



UNIVERSITY OF LEEDS

This is a repository copy of *Renisa Mawani: Across Oceans of Law: The Komagata Maru and Jurisdiction in the Time of Empire*.

White Rose Research Online URL for this paper:
<http://eprints.whiterose.ac.uk/170759/>

Version: Accepted Version

Article:

Hendry, J orcid.org/0000-0002-4313-7280 (2019) *Renisa Mawani: Across Oceans of Law: The Komagata Maru and Jurisdiction in the Time of Empire*. *Journal of Law and Society*, 46 (4). pp. 662-665. ISSN 0263-323X

<https://doi.org/10.1111/jols.12192>

© 2019 The Author. *Journal of Law and Society* © 2019 Cardiff University Law School. This is the peer reviewed version of the following article: Hendry, J. (2019), *Renisa Mawani: Across Oceans of Law: The Komagata Maru and Jurisdiction in the Time of Empire*. *Journal of Law and Society*, 46: 662-665, which has been published in final form at <https://doi.org/10.1111/jols.12192>. This article may be used for non-commercial purposes in accordance with Wiley Terms and Conditions for Use of Self-Archived Versions.

Reuse

Items deposited in White Rose Research Online are protected by copyright, with all rights reserved unless indicated otherwise. They may be downloaded and/or printed for private study, or other acts as permitted by national copyright laws. The publisher or other rights holders may allow further reproduction and re-use of the full text version. This is indicated by the licence information on the White Rose Research Online record for the item.

Takedown

If you consider content in White Rose Research Online to be in breach of UK law, please notify us by emailing eprints@whiterose.ac.uk including the URL of the record and the reason for the withdrawal request.



eprints@whiterose.ac.uk
<https://eprints.whiterose.ac.uk/>

ACROSS OCEANS OF LAW: *The KOMAGATA MARU AND JURISDICTION IN THE TIME OF EMPIRE* by RENISA MAWANI (Duke University Press, 2018, 352 pp)

Across Oceans of Law's striking front cover shows what appears to be a jaunty little steamer on the open sea. For anyone unfamiliar with the sad tale of the *Komagata Maru*, as I was, this pleasingly soft-hued image depicting the ship's departure from Vancouver Harbour could be misinterpreted as showing the hopeful beginning of a voyage, rather than the enforced final leg of a 1914 journey that launched from Hong Kong and ended, in violence, in Calcutta.

A controversial piece of Canadian history, the story of the *Komagata Maru*, as detailed in *Across Oceans of Law*, serves to expose the racially unequal nature of the British Empire, its Dominions, territories, and colonies. Denied entry on arrival into Vancouver, the steamship languished in the harbour for two months, its 376 predominantly Punjabi Sikh passengers detained aboard, while a standoff played out in the courts. The issue at hand was a clash between the Canadian Dominion's assertion of its continuous journey regulations – nakedly discriminatory legislation intended to reduce Indian immigration into Canada – and the exercise by Indian nationals of their rights, as British subjects, to mobility within the Commonwealth. Recounted here with insight and sensitivity, Renisa Mawani's almost literary account follows the chronological journey of the Clyde-built and Indian-owned *Komagata Maru* across the juridical space of the ocean arena.

I interviewed Mawani in June 2019 about *Across Oceans of Law*, her second monograph, and the approach of following one ship through its different histories. While the *Komagata Maru's* 1914 voyage is book's central focus, this is also 'a critical porthole through which to explore larger questions on the so-called free seas and the circulations of law that its putative freedoms demanded' (p. 10). Intrigued by this choice to narrate the journey through legal artefacts – the ship, of course, but also the sea, the manifest, the indigenous, and the fugitive (p. 31) – I asked the author which came first, the reimagining of land/sea via 'oceans as method' (p. 8) or the reliance upon the *Komagata Maru* as an artefact and thus a lens. Mawani is categorical in her answer:

The book started with the ship. I decided that I would follow this ship through time and space, so I spent a lot of time looking through Lloyd's Weekly Shipping Registry and plotting the ports that the ship landed in. From the time that it was first built as the *SS Stubbenhuk*, when it was renamed the *Sicilia*, and then when it became the *Komagata Maru*... it was all really borne out of following this one ship through these three lives. It was only much later that I began to focus on the sea as a juridical space and oceans as a method.

