In 1919 the immigration of Indian indentured labourers into British Guiana came to an end. As the prospect of reviving it faded rapidly, the colonial government came up with a scheme of colonization to persuade the Indian government to resume emigration in a different form. That year *Timheri*, the prestigious Journal of the Agricultural Society of Guiana, published a special issue on colonization and a major review of eighty years of indentured emigration from India. James Rodway, the editor of the journal and the premier historian of British Guiana, wrote the lead article on the history of colonization, with two accompanying photographs: one showing a group of newly arrived Indian men and women arrayed against the side of the boat that brought them—lines of faceless ‘coolies’—and the other photograph, just below it, of a prosperous looking East Indian settler family. The aim of these two photographs was to render visible a historical process. What was represented was a trajectory—that of the creation of the family from an amorphous mass of coolies.

The photographs and the accompanying essay were intended to counter the objections to indenture. It had been precisely on the question of the

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failure of the formation of the family, that the indenture system had been morally condemned. Indenture, it was argued powerfully by the Indian nationalists, had degraded the labourers: the men had been enslaved, the women made prostitutes, and family life destroyed.²

Against this moral condemnation the photographs were too weak a defence. Yet, they told a story, however unconvincing, of a moral order of family that the system of indenture claimed to have created from the chaos of coolie domestic lives—yes, chaos was how Edward Jenkins, an early critic of the indenture system, had described the family and marriage among the Indian labourers in 1870.³

At the end of the indenture system, the ideal of the Indian family was thus sought to be established. Rodway wrote that the ‘East Indian is a family man, as can be seen in our streets every day where father, mother and baby walk together . . . they have something like a real home’.⁴ This idyllic image of the East Indian family, deployed specifically to contest the nationalist critique, however was a fairly recent creation. Thirty years earlier, in a rare confessional moment, the Governor of British Guiana had bemoaned the absence of family life among Indian plantation labour and hoped to ‘restore family life which is largely obliterated by emigration as now conducted’.⁵ What had provoked the colonial official to embark on this extraordinary project of restoration of family was literally its ‘obliteration’—evident to him in the growing incidence of murders of Indian women by their male partners which were termed ‘wife’ murders on the plantations.

In this paper, I discuss an aspect of the colonial project of ‘restoration’ of family amongst the Indian indentured labourers in the British Caribbean colonies of Guiana and Trinidad. I suggest that the Indian family structure which emerged at the end of the indenture was deeply impressed by this project. An important instrument of this project was a series of legislations, collectively called the marriage laws, which sought to provide a legal foundation to the Indian family. The cost of this was borne largely by the Indian woman. It was done, I argue, by forging a sexual contract, a concept which I have borrowed from Carole Pateman’s recent work of the same name.⁶ Pateman defines sexual contract as the repressed part of the story
of social contract by which the civil society and the realm of modern public sphere were founded. She argues that the formation of civil society and the state through a contract between free male individuals presupposed another contract that explicitly subordinated woman to man and effectively barred the entry of women into civil society by confining them to the private sphere of the family. The sexual contract is not only a contract between a man and a woman; it is primarily a compact amongst men to ensure orderly access to women's bodies, and it establishes male sex rights. The contract between a man and a woman is more properly termed a marriage contract, in which a woman exchanges obedience for protection. It is thus incorporated into the larger concept of the sexual contract that enshrines the collective male sex rights.

I have found the notion of sexual contract useful in three aspects of my study. First, it throws light on the indentured labour contract, which was the master contract that governed relations between Indian immigrants and the wider society in the Caribbean colonies in the nineteenth century. Like the sexual contract, the indenture contract explicitly subordinated the bodies of the labourers to the planters. It was this subordination inscribed in the criminal breach of contract clauses that allowed the immigrant labourer to be exploited as cheap labour. Second, like the sexual contract the indenture contract was not only a contract between the labourer and the individual planter, it was also tacitly a contract amongst the planters to ensure orderly access to the labourers' bodies. The similarity of the indenture contract and the marriage laws provides a useful approach to understand the process of legal constitution of the family in the Caribbean plantations. More specifically the distinction between the marriage contract and sexual contract is important for my study. Third, in spite of a formal similarity between the sexual contract and the indenture contract, especially in the way in which contract creates subordination in both cases, a crucial difference, that hinged on the question of reproduction, sets them apart. The indentured labour system, as I have argued elsewhere and shall illustrate here, was at best indifferent or at worst antithetical to the natural reproduction of the labour force, since it renewed itself by constant importation of labour. Thus the sexual contract was in no way integral to the indenture system. Pateman's illuminating discussion of the free labour contract on the other hand demonstrates clearly that the sexual contract was necessarily presupposed in the free labour system, guaranteeing both orderly access to women's bodies and orderly reproduction of the labour system. In this way then the story of the historical transition of a labour system from indenture to one based on juridically free labour necessarily involved...

the mediation of a sexual contract. As it happened in the Caribbean case, the evolution of marriage laws was historically coeval with the sharpening contradictions of the indentured labour regime during the late nineteenth century, leading to its eventual replacement by a free labour system.

There are four moments in my argument. First, I examine the phenomenon of wife murder, as represented in the official discourse around it. The key figures of the unfaithful wife and the violent husband that emerged from this discourse were crucial inputs into the formation of marriage laws. In the second moment of my argument, I locate the ambiguous experience of freedom and constraint of the Indian women labourers within a basically non-reproductive labour regime. The third moment of my argument details the changes in the labour regime occasioned by the long crisis of the sugar economy in the late nineteenth century with the accent now shifting to reproduction of the labour on the plantations. Finally, I trace the emergence and the transformation of the ideology of the family in the evolution of the marriage laws for the immigrants. Originally conceived to prevent wife murder, marriage laws in the 1880s became the site where the patriarchal norms were progressively inscribed, as part of the project of ‘restoring’ the family.

A brief overview of the indentured labour system may be in place here. Indentured contract labour was imported from India to the West Indies immediately after the abolition of slavery in the British empire in 1838. By 1917, when the indentured labour system was abolished, 241,000 and 145,000 labourers had arrived in British Guiana and Trinidad, respectively. Under the indenture contract the labourers were bound to work on a plantation for a period of five years on a fixed daily wage. At the end of that time and after another five years of industrial residence in the colony, the labourers could claim free repatriation. However, only twenty-five per cent of the labourers actually ever returned to India. On the plantations all aspects of labour relations were governed by an elaborate series of labour ordinances which empowered the planters to enforce the labour contract. Breach of indenture contract, which included refusal to work, unsatisfactory work, absence from work, insubordination, and even breach of hospital regulations entailed criminal prosecution and imprisonment for the labourer. Indentured labour was in effect immobilized labour, forced to work on the plantation on pain of imprisonment. Throughout the period of indenture a remarkably high proportion of the indentured labour was annually convicted of breach of contract. Wages, though notionally fixed on a daily rate for fixed hours of work, were in practice paid by ‘tasks’ set by the managers, in the appraisal of which the indentured labour had no say. One extraordinary feature of the indenture system was that the nominal wage rate remained constant throughout the period of indenture.

Labour migration varied according to the demand of the planters, the average figures being 3,000 per year in British Guiana and 2,000 per year in
Trinidad. The peak of labour importation was reached in the 1870s and 1880s after which it declined. Most of the recruits were in the prime age group of twenty to thirty and were drawn largely from the heavy emigrating districts of eastern United Provinces and western Bihar. The caste composition of the recruits matched very nearly the caste composition of the place of recruitment. Similarly the religious composition of the recruits mirrored closely the situation in the home context with eighty-five per cent of recruits being Hindus and fifteen per cent Muslims and other religions. However, what is important for the discussion here, is the skewed gender composition of the emigrants. Of the total number of emigrants only twenty-five per cent were women. The recruitment of women was governed by the minimum quota rule imposed by the colonial office and the Government of India. After various experiments the quota was fixed at forty women per hundred men in each shipment in 1868. Very rarely was the minimum quota ever exceeded. Most of the women recruited were unaccompanies by husbands or other male relatives, even though some of them entered into relationships, marital or otherwise, in the recruitment depots and on the ships during the long voyage to the West Indies. The proportion of married women to the total women recruited varied between twenty-five and thirty-three per cent. A great majority were widows and other destitute women abandoned by their families and a few were prostitutes drawn from the burgeoning metropolises of Calcutta and Madras.

Unfaithful Wives and Violent Husbands

The question of family came to occupy the minds of the planters and colonial officials, mainly because of persistent 'wife murder' in the plantations, in the late nineteenth century. The attempt on the part of officials to make sense of the phenomenon and control and prevent it was crucial to the evolution of their notion of the Indian immigrant family.

The murder of women on the West Indian plantations became a matter of serious concern for the colonial office in the 1860s, especially in British Guiana and Trinidad. It was reported that between 1859 and 1863 sixteen and eleven Indian women respectively had been murdered in these two colonies by their husbands (or reputed husbands). In 1864 a worried Secretary of State of colonies sent out a circular to the labour importing colonies, asking for urgent steps to be taken to reduce the incidence of murder of women. He advised measures to increase the proportion of women in the recruitment, greater care in selecting a better class of women, and finally, stricter supervision of the coolies on the plantation by managers and overseers.8

The concern of the colonial office was largely to pre-empt any criticism of the indentured emigration system which might lead to its discontinuance.

