

THE SNAKE, THE ROPE AND THE FISHBOWL

ANTHONY J LANGLOIS*

Review of *Gender, Alterity and Human Rights: Freedom in a Fishbowl* (Ratna Kapur, Edward Elgar Publishing, 2018, ISBN 9781788112529)

Opening this book, we find ourselves looking out over the foothills of the Himalayas from the study window of a home within the Doon Valley. A ‘wistful haze’ from dispersed mountain cloud diffracts the light, and while we sense the ‘clamour and clatter’ of the nearby city, we experience calm and peace – until becoming aware of an undulating motion in the hallway, a flattening wave, the body of a creature seeking a way out from an enclosed space.

The snake in Ratna Kapur’s prologue is a majestic creature: powerful, beautiful, elegant. While potentially dangerous, she is now interested only in finding a way out, in securing her freedom. With no exit at ground level she emerges and raises herself, the length of her body coming to rest on her tail as she stands on its tip to appraise her options – an extraordinary spectacle – before spiralling back down, and eventually exiting through a nearby window opened by the author to facilitate escape and freedom.

The snake’s need for freedom and Kapur’s full telling of this story puts us in the imaginative space for the challenge of Kapur’s book: a way out of accounts of freedom which are restrictive, closed-in or illegible to many; accounts of freedom within a liberal episteme. The snake, alien and other, is depicted empathetically, setting the scene for the subsequent process of ‘centring and examining articulations of freedom available in non-liberal, alternative epistemologies’.¹

Kapur has another snake story; one which does more analytical work than the tale of her unexpected and glorious visitor. In this second story, drawn from the *Advaita*, we find ourselves reacting fearfully to a snake when we are in fact looking at our *rope*. We mistake the object of our perception and react accordingly; but there is in fact no threat. It is our perception that is the problem, one we must use introspection, self-scrutiny and subjective reflection to rectify.

* Associate Professor & Government Teaching Program Director, College of Business, Government and Law, Flinders University.

1 Ratna Kapur, *Gender, Alterity and Human Rights: Freedom in a Fishbowl* (Edward Elgar Publishing, 2018) 1.

Kapur applies this to the ways in which we commonly misperceive liberalism and human rights as emancipatory when in fact, she argues, they constrain and control us. One suspects this story needs a slight retelling, in that most see a rope where, according to Kapur (and I largely agree), there *is in fact a snake* – we find ourselves suffering from bites and poison without understanding what is going on, perceiving only a tangle in our rope, and wondering at our inability to unknot it – as the poison sets in and we sink into a torpor brought on by repeated humanitarian crises and the endlessly deferred hope that human rights might emancipate the world. If we were able to understand our misperception – were able to *see what is not, in what is* – we might have a chance at breaking the morbid cycles of cruel optimism and humane pessimism that mark the human rights movement in our time.

More broadly, Kapur suggests that the inward turn represented by the non-dualistic tradition of *Advaita* from which the snake-rope tale comes, is a critical component in the non-liberal accounts of freedom which she enjoins us to engage. These, she suggests, might prevent us from ending up trapped and defeated, as her first snake would be if forced to live out its days in the unnatural environment of her home.

This entrapment is picked up by the final metaphor which structures Kapur's book: the fishbowl. The fishbowl 'represents the liberal constellation that shapes and disseminates mainstream human rights advocacy and scholarship, as well as particular understandings of freedom'.² Critically, 'fishbowl knowledge and certitudes'³ embody a predisposition of fear and mistrust toward non-liberal epistemological approaches to understanding the world – approaches which Kapur determinedly incorporates into her analyses throughout, and makes the heart of the later chapters of the book. Kapur uses this analysis to challenge what she sees as the two common assumptions of liberalism: 'that freedom is a progressive, external pursuit, which is owned or possessed', and, 'that freedom originates or is accessed through the consciously exerted will of a finite, thinking, individual subject'.⁴ While the later part of the book engages in the task of providing alternatives to these ways of understanding freedom, the earlier part of the book sets out to demonstrate how it is that liberalism, rather than making people free, in fact makes them *unfree*. To do this, Kapur scrutinises the way in which liberal freedom is translated into the discourse and mechanism of human rights within the international, and then forcefully challenges the conventional take: that human rights are emancipatory and oriented toward freedom.

This is where we are seeing a rope, when we should be perceiving the snake. Human rights, says Kapur, 'are techniques of governance which discipline and regulate the subject of human rights, and where practices of self-discipline and self-governance become normalized and experienced as freedom'.⁵ Human rights as a liberal freedom project is unpersuasive to the mass of people who experience it as a global export of pernicious, destructive violence and uncontained

2 Ibid 10.

3 Ibid.

4 Ibid 27.

5 Ibid 3.

suffering: ‘liberal interventionism’ and the impetus to maintain a ‘rules based international order’.

