

# Gallows in Late Medieval Frisia

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## INTRODUCTION<sup>1</sup>

Gallows were a familiar sight in the landscape of fifteenth-century Frisia. I am not thinking here primarily of temporary installations erected for executions in the town square to be dismantled afterwards, but rather of permanent constructions of wood or iron upon which the corpses of miscreants were exhibited after the execution, until they decomposed. For this purpose, wagon-wheels were attached onto poles nearby the gallows to serve as platforms upon which the beheaded and broken bodies of criminals were laid. Frisia between the Vlie and the Lauwers, the area on which my research is focussed in particular, counted at least forty such gallows-and-wheel constructions prior to 1515. Set high upon natural elevations, beside busy thoroughfares and waterways or beyond the dyke, these structures stood out conspicuously in the landscape and were intended to be seen from afar.

Despite their emphatic position in public spaces and the significance which they thus acquired for the general public, little attention has been paid to the history of the gallows, neither in the Low Countries nor elsewhere in Western Europe. General histories of crime and criminal law devote only marginal attention to this phenomenon; studies of state building entirely pass it by.<sup>2</sup> This neglect has nothing to do with the morbid nature of the subject.

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<sup>1</sup> This is a translated and somewhat adapted version of my 'Galgen in laatmiddeleeuws Friesland', *De Vrije Fries* 86 (2006), 95–140.

<sup>2</sup> The most detailed information is given by D. A. Berents, 'Galg en rad: "wrede straffen" in laat-middeleeuws Utrecht', *Misdaad, zoen en straf. Aspecten van de middeleeuwse strafrechtsgeschiedenis in de Nederlanden*, ed. H. A. Diederiks and H. W. Roodenburg (Hilversum, 1991), 85–101; idem, *Het werk van de vos. Samenleving en criminaliteit in de late middeleeuwen* (Zutphen, 1985); and his *Misdaad in de Middeleeuwen*, 2nd ed. (Utrecht, 1984). Also see K. J. Frederiks, *Het Oud-Nederlandsche Strafrecht*, vol. 1 (Haarlem, 1918); R. His, *Das Strafrecht des deutschen Mittelalters*, 2 vols. (Weimar, 1935), 80; L. T. Maes, *Vijfeeuwen stedelijk strafrecht. Bijdrage tot de rechts- en cultuurgeschiedenis der Nederlanden* (Antwerpen, 1947), and R. C. van Caenegem, *Geschiedenis van het strafrecht in Vlaanderen van de XIe tot de XIVe eeuw* (Brussels, 1954); cf. C. Gauvard, 'De grace especial'. *Crime, état et société en France à la fin du Moyen Age* (Paris, 1991).

After all, there is plenty of literature on the hangman and his job.<sup>3</sup> The most likely reason for this dearth of studies would seem to be a lack of source material regarding the construction, distribution and function of the gallows in the Middle Ages. Localisable illustrations on maps, prints and paintings begin to appear only in the sixteenth century; few reports and administrative documents are extant which predate 1500, and the gallows themselves have perished. Hardly any foundations survive of even the sturdiest structures from early modern times. At most, archaeologists may now and then come across a skull and some bones of the hanged, self-buried as it were at the place of execution.<sup>4</sup>

There is, however, one trajectory which the historian of the gallows may follow with profit: onomastics. Gallows are often memorialised in the names of fields, water courses and other landscape features, such as in *Galge(n)-berg* (Gallows Hill), *Galgeduin* (Gallows Dune), *Galgefenne* (Gallows Fen), *Galgekamp* (Gallows Pitch), *Galgerak* (Gallows Reach), *Galgeveld* (Gallows Field), *Galgewater* (Gallows Water), *Galgewier* (Gallows Rise), *Galgeweel* (Gallows Pool). Such names, whether in Dutch or in Frisian, have retained their gallows component after the eponymous construction had fallen into disuse and had subsequently decayed or been demolished. These names can be inventoried and localised, after which it can be concluded whether they indeed refer to the former presence of a gallows. Such names represent the primary material for this essay. I have assembled them with the help of the huge collection of names of fields and water bodies put together at the Frisian Academy in the 1940s and 1950s.<sup>5</sup> Important in this connection is the institute's historical Geographic Information System (GIS), because it allows us not only to locate the physical position of gallows but

<sup>3</sup> See the detailed bibliography in G. Wilbertz, *Scharfrichter und Abdecker im Hochstift Osnabrück: Untersuchungen zur Sozialgeschichte zweier 'unehrlicher' Berufe im nord-westdeutschen Raum vom 16. bis zum 19. Jahrhundert* (Osnabrück, 1979); P. Spierenburg, *The Spectacle of Suffering. Executions and the Evolution of Repression: from a Pre-industrial Metropolis to the European Experience* (Cambridge, 1984); and H. Klemetillä, *Epitomes of Evil. Representations of Executioners in Northern France and the Low Countries in the Late Middle Ages* (Leiden, 2005). For the Netherlands, cf. F. de Wit Huberts, *De beul en z'n werk* (Amsterdam, 1937).

<sup>4</sup> Kind information from Wijnand van den Sanden who is preparing a publication on the archeological finds at the former gallows of Assen.

<sup>5</sup> The collection contains both archival and 'living' toponyms. The former category refers to field names from various administrative sources and also, for example, from newspaper advertisements for the sale of land. Such names may be mapped by linking them with those appearing in the earliest land registers. The names in the latter category were orally collected from farmers, farm hands and others, cf. J. J. Spahr van der Hoek, 'Stân fan saken oangeande de toponymesamlingen', *Fryske Nammen* 1 (1976), 111–13 (with map).

also their owners, thereby giving some indication of who may have been involved in the setting up and maintenance of the gallows.<sup>6</sup>

The number, distribution and function of gallows in Frisia are particularly worthy of study in relation to the extraordinary social and political developments of this region in the Middle Ages. It is known that gallows were built not only to instil fear and trembling and to act as a deterrent; they also served as a reminder of a ruler's power and authority.<sup>7</sup> In this way the holder of high jurisdiction, i.e. he who held the right to condemn to death, made it clear to his own subjects and to visitors alike that they found themselves in an independent jurisdiction. The message conveyed that disturbances of the peace would not be left to the victim's relatives to be corrected but would be severely dealt with by the authorities on behalf of the community. The gallows thus symbolised the monopoly on violence held by a governing authority. Simultaneously, the gallows would seem to have been intended to disseminate a concept of the necessity for painful capital punishment, a concept which in its turn was intimately connected with the development of the modern territorial state.

The object, then, of my essay is to establish how the application of the death penalty, the erection of such penal sites and the exhibition of punished miscreants relates to the decentralised communal government as found everywhere in Frisia between the Vlie and the Lauwers during the late Middle Ages. This region had been free of feudal authority since the middle of the thirteenth century which implied that per land (*terra*) the local elite itself practised government and exercised legal rights under the leadership of judges elected by the people.<sup>8</sup> The free Frisian lands themselves were the holders of high domain. They recognised that this right derived in the first place from the sovereignty of the Holy Roman Empire, to which they considered themselves to belong at least nominally. These communally governed lands were in fact fairly loosely organised confederations, without much political machinery and with only a minimum of administrative infrastructure. Until far into the fifteenth century they had no chancery at their disposal or buildings or any other centralised facilities. Most lands and their sub-districts had, so to speak, nothing more than their seal.

Given these circumstances, the question arises as to why the (possible) application of the death penalty by using gallows-and-wheel constructions ever found favour amongst these independent mini-territories, and what

<sup>6</sup> To be found at <[www.hisgis.nl](http://www.hisgis.nl)> with detailed information.

<sup>7</sup> A. Erler, 'Galgen', *Handwörterbuch zur deutschen Rechtsgeschichte*, ed. A. Erler, et al. (Berlin, 1971) I, cols. 1375–78, at 1376.

<sup>8</sup> General: O. Vries, *Het Heilige Roomse Rijk en de Friese vrijheid* (Leeuwarden, 1986), 14–27; *idem*, 'Geschichte der Friesen im Mittelalter: West- und Ostfriesland', *Handbuch / Handbook*, 538–50, at 542–48.

purpose they served. The question is the more pressing in regard to the Frisian lands precisely because the Frisians are known to have clung so tenaciously to the Germanic system of compensation. Many crimes, including manslaughter, which elsewhere had long become liable to the death penalty, were dealt with in Frisia by paying compensation. This custom does not imply that Old Frisian law texts fail to mention hanging or beheading. They certainly do. But these texts emphatically radiate the sense that the legal order, once violated, may be restored through pecuniary reparation.

I have chosen the year 1515 for the end date of my investigation. This is the year in which Duke George of Saxony passed his authority over the Frisian lands to the west of the Lauwers to Charles V of Habsburg. The date of the end of Frisian autonomy, 1498, might seem a more obvious choice. In that year George's father Albert captured the region and centralised its government, amongst other things by establishing an overarching Court of Law in Leeuwarden with far-reaching legal jurisdiction. Various scholars assume that this Court from the start exercised capital punishment on behalf of all of the Frisia lands west of the Lauwers, and that as a result all executions after 1498 took place in Leeuwarden.<sup>9</sup> On closer examination, however, this appears not to have been the case.<sup>10</sup> Even though Duke George's intention may have been to centralise the 'painful penal code' and to try in Leeuwarden all capital crimes perpetrated in Frisia west of the Lauwers, it took until 1515 before the towns and *grietenien* (rural judicial districts) officially abandoned their right to execute and exhibit sentenced miscreants.

#### 1. COMPENSATION VERSUS THE DEATH PENALTY IN OLD FRISIAN LAW

Eloquent and programmatic for the strongly compensation-based character of the medieval Frisian judicial system is the sixteenth of the *Seventeen Statutes*, which contains a collection of legal regulations possibly dating back to the twelfth century and in force for all of Frisia, from the Vlie in the west to the Weser in the east. The sixteenth statute states in so many words 'that all Frisians may compensate their (violation of the) peace with their money and goods'.<sup>11</sup> On account of this statute, allegedly granted by Charle

<sup>9</sup> J. S. Theissen, *Centraal gezag en Friesche vrijheid. Friesland onder Karel V* (Groningen, 1907), 40; A. H. Huusen, Jr., *Veroordeeld in Friesland. Criminaliteitsbestrijding in de eeuw der Verlichting* (Leeuwarden, 1994), 11.

<sup>10</sup> As pointed out to me by my colleague Paul Baks, e.g. on account of a sentence of a wrongdoer in Wommels in 1514: Dresden, Sächsisches Hauptstaatsarchiv, Loc. 10374/9, fols. 55–59.

<sup>11</sup> *Jus Municipale Frisonum*, ed. W. J. Buma and W. Ebel, AR 6/1–2 (Göttingen 1977) I, 144–45: 'Djo sextundiste kest is, dat alle Fresen hiare ferde bete mey hiara fia. Truch dat schelleth Fresen wessa oen Saxena merkum wtor stok ende wtor stupa ende wtor schera ende wtor fillane ende wtor pina binna settena merkum'. Cf. N. E. Algra, 17

magne, the Frisians remained exempt from imprisonment, rod, fetters and other painful punishments not only in their own lands but also throughout the Saxon duchy. This right immediately makes clear that the Frisian system had resisted the application of corporal punishment long after its neighbouring regions had accepted it. In a plea for more attention for this very particular Frisian development, the Göttingen medievalist Ernst Schubert speaks of a ‘dezidierte, aber keineswegs konsequente Ablehnung der Blutgerichtsbarkeit, der Lebens- und Körperstrafen’.<sup>12</sup> We know that the Frisian system of compensation dates back at least as far as the late eighth century: in the pages of the *Lex Frisionum* every transgression and injury is regulated by a certain amount of money. These payments, and hence the practice of compensation, were of a remarkably structured and continuous character, for a great number of tariffs recur again and again in hardly altering sums in late-medieval compensation registers that have survived for the various Frisian judicial districts.<sup>13</sup> Essential here is that even manslaughter can be settled by paying a full *wergeld*.

