

Trans/itory Belongings: At the Borders of Skin and Citizenship

Tara Atluri

Alliance University, Bangalore, India

Ontario College of Art and Design University, Toronto, Canada

Abstract

This essay discusses the case of Shivi, a transgender South Asian American who won a legal case in New Delhi against their parents, who tried to force Shivi to stay in India and live as a cisgender person. These acts of transphobic domestic violence were challenged by queer activists and judiciaries in India. With Shivi's case serving as a starting point, this essay considers how South Asian diasporas imagine India to be sexually conservative in disturbing ways that do a disservice to the vitality of queer and feminist movements in the Global South. By looking at Hijras and other gender dissident communities within this context, this essay also suggests that a globalized grammar of LGBTQI rights ignores genealogies of gendered transgression and queer activism in non-Western contexts. I discuss national borders and the boundaries/borders of bodies as spaces of gendered translation, transgression and untranslatable violence.

Keywords: hijra, transgender, violence, heteronormativity, South Asian diaspora, borders

The notion of fluidity across borders is often celebrated as a means of subverting xenophobic ideologies of nationalism. And yet, the figure of the “world citizen” is a biopolitical figure whose global vitality is perhaps productive of necropolitics, casting shadows over the world's poor. Transnational elites possess an arsenal of symbolic and material capital that allows them some semblance of freedom globally. Simultaneously, subaltern bodies are exiled within the nations in which they are formally counted as citizens, their lives in states of constant precarity. Gayatri Chakravorty Spivak states,

...capital is in fact borderless; that's the problem. On the other hand capital has to keep borders alive in order for this kind of cross-border trade to happen. So therefore the idea of borderlessness has a performative contradiction within it that has to be kept alive. (Spivak 47)

Spivak observes that there is a relationship between borders and bodies, with the author discussing the vulnerability of the female body as that which can be permeated. As s/he states,

...in the simplest possible sense, the female body is seen as permeable. It is seen as permeable in perhaps the most basic gesture of violence. To respect the border of the seemingly permeable female body, which seems to be in the benign service of humanity itself for the continuation of the human race, to understand that one must attend to this border, respect it—we must nuance borderlessness, remember that citizenship is predicated on legitimate birth, breaking the border of the female body. (Spivak 47)

Spivak's important insights regarding the gendered borders of bodies are useful in considering how sexual identities are imbricated into processes of citizenship. While Spivak's work often interrogates the construction of gender, this discussion of the permeable 'female body' as symbolic of and/or metonymic to borders does not address transgender, gender queer bodies and their relationship to borders. Spivak further states, "[t]o be borderless is also a pleasure for the female and the male—to be borderless, to be permeable, can be a pleasure. So it is attending to borders rather than simply respecting them that is our first, gendered lesson" (47). While this assertion is descriptive of the hegemony of cis-gender heteronormativity, I am interested in discussing the permeability of the transgender and gender-queer body particularly in relation to transnational border crossing.

This essay discusses the relationship between transgender people of colour and borders, where borders refer both to bodily exteriors that can be permeated and to the boundaries of nation states. Spivak's binary schemata in this discussion of borders/borderlessness and male/female does not address how gender itself is performative and how the exteriority of transgender and/or gender queer bodies are often violently marked and trespassed against in a heteronormative world. The border of the transgender body calls into question Spivak's assertion that permeable bodies are cis-gender female bodies, and concomitantly that all male bodies are impermeable. While Spivak discusses the performative contradiction at work in the concept of border/borderlessness, there is little attention to how gender itself is a performative and permeable category. Considering the rights and lives of transgender and gender queer people causes one to question how performative gestures, changes to embodiment, and gender transitioning and transgression create moments where one permeates one's own borders in order to enact new modes of gendered being. For transgender and gender-queer people, performative enactments of gender transgression create unstable borders of permeable/impermeable bodies that evade the borderlines of gender binaries; the vulnerability of their bodies is revealed in their precarious embodiment and embodied violence.

This essay focuses on the relationship between national borders and the borders of gendered bodies. Drawing on critical theory and a discussion regarding topical issues regarding queer politics in contemporary India, I examine the shifting nature of citizenship in the Indian subcontinent and the transgender and gender-queer person who crosses borders. I discuss changes to diasporic Indian citizenship schemes and how such schemes naturalize cis-gender, heteronormative familial lineages that reproduce and solidify casteism and imagined forms of bio-political purity. The breadth of the article focuses on the case of Shivy, a transgender NRI

(Non Resident Indian) who was forcibly brought to India by their parents, who attempted to use the Indian subcontinent as a repository for transphobic, heteronormative violence. I discuss Shivy's case in relation to the 2016 Transgender Bill in India, and the precarious relationship between bodies and borders. This case was narrated in the global press in relation to the permeability of the trans male body in India and the permeability of the bodies of transgender people of colour in the West.

