Can justice be achieved for slave descendents in Mauritius?☆

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The article is for my ancestors, the survivors.

Abstract

This article discusses challenges to achieving justice for slave descendents in Mauritius 177 years after the abolition of slavery. It reflects on the 2009 institution of a Truth and Justice Commission (TJC) in Mauritius to investigate the legacies of slavery and indentured labour. It is argued that time, the ethnic and cultural complexity of Mauritius as well as the TJC itself makes it difficult for Mauritians to achieve restorative justice for slave descendents. Reviewing transitional and restorative justice, the article argues that the Mauritius case study is potentially useful to reflections on the issue of social justice for ancient atrocities and for reflections on the challenges of reparations in complex and democratic societies. It concludes that the greater participation of civil society is required in decisions regarding reparations and that such decisions need to be grounded in contemporary and democratic approaches to achieving justice and the protection of human rights.
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1. Introduction

In recent decades democratic nation states have sought to address gross human rights violations, which have occurred within their borders, by implementing transitional justice (TJ)

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mechanisms. However most have only considered cases of human rights abuse not long after the atrocities have occurred (Duthie, 2008: 293). Mauritius, an island nation situated in the southwest Indian Ocean, instituted a Truth and Justice Commission (TJC) in 2009 which it mandated to investigate the legacies of slavery and indentured labour, over a period of 370 years. Focussing on Mauritius, this article asks whether justice and especially reparations can be achieved for the descendents of slaves and indentured labourers.

The proposed discussion is valuable because (1) the TJC is the first truth commission in the world to address the legacy of slavery and indenture and (2) the literature on transitional justice mechanisms does not address the issue of time, the problem of ancient atrocities (such as slavery and indenture) and the challenges to justice in complex, modernising societies. The following discussion draws on historical and ethnographic research in Mauritius to make its case. It concludes that Mauritius' civic organisations may be best placed to restore justice to slave and indentured worker descendents, since these organisations employ multiple strategies to engage with the Mauritian population. By offering a discussion on efforts to respond to the contemporary experiences of slave descendents in Mauritius, this article hopes to make known the processes of social change in the region and to discuss the issue of reparations in Mauritius. The discussion may also prove useful to scholars interested in slavery in the Caribbean and North America — since it tackles the issues of memory, identity and the restitution of African slave descendents.

The ethnography presented in the article identifies the experience of racism as a major consequence of slavery in Mauritius. Volume 1 of the Mauritius *Truth and Justice Commission Report* released to the public in November 2011 states that: poverty, marginalisation and discrimination are also evident in the experiences of slave and indentured labour descendents. This article contends that many of these problems can be traced back to the perpetration and experience of racism.

The discussion begins with a review of the literature on transitional justice, reparations and restorative justice, identifying several issues that may make the achievement of justice in Mauritius difficult. These are: the objectives and practices of the TJC; problems inherent to restoration and reparations; the social and political complexities presented by contemporary societies; the passing of time; the politics of memory making and the impact of social and economic change on Mauritian society. Thus the following literature review also reflects on the scholarship on time, identity and memory making. The conclusion states that if at all, locally grounded and participatory approaches to restorative justice may be needed. This is because the passage of time (370 years since the colonisation of Mauritius) has resulted in the: disappearance of the original victims, selective remembering of the past, increasing social and ethnic complexity and the dissipation of accountability on the part of slave owner descendents.

2. Reviewing justice, memory and identity

Western legal tradition is informed by a long history of adjudication, in which justice is defined and dispensed by those in power and is believed to have been 'served' when sanctioned authorities sentence 'criminals' according to the preferred mode of punishment in a particular era (Berman, 2003; Weitekamp, 2003). During the period of slavery in Mauritius, punishment included flogging, maiming and killing of slaves. Slaves were also subject to extensive psychological violence as they were denied access to their families, communities, languages and culture. In addition, slave owners and/or their foremen regularly visited systematic attacks on the human dignity of slaves often degrading them in public. For these reasons the Rome Statute considers slavery a crime against humanity.

Johnstone defines crime as 'a violation of a clearly defined set of people and relationships' (Johnstone, 2012: 12) and justice as a state to be 'restored by perpetrators of harm, repairing the material and relational harm caused by their behaviour' (Ibid). For Johnstone, justice is only achieved when victims and offenders needs are met rather than after the adjudication of the matter by a formal court of law. This means that even after adjudication, justice may still not have been served. Johnstone's relativist concept of justice, in which justice is part of a process to which both victims and offenders contribute, is useful to the discussion in this article because it suggests that the achievement of justice is a collective and collaborative process. However Johnstone's concept of justice is partly problematic for this discussion because it requires a defined sets victims and offenders. In this article, it is argued that in Mauritius there is debate about who the victims of slavery and indenture are and whether they may be identified.

Leaving aside the particularly intractable problem of group identification for the moment, scholarly literature makes a clear distinction between restoration, retribution and reparation. Restoration leads to the re-establishment of the status quo, there is a 'retrieval of a favourable condition' (Duff, 2003: 384), reparations 'seek[s] to make up for the loss of what cannot…be restored' while retribution involves punishment of the offender. The literature on compensation for slavery tends to discuss the issue of material reparations for slaves. The TJC Act speaks of 'reparative measures' which seems to open up possibilities for non-material compensation. Indeed some have argued that 'the notions of reparation and [restorative justice] are closely related − RJ is commonly understood to embrace reparative ('repairing the damage' or 'making good') elements within a wider frame that might also include rehabilitative and retributive features' (Mantle et al., 2005: 5).

