

# COLONIAL CONTINUITIES IN INDEPENDENT MAURITIUS: PARLIAMENTARY DEMOCRACY, THE BRITISH CROWN, AND STATE REPRESSION

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## ABSTRACT

This article generates a fresh perspective on notions of colonial continuity broadly and Mauritian governance specifically. I argue that Mauritius' immediate postcolonial governance was characterised by colonial continuity rather than rupture through three core examples: first, the government's maintenance of a constitution negotiated under imperialism that reinforced colonially defined community divisions and also gave successive Mauritian elites an advantage in electoral processes; second, the political elite's open allegiance to British structures of power through overt celebrations of the British monarchy and parliamentary democracy; third, the reliance of postcolonial elites on old and new legislation that reproduced the repressive conditions of the colonial period. Together these examples historicise Mauritian governance to highlight some of the lingering legacies of colonialism and how elites chose to embrace rather than reform them.

## INTRODUCTION

*On independence there was a new emperor, but his suit of clothes was far from new. The weavers in the Colonial Office had begun work on the cloth, and taken out their tailoring shears, long before.*

William Dale, Legal Adviser to the Commonwealth Office, 1961-1966<sup>1</sup>

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<sup>1</sup> William Dale, "The Making and Remaking of Commonwealth Constitutions," *The International and Comparative Law Quarterly*, 42, 1 (1999), 67-83.

If the Banwell Commission is ‘unsatisfactory,’ Sir Seewoosagur Ramgoolam, then Premier of Colonial Mauritius, said to the British Governor Sir John Shaw Rennie in May 1966, ‘[I] might prefer to have no resolution seeking independence and simply go on as at present.’<sup>2</sup> The Banwell Commission was a report on the Mauritian electoral system compiled ahead of the national elections that would precede independence. The Colonial Office wanted Ramgoolam to win the election; he was their preferred choice to lead independent Mauritius. Really, he was their only choice because the opposition was campaigning on a platform of association with rather than independence from Britain which the Colonial Office, for economic and political reasons, was dead set against. Ramgoolam’s comment that he might prefer to ‘simply go on as present’ implied that he might prefer that Mauritius remain a colony. This was a bluff intended ‘to test my reaction,’ Rennie explained to the Secretary of State for the Colonies in London.<sup>3</sup> Ramgoolam wanted to secure political representation for his Indo-Mauritian constituency and was suggesting that if the Banwell Commission did not settle electoral boundaries in his favour, he would oppose it, thus possibly preventing elections and independence.<sup>4</sup> Ramgoolam’s negotiation strategy was successful. He carefully played the British and shaped their instruments of withdrawal, including documents like the Banwell Commission, to win the 1967 election, ushering in independence and securing this small Indian Ocean island’s premiership for the next 14 years.

Under Ramgoolam, Mauritius’ immediate postcolonial governance was characterised by colonial continuity rather than rupture. The context was one where the ruling elite’s fondness for coloniality was not just lurking in the side-lines but was front and centre; it was overt and often celebrated, of course not by all, but certainly by those in positions of power.<sup>5</sup> In this article I generate a new perspective on notions of colonial continuity broadly and Mauritian governance specifically through fresh research that illustrates how the postcolonial Mauritian elite revered and replicated colonial legal structures following independence from Britain in 1968. I investigate why the Mauritian political elite maintained an inherited Whitehall constitution, celebrated the British Crown

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<sup>2</sup> Mauritius Monthly Intelligence Report, May 1966, The National Archives (UK) (hereafter: TNA) CO/1036/1597.

<sup>3</sup> Ibid.

<sup>4</sup> The UK had already agreed to independence in principle but insisted on a series of administrative steps, such as fixing electoral boundaries and holding national elections, to achieve it. To secure greater representation, Ramgoolam’s Labour Party opposed the Banwell Commission recommendations. In response, the Colonial Office sent a representative to agree a system more favourable to Ramgoolam and the Indo-Mauritians he represented.

<sup>5</sup> Referring to the logics and technologies of Western, modern, colonial imperialisms, as described by Walter Mignolo and Catherine E. Walsh in *On Decoloniality* (Duke University Press, 2018).

and parliamentary monarchy, and reproduced repressive legislation such as states of emergency rather than embark on decolonial governance projects.

The views of some Mauritian politicians in their post-independence interactions with Britain, though refracted, can be deduced from UK Colonial and Foreign Office files – mostly second hand through summaries of meetings, but also from letters and telegrams. Perspectives of the Mauritian political elite can also be gleaned from legislative debates.<sup>6</sup> I have overlaid these sources with a review of news and analysis, both domestic and international, from the 1970s, as well as with more recent political and legal research. The latter includes legal practitioner Milan Meetarbhan's assessment of the Mauritian Constitution, legal and diplomatic historian James Kirby's work on human rights in Mauritius, and political journalist Iqbal Ahmed Khan's exploration of Mauritius' Republican politics.<sup>7</sup>

Though there are several references to draw on, this article represents the first attempt to reflect specifically on colonial continuities that shaped Mauritian governance in the early independence period.<sup>8</sup> Beyond history, democracy studies scholar Roukaya Kasenally, anthropologist Leo Couacaud, political scientist Sheetal Sheena Sookrajowa, and actuarial scientist Jason Narsoo, have begun to illustrate the flaws in Mauritius' contemporary democratic model, which in turn raises questions about its origins.<sup>9</sup> Kasenally's assessment of Mauritius' democratic deficiencies rightly suggests that commentary on Mauritian politics tends to praise the island's alleged stability without assessing structural flaws. Couacaud and his colleagues, meanwhile, reviewed nearly five decades of Mauritian general elections and found that the electoral boundaries, negotiated with Britain through initiatives like the Banwell Commission, continue to shape voting patterns and therefore election results. Though their statistical analysis focussed on ethnic and caste profiling of political candidates, their contextual framing explicitly demonstrates how boundary delimitation favours Hindu candidates. Taking Kasenally and Couacaud et

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<sup>6</sup> The archives of government departments are closed to the public in Mauritius. Mauritian legislative debates (Hansard) are available at the National Library of Mauritius, Edith Cavell Street, Port Louis.

<sup>7</sup> Milan Meetarbhan, *Constitutional Law of Mauritius* (Bell Village: Mauritius, 2017); James Kirby, "An Ombudsman for Mauritius?" Decolonization and state human rights institutions in the 1960s," *Journal of Global History*, 16, 2 (2021); Iqbal Ahmed Khan, "The struggle to turn Mauritius into a republic," *lexpress.mu* (6 June 2021): <https://www.lexpress.mu/node/394781> [Accessed: 21 Jan 2023].

<sup>8</sup> Helpful references include: Sydney Selvon, *A New Comprehensive History of Mauritius: From the beginning to this day*, (Mauritius: Sydney Selvon, 2018); Deborah Sutton, "The political consecration of community in Mauritius, 1948-68," *Journal of Imperial and Commonwealth History*, 35, 2 (2007), 239-62; Richard Croucher & John McIlroy, "Mauritius 1938: the origins of a milestone in colonial trade union legislation," *Labor History*, 54, 3 (2013), 223-39

<sup>9</sup> Roukaya Kasenally, "Mauritius: The not so perfect democracy," *Journal of African Elections*, 10, 1 (2011); Leo Couacaud, Sheetal Sheena Sookrajowa, and Jason Narsoo, "The vicious circle that is Mauritian politics: The legacy of Mauritius's electoral boundaries," *Ethnopolitics*, 21, 1, (2022).

al.'s analyses as a starting point, this article reaches back to historicise aspects of the Mauritian democratic model and highlights where it maintains or replicates colonial precedents.

Theoretically, this research is driven by broader understandings of colonial continuity, as theorised recently by Mahmood Mamdani in his discussion of how postcolonial nations reproduce the divisive characteristics of colonialism, and by Caroline Elkins in her research on the legacies of colonial violence.<sup>10</sup> Both Mamdani and Elkins focus their research on settler colonialism and the overt violence associated with it, drawing especially from examples in South Africa, Israel, and India. These ideas have yet to be applied in the Mauritian context where there was no pre-colonial indigenous population for white settlers to displace and where there has been no equivalent experience of violent conflict.

