COLONIAL STATE CRIMES AND THE CARICOM MOBILIZATION FOR REPARATION AND JUSTICE

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Abstract: Colonial rule in the Caribbean was based on the normalization, legalization and naturalization of violence, genocide, slavery, torture, dispossession and plunder, to the point that the victims of these colonial state crimes and their descendants continue to suffer the consequences. This article has a twofold aim: firstly, it discusses the Caribbean experiences with colonial state crimes and secondly, it analyses the Caribbean Community and Common Market's (CARICOM's) mobilization for reparations for the harm caused by the violence of colonialism and slavery as an example of decolonial justice. To accomplish this, a threefold analysis is conducted: (1) an exposition of the concept of colonial state crimes from a Caribbean perspective, (2) a brief depiction of the colonization and enslavement processes in the Caribbean and (3) a discussion of the CARICOM mobilization for reparations and justice. Thus, this article aims to initiate a debate on the importance of revisiting state crimes in colonial contexts and their continuity in the present.

Keywords: colonial state crimes; CARICOM; slavery; violence; reparations; decolonial justice

Introduction

In 2013, state members of the Caribbean Community and Common Market (CARICOM) created the Caribbean Reparation Commission (henceforth, Commission) with the intention of establishing the moral, ethical and legal case for reparations for the crimes against humanity committed during the colonial era by former European colonial powers.[1] The Commission developed the *CARICOM Reparations Justice Program*,[2] which contains a *ten-point action plan*, which set the political and legal framework for the pursuit of reparations against European governments for native genocide, slavery, the transatlantic enslaved trade[3] and massive land dispossession, or what this article will be referring to as colonial state crimes.

As expected, countless counter-arguments and responses arose against the Caribbean mobilization, such as "slavery was legal at that period!", "what sort of court would address those claims?", "are the European countries obligated to pay

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reparations for so called 'crimes' that took place almost 200 years ago and from which there are no direct victims?" (Jobbins 2014) and "don't forget that the UK was the first country to abolish the transatlantic slave trade".[4] All of these statements are just a few examples of the positions taken by the Global North regarding CARICOM's mobilization. Among these Global North countries, the UK anti-reparations position particularly stands out, the strong opposition expressed by former Prime Minister David Cameron[5] and British Royal Family[6] are a clear example of this. That is, the heirs of the beneficiaries and those responsible for colonial violence and slavery have tried to legitimize their ancestors' actions under the legal framework of the historical moment and have tried to undermine CARICOM claims for justice.

Following Agozino (2003), the fundamental question that arises from the analysis of the CARICOM mobilizations for reparations and justice and of Global North reactions is, "[w]hat sort of punishment would be proportional to the crimes of slavery and colonialism for which people of African descent are deservedly demanding reparation?" (16). This article does not offer an unequivocal answer to this key question but rather proposes the concept of decolonial justice, a key notion for understanding Caribbean ways of dealing with colonial violence. Maldonado (2007) has described decolonial justice as follows:

> Decolonial justice opposes the preferential option for imperial Man by the preferential option for the damné or condemned of the earth. Such justice is inspired by a form of love which is also decolonial. "Decolonial love" . . . gives priority to the trans-ontological over the claims of ontology. Decolonization and "des-gener-acción" are the active products of decolonial love and justice. They aim to restore the logics of the gift through a decolonial politics of receptive generosity. (260–261)

Maldonado's idea of decolonial justice goes beyond the legal or legalistic conceptions of justice. Maldonado (2007) defines decolonial justice through the centrality of the trans-ontological[7] and through the analysis of the centrality of the Other in the ethical and philosophical reasoning. For Maldonado (2007), justice operates through recognition, generosity and the ability to feel for/with the Other. Decolonial justice gives preference to those who have been victims of slavery and colonial, racial and gender violence, that is, those denied ontological resistance.[8] Additionally, Maldonado (2007) inscribes the practice of decolonial justice into the Caribbean tradition of Fanon (2009) and Césaire (2006). Fanon and Césaire speak of the subjects that have been subordinated to the zone of non-being (or the coloniality of being), which Maldonado (2007) refers to as damné. The damné are the condemned of the earth, they are the colonized, enslaved and racialized who

were denied participation in universal history. Decolonial justice entails a broader conception of the process of restoration for the violent past than the one presented by the tradition of transitional justice. This is particularly true when we look at how this tradition has not considered colonialism and colonial cases as part of its body of analysis and when we consider its definition of justice.[9] Hence, decolonial justice entails a Global South and Caribbean way to deal with colonial violence.

Throughout this article, the concepts of colonial state crimes and decolonial justice will be applied in the analysis of the CARICOM mobilizations as a way to better understand both the processes of colonization and the processes of resistance. In this sense, the article is divided into three general parts. Firstly, an exposition of the concept of colonial state crimes is developed. Secondly, a brief depiction of European colonial state crimes in the Caribbean is presented. Finally, the CARICOM mobilizations are set forth as a potential manifestation of decolonial justice.

