



Caste in a new light: Jati in British multiculturalism

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Abstract

Advocates of multiculturalism claim that it supports the rights of cultural minorities and the public recognition of cultural differences. However, this article shows that this cannot be true of Indian culture as it has become transported to Britain, where multiculturalism actually poses a threat to it. Using the resources of the research programme of the Ghent School on the comparative study of India and Europe, this article substantiates this claim by showing how the dominant conception of cultural differences as well as the classical conception of the Indian caste system, which takes over the Indian social structures of jati, are both imported by multiculturalist thought and practice. The concretizing of British multiculturalism in the form of anti-discrimination law is not only anticipated by a destructive politics of identity, but the law itself can be used to foster the destruction of Indian culture on the pretext of targeting the discriminatory caste system.

Key words

Caste; jati; multiculturalism; cultural differences; anti-discrimination law; Bristol School; Ghent School

Resumen

Los defensores del multiculturalismo afirman que éste apoya los derechos de las minorías culturales y el reconocimiento público de las diferencias culturales. Sin embargo, este artículo demuestra que esto no puede ser cierto en el caso de la cultura india, ya que se ha trasladado a Gran Bretaña, donde el multiculturalismo supone en realidad una amenaza para ella. Utilizando los recursos del programa de investigación de la Escuela de Gante sobre el estudio comparativo de la India y Europa, este artículo

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corroborar dicha afirmación, mostrando cómo la concepción dominante de las diferencias culturales, así como la concepción clásica del sistema de castas indio, que recoge las estructuras sociales indias de jati, son ambas importadas por el pensamiento y la práctica multiculturalistas. La concreción del multiculturalismo británico en forma de ley antidiscriminatoria no sólo se anticipa a una política destructiva de la identidad, sino que la propia ley puede utilizarse para fomentar la destrucción de la cultura india con el pretexto de atacar el sistema discriminatorio de castas.

Palabras clave

Casta; jati; multiculturalismo; diferencias culturales; ley antidiscriminatoria; escuela de Bristol; escuela de Gante

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1. Introduction

Advocates claim that multiculturalism supports the rights of cultural minorities, the public recognition of cultural differences, and an inclusive conception of nationhood. However, from the way its advocates and practitioners think of, devise and implement policies and laws, multiculturalism cannot hold out support for Indian culture, and it even connives in or participates in its destruction. This claim presents a kind of puzzle or paradox: *how can multiculturalism lead to the destruction of a culture if its justifications and aims are the opposite?* This article demonstrates the plausibility of the claim through the instance of the recent law on caste discrimination in Britain. One of the targets of the law is the jati phenomenon, a commonly found component of the Indian culture. Although what jatis are is hard to pin down, observers agree that they proliferate in the Indian culture. A brief account of jatis will show how they can be viewed from within three distinguishable research frameworks currently in play, the dominant one of which is termed the classical conception of the caste system. The article then turns to an examination of some main strands of multiculturalist writing as they apply to caste and, by extension, to jatis. With greater attention on the “Bristol School” of multiculturalism, this article shows how multiculturalist thought is at best indifferent to caste and, at worst, it underwrites the destruction of jatis in the form of caste by its subscription to the classical conception of the caste system. To demonstrate how multiculturalism bears down on jatis, the discussion goes beyond mere writing on multiculturalism, by showing how anti-discrimination law embeds multiculturalism. This focus is important as it is to Britain’s anti-discrimination legal framework, the Equality Act 2010, that caste has recently been added. In a contemporary recurrence of the racialisation of Indian culture by western observers in the figure of the caste system, caste is tacked onto race and portends its destruction through this multiculturalist law. Although the law obliquely targets an entity which exists only in the experience of western culture, it leaves behind it a trail of destruction, antagonism and hatred.

This article proceeds from the hypotheses of the research programme on the Comparative Science of Cultures or, as it has recently been baptized, the “Ghent School” (Sutton 2018, De Roover 2019). Among the hypotheses from the Ghent School’s research programme, pioneered by SN Balagangadhara, three claims are relied upon here, and constitute the background to the ensuing discussion. Briefly, they are as follows:

(1) The first is Balagangadhara’s hypothesis of culture and cultural differences (Balagangadhara 1994, pp. 395–437; 2012, pp. 24–33). As I have tried to put it, this conception of cultural differences construes them as being constituted in epistemic terms (Shah 2021). According to Balagangadhara’s hypothesis, cultures differ according to the resources of socialization they make available to human beings, and these resources are composed by a configuration of learning, that is, the way in which a relation of dominance and subordination arises between types of learning processes and the corresponding teaching processes. In western culture, theoretical learning has taken a dominant role, subordinating other forms, whereas in the Asian culture performative learning takes a dominant position. The resources of socialization available to and made use of by individuals vary accordingly. This hypothesis has several virtues and consequences which should aid us in the ensuing discussion. For instance, plotting cultural differences accordingly as learning mechanisms differ avoids the problems with

“standard” ideas about cultural differences. For instance, the multiculturalist political philosopher Kymlicka (1995, p. 18) identifies cultures according to institutionalization, territory, history and language. But in later writing focused on Asia, Kymlicka backtracks on the salience of such factors, which suggests an admission of their derivation from the western cultural experience (Kymlicka and He 2005, p. 1). Balagangadhara waives reliance on such factors (Balagangadhara and Rao 2021, p. 41). His hypothesis not only avoids but also accounts for the trap of seeking foundations to cultural practices, a characteristically observed compulsion in the broad sweep of theorizing which intuitively postulates that practices presuppose beliefs (Dhahreshwar 1998). Deriving from the assumptions of Christian theology, this search for belief states to found human actions has become secularized in the form of a broad western cultural tendency. Consistent with this tendency, the dominant accounts of the Indian caste system seek its foundation in the scripturally grounded beliefs of Hinduism (Balagangadhara 2012, pp. 102–104, 230–232; Fárek *et al.* 2017). As the following discussion will bear out, this tendency is either explicitly or implicitly found in the writing on multiculturalism in general or in so far as it specifically touches on caste. This article is concerned with the outcomes of this tendency that propels further societal problems as policies and laws against the caste system are built on it.

(2) Another of Balagangadhara’s hypotheses relied on here is that, other than as a part of the western experience of India, the caste system does not exist (Balagangadhara 2012, pp. 51–55). It does not describe India’s social organization and culture but lends stability and coherence to the western experience, enabling westerners to go about with Indians. Significantly, in the current issue, Jalki expands this hypothesis by making a plausible case for Muslim accounts of India as having predated and anticipated these western descriptions. Balagangadhara’s claim has not, as far as I know, been refuted, but has proven productive in several ways (Shah 2015a, Fárek *et al.* 2017). Without this hypothesis, we would have to go along with the dominant account of India’s caste system characterized by oppression, hierarchy, endogamy, ritual purity, occupational constraints and so on, which doesn’t withstand scrutiny of the evidence from India. However, these characteristics are “standard textbook trivia today” (Balagangadhara 2012, p. 239). The continuity between the currently dominant story of the caste system and the colonial experience makes the contemporary experience problematic. Even though Indians frequently use this textbook version to describe their own culture, as an entity in the western experience, the caste system story is inaccessible to Indians. Balagangadhara accounts for this through the concept of colonial consciousness, a cognitive state of the colonized which prevents them from accessing their own experience. While the western cultural experience also remains inaccessible to them, colonial consciousness leaves in place the terms of description introduced through colonialism which supplanted the native experience (Balagangadhara 2012, pp. 95–120). It is the presence in the background of the “standard textbook trivia” about the Indian caste system upon which rest the adoption in Britain (and in other countries) of laws against caste discrimination. In both Britain and California, litigation alleging caste discrimination is further rupturing the social fabric. Although espousal of the caste system’s existence and a commitment to fight it seems *de rigueur* for public life within India, its portrayal in school textbooks outside India has generated conflict with parents and organizations, especially in the United States, who object to the smearing of their

religion and traditions (Kurien 2006, 2007). Textbook trivia thus end up having non-trivial consequences.

(3) The present discussion draws on Balagangadhara's hypothesis of religion, which proposes that India is a culture without religion, and the discovery of "religions" like Hinduism, Buddhism, Jainism and Sikhism is the result of a theological imperative that presupposed the universal existence of religion (Balagangadhara 1994, 2010). Like the caste system, Hinduism is an entity in the western experience of India and, as with the caste system, its frequency of invocation is no guide to its existence. It is in protestant Christian accounts that we find a uniting of the two entities, the caste system and Hinduism (De Roover 2017). As a false religion, the latter was (and is) said to constitute the religious foundation of the former as the oppressive system that is widely considered to exist today in India and wherever Indians have settled. While the Christian theological accounts have become secularized in the theory-making about Hinduism and the caste system, the secularized theories nevertheless compel us to attest to the truth of those very theological claims.

2. Jati

An aspect of Indian culture are its social structures of jati. The term caste has been used by Europeans to refer to a whole variety of different phenomena both within and outside India. Initially, the term caste was used to refer to varna, and eventually interchangeably used to point to varna and jati (Dirks 2001, pp. 19–60) as well as many other terms including biradari or kula. It is therefore unclear what caste specifically picks out although it has often been used to refer to jatis. If research is to make progress, this ambiguity or nebulosity should become an object of inquiry and, as we go along, it will become clearer that this attribute is prevalent within the conceptual language of caste studies. Notwithstanding the ambiguity and multiplicity in the conceptual language on caste, jati has been noted as being "the main sociological referent of the word 'caste'" (Bailey 1963, p. 108) and more recently as the "paradigmatic usage" of caste and as the "operational units" of the caste system (Dhanda *et al.* 2014b, pp. 4–5; Waughray 2014, p. 363 in almost identical terms). A fairly commonplace observation is that, with Indian emigration, caste and jatis also travel. Thus jatis constitute one of the routes along which Indian social structures get transported outside India. Although similar claims can be seen with respect to people from other countries in South Asia, as well as about non-Hindus, the discussion in relation to them is somewhat more tempered, less insistent, and lacks the same moral angst. These messages are conveyed by anthropologists, South Asia scholars and others (Werbner 1987 for older studies; several chapters in Ballard 1994a, Jaspal and Takhar 2016, Arya 2017, Subramanian 2019), as well as the emerging writing against caste discrimination in the western countries such as the UK and United States (Waughray 2009, Dhanda *et al.* 2014a, 2014b, Krishnamurthi and Krishnaswami 2021).

