

BOOK REVIEW

*BOATS IN A STORM: LAW, MIGRATION, AND
DECOLONIZATION IN SOUTH AND SOUTHEAST ASIA,
1942–1962* BY KALYANI RAMNATH (STANFORD
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Kalyani Ramnath's recently published debut book, *Boats in a Storm: Law, Migration, and Decolonization in South and Southeast Asia, 1942–1962* ('*Boats in a Storm*'), strikingly explores the tangled strings between wartime displacement, decolonisation and citizenship in South and Southeast Asia.¹ Covering a period of 20 years from 1942 to 1962, Ramnath provides a fresh perspective on the interconnectedness and impact of these issues on the region. The story begins in 1942, during the peak of the Second World War (hereinafter referred to as the 'War'), when Japanese forces occupied Burma and Malaya, and thousands of migrants from India fled back to their country of origin. These migrants had resided in Southeast Asian territories as indentured labourers, traders, shopkeepers and moneylenders. After the War, many of these displaced migrants from India found themselves caught up in legal disputes as they attempted to return to their adopted homes. With *freedom*, or decolonisation, these newly independent states (Burma, Ceylon, India, Malaya and Singapore) also started asserting their hard-earned sovereignty.² Therefore, wartime displacement in the aftermath of colonialism was judged with suspicion. As Ramnath points out, the most recurrent question posed by government officials in these legal disputes was: '[w]here were you in 1942?'³ Wartime displacement, therefore, became significant in determining questions of belonging to these newly formed nation-states.

Ramnath investigates the seemingly 'banal encounters' between migrants and the law, both through the migrants' responses in courts and commissions, and through their personal and familial stories, which spanned across India, Burma (Myanmar), Ceylon (Sri Lanka), Malaya (Malaysia) and Singapore. In her analysis, she emphasises that while these 'banal encounters' may appear to be personal experiences of a few migrants, they provide a broader understanding of postwar South and Southeast Asia. Instead of recounting the history from the standpoint of those in power, such as the metropole in London and the colonies in Asia, Ramnath presents a different viewpoint (she classifies it as a 'peopled history') of how migrants reimagined their world after the War, wartime

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¹ Kalyani Ramnath, *Boats in a Storm: Law, Migration, and Decolonization in South and Southeast Asia, 1942–1962* (Stanford University Press 2023).

² See generally Nandita Sharma, *Home Rule: National Sovereignty and the Separation of Natives and Migrants* (Duke University Press 2020).

³ Ramnath (n 1) 1.

displacement and decolonisation.⁴ In doing so, she examines how migrants attempted to maintain their unique ‘rhythms and patterns of migrant life’ throughout the region.⁵

The title, *Boats in a Storm*, is a metaphor to describe the struggles of these migrants whose lives were affected by the War. Ramnath astutely shows that the ‘storms’ they faced did not end with the end of the War; they were only the beginning.⁶ In the Preface, she notes that *Boats in a Storm* closely interacts with her lived experience. She recalls spending her childhood and undergraduate years in South India, where she witnessed the constant presence of travel and migration between South and Southeast Asia.⁷ Her lived experience and subject expertise make the book an original, captivating and informative account of the region.⁸

Ramnath delves into previously unexplored archives from different repositories across several countries like India, Sri Lanka, Myanmar, Singapore and Malaysia. These archives consist of tax assessments, legislation, unfulfilled promissory notes, dismissed immigration appeals, memoirs, community histories and oral history transcripts in English, Tamil and Malayalam that complement the official records.⁹ Ramnath has meticulously assembled these documentary fragments to narrate stories of people and communities, including moneylenders, traders and labourers, who faced challenges with legal regulations. These individuals and communities struggled to restore pre-war flows of credit, capital and labour in a postwar setting where ethnonationalism was rising, and migrants were accused of being ‘outsiders’ exhausting jobs and resources.