8 Walcott to Herbert, 6 September 1871, in Emig. A Prog. no. 12, November 1871.
The memory of the energetic agitation over the treatment of coolies in British Guiana and Mauritius by the Anti-Slavery Society in the 1840s, which had led to the temporary prohibition of emigration in 1843, was still fresh. The Governor of British Guiana in 1868, while asking for vigorous measures to stop the crime, warned the planters that:

there are many persons in England and some with considerable influence who are watching coolie emigration with great vigilance and who will not fail to bring any defect in the system before the public eye.

As a consequence of the concern of the colonial office, the governors of the labour importing colonies were required to report on the incidence of women murders. These became a regular feature in the annual reports on immigration of the colonies. The reports provided figures for three categories of murder among the Indian immigrants: the total number of murders, the murders of women, and the murders of wives, the figures for the second including those for the wives. The statistics are available in the annual reports of immigration from 1870 onwards.

From these figures certain trends in the long-term pattern of woman and wife murders can be discerned. It is clear that till the end of the nineteenth century murders of women predominate in the total figure of murder. In Trinidad for instance, between 1872 and 1879, of 102 total murders seventy-six were of women, of which fifty-nine were of wives. But between 1898 and 1913, of the 102 total murders, thirty-nine were of women and only eighteen of these were wife murders. In British Guiana between 1885 and 1900, of the 103 total murders, seventy-eight were of women, fifty-eight of which were of wives. Between 1900 and 1915 (excluding four years for which I do not have the data), of the sixty-six total murders, only thirty are of women, including twenty of wives. The shift in the pattern is dramatic in the post-1900 phase of the plantation regime: woman murder as well as wife murder became much less both numerically and as a proportion of the total murder.

10 Circular of Governor Hincks, 19 November 1868, in CO/369/no. 162, PRO.
11 Calculated from the various Annual Reports on Immigration of British Guiana and Trinidad. These reports were entitled *Report of the Immigration Agent General of British Guiana* and *Report of the Protector of Immigrants of Trinidad* respectively and are available in the NAI (New Delhi) in the Emigration proceedings, and in the Colonial Office records in the PRO, London.
12 Another feature of the data is discernible spurts in the number of women and wife murders during the late 1880s and 1894–1897. Thus in British Guiana between 1885 and 1889, thirty-two women were murdered, which was about the same number that were murdered between 1872 and 1881. Similarly between 1894 and 1897, twenty-four women were murdered. In Trinidad such spurts are noticeable broadly in the late 1880s and between 1894 and 1898.
This trend needs to be taken into account while assessing the official explanations of wife murder in the Caribbean plantations.

The first stance of official discourse on the murder of plantation women is evident in the label 'wife murder'. This had a series of consequences. It became a way of avoiding reference to the fact that a significant number of women had been killed, not only wives. Thus were collapsed a variety of relationships between plantation men and women into a single mould. Consequently certain (wifely?) norms were set up against which transgressions could be measured, invoking a scenario in which psychological propensities could be distributed to the actors. By the act of labelling, the immense human tragedy on the plantations could be staged as a morality play on 'unfaithful' wives and 'cuckolded' husbands. Thus the phenomenon was represented, and therefore understood, in a manner which denied the uniqueness of the circumstances, elided the disruption caused by indentured migration, and emphasized continuities, both cultural and psychological.

The officials were aware that the bulk of the women who came were single and that often the relationships they entered into with men bore no resemblance to marriage. However, they got around the problem by labelling and recording these, as merely non-legal marriages, i.e., de facto if not de jure marriages. The women were termed 'reputed wives' and the men, 'reputed husbands'. And this was how the Annual Reports on Immigration accounted for various categories of murders on the plantations. From this it was but a short step to ascribing the motive for the murder of women to 'jealousy' induced by desertion of 'reputed husbands'. The motif of unfaithful wives and injured husbands was now implicitly established in the act of labelling.

Two different sets of explanations were offered by the officials as causes of these crimes. First, the inherited 'cultural' characteristics of migrant labour were emphasized and second, such crime was the 'natural' result of the unbalanced sex ratio on the plantations. Sometimes competing and often combined, these explanations had immense practical and ideological consequences; they could be mobilized to defend certain policies or oppose them. Common to both these explanations however was the generic description of the murder of a woman as 'wife' murder caused by jealousy. The standard scenario of murder described by the Chief Justice of British Guiana was widely shared by officials, newspapers, planters and others who commented on the crime:

A man and a woman are brought here as immigrants from India in the same ship; they become intimate; on their arrival they are married by the Immigration Agent General and are indentured to the same plantation and settle there as man and wife. All goes smoothly at first. After a time however the woman who is young, un instructed and vain is attracted by a coolie who has been longer resident in the
colonies and is able to offer her presents of silver or gold ornaments and to make her promises of wealth which her husband cannot approach. The woman either openly abandons her first husband and goes to live with him, or carries on an intrigue with him, which comes to the knowledge of the husband . . . the injured man is left a mark for the jeers and ridicule of his fellows, and the consciousness that such is the case is often a powerful factor in goading him on to the fatal violence (my emphasis).  

The culturalist explanation on its part was advanced against pressures from the colonial office to increase the proportion of women in recruitment. In 1868, the protector of immigrants in Trinidad, Henry Mitchell, argued that the scarcity of women had very little to do with the murders, which were largely due to:

the hereditary and ineradicable belief of the masses of Indian population that man has complete jurisdiction over his wife and on that belief he acts in his own country and carries his creed along with labour wherever he may migrate.  

Wesleyan missionary Bronkhurst of British Guiana, described these cultural norms as extreme jealousy on the part of males who followed their religious custom of punishing adultery by death. The fact that the majority of the murderers were relatively recent immigrants, was also ascribed to their being more under the influence of these norms. These arguments in official reports were buttressed by giving examples of the practice of ‘wife’ murder and brutality on women in India. The Governor of British Guiana asked the colonial office in 1871 to compare the incidence of ‘wife’ murder in the colonies with that of India on the ground that:

. . . wife murders are just as prevalent amongst these people in their country as here; and this being so, it would appear that their cause

13 Chief Justice to Governor of British Guiana, 3 August 1882 in CO/384/139 no. 320, PRO.
14 Report on Immigration into Trinidad for the year 1868, in Home Public A, 6 August 1870, Prog. no. 68, NAI.
17 Report of the Immigration Agent General of British Guiana, for the years 1896 and 1901. Christian missionaries, like Bronkhurst, who had spent considerable time in India, lent weight to this argument, by showing that the Hindus believed that adultery was punishable by death and it was on this belief that they acted in the colonies. H.V.P. Bronkhurst, The Colony of British Guiana and its Labouring Population, London, 1883, p. 401.
can not be attributed solely to the changed circumstances which surround these people either in this colony or in other colonies to which they have migrated.\textsuperscript{18}

The Governor hoped thereby to lay at rest any criticism of the indenture system as having a bearing on the incidence of wife murders.

The results of the enquiry were, however, to disappoint the Governor. They showed that the rate of ‘wife’ murder in British Guiana (142 per million per year) was about ninety times higher than the rate in India (1.6 per million per year), for the period 1859–1870! And compared to the rate in the North-western Provinces and Oudh from which most of the indentured labourers were drawn, the British Guiana rate was 142 times higher.\textsuperscript{19} This inconvenient result was then explained away by asserting that the comparison was invalid as the Indian figures included the whole of ‘the respectable classes’, while the colony figures were of ‘crimes committed by a population exclusively of the lower classes’.\textsuperscript{20}

The cultural persistence explanation had to contend with another contradiction. If Indian males carried with them their inherited custom of jealousy and the idea of women as chattel, why did not the women carry with them homebred notions of chastity and monogamy? The reason, it was contended, must then lie in the fact that the women were already morally degraded before they arrived in the colonies. Bronkhurst, a Wesleyan missionary in Guiana, explained the infidelity of normally chaste Indian women thus:

\ldots the great majority of women imported from Calcutta are very loose in their habits: they were bad in Calcutta and so they will continue to remain in Demerara; and hence the instances of infidelity and misconduct on the part of the married and unmarried females.\textsuperscript{21}

The protector of immigrants of Trinidad went on to declare in 1881 that ‘Chastity is almost unknown to the class of woman indentured from India to this colony’.\textsuperscript{22} It is not certain if the gentleman was writing from personal experience! But by now the image of the ‘morally depraved’ woman, who invited revenge for infidelity, had become an established official explanation.

