

Season 4, Episode 8 (May 2023)

Mini-series
The Revolutionary Potential of Transitional Justice

Transitional Justice and Reparations for Slavery and its Ongoing Legacy in the US

Welcome to Justice Visions. The podcast about everything that is new in the domain of Transitional Justice (TJ). Justice Visions is hosted at the Human Rights Centre of Ghent University. For more information visit JusticeVisions.org.

Tine Destrooper: Welcome to this new episode of Justice Visions. This is our third episode of a miniseries on transitional justice and protest. And in that miniseries, we're looking at the revolutionary roots, but also the revolutionary potential of transitional justice is, when it's used in non-scripted ways or when parts of the transitional justice toolkit or rhetoric are used by social movements. With me today is my co-host, Cira Pallí-Asperó. She's a postdoctoral researcher at Justice Visions. Welcome, Cira.

Cira Pallí-Asperó: Thank you!

Tine: And in today's episode, we're going to be zooming in on the United States and the struggle for reparations for the enslavement of people of African descent, as well as for the associated legacy of systemic racism and dispossession of African Americans.

Cira: Yes, and we'll explore how the struggle can be understood in light of the last two episodes in which we talked about the MENA region and the case of Peru, and where we also discussed how activists try to tap into the disruptive potential of transitional justice language and initiatives.

Tine: And with us today is Professor Joyce Hope Scott, she is a clinical professor of African-American and black diaspora studies at Boston University. And she's also co-founder of the International Network of Scholars and Activists for Afrikan Reparations, which is also called INOSAAR, which is an international network dedicated to reparations and to other forms of transitional justice for the enslavement and the genocide of peoples of African descent. Welcome, Joyce.

Joyce Hope Scott: Thank you so much.

Tine: So, Joyce, we've invited you to talk about the fight for reparations for slavery in the US, but in a podcast dealing with transitional justice. And in the domain of transitional justice, I think it's fair to say that reparations are typically seen as part of a wider political project that's also about contributing to rebuilding trust between citizens, as well as between citizens and the state, which is also about the construction of new political community by remedying and by acknowledging violations and violence of the past. And what's striking then, of course, is that in this context, even if the US is not a typical case of transitional justice, all of these ambitions, of course, are also highly relevant. And so as such a call for reparations, has become increasingly widespread. And I was wondering, as a first question for our listeners who are not so familiar with this debate, if you could tell us a bit more about the history of these claims for reparations for African-American people in the United States?

Joyce: I would like to preface my discussion of African-Americans struggle in the United States by locating it in a global context. And that is to say that what's called trans-Atlantic slavery, which, of course was trafficking, was not a trade at all, affected the continent of Africa, the continent of Europe, South America, North America, Asia. There is not a continent that was not affected in some way or other by the forced movement of African people. This forced movement, of course, represents a theft, a loss, a displacement, and it initiated an ongoing and continual movement of migration of those people to status of kind of a homelessness or *exiliness*, particularly as it applies to those people in North America, more so than in the Caribbean. This is the case because after slavery was over, there was no *quote-unquote* 'resettlement' of those people on land where they could in fact engage in some kind of restorative process of healing of citizenship building, of community building, of family rebuilding and those kinds of things. So reparations for slavery is a global movement that advocates the position that restitution and repair are due to African descendant people. This theft of people and their humanity, their uncompensated labour, the genocide, the illegal and inhuman trafficking that their ancestors were involved in. Also since the abolition of slavery in the Caribbean in the 1830s and the broader Americas in the 1860s and 1880s, the progeny of these original people have continued to suffer horrific crimes. So this struggle, in fact, is not a new one. It is a very old notion. The idea of reparations is quite old in the United States.

So while the United Nations proclaimed in 2013 the International Decade of People of African descent, this was preceded by a number of actions generated by former victims in the United States. In terms of an official legal action, maybe the very first one, we trace back to 1783: a case brought by Belinda Sutton against Isaac Royall, by Belinda Sutton, who had been in captivity to him, and she filed a claim with the Massachusetts General Court of Massachusetts and sued for reparations. Following that, you had a number of other movements, the Declaration of the National Anti-Slavery Convention in 1833 – all these are in the United States. Then we go early into the 20th century with Paul Robeson and his famous words "We Charge You Genocide"-petition of 1952. Even Dr. Martin Luther King's Memorial address in 1963, in which he use the words: "we've come to collect on a check, that has bounced", and the idea that he's talking about reparations. You have the Republic of New Africa, 1968, or James Foreman's Black Manifesto. this is a very old, long, strong struggle in the United States. And now what we may all be familiar with, of course, is the H.R. 40 piece, first set out by John Conyers in 1989, but finally has seen the light of day in Congress. So that's been a hearing at which many people participated, including Danny Glover, Ta-Nehisi Coates, and other people of that nature. So that's where we are nationally in terms of some very brief background to reparations in the United States.