Investigating the ‘law’ and its travel forms the method of Ramnath’s monograph. As Ramnath notes, ‘law’ here is not to be understood solely as a doctrine or principle but as a practice which provides a valuable archive to reconstruct the histories of decolonisation and wartime displacement in South and Southeast Asia.¹⁰ Ramnath astutely shows how ‘a peopled history’ written from the ‘archives of law’,¹¹ that is, historical documents that authorise juridical relationships, helps to redescribe the history of South and Southeast Asia. This is achieved not through the lens of military, diplomatic or administrative histories that assume the persistence of territorial borders, but through the fluidity of jurisdictional claims.¹² Drawing on the work of jurisdictional thinkers like Sundhya Pahuja, Ramnath demonstrates how ‘thinking with jurisdiction’ aids in asking better questions related to the authority of law and identifying those with the power to authorise lawful relationships and determine what falls under the

4 ibid 2–7.

5 ibid 1.

6 ibid 5.

7 ibid ix.

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9 ibid; Ramnath (n 1) 11.

10 ibid 6.

11 ibid 7.

12 ibid.

jurisdiction of the law.¹³ She shows how claims to jurisdiction were historically tied to territorial conquest. However, in postwar South and Southeast Asia, circular migrations across the Indian Ocean resulted in jurisdiction claims being made through both territorial and temporal means.¹⁴ The year 1942 became an important marker for postwar regimes in South and Southeast Asia to limit access to citizenship by identifying ‘migrants’ who were displaced during the War as *outsiders*. Looking at jurisdictional claims during this period demonstrates that the legal status of citizenship in adopted homes and workplaces was not available to all former migrants. This was not only due to the place of their birth or residence, but also because of their location during the ‘height of the war in 1942’.¹⁵

The book is organised around legal issues of taxation, contracts, immigration, property inheritance and detention. The emphasis here is on jurisdictional claims, where the narrative moves between different groups, such as indentured labourers, traders, shopkeepers and moneylenders, not just because of their connections through labour, capital, credit and trade, but also because of their representation in legal records raising important questions of jurisdiction, power and authorisation.¹⁶ Through the seven chapters, Ramnath looks at these jurisdictional claims to reflect on the stories of these displaced individuals in the aftermath of the War and decolonisation. The first chapter opens with the Japanese invasion of Rangoon in 1942 during the Second World War and the subsequent mass displacement.¹⁷ As there were no official policies regarding the return and movement of people, political leaders and regimes took advantage of this uncertainty. They enforced jurisdictional boundaries that restricted remittance, imposed double taxation and nationalised land. These changes had a significant impact on the lives of Indian migrants, who were left with no automatic right to return to their adopted homes in Southeast Asia. Through these claims and counterclaims, Ramnath shows how, in the context of South and Southeast Asia, jurisdiction was not only territorial but also temporal.¹⁸

The second chapter is titled ‘Banana Money’. During the Japanese occupation in Malaya, the Government of Japan introduced a currency called ‘Banana Money’, which was notably marked with an image of the banana plant. The choice of the banana plant was intended to reflect the country’s tropical landscape.¹⁹ In this chapter, Ramnath highlights how wartime displacement became the context for all legal encounters. The chapter deals with debt recovery cases and the legal issues surrounding ‘Banana Money’, showing how new jurisdictional claims made to recover debts led to broader questions of nationality, citizenship and national loyalty. Migrant traders and financiers were widely perceived to have profited from the War. A popular narrative around these groups was that they had all fled

¹³ *ibid.* I am borrowing the term ‘thinking with jurisdiction’ from Shaun McVeigh and Sundhya Pahuja. See Sundhya Pahuja and Shaun McVeigh, ‘Thinking with Jurisdiction: Shaun McVeigh and Sundhya Pahuja in Conversation’ (2022) 82(2) *Zeitschrift für Ausländisches Öffentliches Recht und Völkerrecht* [Journal for Foreign Public Law and International Law] 299. See also, Shaunnagh Dorsett and Shaun McVeigh, ‘Conduct of Laws: Native Title, Responsibility, and Some Limits of Jurisdictional Thinking’ (2012) 36(2) *Melbourne University Law Review* 470; Sundhya Pahuja, ‘Laws of Encounter: A Jurisdictional Account of International Law’ (2013) 1(1) *London Review of International Law* 63.