Shivy: Green Cards and Saffron Robes

Shivy (referred to in this essay as both "they" and "he") is a transgender South Asian American. They were brought to India by their parents, who attempted to force them to have a heteronormative marriage with a cis gender man. Shivy's parents stole their passport and American green card. He subsequently sought refuge with queer activists in India and filed a petition against his parents in the Delhi high court. The Delhi high court ruled in favor of Shivy, and they subsequently returned to the United States (Mishrai 2015). Shivy's victory was considered to be a remarkable moment of justice in India, where, until September 6, 2018, Section 377 of the Indian Penal Code criminalized "unnatural" sexual activity and thus threatened the dignity and citizenship rights of LGBTQ people. As Aradhna Wal writes,

On 22 September, in the Delhi High Court, a most extraordinary thing happened. Judge Siddharth Mridul passed an interim order granting police protection to a young transgender male and the LGBT activists supporting him, from harassment from the boy's family and the notorious Uttar Pradesh police. As senior advocate Rebecca John said, in a country where the Supreme Court upheld Section 377 of the Indian Penal Code, severely harming the rights of the LGBT communities, where state machinery is often mobilised on behalf of conservative families against young people trying to choose their own lives, the judiciary upholding the rights of 19-year-old Shivy was remarkable. (2015)

When Shivy's parents discovered he was transgender, they forcibly took him to Agra, India, where they took away his passport, green card, all other identification documents, and his computer. Shivy's parents discovered his transgender identity in California, when he told them he wanted to cut his hair. His mother reacted violently. She confiscated his phone and in so doing found information regarding his identification as transgender. In an effort to stop Shivy from leading his life as a transgender person, they took him to India and attempted to use the country as a space where heteronormative familial violence is tolerated. The case of Shivy received attention when he released an online video discussing the abuse he was facing from his family in India. Shivy then managed to retrieve his phone and contact the local queer activist organization Nazariya where he received the necessary support to escape his abusive family. Due to the political and economic clout that Shivy's father has in Uttar Pradesh, the UP police subsequently began to harass queer activists in Delhi. The case offers an example of the

complexities of transnational queer activism. The precarity of Western transgender lives is protected by local queer activists in the Global South whose own lives are precarious to the point of unremarked upon violence and death, often due to state persecution and the inequities of the global economy (Wal 2015).

Gender and sexuality are borderless insofar as bodies and desires can move across national boundaries. However, due to the securitization of borders, white Western queer capital retains its strength, while national leaders in countries such as India simultaneously criminalize queerness by arguing in ahistorical ways that it is foreign to national culture. While Shivy's case is an example of the remarkable work of LGBTQ activists in India and an instance in which the Indian judiciary showed empathy to queer people, it is interesting to ask how questions of citizenship and capital frame the case. Authors consistently discuss Shivy's class background and privileged position in the United States. While there is no explicit mention of caste in accounts of the case, hierarchies of caste-based names often allow for the queer body to be invited into the biopolitical life of the nation state. Jasbir Puar discusses homonationalism, a process through which archetypal queer subjects are invited into the life of the nation to the extent that their bodies and aspirations correspond with the goals of nation building. One can ask how in India and the Indian diaspora, caste solidifies national belonging thus allowing for transgender and gender queer bodies to approximate dominant caste-based patriarchies. The production of transgender bodies, whose lives are validated within a discourse of universal transgender rights and language, corresponds to a casteist necropolitics, where narratives of idealized reproduction render Dalit and other lower caste Hijras and transgender people abject. The assault is framed in a way that highlights the violence of transphobia as an insult to the imagined progressive values of Western culture. As Wal writes,

A student of neurobiology at the University of California, Davis, an honours student with scholarships lined up, as he proudly related in the video, he was forced to take admission in Dayal Bagh Educational Institute, Agra. It was clear how the idea of a substandard education rankled him. (Wal 2015)

Had Shivy been a lower-caste Hijra, transgender, or queer person would the case have garnered such attention and a favorable response from the courts? The "substandard education" offered in India becomes a marker of ostensible underdevelopment and the right to transgender and queer rights is associated with capital. The ways that online videos and Internet-based technologies allow access to justice also leave one with lingering questions regarding who can access rights. Recognizable and technologically translated queerness born out of globalization often comes with a price tag that many Hijras and queer people in India without caste- and class-based privileges cannot access. The case of Shivy is territorialized and implicitly classed in ways that imagine transgender identity to be a marker of Western "progress" with no mention of the Hijra community and other gender variant communities in India that have existed for centuries and may not be easily translated as "transgender" or "queer."

By threatening the full citizenship rights of LGBTQ people, the criminalization of queerness in India and the Indian diaspora has class- and caste- based effects for those whose queerness is inseparable from poverty and caste-based violence. Gee Imaan Semmalar discusses the necessity of solidarities between anti-caste and transgender movements and the relationship between casteism and transphobia. The author writes,

Caste is a system of vertical social stratification based on exclusion and violence, and intrinsically linked to Hinduism and its notions of purity and pollution. According to it, caste is transmitted intergenerationally, and occupations and social status are fixed based on caste. For the caste system to perpetuate itself, people are required to marry only endogamously (within one's caste). (Semmalar 2016)