Colonial State Crimes

Critical studies of state crimes show that there is a consensus on the violent and repressive nature of democratic states (Green and Ward 2004; Lasslett 2012; Pearce 1976; Ward 2005). However, case studies and empirical research have neglected the study of colonial relations and/or state crimes in colonial contexts. There are some exceptions. Iadicola (2010) has shown that empires and colonial states have been involved in the worst manifestation of crimes against humanity. In this sense, violence and crimes against humanity in colonial contexts have been legitimized through various discourses of power, the rule of law being one of the most important (Atiles 2016).

In colonial contexts, states operate as power structures that, given their anti-democratic configuration, systematize and institutionalize the domination and oppression of colonized subjects. In other words, the colonial state is the dispositive that makes possible the domination of a country, nation or society by another nation, metropolis or empire. In this sense, colonial states are the other side of the modern bourgeois state, since they were born from the same matrix of power or from the same *dominating rationality*.[10] In the colonial context, the state does not operate in the same way as it does in democratic societies since it heavily depends on the general application of violence. That is, even though legitimacy, consensus and legality existed, it is violence that defined the true nature of the colonial relation. State crime in the colonial context thus operates in a different manner than it does in democratic states.

Postcolonial criminology has sought to address central aspects of the crimes committed by colonial states (Kitossa 2012). Despite its important contribution, the approach of postcolonial criminology is problematic since it assumes that

colonialism no longer exists and thus omits an analysis of colonial state crimes as current phenomena. It is important to remember that the Caribbean is still dealing with colonial violence and theft (i.e. colonial state crimes) since colonialism never left but rather continues being the form of government. Therefore, a postcolonial approach to the living experience of Caribbean people does not provide a full portrayal of their experiences and realities.

In this sense, it is interesting to note that orthodox theories on state crimes have not considered colonialism as a form of criminality in itself. As Ward (2005) shows, violence in colonial territories was not generated by excesses of certain state representatives or by corporations, but it was a part of systematic and organized practices for the attainment of domination. It is this point, above all, that presents a challenge to the notion of justice. After all, Global North understandings of the concept of justice are dominated by a very specific epistemological approach, in which justice is supposed to address "injustices", the specific wrongs that occurred and that can, through some process, be addressed. But what if the injustice to be addressed is not a specific instance, but the system in its entirety? How can there be justice for an entire system of domination? In other words, how can there be justice for the *damné*?

Those questions frame the dilemma that this article poses in CARICOM's search for reparation and justice. But they also bring into focus the contradictions associated with applying a concept of state crime within a colonial context. It is to those contradictions that the article now turns.

First, "colonial state crimes" operate within the *dominating rationality* and/or through an epistemological form that assumes, at the outset, the inferiority of colonized people. This aspect is what has been named as *coloniality* (Maldonado 2007), which entails the ontopolitical definition of one being inferior for mere reasons such as race, gender or precedence. If a being is de-humanized, then the uses of violence against *it* do not constitute a crime in terms of the *dominating rationality*. In short, the logic behind the colonial reasoning is that colonial subjects cannot be victims of crimes since they are not seen as human beings. This rationality has been made possible by colonial state crimes, such as slavery, genocide and colonialism itself, which in the historical moment were considered legal. Then, an important contradiction can be raised: can we label as crimes the violent and inhuman practices that were legal?

A possible answer to this question is that the key problem here is not our concept of crime but rather the conception and definition of what legality and justice are. For this reason, it is important to propose a decolonial concept of justice that allows us to go beyond the pure legalistic – as defined by the colonial power – or even revisionist approach to colonial violence. Therefore, our main concern here should not be with the applicability of the notion of crime (the label) to these

violent and inhuman practices but rather the kind of society that legalized such practices and its conception of justice and also the kind of society that emerged from that experience and that is still defending such practices under the guise of legality. Therefore, the concept of colonial state crimes allows us to think about violence and theft, beyond the reductionist, and colonial understanding of legal violence, and to see that slavery and colonialism operated as a system of radical de-humanization, that is, as per a *dominating rationality*.

Second, state crimes begin with the recognition that the terms "crime" and "terrorism", as orthodox studies have understood them, are reductionist and do not recognize the socio-historical roots of the conflicts they seek to define. Hence, when analysing or using the concept of colonial state crimes, one must focus on what Ward (2004) has called state harm, as well as looking at how certain practices have been defined in colonial societies and how that reflects a better understanding of state violence and injustice. An important contradiction that occurs when looking at the concept of colonial state crime from an orthodox perspective is that the normalization of exceptionality, state violence and theft in colonial societies makes it very difficult to define certain "legal" practices of the state as crimes. However, what the concept of colonial state crime provides is a way to denaturalize and de-normalize such practices. This is currently the case with slavery and colonialism in the Caribbean and the CARICOM mobilization for reparation and justice. Thus, this mobilization is both a way to denaturalize the violence and theft of the past and a way to demand a broader application of justice that goes beyond what the Global North has defined.

Third, the concept of state crime is based on the political understanding of the use of state violence, which means that the latter is instrumental and used as a repressive and criminalizing technique. Colonial state crimes are always political; therefore, legitimations of state actions under the alleged technical, bureaucratic, legalistic and security discourses operate as depoliticizing strategies. Thus, when looking at colonial state crimes, one must focus on what has been constructed as legal, technical or as non-problematic. In that way, one can re-politicize state criminality and human suffering in colonial contexts. For that reason, focusing only on the legal or normative dimension of the colonial state crimes entails an act of depoliticization of the violence and injustice generated by colonialism and slavery. We must bear in mind that colonialism, slavery and land disposition were political and economic projects that then became legalized.

