

Law's terra, race, and the will to empire

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REVIEW ESSAY



Law's terra, race, and the will to empire

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Across oceans of law: the Komagata Maru and jurisdiction in the time of empire, by Renisa Mawani, Durham, NC: Duke University Press, 2018, 352 p., USD \$29.95 (paperback), ISBN: 978-0-8223-7035-2

ABSTRACT

Mawani has penned a breathtaking book that challenges the terra-centric understanding of modern (Western) law through an anti-colonial narrative of a ship, its passengers, and the ambitiously defiant journey they took together across the timespace of the erstwhile British Empire. Five years after its publication, this book review seeks to revisit this narrative and distinguish Mawani's work as pathbreaking for the theorisation of law at a planetary scale in ways that also account for the 'non-human' and 'more-than-human' relations. Unlike many newer strands of scholarship seeking to theorise more-than-human dimensions of law- be it in ecological or technological contexts- Mawani's novel 'oceans as method' approach refuses to erase the centrality of racialised violence to the legal empire, including in law's foundational concepts like time, jurisdiction, object and subject. The last section offers some reflections on how engagements with the contexts of caste could have rendered the work richer.

KEYWORDS Legal history; legal theory; more-than-human; oceans as method; race

In a world that professes to be 'post-'colonial,¹ what histories of law and colonial empires shall one write? What stories about the legal ordering of free movement of certain people and forced displacements in the forms of slavery and indentured labour require telling in this context? What may these legal histories then reveal to us about the discursive politics that shapes constraints upon the movement of people today (think contemporary regimes of pass systems, borders, immigration, and refuge)? *Across Oceans of Law* uses these questions as a springboard to challenge an unexpected, oft-

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¹ Tejumola Olanian, 'On "Post-Colonial Discourse" an Introduction (1993) 16(4) *Callaloo* (Autumn) 743; Kwame Anthony Appiah, 'Is the Post- in Postmodern the Post- in Postcolonial?' (1991) 17(2) *Critical Inquiry* (Winter) 336, 348; Anne McClintock, 'The Angel of Progress: Pitfalls of the Term "Post-Colonialism"' (1992) 31/32 *Social Text* 84.

ignored yet ubiquitous premise, viz., the modern terra-centric understanding of law.² By proposing ‘oceans as method’ as a new and disruptive approach to writing legal history, Mawani exposes the underlying high stakes across continents and timelines when we shift our terrestrial view of the law to an oceanic perspective.

The book undertakes this immense and ostensibly abstract task by choosing a rather concrete lens, which I think is one of its major strengths. This concrete lens is a retelling of the story of *Komagata Maru*, a shapeshifting ship and its peoples that floated upon the oceans not longer than 100 years ago albeit in a well-acknowledged colonial world of the British Empire. In the last relevant of its multiple incarnations, the ship was commandeered by Gurdit Singh, a cosmopolitan Sikh merchant with ambitions of increasing mobility amongst Indians through the pursuit of commercial ventures in international maritime transportation. Notably, this manifested in the form of a 1914 voyage undertaken by the *Komagata Maru* to convey about 400 Asian (predominantly Indian) passengers from Hong Kong to Vancouver. Singh’s ambition predictably clashed directly with the colonial prescription to keep the ‘natives’ in their place by regulating their movements. This eventually led to the denial of entry for a majority of *Komagata Maru* passengers into Canada, their detention aboard the ship under inhumane conditions, and ultimately, their deportation. The book traces these and related protracted series of standoffs between Singh, his followers and the British Empire’s administration across multiple jurisdictions including Hong Kong, British Columbia, the presidencies of Bengal and Madras, Punjab as well as ripple effects felt in places like New York, England, and South Africa.