Tine: Thank you so much for offering that map. It also makes me wonder, if we fast forward to today's situation, if you could talk a bit more about the nature of the demands that are being made, by which I mean, of course reparations can take on a range of forms, and within the practice transitional justice, it's been conceptualized as restitution or compensation, but also symbolic reparations are possible in the form of acknowledgement, recognition of suffering, apologies, memorials, commemorations, you name it. And I was wondering if you could speak a bit more to the question of what the nature of the most pressing or the most visible demands is for the historical and ongoing harms in the struggle as it's shaping up today?

Joyce: You targeted the issue quite nicely in listing all of those features of reparations. I think that one of the biggest issues around reparations today is the discussion about what constitutes reparations. What would it be? A lot of effort in the past has been focused from the legal, political and economic circles around a kind of restitution or compensation, if you will, an attempt to attach a financial type of compensation to the harm that was done by enslavement. I think most people and many organisations like N'COBRA and NAARC and other national

organisations like that, as well as many scholars and so on would disclaim that as the solution. Because indeed, the point of the matter is what happened to captive African people is not something that can be paid for. What people are seeing more and more now is that the idea of reparations is restorative justice, it is transitional justice, because it indeed extends beyond the event of slavery. It is the things that happens, the legacy and the subsequent force of that enslavement that concerns people today. Because the fallout, if I might use that term from that, has been vicious and it is visceral and visible to date.

Across the country in this period following slavery, there was another period that someone like Professor Douglas Blackmon, calls 'slavery by another name'. We talk about the convict lease system where people were picked up for vagrancy. That was the way to get the South free labour again, back again. These things are a part of the call for reparations. These things are what people want repaired, addressed in terms of atonement or apology or transitional justice.

Giving money to people who were enslaved is a non-conversation. Obviously, their descendants suffered. And if there is going to be any kind of restitution monetarily, of course we have to consider that the people aren't even here anymore, but their descendants are continuing to justly get the restitution and the compensation that they need.

So the conversation is moving to be more inclusive than just the act of enslavement, to look at the harm, the dispossession and the visceral racism that has infected every institution in this country. And thus, because of that, affects the opportunities, the life chances and the performance of citizenship that has been awarded to African black people. Let me just say, they may not all be people who descended directly from slavery, but people who are black people and African descended people in this country suffer and get the brunt of the racist structure that has been in place. This is the thing that has to be addressed, thus the need for transitional justice – absolutely. Though we're not a country in transition, we are a country in transition, essentially away from something visceral and vicious like racism.

Cira: I would like to ask you a couple of questions about the INOSAAR project. One of the aims of the project is to change precisely the public misconceptions about reparations and reparative justice. Can you tell us a bit more about what these misconceptions are?

Joyce: Yes, that that is essentially INOSAAR's main mission. And that is the first thing, that we talk about misconceptions that INOSAAR wants to change. Just the term slaves: the people captured and trafficked were not slaves. They were regular people like you and me, who were priests and priestesses, who were farmers, who were warriors, mostly warriors, who were seers, who were royal people, who were of all spectrums of life, who were just suddenly and abruptly taken from their homes, from their lands and so on – to which they never returned. They were misnamed and reassigned a status. They were never, ever again allowed the chance to be Ashanti, to be Tuareg or whatever they were. They were henceforth Negros or worse yet, the other n-word, coloured people, and the hundreds of other names that they were given. This is the first misconception, that we're talking about a trade. There was no trade. You had a body of people stolen and trafficked across the Atlantic that were turned into chattel property, that were misnamed and dehumanised and used in every aspect of their being for the benefit, the undeserved benefit, of somebody else. So we first decided that it is the language that needs to be changed. The idea that slavery is over and its effects are over is what now makes us use the term Maangamizi. It's a Swahili word, it is ongoing harm, ongoing dispossession. So there's a big movement to look at the language, to make sure that we wrest from the hegemonic structure, from the imperialist discourse those terms that the affected communities best feel identify them.

