



DATE DOWNLOADED: Tue Jun 7 04:22:03 2022

SOURCE: Content Downloaded from [HeinOnline](https://heinonline.org)

Citations:

Bluebook 21st ed.

Najma Moosa, Aspects of Dutch Colonial Family Law Related to the Indonesian Rajah of Tambora's Exile at the Cape, 2020 INT'L Surv. FAM. L. 265 (2020).

ALWD 7th ed.

Najma Moosa, Aspects of Dutch Colonial Family Law Related to the Indonesian Rajah of Tambora's Exile at the Cape, 2020 Int'l Surv. Fam. L. 265 (2020).

APA 7th ed.

Moosa, N. (2020). Aspects of Dutch Colonial Family Law Related to the Indonesian Rajah of Tambora's Exile at the Cape. *International Survey of Family Law*, 2020, 265-302.

Chicago 17th ed.

Najma Moosa, "Aspects of Dutch Colonial Family Law Related to the Indonesian Rajah of Tambora's Exile at the Cape," *International Survey of Family Law* 2020 (2020): 265-302

McGill Guide 9th ed.

Najma Moosa, "Aspects of Dutch Colonial Family Law Related to the Indonesian Rajah of Tambora's Exile at the Cape" [2020] 2020 Int'l Surv Fam L 265.

AGLC 4th ed.

Najma Moosa, 'Aspects of Dutch Colonial Family Law Related to the Indonesian Rajah of Tambora's Exile at the Cape' [2020] 2020 International Survey of Family Law 265

MLA 9th ed.

Moosa, Najma. "Aspects of Dutch Colonial Family Law Related to the Indonesian Rajah of Tambora's Exile at the Cape." *International Survey of Family Law*, 2020, 2020, pp. 265-302. HeinOnline.

OSCOLA 4th ed.

Najma Moosa, 'Aspects of Dutch Colonial Family Law Related to the Indonesian Rajah of Tambora's Exile at the Cape' (2020) 2020 Int'l Surv Fam L 265

-- Your use of this HeinOnline PDF indicates your acceptance of HeinOnline's Terms and Conditions of the license agreement available at

<https://heinonline.org/HOL/License>

-- The search text of this PDF is generated from uncorrected OCR text.

SOUTH AFRICA

ASPECTS OF DUTCH COLONIAL FAMILY LAW RELATED TO THE INDONESIAN RAJAH OF TAMBORA'S EXILE AT THE CAPE

Najma Moosa*

| | |
|---|-----|
| 1. Introduction | 266 |
| 2. Clarification of the General Historical Context | 270 |
| 3. The Family of the Former Rajah in Indonesian and South African Historical Contexts | 277 |
| 4. The Treatment of the Rajah's Family, and Related Legal and Religious Issues | 285 |
| 5. Apostasy and Conversion of the Rajah's Children in Legal and Religious Contexts: 'Crypto-Muslims' or De Facto Christians? | 291 |
| 6. Conclusion | 299 |

Résumé

Les Musulmans qui arrivèrent au Cap pendant la première période de la colonisation hollandaise au 17^e siècle, étaient originaires de différentes régions du monde, avaient des profils culturels et ethniques variés et, surtout, occupaient des rangs

* The chapter forms part of a larger research project for which ethical clearance was obtained from the University of the Western Cape (UWC). Personal communications are used with permission. I acknowledge, with thanks, Professors S. Dangor and E. Nurlaelawati (Indonesia), Moulana T. Karaan, the late Shaykh S. Hendricks, Mr. E. Rhoda, Mr. E. Salie, Mr. D. Malan and Dr. A. Kok, for their insightful contributions and for clarifying, verifying and providing additional information; Professors F. du Toit and Jaap de Visser for their assistance with translations of Company records from Dutch into English, and I. Leeman for his editorial assistance; staff at UWC, especially the Law Librarian, Ms. G. Van Niekerk, and at UCT, Ms. A. Brey and Ms. B. Southgate, for their assistance in locating and securing copies of early publications; Archivist of the Dutch Reformed Church in South Africa, Ms. C. De Wet, for her kind assistance with locating a baptismal record. Given that history is not my area of expertise, all imaginative speculations of what could have occurred, including some controversial opinions and hypotheses, remain my own.

sociaux différents, allant de celui d'esclave à celui de membre de famille royale. Ce chapitre s'intéresse à la famille d'un de ces exilés royaux, le Rajah de Tambora qui avait régné sur un petit royaume indonésien, et à l'injuste sort qui fut réservé sur le plan socioéconomique à cette famille innocente suite au décès du Rajah au Cap, alors que les deux pays étaient à l'époque sous occupation hollandaise. Le Rajah était arrivé au Cap à la fin du 17^e siècle et, fait plutôt inusité, y passa deux périodes d'exil. Pendant la deuxième période, et jusqu'à son décès, le Rajah vit refuser ses demandes visant à mettre fin à son exil. Après son décès, les requêtes de sa veuve neurent pas plus de succès. Leurs cinq enfants, dont quatre ont choisi de se convertir au christianisme et de se marier au Cap avec des Chrétiens, alors que de telles unions étaient inusitées, sont tous nés Musulmans pendant ou entre ces deux périodes d'exil. Il semblerait que leur conversion et leur mariage qui transcendaient les clivages culturel et religieux, étaient volontaires. Par conséquent, leurs propres enfants, les petits-enfants du Rajah, sont nés et baptisés comme Chrétiens. Ayant eux-mêmes subi ces difficultés socioéconomiques brutales à un âge où ils étaient trop jeunes pour aider leur mère et alléger son fardeau, lorsqu'il leur fallu choisir entre rester fidèle à leur religion (dont les règles leur étaient de peu de secours dans ce milieu hostile) ou prendre avantage des lois qui s'appliquaient alors dans la colonie (et dont ils pouvaient espérer certains avantages aux différentes étapes de leur vie), ils optèrent pour la conversion au christianisme. En même temps, il est probable qu'ils gardèrent la conscience tranquille en restant des croyants et en demeurant des «gens du Livre». Les difficultés vécues par les exilés issus de minorités religieuses ne sont pas rares aujourd'hui. Des immigrants indigents sont souvent amenés à renoncer à leur héritage culturel et religieux afin de survivre financièrement, particulièrement lorsque leur religion n'est que simplement tolérée par leur nouveau pays plutôt que reconnue en toute égalité.

1. INTRODUCTION

'As far as family law is concerned, we in South Africa have ... every kind of family ... This is the result of ... history ... Our families are suffused with history, as family law is suffused with history, culture, belief and personality. For researchers it's a paradise ...'¹

The above quotation is apt for this chapter for two reasons. First, the chapter highlights the plight of the family of the former Rajah of Tambora, during a period of Dutch colonialism at the Cape, as one such historical example. The Rajah was one of many royal and high-ranking influential Indonesian political exiles (known as 'Orang Cayeng') banished to the Cape for rebelling against the Dutch.

¹ A. SACHS, 'Introduction' in J. EEKELAAR AND T. NHLAPO (eds.), *The Changing Family International Perspectives on the Family and Family Law*, Hart Publishing, 1998, p. xi.

The Cape was under a first period of Dutch rule for roughly 150 years from 1652 until 1795. During this time it was governed by the Dutch East India Company or Vereenigde Oost-Indische Compagnie (VOC).² The Rajah and his wife arrived at the Cape in 1698. As also confirmed by the visiting Reverend Francois Valentijn in his account of his journey to the Cape, the Rajah, who had ruled over a small kingdom called Tambora on the Indonesian island of Sumbawa, was 'banished to the Cape because of his bad behaviour on Bima, and she [his wife] followed for love of him'.³ The states of Tambora and Bima were VOC trade posts located on the same island (Sumbawa).⁴ The Rajah spent a total of some 17 years at the Cape, over, uniquely, two distinct periods in exile there (from 1698 to 1710 and 1714 to 1719).⁵ At the time of their arrival the couple were childless but by 1719 they were blessed with five children, four sons and a daughter. It is clear from the names of the Rajah and his wife, Abulbasi Sultan and Zytie Sara Marouff (or Care Sale), and the birthnames of their children (Ibraim Adaham, Mochamat Aseek, Mochamat Daijan, Mochamat Asim and Sitina Asia) that all were Muslims.

I therefore assume that the marriage of the Rajah and his wife was entered into in accordance with Muslim rites in Indonesia. Muslims of Indonesia are predominantly Sunni followers of the Shafi'i school of Islamic law (Shari'a),⁶ and I therefore presume that the Rajah and his wife were also followers of this school and that their Muslim marriage (nikah) was entered into in accordance with its formalities and provisions. It can be inferred from a Company Resolution (dated 24 September 1720)⁷ that the Rajah died at the

² Hereafter the DEIC, the VOC or the Company for the sake of convenience.

³ See F. VALENTIJN, *Description of the Cape of Good Hope with the Matters Concerning It, Amsterdam 1726*, Part I, edited and annotated by P. Serton, Van Riebeeck Society, 1971, pp. 149, 151 and 153 of the English translation available at <https://www.dbnl.org/tekst/vale003besc01_01/vale003besc01_01_0005.php#338>, last accessed 30 April 2020. I want to thank Moulana T. Karaan for drawing my attention to this electronic version of Francois Valentijn's journal. The English translation follows the Dutch version and hence the pages are oddly numbered. The entry in this account is detailed in Section 3. See also H. LIEBENBERG, *Introduction to the Resolutions of the Council of Policy of Cape of Good Hope*, TANAP, undated, p. 52. A pdf version is available at <http://www.tanap.net/content/activities/documents/resolutions_Cape_of_Good_Hope/Introduction_English_Resolutions_of_the_Council_of_Policy_of_Cape_of_Good_Hope.pdf>, last accessed 30 April 2020.

⁴ In terms of p. 150, n. 127 of Valentijn's account (Google translation into English), Tambora and Bima were states on the north coast of the island of Sumbawa (Lesser Sunda Islands).

⁵ K. WARD, *Networks of Empire: Forced Migration in the Dutch East India Company*, Cambridge University Press, 2009, p. 211.

⁶ 'Islam is the religion in Indonesia ... Indonesia has the largest Muslim population in the world ... In terms of Islamic schools of jurisprudence ... 99% of Indonesian Muslims mainly follow the Shafi'i school.' See 'Islam in Indonesia' available at <https://en.wikipedia.org/wiki/Islam_in_Indonesia>. See also 'Shafi'i' available at <<https://en.wikipedia.org/wiki/Shafi%E2%80%98i>>, both accessed 30 April 2020.

⁷ See text to n. 79 for the content of the Company Resolution (1720).

Cape in 1719.⁸ Given that he is deemed to have been born around 1670,⁹ he was 49 years old at the time of his death. According to the same Company Resolution, his wife was 41 years old in 1720. Thus, she was born in 1679, was 19 years old when she arrived at the Cape, and aged 40 when the Rajah died in 1719. While I do not know whether the Rajah of Tambora was born Muslim or had converted to Islam, we know that the ruler of the neighbouring state of Bima had converted to Islam in 1615.¹⁰ Thus, by the time the Rajah was born, the ruler of Bima had been Muslim for some 55 years. As will be detailed in Section 2, when the Rajah arrived at the Cape at the age of 28, Islam had already been there for some 44 years. The fact that he is also recorded in Valentijn's account as having been busy transcribing the Qur'an (the primary source of Islam) in 1705, some seven years after his arrival at the Cape, is an indication that he may have had an advanced knowledge of Islam. It is therefore surprising that within three years of the Rajah's death, his first-born child, a son, converted from Islam to Christianity at the Cape and thereafter married a Christian woman. The other children, except for one who may have died young, eventually followed suit. When the Rajah was exiled to the Cape, the Company leadership in Batavia 'considered that he had deserved death' and had been fortunate to have avoided both it and having to serve as a 'convict in chains' at the Cape.¹¹ There is Company correspondence (1703, 1704, 1707 and 1708) that indicates that the Rajah had consistently tried, ever since his arrival at the Cape, to return to Indonesia. In fact, it appears that the Dutch Government in Indonesia did not think it possible that its Cape counterpart would permit his return: 'we do not believe that you will ever resolve to let this rebel and murderous prince ever return to his own country.'¹² However, such was the Rajah's resolve and his influence with the Dutch leadership at the Cape that he succeeded in returning to Indonesia in 1710. In fact, the Company Resolution (dated 26 February 1710)¹³ in question highlights that he was pardoned on the basis of 'good testimony' and 'advanced age' (although at the time he was only 40 years old). Although the Resolution also indicates that his wife would accompany him to Indonesia, no mention is made of their two children who had been born by then. However, his stay

⁸ See also J. HOGÉ, 'The Family of the Rajah of Tambora at the Cape' (1951) IX(1) *Africana Notes and News* 27.

⁹ See D. ROBERTSON, 'Rajah of Tambora Alubasi Sultan', *The First Fifty Years Project*, available at <<http://www.e-family.co.za/ffy/g10/p10838.htm>>, last accessed 30 April 2020.