Fourth, the concept of state crime does not make a distinction between manifestations of political violence exercised by governments, the paramilitary and pro-state organizations and corporations. Paramilitary and corporate actions, in most cases, take place under the auspices of colonial states. In colonial societies, political violence and plunder always take place within the umbrella of a *dominating*

rationality. So, there is an intense relationship between pro-state, corporate and state interests and uses of violence that serve the interest of the colonial state and that cannot be divided. For this reason, the intertwined relations between these multiple actors must emphasized.

In tandem with this intertwined relationship, the concept of state crimes emphasizes the depoliticizing capacity of counter-terrorist policies (Poynting and Whyte 2012). One must bear in mind that colonial states interpret any group that opposes colonial rule as an enemy or terrorist. By showing how counterterrorism and counterinsurgent practices are forms of colonial state crimes, the concept re-politicizes descriptions of state violence and domination.

Fifth, state crimes involve the use of the state's economic and bureaucratic resources either for the enrichment of elites or to facilitate and sponsor repression. Therefore, when analysing colonial state crimes, one has to look not only at the specific cases of corruption but also at what is considered corruption in local contexts.

Finally, it is important to note that state crimes in a colonial context are dynamic; they cannot be understood as static practices but rather as being transformed at the same time that historical reality changes. Additionally, it is important to bear in mind that colonial state crimes are not without fractures and oppositions. As it is well known, if there is power, there is resistance. Therefore, always where there is state violence, there is opposition by both colonial and colonized sectors. This phenomenon is clear when we look at the history of colonialism and slavery; since the very beginning of this historical processes, there were resistances in both the colonized countries and in European countries (Araujo 2017; Beckles and Shepherd 2007a).

This process of applying a concept of state crime within a colonial context raises some profound questions for a concept of decolonial justice. Colonial state crimes simultaneously contemplate the exercise of violence by state power structures and by their legal and economic systems and thus admits the historical fluidity of its manifestations and the resistances it generates. Moreover, in the sense that we are moving beyond a narrow definition of crimes against humanity, the contradictions that this section highlights are contradictions in the quest for justice.

Colonial State Crimes in the Caribbean: Colonialism, Slavery and Genocide

Studies of colonialism have shown that this phenomenon exemplifies the utmost expression of violence and impositions of power on subjects and territories. In colonial territories, the normalization of everything that is considered exceptional in the Global North is a commonality. As Maldonado (2007) proposes, colonial territories are spaces where the normalization of the non-ethics of war takes place.

The theoretical findings of Césaire (2006) and Fanon (2009) clearly exemplified the strategies of power and subordination imposed through and by colonialism, by showing how the colonies are constituted in contact zones between geopolitical and biopolitical[11] forms of power. That is, colonial practices are not limited to the control of a specific territory outside of the metropolitan state. The imposition of epistemologies, the introduction of forms of social organization and transplanted law, and the reduction of the colonized to a being less than human are key colonial strategies. In this sense, colonialism manifests itself in four ways: geopolitically, biopolitically, legally and economically.[12] Using the colonial state crimes framework and this four-dimensional interpretation of colonialism, in what follows, I will be analysing the history of colonial violence and state crimes in the Caribbean.

The early colonial experience of the Caribbean falls within the framework of geopolitical power. In the seventeenth century, the British Empire came upon the Western Caribbean with a clear policy of indigenous extermination and land dispossession (Beckles 2013; Gonsalves 2014; Nimako and Willemsen 2011). Great Britain followed the Spanish, Portuguese and French colonial practices in the Caribbean and in the rest of the Americas by normalizing the logic of war, the dehumanization and enslavement of indigenous populations, and the mass dispossession of land.

The biopolitical dimension of colonialism is observed in the violent foundation of power in the Caribbean since a fundamental aspect of European colonialism was the conceptualization of indigenous people as sub-humans that could be killed without legal or moral dilemmas (Dussel 2008). For the Europeans, Caribbean peoples (Kalinagos and Garifunas) were savages, barbarous and cruel people who could not be induced to reason or persuasion as they could hardly be converted to Christianity. These processes of de-humanization were not the result of aleatory incidents but were rather at the root of modern political philosophy. As Dussel (2008) argues, the beginning of modernity is intrinsically linked to *misanthropic doubt* or the following question: are these beings really human? That question will mark the relations between the Global North and Caribbean societies.

Europeans used land dispossession, the imposition of forced labour, slavery and rape as key instruments for the control and eradication of Caribbean indigenous populations. Also, it is worth mentioning that a good part of Caribbean populations died as a result of diseases brought by Europeans for which they had no immunological defences (Beckles and Shepherd 2007b). All of this explains why the Caribbean indigenous populations were drastically reduced to a mere 10 per cent of the original inhabitants between 1492 to 1730 (Beckles 2013). In addition, the genocide of indigenous populations also took the form of forced displacement and relocation to other Caribbean islands. A key element of these geopolitical strategies was that most of the lands stolen by the British army were handed over

to private hands or companies that would implement a plantation economy on the islands. That is, colonization in the Caribbean and the extermination of the indigenous populations were possible, thanks to a corporate structure and a network of public–private relations that privileged the interests of British political-economic elites and settler-colonialists (Tombs and Whyte 2015). Hence, land dispossession was a key form of colonial domination and extermination.

