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Griet Vermeesch

## The social composition of plaintiffs and defendants in the Peacemaker court, Leiden, 1750–54\*

**ABSTRACT:** This article assesses the social positions of the plaintiffs and defendants who appeared before a small claims court, namely the Peacemaker court (*Vredemakers*) of the city of Leiden in the Dutch Republic in the eighteenth century, a low threshold law court that boasted a quick and inexpensive procedure. Analysis of the social positions of the court's plaintiffs and defendants helps reveal the extent to which lower social groups actively made use of it. The article is based on linkage between a sample of users of the Peacemaker court during the years 1750–54 and a census of 1749 comprising socio-economic data for the entire Leiden population. The court clientele of the Peacemaker court was distinctively elitist. The court was thus first and foremost a forum for an inner group of more well-to-do households who were firmly established in the local community. The Peacemaker court was notably inexpensive and simple in its procedures, yet lower social groups remained markedly reticent to file complaints there, revealing a significant socio-cultural gap between these groups and the burgomasters and aldermen who staffed and maintained the courts.

**KEYWORDS:** court; Dutch Republic; eighteenth century; Leiden; litigation

In recent years social historians have exploited the potential of legal records for examining the social and cultural history of pre-industrial Europe, given that they offer wide-ranging information about social relations and how they evolved.<sup>1</sup> Early modern communities were highly litigious and it was not uncommon for people, even the illiterate, to undertake legal recourse, especially for very small claims. As Richard Kagan

\*The research for this article was carried out during the period of a Postdoctoral fellowship granted by the Flemish Research Foundation (FWO) and within the Inter-university Attraction Pole Programme (Belgian Science Policy Office) 'City and Society in the Low Countries (c. 1200–c. 1850)', 'The "condition urbaine": between resilience and vulnerability'. I wish to thank my colleagues from the research group HOST (Historical Research in Urban Transformation Processes) at the Vrije Universiteit Brussels, and especially Anne

Winter, for many valuable comments on earlier versions of this article.

<sup>1</sup>Examples include Elisabeth Cohen, 'She said, he said: situated oralities in judicial records from early modern Rome', *Journal of Early Modern History*, 16 (2012), 403–30; Emanuel Buttigieg, 'Childhood and adolescence in early modern Malta (1565–1632)', *Journal of Family History*, 33 (2008), 139–55; Derek Neal, 'Suits make the man: masculinity in two English law courts, c. 1500', *Canadian Journal of History*, 37 (2002), 1–22.

observed for early modern Castile, the fact that even a ‘somewhat underdeveloped, largely pastoral country in which no more than 25 per cent of the male population was literate, could support a litigious society . . . was part of a legal regime typical of much of early modern Europe’.<sup>2</sup> Unsurprisingly, historians have thus tended to assume implicitly – and sometimes explicitly – that legal records offer an exceptionally broad and socially differentiated illustration of the society in question. It appears that lower social groups, despite being conspicuously absent in tax registers, estate inventories, wills and diaries, did surface in legal records. In addition, in light of the increasing consideration of legal institutions as guided by their users, it is thought that their archival records contain ample traces by which to examine the agency of lower social groups.<sup>3</sup> For instance, Lawrence Stone has argued that legal records were ‘a point of entry into the mental world of the poor’.<sup>4</sup> Tim Hitchcock, in a review article on the so-called ‘new history from below’, noted how legal records provide new scope for analysing the agency of the poor.<sup>5</sup>

This article seeks to test explicitly the assumption that the clientele of early modern judicial infrastructure was indeed socially differentiated and inclusive. This will be done by assessing the social positions of the plaintiffs and defendants who appeared before a specific small claims court, namely, the Peacemaker court (*Vredemakers*) of the city of Leiden in the Dutch Republic in the years 1750 to 1754. The Peacemaker court, created in 1598, was technically a low threshold law court whose purpose was to (preferably) arbitrate and (if necessary) adjudicate petty lawsuits. It boasted a quick and inexpensive procedure that was based on ‘good judgment’ rather than formal law.<sup>6</sup> Analysis of the social positions of plaintiffs and defendants at such a court helps reveal the extent to which lower social groups came into contact with the judicial infrastructure, and the extent to which they actively made use of it. This article concentrates on a civil law court, as people were generally more likely to have immediate contact with civil justice procedures than with criminal justice.<sup>7</sup>

Such an enterprise is valuable for at least two reasons. First, if social historians are to use civil legal records to examine social relations and social change, it is essential to know which social groups come into view in such records. Second, it is worthwhile to establish the extent to which lower social groups used a judicial infrastructure that would prove a cornerstone of early modern governance. A process of ‘Verrechtlichung’, or

<sup>2</sup>Richard L. Kagan, ‘A golden age of litigation: Castile, 1500–1700’ in John Bossy (ed.), *Disputes and Settlements. Law and Human Relations in the West* (Cambridge, 1983), 145–66, here 156.

<sup>3</sup>Martin Dinges, ‘The uses of justice as a form of social control in early modern Europe’ in Herman Roodenburg and Pieter Spierenburg (eds), *Social Control in Europe 1500–1800*, vol. 1, 1500–1800 (Colombus, 2004), 159–75.

<sup>4</sup>Lawrence Stone, *The Past and the Present Revisited* (London, 1987), 241.

<sup>5</sup>Tim Hitchcock, ‘A new history from below’, *History Workshop Journal*, 57 (2004), 294–8, here 297.

<sup>6</sup>Aries van Meeteren, *Op hoop van akkoord. Instrumenteel forumgebruik bij geschilbeslechting in Leiden in de zeventiende eeuw* [In Hope of Agreement. Use of Forums for Dispute Settlement in Seventeenth-century Leiden] (Hilversum, 2006), 226–73.

<sup>7</sup>C. W. Brooks, ‘Interpersonal conflict and social tension: civil litigation in England, 1640–1830’ in A. L. Beier, David Cannadine and James M. Rosenheim (eds), *The First Modern Society. Essays in English History in Honour of Lawrence Stone* (Cambridge, 1989), 357–99.

'juridification', of early modern communities is considered to have accompanied the emergence of state organizations at local and national levels.<sup>8</sup> To what extent, then, did the early modern (local) state penetrate the lives and relations of lower social groups? And to what extent were lower social groups able to draw upon state 'institutions as a resource to serve their own interests'?<sup>9</sup> If, indeed, current historiography regards early modern civil law courts as 'the primary nexus between state and society, the sites where men and women were most likely to interact with representatives of official authority', then it is essential to assess which social groups did and did not participate in such interactions.<sup>10</sup> Likewise, if civil law was truly crucial 'in maintaining the social and economic relations in any society', it merits identifying who participated in such relations.<sup>11</sup>

This article consists of three sections. The first section discusses the historiography of the clientele of early modern civil law courts in France and England, two western European countries that have been relatively well studied in this regard, in order to provide a comparative framework for examination of the Leiden case. In the second section, the choice and relevance of the case studied, the Peacemaker court of the Dutch city of Leiden during the years 1750 to 1754, will be explained. The last section considers the social composition of the clientele of the Leiden Peacemaker court.

#### STATE OF THE ART: THE CLIENTELE OF EARLY MODERN LAW COURTS

The most striking characteristic of the medieval and early modern European legal tradition is its judicial pluralism.<sup>12</sup> Across Europe, various systems of law courts – variously vested in local, regional, national and international power networks – vied with each other, resulting in a dense network of courts that heard disputes between 'ordinary people'.<sup>13</sup> For example, in old regime France there was a royal or seigniorial judge for approximately every 400 to 600 inhabitants.<sup>14</sup> A wide range of other formal and less formal institutions that also mediated conflicts supplemented such formal royal law courts.<sup>15</sup> In England an extensive system of law courts was maintained, with common law courts, equity courts and local courts that used customary law, as well as ecclesiastical courts and summary courts whose justices of the peace arbitrated petty

<sup>8</sup>Joachim Eibach, 'Burghers or town council: who was responsible for urban stability in early modern German towns?', *Urban History*, 34 (2007), 14–26; Steve Hindle, *The State and Social Change in Early Modern England, 1550–1640* (Basingstoke, 2002), 87–93; Herman Roodenburg, 'Social control viewed from below. New perspectives' in Roodenburg and Spierenburg (eds), *op. cit.*, 145–58; Bruce Lenman and Geoffrey Parker, 'The state, the community and the criminal law in early modern Europe' in V. A. C. Gatrell (ed.), *Crime and the Law. The Social History of Crime in Western Europe since 1500* (London, 1980); Nicole Castan, 'The arbitration of disputes under the "Ancien Régime"' in Bossy (ed.), *op. cit.*, 219–60.

