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# **Immigration and Multiculturalism in Britain: New Issues in Research and Policy<sup>1</sup>**

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## **I Shifting Boundaries and Fresh Agenda**

The broad title of 'Immigration and Multiculturalism in Britain' looks like an 'old hat', but is a complex theme of research that has been experiencing enormously important recent changes, which many researchers in different academic disciplines are struggling to understand.<sup>2</sup> The main purpose of this paper, from my interdisciplinary perspective as a South Asia area expert and an immigration specialist, is to convey some insights into these recent changes in the British scenario and perceptions of immigration and 'multiculturalism'. These are fields of study that used to be originally subsumed under 'race relations', a title that highlights the earlier focus on 'race' as a marker of difference. Such approaches are now outdated and have clearly been overtaken by recent events and developments. It has now become more widely recognised that immigration to Britain is not all about economics, nor is the wider discourse just about 'race', it is much more about culture and ethnic and personal identity (Malik 1996), personal choice and, thus, at the end, about human rights.

The migration of various non-white groups of people to the UK since the 1950s, in particular, has brought with it a number of important consequences that are only now becoming more evident, roughly a generation or two later. In the field of immigration, we

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have witnessed the emergence of immigration law as a separate field or branch of study and practice, with specific practitioners' textbooks (Macdonald and Blake 1995) and reading material (Sachdeva 1993), and its own professional journal.<sup>3</sup> Immigration law has shown a clearly emerging identity as a major legal subject area in its own right, marked by immense complexity and overlap with fields like European law and human rights law. Within it, the field of asylum law has been taking more prominence during the late 1990s, compared to the earlier focus on worker and family migration.

My key argument regarding shifts and changes in Britain in relation to multiculturalism is that the migration processes involving mainly non-white people bring cultural implications, especially when we are dealing with assimilation and education. Earlier, in the colonial period, European colonisers went all over the world and took their 'cultural baggage' with them. Today's migrants do the same, but are often denied the right to practise their cultures, and they remain physically distinct and are treated as 'ethnic' others, even though we should be aware that everybody is 'ethnic'.

It is obvious that no amount of assimilation and education will make 'brown' people 'white'. It is now being recognized that 'race' *per se* is a somewhat fluid constant, a constructed element. At the same time, it continues to have tangible consequences in today's multi-ethnic societies and remains a relevant element in the wider debates about immigration and multiculturalism. Recent events in Europe show, however, that 'race' alone is not the most significant element, since there has also been much resistance against migration of white people to the UK, such as Poles and various types of ex-Yugoslavians.

It is evident today, from the USA and Canada as much as from Britain, that the issues concerning immigration and multiculturalism have metamorphosed before our very eyes. Scholars now increasingly recognize, albeit still with much reluctance, that immigrants resist outright assimilation and will therefore reconstruct their own little worlds in diaspora in new ways that we, as social scientists, have yet to learn to understand much better. The work of Roger Ballard (1994) on how Asians in Britain reconstruct their lives to create a new home abroad demonstrates that there is no straight line from tradition to modernity, from East to West, or South to North. Ballard's observations demonstrate that classic

assimilation models are no longer useful. His analysis suggests that we need new research agenda today that will enable us to better understand the lives of immigrants and their descendants in all kinds of societies and to gauge our own reactions to them.

In this regard, one major emerging practical problem has been, for a long time, that immigrants and ethnic minorities in Britain and other places are now forcing their new countries to learn about their 'ethnic' cultures and traditions, rather than the reverse, as was originally expected.<sup>4</sup> In the USA, the image of the 'melting-pot' is still relevant, but has quietly been replaced by the 'salad bowl' model, in which cultural and ethnic identities do not just disappear through a process of blending the elements of the multicultural salad. The cucumber is still a cucumber, and the tomato still a tomato, but they have taken on a different flavour, too. In Canada, the 'mosaic' model has been applied to create an image of Canadian society as composed of all kinds of immigrants and their descendants. Australia has begun to recognize this pluralizing fact, too, and various European countries are experimenting with different models of respect for ethnic minority groups and their socio-cultural needs. Literature is now beginning to emerge from various European countries (for Germany see Rohe 2001) and Canada (Verma 2002).

For Britain, too, this means that mainstream Britain has to know more about South Asians, Africans and many others. We can no longer rely on the writing of the early experts on race relations like John Rex (1986 ; 1988) and Michael Banton (1967 ; 1977 ; 1988), whose largely class-based analyses and race-focused approaches systematically underestimated the role of socio-cultural factors, assuming that over time there would be more or less complete assimilation of the 'immigrants' into the mainstream society. In such frameworks of reference, the anticipated construction of anything multicultural, if at all, was mainly a question of generational change and assimilation through education.

But the underlying perception of an unchanging mainstream society is now proving to be quite inadequate. Britain itself has been visibly changing as a result of migration streams from all over the world. I am not only thinking about the curry houses on every corner, or statistics that tell us that around 75% of all retail business in Britain today is controlled by Asians. Entering some schools in multicultural Britain today, especially in central London,

the Midlands, Yorkshire or Scotland, you would think you are in India or Pakistan. Not just the British education system, but the entire range of governmental and non-governmental agencies in Britain has to understand something about the rules of Islam, Hinduism and Sikh beliefs and practices, but has not been adequately prepared for such expectations. We can no longer just insist on compliance with British, let alone English standards, as was expected and virtually demanded until the mid-1980s (Poulter 1986).

