



## Book Review: Do Not Judge a Book by its Cover

**Bill Bowring. *Law, Rights and Ideology in Russia. Landmarks in the destiny of a great power.* Oxon; New York: Routledge 2013, pp. 238, ISBN (Pb) 9780415831994 £30.00, ISBN (Hb) 9780415683463 £90.00**

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Recently, I decided to read the book written by B. Bowring – *Law, Rights and Ideology in Russia*. According to recent events – the war in Eastern Ukraine and the Russian annexation of Crimean peninsula – in Western media and universities people are questioning why Russia is treating its neighbours like a 19<sup>th</sup> century empire. During the last two years, the world woke up from the dream of the end of history. In public discourse, politicians and journalists are looking for analogies from the past. Academics are analysing symbols and myths which are in use in Russian narrations. Other observers say that today's Russia is wired to post-political autocracy, based on select historical events. All are the references to the period when that country was great and everyone was afraid of its power. Researchers who are especially interested in the topic of collective memory may now be able to analyse how the processes of active remembering and forgetting are developed to perfection in 'Putin's Empire'. The cover of the B. Bowring's work suggests as much. The saints of the Russian Orthodox Church are positioned next to Trotsky and Lenin. Is this today's Russia? It is obvious that book should not be judged by its cover, but the cover may arouse interest in the book nevertheless. In such a way, I was drawn to what appeared to be an interesting book about Russia.

Some aspects connected with B. Bowring's field of interest were already analysed by Polish academics interested in legal history. C. Thornhill (2011) was also among others interested in Soviet Law from a socio-legal perspective. In legal history, works both A. Bosiacki (2012) and A. Lityński (2012) were interested in the problem of what place there was for law after the November 7<sup>th</sup> 1917 Coupe d'état. What interested both authors was the degree to which Soviet Russian views on law were totally different than Western<sup>1</sup> 'rule of law' cultures. They also emphasized that the role of law in the Soviet Empire was different depending on the historical period. During the first years after the communist revolution, the dominating legal ideology was *legal nihilism*, where law was understood as an element of capitalistic oppression and in fact was useless. That view was then transformed into *rule by law* – for sure in Stalin's era and later, but earlier some elements were also visible. In that period, positive law was a useful tool and transmitter of Soviet power. On the other hand, certain ideological postures were typical only for Russian communists. Finally, in Western Europe until today, communist parties are a part of the parliamentary system. In the

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<sup>1</sup> Understand like in H. Berman's (1983) "Law and Revolution: the formation of the Western Legal tradition" as a not geographic term, but as a collection of common cultural and legal ideas coming from the same source.

cold-war period, the German Communist Party always had representatives in the Reichstag. B. Bowring went deeper, into 18<sup>th</sup> century history, to search for an answer as to whether early Soviet *legal nihilism* and later *rule by law* were rooted in ideology or in the Russian mentality.