As we dive into the problem of jati, it may be appropriate to outline the three main traditions of research on the idea of the caste system, which are: (1) the classical conception of the caste system which, notwithstanding the variations which it exhibits, provides the dominant account of the caste system; (2) the postcolonial account of the caste system which is claimed to be a critique of the former; and (3) the response of the Ghent School which debunks the first two and argues that the caste system does not

exist. These three traditions of research are outlined here together with problems which we can detect in the first two using the insights and vantage point of the third. The first tradition, of the longest duration of over 200 years and still the currently dominant one, is the “classical conception of the caste system” (Jalki and Pathan 2015, 2017), the now “textbook trivia” version (Balagangadhara 2012, p. 239). It pulls in *jati* as a component in the overall system of castes and so presupposes that *jatis* are part of an oppressive system, are arranged hierarchically, are determined by birth, are endogamous, have exclusionary rules of purity, are occupationally restricted groups and so on. This classical conception is found across the literature on India, lending a kind of “common sense” to what India is (for a sample see Bailey 1963, Rudolph 1965, Gupta 2004, Frykenberg 2008, Béteille 2012). As Jalki and Pathan (2015) and Fárez *et al.* (2017) point out, after more than two centuries of research, we do not know what set of rules holds this system in place, what its properties are as distinguished from its consequences, what relation it has to social conflict (see also Sashittal 2023), how the properties ascribed to caste are different from other social categorizations, and indeed what the relation between caste and politics is (Raghuvanshy 2023).

Whereas caste is described as a pervasive characteristic of India and, since India’s independence, “South Asia”, its originary source is said to be Hinduism, in its objectionable manifestation Hindus are its carriers, and its most blameworthy perpetrators are Brahmins. These ideas are present in secularized form through the social sciences, humanities and beyond but they were clearest in the writings of Christian missionaries, generations among whom believed that the further away one stands from this religious core, the less the “caste spirit” is manifest (Forrester 1980, pp. 16–19). As we continue to see today, whenever caste is identified in a non-Hindu context, it isn’t regarded as having the same oppressive characteristics which Hindus are assumed to lend to it. This is consistent with how both the non-Hindu Indian religions and the Semitic religions are positioned as being against the Hindu caste system, while reform movements within Hinduism are compelled to make their stand against the caste system or some aspects of it.¹ This dominant conception of *jatis* as a component of the caste system depends on the entity in the western experience which the caste system is. *Jati* is thereby completely rent away from the Indian cultural framework and, despite problems regarding its referent, a theoretical sense is given to the term: *jati* is a theory-laden and a value-laden concept (Boyd and Bogen 2021).

It is not that there aren’t variations among different accounts of the caste system but, at the risk of oversimplification, one might say that disagreements are more about the relative importance of the components of the system rather than about the existence of the caste system itself. Jalki and Pathan (2015, p. 41) have noted that, despite the many problems in caste research, scholars “have never actually questioned the validity of the classical theory of the caste system”. Despite all the theoretical veneer given to the caste system, anomalies abound in relation to central claims about *jati* (Fárez 2015, Jalki and Pathan 2015), anomalies that create insurmountable problems in legal contexts. One set of responses by scholars, including Béteille, Gupta and Rudolph, is to emphasize change in the caste system. Although they retain the caste system in the background, one may

¹ Due to the belief in the lack of a religious sanction, one consequence appears in how Muslim castes are treated within India’s affirmative action regime (see Bhat 2017).

charitably say that theirs is a way to account for the disjuncture between the theory and evidence by invoking change in the system. This is a way of preserving the idea of the caste system against the implications of mounting anomalies.

The existence of the caste system therefore appeared to be a closed issue until the second and third research traditions developed. The second tradition is a somewhat skeptical, postcolonial account, exemplified prominently in the work of Dirks (2001). Dirks claims that whereas the caste system was not discernable in the variety of designations used in India prior to British colonialism, caste became a practice of naming diversities that grew under British domination. As Fárek *et al.* (2017, pp. 16–19) have argued, Dirks makes the welcome observation that colonial officials found difficulties in what they saw in Indian society and the categories they went about fitting what they saw into, particularly in the census, amongst all the other activity of producing accounts of Indian society. This is something others have remarked upon too (Samarendra 2011, pp. 164–174, Guha 2013, pp. 164–174). However, in a Foucauldian move, Dirks then claims that caste was “produced” by colonialism and its governmentality. That colonial rule produced some kind of social organization, the caste system, when India previously lacked it sounds implausible because it amounts to saying that a classificatory scheme adopted by the colonial state created a social order. A less generous interpretation of Dirks’ position would cast doubt on whether he has abandoned the ontological commitment to the existence of a caste system prior to British colonialism at all. In a recent lecture (Dirks 2022), he describes caste using a cluster of concepts (violence, Brahmanism, Dalits, slavery, oppression) without which the entity described as the caste system in the sense of the classical conception would be incomprehensible. This raises the question whether the veneer of postcolonial, social constructivist language employed by Dirks really signals a departure from the research tradition of the classical conception.

In providing a third research tradition on the caste system, then, the Ghent School argued that “the caste system” names the classificatory scheme but not the social order. As outlined already, the Ghent School questioned the status of the caste system by saying that there never was nor is a caste system in India. Instead, the term names the entity in the European experience of India. A key problem that faces caste research, especially in light of the route proposed by the Ghent School, comes to the fore. This is the problem of incommensurability. It is a well-known feature of the natural sciences that theoretical definitions of terms such as mass, momentum, atom, or gene get rejected (or revised) for theoretical reasons. This process may be prone to happen to *jati* also as a result of the approach to the study of caste advocated by the Ghent School. If *jatis* are one type of social structure in the Indian culture, they will answer to the dominance of performative learning in that culture. In other words, we are unlikely to locate the theoretical or doctrinal foundations of *jatis* let alone the foundation for a mode of social organization in which *jatis* proliferate, be able to ascertain the rules by which *jatis* function internally or in relation to other *jatis*, and therefore the rules which their members are supposed to be following, or to discern the principles or norms according to which members of *jatis* are supposed to orient their behaviour (Balagangadhara 2022, p. 51). A variety of Indian traditions have been described as anti-caste movements because, it is claimed, they produce doctrinal criticisms of the caste system. As Fárek (2017) and Jalki (2018) show, however, these attempts to capture the nature of these Indian traditions fail because they neither produce criticisms of a doctrinal nature nor do they exhort against the caste

system. The Ghent School hypothesis about the dominance of performative learning in the Indian culture instead points to jatis constantly evolving as a result of criticism of and reflection on *action*, and not as a result of contestations about doctrinal beliefs. It is thus that we might understand the import of the description by Venkat Rao (2014, 2018) of human jatis as exhibiting bioculturality, mnemocultural retention and transmission through oral or gestural performativity (the “bodily archive”), proliferation, heterogeneity, and so on. If indeed jatis (and kulas) “are how Indians relate to each other, to the world and to oneself” (Jalki 2018, p. 165), future research will have to show how we should reflect on them.

The social sciences approaches that fall into the first (classical conception) and second (postcolonial) groups that we have discussed above have not formulated a theory of jati as such, and we have outlined why their use of the caste system (into which they pull jati) to describe the Indian culture fails. So, while jati may appear to act like a theoretical term within the social science accounts of the caste system, as we will continue to see, the question of its referent is fraught with problems. Although jati plays some kind of vital role in caste system theories of the social sciences, which should make jati into a theoretical term, they cannot say what they are referring to in using it. Neither can the social sciences account for jati as a site of practical knowledge in the Indian culture, which is a question that only opens up through the research programme of the Ghent School. The situation described here can be said to fall into what has been referred to as the incommensurability of scientific theories (Oberheim and Hoyningen-Huene 2018). This can occur at a taxonomic level and at a methodological level and affects the meaning of observational terms by reference to the theoretical framework being used in the background. Thus in the respective approaches of the classical conception and Ghent School, the conception of jati and the ways of studying it are incommensurable. Attempts to reduce the comparison of the dominant classical conception and the Ghent School’s alternative as though the latter are “deniers of the caste hierarchy in the Hindu tradition” (Dhanda 2015, p. 36) while the former supports the annihilation of caste, including by legal means, therefore become quite problematic and miss the point. This is illustrative of how the dominant research tradition on India can only grasp the challenge produced by the Ghent School within the limits of the former (De Roover 2019). Such reduction is not possible because they are simply working according to different theoretical frameworks, speaking in a different language, as it were. As we see below, the multiculturalists are also under the sway of the classical conception’s research tradition, which limits their range of responses when claims of caste discrimination in Britain are raised.

As Jalki and Pathan (2015) have explained, the lack of fit between empirical observations and the classical conception of the caste system which has been emerging for longer than a century has led to all kinds of ad hoc though implausible justifications, including the attribution of anomalous outcomes as characteristics inherent to the Indian society and culture. Based on the Ghent School’s research programme, our response to that problem has indeed been to argue that the caste system describes the western experience of India but not an existent feature of India. Even though the classical conception uses “facts”, as pointed out above, these facts are both theory-laden and value-laden, while completely unrelated facts are clubbed together to give coherence and unity to the idea of the caste system. As Balagangadhara (2012, pp. 3–5; 2022, pp. 15–19) shows, the facts of these

claims can even be used to show the opposite of what they are claimed as evidence for. Although the “classical conception” persists, one might have assumed that the matter may eventually be resolved by academic practices whereby the classical conception, as a “degenerative” research programme, ought to be replaced by the more “progressive” one offered by the Ghent School (Musgrave and Pigden 2021). However, that is not all. Some of the scholars, activists and institutions who hold to the classical conception have also supported the erection of legal mechanisms to advance an attack on the caste system, thereby forcing legal systems to reckon with the resulting ambiguities and anomalous claims.

When referring to jatis, existing writing on Indian settlers and their offspring in the UK similarly and invariably presupposes the classical conception of the caste system. In his introduction to the now classic book *Desh Pardesh: the South Asian Presence in Britain* (Ballard 1994b, pp. 24–26) provides this account of jatis:

There is, however, one sphere in which no other groups have yet followed Indo-Caribbean practice: that of caste. As every subsequent chapter shows, caste remains a crucial feature of social organisation in almost every settlement. Yet despite its centrality, nothing provokes more bafflement and indignation among outsiders. It is therefore vital to look briefly at both the ideological foundations and the practical consequences of this most Indian of institutions.

In ideological terms, both differentiation and the functional interdependence of the component parts so differentiated is basic to the Hindu vision of the logic of the cosmic order. Hence the social order (which is itself viewed as a microcosm of the wider universe) is conceived of not as a collection of autonomous individuals all pursuing their own independent goals, but rather as a complex system of interdependence where every component makes its own unique but necessary contribution to the operation of the whole. What this means in practice is that Hindu society is seen as arising from the interactions between a multiplicity of occupational specialists, where Brahmins perform rituals to please the gods, kings rule, merchants trade, farmers cultivate their land, and craftsmen of many kinds exercise their skills, while polluted menials serve all their superiors by removing the impurities which the latter continuously accumulate as a result of cosmic, local and personal entropy.