The island does however have its own settler dynamics as a result of first French (1715-1810) and then British (1810-1968) colonial labour policies that relocated people from across empire to the island.<sup>11</sup> It also has its own brand of structural violence pervading the island's socio-economic fabric.<sup>12</sup> As a populated sovereign nation state, Mauritius is, in many ways, an imperial creation. The small island had no indigenous population before European colonialism. France took possession of the island in 1715, after which a small group of colonists sent on behalf of the French East India Company settled the island. French settlers forced people from Madagascar and the Swahili coast to toil the island's growing sugar plantations. As the economy developed, traders from across the region, but particularly India, arrived, often settling in relatively self-contained communities. France ceded Mauritius to Britain in 1814, but the French elite and their commercial monopoly persisted. British imperial policies then abolished slavery and devised a system of indentured labour, largely from India, that changed the demographic make-up of the island significantly.<sup>13</sup> The social categorisation of and relationship

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<sup>10</sup> Mahmood Mamdani, *Neither Settler nor Native: The Making and Unmaking of Permanent Minorities* (Cambridge, MA: Belknap Press, 2020); Caroline Elkins, *Legacy of Violence: A history of the British Empire* (New York: Alfred A. Knopf, 2022).

<sup>11</sup> There is an extensive body of literature on colonial labour policies in Mauritius. See, for example: Richard B. Allen, *Slaves, Freedmen, and Indentured Laborers in Colonial Mauritius* (Cambridge: Cambridge University Press, 1999); Vijaya Teelock, *Bitter Sugar: Sugar and slavery in 19th century Mauritius* (Mauritius: Mahatma Gandhi Institute, 1998); Marina Carter, *Servants, Sirdars and Settlers: Indians in Mauritius, 1834-1874* (Oxford: Oxford University Press, 1995).

<sup>12</sup> Rosabelle Boswell, "Can justice be achieved for slave descendants in Mauritius?," *International Journal of Law, Crime and Justice*, 42, 2 (2014), 146-61; Rosabelle Boswell, *Le Malaise Créole: Ethnic identity in Mauritius* (New York: Berghahn Books, 2006); N. L. Aumeerally, "Minority rights and anti-discrimination policy in Mauritius – the case of 'Malaise Creole'," *International Journal of Cultural Policy*, 23, 4 (2017), 446-63.

<sup>13</sup> In 1882, Colonial Governor Napier Broome described the population as follows: '300 owners of sugar estates ... a half-dozen British firms; the Creole gentleman for the "upper thousand" of his class; and the official for bureaucracy 750 strong.

between these settled migrant communities – real or perceived – has defined much of Mauritius’ contemporary social, economic, and political landscape.<sup>14</sup>

## MAINTAINING THE WHITEHALL CONSTITUTION

Within a few years of independence, opposition politicians in Mauritius openly complained that the ruling coalition had wasted their ‘privilege’ and ‘opportunity’ to create ‘something really new.’<sup>15</sup> This ‘privilege’ was a reference to the island’s relatively unique situation of having no pre-colonial political institutions and having experienced both French and British colonialism. Despite Mauritius being ‘a dynamic site for constitutional experimentation,’ as Kirby highlights, elites did not seek to create new governance frameworks in the immediate post-independence period.<sup>16</sup> Instead, they stuck to the pre-existing ‘colonial imperative’ of ‘maintain[ing] political stability,’<sup>17</sup> which meant maintaining governance structures that the British, a key bilateral partner, would endorse. Hopes that Mauritius could create something new were quickly dashed by a ruling coalition more concerned with catching up with an established world order. The government’s priorities outlined in their 1968 Speech from the Throne stressed that ‘a Citizenship Bill, a Passport (Amendment) Bill, [and] an Immigration (Amendment) Bill’ all needed drafting, debating and implementing as soon as possible.<sup>18</sup> In short, Mauritius’ first order of business, unlike those post-colonial leaders who dreamed of federal projects or regional integration,<sup>19</sup> was to replicate legislation that confirmed the fixed borders, contained territories and nationally designated populations of the colonially created nation state.<sup>20</sup>

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The shopkeeper and employé, of blood wholly or partly European [and] their respective sections of the community, which may number about 2,000 each; ... eight or nine hundred Arab traders; ... 3,500 Chinese retailers ... the aboriginal lower class of the island, namely, the 28,000 descendants (I am now speaking of male adults) of the slaves of former times ... [and] the main factor of the population, the 111,000 men of Indian race, the immigrant class, deriving from Hindostan by birth or blood.’ Letter to the Earl of Kimberley, received 28 Nov. 1882, TNA CO/8824.

<sup>14</sup> As Megan Vaughan so pointedly describes: ‘In this world social categories were no sooner invented than they strained at the seams, but the invention of those categories went on nevertheless.’ Megan Vaughan, “Slavery and colonial identity in eighteenth-century Mauritius,” *Transactions of the Royal Historical Society*, 8, (1998), 197.

<sup>15</sup> Hansard, N. Virah Sawmy, 6 Mar. 1976, c.231. The author could not confirm party membership at the time, but given the comments they are likely to be in opposition.

<sup>16</sup> Kirby, “Ombudsman,” 208.

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

<sup>18</sup> Hansard, Governor-General A.L. Williams, 11 Oct. 1968, c.2120.

<sup>19</sup> For example, the Winward Islands (Dominica, Grenada, St Lucia and St Vincent and the Grenadines), the East Africa Federation (Kenya, Tanganyika, Uganda and Zanzibar), Tanzaco (Tanzania and the Comoros), and the Union of African States (Ghana, Guinea and the Mali Union).

<sup>20</sup> For more on this theme, see: R. V. Mongia, *Indian Migration and Empire: A colonial genealogy of the modern state* (Durham: Duke University Press, 2018).

Though in the throes of generating new legislation, the Mauritian government did not draft a new constitution. Instead, the ruling elite remained committed to the 1968 Constitution drafted by British colonial officials and whose legal authority derived from a legislative act in the UK.<sup>21</sup> This constitution was one of tens of ‘Whitehall Constitutions’ drafted by London mandarins and passed onto colonies negotiating decolonisation.<sup>22</sup> According to William Dale, whose quote opened this article and who acted as legal advisor to the Commonwealth Office in the early 1960s, these documents aimed at ‘reproducing the features, in detail, of parliamentary democracy as it obtains in Britain.’<sup>23</sup> Ramgoolam, who played a prominent role in negotiations over Mauritian constitutional development in the preceding decade, was content to rely on this colonially generated document after independence. This was not a given, however: many post-colonial states chose to revoke, review, rewrite, or repatriate their colonial constitutions. In nearby Kenya, the post-independence government almost immediately revoked many of the provisions of its 1964 Constitution in order to centralise power.<sup>24</sup> Similarly, Ghana, Zambia, and Nigeria all redrew their constitutions to become republics in the 1960s, immediately after independence. India, to whom many Mauritian politicians, including Ramgoolam, felt a close affinity, adopted an entirely new constitution two years after independence. In some cases, other island states in the southwest Indian Ocean likewise made radical changes to their inherited constitutions. When the Seychelles became independent in 1976 it opted upfront to become a Republic with a President as executive head. In the Comoros, President Soilihi immediately drew up a new constitution to become a democratic, secular, socialist state.<sup>25</sup>

The Mauritian Constitution includes colonially generated classifications of the island’s population. In its First Schedule (s.3.4), it uses a four-fold system to describe the

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<sup>21</sup> Meetarbhan, *Constitutional Law*, 1. The UK, by Order in Council gave Mauritius a constitution as part of the ‘Mauritius Independence Order 1968.’ Orders in Council had to be approved personally by the monarch at a meeting of the Privy Council. As the UK MP Bernard Braine explained in 1967, ‘since Mauritius was acquired by conquest and cession, Her Majesty has the prerogative power to make a constitution which does not have to be approved by the British Parliament.’ UK Hansard, 14 Dec. 1967.

<sup>22</sup> Dale, “Commonwealth constitutions,” 67.

<sup>23</sup> According to *Ibid.*, 72, the main elements of the Westminster system are: (1) at least one chamber in the legislature elected by adult citizens by secret ballot, (2) from one or more political parties; (3) executive power (vested in the head of State but) largely exercised by a cabinet of ministers headed by a prime minister, who is (4) chosen from the party (or parties) having the support of the majority in the elected chamber and answerable to that chamber; (5) a recognised opposition; (6) a set of constitutional conventions.

