'The New Order of Things': Immobility as protection in the regime of immigration controls

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Abstract

In this paper, I discuss two 1835 ordinances passed by the local council of the British colony of Mauritius. Passed shortly after Britain's 1833 Slavery Abolition Act, these restrictions initiated the regulation and restriction of immigration within the British Empire. Seen as quite novel in their day, these ordinances employed the rhetoric of 'protecting emigrants' to legitimise the new constraints they imposed on free human mobility. Today, when the national 'logic of constraint' on human mobility is almost uncontested, the idea that immigration controls *protect* migrants remains central to the discursive practices concerning human trafficking. Nation-state constraints on human mobility are normalised while the exploitation and abuse of people on the move is ideologically redirected to 'modern-day slavers' or 'evil traffickers', thus absolving both the state and globally operative capital of their culpability.

Introduction

To better understand and historically situate efforts to end 'human trafficking' or 'modern-day slavery', I examine the period in which regulations and restrictions on free human mobility into state territories—*immigration controls*—were first enacted. This is important for at least two reasons. First, like today's anti-trafficking policies, the initial, nineteenth-century organisation of border controls centred a narrative of 'rescue and protection' in order to normalise the regulation of people's immigration, a practice seen as wholly novel and an illegitimate exercise of state

power at that time. Second, without the all-encompassing system of contemporary nation-state controls on human mobility, the intermediaries that people currently rely on to facilitate their movement into state territories—and the opportunities for a livelihood located there—would lose much of their power.

The beginning of the end of relatively free *immigration*, i.e. lawful entry into a state's territory, is not a timeless and integral element of a state's sovereignty, or even a characteristic of the sovereignty of a territorial state as set out by the 1648 Treaty of Westphalia; it is a part of the politics surrounding the abolition of slavery within the British Empire. Immigration controls are intimately connected to the replacement of the slave trade with the pejoratively termed 'coolie' labour trade in indentured, contract labour, mostly from British-colonised Asia.[1] The 'coolie' labour system rested on a legal requirement for workers to labour for a contracted period of time (usually five years but sometimes shorter or longer). During this period, they were tied to the contracting employer and were not free to change either their employer or place of work.[2] The 'coolie' system of labour recruitment acted as a bridge between what Radhika Mongia terms the imperial-state 'logic of facilitation' of human movement and the national-state 'logic of constraint'.[3] By examining the emergence and growth of regulations and restrictions on human mobility within the politics of anti-slavery, efforts to discipline labour and the growing power of nationalist discourses over capitalists, workers, and colonial officials, we can evaluate both the claims made and the solutions offered by contemporary anti-trafficking frameworks which purport to assist migrating people.

The first regulations governing mobility within the British Empire were enacted in 1835 in the colony of Mauritius against 'coolie' labourers moving from one part of the Empire (British India) into another (British Mauritius). These first immigration controls were brought in through a range of concerns, some of which were conflicting and contradictory, but most of which intended to secure a new labour force for sugar plantation owners on the island of Mauritius in the Indian Ocean, about 2,000 kilometres off the southeast coast of continental Africa. The London colonial office was intent on constructing a labour recruitment system that would replace slavery, but one that would not be portrayed as such by abolition activists. With the impending end of slave labour relations, the local Mauritian colonial authorities were intent on sufficiently disciplining the workers brought in from British India. Meanwhile anti-slavery campaigners signalled their intent to 'protect'

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[1] The term 'coolie' has from the start been imbricated with deeply racist meanings. Hence, my placement of it within quotes.

[2] L Potts, *The World Market for Labour Power: A history of migration*, Zed Books, London, 1990, p. 79.

[3] R V Mongia, 'Historicizing State Sovereignty: Inequality and the form of equivalence', *Comparative Studies in Society and History*, vol. 49, no. 2, 2007, pp. 384–411.

'coolies' from would-be slavers. Regulating and restricting the entry of those recruited as indentured contract labour through the emergent 'coolie' labour system addressed all of these concerns. Such controls precipitated a new world order of nation-state regulations and restrictions of human mobility, one that has created many crises for people trying to move ever since, especially those seeking new livelihoods.

Of course, at the time, no one working in the British imperial-state's wide and dispersed apparatus could have known the long-range consequences of regulating the entry of British subjects from one part of its territories into another. Such regulations were initially piecemeal strategies imposed only on those moving through the 'coolie' labour system in response to economic and political crises of the moment. Nonetheless, the imposition of immigration restrictions on 'coolie' labourers emerged as a key part of the British imperial state's response to the threats to both its power and imperial trade posed by the abolition of the slave trade in 1807 and of slave labour relations in 1833.