Heteronormative familial violence is both productive and reflective of the violence of caste and gender determinism. The reproduction of the idealized cis-gender body and its imagined "purity" of gender is also always a caste-based construct. In the writings regarding Shivy's case, there is no reference made to caste explicitly. And yet, as I discuss throughout this essay, the inferences to caste are found in the constant narratives of wealth- and class-based aspiration that colour Non-Resident Indian (NRI) narratives of mobility. As I have previously argued (Atluri), there is an over-determinacy of police violence, homelessness, and street-based harassment against Dalit, lower-caste, and impoverished queer people who do not have the capital to access certain elite spaces and to conceal public sex and sexualities. Stated in slightly different terms, the politics of location is used as a rhetorical device to heterosexualize spaces in caste- and class-based terms. The construction of India as "Motherland" territorializes gender, creating borderless violence for transgender men of colour whose bodies must be translated into the grammars of Western capital in order to be intelligible, while other genealogies of dissident gendered embodiment are willfully forgotten. The salvation of the "transgender" corresponds with a necropolitics of localized desire, as the lives and rights of Hijras, Kothis and other non-normative gendered bodies are maligned.

Many commentators narrated Shivy's case in ways that mapped "sexual freedom" and queerness as existing in the West, thus warranting Shivy's return to the United States. That is, Shivy was granted sexual subjectivity and rights by the Indian nation state based on their access to Western citizenship documents and capital. This incident followed the 2013 ruling by the Supreme Court of India to effectively criminalize queer sex and people in India by upholding Section 377 of the Indian Penal code, a colonial sodomy law (see Atluri). When read alongside that ruling, Shivy's case offers an example of the multivariate ways that the bodies of queer people of colour are used within competing narratives of state power, white queer benevolence, and diasporic heteronormative familial violence that crosses borders.

NRI/OCI/PIO/--QPOC? The overseas citizen and the heterosexualizing of belonging

The Person of Indian Origin and Overseas Citizen of India (POI/OCI) schemes that were introduced by the Indian government allow those who are recognized as being part of the South Asian diaspora to travel to the subcontinent with life-long visas. This scheme exemplifies the performative contradiction of the border of which Spivak writes. My interest lies in how gendered bodies and sexualities become intelligible and/or invisible within systems of transnational citizenship.

A wedding, a family visit, shopping for a wedding, remittances, and more weddings—these are a few of the common reasons that diasporic South Asians often give for wanting to return to or visit India. The Overseas Citizen of India (OCI) and Person of Indian Origin (PIO) schemes have drastically increased the numbers of foreign-born Indians, Indian migrants, Indo-Caribbean people, Indo-African people and others Desis who are travelling to the subcontinent. The scheme has also allowed for increased financial remittances to the Indian subcontinent, which are serviced by changes in banking that cater to non-resident Indians.

It is important to point out that Shivy and their parents were not part of the OCI and PIO schemes instituted by the Indian government. Rather, Shivy is a U.S green card holder whose passport and green card were stolen from him by his parents. Shivy's parents' behavior is part of a broader trend in which members of the Indian diaspora return to the subcontinent, often guided by heteronormative familial ideologies of returning to the "motherland" to maintain and uphold structures of Brahminical patriarchy, homophobia, and conservative familial ideologies of violence. The OCI/PIO scheme, which values bodies based on the paternal inheritance of name and diasporic capital, is part of the same overarching ideology that allows cases such as the transphobic abuse of Shivy to occur.

Shivy's Indian-born parents, who also reside in the United States, brought Shivy to India in order to attempt to force Shivy to conform to a heteronormative set of injunctions. Shivy was enrolled in a school in India, forced to take on a feminine name, and to appear as a cis gender woman. Had Shivy not escaped, their parents could have forced them to have a heteronormative marriage to a cis gender man. Shivy's case is one of many examples of how heteronormative and caste based violence are mutually constitutive. The body, violently marked as "woman" in India and the Indian diaspora, exists as a tool of exchange in a system of caste-based marriage. Transphobia and the erasure of queer identity in this case and many others is also an effort to reproduce caste-based lineages of heteronormative familial wealth. Shivy fled their abusive parents and filed a petition with the Delhi high court. The Delhi high court ruled in favour of Shivy who was given their green card and passport back and allowed to return to the United States. As Mishral writes,

Soon after the parents took the matter to police, Shivy had filed a petition in the Delhi high court, saying his parents had wronged him. He said he was a transgender, a student of neurobiology at a prestigious California college. He said

his parents had forced him to go to India and study at Dayalbagh University in a bid to "reform" his sexuality. (Mishral 2017)

Shivy's case is not exceptional, but rather corresponds to a wider heteronormative diasporic imaginary. The will to return on the part of many who are part of the Indian diaspora is imbricated in the workings of "nostalgia" for India as an imagined pre-feminist, pre-queer utopia where gender-based violence can go unpunished. The NRI, PIO, and OCI schemes exemplify the conjoined relationship between heteronormative familial reproduction, biopolitical caste-based lineages, and wealth.