<sup>9</sup>Hindle, *op. cit.*, 13.

<sup>10</sup>Michael Breen, 'Law, society, and the state in early modern France', *Journal of Modern History*, 83 (2011), 346–86, here 354.

<sup>11</sup>Brooks, 'Interpersonal conflict', *op. cit.*, 357.

<sup>12</sup>R. C. Van Caenegem, 'History of European civil procedure' in Mauro Cappellelli (ed.), *International Encyclopedia of Comparative Law*, vol. XVI, *Civil Procedure* (Tübingen, 1972), 6.

<sup>13</sup>On the exceptionally litigious nature of early modern European society see Richard Kagan, *Lawsuits and Litigants in Castile, 1500–1700* (Chapel Hill, 1981), xvii–xx.

<sup>14</sup>Breen, *op. cit.*, 348.

<sup>15</sup>Benoit Garnot, *L'infrajudiciaire dy Moyen Age à l'époque contemporaine. Actes du colloque de Dijon 5–6 octobre 1995* (Dijon, 1996).

conflicts.<sup>16</sup> This was also the case with other early modern states, including the Dutch Republic and Spain.<sup>17</sup>

It should be emphasized that besides public authorities who organized formal law courts there were also various civilian and religious local institutions involved in dispute settlement. The figure of the parish priest, for example, performed important tasks as arbitrator, either informally (on an *ad hoc* basis) or via fixed religious rituals.<sup>18</sup> Immediate neighbours as well as institutionalized neighbourhood organizations arbitrated conflicts, as did migrant communities, prominent (noble) members of the local community, guilds and notaries.<sup>19</sup> Informal dispute settlement was almost certainly exercised far more extensively than was conflict arbitration via formal law; none the less, formal legal procedures clearly held a prominent place in early modern communities.

The informal and various formal legal institutions of the period commonly overlapped. According to some historians, people were generally quite adept at strategically selecting which law court best served their purposes.<sup>20</sup> Thus the complex judicial infrastructure that functioned throughout early modern Europe is thought to have been accessible to social groups of modest social and cultural backgrounds. Michael Sonenscher has described how French journeymen were familiar with the conceptual framework and the vocabulary of the legal system and how they went about submitting their claims to the high courts.<sup>21</sup> Steve Hindle, in describing litigation at the Star Chamber in sixteenth- and seventeenth-century England, has noted that ‘even the most humble of people made threats of litigation or showed themselves aware of the legal implications either of their own actions or those of others’.<sup>22</sup>

<sup>16</sup>Martin Ingram, ‘Communities and courts: law and disorder in early seventeenth-century Wiltshire’ in J. S. Cockburn (ed.), *Crime in England 1550–1800* (London, 1997); Michael Braddick, *State Formation in Early Modern England, c. 1550–1700* (Cambridge, 2000), 137–40; Peter King, ‘The summary courts and social relations in eighteenth-century England’, *Past and Present*, 183 (2004), 125–72; Martin Ingram, *Church Courts, Sex and Marriage in England, 1570–1640* (Cambridge, 1987).

<sup>17</sup>Van Meeteren, *op. cit.*; Kagan, *Lawsuits and Litigants*.

<sup>18</sup>Anne Bonzon, ‘Les curés médiateurs sociaux. Genèse et diffusion d’un modèle dans la France du XVII<sup>e</sup> siècle’, *Revue d’histoire de l’Église de France*, 97 (2011), 35–56.

<sup>19</sup>Raingard Esser, ‘“They obey all magistrates and all good lawes . . . and we thinke our cittie happie to enjoye them”: migrants and urban stability in early modern English towns’, *Urban History*, 34 (2007), 64–75; van Meeteren, *op. cit.*; Harald Deceulaer, ‘Guilds and litigation: conflict settlement in Antwerp (1585–1796)’ in Marc Boone and Maarten

Prak (eds), *Individual, Corporate and Judicial Status in European Cities (Late Middle Ages and Early Modern Period)* (Leuven, 1996), 171–208; Craig Muldrew, ‘The culture of reconciliation: community and the settlement of economic disputes in early modern England’, *Historical Journal*, 39 (1996), 915–42; Herman Roodenburg, ‘De notaris en de erehandel. Beledigingen voor het Amsterdamse notariaat, 1700–1710’ [‘The notary and the “negotiation of honour”. Insults before the Amsterdam notary, 1701–1710’], *Volkskundig Bulletin*, 18 (1992), 367–88; John Bossy, ‘Postscript’ in Bossy (ed.), *op. cit.*, 287–93; Castan, *op. cit.*; Garnot, *op. cit.*

<sup>20</sup>Dinges, *op. cit.*, 159–75; Roodenburg, ‘Social control’, *op. cit.*, 145–58; J. A. Sharpe, ‘“Such disagreement betwix neighbours”. Litigation and human relations in early modern England’ in Bossy (ed.), *op. cit.*, 169–87.

<sup>21</sup>Michael Sonenscher, *Work and Wages. Natural Law, Politics and the Eighteenth-century French Trades* (Cambridge, 1989), chap. 3.

<sup>22</sup>Hindle, *op. cit.*, 91.

However, assessing the social composition of formal law courts is a challenging exercise. In her study of the relation between French peasants and the law, Olwen Hufton declares that it is difficult to define the socio-economic status of the clientele of tribunals.<sup>23</sup> Tim Stretton argues that attempting to chart the social position of female litigants at the Elizabethan Court of Requests is 'a risky endeavour'.<sup>24</sup> Zoe Schneider explains that, in her study of the local courts in Normandy, the records she examined 'draw an opaque curtain across the exact economic and social identity' of litigants.<sup>25</sup>

Historians, in assessing the social positions of litigants, must necessarily rely mainly on data from court records. This entails several methodological problems, however, not least because professions of alleged poverty are hardly reliable, as such claims were often made solely for the purpose of winning a lawsuit. The size of the claims is a problematic indicator of social position too, for wealthy parties could also sue for small amounts of money. The denominator for social status attributed by contemporaries is helpful, yet provides only a limited view of litigants' socio-economic identities. Historians use data about litigants' occupations primarily to estimate their social positions, yet such data only reveal social positions to a limited extent. A master craftsman, for example, might have been an affluent entrepreneur or a semi-proletarianized sub-contractor. Due to these methodological issues, historians have yet to offer much analysis of the social composition of the clientele of early modern law courts.

Nevertheless, historians continue to stress the socially broad use of early modern civil law courts. This emphasis is a result of the historiographical shift of recent decades away from the legal-institutional approach and towards a social-cultural approach. Moreover, it has become increasingly understood that ordinary people were much more likely to come into contact with civil justice than with criminal justice. Thus, while criminal law still dominates the field of socio-legal history, civil and private litigation have come to attract increasing attention from scholars. The study of civil litigation has revealed that private litigation was in fact used mainly by common people and was not, as had earlier been thought, dominated by a small group of wealthy families.<sup>26</sup>

Christopher Brooks pioneered this research for early modern England. He examined the social position of litigants at the London Kings' Bench and the Common Pleas for 1560, 1606 and 1640 and determined that the social status of more than three-quarters of the parties was below the rank of gentry.<sup>27</sup> Further specification of the social position of parties within this large group of 'non-gentry' litigants was difficult to accomplish using the court records as the main source; Brooks estimated, however, that about a third of

<sup>23</sup>Olwen H. Hufton, 'Le paysan et la loi en France au XVIII<sup>e</sup> siècle', *Annales. Économies, Sociétés, Civilisations*, 38 (1983), 679–701, here 681.

<sup>24</sup>Tim Stretton, *Women Waging Law in Elizabethan England*, Cambridge Studies in Early Modern British History (Cambridge, 1998), 92.

<sup>25</sup>Zoe A. Schneider, *The King's Bench. Bailiwick Magistrates and Local Governance in Normandy, 1670–1740* (Rochester, 2008), 165.

<sup>26</sup>Brooks, 'Interpersonal conflict', *op. cit.*; J. A. Sharpe, 'The people and the law' in B. Reay (ed.), *Popular Culture in Seventeenth-century England* (London, 1985), 244–70.

