto a landscape where these legal categories were not only contested but also existed in a context of multiple forms of possession and labour (and revenue) obligation, on the other hand, in reading the legal texts penned by Company officials, one cannot avoid the contrast between slavery and freedom which they established in law. In theory, individuals fell into one of the two legal categories, slave or free, but in practice – including before the law – legal status was not nearly so clear-cut. Cases of disputed slave status and manumission bear this out. The VOC was not against slavery per se, nor was it opposed to enslavement to fulfil its own labour needs, but the specificities of time and place shaped the way the Company regulated enslavement, and its necessary accompaniment, protected freedom. In regulating enslavement then, the Company protected certain sections of the population by establishing their freeborn status as inviolable. As is already clear in the way in which the principle that that which is born follows the womb was used and altered, being born to a non-slave woman alone was not sufficient to protect one from enslavement.

5.1 Proof of ownership

The VOC repeatedly issued ordinances which required slave owners to have documentary evidence that the enslaved over whom they claimed possession were properly registered. Registration, the ordinances imply, was the process by which slave status was supposed to be fixed. An ordinance from 1673 referred to earlier regulations (1659) by which slave owners were required to prove their ownership of enslaved people, with the express purpose of distinguishing between the enslaved

37 Schrikker and Ekama, “Through the Lens of Slavery.”
38 On colonial categories and the Company’s population registration processes see work by Remco Raben and on Sri Lanka specifically by Dries Lyna.
An ongoing concern for the Company was that free people were being held as slaves, and formal proof of ownership – especially accompanying the sale of enslaved people – was intended to establish the boundary between slave and free status. The ordinances were not framed in religious terms, as many others were; the 1673 and 1683 ordinances closed with the statement that the regulations were for the ‘good of the population’ (welstand van de gemeente), perhaps assuming both a general consensus on and the desirability of the idea of freedom embedded in the regulations.

The 1757 regulation, which again required slave owners to obtain proof of ownership of their slaves, took the step of declaring that persons over whom owners could not prove legal ownership would be considered free until such time that the slave owners could document their claim. The ordinance which established that, published in Colombo, included the provision that the person of undocumented slave status would provide labour for the Company in return for their upkeep. In addition to addressing slave owners, the ordinance addressed auctioneers: they were prohibited from selling enslaved people without proper proof of their slave status and certificates.

In 1773, the same concern over free people being enslaved was raised in an ordinance which dealt with various crimes. The crime of enslaving free people and selling them as slaves was punishable by death, the regulations stated. This might have been a situation where imported enslaved people and bonded or dependent Sinhalese people lived and worked alongside one another, for the same master, and the distinction between their situations of bondage blurred. If this was the case, the Company’s regulations intended to restore the legal distinction between slave and free, even if there was little by which to distinguish their conditions. Taken together then, the Company ordinances regarding proof of ownership and the sale of free people into slavery were intended to maintain the boundaries between the free and enslaved.

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39 Hovy, Ceylonees Plakkaatboek I: 109 (7 October 1673), 167. Hovy notes that the ordinance from 1659 referred to in the 1673 ordinance could not be found. Hovy, Ceylonees Plakkaatboek I: 167 n. 72. Similar regulations were issued in 1683, 1749, 1757, 1772 and 1787. See Hovy, Ceylonees Plakkaatboek I: 152 (13 March 1683), 221; II: 378 (20 June 1749), 547; II: 413 (13 May 1757 Colombo/4 June 1757 Galle), 584–85; II: 523 (15 August 1772), 764; II: 619 (23 July 1787), 888–89.

40 Hovy, Ceylonees Plakkaatboek I: 109 (7 October 1673), 167; I: 152 (13 March 1683), 221.

41 Hovy, Ceylonees Plakkaatboek II: 413 (1757), 584–85.

42 Hovy, Ceylonees Plakkaatboek II: 530/20 (1773), 771. It is worth noting that this ordinance as well as a later one uses the language of theft to frame illegal enslavement and trade. Hovy, Ceylonees Plakkaatboek II: 608/9 (1786), 869.
5.2 Self-sale

The sale of family members or oneself into slavery has long been recognised as an entry into slaving practiced in the VOC world. Markus Vink’s well-known article ‘The World’s Oldest Trade’ identified the importance of famine cycles and poverty on the subcontinent in increasing the number of people sold into slavery and transported to Ceylon and elsewhere in the VOC Indian Ocean world. VOC regulations show that the same phenomenon was happening in Ceylon, that is, individuals in the jurisdiction of the Company sold themselves into slavery. When it was disconnected from the maritime slave trade, the VOC Ceylon officials tried to close off this route into slavery. At the same time, the Company in Ceylon received imported enslaved people from the subcontinent, who had probably entered slavery by the same route.