For many in the South Asian diaspora, to return to India is to return to a "Motherland" in which "Mother India" is a feminized image of timeless culture and tradition. This territorializing of gender and sexuality has specific implications for feminist and queer South Asians, both in the diaspora and in the Indian subcontinent. Constantino Xavier discusses how the Indian government sought to capitalize on the Indian diaspora by offering diasporic South Asians cultural capital in exchange for the investment of diasporic capital in the region. Xavier, drawing on the work of Sanjay Chaturvedi, writes,

Perceiving the diaspora as a "'displaced' global actor endowed with substantial economic prosperity," Indian government officials believed that Overseas Indians could "be drawn into India through the 'powerful' cultural attachment that 'sons of the soil' are believed as well as expected to retain for their 'motherland.'"(42)

The relationship that national leaders have attempted to cultivate with the Indian diaspora charts the ideological shifts within nationalist ideology, from colonial freedom struggles to contemporary neoliberal market-based liberalism. The author discusses how in the first phase of anti-colonial resistance, political leaders attempted to mobilize diasporic South Asians to support independence. Inspired by Mahatma Gandhi's struggle in South Africa, during a visit to Malaya, in 1937, Nehru even underlined the symbiotic nature of homeland-diaspora relations: "The aim of the people of India is the achievement of freedom and the future of Indians abroad depends on the future of India" (38). After formal independence was achieved, during the second phase of nationalism, Indian leaders asserted that the diaspora should focus on participating fully in the nations in which they lived, while those who remained in India should cultivate and lead the newly independent nation. It was during the third and fourth phases of diasporic incorporation that the Indian nation state began to experiment actively with strategies of diaspora incorporation and citizenship schemes. The motives were largely economic, with the Indian state realizing that it possessed a large diasporic population that often had access to foreign capital and retained a deeply symbolic and ancestral attachment to India.

The final phase, which has led to the return of many South Asians abroad to India, began in the 2000s. In this phase, which has coincided with the aggressive neo-liberalization of the Indian economy, the Indian government has experimented with citizenship schemes such as the OCI and PIO scheme. In the speeches and debates that ensued leading up to the creation of

overseas India citizen policies, the image of “the Motherland” and of cultural belonging was again invoked by South Asian diasporic politicians. As Xavier writes,

PIOs thus started to denounce what they perceived to be an asymmetric incorporation policy that effectively integrated them economically and culturally but, at the same time, also denied them access to formal rights as legitimate members of the Indian polity. The most poignant critique came from Lord Bikhu Parekh, a distinguished PIO and member of the United Kingdom’s House of Lords, who imaginatively described the Overseas Indian “to [matter to] the mother country only as a cow that can be milked matters to its owner.” (42)

The Indian government has sought to imagine the Indian diaspora as “sons of the soil” and the subcontinent as a mother figure, to whom her sons would return home. Within this gendered symbolic system, members of the diaspora assert themselves as sons of the soil who are entitled to plant their feet on feminized soil and stake claim to India politically. Migration is deeply gendered, at the levels of both governmental discourse and citizenship policies. Policies tend to favour migrants with financial capital, educational qualifications, and skills. These schemes thus implicitly privilege cis gender upper-class, upper-caste male migrants whose education and professional success are supported owing to heteronormative patriarchal familial structures and wider processes of systemic and institutional discrimination that provide certain men with the means to migrate.

Unsurprisingly then, transgender, queer, and women migrants have been largely overlooked in research regarding gender and migration from the Indian subcontinent. This willful ignorance towards queer migration in many mainstream sociological approaches to the diaspora in effect reaffirms heteronormative nationalist paradigms that heterosexualize nations and communities. The figure of the “foreigner” becomes “familiar” when their body can be reinoriated into a heteronormative family structure that, as Foucault suggests, is biopolitically invested in as the ideal unit for reproducing normative citizens (Foucault 2004). Studies have focused largely on heteronormative cis gender families. Feminist researchers, looking at the lives of cis gender South Asian women in the diaspora, have argued that South Asian female migrants often play roles as the preservers of Hindu and Indian culture. In discussing the role that certain Hindu women played during nationalism, Partha Chatterjee, for example, suggests that upper-class, upper-caste Indian women were forced to reproduce cultural norms in the domestic sphere as a means of protecting “Indian culture” and Hindu ideology from the external threat of colonial rule (622-623). Similar forms of gendered nationalism exist in the South Asian diaspora, where women’s roles within heteronormative patriarchal Hindu homes are sanctified in order to preserve Hindu nationalist ideologies and doctrines of imagined cultural and caste based purity against the imagined threat of secular Western culture. Turning women into symbolic sacred cows valorizes sexism, religious nationalism, and casteism as “culture,” while also making the desires of transgender, queer, and female South Asian migrants either invisible or pathological.

Contemporary narratives of Indian nationalism rely on a balance of ardent neoliberal capitalism coupled with an adherence to “tradition,” where “culture” is largely based on casteist, heterosexist ideas of Indian values. The irony of the erasure, invisibility, and violence that queer South Asians face lies in how the policing and criminalizing of non-heteronormative sexualities was instituted by British colonial law. In 2013 the Supreme Court of India ruled to uphold Section 377 of the Indian Penal Code, criminalizing queer sex and people in India. This decision followed the 2010 decision made by the Delhi high court to read down these colonial sodomy laws following a tireless campaign by activists in the region. Cases such as Shivy’s demonstrate how the long and ongoing genealogies of anti-colonial queer politics are not imagined by state power, or by conservative diasporas as belonging to an India of neocolonial transnational capital coupled with Hindu nationalism.

