

## Subtexts of Servitude: Anti-Vagrancy Laws and Mobility of Indian Labour Diaspora in Mauritius

Dr. Amit Kumar Mishra

*Associate Professor of Global Studies School of Global Affairs  
Ambedkar University, Karampura Campus, Delhi*

**Abstract:** *This paper attempts to explore how the defining attributes of 'vagrancy' – lack of permanent habitat, regular source of livelihood, itinerant way of life – were appropriated by the colonial authorities and planters to ingeniously equate the mobility of labour with criminal wandering and therefore justify the harsh and stringent anti-vagrancy legislations as indispensable measures to control criminal behaviour of the indentured Indian labourers in Mauritius. By situating the stringent anti-vagrancy laws in 1850-70s and the subsequent dilution and less vigorous employment 1890s onwards in the larger context of multiple strategies adopted by the planters and colonial authorities in response to the necessities and challenges the plantation economies had to face in the changing global context of transformative relations between labour, commodity and capital, this paper attempts to substantiate the argument that we should be studying the indentured labour regime in its dynamic mould and not as a sluggish structure which failed to respond to the changing requirements of global political economy of commodity production.*

**Keywords:** Indentured labour, Vagrancy, Indian Labour Diaspora, Mauritius

Describing vagrancy among Indian immigrants in Mauritius, Major General Hay, the Acting Governor of Mauritius, wrote to the Colonial Secretary in 1854,

'an evil (vagrancy) which, in addition to the loss it entails on the employer of labour, is fraught with moral and social mischief, and is, as I believe, the source and basis of much of the crime of the island.....removal of this monstrous evil would require the Government to continue its most strenuous efforts to do so.'<sup>1</sup>

This account illustrates the anxiety and urgency of the Mauritian government for the widespread 'vagrancy' among the immigrant Indian labourers in Mauritius and also validates the 'strenuous efforts' made by the government to control vagrancy as indispensable measures to control the crime and maintain social order in Mauritius. A large body of the colonial narratives offers the same justification as the *raison d'être* for the over-

concern of the Mauritian government for vagrancy and the repressive efforts it made to obliterate this 'monstrous evil' from the immigrant Indian labour force. What this validation does not elicit, or tends to ignore, is the functional aspect of vagrancy and anti-vagrancy laws in the intricate working of the plantation economy and the dynamics of labour regulation in the indenture labour regime; and to bring out this missing connotation is what this presentation shall endeavour to do. Some of the recent writings on the indenture labour regime appreciably indicate the crucial linkages between the vagrancy legislation and the regimentation of labour mobility<sup>2</sup> but they often tend to ignore the element of racial prejudices and the imperial allegories associated with vagrancy, primarily rooted in the Western European context in pre-emancipation labour relationships.

In this paper, I shall try to explore how the defining attributes of 'vagrancy' – lack of permanent habitat, regular source of livelihood, itinerant way of life – were appropriated by the colonial authorities and planters to ingeniously equate the absence, desertion and attempts for mobility of labour with criminal wandering and therefore justify the harsh and stringent anti-vagrancy legislations as indispensable measures to control criminal behaviour of the immigrant labourers. What this paper proposes to look into is how the term 'vagrancy' acquired new meanings in the context of the indentured labour regime and the multiplicity of ways in which it was conceptualised and appropriated as a contrivance to regulate the geographical and occupational mobility of labour. What I shall try to ascertain is that the real intent of anti-vagrancy legislation was not the prevention of crime among the old immigrants<sup>3</sup> as it was often promulgated by the colonial authorities but to restrict their mobility from the estates 'even after the completion of indenture and therefore to ensure their availability for plantations by placing stringent legal constraints on old immigrants' efforts to move beyond the confines of plantations and contractual obligations of indenture and to pursue a vocation of their choice.'<sup>4</sup> The second proposition of this paper is to situate the stringent anti-vagrancy laws of the 1850s to 1870s in the larger context of multiple strategies adopted by the planters and colonial authorities in response to the requirements and challenges the plantation economies had to face in the changing global context of labour relations.

To explicate these arguments, I have discussed the anti-vagrancy legislation in colonial Mauritius during the 1850s and 1870s. Colonial Mauritius serves as a unique location for studying the legal constraints of labour mobility from Eurasian perspectives because the conceptual and definitional paradigms of labour mobility were essentially based on European or to be more precise British viewpoint of criminalisation of free labour and the labouring population it dealt with was immigrant labourers from India.

