

Migration and 'Intimate Citizenship': The 'Small Voice' of Ansari Begum

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The Partition of 1947 saw approximately 8 million Hindus and Sikhs leave Pakistan to settle in India and 6–7 million Muslims leave India to settle in Pakistan between 1947 and 1951. This article attempts to discuss one such 'small voice', a female Tamil Muslim voice, that of Ansari Begum, in Madras, as it surfaces through the 'lines of the law'—bureaucratic and juridical—that inscribe frontiers. The idea of citizenship, it is argued, is more than the definition of a relationship between the individual and the state—it is a relationship of intimate belonging that is 'multi-layered', spatially and culturally shaped and is both abstract and specific.

Keywords

Partition, belonging, intimate citizenship, migration, refugee, migrant

Belonging and the Lines of the Law

The Partition of 1947 saw approximately 8 million Hindus and Sikhs leave Pakistan to settle in India and 6–7 million Muslims leave India to settle in Pakistan between 1947 and 1951 (Hasan, 2010, p. 246). Seismic violence that engulfed entire villages left hundreds of thousands dead and displaced—we still do not have a near-accurate estimate of either the dead or displaced (Chatterji, 2007, p. 105, n. 3; Talbot & Singh, 2009, pp. 61–62). Sexual violence and sexual humiliation were constitutive of Partition violence: 'stripping; parading naked; mutilating and disfiguring; tattooing or branding the breasts and genitalia with triumphal slogans; amputating breasts; knifing open the womb; raping, of course;

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killing foetuses ... with the cruel logic of all such violence, it is women, ultimately, who are most violently dealt with' (Menon & Bhasin, 2004, p. 43). We also have several accounts of women who survived Partition violence and the paths they travelled (Bagchi & Dasgupta, 2005; Butalia, 2000; Menon, 2004; Menon & Bhasin, [2000] 2004). Veena Das notes the absence of Partition memorials or trials on incidents of sexual violence in the foundational story of the nation and suggests that abduction and recovery of women authorised a contract between men of the two warring nations to end the war by reinstalling kinship where it should belong (Das, 2007, p. 21). And there are other accounts of the 'small voices of history' that also form part of the Partition experience (Datta, 2012, p. x). The idea of 'intimate citizenship' in this context speaks to intense attachments to and longing for 'home' and assertions of belonging that defy and confront geopolitical boundaries.¹

We attempt, in this article, to discuss one such 'small voice', a female Tamil Muslim voice, in Madras, as it surfaces through the 'lines of the law' (to echo Delaney, 2015)—bureaucratic and juridical—that inscribe frontiers. B. R. Ambedkar had cautioned India's leaders that 'the maintenance of the frontier [would] not be the responsibility of the East Punjab or West Bengal [but] of the Government of India' (cited in Chatterji, 2007, p. 26), and that if the centre treated the problem 'as if it was a local problem, to be left for the people of the Punjab and Bengal to fight for themselves', it would lead to grave consequences (Chatterji, 2007, p. 25). We extend this to argue that the 'frontier' was sought to be maintained at many locales, far away from the frontiers of the east and the west that were the sites of mass violence and mass migration. Partition violence, for Vazira Zamindar, includes 'the bureaucratic violence of drawing political boundaries and nationalising identities that became, in some lives, interminable' (Zamindar, 2007, p. 2). The continuities of meaning in discontinuous, dislocated contexts might tell a story of their own—in this instance, of the ways in which an unruly end of an empire destabilised lives in the everyday (Hasan, 2010, p. 173). '[T]he function of the threshold', according to Ranajit Guha, 'is not to turn its back on some intrusive externality. It also faces in and inaugurates thereby the space a dwelling has as its own. This enables the latter to look out to what is beyond and to let that into its environment on its own terms' (Guha, [1997] 2013, p. xx). However, there is another way in which the threshold is constructed—where the liminality of a location becomes both the sign and source of its disempowerment, the intrusive externality exercising power, discipline and domination through the drawing of lines by the law, for instance.

Vazira Zamindar (2007, p. 2) narrates the poignant story of Ghulam Ali. Although he opted for the Indian Army, he could not return to India and served in the Pakistan Army from where he was discharged very soon because he had opted for the Indian Army and ousted into the Indian territory. When he petitioned the courts in Pakistan to be recognised as a Pakistani citizen, he was declared an Indian national. When he crossed the border and applied for Indian citizenship, the Government in Uttar Pradesh declared him a Pakistani national and ordered him to leave the country. Deported back to Pakistan, Ghulam Ali was arrested again and placed in a 'Hindu camp' in Lahore (Zamindar, 2007).