¹⁰ 'The ruler of Bima (Sumbawa) converted to Islam in 1615. All these places were small states and towns.' See J.G. TAYLOR, *Indonesia Peoples and Histories*, Yale University Press, 2003, p. 66.

¹¹ See n. 49 for the content of the Company Letter (Number One) Received at the Cape, 16 August 1697.

¹² See n. 68 for the content of Company Letter (Number Six) Received at the Cape, 22 October 1707.

¹³ See n. 60 for the content of the Company Resolution (1710).

in Indonesia was short-lived, and his requests to return there before his death during his second period of exile, as well as similar requests by his widow after his death, were all to no avail. This chapter highlights that had their requests been successful, the fate of this family would have been very different.

In the case of the exiled Rajah, his innocent family was placed in an invidious position because as the historian Ward aptly points out, 'Women were not exiled as political prisoners in their own right. Women were, however, exiled alongside their husbands, fathers, and sons, and were particularly vulnerable once their male relatives died ... In some cases ... children born [into exile] at the Cape returned to the archipelago and joined the court culture of their parental homelands having known nothing other than life in Africa.'¹⁴ The reverse was the case for the Rajah's children, except for his third son, who was probably born in Indonesia and eventually did return there.

There are sources that both infer (a church record of 1726 and a reference in a travelogue of the visiting Dutch cleric, Valentijn, who met them in 1705) and confirm (a Company Resolution of 1720) that Zytie (or Care Sale) was married to the Rajah and that they were indeed the Muslim parents of the children that apostatised from Islam. Although some local Muslim religious authorities (ulama)¹⁵ at the Cape are aware of the conversions of the Rajah's children, many are not. In fact, their conversions were overlooked in a recent scholarly publication on this very topic.¹⁶ Local Muslims have therefore not been fully apprised by ulama of this aspect of their history not only because the topic of apostasy is sensitive, but also because the children's mother is alleged to have been the daughter of another royal influential political exile from Indonesia, Shaykh Yusuf of Makassar, who is deemed to be one of the pioneers of Islam at the Cape. Such an association would therefore mean that her children were the Shaykh's grandchildren. Given that I discount both views in a forthcoming publication,¹⁷ this aspect will not be addressed in this chapter. There is no doubt

¹⁴ WARD, above n. 5, at p. 211.

¹⁵ In this chapter the Arabic term 'ulama' (singular 'alim') is used to refer to Muslim religious authorities and includes clerics, such as 'imam', 'shaykh' (also spelt 'sheikh'), 'moulana' or 'mufti'. For the sake of convenience, the spelling 'Shaykh' instead of 'Sheikh' is used in this chapter.

¹⁶ See M. HARON, 'Three Centuries of NGK Mission Amongst Cape Muslims: 1652–1952' (1999) 19(1) *Journal of Muslim Minority Affairs* 115–123. Although Haron (at 116) does refer to the successful conversion of one Muslim by the reverend who replaced Kalden (referred to in Section 2) during the time that their father was alive, he seems to have missed entirely the conversions and baptisms of the Rajah's four children at the Dutch Reformed Church (NGK) in Cape Town. For details see the full text of 'Precis of the archives of the Cape of Good Hope: the defence of Willem Adriaan van der Stel' at p. 53, available at <https://archive.org/stream/precisofarchives00leib/precisofarchives00leib_djvu.txt>, last accessed 30 April 2020.

¹⁷ See my forthcoming publication where I discount the mainstream view: 'Debunking Prevailing Scholarly Views Pertaining to the Apostasy of Alleged Descendants of Shaykh Yusuf of Makassar, the Indonesian Pioneer of Islam in Colonial South Africa', (2020) 58(1/2) *Al Jamiah: Journal of Islamic Studies*.

that the conversions and marriages of the children took place, as they are clearly recorded in credible historical sources and church baptismal and marriage registers. The aim of this chapter is therefore not to dispute these facts nor even that the conversions may have been voluntary and the consequence of freedom of choice. I will refer to and analyse some of the policies and statutes of the then Dutch Colonial Government which were enforced at the Cape, for example, those pertaining to interracial and interreligious marriages during a time of limited religious freedom. This chapter argues that socio-economic reasons (poverty) and practical expediency (marriage) may indeed have precipitated the conversions. A detailed critical analysis, including of the Islamic law (Shari'a) pertaining to freedom of religion and apostasy, is beyond the scope of this chapter. Similarly, the Muslim personal or family law (MPL) applicable at the Cape is only briefly examined in order to better understand the Islamic law implications of the Rajah's marriage and of the conversions and marriages of his children.

In addition to this Introduction (Section 1), the chapter is divided into a further five sections, as follows: Section 2 provides important clarifying information which promotes a better understanding of the general historical and legal contexts of the events canvassed in the chapter; Section 3 discusses the family of the Rajah in Indonesian and South African historical contexts; Section 4 provides a brief overview of the government policies and statutes in place at the Cape as well as of the Islamic law position in terms of the Shafi'i school of law regarding the rules relating to the inheritance and maintenance of the Rajah's family after his death; Section 5 highlights government policies and statutes applicable at the Cape which ultimately may have contributed to the conversion (apostasy) of the Rajah's children; and Section 6 contains the Conclusion.

2. CLARIFICATION OF THE GENERAL HISTORICAL CONTEXT

As indicated in the Introduction, during their period of occupation of the Cape, the Dutch did not detail the minutiae of the family life of the Rajah in their records, and therefore this section provides an explanatory context which promotes a better understanding of the Rajah's family and the events related in the rest of the chapter. The history of Islam in South Africa is inextricably intertwined with South Africa's history of colonialism. In the mid-seventeenth century; it was Dutch colonialism which inadvertently brought Islam to the Cape. However, the first Muslims who arrived there in 1658 were not royal and high-ranking influential political exiles (Orang Cayeng) like the Rajah,

but free persons, called 'Mardyckers',¹⁸ who were brought from Ambonya, an island of the Moluccas in Indonesia, to effectively be in the service of the Dutch. In 1657, possibly in anticipation of their arrival, the Dutch introduced a set of laws called the Statutes of India (also known as the Statutes of Batavia) which were aimed at preventing Muslims from openly practising Islam. Although the Dutch prohibited the public practice of, and conversion to, Islam, the Mardyckers were allowed to practise Islam in a private and personal manner. At that time the Statutes of India governed the colony, and its provisions and decrees (plakaaten) regulated both the limited religious freedom of Muslims and their legal status in terms of their personal or family law. In 1766 a new version of the 1642 Statutes of India code, called the 'Van der Parra' code, named after colonial Governor, Petrus Albertus van der Parra, was produced. Although the Statutes of India (1642) were initially in force at the Cape, they were eventually replaced by the Muslim family law code (Muslim Personal Law, or MPL) of Van der Parra (1766) which provided the 'first systematic treatment' of MPL at the Cape.¹⁹ The MPL consists of Islamic family law pertaining to, inter alia, marriage, divorce, inheritance, polygyny, custody and guardianship.²⁰ 'The genesis of MPL can be traced back to the Dutch colonisation of the Cape in the seventeenth century. The Dutch, who brought Muslims to the Cape from their colonies in the Indonesian Archipelago and India, afforded recognition to Muslim marriages, solemnised according to Islamic law. Van der Parra's Code [1766] consists of 102 articles compiled from Islamic texts on the law relating to succession, inheritance and bequests, as well as matrimony and divorce.'²¹

By the time the Rajah and his wife arrived at the Cape in 1698, the Dutch were more than tolerant of their religion:

After their Indonesian and Indian experience, the Dutch authorities had become considerably more tolerant of Islam and Muslims at the Cape. In fact, historical data relating to the affairs and activities of the free blacks under Dutch rule in the early 1700s show that, apart from the limited degree of religious freedom accorded to the free blacks, they also enjoyed other substantial liberties: they could inherit, bear witness, earn money, own property, they could complain and receive redress, and they had recourse to the law.²²

¹⁸ E.M. MAHIDA, *History of Muslims in South Africa: A Chronology*, Arabic Study Circle, 1993, p. 1. For more detail, see below Section 5.

¹⁹ See S. ALLIE, 'A Legal and Historical Excursus of Muslim Personal Law in the Colonial Cape, South Africa, from the Eighteenth to Twentieth Century' in N. MOOSA AND S. DANGOR (eds.), *Muslim Personal Law in South Africa: Evolution and Future Status*, Juta Law, 2019, pp. 26–42, at pp. 33 and 27, fn. 3. See n. 90.

²⁰ See N. MOOSA AND S. DANGOR, 'An introduction to Muslim Personal Law: Past to Present' in MOOSA AND DANGOR, *ibid.*, at pp. 1–25 at p. 1, fn. 3.

²¹ See *ibid.*, at p. 2.

²² See ALLIE, above n. 19, at pp. 26–42 at p. 31.

Islam in South Africa survived two periods each of Dutch and British colonial rule, and rule by an apartheid regime (from 1948 to 1994 when democracy was attained), and is still flourishing there after more than 350 years. As a consequence of colonialism, the South African common law is a combination of Roman-Dutch law and English law. Roman-Dutch law still regulates most aspects of South African family law.

The Western Cape continues to have the largest Muslim community in South Africa. As a consequence of their origin in Indonesia, the majority of Cape Muslims are also Sunni Muslims and followers of the Shafi'i school (madhhab or version) of Islamic law. Although Muslims are a religious minority in South Africa, the Constitution (1996)²³ guarantees everyone the right to freedom of religion, belief and opinion,²⁴ and permits the enactment of legislation to recognise religious marriages or religious personal or family law systems.²⁵ Any proposed legislation, and the application of Roman-Dutch law, must, however, be consistent with other constitutional provisions, including gender equality. Although the Constitution makes allowance for the recognition of Muslim marriages and/or MPL, the legal status and validity of Muslim marriages currently remains an unresolved issue.

The Rajah, who ruled Tambora from 1687 to 1697, was later (1701) deposed and stripped of his title. He died in South Africa during a second period of exile which was very different from his first. By the time the Rajah left for Indonesia, then Governor Willem Adriaan van der Stel had returned to Holland, and by the time the Rajah returned from Indonesia, his father, Governor Simon van der Stel, had died. As a consequence, the Rajah's fate, and that of his family, took an altogether different turn. According to Sleight:

With the down fall of [Governor Willem Adriaan] Van der Stel, and his departure from the Cape [1708], the Rajah and his family were relocated [from the Governor's plush Vergelegen (literally translated as 'situated far away') estate in rural Stellenbosch] to the [Company] outpost, Rustenburgh [located in present-day Rondebosch and nearer to central Cape Town] ... The Rajah ... and other Eastern exiles obtained amnesty in 1710 ... but ... exiled him back to the Cape in 1713 with his retinue of 20^[26] persons. The Rajah resided until 1720 [died in late 1719], thereafter, in dire poverty in Stellenbosch, where he passed away. In 1743, a petition reached [the Cape] from the East India, that his remains must be returned to the East, which reflected that he was held in high esteem.²⁷

²³ The Constitution of the Republic of South Africa, 1996. Hereafter the Constitution.

²⁴ Ibid, s. 15(1).

²⁵ Ibid, s. 15(3)(a).

²⁶ As indicated, according to K. Ward and A.M. Van Rensburg, there were eight not 20 persons. See n. 127.

²⁷ D. SLEIGH, *Die buiteposte: VOC-buiteposte onder Kaapse bestuur 1652-1795*, Haum (Edition language Afrikaans) 1993, p. 234. I wish to express my appreciation to Mr. E. Rhoda for

We can infer from a Company Resolution²⁸ that Rustenburg had fallen into disuse upon the Rajah's return from Indonesia in 1714. The Resolution corroborates Sleight's information that the Rajah stayed in Stellenbosch where he also died in 1719.

There were two periods each of Dutch and British occupation of the Cape. The first period of Dutch rule, from 1652 to 1795, lasted for 150 years. The Rajah and his family were resident at the Cape only during this first period of Dutch rule, which ended long after he had died in exile there. It was only during the second short period of Dutch rule (1803–1806) that religious freedom was first granted.

Indonesia, known for its spice islands, was also strategically located on the spice trade route over which the Dutch were trying to secure a monopoly.²⁹ For the VOC, the shores of the Cape served as a strategic midpoint on the trade route between its headquarters in Amsterdam in the Netherlands, and Batavia (present-day Jakarta located on the island of Java):

[T]he Cape was strategically very well placed along the trade route between the Netherlands and Asia ... to [replenish] ships. In order to secure this advantage to itself the ... VOC ... established a settlement in 1652 and built a fort [Castle of Good Hope]. The initially small settlement ... when the VOC rule came to an end in 1795 ... had become a large colony.³⁰

Simon van der Stel was the last Commander (official who headed the Government) of the colony from 12 October 1679 to 1 June 1691. He subsequently became the first Governor at the Cape from 1 June 1691 to 11 February 1699.

referring me to this source. I would like to acknowledge that the paragraph in Sleight's book quoted above was extracted from the translation by independent slave historian, M.G. KAMEDIEN, in 'Raja of Tambora & Joseph at Macassar – South-Africa – Rootsweb. Com' available at <<https://lists.rootsweb.com/hyperkitty/list/south-africa@rootsweb.com/thread/11320360/>>, last accessed 30 April 2020.