The book is ordered into five chapters in conjunction with the Introduction and Epilogue. These chapters are organised along a loose chronology of the *Komagata Maru*’s passage and are narrated through a specific legal artefact, concept, or figure. Chapter 1 is accordingly narrated by sketching a legal and colonial history of the sea or the ocean as outlined by white European legal thinkers and challenged by the anticolonial visions of the passengers of *Komagata Maru*. Chapter 2 follows the Glaswegian manufacture and the many lives of the ship that eventually became *Komagata Maru*, tracing its routes across the Mediterranean Sea and the Atlantic, Pacific, and Indian Oceans. Narrated through the figure of the moving ship, this Chapter explores the vessel as a juridical form, in particular through the planning and execution of *Komagata Maru*’s journey from Hong Kong to Vancouver. Chapter 3 tracks the arrival and detention of *Komagata Maru*

² Not to be confused with Indigenous understandings of law being rooted in the land. See for example, John Borrows, ‘Indigenous Legal Traditions in Canada’ (2005) 19(1) *Journal of Law and Policy* 167; CF Black, *The Land Is the Source of the Law: A Dialogic Encounter with Indigenous Jurisprudence* (Routledge 2010); Ram Dayal Munda, *Adi-dharam: Religious Beliefs of the Aivasis of India* (Adivaani 2014).

in Vancouver Harbour. It uses the ship's manifest to trace discourses of racial subjecthood and admissibility, which is exemplified by the British Columbia Immigration Board hearing and the legal case of *Re Munshi Singh*. Chapter 4 deploys the figure of the 'indigenous' to chart the transoceanic responses to the *Komagata Maru's* failed journey. This is done through a focus on English-language journals and periodicals published in South Africa, Canada and India. Chapter 5 traces the *Komagata Maru's* journey into the Bay of Bengal after being deported, and follows its commander, Gurdit Singh further inland, from Bengal to Punjab, as he becomes a fugitive under the colonial regime. Using fugitivity as its guiding concept, this Chapter focuses on Gurdit Singh's English-language memoirs, *Voyage of the Komagatamaru: Or India's Slavery Abroad*, and outlines Singh's vision of legal subjectivity expressed through an expansive maritime and global imaginary that brings together the critical continuities between transatlantic slavery, Indian indentured labour, and immigration prohibitions.

Mawani's intention in the book is neither to simply reiterate the history of *Komagata Maru's* ban from Canadian waters (which after all has been well-documented) nor only provide an anticolonial critique of the racialised nature of the laws on immigration. Although it does both these things, *Across Oceans of Law* also goes further: It reorients the concrete details of *Komagata Maru's* history to argue that Singh and his followers posed a distinct anticolonial vision of the ocean(s), which can be and perhaps needs to be mobilised today to dislodge a terra-centric perspective of the law. In doing so, the book presents an exemplary *elemental* rewriting of the legal history of immigration, free movement, and forced displacement—connecting critical legal discourses on these themes (that are largely structured as fragmented national or jurisdiction-specific issues) with the imperial politics of operationalising terra-centric legality and *nomos* on a planetary scale.

I

This elemental retelling of legal history that Mawani undertakes finds its impetus in the prolific body of Black, Indigenous, and postcolonial scholarship in ocean and maritime studies (17–19). Unlike dominant legal historiographies of the oceans which have often deemed oceans to be empty spaces before the arrival of white European imperial ambitions, said body of scholarship offers histories of the complex social, religious, and trade networks of pre-existing maritime worlds that were established through indigenous, African, Asian and Pacific islander technologies and knowledge of the seas. While these offer vital accounts, Mawani finds that the analytic potential of ocean and maritime studies is nevertheless limited and constrained by 'the geographical divides of the cartographer's map' or 'the prevailing historical periodizations and spatial divisions imposed onto ocean arenas' (19). She