For all those who are specialists on Britain and British culture, the clear message is that the UK is no longer Queen Victoria's splendid world empire, but a multicultural new nation in which the teachers are still mainly white, but many of the pupils are now brown or black, come from all kinds of cultural backgrounds, and have as mother tongue speakers an amazing fluency in many languages that other people are struggling to study. Somali is now the majority home language for children in many London schools, and young Somalis, Eritreans and Ethiopians are beginning to come through as university students, following young South Asians along trails that they seem to have blazed a decade or so ago. These new multicultural realities are not only making themselves felt at primary or secondary school level, therefore, they now affect life and work also in universities, where a new generation of the descendants of immigrants are coming up as top students, asking many questions that we never heard before.

My observation as a researcher and an academic teacher of such new students is that Britain and other countries experiencing such shifts and changes are not sufficiently well prepared for the resulting challenges. Europe and North America have been overrun and caught out. It is too late now to close borders and to talk tough, since the leaking tap of immigration can never be closed.<sup>5</sup> But what one reads in the papers, also in Japan, reflects an impression of a movement to the right, with anti-immigration rhetoric that seems outrightly hostile to foreigners of any description. There is often fear of the unknown here, where ignorance could so easily be replaced by competent knowledge.

But we are not yet aware enough that the subjects studied at universities of foreign studies, whether in Japan or elsewhere, are the new key areas of knowledge for the global future. It is not enough to learn English, and certainly not sufficient to learn Japanese to

perfection to function as a global citizen. For lawyers, as I have begun to argue more forcefully recently, it is not enough to study 'mainstream' law to understand how the world functions, it is necessary to be exposed to issues of legal pluralism and multicultural diversity and hybridity (Menski 2000).

This point links into globalization debates, of course. In my view and experience, the alleged processes of international harmonization and globalization are only one side or aspect of actual developments. The other, equally important process of globalization turns out to have a pluralizing effect, as countries and people wanting to do international business on equal terms - rather than just engaging in some neo-colonial globalization process - need to know quite in detail about the various cultures, religions and socio-philosophical systems of different countries in the world.<sup>6</sup> To that extent, the presence of migrants and their descendants in Europe and North America reminds us in yet another way of the presence, in the world as a whole, of more than just Eurocentric assumptions and perceptions. But, I am afraid, the existing literature and academic structures are still far too Eurocentric, also in Japan and elsewhere in East Asia.

## II

### **The Thin Boundary between Uniform Law and Personal Laws**

To illustrate the extent of the new difficulties faced in Britain, I discuss here a legal example, a recent litigation involving Bangladeshi Muslims before an English court. This case could well be the basis of a paper in its own right. It illustrates, in the field of law and multicultural policy, how very thin the boundary has now become between insisting on British uniformity and pushing for multicultural recognition. The unreported case of *Ali v. Ali* of 2000,<sup>7</sup> 'the case of the missing one pound', as one may call it, encapsulates the dilemma of the British judiciary in new multicultural Britain.<sup>8</sup>

The factual background to this litigation is that Mr. and Mrs. Ali, Bangladeshis settled in the UK, were both earning good salaries and could be described as successful young Asian professional individuals living in London. Since marriage is, especially for Muslims,

an almost compulsory part of life, both parties (and more so their families, we must presume) began to look for suitable marriage partners. Mr. and Mrs. Ali seemed to match in terms of language and culture, social status and professional achievements, and marriage negotiations began to take a more serious form. It appears that Mrs. Ali's mother wanted a dower or *mahr* of £ 50,000 for her daughter, but Mr. Ali was initially only willing to offer £ 5,000.<sup>9</sup> This bargaining was not over some kind of sale of the woman, but reflects a contest over the relative status and financial standing in society of all participants to these negotiations.<sup>10</sup> Compared to traditional Bangladesh, the only major difference in this scenario is that the bargaining is over pounds or dollars now, rather than takas, and that there is a significant inflationary effect in Bangladesh itself, since the many Bangladeshi overseas migrants have driven upwards all rates of everything to do with marriage.

The main point of the Muslim *mahr* clearly is to provide the wife some financial security after divorce or the husband's death. In the classical Muslim law, there is an understanding that *mahr* should be divided into 'prompt' and 'deferred' dower, the first to be paid in connection with the consummation of the marriage, the deferred part being normally due on divorce or death (for details see Pearl and Menski 1998). In either case, this is an important financial security for the wife.

Mr. Ali eventually agreed to promise his future wife £ 30,001 as *mahr*, and this was duly entered in the marriage contract or *kabhinama* between the parties, who had an English registered wedding in London as well as a traditional Muslim marriage. The couple therefore followed the pattern of what I have described as *angrezi shariat*, British Muslim law, where the couple make sure that they follow English law as well as the customary norms of their respective Muslim societies (Menski 2001).

But this was a short-lived marriage, for many reasons. After a few months, Mr. Ali threw his wife out after a fight one night and soon went to court, seeking to terminate the marriage under English law as well. He was clearly in a rush to get rid of his wife. Mrs. Ali cross-petitioned the English court not to allow her husband to divorce her unless he had paid her any due financial entitlements, in particular the £ 30,001 of dower money. Under English law, I should explain, a professional woman in a short childless marriage would not

even get £ 1 from the husband and would be expected to work, earn her own money, and rebuild her life. But not so under Muslim law, where men and women are not equal. The Muslim *mahr* is promised or given to the wife by the husband, as an integral part of the marriage contract, thus putting her in a potentially advantageous position if at the time of the marriage she (or someone else on her behalf) was strong enough to stand up for her rights and stipulated a high *mahr*.