Our concern is with the liminality of the Partition refugee that spills out of and beyond communal and denominational ethnicisation of citizenship—for instance, the Hindu-Muslim binary (see Butalia, 2003). Kavita Daiya's deployment of Turner's delineation of liminality and transitional beings is apposite: 'Liminal entities are neither here nor there; they are betwixt and between the positions assigned and arrayed by law, custom, convention, and ceremonial'. Such 'transitional beings are particularly polluting since they are neither one thing nor another; or maybe both; or neither here nor there; or may even be nowhere in terms of any recognized cultural topography' (Victor Turner cited in Daiya, 2008, p. 17). She goes on to observe that '[i]nsofar as Partition refugees were migrants ... their juridical and existential liminality illuminates the shape of incipient belongings in the new postcolonial states' (Daiya, 2008, p. 17).

We see, here, a specific instance of the ways in which the "Law" draws lines, constructs insides and outsides, assigns legal meanings to lines, and attaches legal consequences to crossing them' (Delaney, 2015, p. 99). For Delaney, the inscriptions of law (by which, in this article, we refer to statute, that is, formal law, and its judicial interpretation), the ideologies that animate it and its operational ambiguity 'often matter to the very whatness of the entities so inscribed, and so to how they are enrolled in the unfolding of relations of power in the world' (Delaney, 2015). What the case under discussion also underscores is the folding together of the 'social relationship' with the 'legal relationship' (Delaney, 2015), in a case of the dissenting wife in the critical matter of citizenship and belonging—and the unravelling of this, in addressing the distinctive claims of a Tamil Muslim woman/wife in the Madras Presidency Court.

In examining this case, we argue, after Allen White and Mary Gilmartin (2008, p. 390) that 'a variety of interconnected spaces, sites and practices are crucial to understanding the ways in which citizenship laws are enacted, enforced and challenged', and point to the ways in which the law was 'used as a means to link identity to space and to create geographies of belonging and exclusion' (2008, p. 391).

'Madras ... the only place to which we belong': Ansari Begum

In 1950, Ansari Begum ('Begum' hereafter) at that time in her mid-20s embarked on a journey to Pakistan with her family, her husband having made the decision for them all. Following four years of living and knowing life in their new environs, Begum and her husband returned to what was then Madras—their home and 'native place'. The family had overstayed the period permitted by the state and were consequently chargesheeted under Section 14 of the Foreigners Act, 1946 (Act No. 31 of 1946), by the Sub-inspector of Police, Crime Branch (Madras).

Ansari Begum, now 31-years-old, was relentless in her claim to a nativity that was institutionally denied to her and her family. She stumbled upon a young lawyer in search of work and purpose—not much younger than herself, nor better off than she was—who agreed to take up her case. Her lawyer was K. G. Kannabiran (1929–2010), and the year was 1958. The case was argued before the Chief Presidency Magistrate, Madras Presidency Court, and Begum was convicted for overstaying her visa, with a 'lenient sentence' that was limited to the 'rising of the court', since

her application for citizenship under the new Citizenship Act, 1955, was pending² (*The Hindu*, 1958; see also Kannabiran, 2009, pp. 8–11).

Ansari Begum's is a 'small story' of Partition from a far-flung, unlikely region that did not figure in the gruesome spectacles of exodus, abduction, recovery, dispossession, maiming and death (see Kannabiran, 2016, pp. 5–9). And yet her case creates an early historical opening within which the contemporary questions of citizenship, nativity, gender and belonging may be comfortably located. The juridical basis of citizenship as a term that relies on the identification of a people within a geographical area is worth revisiting. In particular, the boundedness of citizenship is called into question by cases such as the Begum's, where an exclusionary approach to a prior legal premise led the magistrate to conclude that hers was a case of open-and-shut alienage. Yet the histories of migration during Partition have shown the explanatory potential of binaries like citizen/alien, own/other, insider/outsider to be questionable. The norms of juridical conduct and actors too, it may be noted, elude inflexible readings of what is to pass—that is to say, the porous courtroom recognises the porosity of Partition geographies. This is ably supported by acts of insurgent lawyering. Legal cartographies have not remained rigid in their dialogue with the rejection of the above-mentioned dichotomies. The courtroom is historically imbued in transboundary travels, having imbibed much from outside of the territorial bounds of the new Indian nation.

Transboundary Claims and the Limits of Law

Ansari Begum's case points us towards the necessity of engaging with transboundary ideas of belonging:

Though the accused was born and bred in India, the Magistrate observed, she could not claim citizenship in India under Article 5 of the Constitution, as she was not domiciled in the territory of India at the commencement of the Constitution. He found her guilty and convicted her. (*The Hindu*, 1958)

The reinforcement of the spatial divide by the Chief Presidency Magistrate, R. Sadasivam, hearing Begum's matter recalls the 'mutual constitutivity' of space and law (Delaney, 2015, p. 98). By positioning Begum's right to domicile and citizenship in the terrain of legal geography, there are two questions that come to mind—what is the law capable of doing? How best do we understand Begum's 'whatness', as a citizen, woman, transboundary migrant and native? While Begum's whatness may not lend itself to a neat and cohesive signification of belonging, constitutional precedent speaks against the validity of 'one-shot "inscriptions"' (Delaney, 2015, p. 100). This is brought to light by acts of insurgent lawyering that unsettle the frame so as to sharpen the juridical focus on the transformative potential of the Constitution.