Imperial Logic on Human Mobility

All states are concerned with controlling people's mobility in one way or another—and they are interested in doing so for largely the same reasons. In this section, however, I lay out the different forms of mobility controls exercised by imperial states and by nation states. The distinction between the two, I believe, tells us much about the contemporary discourse—and nation-state practice—of 'anti-trafficking'. Imperial states ruled by making those subjected to their powers of taxation, levies, and forced labour into subjects of their empire. Generally speaking, the more subjects the state had within its territories, the more persons whose labour it could exploit, the more wealth it could amass, and the more power it could wield. Imperial states' concerns about borders and boundaries were, thus, primarily about preventing people from *leaving*. Holding people *in* its imperial territories was the *sine qua non* of its project of 'civilising' people ('civilisation' always having been an effect of state power). This was never an easy task. Many would-be imperial subjects, keen on making an escape, practised what James Scott has nicely termed 'the art of not being governed'[4] and carved out non-state spaces for themselves wherever, whenever, and for as long as they could. Thus, in contrast to the Hobbesian story of sovereignty, where states were purportedly created by people to *protect* themselves from the violent chaos of an 'uncivilised' (i.e. stateless) life, in actuality, gaining sovereignty over people entailed much violence.

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[4]   See: J C Scott, *The Art of Not Being Governed: An anarchist history of upland Southeast Asia*, Yale University Press, New Haven, 2010.

Even for those unable to escape, however, imperial states were not interested in the wholesale *immobility* of their subjects. Rather, imperial states *facilitated* the movement of people into and across their empires. Indeed, imperial states were actively involved in such movements, often on a massive scale, even as they then immobilised most people through labour relations of unfreedom. European empires, since the late fifteenth century, actively engaged in moving people through systems of slavery, impressment, debt bondage, penal transport, servitude, and, in late imperialism, immigration regimes. All of these were structural elements of imperialism.[5] Indeed, facilitating human mobility was crucial for the profitability of imperial territories, particularly as colonialism resulted in the high death rates of the colonised, itself often a result of their enslavement.[6] Moreover, the high death rate of enslaved persons from Africa, from Europe and Asia indentured labourers, and even of so-called free labour, also required an ongoing replenishment of labour power in the colonies.

One of the first main systems of moving people within a rapidly globalising space of imperialism was the trade in slaves from largely the west coast of Africa, a labour system that was dramatically altered with the introduction of capitalist market imperatives. The world-historical shift that came with the delegitimisation of the slave trade and of slavery itself was undoubtedly the result of the centuries-long and countless acts of rebellion of the enslaved, along with the efforts of those who joined them in an organised movement to abolish slavery. In the late eighteenth century, these latter efforts intensified and did so from within the centre of the British Empire itself—the City of London.[7] With its 25 March 1807 Abolition of the Slave Trade Act, the British Empire ended its trade in slaves from Africa. Yet, due to the heavy reliance on slave labour by plantation owners and the imperial treasury, the institution of slavery itself was maintained within the Empire for several decades afterwards, and in some imperial territories even for several years following the passing of Britain's Slavery Abolition Act of 1833.

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[5] Potts, p. 204.

[6] A Reséndez, *The Other Slavery: The uncovered story of Indian enslavement in America*, Houghton Mifflin Harcourt, 2016; B Rushforth, '"A Little Flesh We Offer You": The origins of Indian slavery in New France', *The William and Mary Quarterly,* vol. 60, no. 4, 2003, pp. 777–808; L Behrendt, as interviewed in *Servant or Slave*, DVD, directed by Steven McGregor, No Coincidence Media, 2016; M Tate and F Foy, 'Slavery and Racism in South Pacific Annexations', *The Journal of Negro History,* vol. 50, no. 1, 1965, pp. 1–21.

[7] A Hochschild, *Bury the Chains: Prophets and rebels in the fight to free an empire's slaves*, Houghton Mifflin, New York, 2005; P Linebaugh and M Rediker, *The Many-Headed Hydra: Sailors, slaves, commoners, and the hidden history of the revolutionary Atlantic*, Beacon Press, Boston 2000.

The main reason for the decades-long gap between the end of the British slave *trade* (1807) and the end of slave *labour relations* (1834–1843) was the search for a system of labour recruitment that could replace it and do so in a manner that met investors' demands for a cheapened and weakened workforce. The central issue was that of rights. What, if any, rights would the workers recruited to replace enslaved workers have after the abolition of slavery? And from where would these workers be recruited? In this there was no uniform response. The post-abolition period saw a dramatic increase in people recruited from Europe for a variety of work. They did not face any restrictions on their movement to the places they came to until well into the twentieth century. However, by the early nineteenth century, the growing numbers of workers arriving from Europe were less and less likely to be employed in unfree employment relations.[8] Moreover, already by the seventeenth century— and certainly by the end of the eighteenth century—a racialised division of labour had been established, resulting, amongst other things, in a highly differential pay scale between workers racialised as white and those racialised into various categories of non-whites. This was especially the case in the 'white-settler colonies' (e.g. United States, Canada, Australia, New Zealand) where the ratio of whites to non-whites had been reversed earlier on. The higher 'wages of whiteness' meant that the search for the most profitable way to replace enslaved workers did not end with the increase in people from Europe.[9] The new-found freedom of white male workers from conditions of indentureship resulted in a substantially lessened ability for employers to exercise control over them. Free labour relations, politically empowering to (mostly white male) workers, were seen to be too costly by employers. In any case, white people did not migrate in large numbers as workers outside of the 'white-settler colonies'.