Thus restorative justice is perceived as a more reliable path to restitution. Restorative justice, initially perceived as 'an alternative justice paradigm' (Zehr, 1990) is broadly defined as a movement towards a way of dealing with violations of legal and human rights by encouraging and allowing the wrongdoer, the offender and the broader community of which they form part, to interact in a way which promotes the repair, reconciliation and rebuilding of relationships.[1] The aim is to restore victims, repair communities and manage offenders in a reconciliatory environment. The community based mediation could involve 'reintegrative shaming' (Braithwaite, 1989), which was thought to be good for offenders, making them appreciate the extent of their crime. While the aim of restorative justice is to make the process of adjudication more participatory, early but substantive critiques of restorative justice raised the problem of reconciling this approach with the traditional justice system (Wright, 1991). Restorative justice approaches were more concerned with the restoration of individuals and not necessarily with public interest. In this article it is proposed that if civil society is involved in achieving justice in Mauritius, public interest will be realised and (as Matza, 1964) argues, offenders will not be able to escape the fact of their offence. However, while this reasoning may be useful in the adjudication of recent crimes, it is not so with ancient atrocities like slavery. After 370 years (and for reasons noted further on), it will be difficult to identify offenders. Thus questions such as, who are the victims? Who are the offenders? And what needs to repaired? Need to be answered (Brophy, 2012).

In this article it is also suggested that restorative justice is unlikely if the TJ mechanism (TJC) identifies reparative measures to be extended to slave and indentured worker

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[1] 'What is Restorative Justice?' http://www.suffolk.edu/research/6953.html (Accessed 13 April 2012).

descendents, since the TJC was created by the state and reports to the state and its mandate contains several, conflicting objectives, suggesting that the state is not certain about the goals it wants to achieve with regard to the Commission. In addition, the vagueness of its goals is compounded by the fact that it is politically problematic and difficult to identify the beneficiaries of reparations.

Literature on restorative justice in ancient Greece, Rome and India (Garvey, 2003: 303) and contemporary First Peoples in North America, Aboriginal populations in Australia and in New Zealand, highlight the ways in which restorative justice repairs communities from *within*. This poses yet another problem because in Mauritius restorative justice is needed *for* groups. Furthermore, explicitly advancing group rights in a society where the social fabric is fragile will be difficult for government. How will this be achieved without jeopardising peace and national unity, the stated goals of the TJC? Besides this problem, restorative justice is itself generally complex, controversial, often vague and difficult to achieve (Berman 2003). Proponents of restorative justice are at times accused of 'mythmaking' in an effort to give current justice practice a benign historical evolution (Daly, 2002). The literature also reveals that there are different degrees of restorative justice, which can further frustrate the achievement of justice. Restorative justice can involve merely apologising to the victims or it can transform the offender as they come to realise their wrongdoing and willingly choose to repair the damage done to victims (Garvey, 2003: 303).

Critiques of truth commissions suggest that these entities and their processes for gathering 'evidence' are often flawed. They are supposed to be participatory and inclusive and yet not all gain access to these entities. They are supposed to allow victims and offenders to be in the same space so that reconciliation may be achieved but it is not always appropriate for victims and offenders to interact and deliberations on violent crimes are difficult to achieve (Hudson, 2003: 438—51). In her prologue for example, Phelps discusses a performance of Ariel Dorfmann's play, *Death and the Maiden*, which depicts a series of events following the establishment of a truth commission in an unnamed South American country (Phelps, 2004). Using this example, Phelps shows that TJ systems are not very useful in resolving violent crimes. Victims remembering the violence done to them may not want to meet offenders or worse, to discuss the violence they experienced in a public space. As a result, TJ systems produce ethical problems of their own, namely 'interpreted social truths' which thwart reconciliation and forgiveness and ultimately, justice (Gloppen, 2005: 10). This situation has led some authors to argue that while truth commissions are important to the commencement of the restorative justice process they need to be paired with other TJ instruments if they are to improve human rights. (Olsen et al., 2008: 457—76).

Further literature raises questions as to whether transitional justice mechanisms can ever really advance justice by: producing 'truth' regarding group or individual human rights violations; achieving reconciliation and/or forgiveness (Amstutz, 2005); or producing the truth about the past. African examples of TJ mechanisms suggest that even when there is reconciliation there may not be justice, since issues of economic and social equity are not addressed (Amadiume and An-N'aim 2000: 5). The African examples also show that often, transitional justice mechanisms are designed to satisfy external political goals rather than local needs (Skaar, 2005).

