

BOOK REVIEW

GHOST CITIZENS: DECOLONIAL APPARITIONS OF STATELESS, FOREIGN AND WAYWARD FIGURES IN LAW BY JAMIE CHAI YUN LIEW (FERNWOOD PUBLISHING 2024). 252 PAGES. PRICE CAD33.00. ISBN 9781773636665

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The pale figure of a dishevelled woman is seen standing by a banana tree and peering through the windows of a family home. Her story of isolation and living in a purgatory-like, liminal space haunts the pages of Jamie Chai Yun Liew's work. Through telling the story of the *Pontianak*,¹ Liew transforms this monstrous female figure — the sorrowful woman returned from the dead after the loss of her child — to one representing the *stateless person*. Liew's *Pontianak* as a stateless woman, however, is a desperate rather than a horrific figure; an entity denied peace unless she can confer citizenship to her child to spare them from the same living-death she experiences.

'Stateless persons also haunt and terrify people'.²

Ghost Citizens: Decolonial Apparitions of Stateless, Foreign and Wayward Figures in Law opens with the image of this ghostly woman as a means to illustrate the lives of 15 million stateless persons globally and over 11,000 in Malaysia, while also showcasing the gendered challenges of statelessness in postcolonial

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¹ The *Pontianak* is a ghostly presence from Southeast Asian folklore and is similar to figures from female vampire stories in Europe or reminiscent of *La Lorena* (the weeping woman) from Latin America. These global stories of female monstrosity also intersect with structural injustices, gendered violences and burdens of motherhood under oppressive patriarchal and/or (post)colonial systems. These are all themes that Liew weaves into her legal analysis to showcase the experience of statelessness. The gender of the ghost is also no mistake given much of the challenges of being stateless rest with the inability of women to convey their citizenship to their children due to patriarchal legal norms in postcolonial states.

² Jamie Chai Yun Liew, *Ghost Citizens: Decolonial Apparitions of Stateless, Foreign and Wayward Figures in Law* (Fernwood Publishing 2024) 6.

states.³ The *Pontianak*, as a stand-in for a stateless person, is not a gothic-romantic figure. It is rather one that offers Liew's targeted critique of legal systems which actively construct people as ghost citizens. In doing so, she sets the stage for an exploration of how modern legal systems, being rooted in colonial histories and racial biases, continue to cast individuals into the shadows through the labels of foreignness despite being 'kin'.⁴ Through a blend of personal narrative, decolonial critique and legal analysis of (inter)national frameworks, Liew challenges conventional understandings of citizenship. She asks the reader to consider citizenship not as 'law as text' but in a relational perspective. This reimagines citizenship beyond the constraints of state recognition and technicalities from the provision of documentation.⁵

Populations within states are categorised as either *citizen* or *non-citizen*, with the figure of the *non-citizen* living in the social imaginary alongside that of the *outsider* (the Other, the migrant). A stateless person is defined broadly as 'a person who is not considered as a national by any state under the operation of its law'.⁶ In her introduction, Liew subtly exploits these understandings to illustrate how a stateless person can simultaneously live as a non-citizen and subvert the notions of foreignness through their territorial and familial links. Research has tended to focus on how states construct citizens and citizenship, however Liew offers a radical means to conceptualise how states create stateless persons. By focusing on the lives of stateless persons in situ,⁷ she illustrates how the state 'ghosts' stateless

³ This is an estimated figure: see Institute on Statelessness and Inclusion, *The World's Stateless Report 2020 Deprivation of Nationality* (Report, Institute on Statelessness and Inclusion, 2020) 74 <https://files.institutesi.org/WORLD'S_STATELESS_2020.pdf>, archived at <perma.cc/4SY9-2TBZ>. The United Nations High Commissioner for Refugees ('UNHCR') counts approximately 10 million stateless persons globally and more specifically 11,500 stateless 'Malaysians', ie those born in Malaysia or with significant ties to the country in West Malaysia: UNHCR #IBelong Campaign to End Statelessness, 'Malaysia' (Web Page, 2024) <<https://www.unhcr.org/ibelong/imvisible-malaysia/>>, archived at <perma.cc/2JD9-UBHE>. The magnitude of statelessness in East Malaysia is unmapped. Figures for stateless persons who have also been displaced in Malaysia are much higher, estimated at 117,070 according to the UNHCR: UNHCR, 'Refugee Data Finder' (Web Page, 2024) <<https://www.unhcr.org/refugee-statistics/download?data-finder>>, archived at <perma.cc/DQ3Y-WLFL>. However, figures for stateless persons are notoriously difficult to demonstrate given the lack of official procedures, registration and the fear stateless persons experience to come forward and be recognised as such. The National Registration Department ('NRD') and Home Office in Malaysia, for example, do not keep any official figures on stateless persons within the country: see Bathmaloshanee Muniandy and Chin Chin Sia, *Stories from the Field: Overcoming Access to Justice Barriers through Grassroots Communities' Participation and Collective Action* (Report, DHRAA Malaysia, 2023).