In the High Court in London, the husband's defense was that the wife's claim was unreasonable and should be thrown out. First of all, Mr. Ali denied that he had already given his wife a *talaq*, a Muslim divorce. But whatever he claimed, his action in approaching the English court for a divorce clearly amounted to divorce, and thus triggered off the wife's claim for her *mahr*. However hard the husband tried, he could not claim that his wife was divorcing him, which would have meant that she would have lost her claim to the dower.

Mr. Ali's refusal to acknowledge his obligations under Muslim law pleased some English lawyers, who still expect that Asians and others will assimilate over time. Mr. Ali argued in essence that in England, only English law should be applied, and hence he urged the judge to ignore the wife's pleas for *mahr* because it involved Muslim law, which was only a matter of culture, but not of law. But what is law? One could start another lecture on this point alone, which would show that the multicultural scenario and experience of countries like Britain is making an immensely rich contribution to our postmodern understanding of what law is and cannot be (Menski 2000).

In *Ali v. Ali*, I was acting as an expert on Muslim law and explained to the learned judge that there were two marriages, a Muslim *nikah* and an English registered marriage, and there were also two divorces, the Muslim *talaq* and the ongoing English divorce proceedings. I stressed that, as a consequence, there were also two sets of financial arrangements that would need to be considered. While it was evident that under English law the wife would not be entitled to significant financial relief, under Muslim law there was a contract to the effect that the husband would pay the wife £ 30,001 in the event of divorce.



Rather feebly, the husband tried to argue that such a high amount of *mahr* was forced upon him. A Muslim husband in this situation would naturally be quite reluctant to admit that he had been forced to agree to the demands of the wife's side. This would not be good for *izzat*. Mr. Ali elegantly explained this problem as a matter of social ranking, arguing that such high amounts of dower are publicly promised for the sake of status in society, with no intention that this kind of money should actually ever be paid.

Not surprisingly, the judge was a little confused. I insisted that if he did not consider the complete multicultural scenario, he would not only be doing injustice to the wife, but he would also damage the standing of English law, because he would drive Mrs. Ali straight into the office of one of Britain's many Shariat Councils, virtual Muslim courts, which have an unofficial internal hierarchy. This clearly worried the learned judge, and the next day he gave Mrs. Ali the decision she wanted, holding that she was entitled to £ 30,000. But there is one pound missing! Why is that, and what is it that we learn from this case about the general position in Britain today on immigration and multiculturalism?

The learned judge had clearly understood that he could not ignore Muslim law in this dispute. As an English judge working in the High Court at London, however, he could not just apply English law, because that would seriously disadvantage the Muslim wife and would mean a further contested matter before some sort of Muslim judicial forum. That had to be avoided as a matter of legal policy, which raises the question whether the judge was really helping the woman, or was he only protecting the state and supporting its claims to exclusive legal authority, in the sense that only state law is law?

Any decent book on jurisprudence tells us that law is much more than just state law. Here we are dealing with Muslim law, which vigorously claims to be dominant over various forms of state law. But while recourse to Muslim dispute settlement fora could not be encouraged by the English judge, it also had to be avoided that an English judge just applies Muslim law as part of the law of the land. That would clearly go too far in terms of the adaptation of English law to the presence of well over one million (and perhaps almost two million) Muslims. Thus, the multicultural contest has come as close as that now : One little step further, and we have in Britain what modernists are so desperately arguing against,

namely a legal system based on concurrent personal laws allocated on the basis of religion, as found almost everywhere in Asia and Africa, and certainly not just among Muslims.

But if English law were to take account of Muslim law in this way, it would have to recognize other legal systems and personal laws as well. Indeed, there are many signs that this process is already fully under way. For example, in *Chief Adjudication Officer v. Bath*, 2000 [1] *Family Law Reports*, at page 8, the Court of Appeal recognised the claim of a Sikh widow that she was entitled to a widow's pension, even though she had only been married in a London Sikh temple (*gurdwara*) 35 years earlier and had never registered her marriage under English law while her husband was alive.

So what precisely happened in *Ali v. Ali*, why is there a pound missing? The English judge, faced with this multicultural scenario, clearly refused to implement the detail of the Muslim contract of marriage and its consequences, otherwise he would have awarded Mrs. Ali £ 30,001. By giving her £ 1 less, he applied not Muslim law, but asserted the application of English law, through the English law on equity, with its strong notions of justice and fairness. Thus, he not only helped the woman, but also protected English law from the unrelenting pressure to accept personal laws, such as that of the Muslims, as part of the new British legal framework. The missing £ 1 is a powerful indicator of how close the contest has become, and how well aware of this problem the English judges now are.

