Book Review

Paivi Gunther,
Beyond Systemic Discrimination: Educational Rights, Skills Acquisition and the Case of the Roma
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The jacket of Paivi Gunther’s book promises a “coherent and pragmatically relevant monograph” examining “the soundness of the legal framework in education”. “Deriving from the disadvantage doctrine”, it continues, “it presents an analytical scheme for diagnosing whether or not domestic education law is in harmony with international human rights and minority rights law. The book examines law as a system and focuses on the reported perpetuation of educational disadvantage among Roma all over Europe.”

Beyond Systemic Discrimination reflects the rise of international concern about the situation of Roma in Europe, as well as the very significant growth in the breadth and scope of international human rights law. On the positive side, the book covers a wide range of sources, and provides a relatively adequate summary of international human rights law in the field of education, as it existed when the book was completed. Gunther’s bibliography is extensive and includes a significant part of the relevant literature, as well as a number of interesting items from other disciplines.

However, if it was the ambition of this book to provide guidance as to the present or possible future scope and/or content of the international law right to education, the author dashes that hope to pieces on the penultimate page of the book, in a typically frustrating passage:

“Finally, an answer is provided to the key question: when are state parties to international human rights law to be criticised for not having a sufficiently sound legal framework to guarantee the implementation of the basics of good quality education for all Roma under their jurisdictions? The initial ambition of the study was to distinguish criteria for evaluating the soundness of domestic systems of education law on grounds of binding international standards, yet it results in a critique of international standards themselves. Nonetheless, the vagueness of international law is seen as an opportunity rather than as a hindrance, seen from the viewpoint that ideal system development is a process of domestic dialogues rather than something imposed from top down by unelected international bodies.”

For a book purporting to study “the Case of the Roma”, little useful information on Roma is provided. Where such information is provided, the author tends to present with confidence statements that are either unenlightening or wrong, or would at least require significant further explanation, which is not provided. Thus, for example, Gunther contends that “Roma communities are time and again characterized as societies where early-marriage and child-bearing is a norm”.\(^2\) Child marriage is indeed an issue in some Romani communities, although not in others. Elsewhere, in the course of a three-page subsection, which, similarly to many sections of the book, leaps across a number of themes, this highly contentious statement springs from the middle of a paragraph: “The fact is, however, that European Roma speak the Romani language in different regional variants and these are to a large extent mutually non-intelligible.”\(^3\)

The vast majority of European Roma in fact do not speak Romani at all, and the general profile of Romani language usage differs greatly from country to country in Europe. Nevertheless, Romani is a vibrant European minority language that does have several million speakers, many of whom can understand each other with ease, despite being from different parts of the continent. Educational policy-makers in any given European country will struggle with measures to provide Romani minority language education, where it is relevant, and to identify where it may not be relevant. A number of examples (not provided in this book) show that these efforts can be very rewarding. However, policy-makers will not find any information of use on this subject in this book because, despite the title of the book, the author apparently knows little about European Roma or the Romani language.

It is indicative that the author arrives at a discussion of Roma only on page 227, after ample discussion of matters such as “When Age-Based Protection Ends and Ageism Begins”, “Genderism Defined” and “The Major Rationale for a Separate Concept: To Render Possible Bias Resulting from Indeterminacy in Education Law Visible”, among other headings and sub-headings.

Questionable statements are not confined to the subject of Roma. Thus, for example, Gunther asserts with respect to UN conventions pertaining to the status of refugees and stateless persons that:

“even though sex and gender is not listed among the prohibited grounds for discrimination at this point, it is beyond dispute that official categorizations in education at the domestic level should enable availability of gender-disaggregated information

\(^2\) Ibid., 230.

\(^3\) Ibid., 11.