## I

Before going into narrative amplification of these propositions, I would like to briefly describe vagrancy as a historical concept, its social and economic implications and the logic of anti-vagrancy legislation in Britain, its

empire and other countries in Western Europe. Vagrancy was equated with a crime in itself in early modern Europe when people without fixed abodes or 'vagabonds' were stigmatised as prone to criminal behaviour. The essential rationalisation of vagrancy legislation can be divided into two approaches – first echoes the logic placed by the empire – strict anti-vagrancy legislation was essential to maintain the social order, while the second approach traces the economic and political validation – these legal orders were placed to curb the mobility of labour force, especially the immigrant labourers and their potentials of political protest by controlling their economic independence. *First* or the social-moral rationalization of anti-vagrancy legislation is based on labelling itinerant people or vagrants as moral dangers which made strict vagrancy legislations a necessity to protect the social and moral order. This rationalisation was part of the colonial exercise. Very recently, Jeremy Martens, in an evocative article, has tried to uphold this validation by adding a gendered dimension to the 'protection of social order' argument in which vagrants are also seen as moral dangers to women in the contemporary British social order. Discussing the notorious 1824 Vagrant Act in Britain, he argues to look beyond narrow economic interests as the *raison d'être*. Although his defence of social validation is primarily based on experiences in Natal, he takes it to various other locations of the empire like India and settler colonies like Australia and New Zealand. What is a critical point to be noticed in Jeremy Martens' justification is the economic stratification of vagrancy – vagrants were supposed to be economically marginal groups and also migrants. The point of disagreement with Martens' analysis is its applicability beyond the British social order. In locations such as Natal and India, this rationalisation had more racial connotations which went far beyond the social justification – in Natal, the African men were portrayed as sexual bigots who were out in the streets to rape the European women while in India the floating population were held responsible for turning the Indian cities into places of moral and physical danger.<sup>5</sup>

The second approach looks at more matter-of-fact motives behind the vagrancy legislation. For this approach, these harsh anti-vagrancy legislations were primarily linked to the larger transformation of the political-economic order and the transition from bonded to a free labour regime. In the post-emancipation period, the possibility of free labour without any contractual binding created a sense of anxiety among the capitalists about the availability of labour. They were also apprehensive about the terms of labour employment particularly the bargaining strength of free labourers for their wages and working conditions. Leo Lucassen, in a very comprehensive paper on vagrancy in Western Europe, traces the roots of anti-vagrancy legislation and their appliance as an instrument for labour regulation in Western Europe to the 14-15<sup>th</sup> centuries. Refusal to work was equated with vagrancy and thus a criminal act. He argues that the definition of the term 'vagrant' became so wide that any obnoxious behaviour towards the capital or state could be classified as vagrancy and it encompassed from gypsies to seasonal labourers

and even self-employed peddlers. Any vocation without the direct regimentation of state or capitalist class could be 'criminal activity' or any person who is 'masterless' could be labelled as a criminal and therefore came under the purview of anti-vagrancy legislation as a punishable offence.<sup>6</sup>

A significant body of research in recent times has investigated the use of vagrancy laws to control the labouring classes in the British empire in the 19<sup>th</sup> century – in Madras, Assam, Trinidad, Natal, Mauritius etc.<sup>7</sup> What this paper attempts to discern is the use of anti-vagrancy legislation to control labour mobility and resistance as part of the larger strategy to cope with the market demands, changing fortunes of the plantation economy and dynamics of the labour-capital relationship on the plantations in the post-emancipation era. To sustain my argument I shall illustrate how since the 1870s onwards the plantation lobby in Mauritius promoted labour to move beyond the plantations; and to what extent the ideological foundations of criminalisation of free Indian labour lay in the racial prejudices of the colonial authorities and the duress of pre-emancipation legacies.

## II

### **Regulation of Labour Mobility: Vagrancy Legislation in Mauritius**

Since the very beginning of employing indentured labourers from India on the sugar plantations in Mauritius, planters were cautious about the availability of labour because plantations were a high investment venture and the introduction of immigrant labourers added further to their costs. Against this backdrop, runaway labourers meant the permanent loss of capital and therefore they pursued stringent labour regulations. Apprehensive planters wanted to ensure the availability of a labour force to ensure that they do not suffer any losses. The very first attempts to regulate the availability of labour for plantations by criminalising the labourers' attempt to escape the rigour and repression were introduced in 1835 and 1841 which provided for penalties and imprisonment for desertion and absence.<sup>8</sup> Although these were not finally approved, they did set the tone of the legislative initiatives to regulate the mobility of Indian indentured labourers and their efforts to escape the contractual obligations even if these obligations were excessively exploitative and dehumanising. As I have argued in an earlier publication, 'the focus of legislative attention was to control the loss of labour – illegal absence, temporary desertion, and vagrancy. In definitional terms of laws, illegal absence and desertion involved a breach of contract because these were associated with the labourers under the indenture, while vagrancy was associated with the free labourers who had completed the contractual obligation. However, vagrancy was defined in very loose terms primarily to include the desertion and labourers' refusal to work under its folds as criminal offences because vagrancy was considered to be a more serious crime and as a threat not only to the plantation system but to the society as a whole.'<sup>9</sup>