<sup>27</sup>C. W. Brooks, *Pettyfoggers and Vipers of the Commonwealth. The 'Lower Branch' of the Legal Profession in Early Modern England* (Cambridge, 1986), 57–61, 281. See also his collection of essays: C. W. Brooks, *Lawyers, Litigation, and English Society since 1450* (London, 1998).



these parties ‘lived on or below the edge of subsistence’, though his sources lacked the data firmly to support such claims.<sup>28</sup>

Richard Kagan, whose analysis of the court business of Castilian chanceries in the sixteenth and seventeenth centuries established him as a pioneering figure in research to determine the social composition of litigants, emphasized the modest social identity of most litigants; indeed, Kagan stated that the court records labelled no less than 10 per cent of the litigants as ‘de pobres’, a term for signifying ‘poor’ people who availed themselves of free legal services so as to wage a lawsuit.<sup>29</sup> However, litigants who received free legal aid were not necessarily from the lower social groups. In all likelihood they were often from middling groups but had suffered sudden disaster that entitled them to aid.<sup>30</sup> As Kagan confirms, landless day workers, though they constituted the largest segment of the population, in fact rarely initiated lawsuits.<sup>31</sup> Thus Brooks and Kagan, even as they stressed that a ‘cross-section’ of the population used law courts, recognized that the demographically dominant groups – namely, the lower social orders – seldom resorted to litigation.

These findings likewise apply to eighteenth-century France, as has been confirmed by Olwen Hufton, whose research showed that most peasants made only limited use of law courts (civil and criminal) to settle disputes, largely because of the vast economic, socio-cultural and geographical disparities between such peasants and the law courts.<sup>32</sup> Tim Stretton’s analysis of the Elizabethan Court of Requests shows that this so-called ‘poor man’s chancery’ was likewise used mainly by middling groups. According to Stretton, ‘The poor who sought benefit in Requests were the temporarily poor, individuals recently dispossessed of their substance or in imminent danger of dispossession, or the powerless poor such as orphans.’<sup>33</sup> London’s central law courts were not easily accessible for households and individuals of modest social backgrounds, not least because of the literal distance to be covered. Thus even people who were allowed to litigate *in forma pauperis* had to procure substantial expenses, even before litigation had begun, for travelling to London and for lodgings and other outgoings.<sup>34</sup>

Local law courts may have attracted clientele from broader layers of society. Research in recent years has increasingly focused on local law courts that were geographically proximate to many potential users. However, it must be added that few historians have accomplished exhaustive assessments of the social profiles of court users. As was explained above, they mostly rely on proximate data such as professions. Craig Muldrew provides the only exception to such ‘guesstimating’ analysis. In his seminal research into credit relations in early modern England, he found that, for the borough court of King’s Lynn in the years 1683–6, most of the community’s approximately 1800 households were at some point involved in initial stages of litigation, including the poorest. He linked data on

<sup>28</sup>Brooks, *Pettyfoggers*, *op. cit.*, 60–1.

<sup>29</sup>Kagan, ‘A golden age’, *op. cit.*, 152; Kagan, *Lawsuits and Litigants*, 13.

<sup>30</sup>Simona Cerutti, ‘“Les misérables” en droit Italien au XVIIIe siècle’ in Claudia Moatti and Wolfgang Kaiser (eds), *Gens de passage en Méditerranée de l’Antiquité à l’époque moderne. Procédures de contrôle et d’identification* (Paris,

2007), 223–42; Griet Vermeesch, ‘Access to justice. Legal aid to the poor at civil law courts in the eighteenth-century Low Countries’, *Law and History Review*, 32 (2014), 683–714.

<sup>31</sup>Kagan, ‘A golden age’, *op. cit.*, 155.

<sup>32</sup>Hufton, *op. cit.*

<sup>33</sup>Stretton, *op. cit.*, 98.

<sup>34</sup>*ibid.*, 84.

wealth with data on court use.<sup>35</sup> After categorizing the litigants into eight wealth categories, Muldrew estimated that the poorest category was responsible for 64 per cent of all complaints, which generally corresponds with the category's demographic weight. These litigants used the court to sue people from the same category (61 per cent of their cases) as well as their social betters.<sup>36</sup> As Muldrew concluded, the court was 'a surprisingly egalitarian and accessible institution' with 'little social bias in terms of who could use the law against whom'.<sup>37</sup>

Research into English eighteenth-century summary courts has produced similar conclusions. In such courts, justices of the peace (most of whom were unpaid) arbitrated disputes between community members in a transparent way and for relatively low fees. Despite the problematic source materials left by these courts, Peter King has denoted that, in the eighteenth century, 'the vast majority of the population' experienced the legal system via these summary courts, which heard disputes ranging from criminal offences, such as theft and assault and disorderly behaviour, to poor relief offences to disputes over debts, contracts and labour relations. Middling groups surfaced equally and sometimes slightly more in the records of the summary courts than did the labouring poor in proportion to their respective demographic weights.<sup>38</sup>

Thus the research on low threshold local courts in England would appear to confirm the assumptions about the generally widespread social inclusiveness of early modern law courts. However, there are indications that this inclusiveness gradually decreased during the eighteenth and nineteenth centuries. Norma Landau and Douglas Hay allude to this contraction in their respective works examining summary courts, even though further more detailed research is required.<sup>39</sup> As such, the social inclusiveness of the clientele of English law courts, as established by Muldrew and King, is not necessarily valid for late eighteenth-century England.

Research on French law courts does not include rigorous assessments of the social profiles of court users. None the less, historians who have examined such courts do report their impressions regarding the social groups who made use of them. It tentatively seems that English patterns of 'socially inclusive' litigation should not be projected on to continental Europe. Examination of urban law courts in seventeenth-century Nantes and Lyon suggests that middling-group households who found themselves at risk of losing their economic independence were especially prone to using these courts. Julie Hardwick asserts that 'working families from urban commercial milieus' were especially disposed to seeking legal recourse, particularly households who 'were on the front line of the uncertainty of the early modern economy and dependent on liquid assets'. She notes that

<sup>35</sup>Craig Muldrew, 'Credit and the courts: debt litigation in a seventeenth-century urban community', *Economic History Review*, 46 (1993), 23–38.

<sup>36</sup>*ibid.*, 33, 35.

<sup>37</sup>*ibid.*, 36.

<sup>38</sup>King, *op. cit.* See also Douglas Hay, 'Master and servant in England. Using the law in the eighteenth and nineteenth centuries' in Willibald Steinmetz (ed.), *Private Law and*

*Social Inequality in the Industrial Age. Comparing Legal Cultures in Britain, France, Germany and the United States* (Oxford, 2000), 226–64.

<sup>39</sup>Hay, *op. cit.*; Norma Landau, *The Justices of the Peace, 1679–1760* (Berkeley, 1984), 169–74. See also in this regard Wilfrid Prest, 'The experience of litigation in eighteenth-century England' in David Lemmings (ed.), *The British and their Laws in the Eighteenth Century* (Woodbridge, 2005), 133–54.

taking matters to court was a 'popular phenomenon' that attracted people of 'modest or very modest means, but not indigent'.<sup>40</sup> Thus while Hardwick explicitly asserts that the bar for using civil suits as a viable resource was quite low, she also acknowledges that the lowest social groups rarely did so. The question that arises, then, is what segments of the population did and did not opt to turn to the law courts to settle disputes?

While the Lyon and Nantes law courts of the seventeenth century attracted litigants from lower middling groups, in the eighteenth century their clientele appears to have become more elitist, at least as concerned marital conflicts.<sup>41</sup> Other research on eighteenth-century French royal and seigniorial law courts suggests similar over-representation of elite groups (including local officers, ecclesiastics and merchants) as plaintiffs.<sup>42</sup> Thus for early modern France, a varied picture emerges of law courts dominated by middling and elite groups; these courts clearly differed from the examined local law courts in England. However, more exhaustive research is needed to establish patterns of court use.

Thus the current state of research does not allow for drawing general conclusions about the relation between law courts and lower social groups or for isolating specific factors that affected the accessibility of law courts. The literature discussed here mainly cautions against generalizing research outcomes so as to apply them to individual law courts in specific time-frames. For example, Muldrew finds that the poorest segments of society participated in litigation in King's Lynn and 'were not, therefore, culturally isolated from the town elite and the middling sort in matters of law and marketing'.<sup>43</sup> However, such findings do not necessarily apply to other times and places. Indeed, Muldrew's claim exemplifies the relevance of assessing who used courts as indicative of the relative social inclusiveness of early modern communities.

The most promising avenue of research into the uses of justice would appear to derive from in-depth analysis of small claims courts, for assessment of such courts allows for examining the breadth of the socio-cultural gap between law courts and lower social groups. There are four major reasons why people would have been discouraged from turning to law courts to settle disputes. First, the cost and expenses for taking legal recourse – including traversing the distance to the court and the investment of working hours – may have exceeded the claim; second, such parties may not have owned adequate possessions to trigger disputes; third, the complexity and lack of transparency of legal procedures often hampered inclination to consider judicial action; and fourth, the socio-cultural gap between potential litigants and those who dispensed the law was potentially daunting for those of lower social groups. It is reasonable to assume that the first three thresholds to legal recourse would not have applied to small claims courts, as such courts were supposed to be accessible, even for people submitting exceptionally modest claims. The settlement of these kinds of disputes at small claims courts was apparently not complex, particularly as the settlements proceeded orally with little delay. The dealings

<sup>40</sup>Julie Hardwick, *Family Business. Litigation and the Political Economies of Daily Life in Early Modern France* (Oxford, 2009), 29, 60, 63.

