



CRIMINAL LAW CASES AND MATERIALS. By K. D. Gaur. 1975. N.M. Tripathi (Pvt.) Ltd., Bombay. Pp. xi+459. Rs. 50.

THE USE of socratic method of teaching in law schools of the United States has led to the proliferation of a number of case books and materials on various law courses for the American law students. These materials are used by law students for classroom discussions to learn and comprehend the legal principles. The socratic method of law teaching makes the teacher-student participation possible with the student coming sufficiently prepared in advance with the assigned material. The process of dialogue thus established is capable of infusing confidence and communication in the students and has a great potential for generating newer thoughts and perspectives. The free and wider approach to the understanding of the solution of knotty problems through the mechanism of law often leads to intensive discussion of social, economic and philosophical bases of the decisions. Thus, the role of law is understood in a wider perspective. The total effect of the above is that it does not only make the principles of law intelligible, but also enables the student lawyer to equip himself to play an effective role of a counsellor in implementing the values of the system, and also to prepare him to act as a technician to settle the disputes in terms of the legal rules and practice.

The "case-method" of law teaching has its merits, but it may not be classified as the only best. Its suitability and adaptability to Indian law colleges have been viewed with skepticism,<sup>1</sup> despite acknowledging the fact that "the case method encourages independent thinking, power of analysis and dialectical skill among the students."<sup>2</sup> The resistance to supplant the existing method of teaching with the case method has been made even on untenable inferentials, like the lack of initiative to work hard on the part of Indian students,<sup>3</sup> or the lack of a mature body of students and trained teachers in India.<sup>4</sup>

The foregoing opinions were expressed in and around the year 1963. A decade after, the University Grants Commission held an All India Seminar at Poona on "Legal Education in India — Problems and

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1. The Law Commission stated that the case method be used "insofar as it may be feasible and the difficulties in its application can be overcome." Law Commission of India, *Fourteenth Report* 538 (1958). See also G. S. Sharma, Some Thoughts on a National Law School for India, 3 *Jaipur L. J.* 256 (1958).

2. M. Ramaswamy, *A Paper on the Reorganisation of Legal Education in the University of Delhi* 20 (1963).

3. I. C. Saxena, Some Methods of Teaching Law and their Suitability for India, 4 *Jaipur L. J.* 95 (1964).

4. R. K. Misra, Some Thoughts on Methods of Law Teaching, *id.* at 85.



Perspectives.”<sup>5</sup> It aimed at discovering the views of “experienced assemblage on several aspects of legal education” including “teaching materials and other pedagogical details about different subjects of study....”<sup>6</sup> The Poona seminar on legal education seems to have dealt with the issue of case method only in passing. The various Committees on Curriculum Report of the seminar touched upon the issue by requiring teachers to use the case method where it was feasible.<sup>7</sup> One of the committees (no. 4) recommended lecture-cum-socratic method for the teaching of labour and taxation laws.<sup>8</sup> However, no serious attention seems to have been given to the problems and perspectives of teaching through case method. Nor has the issue been discussed or debated in any forum of the professional law teachers.<sup>9</sup>

There are also other constraints in the use and propagation of case method for law teaching in the class rooms. The non-availability of the books at a reasonable cost, for the personal use of the student to get fully prepared in advance, operates as a major limitation. Secondly, the readiness of the students for effective participation and without inhibition, is deemed an unwholesome feature by the Indian teachers, who, in keeping with the Indian traditions, consider it as an affront to their “Gurudom” to be told by the students as to what other meaning, scope or interpretation or application of a law possibly could be. Next, the degree of freedom given to a subject teacher to choose the course content and permit him to give a directional lead for importing a purposeful meaning to the subject under study is completely absent in the existing academic apparatuses, where all the courses are chosen and approved by bodies (like the Board of Studies) in a perfunctory way, and whose composition does not necessarily vouchsafe that the requisite expertise to recommend course content in a particular subject has been present in that body.