This is not to say that Old Frisian Law is lacking in clauses that allow for the death penalty for serious misdeeds. Searching the rich collection of surviving law texts for capital crimes reveals stipulations on capital offences which were liable for the death penalty, such as violent robbery, church robbery, arson, forgery and high treason. ‘Murder must be compensated with murder’ is a recurring proverbial wisdom found in the various provisions.<sup>14</sup> Schubert is aware of this but judges the fact to constitute a paradox in Frisian law.<sup>15</sup> In his view, the contradiction is only apparent, because he simultaneously feels able to establish that in many Frisian regions the death sentence for serious crimes could ultimately be avoided by compensation until well into the sixteenth century. For a long time, according to Schubert, the Frisians considered settlement in money or goods a fully valid alternative

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*Keuren en 24 Landrechten* (Doorn, 1991), 313–14, who explains how this provision refers to buying off blood feuds: instead of *ferde* ‘peace’, older versions have *feitha*, *inimicitia* ‘enmity’.

<sup>12</sup> E. Schubert, ‘Vom Wergeld zur Strafe: die übersehene Bedeutung der friesischen Rechtsquellen zur Interpretation eines epochalen mittelalterlichen Wandels’, *Tota Frisia in Teilansichten. Hajo van Lengen zum 65. Geburtstag*, ed. H. Schmidt, W. Schwartz and M. Tielke (Aurich, 2005), 97–120, at 97–99.

<sup>13</sup> D. J. Henstra, *The Evolution of the Money Standard in Medieval Frisia: a Treatise on the History of the Systems of Money of Account in the Former Frisia (c.600–c.1500)* (Groningen, 2000), 14–16.

<sup>14</sup> E.g. in the conclusion of the sixteenth Statute and in the twenty-fourth Landlaw; see *Das Rüstringer Recht*, ed. W. J. Buma and W. Ebel, AR 1 (Göttingen, 1963), 40–41, and 58–59: ‘Morth mot ma mith morthē kela, til thiū thet ma tha ergon stiore’ [Murder must be paid for with murder in order to avert the evil ones]; cf. N. E. Algra, *Oudfries recht 800–1256* (Leeuwarden, 2000), 193 and 295.

<sup>15</sup> Schubert, ‘Vom Wergeld zur Strafe’, 109.

to painful execution. It was even a necessary alternative, given the absence of any practical infrastructure to support the execution of the death penalty in Frisia. There were, after all, neither castles nor strongholds and hence no secure prisons for the detention of criminals awaiting trial, sentence and execution. Nor were there professional executioners available to deal with the dirty work associated with this form of justice. The first hangmen arrived in larger Frisia only around 1500, and then more in particular in towns such as Groningen and Emden – it was the town that gave birth to the hangman. In short, Old Frisian law applied the death penalty only in exceptional cases ‘... für die zwar Lösungen gesucht, aber keine praktische Vorkehrungen getroffen wurden’.<sup>16</sup> Elsewhere,<sup>17</sup> Schubert says that despite its presence in the law codes capital punishment played no part in general patterns of judicial punishment in Frisia until the sixteenth century.

In his essay, Schubert neglects to test this hypothesis against other than normative sources. The reluctance for Frisian authorities to implement capital punishment until about 1500 is a hard fact for Schubert. He uses it to comment on theories that have been postulated by legal historians regarding the whys and wherefores in German penal law of the transition from a system of compensations to that with capital punishment. It will become clear that my enquiry into the administration of justice, and more particularly the implementation of gallows, follows quite another line. New data concerning the death penalty and gallows-and-wheel constructions collected from place-names and narrative sources gives occasion to question the validity of Schubert’s hypothesis. Upon closer inspection, there is also reason to challenge his analysis of neck-and-head clauses in the law texts.

To begin with, I shall examine in some detail the consequences of the afore-mentioned sixteenth Statute. Here, *hauddeda*, (‘“head-deeds”, capital crimes’) are explicitly referred to, that is crimes for which a perpetrator must pay with his head in order to satisfy the community. The most serious crimes were nightly arson and other surreptitious deeds. For these felonies the punishment was breaking on the wheel, while thieves were led to the gallows – that is, those thieves who were unable to compensate.<sup>18</sup> The *Wenden* (‘Exceptions’) to the sixteenth of the *Seventeen Statutes* as found in the Fivelgo and Hunsingo manuscripts list just three *mordseka* (‘evil cases’) for which a free Frisian may lose his neck: church robbery, high

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<sup>16</sup> *Ibid.* 111.

<sup>17</sup> *Ibid.* 101.

<sup>18</sup> *Das Rühringer Recht*, ed. Buma and Ebel, 40–41: ‘Ac hebbe hi hauddeda eden, nachtrond ieftha othra morthdeda, sa skil hi ielda mith sines selues halse alle lioden to like thonke ..., thet is, thet ma hini skil ope en reth setta. Ac hebbe hi thivuethe den bi Frisona kere, ief hit an tha fia nebbe, sa hach ma hini to hwande’.

treason and church arson.<sup>19</sup> In other texts, however, mention is made of the death penalty for the thief who is caught red-handed while burgling and stealing at night.<sup>20</sup> Such a punishment speaks for itself considering that a thief does not generally possess the means by which to recompense his crime. Thus he was made to pay a still heavier price for his furtive behaviour. The way in which he was executed implied a complete loss of honour: he was blindfolded with a black cloth and hanged by the neck on the *northalda bam* or *northalda tre*: the (wretched) north-facing, leafless tree: the gallows.<sup>21</sup> For severe misdeeds, such as robbery with murder and church robbery, the sentence was breaking of the bones with subsequent exhibition upon the nine or ten-spoked wheel: *thet tian spetzie fial*.<sup>22</sup> How the punishment was to be carried out is described at length in a legal provision entitled *Fan en Schaekraef* ('Of violent robbery'), probably originating from the thirteenth century. Article eight describes three cases of violent robbery: one in a house, one on board a ship and one involving a travelling tradesman.<sup>23</sup> Importantly, the article stipulates the exhibition of the convict's corpse so that people might 'learn to avoid dreadful deeds'.

In short, murder for robbery, theft and nightly arson were capital offences under Old Frisian law at least since the twelfth century; a perpetrator could no longer compensate these crimes with money and goods. Later texts reiterate the provisions in such cases, explaining them in a relatively consistent manner. For example, the late thirteenth-century *Brocmonna Bref*, originating from Brokmerland in East Frisia, makes clear in several places that both

<sup>19</sup> *Das Hunsingoer Recht*, ed. W. J. Buma and W. Ebel, AR 4 (Göttingen, 1969), 46–47; *Das Fivelgoer Recht*, ed. W. J. Buma and W. Ebel, AR 5 (Göttingen, 1972), 170–71. The Emsigo version counts five exceptions, including violent robbery in a forest, see *Das Emsiger Recht*, ed. W. J. Buma and W. Ebel, AR 3 (Göttingen, 1967), 92–93. Otherwise, we find a number of such cases in the *Lex Frisonum*, ed. K. A. Eckhardt and A. Eckhardt (Hanover, 1982), Tit. V: 'Of people who may be killed without compensation'. They include thieves caught in the act, arsonists and desecrators of sanctuaries.

<sup>20</sup> For example, in extrapolation of the twenty-fifth Land law: *Das Emsiger Recht*, ed. Buma and Ebel, VII, §§ 35–36, pp. 94–95. See also the provisions *De Duplici Malo*, §§ 1–2; *ibid.* 134–37.

<sup>21</sup> *Das Hunsingoer Recht*, ed. Buma and Ebel, 90–91: 'And sa ach hi bi riuchta thene swarta lappa and thene smerta knotta and the nordalde tre'. Cf. His, *Das Strafrecht der Friesen im Mittelalter* (Leipzig, 1901), 195–96.

<sup>22</sup> Mentioned in the *Wenden op de Zestiende Keur* (Exceptions to the Sixteenth Statute): *De eerste en de tweede Hunsinger Codex*, ed. J. Hoekstra, OTR 6 (The Hague, 1950), 58 (VI, 6).

<sup>23</sup> *Jus Municipale Frisonum*, ed. Buma and Ebel, I, 250–51; cf. the variant in *Jurisprudencia Frisica of Friesche regtkennis. Een handschrift uit de vijftiende eeuw*, ed. M. de Haan Hettema, 2 vols. (Leeuwarden, 1835) II, 180–83.

murder for robbery and theft were liable to capital punishment.<sup>24</sup> The value of the stolen goods was relevant, but no amount was specified. It seems that it was left to the judges to decide what value would tip the balance. The *Ommeland Land Law of 1448*, agreed between the Frisian lands (*terrae*) of Fivelgo and Hunsingo and the city of Groningen on the basis of older Frisian law, concludes its article on fatal arson with the instruction that if a man has been found guilty, the damage will be doubly recovered from his goods ‘... ende den schuldighen te rechten an syn lyf’ [‘... and the convict to be executed to death’].<sup>25</sup> As for thieving: the perpetrator must hang if the value of the stolen goods exceeded that of an old shield (gold coin). The *Joure Market Law* of 1466 offers the same sentence: ‘is it een schild ald ieldis ofte daer toe bowa, soe schilma hem zyn riucht dwaan’.<sup>26</sup> The same measure is to be found abundantly in a treaty concluded in 1491 between Groningen on the one side, and the town of Dokkum, a number of monasteries, various village communities and diverse prominent figures from Oostergo on the other.<sup>27</sup> If we compare these provisions with the norm that prevailed in similar circumstances elsewhere in the northern Netherlands and in northern Germany we scarcely find any differences. At most, the sums and amounts outlined were somewhat lower beyond the boundaries of Frisia west of the Lauwers.<sup>28</sup>

In its judgement of manslaughter, Frisia demonstrated its singularity in relation to surrounding areas, because this deed could be compensated by the payment of a *wergeld*.<sup>29</sup> We must realise, however, that compensation was possible only if the felon was capable of procuring the vast sum which was demanded in recompense for manslaughter and grievous bodily harm. Only members of the nobility and freeholders had at their disposal substantial assets in terms of property, kinsmen or personnel. Upon this point Frisian law is to the point: he who cannot compensate in money or goods must do so with his blood. The sixth statute of the *New Riustring Statutes*

<sup>24</sup> *Das Brokmer Recht*, ed. W.J. Buma and W. Ebel, AR 2 (Göttingen 1965), 82–83: *Brokmer Brief*, §§130, 132.

<sup>25</sup> D. Simonides, *Die Hunsigoer Küren vom Jahre 1252 und das Ommelander Landrecht vom Jahre 1448* (Assen, 1938), 94–95.

<sup>26</sup> *Oudfriesche Oorkonden*, ed. P. Sipma, 3 vols. (The Hague, 1927–1941) II, no. 66, p. 86: ‘If it is a shield in old currency or more, then he must be executed’.

<sup>27</sup> *Pax Groningana: 204 oorkonden út it Grinzer gemeente-archyf oer de forhâlding Grins-Fryslân yn de fyftjinde ieu*, ed. M. G. Oosterhout et al. (Groningen, 1975), no. 47, p. 69: ‘Item wellick menssche de steelt bouen eenen olden fransschen schilt den deeff salmen hangen [...]. Item alle stratenschenders ende nachtrouers de misdoen in onsen verbonde de rechtmen an oir lyff’.

<sup>28</sup> The amounts elsewhere vary between five and sixteen shillings, see Berents, *Misdaad in de Middeleeuwen*, 82–83; Berents, *Werk van de vos*, 69 and 71–72.