attributes this to the underlying Eurocentric presumption of the fixed land/fluid sea divide, which has been foundational both to European mapmaking and to international law. Per this divide, it is presumed that *terra firma* is where the law emerges, and that the sea is largely a site of freedom and anarchy. In Chapter 1, Mawani presents that this elemental divide is central to the legal history of the ‘free sea’. This is done through a parallel reading of the argumentatively and chronologically wide-ranging works of white European legal scholars Hugo Grotius, William Welwod, John Selden, Charles Henry Alexandrowicz, and Carl Schmitt (40–60). In doing so, Mawani problematises the land/sea divide by mapping how it enabled the development of legal and scientific technologies like the longitude and the compass, divisible sovereignty, jurisdiction, territoriality, and global uniform time. How this large-scale reorganisation of time and space was further solidified through the legal personhood of the ship is explored in Chapter 2. Mawani emphasises the ship’s materiality as integral to the maintenance of the land/sea divide, the spatial and temporal orders said divide enabled and thereby to imperial expansion. This is done by mapping how the material creation of the ship *Komagata Maru* (88–91), its various past lives (92–99) as well as practices of maritime financing (101–112) are implicated in the racial construction and legal personhood (or lack of it) of its human passengers in any given timeplace of its diverse voyages.

The sketching of these problematics of the land/sea divide provides Mawani the opening to develop her ground-breaking ‘oceans as method’ approach in tandem with the passage of the *Komagata Maru*. This methodical approach muddies the land/sea divide, offering instead an expansive view of land and oceans as interconnected and overlapping sites in the emergence, movement, and circulation of law across the planet. Not least because of the contemporary reality of climate change and the discursive influence of ‘the Anthropocene’, legal discourses have also witnessed an increasing interest in theorisation of law at a planetary scale and accounting for the ‘non-human’ and ‘more-than-human’.³ However, much of that theorisation remains abstract, top-down, and tending towards metanarratives of law, Earth, and if a bit more thoughtful, white European and settler colonialism. Given this, I also found it rather remarkable that Mawani develops the ‘oceans as method’ approach from neither philosophical abstraction nor the high horse of grand narratives.

³ See for example, Margaret Davies, *EcoLaw: Legality, Life, and the Normativity of Nature* (Taylor & Francis 2022); Cormac Cullinan, ‘Earth Jurisprudence’ in Lavanya Rajamani and Jacqueline Peel (eds), *The Oxford Handbook of International Environmental Law* (Oxford University Press 2021); Anna Grear, ‘“Anthropocene, Capitalocene, Cthuluscene”: Re-Encountering Environmental Law and Its “Subject” with Haraway and New Materialism’ in Louis J Kotzé (ed), *Environmental Law and Governance for the Anthropocene* (Hart Publishing 2017); Andreas Philippopoulos-Mihalopoulos, ‘Law’s Spatial Turn: Geography, Justice, and a Certain Fear of Space’ (2011) 7(2) *Law, Culture and the Humanities* 187.

‘Oceans as method’ is instead developed from a careful engagement with the materiality of the *Komagata Maru* as well as the anticolonial writings and positioning of actors Gurdit Singh, his compatriot Husain Rahim and other passengers on its critical 1914 voyage. Throughout the book, Mawani juxtaposes these anticolonial visions against the white imperial land/sea divides that law consolidates, revealing the racialised violence engendered by the law as well as openings for a vision of law that questions the borders ascribed to elements and to people. Even though Mawani does not engage with ‘post-human’ terminologies or discourses in this book, she does essentially ground a planetary ‘more-than-human’ theorisation of law from the positionalities and lived experiences (histories) of ‘non-human’ oceans, *Komagata Maru* and its ‘human’ passengers. Such grounding preserves nuance and particularity that brings relational complexities and law’s role in constructing and maintaining them to the surface. Also, unlike many other works that seek to tackle the planetary and non-human, it prevents Mawani’s theorisation/method from becoming reductive, universalising, and one founded upon erasures of continuing racialised violence.