To interrogate Begum's whatness in greater detail necessitates a simultaneous reading of constitutional geographies, alongside the petitioner's justification of the validity of her claim:

We found that the atmosphere (there), was neither congenial nor to our taste and habit of living. We found there was nothing in common between our ways of living and those of Pakistan. So after nearly four years, in 1954, we finally decided at the earliest opportunity to return to Madras, which is our native place and the only place to which we belong. (*The Hindu*, 1958)

Her case relies on the recognition of mobility as central to the establishment of geographical connection *and* the individual determination of what constitutes an 'appropriate' lifeworld. It is useful to examine this argument in the context of some of the signifiers that Begum recalls: 'atmosphere', 'congeniality', 'habit', 'native place' and 'belonging'. In some ways, Begum's choice of terms—these terms, specifically—resonate strongly with imaginings of the constitutional collective even at its foundational moment, as a plural formation of moral and cultural self-determination. Begum's case, now cemented as a historical precedent, despite its absence in critical juridical discourse in India, points to the fluid character of constitutional cartographies, which, on the one hand, proceed through a delimitation of territory, yet carry within them the potential for inward transformation; or what Delaney (2015) calls 'practical ambiguity', on the other.

There is a fundamental recognition of peripatetic mobilities and entities—in this case, relating to Begum herself—as legitimate in and of themselves, and a commitment of the courts to ensure non-discrimination and the prevention of dispossession. Yet, Begum's case shows how the law responds to dynamic migratory bodies as a 'technology of control' (White & Gilmartin, 2008, p. 391). Begum was charged with a violation of her permitted stay in India by officials who derived authority from legally ordained dualisms of inclusion/exclusion, citizen/foreigner, with little room for the consideration of a citizenship that moves beyond the confines of a limiting law. By infusing constitutionalism with the potential for transformation, it is possible to see how Begum's case disrupted the workings of a limiting law to reveal compelling and *intimate* attachments of what it meant to be 'at home' (Antonsich, 2010; Yuval-Davis, 2006). The trajectory of Begum's movement also points to the interpellation of two types of 'binding ties'—first, to her family that forced her to out-migrate, and, second, to her home and her attachment to it as a *Tamil* woman.

Ansari Begum's case also serves as an implicit juridical acknowledgement of the role of intersectionality and choice, where the petitioner, an Indian citizen and woman who migrated at the behest of her husband was successfully able to subvert the magistrate's sentence to sit in the interstices of legality/illegality of a conviction that was not one—guilty and convicted till the rising of the court. In so doing, she drew special attention to what she termed was her husband's vulnerability in a 'weak moment' that resulted in the family's 'voluntary' migration to Pakistan. Indeed, Begum supplemented this with the explanation that her husband acted in this manner owing to '*absolute misguidance*' (*The Hindu*, 1958) [emphasis added]. Addressing this, Kannabiran (2009, p. 8) recounted:

After Partition, there were countless men who chased the illusion that they would enjoy a better life in Pakistan, and moved with entire families. Beyond recall are the hapless women who had no option, but to follow their fathers, husbands and sons. [Ansari] Begum was one such woman. She was a hundred per cent Tamil woman.

There is, however, another layer that Begum, as an *agentic citizen*, unfolds through this statement. She (not her husband) moved the court to rectify the act of misguidance that trapped her and her family in an unfamiliar environment. During the period that the family spent domiciled in Pakistan, Begum recalled a deep and unshakeable disconnection with her new environs. Her family's attempts to adjust to their new home, while leading a life of severe hunger and poverty, were further complicated by the hostility she experienced in her interactions with the local people. This hostility had its origins in a deep-seated fear in the minds of those original residents who believed that the incoming migrants/refugees would dispossess them of their livelihoods. The pushback, as Begum observed, left the family feeling out of place and hopeless. These feelings were also what ultimately prompted the family to consider returning to Madras. Begum, who departed from India, an Indian citizen, returned under a Pakistani passport, and was instantly marked a foreigner (Kannabiran, 2009, pp. 8–9). But the family's return to India was a means for Begum, more importantly, to right her husband's wrongs and resume living in Madras, 'the only place to which we belong'. The magistrate noted this fact that 'her husband migrated to Pakistan *in a weak moment*', in deciding on a lenient sentence (*The Hindu*, 1958) [emphasis added].

The memory of being labelled a foreigner who invited punishment upon herself was a disservice to her attachment to Madras. While intimacy has been explored through the frame of violence against women during and in the aftermath of the Partition (Bagchi & Dasgupta, 2005; Butalia, 2000; Das, 2007; Menon, 2004; Menon & Bhasin, [2000] 2004), Begum's case points to the non-singular experiences of violence wrought upon women who fought for the dignity of their emplaced attachments, only to be wearied by the hostility of the legal atmospheres that they passed through. In an important way, Begum's status in India was closely intermeshed in the tensions of the Constitution, a document that reflected 'a life of contradictions', as noted by Babasaheb Ambedkar (Constituent Assembly India, 2014b, p. 979). On a discursive level, Article 6 of the Constitution of India diluted the significance of her claim to Madras as her only familiar lifeworld, being itself limited by a rather narrow reading of the citizen as either own/other body. But the question of dignity remains central to the circulations of travelling bodies such as Begum's.