⁴ Liew (n 2) 16.

⁵ This adds to the scholarship related to statelessness and citizenship which reflects on 'rooted'-ness, 'belonging' and the 'non-citizen'. See, eg, Tendayi Bloom, *Noncitizenism: Recognising Noncitizen Capabilities in a World of Citizens* (Routledge 2018); Kristy Belton, 'Rooted Displacement: The Paradox of Belonging Among Stateless People' (2015) 19(8) *Citizenship Studies* 907–921; Lindsey N Kingston, *Fully Human? Personhood, Citizenship, and Rights* (Oxford University Press 2019).

⁶ Liew (n 2) 46; *Convention relating to the Status of Stateless Persons*, opened for signature 28 September 1954, 360 UNTS 117 (entered into force 6 June 1960) art 1 ('1954 Convention').

⁷ Statelessness in situ refers to individuals who have been rendered stateless within their own country, often due to changes or gaps in laws, state boundaries or administrative failures. Where statelessness can be interlinked with displacement, in situ statelessness specifically arises when a person is born and lives in a country, believing it to be their own, but is not recognised as a citizen by that country. This form of statelessness is frequently tied to historical, racial or ethnic exclusion, as seen in cases such as Myanmar with the Rohingya. See further Caia Vlieks, 'Contexts of Statelessness: The Concepts "Statelessness In Situ" and "Statelessness in the Migratory Context"' in Tendayi Bloom, Katherine Tonkiss, and Phillip Cole (eds), *Understanding Statelessness* (Routledge 2017) 35.

persons and ‘gaslights’⁸ them by not recognising their ‘genuine and effective links’⁹ and membership to their home country.

*‘When my documents were taken away, I felt lost. Missing documents has meant I feel like I am a missing person.’*¹⁰

There is an appearance of arbitrariness within a state’s actions by their construction of ghost citizens. However, from the first chapter, Liew’s dispels this assumption by showing that the state actively constructs and enacts its own imaginaries of nationhood onto its populations. It does this through historical and colonial constructions of race which have filtered into the bureaucratic realities of the modern state.¹¹ The state is a settler-colonial product,¹² which Liew stresses should not be assumed to be neutral nor sanitised from its violent colonial history. The state shapes 1) who is included through the label of citizen (ie someone who is permitted to take an active role in the building of national identity and participate in the nation-state) and 2) who is quietly excluded. This almost silent operation of exclusion takes place on an administrative level through the simple use of the words ‘non-citizen’ as a descriptor for the mother on a birth certificate, or demands for documents that are impossible to provide. The individuals are assumed to hold the citizenship of another foreign state, ‘even though the home state has no jurisdiction’ to assert such claims.¹³ It is important to emphasise that Liew does not contend that these are benign operations of the state’s infrastructure, but are rather the active and targeted construction of ghost citizens.

Chapter Two illustrates how this conceptual framework operates in the Malaysian context. Originally, Liew had wished to conduct her research in Brunei, connecting back to her own father’s statelessness.¹⁴ Yet due to political issues and the challenges of researching statelessness in Brunei, she relocated the study to Malaysia. Malaysia’s stateless populations include the Rohingya who have also been displaced from Myanmar, the Bajau Laut in Sabah, the Tamil in Peninsular Malaysia (aka West Malaysia), and other communities throughout the country.¹⁵ Liew illustrates how the statelessness of these communities has links to Malaysia’s own colonial and postcolonial constructions of race. She outlines with an analysis of the racial categorisations from British colonial times how the history of the formation of the Malaysian state continues to play a role in defining Malaysian identity and belonging. National identity is predicated on the colonial

⁸ Liew (n 2) 17; see also Tendayi Bloom (n 5).

⁹ Liew (n 2) 4.

¹⁰ *ibid* 4–5.