What this grounded, bottom-up, lived experience approach achieves is no less significant: In deploying ‘oceans as method’, fragmented legal histories and areas are brought together using an oceanic perspective that is planetary in scope. As Mawani writes,

When juridical developments are repositioned and analyzed from the sea, legal statutes and vernaculars become increasingly untethered from national boundaries and sovereign polities. Instead, they emerge as circulating experiences of law, order, and authority that travelled via ship and connected the Dominions, colonies, and territories to the metropole and beyond. (16)

The movement away from the land/sea divide towards this different orientation to the Earth’s elements offered by ‘oceans as method’ effects an important shift in how legal discourses narrate space–time relationalities: First, multiple jurisdictions’ legal orders like Bengal, Punjab, Hong Kong, British Columbia, England, Transvaal, and Natal—seemingly well-separated by space and time—emerge as actually co-constitutive towards the service of a legal empire. Second, multiple areas of law like immigration law (Chapters 3 and 4), maritime law and financing (Chapters 1 and 2), admiralty law (Chapters 2 and 3), public international law (Chapters 1 and 3) and law on fugitivity (Chapter 5)—ostensibly disjointed by the spaces they govern and times they become relevant—are also brought together as a coherent instrument for the will to empire.

Third as a result, the prevailing narratives of imperial legal developments as confined to particular times and places are challenged. This includes for instance, the usual narrative of the legal abolition of slavery as a landmark moment that initiates an era of ‘post-’ abolition whereafter the freedom of

movement is restored and dehumanising atrocities of the empire resolved. By contrast, reading these developments using ‘oceans as method’ enables Mawani to demonstrate how even after the transatlantic slave trade triangulating Europe, Africa, and the Americas was abolished, imperial legal construction of time and space powered the re-emergence of dehumanising atrocities in the form of Asian indentured labour and restrictions on movement for people of colour in other geographies and chronologies as exemplified by the *Komagata Maru*’s failed voyage. This, she points out, serves as a reminder of how said dehumanising imperial tactics operating via legal constructions of space and time shapeshift and travel into the twenty-first century to yet newer topographies as evident in the Mediterranean ‘refugee crisis’ engineered by Europe today (34, 237–238). Centring financial and legal continuities between the Atlantic slave trade and the transportation of Asian indentured labour but without conflating them (75–77, 192–4), Mawani discloses how the African captive of the slave trade is ever present in the materialities of the Pacific and Indian Oceanic voyage of the *Komagata Maru* and the legal standing of its passengers (Chapters 2–4). This in turn should give readers enough food for thought about how dehumanising continuities are being legally mobilised into current immigrant ‘crises’ and various racialised border regimes as well as how the histories of slave trade and indentured labour endure within contemporary manifestations of the precarious immigrant labourer. A major achievement of ‘oceans as method’ then is revealing connections between what seems disconnected and illuminating the violent coherence of law where there seems to be none; all the while exposing problematic legal continuities between the colonial and the post-colonial as well as the ‘pre-’ and ‘post-’ of the abolition of slave trade.

II

Crucially, in these shifts effected by ‘oceans as method’, race emerges as a grounding logic of the legal empire. How racial constructions play an essential role in organising the legal divide of land/sea, time/space is a recurrent theme in Mawani’s book. Chapter 3, for instance, initiates novel ways to explore jurisdiction as a racial and temporal force rather than just a spatial one, leading Mawani to pose the question, *when* is a British subject? In response, she maps how the ship’s manifest, along with admiralty and immigration laws were used as legal instruments in the case of *Re Munshi Singh* to first, undermine Gurdit Singh’s authority as the ship’s charterer and commandeered by painting him as a fraudulent, plotting figure who held the intention to knowingly defy Canada’s immigration laws and relatedly, second, to assign and restrict British-Indian subjects to their ‘appropriate place and time’ (131) within the planetary reach of the empire. Through Mawani’s