Ansari Begum's statements show that while the terrain of legal mandate is co-constituted with space, the judicial apparatus is imbued with a non-rigid character that admits belonging—as an emotion, experience and affect—into the application of law. It recognises the peripatetic body as justified in making a claim for care in the conduct of law, even under circumstances that arise out of territorial crossings and disjuncture.

Intimate Citizenship

Ansari Begum reached India with her family and a customary piece of paper that she did not know or fully understand the implications of. She observed that the identity of the document handed to her prior to her return to India was never made clear to her—that it was a passport that officially deemed her a Pakistani citizen

was not a fact that she was aware of. She found that she could no longer make an assertion for Indian citizenship. The finality of her new identity—as a foreigner with a passport and distinctly displaced—was communicated to her in India through the harassment and hostility the family faced from the state's officials. As Kannabiran notes, 'She lost the right to say that the land she and her ancestors were born and lived in was where she belonged' (2009, p. 9). In the opinion of the magistrate:

Though the accused was born and bred in India...she could not claim citizenship in India under Article 5 of the Constitution as she was not domiciled in the territory of India at the commencement of the Constitution. (*The Hindu*, 1958)

Therefore, he found her guilty and convicted her.

In recounting Begum's case, Kannabiran drew attention to the politics of double alienage in the debates around citizenship. What we encounter repeatedly in this case is the duality of othering that returning migrants, such as Begum, experienced in the aftermath of the Partition. Ansari Begum, labelled as other by the Indian state, was also othered in her Pakistani surroundings. Begum's experience of 'strangeness' in Pakistan was produced by the successive interactions between the distancing tendencies of law and the spatial disjunctures of a new land. As Kannabiran observed, '... her ability to extricate herself from this situation was limited at multiple scales by factors that were beyond her control that she bore no responsibility for'. This period in India also overlapped with the passage of the Citizenship Act, 1955. According to this law, the passport stood as incontrovertible proof of a person's citizenship, a foreign passport signifying a complete and binding relinquishment of Indian citizenship: 'In defining citizenship in this manner, the Indian government made a mockery of the basic tenets of democracy' (Kannabiran, 2009, p. 9).

The question, as Kannabiran posed it, was one of self-respect and dignity that were vested in the people's membership of a society, both of which were eroded by the framework of the citizenship law. Begum found Kannabiran, in his late 20s, by happenstance at a time when he had few materials for legal reference and was still very much a fledgling with no legal practice or office:

In those days I would leave my coat and gown in Advocate A.K. Balakrishnan's office. As I was going in one day, I saw a Muslim woman roaming anxiously near the gate, hesitant to enter. When she saw me, she came up and, giving me a piece of paper, asked if I could help her. She was [Ansari] Begum. She held a Pakistani passport, and had been served a deportation notice under the Foreigners Act. This was the piece of paper she handed me... Given her circumstances, she could only entrust her case to a lawyer just a bit better off than herself, with a professional standing of a mere two years. (Kannabiran, 2009, p. 8)

Her case, as he noted, put him down the path of dissecting the citizenship laws at a time when he was still learning the ropes of lawyering: 'I had still not learned how to present arguments in court, so my arguments focussed on the impenetrable labyrinth of this law and injustice'. The case was heard by the Chief Presidency

Magistrate. Kannabiran argued that the court ought to take Begum's intentions into account. The argument rested on a recognition of Partition mobilities as temporary and thus meriting further inclusionary legal examination. This can be evidenced in the lawyer's words:

I argued that it was ridiculous that she is declared a Pakistani citizen when she does not understand what Partition is. She went only in search of a livelihood, with no intention of settling there permanently. The court accepted my arguments. It struck down the deportation notice served on [Ansari] Begum. (Kannabiran, 2009, p. 9)

According to the report of the case published in *The Hindu*, however, Begum was found guilty and convicted, but set at liberty through a 'lenient sentence'. After the hearing, she walked out a free woman. And, yet, there is a vast difference between conviction following a finding of guilt and a finding of 'not-guilty,' although liberty may result from both—as in this case. This tension is evident in Kannabiran's recounting of Begum's response to the court verdict that will be discussed a little later.

The nuances of Begum's migration were in this way brought to bear on the court—as a case of livelihood and survivance rather than a manifestation of political or ideological purpose. Begum's embodiment of the peripatetic individual is reflected with clarity in the lawyer's emphasis on the non-finality of her migration. At all times, Begum self-identified as a Tamil woman—a Tamil woman in Pakistan, and in India. Her case is undoubtedly one of recognising human rights as central to any comprehensive reading of the law and jurisprudence. It is particularly germane to discussions on the Partition and law, and to more recent debates on the Citizenship Amendment Act, 2019, through the lens of an intimate and historical, legal geography. We are particularly interested in how developments like Begum's in the Madras Presidency constitute a lesser studied constellation of migratory mobilities between southern India and Pakistan.