The problem to deal with the immigrant labourers who had completed their contractual period or 'industrial residence' but did not want to continue

with the same working conditions under time-bound contracts and wanted to explore alternative means of sustenance began to surface from the late 1840s onwards. After the completion of 'five years of industrial residence many immigrant labourers decided to explore alternative options which did not go well with the planters who wanted them to continue with the work on estates. According to colonial perception, these old immigrants did not want to continue working on the plantations because they were 'habitual idlers' and attributed to their 'unsettled habits' and 'erratic character'.<sup>10</sup> By the '1850s desertion and vagrancy became one of the primary concerns of the plantation lobby and colonial authorities. In 1845 it was reported that about 6% of the total Indian labourers in Mauritius were deserters and another 11% were illegally absent.<sup>11</sup> It was considered to be a 'monstrous evil' disrupting not only the plantation order but also perpetrating crime in the society and therefore they argued to suppress it with stringent legal initiatives. 'The first legal initiative which got approval from the colonial government was Ordinance 21 of 1843 which prohibited Indian immigrants to work in shops or docks without prior approval. Ordinance 22 of 1847 introduced the ticket system as proof of status – all the old immigrants had to carry a ticket. It also fixed the territorial limits for the Indian labourers and in case of crossing these geographical boundaries, it provided for arrest and criminal prosecution without a warrant. Any old immigrant who failed to produce this ticket, or not being able to satisfy his occupation or found outside the boundaries set by the ticket was liable for the punishment as a vagrant'. Another legislation to control vagrancy in more defined and stern ways came in 1852 in the form of Ordinance No. 16. This ordinance tried to define a vagrant as a person 'who have no fixed domicile, or any means of subsistence, and who, being able to labour, do not habitually work at any trade or profession', and provided for imprisonment and hard labour as punitive measures for vagrancy. It also introduced the concept of 'vagrant hunts' which were no less fierce and violent than the 'maroon hunts' of slavery. 'During the vagrant hunts, which were organised very frequently with the support of planters, police and authorities could enter any premises to ascertain the status of inhabitants, and swept across large areas and every Indian found outside the plantations, on whatever pretext he had been out, was arrested as a vagrant. In the 1860s several other legislations were passed to control the vagrancy and the desperate attempts to control vagrancy through legislative measures reached its apogee with the promulgation of Ordinance 31 of 1867'.<sup>12</sup>

#### **Ordinance 31 of 1867**

The perceived doubts about the conduct of old immigrants and the possibility of disruption of law and order in Mauritius by these free people continued to worry the colonial authorities and planters despite the numerous legal restrictions placed to regulate the movements and habitat of these old immigrants which resulted in the arrest of 'an average of 12% of total Indian population for alleged vagrancy in 1850s and early 1860s.

Authorities wanted more overarching and stringent legislation to detect and discipline vagrants.' Even the Protector of Immigrants, who was supposed to safeguard the immigrants' interests, was frustrated with the eluding vagrants and the failure of existing laws in the diminution of vagrancy.<sup>13</sup>

The concern for taming the old immigrant population was also fostered by the epidemics which afflicted the island in the 1850s and 1860s, 'the worst being the malaria epidemic of 1866-67 in which more than 11% of the total Indian population died. The most affected was the town of Port Louis where one-third of the population perished because of the malaria outbreak.' Official estimates illustrated that the mortality rates were higher in the 'Indian villages' and Port Louis which were dominantly inhabited by the old immigrants, leading to a 'very strongly prejudiced justification from the official circles that these epidemic outbreaks were outcomes of the unhygienic habits of Indian labouring classes particularly the old immigrants.' Governor Barkley, in his report to the Secretary of State, affirmed that the high mortality was primarily caused by the 'agglomeration of people of dirty habits in wretched and overcrowded huts – constructed without the slightest regard to sanitation and grouped often in most unsuitable localities'.<sup>14</sup>

This affirmation from the highest levels of government in Mauritius provided one more ground for validation of stern anti-vagrancy legislations – maintenance of hygienic standards in the island, in addition to the potential criminality, and the obvious outcome was the promulgation of Ordinance 31 of 1867 which surpassed all the previous legislations in severity and intolerance against old immigrants. This ordinance not only consolidated the previous legislation as claimed by the Governor but also gave enormous powers to the police and planters to apprehend the labourers. This ordinance, also known as the Labour Law of 1867, 'was the most comprehensive legislation to regulate the occupational and personal spheres of Indian immigrant labourers in Mauritius and it remained in practice till the end of the century, certain modifications, despite the numerous condemnations for being extremely repressive. To understand how the Labour Law of 1867 was instrumental in regulating the mobility of Indian immigrant labourers in Mauritius'.<sup>15</sup> First, we need to look at certain fundamental clauses of this law which regulate the conditions for geographic and occupational mobility of old immigrant labourers:

- i. 'The Protector of Immigrants shall, upon proof of him of any immigrant having duly completed his industrial residence, register such immigrant as an old immigrant, giving him a ticket as such, with his portrait thereon... (XXXIX)'
- ii. 'Introduction of Pass System: Every old immigrant not under engagement by written contract of service, shall be bound to appear at the Central Station of Police for the district in which he is resident, and to justify to the Inspector of police., his designation as old immigrant upon production of his ticket and further to declare to the said officer his place of abode, and occupation, employment, or other

means of subsistence. The said officer shall thereupon deliver to such immigrant a pass. Every immigrant on completing his industrial residence and receiving an Old Immigrant's Ticket, and every old immigrant on the expiry of his written contract, shall, within eight days, appear before the said officer of police of the district in which he resides or has taken his abode, and shall make declaration as above.' (XLIII)

