



COMPARATIVE LAW (1994). By H.P. Gupta. Central Law Agency, Allahabad.
Pp. 124. Price Rs.40.

COMPARATIVE LAW is one of the few subjects on which the researchers and lawyers do not wish to write. In these circumstances, the entry of a book on comparative law is always greeted with breathless expectation. The book¹ under review is divided into fifteen chapters.

Chapter 1 begins with a discussion of the meaning and nature of comparative law. The author catalogues various definitions of comparative law given by leading jurists. He doubts the utility of the universalist approach/theory of comparative law² but, in the opinion of the reviewer, in the present era of globalisation, the universalist approach will not only pick up momentum but this approach also holds promises for its overall development and offers tremendous all round utility. The origin of comparative law is shrouded in the mists of past as the human nature or instinct of making comparisons between their own rules and those of others must be as old as human civilisation. The author traces the origin and development of comparative law in a nutshell³ and, therefore, it may be suggested that in his future editions he may bring forth detailed account of these interesting developments.

“Renaissance”, the author emphasises, “had greatly influenced the legal science in the world over resulting into a new and primary study of the analysis of the sources of law....”⁴ The jurists of the renaissance period gave the first blow which had ever been struck at the foundations of that elaborate Romanic edifice of law which the middle ages, inspired by the ideas of universality and authority derived from Roman times, had slowly reared. None of them, however, could lay any claim over the coveted position of the founder of comparative law. The credit went to Montesquieu, who is considered as the founder of comparative law by none other than the leading authority on comparative law, *i.e.*, Gutteridge.⁵

The comparative lawyers face many hurdles while studying comparative law. According to Gutteridge, “Terminological uncertainty is one of the greatest difficulties which the student of comparative law encounters in his novitiate, and it is not easy to suggest a remedy for this state of affairs”.⁶ The author mentions other hurdles too in his chapter titled “Weaknesses of Comparative Law” and envisages a highly expensive plan for removing the hurdles.⁷ The author analyses the utility of comparative law from the angle of advocates, students and legisla-

1. H.P. Gupta, *Comparative Law* (1994).

2. *Id.* at 7.

3. *Id.* at 14-9.

4. *Id.* at 15.

5. H.C. Gutteridge, *Comparative Law* 12 (2nd ed. 1949).

6. *Id.* at 119.

7. *Supra* note 1 at 29.



tures and also discusses its utility in the different branches of law.⁸ However, he gives scanty material on its utility or importance in India. The book in its chapter 7, gives a lively treatment to the issue of utility of comparative law in the field of private international law.

It is in the study of comparative law that a law student gets acquainted with other major legal systems of the world. The book, in its chapter 9, 10 and 11, allows the readers to appreciate the similarities and dissimilarities between common law family and civil law family (only French one mentioned in the book) alongwith a vivid description of the similitudes and dissimilitudes among members of the common law family. What a reader misses at this point is an analysis of the German legal system and courts.

The author laments neglect of the study of comparative law in the present day Indian legal education framework. He points out that one important reason for the improper development of comparative law is that "in Universities and law colleges syllabus is already so heavy that it could not be easily assimilated."⁹ Devoting chapter 13 on "Comparative Law and Legal Education", he opines that "it will be proper to include comparative law in the syllabus of LL.B. classes only when adequate study-material is made available in the libraries".¹⁰ Had he given in his book a list of study material needed in the libraries for this purpose, his argument could not only have been substantiated but also the legal educators would have got a right direction for the growth of the study of comparative law in India.

The book is slim, and the language is simple. It will be useful to the students doing law graduation.

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8. *Id.*, ch.4.

9. *Id.*, at 108.

10. *Id.*, at 112.

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