

## **BOOK REVIEW**

**M. C. MURPHY, *PHILOSOPHY OF LAW* (LONDON: BLACKWELL PUBLISHING LTD, 2007)**

Philosophy of Law is a text that provides an easy understanding of the vital ideas underlying the concept of modern law. Mark C. Murphy employs his expertise in the philosophical discipline to answer some fundamental questions that arise out of the basic understanding of law. This book is a simple but coherent foreword to the philosophical traditions of law for anyone who has not yet been introduced to the vast discipline. At the same time, it is meant to provide a valid reason to entirely engage any reader with prior authoritative knowledge of the subject.

Murphy, with his lucid presentation of ideas, puts forward an unprejudiced debate about the concept of 'law', and comes to conclude that there are three commonplaces i.e. 'enormously uncontroversial claims' (Murphy, 2007) about law which are that 'law is a social phenomenon, law is authoritative, and law is for the common good' (Murphy, 2007). He gives equal consideration to all three commonplaces, both in isolation and in relation to one another and builds his whole thesis around these. While establishing these commonplaces about law, it is worth noting that the author does not take any claim as given: for each statement he makes, he puts forward the criticism and counters it in an effective way to come to his conclusion.

'Philosophy of Law' is divided into six chapters, which, for an easy understanding, can be further divided into three sections. First section comprises of the introduction and the first two chapters in which the author deals with the fundamentals of the legal philosophy, both analytical and normative. It is in the introduction that Murphy introduces his readers with the commonplaces about law and in the following chapters he talks about the building blocks of the concept of law and the legal societies with respect to these established commonplaces. He makes use of the ideas of the major historical thinkers of legal philosophy in his book and also presents his audience with the criticism that those ideas faced, then and now. In developing his stance in the first chapter, he evaluates the commonplaces about law in relation to one another to make the concept of law clearer to his reader. For this, he applies the ideas of the nineteenth century philosopher John Austin. Then he mentions the criticism that Austinian view has faced over the course of history and establishes that even though it has greatly influenced the nineteenth and twentieth century legal philosophy, Austinian is not a viable theory for the nature of law. In the same connection, and the same way, he mentions the positivist theories namely Hartian, Hard and Soft Positivism, and the Natural Law theory. For each theory, he gives the merits and demerits of it, pointing out any strong points that it makes and also any criticism that it received from others. Then in the next chapter, he assesses and defines the roles of the subject, the legislator and the judge in paradigmatic legal systems in connection to the commonplaces about law, individually and also in relation to each other.

The next section comprises of chapters three, four and five which talks about the aims of law. For the purpose of this debate, he uses the ideas of Mill (harm-to-others principle), Dworkin, Delvin and Robert George. In chapter three, about morals legislation, the author comes to the conclusion that if morals legislation helps in discouraging bad conducts, then there may be justification of morals justification in such

cases (Murphy, 2007). In the next two chapters, the author talks in detail about two fields of legal norms, namely criminal law and tort law. With regards to the criminal law, the main issues that the author talks about are the basic concept of punishment, violator-centered and victim-centered models of punishment, and the question about the best form of punishment that should be employed in the law. The last question Murphy deals by engaging in the debate about utilitarian and retributivist theories of punishment. He also talks about the philosophical issues about justifications and excuses criminal behavior, for instance, self defense. In the last chapter of this section, namely 'The Nature and Aims of Tort Law', the author proceeds talk mainly about the torts of negligence. With similar techniques applied throughout the text for presentation of ideas, then offering its criticism and presenting counter arguments with the help of other theories the author discusses the role of tort law regarding compensation, the amount of compensation received etc.

The last stage of discussion, which is also the last chapter of the book, the author integrates the ideas represented throughout the book and mentions the challenges that have been made to them. But one thing that he makes clear is that no claim in legal philosophy can be the final claim which holds true for all times. It is open to changes, revision, fresh interpretation and rejection as needed. The author uses the commonplaces about law and presents criticism made to them by the several modern-day theories to make the reader understand easily that there can be other standpoints and ideas than the existing ones.

The author rightly claims that the approach he has employed in the book 'has been a constructive one. [...] that is to review the contributions that have been offered toward justifying and elaborating our commonplaces about law and, to a lesser extent, to evaluate the successes and failures of these contributions.' (Murphy, 2007). This approach actually proves to be a help for his readers as the difficult ideas of the complicated subject are presented in such a systematic and coherent way that the reader can go on reading without losing grip of the preceding ideas and discussion. The difficult concepts of legal philosophy no more seem difficult as Murphy illustrates almost every concept that he mentions with an easy and explicable example from the everyday life. This further helps to maintain the reader's interest in the book.

The consistent presentation of ideas ties the reader to the book from the beginning and due to the easy language and approachable way of writing, philosophy of law is a really interesting book in contrast to most other philosophical texts. The book makes use of understandable specialist vocabulary, i.e. it can easily be understood by anyone who is reading a first text in legal philosophy. The ease with which Murphy displays the difficult concepts and engages in smooth debate undoubtedly depicts his own expertise on the subject. Furthermore, at the end of each chapter, the author has suggested other texts for further reading on the topic. In this way, the author has further backed, implicitly, the debates that have been presented in the text. This also marks a step in encouraging the reader to engage in further reading about the debates in legal philosophy.

*SHAH BAKHT*