reading of the case in its polyvocal contexts, it becomes clear that racial power manifests jurisdictionally by dividing people into nations and civilisations and inscribing them into vertical geographies of place and developmentalist histories that assign temporality to each racial construction. So, for example in this division, Mawani argues, India was viewed as a land and people belonging to the East, an oriental past, whereas the Dominions—including Canada—were constructed as white and oriented towards the future as ‘the strong and fruitful daughters of Britannia’ (137). Building upon this, Mawani explores the complex ways in which indigeneity is mobilised by the Court of Appeal in *Re Munshi Singh* in using the presence of ‘primitive’ Indigenous peoples in British Columbia (‘our own native Indians’) as a justification for the deportation of migrant British-Indian subjects (147–51) while simultaneously erasing the presence of Indigenous legalities in the territory of ‘Canada’ that pre-date European arrival and reference a different temporality (142–6). In doing this, she illustrates how the relationship between Indigenous peoples and settler-colonial states has always existed in temporalised forms that demand a proof of Indigenous ‘priorsness’ refracted through a linear chronology based on racialised civilisational differences in order to justify their presence in the territory (144–7).

Temporality, prerogatives to place, and racial constructs thus emerge as intimately connected within the legal claims of the empire. Yet, as Mawani shows, it is through these connected considerations that the empire’s law veils and reveals, enacting divisions of time/space, land/sea, citizen/subject and people/populations that assign and police humans to their appropriate place and temporality in the global order on the basis of perceived stage of development/civilisational hierarchies a.k.a. the construction of race. Racial power, it is argued, then circulates through these divisions. In outlining this, Mawani draws upon threads from Chapter 1 to illustrate how the legal concept of freedom of movement also operates through these spatio-temporal divisions that are rooted in racial constructs—a freedom that by virtue of this genealogy is available only to certain kinds of racialised bodies but not others. As a result, she argues that racial exclusion/inclusion needs to be understood not merely as attitudes or ideologies but rather as a core part of the legal architecture that enabled exercise of oppressive power and authority there-then, and which now renews into other contexts. In her account, it is this structural role of race in shaping law that then eventually leads to the deportation of *Komagata Maru* and its passengers.

This structural role of racialisation in effecting the planetary elemental divides that serve as legal foundations is another powerful perspective offered by ‘oceans as method’. Once again then, I would like to emphasise the immense value of Mawani’s method to emerging legal discourses—like Earth jurisprudence, ecolaw, (re)wilding law, posthuman law and law and/ in the Anthropocene—that seek to apprehend and redo legal narratives

from planetary and multispecies perspectives.⁴ My commentary: ‘Oceans as method’ clearly illustrates that because racialisation is fundamental to the planetary divides subsumed as the ‘legal’, no effective planetary account of the law or its impact or even its futures can be engineered without taking race seriously in this role of structuring/ordering the planet and its species. Correspondingly, any worthwhile account of ‘more-than-human’ law and politics cannot exclude an account of the racialisation of ‘human’ people. Nor can any worthwhile account of ‘more-than-human’ treat race merely as a formal appendage or afterthought that nods towards the discourse of representation but erases the centrality of race in the legal structuring of the planetary and inhuman from its core thesis. In a world where ecocentric and Western environmentalist discourses have long converged with anti-immigration, white supremacist, and settler-colonial positionings,⁵ any such erasure (irrespective of its good intentions), in my opinion, is bound to be complicit in violence enacted by the colonial continuities talked of before. And perhaps given the tilt of my own practice-research towards the politics of magic(k), more-than-human relations and knowledge-material production, this is one takeaway from Mawani’s book that stood out for me. And although it perhaps falls outside of the primary intended readership, within her book appears important methodological guidance for the ostensibly unrelated (yet very connected) emerging planetary and multispecies legal discourses that I have outlined above.