<sup>24</sup> Yash Pal Ghai, “A short history of constitutions and what politicians do to them,” *The Elephant* (30 Mar. 2020): <https://www.theelephant.info/features/2020/03/30/a-short-history-of-constitutions-and-what-politicians-do-to-them/> [Accessed: 21 Jan. 2023].

<sup>25</sup> Iain Walker, *Islands in a Cosmopolitan Sea: A history of the Comoros* (London: Hurst & Company, 2019), 158.

population, distinguishing between: a ‘Hindu community, a Muslim community ... [and] a Sino-Mauritian community.’ The document goes on to confirm that ‘every person who does not appear, from his way of life, to belong to one or other of these three communities shall be regarded as belonging to the General Population ... [the] fourth community.’ These classifications are premised on racialised class distinctions that developed during the colonial period. Such profiling began under French colonialists who distinguished between Europeans, enslaved peoples from the African continent, free people of colour, and mixed raced peoples. When the British took over and introduced indentured labour, predominantly from India, they encouraged new forms of community identification, defined in large part by religion, following distinctions used in colonial India. British officials insisted that Mauritians lacked common origins or economic interests by birth and blood and thus should be considered as separate classes.<sup>26</sup> The colonial powers did not invent perceived differences but they fixed and reinforced them, most notably through population censuses, which by the early 1960s counted around half the population as Hindu, thirty per cent as members of the General Population, nearly seventeen percent as Muslim, and three percent as Chinese.<sup>27</sup> Colonial authorities became preoccupied with the politicisation of these constructed categories in their diagnosis of the island as suffering from communalised politics.<sup>28</sup>

In the run up to independence, British and Mauritian elites voiced great concern about community representation in politics.<sup>29</sup> In a simplified summary, the concerns were as follows: Franco-Mauritians, who monopolised management of the sugar plantations and therefore the island’s economy, worried that they were too few in number to matter politically (they had relied up until then on a system of direct appointments to the Governor-led council); Indo-Mauritians remained focussed on wresting power from Franco-Mauritians; Creoles, who later allied with Franco-Mauritians, worried that Indo-Mauritian politicians would at best fail to represent their interests and at worst push them out of civil service and private sector positions;<sup>30</sup> and British officials, echoing a documented tendency to support transformation of ‘cultural differences into boundaries of political identity that fragmented and fractured those they governed,’ worried that the

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<sup>26</sup> Napier Broome to the Earl of Kimberley, received 28 Nov. 1882, TNA CO/8824.

<sup>27</sup> Stanley Alexander de Smith, “Mauritius: Constitutionalism in a plural society,” *The Modern Law Review*, 6, 31 (1968), 603. British lawyer De Smith worked as Constitutional Commissioner for Mauritius for the Colonial Office in the 1960s.

<sup>28</sup> Background to the Mauritius Constitutional Conference compiled by the Reference Division, Central Office of Information, 20 Aug. 1965, TNA FCO141/12075.

<sup>29</sup> *Ibid.*

<sup>30</sup> Larry Bowman, *Mauritius: Democracy and development in the Indian Ocean* (Boulder: Westview Press, 1991), 39. Creole here refers to Mauritians of African descent.

Creole masses would ‘assimilate’ Indians and threaten the latter’s willingness to work with them.<sup>31</sup> The British sought to ensure communal representation while worrying that communalism undermined the sort of national patriotism they understood as foundational to democracy. Political careers were made and lost on the successful navigation of politicised community distinctions, the British administrations’ preoccupation with them, and the interests that they represented.<sup>32</sup> At the heart of these rivalries was the electoral system, the form it would take, and the constituency boundaries it would determine, all of which the Banwell Commission investigated.

The Banwell Commission and the revisions to it that British officials negotiated with Ramgoolam fixed the electoral boundaries that became enshrined in the Constitution. Officials received instructions to ‘achieve a solution which will enable the M.L.P. [the Mauritian Labour Party led by Ramgoolam] and associates to take the country to independence.’<sup>33</sup> This involved reducing Mauritius’ 40 single-member constituencies to 20 paired constituencies with similar ethnic profiles. According to Meetarbhan, this ‘delimitation of constituency boundaries ... resulted in wide disparities between the number of voters in different constituencies. Though all constituencies in mainland Mauritius were entitled to three Members of Parliament, some constituencies had almost twice as many voters as others.’<sup>34</sup> British officials fixed these boundaries to ensure Indo-Mauritian, in particular Hindu-Mauritians, ‘might secure a substantially larger percentage of seats in the legislature.’<sup>35</sup> Not only would this reflect their then numerical superiority but it would also suit Britain’s primary aim of bringing Ramgoolam to power. Constituency delimitation in Mauritius, therefore, was the result of collaboration between the British and particular Mauritian elites that served communalised aims. And with great success: every election since has returned a Hindu-dominated political party to power as the senior coalition partner.<sup>36</sup> After his election Ramgoolam had little incentive to start tinkering with the Constitution, no matter its colonial origins.

The colonial administration sought to engineer constitutional correctives that would reflect Mauritian community distinctions. Mauritian elites for years wrangled over how best to achieve this. The result was an electoral system that reserved eight seats for direct

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<sup>31</sup> Mamdani, *Neither Settler nor Native*, 12; Selvon, *History of Mauritius*, 35.

<sup>32</sup> Sutton “Consecration of community,” 241 shows, as Boswell and others have done, that these distinctions are of course highly ambiguous, not least because of the frequency of inter-marriage.

<sup>33</sup> Minute from Trafford Smith to Stonehouse, 21 Jun. 1966, TNA CO/1036/1597.

<sup>34</sup> Meetarbhan, *Constitutional Law*, 161.

<sup>35</sup> Couacoud et al., “Vicious circle,” 52.

<sup>36</sup> According to, Kasenally, “Not so perfect democracy,” 38: ‘many in the Hindu community take it as their right that the premier must be one of their own.’



appointment based on ‘community affiliation.’<sup>37</sup> This provision claimed to ensure the ‘fair and adequate’ representation of Mauritius’ community groups.<sup>38</sup> Mauritian legal scholar Amar Roopanand Mahadew insists that this provision, known as the Best Loser System (BLS), continues to empower minorities and does not exacerbate institutionalised racism.<sup>39</sup> However, as political party Lalit has consistently argued, despite its inclusive intentions, the BLS, along with the Constitution’s four-fold community classificatory system, promotes racist distinctions.<sup>40</sup> Contrary to the many postcolonial governments that sought explicitly to remove expressions of colonial power and distinction from their legislative frameworks (most famously in South Africa, but also in Kenya, Zimbabwe, Mozambique and Angola), Mauritius’ ruling coalitions have steadfastly resisted reform. The four-fold classificatory system remains inscribed in the Constitution and the BLS has persisted to the present day. There is some consensus among political stakeholders and influence groups that reform is necessary but there is no agreement on how to proceed.<sup>41</sup> Moreover, as Kasenally shows, ‘the BLS remains an ultra-sensitive issue that no political leader or party dares address for fear of losing support.’<sup>42</sup> Where there has been reform, it has often been stimulated by those external to the ruling politicians. For example, after a sustained campaign led by opposition politicians and relying on international legal mechanisms, a requirement that electoral candidates declare a community affiliation was finally scrapped in 2014 when the UN Human Rights Committee deemed it a violation of the International Covenant on Civil and Political Rights.<sup>43</sup>

The Constitution provides for an electoral system that colonial authorities agreed with specific influential Mauritian counterparts, like Ramgoolam, after decades of negotiation. As Colonial Office lawyer Roberts Wray explained, the Whitehall Constitution more often than not ‘gives people what they ask for, remembering that by “the people” one does not necessarily mean the majority.’<sup>44</sup> In Mauritius, the electoral system was designed to secure inclusive but Hindu-dominated governments. The system

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<sup>37</sup> Mauritian Constitution, 1968, First Schedule, s.5.1.

<sup>38</sup> Ibid.

<sup>39</sup> Amar Roopanand Mahadew, “The best loser system in Mauritius: An essential electoral tool for representing political minorities,” in *Constitution-Building in Africa*, eds. Jaap de Visser, Nico Steytler, Derek Powell, and Ebenzer Durojaye (Baden-Baden: Nomos, 2015), 156

<sup>40</sup> See: [www.lalitmauritius.org](http://www.lalitmauritius.org) [Accessed: 27 June 2023].