Although this system emphasises cooperation and reciprocity, it is also explicitly hierarchical. Brahmins, as the epitome of ritual purity, stand at the top; rulers, traders, farmers and craftsmen are spread out along a steadily descending scale, down to groups right at the bottom which are often described as ‘Untouchable’ — although ‘irretrievably impure’ is a more exact term. Hence throughout the subcontinent the population of every village is divided between a number of hereditary, endogamous and occupationally linked groups known as *zat* or *jati*, or in English as castes. At least in principle, every such caste has a fixed and unchangeable rank, while its boundaries are maintained both by the hereditary ascription of occupational specialism and by a rule of endogamy which requires that all marriages must take place within the *jati*. Yet although the tight closure and lack of flexibility which all this implies often leads Western observers to conclude that the whole system is morally objectionable, a closer examination of how it actually operates shows that it is actually much more fluid than first impressions might suggest.

In this extract can be seen the chief and recurrently invoked ingredients of the classical conception of the caste system: hierarchy, purity, endogamy, occupation, the foundation of the caste system in Hindu cosmology, and the attempt to subsume the multitude of

jatis, which populate South Asia, within a fourfold classification of varna, the so-called “varna model” of caste, that Jalki and Pathan (2015, pp. 39–42) name as “the classical conception of the caste system”. Much of the literature on Indians (or South Asians) in Britain is characterized by only occasional and passing references to jatis, but it is not concerned with any detailed fleshing out or providing an account of jatis as such, what they are, how they function and so on (Werbner 1987, Ballard 1994a, Arya 2017, Mosse 2020). Some writing dispenses with the term jati, even when it might refer to them, preferring the terminology of caste (Raj 2003, Jaspal 2011, Jaspal and Takhar 2016). The literature is, however, united by its understanding of caste and jati as derived from the classical conception.²

If the promise of multiculturalism is that the rights of cultural minorities, the public recognition of cultural differences, and an inclusive conception of nationhood are worth pursuing then one might have assumed that, along with a general concern with the safeguarding of elements of Indian culture that have landed in Britain and other multiculturalist countries, jati too should be dealt with by a commensurate concern. This is what Dhanda (2015, p. 33), an advocate of the law against caste discrimination in Britain, complains about when she writes about multiculturalism’s naturalizing of difference and consequent denial of “casteism” in ways that ought to work against the introduction of laws to curb it. We can now turn to examine whether multiculturalists really can be categorized as deniers of casteism or whether their framework and the laws endorsed within it work against Indian culture by joining in the attack against caste and jati.

3. Multiculturalism

Liberal multiculturalism, as most prominently articulated by Kymlicka, renders itself mostly irrelevant if not hostile to the discussion because the “cultures” to which this form of multiculturalism would mandate respect is directed towards those entities that would meet Kymlicka’s stipulative definition of “societal culture”, and would in turn have to satisfy its prerequisite features of institutionalization, territory, language and history (Kymlicka 1995, p. 18). Should the classical conception of the caste system be followed, Indian culture would be discounted as meriting protection under multiculturalism because it would be presumptively categorized as an encumbrance on the freedom of its members. For Kymlicka (1995, p. 8) such a culture would transgress a moral norm by oppressing group members on grounds of solidarity, religious orthodoxy or cultural purity. In a more recent contribution, Kymlicka attributes the agency for the destruction of caste (among other things) to multiculturalism itself:

But multiculturalism is equally transformative of the identities and practices of minority groups. Many of these groups have their own histories of ethnic and racial prejudice, of anti-Semitism, of caste and gender exclusion, of religious triumphalism, and of political authoritarianism, all of which are delegitimized by the norms of liberal-democratic multiculturalism and minority rights. (Kymlicka 2007, p. 100)

² Shaw (2000) provides probably the most extensive discussion of jati (zat), caste and other groupings with reference to Pakistan and Pakistanis in Britain but yet draws on the classical conception as the framework within which to make sense of her data.

Although his statement, alongside other similar claims in the same book, is all too brief and does not convey his precise thinking on the issue, Kymlicka does point to other factors which indicate that his brand of multiculturalism would not protect jatis. That is, even if one rejects the dominant account of the caste system and yet wants to recognize the salience of jatis in Indian culture, it is unlikely that they would be seen as worthy of protection since they fail to conform to Kymlicka's conception of a societal culture. Kymlicka's conception would not extend the status of societal culture or the rights that go with it to immigrants, while the people of Indian origin in countries such as his native Canada, the United States, or the UK are basically immigrants or their descendants with the bulk of them having settled only over the last half century. Whether one takes a committed or skeptical position with respect to the presence of the caste system, it would be difficult for jatis to fulfill the demand that they demonstrate any degree of institutionalization. It is impossible to point to its rules of operation or any kind of institutionalized command centre which oversees its operations. No such command structure attends the operation of jatis (Venkat Rao 2021, p. 173), and centralized authorities, whether religious, moral or political are absent (Balagangadhara 2022, p. 51). This claim about institutionalization does run into the problem of its reconciliation with the potentially contradicting observation that many jatis do demonstrate institutionalization, at any rate in Britain, by having recourse to the available legal structures such as incorporation and charity status. However, though they can facilitate the business of jatis (e.g. by affording the benefits of charity status such as access to gift aid funds which augment donor contributions), such structures are not constitutive of jatis, jatis do not depend for survival on such structures, and membership of a jati is not coextensive with membership of such formally established organizations. If anything, such formal structures give rise to additional burdens for jatis by embedding them in regulatory requirements of the British state. The functions performed using these legal structures are now likely to attract caste discrimination claims and therefore become a liability against the kind of advantages they offer.³

Parekh's non-liberal account of multiculturalism not only treats culture as the central element for an account of multiculturalism, but he also recognizes the importance of having a theory of culture for a theory of multiculturalism. Although a similarity between the writing by Parekh (as well as the Bristol School of Multiculturalism (see below)) and some liberal accounts of multiculturalism has been noted (Levey 2019a, pp. 1005–1007), any such resemblance need not hold us back from considering Parekh's account in its own right, not least because he refers to caste more than other multiculturalist writers. His idea of culture is looser than Kymlicka's and isn't dependent on the liberal encumbrance of individual autonomy as a test for the permissibility of cultural differences. However, although not very precisely formulated, Parekh's conceptualization of culture (Parekh 2000, pp. 142–179) tracks the dominant anthropological common sense which treats culture as based on a system of norms that provide meaning and significance to practices. In other words, beliefs play the role of providing foundations to human practices, in structuring them, and giving them meaning. For Parekh, indispensable to a culture is a religion that provides its beliefs.

³ This consequence is partly contested by Dhanda *et al.* (2014a, vi-vii) although they do not consider the full extent of the damaging impact of a law on caste discrimination, which is discussed more elaborately in Shah (2015a). For a hint of association structures in early post-independence India, see Galanter 1989, pp. 180-181.

Parekh's account of culture is not capacious enough to accommodate Indian culture as theorized in the Ghent School and would instead contort it by making it conform to western presuppositions about culture. As theorized by Balagangadhara, the nature of Indian culture is such that its practices, such as the traditions of the multitude of jatis, require no foundation in norms or beliefs, whether scriptural or otherwise.

In the few passages where he makes reference to caste, Parekh goes along with its dominant account, conceiving of Hindu culture as constituted by the caste system. For instance, he says that "Orthodox Hindus defend the caste system on the ground that it is sanctioned by the scriptures" (Parekh 2000, p. 174). Elsewhere he notes, "Some Hindus follow the norms of their caste system because they accept its cultural authority and meaning, others because of the likely social and economic sanctions" (Parekh 2000, p. 146). Later on, during the debates on the amendment of 2013 designed to oblige the government to implement the provision against caste discrimination in the Equality Act 2010, Parekh returned to the description of the caste system. In his capacity as a member of the House of Lords, he was trying to dissuade his fellow Lords from voting in favour of the amendment. Although he ultimately voted in favour of the amendment in line with his Labour Party colleagues, he actually spoke against the amendment during the debate in question:

However, untouchability is only the egregious, extreme form of the caste system, because the system covers everybody. Although caste does not mean anything to me personally, you cannot be a Hindu without belonging to a particular caste, full stop. Talking about abolishing the caste system is extremely problematic because it could mean getting rid of the category, getting rid of the hierarchy among the categories or getting rid of the principle of heredity which determines the caste. Where do you start? I suggest that caste as a category of discrimination is therefore not in the same league as race, religion or any of the other protected categories. If we were to introduce this, there would be four major difficulties and I want to alert the House to them. (House of Lords Debates, 22 April 2013, col. 1305)

In these passages, Parekh reflects the idea that Hindus follow the caste system because of normative Hindu beliefs, or because they are compelled to do so on account of being sanctioned should they transgress them. He does not talk about jatis in particular but invokes a couple of the other textbook components of the caste system, notably hierarchy and heredity. Parekh's conceptualisation of culture is problematic on at least two counts. It tracks closely the western idea of culture, creating an unseemly straitjacket for Indian culture, and it follows the dominant account of the caste system, which also happens to reflect a continuity with the colonial experience of India.

Anne Phillips, whose book title suggests that she supports a *Multiculturalism without culture*, nevertheless comes close to Parekh, saying that "Culture matters, as part of the way we give meaning to our world" (Phillips 2007, p. 15). Like others, Phillips (2007) claims to recognize that people are cultural beings and that culture is important to them, and considers that culture has something to do with norms. However, an underlying assumption of her book is that "people are not so very different from one another the world over" (Phillips 2007, p. 24) and thinks of the current conceptions of culture as reifying, essentializing, homogenizing and denying agency, while saying that cultural differences are exaggerated. Although her arguments beg the questions, she is neither able to offer a theory of culture nor to specify just what is the correct degree of cultural

difference we should settle upon. Phillips does occasionally refer to caste differences, for instance, to demonstrate that “fundamental human equality remains alien to many cultures” (Phillips 2007, 35). Although her remarks are too *en passant* for any substantial discussion of multiculturalism and caste, they do point to the shared normative assumption about caste as a discriminatory system.

