

Entangled Histories

Erotic Justice: Politics of Postcolonialism

by Ratna Kapur;
Permanent Black,
New Delhi, 2005;
pp vi+217, Rs 650.

ANJALI ARONDEKAR

The past few decades of postcolonial feminist scholarship have witnessed a veritable explosion of critical thought on the discourse of the law and its varied instantiations. Within these writings, the story of the law emerges equally as a site of ongoing peril and as a space of possible reform. Feminist scholars seem to be caught in a perpetual agon: even as postcolonial legal systems are tainted legacies of a colonial past, these very systems need to be mobilised to ensure a new language of rights. Recent debates in gender and sexuality have further challenged feminist legal scholarship to imagine the law as a transformative home, if you will, for communities that have traditionally been excluded, or rendered aberrant within structures of legal representation. The most obvious and divisive case in point is the failed (and continuing) effort to repeal Section 377 of the Indian Penal Code, a repeal that would decriminalise same-sex conduct, and acknowledge sexual orientation as a

valid (and ordinary) expression of Indian subjectivity. In a series of essays on the intersectionality of sexuality, law and postcoloniality, Ratna Kapur's *Erotic Justice: Law and the New Politics of Postcolonialism* provides us with a complex understanding of these historically entangled issues, arguing instead for a theoretical and political approach that engages law as a space of constant possibility and contestation. There is no critical paralysis in Kapur's formulations, only a strong commitment to thinking of ways in which current legal structures can and must make way for a vigilant "erotic justice." As she writes, "the role of the law is exposed as a site of oppression, exclusion and subjugation as well as contradiction and struggle...in the process, challenges are offered to the political and theoretical constructions of the nation, cultural authenticity, and women's subjectivity" (p 3).

Central to Kapur's formulations is a key emphasis on linking matters of sexuality to issues of migration, communalism and labour. Kapur uses the term "subaltern" to include a range of "cultural Others who are peripheral subjects – such as transnational migrants, Muslims, homosexuals or sex-workers" (p 3). Such a capacious use of the weighty term "subaltern" is no semantic sleight of hand; it has serious theoretical and historical implications as its usage stridently places the work of the subaltern studies collective in

direct conversation with matters of gender and sexuality. As one may recall here, the term “subaltern” took on critical currency in scholarship in south Asia primarily through the work of scholars such as Ranajit Guha, Partha Chatterjee and Dipesh Chakrabarty. These scholars radicalised Indian history by drawing attention to the elitism of its representation, and the erasures of vast communities of “subaltern” voices. While the original Subaltern Studies collective has been extended and now includes the work of feminist scholars, the early legacies of the work continue to hold centre stage. Kapur’s invocation of the category of subalternity to describe the subjects of her study is thus a noteworthy political and intellectual intervention. That is, we are reminded that it is no longer possible to imagine or rather reimagine Indian history without an attentiveness to a diverse understanding of subalternity, a subalternity that is not merely additive but transforms the very languages of articulation. In other words, Kapur’s usage is not about adding one more colour to the political rainbow of subalternity, but rather

an invitation to think of sexuality as constitutive to how we imagine citizenship, subjectivity, history etc.

Thus, discussions of homosexuality, for instance, are not limited to the shoring up of a movement for sexual minorities. Instead, questions of same-sex behaviour, identity and rights are closely aligned to an interrogation of legal structures that consolidate divisive forces of communalism and labour exploitation. In this endeavour, the book presents an impressive and sometimes diffuse familiarity with a range of theoretical discourses and geopolitical loci: a study of local events in postcolonial India is refracted through an analysis of international jurisprudence and transnational feminist theory. Indeed, the essays collected here are essentially concerned with studying the fraught relationship between knowledge systems and categories of power. Even as we inhabit a postcolonial present, Kapur crucially argues, categories of colonialism continue to permeate our ways of thinking and being. The empire lives on through the intellectual hegemony of a north/south divide that

sediments the very oppression that postcolonialism seeks to transcend. “Western feminism” provides the strawman (or rather woman) for her claims, as the newly imagined civilising mission of liberal feminism takes on the problematic mantle of saving brown women from brown men.