For others, liberal freedoms may not come in the form of bombs or drones but via the imposition of social and legal frameworks which regulate, discipline, and manage lives and bodies.⁶ Frequently, these systems lock in the use of neoliberal market based mechanisms as the means for the pursuit of freedom, or the grounds within which such pursuit will take place. Even when affectively experienced as freedom (by the lucky), such framings allow global capital to permeate ‘all modalities of human relations’.⁷ Rather than providing for *liberation*, Kapur argues, this instantiation of human rights is a set of governance techniques which align with global capital against the wellbeing of the global disenfranchised.

Kapur provides a reading of rights advocacy, especially around the work of feminist, women’s rights and sexual rights advocates, ‘to illuminate how these engagements constitute and inscribe the subject into specific ways of being free – ways that are aligned with a neoliberal, wealth-producing, heteronormative, reproductivist framework, as well as with sexual, cultural, racial and religious prescriptions’.⁸ She comments, ‘in this guise, human rights appear incapable of delivering on their promise of freedom’.⁹ As she argues, ‘the real project of human rights today is not its assumed salvific, benevolent, altruistic, universalist substrate but its constitutive, regulatory, exclusionary agenda that continues to produce and privilege certain “free” subjects/subjectivities over a multitude of unfree/less free others’.¹⁰

In the initial chapters of the book, Kapur walks us through this critical analysis of human rights by examining the experience of human rights within three related areas: the experience of queers and international lesbian, gay, bisexual and transgender (‘LGBT’) rights advocacy, violence against women and the sexual security regime, and engagement with the veil in human rights advocacy. These rich and dynamic chapters each end in a similar way, with the subjects for whom human rights are supposed to bring meaningful freedom finding themselves merely transposed into a different regulatory regime. For some, this transposition *does* provide real and concrete benefits, but the costs are not insignificant, and the overall outcome or trajectory is clearly not experienced as the ‘freedom’ that the grand political project of human rights trumpets.

Rather, recognition of humanity and the acquisition of rights leads to incorporation into normative orders which then constrain how we may or may not be as bearers of rights in the world – whether as queers who must now become respectable, as women who are the perpetual victims of sexual violence and must always require saving and empowerment, or as wearers of the veil who are thereby necessarily oppressed and could not possibly be wearing it on their

6 Ibid 6–7.

7 Ibid 8 (emphasis in original).

8 Ibid 9.

9 Ibid.

10 Ibid 12–13.

own terms. In each of these analyses human rights do not bring their much vaunted freedom to their target constituency. Rather, Kapur establishes that the great optimism generated by the (usually eventual and much delayed) application of human rights to the people and issues at the centre of each chapter routinely turns out to be, in Lauren Berlant's terms, a 'cruel optimism': both a false promise, but also one the continued pursuit of which only has the effect of further forestalling true human flourishing or freedom.¹¹

As she articulates this on behalf of the queers who have recently been normalised in various constituencies through rights politics (especially in the context of the application of rights to intimate relationships through the discourse of marriage):

The assimilative pull of human rights has decanted an entitled, legible, respectable, desirable queer subject while simultaneously producing its opposite – the unsuccessful sexual subaltern/non-subject; the silent or vocal queer dissident navigating the existential pressures of stigmatized criminal deviance, unable/unwilling to comply with the prescriptions of freedom in a fishbowl, who aspires to equality, legibility and grievability but does not/cannot participate in the frameworks that bring about recognition through this set of arrangements.¹²

Appearances notwithstanding, Kapur is not seeking to trash human rights – paraphrasing Spivak as others have done, she argues that we cannot *not* want human rights, even though they won't give us what we seek: freedom.¹³ While emphasising that human rights are not illusory, and that they *do* protect people, *do* bring material benefits, *do* empower people, she emphasises that they do so preferentially, partially, and via processes (such as those of the neo-liberal market economy) which carry their own costs to freedom.

Her answer is that rather than trying to re-boot the human rights project on rejuvenated liberal terms, we should look for freedom in other philosophical traditions: 'the liberal discourse of rights does *not* contain solutions to injustice and inequity; rather, it is part of the problem'.¹⁴ The self-scrutiny and discernment that is the heart of the rope-snake metaphor requires us to abandon the illusion of human rights as a harbinger of freedom. Being 'thoroughly and incontrovertibly implicated in structures and methods of governance and normativity',¹⁵ human rights will *not* bring freedom, whatever else they might bring.

How then do we get to meaningful freedom? The rope-snake metaphor starts us on the road by enjoining discernment of illusion through self-scrutiny, an inward subjective turn. Kapur asks, in the first of several chapters where she seeks to start answering this question, whether the crisis in human rights might be 'a rare moment of ideological stasis, when we can turn to non-liberal, not

11 Lauren Berlant, *Cruel Optimism* (Duke University Press, 2011), cited in Kapur (n 1) 170.

12 Kapur (n 1) 79.

13 Gayatri Spivak, *Outside in the Teaching Machine* (Routledge, 2009) 47–51, cited in Kapur (n 1) 9–10.

14 Kapur (n 1) 174.

15 *Ibid* 175.

illiberal, ways of being that are more closely attuned to what we want – namely, freedom – and that do not slip into the trap of cultural relativism’?¹⁶