Sons of the Soil? Transgender Men’s Citizenship

State power often constructs problems for which it has solutions, narratives that will serve its celebratory branding. Shivy’s case made global news after the Delhi high court ruled in his favor in the legal proceedings between him and his parents. The transphobia of Shivy’s parents, who sought to correct their child’s transgender identity, is a violent expression of nostalgia, whereby “sons of the soil” lay claim to the “motherland” by brutally punishing those who do not assimilate to gendered nationalist discourse.

The irony lies in how it was the courageous advocacy of transgender, queer; genderqueer, and feminist activists in India that helped Shivy win their legal battle. Shivy sought support from Nazariya, a queer and feminist NGO in Delhi that supported their right to a transgender identity and right to return to their girlfriend and studies in the United States. However, the case was narrated in the media and courts as one in which a U.S. citizen was granted their rights, at the same time that the 2016 Transgender Bill in India compromises the dignity of Hijras and transgender people who remain in India.

Shivy’s case garnered attention at a time when the Indian state was also drafting The 2016 Transgender Persons (Protection of Rights) Bill, a rewriting of the 2014 National Legal Service Authority (NALSA) ruling that counted transgender persons as third-sex citizens of India. The new bill, which is awaiting formal approval, has garnered a great deal of critique in India. Under the newly drafted bill, many of the potentially radical sentiments of the NALSA ruling have been rewritten. The 2016 proposed legislation offers a limited understanding of transgender that delimits trans people’s ability to self-identify and also erases various third gender communities such as Hijras, who have existed in India for centuries.

Hijras, Kothis and other gender dissidents are part of a long genealogy of non-heteronormative sexualities in India that encompass historical, religious, and embodied traditions that pre-date the contemporary English language universalisms of LGBTQ discourse. Jasbir Puar discusses the arrogance and missionary like zeal of what she terms “the Gay International,” largely comprised of Western queer organizations, NGOS, and activists in North America and Europe who want to spread universalist understandings of sexuality globally, through processes

of epistemic violence that often mask themselves as benevolence. The proposed 2016 legislation is not only out of touch with global norms, it does a great disservice to sexual subalterns whose bodies and lives cannot be subsumed under categories that are made popular by LGBTQ communities in the Global North. The definition of transgender in the proposed 2016 bill reads as follows:

... “transgender person” means a person who is— (A) neither wholly female nor wholly male; or (B) a combination of female or male; or (C) neither female nor male; and whose sense of gender does not match with the gender assigned to that person at the time of birth, and includes trans-men and trans-women, persons with intersex variations and gender-queers. (*Roundtable India* 2016)

This definition of “transgender person” does not reflect the tremendous work and struggle of LGBTQ activists and communities in India and transnationally. Simultaneously, it fails to do any justice to the long histories of sexual subversion that predate the globalization of the word “transgender.” The “ABCs” of transgender do not allow people to authorize their own lives, their own truths, and their own bodies. The convoluted bureaucracy of the bill reflects a deeply colonial ethos: one that legislates against lives and orders bodies into airtight coffins of categorical imprisonment. Alain Badiou suggests that law does not simply criminalize actions; it makes certain lives intelligible and therefore possible (Badiou 2012).

The 2016 Bill causes centuries of dissident gendered bodies in India such as Hijras to symbolically and politically disappear. The bill also makes “transgender” lives intelligible through the terminology of a legal bureaucracy that names and orders lives, just as originary colonial law strived to categorize Hijras through the 1857 Criminal Tribes Act. Journalists writing in *Roundtable India* discuss the construction of “transgender” people in the 2016 bill, as compared to the previous definition offered in the bill that followed the NALSA ruling. The authors state,

... the 2015 version of the draft bill honored the right of transgender people to self-determine their gender identity as any of, male, female or transgender, and very strongly iterated that transgender identity is not dependent on any medical/surgical intervention. Not only is this lost in the 2016 version, but a totally pathologising and scientifically incorrect definition has replaced the earlier one. In addition to this, traditional trans feminine communities like Jogappas and Shiv Shaktis have been dropped all together in the new bill. (*Roundtable India* 2016)

A report written by the Parliamentary Social Justice and Empowerment Committee raises several concerns regarding this new legislation. Jayshree Basora, a researcher with Human Rights Watch, writes,

The bill contradicts several provisions laid down in the watershed 2016 Supreme Court ruling that transgender people have the right to self-identify as male, female, or third gender; that the government should ensure their fundamental rights without discrimination; and that they should receive special benefits in education and employment. (Basora)

Under the newly proposed 2016 Transgender Bill, transgender persons must seek certification and approval before a committee who will decide whether their gender identification is legitimate. The legislation reads as follows:

4. (2) A person recognised as transgender under sub-section (1) shall have a right to self- perceived gender identity...