\textsuperscript{18} Scott to Earl of Kimberly, 18 July 1871, CO/111/386, no. 120, PRO.
\textsuperscript{19} The results of the investigation and the discussion around it are in files Emig. A, November 1871, Prog. no. 12 and Emig. A, January 1873, Prog. no. 1, NAI. The results were not found to be conclusive either way, largely because the population samples were not comparable.
\textsuperscript{20} Minute of C. Murdoch, 18 October 1873, in Emig. A, January 1873, Prog. no. 1, NAI.
\textsuperscript{21} H.V.P. Bronkhurst, \textit{The Colony}, p. 244.
\textsuperscript{22} ‘Report of the Protector of Immigrants in Trinidad for the year 1881’, para. 21, in Emig. A, July 1882, Prog. no 3-4, NAI.
The cultural explanation was now combined with a 'naturalist' one. Most officials regarded the disparity in the sex ratio to be the primary cause of these crimes in the colonies. The British Guiana Commission had surmised in 1870 as cause 'the constitutional jealousy of the oriental aggravated in British Guiana by the great disparity of sexes among immigrants'. But in 1876 the Governor of British Guiana was more forthright—the 'principal cause is the disparity of sexes', he wrote. By the 1880s, with the murders of women continuing unabated, the sex ratio disparity argument was repeated so regularly in the official reports as to make 'wife' murder a 'natural' and 'inevitable' consequence. Implicit in this was a notion of competition between men for a scarce commodity. But if the men were competing for fewer women, it would be natural for them to kill each other rather than the women. A few officials who commented on this noted that the murder of the male rival was a rare occurrence.

It was in explaining this anomaly, that a second explanation was suggested, again by deploying the image of the 'morally depraved' woman. The British Guiana Governor, who ascribed the primary cause of 'wife' murder in the colony to the sex ratio, added that this circumstance afforded 'every facility to the woman to desert her "reputed" husband.' The Chief Justice of British Guiana argued in 1872 that the 'loose and depraved women' gained 'value and influence' in the colonies because women were so few. Tempted by men with presents and jewellery, they deserted their husbands provoking jealousy and murder. In the official discourse, then, the translation of 'natural' competition for women into their murder, hinged crucially on the figure of the 'immoral woman', who by transgressing wifely norms invited revenge. In 1869 Ramcharan an Indian indentured labourer killed...
his ‘reputed’ wife in British Guiana. In the court he pleaded that he killed his wife on seeing her commit adultery with another coolie. Evidence of the witnesses showed this to have been a false allegation. The jury and the judge did not find any evidence of the fact of adultery and provocation to murder and recommended death penalty for the man. Yet the Governor of the colony commenting on the case wrote:

... I have no doubt that the murder arose out of a feeling of jealousy alone, and if the truth could be ascertained it is more than probable that the feeling was not excited without cause. The loose character of a considerable portion of the female immigrants is one of the most objectionable features connected with this class of the population.28

If the causes of wife murder were grounded on the immoral nature of Indian women and the culturally ingrained violence of Indian men, how was the commission of the crime to be prevented? Throughout the nineteenth century the colonial state regarded the stringent application of the death penalty by hanging for the wife murderers as the most effective deterrent against the crime. In 1863 the Governor of British Guiana in a special proclamation to the immigrants notified that, the crime of wife murder would receive the highest penalty and no pleas of previous provocation would be admitted.29 A few times when the death sentence was commuted under special circumstances by the intervention of the Governor, the colonial office was quick to admonish the local authorities.30 Consequently the death penalty was administered with unremitting regularity until the turn of the century. Along with perceptible decline in the commission of the crime in the post-1900 period, an increasing number of sentences deemed the crime as manslaughter, that is, homicide without premeditation.

28 Governor Scott to Earl of Kimberly, 22 August, Georgetown in L/P & J/2/66, 8/20, IOL.
29 The Official Gazette, 12 December 1863; and Governor to SOS, no. 199, 17 December 1863 in CO/111/342, PRO.
30 The Governor of British Guiana had commuted the death sentence of Moonasammy, an indentured labourer who had murdered his wife, admitting that he was gravely provoked by his wife committing an act of infidelity. The colonial office admonished the Governor for a ‘loose use’ of the term provocation and reminded him specifically about the 1863 proclamation. Enclosure, SOS to Governor, no. 162, 19 November 1871, CO/111/369, PRO. In 1877 again the SOS Colonies asked the Governor of British Guiana to ensure that the judges do not pass lenient sentences which were partially the cause of frequency of crimes of violence in the colonies. Enclosure to Despatch no. 133, 16 June 1877, CO/384/115.
A large number of such convictions were now for long periods of imprisonment: a greater weight being given to the pleas of provocation. Thus in 1914 in British Guiana, when a man pleaded that he was driven to uncontrollable rage and murder at the sight of his wife having sex on his own bed with her paramour, the man was acquitted. Similarly in 1905 another man who pleaded that he murdered his wife because she had developed sexual intimacy with a young boy whom the man had brought up in his home as a son, was also acquitted.31

Such acquittals would have been impossible in the 1870s, even when many colonial officials were convinced that the death sentence was hardly an effective deterrent. Persistence of the murder through the 1870s and the spurt in the 1880s strengthened the belief that the Indian men were immune to the terrors of capital punishment. It was argued that unlike the civilized western world, where a Christian was terrified by the prospect of death and the after-life, the eastern man being a fatalist was hardly scared by it, as long as he felt justified in his action. Therefore the only way to strike terror in the hearts of the potential perpetrators of the crime was to punish the murderers with extreme physical pain in a public place. A combination of long prison sentence along with flogging in public was suggested regularly through the 1870s and 1880s as an effective alternative to the death penalty.32

In 1873 an exasperated Royal Gazette of British Guiana went so far as to suggest mutilation of the body of the hanged criminal in order to render the terror of capital punishment a deterrent.

In 1878, Wesleyan missionary Bronkhurst, something of an expert on Hindu religion in Guiana, having observed that the Indian mind was stoically indifferent to the terror of death, suggested several alternatives to capital punishment. He first suggested that the murderer be punished to work for life on the plantation where he committed the crime without pay and with suitable social restrictions: 'thereby justice would be subserved in two ways: the planters' interest would be consulted while at the same time the supremacy of law be vindicated.'33 After suggesting other alternatives Bronkhurst unveiled his most important reason for opposition to hanging:

It is a well known fact that the great majority of our coolies believe that whenever a man dies on the gallows in a strange land he goes back to his native land immediately after death, consequently hanging is

32 For instance see the comments of the Acting Immigration Agent General of British Guiana in the Report of the Immigration Agent General of British Guiana, 1876, p. 4, and the opinion of the Chief Justice of the colony in 1882 in Enclosure, Governor to SOS, no. 320, 1 November, CO/384/139, PRO.
33 H.V.P. Bronkhurst, The Colony of British Guiana, p. 251.
no punishment whatever . . . . I would recommend public decapitation . . . . The partial dismemberment of the bodies of the murderer after they are hanged, recommended by some, will not remove from the minds of the coolies the notion that death by hanging on the gallows is but a safe and sure passage to their native land. A man must have his head on his shoulders when he goes to India: he can't find himself there minus his head, I would strongly recommend beheading or decapitation of the murderer in the presence of all spectators. It is evident something must be done to put a stop to murders in this colony.\(^{34}\)

Such alternatives however did not find favour with the colonial office and were repeatedly rejected as being inhuman.\(^{35}\)

If the official explanations of the wife murder produced the figure of the immoral woman and the unfaithful wife, the discourse on punishment produced and confirmed a complementary image of the violently jealous husband who was driven by a fatalist creed.

This official construction of the murders of women had established three features. First, it had become a discourse on ‘wife’ murder. Second, it had constructed the major motive of the crime as ‘sexual jealousy’. In the process, it had placed at the centre of the construction of the crime the image of the ‘immoral’ woman who deserted her violently jealous husband. Finally and most importantly, the causes of the crime were surreptitiously shifted to the context from which the labourers had emigrated. It was as if the script of the murders was written beforehand in India and the plantations were a mere stage where it was enacted, albeit, with a delay. Thus, while a continuity was established in terms of psychological propensities and cultural norms, a radical rupture was effected between the crime and the scene of the crime. This rupture had an important function: it exonerated the plantation labour regime from any role in the murders. In the numerous accounts, notes and memoranda and reports in which officials, missionaries, judges and planters wrote about ‘wife’ murder, there is a systematic silence on the conditions of labour. The fact that most of the murdered women and the murdering men were primarily labourers on the plantations did not seem to have any bearing on the discourse on ‘wife’ murder. The official explanations, therefore, could not account for the long-term patterns and periodic spurts in the incidence of the crime. Why did murders of women and wives, decline so rapidly after 1900? Is it possible to relate it to the large movement away from the plantations and the settlement of labourers in villages in the late nineteenth century? Or is

\(^{34}\) Ibid., pp. 399-400.