Literature in favour of TJ mechanisms state that TJ is about achieving 'psychological and emotional healing' and about catharsis and forgiveness at the national level (de Gruchy, 2000: 161—71). This view is criticised for its religious overtones and romantic idealism, (Saunders, 2000 an van Zyl Slabbert, 2000) for it is believed that TJ needs to produce more substantive responsibilities — in the form of material reparations and the achievement of socio-economic-

cultural rights. Doubts about whether TJ can, or should have a more direct impact on reducing social and economic inequality (c.f. Mani, 2008), are however important since they alert concerned citizens to potentially flawed justice mechanisms and signal commitment to achieving equity after historical injustices. For example, Soyinka's critique of truth commissions suggests that commissions may be flawed but they can encourage 'moral responsibility for [the] knowledge and acknowledgement [of slavery]'. He goes on to add however, that knowledge or acknowledgement of harm is not restitution.

Thus problems regarding: the sort of justice to be chosen; mechanisms to be used to implement justice; other goals of reconciliation and national unity; levels and degrees of restoration need to be interrogated by government, since it is government that is tasked with achieving justice. The question regarding the beneficiaries of justice also needs to be thought through.

The literature on identity in the southwest Indian Ocean reveals that the region contains a diverse, mobile, interactive and creolized population. Identity theorists agree that social identities are largely constructed and politicised and that ethnic boundaries are porous and continuously negotiated (Barth, 1969). Thus it is problematic for government and the TJC to imagine the existence of homogeneous groups for reparations in Mauritius. Beyond the island, historical migrations between Mauritius, Africa and other islands challenge the perception of Mauritian society as an isolated and bounded locale (Allen, 2001). Historical migrations, interethnic interactions, marriage and sexual encounters produced a diverse and complex society. For those who stayed on the island as slaves and indentured workers, the literature suggests that while slaves experienced major violence during slavery, during apprenticeship slaves and indentured workers seemed to have shared similar burdens and experiences (Carter and d'Unienville, 2001).

In 2012 Creoles consisted of approximately 29 percent of the 1.3 million people in Mauritius. This population was (and is still) socially varied. An exogamous group, Creoles have married into Indian and Chinese descendent families. They interact with and sometimes marry *Gens de Couleur* (people of mixed 'racial' heritage), who occupy an intermediate socioeconomic position between European descendents and the Creole community. The *Gens de Couleur* not considered 'victims' of slavery have both slave and slave owner ancestry. Within the Creole category itself there are further economic and social divisions. A distinction is made between the *ti* Creole, the labourer, dockworker, domestic or fisherman and those who occupy professional posts as teachers, nurses, administration personnel and workers in the tourism industry.

Ethnographic accounts of Mauritius confirm the construction of identity in the society (Eriksen, 1998; Eisenlohr, 2007). These show that memory making is a fundamental part of identity construction a fact also confirmed by Araujo in her study of the memory of slavery in Benin (Araujo n.d.). In this she confirms that memory making is vital to the reconstruction of slave descendent identity in that country. She says that memory is political and anachronistic; it is a 'property that allows us to bring into the present an event that occurred in another time'. Reflecting on the TJC it is possible to argue that by producing accounts of the slave past, the commission helped to revive, verify and codify the memory of slavery.

The verification and codification of the stories of slave descendants via the TJC, publicly acknowledges the fact of slave experience in Mauritius. It also allows descendents to unravel and reconcile with the past, allowing them to acknowledge an aspect of their identity which up to now, has been degraded and misrepresented. Acknowledgement in the present is an argument that Araujo also makes. She says that memory making is the work of those left behind and that

such memory is '[characterized by] the experience of those who grow up dominated by nar-ratives that preceded their birth, whose own belated stories are evacuated by the stories of the previous generation shaped by traumatic events that can be neither understood nor recreated' (Hirsch, 1997: 2). This suggests that memory making is not only political in the sense that it is used by those in authority to achieve party objectives, it is political in the sense that it em-powers those who may have been disempowered by negative narratives of their identity. Araujo says that one should take care not to dismiss the latter kind of memory making even though it involves incomplete and often subjective data. Thus a major and vital role of the TJC is to unravel slave and indentured labourer history.

Other scholars claim that memory making is solely for party political purposes. They argue that political use of memory tends to craft a triumphal narrative of the new nation, encouraging the identification of new heroes, martyrs, legends and symbols with which to: erase the past, encourage selective forgetting and confirm the legitimacy of the regime (Werbner, 1998). In this article it is hypothesized that while the TJC may be designed to contribute to national narrative, it is nevertheless a socially embedded entity. For this reason it will be in a better position to achieve justice if it is paired with other, locally produced justice seeking mechanisms. Given the cultural and social diversity of Mauritians, the process of achieving justice will however be complex and will take time. Thus a final hypothesis is that if Mauritians can accept that the process will be long and possibly non-linear, then justice may is possible, since memory is not apolitical, lost time cannot be recovered and social change cannot be reversed.

3. Researching slavery

Realising that Mauritius is a complex society the research presented in this article draws on long term anthropological field research in the island society (1999–2010) as well as historical accounts. Research findings, summarised in the discussion, reflect on recent experiences in Mauritius and the challenges which these pose for reparations in the society. The use of empirical research to reflect on justice responds to statements regarding the impact and effect of transitional justice, in which Thoms, Ron and Paris argue that studies of transitional justice are not sufficiently and rigorously grounded in empirical research (Oskar, Thoms, Ron and Paris, 2010). The following discusses the research methods and methodology used in gathering the data presented in this article.