- iii. 'Any old immigrant not being engaged under written contract of service., who shall fail, on demand of any Magistrate, or of the Police, to produce his pass, or a certificate of engagement duly signed by a Stipendiary Magistrate, shall be liable to be detained and forwarded to the Immigration Depot, and if it shall appear that he is not following any bona fide employment, whether on his own account or in the service of a third party, and that he has no visible means of subsistence, he shall be deemed to taken as a vagrant.' (XLVI)
- iv. 'Any Immigrant found in a district where he has no residence, or in a house or premises, and being unable to give a satisfactory reason for his being in such district, house, or premises, as the case may be, may be arrested by any officer or constable of police, without warrant'...(XLVIII)
- v. 'If any labourer desert from his employer's service, it shall be lawful for such employer, or any servant of such employer acting with his authority and on his behalf, without a warrant and without the assistance of police to apprehend such labourer in any public place where he may be found'...(LI)<sup>16</sup>

In addition to these, the Vagrancy Ordinance of 1867 made it compulsory to obtain a new ticket on each instance of change of residence and permits for discharge and engagement for each employment. A careful reading of these clauses of Labour Law 1867 highlights certain features of this law which were particularly articulated to curb the freedom and mobility of old immigrants – photographs on the tickets (making it more costly for them), the introduction of an additional document of identity and location in form of Police Pass, and confining these old immigrants to fixed locations. The most significant was extending the right to challenge the status and to apprehend old immigrants to the common people and planters' agents which was more than often abused by planters' agents to exert their control over the labourers. Reflecting upon the provisions of Labour Law 1867, the Procureur General justified these stern measures, although it is a bit lengthy quotation it may not be out of place to quote it here, the reason being the most reflective articulation of colonial prejudices and contempt against the Indian immigrant labourers and the doubts for the ability of free Indian labouring classes to sustain themselves by pursuing a vocation on their own. Elaborating upon the intent of Labour Law 1867, he wrote in his report:

'There are a great number of immigrants who are without tickets, being either deserters from service, or parties who have lost their tickets and being

without papers of any kind,...These parties lead a precarious existence; when provisions are cheap, they live upon the bounty of their friends, in the time of scarcity, they are destitute, and in the time of epidemic, as recent experience has shown, when they are sick, they are turned out dead,...Many of them turn to a life of plunder, robbing or pilfering at night and sleeping in the canes or in their comrades' house by day.'

'There is also another class who are equally if not more dangerous to society: they are Old Immigrants who....have no visible means of subsistence. They pass themselves off as gardeners, and half a dozen of them squat upon a small piece of ground, perhaps  $\frac{1}{4}$  of an acre, which they rent, and they nominally live upon the produce of this ground but they are well known to the police as thieves and vagabonds.

It is from these classes that the perpetrators of gang robberies so prevalent of late years, are recruited. The Police Returns upon this subject, in answer to a series of questions framed by myself show the magnitude of the evil.....

It is a well known fact that Indians will never work if they can live a life of idleness and I am confident that this system will soon convince the vagabond class that they can no longer unmolestedly lead a life of idleness and that they will in consequence be driven to seek for honest employment.<sup>17</sup>

Promulgation of this act and its enthusiastic pursuit by the disciplinary agencies produced the obvious outcome and the arrests for vagrancy multiplied by three times in the next two years. The most dramatic swell in the number of arrests of alleged vagrants was the year after the enactment of Ordinance 31 in 1867 – from 10,970 in 1867 it increased to 26,904 the very next year. Between 1861 and 1871, an average of 8.8% of the total Indian population was arrested for vagrancy. The Police Commission, which was set up in 1871 to enquire into the alleged misuse of powers given to the police under Ordinance 31 of 1867, several thousands of old immigrants were punished as vagrants because they were not *au fait* with the exacting requirements of Ordinance 31 of 1867.<sup>18</sup>

From the 1850s, the Protector of Immigrants were submitting annual reports to the governments concerned which record the finest and smallest information about the life of immigrants and working of the indenture system but they don't provide information on vagrancy and this was noticed with serious concern by all the contemporary investigators looking into the functioning of indenture system or the conditions of immigrant labourers<sup>19</sup> and some of them strongly recommended maintaining the detailed account of all the arrests, convictions, punishments, and how labourers convicted as vagrants were employed.<sup>20</sup> It had been reported on quite many occasions the arrest and trials for vagrancy proved to be spurious as the alleged vagrants turned out to be either ignorant ex-indentured labourers or being falsely implicated either by the planters or overenthusiastic officials<sup>21</sup>, causing some embarrassment to the order and also raised concerns about the rationale for such stern legislative mechanism to counter the menace of vagrancy. It is in



this context that the silence over the empirical details of the working of vagrancy legislation raises doubts about the intentions.

### III

#### **Vagrancy Laws as Legal Constraints on Labour Mobility**

In this section I shall try to illustrate how in the case of plantation economies – in Mauritius and elsewhere – vagrancy laws were used to regulate the mobility of labour and to curtail their wage bargaining strength rather than to discipline the delinquents. Often these laws were promulgated in a situation of economic crisis as a manifestation of colonial anxiety for the availability of labour, to restrict labourers' mobility off plantations and to depress the possible expressions of labourers' discontent through runaways from the repressive predicament of plantation regime.