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[8]   It is estimated that more than half of all persons moving from Europe to the English colonies of North America during the seventeenth and eighteenth centuries came as indentured servants (see Potts). Some of the workers brought to replace slave labourers in the New World came from Europe. However, until the abolition of the slave trade in 1807, the number of Africans throughout the Americas outstripped the combined total of Europeans by a ratio of 3:, 4:, or even 5:1. Between 1492 and 1820, while approximately ten to fifteen million Africans were forcibly brought to the New World, only two million or so people from Europe had made the journey. This only began to change after the abolition of the African slave trade and, even then, only in the 1820s. See: J Steinfeld, *The Invention of Free Labour: The employment relation in English and American law and culture, 1350–1870*, University of North Carolina, Chapel Hill and London, 1991.

[9]   D R Roediger, *The Wages of Whiteness: Race and the making of the American working class*, Verso, London, 1999.

The Abolition of Slavery and the Start of Coolieism

The more effective 'solution' to the problem that imperial states and capital investors faced with the end of slavery was the 'coolie' system: the system of recruiting and exploiting already negatively racialised people, mostly men, and mostly from British-controlled China and India, to work in conditions of indentured servitude.[10] Indeed, coolieism became the dominant system through which people were moved within the world market for labour, from approximately 1830 to the 1920s.[11] While there is no definitive number of how many people were moved as 'coolies'— some estimate a low of 12 million while some argue that 'an estimate of 37 million or more would not be entirely without foundation'—the scale and significance of the 'coolie' system were, even with the lowest estimates, comparable to those of slavery.[12] Indeed, the 'coolie' system surpassed African slavery in its *intensity*, as millions of 'coolies' from Asia were recruited and exploited within the range of slightly less than a hundred years (1830s–1920s).[13]

While Britain's Slavery Abolition Act of 1833 did not go into effect in the territories controlled by the East India Company (or Ceylon) until 1843, the introduction of capitalist social relations in British India and British-controlled China resulted in a 'surplus population' desperate for a livelihood. Increasingly, most people had to engage in capitalist markets, including for labour, for their continued existence, and by the 1830s and 1840s, millions of people were ripe candidates to be exploited as 'coolies' throughout the British Empire in Asia, Africa and the Americas.

As they were moved throughout the British Empire, the relationship of 'coolies' to the still- or soon-to-be former slaves—and to the institution of slavery—was called into question. The main question was whether coolieism was a new form of slavery or not. As I discuss below, distancing coolieism from slavery formed the foundation for the establishment of immigration regulations and restrictions in the British Empire. In other words, it was the impending end to slave labour relations which led to the enactment of the very first controls on in-migration. And, it was against 'coolies' from Asia, employed on contracts of indenture, that a growing list of regulations to monitor the mobility of co-imperial subjects were first ordered.[14]

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10 The India Act of 1858, inaugurating the period of British rule referred to as the Raj (or British India), transferred authority over most parts of the South Asian subcontinent from the British East India Company (which had ruled it from 1757) to the British Crown. Under the 1842 Treaty of Nanking, the British gained direct control over Hong Kong and Canton, Shanghai, Amoy, Fuzhou and Nigbo were opened up as nodes in the British-organised and controlled trade in opium.

11 Potts, p. 69.

12 Potts, pp.71–73.

13 Potts, p. 73.

14 Potts, pp. 68–71.

Specifically, as Radhika Mongia's study shows, it was in the British colony of Mauritius where the first efforts to regulate the immigration of co-British imperial subjects took place. It was a monumental shift, one that generated much heated discussion at the time.[15] The local colonial government of Mauritius's effort to regulate and restrict the entry of 'coolie' workers from British India marked a shift from imperial concerns about exit to new concerns about entry. In retrospect, it was the beginning of the end of the regime of the unrestricted entry of British subjects within imperial territory and, in a sense, the start of ideas of a fragmented imperial space, ideas which would fuel nationalist movements in the colonies, and eventually, in the metropoles of the Empire.

People from Africa had been enslaved on Mauritius since the emergent Dutch Empire first colonised it (1638–1710). Slavery there continued under the French (1710–1810) and under the British during its period of great expansion in the nineteenth and early twentieth centuries. On the eve of the British conquest of Mauritius in 1810, there were some 63,000 enslaved workers there.[16] Sugar plantations reliant on slave labour from Africa soon became the mainstay of the colonial economy. As the date for the abolition of slave labour relations on Mauritius in 1835 drew near, however, local British colonial officials became increasingly concerned about maintaining the profitability of the colony and, therefore, its attractiveness to investors.[17] In particular, given the harsh working conditions prevalent on sugar plantations, they did not believe the planters' intent to recruit workers from India to replace the soon-to-be freed slaves would solve the problem of securing a necessary labour force. This led the colonial government to look for a measure to *immobilise* the new workforce. Forcing enslaved people over the age of six to work for another three to five years as 'apprentices' temporarily accomplished this with regard to slaves, but the same measure did not solve the 'problem' of the newly freed workers from British India.