While anthropological fieldwork is not failsafe, methods used to collect and analyse data are rigorous and context sensitive. In this research, the author conducted participant-observation by living in one town on the east coast of Mauritius and spending time with research subjects in five Mauritian towns: Flacq, Port Louis, Chamarel, Goodlands and Curepipe. The success of participant-observation depends on the sociability of the researcher, language proficiency, her understanding of local social mores and stamina. The author was able to achieve a reasonable level of integration, since she speaks the local dialect of *Kreol*.

The research process itself involved the collection and collation of detailed written obser-vations and interviews which sought to address the stated research question. The author's original fieldwork among Creoles sought to understand how and why this population of African descent experiences poverty and social marginalisation in a relatively wealthy and democra-tised society.

In the course of the first phase of field research from 1999 to 2004 the author interviewed just over 200 people, most of whom self identified as Creole. Semi-structured interviews, used to interview members of the group, contained only key questions and interviewees were

encouraged to offer detailed views on and answers to questions posed. Many of the interviews became what anthropologists call life histories. The research took into consideration the possibility that bias might exist in some accounts. Ethical clearance for the research was originally obtained via a university Higher Degrees Committee which vets all research proposed by graduate students.

In 2009, the author was approached by the Mauritius government to participate as a research team leader for a study on the legacies of racism in Mauritius. The field research for this task was done by a set of multidisciplinary researchers in the team and the author was responsible for collating the final report. Since the Mauritius government embargoed this data until 2014 it is not possible to present the findings of this research here. However, the author did (as a citizen) conduct her own observations of Mauritian society during this period. This, as well as previously unpublished field note extracts are in this article.

The research process was self-reflexive and gender aware. It made space for the fact that informants can and are subjective in their interpretation of personal experiences but chose to report as accurately as possible the sentiments and opinions of the interviewees. The research also considered the issue of time, for during field research, Mauritians became increasingly interested in memory making and heritage preservation and these issues became increasingly politicised. Thus a major concern in this discussion is how the passing of time might affect the achievement of justice in Mauritius.

4. The passing of time

Mauritius is an island society situated in the southwest Indian Ocean region, some 800 km from the east coast of Madagascar. It is a country that has benefited from democratic rule since 1968. Three hundred and seventy years ago however, Mauritius was uninhabited and served as a stop-over for sailors travelling between Africa and the Far East.

From the time of its first settlement by the Dutch in 1638, the island of Mauritius quickly became an interethnic and creolised world (Eriksen, 2002; Vaughan, 2005). Creolization, the blending of two or more already heterogeneous cultural forms to produce a new, local cultural form was apparent during and after slavery. After the abolition of slavery in Mauritius for instance, observers noted miscegenation and interethnic interaction among Arabs, Indians and Malagasy peoples in Port Louis. These groups spoke not only their natal languages but also the emerging language of Mauritian *Kreol* (Larson, 2008). Slaves came from a diversity of ethnic groups but were stereotyped by their owners. For instance, slaves from Madagascar were often stereotyped as rebellious, whereas 'Mozambicans' were thought to be hard working and docile (Alpers, 1999). Occupation also inscribed this increasingly Creole population producing new solidarities and diversities. Field hands worked for longer hours and experienced more physical hardship than domestic slaves.

The different colonists also inscribed Mauritian society, making it more complex. Dutch colonists were the first to bring slaves to Mauritius and the first maroon communities emerged during Dutch settlement of the island (Nwulia, 1981). Maroons raided the Dutch plantations and this, as well as inclement weather and rats compelled the Dutch to leave the island.

In 1721 the French took possession of the island and renamed it *Ile de France*. They too relied on slave labour and to control the slaves. They implemented Napoleon's *Code Noir* (Black Codes), a set of laws which defined slaves as property and forbade them to marry, relocate, congregate or pursue their own religions. Forcibly extracted from their homelands, slaves experienced horrific violence on the plantations. They were subject to rape, torture and/

or disfigurement (Nagapen, 1998). Freedom could only be achieved by manumission, escape or death and the mortality rate was high (Allen, 2001). Under French rule however, slaves were also baptised into the Christian faith and were expected to adopt the religion.

After wresting control of the island from the French in 1810, a major objective of the British was to abolish slavery. According to Allen, this was not easily achieved, partly because the slave owners resisted it. Even after abolition in 1835 an illegal trade in slaves continued because the demand for labour was high. Thus Mauritius continued to receive slaves, people from the continent and Madagascar who must have brought with them news and knowledge from these 'homelands'. To 'resolve' the labour problem, the British imported Indians into Mauritius. Indian settlement of Mauritius dramatically altered the socio-cultural landscape of the island, since they brought with them religion, culinary practices, traditional dress, music and languages.

The apprenticeship system (which continued until 1839) attempted to keep the ex-slaves on the plantations. Allen, Teelock and Alpers confirm that apprentices were made to work long hours and were poorly paid. Ex-slaves 'found' in towns were often arrested on charges of vagrancy. Stereotyping deepened racist attitudes towards slave descendents. Those who had managed to establish an independent life as subsistence farmers or fisher folk were publicly accused of laziness, lacking ambition, honour and dignity (Carter & d'Unienville, 2001: 61). After abolition destitution was apparent among those ex-slaves who tried to eke out a living in the towns and those who had land were progressively dispossessed of it (Teelock, 2001: 283).