¹¹ *ibid*; See also Sharmani Patricia Gabriel, ‘The Meaning of Race in Malaysia: Colonial, Post-Colonial and Possible New Junctures’ (2015) 15(6) *Ethnicities* 782.

¹² See, eg, Rita Dhamoon, ‘A Feminist Approach to Decolonizing Anti-Racism: Rethinking Transnationalism, Intersectionality, and Settler Colonialism’ (2015) 4 *Feral Feminisms* 20.

¹³ Liew (n 2) 4.

¹⁴ *ibid* 19.

¹⁵ *ibid* 21; See also Melati Nungsari and Nicole Fong, ‘Human Rights and Statelessness in Peninsular Malaysia’ (Report, The Human Rights Commission of Malaysia (‘SUHAKAM’), 2023) <<https://suhakam.org.my/publications/research-thematic-reports/>>, archived at <perma.cc/NZS6-6VSB>.

constructions of ‘Malay’ which falls under the terms ‘*Bumiputra*’,¹⁶ ‘Chinese’ and ‘Indian’ based on the division of labour and hierarchical relationships.¹⁷ *Bumiputra* refers to complex grouping of identities within Malaysia. Traditionally, it refers to the Malay ethnic group and (tribal) Indigenous groups. As something of an umbrella term, it is deeply embedded in Malaysia’s political, social and economic history, and is not without contestation nor hierarchy. As Liew also illustrates, Malays are considered dominant in comparison to other Indigenous communities such as the *Orang Asli*, *Orang Ulu* or *Anak Negeri*.¹⁸ These vestiges of racial categorisations of belonging are built into forms of differentiated citizenship, which ultimately privilege Malays under a culture of ethnic nationalism.¹⁹ This has also included a differentiation of rights and privileges in comparison to *non-Bumiputra*, ie the Indian or Chinese communities. As other scholars noted, the use of the *Bumiputra* identity sought to protect Malay rights and political interests in the face of Indian and Chinese communities’ claims for citizenship (given their own longstanding ties to Malaysia).²⁰ This project of nation-building promoted a competition of belonging both within and between racial categories, laying the groundwork for the challenges of the stateless persons in Malaysia today.

The legal construction of statelessness on the international and national level is described throughout Chapters Three and Four of *Ghost Citizens*. Chapter Three illustrates how ‘law as text’, ie legal frameworks and their processes, justify the stripping of citizenship and maintenance of statelessness within states by constructing stateless individuals as ‘foreign’. The identification as stateless through legal categorisations also diverts from the genuine and effective links stateless persons have to their home countries. Liew builds her argument using international jurisprudence to supplement the *Statelessness* and *Refugee Conventions*:²¹ that states have an obligation to provide citizenship. However, as she also notes, not all states are parties to the *Conventions*. Indeed, Malaysia is a non-signatory state to the *Statelessness* and *Refugee Conventions*. Further, she raises the issue of how a state’s prerogative to decide ‘who is a citizen’ is also embedded in international law.²² Nevertheless, she also draws on other normative frameworks to illustrate that citizenship is not only a case of technical documentation but can refer to deeper ties and belonging, ie art 12(4) of the *International Covenant on Civil and Political Rights* and the phrase ‘his own country’.²³ This normative understanding of a person’s relation to a state need not

¹⁶ *Bumi* (soil/earth) *Putra* (son/children) is often used to refer to ‘Indigenous’ groups. Aside from the Malay ethnic group, other tribal groups include *Orang Asli* (original people), *Orang Ulu* (people of the interior) or *Anak Negeri* (citizen or child of the country). However, the word ‘Indigenous’ is not used in the *Federal Constitution of Malaysia* (Malaysia). Rather, as Liew illustrates, the word ‘native’ is used to describe communities from Sarawak and Sabah in particular.

¹⁷ Liew (n 2) 33; Gabriel (n 11) 790; See generally Sharmani Patricia Gabriel, *Making Heritage in Malaysia: Sites, Histories, Identities* (Palgrave Macmillan 2020).

¹⁸ Liew (n 2) 24.

¹⁹ *ibid* 33; See also Gabriel (n 11) 800, 804.

²⁰ Gabriel (n 11) 783, 794, 803–4.

²¹ These include: *1954 Convention* (n 6); *Convention on the Reduction of Statelessness*, opened for signature 30 August 1961, 989 UNTS 175 (entered into force 13 December 1975); *Convention relating to the Status of Refugees*, opened for signature 28 July 1951, 189 UNTS 150 (entered into force 22 April 1954); and *Protocol relating to the Status of Refugees*.

