ABSTRACT. Ratna Kapur’s recent book entitled Erotic Justice proposes a new politics of postcolonialism whereby the sexual subaltern disrupts the normative principles of the universal, liberal, legal domain. Kapur traces legal strategies regarding censorship, sex-work, homosexuality, sexual harassment, trafficking and migration which travel a treacherous path, countering allegations of ‘unIndian’ and Western practice with cultural histories of ‘authentic’ sexual legitimacies, towards a new politics of desire. Kapur frames her analysis through postcolonial feminist theory as providing a tool for feminist struggle, yet distinct from and disruptive of a liberal project of global sisterhood. This review deeply values the role of the sexual subaltern which disrupts the tenets of a linear, progressive liberalism. Drawing upon Indian feminist and Western feminist perspectives, the review considers how the distinct position of the postcolonial sexual subaltern subject informs the generic role of law as a tool constructing relations of domination regarding gender, sexuality, caste, property and religion. Kapur observes that both the West and the Hindu Right have engaged with liberal legal principles. This engagement, I argue, exposes and informs law as a historical and contemporary tool of gendered legal colonialism, for sisters to disrupt across the Western and Eastern terrains.

KEY WORDS: colonialism, cultural relativism, feminist theory, homosexuality, human rights, postcolonialism, sex-work, sexual subaltern, trafficking, transnational migrant, universalism

THE CELLULOID SEXUAL SUBALTERN

‘Chameli’, a fictional character who entitles Sudhir Mishra’s Bollywood film, provides Ratna Kapur “with a trajectory into the contemporary debates on how law has been implicated in the ways in which issues of sexuality, culture and subaltern locations are addressed” (2005, p. 2). For Kapur, Chameli, a sex-worker who weaves narratives of liberal notions of victim-hood as a strategic device to manipulate, enjoy and benefit, wakes the audience to a new
understanding of the sexual subaltern challenging their liberal assumptions of sexuality and the ‘third world’. Kapur continues this device throughout her book as she contrasts discourses of the postcolonial sexual subaltern and liberal human rights, in areas of sex-work, homosexuality, sexual harassment, rape, marital rape, censorship, beauty contests, trafficking and migration, to challenge the universal assumptions which reify the cultural ‘Other’.

The book has five chapters, which trace the “theoretical and disruptive possibilities that the subaltern subject brings to law and to the legal regulation of sexuality and culture” (p. 3). Kapur presents law as a site of exclusion but also as a site of discursive struggle. From the spotlight of the controversial ‘Bollywood’ films Chameli (2004), Fire (1996) and Bandit Queen (1994), to the media charged issues of the Miss World Beauty Contest, Kapur introduces the reader to ‘popular’ fora in which issues of sexuality and regulation are debated. Kapur traces the complexity of the postcolonial sexual subaltern who seeks an identity and a history separate from both Western assimilation and nationalist cultural positions. Within the mainstream forum of Bollywood, issues of prostitution, lesbianism, and scenes of castist gang rapes, are alleged as Western imports or countered on the grounds of historical authenticity, which often essentialise the sexual subject. Through the legal issues of censorship and regulation, Kapur depicts how the sexual subaltern is located on the peripheries of law and has a history of negotiation to resist assimilation within the liberal project or exclusion from it. Kapur develops the argument with regard to the World’s ‘Others’, the colonial subject, women, blacks, sexual subalterns such as sex-workers, homosexuals, traffickers and “new Others, the Muslim as well as the transnational migrant” (p. 3). Kapur harnesses the location of the sexual subaltern to “bring a normative challenge to the assumptions on which law operating from a postcolonial location-with its claims to universality, neutrality and objectivity is based” (p. 3).

Kapur’s introductory chapter grounds her analysis within a theoretical framework of postcolonial feminist legal theory, as “an emerging area of scholarship that seeks to account for women’s conditions of subordination within the conditions of postcolonialism” (p. 3). Kapur is quick to quash any misgivings of a grand theory, as she confirms postcolonial feminist scholarship is rooted in the commitment to ‘positionality’, and an “awareness of who speaks for whom, how and where, as well as of who is listening