The creation of a new Constitution in 1948 did not improve the situation of ex-slaves and their descendents. Colonial division of the population along economic (and ultimately racial) lines continued in the 1940s. After independence in 1968, these nascent divisions culminated in the political division of Mauritians into voting pools along either ethnic or religious lines and were identified as either: Hindu, Muslim, Chinese or members of the General Population. These divisions were exacerbated by the institution of the Best Loser system which formally endorsed ethnic differentiation and encouraged ethnic stereotyping in the public sphere (Nave, 1997).

Forty years later, a vastly improved economy and worker solidarity under the Militant Mauritian's Movement (MMM) edged Mauritians towards national solidarity. A younger, more internationally oriented youth became attracted to the MMM's nationalistic philosophy of *Mauricianisme*. But, funded by the previous government, religious organisations flourished encouraging differentiation within the society (Hollup, 1994). The Catholic Church for instance became the spiritual and political 'home' of slave descendents because of the evangelical missions instituted under French and British rule.

Thus in 1993 it was not unusual that a Creole priest, Roger Cerveaux spoke about the Creole 'malaise', identifying it as a collection of pathologies and problems deriving from slavery. These pathologies were also discussed at an international conference on the legacies of slavery held in Port Louis in 1998. There, a Mauritian psychiatrist confirmed that he had consulted a number of African descendent (i.e. Creole) patients who he claimed had post-traumatic stress which could be traced to their experiences of racial discrimination.

In the late 1990s the government's discourse of multiculturalism presented Mauritius as a plural society that contained bounded and homogeneous groups. The slogan 'unity in diversity' was promoted and Mauritius discussed as a rainbow nation. The 1999 riots, which broke out after the death in custody of a Creole musician, presented another opportunity for the homogenisation of Creole identity. The death of the musician coincided with news articles on the history of slavery, highlighting the plight of slave descendents historically and in contemporary times.

Increasing international interest in heritage preservation further encouraged a focus on group histories and identities. However the process of homogenisation was challenged by the globalisation of Mauritius in the late 1990s. The latter encouraged a de-localisation of identity, especially among the youth. Economic development resulted in the consolidation of Mauritius as an international tourist destination. Other developments such as the Integrated Resorts Schemes (IRS), call centres, Internet and the offering of Mauritius as an offshore banking option, encouraged young Mauritians in particular to see themselves as individuals.

Thus the passing of time has changed Mauritian society. After 370 years of colonial rule, the original victims and perpetrators of slavery are gone, the society has democratised, and were it not for historical accounts, no-one would remember slavery. Presuming that an atrocity such as slavery cannot but have long term consequences, what 'reparative measures', can be extended to slaves?

The ethnography on the contemporary experiences of Creoles reveals that racism one of the pillars of slavery, still exists in Mauritius. Thus a major reparative measure must be to eradicate racism in Mauritius and to establish equity.

5. The complexity of Mauritian society

Mauritius is a racist and yet interethnic society — it is largely this which makes it a complex society in which justice will be difficult to achieve. Discrimination in the society takes many forms and is evident in a diversity of spaces — in schools, the workplace, shopping centres and families.

The late Mauritian activist, Mario Flore (who led the *Mouvement Morisyen Kreol Afrikain*),[2], gave evidence of the perniciousness of racism in Mauritius. Flore said 'Creoles don't want to think that they are descended from Africans, to do that they have to accept that their ancestors were slaves and that they were subjugated by whites, that blackness is bad and blackness is hated.'[3] Interviews with Mauritians in Flacq in 2001 confirm that a legacy of slavery is the racial inscription of Mauritians. They said that this has resulted in the stereotyping and homogenisation of dark-skinned people in the society. Flacq is a bustling, ethnically heterogeneous 'village' containing the families of Indian sugar cane planters, Creole labourers and artisans, *Gens de Couleur* administrators and teachers and Muslim and Chinese merchants. In the early 2000s, it was difficult to clearly distinguish between ethnic groups. There were 'baptised' Indians who had married Christian Creoles, Chinese descendents with Indian ancestry who were Roman Catholics, Hindus who had converted to Islam upon marriage and young people who were anchoring their identity in hip hop and yet, in daily parlance, Mauritians might refer to one another using ethnic terms and would often not hesitate to use racial slurs. As argued previously then, the fact of interethnic identity will make it difficult to identify slave descendents and make extremely complex, the process of restoration.

Furthermore, it will be difficult to eradicate racism (and to therefore achieve a substantive restorative justice), since racism is often firmly embedded in society and family relations. The choice of spouse and romantic relationships are often affected by racial considerations. From the 1960s for example, many Creoles sought marriage with white foreigners to 'whiten' their families, thereby improving their status in Mauritius itself. Such marriages were also sought to 'escape' Mauritius for the experience of poverty and discrimination was deemed intolerable.

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[2]The Mauritian Movement for African Creoles.
[3]Interview with Mario Flore, August 1999, Port Louis.