6. (1) On the receipt of an application under section 5, the District Magistrate shall refer such application to the District Screening Committee to be constituted by the appropriate Government for the purpose of recognition of transgender persons...

8. (2) The District Magistrate shall, on receipt of an application under sub-section (1), and on the recommendation made by the District Screening Committee, issue a certificate indicating change in gender in such form and manner and within such time, as may be prescribed. (*Roundtable India 2016*)

Gender studies scholars and activists critique the disciplinary powers given to state authorities to name and adjudicate the authenticity of transgender lives. Discussing how the bill prevents self-determination among transgender people, they state,

In the current bill, a committee of gatekeepers have been entrusted with the right to determine who can or cannot be transgender. Such a move will adversely affect significant parts of the transgender population - especially pre-op/non-op transmen and transwomen, gender fluid, gender neutral, and intergender persons. (*Roundtable India 2016*)

Activists in India also discuss how transphobia impacts transgender men in India in deeply disturbing ways. Rituparna Borah, who works with Nazariya, discusses the marginalization of transgender men in India. Borah suggests that transgender men often face very specific forms of oppression and hatred, due to ingrained forms of culturally and religiously sanctioned misogyny that justify the preference for female born children. The overarching reverence for cis-gender men that forms the basis of Brahminical patriarchy creates a context in which transgender male bodies are often not recognized by many as “real men,” and the adoption of transgender male pronouns is also not respected. As journalist Kainat Sarfaraz notes,

The invisibilisation of the trans-men community spills over to the legal arena as well. The Transgender Persons (Protection of Rights) Bill, 2016 does little for them...The bill neither defines trans-men nor addresses any of their specific concerns that arise due to their sex or gender. It doesn't even acknowledge the blatant ostracisation of the community. The word 'trans-men' is just used once in the entire bill. (qtd. in Sarfaraz)

Does transgressing gender connote a transgression of the idea of borders? In the case of Shivy, capital reasserts borders by granting the transgender citizen in India rights as a U.S green card holder. The Indian state simultaneously threatens the rights and lives of transgender citizens of India through legislative changes to the third sex citizenship bill, which do not fully recognize those who transgress male/female, impermeable/permeable borders.

White Queers Saving Brown Queers from Brown Families: When Homonationalism Crosses Borders

“Borderless” and “bordered” bodies are shaped by the impermeable whiteness of North American white settler colonial biopolitics. The ability and will of diasporic Indians to “return” to India should be considered as a response to racist forms of exile that often construct brown people as partial citizens who are left to forever reference a “back home” of another nation. One can also consider Western racism as a motivating factor for the “return” of many South Asians to the Indian subcontinent. The gendered body is one whose violation signifies heteronormative, patriarchal violence. Simultaneously the racialized brown body in a time of a global “war on terror” is also permeable, subject to violent deterritorialization, often justified due to the racist, Islamophobic rhetoric of “terrorism.”

Whiteness is also a borderlessness entity. The performative tension of whiteness lies in how white bodies are unmarked, unremarked upon and therefore unremarkable while they also retain a positional superiority that crosses borders. The story of Shivy garnered a quasi-missionary outcry from white Western queers who constructed India and the abusive Indian family as a threat to queerness. Articles that appeared in the press in North America were accompanied with headlines such as “Transgender US College Student Trapped in India,” and other similar narratives that signify “India” as a “backward” place of terror and fear, while also constructing Shivy as an “American.” The rhetoric of a Western queer utopia that is ostensibly “progressive” in comparison to the imagined anachronistic backwardness of the Global South, also willfully ignores the routine violence experienced by transgender people of colour in the West. Transgender women of colour experience the highest rate of murder in the LGBTQ community in America, and transgender men of colour also experience high rates of homelessness, suicide, and routine hate crimes.

What are the implications of these larger political frameworks for Shivy? The diasporic family is armed with an arsenal of Western capital and a blood lineage that aligns them with dominant Indian fictions of belonging, while they are always forever imagined as guests in the

Global North due to the racism and glaring whiteness of Western nationalisms. Armed with patriarchal biopolitical inheritances of caste-based names and wealth, the heteronormative violence of the NRI family permeates the Indian border and the body of the transgender child, gestures that are justified under a rhetoric of returning to “our culture” through violence. The permeability of the Indian border by the phallic power of diasporic Western finance and the permeability of the transgender body that is marked as female, gestures to the performative tension of border/borderlessness, impermeable/permeability, and male/female. The larger political valorization of the diasporic family through systems of paternal name and birthright supports a heteronormative patriarchal paradigm that lends itself to violence.