Mauritian planters had learned the hard way from their earlier experience with apprentices (ex-slave labourers) about the loss of labour and capital because of the absence and desertion of labourers. And that is the reason, since the beginning, they were insistent upon binding the immigrant labourers to the estates through legal provisions. Their apprehensions began to grow into reality as the scattered figures of illegal absence and desertion exemplify. The 'Committee constituted to enquire into the causes of the insufficiency of the labouring population' reported that in 1844 absenteeism and desertion reached 17% of total Indian labourers engaged on estates.<sup>22</sup> According to another estimate in the Abstract of Labour Returns, the absence of labourers from plantations amounted to about 16 to 18% of the total workforce, and in certain locations, it even reached 20%.<sup>23</sup> 'This problem continued to prevail even till 1890s and its gravity could be gauged by the fact that out of 209,001 complaints filed against Indian labourers between 1860 and 1885, about 72% accounted for illegal absence and desertion. Planters' response was obvious – rather than recognising these frequent occurrences of absence and desertion as labourers' vent of protest against the inconsiderate working conditions and repressive disciplinary structure of plantations and their naïve attempts to move out of contractual bindings of indenture; illegal absence and desertion were termed as habit of Indian labourers who were blamed as habitual idlers not wanting to work. And therefore, instead of addressing the grievances of immigrant labourers through reforms and relaxing the harsh legal provisions of indenture, planters resorted to repression – several punitive laws were initiated to discipline errant labourers for illegal absence and desertion, the notable ones being the Ordinance<sup>21</sup> of 1843, Ordinance 22 of 1847, and Ordinance 7 of 1849 which entrust the police and planters with enormous powers to punish labourers in case they tried to break away the shackles of indenture. Absence and desertion were declared as criminal offences and the concept of vagrancy as a criminal category was introduced to deal with the immigrant labourers who had deserted the plantations – all the labourers found outside the plantation were convicted for vagrancy.' The critical point to be noted here is that for the sake of convenience to repress labourers' discontent (articulated

through desertion) and to curb their mobility off the estate, authorities blurred the critical difference between desertion and vagrancy and defaulters for both the offences were put under trial for the offence of vagrancy. Royal Commission noted in its report that desertion, illegal absence and vagrancy were separate and distinct offences but Mauritian labour legislation made no distinction between these.<sup>24</sup> 'This fundamental oversight continued till the 1890s even when the initial vehemence to 'hunt' vagrants decelerated to a great extent because of the shift in the priorities of planters and colonial authorities in the context of changing requirements of sugar economy subsequent alteration of the labour-capital complex.<sup>25</sup> In 1893 J.W.P. Muir-Mackenzie<sup>26</sup> reported about 'this gaffe and recommended that a deserter should be dealt with under the provisions of the Labour Ordinance dealing with the offence of desertion and not under a general vagrancy law'. He was also very critical of suspecting free labourers as criminals – 'an Indian labourer is not to be exposed to bullying by the rank and file of the Police, and treated as a suspected criminal merely because he may prefer free labour'.<sup>27</sup>

'Initially, planters tried to meet the loss of labour with the introduction of new labour as well, in addition to forcing the existing labourers to reengage. But the introduction of a huge number of labourers from India in the 1840s and 1850s and the subsequent increase in old immigrants changed the demographic order of the island. Planters got a readily available stock to bring into the terms of indenture. Shoving the existing labourers to continue with contractual service through legal barricades on their mobility also proved to be more cost-effective than introducing new labourers. Planters, therefore, adopted the strategy to incorporate these old immigrants, who were trying to sustain themselves through alternative vocations such as gardeners, carters, dock labourers or hawkers, into the plantation through vagrancy laws.'

The 1860s was 'the period of economic crisis and depression for the sugar economy of Mauritius, primarily due to the changing composition of the world sugar market and a sharp decline in the price of sugar in the export market. It also marked a decline in the arrival of new immigrants from India. Instead of adopting more productive structural changes in the system of production, which they eventually did in the late 1870s onwards through Metayage and Morcellement, the Mauritian government and plantation lobby adopted a one-dimensional response by reproaching the instability of the labour market responsible for the crisis and responded by coercive strategies of labour control. Free labourers were blamed for the volatility of the labour market and crisis and harsh legal provisions were placed to push free labourers to enter into contractual service. The most compelling among such legal initiatives was Ordinance 31 of 1867. Under the new ordinance, the old immigrants had to carry the ticket all the time and any immigrant found without such a ticket was labelled and prosecuted as a vagrant. In addition to this ticket which was required since 1847, they were now required to

obtain a pass from the police also'.<sup>28</sup> As I have argued in another publication, 'the time assigned to obtain both these passes was one week – now think about the situation, a labourer who completed his contract had to find a vocation for himself, a suitable place for abode and then obtain two documents of identification from two different establishments which could be at two opposing ends of the country (Office of Protector for ticket and District Police Station for police pass) to prove that he was not a vagrant. What happened in most of the instances that they were arrested while on the way to obtain these passes or during their search for an alternative job and either restored to the previous employer or sent to the vagrant depots and employed on public works with mere allowances hardly sufficient to sustain themselves'.<sup>29</sup>