Among these judges there are, as yet, very few lawyers from ethnic minorities, but around 15% of newly qualifying lawyers in Britain in the past few years have been members of ethnic minorities, more than twice the percentage of their share in the population. Of course, not all of those proceed to practice law in the UK, but in times to come, and sooner rather than later, we will have many senior non-white English lawyers who are not English and I am happy to see some former students of mine among them. Such pressures in various professional fields are now felt all over Europe and North America. For example one could check the name lists of those who pass the professional accountancy exams in Britain, and the picture is remarkably similar. But instead of trying to understand all dimensions of these new processes, our common reaction has been to continue to argue over 'immigrant disadvantage' and, at the same time, to barely disguise

our jealousy of the new top layer of brown and black students and professionals.

Of course all of this is not restricted to the UK. Edwards (2002) reports on a recent case from New Jersey in which, allegedly for the first time, a US court held in the case of *Odatalla v. Odatalla* (FM-000366-01) that an agreement for an Islamic dower of one golden pound coin and \$10,000 was acceptable under American law under “neutral principles of law”. This phraseology is just another attempt to circumscribe notions of justice and fairness, without applying Muslim law directly in a supposedly secular jurisdiction like the USA. The New Jersey judge accepted that here was ‘a contractual agreement between two consenting adults, and thus gave Mrs. Odatalla the precise amount that was involved in the Muslim contract, in a way that the English judge in *Ali v. Ali* was not quite willing to do. It appears that US courts have much experience of such matters, but there is no clear policy emerging as yet, like in Britain and other countries. Edwards (2002) reports that New York and Florida have accepted *mahr* arrangements as pre-nuptial agreements, while California has struck them down as being against public policy. So, in the USA, too, a discussion is now under way about the changing relationship between the national courts and an increasingly multicultural and plural society.

### III

#### **The New British Scenario and Its Implications**

Such legal actions and their fallout in socio-economic terms illustrate the new developments experienced by countries like Britain in the fields of immigration and multiculturalism. The classic early studies on immigration and race relations in the UK all treated the newcomers as deprived, destituted and mainly ‘black’ individuals from former colonies who would suffer multiple disadvantages in their new environment for some time to come. The mere assumption that ‘they’ as newly arrived immigrants were low-status, low-class people has, however, only partly proved right. We recognise today that many of the migrants have not come from depressed backgrounds, but from enterprising middle class environments, which see migration of *some* of their members as a promising and

viable strategy for the family as a whole to improve their status in society. Especially through remittances of foreign exchange, the family's financial standing in every respect would eventually improve, but first certain individuals would have to go abroad and work for the whole family. Contrary to popular assumptions, not all men sent abroad in such scenarios of family planning are totally keen migrants, many voice their resentment, as one can test through fieldwork anywhere. I recently interviewed some restaurant workers and cooks in Indian and Pakistani restaurants in Japan. One man told me that he has to feed 21 people in India, and he cannot even take a holiday, because it would mean missing out on pay. He would dearly love to have another family member working abroad to share the burden, but immigration restrictions make this increasingly difficult, and the initial investments are escalating. Many migrants today, also among asylum seekers, are therefore representatives of families that have planned the planting of a family member abroad. They may have invested much money in this, anticipating that this man will earn money and status for the whole clan. In certain communities, this might also involve women as pioneers, in Britain earlier many West Indian female migrants, Goan housekeepers during the 1990s, nurses from Kerala in Germany and elsewhere, and many Filipino nurses, who were recruited in significant numbers to Britain during the 1970s. Significantly, some of their children and grandchildren now study law and other professional subjects at London University and elsewhere.

Such evidence of rapid social mobility has not been picked up by mainly white researchers who continue to have blinkers about 'immigrant disadvantage'. Sure, there are some poor and deprived Asian migrants and their descendants in the UK, but we are easily blinded by outward impressions that feed negative stereotypes. Already during the mid-1980s, when a team of Japanese researchers visited the UK for extended research on South Asian migrants (Koga, Naito and Hamaguchi 2000), they found that among the richest people in Britain were a number of Asian business families, and the figures have since gone up tremendously. These were not only formerly successful East African businessmen from Kenya or Uganda (in summer 2002 it is thirty years since the Ugandan Asian exodus was caused by Idi Amin), but also newcomers from India and other places.

Real, statistically measurable success can be followed up only in those families that have substantial assets in the UK itself, and have to declare them in terms of tax and company regulations. There are many more individuals, though, who silently slave away for their families overseas, and send a large share of their earnings back there, so that they may indeed be fairly poor themselves in the UK, living in cheap old houses in deprived areas. But while the image of immigrant poverty is thus entrenched for some observers who only study the surface, the impact of overseas migration manifests itself in many parts of South Asia. Examples would be extravagant houses built by Gulf workers and others in Kerala, businesses in Jullundur, the Sylheti prosperity as a result of many Bangladeshis having moved to the UK and the Gulf, and investments made by Mirpuri Kashmiris in Pakistan and Azad Kashmir. The agenda of immigrant disadvantage are by no means irrelevant today, but there is much more to say about migrants as members of hugely complex transnational and 'translocal' (as Roger Ballard now sees this) networks.

It is not possible in this brief article to go into details of where, when and how various groups of migrants came to the UK. It is evident from recent anthropological research (Shaw 2000) that the migration histories of certain communities, clans and families constitute a most interesting area of research (see now Visram 2002). But this kind of research work requires enormous sensitivity and a lot of painstaking detailed effort, which many researchers are simply not willing to put in. It is only since the 1990s that some studies teach us in more detail about the realities of immigration, 'race relations' and multiculturalism from a more specifically internal perspective.