\(^{35}\) See Note of E. Wingfield in CO/384/139 no. 320, PRO.
it a mere coincidence that the years which saw dramatic increases in the incidence of women murder happened to be the periods of deepest crisis on the plantations? That the pattern of women murders could have had some relation with the labour regime and the changes in it, needs to be explored more fully. 36

For instance it could be argued that the labour regime on the plantation had a more direct bearing on the killings of the women if we begin from the scene of the crime and the weapon used to commit it. In most instances, the women were hacked to death by cutlasses, issued to men for cutting cane. And in numerous cases the scene of the crime was the cane field. The division of labour on the plantations had ensured that the women were employed primarily in the lowest paying tasks, in the weeding gangs, while the heavier tasks requiring the use of cutlasses, hoes and shovels were reserved for the men. The labour regime, thus apart from discriminating against the women in terms of payment of wages and tasks, had effectively disarmed them. So instances of women being able to defend themselves against the attacks of men were rare. 37

The Indentured Woman

While the complex relationship between the labour regime and the phenomenon of women murder can not be taken up here, yet for an understanding of the full implication of the project of the restoration of the family through the creation of a sexual contract, it is important to address the contradictory experience of the Indian indentured woman on the plantations. I shall begin with a characteristic feature of the labour regime, viz., persistent sex ratio disparity. In the official policy, the issue of sex ratio disparity was made an accidental feature of the system necessitated by


37 The only instance I found of a woman attacking a man with a weapon was in 1914, on Plantation Wales in British Guiana. The woman attacked an overseer who had tried to rape her, inflicting two wounds with a cutlass. The charge of rape was dismissed and the woman was put behind bars for five years. It is presumable that the structure of work perhaps had altered by the end of indenture period and a few women who worked on the plantations were being employed in the heavy task of cutting cane with cutlasses. Report of the Immigration Agent General of British Guiana 1914-1915, in Emig. B, May 1916, Prog. no. 4-5, NAI.
the unavailability of 'decent' women. If sex ratio imbalance was the cause of 'wife' murder, as many officials believed, it could be alleviated by increasing the proportion of women from India; this was a suggestion periodically thrown up by the colonial office. But it would invariably meet with stiff opposition from the planters and immigration agents. The immigration agents would argue that the need was for 'decent' women who were unavailable in requisite numbers, and this necessitated the recruitment of women of low 'character and caste'. And 'a fruitful element of disorder and crime is introduced into the colonies by the very means which are adopted to supply the antidote.' The invasion of a bunch of 'immoral' women was a potent argument often utilized to scuttle plans of increasing the proportion of women immigrants to the colonies. But why were the planters and their official supporters opposed to the importation of larger numbers of women?

In the first place, the cost of recruiting single women was higher than that of the men. In the 1890s, it was roughly 50 per cent higher and by the end of indenture it was estimated at double the rate for men. But the cost difference was as much, if not more, a result of the availability, as of the particular nature of the demand of the planters. What was demanded was individual workers and not 'family' units. The latter would have required greater outlay of costs for its reproduction. Pregnant women were a burden and the time spent on nursing and looking after children would amount to loss of valuable labour time.

Robert Guppy, testifying before the Royal Franchise Commission of Trinidad in 1888, recounted an interesting conversation with a big proprietor friend who was setting up barracks to house newly arrived Indian coolies. The barracks with roofs of galvanized iron without any ceilings were unbearably hot in the afternoon. When Guppy asked his friend to remedy the fault the planter replied:

The people ought to be in the field all day long, I do not build cottages for idlers. I [Guppy] replied 'but there may be some sick people, or children, and you will have lying-in and nursing women.' Oh my dear Guppy, said he, what do you talk to me about lying-in and nursing women; I only want working hands. 'Then', said I, 'you will never have a settled population of labourers on your estate.' ‘A settled population?’ said he, ‘I want two years of good crops and good prices, and then I will sell my estates and go to live in Europe.’

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38 Joint letter of British Guiana and Trinidad Immigration Agents to Colonial Office, April 1868, cited in Minute of E. Murdrock, 16 November 1876, no. 195, CO/111/384, PRO.
39 Robert Guppy's Report, 16th meeting of the Royal Commission in Proceedings of the Royal Commission to Consider and Report as to the Proposed Franchise and Division of the Colony into Electoral Districts, Trinidad. Port of Spain, 1888, p. 27.
Arthur Hill, long time emigration agent for British Guiana in India, expressed this concern when he wrote:

On account of the heavy cost to them in importing labourers, planters used naturally to look for able bodied ones at any rate, to compensate them for their heavy outlay, and families with young children and nursing infants were not regarded as good bargains [emphasis mine].

Single men and women would also ensure that once the contract was over the cost of repatriation would remain to the minimum. Related to this was the very important feature of the labour regime: the wages were kept to the minimum; there was a complete absence of any notion of family wage.

By 1868, a minimum quota of forty women to a hundred men had been fixed by the colonial office. Thus in spite of pleas of shortage of ‘morally sound’ women, their recruitment as indentured wage labour continued.

Bound and Free

The position of Indian indentured women on the plantations was marked by what may be called an ambiguous freedom. It is true that the constraints on women were exactly the same as those on the men in so far as the labour process was concerned, perhaps even more onerous. But certain factors of this labour regime provided the basis for greater exercise of independent choice by women, when compared to the situation from which they had emigrated. Most of the women who arrived on the plantations being single, their very decision to emigrate was often regarded as a sign of their independence. This was to a great extent reinforced by their recruitment in the plantation economy as independent wage earners. Their ability to commodify their labour power, however undervalued it may have been, provided the objective basis for their independence. A missionary observer who noticed this in British Guiana in the 1870s wrote:

40 Arthur H. Hill, ‘Emigration from India’, Timheri, Vol. 6, Third series, September 1919, Argosy, Georgetown, p. 44.
Here in Demerara, the condition of the women is greatly enhanced. She earns her own living. The manager pays her wages into her hand and she altogether feels that she is a rational being.

In 1875, the Governor of British Guiana was gratified to see 'the numerous instances of thrift and industry, found amongst coolie women'. He wrote, 'It is the women who are in most cases paying in money, to the Savings Bank or making lodgements of money for remittance to India'. To be able to have control over their money was an important index of the changed status of the women. In fact, it was perhaps an important cause of conflict between the labouring women and their male partners.

The status of women as independent wage earners was reinforced by the fact that the indentured labour regime did not assign women the primary role of reproducers of labour. The low rate of birth amongst indentured immigrants is a case in point. In British Guiana, between 1838 and 1869, 18,000 female emigrants had been indentured of a total indenture of 70,000 persons, and they gave birth to only 6,000 children over these thirty-one years.

The recruitment of women as wage earners and freedom from forced reproduction had important consequences. There is not much evidence regarding the condition of women during the indenture, but even from the accounts of hostile observers, one gets a picture of women exercising their choice in a variety of ways. One important element in this was the ability to take decisions regarding their sexual partners.

Sarah Morton, a woman missionary in Trinidad, had an interesting encounter with an Indian woman in the 1870s:

I said to an East Indian woman, whom I knew to be a widow of a brahmin. 'You have no relatives in Trinidad I believe.' 'No Madame', she replied, 'only myself and two children; when the last immigrant ship came in I took a Papa. I will keep him as long as he treats me well. If he does not treat me well, I shall send him off at once; that's the right way, is it not.'

Of course, the missionary was shocked by the 'loose notions' with regard to the 'marriage practices' and contemptuously thought of the frank expression of the indentured woman to be 'a new view on women's rights!' In British Guiana, during the same period, another missionary observed,

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42 Young to M. Hicks Beach, 24 May 1879, no. 133, CO/384/123, PRO.
'Women in this colony feel their power. They are also sure that they can exchange one lord or master for another with the greatest ease.'

The missionaries, however, exaggerated the power of the women more so to condemn it as immoral. What was termed immorality of the women on the plantation was in fact their mobility within a range of marital or other sexual unions. There is enough evidence to show that the unions of men and women on the plantations were marked by a high degree of flexibility. At least six types of households can be identified on the plantations in which women were placed: a single woman with or without a child; a single woman being visited by several men sequentially (the visiting union); a woman with or without child passing through single male households; a polyandrous households; a few polygamous ones; and finally the typical monogamous household. Each of these varieties could be more or less temporary. This spectrum of households did not imply sexual choice of the woman alone; more importantly they held out a hope of escape from any union that proved to be oppressive.

Yet, these vignettes of freedom have to be weighed against the enormous odds which faced the Indian woman on the plantations. Primary amongst these was the constant fear of sexual assault, by the plantation managers, overseers and drivers as well as the other male labourers on the plantation. She could exercise her freedom only in a limited way. Too often she had to seek protection of some man or other, or even a group of men. One should perhaps listen to this contradictory experience of freedom and constraint, in the oral account of Maharani, a brahmin widow in Trinidad. She had as her companions five single women from the ship. On arrival these women had taken up with different men, except Maharani, who said:

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everybody take one man an gone.
i alone dey [there]
i going to work an i coming
i cooking an eating an ting
only she-fadder want me.
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The man who proposed to her (whom she refers to as she-fadder), asked the plantation manager to force her to accept him. The boss asked her:

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Maharani you want de man
i say no
e say why
i say
i go go India
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The story of Maharani reveals several features, common to the experience of the plantation indentured women. The fact that she worked and earned her wages held out the possibility of independence and it was an independence she valued to the extent of refusing to ‘take one man an gone’. But it was a precarious independence: she was exposed to the immense power of the plantation authority structure, exercised by the managers and overseers. It was they who decided that ‘you alone cyan stop.’ Maharani was compelled into a union with a man she did not like. The union ordered by the manager was then consummated in what clearly was a rape. If Maharani were to leave the man later and was killed by her ‘husband’, it would have been recorded as yet another case of ‘unfaithful wife’, punished by her ‘violent husband’!