The Bristol School of multiculturalism, partly inspired by Parekh’s work, and led by Tariq Modood (Levey 2019b, Uberoi and Modood 2019 on the Bristol School), has some differences with both Kymlicka’s and Parekh’s project (despite the latter’s induction into the school). The school’s participants observe that Kymlicka’s project, because it focuses on multiculturalism for nations, would distort, even marginalize, some of the specific contemporary issues in relation to post-immigration politics, especially in western Europe (Modood 2013, Uberoi and Modood 2019, pp. 960–961). On the question of culture, the Bristol School provides only ambiguous answers. On the one hand, in keeping with Parekh’s emphasis, the Bristol School sees multiculturalism as a response to cultural diversity, and as a means of promoting inter-cultural dialogue, removing the discrimination and exclusion cultural minorities suffer, and preventing the subduing of their cultural differences (Uberoi and Modood 2013, p. 24). On the other hand, possibly because its main empirical focus has been on the situation of Muslims (Modood 2005, 2013, Meer 2010, Uberoi and Modood 2019, p. 961), it has not found theorizing culture as being of primary relevance. In a departure from the centrality with which Parekh saw the importance of theorizing culture for multiculturalism, and notwithstanding the rhetorical nod that the Bristol School gives to the importance of culture, Modood (2013, pp. 39–40) says that “the primary interest of multiculturalism is not in culture per se but in the political uses of non-European origin ethnic and related identities”. Modood sees multiculturalism as a dynamic involving the conversion of these stigmatized public identities into positive ones, observing as well as supporting a form of identity politics. Despite their empirical focus and their roots in South Asia and the British colonial legacy (Uberoi and Modood 2019, p. 960), one might have assumed that the introduction of a law on caste discrimination, the opposition to it, as well a defence of it from a broad array of groups, would have constituted the eruption onto the public stage of an interesting instance and conundrum for multiculturalists. As far as can be discerned, however, members of the Bristol School have remained aloof from the discussion about the caste law. Again, Parekh stands out as the exception on the issue of the caste law.⁴

The above list naturally does not exhaust multiculturalist thinking nor includes the specifically legal focus taken by authors in parallel to the more theoretical writing on multiculturalism, which happens to mostly overlook the legally oriented writing. Notably, among legal writers, Poulter (1986, 1998) may be said to represent the liberal brand of multiculturalism. Unlike Kymlicka, however, and more like the Bristol School multiculturalists, his focus was on the groups which emerged after immigration in the post-war period in Britain and the extent to which their differences were being or could be recognized in the legal system. He advocated that limits be drawn against recognition of practices that might be oppressive or unjust, or otherwise violative of core English

⁴ Some change may be afoot after the publication of a special issue of *The Political Quarterly* of 2022 edited by Tariq Modood and Thomas Sealy that contains an article by Meena Dhanda on the UK’s caste law. However, Modood and Sealy merely adopt Dhanda’s subscription to the classical conception without further reflection (Modood and Sealy 2022).

values. Given that England and the UK lack a written constitution he argued that human rights treaties to which the UK is a party should be used as a benchmark to draw the limit of recognition. At the other end of the spectrum, Menski (1993, 2008) took a legal pluralist approach to multicultural Britain, and was critical of Poulter's liberal state-centrism, on the basis that the state legal system could not in theory and in practice successfully draw boundaries around ethnic minority laws. Neither writer showed any theoretical interest in culture. Nor did they draw significant attention to caste in Britain, despite the fact that the South Asian population was the largest of the minority immigrant groups which had settled in Britain after the Second World War, while the Indian component has remained the largest within the South Asian grouping. In Menski's discussion of the Indian experience of "protective discrimination" and its lessons for Britain, there is no mention of caste in Britain (Menski 1992). However, a slightly later account makes it obvious that Menski (1996, pp. 23, 29, 40–41, 43) subscribes to a version of the classical conception, and goes further to add:

It is apparent that the caste system still operates wherever Hindus live today. At the same time, flexibility is emphasised more now, and mobility, urbanisation and education have all played their part in this. But particular areas of concern remain the selection of marriage partners and certain prohibitions in the context of occupations. (Menski 1996, p. 40)

Poulter mentioned caste in passing in his last book, confirming that his idea of the Hindu caste system, as with Menski's and all other commentators on multiculturalism, was derived from the classical conception. According to Poulter (1998, p. 239), while caste boundaries were being broken down in India and, in Britain, in so far as they persisted in the latter country "in relation to arranged marriages, attendance at social functions, the formation of community associations, and in the establishment of separate places of worship, they are largely invisible to members of the white community." Notwithstanding his advocacy for legal restrictions and limits to be drawn around the recognition of ethnic minority customs, it remains open to question whether Poulter may have advocated the need for any legal action against caste discrimination. At the time of Poulter's and Menski's cited writing, caste was only just starting to become a point of focus in international human rights fora, a focus that had not yet led to the agitation for a domestic British law on caste discrimination which occurred from the 2010s onwards.

In the selection of multiculturalist writing examined here we can identify some lines of thinking with respect to the question of culture and caste. If multiculturalists are at all interested in addressing culture, they demonstrate a constrained idea of it embedded in the western way of conceptualizing it, in which beliefs found practices and provide meaning to them (Parekh, Phillips) or see it as a mirror of the model of nations (Kymlicka). None of the writers is interested in an analysis of caste to any depth and none, except Menski (1992, p. 304; 1996, pp. 39, 51 and see further below), mentions jatis. Parekh's views show how caste can be explained by the readily available account of Hindu beliefs. In fact, wherever caste is mentioned, it is portrayed as a constraining, oppressive or unethical phenomenon, which points to the influence of the classical conception. When caste is discussed, it is done in a manner which signals its incompatibility with the specific brand of multiculturalism advocated by the writer. This distinctive feature of the writing by multiculturalists is worth emphasizing given the pointed criticism of multiculturalism levelled by Dhanda (2015), and especially against

Parekh's warnings about the enactment of legislation against caste discrimination. In fact, the multiculturalist writing and Dhanda share common ground in their subscription to the classical conception of the caste system, which is continuous with the colonial experience. Rather than multiculturalism layering denial upon denial with respect to casteism, as Dhanda (2015, p. 33) claims, multiculturalist writers actually presuppose the existence of casteism. Where they might differ is on the limited question of whether a law on caste discrimination is necessary. None of the multiculturalists has explicitly advocated a law against caste discrimination and Parekh, the only multiculturalist writer to specifically address the question, is ambivalent whether a multiculturalist law should seek to make it unlawful, even though eventually he voted in favour of such a law.

When we examine the range of multiculturalist writing, we discover that a particular impoverishment attends its conceptualisation of culture and, where theories of culture are submitted, they will tend to mirror the articulation of cultural difference present within western culture: cultural differences as differences in the beliefs of a group. A more "radical" departure from this dominant conception of culture can be conceived of along the lines of the research pioneered by Balagangadhara, which postulates epistemic differences, learning and teaching, as the basis of cultural differences. We have also seen that, where it is expressed, the view of multiculturalist writing on caste is derivative of the classical conception of the caste system. In this, *jati* as a salient difference in the Indian culture and specifically as a site of practical knowledge, on which the Ghent School project has opened up a discussion, is otherwise unvoiced and disregarded. Not only do we have an impoverished conception of culture but, in the writing of the multiculturalists, it is accompanied by a conception of Indian culture and its social structure produced by the cultural experience of Europeans, which constitutes the point of departure for the law on caste discrimination to which we turn to examine as part of the broader question of multiculturalist anti-discrimination law.

4. Anti-discrimination law

In various writings, Erik Bleich has provided a compelling explanation of the emergence of anti-discrimination law in the field of race (Bleich 2002, 2003, 2011). He explains the emergence of different forms of anti-discrimination law in Britain and France by reference to "policy frames". He defines a policy frame as "a set of cognitive and moral maps that orient an actor within a policy sphere" (Bleich 2003, p. 26). As Bleich (2002, 2003) recounts, one of the main influences upon British policy makers from the early post-war years was the importance given to colour discrimination and the thinking of racism in terms of skin colour, as well as the emerging North American anti-discrimination law models, which convinced them that law was an appropriate solution to racial conflict. The reference to the terminology of "race relations" in the titles of successive British legislation (1965, 1968, 1976, 2000) reflects this thinking. France shared with Britain some common elements, for example, its colonial background, which also shaped the way it drew in many post-war immigrants. Unlike in Britain, policy makers in France were focused on thinking of racism in terms of anti-Semitism in light of the immediate background of the Second World War, and the Nazi and Vichy regimes, while the United States was not considered a worthy exemplar in France. However, the look from Britain to the United States was instrumental in helping the former deal with

the negative overspill from an empire conceived of in terms of white racial superiority and curtailing the arrival of an unprecedented number of non-white people from those self-same colonial (or former colonial) territories. As Füredi (1998) records in detail, Anglo-American elites had come to realize that established ideas of racial supremacy had become a liability to the international standing of Britain and the United States. Besides advocating the passing of anti-discrimination legislation domestically, they sought agreement against racial discrimination at UN level in the form of the Convention on the Elimination of Racial Discrimination (CERD). Bleich's work alerts us to the fact that different conceptions of racism and about the role of law concretize within different jurisdictional contexts in ways that are not self-evident, and the same seems true for legislation against caste discrimination.

The background to and details of the law on caste discrimination in the UK have been discussed in greater detail elsewhere (Waughray 2014, Shah 2015a, 2015b, 2017). Although Bleich's account of policy frames does not specifically capture the addition of caste to the British anti-discrimination law, the policy against caste discrimination is an extension of the stem provided by the policy against race discrimination. The law against caste discrimination also indexes the continuity of, and implicitly draws upon, the racial account of caste that had developed in the 19th century (Fárek 2023). Caste did not become a feature of the law under the previous Race Relations Acts until the British anti-discrimination legislation was consolidated into a single piece of equality legislation, the Equality Act 2010. The proposal to add caste as "an aspect of race" came up in the UK parliament alongside the other elements that had made up the idea of racial groups (colour, nationality, and ethnic and national origins). (Religion, which was already incorporated in earlier legislation, also became a distinct part of the Equality Act's "protected characteristics".) The proposal on adding caste was accepted, though with the Government reserving its power to make the change once research confirmed the case for doing so. Multiple studies by anti-caste activist organizations had already been generated in the decade prior to the Act, and the new studies commissioned by the government (Metcalf and Rolfe 2010) or by its parastatal arm, the Equality and Human Rights Commission (Dhanda *et al.* 2014a, 2014b), similarly followed a series of confirmation bias errors endorsing the campaigners' claims that the legislation ought to be implemented. This gave fuel to a further parliamentary amendment to the Equality Act in 2013, this time obliging the British government to make caste an aspect of race, and added pressure on the British government to implement the provision without delay. Meanwhile, a gathering storm of opposition among Indian, and mainly Hindu organizations, who unsurprisingly considered their members would be the primary and undeserved victims of the legislation, seemed enough to persuade successive British governments to desist from implementing. Parallel legal action in the Employment Tribunal sought to circumvent the legislative initiative through the argument that the existing provision on ethnic group discrimination was sufficient to include caste within it. The argument depended on the fact that the Supreme Court had already recognized descent based discrimination and that caste was also a case of descent.⁵ Spurred on by

⁵ The case recognizing, by a majority of the Supreme Court, that descent-based discrimination could amount to ethnic origins discrimination is *R(E) v Governing Body of JFS and Another* [2010] 2 AC 728, SC. It concerned the policy of a Jewish school, the effect of which was the non-admission of a child whose mother had converted to Masorti or Conservative Judaism that was not recognized by the Office of the Chief Rabbi.

the intervention of the Equality and Human Rights Commission in the case of *Chandhok v Tirkey* ([2014] UKEAT 0190_14_1912, judgment of 19 December 2014), the Employment Appeal Tribunal (EAT) agreed, thus establishing legal precedent on the issue. Reliance on the case law allowed the UK government to avoid implementing the legislative provision on caste, a position for which it eventually obtained endorsement in a consultation with carefully gerrymandered responses (Government Equalities Office [GEO] 2018).