A key text in this respect, which has also influenced my own thinking about legal processes, which it precisely mirrors, is Roger Ballard's book on *Desh pardesh* (1994), the image of a new home abroad. Ballard observes that far from assimilating in the UK to the English mainstream, many Asians view themselves and their indigenous cultures (whatever that precisely means in individual cases) as superior. Consequently, they not only refuse to assimilate, but despise the 'dirty whites' just as fervently as some of the English detest the 'Pakis', which is still a collective term of abuse for all Asians. But Pakistan, Panjab and Gujarat have now come to Bradford, Birmingham, Leicester and many other

places in the UK. Ballard shows how comprehensively the new socio-cultural reconstruction processes have been. He illustrates that Asians have reconfigured the British environment “on their own terms” (Ballard 1994), and have not, as expected by the dominant establishment, abandoned their own cultures. Thus, the old model of second generation youngsters being lost “between two cultures’ (Watson 1977) has been replaced and largely superseded by Ballard’s image of the ‘skilled cultural navigator’. This is a person who switches mid-sentence from English to Hindi, Urdu or Gujarati, and now to Somali and many other languages, and can also handle a wide variety of socio-cultural situations within a personally selected, more or less broad band.<sup>11</sup> So a British Muslim may go to a pub with his or her colleagues, but will probably drink orange juice instead of beer.

More recently, Ballard’s main concern has been with informal translocal networks among South Asian migrants in the UK, which he sees as local subversive networks, built up from below, linking people on account of chain migration, family relationship or local residence. Such ties of loyalty allow, for example, a working-class family to buy a large house, often without a mortgage from the bank. Ballard’s as yet unpublished work shows that these informal networks of loyalty are extremely powerful and resourceful; one crucial point is that they bypass and undermine the official channels. So, if Asians found it difficult earlier to obtain loans from banks, as we know, they learnt again to pool resources and built up their shops and factories nevertheless. If Muslims were told not to use loans from banks to avoid the tainted interest arrangements of *riba*, similarly resourceful poolings or other forms of profit-sharing were created to get around such prohibitions.

Such multiple strategies of self-help and loyalty within the community have created barely hidden resentment. Ballard’s research confirms that such British Asian methods of using localized yet potentially international loyalty patterns are now subtly being criminalized as illegal and devious, because they do not follow formal and normal norms. It seems to be the English standard norm that if you want to buy a house in Britain, you ask for a mortgage. If somehow certain people who do not appear to be wealthy do not need a mortgage, there must be something wrong with their tax declaration, or they have a very clever accountant, or something dodgy is going on. It is a strange coincidence that while

Ballard was working on such observations, I wrote an article on ‘Chameleons and dodgy lawyers’ (Menski 2002), which makes the very same point about the hazards of Asian assimilation: Even if you try and assimilate as much as you can, and desperately make your color blend in with that of the wider environment, you will still be identified in some form as ‘the other’ and will be taken to task for doing things differently than is ‘the norm’. Even the most successful ethnic minority professionals are not trusted, and they are treated with a certain degree of jealousy, since they have access to formal and informal ‘ethnic’ networks that a ‘white’ English person will be unlikely ever to penetrate. This, indeed, applies also to lawyers, so that knowledge of foreign law may actually taint practitioners, and makes them appear ‘dodgy’ in the eyes of the majority because they are able to take recourse to methods, networks, and thus resources, to which the ‘white’ mainstream has no access. In other words, the ability to operate professionally as a skilled cultural navigator becomes even more resented, and leads to unacknowledged inferiority complexes among those who belong to the majority because ‘the others’ are manifestly doing so well.

The highly effective self-organization of ethnic minorities, in response to systematic exclusion and discrimination, has by now generated a higher level of fear and growing insecurity in Britain, rather than increasing motivation to understand how these multicultural processes function and can be used for the benefit of all. One can see several prominent examples. The Hinduja brothers as multi-million leading entrepreneurs were earlier feted by Tony Blair and his followers as models of enterprise culture and Britain’s success in assimilating newcomers. But when the Hinduja made some noises about Hindu culture and its relevance in Britain today, and started to fund research on Vedic Hinduism, they were denounced as traitors and have since been virtually treated as criminals. The same has happened to Keith Vaz, the first Asian MP to become a junior minister. When he started speaking up on specific Asian issues, he was slapped down very fast and lost his ministerial position.<sup>12</sup> More recently, David Lammy, a former student of mine and one of the few British black MPs, who is still below 30, has become a junior minister, but he keeps fairly quiet so far and is even a little coy about his law degree from the School of Oriental and African Studies, listing himself as an inconspicuous graduate of London University instead.

What does this show? Members of an 'ethnic minority' in Britain today who emphasize that fact too visibly, are going to face difficulties, because the pressures of assimilation remain so very strong. At the same time, making oneself invisible is not really a viable option for non-white migrants and their descendants. The problem lies elsewhere. While the well-educated ethnic minority student might speak several languages and may be at home in a variety of cultural contexts - precisely Ballard's 'skilled cultural navigator' - the real problem for British society is identified by Ballard and others in that the majority population remains mono-cultural and resists pluralization because it cannot handle it competently. How many English people study Hindi or Urdu? But all Asians are expected to be fluent in English - and probably only they can become skilled cultural navigators in specific combinations.