The historiography of colonialism in the Caribbean indicates that despite the various forms of resistance, Kalinagos and Garifunas failed to halt the advance of European colonialism, a fundamental aspect of which was that in the Caribbean, European colonial powers united forces to subjugate indigenous populations. For example, in 1763, the British and French governments initiated a joint campaign of extermination of the native population in the Windward Islands (Beckles 2013). In the name of "Indian" eradication, of those who "impeded development and civilization", British, French and Spanish armies carried out a series of massacres that almost exterminated all Caribbean indigenous populations. Thus, by the beginning of the nineteenth century, the indigenous population had been practically eradicated.

Given the long history of colonial violence and genocidal practices of European colonizers in the Caribbean, CARICOM has included the claim for reparations for the genocide of the indigenous people, forced displacement and land expropriation: "Reparations mean paying rent for the use of the land, returning the value of the stolen goods, paying for enslaved labour and exploitation and compensation for human suffering" (Hira 2014: 241–242).

The history of slavery in the Caribbean and the Americas is undoubtedly one of the most radical experiences of violations committed by humans against other human beings (Beckles and Shepherd 2007b; Gilroy 1993). Slavery, as an economic system of exploitation and total domination, was the radical manifestation of Western *dominating rationality*. Although it is true that there were slaves in the West before the sixteenth century (Beckles and Shepherd 2007b; Beckles 2013), it is also true that the form of slavery that Europe implemented in the historical context of the sixteenth century encompassed greater epistemological, ontological and biopolitical implications. The enslavement of Africans marked the beginning of a new regime of racial domination. That is, for the first time in Western history, race, colour and phenotypical features determined the humanity (or lack thereof) of human beings. These practices of racialization were described by Du Bois (2003) as *colour line*. In this way, Africans and Caribbean populations were dehumanized to the point of being transformed into property and real estate. That is what has been called *chattel slavery* (Nimako and Willemsen 2011).

All studies indicate that between 12 million and 15 million Africans were brought to the Americas between the sixteenth and nineteenth century as a result of the transatlantic enslaved trade (Beckles and Shepherd 2007b; Gonsalves 2014;

Hira 2014; Nunn 2008; Williams 2005). However, the radical nature of the harm and injustice inflicted on the African continent is not limited to the 12 million–15 million Africans forcibly removed from their lands. As Araujo (2017), Beckles (2013) and Rediker (2007) have shown, millions of Africans were captured, displaced and killed before reaching the American and Caribbean coasts (the figure could reach 30 million). Hundreds of them died in the *middle passage* of malnutrition, disease or being thrown overboard. Finally, the vast majority of those who survived the *middle passage* died as a result of the harsh working conditions and of the terrible abuses to which they were subjected: the marking of their bodies with hot irons, enchainment, whipping, systematic rapes of enslaved women and the list goes on. In short, a trail of death and suffering surrounds Caribbean colonial history.

The radical violence to which these human beings were subjected generated a traumatized society and, above all, generated humans who were not considered as such. These manifestations of violence and the traumas generated by colonialism, slavery and the apartheid system established after the abolition of slavery in 1833 have not been adequately addressed. Therefore, the violence and injustice of colonialism and slavery still prevail in Caribbean societies, and for this reason, a process of reparations and healing of the still suppurating wounds of colonial state crimes is necessary.

Colonialism uses the law and the state of exception as dispositives of regulation and administration of the colonized territory and subjects (Atiles 2016). The law normalized the violence of colonialism through the design of a legal truth about the colonial subject and the political alternatives. The law was a key dispositive in the legitimation of slavery in colonial and postcolonial contexts. As demonstrated earlier, Global North states and their representatives are still using the legality of slavery as an argument against reparations. That is, Global North countries are still using the law to oppose to the possibility of justice. In this sense, it is important to note that both the British state and British corporations utilized the law and legal discourses in the processes of extermination of the Caribbean natives and the looting of their lands, in the enslavement of Africans and in the establishment and administration of colonies in the Caribbean. Hence, the law played a key role in the process of colonization and the subjection of Caribbean populations, Africans and their diaspora for over four centuries.