The adding of caste to the Equality Act wasn't merely an outcome of the concatenation of actors in Britain and the policy frame they worked within. Consideration should be given to the shaping up of a broader, if more diffuse frame within international organizations which had been giving greater attention to caste. As Keane (2007) records, the UN had already seen a considerable number of attempts to bring attention to caste beyond India which was, by the 1990s, in tussles with the UN Committee on the Elimination of Racial Discrimination as to whether the CERD's provision on "descent", one of its sub-categories of race, extended to caste. The Committee had identified the descent provision as the appropriate vehicle to encompass caste but faced objections from India that the provision, which India had originally proposed in the drafting stages, had been intended to cover the inherited privileges of dynastic families, but not caste. In fact, one of the early but subsequently abandoned proposals for the inclusion of caste discrimination in the Equality Act was to add the word "descent" to the categories constituting "racial group" (Waughray 2014, p. 378). The effort may have been abandoned, however, perhaps due to the unacceptability expressed by India at such an extension of CERD and the ambiguity resulting from different parties pushing for different interpretations. As noted, the judgment in the *Tirkey* case settled the position, at any rate for UK law, in favour of extending descent to caste.

Due to India's efforts, the UN Conference on Racism of 2001 in Durban had, meanwhile, also failed to muster enough support for the inclusion of caste in its Final Declaration. An array of activist organizations have been working at the interface of the domestic jurisdictions and the international fora for the enunciation of general principles at UN level and to campaign for laws at national level (Bob 2007). The effort to have caste recognized within UK law can be viewed as a consequence of a feedback loop between these two policy frames, and cognate considerations would apply to similar moves in other domestic jurisdictions. In 2004 an Expanded Working Paper on discrimination based on work and descent was presented to the Sub-Commission on the Promotion and Protection of Human Rights (Eide and Yokota 2004). This Working Paper carried several references to places where there was a South Asian diaspora, including the UK and United States. The Working Paper pointed to emerging reports of caste and "caste awareness" being present in a variety of fields such as marriage-making, employment and politics. As with other documents produced at UN level, this Working Paper also presupposes the classical conception as its background framework for reporting the presence of caste in the various fields it identifies. The mere presence of caste and ideas such as "caste awareness" are attributed to the oppressive caste system which is seen as inherently violative of human rights. Activity directed against caste within the UN has since gone on to encompass more arenas where human rights discussions and norm setting occurs (Dhanda *et al.* 2014b, pp. 366–368, Waughray 2014, pp. 366–368). The 2004 Working Paper is worth noting, however, as it marks the specific focus on the

identification of caste discrimination in some of those countries where the South Asian diaspora live. Since then, some of these countries have had legislation against caste discrimination passed (Mauritius, UK) or seen litigation strategically aimed at incorporating caste within the anti-discrimination law (UK, California). The spread of such laws can be used as an instrument to pressurize India to comply with the demands of this group of activists.

That the anti-discrimination legislation is a part of the larger expression of multiculturalism in Britain fits the Bristol School's hypothesis, even if its primary interest, despite its rhetorical nod to it, is not in culture, but in the political uses of non-European origin ethnic and related identities. In this framework, multiculturalism involves converting these stigmatized public identities into positive ones (Modood 2013, pp. 34–40). Examples of this dynamic are anti-racism policies and their inclusion in legislation, such as the race relations legislation which have primarily aimed at skin-colour racism and, more recently, in amongst other measures, the inclusion of Muslims into the framework of anti-discrimination law by the addition of religion at the instigation of Muslim organisations (Meer 2010). In the language of the Bristol School, the problem to which these are regarded as responses is "cultural racism" directed against Muslims, or Islamophobia which is described as the "racialization" of Muslims (Modood 1992, 2005, pp. 37–41; Meer and Modood 2010, Modood and Sealy 2022). These characterizations underscore the continuing compulsion to pin multiculturalist developments to the British policy frame's discourse of racism.

As noted, although inclusion in legislation does not exhaust a multiculturalist project, such public, legal acknowledgements have been regarded as part of its dynamic (Uberoi 2008, Modood 2013, p. 52). If, indeed, multiculturalism entails a dynamic of conversion of identities from negative to positive ones, the quest to add caste to the anti-discrimination legislation poses problems that, as far as can be discerned, have not been addressed by the Bristol School multiculturalists, with one qualification. That qualification is provided by Parekh (2008, pp. 37–41) who points out that a politics of collective identity carries three types of dangers: that of essentializing groups, sharpening distinctions and creating opposition between groups, and a tendency to uncritically accept a historically inherited view of the collectivity. If these are the dangers inherent to a multicultural project, it is unclear why it should be regarded as a commendable one at all. If indeed any law on caste should be introduced, is it self-evident that it must take the form of anti-discrimination legislation, inevitably pitting members of one caste against another? More pointedly, if jatis are indeed a key feature of Indian culture, then why cannot a multicultural law protect them?⁶ This would surely be more consistent with the multiculturalist project of converting negative identities to positive ones. Besides, it is open to question whether anti-discrimination law functions at all to convert negative identities to positive ones. Whether at the level of collective groups or individuals, those campaigning for legislation or the litigants themselves are compelled to present evidence which underwrites their victimhood, whether perceived or substantial, which is not necessarily consonant with the production of a positive

⁶ In some interesting passages, Galanter (1989, pp. 179–181) looks forward to a "new legal view of caste" under the Indian constitution that isn't dependent on a vertical hierarchical conception but one of independent, horizontal solidarity. This chapter in his book appeared in 1968 after which much water has flowed under the bridge with respect to the use of caste in Indian law. See, for example, Sashittal (2023).

public identity and may even result in accusations of “playing the victim”. This impression is borne out by a detailed scrutiny of the different judgements in the *Tirkey* case in which the often incredible statements in the claim were accepted by the judges (Shah 2017).

If the campaign for legislation and case law against caste discrimination was meant to provide expression to the alleged discrimination against Dalits, it did so at the expense of stigmatizing Indians at large (and especially Hindus, sometimes Sikhs) with the tag of presumptive caste oppressors. As a result, the model failed Indians in Britain whose public profile moved from a relatively positive one, at least in so far as a series of social indicators in relation to employment, educational performance, family breakdown and involvement in the criminal justice system have consistently shown (Modood 1991, Modood *et al.* 1997, Sunak and Rajeswaran 2014, Sewell *et al.* 2021), to a negative one associated with caste oppression out of which it proved impossible to lift, and which the law now underwrites. This may suggest that at least some forms of recognition entail a zero sum game, threatening some groups in the process of seeking a dubious advantage for others. Although this zero sum argument appears plausible, it does not seem entirely supportable. That is because the campaign to lift the status of Dalits was itself based on the dubious claim of oppression founded on the viability of the classical conception of the caste system, which cannot be a reliable account of Indian culture, and is continuous with the European colonial experience of that culture. It posits upper castes or “orthodox Hindus” (and “orthodox Sikhs”) (Shah 2017, p. 99) as those responsible for the stigmatizing of Dalits, whereas it is the British-bred classical conception of caste that does so. Even though he may not have had it in mind then, the campaign for the caste law fits Parekh’s description of the negative effects of a politics of collective identity. The instigation of a campaign, based on an uncritical acceptance of a historically inherited view of a group, cannot raise the status of Dalits to a positive level, but instead tears the social fabric, widens rifts, and creates hatred among groups. Rather than the anti-discrimination law being able to solve conflict, it encourages the feigning of conflict by setting up different groups within society as rivals upon flawed criteria, and thereby *creates* conflict among them.

Given their inattention to caste, or the campaign to have caste discrimination made unlawful, let alone the effects of the law, multiculturalist writers have not expressed a particular view of how their perspective can be reconciled with the lessons that can be drawn from the episode and its consequences such as those suggested above. For example, while Parekh (2008, p. 31) refers to “lower” castes in India claiming equal civil and other rights and a public recognition for their marginalized identities, he does not refer to any campaign for the same in the UK as, although it was already in the process of being formulated, it had not then taken off as it did subsequently. As noted, during the debate on the 2013 amendment to the Equality Act, in his legislative capacity as a member of the House of Lords, Parekh spoke against the workability of adding caste to the Act, but ultimately voted in its favour along with members of his own Labour Party, which had imposed a mandatory vote to support the amendment. In expressing his skepticism about the law, Parekh did seem to draw attention to the creation of victims through the law’s operation. As he said:

Since every Indian who is Hindu carries the caste mark with him, every action that he does with respect to another can be subsumed under one or another form of caste

discrimination, so the first difficulty is that you will have an enormous range of frivolous complaints with no way of arguing for or against. (House of Lords Debates, 22 April 2013, col. 1305)

Although Parekh suggests some problems with the law's operation, he does so in a fairly low-resolution way without being specific about why the actions he speaks of could be subsumed under one or other form of caste discrimination and, yet, why a large number of claims would be frivolous. In a legal sense, a frivolous claim is one not based on fact or good reasons.⁷ The principle of charity of interpretation requires us to assume that Parekh does not mean to denigrate Hindus by suggesting that they have a general tendency to initiate legal cases without good foundation. It is quite possible that, at an intuitive level, Parekh had sensed that those of an Indian background could engage in litigation against one another even when they had no real way of conceiving of caste within the normative framework of discrimination law, which presupposes the "classical conception", and thereby end up using the law in capricious ways. Although most of Parekh's other statements indicate that he subscribes to the classical conception, *the force of his warning is made more plausible if that standard account isn't accepted*. Suddenly, the much-talked-about oppressive caste system seems to dissolve. His warning also supports our claim that to campaign for and impose a caste discrimination law ends up with litigiousness which can only lead to tears in the social fabric and antagonism between groups.