One of the earliest Colombo ordinances dealt with the matter of sale into slavery. Passed in December 1660, the ordinance opened with a description of how people were being enslaved within Company jurisdiction: freeborn people (vrijgeboorne) found themselves in situations of dire need, and out of necessity, due to debt, poverty and misfortune, sold themselves or went into service of other inhabitants, thus falling into a sorry state of servitude and slavery. Individuals sold their fixed property, their lands, themselves and their entire families into bondage. The Company found this wholly unacceptable: they forbade enslaving or taking into service any freeborn inhabitant, regardless of their poverty.

Yet this cannot be read as an anti-slavery statement nor even as a general statement against sale into slavery through poverty. By the 1660s the VOC not only sanctioned private slave-ownership across its empire but was also a slave owner itself. Enslavement through poverty and sale was a common feature of cycles of famine on the Coromandel Coast, an area from which numerous enslaved people in the VOC world originated, and it is likely that many of the thousands of enslaved people imported into Ceylon in the years following the Dutch capture of Colombo from the Portuguese had entered slavery by that same combination of debt and poverty. So the 1660 ordinance was against enslaving free people in Ceylon for a reason other than principled opposition to poverty as a route into slavery. The concern that was foregrounded in the ordinance was inheritance. But why, we might wonder,

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was the Company concerned with inheritance? It was quite possibly an issue of working inherited lands, especially given the context of the recently concluded war against the Portuguese and the need to cultivate the decimated lands around Colombo. It might also have been a means of securing access to labour obligations owed to the Company. Van Rossum suggests that Company ordinances which prohibited marriage and child-raising practices were used to secure the Company’s access to the caste labour, in particular the obligations of the cinnamon peelers, upon which the VOC relied for its supply of cinnamon. The regulations around self-sale and the sale of family members could be read in the same way. In that sense entry into enslavement could have been used as an exit from other labour obligations.46 If cinnamon peelers were enslaved, they would no longer fulfil their caste duties to the Company and the Company’s trade would suffer. Perhaps that was the motive behind the regulations against sale of self or family into slavery. Whatever the case, the ordinance closed with the restoration of freedom and possessions to those who had been enslaved.

A court case which arose in a VOC court in 1780 gives some insight into how this regulation was enforced. A Company court tried a Sinhalese woman from Kandy who had tried to sell her child into slavery within the Company’s jurisdiction. While we cannot access the woman’s conceptions of the bondage into which she sold her child, the Company was against this enslavement of a freeborn person, treated it as a crime, and sentenced the woman to corporal punishment and five years of chained labour.47 By criminalising the sale into slavery and enforcing the regulations in court, the Company attempted to close off this route into slavery in Ceylon.

The instructions passed in 1789 for headmen and inhabitants of Batticaloa dealt with the issue of enslavement very clearly. Article 21 opened with the statement that ‘No free person who has come from the interior or elsewhere, whatever nation or caste he may [be], shall be made a slave of by anybody whomsoever or under any pretence whatsoever’.48 Whether or not this was voluntary sale into slavery or coerced enslavement (for instance kidnapping or theft) is not addressed specifically. The punishment which the Company approved applied to both buyer and seller of wrongfully enslaved free people: corporal punishment would be meted out without regard to status, based on the severity of the case. The person wrongfully enslaved would be ‘immediately liberated’ according to the ordinance.