But Maharani did not desert her ‘husband’. Her story took a different turn. Her husband after finishing the indenture contract settled in a village. Maharani was permitted by the manager to shift to the village even though her contract period was not over. Gradually Maharani, from labouring on the plantation ended her life labouring at home, ‘do house wuk, wash

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barrick room, wash clothes, fill water, bath, all dat . . . .', and perhaps also in the fields of her husband. She did not go back to India, as she became a mother and was busy raising her ‘cheren’ [children].

The transition in status from wage earner to unpaid worker at home, from a producer to a reproducer, became towards the end of the century, an increasingly common experience for indentured women. Two factors were important in this transition. The first was a shift in the plantation labour regime and the second, a coeval crystallization of the ideology of the ‘family’.

The Shift in the Labour Regime

The long crisis of the late nineteenth century in the world capitalist economy, beginning in 1873, soon reached the Caribbean. The price of sugar fell gradually throughout the 1870s but in 1884 prices suddenly slumped by half. With only a few partial recoveries in between, sugar prices remained consistently low until the beginning of the First World War. The crisis was aggravated by the large-scale dumping of bounty fed continental beet sugar in Britain. The plantation economy consequently plunged into a deep depression.

Far reaching changes were initiated by both labour and the planters in their efforts to cope with the crisis. Together, these changes marked a shift in the basic character of the plantation labour regime. From legal coercion of labour, there grew a tendency towards coercion through the labour market, i.e., the importation of labour under indenture gave way to the use of locally reproduced labour. However, these changes were halting, and became fully operative only after the complete abolition of indenture, much later.

During the crisis the structure of ownership of plantations changed dramatically, with the decline of small planters and residential owners. A sharp reduction in the number of estates occurred largely due to a two-way process of abandonment and amalgamation of estates. The sugarcane acreage stagnated as also the production of sugar. The most important changes were however in the drastic reduction of the wage bill on the plantations. Adamson has calculated that the total wage bill in British Guiana might have been reduced in 1900 to a third of what it was in 1880.

Ibid., pp. 87-88.


The cost of production of sugar was reduced mainly by increasing the size of the standard ‘task’, curtailment of the wage rate of both indentured and free workers on the plantation and also by direct retrenchment.\textsuperscript{50}

It is during this period of crisis, that a substantial movement of the plantation labour began, away from the plantations. In Trinidad so large was this movement that D.W.D. Commins termed it a ‘secession of free coolies’ from the estates.\textsuperscript{51} In Trinidad by 1901, 64,000 Indians were residing outside the plantations compared to 16,000 residents. In British Guiana, the movement was equally dramatic: between 1881 and 1901, the Indian population resident outside plantations increased from 17,000 to 57,000, most of it occurring in the last decade of the nineteenth century.\textsuperscript{52}

The outward movement of immigrant workers was to a great extent facilitated by easier grants of crown lands by the colonial state. As the social valence of the plantation sector declined during the long crisis, the colonial state could override the traditional objection of the planters that easy availability of crown land would endanger the labour supply for the plantations. Fear of a social crisis in the wake of the depression also allowed for the emergence of an alternative vision of society, no longer based on the plantations. This was articulated strongly in the recommendation of the Royal Commission appointed in 1897 to enquire into the crisis of the sugar industry. The commission refused to accede to the planters’ demand for countervailing duty on bounty fed continental beet sugar and other forms of subsidies to the West Indian sugar; instead as a solution to the crisis it recommended ‘the settlement of the labouring population on small plots of land as peasant proprietors’.\textsuperscript{53}

The movement from the plantations to the villages was due to the desperate need of the labourers, both to diversify their subsistence base and to escape the stranglehold of the planters’ regime. From the standpoint of the colonial state and subsequently of the plantocracy a major consideration was the relative rise in the cost of bringing in and repatriation of people when sugar prices were falling. It became the policy goal to settle

\textsuperscript{50} The wage rate of the free labour by 1886 had fallen to a third of the rate in the 1880s. Paradoxically, there was thus a tendency to substitute free labour for indentured labour in many estates in British Guiana. In the 1890s there was retrenchment of workers on many estates abandoned in Trinidad and British Guiana. See Rodney, \textit{History of the Guyanese Working People}, pp. 35–36, 49. Adamson cites instances in the 1890s when Government enquiries revealed that a substantial proportion of the indentured labour was earning wages far below the statutory minimum caused by the reduction of the work on the plantations and increase in the size of tasks. Adamson, ‘Impact of indentured immigration’, p. 45.

\textsuperscript{51} D.W.D. Commins, ‘Note on emigration to Trinidad’, Diary, p. 21 in Emig. A, September, 1893 Prog. no. 9–19.


\textsuperscript{53} \textit{Report of the Royal Commission on the West Indies}, Parliamentary Papers, Vol. 1, 1897, p. 70.
the labourers. This, however, did not mean a complete disruption of connection between the sugar economy and the 'settlers'. The planters now sought to rein in the movement to their advantage, by transferring a substantial portion of the cost of reproduction of labour to the ex-labourer's household.

Two specific developments, the rise of cane and rice farming among the ex-indentured labourers in Trinidad and Guiana respectively, illustrate well both the planters' strategy and the changing relation of the labourers with the plantation economy. In Trinidad, as a response to the crisis of the 1880s, the planters leased out portions of the estate land to the free labourers for cane farming. By 1902 peasant produced cane was, according to one calculation, half the total cane milled in Trinidad. Apart from the lower cost of the peasant cane, a major reason for introducing it was to hold a reserve labour force around the estates. Thus it was usual for the planters to limit the plots on estates to units manageable by a family on condition that they devote part of the time to estate cultivation. Indians were allowed from 1888 onwards to grow cane outside the estates on crown lands and by 1906 they were the major suppliers of cane to the factories. Most of the farms outside the estates remained small plots between one-twentieth and three acres in size, usually 'cultivated by a man and his family'. The plantations in Trinidad by 1900 were relying increasingly on the labour of entire households, rather than individual units of labour.

In British Guiana the major economic activity of the ex-labourers was rice farming, initiated on the front lands of the estates, during the 1880s. Fifteen thousand acres were under rice cultivation in 1897. After 1898, when crown lands became available in small lots, there was a rapid expansion of rice and some 40,000 acres came under rice by 1911. The close relation between plantation labour needs and the embryonic rice farming was evident from the earliest such arrangement devised in 1880 in the plantation L'Amite. The crown surveyor had specifically mentioned that the size of the plots

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54 It cost roughly $82 (B.G) to introduce a worker in the 1890s and another $60 to repatriate the worker back to India. This cost had remained constant since the 1870s. (Evidence of Cavendish Boyle to the West Indian Royal Commission in Report of the Royal Commission on the West Indies. Parliamentary Papers, Vol. L.) The cost of repatriation was an important factor in the periodic attempts to settle the prospective returnees on government lands in the 1880s and again in the late 1890s. See Rodney, History, p. 86.


57 Ibid., p. 57. Neville Lubbock, Chairman of the Colonial Company (the largest single producer of West Indian sugar), was the first to initiate peasant cane cultivation in Trinidad in 1880. Testifying before the West Indian Royal Commission in 1897 he outlined his general strategy: 'to give sufficient land for a man, wife and two or three children ... two acres at best for this family unit to cultivate ... to avoid their employing outside labour.' Evidence of Neville Lubbock. Report of the West Indian Royal Commission. Evidence Volume, p. 10.
should be such that the ‘quantity assigned each man or family would not occupy the time of either himself or his family exclusively’, and they would still be available, occasionally as workers, in the sugar estates. After 1884, with the crisis in sugar prices, there was a growing practice of renting out small plots of rice land to the free labourers. Lesley Potter has described the rice farmers attached to the estates as well as those farming elsewhere as a ‘paddy proletariat’, who were part-time estate workers and additionally bore the cost of reproduction of their own labour power.

In each of the two developments mentioned earlier we notice a change in planter strategy, which found in the emergence of the semi-peasant sector among the ex-labourers a possibility of labour control based on the family labour of the household. The shift in planter strategy of course had a bearing on the role of the women workers. That the planters increasingly conceived of the women as reproducers of labour is clear from two pieces of evidence. First, in 1891 the normally cost-conscious planters in Trinidad and British Guiana reduced the period of indenture contract for women from five to two years. Second, in the only detailed account of wage figures available for a plantation (Brechin Castle) in Trinidad in 1907–1908, we find that 181 immigrant women worked on an average only a third of the legal minimum of 280 days earning a meagre 5.3 cents per day through the year. Clearly a large part of the woman’s work was outside the plantations, in the household and on the subsistence plots. The transformation of the wage earning woman labourer to an unpaid worker on the household was a necessary concomitant of the emergent plantation strategy of labour control. This transformation was to a degree anticipated and greatly consolidated in a discourse that surrounded the making of marriage laws for Indian immigrants in the late nineteenth century British Caribbean colonies of Trinidad and Guiana.