<sup>29</sup> His, *Strafrecht des deutschen Mittelalters*, II, 80.



states that the *blata* ('poor man') who was apprehended immediately after committing manslaughter in a violent quarrel, must pay with his neck; there was to be no 'peace' (= money) for his head.<sup>30</sup> A search for *blata* in Old Frisian law texts results time and again in finding variations on the theme. It underlines once more the intricate relationship between honour, property and law in medieval Frisian society.<sup>31</sup>

In view of the absence of a practical organisation for carrying out executions, may we conclude from the many legal provisions concerning death penalties that they were merely there for the purpose of deterrence? And would judges have circumnavigated this predicament by handing down sentences of exile or compensations? I do not think so. In the first place, the lack of information concerning trial procedures in Old Frisian laws should not lead us to assume that any serious organisation was lacking too. Information is also sadly deficient regarding the precise way in which court sessions were conducted. Nevertheless, between the lines of the provisions on death penalties some indications are certainly to be found of concrete arrangements for capturing, sentencing and executing felons who had forfeited their lives.

The law *Fan en Schaekraef*, dealing with cases of violent robbery, is a good example in point. It contains an almost lyrical plea to the members of the legal community to stop immediately whatever they are doing the moment a clarion of bells alerts them to pursue robbers or thieves. Freely translated, the text reads as follows: 'everyone, young or old, hungry or thirsty, warm or cold, hearing the signal shall immediately heed it and pursue God's enemies'.<sup>32</sup> One need not have to have seen many Westerns to imagine what sort of posse might have been set in motion by the *grietman* (judge of a rural district) when cattle or goods had been stolen and the thief was rumoured not to be far off.

Concerning the actual execution: the *Younger Magistrates' Law* which related to Frisia west of the Lauwers, assumed that the *banner* ('officer of

<sup>30</sup> *Das Rüstringer Recht*, ed. Buma and Ebel, 85: 'Alder thi blata falt enne mon, werth hi tohond bigengen, sa mot hi riuchta mith tha halse and thet lif ac fretholas biliua'. Compare the treaty of 1491 between Groningen with Oostergo, mentioned above: 'gebreket hem Jn den guede, hie betale mit den bloede'.

<sup>31</sup> So in the eleventh provision of the *Old Riustring Statutes: Das Rüstringer Recht*, ed. Buma and Ebel, 81–82; *Brokmer Brief*, §128: *Das Brokmer Recht*, ed. Buma and Ebel, 82–83; *Emsigo Penningschuldboek* ('Book of Debts'), §§29–30: *Das Emsiger Recht*, ed. Buma and Ebel, 216–17; and *Hunsingo Satutes of 1252*, §§29–30: *Das Hunsingoer Recht*, ed. Buma and Ebel, 120–21.

<sup>32</sup> *Jus Municipale Frisonum*, ed. Buma and Ebel, I, 250–51: 'Is hi ald, js hi iong, deer dae kedene heerth, is hi torstich, js hi hongeric, js him hete, is him kalde, soe ne ach deer nen man soe lange toe bidiane, dat hi zijn weed bewandelia moeghe, mer hia schelleth dae Goedis fianda fulghia'.

the court') was the one who tied the convicted thief and conducted him to the gallows. At this point, the thief's victim was given the choice whether to execute the criminal himself or to pay someone else to do it.<sup>33</sup> In the thirteenth century, it was still customary in the Frisian lands, as it was elsewhere, for the victim himself or one of his kinsmen to carry out the execution as a form of judicially approved revenge. According to a treaty between Rüstringen and Bremen signed in 1220, the victim himself carried out punishment on the robber.<sup>34</sup> In the early fourteenth century this would seem to have been the normal procedure in Brokmerland too. Whoever caught the thief – supposedly the latter's victim – had his goods returned and in addition a silver mark, after which he himself was entitled to execute the sentence: 'and sa vrdue hine selwa'.<sup>35</sup> The Bolsward bylaws of 1451 prescribe that the victim who had his goods stolen, should execute the thief himself or pay someone else to do it for him. If he was not prepared to pay, he forfeited the right to have his stolen goods returned to him and the alderman was to take care of (or arrange for) the execution of the sentence.<sup>36</sup> In short, law sources afford us a clear glimpse of the posse, the gallows, and the man who pulled the chord.

## 2. EXECUTION AND EXHIBITION: TOWN AND COUNTRY

My examination of the texts has demonstrated that the application of capital punishment involved more than just the execution. The execution did not end with the hanging, beheading or breaking on the wheel. The corpse had to be exhibited, partly as an additional punishment or revenge on behalf of the community and partly as a deterrent. The afore-mentioned law text *Fanen Schaekraef* stipulates that the violent robber, after mutilation, had to be given a place beyond the dyke high upon a wheel that had never before been used on a wain. There '...no wind is to blow upon him, no man to look upon him, no dew to bedew him and no sun to shine upon him, so that everyone might learn from this that misdeeds are to be avoided'.<sup>37</sup> The internal contra-

<sup>33</sup> *Jus Municipale Frisonum*, ed. Buma and Ebel, I, 224–25: 'So aeg di bannere him to bindane ende ti dere rode ti ledane ... . Soe aegh di man dyne kerre, her hi dyn tiaef hwe soe hyt mit sijn goed winne'.

<sup>34</sup> His, *Strafrecht der Friesen*, 198 n. 4: 'spoliator capitalem sententiam per manus spoliati subibit'.

<sup>35</sup> *Das Brokmer Recht*, ed. Buma and Ebel, §132, p. 82.

<sup>36</sup> V. Robijn, *Het recht van een vrije Friese Stad. De stadboeken van Bolsward van 1455 en 1479* (Hilversum and Leeuwarden, 2005), c. XCI, p. 128.

<sup>37</sup> 'Soe aegh ma him wtor dike toe ferane ende deer en boem toe ferane, en tial toe brengane, deer eer oen wayne ne kome, him der op ti settane, hi zyn eynde deerop ti nymane. Him aegh nen wynd ti biwaine, nen man ti bisiane, nen dau ti bidauwen, nen senne ti bischinen, mer datter alle liuede oen merke, dat ma eergha deda wrmide.'

diction of this poetic but macabre passage might be read to mean that the punished man must be banished wholly from the cosmos as a person but that his ashes had to serve as an ever-visible lesson to the community. The 'placing beyond the dyke' lends extra symbolic weight to this ambivalent message. The convict after all ends up on the border between land and sea, in the margin of society, facing the malevolent world beyond. This element is reminiscent of the death penalty clause for the desecrator of pagan sanctuaries given in the *Lex Frisionum*: whoever violates a sanctuary (*fana*) must be carried to the sea shore, suffer castration there and is offered as a sacrifice to the god whose temple he has violated.<sup>38</sup> Important too, however, is that the executed violent robber whose corpse is exhibited on the waterline should be visible from afar. The same applies to the thief who gets the rope. He must hang 'bi tha wie', that is, adjacent to the public highway.<sup>39</sup>

These are rather general provisions which, charged as they are with symbolism, appear in numerous judicial sources throughout Europe.<sup>40</sup> All emphasise that the execution of the death sentence was a public affair. As many of the public as possible would be gathered together for the execution which was surrounded by many rituals. But also afterwards, by its display to the community for many months, the corpse of the miscreant had to illustrate how dearly he had paid with a grisly fate for his violation of social order. The exemplification and striking fear into the hearts of the people were thereby more important than any avenging and banishing from society of the criminal. Execution and exhibition belonged together from the beginning and served one and the same goal.<sup>41</sup>

Before we can compile an inventory for Frisia of the tools and further practical constructions instrumental in achieving this goal, we must consider whether execution and exhibition could simultaneously serve both functions and, if so, under what circumstances. In other words, were the gallows-and-wheel used in Frisia for both execution and exhibition or were they constructions that served first the one and then the other purpose? From the judicial-historical literature it appears that almost all the large towns of the Middle Ages and Early Modern era in fact had a separate exhibition gallows which were situated on a clearly visible spot beyond the city wall, embankment or moat. Such exhibition structures are often referred to in Dutch sources as the *gerecht* ('justice', compare German *Hochgericht*). Thither the criminals' corpses were brought after execution, usually in a ritual and

<sup>38</sup> *Lex Frisionum*, Note XI, I: *De honore templorum*.

<sup>39</sup> J. Grimm, *Deutsche Rechtsalterthümer*, 4th ed., 2 vols. (Leipzig, 1899) II, 259.

<sup>40</sup> *Ibid.* 257; see also the literature mentioned in footnote 3 above.

<sup>41</sup> In practice it would seem that exhibition often did not take place, sometimes owing to a mitigation of the sentence, but also at the request of the relatives of the sentenced man if they considered it their duty to give him a decent burial.

humiliating manner, to be hung up or otherwise exposed, prey to rats and ravens until they had decomposed.

Frisian, like Dutch and German, has just one technical term for both structures: *galge* (gallows). In French and English the two may be discriminated through the use of two separate terms.<sup>42</sup> The execution gallows, which may be single in the form of a knee, or double in the shape of a 'T' (whence the plural form *gallows* in English), is in French called *potence* (after the noose made of willow twigs) or *patibule* (from Latin *patibulum*, also used for the traverse of the cross used for the execution of Christ). The exhibition gallows is mostly referred to in French as *gibet* or *fourche de gibet*; *fourche* (from Latin *furca*) points to the fork-construction atop the supporting posts, in and upon which the crossbeam rests for the hanging. The French word *gibet* is perpetuated in the English word *gibbet*.

Some of the seventeenth-century city gibbets in the Netherlands are well known. That of Utrecht, for instance, was situated on the Vaartse Rijn, a good distance south of the city moat.<sup>43</sup> Still better known, thanks to drawings made by Rembrandt, Reinier Vinkeles and others, is the Amsterdam *gerecht*, located in the Volewijk on the north bank of the river IJ.<sup>44</sup> As for the north of the Netherlands, the Groningen exhibition gallows, situated on the south-side of the town during the sixteenth century, certainly deserves to be mentioned. The historiographer Sicke Benninge records its demolition by German troops on the occasion of the siege of Groningen by Albert, duke of Saxony, in 1500. It was reputed to have been an expensive construction of heavy iron beams on pillars of costly Bentheim stone.<sup>45</sup>

The custom of erecting separate scaffolds for execution and exhibition within and without the town is relatively old. The gallows place in Brussels, on the Flotsenberg west of the city, already existed in 1233.<sup>46</sup> In Gent,

<sup>42</sup> Maes, *Vijf eeuwen stedelijk strafrecht*, 296–98.

<sup>43</sup> The execution of those who had committed serious crimes took place at the Neude, where a scaffold and separate knee-shaped gallows stood for this purpose: Berents, *Misdaad in de Middeleeuwen*, 39–42; *idem*, *Werk van de vos*, 70.

<sup>44</sup> H. G. Jelgersma, *Galgebergen en galgevelden* (Zutphen, 1978), 37–41.

<sup>45</sup> *Chronickel der Vriescher landen en der stad Groningen, door Sicke Benninghe*, ed. M. Brouerius van Nidek, *Analecta Medii Aevi* (Amsterdam and Middelburg, 1725), 1–432, at 59–60. The execution itself took place in Groningen, usually on the Great Market; see F. J. Bakker and A. H. Huussen, Jr., 'Het oudste Groningse Register van criminele en andere zaken en De bekentenis van Johan Stenbar (1475–1547)', *Verslagen en Mededelingen van de Stichting tot Uitgaaf Bronnen Oud-Vaderlandse Recht*, n.s. 7 (1992), 43–92, at 47.