Unlike other ordinances, this one does not open with a statement of how frequently illegal enslavement was taking place in the Batticaloa area. But in the writing of the ordinance the authorities reveal their knowledge and view of contemporary

46 In 1661 the Company prohibited marriage to persons of other castes and the sending of children to be raised by persons of other castes, which strategies had been used by cinnamon peelers to escape caste duties. Van Rossum, “Global Slavery, Local Bondage?”.
47 Schrikker and Ekama, “Through the Lens of Slavery”: 185.
48 Hovy, Ceylonees Plakkaatboek II: 627/21 (1789), 901.
issues of bondage and freedom. While enslaving free people was a punishable of-
fence, as had been established in various other ordinances earlier in the seventeenth
and eighteenth centuries, the regulations provided a mechanism of binding children
to others for their upkeep. The context of such arrangements was poverty and dire
need – ‘when there is no other means left’ – in which circumstance parents or close
relations were permitted to make agreements, signed by the headman, for the upkeep
of the children for up to twenty years. The process was set out as a formal one involv-
ing the headman, the signing of a mortgage ola, and the announcement of the ar-
rangement at the council meeting.\footnote{Hovy, Ceylonees Plakkaatboek II: 627/21 (1789), 902.}
That the arrangement is framed as a mortgage, for a set period of time, distinguishes such a legal provision from slavery. At the
same time, it is reminiscent of indenture practices elsewhere in the VOC world: under
the inboekstelsel at the Cape, children born to (ostensibly free) Khoikhoi women and
enslaved men were bound to masters until they reached their twenties.\footnote{On indenture of children born to free (Khoikhoi) women and enslaved men at the Cape of Good Hope see Shell, Children of Bondage: 26–34.}

6 Slavery and Debt

The issue of debt has already been raised in the context of poverty; referred to as a
pair, the Company understood these as factors which led some individuals to enter
slavery, which, as discussed above, the Company prohibited. But debt as a route
into slavery warrants closer inspection: mortgaging or pawning of self, family, or
possessions could lead individuals into slavery.

The Company permitted the use of enslaved people as collateral on loans. Classed as immoveable property, the enslaved were used to secure credit, not only
in Sri Lanka but also at the Cape, where recent research documents the networks
The focus here is how individuals mortgaged themselves or, in the case of a manumitted (for-
merly enslaved) family, their proof of manumission, which compromised their legal
status as free people.

Until the 1760s the Statutes of Batavia permitted the sale of a debtor in default,
if that person was a non-Christian. This presumably refers to a form of debt slavery,
although what exactly the condition of bondage entailed is not spelt out. The Co-
lombo ordinance which referred to this provision confirmed the Council of the In-
dies’ (Hooge Regeering) decision to abolish the article, establishing that only the
debtor’s possessions could be sold. This was presented as a legal formality for VOC Ceylon rather than an alteration which would influence practice: the Colombo ordinance clearly stated that the sale of possessions only was practiced in Ceylon, as per Ceylon law framed as ‘our law’. Here then was another route into slavery that the VOC in Batavia had attempted to close off, and in their confirmation of the regulation, the VOC Ceylon authorities continued to separate the debtor and their debts and close off debt as a route to enslavement. At least in the formal world of credit and debt, then, a creditor could not enslave a debtor, no matter what the debtor’s religion, to recoup a loan.

Yet as ordinances discussed earlier attest, poverty – which often went hand in hand with debt in the wording of the ordinances – was a route into slavery, which the Company tried to close off through its legal pronouncements. The VOC used the language of pawning (verpanding) to describe how people in circumstances of dire need bound themselves to others. The VOC was aware of and tried to stop this practice in the district of Matara on the southern coast of the island. There, indebted inhabitants had already sold off their land to repay creditors, and ‘many poor desolate/bankrupt people’ were persuaded by their creditors and dire circumstances to pawn their wives and children, and fell into slavery. To prevent this, the dessave (administrative head of a province under the Company) had to see to it that no-one sold the land or property they needed for their upkeep, and that sales which contravened the regulation would be voided and the money forfeit. Regarding pawning people, the VOC stated that through this indirect means free people were being held as slaves, and that the dessave should investigate the matter with the goal of restoring freedom to those in bondage. It was, according to the regulation, a matter of conscience, because ‘everyone’s freedom is the greatest good on earth’. The language of the ordinance is that of restoring freedom to those who are born free. And while we can identify in that incipient ideas of liberty, as Schrikker and I argued, these were secondary to Company priorities which in this case was protecting Company revenue by preventing the depopulation of the lands in the area of Matara.