<sup>41</sup> Kasenally, “Not so perfect democracy,” 39.

<sup>42</sup> Ibid., 40.

<sup>43</sup> In 2012, Devianand Narrain and eight other members the Resistance and Alternative party requested that the UNHCR rule on whether the obligation on candidates to declare a community affiliation violated the International Covenant on Civil and Political Rights.

<sup>44</sup> Quoted in: Dale, “Commonwealth constitutions,” 68.

followed a long tradition of classing people according to colonial racialised hierarchies. Rather than amend or revoke foundational aspects of the Constitution and risk losing any advantages accrued through the colonial continuities built into it, Ramgoolam's government, like all succeeding Hindu-dominated governments, refrained from introducing electoral reform. As the origin of the electoral codes, the current Constitution embodies the power-laden and colonially framed struggles of the independence transition: It is an example of coloniality persisting. The following section will expand this point by setting the maintenance of the Constitution within a broader context of reverence for parliamentary monarchy.

### **REVERENCE FOR THE MONARCHY**

The British monarchy and its associated system of governance, parliamentary monarchy, were core symbols of empire that the postcolonial Mauritian government openly embraced. In 1971, for example, the Mauritian parliament welcomed a group of British MPs who wished to 'express the friendship of one Parliament for another.'<sup>45</sup> They brought with them a wooden mace which was, they explained, 'the visible symbol of a living Parliament ... the expression of the will of a free people to govern themselves.'<sup>46</sup> During Britain's brief period as a republic from 1649 to 1660, Oliver Cromwell banned the use of the parliamentary mace. When it was eventually returned, the mace took on the symbolism of British (monarchic) democracy. Since then, the British MPs explained during their visit, 'the idea of Parliamentary Government has been extended far and wide. Today, there are almost one hundred Parliaments in the Commonwealth and it is not surprising that they provide one of the strongest links between the members of our unique family of nations.'<sup>47</sup> Mauritius already had a locally made mace that members 'had come to look upon as part of the House itself.'<sup>48</sup> This Mauritian version was cast aside in favour of the British import that the MPs brought from London. The island's parliamentary website confirms that this British gift is still in use and continues to be considered 'the symbol of the authority of the house.'<sup>49</sup> Welcoming this symbol of monarchic restoration and then maintaining its use until the present day indicates a certain comfort with the former colonial power and its regal pageantry.

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<sup>45</sup> Hansard, Bernard Richard Braine, 9 Mar. 1971, c.5.

<sup>46</sup> *Ibid.*, c.4.

<sup>47</sup> *Ibid.*, c.5.

<sup>48</sup> Hansard, Speaker Harilal Vaghjee, 9 Mar. 1971, c.3.

<sup>49</sup> See: <https://mauritiusassembly.govmu.org/Pages/The-Mace-Symbol-of-Authority.aspx>: [Accessed: 24 Aug. 2022].

At independence, Mauritius opted to retain Her Majesty Queen Elizabeth II as head of state. The island's ruling elite embraced the continued obligation and ceremony that accompanied the island's status as a Commonwealth Realm. Immediately after independence, Ramgoolam set out to secure a Royal Visit. His was driven in part by a desire to rectify the cancellation of Princess Alexandra's 1968 visit that made the island 'the first Monarchical State of the Commonwealth to attain Independence without the presence of a Member of the Royal Family.'<sup>50</sup> The Royal household abandoned the 1968 visit owing to concerns for the Princess' safety, but Alexandra was still keen. She accepted Ramgoolam's invitation at once. The Prime Minister took 'a close personal interest in all the details' of her programme and when she arrived in mid-September 1969, apparently 'became so carried away with enthusiasm that he joined in the "sega" being danced' at her welcome reception.<sup>51</sup> Not everyone shared his enthusiasm. Ahead of the visit, critics argued that 'with so many people out of work it was scandalous to waste money on all the pomp.'<sup>52</sup> During the visit, according to the Foreign Office 'some 200 youth' even 'shouted "Go home Alexandra"' at the Royal motorcade.<sup>53</sup> That this small show of opposition to the Royal Visit was not aimed at promoting republican principles, is another indication of how by and large, reverence for or at least acceptance of the monarchy lived on.

A few years later in March 1972, to Ramgoolam's 'great satisfaction,' Queen Elizabeth II travelled to Mauritius.<sup>54</sup> The public gave their Queen a 'tumultuous welcome' when she descended the Royal Yacht Britannia for a three-day tour.<sup>55</sup> Some Mauritians 'sailed all night' to be able to anchor near the Britannia's landing spot and catch a glimpse of Her Royal Majesty.<sup>56</sup> Around 250,000 'exuberant' Mauritians thronged the streets of Port Louis in 'carnival mood' as she made her way through the capital.<sup>57</sup> She was welcomed by the business elite at a tour of a sugar factory and in their favourable news

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<sup>50</sup> British High Commission (hereafter: BHC), Port Louis, Visit Summary from H.A. Arthington-Davy to Secretary of State for Foreign & Commonwealth Affairs, Michael Stewart, 24 Oct. 1969, 1, TNA FCO/57/144. Princess Alexandra was Queen Elizabeth II's first cousin.

<sup>51</sup> BHC, Visit Summary, 24 Oct. 1969, 3-5.

<sup>52</sup> Ibid., 4.

<sup>53</sup> Ibid., 4. The presence of the Princess' husband, Angus Ogilvy, who took the opportunity to further his business interests also raised eyebrows. Ogilvy had share options in the London and Rhodesia Mining and Land Company (Lonrho), which owned a factory at one of the island's three internationally run sugar estates (this was rare as most factories were owned by the Franco elite). Lonrho was alleged to have been involved in South African sanctions busting, a scandal that later led Ogilvy to sever ties with the company, and Conservative prime minister, Edward Heath, to famously denounce Lonrho's activities as the 'unpleasant and unacceptable face of capitalism.' UK Hansard, 15 May 1973.

<sup>54</sup> Jean Claude de l'Estrac. *Passions Politiques: Maurice, 1968-1982* (Mauritius: Éditions Le Printemps, 2009), 93.

<sup>55</sup> 'Mauritians defy state of emergency to greet Queen,' *The Times*, 25 Mar. 1972.

<sup>56</sup> Author Interview, M. Rannoojee, Flic en Flac, 5 Nov 2022.

<sup>57</sup> 'Mauritians defy state of emergency,' *The Times*, 25 Mar. 1972; BHC, Port Louis, Visit Summary from P.A. Carter to Secretary of State for Foreign & Commonwealth Affairs, Alec Douglas-Home, 3 Apr. 1972, TNA FCO/31/1250

reporting.<sup>58</sup> Her popularity transcended party politics in parliament where she gave an official address and was met with expressions of support and loyalty from both sides of the house.<sup>59</sup> Only relatively fringe political parties such as the Mauritian Militant Movement (MMM) and the Independent Forward Bloc (IFB) expressed some hostility.<sup>60</sup> They circulated anti-monarchy pamphlets and even threatened to disrupt the visit. As a result of their efforts, the odd ‘No more colonialism’ banner did appear during the visit, but with little impact.<sup>61</sup> In the UK, the visit’s organisers asserted the overwhelming support of the political and business elites, as well as the clear excitement expressed by Mauritians, as evidence of the Queen’s popularity.<sup>62</sup> Moreover, following the visit, Ramgoolam ‘said that there was no doubt about the enthusiasm of the average Mauritian for the Royal Family and any uncertainty as to whether Mauritius ought to become a Republic instead of being a Commonwealth Monarchical country was now removed ... the attachment of the people of Mauritius to the Crown was only too evident.’<sup>63</sup>

Though hard to measure, Mauritius’ attachment to the Crown was seemingly unusual for an independent African nation. All other former British colonies in Africa renounced the Queen as head of state by 1976.<sup>64</sup> The idea of a Republic was only seriously considered in Mauritius after Ramgoolam’s Labour Party lost power in 1982. It took another decade for the proposal, which like all constitutional amendments required a three-quarters majority to pass, to materialise. Even in 2022, after Queen Elizabeth II’s death, she and her visit were recalled with nostalgia.<sup>65</sup> Several Mauritians arrived at the

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<sup>58</sup> Report of the visit by Joseph Maurice Paturau, Chairman of the Mauritian Co-ordinating Committee (which acted as a bridge between the private and public sector), 10 Mar. 1972, TNA FCO/31/1250. Paturau wrote: ‘It is necessary that at the higher echelon of authority, there should exist a person symbolizing for moral and social standards, faith in justice, and the necessity ... for constant improvement in human condition ... for me Her Majesty the Queen sustains perfectly this part...’