Restoring or Creating the Family?

In the late 1870s, and more intensely through the 1880s, the colonial officials were occupied with fashioning a piece of legislation to regulate the ‘unsatisfactory domestic affairs’ of the Indian migrant labourers, as evidenced in the growing incidence of ‘wife’ murders. Their persistence despite the maximum deterrence of the death sentence, strengthened the belief that

59 *Ibid.*, p. 88. See also Lesley Potter ‘The post-indenture experience of East Indians in Guyana, 1873–1921’, in Bridget Breton and W. Dookeran, eds., *East Indians in the Caribbean*, New York, Kraus, 1982 for an analysis of patterns of land buying by Indians for rice farming which suggests that most purchases were of small lots of family farms, not very distant from the sugar estates.
preventive legislation was necessary. A second consideration, which became increasingly important during the crisis of the late nineteenth century, was that of the family which was now to be invested with the important function of reproducing labour. For both these goals to be realized it was considered essential that the unions of the Indian men and women be stabilized by providing them a legal foundation backed by the powers of the state. The marriage laws were formulated to ensure orderly access to the women's bodies, by curbing the 'immoral' nature of the women and channelize the violent instincts of the men. The image of the family that the colonial state gradually inscribed into the law of marriage was a patriarchal one which assigned to the woman the role of reproducer. In this section of my paper, I intend to uncover the traces of this inscription in the marriage laws.

A brief chronology of the evolution of the marriage laws may be in place here. The marriage ordinances were initially evolved outside the immigration labour ordinances. The first legislation was in British Guiana in 1863, called the 'Heathen Marriage Ordinance no. 10 of 1860'. It was substantially amended in 1887 and was finally incorporated within the comprehensive Immigration Labour Ordinance of 1891, legislated in 1894. In Trinidad, the marriage ordinance came into being in 1881 and after much subsidiary legislation was incorporated within the Immigration Labour Ordinance in 1899. Significantly, while all other provisions of the labour ordinance were applicable only to the immigrants indentured on the plantations, a special definition of immigrants in the marriage chapters made it applicable to all immigrants, whether free or indentured, and also to the descendants of such immigrants.

Marriage laws had two distinct aspects. The first related to the formalization of the institution of marriage: the procedures by which a marriage could be legalized and dissolved. The second related to what was known as offences against marriage. This was the 'coercive' section of the laws. In Pateman's terms the former was about the marriage contract while the latter related to the sexual contract. The formalization of marriages was a necessary precondition for the guarantee of the state to become operative. The debate on the procedures of formalization and provisions for dissolution of marriage are in themselves interesting and important. Here I shall concentrate only on the clauses on the offences: it was in the discourse around these clauses, that can be uncovered the ideological constitution of the family and the transformation in the role of the women, necessary for such a constitution. I shall take up three clauses relating to Offences Against Marriage for discussion here.

A primary function of the marriage laws was to prevent the incidence of 'wife' murder. One set of preventive mechanisms, that originated outside the marriage laws proper and were finally incorporated into it, were called the transfer clauses. These were a set of ordinances which enabled a magistrate of the colony, when informed by a female immigrant or any other person (e.g., a manager or an overseer), that the life of a woman was
in danger because of threats by her husband or the person with whom she cohabited, to transfer either of the parties to another plantation. The crucial role in this had to be played by the manager or the overseer. They were to lay the charges before the magistrates if they apprehended violence leading to murder. In 1868, the Governor of British Guiana proposed a fine of $100 for those managers who had been negligent about separating the husband and wife.\textsuperscript{61} Between 1862 and 1870, in British Guiana, there were 130 instances of transfers in what were called the 'wife cases'.

Significantly, in most cases, it was the threatening 'husband' who was transferred and only in a few cases the threatened woman.\textsuperscript{62} But this was not considered a satisfactory solution to the problem. It was James Crosby, the legendary immigration agent general of British Guiana, who pointed out that the law as it was applied had actually resulted in the separation of families! He said, before the British Guiana Commission in 1870:

\begin{quote}
I have been much distressed to be obliged to separate people who have been living together ten or twelve years and have had children. It has been a very painful thing.\textsuperscript{63}
\end{quote}

Also, the transfers were often done hastily. Crosby alleged that the magistrates did not always go into the full facts of a case when ordering the removal of the husband or breaking up a family. According to him the most important omission was that the 'seducer' of the woman was not removed. Crosby was clear in his sympathies:

\begin{quote}
... the husband was generally the least to blame of the lot. Somebody has taken away his wife, and that person is the most guilty.\textsuperscript{64}
\end{quote}

Crosby pointed to the contradictory effects of the law of transfer. In the short-term, the removal of the threatening 'husband' could prevent a murder but the action might hinder the long-term goal of creating and stabilizing the 'family', in so far as it encouraged women to desert their husbands. Crosby and other officials were concerned that the provisions of the transfer clauses had been used or abused by women in many instances to get rid of their male partners.\textsuperscript{65} He advocated far greater care and fuller

\textsuperscript{61} RBGEC, paras. 860–61.
\textsuperscript{62} Ibid., Evidence Vol. Q3469, Q6543 and Q8218. Evidence of J. Crosby, D. Brandon and J.D. Fraser.
\textsuperscript{63} Ibid., Evidence of J. Crosby Q3472.
\textsuperscript{64} Ibid., Q3469.
\textsuperscript{65} Ibid., Q3461. In his evidence Crosby often implied that the transfer clause was used by women to get an 'inconvenient' husband removed. Ibid., Q3472. See also the opinion of J.D. Fraser in ibid., Q8223 and 8224. The B.G. Commissioners echoed Crosby's view after reviewing the transfer cases that 'the charges of threats are in not all cases bona fide, and that they are brought forward in order to get a change to another estate or to get rid of a bad or useless subject'. RBGEC, para. 885.
investigation in handling the 'wife cases', to combat the 'extreme violence of feeling in the Asiatic, in whom the passion of jealousy is so great as to be uncontrollable'. He implied that the removal of husbands did nothing to assuage this extreme passion and might have, in fact, accentuated it.

Crosby's opinions on the law of transfer found support in the British Guiana Commission, which recommended that the law be amended to allow the removal of the 'seducer'. The 1873 immigration ordinance of British Guiana broadened the scope of the transfer clause by providing for the transfer of the indentured immigrant who was the cause of jealousy (the 'seducer'). The British Guiana transfer laws, it may be noted, remained unchanged while indenture lasted, and were adopted in other colonies. In Trinidad these were adopted in 1885.

Clearly there was a growing concern to maintain a stable family unit. However, defining the family remained a problem. How was a wife to be designated and who was the husband? The solutions could only be arbitrary in a situation where alliances between men and women were fluid. The appearance of the figure of the seducer in the legal discourse suggests that the initial union and the length of the union were factors determining the status of a couple being designated as husband and wife.

The notion of the sanctity of the domestic sphere was now inscribed in the law of transfer. The household was to be guarded against the seducer, and for this, it had to be continuously monitored for the signs of discord or when the wife was vulnerable to seduction. And herein lay the crucial importance of the managers and the overseers. In 1868, the Governor rued the fact that the managers were unconcerned about the domestic affairs of the indentured labourers, 'not even instructing their headman to make an immediate report in all cases in which women leave their husbands or reputed husbands to cohabit with other men'. The British Guiana Commission wanted the managers to play a much greater role in both monitoring the household as also in 'settling' the disputes, before applying for removal. The Secretary-of-State of colonies suggested that the allotment of immigrants to a plantation be stopped where the managers had been 'culpably remiss' in their supervision.

However, the transfer clause had not explicitly recognized that the threat to the stability of the 'family' was not only from outside but from within it. The problem hinged on the subjectivity of the woman: whether she was to be regarded as an object of seduction or as someone exercising a wilful choice. The provision for removal of the 'seducer', had a dual purpose—it served to define the family unit and simultaneously imposed

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66 Circular to the proprietors by the Governor of British Guiana, 19 November 1868. Enclosure to CO/111/369/no. 162, PRO.
67 Circular of Earl Kimberly, SOS Colonies, 8 January 1872 in Emig. A. January 1873. Prog. no. 1, NAI.
limits on the social space available to the woman to exercise her choice of sexual partners.

A much greater supervision of coolie domestic lives had begun after the 1873 ordinance was enacted in British Guiana. It is evidenced in the growing practice of transfer utilized in the so-called 'wife cases'. In the 1880s on an average fifty-seven persons were transferred per year and in the 1890s, sixty-five persons. The figures for earlier years in Guiana and for Trinidad are not available. From the bare statistics it is not possible to examine trends in the figures for transfers of the so-called seducers as opposed to husbands or wives over time. Neither is it possible to gauge how effective transfer was in the prevention of wife murder. But what is clear is that the transfer law entailed a more intimate surveillance of the domestic life of the labourers. As the family on the plantation was rendered inviolable to seduction, it was simultaneously made more visible to the labour regime.