The other misconception is that we are talking about the possibility of rectification of the harm by a check of some type. But again, it's too easy to say, okay, we've given you all \$100,000, so now go away and don't bother us again. That is not what this is about.

And also people who have dominated the conversation, and have done a wonderful job - I'm not criticising them - the legal scholars, economists, the historians who have gone back and done extraordinary work of getting valid information. But the conversation has remained there, at the level of scholarship, again, not allowing Indigenous knowledge to come through. Not only indigenous people of Africa, but the indigenous people of the Caribbean, of North and South America, who are the regular people who are in a state of dispossession now; they have not spoken. There is no way to restore, to repair people who are not at the table.

There are other kinds of misunderstanding, which is that slavery, the transatlantic version, was something that somehow concerns those people in the diaspora who were the victims of that trafficking, or the descendants of, and not Africa. We in INOSAAR, and our constituency, see an unbroken link and inseparable connection between the African continent and those who stayed and those who left. What are the implications of the psychic, the spiritual, the emotional damage of that creation of orphans. Because what we are, as Marlene NourbeSe Philip calls it, is epistemological orphans. So there's a whole effort of research and of reconnection that we do at the level of Indigenous knowledge and Indigenous people who are going to help us fill that in and help broaden and make it more effective. So the conversations gets much bigger, much more global. And the implication behind this idea of transitional justice is that this is not going to happen again, that there will be healing.

Cira: This is really interesting, and there is one thing that you mentioned in your answer that I would like to pick up in my next question. You were saying that there is this need to expand on the focus of legal and economic arguments for reparations to include cultural, spiritual, environmental, psychological approaches, And I would like to ask you, could you give us an example of good practices that you have been able to identify through the network of INOSAAR?

Joyce: I think that there are some good reparatory efforts that are being made in the United States. There is the state of California that is looking at making available housing opportunities and so on. I think that there are good things that are happening. I think people are engaged in the restoration of sites of memory that have been erased relative to the experience of captive Africans, the revelation of hidden truths and hidden realities, of universities coming forth and acknowledging their role in the trafficking of African people. The Bank of England recently acknowledging, you know, the church and other places... I think these are good things that are happening. And so I refer to them as positive kinds of gestures by way of opening the dialogue and broadening the dialogue,

What I also want to emphasise, which is not so well known, which I think is crucial, is what I'm calling efforts at Rematriation. Rematriation is a term that Indigenous people of North America have talked about, and it is the idea of revalorization of cultural, spiritual, psychic, psychological reconnection. At INOSAAR we've got our current project which is rematriation and planet repairs: this is an issue of the planet. If you think about the African cultures that people came from, these were traditional people who were bound to the land and they weren't separate from the land. These movements among Indigenous people, to preserve, to revalorise, to reclaim, to teach the young to, in other words, dispossess them of the colonised mind, which is the big danger, the big legacy in addition to racism is also the colonial ideology of deficiency that was

implanted in the minds of the people that were colonised. These efforts on the parts of traditional people, community people, even schools to relearn or to pass on to children their culture in the face of the dominance of, let's say, English or French or Portuguese or whatever school systems that were imposed upon them. So there are efforts on the part of these people to address that, to indeed reclaim the minds of themselves and their children. It's not a big, massive movement, but it is something that encourages me.

What we do, as INOSSAR, we've written a number of articles together, scholars and activists. We've got reports. We were able to get what is called the Porto novo Declaration in International Conference of 2018 and in been in the Republic of Benin, signed by the dynastic kings, all of them, to support the idea of reparations and to call on the AU [African Union] to in fact support all restorative justice and reparatory actions. These are encouraging to me. The efforts at universities to claim their role in the trade and the gestures they're making are encouraging. None of this in any way gets close to solving the problem, but I'm encouraged by these efforts.

Cira: And I'm listening to how you structure your answer about these conceptualisations and all of these initiatives happening. And I'm wondering: what are the implications of these dynamics, and of this particular struggle that you're describing, for the broader field of transitional justice?