### **Restricting the Geographical Mobility<sup>30</sup>**

The police pass also determined the geographical boundaries under which an old immigrant could move. The tiny island was divided into eight districts and an old immigrant was allowed to move within the district in which he had declared his abode. I have tried to argue that 'this provision severely limits the geographical and occupational mobility of old immigrants and an immigrant found in the district other than the one for which he possessed a police pass would be vagrant were liable for prosecution as vagrant as per the law'.<sup>31</sup> 'It was virtually impossible for the old immigrants, almost all of whom were illiterates or with little knowledge, to know the precise boundaries of the district of their approved habitat which were anyways not demarcated. One such frequently referred uncertainty over the district boundaries' was the ill-defined boundaries of the Districts of Moka and Pamplémousses. 'Confining the old immigrants to fixed territorial regions adversely affected their personal relationships and social interaction as well because they had no way that they could visit their family or friends living in other districts. Though the law provided' for obtaining visitor's pass to go to other districts for a short duration for certain reasons like visiting relatives etc., 'the procedural complications and official reluctance made it next to impossible to obtain permission to go beyond their designated locations and on numerous occasions old immigrants were arrested as vagrants, despite having all the papers in order, because they visited, often inadvertently, to their relatives or friends who happened to be living in another district. On some occasions, the official desperation to arrest vagrants led to bizarre incidents also – during one of the vagrant hunts Ramluckan, who was a gardener in Pamplémousses district, was arrested from his house on the day he was getting married<sup>32</sup>, 'despite having all his papers in order, because the police thought that his house was in Moka while he had the police pass for Pamplémousses district. He was staying in that abode for some time which was recognized as part of Pamplémousses but all of a sudden, just at the fancy of some police personnel who thought that his abode was part of another district, the person was arrested for vagrancy though he had all the papers

required to establish his bonafide credentials. This case indicates the enormous power at the disposal of police' and planters' agents under the Labour Law 1867 and the scope for arbitrary interpretations and 'ill-judged' implementations of its provisions if they wanted to harass old immigrants. I have argued elsewhere that 'this possibility was even recognised in the opinionated official reports like the Report of Police Commission which had otherwise justified the stern legal provisos of 1867 law'.<sup>33</sup>

### **The Providence of Vagrants<sup>34</sup>**

The deliberations over possible ways for handling vagrants also strengthen the proposition that the official intent for vagrancy legislation and arrests and prosecution of old immigrants as vagrants were to curb their mobility rather than to convict them as criminals or get rid of them. Such stringent anti-vagrancy laws were enacted to force the old immigrants to re-enter the indenture and thus continue working on plantations.<sup>35</sup> Despite 'rendering the old immigrants responsible for all the crime and disorder in the island, neither the planters nor the government was willing to lose them by deporting them, though the vagrancy laws provided for the deportation of incorrigible vagrants. By the 1850s the arrests for vagrancy became so massive that the prisons were overcrowded multiple times than the planned capacity to house convicts. Taking a serious note of the 'fearful conditions' of vagrants, the Port Louis Prison Committee recommended the deportation of all Indian vagrants in 1851'.<sup>36</sup> The Governor however rejected the possibility in a very clear manner. For the government, it would have entailed to loss of a valuable labour force because these vagrant labourers were employed in public works.<sup>37</sup> 'Apart from overcrowding of prisons by increasing number of vagrants, authorities were also worried about the 'moral pestilence' of the vagrants because of possible contacts with 'hardened criminals' in the prisons. Despite labelling vagrants as criminals, authorities were apprehensive that close contact with real criminals would pollute the mindset of vagrants and spoil their value as labourers. To accommodate the increasing number of vagrants and, most of all, to separate the vagrants from hardcore criminals, a separate vagrant depot was established in 1864 at Grand River. This vagrant depot was modelled to function like the English Work Houses aimed at instilling docility and a sense of duty among the errant old immigrants by the strict disciplinary regime. Inspector General of Police Major Anson recommended for establishment of a separate vagrant depot to separate Indian vagrants from ordinary criminals because:

'By thus separating the Indian immigrants from the ordinary criminal classes, a treatment suitable to the circumstances of their race can be applied, whilst their isolation will materially facilitate the claiming of labourers by their employers and the restoration, on the expiration of their sentences, to the estates to which they may have been indentured.'<sup>38</sup>

This passage from his recommendations exemplifies, in no uncertain terms, 'the quintessential rationale of the entire anti-vagrancy drive – to

curtail the labour mobility after the expiry of indenture and to restore the old immigrants to plantations. The Police Commission also noted that after the stipulated punishments almost all the vagrants enter into contractual labour for one year and in many cases for two or three years.<sup>39</sup>