Efforts to formulate a marriage law for the Indian immigrants were intensified during the 1880s, precisely when the sugar economy entered into a deep depression. The concern of the colonial state and the plantation shifted very gradually to the constitution of the family as the locus of reproduction of labour, and consequently to the obstacles to its stability. In 1885 the Governor of British Guiana hoped that the marriage laws would help evolve the 'Indian family life of its original type', from the unsatisfactory condition of 'polyandry prevalent among the indentured class'. The Attorney-General of the colony argued that polyandry was the chief cause of the low birth rate among Indians:

Where a large proportion of the women have each three males cohabiting with them, it can not be expected that birth rate will be satisfactory.

It was argued that with the stability of marriage and the institution of the monogamous family there would be a greater population growth, rendering immigration unnecessary.

68 Calculated from the Annual Report of the Immigration Agent General of British Guiana of the relevant years.

69 Chandra Jayawardene's account of plantation life in British Guiana in the 1930s reveals the existence of the manager's court in which the domestic disputes of the coolies were settled as well as punishments meted out to the guilty. The origins of the practice of close supervision of the plantation family could be traced back to the 1870s. See Chandra Jayawardene 'Family organisation in plantations in British Guiana', International Journal of Comparative Sociology, Vol. 3, no. 1, September 1962, pp. 45-46.

70 Governor of B.G. to SOS Colonies, 16 October 1885, no. 295 enclosed in Emig. A, March 1886, Prog. no. 2, NAI.

71 Minute of W.F.H. Smith, 5 August 1882 in Emig. A, August 1884, Prog. no. 20-21, NAI.

72 W.F.H. Smith to Governor of B.G, 16 October 1885, in Emig. A, March 1886, Prog. no. 2, NAI.
Polyandry was seen as a symptom of a deeper malaise: it was adultery which was at its root. By adultery what was implied was not the infidelity of men but primarily the infidelity of women. The infidelity of men was ‘natural’ in a situation of disproportionate sex ratio, but the infidelity of women was dangerous provocation for the ‘natural’ jealousy in the men, who then reckless of consequence, killed the women. Female infidelity was the real destabilizer of the family. In 1874 the Governor of Trinidad was doubtful if any legislation could suppress the adulterous habits of the coolie men since:

... the fear of death does not prevent the coolie from gratifying his revenge and it is not possible that the fear of fines or punishment will deter coolies from indulging in some of the strongest passions of human nature. 73

An official of British Guiana was sure that ‘the attempt to restrict sexual passions of men in a tropical country placed in these unnatural conditions must always be to a greater extent, futile.’ 74 Since passions of men could only be channelized and not tamed, those of women, therefore, needed curbing and it is to this need that the law makers now turned their attention.

In 1887 the Governor of British Guiana wanted the marriage law to provide the security of a legal status such as ‘to destroy the notion that a girl can be transferred from a husband to whom she has been assigned . . . to another man by . . . the caprice on the part of the woman.’ 75 The marriage laws were thus to act as a device for controlling the ‘fickleness’ of women. The demand for the punishment for infidelity of women followed logically. Many officials and zealous guardians of morals demanded that Indian women be punished for adultery. In 1870, the British Guiana Commission recommended that the adulterous women be publicly disgraced by having their heads shaved. 76 Missionary Bronkhurst cited the Institutes of Manu to justify the punishment of women. 77 And in 1881, 274 Indian

73 Longden to SOS Colonies, 15 September 1874 in Emig. A. August 1874, Prog. no. 13–26, NAI.
74 W.F.H. Smith to Governor British Guiana, 16 October 1885, Emig. A, March 1886, Prog. no. 2, NAI.
75 Memo. of the Governor on the Marriage Bill of 1887, in Emig. A, January 1888, Prog. no. 13–14, NAI.
76 RBGEC, para. 877. The Commission acknowledged that the punishment was degrading but justified it on grounds of the ‘exceptional’ situation of disproportionate sex ratio and the low level of ‘civilization’ in the colony. Moreover, they thought that the idea of such degrading punishment was not novel to the immigrants, many of them having come from territories recently annexed to the British Empire in India. But they assured that ‘if the law was passed, even the abandoned creatures we find coming out here would be coerced into propriety, probably without the law ever being enforced’.
77 H.V.P. Bronkhurst, The Colony of British Guiana, p. 244.
immigrants, inspired by missionary John Morton, demanded that the women be imprisoned for leaving their husbands for a lover. But corporal punishment and imprisonment of women for adultery were rejected by the colonial office on the ground that there was no provision for them either in English law or in the laws of the colonies. Many officials were in any case of the opinion that the solution could be found in strictly punishing the paramours. Once again the obstacle to this was that in none of the Caribbean colonies nor in the English law was adultery a punishable offence. The Governor of Trinidad was opposed to punishment for adultery of only the Indians, arguing that criminality of an act should not depend on the race of the person. But his was a lone voice of opposition.

The way out of this tricky problem was sought in some of the provisions of the British Guiana Heathen Marriage Ordinance of 1860. It had a clause providing for punishment for the enticement of 'wives registered under the ordinance'. So, if not adultery then enticement could serve the purpose for enforcing punitive measures against the paramours of the married women. But 'enticement' implied that the woman had been taken away against her will or had been deceived by the seducer. How was this law to take into account the wilful infidelity of wives, which was considered the most potent threat to the stability of the family and a great incitement to violence among the husbands?

The problem now was in proving enticement. In 1887 a case came up before the magistrate in Trinidad in which the woman, an indentured labourer, had repeatedly left her husband complaining of ill-treatment and beating. She left her husband to live with another man who was charged by the husband with enticing his wife. The magistrate was constrained to observe:

I could not prove that the defendant took her to his house himself and if I were to put the woman to the box she is likely to say that she went of her own will.

Accordingly the charge fell through and the magistrate hoped that the law would be amended to deal with cases of 'detaining and concealing' of a married woman. James Crosby had been the first to suggest in 1870, an

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78 Ibid., RBGEC, para. 877.
79 Note of Governor of Trinidad in Emig. A, August 1874, 13-26, NAI. The question of punishment for adultery was discussed extensively in the correspondence with the Indian government, especially as adultery was a punishable offence in the Indian Penal Code. Indian officials were very much in favour of introducing punishment for adultery in the marriage laws in the Caribbean, some even suggesting punishment for the women on the lines of the Punjab frontier regulations which prescribed flogging for adultery. See Emig. A, 12-13, April 1881; Emig. A, 2 March 1886; Emig. A, 6-7, October 1886, NAI.
80 'Coolie Marriage Ordinance Case', San Fernando Gazette, 2 April 1887.
amendment to the clause which would take into account the willing seduction of wives. As he put it, ‘... the women go away without enticement at all, an ill-inclination possessing them on their part’. He had suggested that the presence of a woman in the house of the ‘seducer’ be taken as sufficient evidence of enticement. By the 1880s, with the rising concern for the ‘stability of the family’ and a spurt in the incidence of woman murder, the enticement clause received fresh notice. The Protector of Immigrants of Trinidad in 1885 advocated a change in the enticement clause because:

... the wife generally does so (leave her husband) to live with a younger or more wealthy man, and will not admit she was enticed away or detained as she was of her own accord preferring the man to her husband.

He suggested that since in most cases the offender certainly does not detain the woman, therefore ‘harbouring’ of a married woman should be made a punishable offence.

The final version of the law as enacted in British Guiana and in Trinidad in 1887 and 1890, made harbouring a wife who had left her husband, punishable with imprisonment of six months and a fine, and a much stiffer penalty if the offence was repeated. In 1899 in British Guiana, Abilak, an indentured worker, was charged by Buckais for having harboured his wife. The wife was discovered to have hidden herself in a flour barrel in Abilak’s house and had refused to return. Abilak was fined and imprisoned and the wife forced to return to her husband. The harbouring clause was an important strand in the web of legal prohibitions that now sought to restrict the mobility and choice of women. Under the definition of the harbouring clause a married woman now could not even seek refuge in her natal home. It is interesting that the enticement/harbouring clause in the marriage laws bore an uncanny resemblance to a clause in the labour ordinance (central to the indentured system): that which punished the employer or harbourer of a deserter! This was designed to immobilize the labour and to prevent it from taking advantage of the competition for scarce labour. It is

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81 Evidence of J. Crosby in RBGEC Evidence, Q3479.
82 C. Mitchell to Actg. Colonial Secy., 1 January 1885, in Emig. A, July 1886, Prog. no. 3-7, NAI. The IAG of British Guiana gave substantially the same suggestion. See his letter to Colonial Secy, 23 February 1885, in the same file.
83 Demerara Daily Chronicle, Georgetown, 4 July and 20 August 1899.
84 In 1899 a case of this kind occurred in British Guiana when a woman fled to her mother’s home and refused to return to her husband. The mother was charged under the harbouring clause. The magistrate was willing to imprison the mother when it was found that the marriage had not been legalized by registration under the marriage ordinance. The magistrate took the opportunity to harangue the plaintiff and the large Indian audience about the virtues of registering marriages under the ordinance. ‘Case of Seenath’, Demerara Daily Chronicle, Georgetown, 29 July 1899.
not a mere coincidence that the harbouring clause in the marriage laws similarly sought to immobilize the woman.