²⁸ 'Nacoda Lelo Pangoela Moars, and Rajo Nassatie, 1717 sent hither from India some years ago, and located at the other side of the Salt River, at the place called the "Ruijterstal," where they have hitherto lived; but they were obliged to leave that place, in order to make room for the workmen making the mill there, and have no other place where to live; they therefore request permission to locate themselves on the place formerly occupied by Tambora, now for many years unoccupied. (No. 91.)' See H.C.V. LEIBBRANDT, *Precis of the Archives of the Cape of Good Hope. Requesten (Memorials) 1715–1806. Vol. 2, Entry Number 91, 1717*, Government Printers, 1906, p. 829. Available at Cape of Good Hope (South Africa). Archives 'Precis of the archives of the Cape of Good Hope (Volume 17)' W. A. Richards & Sons, available at <<http://www.ebooksread.com/authors-eng/cape-of-good-hope-south-africa-archives/precis-of-the-archives-of-the-cape-of-good-hope-volume-17-ala.shtml>>, last accessed 30 April 2020.

²⁹ See Dutch East India Company (DEIC)/VOC|South African History Online, available at <<https://www.sahistory.org.za/article/dutch-east-india-company-deicvoc>>, last accessed 30 April 2020.

³⁰ See LIEBENBERG, above n. 3, at p. 4.

His son, Willem Adriaan van der Stel, succeeded him as Governor from 11 February 1699 to 3 June 1707.³¹ Unlike his father, who resigned from his position, Willem Adriaan was dismissed as Governor and returned to the Netherlands.

Simon van der Stel was Governor when the Rajah arrived at the Cape in 1698. Willem Adriaan van der Stel was Governor when the Rajah resided at Vergelegen (Willem Adriaan's residence) in 1705, but not in 1710 when the Rajah was pardoned and returned to Indonesia.

Simon van der Stel was born on 14 October 1639, and died at the Cape on 24 June 1712 at the age of 72.³² He was therefore 55 years old when the Rajah, aged 28, arrived at the Cape in 1698.³³ Willem Adriaan van der Stel was born in 1664 and was 35 years old when he became Governor in 1699; the Rajah was then 29 years old. It made practical sense, given the Rajah's status, and the similarity in their ages, that he would be housed with Willem Adriaan at Vergelegen. In 1705, when Valentijn, then aged 39, met the Rajah at Vergelegen on a visit there, the Rajah was 35, his wife Care Sale was 26, and the Governor was 41.

Simon van der Stel, like the Rajah's grandchildren, was also of mixed ancestry. He moved to Batavia in his teens and remained there until the age of 20.³⁴ He therefore must have been familiar with, and knowledgeable of, the culture and religion of Indonesian Muslims, and must also have had a considerable influence in preparing his son Willem Adriaan for the position of governor. The Cape was also not unfamiliar to Willem Adriaan. He was 15 years old when he first came to the Cape with his father in 1679, and he remained there until 1684 when he returned to Holland.³⁵ While it may also have been customary for VOC officials to be accompanied to Company outposts by their families, in Simon's case his relationship with his Dutch wife was strained and therefore her sister accompanied him to the Cape instead. It is not clear whether Willem Adriaan's Dutch wife accompanied him to the Cape, but they had five children.

³¹ For the list of Governors and the periods that they served at the Cape during VOC Rule see *ibid*, at p. 34. A pdf version is available at <http://www.tanap.net/content/activities/documents/resolutions_Cape_of_Good_Hope/Introduction_English_Resolutions_of_the_Council_of_Policy_of_Cape_of_Good_Hope.pdf>, last accessed 30 April 2020.

³² See background to 'Simon van der Stel' available at <https://en.wikipedia.org/wiki/Simon_van_der_Stel>, last accessed 30 April 2020.

³³ See WARD, above n. 5, at p. 210 fn. 113. As detailed in Section 3, although it was resolved in 1697 to exile the Rajah to the Cape, he only arrived there in 1698. See n. 50.

³⁴ See 'The Story of the First Two "Coloured" Governors at the Cape - Simon & Willem' available at <<https://camissapeople.wordpress.com/2016/05/17/the-story-of-the-first-two-coloured-governors-at-the-cape-simon-willem/>>, last accessed 30 April 2020. See also J.B. BEDAUX, 'The Portraits of Simon van der Stel, First Governor of the Cape' (1988) 17(1-18) *Stellenbosch Papers in Linguistics* 3-7 (translated from the Dutch by W.K. WINCKLER).

³⁵ See 'Simon van der Stel' available at <https://en.wikipedia.org/wiki/Simon_van_der_Stel> and 'Willem Adriaan Van der Stel' available at <https://en.wikipedia.org/wiki/Willem_Adriaan_van_der_Stel>, both accessed 30 April 2020.

Given that Willem Adriaan's mother was not at the Cape to offer some guidance, the Rajah's wife was apparently given an overseeing housekeeping role in his homestead at Vergelegen.³⁶ Given Simon's familiarity with Indonesian culture, it is not surprising that both father and son appear to have developed close (possibly closer than may have been expected by the Company in Batavia) respectable relationship ties with the Rajah. The Rajah was probably treated with more religious tolerance and sensitivity than most other high-ranking or influential political exiles there at the time.

The minister Valentijn was born on 17 April 1666. He was in the employ of the Company in Indonesia where he spent some 16 years, and visited the Cape at least four times (in 1685, 1695, 1705 and 1714) en route between Indonesia and the Netherlands. According to Sleight,³⁷ during Valentijn's first visit in 1685 he (then aged 19 and newly ordained) was a guest of then Governor Simon van der Stel at a Company outpost called Rustenburg (located in present-day Rondebosch). When the Rajah first arrived at the Cape he was received by Governor Simon van der Stel who initially located him at the Castle³⁸ in central Cape Town. The Rajah did not appear to be in a polygynous marriage but seems to have arrived with slaves. It appears that the Dutch authorities were turning a blind eye to practices like polygyny,³⁹ concubinage⁴⁰ and slavery, all of which were condoned in terms of certain interpretations of Islamic law, as long as they occurred only among high-ranking exiled families. Apart from slavery,⁴¹ these practices were nevertheless against Dutch law.

³⁶ See *ibid.*

³⁷ This section was extracted from D. SLEIGHT, 'Die Buiteposte van die V.O.C. aan die grens van die Kaapse nedersetting 1652–1707' [translated as 'The Outposts of the VOC on the Border of the Cape Settlement'] (1982) M.A. thesis submitted to the University of Stellenbosch, pp. 138, 142–145 and 150.

³⁸ WARD, above n. 5, at p. 208. See M. UPHAM, 'At War with Society ... Did God Hear? The Curious Baptism in 1705 of a "Hottentot" Infant Named Ismael' (2000) 4 *Capensis* 29–51 and A. DAVIDS, *The Mosques of the Bo-Kaap. A Social History of Islam at the Cape*, S.A. Institute of Arabic and Islamic Research, 1980, p. 37.

³⁹ Polygyny refers to a plurality of wives. A Muslim man may marry up to four wives at any one time, but strict monogamy is enjoined on a Muslim woman. See N. MOOSA, *Unveiling the Mind: The Legal Position of Women in Islam – a South African Context*, Juta Pages, 2nd edn, 2011, p. 33.

⁴⁰ 'According to Islamic Law a man can have "slave girls" in addition to his wives. The relationship between the master and the "slave girl" is regulated by the Shariah which defines the rights and duties of both of them' (S.E. DANGOR, *Shaykh Yusuf of Makassar*, Iqra Publishers, 1994, p. 18 fn. 44).

⁴¹ Slavery, condoned during the first VOC period, was only abolished at the Cape (then a British colony) in 1834, although it was only a few years later (in 1838) that slaves were formally emancipated there. See J. LOOS, *Echoes of Slavery: Voices from South Africa's Past*, David Philip, 2004, p. 7 and 'Slavery and Emancipation of Slaves | South African History Online' available at <<https://www.sahistory.org.za/article/slavery-and-emancipation-slaves>>, last accessed 30 April 2020.

During his third visit to the Cape in 1705, Valentijn met the Rajah and his wife at then Governor Willem Adriaan van der Stel's estate Vergelegen where they also were residing. Referring to Willem Adriaan's extravagant estate Vergelegen, Valentijn records: 'the Governor mentioned [he] has built, about twelve hours distant from the Cape, a country seat, large beyond measure, and of such broad dimensions, as if it were a whole town.'⁴² Valentijn was invited as a friend of the Governor whom he accompanied to Vergelegen from the Castle located in central Cape Town. When Valentijn met the Rajah at Vergelegen in 1705, he was busy transcribing the Qur'an. The Rajah may only have been allowed to pen a copy of the Qur'an (which would have been the first in South Africa), on the pretext of it being a gift to Governor Willem Adriaan for his hospitality. The Rajah's Qur'an was deemed missing but may have been found. It does not appear from Valentijn's account of his visits to the Cape that his and the Rajah's paths crossed again during his fourth visit in 1714, when the Rajah may have returned from Indonesia to serve his second period of exile at the Cape.

As detailed in Section 3, the Rajah was a political exile held in isolation and therefore some restrictions would probably have applied to him. Although deposed, he clearly still had influential friends and family in Indonesia. Company correspondence refers to controversial letters that he wrote to friends and authorities in Indonesia, which were intercepted, censored and/or confiscated.⁴³ The request from Indonesia in 1743 (as indicated in Company correspondence) for the repatriation of the Rajah's remains from the Cape indicates that he also had family there.

What may cause some confusion are the references to 'Malays' and 'Maleits' (Malay language) in this chapter which focuses on Indonesia. Early authors have identified Muslims at the Cape who came from Indonesia, as 'Malay'.⁴⁴ This was understandable given that East Malaysia and Indonesia both formed part of the Malay-Indonesian Archipelago (which was called East Indies) during the period of Dutch occupation. It is in this context that the term 'Malay' is also used in Company records referred in this chapter.

For the sake of cross-referencing and convenience, I have numbered all quotations from Company correspondence (Letters and Resolutions) incorporated into this chapter, pertaining to the family of the Rajah and which

⁴² Full text of 'Precis of the archives of the Cape of Good Hope: the defence of Willem Adriaan van der Stel' at p. 53 available at <https://archive.org/stream/precisofarchives00leib/precisofarchives00leib_djvu.txt>, last accessed 30 April 2020. See n. 63 for text and reference to the entry in Valentijn's account.

⁴³ See Letter (Number Six) Received at the Cape, 22 October 1707 and See Letter (Number Seven) Received at the Cape, 30 November 1707 and n. 68 for its content.

⁴⁴ See e.g. I.D. DU PLESSIS, *The Cape Malays: History, Religion, Folk Tales. The Malay Quarter*, Balkema, 1972.

were received (1695–1708)⁴⁵ at the Cape from the Company headquarters in Batavia and which were despatched (1696–1708)⁴⁶ by the Dutch Government at the Cape to Batavia, in the order of their respective dates of receipt and despatch. The chapter also refers to important Resolutions and correspondence dated after these periods.

The persons mentioned are referred to by various names and aliases. Their Indonesian names are combined with Arabic names and subsequently also 'Dutchified'. This has created some confusion and has often made it difficult to identify them with accuracy. The spelling variations in the names of persons and titles in Company correspondence referred to in this chapter were mainly due to the fact that 'there were no regular spelling conventions to adhere to during the VOC period'.⁴⁷

3. THE FAMILY OF THE FORMER RAJAH IN INDONESIAN AND SOUTH AFRICAN HISTORICAL CONTEXTS

The Rajah has been given the toponym 'Tambora'. His wife is referred to as 'Care Sale' (or Zytie). For the sake of convenience here, the Rajah (who is also sometimes referred to as King) is referred to either as 'Rajah' or 'Rajah of Tambora'. 'Zytie' or 'Siety' is an honorary title for female Muslims and is adopted from the title given to women during the period of Muhammad's prophethood, for example, Muhammad's wives, Siti Khadijah and Siti Aisyah, and his mother Siti Aminah. According to Dangor,⁴⁸ 'Siety' is probably a corruption of the Arabic 'Sayyidati' meaning my lady or simply 'Sayyida' meaning lady or madam'. As such it was befitting for the former Ranees or Queen of Tambora.

⁴⁵ Unless otherwise indicated, all quotations from the letters received from Batavia were extracted from the full text of 'Precis of the Archives of the Cape of Good Hope: Letters Received, 1695–1708', *Precis of the Archives of the Cape of Good Hope. Letters Received, 1695–1708*. H.C.V. LEIBBRANDT, *Keeper of the Archives*, W.A. Richards & Sons, 1896, available at <https://archive.org/stream/precisofarchives00cape_3/precisofarchives00cape_3_djvu.txt>, last accessed 30 April 2020.