<sup>41</sup>*ibid.*, 228.

<sup>42</sup>Hervé Piant, *Une justice ordinaire. Justice civile et criminelle dans la prévôté royale de Vaucouleurs*

*sous l'Ancien Régime* (Rennes, 2006), 107–9; Fabrice Mauclair, *La justice au village. Justice seigneuriale et société rurale dans le duché-pairie de La Vallière (1667–1790)* (Rennes, 2008), 307–9.

<sup>43</sup>Muldrew, 'Credit and the courts', *op. cit.*, 30–1.

were also comprehensible for illiterate parties who were unacquainted with legal matters. Analysing the participation of lower social groups allows for gauging the (lack of) socio-cultural distance between such groups and the urban elite and middling sort. The next sections present such an analysis.

#### A CASE STUDY: THE LEIDEN PEACEMAKER COURT, 1750–54

Leiden in the mid-eighteenth century was an industrial city in crisis. During the Dutch Golden Age it had been the Dutch Republic's second wealthiest city (after Amsterdam); this was primarily because of its thriving textile industry, which employed the large majority of the city's then 70,000 inhabitants. However, from the late seventeenth century the competitive position of Leiden's textile sector faltered, leading to social and demographic decline that became particularly forceful during the difficult years 1735–49. By mid-century the city's population had declined to about 37,000 inhabitants. Continued emigration and the urban graveyard effect produced a further, yet more gradual population decline until 1764, when an all-time low of about 31,000 inhabitants was arrived at.<sup>44</sup> Despite the severe contraction of the textile sector, Leiden remained an outright industrial city, with over 70 per cent of its heads of household working in manufacturing, of which about 67 per cent were in the textile industry. Most of those households were dependent on income from low-paid occupations.<sup>45</sup>

Herman Diederiks has mapped the social stratification of mid-eighteenth-century Leiden by making use of a census comprising socio-economic data for essentially the entire Leiden population, which is also a key source for assessing the social composition of court clientele in this article. The 1749 census was taken for the purpose of levying a new direct tax and accordingly comprised a tax assessment for 98.8 per cent of all households. Diederiks considers as 'poor' the households who paid taxes of less than 20 guilders. More than half of the Leiden households must correspondingly be considered as poor or proletarianized. He asserts that the social stratification of Leiden was characterized by a reasonably equal distribution of wealth, at least compared with the well-studied nineteenth-century German industrial city of Barmen, where no less than 80 per cent of the population was proletarianized and 10 per cent semi-proletarianized. However, Diederiks estimates that the social disequilibrium must have been greater before the decline of the textile sector in Leiden. In all probability, many of the poorest households departed when employment opportunities declined from the late seventeenth century.<sup>46</sup>

During the first half of the eighteenth century, conflicts between labourers and their employers regarding work circumstances and wages were endemic.<sup>47</sup> Friction concomitant

<sup>44</sup>C. A. Davids, 'De migratiebeweging in Leiden in de achttiende eeuw' ['Migratory movement in Leiden in the eighteenth century'] in H. A. Diederiks, D. J. Noordam and H. D. Tjalsma (eds), *Armoede en sociale spanning. Sociaal-historische studies over Leiden in de achttiende eeuw* [*Poverty and Social Tensions. Socio-historical Studies on Mid-eighteenth-century Leiden*] (Hilversum, 1985), 137–56, here 143–4.

<sup>45</sup>H. A. Diederiks, 'Beroepsstructuur en sociale stratificatie in Leiden in het midden van de achttiende eeuw' ['Professional composition and social stratification in mid-eighteenth-century Leiden'] in Diederiks, Noordam and Tjalsma (eds), *op. cit.*, 45–67, here 49–57.

<sup>46</sup>*ibid.*, 55.

<sup>47</sup>Described in Rudolf Dekker, 'Arbeidsconflicten in de Leidse textielindustrie' ['Labour

with the dearth of the year 1740 as well as political and fiscal clashes characterized the decade of the 1740s. In 1747, 'Orangist revolts' commanded the installing of William IV of Orange as stadholder (1711–51). William III (1650–1702), who had been both stadholder of six of the seven Dutch Provinces and King of England, had died without an heir in 1702. Forty-six years of rule by the so-called regents – the governmental elites of the cities – came to an end under the pressure of the War of the Austrian Succession. In 1748, popular discontent focused on the farming out of the collection of indirect taxes. Revolts against tax-farmers occurred in a wide range of Dutch localities, including the city of Leiden, where their houses were plundered.<sup>48</sup> Direct tax collection was consequently introduced, occasioning the creation of the above-mentioned census of 1749.

After the confrontations of 1747 and 1748, there was strikingly less tension regarding labour relations, political factions or fiscal matters. In fact, the second half of the eighteenth century was remarkably tranquil compared with the years 1700 to 1748. According to Rudolf Dekker, this was due to the departure of the most spirited labourers from the Leiden manufactures.<sup>49</sup> The chosen years 1750–54 therefore hold a particular position in the social history of eighteenth-century Leiden. The economic and demographic decline that had characterized the city of Leiden since the late seventeenth century came to a nadir. Poverty was widespread, yet the relative inequality of wealth distribution was probably less extreme than it had been during the Golden Age. Social tensions were moreover less at the fore of daily life among the large group of textile labourers. The studied litigation at the Leiden Peacemaker court occurred right after the eventful decade of riots, collective actions by textile labourers and of political turmoil, and right at the beginning of three decades of relative social and political concord.

The Leiden magistrate established the Peacemaker court in 1598 to deal with the enormous increase of petty lawsuits being brought before the bench of aldermen. The 'legal revolution' that was experienced elsewhere in Europe during the sixteenth century was intensified in Holland due to substantial immigration of refugees from the war-stricken Southern Low Countries. Litigants first had to bring their case to the Peacemakers, who, first and foremost, endeavoured to reconcile the parties and thus prevent a formal lawsuit. A plaintiff was allowed to file a case at the bench of aldermen only if the Peacemakers were unable to negotiate a settlement. While the court initially functioned only as a conciliator, it obtained adjudicating competences in the mid-seventeenth century. By the eighteenth century it was adjudicating cases that involved sums of less than a hundred guilders. For conflicts concerning house rents the threshold became 120 guilders.<sup>50</sup> Other Dutch towns maintained similar low threshold courts to hear petty conflicts.<sup>51</sup> Besides the Peacemaker court and the bench of aldermen, a special

disputes in Leiden textile manufacturing'] in Diederiks, Noordam and Tjalsma (eds), *op. cit.*, 69–86.

<sup>48</sup>Rudolf Dekker, *Holland in beroering. Oproeren in de 17de en 18de eeuw [Holland in Turmoil. Collective Actions during the 17th and 18th Centuries]* (Baarn, 1982), 28, 36–7, 45–6; Maarten Prak, 'Burgers in beweging. Ideaal en werkelijkheid van de onlusten te Leiden in

1748' ['Citizens astir. Ideal and reality in the Leiden revolts of 1748'], *Bijdragen en Mededelingen Betreffende de Geschiedenis der Nederlanden*, 106 (1991), 365–93.

<sup>49</sup>Dekker, *op. cit.*, 85.

<sup>50</sup>Van Meeteren, *op. cit.*, 236–8.