In 1835, the same year that slaves were freed on Mauritius, two ordinances regulating the migration of people from British India were passed by the local British Council (and ratified in 1837 by the British Parliament).[18] These ordinances, meant to regulate and discipline 'coolie' workers from India, would only admit 'coolies' who had permission from the governor of the colony. This restriction limited the hitherto free mobility of 'coolie' labour from British India who, it is well worth remembering, were co-imperial subjects, theoretically on par with all other British

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15   Mongia.

16   R B Allen, *Slaves, Freedmen and Indentured Labouers in Colonial Mauritius,* Cambridge University Press, Cambridge, 1999, p. 13.

17   With the abolition of slavery on Mauritius, the *planters*, not the enslaved, received a compensation of two million pounds sterling.

18   Mongia, p. 399.

subjects. The Mauritius ordinances made a break with the previous imperial practice concerning migration. Indeed, such interventions were viewed as wholly novel and lacking in legal precedence. The imperial office admitted as much when it stated that 'this practice [of regulating migration] has no foundation in any existing law'.[19]

The shock of such mobility restrictions affected planters as well. They feared that these would be used to limit the number of workers they could recruit from British India. Consequently, one planter, Hollier Griffith, used the argument that any intervention into the movement of workers from India was unprecedented. Writing to G. F. Dick, the Colonial Secretary of Mauritius, Griffith noted that the imperial state might prohibit the departure of a British subject from British territory (but even then only in '*exceptional* cases'); however, he maintained, the state's sovereignty did 'not extend so far as to prohibit the *entrance* into his dominions of any of his subjects'.[20] In other words, he argued that regulations and restrictions on immigration were not the purview of the British imperial state. In response, Mr Prosper D'Epinay, the newly appointed Protector General of Mauritius, defended the right of local Mauritian authorities to impose entrance restrictions on each new migrant, and argued that the ordinances were 'a measure of foresight and of internal police' without which there would be 'tumult and disorder [rather] than [an] increase in [the] industry of the country'.[21]

Clearly concerned about the changes wrought by the end of slavery on Mauritius and the colonial officials' desire for a disciplined labour force, D'Epinay further argued that,

> wise and prudent precautionary measures [should] be taken … when this new population is put into immediate contact with the new apprentices just emerging from slavery, still susceptible of every impression; and to whom it is of importance, at the first step towards civilization, to give [an] idea and examples of order, labour, discipline. This end would be frustrated, if permission were given to associate them with all the vagabonds and all the idlers with which India swarms…. Who can say what influence this medley of individuals, with their manners, their usages, and their vices will have on our indigenous population, especially when it shall become wholly free? … It is the part of a wise Government to give to it serious attention; it is, therefore, necessary to proceed with caution in the new order of things.[22]

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[19]   Mongia, p. 399.
[20]   Mongia, p. 400.
[21]   Mongia, p. 401.
[22]   Mongia, pp. 401–402.

His claims for a 'new order' were not hyperbolic. In retrospect, the Mauritius ordinances were a striking shift in British policies on movement within its Empire. Significantly, while bowing to the still dominant (and formal) notion that British Indian subjects had the same rights as 'those who reside in any possession, territory, or dependency of Great Britain', D'Epinay, defended the *elimination* of this formal equality when he asked whether, 'the term British subject, and the privileges attached to it, are not according to places and circumstances, susceptible of important division and modification'.[23] In the negotiations between colonial authorities on Mauritius and in London, the view in favour of regulating and restricting the movement of people from British India to British Mauritius won out and was the start of juridical distinctions between who could and could not move freely across the space of the British Empire. From 1835 to 1838, approximately 25,000 'coolie' labourers from India were shipped to Mauritius—of whom 7,000 died—thus alleviating planters' concerns that immigration ordinances would curtail the supply of labour.

Yet, although the Mauritius colonial officials were enthusiastic about immigration controls, neither the British Indian government nor the London Office were convinced. With the success of the slavery abolition movement, they felt it was crucial that the new 'coolie' labour recruitment system *not* be viewed as a new form of slavery. Nonetheless, realising the singular importance of 'coolies' for planters, both sets of colonial authorities came to support the Mauritius colonial government's regulations and restrictions on them. They did so by expanding the limits placed on their mobility by adding *emigration* controls to the *immigration* controls of the Mauritius colonial government. Importantly, both sets of controls were carried out in the name of *protecting* 'coolies'. The British presented them as necessary to ensure both that the movement of 'coolie' workers from British India was 'voluntary' and that they were 'freely' selling their labour power. People's free mobility across British imperial territories, such logic held, had to end in order to ensure that British subjects remained 'free' workers. In the process, the *coercion* inherent in the making and reproduction of a capitalist labour force was obfuscated.