Despite all the above, it seems that the current of thinking on imparting instruction through case books has not subdued yet. However, the number of case books produced has not been much. Reliance on case method teaching, in a slipshod manner, is being placed by a law faculty or two. No evaluation of the utility of this method has been taken by anyone concerned with legal education in India.

These preliminary remarks may enable us to understand that the need for a case book, could hardly find acceptability by the law teaching profession, particularly in the wake of its prejudicial stand towards the case

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5. The proceedings have since been published in a volume by S. K. Agrawal (ed), *Legal Education in India, Problems and Perspectives* (1973).

6. Agrawal, *id.* at xix (editorial note).

7. See *id.* at 387, 388, 390.

8. *Id.* at 392.

9. *Viz.*, the All India Law Teachers Conference which meets annually to discuss the various problems relating to legal education. This body has not touched upon the problem of case method so far in any of its proceedings.



method as well as with its traditional bias for the lecture method. The seepage of thought in the minds of some to make use of the case method in a limited way does not improve the situation. The net result is that the use of case method in law teaching, despite the tall claims made by some leading law faculties, has not been seriously pursued.

The criss-cross of confusion and inaction pervades the problems and perspectives of legal education in India. It is in this context that the book under review be evaluated. Needless to say, in experimenting with a case book on criminal law the author could not be expected to follow any guidelines of any "experienced assemblage" of Indian law teachers for there were none. The objectives were carved out by the author himself which state that the book aims at giving "a comprehensive treatment to the subject so that no aspect or detail worth consideration remains untouched;"<sup>10</sup> and that

the material has been adapted to strike a balance between the traditional lecture method and the modern technique of case method to enable both the students to take advantage of the latest advances in the methodology without completely being torn away from the hitherto familiar pattern of representation.<sup>11</sup>

The author also claims that in his interpretation and comments he has "taken full account of modifications necessitated by the latest leading cases."<sup>12</sup>

The foregoing objectives are parabolical assertions to define a goal which the author planned to achieve in preparing the case book. The goal is not clearly visible, rather the statements made in this connection are expressive of the cobwebs that surround the thinking of the author in his venture to undertake this task. It cannot possibly be discussed in these pages as to what a case book on criminal law ought to be like. It would perhaps depend on the maturity and experience of a criminal law teacher as to what dimensions he wants his students to measure and what perspectives he wants to unfold for his students to know in this vital field of public law. For the benefit of the students generally, a consensus on the scope and purpose of teaching criminal law be firstly arrived at by the teaching community itself, and thereafter, the individual authors be left free to draw their plans in the approved layout.

The book under review is a singular devotion of K.D. Gaur to plan, prepare and produce a case book on criminal law in the light of his experiences and his own assessment of the need of students. The book has been divided into two parts. Part I contains the principles governing criminal law, though inaptly captioned as "Principles of Crime." The second part deals

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10. Gaur, *Criminal Law, Cases and Materials* ix (preface).

11. *Ibid.*

12. *Ibid.*



with the specific offences contained only in the Indian Penal Code. The author's comments precede the abstracted decisions from various courts to explain either a principle or an offence. The case law is splattered throughout the book and obviously covers more pages than the textual comment, because the emphasis has primarily been to produce a case book. It is, however, unclear as to why as many as half a dozen cases were packed only in one printed page;<sup>13</sup> or of what utility it has been to explain the offence under section 167, Indian Penal Code through five Supreme Court decisions abstracted only in two pages.<sup>14</sup> There seems to be considerable lack of cogency in the choice of cases and in the matter of giving proper weightage to a topic or to a case. Somehow, there is an uneasy feeling that the author did shift his objective from preparing a case book to that of preparing a book through cases which could cover as extensively as possible the syllabi of Indian universities including the leading cases prescribed by the universities for the paper on criminal law. In any case the book is somewhat different from the traditional type of textbook on criminal law. It can, however, be said that a sincere attempt has been made by the author to make available a tool for implementing the case method technique, although the absence of sophistication in the gadget itself might not make it fully useful to bring out the desired results, and usher in the much awaited change in the methodology of teaching criminal law.

*D.C. Pande\**

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13. *Supra* note 10 at 419.

14. *Id.* at 395-396.

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