Severing Ties, and Binding Ties: The Debate on Partition Migration

Within the diverse pool of incisive scholarship on the Partition and law, there has been considerable attention given to the question of citizenship. These have been approached through readings of the tension between the formulation of 'birthright citizenship' or *jus soli* and 'citizenship by blood' or *jus sanguinis*, and the place of faith-based citizenship in India (see Jayal, 2019; Rodrigues, 2008; Roy, 2013). Turning the clock back to the Constituent Assembly debates on the citizenship of individuals who migrated to India after Partition, it is possible to examine Article 6 through the lens of the intimacy of belonging. This in turn locates the basis for the legitimisation of peripatetic bodies and sensibilities in a plural and non-discriminatory notion of citizenship. Begum's brief domicile in Pakistan—an environment she recalled as dissonant to her and her family, personally—followed by her subsequent return along with her spouse and children to the Indian territory draws attention to what we have earlier recognised as signifiers of belonging.

These signifiers coalesce to produce intimate and interwoven personal histories of citizenship that merit further examination.

In fact, we find a detailed discussion on the matter of migration to Pakistan during the Partition in the Constituent Assembly Debates, and in a specific exchange between Brajeshwar Prasad and Jaspat Roy Kapoor on the tabling of an amendment (Amendment 131) to Article 5A by T. T. Krishnamachari. This concerned the rights of returning migrants who had accepted Pakistani citizenship. Through this exchange, it is possible to understand the substantive tensions that persisted within the Constituent Assembly on the (non-)finality of migration. For Kapoor, the act of migration to Pakistan constituted what he saw as a transfer of loyalties from one nation to the other—a transfer that he associated very closely with an outright rejection of India. He framed his arguments against the recognition of the rights of returning migrants in the following manner:

It is a serious matter of principle. Once a person has migrated to Pakistan and transferred his loyalty from India to Pakistan, his migration is complete. He has definitely made up his mind at that time to kick this country and let it go to its own fate, and he went away to the newly created Pakistan, where he would put in his best efforts to make it a free progressive and prosperous state. We have no grudge against them.... (Kapoor, Constituent Assembly India, 2014a, p. 366)

Jaspat Roy Kapoor's arguments rested on the understanding that a person (definitionally male) who has migrated has effectively severed their ties with the state which he later recounts in the wider context of the Partition as a 'bitter' and 'unpleasant' event. His rationale for disallowing any consideration of the Amendment drew on his perception of the migratory events of the Partition as predominantly shaped by the finality of the intentions of migrants—of wanting to settle down in Pakistan. Yet we see how Brajeshwar Prasad's counterarguments provide a means of situating Begum's case—which emerged not much later—in the idea of citizenship as an intimate form of belonging. For Prasad, the question was the foremost one of addressing the role of fear and panic in the migrations that occurred, where human intentionality was driven by the need to protect oneself against the possibility of violence in India. Embedded in his submissions to this discussion was a clear acknowledgement of the intimate nature of the ties that bind and the need to move past viewing these ties in terms of binaries of citizen/foreigner:

May I ask my honourable friend [Kapoor] whether it is true that all those persons who fled over to Pakistan did so with the intention of permanently settling down there and owing allegiance to that State? Is it not a fact that they fled in panic? (Prasad, in Constituent Assembly India, 2014a, p. 366)

Writ large in the exchange between Prasad and Kapoor is a persistent disagreement on the socio-cultural identity of the Indian nation that centred on widely differing views on the precise ambit of secularism. The belief that the returning Muslim migrant ought to be able to enjoy the status of Indian citizenship ran up against a

narrower understanding of Constitutional secularism as chiefly concerned with the protection of the rights of Hindu and Sikh refugees who had migrated to the Indian territory during the Partition. It is an interesting fact that Kapoor's arguments about the entitlements of these refugees to citizenship were located in an exclusionary reading of constitutional patriotism in combination with secularism. He spoke of the 'misery' and 'agony' of the refugees/migrants who 'pined' and 'prayed' for India, who upon gaining sight of the Indian border, 'cried out "Jai Hind"' (Constituent Assembly India, 2014a, p. 364). It is useful to see how the right of belonging is not so easily given to the returning migrant in Kapoor's rationale.

This view of the Hindu 'refugee' and the Muslim 'migrant' is further complicated by the story of a hundred or so 'Tamil Hindus' who migrated from Madras to Karachi immediately after the Partition and settled there. Worshippers of Murugan and Mariamman, working class, living in an insular locality—the Madras *para*—with narrow lanes and by-lanes behind the Jinnah Post-Graduate Medical Centre (JPMC), the sparse accounts of this community strongly suggest they might have been dalits in Madras, who upon migration described themselves as Tamil Hindus and did not claim classification as Scheduled Castes in Pakistan.³ According to Kasilingam, a community elder and the Sarpanch of the Madras Hindu Panchayat:

The Hindu Tamils in the city migrated from Madras (now Chennai) in groups, with the hope of better economic opportunities. They came to Karachi just months after Partition.... About 50 to 60 families came to Pakistan from Madras to find jobs. (Shahbazi, 2012)

Where did they live?