<sup>59</sup> Hansard, Prime Minister Ramgoolam and Leader of the Opposition J.C.M. Lesage, 14 Nov. 1972, c.2105-2106.

<sup>60</sup> Special Branch, Security Situation Report, 3 Mar. 1972, TNA FCO/31/1250.

<sup>61</sup> ‘Mauritians defy state of emergency to greet Queen,’ *The Times*, 25 Mar. 1972.

<sup>62</sup> BHC Visit Summary, 3 Apr. 1972.

<sup>63</sup> British High Commission, Port Louis, Note of Meeting with Sir Seewoosagur Ramgoolam, 29 Mar. 1972, TNA FCO/31/1250.

<sup>64</sup> Either via a new constitution, amending the existing one, or by holding a referendum: Ghana (1960), Kenya (1964), Malawi (1966), Zambia (1964), The Gambia (1970), Zimbabwe (1970), Seychelles (1976), Sierra Leone (1971), South Africa (1961), Tanzania (1962), Zambia (1964), Zimbabwe (1970), Seychelles (1976), Sierra Leone (1971), South Africa (1961), Tanzania (1962). The same trend existed beyond Africa, including across much of the Indian Ocean World: Sri Lanka (1972), Fiji (1987), Guyana (1970), India (1950), Ireland (1949), Malta (1974), Nigeria (1963), Pakistan (1947), Trinidad and Tobago (1962). Barbados is the latest country to become a Republic (2021). Attempts at reform have been rejected in Australia, Tuvalu, and in Saint Vincent and the Grenadines. The other remaining Commonwealth Realms are Antigua and Barbuda, The Bahamas, Belize, Canada, Grenada, Jamaica, New Zealand, Papua New Guinea, Saint Kitts and Nevis, Saint Lucia, Solomon Islands, and the United Kingdom.

<sup>65</sup> See for example: Jhayraz Bhurtun, “From heir apparent to King Charles III,” *Defimedia*, (24 Sep. 2022): <https://defimedia.info/blog-heir-apparent-king-charles-iii/>; Roshnee Santoo, “Mars 1972: souvenir d’une visite royale à Maurice,” 11 Sep. 2022: <https://defimedia.info/mars-1972-souvenirs-dune-visite-royale-maurice> [Accessed: 12 Dec. 2022];

British High Commission to offer their condolences with tears in their eyes.<sup>66</sup> Among them were former Vice President Raouf Bundhun, who had been present at the Queen's 1972 parliamentary address, Seewoosagur Ramgoolam's son Navin Ramgoolam, who had met the Queen on several occasions when travelling with his father, former MPs, as well as dozens of Chagossians.<sup>67</sup> Mauritian Prime Minister Anerood Jugnauth joined world leaders in London to attend the Royal funeral, and a week later, at the 77<sup>th</sup> Session of the UN General Assembly, payed homage to 'the beloved late monarch.'<sup>68</sup> Though much had changed in the intervening period, this points to an ongoing respect for the monarchy, a colonially imported institution that had governed Mauritius for over a hundred years.

Mauritius became a Republic, the last former British African colony to do so, in 1992. Journalist Iqbal Ahmed Khan has investigated the political infighting that helps explain Mauritius' late accession to republican status.<sup>69</sup> His detailed analysis and interviews with Mauritian historians, who can regularly be relied upon to comment in the media, offers significant insight into how events unfolded.<sup>70</sup> Based on Khan's research, cross-referenced with legislative debates at each reading of constitution amendment bills, this analysis shows how Mauritian elites felt no great opposition to being a monarchical constitution. Instead, they preferred to let colonial relationships continue, so far as it allowed them to maintain their own influence.

Jocelyn Chan Low and Satteanund Peerthum have argued that Ramgoolam favoured the existing parliamentary monarchy and was not keen on making Mauritius a republic.<sup>71</sup> Ramgoolam was worried about too much change and felt that the Governor-General who represented the Queen in country, appointed by her but 'in effect the nominee of the Prime Minister' served Mauritius well.<sup>72</sup> This was an arrangement that, after all, Ramgoolam had himself negotiated when he led the Mauritian delegation in talks with

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Government Information Service (GIS), "Prime Minister Jugnauth pays tribute to late Queen Elizabeth II," 10 Sep. 2022: <https://govmu.org/EN/newsgov/SitePages/Prime-Minister-Jugnauth-pays-tribute-to-late-Queen-Elizabeth-II.aspx> [Accessed: 12 Dec. 2022]. According to GIS, the government owned metro service distributed 2,000 one pence coins with the effigy of the Queen to passengers on the day of the funeral to commemorate the event.

<sup>66</sup> Author Interview, British High Commission official, 23 Sep. 2022.

<sup>67</sup> Ibid.; Navin Ramgoolam, *Facebook*, 9 Sep. 2022 [Accessed: 27 June 2023].

<sup>68</sup> Mauritius UNGA General Debate Address, New York, 23 Sep. 2022, 6-7.

<sup>69</sup> Khan, 'The struggle'.

<sup>70</sup> It is common for Mauritian historians including (the late) Sydney Selvon, (the late) Satteanund Peerthum, Jocelyn Chan Low, and Sada Reddi to contribute interviews, commentary or op-eds in the Mauritian press.

<sup>71</sup> According to Chan Low, 'After the 1977 coup in Seychelles, the Labour Party started moving away from the [Republic] idea with Sir Seewoosagur Ramgoolam feeling it was safer to retain a governor general,' and according to Peerthum 'Seewoosagur Ramgoolam thought that moving towards a republic with its own President would increase the risk of a Mauritian coup d'état.' Both quoted in: Khan, "The struggle."

<sup>72</sup> Meetarbhan, *Constitutional Law*, 149.

Britain over independence. He had pushed for a Governor-General who could appoint and remove the Leader of the Opposition, the Chief Justice, the Ombudsman, and members of the Public Service Commission. According to Meetarbhan, ‘in 1965 it was thought inexpedient to follow the normal course of leaving responsibility for these appointments in the hands of the Prime Minister, having regard to the political and communal tensions obtaining in Mauritius.’<sup>73</sup> The Governor-General in Mauritius therefore had more powers than was customary among former British colonies. Ramgoolam remained committed to the status quo and eyed the Governor-General role as a post-Prime Minister retirement gig. He not only resisted the idea of a Republic, but according to Foreign Office files, even considered seeking safeguards to make it harder for the opposition party to withdraw from the Commonwealth if they were to come to power.<sup>74</sup>

A year after Ramgoolam left office, in a 1983 parliamentary address, the new Government led by Anerood Jugnauth announced that it would ‘modify the Constitution with a view to making Mauritius a Republic within the Commonwealth.’<sup>75</sup> Jugnauth spoke of ‘constitutional emancipation’ and made references to the island’s ‘struggle’ against the ‘oppressor,’ although it is not clear if the latter refers to the Franco-Mauritian oligarch class or to the British colonial power.<sup>76</sup> The Prime Minister confirmed that a ‘leading constitutional expert’ from Britain no less, would be arriving in Mauritius ‘to assist in the preparation of the required legislative measures’ but that what was being proposed was ‘a simple rebranding of the governor-general as the new president.’<sup>77</sup> Despite it being widely expected that Ramgoolam would become President in a republican system, especially since he had already been appointed Governor-General to the new Government, he opposed the bill and the Labour Party fell in line behind him. The MMM, still in opposition, also rejected the project, assessing that it ‘gave too much power to the prime minister.’<sup>78</sup> The three-quarters majority required to pass the amendment was not forthcoming, and Mauritius remained a constitutional monarchy.

A couple of years later in 1985, Jugnauth resubmitted the proposal.<sup>79</sup> Owing once again to inter-party disagreements, the bill did not make it to the reading stage. Jugnauth’s

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<sup>73</sup> Ibid.