⁴⁶ Unless otherwise indicated, all quotations from the letters despatched from the Cape were extracted from the full text of 'Precis of the Archives of the Cape of Good Hope: Letters Despatched, 1696–1708', *Precis of the Archives of the Cape of Good Hope. Letters Despatched, 1696–1708*. LEIBBRANDT, above n. 45. Digitised by the Internet Archive in 2015. Available at <https://archive.org/stream/precisofarchives00cape_1/precisofarchives00cape_1_djvu.txt>, last accessed 30 April 2020.

⁴⁷ See LIEBENBERG, above n. 3, at p. 6.

⁴⁸ DANGOR, above n. 40, at p. 19 fn. 43.

As noted, the Rajah was exiled to the Cape by a Resolution of the Company in Batavia dated 13 August 1697.⁴⁹ He departed from Batavia on 30 November 1697 on the Company ship 'Lands Welvaren' and arrived at the Cape on 17 February 1698.⁵⁰ It can be inferred from a Company Resolution (dated 24 September 1720) that the Rajah died at the Cape in 1719, at age 49.⁵¹

As indicated in the Introduction, while banned for rebelling against the Dutch, the Rajah, it appears, spent two periods in exile, and both, quite unusually, at the Cape. '[He] is the only case of repeat political exile to the Cape that appears in the archives. At the time of his second exile, he was not the reigning king of Tambora, and the Company was exercising direct political power in the kingdom in apparent overlordship of the incumbent ruler.'⁵² However, although it appears from a Company Letter that he had already lost

⁴⁹ See Letter (Number Two) Received at the Cape, 30 November 1697, p. 129 of Leibbrandt's *Precis*: No 123, p. 1087. 'Radja Tambora.- The reasons which induced us to hold the Radja of Tambora captive here some time, and as such send him to you with "s Lands Welvaren," you will find in our Resolution of 13th August last. (See below, No. 20.)' See Letter (Number One) Received at the Cape, 16 August 1697, pages 131 of Leibbrandt's *Precis*: No. 20, p. 437. Extract from the general Resolutions of the Castle, Batavia, dated Tuesday, 13th August, 1697. 'Radja of Tambora – The Governor-General produced the report of Major Adolf Winckler, the chief merchant M Schenkenberg, and the captain of the Malays, Wan Abdul Bagus, on their further examination of the prisoner, the Radja of Tambora, regarding his attack on the Company's "paggen" in Bima, and his insolent refusal to receive our letters. He further wished to know what was to be done under the circumstances. *After consideration, it was decided to send the Radja to the Cape by the first opportunity, in order to serve as a convict in chains there at the public works, exactly like the other convicts. It was considered that he had deserved death, not only in consequence of his rebellion against the Company, which he had accepted as his protector, but also in consequence of his vile and evil conduct, by which he had the Queen of Dampo murdered.* This conspiracy, he says, he had formed against the king, but that his orders had been wrongly carried out. Also in consequence of the shedding of the blood of so many people who have perished in the war so cruelly and unjustly commenced by him, which caused the ruin and destruction not only of his own, but also of the kingdoms of Dampo and Bima; and further, of the many injustices and disasters which befel the late Radja of Bima, who died here, and had in consequence of that murder, been unjustly banished from his kingdom, and suffered innocently. The above sentence, however, shows him still some mercy.' Signed (as a correct copy) by C. v. Swoll, &c. See J. HOGÉ, above n. 8, at 27, emphasis added. See n. 53.

⁵⁰ For details see D. ROBERTSON, *Rajah of Tambora Alubasi Sultan, The First Fifty Years Project*, available at <<http://www.e-family.co.za/ffy/g10/p10838.htm>>, last accessed 30 April 2020. This site makes reference to a shipping log which contains information of the arrival at the Cape from Batavia of the ship Lands Welvaren which departed from Batavia on 30 November 1697 and arrived at the Cape on 17 February 1698. The site indicates that there were ten political prisoners on board, of whom the Rajah of Tambora was the most important. For the shipping log see 'The Dutch East India Company's shipping between the Netherlands and Asia 1595–1795' available at <<http://resources.huygens.knaw.nl/das/detailVoyage/96874>>, last accessed 30 April 2020. See also WARD, above n. 5, at p. 210 fn. 113.

⁵¹ For details see ROBERTSON, *ibid* and HOGÉ, above n. 8, at p. 27. See n. 79 for the Company Resolution (1720).

⁵² WARD, above n. 5, at p. 211.

his title when he arrived at the Cape to serve his first period of exile,⁵³ he was only deposed in 1701.

A Company Letter (dated 22 October 1707)⁵⁴ refers to a letter that the Rajah had sent to his friends in Indonesia. The Rajah's friends are referred to as 'influential people of the territory' in a follow-up letter dated 30 November 1707.⁵⁵ However, according to the Letter dated 22 October 1707, his influential friends did not receive the exiled Rajah's letter because the Company in Batavia had, after intercepting it, decided to 'file it among [their] secret papers'. The Rajah had indicated in the letter to his friends that, after he was deposed in 1697 and sent to the Cape, he was unjustly replaced as King of Tambora by a 'Dain Manangon' who technically ought to have been satisfied with a Governorship position ('Boumi Soro'). Given that he was captured in 1697, arrived at the Cape in 1698, but was only deposed in 1701, he was, when he arrived at the Cape, still the reigning Rajah of Tambora (at least until 1701). However, a Company Letter (dated 30 April 1698),⁵⁶ which refers to him as the 'ex-Rajah', implies that he was no longer Rajah by the time he arrived there. It appears that 'Dain Manangon' (also known as 'Damala Daeng Mamongon' or 'Djamaluddin') who replaced the exiled Rajah as King, ruled over Tambora from 1701 until he too was deposed in 1716. However, 'Dain Manangon' was the son of the last Governor of Sumbawa (for the Sultan of Gowa), and I infer from what the Rajah wrote in his intercepted letter that it was the expectation that he would succeed his father as Governor. Instead, he jumped rank and became King. When Dain Manangon died he was replaced as ruler of Tambora by the exiled Rajah of Tambora's brother, Abdul Azziz (or Abdul Djalil), from 1716 until his death in 1726. The exiled Rajah appears to have had another brother, 'Abdul Wahab'. This would explain why, when the Rajah was pardoned in 1710, he may have returned to a hostile environment; his re-exile to the Cape; and, given that his brother was then King of Tambora, why he unsuccessfully continued to seek repatriation until his death at the Cape in 1719.

Valentijn met the Rajah and his then (unnamed) wife at Governor Willem Adriaan van der Stel's plush residence on the Vergelegen wine estate in 1705.

⁵³ Letter (Number One) Despatched from the Cape, 30 April 1698, p. 77 of Leibbrandt's *Precis*: No 123, p. 1087. 'The ex-Radja of Tambora, sent hither in the "Lands Welvaren," we shall, until further orders, treat in accordance with the instructions received at the same time.' The reference to 'ex' indicates a loss of status and therefore that he was no longer the Rajah. See text to n. 56.

⁵⁴ See n. 68 for the content of Company Letter (Number Six) Received at the Cape, 22 October 1707.

⁵⁵ See n. 68 for the content of Company Letter (Number Seven) Received at the Cape, 30 November 1707.

⁵⁶ See n. 53.

It can be inferred from Valentijn's entry, that the Rajah's wife followed him to the Cape, and therefore that the two were already married by the time they arrived there. It is evident from Valentijn's account that Zytie, or Care Sale, was obviously also Indonesian, which explains why she may have wanted to return there after the death of her husband.

Valentijn indicates in his account that Zytie had some sort of oversight role as housekeeper at Vergelegen, and describes how he enjoyed a delicious fish meal there (a dish that is very common in Indonesia). It is therefore presumed, given her domestic prowess and experience as a cook, and that Islam advocates teetotalism, that it was probably more useful for the Governor (whose mother had not accompanied his father to the Cape and whose wife may not have joined him) that the Tamboras be re-located to Vergelegen from its completion in 1701.

According to Sleigh,⁵⁷ the Rajah and his family were relocated to reside at Rustenburg in Rondebosch only after the Governor was relieved of his duties and left the Cape in 1706. This was not unusual because other Indonesian exiles of high rank were already also housed there.⁵⁸ A Company Letter dated 10 March 1708 indicated that at the time he may have lived permanently 'at the Company's garden, "Rustenburg", or at the stables [Ruyterwacht], where the Macassarian exiles of courtly rank are located'.⁵⁹ He must therefore have been residing there when he was pardoned and departed for Indonesia in 1710. According to a Company Resolution (dated 26 February 1710),⁶⁰ the Rajah was pardoned and allowed to go home with his wife. No mention is, however, made of their two children who would have been born by then.

The following entry in Valentijn's account pertaining to the Rajah's family is quoted in full below, given that it provides a rare glimpse into their lives. Care Sale (or Zytie), is not referred to by name in Valentijn's account, but we now

⁵⁷ SLEIGH, above n. 27, at p. 234. I wish to express my appreciation to Ebrahim Rhoda for referring me to this source. This was not unusual because Sleigh indicates that other Indonesian exiles of high rank were already also housed there.

⁵⁸ SLEIGH, above n. 37, at p. 145 also highlights that in 1680 about 30 Macarresse exiles, mostly nobility, were housed at Rustenburg.

⁵⁹ See Letter (Number Four) Despatched from the Cape, 10 March 1708, p. 343 of Leibbrandt's *Precis* in n. 69.

⁶⁰ 'Radja Tambora, ao. Sent here in 1698 on account of his advanced age and the good testimony of the Lord Governor and Council, with his wife.' See Resolutions of the Council of Policy of Cape of Good Hope, 26 February 1710, Reference number: C. 27, pp. 96–100 available at Resolutions of the Council of Policy of Cape of Good Hope, Cape Town Archives Repository, South Africa, available at <http://databases.tanap.net/cgh/make_pdf.cfm?artikelid=21797>, last accessed 30 April 2020. I would like to thank Professor F. du Toit for the free translation of this extract from the old Dutch. See n. 62.

know from a Company Resolution and baptismal records (detailed in Section 5) that she was the Rajah's wife.

Willem Adriaan van der Stel set here his magnificent country-estate Vergelegen in 1700 or 1701, 12 miles from the Castle ... I saw this lovely building in 1705, [on Monday 5 November] two days before leaving for the Indies [Wednesday 7 November⁶¹] ... I had agreed to preach on Sunday [4 November] afternoon at the Castle, and ... the Governor ... asked me ... if I would wish to make the trip with him after the sermon. ... We left at 6 in the evening [Sunday 4 November] in a coach with 6 horses ... and arrived at Vergelegen at 12 o'clock at night [Monday 5 November]. ... To my surprise I found here the King of Tambora and his wife, of whom we tell more fully in writing of the affairs of Macassar and Batavia. [62] He was busy writing out the Coraan or Alcoraan very neatly for H.E., [His Excellency] and his wife had some sort of oversight over the household. He was banished here because of his bad behaviour on Bima, and she followed for love of him. They were glad to see me, so that they could speak with me there for some time in the Malay tongue, and the Governor was much astonished to hear how, after being so long out of the Indies, I still spoke so fluently. This house was demolished ... somewhat after 1710. After I had spent that day ... refreshed by ... tasty steenbrassem and other rare fish, as also the noblest fruits imaginable, and by a lovely glass of wine from HE's own wine-press, at 6 o'clock [pm] we took up the journey ... back to the Castle, where we arrived about 12 [midnight leading to Tuesday 6 November] ... I should have wished to drive once by day over this road, but this was not possible, and also after my return I found no opportunity thereto.⁶³

Valentijn's own interest in translating the Bible into Melayu may have resulted in his vivid recalling of the Rajah's 'very neatly' transcribing of the Qur'an. However, some sources have embellished Valentijn's account with details (that it was transcribed into 'Dutch' and 'from memory')⁶⁴ that are not contained in it.

⁶¹ In terms of p. 150 fn. 123 of this account, Valentijn departed for Batavia on 7 November 1705.

⁶² However, it appears from p. 152 fn. 128 of this account (Google translation into English) that: 'No other description was found in Valentine. According to the Resolutions of 26/2/1710 he [the King of Tambora] was banished to the Cape in 1698, and was allowed to go home.' See n. 60.

⁶³ See F. VALENTIJN, *Description of the Cape of Good Hope with the Matters Concerning It, Amsterdam 1726*, Part I, edited and annotated by P. SERTON, Van Riebeeck Society, 1971, pp. 149, 151 and 153 of the English translation available online at <https://www.dbnl.org/tekst/vale003besc01_01/vale003besc01_01_0005.php#338>, last accessed 30 April 2020.

⁶⁴ See Kamedien's translation of SLEIGH, above n. 27, at p. 234 where Sleigh indicates that 'the Rajah translated the Koran into Dutch'. In the following sources Ward indicates that the Rajah had transcribed the Qur'an from memory. See WARD, above n. 5, at p. 210 and K. WARD, 'Chapter 5: Southeast Asian Migrants' in N. WORDEN (ed.), *Cape Town Between East and West: Social Identities in a Dutch Colonial Town*, Jacana Media, 2012, pp. 84–100 at p. 89.