Chapter 4 of the book adds further nuance to the role that race plays in organising and maintaining fundamental legal divides of land/sea, time/space by tracing the multiple figures of ‘indigeneity’ that emerged from the anticolonial struggles leading up to and surrounding the *Komagata Maru*’s journey. Mawani does this by mapping how, unlike colonial authorities and the Court of Appeal’s mobilisation of indigeneity in *Re Munshi Singh*, the ship’s supporters in South Africa and India drew upon ‘indigeneity’ to

⁴ See for example, Judith E Koons, ‘Earth Jurisprudence: The Moral Value of Nature’ (2008) 25 (2) *Pace Environmental Law Review* 263; Davies (n 3); Nicole Rogers and Michelle Maloney (eds), *Law as if Earth Really Mattered: The Wild Law Judgment Project* (GlassHouse 2014); Anna Grear (ed), *Posthuman Legalities: New Materialism and Law Beyond the Human* (Edward Elgar 2021); Kathleen Birrell and Daniel Matthews, ‘Laws for the Anthropocene: Orientations, Encounters, Imaginaries’ (2020) 31 *Law and Critique* 233.

⁵ There are fairly well-documented histories and presents of the entanglements of environmentalism, ecocentric, and white supremacist and colonial discourses; see for example, Jessica Hernandez, *Fresh Banana Leaves* (North Atlantic Books 2022); Kavita Philip, *Civilizing Natures: Race, Resources, and Modernity in Colonial South India* (MIT Press 2003); Winona LaDuke, *All Our Relations: Native Struggles for Land and Life* (Haymarket Books 1999); Zoe Todd, ‘Indigenizing the Anthropocene’ in TBA21–Academy (eds), *Ocean Archive* (Open Humanities Press 2015); Farhana Sultana, ‘Whose Growth in Whose Planetary Boundaries? Decolonising Planetary Justice in the Anthropocene’ (2023) 10(2) *Geography and Environment* 1; Tamara L Mix, ‘The Greening of White Separatism: Use of Environmental Themes to Elaborate and Legitimize Extremist Discourse’ (2009) 4(2) *Nature and Culture* 1; Beth Gardiner, ‘White Supremacy Goes Green’ *The New York Times* (28 February 2020) <www.nytimes.com/2020/02/28/opinion/sunday/far-right-climate-change.html>; Janet Biehl and Peter Staudenmaier, *Ecofascism: Lessons from the German Experience* (A K Press 1995).

advance their legal and political rights claims for free movement as British subjects. Whereas under European imperial-colonial formulation ‘indigeneity’ is often deemed to be rooted within boundaries of *terra firma*, Mawani’s deployment of ‘oceans as method’ disorients this perspective. She illustrates how in the view from the sea, ‘indigeneity’ materialises as a global and itinerant force that circulates between continents to connect South Africa, India, and Canada, and mobilises specific histories of land dispossession to produce variegated politics of anticolonial struggle. She demonstrates how ‘indigeneity’ is evoked by Indian migrants and travellers in different ways and purposes to dispute some racial, temporal, and territorial divisions while also reproducing and reinforcing others. In the book, Mawani presents her account in contrast to Marx’s narrative, arguing that it was through a racial politics and not solely an economic and political one that England laid ‘the material foundations for Western society in Asia’ (158). To back this claim, the Chapter explores the connections between the immigration prohibitions against Indians in Canadian British Columbia and the colonial South African provinces of Natal and Transvaal. Considering that some of the most forceful critics of the Dominion’s treatment of the *Komagata Maru*’s passengers came from Natal, exploring these connections offers an interesting juxtaposition, which allows Mawani to show that the anticolonial did not always translate to antiracism, at least not in a direct or straightforward way. Ultimately, the intention of this Chapter seems to be to map how even when anticolonial critiques of *Komagata Maru*’s journey relied on the construction of indigeneity as a transoceanic force, indigeneity nevertheless appeared as a racial and temporal construct.