Indeed, precisely to deflect challenges from anti-slavery campaigners, the hallmark of state regulation of Indian 'coolie' labour was the state-authorised labour contract each emigrant was required to sign.[24] Adding to the new, emergent regime of

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[23]   Mongia, p. 401.

[24]   Contracts for labour (or service) were, of course, not exclusively used against 'coolie' labour from British India. An 1823 United Kingdom Act which bound workers to their employers through labour contracts described its purpose as 'the better regulations of servants, labourers and work people'. This particular act influenced employment law in Australia (an 1845 Act), Canada (1847), New Zealand (1856) and South Africa (1856). As with contracts of indenture applied to 'coolies', these acts were

'paper walls',[25] in 1837 British Indian government regulations laid down specific conditions for the lawful movement of people leaving British India from Calcutta, a main port of the 'coolie' labour trade. The would-be emigrant and his (or less often, her) newly-minted Emigration Agent were required to appear before an officer designated by the colonial British Government of India with a written statement of the terms of their labour contract. Under 'coolie' contracts of indenture, the length of work was to be five years, renewable for further five-year terms. The emigrant was to be returned at the end of his or her service to the port of departure. Each emigrant vessel was required to conform to certain standards of space, diet, etc. and carry a medical officer. In 1837, this scheme was extended to the city of Madras.

The labour contract, often written in English, which 'coolies' signed or, most often, marked with an X or a fingerprint, allowed the imperial state to make the case that 'coolies' had voluntarily become indentured. Labour contracts thus provided the documentary proof that the 'coolie' system was not a new form of slavery. So central was the contract of indenture to the operation—and legitimisation—of the 'coolie' labour trade that those recruited through it from British India referred to one another as *girmit* (or 'agreement'). These contracts of indenture further disciplined 'coolie' labour. The contract that bound workers to employers gave the latter much more power to enforce its terms. The imperial state gave employers access to the power of its courts and prisons to judge, punish and discipline those 'coolie' workers accused of not fulfilling their part of the contract. Employers could legally use corporal and other forms of punishment/abuse to enforce the compliance of 'coolies'.

Along with these contracts, which ideologically removed the 'coolie' labour trade from the institution of slavery it was designed to replace, it is also important to note that it was the state's regulations on both immigration and emigration that were central to not only disciplining 'coolie' workers but also ensuring the legitimacy of the labour system under which they were recruited. Without signing contracts of indenture, workers from British India were neither permitted to leave British India nor to enter British Mauritius. Ironically, then, while 'coolies' were portrayed as 'free', the very thing—the contract of indenture—that made them 'coolies' also ensured the *unfree* labour relationship they worked under.

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designed to discipline workers and required their obedience and loyalty to their contracted employer. Infringements of the contract were punishable by the courts and the punishment was often a jail sentence of hard labour. Such statutes remained in effect in England until 1875 when criminal sanctions for premature departure from a contracted place of employment were eliminated (Steinfeld, pp. 115, 160).

25   D S Wyman, *Paper Walls: America and the refugee crisis, 1938–1941*, University of Massachusetts Press, Amherst, 1968.

Yet, despite the official rhetoric, it was clear that neither the Mauritius immigration controls nor the emigration controls of the British Indian government protected 'coolie' labourers. Not only were conditions inhumane and dangerous in this new Middle Passage, mortality rates where 'coolies' laboured were very high. 'Coolies,' as Lisa Lowe notes, 'would be shipped on the same vessels that had brought the slaves they were designed to replace; some would fall to disease, die, suffer abuse, and mutiny; [and those] who survived the three-month voyage would encounter coercive, confined conditions upon arrival.'[26] Thus, as soon as knowledge of the new trade in 'coolie' labour became public, anti-slavery campaigns reignited in both the British metropole and in the British colonies, especially in British India. Imperial state claims that 'coolies' were moving voluntarily and were working freely were challenged.

However, it was ending *coerced* migration—the kind clearly evident in the Atlantic slave trade—which became the focus of these campaigns. A report in the *Anti-Slavery Reporter* stated, that '[i]t should be observed, that, of all the thousands who have hitherto gone to Mauritius, or other colonies, there is no proof afforded that any of them went voluntarily; but, on the contrary, decisive evidence that they were either kidnapped for that purpose, and by force put on board vessels employed in transporting them, or were obtained by the most fraudulent statements.'[27] Their focus on extra-economic coercion and fraud worked to valorise a particular notion of freedom, one defined by the absence of direct force. But while some 'coolie' labourers were undoubtedly *pressed* into labour, most had been displaced by colonisation and sought to replace what they had lost with new livelihoods. Indeed, tens of millions of people were on the move in search of a means of subsistence. While alluding to the 'helplessness' of the labourers caused by poverty, campaigners avoided discussion over the *source* of their impoverishment. In particular, the vast majority of anti-slavery campaigners paid scant attention to existing imperialist conditions, precisely the conditions that might make moving preferable to staying. Instead, comments focused on the difficulties caused by their migration. In various issues of the British And Foreign Anti-Slavery Society papers, readers were told: 'At present their families for want of food, are begging from door to door'; 'family is in great distress for maintenance'; 'starving for want of food'; 'their families have taken menial service (become slaves?) for maintenance'; 'and these remarks are not confined to a family here and there, but are applicable to a great extent to all the families left at home by the Coolies on their shipment for Mauritius.'