We cannot therefore assume from this account that it was transcribed into Dutch from either Arabic or Malay, because there is no indication to that effect, nor that it was done from memory. Parts of the Rajah's copy may have been located in the Cape. If indeed the pictures of pages that I was fortunate to see are part of the Rajah's Qur'an, then I can attest to the fact that it is indeed very neatly written in Arabic.⁶⁵ Nonetheless, the Rajah is speculated to have been the first person at the Cape to have penned a copy of the Qur'an. He was clearly afforded both time and material resources to do so. This implies that he was likely to have been an educated man, but not necessarily that he had memorised the Arabic Qur'an (hafiz).⁶⁶ The next handwritten copy of the Qur'an was only penned in Arabic some 75 years later by another royal political exile and hafiz, Tuan Guru, who was banished to the Cape from Indonesia in 1780.⁶⁷ We can assume, given that Islam was allowed at the time to be practised in private, that exiles may have been permitted to have access to religious books like the Qur'an, which is akin to the Bible for Muslims. On the other hand, correspondence to and from Batavia may have justifiably been prohibited for political prisoners. It appears from Company records that desperate attempts (in 1707,⁶⁸

⁶⁵ According to DAVIDS, above n. 38, at p. 40, '[t]his Qur'an, the first written in the Colony, probably never left Vergelegen'. There are also several theories as to what happened to the Rajah's Qur'an which I detail in my forthcoming publication, *Debunking Prevailing Scholarly Views Pertaining to the Apostasy of Alleged Descendants of Shaykh Yusuf of Makassar, the Indonesian Pioneer of Islam in Colonial South Africa*.

⁶⁶ 'Hafiz' is the Arabic term used to describe a person who has memorised the entire Qur'an which consists of 114 chapters and over 6,000 verses.

⁶⁷ See S. MORTON, *From the Spice Islands to Cape Town: The Life and Times of Tuan Guru*, National Awqaf Foundation of South Africa, 2018, at pp. 44–45.

⁶⁸ See Letter (Number Six) Received at the Cape, 22 October 1707, p. 460 of Leibbrandt's *Precis*: 'No 41 p. 907 ... Extract from the letter from Macassar about the Radja of Tambora. See despatch No. 34 ... The Governor could not decide to send the letters to the chiefs of Tambora, and the Council on the 15th January decided to have them opened and translated. The first letter contained the request of the exile to us, that we might intercede for him with the Batavia Government, that he may be set at liberty, and sent back to his country. In that to his friends, he complains bitterly of the injustice done to him, and that the present King of Tambora Dain Manangon, whom he looks upon merely as a "Boumi Soro," or beach governor, a position with which he ought to have been satisfied, had been unjustly placed in his stead. Many more expressions of the like were in the letter, not one of the best odour, and which would not be very edifying to the kings and other chiefs of "Cumbawa." We therefore, on the 25th February, decided not to forward the last mentioned letter, but to file it among our secret papers, and send the translation to you (Batavia Council). You will gather from it that the Radja enjoys rather too much freedom at the Cape, and is able to have free access to all the ships. In our opinion this ought to be quite different, as we do not believe that you will ever resolve to let this rebel and murderous prince ever return to his own country.' Emphasis added. See Letter (Number Seven) Received at the Cape, 30 November 1707, p. 458 of Leibbrandt's *Precis*: 'No. 34, p. 857. From Batavia ... Enclosed you will find an extract from a letter of the Governor and Council at Macassar of the 22nd October last, to this Government, from which you will gather that in two ways there fell into their hands two distinct Malay letters written by the Radja of Tambora, exiled at the Cape; the one to his Honour, and the other to

1708⁶⁹ and again before his death in 1719⁷⁰) by the Rajah to send letters to Batavia were intercepted and unsuccessful. The Dutch authorities were very aware of the Rajah's track record of seeking out available avenues to communicate with Indonesia by means of passing ships (as indicated in the 1708 Letter) and through a Company official, no less, with whom he was friendly (as indicated in the 1719 Company Resolution).

As evident from Company Letters and Letters in response thereto (1702,⁷¹ May 1703,⁷² December 1703,⁷³ February 1704⁷⁴ and June 1704⁷⁵), some

certain influential people of the territory, from which can be gathered the dissatisfied mind of that exile, *whom you have allowed too much liberty of communication with those of the passing vessels*; and as with those of Macassar we have good reasons to judge that these things should not be allowed, you are herewith ordered to confine the liberty of that individual, and to take care that all communication is cut off between him and the passing ships, especially those on board foreign ships Arrival of the "Ter Aa" from Mauritius.' Emphasis added. See text to n. 43.

⁶⁹ Letter (Number Four) Despatched from the Cape, 10 March 1708, p. 343 of Leibbrandt's *Precis*: 'We will take good care of the exiled King of Tambora, that he has no communication with the passing ships, especially foreign ones, in order so to cut off all communication between him and his countrymen. He seldom has a chance, however, as he lives permanently at the Company's garden, "Rustenburg," or at the stables, where the Macassarian exiles of courtly rank are located. Should he, however, wish to write, it will be difficult to prevent him, unless he is closely confined and watched.'

⁷⁰ 'The Noble Lord Governor produced a certain letter of the banned Radja Tambora at the meeting. Tambora was affectionate with the director of the fort, Pieter Gijsbert Noodt. The Governor had to decide whether or not to allow Noodt to leave for Batavia. Noodt was placed in a difficult situation because of this and therefore the Council is called upon to decide whether Noodt should leave or whether he should stay. A communication in this regard will be sent by the first ship to the address of his Highness the Lord Governor Zwaarddecroon.' See Resolutions of the Council of Policy of Cape of Good Hope, 25 April 1719, Reference number: C. 49, pp. 48-54 available at Resolutions of the Council of Policy of Cape of Good Hope, Cape Town Archives Repository, South Africa, available at <http://databases.tanap.net/cgh/make_pdf.cfm?artikelid=22182>, last accessed 30 April 2020. I would like to thank Professor F. du Toit for the free translation of this extract from the old Dutch and Professor J. de Visser for confirming it.

⁷¹ See Letter (Number Three) Received at the Cape, 30 November 1702, p. 314 of Leibbrandt's *Precis*: 'We have refused the petition ... of the Sultan Nissa Nudum Abdul Rassa, formerly King of Tambora, who had also begged that he and his servant Rinchou might be allowed to return.'

⁷² Letter (Number Two) Despatched from the Cape, 18 May 1703, p. 225 of Leibbrandt's *Precis*: No. 89, p. 960 'From your despatch of 30th November, 1702, it further appears that you have declined the request of the Sultan Nissa Nidum, Abdul Radja, ex-king of Tambora, to be allowed to return to Batavia.'

⁷³ Letter (Number Four) Received at the Cape, 1 December 1703, p. 323 of Leibbrandt's *Precis*: No. 249, p. 231. 'We adhere to our Resolution regarding the petition of the Radja of Tambora ...'

⁷⁴ Letter (Number Five) Received at the Cape, 26 February 1704, page 333 of Leibbrandt's *Precis* at p. 334: 'No. 306, p. 733. [at p 334] ... *you shall also take care that ... other Easterns may not escape who have been banished to the Cape ... and who are to be detained at the Cape, until further orders*.' Emphasis added.

⁷⁵ Letter (Number Three) Despatched from the Cape, 14 June 1704, pages 245-246 of Leibbrandt's *Precis*: 'We shall also take care that no other Easterns under the pretext of

eight years before he was pardoned in 1710, the Rajah also sought permission to return to Indonesia. The fact that the Rajah may have been on good terms with the then Governor (Willem Adriaan van der Stel), and his father (Simon van der Stel), would have been of little consequence because ultimately the Rajah was a political exile, and exceptions to Company rules to enable the grant of such permission would not have been allowed.

According to Van Rensburg:

On the 20th August 1713 [or 25 December 1713] Rajah was sent from Batavia again back to the Cape ... His wife and children must have accompanied him back to the east and then returned with him to the Cape, this is devotion. He returned to the Cape [3 April 1714] ... [with] another 8 persons from Tambora [who] were also banished.⁷⁶

There is no indication that these other eight (or 20, according to Sleight) persons actually formed part of the Rajah's entourage.

As indicated, the Rajah passed away in 1719. Van Rensburg⁷⁷ estimates that he died in the latter part of 1719 because of indications in Company Letters, sent to Batavia dated 17 October and 16 December 1719, that he had died. In terms of a Company Resolution (dated 24 September 1720),⁷⁸ detailed below in Section 4, his widow, who is referred to as Care Sale, aged 41, in the Resolution, had pleaded dire poverty and requested to return to Indonesia with her children; unfortunately, her request was denied. The Resolution also mentions their five children by name and age as follows: four sons (Ibraim Adaham, aged 21; Mochamat Aseek, aged 9; Mochamat Daijan, aged 7; and Mochamat Asim, aged 4) and a daughter (Sitina Asia, aged 17). The Rajah, who was eventually pardoned in 1710, returned to Indonesia, but was re-exiled from to the Cape in 1714. It can be gleaned from the Resolution (1720) pertaining to his widow, Care Sale, that given the ages of her children, and the birth of three at the Cape and one or two in Indonesia, that she must have accompanied him on both exiles. She appears not to have remarried after the death of her husband. As detailed above, given the Rajah's record of his attempts to leave, and in order to restrict his contact with his homeland, the Company kept a close eye on him until his death. However, the next section will highlight that the Company had little

belonging to that family, but who are in banishment here, get mixed up in the number, and so escape from banishment. We shall detain them all, and grant them no passage until further orders' Emphasis added.

⁷⁶ A.M. VAN RENSBURG, 'Shaykh Yusuf's Familia' (2002) 39(4) *Familia* 195-204, at 199 and fn. 33.

⁷⁷ *Ibid.*

⁷⁸ For a translation of this Company Resolution (1720) see text to n. 79.

interest in the welfare of his family once he died. As a consequence, the social structure of his family disintegrated.

4. THE TREATMENT OF THE RAJAH'S FAMILY, AND RELATED LEGAL AND RELIGIOUS ISSUES

This section highlights that even by today's standards the Rajah's wife, Zytie Sara Marouff (or Care Sale), was both a dutiful Muslim wife and mother and a remarkable role model for women of her time. Zytie, a former Raneë (Queen), was able to acquit herself of both domestic and parental roles. However, when she faltered, she was able again to stand up for her rights and seek help by petitioning the then Governor on more than one occasion. Although she remained Muslim, her efforts and government support for her were unfortunately not enough to avert the conversions of her children and their marriages to Christian women.

The Company Resolution (dated 24 September 1720)⁷⁹ is freely translated and shortened as follows:

The below request of the widow of the deceased Radja of Tambora presented in the following terms to the (then) Governor at the Cape, Maurits Pasques de Chavonnes⁸⁰: It is shown with due respect, Care Sale, 41 years old, how her husband the late Radja of Tambora and her children, who were sent here by order of the Government of Batavia. That her husband died here one year ago [1719]. She finds herself in extreme poverty by reason of the deaths of most of her slaves and other disasters that befell her. She is unable to adequately maintain herself and her five children. She therefore wishes to leave for Batavia. She pleads that she may be permitted to leave for Batavia with her four sons named Ibraim Adaham, age 21; Mochamat Aseek, 9; Mochamat Daijan, 7; Mochamat Asim aged 4; and one daughter, Sitina Asia, aged 17. This request will be conveyed to the government in Batavia.

It appears from a further Company Resolution (dated 8 December 1722),⁸¹ addressed to the same Governor Maurits Pasques de Chavonnes, that little had

⁷⁹ Resolutions of the Council of Policy of Cape of Good Hope, Date: 1720-09-24, Reference number: C. 54, pp. 72–78. See Resolutions of the Council of Policy of Cape of Good Hope, Cape Town Archives Repository, South Africa, available at <http://databases.tanap.net/cgh/make_pdf.cfm?artikelid=22264>, last accessed 30 April 2020. I would like to thank my colleagues Professors F. du Toit and J. de Visser for their assistance with the free translation from Dutch into English.

⁸⁰ Chavonnes was Governor from 28 March 1714 to 8 September 1724.

⁸¹ See Resolutions of the Council of Policy of Cape of Good Hope Cape Town Archives Repository, South Africa, Reference number: C. 61, pp. 53–61, dated 8 December 1722, available at <http://databases.tanap.net/cgh/make_pdf.cfm?artikelid=22372>, last accessed

changed as far as the financial position of the family was concerned. This (1722) Company Resolution is freely translated and shortened as follows:

Lastly, the meeting considered the following request of the widow of the deceased Raja of Tambora: The widow ... has, since the death of her husband more than three years ago, been supplied with little means to live on, aside from three slaves who have worked for her and her children. She was able to maintain herself and her children within reason, but now that the slaves have been taken away a while ago, she has fallen into a bad state. She does not have anything to maintain herself and, by reason of her age, she is unable to gain employment through which she can maintain herself and her three younger sons, because of their youth, are unable to contribute anything. She has to pay monthly rent in the sum of 7 Rds., and this has caused her and her children to become destitute. In this time of need, she requests that she be granted something more by way of maintenance, especially that the three slaves should again be allocated to her and/or that she be paid a monthly sum to enable her to meet her rental obligations and maintenance needs. This will enable her to live honourably until old age, for which beneficence she will be forever grateful. It is resolved, for the reasons provided, that she will be paid a monthly amount of 6 Rds as was provided to the so-called Prince of Ternate who, by reason of his misbehaviour, was sent from here to Robben Island to work there for the Company.