Colonial domination was not limited to the government of colonies, but colonial states made systematic use of national and transnational corporations and local elites to ensure the survival of colonial rule and economic domination. As shown by Tombs and Whyte (2015), British corporations played a central role in the colonization of India and various African countries. As Pearce (1976) has shown, corporations functioned in multiple colonial contexts as proto-states. Even

though colonial sovereignty belonged to the British crown, corporations developed in many colonial contexts: armies, collected taxes, organized commercial and international political relations, among others. Corporations and corporate criminality developed jointly with colonialism and colonial state crimes. The transatlantic enslaved trade is a telling instance of how European states, corporations and banks acted in conjunction for the sake of profiteering from the suffering of the enslaved people. In short, the transatlantic enslaved trade is a clear example of colonial state–corporate crimes.[13]

Slavery and colonialism in the Caribbean gave way to the radical transformation of European economies. As has been extensively studied by James (1989), Mintz (1985) and Williams (2005), European capitalist development was possible because of the economic conditions created by slavery and the wealth extracted from colonies. Therefore, not only did the European states and corporations benefit from slavery and colonialism, but contemporary European societies are founded on the wealth generated by the colonies. As noted earlier, corporations, banks, churches, states and the British royal family actively participated in the transatlantic enslaved trade (Beckles 2013).[14] For this reason, one cannot conceptualize colonial state crimes without addressing the centrality of corporations in colonial contexts.

Hence, it can be argued that colonial state and European state-building was based on the normalization and systematization of violence, theft and criminality. That is, Global North state crafting is marked by the systematic uses of violence against those who were considered less than human. Therefore, one cannot think about contemporary European states without remembering the history of violence, inhumanity and injustice that made possible the existence of those very states. Therefore, colonial state violence is not the result of Global North state practices but of the founding of Global North states.

Great Britain abolished the transatlantic enslaved trade in 1807, then "emancipated" the slaves in 1833 and decreed a period of apprenticeship between 1834 and 1838, during which slaves should prepare for freedom. This began a new stage in the relations between colonizer and colonized, in which racism and apartheid defined the living experience of colonized Afro-Caribbean peoples until national independence came in the last decades of the twentieth century. After emancipation, the British government paid £20 million[15] in compensation to slave-owners in the colonies for the loss of their property. The slaves were not compensated but were instead sent to work on the plantations again. For Beckles (2013), the institutional underpinning of racism in abolitionist legislation has become one of the ethical and political foundations for Caribbean mobilizations for reparations and justice. This is indicative that a process of decolonial justice is necessary.

CARICOM Case: Mobilizations for Reparations and Justice

Given the long history of European colonial state crimes in the Caribbean and their current manifestation in the living experiences of Afro-Caribbean people, it is important to look at the resistance processes. CARICOM mobilizations are a good example of Lasslett's (2012) notion of researching through resistance since they are proposing new interpretations and tools to understand, address and counter colonial state crimes. This is what, following Maldonado (2007), I have called *decolonial justice*.

The CARICOM Commission for Reparations (Commission) established in its CARICOM Reparations Justice Program (CRJP), the basis for initiating a process of reparation for the colonial state crimes perpetrated by former European colonial powers. The programme asserts that European governments developed the entire legal and political body enabling and legitimizing the colonial state crimes described above. It is argued that governments served as agencies that enabled enrichment through genocide and slavery. In addition, the programme established that European states perpetrated the following colonial state crimes: (1) they owned and traded enslaved Africans; (2) they led and coordinated genocidal actions against indigenous communities; (3) they created the legal, fiscal and financial frameworks necessary for slavery; (4) they implemented slavery and genocide as part of their national interests; (5) after emancipation, they imposed an additional 100 years of colonialism, racism, segregation and racial apartheid; (6) they imposed an additional 100 years of public policy designed to perpetuate the suffering of slaves and survivors of the genocide; and (7) they have not recognized their crimes nor compensated the victims and descendants.[16]

In response to these assertions, the Commission has made a number of key claims that in a way echoed the transitional justice framework[17]: (1) the Commission is committed to initiating a process of national and international reconciliation; (2) its claims for justice are based on the need to close the wound that colonialism inflicted on humanity; (3) real decolonization is needed, for after two generations of independence, European countries continue to interfere in Caribbean life; (4) the persistence of racial victimization of the descendants of slave and genocide survivors is rooted in the poverty experienced by the region today; (5) the persistence of the suffering and prejudice currently experienced by victims is the primary cause of economic underdevelopment in the Caribbean[18]; and (6) the Commission calls on European governments to participate in the restorative justice programme with an open perspective and to recognize the dignity of the victims of these crimes and their belonging to the global community.

In addition to the diplomatic claims, in July 2013, the Commission initiated contact with the British law firm Leigh Day to represent them in a possible claim

for crimes against humanity before the International Court of Justice. Leigh Day is globally recognized for successfully bringing the UK government to pay £19.9 million in reparations to the victims of British colonial repression during the Mau Mau rebellion (see Paulose and Rogo, this volume).[19] My contention is that this mobilization of international law, could represent the hyper-legalization of the reparatory process, resulting in the depoliticization of the mobilizations for justice, and the possibilities of decolonial justice fading away.

Araujo (2017), Beckles (2013), Franklin (2013) and Hira (2014) have pointed out that there are several international precedents of reparations for state crimes. Some of the precedents are as follows: (1) Germany's reparations to the victims of the Jewish Holocaust, (2) Japan's reparations for war crimes committed during World War II, (3) the United States' reparations to US citizens of Japanese origin interned in concentration camps during World War II, (4) the United Kingdom's reparations to the Mau Mau for the violent counterinsurgency tactics employed during the 1950–1960 War of Independence in Kenya and (5) the United Kingdom's reparations to slave-owners in 1833 following the abolition of slavery.