I must admit that I was quite looking forward to reading this argument since it promises to challenge the dominant monolithic image of anticolonial thought and movements emerging from India and its diasporas presented in legal discourses; and having grown up in eastern India, I have a personal interest in complicating this unproblematic picture. Mawani’s mapping indeed manages to complicate and problematise by demonstrating how anticolonial Indians that spoke up against immigration prohibition and in support of the *Komagata Maru* and its passengers did so through a reproduction of racial constructs—which though were different from colonial authorities’ racial constructs, were racial nevertheless. This was done for instance through unquestioned presumptions about the civilisational inferiority of Indigenous peoples in Canada (176–82) or by asserting Indian civilisational differences to native/Indigenous South Africans in order to emphasise the Indian’s proximity to Europeans and claim greater freedom of movement (164–8, 178–85). Mawani presents this complicated picture masterfully, engaging with both legal and journalistic sources across multiple jurisdictions while expertly holding several crucial contextual threads together. This is no mean task of writing and scholarship and deserves

immense laudations. Staying with these multiple contextual threads simultaneously, Mawani illustrates how this anticolonial claim sought to reproduce and reorient race even as it challenged how white Europeans played Indian. White European colonisers played Indian by asserting their own claims to indigeneity in Canada and South Africa while simultaneously relegating Indigenous populations in both locations into a racialised linear chronology that solidified their inferior status—all in order to justify their continuing occupation of Indigenous lands.⁶ Which, along with the legally restricted freedom of movement for British-Indian subjects that was sought to be challenged is certainly an important context for the problematics of the racialised anti-colonial claims made by Indians in India and abroad.

III

While this problematisation of an Indian anticolonial stance re *Komagata Maru* is compelling, it nevertheless leaves us with many important questions about how one should evaluate its politics. I felt that even though as an approach, ‘oceans as method’ has the potential to account for this, this issue was not fully addressed in the book. For instance, it would seem that read in conjunction with Chapter 4, Chapter 5 seeks to complicate the picture of Gurdit Singh as an anticolonial visionary, so that he appears more ambiguous as an anticolonial figure, than say, in Chapters 1 or 2. Given this ambiguity, how are we to assess Singh’s politics? In some ways, it seems like Mawani leaves this task of evaluation to the reader; she merely describes. However even descriptive projects are not devoid of normative orientations. And clarifying how these orientations are complicated through this account of racist/racialised anti-colonialism would have, in my humble opinion, helped bring certain crucial but understudied contexts into the much-needed problematisation of Indian anticolonial politics that this book so exquisitely offers.

One of these crucial but understudied contexts is caste. While Chapters 4 and 5 do mention considerations of caste in a few places, the book does not engage with it seriously. How caste and race structurally co-produce legal histories of Indian immigration and restrictions on freedom of movement is a story that could have done well with some unravelling here. In the discussion on how the legal category of the ‘native’ (indigene) was shaped in Transvaal and Natal for instance, this exclusion feels particularly conspicuous. While Mawani maps how colonial authorities’ ideas about race

⁶ In their article, Tuck and Yang illustrate how ‘playing Indian’ is still deployed as part of the settler moves to innocence; see, Eve Tuck and K Wayne Yang, ‘Decolonization is not a Metaphor’ (2012) 1(1) *Decolonization: Indigeneity, Education & Society* 1.

shaped said legal category (158–68), an accounting of how caste shaped the Indian anticolonial resistance that argued against expanding the legal definition of ‘native’ to include Indians in these South African colonies (163) could perhaps have enabled insight into how race was co-produced and/or reinforced also by existing indigenous oppressive practices like caste.⁷ This could have, in turn, helped differentiate and clearly situate a distinct approach to indigeneity—‘Indigeneity’ (with capital i) as reclaimed by Indigenous peoples around the world—which is based not in racialisation, but in sustaining material-spiritually responsible and reciprocal relations with the landseas that do not reduce it to a resource.⁸