Joyce: Yes, I think that, once countries say we apologise, the next step is some action. There's a tort out there that has to be addressed. What are you going to do now? The next step is to sit and discuss with the people that have been harmed. The biggest mistake that we have been heading toward is people who were engaged in the ill, in the wrong, wanting to determine what the resolution should be. This has to be changed, because the people who are implicated have to be at the table. They have to say what they need. In fact, they said what they needed in the United States, and other place, in fact, Brazil, Jamaica, right after slavery was abolished, they said: What we want is land. What we want is land of our own, where we can go. And build our community and heal together. The operative word here is heal. Because they knew they had been damaged. But what had been done to them was not a violation of their justice, of their physical body, their labour, etc. What has been done, as the United Nations points out, is a crime against humanity. That has to be addressed. And in order to address it, it is a global issue, because the building of the Atlantic world - the modern world as we know it, was built on the backs of enslaved Africans people and their labour and their dehumanisation and inhuman treatment. That has to be addressed. It has to be acknowledged. People have to say, I'm sorry and what can I do? How can I make this up? What do you need? I don't mean to minimize and make fun of this thing. It's not that way. My point is, it's very simple. The unearned assets and unearned wealth that people got, didn't go anywhere. Money never loses value. It just augments, and it goes from family to family. And as one group of people profited, the others were affected and dispossessed. So that has to be addressed and it's a harder conversation because it's so much easier to say we're just going to write a check and say goodbye. That is not what's going to happen. It cannot happen that way. We missed all those opportunities to do other kinds of things. So it has to do with land. It has to do with healing of those whose souls were ripped apart by this event. And that is the most important thing that has to be on the table, first and foremost, and the people themselves are the ones that will tell us how that should happen.

Tine: I want to maybe link that to a conversation that we've had with a couple of other guests in this miniseries, which is a conversation about accountability, which by all means is a building block of transitional justice. But then, of course, with the kind of harm and injustice and violence that you're talking about, that necessarily, I think, takes on a very different form from what we typically observe in more paradigmatic transitional justice cases. And I was wondering if you

could speak to that point of how we could start to think about accountability in a way that makes sense in these struggles.

Joyce: I think that a forum was instituted with the Durban conference that was an opportunity to begin that conversation. And indeed it was begun, except by those who walked out because they didn't want to face the issue of racism. So I think that this mechanism that's been set in place globally. The United Nations, the occasion for the nations to come together and discuss issues. The ills that are happening that are a result of enslavement and colonisation and neo-colonialism, which continues to reign supreme here in the world today, is not something that that has happened in the past. It's continuing to happen right now. It will probably not be so easy to get a global meeting of everybody sitting around the table who are implicated in this crime at the state level, at the level of statehood. But what I think can work, and seems to be working is what's going on at local and city and state levels. People are coming together. together. The people of California decided that they wanted this. The people of Ohio decided this. The students and the faculty at Harvard University decided they wanted that honour to Isaac Royall taken down from the Law School. They decided that. And here is why I am saying this, the reason that slavery worked and colonialism worked is because of laws, laws that were constructed not natural and moral laws. Those convenient laws were put in place to hold people in captivity, to strip them of their rights to protest and all those other kinds of things across the globe.

My approach has been that you got to understand how this worked, and it worked because of law. And to undo something that was done by law is what has been happening in the United States since the 1954 Supreme Court decision, since the Civil Rights Acts of 64, 65 and 75, and so on and so forth. These are initiatives that are legally undoing and deconstructing those things that have been put in place. There are international laws about reparations that are due; we don't have to come up with new laws. They're on the books. Thankfully, after World War II, because of the horrors that happened during that genocide, these international laws have been put in place. You know, the harm was done. A crime was done. How can you handle it? How should you handle it? Conversations need to be happening at local, at the level of communities that of students, of churches or other religious organisations and so on. The people. The people. The people. The people implicated and those of goodwill who see the necessity to right a terrible wrong. Those people who are profiting, and profiteering, are not anxious to sit down at the table and do anything that's going to rock their boats. But it's the people themselves who've always been the ones who initiated the changes. That is what I believe.

Tine: Thank you so much. And I actually think that you're also answering what we typically always ask as a last question of our interviewees, which is where you look for inspiration and which evolutions you see that make you hopeful that change can happen. So I think you have answered that question already. So I am just going to wrap up by just thanking you for this very encompassing and very in-depth understanding that you've shared with us. I have another ton of questions that I want to ask you; but what we will do instead is we will just link to your work and the work of INOSSAR in the show notes so that people can also read more about it if they want more information. And now I'm just going to thank you. And for our listeners, we have one last episode of this miniseries on TJ and protest next month. Joyce, thank you so much

Joyce: Thank you so much.