<sup>74</sup> Official Visit of the Prime Minister of Mauritius, 10-13 Feb. 1981, Brief No.2: Anglo/Mauritian Relations, prepared by the East African Department, undated, 9 para 31, TNA FCO/31/3212.

<sup>75</sup> Hansard, 6 Sep. 1983, c.29.

<sup>76</sup> Hansard, 16 Dec. 1983, c.2107.

<sup>77</sup> Hansard, 15 Mar. 1983, c.422, the specialist’s name was James Read.

<sup>78</sup> Peerthum quoted in: Khan, “The struggle.” The MMM proposed 12 tweaks to the Bill. When the MSM could not agree to them, the MMM proposed that the bill be delayed until the parties could decide on the presidency role.

<sup>79</sup> Hansard, 29 Jan. 1991, c.537. See also: Hansard, Prime Minister, 14 June 1988, c.2214

government continued to commit to the republican project in annual Speeches from the Throne but did not make any headway until 1990, when they announced the publication of a White Paper on the project.<sup>80</sup> A draft bill followed.<sup>81</sup> At the time, Jugnauth's party, the centre-left Militant Socialist Movement (MSM), were in coalition with the MMM. To facilitate collaboration, the two parties discussed MMM-leader Paul Bérenger serving as the Republic's president. However, this provoked members of the MMM rank and file who were concerned about the party's future if Bérenger was otherwise engaged.<sup>82</sup> A compromise candidate was found in former Finance Minister (in Ramgoolam's Labour government) Veerasamy Ringadoo. However, it was not enough to satisfy Navin Ramgoolam, who became the Labour Party leader after Seewoosagur Ramgoolam, his father, retired. Ramgoolam junior opposed the bill for the technical reason that it did not clarify the role of the Privy Council within the new republic.<sup>83</sup> Jugnauth adjourned parliament fearing the bill would be rejected. 'From the outside this just looked like politics,' insists Chan Low: 'there was no great debate within the public about what the bill meant, at the time we at the university just published a small booklet on it, but that was just symbolic. For everybody else, no one quite knew of what was going on.'<sup>84</sup> Finally, in October 1991, following a coalition rejig that gave the MSM-MMM a combined 57 of 70 parliamentary seats, over a three-quarters majority, parliament passed the Constitution of Mauritius (Amendment no.4) Bill which made Mauritius a republic on 12 March, 1992.

The final accession to Republic status actually changed very little: the 'Legislative Assembly' became the 'National Assembly'; Veerasamy Ringadoo became the first President; but otherwise the 'Republic Constitutional amendments maintained the overall structure of the original constitutional regime' so that 'the Head of State is only a titular head and the Prime Minister is the Head of Government and the Executive.'<sup>85</sup> The Judicial Committee of the Privy Council in London continued to be the final court of appeal. The delay to Mauritius' accession to Republic status is an illustration of how Mauritian politicians preferred to use the existing governance structures, regardless of the colonial continuity they implied, to maintain or access power rather than take risks with new

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<sup>80</sup> Hansard, 6 Dec. 1990, c.5387. Commitments are made in the 1987, 1990 and 1991 Speeches from the Throne (15 Nov. 1987, c.18, 6 Nov. 1990, c.5387, and 27 Nov. 1991, c.20). Speeches for the years 1986, 1988, 1989 and 1990 were unavailable.

<sup>81</sup> Hansard, Prime Minister, 21 Aug. 1990, c.5370.

<sup>82</sup> Khan, "The struggle."

<sup>83</sup> Ibid.

<sup>84</sup> Ibid.

<sup>85</sup> Meetarbhan, *Constitutional Law*, 149-51.

decolonial projects. Another example of this is the willingness of the immediate postcolonial government to reproduce colonial-era repressive legislation against labour unrest.

## **FOLLOWING REPRESSIVE PRECEDENTS**

Legal codes and procedures were the British empire's 'crucial legitimating instrument' as Elkins has shown.<sup>86</sup> Colonial laws 'codified difference, curtailed freedoms, expropriated land and property and ensured a steady stream of labor' across the British empire.<sup>87</sup> True to form, British administrators in Mauritius elaborated extensive legal tools to legitimise their repression. An apt illustration of this is Colonial Governor Bede Clifford's response to labour strikes in Mauritius in the late 1930s:

In September 1938, for the very first time, around 2,500 dock workers went on strike paralysing the island's main harbour in Port Louis. According to Colonial Office records, the strike began after the dismissal of a worker ignited grievances over low wages.<sup>88</sup> Leaders of the recently formed Labour Party, Maurice Curé and Emmanuel Anquetil, endorsed the strikers and called for others to support them.<sup>89</sup> The timing was significant: it was mid-sugar-harvest, which meant the island's most commercially valuable commodity was in transit between plantations, docks, and ships. When the strike began there were 'four or five large ships awaiting sugar cargoes' in Port Louis.<sup>90</sup> They remained empty because transit stock in railway carriages remained unloaded.<sup>91</sup> As Clifford explained to his Colonial Office colleagues, most sugar estates could only 'accommodate ... the sugar produced from two or three days millings,' so without the cane moving down railway lines and out onto ships, the plantations were backed up, forcing them to 'close down,' losing the harvest in the process.<sup>92</sup>

Clifford was well-prepared. Though he had only recently arrived in post, he had highlighted labour relations as a priority in his maiden speech as Governor earlier that year:

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<sup>86</sup> Elkins, *Legacy of Violence*, 13.

<sup>87</sup> *Ibid.*, 14.

<sup>88</sup> The worker was dismissed for 'insolence to a sirdar and to the manager of one of the docks.' Clifford, correspondence with the colonial office, 13 Sep. 1938, TNA CO/167/900/8.

<sup>89</sup> Internal Colonial Office Memo, 13 Oct. 1938, TNA CO/167/900/8.

<sup>90</sup> Clifford, correspondence with the colonial office, 13 Sep. 1938, TNA CO/167/900/8.

<sup>91</sup> *Ibid.*

<sup>92</sup> *Ibid.*



The orderly settlement of industrial disputes is one of the first essentials of good Government, the whole purpose of any modern system of Government is the maintenance of law and order, the peaceful settlement of disputes between various sections of the community and the efficient operation of industries.<sup>93</sup>

Clifford implemented his vision by setting up a Labour Department; introducing a Public Powers Bill to train the ‘Police Force in the use of arms and to equip them with rifles’; and by organising ‘a system of efficient communication and transport’ so that the Police could ‘assume immediate control of any situation that may develop in any part of the Island.’<sup>94</sup> These ‘modern’ yet repressive measures framed Clifford’s response to the striking dockers. He had their industrial action declared illegal on the grounds that grievances ought to be taken to the new Labour Department’s conciliatory boards. He had dozens of strike leaders and 300 peaceful strikers arrested, including Maurice Curé who was confined to house arrest. He invoked Emergency Powers to deport Anquetil to Rodrigues, an outer island of Mauritius, for three months.<sup>95</sup> He then instructed plantation owners to recruit ‘voluntary’ labourers to unload sugar from railways carriages into port stores. These ‘volunteers’ were under police protection; meanwhile additional armed forces were deployed through the streets of Port Louis.

In Clifford’s own words, ‘nearly all these things could be done with the aid of the Police and the Military under normal law – all except the most important measure ... the control of agitators. That would require emergency legislation.’<sup>96</sup> Clifford considered adopting a bespoke Public Emergency Powers Ordinance, but found he already had recourse to an assortment of repressive powers under the Defence (Certain British Possessions) Order in Council of 1928 that applied across empire.<sup>97</sup> Even with this tool,

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<sup>93</sup> Speech of His Excellency the Governor on the Opening the Third Session of the Council of Government, 12 Mar. 1938, TNA CO167/900/1.

<sup>94</sup> Ibid.

<sup>95</sup> Clifford explained: ‘As he stated recently that he had been obliged for medical reasons to give up public speaking I thought I might usefully prolong the treatment by giving him a sea voyage (he has been a sailor) and a holiday on the island of Rodrigues.’ Clifford, correspondence with the colonial office, 13 Sep. 1938, TNA CO/167/900/8.

<sup>96</sup> Ibid.