Hegemonic Labels

For Kapur, a major example of such hegemonic structures lies in the very discourse of what she labels as “liberal internationalism,” a language often used to address “violence and discrimination against women” (p 13). In Chapter II, ‘New Cosmologies: Mapping the Postcolonial Feminist Legal Project’, Kapur attaches her critique of “liberal internationalism” to the work of scholars such as Martha Nussbaum. Nussbaum, she argues, proposes facile universal remedies to the very differentiated problems faced by women in the global south. Such universal remedies (in the guise of “global sisterhood” or a universally understood category of

New Releases

RELIGIOUS DIMENSIONS OF INDIAN NATIONALISM: A STUDY OF RSS

Shamsul Islam

It is an in-depth study of the origin of the RSS and the two-nations theory and the evolution of Hindutva ideology in India. For the first time certain sources have been used and that makes it a unique work of scholarship – Professor Manoranjan Mohanty.

The publication of Shamsul Islam’s study of the ideology of the RSS is very timely because the ideological challenge of Hindutva remains a potent threat to the Indian Constitution and pluralistic and harmonious ordering of Indian society – Professor Richard Bonney.

384 pages/Rs 360/US \$ 16.00/Euro 14.00

ISBN: 81-7495-236-5

SAVARKAR: MYTH AND FACTS (Revised Edition)

Shamsul Islam

Savarkar in his presidential speech at the Mahasabha conference in Ahmedabad in 1937, said: ‘as it is, there are two antagonistic nations living side by side in India.’ The Hindu Mahasabha had no problem in joining the Muslim League Government in Sind and Bengal. He was also the supporter of the princely order and thought it would not be a bad idea if the King of Nepal became the Hindu emperor of India...If you want to recheck what I have written, take a look at SAVARKAR: MYTH AND FACTS by Shamsul Islam – Khushwant Singh.

2006/128 pages/Rs. 120/US \$ 6.95/Euro 6.00

ISBN: 81-7495-234-9

Special Offer: Order both the books together to avail free postage within India.

Add Rs.40/- with every order for registered post.

Rs.50/- extra for outstation cheques. *Offer valid for limited period only.*

MEDIA HOUSE

375 - A, Pocket 2, Mayur Vihar Phase I, Delhi - 110091

Ph: 91-11 - 22750667, 22751317, 43042096,

mediahousedelhi@gmail.com, mediahousedelhi@hotmail.com, www.mediahousedelhi.org

“woman”) merely reproduce a newly refurbished essentialism that flattens the complexity of postcolonial subjectivity. To counter such essentialist gestures, Kapur provides us with an analysis of how such universal categories function quite differently in the variegated landscape of postcolonial India. Firstly, she examines specifically the role of the religious right that uses the very language of “cultural authenticity” to precisely marginalise sexual and religious minorities. Secondly, she points out that even emancipatory movements such as the reform of sexual harassment laws affect women and sexual subalterns in very “contradictory ways”. Kapur is at her best when she threads colonial case law with current legal reform to underscore the problematic stabilisation of a public/private divide within such a trajectory. That is, while feminist legal reform has worked hard to empower victims of rape, sexual abuse, it has done less to complicate the model of sexual purity and honour that undergirds an understanding of such crimes. Sexuality is still considered a private (undisclosed, untroubled) matter, whose legislation ironically falls within public purview. To be public about sex and or sexuality is to be “western,” Kapur argues, forces “from which the Indian nation, cultural ethos and traditions need to be protected” (p 33).