Interestingly, and as will be detailed in Section 5, this request of Care Sale was made after her eldest son, then aged 23, had converted to Christianity (November 1721) and entered into marriage (September 1722). It also appears that, instead of requesting to return home as she did in 1720, she had, by resigning herself 'to live honestly until old age', accepted her fate of staying in South Africa. It can also be inferred from the Resolution that she may have been motivated to once again write to the Governor because, given the recent marriage of her eldest son, she may not have been able to place too much reliance on him for support.

It appears from a Resolution dated in November of the same year (1722) that the exiled Prince of Ternate, referred to in the above Resolution, was sent to Robben Island because of evil and disorderly behaviour which involved enriching himself through illegal gambling and fornication activities.⁸² As will be detailed in Section 5, it appears that the Rajah's sons, also princes, and his daughter, a princess, may have wisely chosen conversion rather than having to resort to such activities or to have to rely only on the Company for subsistence which, as the 1720 and 1722 Resolutions indicate, was clearly proving to be problematic.

30 April 2020. I would like to thank Professor F. du Toit and Professor J. de Visser's father for their assistance with the free translation of this extract.

⁸² See Resolutions of the Council of Policy of Cape of Good Hope Cape Town Archives Repository, South Africa Reference code: C. 61, pp. 27–34, dated 24 November 1722, available at <http://databases.tanap.net/cgh/make_pdf.cfm?artikelid=22369>, last accessed 30 April 2020.

The Islamic law left his widow with little recourse by way of inheritance and maintenance. The Rajah was an exile and would have no substantial assets or property at the Cape to leave his family, and from which maintenance could be drawn. His books, clothes, cash, etc. would all form part of his estate. A further petition by Care Sale in 1722, three years after her husband's death, highlights that the socio-economic position of her family had not improved. As detailed in Section 5, by this time her first-born son had converted and married, and the rest of her children would follow suit.

As regards the Muslim marriage of the Rajah and his wife, according to the reputable account of Valentijn it appears to have been a monogamous one based on love. There appears to be no indication of polygyny, concubinage or divorce in Company records. I imagine that when she followed her husband from Indonesia she may have had little idea of what to expect of her new location, but given that he had been convicted of murder, the possibility that they were likely to remain at the Cape for a very long time, and possibly die there as a consequence, may have occurred to both of them. On his death, she had no extended family, not even a polygynous co-wife, to fall back on for support. Instead, she bravely assumed the traditionally male roles of head of a now single-parent household as well as the guardianship and custody of her children, all on a modest income provided by the Company.

Although Hoge (1951) refers to 'the wills of their children', there appears to have been no will left by the Rajah, but even if there had been one, given the circumstances and time, it would have been of little consequence in the context of the isolation and limited freedom of religion in which they found themselves. The following is an indication of what the position would have been in terms of the Shafi'i school of law to which the Rajah and his family belonged, regarding inheritance and maintenance.⁸³ There is general consensus in terms of Islamic law (Shari'a) that if a Muslim male were to die intestate and leave behind no parents but a widow and five children, who were all Muslim, they would not have any claim against the deceased estate for maintenance purposes. They would, however, be entitled to inherit from the net estate after any debt against the gross estate had been deducted. The widow would inherit one-eighth of the estate, and the remainder would be inherited by the children. Each male child would inherit double the share of each female child.⁸⁴ As far as maintenance

⁸³ This information is based on personal communication with, and information provided by, Dr. M. Abduroaif, 19 April 2020.

⁸⁴ This is based on the primary source of Islam, namely, the Qur'an, chapter 4, verses 11 and 12. Although this seldom happens in reality, the idea behind the Islamic law justification of the half share of property to the female, and double to the male, was that Muslim women, whether as widows, mothers, daughters or sisters were expected to be able to fall back on the protection of males in their family should an economic need arise. For details see N. MOOSA, 'A Comparative Study of the South African and Islamic Law of Succession and

is concerned, there is also consensus that no maintenance is claimable from a deceased estate. However, whilst not based on the jurisprudence of the Shafi'i school of law, there is a minority view that supports the claim that a widow may be permitted to continue to stay in the family home for one year and be provided with maintenance for a year.⁸⁵ As befitting royalty, the family was initially housed in lodgings (Rustenburg, Vergelegen) belonging to the Governor. I have indicated all the possible places the family could have stayed at before and after the death of the Rajah. However, I am not sure exactly where Care Sale may have stayed at the time she made her claims for extra support, but in terms of the 1722 Company Resolution she clearly was struggling to pay rent. This implies that although she may have been supported by the Dutch Government, it did not include free accommodation. Given the limited freedom of religion, there would not have been much in the way of charitable Muslim organisations that the family could have relied on, but this may not have precluded support and assistance from equivalent Christian missionary and church organisations, eager to attract Muslims and 'heathens' (as used in the Statutes of India) to Christianity. The first mosque (the Auwal/Awwal Mosque) at the Cape was only built in 1794,⁸⁶ just prior to the first period of British occupation in 1795, although from the time the Dutch landed at the Cape, sermons were being given at the Castle (Reverend Valentijn, as indicated in his account, also gave a sermon there in 1704).

As regards the maintenance of a widow: if she cannot maintain herself, under Islamic law her father, if alive, would have to maintain her; if not, then someone else in the family, based on closeness of family ties, must do so. As regards the children: if the inheritance is not sufficient to provide for their needs, and their mother cannot maintain them, then their grandparents, if alive, would have to maintain them; if not, then someone else in the family, based on closeness of family ties, must do so. The Company Letters referred to in this chapter make reference to influential friends and possibly family back home in Indonesia. However, although there were many royal Indonesian exiles at the Cape at the time, the Rajah appears to have been treated more favourably and accorded more privileges by the then Governors than these exiles may have been. While the Rajah's family was technically 'free' after he died, these other exiles were not

Matrimonial Property with Especial Attention to the Implications for the Muslim Woman' (1991) Unpublished LL.M. thesis, Bellville: University of the Western Cape.

⁸⁵ See N. MOOSA AND S. KARBANEE 'An Exploration of *Mata'a* Maintenance in Anticipation of the Recognition of Muslim Marriages' in 'South Africa: (Re)-opening a Veritable Pandora's Box?' (2004) 8 *Law, Democracy and Development* 267-288 at 270, 272 and 285. This article is available online in pdf format at <<http://www.saflii.org/za/journals/LDD/2004/15.pdf>>, last accessed 30 April 2020.

⁸⁶ For details on the Auwal Mosque see <https://en.wikipedia.org/wiki/Auwal_Mosque>, last accessed 30 April 2020.

and were also still being held in isolation. There therefore appears to have been little, if any, support from family, friends or fellow exiles.

As indicated in Section 2, as a consequence of their Indonesian origin, the majority of Cape Muslims are also Sunni Muslims and followers of the Shafi'i school of Islamic law. How, then, did the provisions of this school find application at the Cape during the time of the Rajah's family there? The Rajah came to the Cape some 44 years after the first Muslims, the Mardyckers, had arrived there. At the time MPL was not as yet developed or regulated within the private sphere and the nucleus of the Muslim community living there. As far as the maintenance of this family was concerned, it therefore mattered little to what school of Islamic law they may have belonged. They were for all intents and purposes banished from their country of origin. Although there are references to an intercepted Letter that the Rajah sent to his influential friends during his initial period of exile (in 1707),⁸⁷ and there was a call some 24 years after his death for his remains to be repatriated in 1743, it is uncertain whether it included the return of his family. Given that Care Sale also hailed from Indonesia, one wonders to where in Indonesia, and to whose family (hers or her husband's), she would have returned had she been granted permission to do so. It can be inferred from the 1720 and 1722 Company Resolutions that the Dutch Government at the Cape provided the family with an allowance after the death of the Rajah, and presumably also did so prior to that. However, the above two records also highlight that it was not enough to sustain and maintain the family after his death. It is contended that had the Rancee of Tambora (Care Sale) been civilly married she may have stood a better chance of pleading a case of abandonment.

To put this in a time context. It would only be in 1866 (some 100 years after Van der Parr's Code of 1766), when South Africa was under a period of British rule, that mention is made of the first two Muslims, both prominent Islamic scholars at the Cape, who, in addition to their Muslim marriages (nikahs), had also entered into civil marriages under the statutory provisions then applicable because of the added protections that it would provide for their families. In the case of one of these Islamic scholars, his second wife had filed an action *in forma pauperis* in the then Cape Supreme Court in which she claimed maintenance for herself and their son. In her plea, she claimed that her husband had divorced her, evicted her from their home, and informed her that he had in fact taken another (third) wife – all on the same day (in December 1866).⁸⁸ Given that

⁸⁷ For content of Letter (Number Six) Received at the Cape, 22 October 1707 and Letter (Number Seven) Received at the Cape, 30 November 1707 see n. 68.

⁸⁸ For detail see N. MOOSA AND S. DANGOR, 'Preface' in MOOSA AND DANGOR, above n. 19, at pp. ix–x.

she appeared to be married only in terms of religious law, had the Ranees lived at the Cape today, she would have been in much the same position. Some 350 years later, Muslim marriages in South Africa remain formally unrecognised and little has changed with regard to the legal consequences flowing from such non-recognition. Given that it is as a consequence of its colonial past that South Africa is the legal, cultural and religiously diverse society that it is, it is also ironic that the designation of Muslim clerics (imams) as civil marriage officers is currently limited in South Africa. Since imams are excluded from officiating at interfaith marriages, the Rajah's children would be precluded from entering into such marriages today unless their spouses first converted to Islam.⁸⁹ As was the case then, civil marriages entered into in accordance with the Christian religion are accorded full recognition under South African law, and automatically deemed to be in community of property. The Rajah's children, therefore, would still have no option but to resort to civil marriages if their spouses wished to remain Christian and benefit from the protection afforded them by the more equitable provisions of secular law.

While it is true that the 'genesis of MPL' can be traced back to the first period of Dutch colonisation at the Cape, the code which was applicable at the time that the Rajah's children converted from Islam and entered into marriages with Christian spouses was the Statutes of India (1642). As detailed previously, this code both limited the religious freedom of Muslims and only provided for 'tacit approval' of their MPL. In Section 2 above it was demonstrated that it was only the 1766 Code which provided the 'first systematic treatment' of MPL at the Cape. However, this was of little use to the Rajah's children because by that time all their conversions and marriages had already taken place. While the provisions pertaining to religion in the Statutes of India encouraged the conversion of Muslims to Christianity, Christians were also allowed only to marry fellow Christians. The provisions in Van der Parra's Code, which allowed free Muslims to enter into civil marriages, only allowed Muslims to marry fellow Muslims.⁹⁰ However, it appears that one of the Rajah's sons, (Mochamat Aserk

⁸⁹ For details see N. MOOSA AND M. ABDUROAF 'South Africa: Implications of the Official Designation of Muslim Clergy as Authorised Civil Marriage Officers for Muslim Polygynous, Interfaith and Same-Sex Marriages in South Africa' in F. BANDA AND M.F. BRINIG (eds.), *The International Survey of Family Law*, Jordan Publishing Lexis Nexis, 2017, pp. 323–359 at pp. 324 and 341.

⁹⁰ 'There is considerable debate regarding the legal status of Muslim marriages among the free black community. Some writers have argued that the Dutch never accorded Muslim family law legal standing and thus never recognized Muslim marriages. On the contrary, several legislative documents contradict these claims, and suggest that the Dutch provided the free blacks in the colony with the means to apply Muslim family law; and that the authorities expressed what amounted to a *tacit approval* of Muslim personal status laws in the colony ... the Statutes of India ... served as the *grondwet* [legal groundwork] of the colony ... *The code of Governor-General Van der Parra (1766) provides the first systematic treatment of Muslim family law in the colony. This code superseded the previous code of Anthonio van Diemen*

or Isaak Sultania), a free person of colour, had entered into a (civil) marriage with a Christian woman before his conversion. In fact, Loos⁹¹ highlights that '[h]e rose from poverty to relative prosperity and was a free burgher' when he married his first wife. It therefore appears that, depending on the circumstances, exceptions were made already during the time of the application of the Statutes of India and long before it was replaced by the 1766 Code. Ironically, it was the Dutch colonialists (followed by the British) who accorded Muslim marriages (nikahs) recognition. The reverse is true in post-apartheid, democratic South Africa. MPL is a body of law that regulates family relationships. I contend that as a last resort, when it came down to weighing what was more important to Zytie (or Care Sale), the survival of her family or the treatment of her children and related economic matters in terms of Islamic law, the former would have been uppermost in her mind.