Another relevant precedent for the CARICOM mobilizations is the 2001 *World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance*, held in Durban (South Africa), which declared the transatlantic enslaved trade and slavery as a crime against humanity and proposed the beginning of a global campaign for reparations and justice (Araujo 2017; Beckles 2013; Franklin 2013). A further precedent is the campaign for economic reparations initiated in 2003 by the former president of Haiti, Jean Bertrand Aristide. In 1825, France demanded the Haitian government compensate French slave-owners and the French state for the damages caused by the Haitian revolution of 1791–1803. The payment of 90 million francs as reparation was a condition for the international recognition of Haiti's independence.[20] As a result of colonial and neo-colonial relations, Haiti agreed to pay, and to be able to do so, resorted to borrowing money from French and US banks. Thus, in 1915, 111 years after Haiti's independence, 80 per cent of the country's budget was designated to repay the US and French banks (Hudson 2017). In 1947, Haiti finished paying the loan and was virtually bankrupt (Beckles 2013).

Aristide confronted France with a campaign for the restoration of the money that was immorally collected and for the economic reparation to the victims and their descendants of genocide and slavery. This was the first time in Caribbean history that a postcolonial government demanded that a European state repair the harm caused by colonialism and slavery. Even though France apologized in 2004 for its involvement in/with the transatlantic enslaved trade and slavery, it refused to compensate Haiti. Once again, historical injustice remained unresolved and, as in the nineteenth century, the victims of colonialism and slavery were doubly victimized.

Haiti's case demonstrates that the liberal framework of crimes against humanity and economic claims for reparations have major limitations. To avoid a similar experience, the CARICOM Commission established a ten-point action plan for reparations and justice, which, unlike Haiti's case, does not call for direct economic reparations, but rather makes the case for a series of strategies that will help the region to improve living conditions and economic development (Franklin 2013). In what follows, I will explore each point and describe the ways in which it can contribute to reparations and justice.[21] Above all, we are interested in looking at these points from the perspective of decolonial justice. That is, we are interested in observing how these claims can contribute to the development of CARICOM's countries as well as can help these countries address the resulting social harms of colonial state crimes.

Full, formal apologies from European countries that established and benefited from colonialism and slavery constitute the first point of the reparations plan. To address and initiate a process of reparations of the state and social harm generated by colonial state crimes, it is necessary for European governments to offer official apologies. Some governments, like the British government, have refused to issue statements of apology and have only issued statements of regret (Oldfield 2012). For the Commission, statements of regret represent a vague and questionable response to the victims and their descendants and imply that the European states understand that the victims' sufferings do not deserve official recognition. Therefore, the possibility to initiate a real process of reparations depends upon former colonial powers apologizing for the social harm generated by years of colonial violence.

Following the formal apology, the Commission proposes to begin the process of reparations for the specific subjectivities that were victimized by the violence of colonialism and slavery. Therefore, in second place, it proposes a process of repatriation of the descendants of the victims of slavery. Over 12 million Africans were illegally and forcibly taken to the Americas; their descendants have the right to return to their lands if they wish. It is therefore necessary to establish a repatriation programme, as well as establishing mechanisms of international law and diplomacy to relocate those who wish to return to the African continent.

Third, the Commission proposes the creation of an indigenous peoples' development programme, which would improve the living conditions of this population. As stated earlier, genocide and land dispossession occurred jointly in an effort to eradicate indigenous communities.[22] The survivors of this massive theft and violent enterprise have been traumatized, left landless and are the most marginalized social group in the entire region. Hence, a development programme is needed to rehabilitate these communities and repair the suffering caused by colonialism.

The Commission requests, fourthly, the contribution of European states in the development and implementation of cultural institutions in the Caribbean. Caribbean states lack cultural institutions that allow their citizens to understand their past and give meaning to their present. That is, Caribbean victims of colonial state crimes and their descendants continue to suffer the disdain of having no relevant institution through which to express the political, social and historical meanings of these crimes. It is therefore essential that European states contribute to the development of cultural institutions that educate future generations about colonial violence and slavery.

Fifth, European countries must contribute scientifically, technically and economically to Caribbean efforts to address the serious health problems caused by years of slavery and colonialism. Afro-Caribbean and indigenous populations have the highest rates of chronic diseases in the world, such as hypertension and type 2 diabetes. This is a direct result of the brutal nutritional, physical and emotional experiences and, above all, stress associated to genocide, slavery and racial apartheid (Beckles 2013). The Commission understands that to adequately address these health problems would require the injection of capital and technologies that are beyond the reach of Caribbean economies. Hence, the Commission asks the European countries to contribute to addressing the health issues affecting the region and, therefore, assuming responsibility for the violent legacy of colonialism.

The eradication of illiteracy in the Caribbean is the sixth claim made by the Commission.[23] Illiteracy has subverted the development possibilities of the Caribbean and represents one of the most important impediments to economic and social development. Caribbean governments have dedicated more than 70 per cent of the public budget to deal with the health and education problems resulting from colonialism and slavery. As an act of decolonial justice, European governments have a responsibility to participate in these efforts to eradicate illiteracy in the Caribbean.