Behind the JPMC staff quarters is a road that leads into a tiny, rundown lane. At the end of this lane stands the mouth of a maze—a cluster of narrow pathways that these people call home... The houses ... remain open for most of the day. But, unlike how it is in the rest of the city, they don't feel the need for security or privacy—they live like one huge family. (Shahbazi, 2012)

The defining aspect of their identity was being a Tamil Hindu community—concerned about the alienation from their roots, Tamil language and literature classes were offered to youth during vacations, and prayers were conducted in Tamil (Shahbazi, 2012). *Tamilness*, therefore, defines the returning Muslim and the out-migrating Hindu, both triggered by the Partition of 1947, disrupting the solidification of denominational identities in both nations.

The Longing for Home

To return to our story, Ansari Begum longed to return—her experience during her brief domicile in Pakistan being marked by misery and agony, hostility and isolation in Pakistan. More poignantly still, Begum's claim on her 'native place' also serves as means of revisiting the 'burden of our "nativity"' as described in the

Constituent Assembly India (2014a, pp. 369–370). There was a palpable aspiration among members like Kapoor and K. T. Shah for Indian citizenship to constitute a privilege that would ultimately signal an overturning of the burden into an emblem of global respect. The burden of nativity for Begum was not that which was carried by the colonial native, but the migrant, a post-colonial body whose claim to nativity was somewhat different—as an expression of reclaiming what was rightfully hers.

Ansari Begum's tryst with the law symbolises a churning—a churning of bodies, spaces and imaginings that captures the centrality of the mobility that informed her case. Her claim before the law was not uncommon and Partition testimonies show that a sizeable number of individuals changed their mind, unmindful of the consequences (Butalia, 2000; Menon & Bhasin, [2000] 2004). There are the cases of those who faced punishment that resulted from a rejection of the 'changed mind' (Sen, 2020) alone as sufficient reason for legal review. Yet the roots of intimate belonging lie at the forefront of Begum's case and, as the petitioner showed, moved beyond a mere statement of her intent—to stay in the only place that was proximate to her, physically and emotionally. The petitioner and her spouse both satisfied the conditions of 'birthright citizenship' (Jones, 2018) and citizenship by blood in India. But Begum's understanding of citizenship had very little to do with these categorical requirements. Rather, it hinged entirely on what she framed as a *connection* to a home—to Madras—that she had known and experienced over the course of the first 25 years of her life.

Intimate attachments to any place, as Begum's case showed, are ties that bind—ties that create a gravitational field of citizenship, which recognises the peripatetic as shaped by such factors as emotion. This may be further examined by viewing: (a) compulsion as a dual fact, embodied by the 'weak moment' of Begum's spouse and the petitioner's own cultural compulsions that led to her journey back home and (b) dislocation as perceived and experienced by Begum and her family in their new environs, but in this case narrated by Begum alone. In being asked to recall why she ought to be given citizenship, the petitioner is forced to travel through these emotions and the landscapes they signify, and translate these into facts that would be admissible in the legal atmosphere of the courtroom. Her experience of intimacy is governed by the need to produce an imagining of the home before the law, as a comfortable and known lifeworld. In her words, 'atmosphere'.

Her recourse to notions of nativity calls forth an interrogation of the very texture of the mutual constitutivity that Delaney writes about. Citizenship is animated by the injection of imaginings of belonging into the legal narrative. As Begum showed, her understanding of nativity and 'native place' rested firmly on her ties with Madras and her search for the congeniality of this place that she called home during her stay in Pakistan. Belonging is thus a combination of many factors—in this case of Begum's personal feelings that ultimately informed the juridical process on the legitimacy of her citizenship as 'place-belongingness' and her insistence that 'when she left this country, she was a full Indian citizen. When she returned, her personal circumstances had not changed' (Kannabiran, 2009, p. 9). And yet she was ousted from 'belonging' to this place that was her ancestral home. 'How might a lower

middle class, uneducated Muslim woman even make sense of this situation, leave alone extricate herself from it?’ asks Kannabiran (2009, p. 9). The quality of being immersed in this atmosphere, of her native place, of being located in a socio-cultural sphere that she felt included within, of feeling ‘at home’ (Antonsich, 2010; Yuval-Davis, 2006) were all central to her claim to being an authentic Indian citizen. Belonging is thus very much a combination of emotional and discursive fact—of feeling and the formalised or official fact of inclusion (Antonsich, 2010).