<sup>51</sup>C. M. G. Ten Raa, *De oorsprong van de kantonrechter [Origins of the Justice of the Peace]* (Deventer, 1970), 176; van Meeteren, *op. cit.*, 240.

commission of aldermen specifically to settle neighbourly disputes had been set up in 1593 and to deal also with the massive increase of disputes. These neighbourly disputes typically related to specific infrastructural difficulties, such as settling the boundaries between plots or arranging waste-water disposal. Such disputes were therefore not entered into the records of the Peacemaker court.<sup>52</sup> The burgomasters and aldermen staffing these three urban courts came from the ranks of the so-called regent families, a small group of elite families who earned their living from rents and who exercised power in an oligarchic way.<sup>53</sup> Apart from these courts staffed by members of the regent families, inhabitants of Leiden had a variety of infra-judicial and non-judicial forums at their disposal to settle disputes, such as neighbourhood corporations, guilds, local churches and notaries.<sup>54</sup>

The Peacemaker court was purposely operated so as to be as accessible as possible. It was an open court where two aldermen and a burgomaster settled cases orally by confronting the parties, who as a rule did not have legal assistance. The burgomaster and aldermen sat every Monday and Friday at the city hall, from half past two in the afternoon until all plaintiffs and defendants from the cases registered on the court rolls had been heard.<sup>55</sup> After a short gathering – probably less than ten minutes – the parties departed with an official notice formalizing the settlement.<sup>56</sup> The court was open and operated largely free of charge. The only payment was to the courier, who was paid two or (at most) three *stuivers*, an easily affordable sum for any potential litigant. The court charged four *stuivers* for forwarding the parties to other conciliators. Plaintiffs who failed to show at court were fined eight *stuivers*.<sup>57</sup> These amounts were indeed low, as even unskilled workers at the Saint Catherine hospice earned average daily wages of 22 *stuivers*.<sup>58</sup> Textile workers earned at least a few *stuivers* per piece of fabric they treated.<sup>59</sup> Even for people holding only part-time employment, the Peacemaker court offered a financially viable option for judicial recourse.

As has been argued above, historians have difficulties in reliably assessing the social composition of court clientele, because they largely depend on the vague and at times biased markers of social status that are present in the court records themselves. Ideally,

<sup>52</sup>*ibid.*, 229–36.

<sup>53</sup>Studied by Maarten Prak, *Gezeten burgers. De elite in een Hollandse stad, Leiden 1700–1780* [*Wealthy Citizens. The Elite in a Dutch City, Leiden 1700–1780*] (Amsterdam, 1985).

<sup>54</sup>Regionaal Archief Leiden (subsequently RAL), Oud rechterlijk archief (subsequently ORA), inv. nr. 44V–44W, Grote Dingboeken, 1746–1766; van Meeteren, *op. cit.*, passim.

<sup>55</sup>RAL, ORA, inv. nr. 142, Recueil van resolutiën rakende de vergaderingen, besognes en tourbeuren van schout en schepenen, 1749–1792 [Collection of resolutions regarding the meetings, tasks and rotation of bailiff and aldermen], 12.

<sup>56</sup>Van Meeteren, *op. cit.*, 241, gives this detail for the seventeenth century.

<sup>57</sup>*ibid.*, 226, 236–41.

<sup>58</sup>N. W. Posthumus, *De geschiedenis van de Leidsche lakenindustrie. II: De Nieuwe Tijd (zestiende tot achttiende eeuw). De lakenindustrie en verwante industrieën* [*The History of the Leiden Textile Manufacturing. II: The Early Modern Period (Sixteenth to Eighteenth Century)*] (The Hague, 1939), 1088.

<sup>59</sup>It is difficult to estimate their daily wages because it is unclear how many pieces of fabric they treated daily. For the piece-wages: N. W. Posthumus, *Bronnen tot de geschiedenis van de Leidsche textielnijverheid*, vol. 6, 1703–1795, Rijksgeschiedkundige Publicatiën, 49 [*Sources for the History of Leiden Textile Manufacturing*] (The Hague, 1922), 214–30.



social status is assessed by linking the names of parties to other source materials that have been created independently from the court records. The Leiden archives boast exceptional source materials for such assessment. These materials include the registers of the cases heard by the Peacemakers during the entire period of the court's functioning, from 1598 to 1811, and the census for the year 1749 that details socio-economic data for almost the entire population of the urban community. This combination of sources allows for assessing the social composition of the people who turned to the small claims court.

The 1749 census was taken for the purpose of levying a new direct tax, a substitute for excises that had been abolished after violent collective actions against tax-farmers in 1748. The so-called *bonmeesteren*, each of whom was appointed by the city government and lived in one of the twenty-eight *bonnen*, or city districts, were responsible for drawing up the census for their respective *bon*, or district. They assumed a number of community duties within their own districts, including organization of fire-fighting services and supervision of public infrastructure. They also updated the *bonboeken*, registers containing all real-estate transactions.<sup>60</sup> As residents of the district, the *bonmeesteren* were well placed to record all inhabitants and families for the census, as well as to assess household taxes. These tax valuations were based on assumed consumption patterns for the relevant number of household members (including domestic servants and others), the amount of wine consumed annually by the household, and occupation.<sup>61</sup> The levied taxes ranged from six *stuivers* to 766 guilders. It is not known precisely how these taxes corresponded to the size of personal property; as such, the tax rates can be used only to gauge the relative socio-economic position of a household within the overall community. The census does not include a tax rate for only 121 of the 9790 households. Roughly 5 per cent of households are not evident in the census. However, since these gaps generally represent inhabitants of hospices, almshouses and orphanages, the census none the less allows for an exceptionally detailed examination of the socio-economic characteristics of an early modern urban community, including its poorest layers.

The census data have been entered into a database by a team of Dutch scholars, and made available through open access on the website of DANS (Data Archiving and Networked Services), funded by the Royal Netherlands Academy of Arts and Sciences and the Netherlands Organization for Scientific Research.<sup>62</sup> The research team has also linked a database of rental values of Leiden houses in 1749 to the census data.<sup>63</sup> This combined information allows for assessing a wide range of socio-economic characteristics for nearly all Leiden households in the mid-eighteenth century. Such characteristics include address; whether the household owned the house in which it lived; its rental value; the amount of taxes paid; household composition, including servants and maids or other householders; whether the household received poor relief; and the occupation of the head of household, and wage dependency.

<sup>60</sup>Kees Walle, *Buurthouden. De geschiedenis van burengebruiken en buurtorganisaties in Leiden (14de-19de eeuw)* [Neighbouring. The History of Neighbourhood Habits and Neighbourhood Organizations in Leiden (14th to 19th Century)] (Leiden, 2005), 15–17.

<sup>61</sup>Diederiks, *op. cit.*, 53–4.

<sup>62</sup>Available online at [www.dans.knaw.nl](http://www.dans.knaw.nl) (accessed 23 August 2014). In addition, the original sources have been consulted selectively: RAL, Stadsarchief 1574–1816, inv. nrs. 4129–4137.

<sup>63</sup>*ibid.*, inv. nrs. 3613–3614.

The Leiden archives also offer excellent source materials for assessing who used the Peacemaker court. As has been mentioned, the Peacemaker court sat twice a week and heard on average twelve cases per session in the years 1750 to 1754. The court rolls, *Vredemakersboeken* (Peacemaker's books), have been preserved for the entire period of the court's activity, and chronologically list all conflicts that came before the aldermen in order of hearing, including the names of the plaintiffs and defendants, the case matter (including any related monetary sums), and the settlement or verdict reached. In the years 1750–54, the Peacemaker court dealt with 3858 conflicts. A sample has been made by selecting one of every twenty cases for the years 1750 to 1754, starting with the first entry of each year, yielding a total of 192 cases. The respective details have been rendered into a database.<sup>64</sup> Then the names of plaintiffs and defendants were traced in the census of 1749. It was possible to link 115 plaintiffs and 108 defendants; for 67 cases, both plaintiffs and defendants were traced. Thus many names could not be traced to the census. Four reasons can be assumed for this non-linkage. First, litigants not from Leiden obviously would not appear in the census; second, the spelling of names is sometimes unclear and confusing; third, litigants' names often correspond to two or even more census entries; and fourth, the census lists only the names of heads of households, and so the names of other litigating parties, including wives, sons, daughters and servants, are often not identifiable in the census. However, there is no reason for assuming social bias in the names that were traceable. The cases for which the plaintiffs and/or defendants could be traced in the census related to similar case matter as those whose parties were untraceable.

While linking the case registers of the Peacemaker court with the 1749 census thus offers unparalleled research opportunities, the downside of the research design used for this article is that the uniqueness of the 1749 census makes it hard to extend the exercise of nominal record linkage. While more tax registers were created in Leiden before and after 1749, only the one for 1749 has been fully digitized and contains data on the entire population, including the large sections of the households who were usually too poor to pay direct taxes. For this article, the census was only used for tracing households who litigated at the Peacemaker court during the short period of the years 1750–54 to increase the likelihood of effectually tracing names.

During the years 1750 to 1754 the Peacemaker court was in decline. [Figure 1](#) shows how the volume of business shrank during the period 1730–65. In fact, the volume of litigation at the Peacemaker court had been declining since at least the late seventeenth century. Aries van Meeteren tallied no less than 5384 cases heard by the Peacemaker court in the year 1664, while in 1754 no more than 640 cases were heard.<sup>65</sup> A similar decline of court activity characterized the bench of aldermen, who heard over 300 cases annually in the 1660s, compared to fewer than thirty cases yearly during the second half of the eighteenth century.<sup>66</sup> This decline is not surprising. The contraction of the Leiden population obviously led to a decline of cases filed at the local law courts. The decline of court activity is,

<sup>64</sup>RAL, ORA, inv. nrs. 47HHH–JJJ, *Vredemakersboeken*, June 1749–May 1755.