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[26] L Lowe, 'The Intimacies of Four Continents' in A L Stoler, *Haunted by Empire: Geographies of intimacy in North American history*, Duke University Press, Durham and London, 2006, pp. 191–212.

[27] British And Foreign Anti-Slavery Society, *Emigration from India: The export of coolies, and other labourers, to Mauritius*, Cambridge University Press, New York, 1842/2014, p. 47.

Most campaigners concerned with the 'coolie' labour system argued that the *only* way to ensure the freedom of workers from India and prevent their abuse was to further reduce their freedom to move. In other words, a worker's freedom from slavery in British India depended on their being *immobilised*. This immobilisation was presented as a 'protection' for workers, many of whom were dealing with the colonial transformation of the rural economy in India. It was also represented as the emigrants' own *preference*. To buttress such a conclusion, campaigners argued that mobility itself was anathema to people in India. For example, the *Anti-Slavery Reporter* of 20 October 1841 argued that the 'population, so far from desiring to emigrate from their native land to distant and foreign parts, are utterly averse to it. They even object to go to distant and unknown sections of their own country.'[28] Again, this flew in the face of actual events on the ground where millions of people were on the move as part of their survival strategies.

Initially, the efforts of anti-slavery campaigners were successful. Convinced that British Indian government regulations were insufficient to protect workers from India, campaigners successfully pressured the government to appoint a special committee to inquire into the issue in 1838. Campaigners were successful in convincing the committee, whose subsequent report stated that, 'We conceive it to be distinctly proved beyond dispute that the Coolies and other natives exported to Mauritius and elsewhere, were, generally speaking, *induced* to come to Calcutta, by *misrepresentation* and *deceit*, practiced upon them by native crimps[29]… employed by European and Anglo-Indian undertakers and shippers, who were mostly cognizant of these *frauds*, and who received a very considerable sum per head for each Coolie imported.'[30] Thus, citing fraud and misrepresentation—and not the conditions created by British imperialism—on 29 May 1839, the movement of workers from British India engaged in manual labour was prohibited. Any person effecting their emigration was made liable to the substantial fine of 200 rupees or three months in jail. While a few people moved to Mauritius via the French enclave of Pondicherry in southern India, their movement out of India was effectively halted.

The planters in Mauritius and the Caribbean worked hard to overturn the ban, while the anti-slavery committee worked just as hard to uphold it. Under intense pressure from planters, on 2 December 1842, the governors of the East India Company reversed their earlier decision and the emigration of 'coolies' was again permitted from the ports of Calcutta, Bombay and Madras to Mauritius. However, as a way to avoid comparisons with slavery, newly-minted agents titled Protectors

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[28] *Ibid.*, p. 46.

[29] The term 'crimps' appears to have first been used in the Atlantic slave trade and also in eighteenth century British Navy and Merchant Marine shipping to designate a sub-contractor who secured slaves, seamen or, in this case, 'coolies' for contracted indentured labour.

[30] British And Foreign Anti-Slavery Society, p. 49.

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of Emigrants were appointed at each departure point. Likewise, an office of the Protector of Immigrants in Mauritius was established. That year, almost 35,000 people were shipped as indentured 'coolies' from India to Mauritius. The 'coolie' trade expanded rapidly, as did sugar production on Mauritius. By the mid-1850s, sugar production surpassed 100,000 tons a year.[31] A ship transporting 'coolie' labourers arrived every few days in Mauritius and such a large number of 'coolie' labourers caused a backlog in processing. Between 1834 and 1867, it is estimated that approximately 366,000 indentured labourers from India had entered Mauritius. The 'coolie' trade soon expanded to become part of the global supply chain of workers for the expanding British Empire. By 1844, 'coolies' were shipped to British colonies in the West Indies, including Jamaica, Trinidad and Demerara. Eventually, 'coolie' labourers from Asia were transported throughout the British Empire and, to a lesser extent, to the French, German, Dutch, Danish, Spanish, Portuguese, Belgian and US colonies.[32]

Early imperial-state regulation of the movement of labour represented as 'free' thus took place in the historical conjuncture of the end of slavery and investors' continued need for a cheapened and legally disciplined workforce. While campaigners were unsuccessful in shutting down the 'coolie' labour trade, an outcome which did not provide for new livelihoods for the people rendered immobile, they did contribute enormously to the portrayal of workers engaged in migration as simple, ignorant and vulnerable and thus in need of the protection of both contracts and controls to limit their mobility. In this sense, the first effort to exert state sovereignty over the *in-migration* of persons into state territories took place in relation to limiting the mobility of workers, all in the guise of *protecting* them.