5. APOSTASY AND CONVERSION OF THE RAJAH'S CHILDREN IN LEGAL AND RELIGIOUS CONTEXTS: 'CRYPTO-MUSLIMS' OR DE FACTO CHRISTIANS?

The theology of the Dutch Reformed Church (DRC) (in Afrikaans, Nederduitse Gereformeerde Kerk (NGK)), a Protestant church with a strong Calvinistic spirituality, was introduced into South Africa in 1652, some five years before the Muslim Mardykckers arrived there. In a far cry from the current South African Constitution, which guarantees Muslims (and other religious minorities) the right to freedom of religion and belief, the Dutch in 1657 had issued a proclamation prohibiting the public practice of, or conversion to, Islam, the violation of which was punishable by death:

[T]he company ... explicitly granted [the Mardykckers or first Muslims] limited religious freedom. At the Cape as elsewhere in the VOC's possessions, the statutes of Batavia [India] allowed the private – never public – practice of Islam, while prohibiting proselytizing. Official attitudes toward Islam were thus in place virtually

(1642) [*Statutes of India*] initially in force at the Cape ... Although scant mention is made of Muslim family law in this code, there are no statutory provisions forbidding free Muslims from contracting valid civil marriages by appearing before the colony's matrimonial court. The only discriminatory provision ... states 'that Mohammedans shall marry Mohammedans only'. This provision tacitly recognized the validity of Muslim marriages as such.' See ALLIE, above n. 19, at 33, emphasis added.

⁹¹ See J. Loos, 'How Rajah's Children Adapted to Cape Life' *Cape Argus*, 12 September 2013, no page number available.

from the beginning and did not change until the end of the eighteenth century [the first period of Dutch rule ended in 1795]. Islam was tolerated – never encouraged, yet rarely seriously repressed.⁹²

As a consequence, Muslims were forced to practise their religion in private and no public congregations were allowed. Muslims faced the death penalty if they infringed this law by practising Islam in public. However, an equivalent prohibition did not apply to Christianity and its public propagation, especially by the Dutch Reformed Church.

Religious freedom was only granted by the Dutch authorities during the second period of Dutch rule in 1804. On 25 July 1804,⁹³ some 150 years after their first arrival, the Dutch lifted these sanctions and granted Muslims the freedom to practise their religion publicly.⁹⁴

This section deals with the conversions of the Rajah's four children who, as the children of exiles, were born into the above context and milieu. The fact that there was limited freedom of religion, together with the fact that their family was denied repatriation after the Rajah's death, may have been plausible contributing factors resulting in the children's conversion. Poverty, on the other hand, may have been a practical motivating factor justifying their conversion.

According to Islam, '[t]here is no compulsion in religion ...'⁹⁵ However, Islam is also deemed to adopt an unforgiving attitude to apostasy, with no less than the death sentence as a penalty where it can be enforced. Converting from Islam or becoming a *murtad*,⁹⁶ as the Rajah's children did, is deemed to be both an abomination and a cardinal sin from an Islamic law perspective, a fact that the Rajah would have known. In a nutshell, a *murtad* is a person who is born to a Muslim parent but who later rejects Islam. If such person converts from Islam to another religion (whether it is Christianity or Judaism), he or she is considered an apostate. If, however, that person was born into another religion, like Christianity or Judaism, he or she is regarded as a 'Person of the Book' (*Ahl al-Kitab*)⁹⁷ and an interfaith marriage between a Muslim male and such

⁹² My emphasis. J.E. Mason "A Faith for Ourselves": Slavery, Sufism, and Conversion to Islam at the Cape' (2000) 46(1) *South African Historical Journal* 3–24 at 8–9.

⁹³ N. MOOSA, 'South Africa: Indian Law' in S.N. KATZ (Editor-in-Chief), *The Oxford International Encyclopedia of Legal History Vol. 5*, Oxford University Press, 2009, pp. 283–284 at p. 283.

⁹⁴ MAHIDA, above n. 18, at p. 14.

⁹⁵ Qur'an, Chapter Two, verse 256.

⁹⁶ N. MOOSA AND M. ABDUROAF, 'South Africa: Implications of the Official Designation of Muslim Clergy as Authorised Civil Marriage Officers for Muslim Polygynous, Interfaith and Same-Sex Marriages in South Africa' in BANDA AND BRINIG, above n. 89, at pp. 339–340.

⁹⁷ This is the Qur'anic term for people, such as Christians or Jews, who followed an earlier holy scripture.

female person is permissible without the latter having to convert to Islam. In the case of a marriage between a Muslim female and a non-Muslim male, the latter must convert to Islam in order for the marriage to have validity. In both cases the children born of such marriages will be deemed to follow their father's religion, which by rule will always be Islam.⁹⁸

This begs the question: assuming that the Rajah's children accepted their fate (that they were to remain at the Cape), was their conversion a consequence of a limited freedom of religion or of free choice? The Rajah died in 1719, and his eldest child, a son, was 20 years old. The first conversion, and of this first-born child, occurred in 1721, two years after the Rajah's death. The children's conversions do not appear to make logical sense when only their Islamic upbringing and the lineage of their parents are taken into consideration. However, both parents made separate but unsuccessful attempts during their lifetimes to return to Indonesia. This, together with the straitened circumstances that they had to endure as a family as Muslims and exiles may have precipitated and warranted the conversions, especially given the timing of the first one. This does not preclude the possibility that they converted of their own free will.

Crypto-Islam is the secret adherence to Islam while publicly professing to be of another faith; people who practice crypto-Islam are referred to as 'crypto-Muslims'.⁹⁹

Forced conversion is adoption of a different religion or irreligion under duress. Some who have been forced to convert may continue, covertly, with the beliefs and practices originally held, while outwardly behaving as converts.¹⁰⁰

Whether this was the case with the Rajah's children, we will never know for sure.

The Rajah's children were Muslim persons of colour but were not slaves. During this time, Christians could also only enter into marriage with other Christians.¹⁰¹ It appears from Hoge's¹⁰² account (detailed below) that although

⁹⁸ See MOOSA, above n. 39, at pp. 33–34 (regarding inter-religious marriages) and p. 35 (regarding apostasy).

⁹⁹ See 'Crypto-Islam' available at <<https://en.wikipedia.org/wiki/Crypto-Islam>>, last accessed 30 April 2020.

¹⁰⁰ See 'Forced conversion' available at <https://en.wikipedia.org/wiki/Forced_conversion>, last accessed 30 April 2020.

¹⁰¹ M. UPHAM, 'What can't be cured, must be endured ... Cape of Good Hope – First marriages & baptisms (1652–1665)' (2015) 01 *UL* 1–116 at 12 in 'Remarkable Writing on First Fifty Years, Uprooted Lives Unfurling the Cape of Good Hope's Earliest Colonial Inhabitants (1652–1713)' available at <<http://www.e-family.co.za/ffly/RemarkableWriting/UL01WhatCantBeCured.pdf>>, last accessed 30 April 2020.

¹⁰² HOGE, above n. 8, at pp. 27–29. Given that he appears to have been the first scholar to have made the connection between the children and their parents based on the Company Resolution and their baptismal and marriage records, the information contained in this Section is both based on, and summarised from, Hoge's account.

the marriages of three of the Rajah's children were indeed preceded by their conversion from Islam to Christianity, one of the sons, Mochamat Aserk, who had by then acquired the status of 'free burghership', entered into marriage with a Christian woman in 1734 before he became a member of the church in 1746. This appeared to be among the privileges accorded to 'free burghers'. It is therefore clear that such interracial marriages were permitted and did not necessarily have to be preceded by conversion. Nonetheless, conversion was encouraged by the Statutes of India:

The Mardyckers were prohibited from openly practising their religion: Islam. This was in accordance with the Statute[s] of India which stated in one of its placats [statutes]: 'No one shall trouble the Amboinese about their religion or annoy them; so long as they do not practise in public or venture to propagate it amongst Christians and heathens. Offenders to be punished with death, but should there be amongst them those who had been drawn to God to become Christians, they were not to be prevented from joining Christian churches.' The same Placaat was re-issued on August 23, 1657 by Governor John Maetsuycker probably in anticipation of the advent of the Mardyckers to the Cape of Good Hope. The Placaat governed the Cape as part of the Dutch Colonial Empire.¹⁰³

It is clear from the baptismal record of their second born child (their only daughter) that their mother Zytie (Care Sale) was still Muslim. (The Rajah was deceased by then and had died a Muslim.) It is therefore doubtful that if she was clearly still able to be recorded as Muslim (Zytie Sara Marouff) on a Christian baptismal register without fear of censure, that she would have had any reason to want to change her religion thereafter to avoid any future problems for her children.

Care Sale was 61 years old in 1740, and had probably died at the Cape by the time her fourth son, David, left for Batavia in 1743.¹⁰⁴ Her death may explain why she never had an opportunity to eventually return to Indonesia with him. He is also her only child who wanted to return to the family's roots. As indicated in Section 1, it appears that in the same year (1743) that David left the Cape, there was a request from Indonesia for the Rajah's remains to be repatriated.¹⁰⁵ This begs the question whether it was coincidental or whether the Tamboras may still have been in contact with friends and family back home.

Hoge¹⁰⁶ refers to the Rajah's children by the same or similar names as those contained in the earlier (1720) Company Resolution, and uses church

¹⁰³ MAHIDA, above n. 18, at p. 2, emphasis added.

¹⁰⁴ *Ibid*, at p. 28.

¹⁰⁵ SLEIGH, above n. 27, at p. 234.

¹⁰⁶ See HOGE, above n. 8, at p. 28 fn. 8.

membership and baptismal registers of the Dutch Reformed Church in the Church Archives, Cape Town, as his source. He further details, that while little more is known about Mochamat, the youngest son (he was three when his father died and may have succumbed himself), the other children all converted from Islam to Christianity, were baptised, and entered into marriages with Dutch, German and French partners as follows:

- Ibraim Adahan was baptised as Abraham Addehan (also called de Haan) at about the age of 22 on 2 November 1721 (within three years of his father's death). He entered into marriage with a free Christian woman of colour the following year on 20 September 1722. They had five children (two sons and three daughters) and all of them were also baptised. He died in 1735 at the estimated age of 36. As detailed below, Ibraim became a progenitor of the members of a prominent Afrikaner family, the Retiefs.¹⁰⁷
- Sitina Asia was baptised as Maria Dorothea Sultania at about the age of 23 on 22 December 1726. She entered into two marriages, both with Christian men: with the first (from the Hague, the Netherlands) on 30 January 1729, and with the second (from Bremen, Germany) on 15 October 1741, where she died in the same year at the estimated age of 38. She apparently had no offspring. Sitina Asia's first husband was convicted of the violent crime of rape of a minor and executed in 1735.¹⁰⁸ It is therefore quite possible that he may have been abusive to her and that she may have married him and her second husband for economic reasons.
- Mochamat Aserk became Isaak Sultania and a member of the church on 7 April 1746 (at about the age of 35). He entered into two marriages with Christian women: the first on 31 October 1734 (with whom he had one daughter who was baptised) and the second, with a widow, on 27 June 1756. He died in 1765 at the estimated age of 54.
- Mochamat Dayan became David Sultania and a member of the church on 18 December 1739 (at about the age of 27, some 20 years after the death of his father). He entered into marriage with a Christian widow (a daughter of French Huguenot parents¹⁰⁹) on 3 July 1740, and with whom he had two children (a son and a daughter, both of whom were baptised). He left the Cape for Indonesia in 1743 presumably with his family, and probably also died there.¹¹⁰

¹⁰⁷ See text to n. 120.

¹⁰⁸ See Loos, above n. 91.

¹⁰⁹ See *ibid.* 'Huguenots were French Protestants who held to the Reformed, or Calvinist, tradition of Protestantism.' See 'Huguenots' available at <<https://www.google.com/search?q=huguenot&qq=hugeo&aqs=chrome.2.69i57j0l3.238902j0j7&client=ms-android-samsung-gj-rev1&sourceid=chrome-mobile&ie=UTF-8>>, last accessed 30 April 2020.

¹¹⁰ See text to n. 129.

The Rajah's oldest child, a son, was baptised (in 1721) at the age of 22. His mother was about 40 years old when her husband died, and thus 42 when her first child was baptised. She appeared to have remained monogamously married to the Rajah until his death. The baptisms/conversions of the three other children followed at a much later stage. Given that they were all over the age of 18 at the time of their baptism, they did not require adult permission to convert. In terms of the process followed in the Dutch Reformed Church, church membership would ordinarily follow after the baptism. As is common practice today, such baptisms would presumably be preceded by educational sessions with a minister when convertees would be expected to answer certain questions to ensure that their conversions were genuine.¹¹¹ Whether this process was followed then, is not certain. Presumably it was, and the children therefore genuinely desired to convert.