Rejecting the idea of the ship as an 'island of law' and the idea of the sea as a mere surface (p.13), the book instead seeks establish *motion* as being at the heart of colonial legal history (p. 7). Initially conceived as a book about migration from a global legal historical scholarly perspective, *Across Oceans of Law* in fact takes a far broader approach, exploring, as Mawani says, 'the connections and circulations across different regimes of empire, across metropole, colony, and settler colony'. Observing that 'Indigenous and non-European cosmologies' (p. 19) did not register the land/sea distinction in the same way as European thinkers traditionally did, the author argues in favour of a critical re-reading of the land/sea divide that rejects the elemental partition favoured by, for example, Grotius, Hegel, and Schmitt. Grotius and Schmitt are targeted explicitly, their purported 'free sea' arguments juxtaposed with accounts presenting the seas instead as perennial sites of activity and connection.

Principal among the relevant connections and circulations are the apparently neutral imperial technologies involved in the juridification of the oceans. Mawani draws attention the practices of drawing lines, marking borders, creating maps – imperial practices of claiming first discovery, then sovereignty – and points to the tools used for these, outlining the important roles played by the ship, the ship's manifest, the map, the compass, and the chronometer. Ships are cited as vehicles for the spread, establishment, and maintenance of imperial power, for example, while the chronometer is highlighted as both politically and symbolically

important. Indeed, it is argued that it was Britain's mastery over time, in the form of Greenwich Mean Time (GMT), that facilitated the consolidation of its empire and thus the 'produc[tion] of new forms of order, authority, and control' (p. 57). Mawani notes this, recalling that, 'as I became more immersed in the shipping records, I realised that time was central to shipboard routines and to navigation. That is what took me to GMT and to the role of clock towers and timetables in colonial cities.' Through the homogenising 'key technology' of GMT, Britain not only linked 'familiar and unfamiliar geographies across vast distances' (p. 28) but also 'eroded...the histories and chronologies of many diverse and heterogeneous communities' (*ibid.*)

While the ship was certainly a key technology in the furtherance of imperial objectives, *Across Oceans of Law* takes a nuanced view of its role. Although ships, as agents of empire, 'initiat[ed] and sharpen[ed] structures of colonial, racial, and legal subjection that circulated between land and sea', Mawani observes they also served to provoke 'anticolonialism, radicalism, and other expressions of power that directly challenged British dominance' (p. 15). Indeed, the tensions inherent in the aspirational settler colonialism of the Indian migrants was, for me, one of the most interesting strands of the book. The legal and political right to travel was, for the passengers aboard the *Komagata Maru*, not merely a right but also 'an obligation of British subjecthood' (p.149) and, moreover, 'a duty of the Indian government to form and carry out a great scheme of Indian colonization within the British Empire' (*ibid.*). In this sense both oceans and ocean travel, as the author explains, were considered 'necessary pathway[s] to global mobility and to Indian freedom' (p. 71)

A notable issue here is what Mawani refers to as the 'false sense of unrestrained mobility' within the Empire: as economic migrants and British subjects, the Indian passengers apparently did not envisage such difficulties in entering the Canadian Dominion, even in spite of the 1908 Continuous Passage provisions that required that immigrants voyage directly from their birthplace to their port of entry. Coinciding as it did with the effective cancellation of the Calcutta-Vancouver route, and despite including no mention of race, this legislation was 'openly and unabashedly aimed at excluding Indian migrants' (p. 36). This situation draws attention to the extent to which racial asymmetries and hierarchies were normalised within the British Empire, and how 'the jurisdictional workings of race [were] a foundational structure of colonial and imperial command' (p. 8). Mawani was keen to elaborate on this:

What I think is useful in global history is the ability to think about and even track how racial inclusions and exclusions operate differently, whether it's the figure of the migrant, the settler, or the Indigenous. The free sea is a site where these exclusions are persistent: the so-called freedom of the sea is only freedom for certain people and certain activities, and this is a legacy we are still living with, a legacy that continues to be challenged by Black, Indigenous, and migrants of colour.