<sup>65</sup>This figure includes the cases where the defendant (repeatedly) failed to appear at court; van Meeteren, *op. cit.*, 240.

<sup>66</sup>RAL, ORA, inv. nrs. 44S–44X; van Meeteren, *op. cit.*, 281–3.



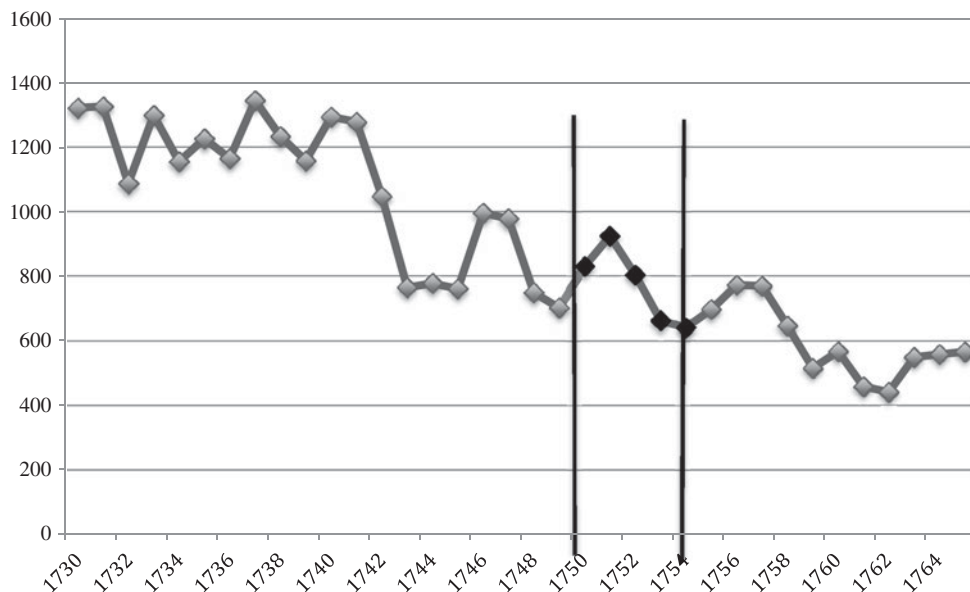


Figure 1. Volume of court activity at the Peacemaker court, Leiden, 1730–65. *Source:* RAL, ORA, inv. nrs. 47ZZ, May 1727–February 1730 – inv. nr. 47LLL, November 1759–November 1765.

however, more severe than the demographic contraction. While in 1664 there were almost eight cases filed at the Peacemaker court per hundred inhabitants, this declined to two cases in 1750 and fewer than two cases in 1765. This, though, corresponds to the so-called ‘great litigation decline’ that has been signalled for a wide range of national, local rural, urban and ecclesiastical courts across western Europe. This decline of litigation related to a wide range of disputes, such as disputes about credit and contracts, defamation and testamentary causes. The patterns of changing litigation differed from court to court, yet most studied courts were characterized by strongly declining activity in the eighteenth century.<sup>67</sup>

To sum up, the selection of the years 1750 to 1754 to examine the clientele of the Peacemaker court has some implications for the interpretation of the research results. The studied period coincided with the beginning of a time of relative social-political peace, after a decade of riots, collective actions by textile labourers and political turmoil. The sample years were right in the middle of a period of dwindling court use that has

<sup>67</sup>Robert Shoemaker, ‘The decline of public insult in London 1660–1800’, *Past and Present*, 169 (2000), 97–131; Craig Muldrew, *The Economy of Obligation. The Culture of Credit and Social Relations in Early Modern England* (New York, 1998), 237–8; W.A. Champion, ‘Recourse to the law and the meaning of the great litigation decline, 1650–1750: some clues from the Shrewsbury local courts’, in Christopher Brooks and Michael Lobban (eds.), *Communities and Courts in Britain 1150–1900* (London and Rio Grande, 1997) 179–198;

Deceulaer, *op. cit.*, 189–95; Christian Wollschläger, ‘Civil litigation and modernization: the work of the municipal courts of Bremen, Germany, in five centuries, 1549–1984’, *Law and Society Review*, 24 (1990), 261–82; Brooks, ‘Interpersonal conflict’, *op. cit.*, 357–99; Kagan, *Lawsuits and Litigants*, ch. 5–6; Castan, *op. cit.*; Colin Kaiser, ‘The deflation in the volume of litigation at Paris in the eighteenth century and the waning of the old judicial order’, *European Studies Review*, 10 (1980), 309–36.

Table 1. *Types of claim at the Peacemaker court, Leiden, 1750–54*

Type of claim	Number of cases	Percentage of cases
Taxes	6	3
Debts	114	60
Rent	39	20
Return of goods	9	5
Other	24	13
Total	192	100

Sources: RAL, inv. nrs. 47HHH–JJJ, Vredemakersboeken, June 1749–May 1755.

been described for law courts elsewhere in Europe as well. The research results that are presented in the next section thus contribute to an understanding of court clientele in a waning industrial town during the age of the great litigation decline.

#### THE SOCIAL COMPOSITION OF LITIGANTS AT THE LEIDEN PEACEMAKER COURT

The low expenses for using the Peacemaker court enabled inhabitants of Leiden to register lawsuits over conflicts concerning small amounts of money. Table 1 shows the kinds of case matter brought to the Peacemaker court. Unsurprisingly, the majority of cases related to debts due to loans or to delivered goods or services awaiting disbursement. Six cases were initiated by the collectors of the so-called ‘klapper- en lantaarngeld’, a compensation fund (first introduced in 1680) for sentinel duties and street lighting. Nine cases related to claims for returned goods. The comparative dearth of the latter claims exemplifies the role played by the court of Peacemakers in the daily lives of the inhabitants of mid-eighteenth-century Leiden. For example, plaintiff Catharina van Hille summoned Jan Hageraad in the winter of 1750 for the return of three handkerchiefs and a white apron. When he failed to return these goods, she agreed to the payment of two guilders.<sup>68</sup> Clearly, the fact that recourse to the Peacemaker court cost just two *stuivers* enabled plaintiffs like herself to claim a sum of forty *stuivers*, or a sum less than two daily wages of an unskilled worker. Another example of the striking smallness of some claims is that of Anthonetta Delvendiep, who summoned Carel Eygenaer for reimbursement of 1.2 guilders she had lent him.<sup>69</sup>

For 174 of the 192 cases in the sample, the size of the claim is known. Table 2 shows that the large majority of these cases related to claims of less than 20 guilders. These figures are a first indication that the court of Peacemakers was indeed highly accessible and low threshold. However, the relative modesty of these claims does not necessarily indicate that Leiden’s inhabitants routinely turned to the Peacemakers straight away. The lack of sources hampers any contextualization of the conflicts heard by the aldermen and burgomaster; however, it can be assumed that other, non-judicial means were used before addressing the burgomaster and two aldermen. Moreover, it is entirely plausible that not every inhabitant of Leiden was equally inclined to invoke assistance from the political elite in settling

<sup>68</sup>RAL, ORA, inv. nr. 47HHH, <sup>69</sup>*ibid.*, 15 May 1750. Vredemakersboeken, 4 December 1750.

Table 2. *Size of claims at the Peacemaker court, Leiden, 1750–54*

Sum of the claim (in guilders)	Number of cases	Percentage of cases
≤ 10	76	44
11–20	48	28
21–30	16	9
31–40	3	2
41–50	8	5
51–60	2	1
61–70	3	2
71–80	2	1
81–90	2	1
91–100	1	1
101–150	6	3
151–200	2	1
≥ 201	5	3
Total	174	100

Sources: RAL, ORA, inv. nrs. 47HHH–JJJ, Vredemakersboeken, June 1749–May 1755.

personal conflicts. After all, the judges who sat at the Peacemaker court were burgomasters and aldermen, and were prominent members of the local oligarchic elite. The next question to be addressed, then, is which social groups made use of the Peacemakers court to settle conflicts?

To assess the socio-economic characteristics of plaintiffs and defendants, the 9790 households in the census have been divided into quintiles – each containing 1958 households – according to tax level. The first quintile comprises the 1958 households who paid the lowest taxes; the fifth quintile comprises the 20 per cent of the households who were the wealthiest inhabitants. The upper fifth quintile comprised a very heterogeneous collection of wealthy groups who paid taxes that ranged between 12 guilders and 766 guilders. Households belonging to the first two and a large part of the third quintile paid less than 20 guilders of taxes, and should be considered as poor according to the threshold suggested by Herman Diederiks. Figure 2 shows the percentages of the 115 plaintiffs and 108 defendants per their respective quintiles.