¹⁴ Ramnath (n 1) 8.

¹⁵ *ibid.*

¹⁶ *ibid.* 10.

¹⁷ *ibid.* 29.

¹⁸ *ibid.* 8.

¹⁹ *ibid.* 56.

their adopted homes and had taken with them all their wealth and did not intend to return.²⁰ Governments were found imposing rigid requirements controlling the amount and frequency of remittances, foreign exchange and the transfer of savings certificates. Ramnath shows how these seemingly unimportant debt recovery cases gestured to the difficulties that Indian migrants faced in reviving capital, credit and money circulations in the wake of the postwar economic collapse in South and Southeast Asia. Further, she shows how these jurisdictional claims formed the basis for accessing citizenship. As some of these traders, moneylenders and financiers attempted to return to Burma from India during the postwar period, they presented networks of credit and capital between the two places as ‘evidence of deep roots and investment’ in the communities.²¹

Chapter Three examines how moneylenders and financiers, who had lived in Burma and Malaya for centuries while retaining their ties with their ancestral villages in India, dealt with competing claims to their property amidst the emergence of nation-states and the formation of multiple jurisdictions.²² Their wartime displacements were used against them to label them as non-citizens, resulting in property confiscation, heavy taxation and business closures.²³ Ramnath shows how, with the possibility of ‘refugee capital’ across South and Southeast Asia, ‘laws’ were established by regimes to expand the taxable population beyond their own borders.²⁴ She insightfully demonstrates how turning to the legal archive can significantly alter our comprehension of the link between tax residence and territory in these regions.²⁵

In Chapter Four, Ramnath analyses some of the naturalisation applications made by plantation workers in Ceylon and shows how the demand for documentation became significant after the War.²⁶ In India and Ceylon, the respective governments used migrant workers’ extended absences to question their sense of belonging and loyalty. Seemingly insignificant documents such as remittance forms, letters to loved ones, property deeds and travel tickets were used to exclude them from citizenship.²⁷

Chapter Five, titled ‘Women Who Wait’, examines the interwoven themes of gender, family structure, loyalty, race, ethnicity and religion that affect migration and citizenship questions.²⁸ Ramnath’s work sheds light on the gender gaps in migration and citizenship policies that have existed since the formation of postcolonial states and even prior. It is also a reminder that borders disproportionately affect diverse gender and sexual identities compared to cis-heterosexual men.²⁹ However, she does not portray her interlocutors as mere victims. Instead, she demonstrates how women and fragmented migrant families

20 *ibid* 63.

21 *ibid* 64.

22 *ibid* 78.

23 *ibid* 21, 80.

24 *ibid* 101.

25 *ibid* 86.

26 *ibid* 102.

27 *ibid* 103.

28 *ibid* 130.

29 Or, as Moria Paz puts it, ‘so the question of “who can establish physical presence” becomes “who can scale walls that are almost impassable.” The answer is often strong, fast individuals with an aptitude for risky behaviour; in other words, young men. But they are rewarded by the regime only after they have risked themselves in traversing an ever-growing numbers of barriers; and, if they endure’: Moria Paz, ‘Between the Kingdom and the Desert Sun: Human Rights, Immigration, and Border Walls’ (2019) 34(1) *Berkeley Journal of International Law* 1, 41.

across South and Southeast Asia challenged and navigated these exclusionary policies and territorial claims of new nation–states.³⁰

In Chapter Six, titled ‘Red Flags’, Ramnath demonstrates how, following the end of the War, nation–states employed legal regimes of expulsion and deportation to remove migrants, frequently labelling them as ‘communists’.³¹ The political uncertainties of newly formed nation–states in South and Southeast Asia — who were trying to build a homogenous nation–state — were exacerbated by the growing fear of communism during the Cold War period. Ramnath examines a collection of habeas corpus applications to shed light on a significant political shift from imperial to post-imperial nation–states.³² It provides insight into how individuals experienced this transition as they navigated the legal challenges in postwar South and Southeast Asia. Ramnath, in this chapter, also looks at a few radical left voices that advocated for the rights of these plantation workers.³³