²² Liew (n 2) 62.

²³ *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) art 12(4).

only refer to citizens (vs non-citizens), but to a spectrum of ‘links, connections and ties’ which form how one belongs to a state.²⁴ A focus on ‘law as text’, she argues, can distract from these links and indeed have allowed states to deny their own responsibilities to stateless persons in situ.

Chapter Four continues this argument by illustrating how stateless persons are denied the ability to even apply for their citizenship status. Specifically, she illustrates the difference between automatic²⁵ and discretionary²⁶ pathways to citizenship, along with the challenges in obtaining birth certificates and related documentation, all of which can result in the denial of citizenship status.²⁷ This Chapter further establishes the gendered differences in how citizenship is conveyed through the examples of ‘foreign’ mothers and Malaysian fathers. In such cases, the ‘illegitimate’ children (or children of parents who were unable to have either marriage or birth certificates for a range of reasons) were established as having the same citizenship of their mother – ie non-Malaysian.²⁸ These specific issues are again illustrated in Chapters 5–7 through the stories of stateless persons and their inability to prove their ties to Malaysia.

Questions of kinship and the potential use of *jus nexi* arise in Chapter Five.²⁹ Liew identifies six categories of statelessness in Malaysia which both unsettle and reinforce how these stateless persons might be considered strangers in their own lands. *Jus nexi* refers to an individual’s rootedness or bond to a state through genuine ties such as residence, community and kinship. It could provide an alternative to strict reliance on *jus sanguinis* (right of blood) or *jus soli* (right of soil) for the recognition of citizenship.³⁰ The six categories include: *those with longstanding residence from pre-Independence, those without documentation, abandoned children/foundlings/‘adopted’ children, children of mixed marriages/alternative families, Indigenous persons, and refugees and children of migrant workers*. Many of the people in these categories consider Malaysia as their home and/or have been born in the country. Here, the concept of *jus nexi* may therefore hold relevance for the people identified by Liew in these six categories, as many of them possess deep-rooted connections to the country that transcend formal legal status.

Chapter Six uncovers the details of how stateless persons, from the six categories of statelessness as introduced in Chapter Five, experience their statelessness. Each of their experiences are describe thematically and demonstrate the form of ‘administrative death’ that stateless persons undergo when they try to claim a legal status.³¹ This Chapter shows how states burden a stateless person’s claims through demands of unachievable documentations, labyrinthian administrative processes, misdirection of application procedures (for instance, not providing art 14 forms) and other modes of obstruction. As a result, these

²⁴ Liew (n 2) 61.

²⁵ *Federal Constitution of Malaysia* (Malaysia) art 14.

²⁶ *ibid* art 15.

²⁷ Liew (n 2) 69.

²⁸ *ibid* 67.

²⁹ Liew refers to *jus nexi* (a notion of rootedness and genuine connection to showcase one’s relation to policy and membership of a national communities) as a conceptual means to establish stronger relations between states and stateless persons: Liew (n 2) 106. See also Ayelet Shachar, *The Birthright Lottery: Citizenship and Global Inequality* (Harvard University Press 2009).

³⁰ Liew (n 2) 173.

³¹ *ibid* 110.

procedures are not reasonable, clear or fair. This form of injustice, Liew argues, exemplifies a form of bordering practice embedded in the bureaucratic states' function that seeks to exclude or portray the stateless person as deviant or foreign.

'*Malaysia is my country*'³²

Roisah bin Abdullah's story is narrated in Chapter Seven and shows the experiences of administrative injustice that accompany statelessness. She was born in Malaysia to a Filipino mother and unknown father, then adopted by a Malaysian couple (who later divorced and are now deceased). She did not know she was stateless until she was 12 years old. Nevertheless, Roisah was a model non-citizen who speaks Bahasa and English, performing well in the education she was able to access. Through the support of lawyers and media coverage, she was able to gain an audience with government officials, but in doing so she was transformed from ghostly spectre to what Liew terms as a 'spectacle'.³³ The nature of the spectacle — and Roisah's ultimate success — rests on her ability to authentically *masuk Melayu* ('become Malay').³⁴ States use such means, which De Genova illustrates as border spectacles, to publicly reinforce modes of exclusion and 'obscene' inclusions.³⁵

