

AN INTRODUCTION TO JURISPRUDENCE (LEGAL THEORY) (18<sup>TH</sup> EDITION, 2008). By B.N. Mani Tripathi. Allahabad Law Agency, Plot No. 33, 16/2 Mathura Road, Faridabad-121002. Pp. xxxi+491. Price Rs. 280/-.

MODERN JURISPRUDENCE trenches on the fields of social sciences and philosophy. Jurisprudence is no longer confined to a mere analysis of the legal concepts or discussion on the nature of law or the working of an authority. It is concerned with law as it exists and functions in society, the creation and enforcement of law, effect of historical customs and social developments on the growth of law and the role played by law in shaping the society. In recent times, the scope of jurisprudence has grown tremendously and it is no longer confined to a mere study of an abstract body of rules and theories. Development in the field of jurisprudence is impacted by legislation, judicial decisions and juristic theories. The subject of jurisprudence cannot be studied in isolation; requires a study of law in relation to different legal institutions, legal processes and inter-related study with other disciplines.

The current review refers to the eighteenth edition of this book authored by B.N. Mani Tripathi.<sup>1</sup> Much has been added to the present edition in terms of case law and recent developments in the field of socio-economic philosophy and human rights. The entire manuscript of this book has been divided into six parts consisting of 40 chapters in all.

Part 1 contains ten chapters dealing with legal theory. These chapters present a detailed study of various schools of jurisprudence. Different approaches and theories towards understanding of law and legal methods, starting from the analytical to the realist have been explained. The growth, then downfall and the subsequent revival of the 'natural law' in the twentieth century have been traced in chapter ten. Separate chapters have been devoted to the study of the communist and the Hindu legal theories. However, the author seems to have rushed through the introductory chapter which leaves much to be desired in terms of explaining the

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1. B.N. Mani Tripathi, *An Introduction to Jurisprudence (Legal Theory)* (18<sup>th</sup> ed., 2010).

nature and scope of this subject, Moreover, the schools and their ideologies could have been supplemented with illustrations and examples of Indian cases so as to contextualise them for a better understanding of the readers. The author may also incorporate some legal problems such as the one presented in *Speluncean Explorers* case to give the readers an insight into the working of the judicial process and how it is influenced by the various schools of thought.

In part 2, the author discusses the definition of the term 'Law'. The nature, purpose and function of law have been explained. The author critically analyses the existing classification of law as being obsolete and gives suggestion for a new classification which would include all the new and emerging branches of law too. The study of jurisprudence is incomplete without understanding the working of the legal system and the legal process. The author further proceeds in this part with an in-depth analysis of 'State', its elements, the development of the concept of 'Sovereignty' along with a discussion on the advantages as well as disadvantages of the administration of justice.

After knowing what the law is, the quest is to know where it has come from? Part 3 focuses mainly on the ancient as well as modern sources of law. The three most important sources of custom, legislation and precedent have been explained and their utility has been critically analysed. Besides the sources, principles of statutory interpretation and the significance of codification for legal reforms in modern times have also been discussed. In Chapter 25, a separate part has been dedicated to the understanding of the rules of interpretation in ancient India. This part is extensively researched and contains very valuable information, which must necessarily be read by all the students of Hindu jurisprudence. The author has also brought forth the rising importance of expert opinion and authoritative text books in legal matters.

In part 4, the author dwells on to the concept of law. This part consists of six chapters dealing with Legal Rights, Duties, Ownership, Possession, Liability, Property and Legal Personality. All the concepts have been explained in detail. The reviewer, however, feels that the topic of 'Rights' should have been dealt with in a more exhaustive manner, especially the Hohfeldian analysis could have been explained more elaborately with the help of illustrations and examples to impart more clarity to the readers. In addition to a jurisprudential analysis, these concepts should also be subjected to a philosophical analysis to make this part more informative and useful.

Explaining the dynamics of law, the author emphasises on the importance of dropping outdated rules and adoption of new rules as per requirements of social necessities. New developments in law and the emergence of socio-economic philosophy along with the concepts of Legal Aid, Lok Adalats, Public Interest Litigation and aspects relating to the Interpretation of Welfare Legislation have been addressed in part 5 of the book. The author cautions against the misuse of public interest litigations to serve vested interests. Chapter 36 in this part is a chronological exposition of the development of the concept of private property. All the related constitutional amendments have been analysed with the help of judicial decisions. However, the reviewer feels that this part would remain incomplete without a mention of the women's movement and a chapter on feminist legal jurisprudence is conspicuous by its absence. It is hoped that it will be included in the next edition of this book.

In part 6, the author presents an anthology of the Universal Declaration of Human Rights as well as a wide gamut of other covenants relating to human rights. The last part comprising of a single chapter is entirely devoted in a comprehensive manner towards the human rights jurisprudence and the history of its development in India by the legislature as well as courts. The author has also critically analysed the working of the National Human Rights Commission and the Human Rights Courts. The author makes a fleeting reference to the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) but avoids any reference to the constitution and the working of the National Commission for Women (NCW).

On the whole, this book has been written in a clear and lucid manner and serves as a ready reckoner on this important subject. It is ideal for LL.B students as it covers nearly all the topics prescribed by the Bar Council of India as *curriculum* at the graduation level. The selected bibliography and extensive list of cases can be a useful aid for researchers wishing to further pursue their study or research on any topic in jurisprudence. Priced modestly at Rs. 280/- for such a vast reservoir of information on jurisprudence, this book is an indispensable part of any law library.

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