### **Certificates of Discharge as Legal Constraint of Labour Mobility**

Labour Law 1867 necessitated another prerequisite for old immigrants before moving out of the plantations and pursuing the vocation of their choice and that was certificate of discharge from the planters. As the experiences of numerous old immigrants confirm, planters were quite reluctant in giving these certificates and tried their best to refuse this certificate of discharge on some pretext or the other. Between 1860 and 1871, 2,120 complaints (about 18% of the total complaints) were preferred by the Indian labourers against their employers (planters) for 'non-delivery of ticket of discharge'.<sup>40</sup> The foremost reason for the denial of certificates was to keep the labourers tied to the plantations and deny their freedom which was due, as per the conditions laid in the indenture itself, once they had completed the fixed period of industrial residence. It was also aimed at reducing the wage bargaining power of ex-indentured labourers. Labour Law of 1867 provided that any old immigrant could not pursue a vocation without the certificate of discharge and was liable for conviction as a vagrant. Without these certificates, ex-indentured labourers had no option but to re-engage with the existing planter who set the terms of remuneration to evade the brunt of repressive anti-vagrancy handling by the authorities.<sup>41</sup> The other imperative factor was the financial stress of the sugar economy in the 1860s. During that period many estates had accumulated large amounts of arrears from labourers' wages<sup>42</sup> which they were required to clear in case labourers decided not to renew their contract. In the period of financial crisis, planters tried to evade paying wage arrears by denying the certificates of discharge to the labourers who had completed their contracts.

### **Permits for Engagement as Legal Constraint of Mobility**

To keep a check on possible vagabonds, under the Labour Law 1867, Old immigrants were required to obtain permits to pursue alternative vocations such as gardener, carter, dock labourer, and even free labour. If an old immigrant decided to work as a free labourer, he had to obtain a permit by paying £ 1 per annum as fees 'for the privilege of doing so'. In the pretext of regulating the labour market, the total number of such permits for free labour was fixed by the authorities, irrespective of the number of old immigrants wanting to work as free labourers.<sup>43</sup> This was a disguised way of restricting the mobility of labourers because, without the permits of engagement, they had no option but to continue with the existing contracts.

### **Battling the Epidemics through Vagrancy Laws?**

During the period of 1860s to 1870s, Mauritius faced the worst epidemics

and it had been estimated that more than 32,000 people died only in the 1867 Malaria epidemic. We have already seen how the old immigrants' unhygienic habits were being held responsible for the outbreaks and this logic was used to justify stringent disciplinary measures under the Labour Law of 1867 because the worst hit areas were the hamlet-like settlements of old immigrants who were pursuing vocations beyond the contractual bindings like hawkers, carters, gardeners, craftsmen, etc.; and the Port Louis city where a large number of old immigrants were working as dock workers and or hawkers. Firstly, this proposition was not correct because the mortality rate on certain plantations like sugar estates in the Black River district was estimated to be 20% which was as high as in the denigrated 'Indian villages'.<sup>44</sup> The more realistic way to investigate the reasons for epidemic outbreaks is to link them with the changes in the demographic explosion in Mauritius because of the massive influx of indentured immigrants from India during 1840s to 1860s and the lack of civic amenities, inadequate hospitals and health care system which failed to cope with the unanticipated crises like epidemic outbreaks. In the town of Port Louis which was one of the worst affected areas, there was no drainage, no system of water supply and it was very densely populated. The lack of a drainage system cause severe water logging which worked as breeding grounds for the mosquitoes and outbreaks of epidemics were just waiting to happen. For epidemic outbreaks in rural habitats of old immigrants, the negligence on the part of the government was responsible to a great extent. On the plantation estates, planters were obliged to provide medical care for the indentured labourers and thus there existed a basic health care infrastructure in crises. Contrary to this, the settlements of old immigrants were completely neglected as they were not working for any agency that could have assumed the responsibility for their health care. It was the responsibility of the government but not many officials were keen on taking this non-productive responsibility. If we look through a deterministic lens, we could see the direct linkages between the epidemics and the reasons for the anxiety to restrict the mobility of labourers. The economic crisis of the 1860s was further depressed by the epidemics and caused enormous loss of the working population in Mauritius, and as a desperate move to secure the labour severe repressive legal measures were adopted to keep the labourers engaged with plantations.

#### IV

In this section,<sup>45</sup> I shall briefly describe the planters' strategy of labour control and certain crucial shifts in the 1870s onwards to reiterate the proposition, which I have already flagged in the beginning, 'that strategies of labour control should not be seen as monolithic, static responses from the masters but by situating them in a larger context of the needs of the production system, interests of the capitalist classes and changing dynamics of the labour-master relationship. Planters responded to the crisis of the sugar economy and its sinking prospects in the 1860s using forcing the labourers to continue to work on plantations under contractual bindings and anti-