Absent this engagement with caste however, race and processes of racialisation in Mawani’s account appear to emerge from colonial legal authority of a solely European pedigree which anticolonial Indians internalise, reframe, and reproduce in new ways (165). It is true that this account does contribute significantly to problematising existing legal histories on themes of immigration, freedom of movement and anticolonial resistance. However, reading the book made me wonder if this narrative needs to be complicated further still by taking seriously the structural relationship between caste and race, especially given the long and oppressive endurance of caste practices amongst South Asians and in the diaspora.⁹ One wonders how the analytical frame of the book may have shifted and what further insights it could have produced if the co-constitution of caste and race had been centred. In contexts where authoritarian and casteist projects allying and operating transnationally increasingly wear the garb of ‘decolonial’ and ‘anticolonial’,¹⁰ addressing the histories of caste alongside race and indigeneity could have provided the reader a historical lens to interrogate their

⁷ Jotirao Govindrao Phule, *Slavery in the Civilised British Government Under the Cloak of Brahmanism* (1873) (PG Patil tr, Education Department, Government of Maharashtra 1991); Bhimrao Ramji Ambedkar, *What Congress and Gandhi have Done for the Untouchables* (Samyak Prakashan 1946); WEB Du Bois, ‘The Papers of W. E. B. Du Bois’ (Microfilming Corporation of America 1980), reel 58, frames 00467–00468; Ambrose Pinto, ‘UN Conference Against Racism: Is Caste Race?’ (2001) 36(3) *Economic and Political Weekly* 2817; Daniel Immerwahr, ‘Caste or Colony? Indianizing Race in the United States’ (2007) 4 (2) *Modern Intellectual History* 275; George S Schuyler, ‘Views and Reviews’ *Pittsburgh Courier* (12 September 1931); Nico Slate, ‘Translating Race and Caste’ (2011) 24(1) *Journal of Historical Sociology* 1. See also, Murali Shanmugavelan, ‘Race and Caste’ in *Critical Caste and Technology Studies* <<https://criticalcastetechstudies.net/syllabusdetail/9>> accessed 20 September 2023.

⁸ See eg, Aimee Carrillo Rowe and Eve Tuck, ‘Settler Colonialism and Cultural Studies: Ongoing Settlement, Cultural Production, and Resistance’ (2017) 17(1) *Cultural Studies* <---> *Critical Methodologies* 3, 5.

⁹ Anand Teltumbde, *Dalits: Past, Present, Future* (Taylor & Francis 2016); Thenmozhi Soundararajan, *The Trauma of Caste* (North Atlantic Books 2022); Dolly Kikon, ‘Dirty Food: Racism and Casteism in India’ (2022) 45(2) *Ethnic and Racial Studies* 278; Anand Teltumbde, ‘Hindutva Agenda and Dalits’ in Ram Puniyani (ed), *Religion, Power and Violence: Expression of Politics in Contemporary Times* (Sage 2005); Gail Omvedt, *Understanding Caste: From Ambedkar to Buddha and Beyond* (Orient BlackSwan 2012).

¹⁰ See for example, Alexandra Lewis and Marie Lall, ‘From Decolonisation and Authoritarianism: The Co-Option of Decolonial Agenda in Higher Education by Right-Wing Nationalist Elites in Russia and India’ (2023) *Higher Education* 1 <<https://link.springer.com/article/10.1007/s10734-023-01074-0>> accessed 22 September 2023.

own positionality within contemporary struggles against oppressive power. In the process, it would have also helped the reader to situate and evaluate Gurdit Singh's particular flavour of anticolonialism against a larger and continuing politics of race, caste, indigeneity and material dispossession.

Having said this, the book already does a lot. Breath-taking in scope, remarkable in its innovation of 'oceans as method', *Across Oceans of Law* is a marvellous feat of legal history and legal theory against fragmented accounts of law. And it manages all this without devolving into abstraction. The richness of scholarship that is both global and planetary in scope gives one much food for thought. Reading it was also certainly a very emotional and instructive experience. The book gifted me with vocabularies for my own experiences as a racialised immigrant, realisations of the myriad recent planetary histories of which my life is part and was a soft yet very real guide in a time of personal-political chaos where I felt grief and loss in being forced to negotiate my dignity with immigration authorities across multiple European jurisdictions. And for all this bestowed by the book, I shall always be very thankful.

Disclosure statement

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