The “borderless” nature of certain terms corresponds with Gayatri Spivak’s assertion regarding borders cited at the beginning of this essay. That is, certain terms connote capital, wealth and forms of cross-border exchange that solidify national borders by constructing countries in the Global South as in need of translation. Queer authors in the Global South warn against Western LGBTQ frameworks and their capacity to exact the erasure of traditional Indian gender minority communities through attempts to encapsulate them in solely Western frameworks. Ashley Tellis argues that the global “trans utopia” that is being promoted among LGBTQ groups and policy makers transnationally maligns Hijras and other gender nonconforming people whose histories and bodies cannot be subsumed within secular Western grammars of identity politics. The language of “trans” and “transgender” that is increasingly being used globally derives from the Global North, and its imposition on the Global South is due to neoliberal capitalist power. The power to name is deeply imbricated with authorial positions often occupied by those in deeply privileged positions. This is clearly demonstrated in our contemporary moment, where transgender politics, much like previous waves of gay and lesbian politics, are dominated by affluent white, Western secular actors. Just as Puar discusses homonationalism, a term that refers to the alignment of white queer bodies with North American nationalism (Puar 2008), transgender homonationalism can be read in similar ways. Transnationalism in this context can be used to refer not to moments of cross border solidarity, but to a reinforcement of colonial categorizations of borders and bodies through the epistemic violence of white Western transgender discourse. As Ashley Tellis explains,

Urban, upper class, upper caste trans activists have been grafting this US language, US concerns and US arrogance onto the LGBT movement here for some time now. Their privilege allows them disproportionate amounts of space and their articulations are abrasive and deeply insensitive. A good example of this is whose name gets on the Standing Committee on the Transgender Bill—an upper class, upper caste trans person and not any of the Hijras who also deposed before it. (Tellis 2017)

The rhetoric that emerged regarding the exile of the transgender body in India serves to further erase Hijras, Kothis, and others who defy gender binaries, even as their lineages are thousands of years old and well predate the branding of “trans” identities globally. “Trans” can and does cross

borders, often with great difficulty, abuse, and harassment. However, the term increasingly translates across national contexts due to its use in Western contexts and alignment with capital. “Hijra” does not cross borders in the same way, and its inability to be widely translated and intelligible is demonstrative of Spivak’s assertions regarding the border/borderlessness of capital. The grammar of “transgender” is borderless to the extent that it flows with the currencies of diasporic and migratory bodies; however, the border is firmly in place to contain Hijras in the Indian subcontinent with their unintelligibility outside of India also determining their often low economic status and the precarity of their lives.

Shivy was cast as a “respectable” transgender person due to their alignment with American institutions and the promise of social mobility. Hijras and transgender people in India and globally who engage in sex work continue to be pathologized by the state. In contemporary India Hijras are signified in the national imaginary as impoverished sex workers and therefore they are not granted the benevolence and sympathy of the state. Similarly, transgender women of colour who engage in sex work in North America are often subject to police brutality and high rates of sexual violence and murder, which rarely makes headlines. Transgender women of colour experience some of the highest rates of murder, as well as physical and sexual violence among LGBTQ people in North America, despite the illusions of legal protection and discourses of rights. What the cries of “transgender trapped in India” also willfully ignore is racism against transgender people of colour in North America and state-sanctioned transphobic policies in the West. While Indian and American states covet a geopolitical bromance largely based in mutual capitalist investments, the policies of both governments threaten the lives of transgender and queer people of colour. Within the context of media publicity, Shivy was quickly identified as an American trans man whose rights would be respected on the other side of a border. While activists in India worked to support Shivy and garner them mobility, the transgender bill that was passed around the same time in India does not allow for the legal intelligibility of gender transgressions on the part of Indian citizens who would then be allowed to move and live freely in India.

Shivy’s struggle for justice underscores how transphobia is mapped onto the Indian subcontinent and the figure of the “Indian family.” In the media coverage regarding this case and other transnational bids for justice in the South Asian diaspora, there is often little mention of why brown people continue to see India as “home” despite spending years in America. The rescue narratives of white Western benevolence heterosexualize nations. Furthermore, those narratives associate India with transphobic violence in ways that produce further heteronormativity by assuming that the only queer story to be told begins after one crosses the border to the imagined liberatory spaces of the Global North. This rhetoric of neo-colonial salvation resonates with Spivak’s discussion of colonialism as a narrative of “white men saving brown women from brown men” (93). A queer narrative of white queers saving brown queers from brown families emerges in ways that reasserts the positional superiority of whiteness, thus ignoring the vitality of queer activism in contemporary India and throughout the Global South. This imperialist tale territorializes the U.S as a queer safe haven, ignoring the inordinate violence

experienced by transgender people in the West and how white queer racism produces and is complicit in this violence.