As Chapter Eight concludes, *Ghost Citizen* has been a work of disruption. It disrupts ways in which citizenship is traditionally conceived through illustrating a form of belonging articulated from beyond liminal spaces. Situating statelessness as a mode of exclusion without ignoring the relational dimension, Liew radically challenges the notion of who belongs to the state. Throughout, Jamie Liew thoroughly details how states create a Kafkaesque system which slows, burdens and obstructs stateless persons from being able to claim citizenship within their own countries. She further maintains that this act of conferring ghost citizenship, as well as the bureaucratic and administrative injustices exemplified in the process, should be scrutinised to hold states accountable.³⁶ This makes a clear contribution to the field of statelessness and citizenship studies.

My one critique of *Ghost Citizen* is the same critique I frequently feel in relation to decolonial critical works; so much work is placed in deconstructing the current system that little time can be afforded to restoring and reimagining what could come next. Liew offers a snapshot through concepts of *jus nexi* and *kinship*, as seen through an example of Cree Law in Canada (illustrated in Chapters Five and Eight), as legal means which could strengthen ties between stateless persons and their 'home' states.³⁷ Liew draws on this example to showcase how Indigenous or customary norms can create a basis to rearticulate belonging. However, drawing on the specific example from Cree legal norms in Canada does feel out of place — decoloniality must also be situated within the norms relevant to the specific

³² *ibid* 144.

³³ *ibid* 141.

³⁴ See Liew (n 2) 152, which defines *masuk Melayu* as 'refers to the modelling or assimilation of persons by adopting the three pillars of Malay identity: language, culture, and religion'.

³⁵ Nicholas De Genova, 'Spectacles of Migrant "Illegality": The Scene of Exclusion, the Obscene of Inclusion' (2013) 36(7) *Ethnic and Racial Studies* 1180.

³⁶ Liew (n 2).

³⁷ Her example related to Cree Law illustrates how Cree legal traditions emphasise relationships and how individuals are inextricably linked with wider communities and networks. See also Hadley Friedland, 'Reclaiming Language in Law: The Contemporary Articulation and Application of Cree Legal Principles in Canada' (PhD Thesis, University of Alberta, 2016) 165.

subaltern community in question. A deeper discussion of these frameworks, perhaps in relation to Islamic or Indigenous customary norms already practiced in Malaysia, may have yielded deeper means to articulate kinship, belonging and identity relevant for the stateless persons in situ. In short, the reader is left wanting to know more. Liew nevertheless offers a spark for reimagining a legal means to humanise the stateless figure away from preconceptions of illegality, criminality and ‘monstrosity’ in suggesting these models. As such, this now humanised figure haunts the legal consciousness.

Liew’s *Ghost Citizens* provides insights for statelessness and citizenship scholars to engage further in decolonial critiques of legal processes by creating statelessness through its titular concept. The Malaysian case study particularly demonstrates how the act of ‘construction’ of the stateless person is embedded within colonial and historical norms, which also contracted racial and ethnic identities to continue the social and political marginalisation of certain groups. For human rights activists and socio-legal scholars, Liew’s legal normative argument provides a useful resource to challenge and deconstruct international and domestic legal frameworks around stateless, while adding to ‘law as text’ arguments by exploring lived experiences of stateless persons.

The book offers a powerful critique of citizenship and the state’s role in creating statelessness drawn from lived experience in Malaysia. *Ghost Citizens* evokes an eerie feeling as though we have heard only the echoes of the voices of the stateless persons that form the backbone of the work. This is in part through 1) necessity to protect the identity of the individuals involved and 2) due to the conventions of academic and legal writing which can only go so far in weaving the voices of those who experience the violence of the law into the legal analysis itself. Importantly, Liew instils a desire for deeper understanding of these *ghost citizens as human beings*: who are they, where do they live, who are their deep relationships with or their kin, how they ‘imagine possible futures’³⁸ and more. We are prompted to ask whether the law’s role in merely allowing stateless persons to exist and survive is sufficient, and how these individuals might be empowered to truly live a full life. After Roisah’s story, we can also only wonder about the lives of those less desirable non-citizens that have not successfully demonstrated *masuk Melayu*. As Liew herself notes, however, like the ghosts they are named after, the full picture of the lives of these stateless individuals can only ever be partly visible.

³⁸ See also bell hooks, *Teaching to Transgress: Education as the Practice of Freedom* (Routledge 1994) 61.