Parekh went on, warning about the definitional and conceptual problems that would be in the way of having a provision on caste in the law:

we will be introducing the category of caste in our domestic legislation and once you do that, problems begin to arise. How do you define caste? Sociologists have tried for 200 years, ever since the Portuguese invented the word caste. It is not an English but a Portuguese word; when they came to India, they found that we were classified in a certain way and called it caste. In India, caste is very much in flux thanks to globalisation, urbanisation and so on, and in Britain it is even more so. Castes are therefore difficult not only to define but to distinguish. Once one introduces this kind of indeterminate, inherently nebulous category in law, one invites difficulties. (House of Lords Debates, 22 April 2013, cols. 1305–6)

Parekh's remarks about castes in India being in flux and no longer what they were are echoed elsewhere in his writing, albeit briefly and without elaboration or evidence (Parekh 2008, pp. 20–21). His statement about castes in flux are reflected, as we saw, in some scholarly accounts of the caste system which invoke change to account for facts that don't appear to conform to the demands of the classical conception. More important here is the skepticism Parekh expresses about the risk of introducing a nebulous category for legal purposes. This nebulousness or indeterminacy of caste is a problem expressed in many of the contexts to do with the caste discrimination law, and is pointed out by those who oppose it and conceded by those who favour a law on caste discrimination (Shah 2015b, pp. 95–97, Farek 2015, pp. 95–97). For example, Dhanda (2015, p. 39)

⁷ See *frivolous* (2022).

challenges Parekh, saying that legislation on the basis of caste is still defensible even if caste is an indeterminate concept.⁸

The problem is often expressed in definitional terms, as indeed both Parekh and Dhanda do. The UK Government's consultation document of March 2017 accepted that there is "no universally accepted functional definition of caste which can be relied on" (GEO 2017, p. 8). Its response subsequent to the consultation states:

The implications of being legally unable to generate a definition of caste to accompany any inclusion of 'caste' into the race provisions of the Act are significant. Not having a commonly agreed definition of 'caste' would mean inserting a concept into law that had neither an accompanying legal definition nor any commonly accepted interpretation of what it was and what specifically it captured, even among those who are familiar with the nuanced concept of caste. (GEO 2018, p. 12)

The justifiable reluctance on the part of the British government to activate the legislative obligation in the Equality Act and make caste discrimination unlawful did not deter the courts however. The Employment Appeal Tribunal's decision in the *Tirkey* case explicitly acknowledged the lack of an agreed sociological or legal definition of caste and, yet, the EAT went ahead to hold that that lack did not constitute a hurdle in recognizing caste as part of the provision on ethnic origin discrimination (itself part of the broader concept of "race").

What might appear at first sight to be only a definitional issue is more than that. The EAT stated that, "The fact that there is no single definition of caste, as the parties before me were agreed, does not mean that a situation to which that label can, in one of its manifestations, be attached cannot and does not fall within the scope of 'ethnic origins'." The court here was not concerned with having a singular definition but whether the label caste could be attached to the concept of "ethnic origins" as already expressed in the legislation and particularly by reference to descent based criteria. By what means such attachment should be conducted does not appear to concern the court, and nor does it engage in an exercise to narrow down the range of such situations in order to make them manageable. That such pragmatism and instrumentality is at play in how caste is made to fit conceptions of race in the UK and California law is accepted by Dhanda (2022). Although this sort of approach could mean a capricious expansion to the scope of the anti-discrimination law, it is by no means exceptional. Such expansion was echoed by the UN Human Rights Council when it considered the report of the Special Rapporteur on minority issues, Rita Izsák. The Special Rapporteur and the Human Rights Council favoured recognizing the violations of human rights caused by "caste-like systems" whose distinguishing characteristics were heredity, occupation, untouchability and endogamy, which reads like an extension from the classical conception of the Indian caste system to a more generalized assault on social structures anywhere in the world (Izsák 2016). Notwithstanding the ambiguity and capriciousness to which these approaches lend to the use of caste in legal contexts, the British government's stance also ends up being inconsistent. *On the one hand, after its consultation on the caste discrimination*

⁸ Although both Parekh and Dhanda speak of the indeterminacy of the term caste, it does not appear as though they meant the same thing by indeterminacy. Nor does the use by either appear to conform to the kind of indeterminacy of translation that Quine was discussing. See Hylton and Kemp (2020). The issue requires further research.

law, it rejected the prospect of making caste an aspect of race. On the other hand, it opted for the development by the courts of case law as represented by the Tirkey case, adding that it would support any future case, thereby suggesting that it would act as intervenor (GEO 2018, pp. 14–15). By supporting the case law option, the British government effectively connived in the intrusion of the nebulousness of caste into law, while seeming to assuage those Indian community organizations opposing the legislation.

While a clear definition would certainly have been an advance in the arguments for those who support a law on caste discrimination, it has been pointed out already that the issue goes deeper than the definition of caste: our basic inability to conceptualize what caste is and an indifference to that problem. The classical conception depends upon Christian theological claims about India that regarded the caste system as established by the priesthood of a false religion, Hinduism, together with a set of other related claims. The current claims about the caste system, as Balagangadhara (2012, p. 239) has noted, are “incomprehensible without presupposing the truth of Christian doctrines” (see further Farek 2015, Jalki and Pathan 2015, De Roover and Claerhout 2015). While the explicit Christian doctrines have moved to the background, the sense of the existence of the caste system has been retained, making the problem more difficult to see and thereby tackle. Had the classical conception provided theoretical clarity it would have entailed definitional clarity also, while the inability to have a definition points to the absence of theorisation or reflection on caste, let alone jati.

While there is certainly a strain of skepticism in Parekh’s thinking about the workability of a law against caste discrimination, it is notable that he does not reach beyond the English label caste into any sort of Indian cultural understanding of jatis. This is true of all the multiculturalist writers to which reference has been made so far (Kymlicka, the Bristol School, Phillips and Poulter), with Menski being the exception. Similar to the centrality given to jati among caste scholars, Menski (1992, p. 304) says, as compared to varnas, jatis are “really the socially more important numerous sub-castes”. He does not go beyond this point though, while his use of “sub-castes” for jatis, and his later writing (Menski 1996, pp. 39–40), suggests his subscription to the classical conception of caste. References to jati can also be found in some official sources related to the legislation. British government thinking on the legislative provision on caste, which may also be used as a guide to ascertain legislative intent for judges, can be found in the explanatory note to section 9 of the Equality Act. The relevant part of the explanatory note says:

The term ‘caste’ denotes a hereditary, endogamous (marrying within the group) community associated with a traditional occupation and ranked accordingly on a perceived scale of ritual purity. It is generally (but not exclusively) associated with South Asia, particularly India, and its diaspora. It can encompass the four classes (varnas) of Hindu tradition (the Brahmin, Kshatriya, Vaishya and Shudra communities); the thousands of regional Hindu, Sikh, Christian, Muslim or other religious groups known as jatis; and groups amongst South Asian Muslims called biradaris. Some jatis regarded as below the varna hierarchy (once termed ‘untouchable’) are known as Dalit.

Besides jati, this explanatory note refers to an array of different groups, and its inspiration is the classical conception without which these designations and their characteristics could not be held together. When we turn to one of the two reports of the

Equality and Human Rights Commission, *Caste in Britain: Socio-legal Review*, we find, among others, the following statement:

Second, there is the South Asian concept of *jati*, signifying birth group. These are smaller scale, regional, endogamous groups, which are hierarchically ranked, within a geographical locality and are effectively the operational units of a system that varies with region and with historical periods. Unlike *varna*, the concept of *jati* is not connected to any one religious grouping, but is found in all the major South Asian religious communities. It is important to recognise that a *jati* (a caste) is not a fixed unit. That is to say, different *jatis* may unite to form a larger grouping with shared status and identity (the group of *jatis* in effect being the ‘caste’ group with social significance), but also a *jati* may be divided into ‘sub-castes’ which are individually the socially significant identities and status groups. Which social groups are significant, and at which level (a group of *jatis*, a single *jati*/caste or a sub-caste) will vary between region, historical period, and social-political context. Any of these can appropriately be described as the caste in question. (Dhanda *et al.* 2014b, pp. 4–5)

This kind of elusive attempt at definition does not help identify what a *jati* is but instead indexes our ignorance. It contains several problems and contradictions. Under what conditions can a *jati* be a caste and a sub-caste at the same time? If they vary so much, and can even span across religious groups, what mechanism guides their arrangement into a hierarchy? If they are birth groups, how could they form into a larger grouping without violating the criterion of determination by birth? While Menski considers sub-castes as *jatis*, in this statement from the Equality and Human Rights Commission report, a sub-caste seems to be a unit that splits off from a *jati*. Which of these accounts is true? It is tempting to suggest that the sort of obfuscating expression shown here only signifies the lack of progress in caste studies for the last two centuries, so much so that there is confusion on the meaning of the most basic of terms. In the terminology of Lakatos, the classical conception, which is host to this confusion, can therefore justifiably be described as a degenerative research programme (Musgrave and Pigden 2021).

The citations regarding *jati* above are drawn from the British context where the courts have yet to reckon with what they are. Although it is not proposed to enter a new discussion at this point, a look at Indian case law illustrates how a legal system finds it impossible to allocate rights and obligations on any rational basis according to *jati* because it is simply unknown what they are and even why they ought to be the object of legal regulation. If a marriage takes place between people of two different *jatis* does either party change their *jati* and if so for whom is the change effective? Such cases, say, involving a person claiming some benefit such as a caste reservation or filing an accusation of caste atrocity, often come up in Indian courts. They are decided contradictorily, however. In some cases, the caste at birth is construed as being lost upon marriage and integration into the partner’s family. In other cases, the opposite happens. And sometimes the opposites are said to hold concurrently in the same case!⁹ Although

⁹ In the very same case, *Mrs. Valsamma Paul vs Cochin University and Others*, 4 January 1996 AIR 1996 SC 1011, the Indian Supreme Court has held that while a “forward class” Syrian Catholic woman who married a “backward class” Latin Catholic man from a fishermen community would join his caste as a result of marriage, but yet would not be able to avail of a post reserved for Latin Catholic fishermen. In *Rajendra Shrivastava vs. the State of Maharashtra*, (2010) 112 Bom LR 762, the larger bench of the Bombay High Court held that a wife does not change her scheduled caste (SC) status by marrying a non-SC man. This meant that although the court had earlier granted bail to her sister-in-law against allegations of offences under the caste

endogamy and birth are said to be the main characteristics of jatis, these cases give rise to many questions about both criteria. Is endogamy a necessary component of a jati? Is membership by birth a necessary component? The contradictory answers given by the Indian courts, and sometimes within the same case, are sufficient to get across the idea that, while legal status depends on the question of what a jati is and what makes one join a jati, Indian courts cannot provide coherent answers but instead make up criteria and results on the hoof. How would the British, Mauritian or California courts handle such problems? With great difficulty one may suggest. These observations serve as useful pointers to the claim that laws on caste are founded on a house of cards where even the basic ideas defy coherent understanding. One gets a better appreciation of the potential strength the problem Parekh was trying to point to – that the generation of frivolous cases is inevitable. Such cases would continue the tendency to fracture social relations, create mutual antagonism and unjustly allocate rights and obligations.