We draw attention to the disassembling of intimacy by the processes of court by what Kannabiran recalls as Begum’s apparent sadness at the end of her hearing: ‘Although she got a favourable judgement, I felt [Ansari] Begum was not very happy with the result. She had been grappling with insecurity and fear of the future. These are always struggles that are never visible to us’ (Kannabiran, 2009, p. 10). The magistrate’s initial charges against Begum, which had categorically recognised her as ‘other’, led to a protracted experience of othering that did not end when the judgement was pronounced—she was pronounced guilty and convicted till the rising of the court. Her unease and feelings of mistreatment at the hands of an uncaring and exclusionary state, we argue, were part of a legal process that had unsettled her place-belongingness in seismic ways.

The histories of Partition are replete with accounts of governance folding into systems of permits and governmental coercion. In Begum’s case as well, Kannabiran observes that in dealing with the unanticipated return of migrants on both sides, ‘governance simply folded into governmental harassment’ (Kannabiran, 2009, p. 9).

Alienage, State and Courts

The Indian state had legitimised a process of othering through a system of opaque inscriptions on paper. This is observable, not only in the case of returning migrants like Begum, but also in the earlier settlement of the question of Muslim refugees who were treated in distinctly disparate terms as compared to their Sikh and Hindu counterparts. Under the permit system, the Muslim refugee was issued with a ‘permit for permanent return to India’, while the Hindu or Sikh was eligible to be issued a ‘permit for permanent resettlement in India’ (Zamindar, 2007, p. 104). Zamindar shows that the former was a much more convoluted process as it came with the requirement of securing *a priori* the permission of the relevant provincial government of the applicant’s desired destination. Faced with this bureaucratic obstacle, the common practice among Muslim refugees was to return to India with temporary permits (Zamindar, 2007, p. 105). Similarly, and at a later stage, it is possible to see how the system of permits transmuted into an attempt by the state to fortify their control over the movements of people through the instrument of passports. Zamindar’s incisive observation on the character of the instrument is recalled here:

With the advent of passports, a Muslim in India could be deemed a ‘Pakistani national’ who had thrown away his passport, concealed his passport, or not yet acquired one.

The Pakistani passport thus became a spectre between a state and an individual, and its apparition was used by the Indian state to mark Muslim identity in national terms. (Zamindar, 2007, p. 191)

She recounts a decision made in 1957 by a division bench of the High Court of Andhra Pradesh, which ruled in the case of 22 Muslim individuals who had migrated from Baluchistan to Kovvur in the West Godavari district of Andhra Pradesh, prior to Partition (Zamindar, 2007, pp. 204–205).

Mohammad Khan migrated from Thukayi, a village in the Quetta district of Baluchistan, which at the time of his migration in 1940 was a part of British India. He arrived in Kovvur, which he made his new home and subsequently married into the family of a government servant who was a permanent resident of Kovvur. Khan purchased property in Kovvur, built a house and set up a business in the lorry transport sector. Following the Partition, by which time Khan had already lived 13 years in Kovvur, and under mounting pressure from the local police, Khan was forced to make an application to the Pakistan High Commission for Pakistani citizenship. Once granted, Khan was then forced to apply for the regularisation of his stay in India by way of a visa by the same local police. He challenged this in the Andhra Pradesh High Court.

The case passed through three stages. At the first stage, the single judge found rather ambiguously that the appellants were citizens of India, and that they did not voluntarily acquire citizenship of Pakistan by the time of the commencement of the Constitution. But he also held that 'there was an automatic statutory cessor of citizenship by virtue of Section 9 of the Citizenship Act, 1955, which came into force on 30-12-1955' and on that basis, he dismissed the petitions (*Mohammad Khan*, para 3). At the second stage, the two-judge bench of the Andhra Pradesh High Court did not accept the appellant's claim that his right to equality under Article 14 had been violated by Section 9 of the Citizenship Act, 1955 (*Mohammad Khan*, para 7). The court also did not accept the petitioners' contention that Section 9 constituted an unreasonable restriction of Article 19 of the Constitution according to which, 'all citizens shall have the right to move freely throughout the territory of India, to reside and settle in any part of the territory of India, to acquire, hold and dispose of property and to practise any profession or to carry on any occupation, trade or business'. However, there was a third contention of the petitioners that found support from the bench: that Rule 3 of Schedule III of the Citizenship Act, 1955, framed by the central government, exceeded the authority vested in it under Section 9 of the Citizenship Act, 1955, and juxtaposed what they considered the precise nature of governmental overreach through arbitrary practices of rule-making (*Mohammad Khan*, para 9) underscoring the deprivation of equality and dignity that it constituted.