The politics of indigeneity is a strong theme within *Across Oceans of Law*; a favourite line in the book is the observation that, 'just as Europeans never arrived on empty lands, they also did not sail on vacant seas' (p. 17). Mawani's earlier monograph, *Colonial Proximities* (UBC Press, 2010), focused on legal encounters between Indigenous people and Chinese migrants to late 19th and early 20th century British Columbia, and this book continues her interest in this frontier or 'contact zone'¹ as a site of legal encounter. She draws attention to the way that the Indigenous – as a temporal figure – is used 'to marshal a number of contradictory political and legal agendas': for example, in *Re Munshi Singh* (1914) 20 BCR,² the British Columbia Court of Appeal test case concerning the *Komagata Maru* passengers, the Court recognised the 'original sons of the soil of Canada' (p. 144, quoting Justice McPhillips), mobilised their indigeneity, and then immediately erased this by asserting of Dominion authority (*ibid.*). This erasure is mirrored in their non-appearance in the courtroom; indeed, Munshi Singh, the eponymous Indian passenger, is also conspicuous by his absence. This functional invisibilisation is in stark contrast to the very obvious presence of the *Komagata Maru* sitting in Vancouver Harbour for two months, a very visible reminder of the unseen power dynamics at play.

¹ M. L. Pratt, 'Arts of the Contact Zone' (1991) *Profession* 33

² *Re Munshi Singh* (1914) 20 BCR

In our current age of apology, it is unsurprising that the *Komagata Maru* controversy has since been officially addressed in the Canadian House of Commons. Over a hundred years after the events of spring 1914, Prime Minister Justin Trudeau acknowledged that ‘Canada’s government was, without question, responsible for the laws that prevented these passengers from immigrating peacefully and securely’, adding ‘for that...we are sorry’.³ Mawani, the author of a critical op-ed in the *Canadian Globe & Mail*,⁴ explains why, for her, this apology rang so hollow:

There was really no recognition of what happened to [the passengers on the *Komagata Maru*] when they arrived outside Calcutta, the kind of violence they were subjected to. [...] In Canada this [kind of apology] re-inscribes the idea of the multicultural nation, and so comes with huge risks that the racist present is masked by this recognition of our racist past. [...] Communities receive an apology and very little else in many cases, and so I think we should be very critical of those kinds of apologies and what they foreclose.

This final point echoes the idea, raised in the book’s conclusion, that the oceans are both ‘a domain of violence and a site of imagination’ (p. 233). Mawani articulates this duality in terms of both materiality and metaphoricity, another clear strand running through the book. She explains:

I really wanted to hold materiality and metaphoricity in tension as a methodology and as a way of reading. The sea does just that: it is not only metaphor but it has a material force that sailors and seafarers were well-aware of. The sea was a site of violence – whether we are thinking in terms of the fury of nature, or racial violence of transatlantic slavery and other forced migrations – but it has also been a source of inspiration for many communities: traders, migrants, and enslaved peoples, just to name a few. Part of what interests me is how the unpredictability of the sea, its material force, opened opportunities for solidarities, insurgencies, and new futures.

On completion of the book, it was this idea of balancing materiality and metaphoricity that resonated with me most strongly, perhaps because it is here that I found the insight of ‘oceans as method’ most apparent. By requiring scholars to think thematically, narratively, connectedly, vertically, temporally, and non-foundationally, *Across Oceans of Law* provides stimulating conceptual tools for application in contexts beyond the voyage of the *Komagata Maru*, and beyond the seas.

JENNIFER HENDRY

School of Law, University of Leeds, Liberty Building, Leeds LS2 9JT, West Yorkshire

j.hendry@leeds.ac.uk

Published in (2019) *Journal of Law & Society* 46(4) 662-665.

³ <https://www.cbc.ca/news/politics/komagata-maru-live-apology-1.3587827>

⁴ <https://www.theglobeandmail.com/opinion/the-legacy-of-the-komagata-maru/article30066572/>