

ARBITRATION OF LABOUR DISPUTES IN MAURITIUS



Arbitration of Labour Disputes in Mauritius

Historical
Background

The Law

Arbitration

Procedure and
Evidence

Part I: Historical Background

- Mauritius in images- *Blue lagoon of our tropical island*

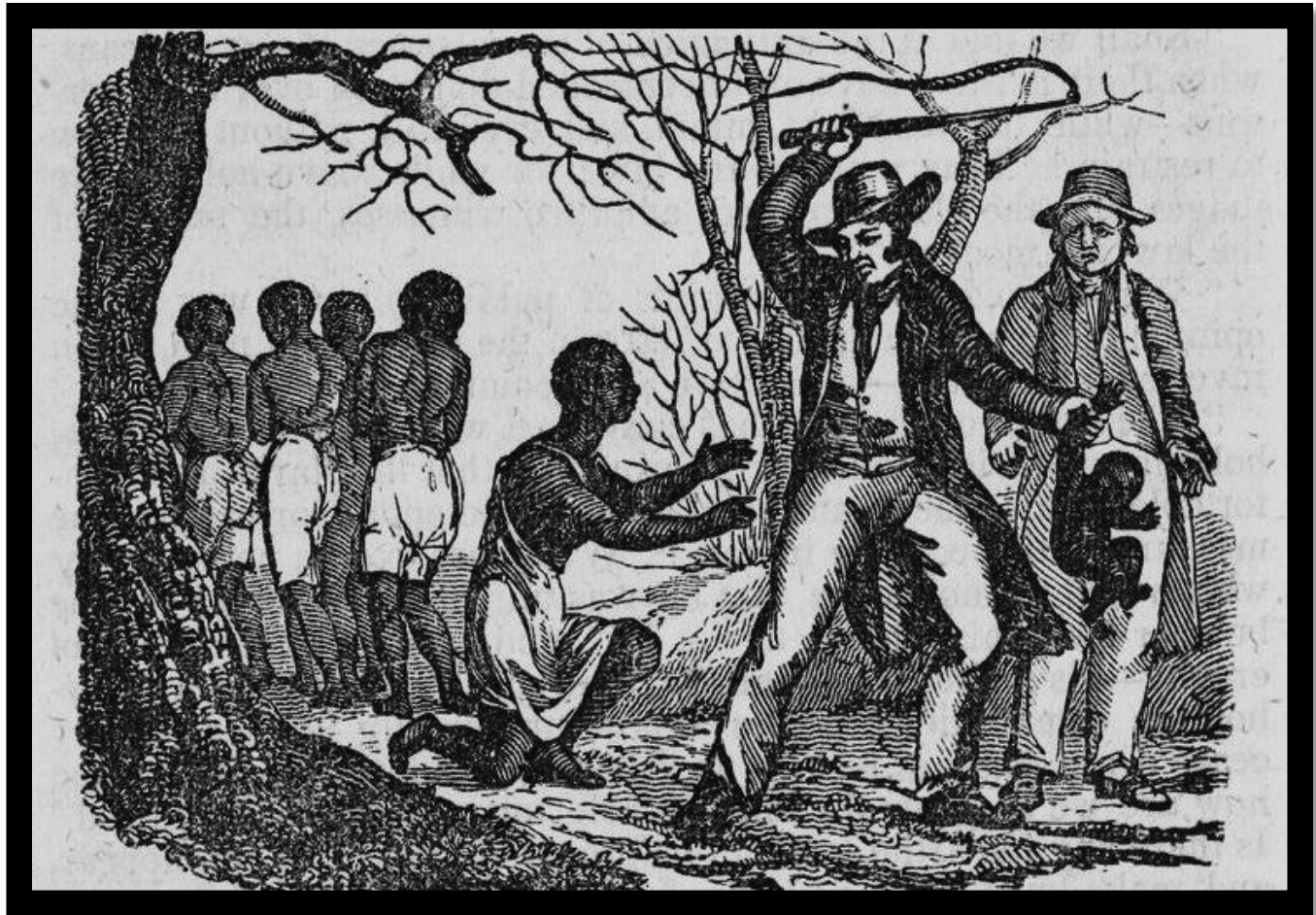
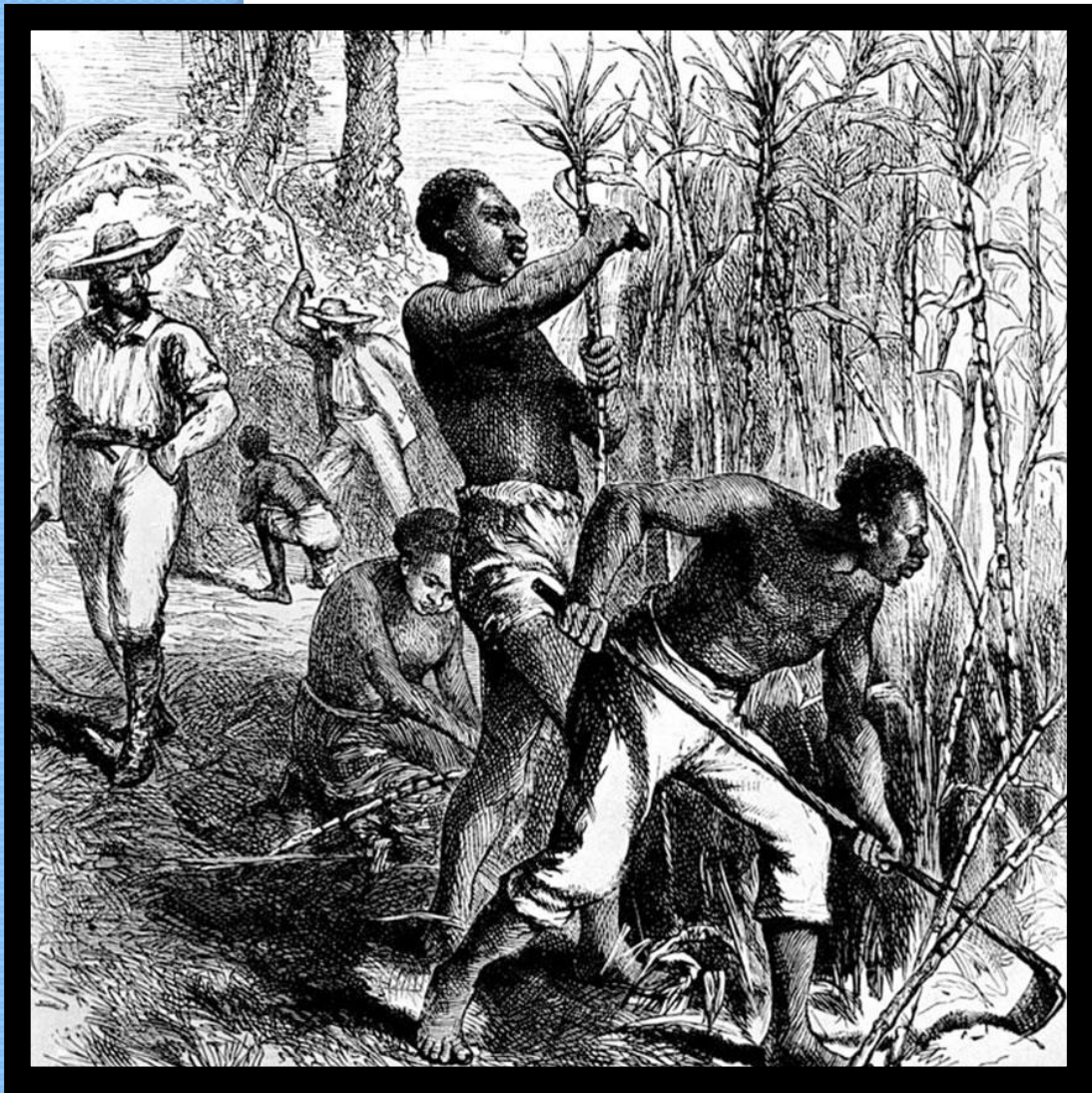