The Logics of Constraining Free Mobility

While the contemporary figure of the immigrant—the one that current campaigns to end 'modern-day slavery' wish to protect—was initiated by the British imperial state, it is under the nation-state's 'logic of constraint' that the category of immigrant was cemented as a crucial state and labour market category.[33] It is after the rise of nationalism in the eighteenth century as evident in the French Revolution—and the formation of the world's first nation states in the late nineteenth and early twentieth century—when pressure to enact more and more regulations and restrictions intensified. The first national controls on immigration began in the Americas, where former colonies had successfully transformed

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[31]   Allen, p. 12.
[32]   Potts, p. 67.
[33]   Mongia, p. 403.

themselves into 'self-governing' states, which by the late nineteenth century had nationalised their sovereignty. Peru was the first in 1853, followed in quick succession by other states across the Americas. By the period between the two world wars, each state in the Americas had nationalised its sovereignty. Each of these new nation states announced their newfound national sovereignty by enacting racist immigration controls, often with a highly gendered component to them. With the institutionalisation of the idea that 'nations' were units of homogenous so-called races, states became intent on regulating and restricting the movement of negatively racialised people into their claimed territories and in regulating the sexual 'respectability' of the women they allowed to enter.

From the start, racist immigration controls were intended to keep 'undesirables' *out* of state spaces undergoing the process of nationalisation. Although negatively racialised people were unwanted as co-members of the nation, their labour power was, nonetheless, very much needed. Immigration regulations and restrictions, thus, not only worked to deny them entry (which they certainly did at particular moments in various national histories) but worked to place those who did get in into new state categories of 'immigrant' that ensured that their labour power would be regulated as 'immigrant labour' within the state.

As with the first British imperial regulations and restrictions on the free mobility of co-imperial subjects from British India, many of the first national controls on immigration often concerned those who were recruited as 'coolies'. For example, the first constraints against people's free entry to the United States—the 1875 Page Act—expressly barred the entry of two categories of persons: 'coolies' from China and women deemed to be 'prostitutes'. Not dissimilar to anti-slavery campaigns arguing to limit the mobility of people in British India, US trade unions, whose membership was largely limited to white male workers, came to represent 'coolie' labour as a 'relic of slavery' and sought to limit their entry.[34]

By the late nineteenth century, white male workers had largely escaped the unfree employment relations established by various Masters and Servants Acts. In winning their 'freedom' against the continued unfreedom of Others, they insisted on the exclusion of all those who were still labouring under unfree employment relations. As I have discussed elsewhere,[35] the process by which free labour was normalised was both relational and highly ideological as it was founded in the emergence of national, liberal styles of governance with their racialised and gendered criteria for national subjectivities. Freedom and unfreedom were constituted through the establishment of political hierarchies shaped by now-national immigration policies.

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[34] Lowe, p. 202.

[35] N Sharma, *Home Economics: Nationalism and the making of 'migrant workers' in Canada*, University of Toronto Press, Toronto, 2006.

Conclusion

Regulations against 'coolies' were the first contemporary inter-statal regulations on immigration. It is when the 'coolie' recruitment system replaced the slave labour system that the figure of the immigrant came into being. The immigrant was the person whose movement across space was *regulated*, initially in the early nineteenth century by the British imperial state eager to facilitate and legitimate the availability of a highly disciplined and therefore cheapened workforce of 'coolies' and, by the end of the nineteenth century, by nationalising states (such as the United States) intent on legitimising a racialised view of the now-national political community while simultaneously cheapening a negatively racialised workforce. The regulation of human movement entailing something we can term a *system of migration* came into being with the regulation of workers largely from various parts of Asia, the vast majority of whom were recruited through the 'coolie' labour system.

The nation-state's 'monopoly of the legitimate means of movement' did not target all people on the move but only those grouped together through prevailing ideas of race as well as normative ideas of gender (e.g. restrictions on the entry of 'prostitutes').[36] The migrant was, thus, from the outset, a negatively racialised and gendered figure. That this figure was deemed undesirable and 'unassimilable' demonstrates the centrality of ideas of nation-ness to the racialisation and gendering of immigration controls. Crucially, then, it was through the regulation of the international mobility of 'undesirables' that states nationalised their sovereignty and the subjectivities of those who believed they belonged to the nation that such states purported to rule *for*. Neither regulations on emigration nor restrictions on immigration were meant to stop the movement of workers, however, but only to ensure that their labour was sufficiently disciplined. State regulations and restrictions were not only about numbers but also about the *rights* accorded by the state to various groups of immigrant workers. Importantly, the regulation of migration arose alongside the growing nationalisation of states from the late nineteenth/ early twentieth and into the twenty-first century. In the process, ideas about mobility and people's movements changed profoundly.

