

Book Reviews

Rohit De, *A People's Constitution: The Everyday Life of Law in the Indian Republic*, Princeton, NJ: Princeton University Press, 2018. Pp. 312. \$40.97 hardcover (ISBN: 9780691192550).
doi:10.1017/S073824801900066X

Rohit De's long-gestating book has been anticipated by scholars around the world, and *A People's Constitution* does not disappoint. In contrast to both popular and some scholarly assumptions, De argues that the Indian constitution decisively made a difference to the lives of its citizens in the postcolonial period, especially in the Nehruvian years from 1950 to 1964 (22). The claim is further strengthened by the fact that these citizens were not necessarily from the elite and the propertied classes, but rather came from those classes who often felt the oppressive force of the state most strongly, such as petty traders and sex workers, among others (9). It was these "subaltern" classes who were able to approach the courts, both the high courts and, in many cases, the Supreme Court by using the newly available instruments of the postcolonial constitution. Of particular note is Article 32, which gave petitioners the right to appeal to a higher court to issue orders to subordinate administrative authorities for the enforcement of a citizen's fundamental right (10). De skillfully illustrates how this operated by charting out the legal trajectory of cases in which various petitioners challenged the state's laws of prohibition, the regulations regarding the movement of commodities in the country, and the rules regarding the slaughter of cows, and sought to enforce the right of sex workers to practice their profession. Discussing each of these cases in great detail over four distinct chapters, De underscores how even though in some cases the petitioners "failed" to procure the relief they sought, in subsequent decades those cases remained fundamental to altering the rules affecting the lives of citizens. In this sense, although the Indian constitution was debated and framed by colonial India's elites, it nevertheless became responsive to the needs of the marginalized, thus transforming itself from what was clearly an elite document to a part of "people's" lives in an *everyday* sense (18).

In addition to making an important contribution to South Asian legal history, De's account also develops a critical historiographical intervention in studies of modern Indian history. By emphasizing how law and contestations around law, derived from a constitutional understanding by the subaltern

populations, had such popular impact, De successfully challenges the dichotomy often posited between populations that worked within rational institutions governed by law and those that worked outside the ambit of such structures (26–27). Instead, by illustrating the importance of deep structures of law that mediate the relationship between the people and the state, De signals that for a richer perspective there is a need to transcend the neat dichotomy between the elite and the subaltern.

Methodologically, the book provides an interesting model for thinking about the life of the Indian constitution, especially the way it deals with time. Based on previously unaccessed archives of the record room of the Indian Supreme Court (16) and by identifying four different cases that came up before the courts for detailed examination, De's narrative manages to overcome linear causal explanation of legal changes, despite examining court cases from the early years of the postcolonial republic. In other words, the book is not simply an account of legal contestations of the Nehruvian period, but rather explores the question of what the legal contestations brought by the people against the state during the Nehruvian period tell us about the larger history of India and its constitution. The difference is subtle, and yet it is profound, because by answering the latter question, De is able to expand the analytical lens of the book from a strictly legal history to one that delves into areas in which law is embedded but not usually recognized. Thus, personal and social habits of consumption, trade, and livelihood suddenly become available as both a site for a socioeconomic critique of law and a reckoning with the extent to which law regulated, and in many cases continues to regulate, the socioeconomic life of the country. A nonlinear account thus enables us to appreciate the deep intersections between law and society that may not be easily visible if one were to adopt a strictly chronological approach.

Yet, the issue of temporality may well be Janus faced. Although it enables a broad analytical canvas, it also subordinates critical questions of historical transition. In twentieth century Indian political and constitutional history, one of the important questions that scholars routinely address is how to conceptualize the transition from the colonial to the postcolonial period. De's book implicitly answers this question by highlighting the significance of the new constitutional order inaugurated in 1950, thereby signaling an acute break from the colonial order. Although this answer is not entirely novel, it raises at least two important and related areas of concern. First, how should we understand the autonomous citizen who is at the heart of De's book? Much of the analysis in the book presumes that there is an autonomous citizen approaching the courts, but we do not have a historical account of the making of such autonomy, which is a critical component of the book's main argument. There are helpful hints in the book for a future exploration in this direction. For example, De mentions the role played by the publishers of law books in constitutional litigation, and one could assume that an extended discussion of their role could be one facet of a history of the making of this citizen (217). But, by

and large, the analytical framework leaves little scope to explore the historical formation of the citizen.

Second, by emphasizing the radical nature of the break inaugurated by the postcolonial republic, a larger question arises about the writing of constitutional history itself. In the way De analyzes his four cases, he makes a persuasive case for considering how a citizen's litigation eventually influenced the changing of the postcolonial regulatory order. However, in the absence of any sustained attention to the politics of this period, we are only left with a constitutional history—albeit enriched with a social history of the actors—that ultimately privileges faith in the judiciary and its associated institutions. But what gives rise to this faith? Is it an innate belief in the rule of law or is it the legacy of a long political struggle that straddles the colonial and postcolonial eras that has given rise to this litigant citizen? Therefore, can we write constitutional histories without adequately considering the history of the political struggle that perhaps went into making this sphere of active litigation possible? The decision to view the constitutional developments in the postcolonial period *sui generis* may only provide a partial account of India's robust "litigious" citizenship that De has otherwise wonderfully highlighted.

In sum, De's contribution will be discussed for a long time to come. For its appeal to scholars across a wide range of disciplines, such as history, political science, law, and anthropology, to mention a few, and for its unique archival sources as well as its novel methodological approach, the book will be very valuable. Above all, the central contention of the book will lead to vibrant debates among readers and scholars, especially on the question of whether or not the Indian constitution is indeed *A People's Constitution*. For this reason alone, this book is a "must-read."

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Xiaoping Cong, *Marriage, Law, and Gender in Revolutionary China, 1940–1960*, New York: Cambridge University Press, 2018. Pp. 346. \$31.99 paper (ISBN 9781316602614).
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Scholars have long recognized marriage reform as an important aspect of the Chinese Communist Party's (CCP) competition with the Chinese Nationalist