

LEGAL THEORY. By W. Friedmann. Delhi : University Law Publishing Co. Pvt. Ltd., First Indian Reprint, 1999. Pp. XX +607, Rs. 395/-, ISBN 81-7534-144-7.

W. Friedmann's book on Legal Theory which was first published in the year 1944 has achieved the distinction of legal classicus for the students, teachers and practitioners of law throughout the world. No law library in the world can afford to go without this book on the subject of Jurisprudence. The reasons are obvious. The book is divided into three parts and each part is divided into sections which is further divided into 35 chapters. These 35 chapters deal with almost every aspect of jurisprudence and philosophy of law in a simple, lucid and coherent style. Chapters 1 to 6 deal with esoterics of law dwelling on the contribution of Greek and Roman philosophers with an appraisal of a relationship between various concepts developed by various thinkers c/f Kelsen, Ross, Hart, Fuller (ch. 3) as law, justice, ethics, morality, science and legal theory pervading all inquiry into the methods of science with the conclusion that both the methods have widened and diverged into complex phenomenon (ch. 4) with the result that the profession of a lawyer and the values in law have been fattened by various social and political upheavals such as fascism, communism and dictatorships which *albeit* have to keep pace with legal idealism and sociological underpinnings diagnosing the social crisis and the principle antinomies in legal systems.

Part 2 from chapters 7 to 14 is exclusively devoted to the subject of natural law and the search for absolute values as the history of natural law for the last 3000 years has been a search by philosophers for an ideal higher justice than positive law was offering. Natural law although has fulfilled recurring theme for transformation of various legal systems—Romans, German, English and American yet the underpinnings of the principle of natural law have eluded thinkers throughout its history. Accordingly, the author makes a critical analysis of Greek, Roman and middle ages with references to natural law (chapters 7 to 9) and discusses the natural law theory of St. Thomas Aquinas in detail followed by the natural law theory of Grotius, Pufendorf and Vattel which laid down the first fundamentals of international law (ch.10). The natural law theories of Hobbes, Locke, Rousseau (ch.11) have been discussed with the conclusion that natural law essentially was a search for absolute values. The twilight of the natural law ideology found expression in the theories

of Hume (ch.12) which is followed by the natural law theories in anglo - american legal systems. The author refers to the justification how natural law exercised great formative influence upon English law and its impact on the American jurisprudence. The author discusses various cases decided by the Supreme Court of the United States of America in exploring the due process of the American Constitution and concludes that the natural law has influenced the US law in various ways. The revival of natural law in the beginning of the 20th Century with reference to Stammler and others has been discussed (ch.14). Chapters 15 to 17 deal with philosophical idealism and the problem of justice with specific emphasis on Kant, Fichte and Hegel who differ in their systems yet share some fundamental ideas. The German transcendental idealism of Kant, Fichte and Hegel essentially try to discover through and enquire the parameters of human mind which essentially is endowed with reason and thus is subject-matter of critical inquiry. The Neo-Kantian philosophy of scientific legal idealism which takes shape in the philosophy of Stammler, Del Vecchio and other Neo-Kantian has essentially laid emphasis on the idea of freedom of man as the absolute concept (ch. 16). The modern value philosophers of relativism, phenomenology, existentialism and contemporary legal philosophy (ch. 17) laid stress on sociological and economic push towards the progress of human being as well as to derive a nexus between legal objects, legal values and antinomies. The impact of social development on legal theory which is characterised by historical evolution is a guide to legal thought which found expression in Savigny Dahn, Maine and Kohlers' theories of Philosophical historicism developing a different legal philosophy from the evolution of history (ch. 18) followed by an analysis of the impact of biology and sociology on legal thought (ch. 19).

The author has discussed positivism, its meaning and the various theories connected with it as propounded by Austin, Kelson, Hart (chs. 22 to 24) and how the various philosophers have developed various theories of positivism. However, on balance the notion of positivism has been upset by the contemporary philosophers who emphasised progress, prosperity and liberty with commitment to social justice. The American realist movement coupled with Scandinavian have been depicted (ch.25) as a phenomenon that law making is a serious business and a subject to the influence of personality, prejudice and other non-logical factors. The American legal history markedly, demonstrates how political sympathy, economic theories and personal qualities of judges have settled matters of gravest problems for millions of people and hundred sufferers.

Law in the pursuit of interest and the Bentham's utilitarianism (chs. 26, 27) followed by Mill, Ihring, Geny and Roscopound dovetails on periodical movement from the abstract to the concrete, from the ideatistic to the middlistic, from the *apriori* to the imperical with the emphasis that freedom of judges towards the written law had been used successfully for achieving the constitutional goals of one or the other thinking.

The legal theories of modern political movements, socialist and communist legal values of modern democracy in reference to the rights of an individual to freedom of contract, liberty and association, property, enterprise and person, the government of the people and the role of the law and functions of the lawyer in developing countries (chs. 29 to 31) has been discussed in contemporary context with the phenomenological and existentialistic approaches. The author has laid special emphasis that the role of lawyer in the developing country is very vital as he is the defender of all the freedom of individual which are constantly threatened by the political powers in developing society. Legal theory, public policy and legal evolution which to some lawyers are metaphysical and speculations but to some are essential ingredients for law and legislation (chs. 32 to 34) have been dwelt with a special emphasis on judicial law making in federal constitution, statutory interpretations, precedent and developmental legal reforms. Finally legal theory and international society concludes the book (ch. 35).

The book explains the legal theory in most comprehensive manner and it is apparent that the contents discussed in various chapters of the book are very important for the lawyers, legislators and the students of law who have to be continuously, consciously or unconsciously be guided by the principles of legal theory so that there is a clarification of legal values and postulates for making the law and the legal system functional and pragmatic.

The Universal Law Publishing Co. should be congratulated for publishing this Indian edition which would make the book easily available to all the concerned in India.

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