Ethnic minority status thus involves not systematic disadvantage, but a structural advantage, because it enforces pluralization, ultimately for the benefit of the individuals concerned. That kind of pressure does not exist for 'normal' English kids, just as most Japanese students do not perceive the need to work extra hard to cope in a global environment. The underlying intellectual problem in the UK and elsewhere, namely that the concept of 'ethnicity' has still not been understood in its proper perspective as it applies in the new multicultural scenarios, is clearly not admitted. Roger Ballard has been facing immense difficulties in seeing his work accepted for publication, and his seminal findings are clearly not taken seriously enough in policy making circles.

The same fate has befallen Professor Bhikhu Parekh, whose detailed report on Britain's multicultural developments and future (Parekh 2000) has been unceremoniously swept under the carpet. The Parekh Report is a document prepared under the chairmanship of (now Lord) Bhikhu Parekh, a retired professor of political science, University of Hull. This Report is not only Parekh's work. It is based on intensive discussions with many concerned people, almost from all walks of life. But all the blame has been thrown on Parekh as "the most dangerous academic in Britain" (*Times of India*, 26<sup>th</sup> August 2001). The Parekh Report was swiftly condemned and vilified by the British press. While it asks in much detail for many constructive changes, its numerous recommendations in relation



to virtually all fields of life are being ignored, as though the Report was never written. What went wrong? The key phrase that led to this remarkable hostility is apparently the sentence on Britishness as a matter of racial identity (Parekh 2000: 38):

Britishness, as much as Englishness, has systematic, largely unspoken, racial connotations. Whiteness nowhere features as an explicit condition of being British, but it is widely understood that Englishness, and therefore by extension Britishness, is racially coded. 'There ain't no black in the Union Jack', it has been said.

What Parekh meant and wrote was that the term 'British' has racial connotations, in that a British person is still widely presumed to be white, while the multi-ethnic reality of Britain today means that many British people are not white. What the press made of this is clearly quite different, alleging that Parekh had said and written that the use of the term 'British' was racist. Hence, the key term of British identity was felt to be under threat, and defensive mechanisms went into operation. I have not followed up all aspects of the debate about this, but there was in fact very little debate, simply an angry act of denial that what the report has to say is relevant to Britain's multicultural future.

Actually, Parekh said nothing new. Roger Ballard has long been arguing, well before his 1994 study on *Desh pardesh*, that South Asian youngsters are engaged in reconstructing their own British South Asian worlds, speak 'chutney Hindustani' one moment, and broad Cockney or Yorkshire dialect the next, or maybe even Oxford English, if it fits the scene. As indicated, Ballard's long-term anthropological observations have been matched by my own findings about legal adjustment processes, so that we have today not only British Muslim law (*angrezi shariat*), but also a postmodern form of British Hindu law (*angrezi dharma*) and lots of other *angrezi* hybrids. For example, among Somalis in Britain one can now find the same plural socio-cultural phenomena in their early stages.

But these are efforts made by the ethnic minorities themselves to make sense of their hybrid existences in new multicultural environments. Despite some liberal-sounding rhetoric, the UK refuses to accept that everybody is 'ethnic', and that New Britain is a place

in which multicultural strategies and methods will need to be rethought.<sup>13</sup> Earlier, many ‘white’ people left the UK, or moved to ‘unspoilt’ rural areas, but where will they go now? In Britain today, almost every village shop and post office in ‘white’ areas is now run by Asians, like the East African *duka* network of small shops across the country. More and more Asian firms are becoming the employers of non-Asians, and for many people in Europe, the limits have been reached and the mood towards immigrants and immigration turns hostile.

However, these ‘immigrants’ are no longer migrants, they are now supposedly equal citizens of the UK, born there, educated in British schools *and* at home, and they are often immensely competitive. I see more and more such people in my classes. In every field of life, there is a growing feeling of competition from ‘them’. Even English people who claim to have no racist inclinations at all say to me that they feel threatened now, as their neighborhoods are being taken over, mosques and temples come up everywhere, and even the physical landscape of Britain becomes more multicultural, with smells, sounds and sights that make you think this is not the Britain it used to be. But instead of constructively debating how the new multicultural realities may be turned into a harmonious future, Britain hides behind assimilationist presumptions that are not borne out anywhere, now not even in the law courts. There is a lot of work to be done in every area that the Parekh Report identified.

## IV

### **The Renewed Diversivory Focus on Immigration Law**

Instead, in this climate of total insecurity about immigrants and the long-term consequences of their presence, the focus has now once again shifted towards the rhetoric of immigration control. But immigration to the UK and many other countries in Europe is no longer just about economics, in terms of labor migration for certain industries who need more willing hands. Immigration now often involves family relationships, so that the image of the 1960s, of a largely male-dominated so-called ‘primary’ labor migration has long

been replaced by various forms of 'secondary' migration, in which someone applies to come to the UK on the basis of a family link with an existing migrant. The inevitable result is more pressure of numbers.<sup>14</sup> Once the process of family reunification had been more or less completed, a new process began, which continues to puzzle observers, and has been leading to some rather dishonest current discourse about specifically Asian problems like 'forced marriages'. The real underlying issue is the annoyance among government officials that Asians in Britain continue to make a large number of international marriage arrangements, which involve the migration of one spouse, either man or woman, to the UK.