5. Conclusion

Today, we have a progressive research programme that has recast the comparative study of Europe and India. That research programme of the Ghent School has drawn attention to the fact that the study of India has been framed according to the experience of Europe, which was intensely built up during the colonial period, and continues to falsely transmit that colonial experience as knowledge about India. The way the western culture has thought about cultural differences has become generalized, along with the classical conception of India's caste system. In this article, we have seen how the Ghent School research programme provides a vantage point to look at this approach which is still dominant despite its regressive features. Given its prevalence, the dominant approach casts a pervasive shadow over other domains of the social sciences. One such domain is the theory and practice of multiculturalism. We have learnt that, in so far as they are interested in *cultural* differences, the multiculturalists' conception of culture tracks the dominant western approach of seeking beliefs or doctrines as foundations for cultural practices. For India, this cultural difference is typified by the inherently discriminatory and oppressive caste system as sanctioned by its religion, Hinduism. If and when the multiculturalists in Britain, notably as represented by the Bristol School, turn their attention to the caste system, they import these conceptions onto already existing weaknesses in their programme of the politics of identity, which, to their approbation, extends to the anti-discrimination law. This article picked out one aspect of the Indian culture which are its pervasive and heterogenous social structures of jati. In the classical conception of the caste system, jati is hijacked to play the role of a quasi-theoretical term which is nebulous, incoherent and fraught with contradictions. Multiculturalism not only falls prey to the classical conception of the caste system but opens the door to its inclusion in the anti-discrimination law after the ignition of a falsely founded and destructive politics of identity around caste. We can therefore predict that tying jati to the classical conception is bound to have destructive effects on the Indian culture because, in the British context of multiculturalism, it creates antagonism between groups according to illegitimate criteria, and provides instructions to impose penalties against

atrocities legislation on the basis that the latter would not be liable, given that the wife's caste status had changed upon marriage, the larger bench held that her husband would be liable to face those charges because his wife's status had not changed upon marriage!

those falsely alleged to be perpetrators of the caste system. Far from fostering a public recognition of Indian cultural difference, this is how multiculturalism in Britain acts to aid its destruction.

References

- Arya, R., 2017. Inter-generational perspectives on caste: a Hindu Punjabi study. *Contemporary South Asia*, 25(3), pp. 285–300.
- Bailey, F.G., 1963. Closed Social Stratification in India. *European Journal of Sociology / Archives Européennes de Sociologie / Europäisches Archiv für Soziologie*, 4(1), pp. 107–124.
- Balagangadhara, S.N., (with J. De Roover and S. Rao, eds.), 2022. *Cultures differ differently: Selected essays of S.N. Balagangadhara. Critical Humanities Across Cultures*. 1st ed. New Delhi: Routledge India.
- Balagangadhara, S.N., 1994. *“The heathen in his blindness ...” : Asia, the West and the dynamic of religion*. Leiden: Brill.
- Balagangadhara, S.N., 2010. Orientalism, post colonialism and the “construction” of religion. In: E.K. Bloch, M. Keppens and R. Hegde, eds., *Rethinking religion in India: The colonial construction of Hinduism Routledge South Asian Religion Series*. London/New York: Routledge.
- Balagangadhara, S.N., 2012. *Reconceptualizing India studies*. New Delhi: Oxford University Press.
- Balagangadhara, S.N., and Rao, S., 2021. *What does it mean to be “Indian”?* Chennai, Tamil Nadu: Indic Academy.
- Ballard, R., 1994a. *Desh pardesh: The South Asian presence in Britain*. London: Hurst.
- Ballard, R., 1994b. Introduction: The emergence of desh pardesh. In: R. Ballard, ed., *Desh pardesh: The South Asian presence in Britain*. London: Hurst and Co, pp. 1–34.
- Béteille, A., 2012. The peculiar tenacity of caste. *Economic and Political Weekly* [online], 47(13), pp. 41–48. Available from: <https://www.epw.in/journal/2012/13/special-articles/peculiar-tenacity-caste.html> [Access 13 October 2022].
- Bhat, M.A., 2017. “Muslim caste” under Indian law: Between uniformity, autonomy and equality. *Daimon: Diritto Comparato delle Religioni*, pp. 165–190.
- Bleich, E., 2002. Integrating ideas into policy-making analysis: Frames and race policies in Britain and France. *Comparative Political Studies*, 35(9), pp. 1054–1076.
- Bleich, E., 2003. *Race politics in Britain and France: ideas and policymaking since the 1960’s*. Cambridge/New York: Cambridge University Press.
- Bleich, E., 2011. Social Research and “Race” Policy Framing in Britain and France. *British Journal of Politics and International Relations*, 13(1), pp. 59–74.
- Bob, C., 2007. “Dalit rights are human rights”: Caste discrimination, international activism, and the construction of a new human rights issue. *Human Rights Quarterly*, 29(1), pp. 167–193.

- Boyd, N.M., and Bogen, J.B., 2021. Theory and Observation in Science. In: E.N. Zalta, ed., *The Stanford Encyclopedia of Philosophy*. Stanford University Press.
- De Roover, J., 2017. A Nation of Tribes and Priests: The Jews and the Immorality of the Caste System. In: M. Fárek *et al.*, eds., *Western Foundations of the Caste System*. Cham: Palgrave Macmillan, pp. 173–220.
- De Roover, J., 2019. A new school in the study of India? *Contemporary South Asia*, 27(2), pp. 273–285.
- De Roover, J., and Claerhout, S., 2015. The caste connection: on the sacred foundations of social hierarchy. *Theatrum Historiae* [online], 17, pp. 9–36. Available from: <https://theatrum.upce.cz/index.php/theatrum/article/download/2045/1812> [Access 13 October 2022].
- Dhanda, M., 2015. Anti-Castism and misplaced nativism: Mapping caste as an aspect of race. *Radical Philosophy* [online], 192(July-Aug), pp. 33–43. Available from: <https://www.radicalphilosophy.com/article/anti-castism-and-misplaced-nativism> [Access 13 October 2022].
- Dhanda, M., 2022. The concurrence of anti-racism and anti-casteism. *Political Quarterly* [online]. Available from: <https://doi.org/10.1111/1467-923X.13147> [Access 13 October 2022].
- Dhanda, M., *et al.*, 2014a. *Caste in Britain: Experts' seminar and stakeholders' workshop* [online]. Spring. Manchester: Equality and Human Rights Commission. Available from: <https://www.equalityhumanrights.com/sites/default/files/research-report-92-caste-in-britain-experts-seminar-and-stakeholders-workshop.pdf> [Access 13 October 2022].
- Dhanda, M., *et al.*, 2014b. *Caste in Britain: Socio-legal review* [online]. Spring. Manchester: Equality and Human Rights Commission. Available from: <https://www.equalityhumanrights.com/sites/default/files/research-report-91-caste-in-britain-socio-legal-review.pdf> [Access 13 October 2022].
- Dhareshwar, V., 1998. Valorizing the Present: Orientalism, Postcoloniality and the Human Sciences. *Cultural Dynamics*, 10(2), pp. 211–231.
- Dirks, N., 2022. *Distinguished lecture: Caste, after the postcolonial*. 26 March 2022 ed.: Global Dialogue on Dalit Studies in South Asia. Uttar Pradesh: Dignity Initiative.
- Dirks, N.B., 2001. *Castes of mind: Colonialism and the making of modern India*. Princeton/Chichester: Princeton University Press.
- Eide, A., and Yokota, Y., 2004. *Prevention of discrimination* [online]. Geneva: United Nations Economic and Social Council, Commission on Human Rights, Sub-Commission on the Promotion and Protraction of Human Rights, United Nations Economic and Social Council, Commission on Human Rights, S.-C.o.t.P.a.P.o.H.R. (E/CN.4/Sub.2/2004/31, 5 July 2004). Available from: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G04/147/91/PDF/G0414791.pdf?OpenElement> [Access 13 October 2022].
- Fárek, M., 2015. Caste or qualification? Chaitanya Vaishnava discussions about Brahmanas in colonial India. *Theatrum Historiae* [online], 17, pp. 91–117. Available

- from: <https://theatrum.upce.cz/index.php/theatrum/article/view/2048/1815> [Access 13 October 2022].
- Fárek, M., 2017. Were shramana and bhakti movements against the caste system? *In: M. Fárek et al., Western Foundations of the Caste System*. Cham: Springer International, pp. 127–172.
- Fárek, M., 2023. Caste, race, and slavery: On comparisons between race in the United States and caste in India, and to forgotten assumptions behind the legal categories. *Oñati Socio-Legal Series* [online], 13(1–this issue). Available from: <https://doi.org/10.35295/osls.iisl/0000-0000-0000-1330> [Access 12 January 2023].
- Fárek, M., et al., 2017. Introduction: Caste studies and the apocryphal elephant. *In: M. Fárek et al., Western Foundations of the Caste System*. Cham: Springer International, pp. 1–30.
- Fárek, M., et al., 2017. *Western Foundations of the Caste System*. Cham: Springer International.
- Forrester, D.B., 1980. *Caste and Christianity: Attitudes and policies on caste of Anglo-Saxon Protestant missions in India*. London: Curzon Press [etc.].
- Frivolous*, 2022. Cambridge English Dictionary [online]. Cambridge University Press. Available from: <https://dictionary.cambridge.org/dictionary/english/frivolous> [Access 13 October 2022].
- Frykenberg, R.E., 2008. *Christianity in India: From beginnings to the present*. Oxford University Press.
- Füredi, F., 1998. *The silent war: Imperialism and the changing perception of race*. London: Pluto Press.
- Galanter, M., 1989. *Law and society in modern India*. Delhi: Oxford University Press.
- Government Equalities Office (GEO), 2017. *Caste in Great Britain and equality law: a public consultation* [online]. Available from: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/609641/170419 - Caste condoc - Final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/609641/170419_-_Caste_condoc_-_Final.pdf) [Access 13 October 2022].
- Government Equalities Office (GEO), 2018. *Caste in Great Britain and equality law: a public consultation. Government consultation response* [online]. London: The Stationery Office. Available from: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/727790/Caste in Great Britain and equality law-consultation response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/727790/Caste_in_Great_Britain_and_equality_law-consultation_response.pdf) [Access 13 October 2022].
- Guha, S., 2013. *Beyond caste: Identity and power in South Asia, past and present*. Leiden: Brill.
- Gupta, D., 2004. Introduction: The certitudes of caste: When identity trumps hierarchy. *Contributions to Indian Sociology*, 38(1–2), pp. v–xv.
- Hylton, P., and Kemp, G., 2020. Willard Van Orman Quine. *In: E.N. Zalta, ed., The Stanford Encyclopedia of Philosophy*.
- Izsák, R., 2016. *Report of the Special Rapporteur on minority issues (A/HRC/31/56)* [online]. United Nations Human Rights Council. Available from: <https://documents-dds->

ny.un.org/doc/UNDOC/GEN/G16/013/73/PDF/G1601373.pdf?OpenElement
[Access 13 October 2022].