The ideological underpinning of the stringent punishment of the 'seducer', 'enticer' or the 'harbourer' of the married woman, was the subjection of women's sexuality to the service of particular men. There was a built-in asymmetry of positions in the law between the husband and the wife. The latter was effectively denied choice of a sexual relation outside the marriage and a place of refuge outside of her husband's home, while the former was only prohibited from sexual relation with other married women.

In 1881, the Governor of Trinidad received a petition from 274 Indian immigrants, all males, seeking an amendment in the recently enacted marriage ordinance. The petition was inspired by the Canadian Presbyterian missionary, John Morton, who had been consulted by the government in the drafting of the ordinance. The petitioners demanded that the law be amended, (i) to allow for prosecution for damages from an 'unfaithful spouse and their [sic] partners in guilt ... with provision for imprisonment if the damages be not paid', (ii) imprisonment of women, if they refused to return to their husbands, and (iii) continued prosecution of the parties if the offence persisted.

The petition which began by demanding the gender neutral right of 'any person married ... to prosecute their unfaithful spouse and their partners in guilt', through the course of the petition itself changed to the gender-specific demand of 'injured' husbands to prosecute wives and demand compensation from the paramours. The petitioners wrote that 'divorce is not what the Indian (male) desires, but to guard his household and if his rights are invaded to obtain redress and satisfaction'. The husbands were assured that, 'legal redress being placed within their reach, few wife murders will occur'. The possibility was thus held out of exchanging a 'violent passion' for monetary compensation.

The calculus of exchange was not new. In 1870 Crosby had suggested to the British Guiana Commission that in case of a wife leaving the husband for another man, the 'seducer', apart from being punished, should also be fined and the money thus got should be paid to the husband. This, he had hoped, would entirely do away with the cases of wife murders.

In 1883, the question of compensation to husbands received serious consideration in official circles. Interestingly, precisely in 1882 the law of crim con that allowed a husband to sue for damages from a paramour had been abolished in England and the right of an abandoned woman to sue for damages from her husband established. Yet in the colonies the aim was solely to compensate the 'injured' husband so as to dissuade him from murdering the wife. The British Guiana Governor wrote in 1883:

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85 The original petition and the discussion around it on which large part of this section is based, in Emig. A, August 1884, Prog. no. 21–22, NAI.
86 RBGEC, Evidence Vol. Q3479.
The instinct of the injured man is to avenge himself by slaying the woman, and the practical question is whether he can be by any means induced to exchange this barbarous form of vengeance for the more civilised one of recovering damages from his successful rival.\textsuperscript{87}

The important point here is that the desire for revenge on the part of the husband was represented as normal and understandable. Hence the emphasis on assuaging the feelings of the 'injured' husband. The form of revenge, however, now was to be 'civilized'—money in return for life.

Significantly, no notice was taken of the original wording of the petition which had asked for the right to civil damages for \textit{both the spouses}. The 'injured' husband and his passions seem to have overridden any notion of equity. The Law Member of the Council in India noticed the omission:

\begin{quote}
... the petitioners seem to contemplate also of a wife prosecuting her husband for having sexual intercourse with another woman ... we do not support it ... I would not admit the sauce for the goose, sauce for the gander argument.\textsuperscript{88}
\end{quote}

The law makers felt no need to go into the question of the rights of a woman who was abandoned by her husband for another woman, since as the government of India reasoned '... there is not the same need for strong measures as in the case of the husband suing the paramour'.\textsuperscript{89}

The discourse on the construction of the family being premised on the 'unfaithful wife', the category of the 'unfaithful husband' did not exist at all. So to invest the woman with equal right to sue for damages would in fact have led to greater instability of the 'family'. The law member was frank enough to admit that 'if you give the woman facilities for prosecuting her husband you would break up half the families in the place.'\textsuperscript{90}

In the \textit{interest of the family}, therefore, the statutes granting the right of the husband to have access both to criminal prosecution and civil damages were incorporated into the marriage law ordinances by the 1890s.\textsuperscript{91} These

\textsuperscript{87} H. Irving to SOS Colonies, 5 December 1883, in Emig. A, August 1884, Prog. no. 21–22, NAI.
\textsuperscript{88} Note of D.F. Fitzpatrick, 23 June 1884, in Keep With (K.W) to file in Emig. A, August 1884, Prog. no. 21–22, NAI.
\textsuperscript{89} GOI to SOS Colonies, 16 August 1884, Emig. A, August 1884, Prog. no. 21–22, NAI.
\textsuperscript{90} Ibid.
\textsuperscript{91} The first case of \textit{crim con} under the new marriage ordinance (no. 23 of 1891) in Trinidad came up for decision in the District Court of San Fernando on 30 June 1893. It generated tremendous public curiosity and a packed court room. Neharoo accused Beharry of having an affair with his wife Radea and demanded 50 pounds as compensation. The prosecutor argued that his client deserved compensation for the loss of his wife's society as 'he had instead of adopting the use of the cutlass, so common amongst his countrymen, had recourse to the law which will and must protect him from such outrages'. The judge though inclined to
ordinances, explicitly in some cases and implicitly otherwise, deprived women of similar rights.

By the end of the nineteenth century the legal construction of the Indian family was complete. In the process it had empowered the husband and immobilized the wife, robbing her of rights as an equal subject. The power of the state was now put at the service of a patriarchal family installed by law.

In one important way, however, the intentions of the law makers did not bear the desired results. After the marriage laws had been put in place they had hoped for speedy and universal registration of Indian marriages. Even though the Indian form of marriages, both Hindu and Muslim, had been recognized, their validity was dependent on extremely bureaucratic forms of registration. The rate of registered marriages under the ordinances remained low for a long period. In the post-indenture period there was increasing demand from the Indian community that the state recognize the form of Indian marriages without the need for registration. The history of this struggle with the state is however an important moment in the cultural formation of the Indian community and cannot be fully discussed here.

It is important to emphasize, though, that the contest was primarily over the legal form of the marriage and never over the fundamental assumptions of the colonial construction of the family inscribed in the coercive sections of the marriage ordinances. In Pateman’s terms what was contested was the form of the marriage contract and never the content of the sexual contract. Even after the Indian marriages were legally recognized (1931 and 1946 in Trinidad and 1958 in the British Guiana), the punitive sections of the ordinances were retained. It might be added that in the Caribbean it is only the Indian community whose marriage laws contained explicitly these punitive sections while the general law of marriage of the colony contained no such provisions. In that sense then, the nineteenth century legal construction of the Indian family has been eminently successful. The shades of ‘unfaithful’ wives and their ‘violent’ husbands, still hover over the Indian family in the Caribbean.

Conclusion

In this paper I have outlined the construction of Indian family as a legal object, locating its emergence within three sets of transitions, more or less coeval: first, the transition within the official discourse as it slowly shifted from a discourse on wife murder to one on the family; second, the transition in the role of women on the plantation; and finally, the overarching
give the maximum compensation in view of the importance of the case and the presence of a large number of Indians in the courtroom, reduced the penalty to ten pounds in view of the ‘fact’ that Radea was of a ‘loose character’. San Fernando Gazette, San Fernando, 4 July 1893.
shift in the objective structures of the labour regime. The family as a legal construct or as an object of legal discourse was however not coincident with the Indian family as a social and cultural entity that took shape on the ground. Not all Indian families became what the colonial construction made them out to be, and neither did Indian women all recede into the confines of their husbands' homes. There was resistance, and successful resistance at that, against the imposition of patriarchal norms. But neither was the family as legal construct a mere fiction in the minds of officials and planters. It altered the contours of the struggle that marked the formation of the Indian family. The social history of the Indian family in the Caribbean plantation colonies cannot be written without an account of the cultural values and ideals, contested as these were, which the Indian labourers invested in the institution. But nor would it be complete without an understanding of the ways in which the legal construction of the Indian family itself became an important ingredient in the shaping of these values and ideals. This paper is written as a first step towards an understanding of the complex interaction between representation and reality of the institution of Indian family in the Caribbean colonies.

Abbreviations

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<tr>
<th>Abbreviation</th>
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<tbody>
<tr>
<td>BG</td>
<td>British Guiana</td>
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<tr>
<td>CO</td>
<td>Colonial Office</td>
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<td>IOL</td>
<td>India Office Library</td>
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<td>NAI</td>
<td>National Archives of India</td>
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<td>PRO</td>
<td>Public Record Office</td>
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<td>SOS</td>
<td>Secretary of State</td>
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