<sup>46</sup> In the beginning of the fifteenth century this gibbet was rebuilt into a sturdy, triangular walled construction fourteen rods long, with openings and cantilevers, the gallows and wheel situated within. All ... 'mit ene dobbele slote om de dode lichamen als sy vanden gherechte vallen daer inne te verwarene vor de beesten diese sliten ende eten mochten als honden ende andere beesten' [... with a double ditch in order to protect the

wrongdoers were exhibited at the place of execution for a long time after their death during the eleventh century. This conclusion may be drawn when the chronicler Walter of Terwaan remarks that the corpses of some miscreants were removed from the noose only after their decomposition began badly to affect the air in the marketplace.<sup>47</sup> The need for prompt separation of the two locations soon became evident to the town administration in densely populated trading towns. It proved difficult for town administrators and lords to combine the obvious need for permanent deterrence with their other equally important role in promoting concentration of economic activities. The solution which they found for this dilemma was the establishment of a place of exhibition at a short distance from the town, where the bodies of wrongdoers could be well seen but where their rotting away would not hinder those living nearby too much. One thing is certain, after all: living and working in the vicinity of a gallows field was no pleasure. 'The ghastly sight and smell of the dead, half-rotten miscreants put there to hang and display'<sup>48</sup> motivated people living on the Vaartse Rijn in Utrecht to seek relocation of the gallows field in 1674.

Public annoyance with gallows-and-wheel constructions cannot have posed such a problem in the countryside. In the first place there were fewer such constructions there, and less often bodies to put on show. The towns were of course more densely populated and lodged more wealth, which resulted in more criminal activity. The chance of criminals getting caught was also commensurately higher in towns than in the countryside. In the second place, in the countryside it was easier for administrators to choose and set up a location for the gallows field while bearing in mind the prevalent wind direction, so that the people living in its vicinity would be less troubled. By implication, and in contrast to urban gallows, these rural constructions also served as a place of execution. Separation of function was not only unnecessary but also too costly for the often much less prosperous country districts. In the Groningen Ommelanden, where *redgers* ('rural judges') continued to exercise their right of sentencing people to death until 1795, the condemned were both executed and exhibited at the same place outside the village in the seventeenth and eighteenth centuries.<sup>49</sup> There is no reason to assume that procedures were different in earlier centuries. Consequently, when drawing up an inventory of gallows in medieval Frisia, we

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corpses after having fallen from the gibbet from the beasts, such as dogs and other animals, which might tear and eat them'], F. Vanhemelryck, *Misdadigers tussen rechter en beul 1400–1800* (Amsterdam, 1984), 193.

<sup>47</sup> Van Caenegem, *Strafrecht in Vlaanderen*, 171.

<sup>48</sup> Berents, *Werk van de vos*, 7.

<sup>49</sup> J. Frima, *Het strafproces in de Ommelanden tusschen Eems en Lauwers van 1602–1749* (Amersfoort, 1920), 390.

can take it for granted that, some town gallows excluded, by far the majority was intended for execution and exhibition alike.

### 3. GALLOWS IN OR NEAR TOWNS AND *GRIETENIEN*

Care must be taken when tracking down gallows through toponyms. Not every name with *galg(e)* need point to a former place of execution or exhibition. It may occasionally concern a nick-name or some memorial event, as is the case with *Galgenhuis* (Gallows House) in the village of Stiens, where around 1870 someone was said to have hanged himself.<sup>50</sup> More often, however, the *galg-* element in a place-name appears to derive not from the penal apparatus but rather from Dutch *gagel* ‘gale, bog-myrtle’ (*Myrica gale*), an aromatic plant in great demand in the Middle Ages for making gruit (or grut), a herb mixture used for bittering and flavouring beer. Gale may grow to a metre in height and is found on slightly acidic, moist soil that is poor in calcium, such as peat bogs and alongside old riverbeds. Because this plant is known in Frisian as *galje* or *gaalje*, it regularly features in field names such as *Galjefjild* and *Galjemedden*. When identifying sites, it is important therefore constantly to check whether the toponym under review might refer to a site that might have been a habitat of this plant. In view of the damp habitat of the plant, such a confusion is less likely in toponyms compounded with *wier* ‘clay mound’, *berg* ‘hill’, and words indicating ‘high’.<sup>51</sup>

From *galje*, which can erode to *galge* by way of such intermediate phases as *galleg* and *gallege*, it is a small step to *galle*<sup>52</sup> and *gale*. In the latter case extra care must be taken, because *gale* may also derive from the Frisian personal name *Gale*, often appearing in toponyms. To avoid the risk of confusion, forms with single ‘l’, such as *Galekampen* and *Galefennen*, have been excluded from my inventory.

<sup>50</sup> For this information I should like to thank Mr. D. Th. Reitsma, Stiens.

<sup>51</sup> There are doubts concerning interpretation of the adjacent *Galiefinne* and *Galiekamp*, southwards on the through road from Twizel to Drogeham (cadastral plots Kooten C9 and Drogeham F189–190), lying on either side of the border between the villages of Kooten and Drogeham, see S. de Haan, ‘Fjildnammen yn Drogeham en Harkema-Opeinde neffens de floreenkohieren’, *Nieuwsblad van Noord-Oost Friesland*, 30 Nov. 1988, 8. The road lies so high and dry here that it would not present an obvious habitat for gale. Though lack of hard evidence actually forbids this conclusion, it is tempting to consider this the location of the gallows of Achtkarspelen. The gallows of this *grietenie* is nowhere else to be found.

<sup>52</sup> See, for example, the *Galgekamp* ‘gallows field’, Sexbierum, which also turns up in the sources as *Gallekamp*.



Frisia west of the Lauwers and its political division in the fifteenth century: the *terrae*, the *grietenien* and the cities.

Westergo	Oostergo	Zevenwouden	
1. Menaldumadeel	9. Leeuwarderadeel	17. Utingeradeel	24. Kollumerland
2. Franekeradeel	10. Ferwerderadeel	18. Engwirden	25. Achtkarspelen
3. Barradeel	11. Westdongeradeel	19. Doniawerstal	26. Smallingerland
4. Baarderadeel	12. Oostdongeradeel	20. Haskerland	27. Opsterland
5. Hennaarderadeel	13. Dantumadeel	21. Schoterland	28. Ooststellingwerf
6. Wonseradeel	14. Tietjerksteradeel	22. Oosterzeeingerland	29. Weststellingwerf
7. Wymbritseradeel	15. Idaarderadeel	23. Mirderland	
8. Gaasterland	16. Rauwerderhem		

Taking into account these and other uncertainties, I have been able to compile a file of about thirty ‘gallows’ place-names for the present-day Dutch province of Fryslân.<sup>53</sup> The list may be split into various categories, of which the two that are devoted to towns and to *grietenien*, respectively, are the most significant. In addition to these two is a category covering the

<sup>53</sup> The internal inventory is available on <www.hisgis.nl> in a separate layer ‘galgen’.

remainder of the ‘other high seignories’ that includes not only the islands of Terschelling and Ameland,<sup>54</sup> but also the parish of Burum near the river Lauwers that enjoyed judicial exemption since all the landed property within its borders belonged to the Cistercian Jerusalem Abbey, also known as Gerkesklooster.

In terms of gallows sites belonging to the eleven Frisian towns, no fewer than nine can be identified and localised. Of Harlingen no record whatsoever has survived, whilst for Dokkum all that is currently known is that in 1491 there was a wheel in or nearby the town, upon which after his execution Groningen troops placed a nobleman whom they considered a traitor. Because gallows and wheels always went together as exhibition apparatus it may be taken that a gallows was also built at this place. For the remaining nine towns, the position of the gallows is more or less precisely locatable. That of Staveren reputedly was situated on land beyond the dyke, between the harbour and the Rode Klif near Scharl. The Workum gallows was situated somewhere south of the sluice, whilst that of Sloten was built near the canal connecting the town with the Sloten Lake. For the remaining towns the place of the gibbet can even be located on the cadastre.

Regarding the *grietenien*, no fewer than sixteen gallows can be traced. It is still uncertain how many *grietenien* we should take into account before 1500. The traditional number since the sixteenth century has been thirty, less one: the Bildt. This future district came into being after it had been reclaimed from the sea and enclosed by dykes only in 1505. Other districts, such as Hemelumer Oldeferd, for a long time formed a whole with a neighbouring district, in this case Gaasterland. Other *grietenien* again were split up into parts that were later reunited. In whatever way they are counted, the sixteen districts for which I have recovered the gallows in any case cover more than half of the districts. They are, in alphabetical order: Baarderadeel, Barradeel, Dantumadeel, Ferwerderadeel, Franekeradeel, Hemelumer Oldeferd (and Gaasterland), Kollumerland, Menaldumadeel, Oostdongeradeel, Ooststellingwerf, Smallingerland, Tietjerksteradeel, Westdongeradeel, Weststellingwerf, Wonseradeel and Wymbritseradeel. Hennaarderadeel may also be added to this number, because we know that in Wommels, the biggest village of the district, another miscreant was beheaded in 1514.<sup>55</sup> The decapitation must have taken place at the place of execution for this district, although it is not possible for me to localise it with any precision. Finally, it would seem that the later central gallows of Leeuwarden, on the towpath to Harlingen, originally belonged to Leeuwarderadeel. There was also a

<sup>54</sup> In the sixteenth century, Terschelling and Ameland were already separate high seignories that retained this status even after 1580, when the States of Friesland attained sovereign status.

<sup>55</sup> Dresden, Sächsisches Hauptstaatsarchiv, Loc. 10374/9, fols. 55–59.



gibbet on the Vliet, some miles east of the town, which in 1580 was referred to as the *olde gerecht*. Because of that name the construction will have been out of function by then for some time.<sup>56</sup> This would seem to have been the town scaffold rather than the one lying to the south-west of Leeuwarden. The former was closer by and easily reached from the Brol, which was still the site of the Leeuwarden execution place in the early sixteenth century.<sup>57</sup> Following this identification, only ten out of about thirty *grietenien* remain for which I have found no data. These districts were situated, probably not coincidentally, in the middle, east and south of the present-day province of Fryslân – areas which are poorly documented for the Middle Ages: Achtkarspelen,<sup>58</sup> Doniawerstal, Engwirden, Haskerland,<sup>59</sup> Idaarderadeel, Lemsterland, Rauwerderhem, Opsterland, Schoterland and Utingeradeel.

Before 1515, then, every (sub-) *grietenie* very probably possessed its own gallows. Or should we say that, apart from the towns, every rural district in any case had the right to set up its own gallows, and to use and maintain it? A specification of 1540 mentions *Baerderadeels galge* in so many words.<sup>60</sup> And in his account of the Groningen interference in northern Oostergo, written around 1585, the chronicler Johan Rengers van Ten Post refers emphatically to the presence of rural-district gallows, to wit those of Kollumerland, Oostdongeradeel and Westdongeradeel. The gallows of Kollumerland was said to have been beside the fortified house of the (Groningen) castellan inhabited in 1583 by the nobleman Sippe Meckama, a site then still called *Galgevenne*. It had long disappeared by Johan Rengers' time, of course, but a certain Wittie Douwes of Anjum, in the presence of the village parson, stated to Rengers '... that he had himself seen heads hanging there'.<sup>61</sup>

Only the administration of rural judicial districts in the person of the *grietman* was eligible to take the initiative of setting up a gallows. This prerogative appears from a witness statement, made in 1558, referring to the

<sup>56</sup> See the *Liber Beneficiorum* from 1580, Leeuwarden, Stadsarchief, inv. Singels, no. 269, fol. 10: 'het Olt Gerecht op het Vliet, ... nae die zijde nae Huijsum toe'; cf. W. Dolk, *Leeuwarder straatnamen* (Leeuwarden, 1997), 48 (*Olde Galgefenne*).