This is the new form of family formation, where a young couple settles down in the UK, which is often the place where the bride grew up, while the man is from South Asia or elsewhere.<sup>15</sup> Is this not a violation of traditional customs? Whatever the answer, the overall net effect is more Asian migration, more growth of Asian settlement centers, more brown young British people in schools all over the country. Already well over a third of all new births in some British cities are Asian babies, and Birmingham and Leicester seem to be in competition over the title of first European city with a non-white majority.

This kind of family migration, combined with significant demographic trends in Britain itself, where mixed-descent children form a rapidly growing section that is not just 'white', cannot really be stopped. Imposing strict immigration controls automatically infringes people's basic human rights and there is no easy solution to such problems. The British government, through its present Home Secretary David Blunkett, gives quite conflicting signals and pretends to be in charge. On the one hand, Blunkett claims that Asians are devious criminals who need to be prevented from coming to Europe as asylum seekers and as partners in 'forced marriages', while on the other hand he makes loud noises about the need for more professional staff from overseas to retain the competitiveness of the British economy. But can Blunkett have his cake and eat it, too? I do not think so, and predict that, whatever the government officially says, immigration of non-white people to Britain will continue, and Britain will eventually have to accept that Asians and others are not only part of the New Britain, but lay rightful claims to many prominent positions and entitlements.

In this context, a few words about asylum must suffice. Japan, too, has recently felt the impact of the international debate on refugees and asylum. Claiming asylum has indeed become one of the few avenues open to people who are not able to come to Europe or North America otherwise - but at a price. There are clearly many strong links with illegal arrangements made by travel agents and other 'helpers', thus asylum has become a huge business, a fact that evidently disturbs asylum lawyers, who also see many really genuine cases of seeking protection from persecution.

To combat manifest abuses, the British Home Secretary has pushed for Europe-wide restrictions and has begun to announce changes to the immigration regime, in terms of allowing more migrants into the country under certain categories, and clamping down on illegal migrants, overstayers and 'bogus' asylum seekers. But all of this seems deeply dishonest. Not only in Japan, the issue of foreign students working rather than studying is an old hat. This has again become an issue in the UK now, where overseas students have long been allowed to work part-time. However, top overseas students may now secure places at top British universities, graduate as top students - and immediately have a well-paid job in London or New York, as though all these immigration restrictions for foreign citizens did not exist. This flexible handling of immigration regulations and work permit regimes facilitates international career planning among elite populations and shows that the UK is only too well aware of international competitiveness - and wants its slice of the professional elite. At the same time, Britain also allows thousands of people into the country as asylum seekers or in various other capacities, because we need such people to clean our offices, make our tea, run the restaurants, and do all the jobs that the established residents, including the new professional Asians, would never want to do any more. You still see Panjabi grandmothers, often still original migrants, sweep the floors at Heathrow Airport, but their grandchildren are studying hard to become professionals. The young people serving coffee in the airport lounges are now mainly Somalis and other Africans and no longer predominantly Panjabis, or they come from Eastern Europe. The scenario is changing faster than most researchers realize.

## V

### The Pluralization of New Britain

Britain clearly benefits from the considerable energies generated by its resident ethnic minority populations *and* from the contributions by successive waves of more recent newcomers from all over the world. But the price Britain is going to pay for poaching professionals and others from all over the world, as the USA is also discovering in the long run, is an increasing pluralization of New Britain, rather than the assimilation process that was expected in the 1970s and even into the 1990s. Everywhere, the Christian bias of so-called secular legal systems is now coming under challenge, a new area of research of immense importance.<sup>16</sup>

Some writers have suggested that the European connections in terms of human rights law and jurisprudence within the European Union are becoming more important and will help towards integration of migrants. These are typical pious hopes without much basis in facts, despite the odd good news. I have studied and taught this difficult area for some time, only to leave the field in some disappointment, as it appears that these European mechanisms offer no meaningful protection to Asians and Africans in Europe. For example under Article 8 of the European Convention on Human Rights, the right to family life is guaranteed, but not the right to family life in a country of your choice. It is still the nation state that has the last word over whether one can settle with one's spouse in London or Bradford. I know rather too many cases where families have been split up by English law on strange, formal grounds. Nobody seems to care about this kind of human suffering caused by the application of the supposedly human rights centered state law.

It is this systematic violation of non-white people's basic rights and clear evidence of various forms of unredressed and systematic discrimination which reinforce the message for Asians and other 'ethnic minorities' in the UK that it is not even desirable to become one of 'them', and much safer to retain the links and protection with one's traditional regional and local cultures from overseas and in diaspora. One well-educated British Pakistani woman, whose husband was not allowed to join her in the UK for several years

after their marriage in Pakistan, expressed her bewilderment very clearly: What else could she have done, as a loyal British subject? It appeared to her that the British state was letting her down, just because she was an Asian woman - and got away with this. A deep sense of systematic injustice is felt by many Asians and Africans in the UK. This is not conducive to multicultural harmony and does not match the official agenda of assimilation.

New Britain will need to remain engaged with questions of immigration and multiculturalism, and one can only hope that some progress will be made in this field, since the present situation remains disturbingly dominated by official discrimination, even within the anti-discrimination law itself (Jones and Welhengama 2000). The approaches to immigration and especially to multiculturalism remain deeply unsatisfactory due to the dominance of modernist and Eurocentric assumptions about the innate superiority of everything that is modern and Euro-American.<sup>17</sup> This field of research has grown in complexity and the subject matter it involves is not as simple as might once have seemed. We need many new researchers to assist governments and people to unravel the resulting knots and to work towards a more harmonious, plurality-focused future. However, this challenge is not only posed to New Britain, it is a global issue of increasing relevance that requires more academic attention and more honest policy making.