<sup>97</sup> Article IV of the 1928 Bill provides for ‘(a) Censorship and the control and suppression of publications, writing, maps, plans, photographs, communications, and means of communications; (b) Arrest, detention, exclusion and deportation; (c) Control of the harbours, ports and territorial waters of the Territory, and the movement of vessels; (d) Control of aerodromes, landing grounds, seaplane stations, seaplane anchorages and movement of aircraft, as well as of all installations connected with the navigation and fuelling of the latter; (e) Transportation by land, air or water, and the control of the transport of persons and things; (f) Trading, exportation, importation, production, and manufacture; (g) Appropriation,

officials in London continued to question Clifford's actions, in particular the legality of Anquetil's deportation. They expressed 'doubt' that 'any formalities,' including informing the deportee of the allegations against him and offering him an opportunity to defend himself, were observed.<sup>98</sup> One official argued:

As long as the Governor has a purely discretionary power of summary deportation I think it would be both useless and dangerous to expect him to provide the deportee with a document stating the reasons for his deportation. Useless because the reasons would probably be perfectly general e.g. that his continued presence in the Colony was detrimental to peace and good order; and dangerous because, if he did give the particulars, the deportee could always say hereafter that there was not a scrap of evidence forthcoming, and that he was never heard in his defence, and it might be quite impossible to justify the details after the event.<sup>99</sup>

Hoping to make the issue go away, another official asked 'whether there was technically any deportation as Rodrigues, where Anquetil was sent, is a Dependency of Mauritius.' Moreover, he continued, the advantage 'in a time of emergency' was 'not having to give any explanation' of the Governor's actions at all.<sup>100</sup>

London officials also questioned the alleged illegality of industrial action generally. They recognised that there was no set rule and that 'very few Colonial Dependencies ... [had] enacted trade disputes legislation' that could be drawn on for guidance.<sup>101</sup> Moreover, those that had—Sri Lanka, Trinidad and Malaya—had borrowed from different sources of law, making their approaches inconsistent.<sup>102</sup> The lack of definitive guidance points to the ad hoc nature of legalising or illegalising strikes in the British empire. While some officials complimented the Governor's 'thoroughness and effectiveness' others 'criticised the drastic repression of labour unrest in the colony.'<sup>103</sup> Memos expressed concern that the emergency legislation gave 'very comprehensive powers of censorship, arrest and

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control, forfeiture and disposition of property and of the use thereof; (Clause IV). For the discussion over introducing bespoke legislation, see: Emergency Powers internal correspondence, 1938, TNA CO167/900/5.

<sup>98</sup> Internal Colonial Office Memo, 14 Dec. 1938, TNA CO/167/900/8.

<sup>99</sup> *Ibid.* 16 Dec.

<sup>100</sup> *Ibid.* 7 Dec. 1938.

<sup>101</sup> *Ibid.* 13 Dec. 1938.

<sup>102</sup> *Ibid.*

<sup>103</sup> *Ibid.*; "EMMANUEL ANQUETIL: welcomed back from exile," *LeMauricien*, 30 Nov. 2018:

<https://www.lemauricien.com/le-mauricien/emmanuel-anquetil-welcomed-back-from-exile/246877/>: [Accessed 2 Jan. 2023].

control to the Governor' and appeared surprised 'that the Governor should wish to have such extensive powers.'<sup>104</sup> Though questions were raised, ultimately the colonial bureaucracy lurched behind the Governor to perpetuate a culture of making and interpreting law to suit repressive ends.

Beyond the bureaucrats, Labour MP Arthur Creech Jones, then in opposition and well known for his interest in colonial affairs wrote to Lord Dufferin, the Under-Secretary of State for the Colonies, in dismay describing the state of emergency as 'an enormous sledge hammer.'<sup>105</sup> He underlined the inappropriateness of using legislation 'designed originally ... for military defence ... to crack a small dispute of dockers' and suggested that 'it is little use talking of free combination, if men are to be denied the right to withhold their labour or to persuade their fellow workers to do the same.'<sup>106</sup> Creech Jones' comments were a contemporary criticism of how colonial legislation, as Elkins has illustrated, was used to control disenfranchised labour throughout empire. Governor Clifford may have described his government as 'a firm and just parent ... holding in steady patient hands the mercurial scales of justice,' but his actions could just as well be described as unbalanced and impulsive.<sup>107</sup> This episode of labour unrest in Mauritius was the immediate precedent to the 1970s strikes that tested the postcolonial government's resolve for the first time. That the Mauritian government took a punitive response to industrial action, as will be shown below, is a further illustration of the institutional colonial continuities that this article is concerned with.

The postcolonial Mauritian government put its faith in repressive legal codes inherited or copied from the colonial period. Two months before independence, the colonial Governor John Shaw Rennie introduced a State of Emergency after a series of small scale but violent riots broke out.<sup>108</sup> Rather than repeal the State of Emergency, the postcolonial government let it continue until they could pass a more permanent tool of repression in the form of the 1970 Public Order Act.<sup>109</sup> Among other things, the Act allowed for the 'arrest, detention and search of persons,' 'restrictions on public meetings and processions,' 'prohibition or restriction of publications,' and the 'prohibition of ... subversive organizations.'<sup>110</sup> According to journalist De l'Estrac, this 'particularly

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<sup>104</sup> R. Rogers, Internal Memo on approving Emergency Powers Bill, 22 Mar. 1938, TNA CO167/900/5.

<sup>105</sup> Creech Jones to Lord Dufferin, 5 Jan. 1939, TNA CO/167/900/8.

<sup>106</sup> Ibid.

<sup>107</sup> Clifford to Colonial Secretary Malcolm MacDonald, 13 Sep. 1938, TNA CO/167/900/8.

<sup>108</sup> Between allegedly pro- and anti-independence protestors, although later assessed to be apolitical 'gangs.' 1A Internal Politics, 2 para 3, Briefing Pack prepared for the Queen's Visit, March 1972, TNA FCO/31/1250.

<sup>109</sup> Correspondence between FCO and BE Port Louis, 19 Mar. 1971, TNA CO/31/881.

<sup>110</sup> Part II – Part IX, Mauritian Public Order Act, 1970.

repressive' Act served to 'paralyse political and trade union activities' across the island.<sup>111</sup> Although the Act was not used to deport anyone, as colonial Governor Clifford had done in the 1930s, it did allow for the arrest and imprisonment of then opposition leader Bérenger and the closure of his party's mouthpiece *Le Militant*. Defending the Act, Prime Minister Ramgoolam stated that 'to preserve ... parliamentary democracy we must discipline ourselves to accept restrictions.'<sup>112</sup>

Despite the repression, workers launched a general strike in December 1971. This, the first major industrial action since independence, covered dockers, sugar plantation labourers, transport and electricity workers, and the public service. According to one observer, 'cane stood uncut; workers in many areas set fire to the sugar. Ships were idle in the harbour. Buses were paralysed.'<sup>113</sup> As a result of this coordinated action, 'the economy of Mauritius faced the hardest setback in its history' and lost an estimated USD65 million, equivalent to around 30% of GDP.<sup>114</sup> Government ministers complained the opposition was 'trying to use the unions to create unrest ... [and] sabotage the economy.'<sup>115</sup> Though strikers and union leaders had concrete labour demands their actions were part of a broader political movement to ultimately demand a vote of no confidence in government.<sup>116</sup> As one contemporary analyst confirmed, 'the object of the strikes was to force a General Election.'<sup>117</sup>

Like his colonial predecessor, Ramgoolam responded by declaring the strike illegal.<sup>118</sup> He imposed a fresh State of Emergency made possible by the enduring existence of the colonially-framed Emergency Powers Act, 1968. Article 3 of the Act states: "During a period of public emergency, the President may make such regulations as appear to him to be necessary or expedient for the purpose of maintaining and securing peace, order and good government."<sup>119</sup> This included, 'the arrest and detention of persons and the deportation and exclusion of persons from Mauritius.' Trade unionists and supportive

<sup>111</sup> De l'Estrac, *Passions Politiques*, 69.

<sup>112</sup> Quoted in: Anand Mulloo, *Our Freedom* (New Delhi: Vision Books, 1982), 117.

<sup>113</sup> V.T.M. "Notes on the workers' strikes in Mauritius," *Review of African Political Economy*, 15-16 (1979), 130.