An eighteenth-century civil case highlights the role of debt in disputed slave status and gives insights into what pawning a person meant for one specific individual, the freed woman Sabina and her children. It reveals the slippage between slavery, indebtedness and freedom for a freed woman whose husband used her proof of manumission (letter of freedom, vrijbrief) to raise a loan. The freed woman Sabina claimed that she and her children were free; creditors claimed that they were slave property due to the pledge of her vrijbrief. It was debt that endangered Sabina and her family’s status as freed people. For this particular family, pledging

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52 Hovy, Ceylonese Plakkaatboek II: 500 (1767), 748.
54 Schrikker and Ekama, “Through the Lens of Slavery”: 187.
a person’s freedom in the form of a vrijbrief was a way to raise credit but also a risky choice which led to a long drawn out civil dispute.\textsuperscript{55}

7 Judicial Enslavement

VOC ordinances established another entrance into legal slavery in Sri Lanka: punishment. But unlike the general principle that that which is born follows the womb, enslavement as punishment was exceptional. I have found only one ordinance which established enslavement as a punishment and it applied to one specific group of people – the children of Christian concubines of non-Christian men. Convict labour, in contrast, was a common form of punishment for enslaved and free transgressors in the VOC world across the Indian Ocean. It involved being sentenced to labour on the Company’s works, ranging from a period of months to a lifetime, and sometimes in chains. The Company’s works were often urban sites where convicts worked alongside the enslaved. A sentence could also include transportation to one of the Company’s penal sites across its empire, including penal islands, for instance the notorious Robben Island off the Cape of Good Hope.\textsuperscript{56}

In addition to the various ordinances which the Company issued against concubinage involving the enslaved, the Company attempted to regulate sexual relationships between free people of different religions. In 1760, the VOC in Ceylon set out the punishments for Christian women and non-Christian men who were found to be living in public concubinage relationships. They were subjected to corporal punishment followed by a lifetime of convict labour. What is relevant to the matter of slaveability is the way in which the Company dealt with the children of these unions. The ordinance states that children would be declared Company slaves and indicates that they would be removed to live among the enslaved.

As already mentioned, this is the only example I have found of what constitutes penal enslavement, yet the children were enslaved as a result of their parents’ crime. Nowhere in the ordinance does it indicate or suggest that the non-Christian men and Christian women whose sexual relationships were being regulated were themselves enslaved.\textsuperscript{57} Where the ordinance’s wording is very clear, is in communicating the Company’s strong disapproval of concubinage between Christian women and non-Christian men. Men and women suspected of such relationships were to be punished with 25 years of labour in chains.\textsuperscript{58} It is possible that the ordinance

\textsuperscript{55} Ekama, “Precarious Freedom.”
\textsuperscript{56} Ward, \textit{Networks of Empire}; van Rossum, “The Dutch East India Company in Asia.”
\textsuperscript{57} Hovy, \textit{Ceylonese Plakkaatboek II}: 457 (1760), 673–74.
\textsuperscript{58} Hovy, \textit{Ceylonese Plakkaatboek II}: 457 (1760), 674.
provided for the Christian women’s children to be enslaved rather than subject to convict labour along with their parents because children would not be used as convict labourers. Court cases from the Colombo Court of Justice archive indicate that some enslaved people lived and worked alongside convicts in the Company’s materiaalhuis (storage house) and laboured together on the Company’s public works.\(^{59}\) Whether or not this specific ordinance was enforced through sentences of the Court of Justice remains to be seen. If it was, the enslaved children might have ended up in the materiaalhuis, or perhaps were placed with Company officials to serve within the household.

So if we return to the principle that that which is born follows the womb, by which the Company established birth as a legitimate entrance into the condition of slavery, we see again a matter of concubinage in which the Company violated that principle. The children of free women were not themselves free, but as a result of their mothers’ crimes, were enslaved.

## 8 Conclusion

Slavery in VOC Ceylon existed within a context of multiple forms of coercion, with differing characteristics and points of intersection. By focussing on enslavement as read in the VOC ordinances for Ceylon – where slavery is distinguished by claims of possession and access to labour – we can see how the Company regulated entrances into slavery through the uterine descent principle of Roman law and diverged from it to include the children of enslaved men at a particular point in time. The Company continually prohibited concubinage between different groups identified under its jurisdiction, and made decisions on the status of the children of these ‘mixed’ relationships – whether to enslave them or not in the case of slave parentage, and which caste designation to attach to them in the case of hereditary caste-based labour obligations.