## Notes

- 1 This paper is a slightly revised and enlarged version of a lecture delivered at the Osaka University of Foreign Studies on 25<sup>th</sup> July 2002, during my tenure as a Visiting Professor at the Tokyo University of Foreign Studies. I am grateful to Professors Tsuneo Hamaguchi and Masaki Takayama for inviting me to Osaka, and thank the participants in the discussion for their critical, constructive comments.
- 2 For a recent example, see the debate in Vol. 18, No. 4 [August 2002] of *Anthropology Today*, pp. 20-21.
- 3 The journal used to be called *Immigration and Nationality Law and Practice* (INLP, Vols. 1-14 [1986-2000]) and was renamed *Immigration Asylum and Nationality Law* (IANL, from Vol. 15 [2001] onwards) to reflect the growing prominence of asylum law.
- 4 Putting the issue this way highlights the fact that everybody is 'ethnic', and that therefore, in Britain for example, English ways of life also have 'ethnic' characteristics. One would expect that a national British paper such as *The Times* would be able to handle such subtleties, but the title of

Owen (2002) confirms that this is not the case.

- 5 The former German Chancellor Helmut Schmidt has recently warned that despite economic and humanitarian compulsions, increasing numbers of foreigners in Germany might well represent an overload.
- 6 A new study from Finland strongly emphasises this particular point. See Forsander (2002).
- 7 Such cases, albeit important for legal practice, remain systematically unreported, which looks like a strategy to decrease the visibility of such issues and to delay multicultural legal recognition processes. For some earlier cases, many of which were never reported, see Pearl (1986).
- 8 In the discussion, I was asked to elaborate on the extent of willingness of the British judiciary as an institution to take account of multicultural pluralities. One can point to some efforts to familiarise the judges with 'ethnic minority' facts, figures and concepts, but these appear to be still quite limited token gestures, despite the efforts of the *Equal Treatment Bench Book* (London : Judicial Studies Board 1999). Judges as highly educated individuals clearly resent being told what to think. Some damage was done by earlier insufficient attempts to impose race-focused political correctness through judicial training seminars.
- 9 The Muslim dower (variously spelt as *mahr*, *mehr* or *mahar*) is promised or given by the husband to the wife and could serve her as security against simply being divorced and left without means to maintain herself. However, many Muslim women are not in a position to negotiate a sufficiently high *mahr* to derive any benefit from this institution. It should not be confused with 'dowry', which is not just a Hindu practice, but is also known among Muslims and in other cultures. It involves, in the extreme, direct payments from the wife's family to the groom and his family.
- 10 The relevant South Asian term here is *izzat*, esteem and prestige in society.
- 11 In the discussion, it was rightly pointed out that not all Asian young people are able to become Ballard's 'skilled cultural navigators'. Indeed, many young British Asians struggle to make sense of their hybrid lives, and more are now found among Britain's growing jail population. However, the critical point made by Ballard is that the average English pupil or student is not helped by the education system to become anything close to a competent multicultural 'skilled cultural navigator'.
- 12 There may well be other reasons of a 'dodgy' nature in this case, but I have no access to the relevant details.
- 13 I observed in Japan a similar need for rethinking the 'ethnic' label, in particular. It appears that other Asians are labeled as 'ethnic', but not the Japanese themselves, nor Italians or Germans.
- 14 In a much-noted article in the *Japan Times* of 8<sup>th</sup> February 2002 ('Immigration changing the West'), William Pfaff commented that "[s]heer numbers have decided the matter", but took in my view a too negative overall view of the potential for multicultural education.
- 15 There is also a significant out-migration of British Asians and others as a result of international marriage arrangements, but this is never publicly noted, maintaining the impression that Asians only move into Britain and never leave. It is evident today that in the international status hierarchy of preferred destinations for marrying couples, Britain is only somewhere in the middle of the

rankings.

- 16 The Salman Rushdie affair is still fresh in the minds of British Muslims, who found on that occasion that their religion is not protected by English law against blasphemy, since only Anglican Christianity enjoys such protection. In the USA, a recent court decision of the 9th Circuit Court of Appeals ruled that it was unconstitutional to ask school children to recite the Pledge of Allegiance vowing fealty to one nation 'under God', leading to protests from, inter alia, President Bush (*The Daily Yomiuri*, 28<sup>th</sup> June 2002). A new study of the place of religion in Indian law (Larson 2001) suggests that the integrated multi-religious 'secular' model of India, rather than the artificial division of law and religion in Western secular thinking, may be a more appropriate global multicultural model than the USA.
- 17 In the discussion, the issue of human rights was raised, from the angle that allowing Asian cultural values to infiltrate multicultural Britain would lead to inevitable violations of human rights. I can only hold against this line of reasoning that human rights violations, as indicated in the paper itself, occur also at the behest of the modern state. Further, what precisely is, and is not, a human rights violation is an immensely politicised issue. The current debates in Britain over 'forced marriages' among Asians demonstrate that such discourses, too, are largely engineered to distract from the realities of uncontrollable immigration and to divert attention away from the frustrations of eurocentric assimilationists.

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