

BOOK REVIEW

INDIA'S RIGHTS REVOLUTION: HAS IT WORKED FOR THE POOR?

—JACKIE DUGARD*

BOOK: *India's Rights Revolution: Has it Worked for the Poor?*

AUTHOR: S.K. Das **YEAR:** 2013 **FORMAT:** Hardcover **EDITION:** First

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India's Rights Revolution is a welcome addition to the emerging scholarship on the evaluation of rights.¹ It constitutes a very rich empirical analysis of the enactment of four key pieces of legislation: the Right to Information Act, 2005, the National Rural Employment Guarantee Act, 2005, the Forest Rights Act, 2006 and the Right to Education Act, 2009. The book is highly informative and provides an in-depth examination of social and economic data on the implementation of these laws. It concludes that “rights have not really worked for the poor”.²

Chapter One is a convenient overview of the main sets of literature and concepts governing human rights discourse internationally, including summaries of the conceptions of Thomas Pogge, Onora O'Neill and Amartya Sen. It also reviews the history of the development of international human rights from the 1948 Universal Declaration of Human Rights (UDHR) to the debates between the West and the Soviet Union over the primacy, respectively, of civil and political rights versus social and economic rights, which gave rise to the two main international human rights instruments in 1966 – the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). As useful as these summaries are, it is not completely clear why this degree of overview is necessary for the book's analysis. As a result, Chapter One appears slightly disjointed from the rest of the book. In addition, Das arguably overstates the

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¹ See for example *COURTING SOCIAL JUSTICE: JUDICIAL ENFORCEMENT OF SOCIAL AND ECONOMIC RIGHTS IN THE DEVELOPING WORLD* [V. Gauri & D. Brinks (Eds.), 2010].

² S.K. DAS, *INDIA'S RIGHTS REVOLUTION: HAS IT WORKED FOR THE POOR?* 303 (2013).

claim that international rights do not assign precise obligations – what about General Comments? Furthermore, there is a scant coverage of the machinery of international (and regional) human rights law.

Chapter Two focuses on the Right to Information Act, 2005. Despite over-segmentation of the chapter into numerous sub-headings, it provides a compelling, contextualised account of the campaigns leading up to the enactment of this legislation, as well as clearly setting out the failure of the Act to achieve its pro-poor potential. The chapter details a range of formal problems with the Act, including the absence of stipulations about how regularly public information should be disseminated, who should be monitoring this and what penalties exist in cases of non-dissemination. Das also highlights the low awareness about the said Act, the non-availability of user-guides and the unhelpful attitude of the Public Information Officers. As disappointing as these failings are, they seem to relate more to shortcomings of the government and its enforcement of the rights than rights *per se*. Indeed, I was left wondering whether the book should rather be entitled: 'Does government work for the poor?' – a question that was only reinforced across the subsequent chapters of the book. On the specific question of whether the poor use the Act, Das points out that the middle classes use the Act more than the poorer classes do. However, a point that is obscured is that this does not mean that the poor do not benefit, whether directly or indirectly, from middle class' use of the Act.

Chapter Three focuses on the Rural Employment Guarantee Act, 2005. It provides a valuable synthesis of data on unemployment, a useful description of the background of the enactment of the Act, and a good critique of the limited uptake of the government programmes put in place to give effect to the Act. Again, the chapter outlines textual and implementation-related problems that, more than anything else, highlight shortcomings of government and political processes. Some of the main problems identified include inadequate monitoring, lack of awareness, fraud and malpractice.

Chapter Four focuses on the Forest Rights Act, 2006, providing a sobering critique of the failings of this Act to ensure tenure reform and security for forest dwellers. As with the Right to Information Act and Rural Employment Guarantee Act, there is a chronic lack of awareness about the Act among affected communities, and the implementation of programmes has been mired in red tape. Again, this seems to relate more to government failings than to the limits of rights guaranteed by the Act *per se*.

Chapter Five focuses on the Right to Education Act, 2009, which is perhaps the most prescriptive Act dealt with in the book, and yet it still fails to cover some key areas such as minimum standards for students living with disability and the educational requirements of children younger than six. In addition, at the time the book was written implementation had not yet begun,

nor had there been any financial provisioning for free elementary education for children between the ages of six to fourteen.

The book concludes by pointing out that the enactment of socio-economic rights-based legislation in India was a 'political compulsion' occasioned by increasing income and employment inequality since 2003 and the need to moderate the consequences of economic reform. The conclusion highlights that a failure of genuine political will and resistance from the higher bureaucracy has resulted in inadequate implementation of the legislation.

Notwithstanding the undoubted contribution of this book to students and scholars of law and rights, the analytical focus – assessing the efficacy of rights through the lens of the implementation of government programmes introduced to give effect to rights – is overly instrumental and excludes much of the impact and value of rights that exist in the realm of their ideational influence and tactical relevance for civil society role players including social movements and activists. The critique also fails to analyse the efficacy of alternative modes of, or frameworks for, action including the political realm, which, somewhat ironically, is the frame through which rights are found wanting.

Thus, although the book provides a rich and authoritative synthesis of data on the implementation (or lack thereof) of government programmes formulated to give effect to the various pieces of legislation covered, its lens is ultimately incapable of throwing light on the question of whether rights work for the poor. To answer this question properly, it is necessary to focus on the groups/individuals that have sought to use rights to advance their struggles and to assess the value and impacts of such entitlements to these groupings, both in material and symbolic terms.