<sup>114</sup> *Ibid.*

<sup>115</sup> Hansard, Kher Jagatsingh, Minister of Planning & Economic Development, 17 Dec. 1971, c.2497.

<sup>116</sup> 'The actual demands of the trade union movement and the unionised workers were for wage increases and shorter working hours.' (V.T.M., "Workers' strikes," 131.

<sup>117</sup> A. R. Mannick, *Mauritius: The development of a plural society* (Nottingham: Spokesman, 1979), 140. Selvon agrees, the nationwide strike had 'the clear objective of bringing down the government.' Selvon, *History of Mauritius*, 206.

<sup>118</sup> Hansard, G.M.J.E. Ollivry, member of the opposition Union Démocratique Mauricienne (UDM) that splintered from the PMSD, 14 Dec. 1971, c.2395.

<sup>119</sup> Constitutionally Mauritius did not have a President in 1968 so the reference to one in the Act is anomaly for which I could not find a satisfactory explanation. It could be the result of applying a single template of emergency powers across different colonies in the British Empire.

politicians were detained, unions were shut down, some were outlawed, and public meetings were banned.<sup>120</sup> Copying from Governor Clifford's play book, Ramgoolam arranged for security forces to escort workers across the port picket lines to unload essential supplies. Police and Special Mobile Forces patrolled Port Louis and other hotspots.<sup>121</sup> With the Queen's visit on the horizon, 'the government detained over 100 MMM leaders in order to forestall embarrassing political protests ... [A] handful of ... militants remained in prison for the rest of the year, but no charges were ever brought against them.'<sup>122</sup> Thus, as one news article commented, the Government created 'the shallow illusion that the Queen and Prince Phillip were stepping ashore to another colourful, easy-going island.'<sup>123</sup> Opposition politicians questioned whether such a punitive response to labour unrest, even if supported by Acts of parliament, was legal.<sup>124</sup> They interpreted the Government's approach as an attempt to cling to power and deplored the securitisation of the island: 'Wherever one goes one sees a policeman ... the first shameful act that was committed after independence was the dream of the Coalition to ensure perpetuation of power.'<sup>125</sup> International journalists also noted with surprise the 'Draconian' environment that was developing on the island.<sup>126</sup> After the strike, Ramgoolam's government set to drafting an Industrial Relations Act that according to De l'Estrac sought to illegalise strikes completely.<sup>127</sup> In another nod to British precedents, as legal scholar Rashid Hossen has shown, this piece of legislation was directly 'inspired' by the 1971 English Industrial Relations Act.<sup>128</sup>

Like a Governor-General who had no need of ministers, as well as being Prime Minister Ramgoolam began accumulating cabinet positions: Minister of External Affairs, Tourism and Emigration; Defence and Internal Security and; Information and Broadcasting (by 1974). He increasingly exercised 'tight personal control over all

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<sup>120</sup> Ibid., c.2394.

<sup>121</sup> Selvon, *History of Mauritius*, 206.

<sup>122</sup> Bowman, *Democracy and Development*, 73. See also BHC Visit Summary, 3 Apr. 1972: '... plans were discovered in mid-March this year [1972] for minor sets of sabotage before and during the visit, and upwards of 70 leading members of the MMM were consequently arrested and kept in preventive custody throughout.' Ramgoolam publicly denied the detentions were connected to the Queen's visit. See 'Mauritians defy state of emergency to greet Queen,' *The Times*, 25 Mar. 1972.

<sup>123</sup> "Tension as Queen lands on dodo isle," *Daily Telegraph*, 25 Mar. 1972.

<sup>124</sup> See: Correspondence between FCO and BE PL, 19 Mar. 1971, TNA CO/31/881; Hansard, 23 Nov. 1971, c.1840.

<sup>125</sup> Hansard, Sookdeo Bissoondoyal, 7 Dec. 1971, c.2320.

<sup>126</sup> P. Leymarie, "Mauritius: Dissolution of the coalition," *Revue Française d'Etudes Politiques Africaines* (1974).

<sup>127</sup> De l'Estrac, *Passions Politiques*, 121.

<sup>128</sup> Rashid Hossen, "Arbitration of labour disputes in Mauritius," *Obiter*, 41, 3 (2020), 624.

government business.’<sup>129</sup> To add insult to democratic injury, he also postponed the general elections, initially expected in 1972, indefinitely. Many agreed with Ramgoolam’s justification that the country needed ‘stability’<sup>130</sup> but as opposition figure Sookdeo Bissoondoyal highlighted, ‘we need stability, but that stability should rest on ... integrity.’<sup>131</sup> Ramgoolam was at pains to show his integrity by gesturing to the legality of his actions: ‘There are procedures ... and we have followed them.’<sup>132</sup> But in effect, the government was using colonial-era traditions of legalised repression to prevent not only the first post-colonial trade union action but also a democratic election. Both Ramgoolam and his coalition partner ‘later expressed regret that they had suspended the very first elections that would have been held in their new nation.’<sup>133</sup>

Following a long tradition of institutionalising repression, the Mauritian government put its faith in legal tools that refused to see industrial action as a legitimate form of expression. They argued that their hands were tied, that realities of an island state necessitated their approach and, in the absence of local case law, they looked to British precedents to maintain a certain idea of stability.<sup>134</sup> These actions engendered colonial continuity. As one MP put it at the time, ‘we may be independent but we still have the mentality of the colonised.’<sup>135</sup>

## CONCLUSION

In the immediate postcolonial years, colonial continuity rather than rupture characterised Mauritius’ governance structures. Hopes expressed at the time that Mauritius might create new or innovative or simply some sort of rupture with colonially negotiated forms of governance were quickly dashed. The ruling coalition was more concerned with

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<sup>129</sup> Brief No.8: Personality Notes, Official Visit of the Prime Minister of Mauritius: 10-13 February 1981, TNA FCO/31/3212. To deflect criticism, Ramgoolam also ensured his government would be exempt from human rights oversight mechanisms. See: Kirby, “Ombudsman,” 209).

<sup>130</sup> Hansard, Prime Minister, 25 Jun. 1973: ‘... there is a need for Emergency Powers to achieve stability. We cannot risk another attempt to starve the Government and the country into submission by wildcat and illegal strikes. We cannot permit attempts to destroy democracy in this country and replace it with dictatorship. We cannot permit violence, sabotage and subversion because these things will destroy the climate of confidence upon which our social development is founded.’

<sup>131</sup> Hansard, 9 Dec. 1971, c.2330.

<sup>132</sup> Hansard, 4 Apr. 1972, c.114.

<sup>133</sup> Quoted in: Deborah Brautigam and Tania Diolle. “Coalitions, capitalists, and credibility: Overcoming the crisis of confidence at independence in Mauritius,” in *Development and Sustainable Growth of Mauritius*, eds. Vanessa Tang, Timothy Shaw, and Merle Holden (Cham, CH: Palgrave Macmillan, 2019), 33.

<sup>134</sup> As Hossen, “Arbitration,” 624, explains: ‘In the absence of local case law, the tradition [in Mauritius] is to seek guidance from appropriate English or French law.’

<sup>135</sup> Hansard, J.C.M. Lesage, member of the opposition Union Démocratique Mauricienne (UDM) that splintered from the PMSD, 31 Mar. 1970, c.296-7.

maintaining their privilege and catching up with an established world order than creating a new one. Disruption to governance patterns – the Governor General, the electoral boundaries that favoured Hindu candidates, the BLS and four-fold community categorisation structure – was anathema to this post-colonial elite. Careful not to untie the formal bonds of empire, Mauritius became the last African country (although by no means the last country), to remove the Queen as head of State in 1992, nearly a quarter of a century after independence and two decades later than any other former British colony in Africa. Meanwhile, continuing one of the hallmarks of British imperial policy, the postcolonial Government used legal instruments to paralyse opposition activities and to prevent workers from organising and demanding fair conditions. These examples show how, with the endorsement of Mauritius' ruling elites, colonial structures pervaded Mauritian governance for decades. The Mauritian political elite maintained an inherited Whitehall constitution, celebrated the British Crown and parliamentary monarchy, and reproduced repressive legislation such as states of emergency, rather than embark on decolonial governance projects because the status quo facilitated their maintenance of political power.