Seventh, the Commission proposes the development of a cultural knowledge and exchange programme with a number of African countries. The forced separation of Africans from their lands resulted in the total social and cultural alienation of their identities and their sense of belonging. The Commission understands that it is necessary to implement a series of programmes that contribute to the development of a sense of belonging among Afro-Caribbean communities.[24] As an act of reparation, European countries must contribute to and be responsible for these programmes and for the restoration processes of the brutal extraction of these human beings from their lands.

In tandem with this programme, in eighth place, European countries must contribute to the development of a programme of psychological rehabilitation for the descendants of the victims of these colonial state crimes. For over 400 years,

Afro-Caribbean and indigenous populations and their descendants were legally classified as non-human, property or real estate. They were denied recognition as members of humanity by laws passed in European parliaments. That is, the law was key in the de-humanization of Afro-Caribbean and indigenous people. Given these legal dynamics and the processes of de-humanization, it is important to address the psychological issues as a step towards decolonial justice.

A technology transfer programme constitutes the ninth point in the Commission reparation plan. For over 400 years, the Caribbean was denied access to technologies, science and information, preventing the West Indies from participating in the process of industrialization. At the same time, the Caribbean was prevented from developing its own epistemologies and technology. As a result, when independence came, the Caribbean entered the process of state-building in a stage of technological and technical backwardness.[25] Hence, the Commission asserts that a science and technology transfer programme should be an essential part of the Caribbean programme for reparations and justice.

Finally, in order to facilitate a process of decolonial justice, an international debt cancellation programme is needed. The Caribbean states that emerged from slavery and colonialism have a legacy of crisis, poverty and lack of preparation for economic development. In addition, these governments, even today, have to dedicate a considerable part of their budget to improving the living conditions left by colonialism rather than investing in the development of the country. This economic pressure has led Caribbean states to accumulate unsustainable levels of public debt, which has become a fiscal trap. The debt cycle belongs, to a certain extent, to former colonial governments that have done nothing to address the colonial legacy and its economic effects. Hence, support for the payment of domestic debt and the cancellation of international debt is necessary as a measure of reparation.

Caribbean mobilizations for reparations and justice have focused mainly on two vectors: on a local campaign that has been developed to educate Caribbean citizens about CARICOM's claims and on an international campaign that has been launched in search of support and solidarity for the cause of reparations and justice. With regard to local campaigns, CARICOM has held a series of conferences and events around various state members of the Caribbean community, promoting, above all, that more sectors of civil society join in the demands for reparations.

My contention is that to be successful, CARICOM must emphasize the decolonizing nature of the ten-point action plan rather than seek the legalistic or hyper-juridical approaches offered by human rights discourses and the international legal system. Emphasizing a decolonial justice perspective would entail a break with the long history of colonial domination and the reparation of the violence, theft and state harm generated by colonial state crimes.

Conclusion

Colonial state crimes have forever transformed the lives of Caribbean people. Reparations is a form of justice, but it is also a form of freedom. For the Caribbean and for the victims of genocide, colonialism and slavery, the wounds of the violence of the past have not been healed, and above all, historical debts have not been repaired. For that reason, a decolonial justice approach to the mobilization for reparation and justice is needed. That is, this mobilization is redefining the concept of justice and injustice and with the concept of crimes and state crimes. For CARICOM justice would not come from Global North legal systems or from international law, but rather it will come when the Global North acknowledges the effects of the violence of the past.

The mobilizations for reparations and justice, to a certain extent, occur in two different dimensions, which, although they coexist, do not communicate. The first of these dimensions is that of modern law and Global North epistemologies. In this context, the claim for reparations for years of slavery and genocide clashes with legal discourses and dominating rationality. Some intellectuals from the Global South, the Caribbean and former colonies also think in terms of modern law and strive to match the claims of justice and reparations with those of Global North legality. Thus, the law, especially the legal discourses of crimes against humanity, has co-opted a substantial part of the mobilizations for reparations.

However, there is another dimension to Caribbean mobilizations; the dimension of decolonial justice. That is, a justice emptied of legal content. Thus, when it is argued that reparations are justice and freedom, another type of reparations can be conceptualized – one that begins with the recognition of the Other and therefore returns the ontological resistance denied to colonial subjects by colonial state crimes.

The possibility of beginning to look at each other as human beings depends, as Kincaid (2000) points out, on abandoning that which made the master the master and the slave the slave. Hence, looking at reparations from the perspective of decolonial justice implies beginning to think of the subject of reparations as an agent who, through recognition, frees himself from the relationship of domination that defined his being-in-the-world. But, at the same time, the one who was the master, the one who generated harm and suffering, needs to repair and recognize the violence with which he affirmed himself over the Other. Hence, to repair means to restore not only the legal dignity of the subject but to recognize the Other as equal. Therefore, it is because of this that the Global North and those operating within the dominating rationality have difficulties in accepting the claim for reparations.