- Jalki, D., 2018. Caste as an impediment in the journey of a bhakta: Lingayat vachanas, jati and adhyatma. In: D. Venkat Rao, ed., *Critical humanities from India: Contexts, issues, futures*. New Delhi: Routledge India, pp. 149–176.
- Jalki, D., and Pathan, S., 2015. On the difficulty of refuting or confirming the arguments about the caste system. *Theatrum historiae* [online], 17, pp. 37–61. Available from: <https://theatrum.upce.cz/index.php/theatrum/article/download/2046/1813> [Access 13 October 2022].
- Jalki, D., and Pathan, S., 2017. Are there caste atrocities in India? What the data can and cannot tell us. In: M. Fárez et al., *Western Foundations of the Caste System*. Cham: Springer International, pp. 57–84.
- Jaspal, R., 2011. Caste, social stigma and identity processes. *Psychology and Developing Societies*, 23(1), pp. 27–62.
- Jaspal, R., and Takhar, O.K., 2016. Caste and identity processes among British Sikhs in the Midlands. *Sikh Formations–Religion Culture Theory*, 12(1), pp. 87–102.
- Keane, D., 2007. *Caste-based discrimination in international human rights law: Caste-Based Discrimination in International Human Rights Law*. Farnham: Ashgate.
- Krishnamurthi, G., and Krishnaswami, C., 2021. Title VII and caste discrimination. *Harvard Law Review* [online], 134(8), pp. 456–482. Available from: <https://harvardlawreview.org/2021/06/title-vii-and-caste-discrimination/> [Access 13 October 2022].
- Kurien, P.A., 2006. Multiculturalism and “American” religion: The case of Hindu Indian Americans. *Social Forces*, 85(2), pp. 723–741.
- Kurien, P.A., 2007. Who speaks for Indian Americans? Religion, ethnicity, and political formation. *American Quarterly*, 59(3), pp. 759–783.
- Kymlicka, W., 1995. *Multicultural citizenship: A liberal theory of minority rights*. Oxford: Clarendon Press.
- Kymlicka, W., 2007. *Multicultural odysseys: Navigating the new international politics of diversity*. Oxford University Press.
- Kymlicka, W., and He, B., eds., 2005. *Multiculturalism in Asia*. Oxford University Press.
- Levey, G.B., 2019a. Differentiating multiculturalisms: A rejoinder. *Ethnicities*, 19(6), pp. 999–1014.
- Levey, G.B., 2019b. The Bristol school of multiculturalism. *Ethnicities* [online], 19(1), pp. 200–226. Available from: <https://doi.org/10.1177/1468796818787413> [Access 13 October 2022].
- Meer, N., 2010. *Citizenship, identity and the politics of multiculturalism: The rise of Muslim consciousness*. Basingstoke: Palgrave Macmillan.

- Meer, N., and Modood, T., 2010. The Racialization of Muslims. In: S. Sayyid and A. Vakil, eds., *Thinking through Islamophobia: Global perspectives*. London/New York: Hurst/Columbia University Press, pp. 69–83.
- Menski, W., 1992. The Indian experience and its lessons for Britain. In: B. Hepple and E. Szyszczak, eds., *Discrimination: The limits of law*. London: Mansell, pp. 300–343.
- Menski, W., 1993. Asians in Britain and the question of adaptation to a new legal order: Asian laws in Britain? In: M. Israel and N.K. Wagle, eds., *Ethnicity, identity, migration: The South Asian context*. Toronto: Centre for South Asian Studies, University of Toronto, pp. 238–268.
- Menski, W., 1996. Hinduism. In: P. Morgan and C. Lawton, eds., *Ethical issues in six religious traditions*. Edinburgh University Press, pp. 1–54.
- Menski, W., 2008. Law, religion and culture in multicultural Britain. *Law and religion in multicultural societies*. Copenhagen: DJØF, pp. 63–81.
- Metcalf, H., and Rolfe, H., 2010. *Caste discrimination and harassment in Great Britain* [online]. December. London: National Institute of Economic and Social Research. Available from: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/85522/caste-discrimination.pdf [Access 13 October 2022].
- Modood, T., 1991. The Indian economic success: a challenge to some race-relations assumptions. *Policy and Politics*, 19(3), pp. 177–189.
- Modood, T., 1992. Cultural diversity and racial discrimination in employment selection. In: B. Hepple and E. Szyszczak, eds., *Discrimination: The limits of law*. London: Mansell, pp. 227–239.
- Modood, T., 2005. *Multicultural politics: Racism, ethnicity and Muslims in Britain*. Edinburgh University Press.
- Modood, T., 2013. *Multiculturalism: a civic idea*. 2nd ed. Cambridge: Polity Press.
- Modood, T., and Sealy, T., 2022. Beyond Euro-Americancentric forms of racism and anti-racism. *Political Quarterly* [online], 93(3). Available from: <https://doi.org/10.1111/1467-923X.13138> [Access 13 October 2022].
- Modood, T., et al., 1997. *Ethnic minorities in Britain: Diversity and disadvantage : the fourth national survey of ethnic minorities*. London: Policy Studies Institute.
- Mosse, D., 2020. Outside Caste? The Enclosure of Caste and Claims to Castelessness in India and the United Kingdom. *Comparative Studies in Society and History* [online], 62(1), pp. 4–34. Available from: <https://doi.org/10.1017/S0010417519000392> [Access 13 October 2022].
- Musgrave, A., and Pigden, C., 2021. Imre Lakatos. In: E.N. Zalta, ed., *The Stanford Encyclopedia of Philosophy*. Stanford University Press.
- Oberheim, E., and Hoyningen-Huene, P., 2018. The Incommensurability of Scientific Theories. In: E.N. Zalta, ed., *The Stanford Encyclopedia of Philosophy*. Stanford University Press.

- Parekh, B., 2000. *Rethinking multiculturalism: Cultural diversity and political theory*. Basingstoke: Macmillan.
- Parekh, B., 2008. *A new politics of identity: Political principles for an interdependent world*. Basingstoke: Palgrave Macmillan.
- Phillips, A., 2007. *Multiculturalism without culture*. Princeton University Press.
- Poulter, S., 1986. *English law and ethnic minority customs*. London: Butterworths.
- Poulter, S., 1998. *Ethnicity, law, and human rights: The English experience*. Oxford: Clarendon Press.
- Raghuvanshy, G., 2023. Is the Hindutva movement casteist? *Oñati Socio-Legal Series* [online], 13(1-this issue). Available from: <https://doi.org/10.35295/osls.iisl/0000-0000-0000-1334> [Access 12 January 2023].
- Raj, D.S., 2003. *Where are you from?: Middle-class migrants in the modern world*. Berkeley/London: University of California Press.
- Rudolph, L.I., 1965. The modernity of tradition: The democratic incarnation of caste in India. *The American Political Science Review*, 59(4), pp. 975–989.
- Samarendra, P., 2011. Census in colonial India and the birth of caste. *Economic and Political Weekly* [online], 46(33), pp. 51–58. Available from: <https://www.epw.in/journal/2011/33/special-articles/census-colonial-india-and-birth-caste.html> [Access 13 October 2022].
- Sashittal, N., 2023. The enigma of caste atrocities: Do scheduled castes and scheduled tribes face excessive violence in India? *Oñati Socio-Legal Series* [online], 13(1-this issue). Available from: <https://doi.org/10.35295/osls.iisl/0000-0000-0000-1332> [Access 12 January 2023].
- Sewell, T.P., et al., 2021. *Commission on Race and Ethnic Disparities: The Report* [online]. March. Commission on Race and Ethnic Disparities. Available from: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/974507/20210331_-_CRED_Report_-_FINAL_-_Web_Accessible.pdf [Access 13 October 2022].
- Shah, P., 2015a. *Against caste in British law : a critical perspective on the caste discrimination provision in the Equality Act 2010*. Basingstoke/New York: Palgrave Macmillan.
- Shah, P., 2015b. “An ancient system of caste”: How the British law against caste depends on Orientalism. *Theatrum Historiae* [online], 17, pp. 119–142. Available from: <https://theatrum.upce.cz/index.php/theatrum/article/view/2049> [Access 13 October 2022].
- Shah, P., 2017. Dissimulating on caste in British law. In: M. Fárez et al., *Western Foundations of the Caste System*. Cham: Springer International, pp. 85–126.
- Shah, P., 2021. Cultural difference as epistemic difference: A review of two books by S.N. Balagangadhara. *Indian alternatives* [online], 27 December. Available from: <https://indalt.com/cultural-difference-as-epistemic-difference-a-review-of-two-books-by-s-n-balagangadhara/> [Access 13 October 2022].
-

-
- Shaw, A., 2000. *Kinship and continuity: Pakistani families in Britain*. Amsterdam: Harwood.
- Subramanian, A., 2019. *The caste of merit: Engineering education in India*. Cambridge, MA: Harvard University Press.
- Sunak, R., and Rajeswaran, S., 2014. *A Portrait of Modern Britain*. London: Policy Exchange.
- Sutton, D.R., 2018. So called caste: S. N. Balagangadhara, the Ghent School and the Politics of grievance. *Contemporary South Asia*, 26(3), pp. 336–349.
- Uberoi, V., 2008. Do policies of multiculturalism change national identities? *Political Quarterly*, 79(3), pp. 404–417.
- Uberoi, V., and Modood, T., 2013. Inclusive Britishness: A Multiculturalist Advance. *Political Studies*, 61(1), pp. 23–41.
- Uberoi, V., and Modood, T., 2019. The emergence of the Bristol School of Multiculturalism. *Ethnicities*, 19(6), pp. 955–970.
- Venkat Rao, D., 2014. *Cultures of memory in South Asia: Orality, literacy and the problem of inheritance*. *Cultures of Memory in South Asia: Orality, Literacy and the Problem of Inheritance*. New Delhi: Springer India.
- Venkat Rao, D., 2018. *Critical Humanities from India: Contexts, Issues, Futures*. New Delhi: Routledge India.
- Venkat Rao, D., 2021. *India, Europe and the question of cultural difference: The apeiron of relations*. 1st ed. New Delhi: Routledge India.
- Waughray, A., 2009. Caste discrimination: A twenty-first century challenge for UK discrimination law? *Modern Law Review*, 72(2), pp. 182–219.
- Waughray, A., 2014. Capturing caste in law: Caste discrimination and the equality act 2010. *Human Rights Law Review*, 14(2), pp. 359–379.
- Werbner, N., 1987. Barefoot in Britain: anthropological research on Asian immigrants. *New Community*, 14(1–2), pp. 176–181.