The final substantive chapter covers the year 1962.³⁴ The 1960s saw significant changes in the discourse around citizenship rights, both domestically and globally. In 1962, a military coup occurred in Rangoon, again leading to displacement and unrest. Additionally, the *Commonwealth Immigrants Act 1962*³⁵ was passed in Britain in the same year.³⁶ This Act ended free movement between Britain and its former colonies and instead introduced a work permit system that was limited to only highly skilled immigrants.³⁷ Between 1961 and 1963, a ‘second wave’ of decolonisation took place in the British Empire, which led to the independence of former East African countries, including Tanzania, Kenya and Uganda.³⁸ It is worth noting that the 1960s was also a period when the international community recognised the need to prevent and reduce statelessness.³⁹ Although international and domestic law defined citizenship as a legal status, deportations and indefinite detentions continued, exposing the limitations of political belonging within the nation–state.⁴⁰

A brief reflection on the drafting process of the two Statelessness Conventions, namely the 1954 *Convention relating to the Status of Stateless Persons* (‘1954 Convention’)⁴¹ and the 1961 *Convention on the Reduction of Statelessness* (‘1961 Convention’),⁴² reveals the Eurocentric nature of these projects. Further, it also helps us reflect on how the imposition of the framework of the nation–state to all newly independent territories was detrimental to the interests of the stateless.

³⁰ Ramnath argues, ‘in histories of trading families, men are often portrayed as sojourning cosmopolitans ... while women stay behind in charge of aging parents, children, and the home. This fiction can be quickly dismantled’: Ramnath (n 1) 149.

³¹ *ibid* 162.

³² *ibid* 172–5.

³³ See, eg, the part titled ‘A Conditional Release’: *ibid* 175–8.

³⁴ *ibid* 185.

³⁵ *Commonwealth Immigrants Act 1962*, 10 & 11 Eliz 2 c 21 (United Kingdom).

³⁶ See generally Sarah Ansari, ‘Subjects or Citizens? India, Pakistan and the 1948 British Nationality Act’ (2013) 41(2) *Journal of Imperial and Commonwealth History* 285.

³⁷ Ramnath (n 1) 187. See also Kennetta Hammond Perry, *London is the Place for Me: Black Britons, Citizenship and the Politics of Race* (Oxford University Press 2015) ch 5.

³⁸ Ramnath (n 1) 187.

³⁹ See *Convention on the Reduction of Statelessness* signed 30 August 1961, 989 UNTS 175 (entered into force 13 December 1975) (‘*Convention on the Reduction of Statelessness*’).

⁴⁰ Ramnath (n 1) 188.

⁴¹ *Convention relating to the Status of Stateless Persons* signed 28 September 1954, 360 UNTS 117 (entered into force 6 June 1960).

⁴² See *Convention on the Reduction of Statelessness* (n 38).

During the drafting of the *1954 Convention*, state representatives (predominantly colonial powers) did not recognise or delve into the root causes of statelessness resulting from colonialism or forced displacement during the decolonisation phase. For instance, around the same period, approximately 15 million people were displaced and an estimated one million people died during the Partition of India (1947).⁴³ Despite this, the *travaux préparatoires* reveal that no discussion of displacement occurred in the context of the Partition of India or other forced displacements befalling the colonies during decolonisation. The list of participants during the Conference of Plenipotentiaries further indicates how former colonial powers largely dominated the negotiation process.⁴⁴