<sup>57</sup> Here the rebellious burgomaster Wybe Saeckles, who sided with the Duke of Guelders, was beheaded in 1516, see 'Landboek van Keimpe Martena', *Groot Placaat en Charterboek van Vriesland*, ed. G.F. thoe Schwartzenberg en Hohenlansberg, 3 vols. (Leeuwarden, 1768–1778) II, 97.

<sup>58</sup> However, compare note 50.

<sup>59</sup> See the *Joure Market Law of 1466* which provides for the pronouncement and implementation of death sentences; *Oudfriesche oorkonden*, ed. Sipma, II, no. 66.

<sup>60</sup> *Leuwerderadeels aenbrengh gemaect int jaer 1540*, ed. J. A. Mol (Leeuwarden 1989), 95: 'In Westerlant daer Baerderadeels galge stond'.

<sup>61</sup> *Werken van den Ommelander edelman Johan Rengers van Ten Post*, ed. H. O. Feith, 2 vols. (Groningen, 1852–1853) I, 108.

establishment of the borderline between the districts of Vredewold (Groningen) and Opsterland (Frisia). Pretty well all of the very elderly witnesses declared before *grietman* Ipo Haeyma, who was investigating the matter, that the border lay by the Friesche Palen ('Frisian boundary') and that the late Bonne Vukema, when he was the land administrator for Vredewold, 'had set up a gallows on the northern side of the aforementioned [Friesche] Palen [...], and had there ordered to be hanged a certain Menko Nekens'. The execution had taken place about sixty years previously, shortly before 1500. The witnesses further gave evidence that Sywert Fossema, *grietman* for Vredewold at the time, had thirty years later re-erected the scaffold which his predecessor Bonne Vukema had put up for the execution of another miscreant.<sup>62</sup> Because Vredewold bordered immediately on the Frisian districts of Achtkarspelen and Opsterland west of the Lauwers, it is likely that its legal practice differed little much around 1500 from places to the west and south of the Friesche Palen. One way or another, the gallows at the Friesche Palen would seem not to have been the first in Vredewold, for as early as 1385 there is mention of a *Zudgalgha* (southern gallows) somewhere beside one of the water outlets of the five parishes of Vredewold.<sup>63</sup> The name would lead us to assume that at the same time in the adjacent district of Langewold there must have been a northern gallows as a counterpart.

That rural judicial districts and towns alike had the right to erect a gallows will not be self-evident to every reader. After all, the original holder of the *hagista riocht* ('highest right') in free Frisia after the demise of feudal rule was the land (*terra*) which may be seen as a communally governed continuation of the districts previously ruled by a count. In Frisia west of the river Lauwers there were three such 'counties' during the High Middle Ages: Westergo, Oostergo and Zuidergo, of which the last one had merged with Westergo in the thirteenth century. Still later, in reclaimed regions to the east and south of Westergo and Oostergo a number of small additional lands, such as Opsterland, emerged which succeeded in claiming autonomy for themselves. Through the absence of a count, these *terrae* granted permission for the founding of towns and gave them the right to exercise capital punishment. For example, in 1392, when the *grietmannen* and their co-judges of the Leppa – the southern half of Oostergo comprising Leeuwarderadeel, Tietjerksteradeel, Smallingerland and Idaarderadeel – conferred Leeuwarden the right to hang and behead.<sup>64</sup> At the time, Oostergo and Westergo had for a long time known judicial sub-districts designated with

<sup>62</sup> *Groot Placaat en Charterboek van Vriesland*, ed. Schwartzenberg, III, 441–42.

<sup>63</sup> *Oorkondenboek van Groningen en Drenthe*, ed. P. J. Blok *et al.*, 2 vols. (Groningen, 1896–1899) II, no. 746.

<sup>64</sup> *Oudfriesche Oorkonden*, ed. Sipma, II, no. 3.

*deel* ('part'), a name which intrinsically indicates subordination. Their *grietmannen* were entitled to deal with non-capital offences. They were also involved in the exercise of high justice, but only at a central level, as members of the governing body of the *terra*.

Problematic is the time when the *grietman* and his co-judges took control of capital punishments and why they thought it necessary to exercise this right in actuality and demonstrate it in public by exhibiting the bodies of executed criminals. In order to arrive at an answer, it is useful first to review the location of the various gallows places.

#### 4. VISIBLE LOCATIONS

Exhibiting the dead beyond the dyke, as stipulated in the law on *Schaekraef*, would appear to be more than a symbol-laden fiction. An actual location beyond the dyke can be demonstrated for at least six of these gallows sites.<sup>65</sup> The most clearly localizable site is probably that of Oostdongeradeel. According to Johan Rengers van Ten Post, the gallows was just north of Ezumazijl on land beyond the dyke beside the Lauwers Sea, close to a water outlet. At Workum, on the south-west coast of Westergo, the gallows was likewise located in the vicinity of a key junction of waterways. Such a location was not coincidental. The exhibition of a corpse in the border zone between land and water was especially effective; at such spots the process of decay could be witnessed by many. In this regard, the position of the Ameland gallows on the open mud flats between Hollum and Ballum was equally well chosen. The main thoroughfare passed by it and the scaffold was supremely visible to small ships passing through a gully just to the south of the island. Good visibility was also enjoyed by the gallows of Staveren, beyond the dyke behind Scharl and just to the south-east of the town. This gallows will also have served as a landmark, not far from the southern entrance to the harbour, and have sent out signals different, perhaps, from a lighthouse but just as clear and constituting just as good a reference point for sailors voyaging to and from Kampen or Amsterdam. When it appears in the sources for the first and last time in 1516, the gallows of Menaldumadeel, in a corner of the former Bildtland in Dijkshorne near Beetgumermolen, was no longer visible from the sea, since The Bildt had been definitively closed in by dykes in 1505. It was used in that year to hang a

<sup>65</sup> It may be supposed that these gallows beyond the dyke were among the oldest in Frisia, given the sacral character of the sentence being carried out in the border zone between land and sea. If so, the aspect of visibility would play a less important role. This seems unlikely to me, however, as in all instances we are dealing with constructions from towns and *grietenien* which with respect to their jurisdiction emancipated only later from the *terrae* of Westergo and Oostergo.

thief who had stolen twenty cows in The Bildt,<sup>66</sup> so that the inhabitants of the new land could take good note of the justice that was meted out to those who gravely trespass the law.

Not every Frisian gibbet lay at the edge of the sea, of course. Yet, the motivation of good visibility from the water could also be applied in districts situated on one of the great lakes. Wymbritseradeel, for example, was bordered on in the east by the Sneek lake. Its gallows was placed beside the Kruiswater, where the shipping lane from Sneek to Joure crossed the waterway from the south-west to the north-west in the direction of Leeuwarden, before meeting the huge water body of the Sneek lake. The gallows of Tietjerksteradeel would appear to have been on an elevation jutting into Bergum Lake, while that of Sloten marked the entrance to the Sloten canal from the Sloten lake.

What the sea and the lakes were to the districts in the north-west and middle, the heath was to those in the south-east: endless vistas with low horizons against which a gallows might stand out sharply. The gallows of Smalingerland and Ooststellingwerf each took up a position high on the moors at the farthest extremity of the district – right on the northern border with the adjacent country and close by a through road from which it might be clearly viewed. It seems that the gallows of Ooststellingwerf even had its own hill raised for the purpose. On his *Nieuwe Kaart van Friesland* ('New Map of Friesland'), Eekhoff drew a piece of raised land within the parcel that accommodated the gallows, designating it *Galgeberg*.<sup>67</sup> And to cross the border between Opsterland and Groningen once more: when the *grietman* of Vredewold wanted to erect a new gallows for the execution of a wrongdoer in the 1490s, he found a suitable spot on the heath, beside the road that crossed the western border near Frieschepalen.<sup>68</sup>

From these seven cases it appears that the scaffold-builders selected a combination of good visibility within a spacious expanse and a spot on the outermost edge of the district, in addition to exhibition on a relatively busy route for through traffic, or even a crossroads. This was obviously done to demonstrate justice.<sup>69</sup> All the other gallows places that I have been able to localise score equally well for visibility along major thoroughfares. However, they do not appear in the margin but precisely in the middle of the district. The best examples are the gallows of Barradeel, Ferwerderadeel,

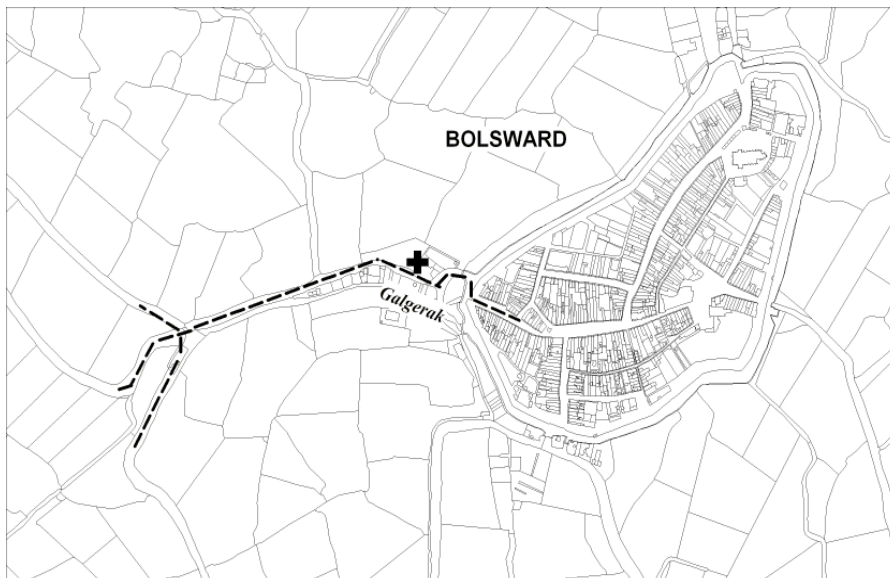
<sup>66</sup> H. Sannes, *Geschiedenis van Het Bildt*, 4 vols. (Franeker, 1951–1957) I, 63.

<sup>67</sup> W. Eekhoff, *Nieuwe atlas van de provincie Friesland, bevattende kaarten van de dertig grietenijen of gemeenten, met de daarin gelegene elfsteden en haar grondgebied, alsmede van de eilanden Ameland en Schiermonnikoog ...* (Leeuwarden, 1849–1859; repr. The Hague, 1970).

<sup>68</sup> See note 61.

<sup>69</sup> E. von Künssberg, *Rechtliche Volkskunde* (Halle/S., 1936), 162–63.

Wonseradeel and Weststellingwerf. In Barradeel, the *Galgekamp* was situated halfway along the part of Barradeel that bordered on the Slachte, an important defensive inner dyke that divided the district in two. In Ferwerderadeel, the *Galgemorgen* lay on the road that went from Ferwerd past the Bethania Monastery near Foswerd to Waaxens. In Weststellingwerf, the traveller using the interregional route from Steenwijk by way of Oudeschoot and Haskerdijken to Leeuwarden, or back, would pass the gallows about a mile to the south-east of the church in Wolvega. In Wonseradeel, the gallows had been raised on the *terp* of the Wonser Weeren, beside the through road that connected the centrally situated Wons with Makkum and the southernmost villages of this *grietenie*. The gallows of Dantumadeel, too, enjoyed a central position, erected at the intersection of two important waterways: the Geestmer canal and the Galgediep, which ran from Rinsumageest to Veenwouden.