In considering this contention, the court held that the passport constituted a travel document and not a definitive artefact of an individual's citizenship, referring specifically and affirmatively to the precedent set by the Division Bench of the Madras High Court in 1954, in *V.G. Row v. State of Madras*, that 'All that may be said is that a passport gives a person certain facilities to travel in foreign countries: The Government issuing the passport "requests" the foreign

Government to allow the bearer free passage and also to afford every assistance and protection necessary' (*Mohammad Khan*, para 12). The court held that Rule 3, according to which 'a passport, which is not legal evidence of citizenship, is made the basis of irrebuttable presumption of the voluntary acquisition of citizenship of a foreign country ... enlarges the scope of S. 9 and is, therefore, void' (*Mohammad Khan*, para 13). At the third stage, the Supreme Court of India, hearing the group of 22 appeals by the Government of Andhra Pradesh in 1962, challenging the decision of the High Court on the validity of Rule 3 of Schedule III, not only set aside this decision declaring the rule to be void but also did not accept the view of the single judge that there is an automatic cessor of the respondent's citizenship under Section 9. The five-judge bench of the Supreme Court reined in the Government of Andhra Pradesh (the appellant in this case) by ruling that 'the question about the status of the respondents has to be tried by the Central Government and it is only after the Central Government has reached the conclusion that the respondents have acquired the citizenship of Pakistan that the appellant can issue orders of deportation against them' (*Government of Andhra Pradesh v. Syed Mohd Khan*, 1962, para 7; see also *The Indian Express*, 1962). In effect, in the case of Mohammad Khan of Kovvur also, the deportation was deferred through a series of somersaults, as it was with Begum.

The trajectories of *Mohammad Khan and Ors v. Government of Andhra Pradesh* (1957) provide an important juridical context for Begum's case, which was decided by the Chief Madras Presidency Magistrate the following year in 1958. It is also important because it speaks of the multiple jurisdictional levels at which citizenship law was being negotiated, with Begum, a poor Muslim woman, appearing in the Magistrate's court in a case that looked at the Foreigners Act and the Citizenship Act, and the Kovvur petitioners going as far as the Supreme Court, their claims considered in light of Article 14 of the Constitution of India. The effect of the resolutions, however, is very similar, foregrounding for us Kannabiran's insistence on the need to persuade courts of every jurisdiction to decide within the framework of the Constitution of India, a method he demonstrated in the case of Ansari Begum.

Conclusion

The lines of the law in the creation of 'alien insiders' recur in different contexts in postcolonial India, presenting us with several reflections on this 'throwback' to the times of the Partition. The idea of citizenship is more than the definition of a relationship between the individual and the state—it is a relationship of intimate belonging that is 'multi-layered' (Yuval-Davis, 1999), spatially and culturally shaped and is both abstract and specific. It derives its specificity from detail, where Begum's understanding of citizenship was informed by a feeling of belonging in India, and the cultural and spatial disjunctures she experienced during her migration to a new country. It is abstract, given that the bounds and criteria of intimate attachment tend to be personal and subjectively determined—as an open category that takes inclusion rather than the determination of exclusion

as a framing fact. This involves re-examining the doing of boundary work or 'boundary maintenance' (Yuval-Davis, 2006, p. 204), where Begum's case shows how the magistrate and his court underwent a change of character, which led to their own review of authenticity as something that is to be given to, rather than taken away from, the petitioner, albeit not unconditionally.

During the course of Ansari Begum's hearing, we observe a shift in the atmosphere of the courtroom, which moves away from identifying her as an entity whose identity relies on the decision-making of her spouse, to that of an entity whose feelings and place-belongingness (Antonsich, 2010) assume precedence. Thus, while the initial decision to move to Pakistan is attributed to her spouse, the weight of the case rests on Begum's ability to prove that she carries legitimate intimate attachment to the home—Madras, and can stand in, also, for the rest of her family.

The whatness of Begum's citizenship emerges with clarity through the example of an exemplary intersectional court proceeding, which makes a strong contribution to existing scholarship on feminist legal geographies. The petitioner's case rests on something far more important to her than birthright and blood—the question of self-determination, the role of an expansive understanding of constitutional morality and binding ties to place, as concerns her citizenship. It further recognises how the unruly body, as a mobile and border-crossing entity, is drawn into a critique of the own–other, citizen–non-citizen dichotomies in ways that transform the terrain of constitutionalism to emphasise the role of intersectionality and atmospheric vitality in the development of legal understandings of belonging.

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Notes

1. The term 'intimate citizenship' was first used by Ken Plummer (2003) and defined as 'a sensitising concept which sets about analysing a plurality of public discourses and stories about how to live the personal life in a late modern world where we are

- confronted by an escalating series of choices and difficulties around intimacies'. <https://kenplummer.com/publications/selected-writings-2/intimate-citizenship/>. It has subsequently been used by scholars to discuss a wide range of concerns around intimacies and belonging. We offer one iteration of this concept.
2. Translation from Telugu by the authors. K. G. Kannabiran, recalling this case after 50 years, refers to the petitioner as Asiya Begum. However, following his leads on this case, the name of the woman, we discovered, was Ansari Begum. This is the name by which we refer to her in this article.
 3. Pakistani law lists 40 Scheduled Castes and Scheduled Tribes, including Bheel, Bagri, Balmeke, Menghwar, Kholhi, Oad and Bhangi. Mostly settled in lower Sindh, they are mistreated by the religious majority and ostracised by the members of the privileged Hindu castes (Shah, 2007, p. 6).

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