The subject claiming reparations is the one who has become aware of his condition. This consciousness is inscribed in the law only after having understood the immediacy of its non-being and the sub-ontology imposed by modernity, by force

of violence, on the African, Indigenous and colonized subject. That human being recognizes his status and demands the space for recognition, for emancipation. Hence, the victim vindicates the past that lives in the present. Afro-descendants, indigenous and colonized people are the subjectivities that remind us of the barbarism of colonial state crimes and demand justice. A justice that does not come from the law, but rather a justice that operates under the logic of generosity and recognition. It is only in the face of decolonial justice and reparations that a day will come when violence, the colonial wound and state and social harm, that is, colonial state crimes, will be replaced by the joy of justice and decolonial love.

Notes

1. The list included the United Kingdom, Denmark, France, the Netherlands, Norway, Portugal, Spain and Sweden.
2. For more information, see: http://www.caricom.org/reparations-for-native-genocide-and-slavery.
3. Following Gilroy (1993) and Nimako and Willemsen (2011), I have chosen to call this violent practice the transatlantic enslaved trade since those who were taken to the Americas as slaves were originally free human beings from Africa who were captured and enslaved, and then sold as slaves.
4. For some reactions, see: http://caricomreparations.org/angela-rye-theres-nothing-un-american-reparations/
5. David Cameron's ancestors were slave-owners and were among the wealthy families that received reparations after the abolition of slavery (Araujo 2017). Additionally, for an in-depth analysis on British slave-ownership, see the work of Professor Catherine Hall and of the Centre for the Study of British Slave-Ownership at UCL: https://www.ucl.ac.uk/lbs/.
6. See Beckles' (2013) analysis of the British Royal Family's involvement in slave-ownership.
7. That is, the ethical principle developed by Levinas (2012) that emphasized the Other and/or exteriority, and in what is beyond to the ontological dimension.
8. Following Fanon's (2009) understanding of sub-ontology (how power and ontology operates over those considered sub-humans), Maldonado (2007) defined ontological resistance as the violent act of denying the humanity of the subordinated one.
9. For critical approaches to the lack of emphasis on colonial cases within the tradition of transitional justice and for critiques on their perception and definition of justice, see the work of Jung (2009); Balint, Evans and McMillan (2014) and Maddison and Shepherd (2014).
10. An in-depth analysis of dominating rationality is beyond the scope of this article. However, this rationality refers to the dark side of modernity portrayed by the decolonial turn (Mignolo 2005).
11. I will be using Agamben's (1998) approach to biopolitics. Agamben focused not just on the productive dimension of biopower but also on the ways in which power controls and dominates life. In this sense, in the colonial context, biopolitics is not just productive but also entails the redefinition and imagination of oneself.
12. Hira (2014) has defined the effects of colonialism in four dimensions: geographic, economic, social relations and politics.
13. For an approach to this concept, see Atiles (2018).
14. Beckles (2013) and Catherine Hall have shown how Barclays, J.P. Morgan and other banks made their fortune as a result of their involvement with the transatlantic enslaved trade.

15. In a similar move, France passed a law in 1849 to compensate the slave-owners after the abolition of slavery in 1848. The amount compensated by the French government to the owner of 250,000 slaves was 120 million francs (US$16 billion today). Also, the Netherlands and the US paid compensation to the slave-owners and finally, in Puerto Rico, the Spanish Colonial government paid 35,000 million pesetas (US$200,000 today) per slave in compensation after the emancipation in 1876.

16. For more information, please visit http://caricomreparations.org/caricom/caricoms-10-point-reparation-plan/

17. Jung's (2009) analysis of the Canadian use of the transitional justice framework to address the colonial violence implemented against First Nations is useful to understand the similarities between these processes. Particularly, one of the elements raised by Jung is the incompatibility of the definitions and scope of justices and injustice between the indigenous people and the colonial state. In a way we can see a similar manifestation of these divergences in the CARICOM case. For that reason, the concept of decolonial justice is the one that better explains the claims made by CARICOM.

18. On the underdevelopment of the region and its direct relationship to genocide and slavery, see Nunn (2008).

19. However, it should not be overlooked that Leigh Day has been under scrutiny for allegedly unfair and exploitative agreements it has signed with the victims and for taking advantage of the various cases it has brought to international forums. For a detailed analysis, see Khoury and Whyte (2017).

20. Nowadays, there are 14 African countries still forcibly paying France for their independence. For more information, see http://csglobe.com/14-african-countries-still-pay-colonial-tax-france/.

21. For an elaborated exposition of the ten-point action plan, see http://caricomreparations.org/caricom/caricoms-10-point-reparation-plan/.

22. It is important to note that in the historiographic analyses presented by the Commission, it has been identified that in the year 2000, only 30,000 indigenous people survived in the Caribbean.

23. At the end of European colonial rule, particularly at the end of British colonial rule, indigenous and Afro-Caribbean communities were generally in a state of illiteracy. In 1960, for example, about 70 per cent of Afro-Caribbean people in the West Indies were functional illiterates.

24. Programmes such as school exchanges, cultural tours, community programmes for the development of artistic and economic activities, religious commitment and political interaction programmes are necessary to neutralize the void created by the transatlantic trade of Africans.

25. That is, as a result of British colonial policy, the Caribbean states were not technologically, economically or politically prepared to initiate national construction processes in the information age and global economy. In addition, one of the key problems of colonial technology policies is that younger generations have been denied access to education in science and technology.

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