Visibility: the gallows of Bolsward within a stone's throw of the city moat

For anyone who approached or left the towns it was simply impossible to miss the gallows. It is remarkable that not only in Workum but also in Bolsward, IJlst and Hindelopen the gallows were less than a hundred metres from the town centre, again beside the main road, whether by land or water. Apparently, the intention was that the citizens in particular should be confronted daily with the stringency of the law. Like that of Sloten, the gallows of Sneek was somewhat remoter, half a kilometre beyond the

Noorderpoort (North Gate), on the Hemdijk to IJlst. As for the gallows of Franeker, which lay even farther outside the town, we have seen that it was probably also used by the *grietenie* of Franekeradeel. These gallows possibly originally also served as the scaffold for the older and larger district of Franeker Ouddeel and the Leppa. Their central position on an important regional land and waterway corresponds with that of the gallows in Barra-deel and Weststellingwerf.

##### 5. THE OWNERS OF GALLOWS AND GALLOWS LANDS

Who were the owners and hence also the probable builders of the gallows? It would seem obvious to point to the administrators of towns and *grietenien*. Confirmation of their involvement may be found in connection with the huge plot of gallows land at Wolvega, which in 1832 still belonged to the *grietenie* of Weststellingwerf; but whether this was the case as early as 1500 is difficult to say.<sup>70</sup> We may be more certain, at least in relation to the gallows itself, about the district of Vredewold where a little before 1500 the *grietman* had erected a gallows near Friesche Palen for the hanging of Menko Nekens.<sup>71</sup> From this episode we may deduce that the *grietman* was responsible for the construction of the gallows, while the *grietenie* defrayed the costs.

In the Ommelanden, where the rural courts held on to the right to exercise capital punishment until 1795, the land upon which the scaffold stood was also bought by the districts. In Kantens, where no permanent gallows was available, the judge signed a provisional contract in 1727 by which he purchased half an acre of land for sixty carolus guilders, ‘... hetwelcke geemployeert sal worden tot een rigtplaatse’ [‘to be used as a place of execution’].<sup>72</sup> He needed it for the hanging of Rintje Jacobs, a farmer convicted of incest and infanticide. The transaction eventually failed to take place, because the convicted man had escaped and fled across the territorial border.

It is hard to establish whether both the gallows and the land upon which it stood were in the possession of the Frisian *grietenien* prior to 1515. As for the gallows situated beyond the dyke, it is known that the open land of the mud flats beyond the dyke belonged of old to the one whose farm bordered on the inside of the dyke. His was the right, so to speak, of reclamation and expansion into the newly accreted land. However, this right did not go entirely undisputed. It was overturned when The Bildt was enclosed by

<sup>70</sup> The plot of land is not registered in the fiscal land registers (*floreenkohieren*) of 1700, probably because it was not taxed then. This could indicate a public function; other explanations are also possible.

<sup>71</sup> See note 61.

<sup>72</sup> Frima, *Strafproces in de Ommelanden*, 390–91.

dykes around 1500, and the new landlord, Duke Albert of Saxony, claimed this land. But the majority of newly cultivated polders along the Frisian sea coast would seem to have ended up belonging to the owners of land immediately behind the dyke. In other words, potential gallows land originally lay in private hands. One may imagine, however, that so long as the salt marshes remained unsuitable for arable land and fit only for grazing sheep, the councils of lands or *grietenien* would have had no objection to a piece of it being used for the general public weal.

On land within the dykes we find two types of owner. Around 1500, the majority of gallows plots of which the owners can be traced were in the possession of either church funds, or of descendants of chieftains (*haedlingen*) or rich freeholding peasants who at some time had possibly participated in administrating the district. To begin with the last category: the land upon which was the gallows of Franeker, Franekeradeel, and possibly also Franeker Oud Deel,<sup>73</sup> belonged to Eedwer Sjaerda in 1510. She was heiress to the Franeker nobleman Sicke Douwes Sjaerda who, although an Aylva on his father's side, had taken over the imperium of the early fifteenth-century Sjaerda family.<sup>74</sup> Both his father's father-in-law, Sicka, after whom he had been named, and his own father had ruled over Franekeradeel during the last quarter of the fourteenth and the first decades of the fifteenth century. The surviving register of the judicial procedure for Franekeradeel for the years 1406 to 1438 shows that this dynasty of chieftains owned so many enfranchised homesteads in this district that for about half of the period they were able to appoint the *grietman*. It is therefore probable that the Sjaerdas, on account of their judicial functions, had ordered the gallows to be erected on their own land. Another possibility is that they had taken it over from a previous chieftain.

A similar connection may be found between the office of *grietman* and the ownership of gallows land in IJlst and Sloten. The *Slootmanna galgha* recorded in 1496 stood on the Sloten Lake, near the entrance of the canal leading up to this small town. Retrospective research into land ownership indicates that the land on which it was situated belonged to the Harinxma family in 1700. Their forefathers had founded the small town of Sloten in the early fifteenth century and had ruled it for long after as urban chieftains. The *Galgeland* in IJlst was in 1542 the demonstrable property of Sytse Harinxma of the eponymous chieftain family, related to the Harinxmas of

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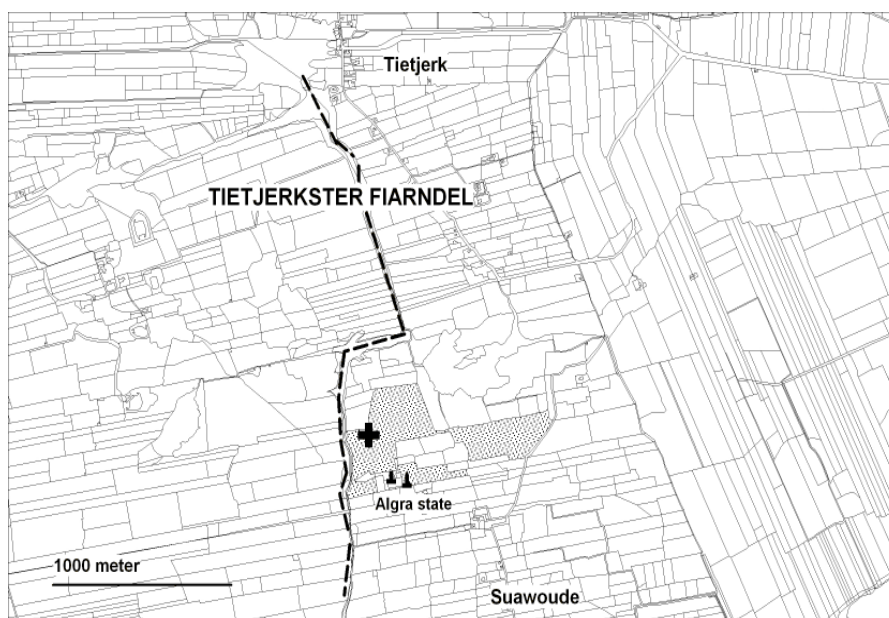
<sup>73</sup> The district of Franeker before autonomy was granted to its five sub-divisions.

<sup>74</sup> *Friese testamenten tot 1550*, ed. G. Verhoeven and J. A. Mol (Leeuwarden, 1994), no. 77, p. 149.

Sloten. For the whole of the fifteenth century they had ruled IJlst as urban lords.<sup>75</sup>

Striking once more is the case of Rinsumageest, where the gallows plot bordered on ground backing onto Tjaarda Estate. This estate, including its keep, represented the centre of power from which for much of the sixteenth century the Tjaardas and their judicial predecessors exercised hegemony in Dantumadeel and a large area of northern Oostergo.

Eloquent in this respect is the gallows place belonging to the southwestern *fiarndel* (quarter) of Tietjerksteradeel. Like so many other ones in the fifteenth century, this large *grietenie* had to cope with centrifugal forces urging the judges of the quarters of which it was comprised to decentralise the administration of justice and government.<sup>76</sup>



Builders and chronology: gallows on the land of Ghiel Aelgera, freeholder and *grietenman* of the Tietjerk *fiarndel*, built around 1490

For example, in 1481 the Tietjerk *fiarndel* formed an independent alliance with the town of Leeuwarden in order to gain protection and end

<sup>75</sup> 'Item ick selfs in der Ilst ben bruycken ses pondematen, hietende dat Galgelant', see Leeuwarden, Tresoar, Archief Tjaardastate, inv. no. 421 (T313).

<sup>76</sup> Compare the situation in Baarderadeel, where around 1440 the various quarters greatly dissented one another's share in the criminal proceedings and the places at which this should be carried out: *Oudfriesche Oorkonden*, ed. Sipma, II, no. 26.



violence and legal insecurity.<sup>77</sup> One of the stipulations of the treaty was that the town and the *grietnie* would together choose the *grietman*. The document ends with the conclusion that the *fiarndel* would be ‘al heel afwessa fan Tjetzerkeradeel ende hiara riuchten’ [‘entirely separate from Tietjerksteradeel and its legal rules’]. As a result, it now formed an independent sub-*grietenie*. The alliance with Leeuwarden would seem not to have lasted long because this town, after the ‘beer uprising’ of 1487, fell once more under the custody of the mighty chieftains of the Schiering faction.<sup>78</sup> The Tietjerk quarter, however, retained its autonomy. In 1491 its three villages of Rijperkerk, Tietjerk and Suawoude together joined the great alliance between the town of Groningen and a number of chieftains and monasteries in Oostergo.<sup>79</sup> Tietjerk was represented by the rich freeholder Ghield Aelgera, the owner of a local estate and a great deal of land. It can be no coincidence that a *Galgewier* may be traced precisely to the property of the Aelgera Estate, at a well visible spot on the waterway that connects the three named villages.<sup>80</sup> The names of the *grietmannen* may not have come down to us, but we are surely not jumping to conclusions when we assume that Ghield Aelgera exercised the office of *grietman* himself and erected a gallows on his own land in the interests of justice in the three villages under his wing. Freeholders and chieftains in their office of *grietman* had to provide the means of execution and demonstration in order to support their authority. What would have been simpler for them but to build these constructions on their own property?

From circa 1500 onwards, as I have briefly remarked, gallows land may also be found in the possession of church funds. This was the case, for example, in Leeuwarden, where more than half of the *Galgefenne* in 1501 belonged to Dom Tzalling, a chantry priest. In that year he willed it to a new memorial fund, founded by himself to be associated with St Vitus’s church in Leeuwarden.<sup>81</sup> In Sneek, the *Galgeland* outside the North Gate on the Hemdijk belonged to St Barbara’s fund, founded in the late fifteenth-century. And in Ferwerderadeel in 1700, St Martin’s church in Ferwerd is registered as the owner of the *Galegemorgen*. How these church funds became owners of gallows lands may only be guessed. It is not unthinkable

<sup>77</sup> *Ibid.* no. 91; compare no. 102 of the same (April 1482) in which also the Trynwâlden, the north-western quarter of Tietjerksteradeel, is registered as a separate *grietenie*, among others by Leeuwarden, to ensure that *herich riucht* (‘proper law’) was also carried out here.

<sup>78</sup> M. Schroot, ‘Leeuwarden tussen Middeleeuwen en Nieuwe tijd’, *Leeuwarden 750–2000. Hoofdstad van Friesland*, ed. R. Kunst *et al.* (Franeker, 1999), 78–109, at 87.

<sup>79</sup> *Pax Groningana*, ed. Oosterhout *et al.*, no. 61, p. 83.

<sup>80</sup> On Algra Estate, see P. N. Noomen, *De stinzen in middeleeuws Friesland en hun bewoners* (Hilversum, [forthcoming]).

<sup>81</sup> *Friese testamenten*, ed. Verhoeven and Mol, no. 63, p. 122.

that such funds owed these gallows lands to administrators of a *grietenie* or town who approached fund administrators to allow them to build gallows on their land. But it is also possible that the lands came into their possession through gifting on the part of the builders or owners of gallows or their descendants. Vicarages and church fabrics, after all, were often the chosen recipients of supplementary memorial gifts by families of substance. We must therefore leave unresolved the question of whether the taboo on gallows represented an extra motive for these families to donate such lands.