Mariage by correspondence, in which Creole women wrote romantic letters to European men in the hope of a proposal were very common and those who returned to visit Mauritius with a European spouse were often treated with great respect. The children of these unions were rarely considered Creole. They obtained nominal status as *Gens de Couleur* and because of th children, the Creole parent was able to dissociate from a racially stigmatised ancestry and to avoid discrimination.

For those who could not leave the island, the racial inscription of places reinforced experiences of racism. In 1999 for instance, Roche Bois a suburb of Port Louis, the capital city, was a 'no go' area for most Mauritians. It was associated with the *ti* (or little) Creoles and was plagued by poverty, drug trafficking and prostitution. It was also perceived as a place of immigrants, since it is populated by people from Rodrigues Island, a dependency of Mauritius. Since the 1960s, the Rodrigues islanders have migrated to Roche Bois in search of a better life. New settlements emerged to house the immigrants and in 2000 these were not being adequately serviced by the municipality. Interviewing people in Roche Bois from 1999 to 2001, it was learnt that the inhabitants regularly experienced racial discrimination and that they were discouraged from pursuing a better situation because of 'backing' or nepotism in employment. Nevertheless, civil society organizations flourished in Roche Bois and the poor and discriminated against were often 'rescued' by these entities and offered opportunities of employment and social support. In this light, it is evident that any restoration process must take into account and include civil society.

'Backing' however, is still evident. This practice results in the preferential employment of European descendant and Indian Mauritians of the middle castes in the private sector and civil service respectively. By contrast, Creoles (especially those with little education) tend to be employed as labourers, domestic workers and cooks. In seeking to achieve restorative justice, government will have to expose the practice of 'backing' and seek to achieve a more equitable society. Discussing her experience of racial discrimination in the context of domestic work, one woman from Chamarel village on the west coast said 'I sometimes feel like the doormat in this house. Everyone who comes through wipes their feet on me. I have to be invisible and yet I have to do everything the [white] Madam commands. I get to eat the leftovers, am shouted at for being stupid and not seeing "dirt". She once told me that, it's because I'm so dirty myself that I don't see dirt. I can't tell anyone else this, because anyway what will they do? If they do anything I will lose my job and then who is going to feed my kids?'[4]

The ability to speak French, especially among fair-skinned Creoles or those who could be identified as *Gens de Couleur*, opened up opportunities for professional or service oriented work. Investigating further, it was found that a popular 'trick' that employers used was to judge ethnicity and caste on the basis of the applicant's surname. If the surname indicated that the person was Creole or of a lower caste, then the candidate was unlikely to be offered employment. The identification of Creoles on the basis of surnames was possible because on arrival in Mauritius slaves were given new names, often pejorative, meaningless names that people in Mauritian society know very well. Generations of Creoles inherited these names from their slave ancestors as well as the stigma that comes with such names. The practice of inventing nonsensical names is not unique to Mauritius. It would therefore be advisable for the relevant civil society organizations to investigate employment practices in Mauritius thereby contributing to greater employment equity and ultimately the restoration of justice in the society. Unfortunately it is not only the contemporary identification of Creoles by surname in the

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[4]Interview, Chamarel village, December 2001.

employment process that is problematic but often the names which slave families were given at the time of capture. In the French Antilles where slavery also took place Chanson identifies 'names of shame' given to slaves and discusses the anguish and marginalisation which slave descendents experienced because of the names invented for them (Chanson n.d.).

Part of the process of restoration may involve analysis and encouragement to change residential patterns, since long term racial discrimination in Mauritius has encouraged segregation. Towns and villages adjoining now defunct sugar-cane plantations near Flacq village on the east coast for example are still called *camps*, reinforcing public perception of these as non-integrated, ethnically homogeneous spaces. In 2002 these were still racially homogeneous, associated with either African or Indian descendents. For instance, about 15 km outside Flacq village a predominantly Creole *camp* regularly resisted settlement by Indian families. If it is serious about restoring justice, government must foster interethnic residence and send clear 'messages' about Mauritius being a creolised or 'racially' mixed society.

Presently, European descendents still do not to mingle with African descendents, at least not as equals. This was observed at weddings, funerals, shopping centres, churches and schools from 1999 to 2010. European descendents avoided shopping in certain malls and kept away from shops when African and Indian descendents were most likely to visit. In churches, Africans or Indians and European descendents tended to sit in different parts of the church, European descendents tending to sit at the front and others behind them. This was observed both in Curepipe and in Le Morne village on the southwest coast. By contrast during cultural celebrations such as the Hindu festival of light, *Divali* and the celebration of the Chinese New Year, Indians, Chinese and African descendents interacted even if, on a superficial level. The segregation of the population in various spheres of social life and a lack of acknowledgement of the past of slavery and indenture, presents an opportunity for government and civil society. Both can work to achieve meaningful commemoration of the past and they can create the spaces in which groups separated by the violence of slavery and colonisation can come together, so as to work towards reconciliation and repair. 'Repair' however must include a collective and creative effort of integration on the part of all Mauritians, since reconciliation is a participatory process and members of government and civil society organizations are Mauritians too and therefore not exempt from history or the influence of social context. Recalling the earlier argument for broadening participation in processes of restoration, it is evident here that integration may only be evident in those contexts where segregation is stark.