From this point, Kapur’s volume explores a range of non-Western conceptions of freedom which operate in quite different registers to those in which human rights function as a prescription for or pathway toward freedom. There is a very strong subjective and inward turn, often providing great illumination about how to think of ourselves in relation to freedom differently, but less often showing how this might address social and political organization. Discussions of Eve Sedgwick’s turn to Buddhism and Michel Foucault’s political spirituality help us understand our theoretical impasse with human rights, but it is less clear how they show us a way to transform the rights that we cannot not want from governance frameworks into a freedom politics. The potential illegibility of these registers to one another is highlighted in a section where Kapur discusses a work of contemporary Iranian-born New York based artist Shirin Neshat, who in a video installation titled *OverRuled*,¹⁷ explores the incommensurability between formal freedoms adjudicated by courts, and ‘the expression of freedom through the act of reciting creative works associated with the freedom of transcendence’.¹⁸ Kapur comments, ‘*Overruled* is about the experience of freedom that becomes possible only when one is free *of* the prescribed legal space; it is not about the aspiration to procure freedom *through* this finite space’.¹⁹

The following two chapters pursue such a freedom – one that is not external, pursuable by claiming rights and actionable by forms of governance and regulation, but that is internal, formed by a different episteme. At the same time, Kapur wants this freedom ‘to reshape the social meaning of emancipation’.²⁰ There are a large set of unresolved questions here about the relationship between the mystical, transcendent, artistic, subjective and deeply personal picture of freedom that emerges from Kapur’s discussion of various non-liberal examples, and her continued desire for this freedom to shape our collective political and social lives.

Kapur’s way through this is to de-link freedom from rights: ‘efforts towards procuring rights *are* necessary, but they should be delinked from their connection with freedom’.²¹ And freedom itself is to be understood differently, with one such understanding being through the sub-continental non-dualistic episteme of *Advaita*. Here again, the snake-rope metaphor is utilised to talk us through the ways in which misperception produces fear, which feeds into our very human habit of othering those not like us, the consequences of which can be seen in many human rights projects ostensibly proceeding under the banner of increased freedom. But freedom in the non-dualistic episteme of *Advaita* is radically

16 Ibid 181.

17 *OverRuled* (Directed by Shirin Neshat, 2012), cited in Kapur (n 1) 200.

18 Kapur (n 1) 200.

19 Ibid 200 (emphasis in original).

20 Ibid 202.

21 Ibid 230 (emphasis in original).

different from liberal freedom, and while the snake-rope metaphor is useful for helping us perceive the ills of current human rights politics, it is not made clear how this alternative freedom will help us address the problems we see when we *do* come to perceive human rights as a governance project rather than a freedom project.

Kapur's persuasive critique of human rights will motivate readers to want to do rights politics differently. But when it comes to the question of *how*, there is a problem. The register of freedom that Kapur advocates under the banner of non-dualism is not one of action, intervention, creating or doing. Knowledge of the self through subjective reflection is the ultimate means to freedom; emancipation is found in the intimate knowledge of the self 'despite the cleavages that seem to abound in the world around us'.²² Indeed, in the context of one of her examples, she says 'the material, social and political exclusion of marginalized subjects, their consequent suffering and the very parameters of self-understanding are all relinquished in the tradition of non-dualism'.²³ This would not seem very helpful to the human rights project in any form – indeed, Kapur says, 'this paradox appears to defy resolution'.²⁴ An ungenerous reader might see quiteism here, in the face of injustice.

In the epilogue, Kapur relates four narratives from the subcontinent, four stories of freedom which seek to 'expand the optic' through which we approach gender and alterity. Here 'freedom is not conceptualized in terms of identity-based recognition and empowerment, but invoked as the experience of clearly discerning and understanding the relationship of the self to others and to the world in which one engages others';²⁵ it is 'an interior and intimate experience, secured through self-reflection'.²⁶ At the same time, Kapur expresses the hope that the non-liberal epistemes that these narratives witness will produce 'a more mindful and thoughtful politics in human rights interventions',²⁷ interventions we are told we must continue despite the apparent impossibility of them delivering what we desire. While Kapur is frank about these paradoxes ('I have not sought tidy outcomes and resolutions'),²⁸ it is not clear to me that she *does* identify how freedom in a different register will assist us with the continued engagement with human rights which she also maintains is required of us. Her powerful account of a different kind of freedom, rich and suggestive as it is, and enormously productive at guiding us to and through critical conjunctures for human rights, nonetheless does not in its articulation here manage to plug us back into the human rights project with a clear vision of how to do it differently, if we must continue to do it. How emancipation, found in freedom achieved by intimate inward knowledge of the self, translates into social and political emancipation in the altogether different realm of our shared collective existence, remains

22 Ibid.

23 Ibid 232–3.

24 Ibid 233.

25 Ibid 241.

26 Ibid 247.

27 Ibid 241.

28 Ibid 251.

unresolved. This reader eagerly awaits the next instalment of Kapur's 'different kind of conversation on freedom'²⁹ in the hope of more insight into these questions.