vagrancy legislations facilitated planters' attempts in effectively curtailing the prospects of labour mobility or any scope for labourers bargaining to increase wages. This strategy helped the planters in coping with the demands of the industry at that time but by the mid-1860s, it was also becoming apparent that the overall costs of maintaining labourers on estates were not very cost-effective. The decade of 1870s was also a period of certain improvements in facilities provided to the indentured labourers on the plantations – housing, medical, food and other provisions which immensely added to the costs of labour.' To cut the cost, 'planters now shifted to employing labourers on short-term contracts and that too through contracts, rather than engaging them directly to the estates. Under this arrangement, planters were not obliged to maintain labourers for the non-working part of their life and had to pay wages only for the work performed. This strategy helped them to cut the costs of labour to a great extent. But the most striking shift in the realm of labour relations took place in the form of *Metayage* and *Morcellement*<sup>46</sup>. Finding the large-scale cultivation economically unviable, planters decided to lease the plantation part to the old immigrants and concentrate on the production of sugar by consolidating it and making it more cost-effective. In the severe financial crisis because of the sinking fortunes of Mauritian sugar in the wake of global competition, planters had no financial resources to invest in the improvement of the plantation and this moved them to separate the plantation of sugar cane and the making of sugar. They transferred the cultivation part to the Indian population through the *Metayage* and *Morcellement* processes. It was a decisive shift towards a crucial reversal of the earlier policy of regulation of labour mobility to a phase of labour relations where mobility of labourers was promoted and they were encouraged to move out of the plantation and either buy or lease small plots of lands to grow sugarcane. As scholars like Raj Virahsawmy, Richard Allen and M. D. North-Coombes have made a case, 'this strategic change in labour relations had very enduring consequences for the Indian labour diaspora in Mauritius and it facilitated the growth of a new class *petit planteur* in the social order of Mauritius which in course of time, played a decisive role in the future course of Mauritian political economy and social-cultural space'.<sup>47</sup>

## V

Reflecting upon the vagrancy of legislations in Mauritius, an official from the Indian government made the following observation in 1873:

'On the whole then, the tendency of Mauritius legislation has been, I think, towards reducing the Indian labourers to a more complete state of dependence upon the planter and towards driving him into indentures, a free labour market being both directly and indirectly discouraged.'<sup>48</sup>

At almost the same time, the Royal Commission in Mauritius also noted that the vagrancy laws amounted to nothing less than unbridled harassment of the Indian population.<sup>49</sup>

About ten years later even Ashley Eden, a member of Indian Civil Services who was very instrumental in the suppression of the Santhal uprising in

India, made a note that 'the colony tended to treat as vagrants all Indians who did not choose to labour on the estates'.<sup>50</sup>

In this paper 'I have tried to appraise the vagrancy laws in Mauritius vis a vis the mobility of Indian indentured labourers. I have tried to argue that the vagrancy laws in Mauritius played a very instrumental role in planters' strategy to restrain the mobility of Indian labourers through legal constraints. In the period of economic crisis, planters appropriated a criminal category of the pre-emancipation labour regime and by using legal instruments such as ticket of status, police pass, certificates of employment, etc. They tried to set relentless confines to the occupational and geographical mobility of Indian labourers. Anti-vagrancy legislations were used across all the locations of Indian indentured immigration to curtail the mobility but the severity of punishment was the most severe in Mauritius.<sup>51</sup> The intent, as I have tried to argue, was to ensure the availability of labour and to have a hold over the economic independence and wage bargaining power of Indian labourers. Fulfilling the legal requirements to acquire the status of a bonafide free labourer was so complicated, time-consuming, expensive and above all so manipulated and ill-interpreted that labourers were compelled to, and often choose to re-engage with the same employer, on the similarly repressive contractual obligations, or at times even at lower wages.<sup>52</sup> In colonial perception, Indian immigrant labourers had only three places in Mauritius to live in – at work, in hospital or in gaol and the labour laws virtually left no scope for them to be found anywhere else. Despite the proviso for redressal agencies like Protector of Immigrants and Stipendiary Magistrates, Indian labourers seldom got any reparation for their ordeal because rather than protecting the interests of these labourers and saving them from the harassment at the hands of planters or police, these officials mostly remained indifferent or commended the need of a strict legislative mechanism' to put labourers' life in order.<sup>53</sup>

By situating the stringent anti-vagrancy laws in 1850-70s and the subsequent dilution and less vigorous employment 1890s onwards in the larger context of multiple strategies adopted by the planters and colonial authorities in response to the necessities and challenges the plantation economies had to face in the changing global context of transformative relations between labour, commodity and capital, this paper attempts to substantiate the argument that we should be studying the indentured labour regime in its dynamic mould and not as a sluggish structure which failed to respond to the changing requirements of global political economy of commodity production.

For the Indian indentured labourers on the British plantation colonies, the very ideas of 'settled' and 'vagrant' were fashioned on the British ideals of order, settlement and belonging which professed the mobility of Indian immigrant labourers as an act of denial and indiscipline, and as a threat to the plantation order. Indentured labourers were typified as lazy and prone to



criminal behaviour and their idleness, thievery and financial irresponsibility were seen as causes for desertion<sup>54</sup> and therefore needed to be dealt with severely. Anti-vagrancy laws in the indentured Indian labour regime were part of the larger imperial repertoire of discipline and punishment and racial allegories. A critical analysis of these laws in this paper provides us with the optics to understand the complex, multi-layered colonial governmentality which thrived through the construction, congregation and continuation of racially, economically, socially and politically differentiated spaces of governance and hierarchies of bio-power and justified the dominance, denial and violence perpetrated on the colonised.

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