Part I: Historical Background

- French occupation (1710-1810)
- “Code Noir” (literally the “black code”)

Slave= Property !!
Freedom= Crime !!





Part I: Historical Background

- **1810:** British captured the island
- *Traité de Capitulation* ('Act of Capitulation')

*Traité de
Capitulation*



Principles of French
Labour law and
other French legislations
= **Preserved!**

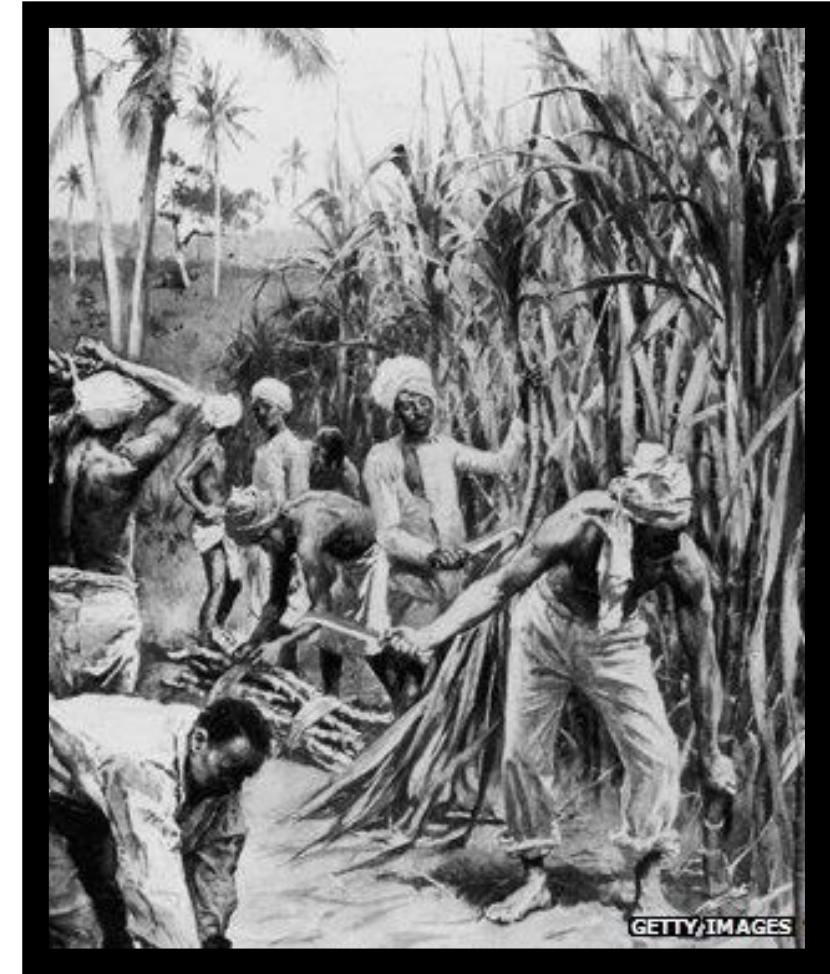
- 1833: Slavery=Abolished



Monument commemorating the Abolition of slavery in Mauritius- Pointe Canon, Mauritius (left)



National archive collection on Indian Immigrants



- Arrival of **Indian Immigrants**

Indian Immigrants = Cheap Labour

Part I: Historical Background

- **1968:** Independence



Sir Seewoosagur Ramgoolam, first Prime Minister of Mauritius and Sir John Renie, last governor of British Mauritius



Part I: Historical Background



Strikes in the Port, 1971

Courtesy Le Cernéen



Courtesy Le Cernéen

Part II: The Law

- **Industrial Relations act 1973**



**Civil Service
Arbitration
Tribunal**

=

Labour Disputes in the
Public Sector

Permanent Arbitration
Tribunal

**EMPLOYMENT
RELATIONS
TRIBUNAL (ERT)**

President and
Vice-Presidents
Qualified for
Appointment as
Judges of the
Supreme Court

- Sir Henry Garrioch, former Chief Justice of Mauritius
- **Tribunal= “main arbiter in the sphere of industrial relations”**

Part III: Arbitration

- Alternative dispute resolution

Award=Binding

Arbitration
by the
Employment
Relations
Tribunal

Voluntary
Arbitration

- Consent
of all
parties

Mandatory
Arbitration

- Referral
from

Commission for
Conciliation and
Mediation (CCM)

Part III: Arbitration



Part III: Arbitration

- Arbitration= Keeps the thread of employment relations going
- *If a marriage can be saved, save it. Or bury it.*



- Arbitration= Procedural and substantive flexibility

Part IV: Procedure and Evidence

- Employment Relations Act 2008
- Discretion as to procedure

• *“to conduct its proceedings in a manner it deems appropriate in order to determine any matter before it **fairly** and **promptly** and may deal with the substantial merits of such matter with **a minimum of legal formalities**”*

Part IV: Procedure and Evidence

- Right to be assisted by Counsel and representative of trade union
- Preserves fundamental principles of an impartial and fair hearing
- Mention stages
- Exchange of pleadings
- Adversarial system
- **Expeditionousness**
- **Flexibility**



Conciliation in the Boardroom of ERT



Part IV: Procedure and Evidence

Alternative Dispute Resolution scale

Conciliation

Flexibility decreases

Mediation

Formalism increases

Arbitration

Conclusion

- Our history bears testimony that our labour laws have been the product of fruitful considerations.
- Based on widely-accepted overseas models
- Aim of Arbitration= “*la protection des faibles contre les forts*” (Dr. Fok Kan, Mauritian author on labour law)
- Arbitration= most appropriate labour dispute settlement process
- Expeditiousness and flexibility
- Focus on principles and best practices of harmonious industrial relations (=Section 97 and Code of Practice)
- Employment Relations Tribunal= bridge between management and employees

QUESTION TIME





Thank You!!