Obscured in efforts to regulate and restrict human mobility was, as Ellen Meiskins Wood cogently acknowledges, the fact that 'the distinctive and dominant characteristic of the capitalist market is not opportunity or choice but, on the contrary, compulsion. Material life and social reproduction in capitalism are universally mediated by the market, so that all individuals must in one way or another enter into market relations in order to gain access to the means of life.'[37] The immobilisation of

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36   J Torpey, *The Invention of the Passport: Surveillance, citizenship, and the state*, Cambridge University Press, Cambridge, 2000.

37   E M Wood, *The Origin of Capitalism: A longer view*, Verso, London, 2002, p. 7.

persons seeking a livelihood, all the while maintaining, indeed *intensifying* capitalist market practices that entailed expropriation and exploitation was, and remains, the height of hypocrisy.

Today, we have a globalised system of immigration controls in which it is nearly impossible to move freely across now-nationalised borders, particularly for those left with little but their labour power to sell in the capitalist marketplace. As François Crépeau has well noted, 'We have established all the barriers we could think of to prevent refugees [and other categories of immigrants] from coming: imposition of visas for all refugee-producing countries, carrier sanctions, "short stop operations", training of airport or border police personnel, lists of "safe third countries", lists of "safe countries of origin", readmission agreements with neighbouring countries forming a "buffer zone", immigration intelligence sharing, reinforced border controls, armed interventions on the high seas…[,] military intervention…'[38] and, as recently announced, even efforts by the European Union to launch attacks against ships used to carry people attempting to move from Northern Africa to Europe.[39] Notably, this last—but also many other—border control measures have been rationalised as efforts to *protect* migrants and to 'end trafficking'.[40] In this, much was learnt from the earliest imperial efforts to regulate and restrict free human mobility. Now, as then, the trope of 'rescue' is a powerful one in legitimating even murderous actions against those rendered as immigrants.

Yet, the greatest danger to people trying to cross national borders is the immigration policies and policing of nation states. Moreover, the categories that nation states slot most migrating people into—'illegal' or 'temporary foreign worker' being two of the largest—are the greatest threats to their liberty. Being categorised as 'illegal' or 'temporary' is what entraps a growing number of people on the move

[38] F Crépeau, 'The Fight Against Migrant Smuggling: Migration containment over refugee protection' in J van Selm, K Kamanga, J Morrison, A Nadig, S Spoljar-Vrzina and L van Willigen, *The Refugee Convention at Fifty. A view from forced migration studies,* Lexington Books, Lanham, 2003, pp. 173–185, p. 174.

[39] Moreover, as Thierry Tardy notes, the EU Council established 'Operation Sophia' on 18 May 2015. 'The operation's mandate,' he documents, 'is to contribute to the "disruption of the business model of human smuggling and trafficking networks in the Southern Central Mediterranean" by "efforts to identify, capture and dispose of vessels used or suspected of being used by smugglers". The operation focuses on smugglers rather than on the rescue of the migrants themselves.' See: T Tardy, *Operation Sophia. Tackling the refugee crisis with military means*, European Union Institute for Security Studies, 2015.

[40] I Traynor, 'EU draws up plans for military attacks on Libya targets to stop migrant boats', *The Guardian,* 10 May 2015, retrieved 10 May 2015, http://www.theguardian.com/world/2015/may/10/eu-considers-military-attacks-on-targets-in-libya-to-stop-migrant-boats?CMP=share_btn_fb.

into substandard working and living conditions while severely limiting their rights and mobility. Thus, national immigration policies legislate the conditions that make some people 'cheap' or even 'disposable'. Quite simply put: without national immigration policies, there would be no such group we know as immigrants who could be subordinated, scapegoated and abused—or rescued.

We learn about none of these real-life dangers and exploitations from the ever-multiplying accounts of 'human trafficking' and 'modern-day slavery', however. The discursive state practice of ending trafficking or 'modern-day slavery' is wholly reliant on the acceptance of the legitimacy of national immigration regimes and their lack of concern with the gross disparities and exploitation organised by capitalist social relations, relations of which human mobility has always been and remains an integral part. Anti-trafficking policies do a great disservice to migrating people, especially the most vulnerable, and do much to divert our attention away from the practices of nation states and employers and to channel our energies in support of a law-and-order agenda of 'getting tough' on 'traffickers'—even to the extent of attacking them militarily.

In this way, anti-trafficking measures are *ideological*: they render the plethora of immigration and border controls as unproblematic and attempt to place them outside of the bounds of politics. The reasons why it is so difficult and increasingly dangerous for people to move safely or to live securely in the places they move to is brushed aside while nation states rush to criminalise 'traffickers' and (largely) 'send home' (i.e. deport) 'victims of trafficking'. Today, as in past discourses of 'protecting coolies', the discursive practices of 'anti-trafficking' spectacularly fail the needs of people by failing to call for their free mobility across space and their freedom within nationalised labour markets.

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