#### 6. WHEN AND WHY

In the period when counts still reigned over Frisia, exercise of the death penalty lay in the hands of the count who, as a servant of the king, practised this right with the help of prominent judicial officials recruited from within his region. In the course of the thirteenth century the count's rule was set aside in Frisia and responsibility was assumed collectively by the administrations of county districts, now independent. These districts called themselves *universitates terrae* ('land communities'), of which Westergo and Oostergo were the most important. In other words, these communally administered lands as such were not novel entities. They had also earlier had sub-divisions within which the law was enacted at a lower level by the count's bailiffs. Their task was now taken over by *grietmannen* and their co-judges, who were elected from the ranks of freeholders. From their independence onwards, the *terrae* were governed by boards of judges comprised of representatives of the *grietmannen* and co-judges of the separate districts. The members of such a board are represented one by one on the thirteenth-century seal of Oostergo: a total of eighteen persons in two groups of nine, nine for the northern part and nine for the southern part of the land. These boards of judges regularly convened to conduct administrative business concerning the whole region, such as interregional alliances, but also for higher judicial matters. The council dealt with all cases that exceeded a fixed amount of compensation, and in addition functioned corporately as a court of appeal. The sources describe their competence as the *hagista riocht* ('highest domain').<sup>82</sup> In Franeker Oud Deel, this right was known as the *keysers riocht* because it was considered to stem from the emperor. High domain included as a matter of course the right to judge capital offence. Supposedly, the thirteenth-century process of communalisation initially will have brought little change in the judicial practise, trial procedure and the

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<sup>82</sup> G. Overdiep and J. C. Tjessinga, *De rechtsomgang van Franekeradeel 1406–1438* (Franeker, 1950), 146–52.

jurisdiction itself. Westergo and Oostergo, together with their sub-districts,<sup>83</sup> will each have had their own gallows even before the period of Frisian Freedom began. This supposition implies that around 1250 there may have been no more than five gallows lands in all of Frisia west of the Lauwers.

In view of the relatively small number of five gallows, we may ask when the proliferation of these penal instruments occurred. In what period did towns and *grietenien* each acquire their own gallows-and-wheel? Or put another way: taking as a point of departure that the right to execute and exhibit criminals flowed from the right to exercise capital punishment, when did the administrative boards of the *terrae* begin to allow towns and sub-districts within their lands to pronounce sentences on ‘neck and head’? At first sight these questions would seem easy to answer for the Frisian towns by taking as a starting point the year when they obtained their municipal rights. But this is tricky, because for many a Frisian town it is unclear when they acquired their independent status. With the exception of Staveren,<sup>84</sup> municipal rights in Frisia were not conferred by a count or any other lord, so that we have little documentation on this matter. Furthermore, consideration must be given to the fact that not every settlement with urban dimensions immediately exercised capital punishment or was allowed to exercise it. Trade centres and places with central functions were first and foremost interested in obtaining market privileges with their accompanying judicial rights. Gaining the right of high criminal justice belonged to a later phase in the process of becoming independent. This becomes especially apparent in the case of Franeker: in 1401 and 1417,<sup>85</sup> the town community was granted market rights and many other privileges by the administration board of Franeker Oud Deel but not the permission to exercise high justice. Only in 1474 did the town of Franeker receive this right, from the confederated towns and *grietenien* of Westergo.<sup>86</sup>

In as far as we know, Leeuwarden was the first town to which a *terra* granted the right to exercise high justice, an authority conveyed by the *grietenmannen* of the Leppa in 1392. However, the year may not be taken as a

<sup>83</sup> For Westergo: Franeker Oud Deel, Wonseradeel and Wymbritseradeel; for Oostergo: the Northern Nyogen and the Leppa.

<sup>84</sup> As early as the eleventh century, Staveren possessed market and other privileges which were confirmed and enhanced by the Count of Holland in the thirteenth century. Consequently, until 1411 Staveren may be considered as having been a town that belonged to Holland.

<sup>85</sup> *Oudfriesche Oorkonden*, ed. Sipma, II, nos. 7 and 10.

<sup>86</sup> *Ibid.* no. 77.

*datum antequem* because the phrasing of the privilege expressly refers to the right as exercised ‘of old’<sup>87</sup> by the alderman and magistrates.

It is more difficult to give a date with respect to the other nine towns. The earliest municipality rights for Bolsward and Workum date from 1399.<sup>88</sup> But because they were granted by Albert, duke of Bavaria and count of Holland, who ruled over Frisia for only a short while, it is questionable how firmly founded they were or whether Westergo and Wonseradeel consented after Albert’s departure. The practising of capital punishment was the implicit reserve of the bailiff who bore this authority on behalf of the count in the towns named, which does not exclude the possibility of Bolsward and Workum themselves being allowed to erect a gallows. The Bolsward bylaws of 1455, adopted by Sneek in 1456, mentions the hanging of miscreants. This means that in these years both towns must have had a gallows at their disposal. That Sneek also before this time had such a penal instrument may be deduced from a document of 1424 which survives only in copy. In it, the administrators of Wymbritseradeel grant rights to the council of IJlst to judge all misdeeds, including capital crimes, such as deadly arson, in the same way as in Sneek.<sup>89</sup> However, this document has recently been conclusively proven to be spurious,<sup>90</sup> so that the *datum antequem* for IJlst is 1450. In this year, a committee of priests from Wymbritseradeel confirmed that the *eheer* (co-judge to the *grietman*) Epa Harinxma had rightfully dealt with all judicial cases *cleyn ende groot* (‘small and large’) presenting in IJlst.<sup>91</sup>

We have no data for Dokkum, Hindeloopen and Sloten.<sup>92</sup> Dokkum is present in the sources as an urban settlement as early as 1298; Hindeloopen (1368) and Sloten (1422) make their appearance somewhat later. In view of Franeker, all these little towns do not necessarily have had the right of high jurisdiction as from these years. This was neither the case for Sneek and

<sup>87</sup> *Ibid.* no. 3 (19 July 1392): ‘... thet dy aulderman a Lyouwerth ende sine schepenan moghen ende moeten vp halden ende wr riochta alle misdeghe lyoede ther misdwaet a Lyouwerd deys jefta nachtes with enghen bur jefta engghen wte bur ... als hya al eer tijt fan aldus habbeth biriucht wr hals ende wr haud.’

<sup>88</sup> *De oorlogen van hertog Albrecht van Beieren met de Friezen in de laatste jaren der XIVe eeuw*, ed. E. Verwijs (Utrecht, 1869), 509–16, esp. 511: ‘... quaeden feyten die aen tlijf gaen.’

<sup>89</sup> *Oudfriesche Oorkonden*, ed. Sipma, II, no. 11 (20 June 1424).

<sup>90</sup> O. Vries, ‘*Al ting sonder falikant*. Die Arglistformel in den altfriesischen Urkunden’, *UW* 46 (1997), 150–68, at 163: the *narratio* seems to be derived from a real charter, but the closing ratification and dating with the formula *Al ting sonder falicant* (‘everything without deceit’) implies that it cannot be much later than about 1470.

<sup>91</sup> *Groot Placaat en Charterboek van Vriesland*, ed. Schwartzenberg, I, 538.

<sup>92</sup> See the facts cited by J. C. M. Cox, *Repertorium van de stadsrechten in Nederland*. ‘*Quod vulgariter statreghte nuncupatur*’ (The Hague, 2005), 88, 138 and 216.

IJlst, two towns which had presented themselves as communities of burghers since 1317. One weighty argument in this connection is the fact that up until the beginning of the fifteenth century the Frisian *terrae* west of the Lauwers had granted the towns no role in the political decision making.<sup>93</sup> Only in 1426 did the towns belonging to the *mena reed der steddena* ('the general council of the towns') win representation in the diet, the highest board of the *terrae* that up until then had been run by prelates, *grietmannen* and co-judges. If the councils of the lands were thus attempting to keep the towns politically impotent for as long as possible, then the same strategy probably also applied to the room they gave to the towns in matters judicial. Moreover, it should also be borne in mind that Westergo and Oostergo with their sub-districts attached so much importance to high jurisdiction that they sabotaged negotiations with William IV in May 1345. They were quite ready to follow the count of Holland on military expeditions and were even prepared to grant him permission to build castles, but 'dat hoghe gerecht en woudens sij hem nyet verlyen' [... they did not want to confer to him the right of high domain].<sup>94</sup> For all these reasons I am inclined – leaving Leeuwarden and Staveren aside – to date the building of gallows in or near the Frisian towns to not earlier than the second decade of the fifteenth century.<sup>95</sup>

If it seems a challenge chronologically to place the granting of high jurisdiction to the towns, facts relating to the countryside are equally difficult to interpret, perhaps even more so. Dates are known for only three *grietenien*: Kollumerland, the Tietjerk quarter of Tietjerksteradeel, and Vredewold immediately east of the Lauwers. The erection of gallows in Kollumerland can be associated with the encroachment of power from the town of Groningen into Oostergo in the second half of the fifteenth century. In 1467, Groningen concluded a thirty-year treaty with Kollumerland to avert all violence and robbery. The most significant stipulation of the treaty was the building of a small block-house at Kollum. A group of military was to be housed there under leadership of a castellan to warrant the preservation of the jurisdiction.<sup>96</sup> This *casteel* was indeed built, fortified by bulwarks and moats. It lay to the north village centre, west of the Ried. After the Groningen gar-

<sup>93</sup> O. Vries, 'De stêden oan it roer. It tiidrek fan stedske supremasy yn Fryslân (1482–1486)', *IB* 62 (2000), 73–99, at 75.

<sup>94</sup> J. A. Mol, 'Graaf Willem IV, de Hollands-Friese oorlog van 1344/1345 en de Friese kloosters', *Negen eeuwen Friesland-Holland. Geschiedenis van een haat-liefde-verhouding*, ed. Ph.H. Breuker and A. Janse (Zutphen and Leeuwarden, 1997), 94–108, at 102.

<sup>95</sup> No gallows is known for Harlingen. The same applies to fifteenth-century market places, such as Joure, which did not succeed in attaining autonomy.

<sup>96</sup> *Pax Groningana*, ed. Oosterhout *et al.*, no. 19.

rison had been expelled by the Duke of Saxony, it was acquired in about 1500 by Feye Riemersma, also known as Meckema, whose father-in-law had, ironically enough, opposed its building. Johan Rengers van Ten Post, writing in 1583, noted that the gallows of Kollumerland was placed beside the former castellan's house. Because the treaty of 1467 provided for the application of the death penalty for thieves, murderers, rapists and nightly robbers, it seems reasonable to assume that the Groningen forces had erected this gallows in the same year.<sup>97</sup>

It may also be assumed that the gallows of the aforementioned Tietjerk *fiarndel* was built with the co-operation of the Groningen forces, shortly after 1491. There was already a gallows in Tietjerksteradeel, on the banks of Bergum Lake, but it is clear that at this time the *grietman* and his co-judges were no longer capable of maintaining justice in all parts of their jurisdiction. Why else would this Tietjerk quarter have sought an alliance with Leeuwarden in 1481? As it is, this treaty still proceeded from the idea that capital cases (*deer an't lyf gaet*) would be sentenced by the town. This means that the judicial authorities in the *fiarndel* appropriated capital rights only after the rupture with Leeuwarden in 1487, most probably even after their alignment with the Dokkum treaty of 1491. In Vredewold, east of the Lauwers, we have already seen that the *grietman* took the initiative of setting up a gallows just before 1500.