Things were a little different during the drafting of the *1961 Convention*. With decolonisation looming, the 1961 Conference of Plenipotentiaries saw more representation from the postcolonial states, predominantly Asian and Latin-American states. The era of decolonisation saw increasing solidarity among third world states that emerged from the shackles of centuries of formal colonial rule.⁴⁵ At the same time, the ‘endpoint of decolonial struggle’ or political independence from colonial rule was possible only through the adoption of the nation–state model.⁴⁶ Therefore, for states (former colonial but also postcolonial states) and their representatives, the tension between protecting the sovereign–territorial state and the interests of the stateless was always resolved in favour of the former.⁴⁷ The idea of ‘statelessness’ was conceptualised and negotiated around the nation–state, which presumed a precise conception of social and political relations based solely on a European imagination.⁴⁸ Thus, while postcolonial states called for a just and egalitarian world order with equal and democratic participation of all states, their call was not inclusive of the interests of the stateless. In their pursuit of protecting their hard-earned sovereignty, postcolonial states failed to champion the protection of the stateless. In a similar vein, Ramnath illustrates how new networks of solidarity were formed between these new states after the War. This was demonstrated through events like the Asia Relations Conference, the Bandung

⁴³ See ‘Partition: Why Was British India Divided 75 Years Ago?’, *British Broadcasting Corporation* (online, 15 August 2022) <<https://www.bbc.com/news/world-south-asia-62467438>>, archived at <perma.cc/VUS5-SVJ2>.

⁴⁴ There were 27 participating states in the Conference of Plenipotentiaries for the 1954 Statelessness Convention: see United Nations Economic and Social Council, *Draft Final Act of the United Nations Conference on the Status of Stateless Persons*, UN Doc E/CONF.17/L.26 (23 September 1956).

⁴⁵ See generally Ram Prakash Anand, *New States and International Law* (Vikas Publication House 1972).

⁴⁶ Cait Storr, ‘Denaturalising the Concept of Territory in International Law’, in Julia Dehm and Usha Natarajan (eds), *Locating Nature: Making and Unmaking International Law* (Cambridge University Press 2022) 179, 180. See also Luis Eslava and Sundhya Pahuja, ‘The State and International Law: A Reading from the Global South’ (2020) 11(1) *Humanity* 118, 125–6.

⁴⁷ For instance, the final text of art 8 (Deprivation of Nationality) of the *Convention on the Reduction of Statelessness* (n 39) retained the distinction between naturalised and natural-born citizens: see United Nations Conference on the Elimination or Reduction of Future Statelessness, *Text of Article 8 Prepared by the Working Group Appointed by the Conference*, UN Doc A/CONF.9/L.86 (23 August 1961). See also Guy S Goodwin-Gill, ‘Convention on The Reduction of Statelessness’, *United Nations Audiovisual Library of International Law* (Introductory Note, 2011) <<https://legal.un.org/avl/ha/crs/crs.html>>, archived at <perma.cc/C5GN-NETR>.

⁴⁸ See generally Betsy Fisher, ‘Exclusion in the 1954 Convention’s Drafting Process: Insights from the Travaux Préparatoires’, *Critical Statelessness Studies Blog* (Blog Post, March 2022) <<https://law.unimelb.edu.au/centres/statelessness/resources/critical-statelessness-studies-blog/exclusion-in-the-1954-conventions-drafting-process-insights-from-the-travaux-preparatoires>>, archived at <perma.cc/49YJ-987R>.

Conference (Asian-African Conference) and the Non-Aligned Movement. At the same time, in stark contrast to these ‘highly visible events’, seemingly insignificant and lesser-known encounters between governments and migrants redefined the intertwined histories of South and Southeast Asia.⁴⁹ In preserving the sanctity of the sovereign territorial states, governments increased legal restrictions on borders and migration, leading to a further decline in movement between the South and the Southeast.⁵⁰