The chart clearly illustrates that the social groups from the lowest three quintiles made limited use of the Peacemaker court to settle disputes. In short, the lower 60 per cent of the population filed just 14 per cent of the complaints. The 20 per cent poorest inhabitants rarely appeared at the court, either as plaintiffs or as defendants. There were slightly more plaintiffs and defendants among the second and third quintiles, yet their participation in the business of the Peacemaker court was limited, especially as plaintiffs. As will be discussed, households from the fourth and fifth quintiles were the foremost users of the Peacemaker court.

The cases brought to court by households from the first three quintiles related to claims ranging from 3 guilders (for wages due) to over 73 guilders (for return of cloth).<sup>70</sup>

<sup>70</sup>RAL, ORA, inv. nr. 47JJJ, Vredemakersboeken, 15 September 1752 and 11 December 1752.

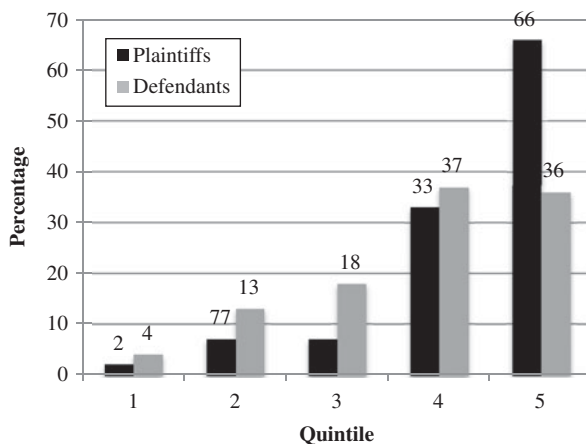


Figure 2. Distribution of plaintiffs and defendants by wealth (quintiles) at the Peacemaker court, Leiden 1750–54. Sources: RAL, ORA, inv. nrs. 47HHH–JJJ, Vredemakersboeken, June 1749–May 1755 and RAL, Stadsarchief 1574–1816, inv. nrs. 4129–4137.

It is striking that five of the sixteen cases related to rent arrears, though only one of the litigants owned his or her house. Possibly, these households were collecting rent from an inherited property. The plaintiffs comprised five female heads of household, nine couples and two single men; among them were a chair bottomer, a farm hand, a dairyman, a wagoner, an unskilled worker, three textile workers, a carpenter servant, a shoemaker, a barber and a hat cleaner. This small group of litigants included wage-dependent workers as well as impoverished, self-employed persons. The fact that only three plaintiffs worked in one of the textile manufactures that together employed 67 per cent of Leiden's working population is especially striking.<sup>71</sup> This underscores that the majority of the general population made limited use of the Leiden Peacemaker court.

The defendants from the lower three quintiles were mainly summoned to hear complaints about unpaid goods or services (49 per cent of 35 complaints) and rent arrears (29 per cent of 35 complaints). Rent was indeed an important category in any household budget, and many households accumulated arrears during periods of hardship.<sup>72</sup> Five of the thirty-five defendants in the first three quintiles failed to appear after being summoned by the Peacemakers. Four were referred to other mediators, such as guild deans. Six claims were rejected, yet seventeen, or almost half of the defendants, were sentenced to meet the (in some cases, slightly reduced) charges filed against them. For payment of claims, the Peacemakers often imposed instalment compensation, so as to enable impoverished defendants to settle their debts. In May 1751, the wife of Leendert Buskes, a peat porter employed by the city, summoned the spinner Hendrik Thomas for rent arrears totalling 2.75 guilders. Such a sum corresponded to a few days' work for an unskilled textile worker;

<sup>71</sup>Diederiks, *op. cit.*, 49.

<sup>72</sup>G. P. M. Pot, *Arm Leiden. Levensstandaard, bedeling en bedeedelen, 1750–1854* [Indigent Leiden.

*Living Standard, Poor Relief and Recipients of Poor Relief, 1750–1754*] (Hilversum, 1994), 222.

the Peacemakers, however, acknowledged the defendant's precarious personal circumstances and resolved that he would settle his debt via weekly payments of two *stuivers*.<sup>73</sup>

The matter of *Buskes vs. Thomas* exemplifies that households belonging to the first three quintiles most often found themselves in court to defend against claims filed by households from among the upper 40 per cent. *Buskes* was in the fourth quintile; the defendant, *Thomas*, belonged to the second. To gain more insight about which social groups litigated against which, we can examine the data of sixty-seven cases for which both plaintiff and defendant could be identified in the census. Twenty of these cases related to defendants from the first three quintiles. Revealingly, households belonging to the fourth and fifth quintiles filed seventeen of the cases (ten and seven cases, respectively).

Correspondingly, households of the second and third quintiles were far more likely to appear at the Peacemakers court as defendants than as plaintiffs. The extent to which this was the case can be expressed in the so-called 'Voluntary Appearance Ratio' (VAR), a statistical tool developed by Thomas Haskell to gauge court use in seventeenth-century New Haven.<sup>74</sup> VAR is calculated by dividing the number of times a person appeared in court voluntarily, as a plaintiff, by the person's total number of appearances (as either plaintiff or defendant). The outcome of the calculation varies between 0 and 1. If a household belonging to a certain quintile appeared before a law court as plaintiff in the same proportion as it appeared as defendant, the VAR would be 0.5. If such groups appeared only as plaintiffs, and never as defendants, the VAR would be 1. If a group never used the court as plaintiff and appeared only as defendant, the VAR would be 0. **Figure 3** shows the respective VAR figures for each quintile.

No less than 80 per cent of Leiden's population was likelier to come into contact with the Peacemaker court as defendant than as plaintiff. This was especially the case for the lowest three quintiles. Only the top 20 per cent of the population visited the court significantly more often to lodge cases than to be summoned. Yet the households of the fourth quintile are also identifiable as having been active users of the Peacemaker court. Because the data has been gathered from a sample of cases, it is not possible to assess the extent to which households appeared as both plaintiff and defendant. Yet such overlap was surely significant within the fourth and fifth quintiles.

The elitist character of the Peacemaker court is evident from the fact that its main users were the upper 40 per cent of the Leiden population. Indeed, 34 per cent of the plaintiffs employed at least one domestic servant, as compared with only 14 per cent of the overall population;<sup>75</sup> 56 per cent of the plaintiffs from the fourth and fifth quintiles owned their own house, versus only 21 per cent of the general population;<sup>76</sup> 15 per cent of the plaintiffs belonged to the top 5 per cent of the city's households; and no less than 6 per cent of the plaintiffs were from the top 1 per cent of the population. Thus, the court was used more to lodge complaints against social inferiors than to file complaints against social betters.

<sup>73</sup>RAL, ORA, inv. nr. 47HHH, *Vredemakersboeken*, 21 May 1751.

<sup>74</sup>Thomas L. Haskell, 'Litigation and social status in seventeenth-century New Haven', *Journal of Legal Studies*, 7 (1978), 219–49.

<sup>75</sup>Diederiks, *op. cit.*, 61.

<sup>76</sup>H. D. Tjalsma, 'Een karakterisering van Leiden in 1749' ['A characterization of Leiden in 1749'] in Diederiks, Noordam and Tjalsma (eds), *op. cit.*, 17–44, here 24.

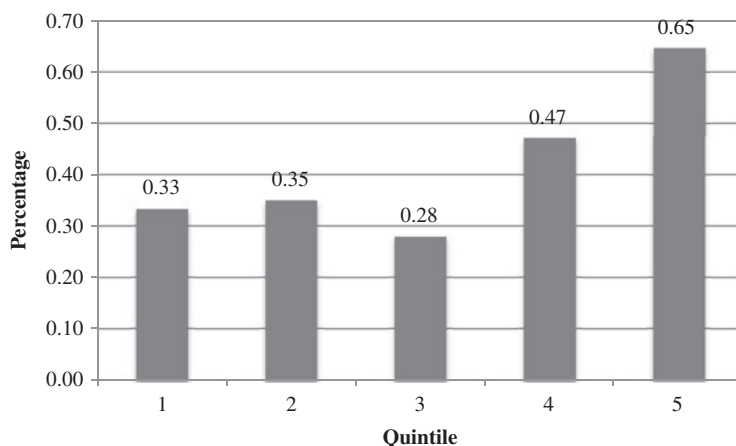


Figure 3. Voluntary appearance ratio at the Peacemaker court, Leiden, according to wealth group 1750–54. Sources: RAL, ORA, inv. nrs. 47HHH–JJJ, *Vredemakersboeken*, June 1749–May 1755 and RAL, Stadsarchief 1574–1816, inv. nrs. 4129–4137.