The boundaries between slavery and freedom which the ordinances were intended to establish with clarity were particularly blurry in practice when it came to entrance into slavery through sale and through pawning or mortgaging. The Company continually legislated against the enslavement of free people on the island through these two entry points, both of which were bound up in debt and poverty.

This exploration of enslavement through the Company’s ordinances brings to the fore the tensions, intersections and specificities of slavery in Sri Lanka, contributing to a deeper understanding of coercive regimes in the VOC world.

In reflecting on the legal regime and enslavement in VOC Ceylon the issue of mobility is a pertinent one. It was the (forced) mobility of the enslaved elsewhere in the Indian Ocean which underpinned slavery in Ceylon, as the island was part of the slaving networks which Samantha Sint Nicolaas discusses in her chapter. In her work, Ceylon is a source of slaves, quite possibly a transhipment place rather than one of origin as enslaved persons from the subcontinent were transported to Batavia. These flows were part of the globalizing, commodified slaving that Matthias van Rossum discusses in his chapter. Whatever way these individuals entered into slavery – through debt, poverty, (self) sale, war and raiding – once part of the VOC legal world, the enslaved were subject to the Roman legal slave code of the Statutes of Batavia and local ordinances, the *Ceylonees plakkaten*. What seems to emerge is tension between the local and the foreign – enslavement in Ceylon was regulated through the ordinances, prohibiting entrances into slavery which the Company accepted outside of its jurisdiction. Thus, according to the ordinances individuals in Ceylon could not sell themselves into slavery, no matter what their situation of poverty or need; however, people who had entered slavery that way elsewhere were accepted as enslaved in Ceylon once transported there, and taken on as private and Company-owned slaves. Was the fact that people had been enslaved outside of VOC jurisdiction the important element? Was there something in the transportation and dislocation – whether by means of Company ships or Asian slave traders – that made the entry into slavery less pertinent after arrival? Once in Ceylon, mobility was a pertinent issue for a different reason. The distinction between slave castes and imported enslaved people was eroded in terms of the saleability of the enslaved, but maintained in different rules of mobility. *Nalavar* slaves could not be removed from Jaffna; in contrast, with the proper permissions in place, imported enslaved people could be removed from the island (barring certain periods in which the trade was banned). Who then were the enslaved who arrived in places such as the Cape of Good Hope and Batavia with designations ‘of Ceylon’? It is this question which Nira Wickramasinghe and Marina Carter explore, suggesting that last port of call explains the toponym rather than place of origin, while more specific references to place (such as inland areas of Ceylon rather than the littoral) could be revealing of the overlap between what they refer to as indigenous slavery and the Company’s networks.60

The question that follows on from this is how forms of coerced labour intersected. There are hints in the ordinances, which I have explored above – slavery and caste, and there also service labour; and slavery, convict labour and crimes. Recent and ongoing research on slavery and caste in Jaffna is most revealing of these local and global entanglements.

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60 Carter and Wickramasinghe, “Forcing the Archive.”
9 Reflection

As Sanjog Ruphaketi states in his chapter, and the various contributions on South Asia in this volume show, slavery in that region was heterogeneous. Detailed case studies reinforce the importance of specific context and local dynamics while at the same time highlighting overarching themes and resonances. One area where this is clearly visible is the flexibility of law. While the rising Gorkha put that to the use of nascent state-building in the context of multiple strong and powerful houses, the VOC was operating in the context of multiple competing empires and power holders, Asian and European. Through the *Ceylonees plakkaten* we see something of the flexibility and reactivity of law in the way the Company dealt with who could be enslaved and by what means. The intention of securing a labour force was clear in the VOC’s ordinances but Ruphaketi’s chapter suggests another aspect to explore: state-building. He shows that the legal framework established by the rising Gorkha of Nepal was used to bolster their position, in part through securing military labour by outlawing the sale of children into slavery. What are the implications of Company regulations if considered in the context of Company authority and state-building in Asia? Through the ordinances the Company secured caste labour by preventing enslavement, labelled castes slave castes and drew them into legal slavery in Jaffna, and attempted to establish the boundary between free and slave status. Was this part of the Company’s attempts to categorise and register populations at the heart of colonial rule? As Remco Raben wrote, ‘[c]olonial rule depends on the management of diversity’.  

