

JURISPRUDENCE AND LEGAL THEORY (2023), by S.K. Tiwari, Serena Publications, Kolkata, Pp. Price Rs. 480/-.

IN THE present era of Internet revolution, the subject of jurisprudence gets much significance due to the foundational nature of a *priori* methods. Originated in western thoughts, the concept of jurisprudence has been a controversial topic since inception although it carried out 'Eurocentric' nature of throughout the journey of its development. Under legal parlance, the study of fundamental legal principles is inevitable since it traces out the evolution of universalisation of laws in systematic methods. In each stage of development of the legal principles, new approaches which testify the basic rule of considering law as an instrument of social change. Unfortunately the Indian Jurisprudence could not sustain with the dominance of western theories of various schools of law but it successfully established the traditional ideologies in carving out the utilitarian perspective of law. The interrelationship between law and morality is considered as an instrument to regulate human conduct in society. Though various jurists have been time and again clarified that law and morality are complimentary to each other, many denounces for the exclusion of morality from law.

Jurisprudence, the philosophy of law, is a complex field that can be perplexing for both academicians and researchers. One of the most significant concerns in this field is the abstract nature of jurisprudential ideas. Unlike precise legal doctrines or case studies, jurisprudence addresses fundamental questions concerning the nature of law, justice, and legal systems. These abstract enquiries frequently lack tangible examples or straightforward applications, making them difficult to understand. Therefore, jurisprudence demands readers to go beyond the surface and explore deep philosophical realms. Furthermore, jurisprudence comprises wide array of theories and viewpoints, spanning across concepts such as legal positivism, natural law, critical legal studies, feminist jurisprudence and more, becomes confusing due to this aforementioned multiplicity, particularly for infants in the field of law. These challenges are exacerbated by a dearth of clear, accessible jurisprudence resources. Unlike other disciplines of law, which have considerable case law, laws, and commentary, jurisprudence frequently relies on complex philosophical and scholarly writings. These resources might be intimidating for students and as a result, students of law may develop an apprehension or even aversion to jurisprudence, considering it as a difficult and strange topic.

The author, S.K. Tiwari, drawing from his passion as both a student and a teacher, aims to bridge this gap through his work, 'Jurisprudence and Legal Theory.' An attempt has been made by the author to address these fundamental challenges in the area of jurisprudence and provide clarity and insight into this complex subject to cultivate an interest in this field among prospective legal scholars. The author's methodology and sources encompass a diverse range of materials, including numerous cases, references to reputable journals, and insights from scholarly books. The use of such reputable

sources adds validity and authenticity to the author's arguments and explanations, enhancing the overall credibility and depth of the text. This book, with 34 extensive chapters, is a ready reference handbook for anyone seeking an overview of jurisprudence. It covers all of the basic concepts and debates in a lucid manner, addressing major domains briefly yet eloquently, and carefully touching on details. To ensure conciseness, this review focuses on the key aspects of each chapter and groups them together based on comparable themes, capturing the spirit of the book's content.

The book is meticulously organized in a logical and coherent manner, where each chapter seamlessly flows into the next. Chapter 1 begins by providing a foundational insight into the essence of jurisprudence. Rather than settling for a superficial understanding of basic definitions, the author delves deep into the nuances of jurisprudential definitions, incorporating a diverse range of perspectives of various prominent scholars such as Holland, Rosco Pound Austin and so on. One particularly noteworthy aspect is the author's reference to the modern definition of jurisprudence as articulated by N.V. Paranjape, hence highlighting the contemporary relevance of the book. However, the author's exploration goes beyond mere definitions, extending into discussions on the purpose, utility, and methodologies inherent in studying this subject striking a balance between theoretical frameworks and practical applications. Furthermore, the author engages in comparative analysis, juxtaposing jurisprudence with other social sciences, thus facilitating an enhanced understanding and correlation for the readers.

Chapter 2 delves into the historical evolution of jurisprudence, tracing its origins from Ancient Greece to the modern era. However, a notable flaw in this narrative is the author's Eurocentric perspective on the development of jurisprudence, which overlooks significant developments in the Asian subcontinent, particularly in India. Chapter 1 also highlights this bias, as aspects of Indian jurisprudence are mainly presented in contrast or critique to Western theories, rather than receiving a comprehensive exploration of their individual understanding and contributions. The subsequent chapters can be categorized under two distinct chapter titles: "Schools of Jurisprudence" and "Elements of Law." A similar earlier mentioned trend persists in the chapters discussing various schools of jurisprudence, where the primary focus remains predominantly on Western perspectives. However, in the later chapters that delve into the elements of law, there is a noticeable shift with considerable attention given to Indian outlook as well.

Chapters 3 to chapter 15 of the book delve into the major schools of jurisprudence, including the Analytical School, Pure Theory, Historical School, Anthropological School, Realist School, Sociological School, Natural School, Philosophical School, Communist Theory, Hindu Theory, Islamic Theory, Comparative School and Critical Legal Studies, respectively. Each chapter takes an organized approach with the objective of giving readers a thorough understanding of the specific school of law under examination. The author begins with a background overview to establish context, followed by a

detailed explanation of the fundamental concepts and principles associated with that school. This technique goes beyond mere description, attempting to delve into the intricacies of each school, including significant criticisms and opposing opinions among different thinkers.

One notable aspect is how the author connects these philosophical theories to real-life scenarios, emphasizing their impact and influence on Indian society. This shift from the earlier mentioned flaw of westernization is evident in the author's analysis of societal impacts through major judgments. However, a limitation is observed in the limited contrasts between different schools of jurisprudence, an area that could benefit from more focused exploration for better understanding. Although the author has made a fair attempt to be as detailed and explanatory as possible, there are gaps in certain topics. For instance, in chapter 6 on the anthropological approach, there is only a brief explanation of Henry Maine's various stages of development of law. A more detailed explanation, supported by examples, would have enhanced conceptual clarity in this area.

The book's latter section, which runs from chapter 16 to Chapter 34, talks about the facets of law, encompassing the definition and components of law, legal rights and obligations, family of laws, possession, ownership, individuals, property, liability, justice administration, law sources like custom, precedent, legislation, and codification, as well as discussions on title, law-morality nexus, law-state relationship, sovereignty, power, and liberty. In contrast to the previous section focusing on the Schools of jurisprudence, the author conducts a more comprehensive and detailed analysis in these chapters, delving into the intricacies within each topic. The Indian perspective is prominently featured in this section, with discussions on these elements contextualized within India through the use of case laws and legislative analysis strategies. For example, in chapter 22 regarding liability, the concept of *mens rea* is not only explored as a general concept but also situated within the framework of the Indian Penal Code. Additionally, the legislation related to the Public Liability Insurance Act is also examined.

Therefore, it can be concluded that this book stands out for its clear and comprehensive explanations of jurisprudential topics, making it an invaluable resource for first-year law students seeking an introductory guide. The simple and coherent explanations provided by the author contribute significantly to this clarity further deepening the audience's appreciation of this subject. While the occasional gaps in explanation and the book's overall coverage of non-western jurisprudence are major critiques, the author's skillful handling of the jurisprudence phobia and the overall clarity achieved through his work deserve high praise. Overall, the book will be a valuable addition to the researchers, academicians and students who are interested in jurisprudence of law.

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