However, the plaintiffs of the fourth and fifth quintiles filed 70 per cent of the complaints lodged against defendants of the same quintile, and only 30 per cent of cases filed against households from the lower three quintiles. Thus the Peacemaker court was first and foremost a forum for an inner group of more well-to-do households who were firmly established in the local community. However, we should not picture this group as having been a small economic elite that typically derived its income from real estate and financial investments. In fact only one plaintiff, lawyer Nicolaas Tjark, was a rentier; he went to the Peacemaker court to claim rent arrears totalling 18.5 guilders.

Plaintiffs belonging to the fourth and fifth quintiles typically had occupations in the Leiden guilds or were active in local trade. Table 3 shows the HISCLASS classification of the occupations of 79 of the 97 plaintiffs that could be traced in the census and who belonged to the fourth and fifth quintiles.<sup>77</sup> More than half of those plaintiffs appeared to be medium-skilled or lower-skilled workers, including for instance a carpenter's assistant, four bricklayers, four shoemakers and two peat porters. Some of these occupations can at first sight be interpreted as 'lower middling groups', while the size of their wealth assessed by the *bonmeesteren* in the 1749 census rather identified them as belonging to the upper 40 per cent of the wealth groups in mid-eighteenth-century Leiden. Once again this cautions against deriving social status from occupational data. In correspondence with the occupations of many plaintiffs, 61 per cent of the cases related to unpaid goods or services. An additional 18 per cent of the cases concerned rent arrears.

How are we to understand these patterns? The fact that the first three quintiles – 60 per cent of the population – made only limited use of the Peacemaker court to settle their disputes is revealing. Indeed, the Peacemaker court was notably inexpensive and simple in

<sup>77</sup>Marco H. D. van Leeuwen and Ineke Maas, *HISCLASS. A Historical International Social Class Scheme* (Leuven, 2011).

Table 3. *HISCLASS classification of occupations of plaintiffs of fourth and fifth quintile (N = 97)*

Elite (higher managers and higher professionals)	7
Lower middle class (lower managers, professionals, clerical and sales personnel and foremen)	16
Skilled workers (medium skilled and lower skilled)	47
Self-employed farmers and fishermen	2
Unskilled workers and farm workers	7
Unknown	18

Sources: RAL, ORA, inv. nrs. 47HHH–JJJ, Vredemakersboeken, June 1749–May 1755 and RAL, Stadsarchief 1574–1816, inv. nrs. 4129–4137; Kees Mandemakers, Sanne Muurling, Ineke Maas, Bart Van de Putte, Richard L. Zijdemans, Paul Lambert, Marco H.D. van Leeuwen, Frans van Poppel and Andrew Miles, *HSN standardized, HISCO-coded and classified occupational titles*, release 2013.01 (IISG Amsterdam, 2013).

its procedures, yet the lower social groups remained markedly reticent about filing complaints there. This reveals the large socio-cultural gap between these groups and the burgomasters and aldermen who staffed and maintained the courts. Contrary to Muldrew's findings (cited earlier) for late seventeenth-century King's Lynn, there was a crucial social-cultural gap between the majority of Leiden's population, on the one hand, and the town elite and the middling sort. In contrast to the King's Lynn borough courts in the 1680s, the mid-eighteenth-century Leiden Peacemaker court was essentially an elitist institution that operated first and foremost as a forum for higher middling groups and the elite.

The near absence of cases involving households from the first quintile evidences the general exclusion of that group from local society. Households from the second and third quintiles appear in more cases at the Peacemaker court, although usually they visited the court only in response to summonses lodged by households from the fourth and fifth quintiles. Nevertheless, these cases confirm that there were credit relations between these lower middling groups and the inner group of Leiden community members. Households from the third quintile were more frequently engaged in such relations than those from the second quintile. However, in contrast to the business of the urban courts in seventeenth-century Nantes and Lyon, these lower middling groups rarely used the judicial infrastructure to settle their disputes. Large sections of the social groups in the lower three quintiles of mid-eighteenth-century Leiden would surely have availed themselves of informal low-cost conflict settlement by which they could manage trust relations. These groups did not cross the inflexible socio-cultural boundary that distanced them from the political elite, no matter how accessibly this particular element of the urban judicial infrastructure was organized.

## CONCLUSIONS

The limited presence of the 60 per cent less wealthy inhabitants of Leiden among the plaintiffs and defendants at the Peacemaker court in the years 1750 to 1754 is striking. When such low-status inhabitants did appear in court, it was usually for court proceedings in which they had to defend themselves against charges filed by socio-economic superiors. As has been stressed above, this small claims court had all the



attributes for easy accessibility, operating largely free of charge and boasting an oral, quick and transparent procedure. None the less, it was a distinctively elitist institution that was first and foremost used by an inner circle of higher middling and elite groups. Although this article examines only one legal forum, it is likely that similar patterns existed for the bench of aldermen, which was significantly less accessible than the Peacemaker court in terms of costs and procedural transparency. In all probability, the lower 60 per cent of the Leiden population resorted to non-judicial forums for dispute resolution, instead of the formal judicial infrastructure that was staffed by members of the ruling regent families.

The research results largely go against the common views on court clientele in early modern Europe that have been discussed in the first section of the article. This dissimilarity may be due to several factors. A first factor is that Leiden was a declining industrial town after a decade of social and political turmoil. The years 1750–54 marked the beginning of a few decades of social and political calm that – according to Rudolf Dekker – was due to the departure of the most high-spirited labourers from the Leiden manufactures. According to Herman Diederiks, social polarization had by then become less marked as significant sections of the poor moved away on account of lack of occupational prospects. Possibly, these social transformations concomitant with the decline of the textile sector had an effect on the social composition of the clientele of the Peacemaker court.

Additionally, the Peacemaker court of mid-eighteenth-century Leiden was in the midst of a process of declining litigation that has also been detected for a wide range of law courts elsewhere in Europe, including France, England, the Holy Roman Empire and Spain. Consequently, the litigation patterns discerned for mid-eighteenth-century Leiden are not necessarily representative for earlier decades and centuries when higher litigation rates existed. In fact, the case study reinforces the awareness of the major variations in court clientele according to time and place. While lower middling groups seemed to find their way to various seventeenth-century French law courts, they seemed to do so far less in the eighteenth century. As noted earlier, there are also indications that the lure of eighteenth- and nineteenth-century English summary courts decreased for lower social groups. As for Leiden, further research should establish whether the seventeenth-century Peacemaker court boasted a more socially inclusive clientele.

A second factor is the methodology adopted in this case study. As was explained above, many historians use data on the social status of plaintiffs and defendants that are contained in the court records themselves. Notably, the occupations that are mentioned in those records are a flawed proxy for social status. This article has adopted exceptional source material, including a census that contained data on the social profiles of the heads of household of almost the entire population of an eighteenth-century town. This methodology makes the assessment of the social composition of the court clientele uncommonly reliable.

The present research results caution social historians to be wary of projecting the patterns of social interaction discerned from legal records on to early modern communities as a whole. The results also caution historians of state infrastructure and state-building processes who have been inspired by recent English historiography.



This strand of historiography is exemplified by Steve Hindle's assertion about the relation between litigation and state formation in early modern England. He claims that 'the law proved to be an incorporative force in early modern England, creating and intensifying links not only between individuals, but also between the communities of parish, county and realm. The cumulative effect of these links was the gradual embedding of the state deeper into the social order. ... Even the most humble of English men and women shared this forum with the most august in the land.' He emphasizes 'the participation of groups traditionally regarded as marginal, yet increasingly being recognized as central agents in the social, economic and cultural life not only in their local communities, but also of the nation at large'.<sup>78</sup> In view of the relative social inclusiveness that has been asserted for various (local) English courts, these claims may indeed be accurate for early modern England. However, the litigation patterns for mid-eighteenth-century Leiden make clear that the participation of those 'marginal groups' in social, economic and cultural life cannot be generalized for western Europe. As concerned Leiden, the mid-eighteenth-century early modern (local) state penetrated into the lives and relations of such groups only to limited extent, and usually as a repressive body. Lower social groups scarcely increased their agency by utilizing the judicial infrastructure. They settled conflicts by other means, especially via measures that left few traces in source materials, and thus constitute a problematic field of historical research.<sup>79</sup>

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<sup>78</sup>Hindle, *op. cit.*, 89–90.

<sup>79</sup>No potential conflict of interest was reported by the author.