Conclusion

South Asian diasporas and Hindu nationalist leaders in the Indian subcontinent can and do heterosexualize “India,” as an essentialist construct resplendent with conservative family values. The simultaneous construction of India and the heteronormative, largely Hindu and upper-caste “Indian family” as sacred has material consequences. Marital rape continues to be legal in India, while Section 377 of the Indian Penal code, a colonial sodomy law, criminalized LGBTQ sex as duplicitously “unnatural,” and until September 6, 2018 threatened queer lives. The naturalizing of heteronormative family structures also connects familial lineage to land; fathers’ names and blood are used to construct ostensibly purified visions of belonging that value those who will rightfully inherit the nation owing to upper caste Hindu male paternity. With these rhetorical and political gestures, the nation is symbolically “cleansed” of queer bodies, feminists, religious and racial minorities, and lower-caste people. The 2016 Transgender Bill in India also offers an example of how borders are enforced, while borderless capitalist interests allow wealth and “world class” “global citizens” to move across time and space. Shivy, a transgender man, was brought to India by their parents, who constructed India as an imagined safe haven for abuse, transphobia, and heteronormative violence. Owing to the courageous activism of queer, genderqueer and transgender people in the Indian subcontinent, Shivy fled their parents’ abuse and escaped a non-consensual heteronormative marriage. And yet, while Shivy was granted the right to return to the United States, Hijras and transgender people in India cannot access basic entitlements of citizenship. This is a time of vulgar partnerships, with no blessings offered by a Hijra. Leaders such as Narendra Modi and Donald Trump are wedded in their conjoined bigotry, perhaps in love with money, power, and shifting definitions of national culture that expand with the promise of investment and cower with the possibility of justice. As I have attempted to argue throughout this article, the very idea of “home” is interwoven into heteronormative familial scripts and nationalist narratives in ways that violently exclude and expel those whose otherness delimits the very boundaries of belonging. As Mamoud Darwish writes, “Exile is more than a geographical concept” (qtd. in Shahtz).

Works Cited

- Atluri, Tara. *Azadi: Sexual Politics and Postcolonial Worlds*. Toronto: Demeter Press, 2016.
- Badiou, Alain. *Philosophy for Militants*. London: Verso, 2012.
- Basora, Jayshree. “Making Transgender Rights a Reality in India.” *Human Rights Watch*, 25 Jul. 2017, Web. Accessed 1 Oct. 2017.
- Butler, Judith. *Bodies That Matter: On the Discursive Limits of ‘Sex.’* New York: Routledge, 1993.

- Chatterjee, Partha. "Colonialism, Nationalism and the Colonized Woman: The Contest in India." *American Ethnologist*, vol. 16, no. 4, Nov. 1989, pp. 622-633.
- Chaturvedi, Sanjay. "Diaspora in India's Geopolitical Visions: Linkages, Categories and Contestations." *Ethnic Diasporas & Great Power Strategies in Asia*, edited by Robert Wirsing and Rouben Azizian, New Delhi: India Research Press, 2007.
- Cifredo, Joanna. "Why are so many Transgender Women of Colour Murdered Every Year?" *The Advocate*, 19 Nov. 2016, Web. Accessed 1 Oct. 2017.
- Foucault, Michel. *The Birth of Biopolitics: Lectures at the Collège De France, 1978-1979*. Edited by Michael Senellart, Francois Ewald and Alessandro Fontana. New York: Palgrave Macmillan, 2008.
- Hirschfield-Davis, Julie. "Military Transgender Ban to Begin Within 6 Months, Memo Says." *New York Times Online*, 23 Aug. 2017, Web. Accessed 30 Sept. 2017.
- Mishral, Ishita. "19-yr-old NRI transgender gets back passport, free to return to US." *The Times of India*, 5 Oct. 2015, Web. Accessed 11 Mar. 2017.
- Roundtable India. "The Transgender Persons (Protection of Rights Bill 2016: Responses from Trans & Intersex Communities." *Round Table India*, 8 Aug. 2016, Web. Accessed 22 Feb 2017.
- Sarfraz, Kainat. "Trans-men: A minority within the marginalized." *The Indian Express*, 10 Dec. 2016, Web. Accessed 30 Sept. 2017.
- Semmalar, Gee Imaan. "Why Trans Movements in India Must Be Anti-Caste." *TransCafe*, 21 Dec. 2016, Web. Accessed 9 Mar. 2018.
- Shatz, Adam. "A Poet's Palestine as a Metaphor." *The New York Times*, 22 Dec. 2001, Web. Accessed 10 Mar. 2018.
- Spivak, Gayatri. "A Borderless World." *Conflicting Humanities*. Edited by Paul Gilroy and Rosi Braidotti, London: Bloomsbury Press, 2016, pp. 47-60.
- . "Can the Subaltern Speak?" *Colonial Discourse and Post-Colonial Theory: A Reader*, edited by Patrick Williams and Laura Chrisman, Hemel Hempstead: Harvester, 1993, pp. 90-105.
- Tellis, Ashley. "Bad Hijras versus Good Trans and the Delusional Trans Utopia." *Galaxy Magazine*, 21 Aug. 2017, Web. Accessed 30 Sept. 2017.
- "Trump administration revokes transgender washroom guidelines." *CBC News*, 22 February 2017, Web. Accessed 1 Oct. 2017.
- Wal, Aradhna. "Transgender boy, Shivy, harassed, beaten by parents." *DNAIndia*, 27 Sept. 2015, Web. Accessed 15 Mar. 2018.
- Xavier, Constantino. "Experimenting with Diasporic Incorporation: The Overseas Citizenship of India." *Diaspora and Citizenship*, edited by Claire Sutherland, Elena Barabantseva, New York: Routledge, 2013, pp. 34-54.
- Zizek, Slavoj. "Multiculturalism or the Logic of Multinational Capitalism." *New Left Review*, no. I/225, Sept.-Oct. 1997, pp. 28-47.