Whether or not the children's conversions were genuine or had the blessing of their mother is uncertain. Loos notes that one of the sons, Mochamat Aserk or Isaak Sultania, 'appeared as a witness at several infant baptisms and played a prominent role in the small free black community'.¹¹² However, the subsistence the family received from the Company was not enough to support a family of six and some slaves (as inferred from the Company Resolution dated 24 September 1720). In a Letter dated 30 November 1702,¹¹³ the Rajah mentions the name of his manservant, Rinchou, relatively early in his marriage. From the two Company Resolutions pertaining to Care Sale, it appears that her slaves (her own or given by the Company) were either taken away or giving her trouble. While the Rajah was en route back to the Cape in 1713 to serve a second period of exile there, the Cape experienced a smallpox epidemic.¹¹⁴ Stripped of his title and the privileges that may in the past have been associated therewith, meant that maintaining a family of seven and some slaves, during a period of extreme hardship at the Cape, could not have been an easy task. As detailed in Section 4, a further Company Resolution (dated 8 December 1722) highlights that the family's financial position had not improved three years later, by which time the oldest son had converted to Christianity (2 November 1721) and entered into marriage (20 September 1722). It can therefore be inferred from his mother having to yet again approach the Company for further support

¹¹¹ Personal communication from Mr. D.S Malan, a member of the Dutch Reformed Church, 29 March 2020.

¹¹² See Loos, above n. 91.

¹¹³ See n. 71.

¹¹⁴ See R.C.H. SHELL, 'The March of the Mardykens: The Toleration of Islam at the Cape, 1633–1861' (1995) 22 *Kronos* 3–20 at 7 where Shell refers to 'the 1713 smallpox epidemic'. Valentijn (above n. 3, p. 187) confirms that '[s]mallpox [was] unknown here before 1713' and at p. 217: 'there was never any smallpox here before 1713; but then there was a very severe epidemic'.

in 1722, that she could not only depend on him, or any material benefit that may have flowed from his conversion, to spare the rest of her family from possible destitution. However, an argument that her children's conversions, in a milieu where there was limited freedom of religion, may have been materially motivated to help alleviate some of the stresses associated with the family's circumstances, would not be without some merit. As detailed below, a Company Resolution (dated 1731) highlights that this appears to have been the case a decade later as far as her eldest son was concerned.

It may be difficult to fathom why the Rajah's children wanted to convert to Christianity during a period of Dutch rule when '[m]any Christian clerics were nonplussed by the lack of appeal that Christianity had for slaves and free people of colour ... many had no idea of religion at all, but those who did were attracted to Islam "and will not think of any other creed"¹¹⁵

An examination of the content of a Company Resolution (dated 13 December 1731), some ten years after his conversion (1721) and marriage (1722) at the Cape, finds that the Rajah's eldest son, Abraham (formerly, Ibraim) also appears to have improved his social and economic standing as a consequence of his conversion and marriage.¹¹⁶ However, he remained Christian.

However, history also abounds with examples of Muslims who converted to Christianity, including descendants of the Prophet of Islam (Muhammad) himself.¹¹⁷ It can therefore be both prudent and convenient to argue, given that there are such cases of voluntary conversion to Christianity, it may therefore not have been unusual for the Rajah's children also to have done so both willingly and from a free choice. It can be argued, though it is doubted that this was the case, that since they may also have been experienced in practising Islam in private, as the law obliged them to do and as their parents did, that they may have continued to do so. The only indication to the contrary may have been the son who returned to Indonesia. He may have been an orphan by then. Why did he still feel the need to return to Indonesia, where he had lived only briefly, if he was a happy Christian? What happened to his family once they moved to Indonesia? Did he/they 'revert' to Islam? This may be a topic for further enquiry.

Although Ministers like Kalden and his successor were recruited to the Cape to evangelise, and visiting Minister Valentijn gave sermons at the Castle, there is not a sufficient basis to assume that conversion to Christianity of political exiles and their families was a key goal of the VOC.

¹¹⁵ Loos, above n. 41, at p. 49.

¹¹⁶ See Resolutions of the Council of Policy of Cape of Good Hope, 13 December 1731, Reference number: C. 88, pp. 93-101 available at Resolutions of the Council of Policy of Cape of Good Hope, Cape Town Archives Repository, South Africa, available at <http://databases.tanap.net/cgh/make_pdf.cfm?artikelid=22866>, last accessed 30 April 2020.

¹¹⁷ See 'List of converts to Christianity from Islam' available at <https://en.wikipedia.org/wiki/List_of_convert_to_Christianity_from_Islam>, last accessed 30 April 2020.

As a recent (2018) biography of Tuan Guru, a later ‘Orang Cayeng’ (royal political exile), by journalist and convert to Islam, Shafiq Morton, highlights:

[The Rajah’s] ... children became Christian, and the ancestors of the Sultania and De Haan families. The Afrikaner Voortrekker family, the Retiefs^[118], are believed to have descended from the De Haans.¹¹⁹

There is no doubt that the children of the Rajah and his wife Zytie (or Care Sale) converted to Christianity at the Cape, and that as a consequence their descendants remain a part of its history:

A ... later progenitor of several Afrikaner families was Ibrahim Adehaan, later known as Abraham de Haan. Abraham was the son of Abulbasi, the Rajah of Tambora He is described in the Cape baptismal registers as an ‘elderly freeborn Mohammedan’ who, on 2 November 1721 was confirmed as a Christian. He married Helena Valentyn in Cape Town on 20 September 1722 – she was the daughter of Hercules Valentyn of the West Coast of India and Cecelia van Bengale The latter were married in 1716, long after the birth of their daughter Helena. Adehaan’s [three] daughters [and one son] of this marriage [were all baptised and] all married whites ...¹²⁰

Although they may have left the Islamic fold through their conversion to Christianity, they ultimately remained ‘People of the Book’. Ironically, the same Governor (Willem Adriaan van der Stel), for whom the Rajah in 1705 was penning a copy of what could have been the first handwritten Qur’an in South Africa, had five years earlier (in 1700) laid one of the first foundation stones of

¹¹⁸ Although there is a connection with the Retief family, it appears that Robert Shell (in his 1974 BA thesis) may have wrongly claimed that the controversial political figure, and Voortrekker leader, Piet Retief, was a descendant of the Rajah. See MAHIDA, above n. 18, at p. 4. The familial connection appears not to be with Francois Retief (eldest brother of Piet Retief) but with a different Francois Johannes Retief, who was Piet Retief’s father’s cousin. This information was confirmed by Dr. A. Kok (Head of the NGK Archive and Chairperson of the Huguenots Society of South Africa) on 31 March 2020. For details on this connection see ‘Van Tambora Rajah – Stamouers.com’ available at <<https://www.stamouers.com/stamouers/surnames-v-z/562-van-tambora-rajah>>, last accessed 30 April 2020.

¹¹⁹ See MORTON, above n. 67, at p. 111 fn. 194.

¹²⁰ H.F. HEESE, ‘Cape Melting Pot: The Role and Status of the Mixed Population at the Cape 1652-1795’ (2015) 40 as translated into English from Afrikaans and published by Delia Robertson from ‘Groep Sonder Grense: Die Rol en Status van die Gemengde Bevolking aan die Kaap 1652-1795’ (1984). *Bellville: Institute for Historical Research of the University of the Western Cape*. The English translation is available in pdf format on Researchgate at <https://www.researchgate.net/publication/331407552_CAPE_MELTING_POT_THE_ROLE_AND_STATUS_OF_THE_MIXED_POPULATION_AT_THE_CAPE_1652-1795_AS_TRANSLATED_BY_DELIA_ROBERTSON_FROM_GROEP_SONDER_GRENSE>, last accessed 30 April 2020. See n. 107.

the very church in which the Rajah's children were to be baptised after the Rajah's death (in 1719). This church, the Groote Kerk in Cape Town, had adopted the Dutch Reformed denomination of Christianity that was practised at the Cape, and is the oldest church in South Africa.¹²¹ It is also ironic that, in spite of the wasted years of apartheid (racial segregation) that South Africans experienced until the start of democracy in 1993, and which forbade such marriages, the marriages of the children of Abulbasi and Care Sale, produced children of mixed race even during a period of Dutch colonialism. Care Sale resigned herself to her fate at the Cape and remained Muslim. Despite their conversions, the Rajah's children and grandchildren remained 'People of the Book' and ultimately believers. Instead of being silent about these conversions, especially given the context and circumstances which may have precipitated them, Muslim religious authorities should acknowledge them as part of the vagaries of the history of Islam in South Africa.

6. CONCLUSION

The Council of Policy was the VOC's highest authority at the Cape and its formally documented Resolutions therefore carried great legal weight.¹²² The Resolution of the Council of Policy of the Cape (dated 24 September 1720), by denying the request of the Rajah's wife to return to Indonesia after his death there, sealed the fate of this family and changed the course of their destiny, including the change of the religion into which the Rajah's children were born.

The Rajah of Tambora, a 'minor ruler'¹²³ and the only repeat exile to the Cape, had avoided the punishment of death at the Cape. Had his death sentence been carried out when he arrived at the Cape in 1698, these children would not have been born. It is contended that had the family been permitted to return to Indonesia, they may have had influential friends and family to turn to for support. The fact that the Rajah's widow and children remained in South Africa, in straitened economic circumstances, would therefore explain the conversions and marriages of her children. These conversions and marriages appear to have greatly enhanced their social and economic status with the Dutch and therefore made their return to Indonesia less likely.

¹²¹ See 'The History of Cape Town – a Tourist Guide' available at <http://capetownhistory.com/?page_id=246>, last accessed 30 April 2020.

¹²² See LIEBENBERG, above n. 3, at p. 4.

¹²³ WARD, above n. 5, at p. 211.

Neither Indonesia nor South Africa currently has a law against apostasy and the Constitutions of both countries provide for freedom of religion.¹²⁴ Yet, had these children apostatised from Islam in an Islamic State that prohibits it, as Indonesia did, they would have faced the death penalty in terms of certain interpretations of Islamic law. Then, as is still the case in South Africa today, if entered into as a purely religious marriage, Muslim marriages did not grant any lasting benefits to women and children upon death or divorce, and were moreover not legally recognised.¹²⁵ However, Christian marriages were, and still are, automatically recognised as legal, civil marriages and therefore provided a more promising and secure future for the Rajah's children and legitimacy to their offspring. In order to improve their chances to enter into these marriages with Christian spouses, the Rajah's children opted not to remain Muslim. However, they remained believers. The hardship facing these minority religion exiles is not uncommon today. In order to survive financially, indigent immigrants may often have to give up their religious or cultural heritage, especially when their religion is merely tolerated rather than given equal status by their new country.

The Rajah, given the marriage of his children to 'free burghers' (early settlers) at the Cape, may ultimately have left descendants of mixed 'coloured' and European descent in South Africa, Indonesia, as well as in several countries in Europe (France, Germany and the Netherlands), many of whom may not even be aware that their ancestry can be traced back to a Muslim royal family from Indonesia. The Rajah's widow may have resigned herself to her fate but her children chose not to be victims of their circumstances and paved their way to better prospects by the choices that they made. Ultimately, this begs the question whether the fate of the children of this particular exile was such a bad one after all?

During the approximately 150 years (from 1652 to 1795) of the first period of Dutch rule at the Cape 'the Council of Policy wrote millions of words on thousands of folio pages about matters concerning everyday life at the Cape'.¹²⁶ There may therefore be much more information pertaining to the Rajah's family that remains untapped. This chapter has highlighted the following issues in need of further investigation by scholars.

We have conflicting scholarly sources which report that when the Rajah returned to the Cape from Indonesia for the second time, some eight¹²⁷ or 20¹²⁸

¹²⁴ For the position in Indonesia and its Constitution (1945) see 'Apostasy in Islam' available at <https://en.wikipedia.org/wiki/Apostasy_in_Islam#Indonesia>, last accessed 24 April 2020.

¹²⁵ See Section 2.

¹²⁶ See LIEBENBERG, above n. 3, at p. 4.

¹²⁷ See VAN RENSBURG, above n. 76, at 199 fn. 33 and WARD, above n. 5, at p. 210 n. 113 and p. 211. See also n. 26 and WARD, above n. 64.

¹²⁸ SLEIGH, above n. 27, at p. 234.

other people, also banished from Tambora, accompanied him. Although there is no clear indication to that effect, these persons are assumed by these scholarly sources to have formed part of the Rajah's entourage. We do not know if there is a list of the names of the people who may have accompanied the Rajah to South Africa for his two periods of exile there, to verify that he married Care Sale in Indonesia (which is implied in a reference in the travel account of Valentijn, the cleric who visited the Cape). One of the Rajah's sons returned to Indonesia in 1743 but we do not have any information as to what happened to him.¹²⁹ Strangely, in the same year a call was also made for the return of the Rajah's remains. We know that this did not happen, and we are not sure if the Rajah was buried in the area where he last lived (Stellenbosch). We also do not know when his wife Care Sale died or where she may be buried.

¹²⁹ See text to n. 110.