The ethnography also suggests that justice must also involve a response to the knock-on effects of racial discrimination. Racism means that African descendents and low caste Indians are often restricted to low paying jobs. Low income affects the quality of education provided to the children of these groups. While primary education is free in Mauritius, the education system is highly competitive, requiring parents to pay for additional lessons for their children. Such lessons are only affordable to those who have the means. Poor education engenders low levels of literacy, which in turn encourages isolation and the possibility of detrimental practices such as drug addiction and prostitution. The seriousness of drug abuse and prostitution was revealed when during fieldwork the author participated in a march against drugs and prostitution in Roche Bois.[5]

Long term consequences of racism include starvation and ill health. In Goodlands, a village in the north of the island, the author observed some Creoles in 1999 and again in 2001

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[5]Fieldwork notes, Roche Bois July–December 1999.

scavenging for food. A dumping site was regularly 'supplied' by a nearby hotel, which sent its rotting meat and bad vegetables to the dump. This was regularly scavenged by the poor. It could be argued that this poverty cannot be attributed to slavery, that it is a result of increasing inequality in modernising Mauritius. However, European descendents still own vast tracts of land in Mauritius. They also 'control' the private sector and a large part of the tourism industry. Starvation does not appear to be a problem among these Mauritians. Thus the government and civil society must work towards a substantive (i.e. deep) restorative justice involving not only apology and verbal commitment to reconciliation but also strong effort to alleviate poverty and starvation among the poor.

In present day Mauritius, there is also steady erosion of independent Creole livelihoods and the re-embedding of Creoles as a servile population. African descendents, some of whom migrated to the coastal areas in the period following apprenticeship, historically earned a living from fishing and hunting (Carter and d'Unienville, 2001: 56–60). The demarcation of land for the construction of hotels from the 1970s gradually restricted access to fishing and hunting. This was evident in interviews with fishermen and fisherwomen from Le Morne in 2001, during which people complained that they could not cross hotel 'territory' to cast their nets or set their fish traps. In 2010, it was observed on the east coast of the island near an Integrated Resort Scheme, that fishing was also being restricted, making it difficult for the fishermen there to pursue their livelihood. In addition the increasingly redundant population was being absorbed as labourers, cooks and cleaners in the IRS. If the TJC's vision of reparations includes restoration, then there must be a consideration of the restoration of livelihoods, since the latter is not merely a material consideration but also a social one. Fishing, hunting or subsistence activities encompass a wide range of knowledge and social practices.

In the ethnically and racially hierarchical society of Mauritius, racism has also resulted in the poor representation of slave descendents and indentured workers. There are still very few monuments and sites that depict the slave trade or the role of indentured workers in Mauritius. Tourist sites and museums convey the history of the colonists and slave owners. There is regular reference to Dutch, French and English colonial history, examples of which can be found in the narrative of French presence at the Blue Penny museum in Port Louis, at the Naval Museum in Mahebourg and in the preservation of a number of colonial homes which are open for tourism. These do not only foreground colonial history and offer positive articulations of European identity. They hide the atrocity of slavery and indenture, as well as what slaves and indentured workers achieved for Mauritius. To achieve a substantive restorative justice there must be adequate tangible representation of slave and indentured worker history and their contributions to Mauritian society. Representation is a complex and dialectical process involving struggle over symbolic resources in the society. However, it is a necessary task to be undertaken by relevant civil society organizations supported by government. Without adequate representation justice will never be seen to have been achieved.

Racism remains in Mauritius and without doubt it is a key legacy of slavery. The proliferation racism and intricacies of interaction and creolization in the society mean that the TJC, even though it has done a considerable amount of work, cannot on its own recommend what reparative measures must be undertaken. It is revealing that in discussing what needs to be repaired, there is no mention of segregation and racism in Mauritius in the report of the TJC. However, the above discussion and ethnography strongly suggests that segregation and racism is a major legacy of slavery and that these are the cause of injustice in Mauritius.

The following discusses the mandate of the TJC and its key recommendations, suggesting again that justice via the TJC alone will be difficult to achieve.

6. The challenges of a transitional justice mechanism

The Mauritius TJC constituted in March 2009, resulted from the enactment of the Truth and Justice Act, No. 28 of 2008. In Section 3(2) and Section 4 of the TJC mandate it says that the TJC is responsible for:

1. Making an assessment of the consequences of slavery and indentured labour during the colonial period up to the present;
2. Conducting inquiries into slavery and indentured labour in Mauritius during the colonial period, and for that purpose, to gather information and receive evidence from any person, to determine appropriate *reparative* measures to be extended to descendants of slaves and indentured labourers;
3. Enquiring into complaints, other than a frivolous and vexatious complaints, made by any person aggrieved by a dispossession or prescription of any land in which he/she claimed to have an interest; and
4. Preparing a comprehensive report of its activities, research and findings, based on factual and objective information and evidence received by it and submit the report to the President (*Volume 1: The Truth and Justice Commission Report* 2011: 1).

The mandate and report of the TJC suggest that the data collection and analysis occurred in an abstracted context, in which ordinary Mauritians, other than supplying stories of their hardships, had little input. The mandate also suggests that the stories and concerns of Mauritians were left in the hands of a few (an executive committee) that may not have had a direct role in the data gathering process of the TJC. To date, the composition of the executive committee is not well known by Mauritians.