In the concluding part of the book, Ramnath intertwines these various themes and reflects on how postwar displacement and decolonisation have affected the sense of belonging in South and Southeast Asia.⁵¹ In these regions, factors like class, caste and religion might have impacted individuals’ citizenship rights differently. Ethnonationalism and the marginalisation of minorities became essential features in the making of these postcolonial states.⁵² We notably witness this in the present context of the marginalisation and denationalisation encountered by the Rohingyas in Myanmar and the Muslims in India.⁵³ This book does not delve directly into these questions as Ramnath organises it around different sets of questions and with different objectives. However, for a careful reader, there is an implicit indication towards these issues, for instance, in her attention to gender and minority questions while acquiring citizenship.⁵⁴ Likewise, in various sections, she points out how, even in the current times, the citizenship acquisition and denationalisation processes in both South and Southeast Asia are prejudiced against marginalised groups and individuals.⁵⁵ In other words, these groups (such as the Muslims in India) are potentially categorised as ‘doubtful’ citizens who can be exploited by political parties for petty political gain.⁵⁶ The ‘law’ serves as a necessary tool in this discriminatory process.⁵⁷

Boats in a Storm revolves around important themes such as wartime displacement, postcolonial state-making and citizenship. For the readers of this journal, Ramnath’s focus on the question of citizenship in South and Southeast Asia will be of particular interest. Ramnath explains how questions of political belonging after the end of empires could not be resolved through nationality and citizenship regimes that offered a fixed legal status. She sheds light on how decolonisation affected those ‘caught in legal limbo’ during the transitional period.⁵⁸ She carefully narrates the experiences of people who yearned to belong somewhere, reunite with their displaced families, or be released from indefinite detention. Rather than viewing citizenship as a technical legal concept, she emphasises that we should examine it through personal accounts to better

49 Ramnath (n 1) 3.

50 *ibid* 192.

51 *ibid* 210.

52 See Mohammad Shahabuddin, *Minorities and the Making of the Postcolonial States in International Law* (Cambridge University Press 2021).

53 See generally Mohammad Shahabuddin, ‘Post-colonial Boundaries, International Law, and the Making of the Rohingya Crisis in Myanmar’ (2019) 9(2) *Asian Journal of International Law* 334.

54 See Ramnath (n 1) ch 5.

55 See, eg, *ibid* 8.

56 See generally Amnesty International, *Designed to Exclude: How India’s Courts are Allowing Foreigners Tribunals to Render People Stateless in Assam* (Report, 2019).

57 See generally Sumedha Choudhury, ‘Denationalisation and Discrimination in Postcolonial India’ (2022) 22(3) *International Journal of Discrimination and the Law* 326.

58 Ramnath (n 1) 214.

understand the complexities of belonging and non-belonging in a nation-state.⁵⁹ From the perspective of a ‘migrant’, the ‘law’ was a complex and interconnected system that they had to navigate to claim citizenship.⁶⁰ There was no straightforward process for declaring and confirming a single national citizenship.⁶¹ Ramnath argues that to understand the complexities of immigration and citizenship laws, we need to see the historical contexts and their geographic and temporal contexts, which were constantly changing during this period and were influenced by the movements and migrations of people, money and legislation.⁶² Therefore, Ramnath suggests it is crucial to understand this fluctuation to rethink our ideas of citizenship and decolonisation in South and Southeast Asia.⁶³

Ramnath’s *Boats in a Storm* is highly recommended for anyone interested in researching or understanding the history of citizenship and statelessness in South and Southeast Asia. It will also be valuable for researchers to contextualise the present day situation in South and Southeast Asia, where statelessness has become a defining feature. Her account serves as an aide-mémoire that the war, wartime displacements and decolonisation are not events from the past; they continue to shape our laws, thoughts, relationships and ideas of belonging.

⁵⁹ See generally Michelle Foster and Hélène Lambert, ‘Statelessness as a Human Rights Issue: A Concept Whose Time Has Come’ (2016) 28(4) *International Journal of Refugee Law* 564; Tendayi Bloom and Lindsey N Kingston, ‘Opening a Conversation about Statelessness, Governance, and the Problem of Citizenship’ in Lindsey N Kingston and Tendayi Bloom (eds), *Statelessness, Governance, and the Problem of Citizenship* (Manchester University Press 2021) 1, 1–16.

⁶⁰ Ramnath (n 1) 212.

⁶¹ *ibid.*

⁶² *ibid.*

⁶³ *ibid.*