In these three cases it would seem that the building of a gallows resulted from a desire to offer inhabitants judicial security. The ruling judges had to show, by whatever means, that justice would be done. The Frisian lands adduce several reasons in the written treaties by which they placed themselves under the protection of the city of Groningen. Conspicuous amongst these reasons is the great dissatisfaction over the lack of punishment meted out in cases of violence often stemming from an increasing assumption of power by chieftains and the inability of the overarching lands to moderate this.<sup>98</sup> The strong arm needed to seize wrongdoers and bring them to justice effectively was willingly lent by the expansive city of Groningen.

This was in accord with practice already well established in the Ommelanden, where the radiation of judicial security was promoted energetically by the highest levels of power. In 1427, the Focke Ukena Statutes, voluntarily accepted by the lands between Ems and Lauwers, stipulated that each *ampt* ('sub-district') of these lands had to have erected a gallows before

<sup>97</sup> See the entry for Meckema in Noomen, *De stinzen in middeleeuws Friesland* [forthcoming].

<sup>98</sup> *Pax Groningana*, ed. Oosterhout *et al.*, no. 16 (Achtkarspelen 1458), no. 17 (Opsterlân 1461), no. 19 (Kollumerlân 1467).

Whitsuntide,<sup>99</sup> so that ‘alman ziin goed dat hem God verleent, desto vrede- liker moghe broken’ [... every man may even more peacefully enjoy his good which God has lent him’]. This new organisation of jurisdiction<sup>100</sup> had no place any longer for the existing diets and the chamber of Groningen chieftains as courts of appeal – the East Frisian ‘chieftain’ Focke Ukena who tried to establish a territorial lordship in the region was trying to repel as far as possible the powerful reach of the city of Groningen. Yet, his intention was to give top-down form to the monopoly on violence, which included fighting criminality. In this respect, Focke Ukena was adopting the recent territorial political programme of the Tom Brok dynasty realised east of the river Ems.<sup>101</sup> The Ommeland chieftains who supported Ukena will have seen the model opportunistically, namely as a possibility to strengthen their position of power locally. However, Focke Ukena’s judicial reform was probably never introduced. The city of Groningen launched a successful counteroffensive, recovered and even extended its influence in the Ommelanden, also by concluding treaties with the Westerkwartier (the lands west of the city), Hunsingo and Fivelgo. It is not known whether these treaties provided for the erection of regional gallows. Given the later politics of Groningen in relation to Frisian lands, it seems extremely likely that in this matter it would have adopted the politics of Focke Ukena.

For *grietenien* in Frisia west of the Lauwers that were less enamoured by the Groningen ambitions the motivation to radiate a sense of judicial security in turbulent times must nonetheless have weighed heavily. Increasingly widespread partisanship and military escalation of feuding through the taking on of foreign mercenaries was unbalancing the political system, leading to growing criminality; and this in turn gave rise to the need for symbols of strict and severe justice at local level.

The question is, however, whether the proliferation of gallows in the countryside can be ascribed only to these event-related factors. After all, the three datable examples concern only the final phase in the period of the gallows, when sub-*grietenien* and split-off parts desired judicial autonomy. It cannot be other than that self-sufficiency on the part of the ‘ordinary’ *grietenien* preceded this, probably shortly after the majority of towns had won the right to exercise capital punishment from the lands, so in the course

<sup>99</sup> *Ostfriesisches Urkundenbuch*, ed. E. Friedländer, 2 vols. (Emden, 1878–1881; repr. Wiesbaden, 1968), nos. 367, 1769: provision is also made herein for the hanging on this gallows of all thieves convicted of stealing ‘over’ four guilders.

<sup>100</sup> W. J. Formsma, ‘De middeleeuwse vrijheid’, *Historie van Groningen, Stad en Land*, ed. W. J. Formsma *et al.*, 2nd ed. (Groningen, 1981), 77–106, at 97–99.

<sup>101</sup> H. van Lengen, ‘Bauernfreiheit und Häuptlingsherrlichkeit im Mittelalter’, *Ostfriesland. Geschichte und Gestalt einer Kulturlandschaft*, ed. K.-E. Behre and H. van Lengen (Aurich, 1996), 113–34, at 128–31.

of the fifteenth century, roughly between 1425 and 1475. The process of transferring high judicial power and other rights from the overarching level of lands to towns and districts points to nothing more than a fragmentation and erosion of the power of the lands and their councils. This process indisputably led to a weakening in the structure of communal administration, which in turn resulted in instability. But it was, as such, a process with its own dynamics. This is clear from the Groningen Ommelanden, where the judicial system within the lands became more and more decentralised until there were judicial districts comprising no more than a single hamlet. In contrast to the case of Frisia west of the Lauwers, the system in the Ommelanden was able to carry on functioning without cover from the land councils simply because the city of Groningen filled the power vacuum.

The gallows, then, are also indicators of a self-timing political and judicial fragmentation process whereby both *grietenie* and town, whether or not under the leadership of dominant chieftains, demanded their self-evident autonomy. This development is traceable to some degree in relation to Franeker Oud Deel which in the first half of the fifteenth century had to relinquish power and custodial responsibilities to the newly existent sub-districts of Barradeel, Menaldumadeel, Franekeradeel, Baarderadeel and Hennaarderadeel.<sup>102</sup> Initially, the *grietmannen* of these districts came to Franeker, each to deal with the judicial business of their individual districts, but by 1440 the *grietman* of Baarderadeel was already administering the law in Baard.<sup>103</sup> Whether he and his colleagues in the other sub-districts by then also addressed cases demanding the death penalty is not known. I think that this is improbable because the rulers of the Franeker Oud Deel hesitated until 1474 to award the town of Franeker the right of high criminal justice. However this may be, within the given constellation the gallows was meant to demonstrate hard-won independence rather than to radiate judicial power.<sup>104</sup>

There is, finally, another indication that signalling of autonomy was as much, or even more so, the purpose of these instruments than deterrence, containment and prevention of crime. This indication lies in the relatively high number of gallows in proportion to the number of wrongdoers actually sentenced to death and the size of the population. It is useful in this con-

<sup>102</sup> See the thorough survey by Overdiep and Tjessinga, *De rechtsomgang van Franekeradeel*, 145.

<sup>103</sup> *Oudfriesche Oorkonden*, ed. Sipma, II, no. 26.

<sup>104</sup> It is also as a symbol of autonomy that gallows were targeted during sieges and other enemy actions: its destruction undermined, as it were, the authority of the party under siege; see Spierenburg, *Spectacle of Suffering*, 57–58. There are no known examples relating to Frisian lands, but revealing in this context is the toppling of the Groningen gallows by Saxon soldiers that besieged the town in September 1500; see note 44.



nection to know that after 1515 only one gallows was available for the whole of Frisia (the one to the south-west of Leeuwarden). During the sixteenth century no more than four or five people per year were executed for the entire province,<sup>105</sup> and not even every one of these was exhibited after the execution. There is no reason to assume that in the fourteenth and fifteenth centuries more people were hanged, beheaded or broken on the wheel than during the sixteenth century. On the contrary, research into the frequency of death sentencing in Europe in this period teaches us that strict punishment came into its own only after 1500.<sup>106</sup> There are, it is true, few statistics available, but what figures we have confirm the trend sketched above.<sup>107</sup> In Mechelen in the Southern Netherlands, the population of which vacillated at around 25,000 in the fifteenth and sixteenth centuries, 203 and 255 wrongdoers, respectively, were sentenced: an average of two to 2.5 per year. In Brussels, with its population of about 35,000 in the second half of the fifteenth century, the hangman was called upon to fulfil his duty 535 times in the fifteenth century, and 488 in the sixteenth century,<sup>108</sup> which is about five times per year. This figure complies with that of the North-German port town of Lübeck, of similar size. There 471 sentences were carried out over a period of ninety years (1371–1460). This relatively high number may be associated with the extensive judicial region, which extended well beyond the walls of the town. In Frankfurt am Main, judges gave out only 318 death sentences in the 160 years between 1401 and 1560, an average of no more than two per year. Nearer to Frisia, in the town of Utrecht, with a population of about 10,000 inhabitants at the turn of the sixteenth century, the fifteenth century certainly saw no more than two men executed per year.<sup>109</sup> These statistics are, all in all, not so shocking. We may indeed conclude from them that there was always someone dangling on the end of a rope in the large cities of Europe. However, even taking an average of five per year for Frisia west of the Lauwers, with an estimated population around 1511 of about 70,000 people, this figure – twice as many as in the sixteenth century – still implies that very few people were exhibited upon its dozens of gallows-and-wheels. The data for Vredewold indicate that after

<sup>105</sup> R. S. Roorda, *It Algera-Algra skaei, 1425–1955*, vol. 1 (Leeuwarden, 1956), 28, gives a figure of 529 executed persons for the period 1519–1600 (against only 129 in the seventeenth century); but these 529 included more than 100 ‘heretics’ and a great number of rebels. In normal circumstances no more than four to five criminals were sentenced to death.

<sup>106</sup> Berents, ‘Galg en Rad’, 91–92, 94, 99.

<sup>107</sup> Many of the relevant facts are provided by Maes, *Vijf eeuwen stedelijk strafrecht*, 387–89.

<sup>108</sup> F. Vanhemelryck, ‘De beul van Brussel en zijn werk (XIV–XIX eeuw)’, *Bijdragen voor de Geschiedenis der Nederlanden* 19 (1964–1965), 181–216, at 185–87.

<sup>109</sup> Berents, *Misdaad in de Middeleeuwen*, 38.

the execution of Menko Nekens thirty years passed before another criminal was sentenced to hang there.<sup>110</sup> In the meanwhile the gallows stood rotting. Things will not have been much different in many other *grietenien* and towns.

#### CONCLUSION

What is the result of my inquiry into the function, number and distribution of exhibition scaffolds in Frisia west of the Lauwers? First of all, I have made clear that the death sentence was indeed carried out in this part of late-medieval Frisia despite the fundamental principle of traditional Frisian Law that the Free Frisian had the right to compensate with money even the gravest misdeeds, including manslaughter. It is impossible to say how often death sentences were executed. There must have been practical procedures and supporting actions for which the lands were the responsible authority charged with the execution. Secondly, my investigation has shown that by the end of the fifteenth century pretty well every town and *grietenie* had its own gallows-and-wheel. The gallows stood without fail in a prominent, eye-catching position; for the towns this would be near the outer town wall or moat, beside a thoroughfare; for the *grietenien* in the middle or precisely on the edge of the judicial area, but always visible from afar. It is difficult to date the erection of gallows in the individual towns and *grietenien* detached from the interrelation between the lands and their earliest sub-districts. Because the erection of gallows was the result of the transference of an extraordinarily essential right from overarching to regional and even to local level, it seems that we are dealing with a process of communal decentralisation. The available data suggests to me that the majority of Frisian towns were unable to exercise capital punishment and consequently build a gallows much before the second quarter of the fifteenth century. It may be taken that the *grietenien* were not lagging far behind in acquiring this right. The implication of this late date is that the gallows identified in my paper were in actual use for only a relatively short period of time. As far as their general function is concerned, in Frisia as in other towns and rural districts throughout the Europe of those days the gallows served both as a deterrent for the prevention of crime and as a demonstration to subjects and strangers alike that the town or the *grietenie* was completely independent in judicial matters. In this respect, Frisia west of the Lauwers is exceptional for its large number of gallows. If we may assume that no more criminals were sentenced to death on average in Frisia than elsewhere during the fifteenth century, then given the size of population we have reason enough to infer that corpses hung relatively infrequently upon the Frisian gallows-and-wheels.

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<sup>110</sup> See note 61.

Therefore, in as far as both functions may be separated, their symbolic function in spreading an aura of judicial and political independence was more important than their warning function. The sparse number of datable facts, however, forces us to be circumspect. Further research into the distribution and chronology of gallows in the Frisian lands east of the Lauwers, especially in the Ommelanden and Ostfriesland, may offer some clarification here.<sup>111</sup>

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