While Volume 1 of the TJC's report discusses reparative measures to be extended to the victims, there is no discussion about the nature and degree of reparations – creating possibilities for either discontent or unreasonably high expectations among those now identified as 'victims'. There is also no discussion regarding non-material forms of restoration or reparations in the recommendations of the executive committee to the president. By monetising reparations, Mauritians may ignore the non-material (often equally pernicious) legacies of slavery and indenture, discussed in this article.

The 535 page first volume of the *Report of the Truth and Justice Commission* released in November 2011 identifies reparative measures to be extended to slave descendants. It says that:

1. [Slave descendants] are poorly housed, in that a majority of them live in housing estates, devoid of bare amenities and in over crowdedness;
2. Literacy is rampant in their milieu, schooling of children needs re-thinking to be effective; due to their low level of education and poor performance at school, few can get employed in Government services and parastatals;
3. [There is] a marked absence in agricultural occupation, as a result of circumstances arising from the aftermath of slavery;
4. [There is a] marked absence in the fields of trade and commerce, and especially in the small and medium enterprises sector;
5. [There is an] over-concentration of [slave descendants employed] in hard manual work;
6. Contrary to the other communities, they have no real effective pressure groups to make their voices heard in higher and political quarters, most of their grievances remained unheard;

7. For these and other reasons, they are poorly represented in all spheres of public life and in Government institutions

These findings are not necessarily inaccurate but they presume that slave descendents are identifiable and create the impression that the situation of all slave descendents is the same. A major problem for the TJC is that in order to recommend reparative measures, they must, as Johnstone noted in his definition of justice, identify a defined set of people who 'need' restoration. Unfortunately for Creoles, reparative measures come at the cost of being forever inscribed as victims of slavery.

The creation of the TJC was momentous for many Mauritians. It engendered hope that the stories of slavery and indentured labour and the suffering of those left behind would be articulated and resolved. A significant problem has been that it was modelled on another transitional justice mechanism, the South African Truth and Reconciliation Commission. That it adopted the abstracted, legalistic and formal approach of that mechanism thereby not encouraging substantive popular engagement in the process (Wilson F, 2003; Wilson R, 2003). That the TJC was mandated to carry out its work in less than three years is additionally problematic, especially when one considers the enormity of the task at hand — a thorough analysis of the varied effects of 370 years of colonial rule. Thus it is not only the passing of time that affects possibilities for achieving justice but also the time given to interrogate the past and to make recommendations for the future.

The TJC is not alone in this task. Mauritius has an active civil society that can provide useful support and advice. The Electoral Institute for the Sustainability of Democracy in Africa states that there are 6000 voluntary organisations registered with the Registrar of Associations in Mauritius (Mauritius: Civil Society Actors n.d.). While most of these are ethnically oriented, some 300 of them can be defined as NGOs. This substantial network of civil organisations must be invited to debate and contribute to plans for the achievement of justice in Mauritius.

7. Conclusion

Mauritius has a unique opportunity to achieve justice in its substantive sense. This is because the government has opened the door for this process by instituting the TJC. However this will not be easy to achieve, since much time has passed and Mauritian society has, in many ways, changed. There is also the political challenge of diversity in Mauritius which means that if a substantive restorative justice is sought there is a need to critically consider the challenge of selecting defined groups for reparations, since homogeneous groups, communities and families are difficult to find. Moreover and as Wright has so thoroughly debated, there is still the challenge of reconciling restorative justice with traditional justice requirements.

From the anthropological perspective, Mauritians as a whole have the difficult task of deciding between 'fixing' their identities in an already racist society in order to obtain reparations, or seeking to achieve equity in heterogeneous spaces, where the issues of poverty, landlessness and discrimination are evident across ethnic groups. This is not an easy decision because memory making has encouraged deep emotion and outrage regarding the history of slavery and indenture. That which belonged to previous generations has now become a fundamental aspect of identity as slave descendents for example, reclaim their slave history and ancestry. The institution of the TJC has in some ways taken the difficult decision of reparations out the hands of Mauritians but whether it is best placed to make this decision is debateable.

The literature on restorative justice clearly states that a substantive justice is more likely when it is a collaborative effort involving victims and offenders.

Amending the relativist definition of justice, it can be argued that in the case of ancient atrocities such as slavery, justice cannot be achieved by the reinstatement of right-relations, since the ancient institution considered the master-slave arrangement a 'right' relation. Instead, justice may include the achievement of currently sanctioned relations. That is, relations considered acceptable in a democracy. Since Mauritius is a democracy, it cannot deem acceptable the continuation of racism and discrimination against any of its citizens. It must seek to eradicate racism and to promote understanding and acceptance of all Mauritians.

While the Mauritius government has been bold to institute a TJC, it now needs to be braver and invite participation in the deliberations regarding the achievement of justice in the society. Government needs to support the vibrant civil society that exists in Mauritius to help it implement a substantive restorative justice process in Mauritius. In so doing, it can set a major precedent among slave descendant societies worldwide by addressing the legacy of slavery and advancing the resolution of this historical injustice.

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