Chapter III, ‘Erotic Disruptions: Legal Narratives of Culture, Sex and Nation in India’, extends the argument of chapter II by examining the specific sites where sexuality is equally made hypervisible and invisible. The “erotic disruptions” that occupy Kapur here range from the contemporary consumption of adult television, Kama Sutra condom advertisements, and movies such as *The Bandit Queen* and *Fire*. Within these multiple disruptions, alternative sexualities enter to trouble the fantasy of a heteronormative and resolutely monogamous Indian family structure. In its place, we have sexual subalterns, some the product of rampant globalisation, others brought to light through a relationship to past histories and struggles. Satellite broadcasting brings the world closer, while films such as *Fire* render that world visible through a rewriting of Hindu mythologies and nationalism. Kapur focuses on the “political project of desire” as a means to forestall the stranglehold of a non-Indian feminist discourse that sees gender in India primarily “through issues such as dowry murders or sati, poverty and population” (p 52). The

hysteria of a culture under siege from the onslaught of contaminated (read westernised) sexual subalterns is replaced here by a retelling of that same hysteria within a language of pleasure and desire. Kapur further explores the challenges posed by the growing presence of sex worker unions to the nationalist segregation of sex and culture. These sex workers, as erotic radicals, directly question “the idea that sex in general, and commercial sex in particular are inherently negative, corrosive, or otherwise dangerous” (p 77).

The ‘Victim’ Phenomenon

In chapter IV, ‘The Tragedy of Victimization Rhetoric: Resurrecting the ‘Native’ Subject in International/Postcolonial Feminist Legal Politics’, Kapur attempts to uncouple the discourse of “victimhood” from the bodies of women and/or sexual minorities in the global south. Taking on international rights movements, Kapur proposes that transnational feminisms contribute to the reduction of women as victims primarily through their focus on violence against women (VAW). The victim subject, Kapur writes, is truly a “transnational phenomenon,” and it appears both in legal discourse in the west and in the postcolonial world (p 95). Within such formulations, a model of centre-periphery holds steady, whereby the third world subject is always already “abject”. Such theoretical models solidify cultural and gender essentialisms, leaving little room for the emancipatory potential of feminist legal reform. In postcolonial contexts such as India, this victim-subject formulation replaces the colonial native-subject category, bringing in its wake some of the same violations. Reading women primarily through the language of violence makes it impossible to rewrite the racist and patronising legacies of imperialism. Women as victim subjects are thus always in need of saving, and more specifically now in need of saving from brown men, not just by white women, but also by the proponents of nationalism. As a form of resistance to these narratives, Kapur goes to great length to explore the presence of non-victim voices in many stories and cases of sexual subalterns. She cites, for instance, the case of “Malleswari, the female weightlifter” who challenges both gender and cultural essentialisms. Malleswari’s “location as a working class, married women, her body, and

her commitment to weight-lifting” constitute a “serious challenge to the emaciated, linear image” of third world women as victims (p 131).

The final chapter, ‘The Other Side of Universality: Cross-Border Movements and the Transnational Migrant Subject’, appropriately turns to current shifts in our political climate. Even as the countries of the north assemble a wide variety of xenophobic anti-immigration laws and economic sanctions to control the tidal wave of immigration, less attention is being paid to similar programmes being enacted in the name of saving the gendered victims of the global south. Kapur does well to connect the current war on terror with legal reform that speaks a similar language of democracy and freedom. The legal regulation of women who migrate for work, specifically sex work, provides the space of analysis for this chapter. Kapur focuses on US and international anti-trafficking legislation that often mobilises the same criteria for immigration and refugee-status as the many anti-terrorism measures being passed. The transnational migrant, as embodied in the border-crossing female subject, bears the burden of such representation (pp 138-39). In these legislations, the migrant victim-subject (using a term from the earlier chapter) is “dehumanised and thus regarded as not deserving rights and freedoms” (p 167). Human security ironically becomes the very language through which the debate on refugee and asylum (as in the recent case of Australia) is “displaced by one that prioritises the security of the nation-state and its citizens and families” (p 167).

Overall, this book is clearly an important addition to feminist legal studies and represents one ambitious attempt to narrate the very entangled and difficult histories of sexuality, law and culture. Kapur’s claims are often too wide-ranging and general to be entirely persuasive but her critiques are well-made, and her larger argument well-formulated. It is important to read the book as a series of essays, more piecemeal in their interventions than parts of a coherently structured whole. Some essays are more polemical and repetitive, while others wrestle more carefully with nuances of politics and location. Ultimately, the book proffers a complex sightline, a much-needed shift in the terms through which subaltern subjects can be narrated in relationship to the law. **EW**

Email: aarondek@ucsc.edu