From the beginning, the author emphasized that this book is not meant to be a legal history in the classical sense. In ten chapters he deals with important legal phenomena which are in use in Russia today. He is analysing them from the historical perspective beginning in the middle of 18<sup>th</sup> century until 2012-2013. The first keyword is "*Russian messianism*" which he explored in the first and the last (10<sup>th</sup>) chapter. In second and the third part, he analyses reforms and its important tendencies in Russian law throughout the 19<sup>th</sup> century, especially changes in the area of public law and its westernization. In the second chapter, he is looking for the most influential legal theory, calling that period in Russian history, the Scottish Enlightenment. The fourth chapter is a story, described as "the most well known in the west" [p. 6]. That chapter is related to the ideas of Marxist – Leninist legal theoreticians. In this part of the book, he addresses the work of Y. Pashkunias, "The General Theory of Law and the Marxism" and the work of Latvian Bolshevik P. Stuchka (1988) who, among others, wrote about proletarian law and the "Class courts". In chapter five, B. Bowring analyses the phenomenon of "Soviet International Law". This was an interesting episode in Russian-Soviet jurisprudence, when communist officials decided to create a system of international law which they wanted to use only in relation with other "People's republics". The author, in the introduction, called that idea "paradoxical and even schizophrenic" [p. 6]. In chapter six, B. Bowring deals with collapse of Soviet Union and the formation of today's Russia. He describes, among other things, the process of the creation of the Russian Federal State. Bowring emphasizes here the linguistic tricks of the Russian language, which upon translation to English, lose their initial meaning, unlike other Slavic languages. Maybe this is the source of misunderstandings between Western and Central Europeans? It may be that Slavs possess the possibility to understand more from the Russian 'semantic games' than others do. In the seventh chapter, the focus is on "autonomy and Russian understanding of the term. The point of departure is the Russian Federation's accession to the Council of Europe and the distinction between cultural and territorial autonomy. Those notions were "anathema to Lenin and the Bolsheviks, a matter that united Lenin, Stalin and Trotsky" [p. 7]. In the same chapter, the author draws again on historical perspectives. In the beginning, he describes briefly all the forms of autonomy in Russian history. From its formal territorial forms (Finland, Poland) to the elements of autonomy in Baltic Provinces, to the cultural autonomy of Russian Germans. Chapter eight continues the discussion of the Russian accession to the Council of Europe. Here, B. Bowring returns to the questions of his introduction, such as "why did Western States permit Russia to join at the time when the first Chechen War was raging"? [p. 7] "Why did communists and nationalists (...) vote overwhelmingly for Russian accession and ratification, given the very high level of interference in its internal affairs to which Russia was subjecting itself"? [p. 7] The last chapter is connected with Russian "problems" in the European Court of Human Rights and the impact of the Council of Europe on the Russian legal system. The author addresses capital punishment as an example. Finally, the last chapter is certain kind of bookend with the first one. The author describes how today's Russian ideologists, including Gardzha, Surkov and others, are using theories and mythologies – *Russian messianism* – introduced at the beginning of the book.

Some say that essence of the good academic writing is of the ability to collect and synthesize the proper selection of material. The other aspect with which I would like to deal in this review is the question of audience—to whom is B. Bowring's work directed? Though the author is using history and historical events as an arguments to confirm his theories, he asserts that "this book is not the general history of law in Russia; neither is it one of politics or ideas" [p. 1]. It is hard to disagree with the author on that point. His work is not a book from the area of legal history. It is also

not a socio-legal work. In the introduction, the author tries to create some sequence of historical events that have brought about today's ideological hybrid in Putin's Russia— illustrated on the cover. According to Bowring, the approach to the "One Russia" political ideology starts in 18<sup>th</sup> century and was based on the conflict between Westernisers and Slavophiles, Eurasianism and Russian Messianism – the idea of Moscow as a new Constantinople. This is nothing new in the narrative descriptions of today's Russia. The author is only choosing the most popular theoretical frame, which is already well used not only in academic discourse, but also in the media. So conceptually, nothing new is written here. The author is drawing on the research results and conclusions of authors, including Walicki, among others.

In the chapters on the Scottish Enlightenment the reforms of the middle of the 19<sup>th</sup> century, the Soviet view on law and international law, Bowring uses the same method. He is trying to run from too many details while at the same time using key facts and events from the history. In the second chapter about Scottish influences in the Russian academic system, he focuses on Russian shortcomings in comparison to other European states, even neighbouring states— Moscow University was founded in 1755, while Polish academies were established in 1386 in Kraków and in 1579 in Vilnius. Comparisons with the rest of Europe seem unnecessary here. The main idea of this chapter was to present some phenomena and the transition from Britain to Russia of legal theories and ideas. The comparison is understandable. If we are discussing the role of universities in the process of transition of ideas to Russia, we should not avoid comparisons. Nevertheless, if the main place of the transition of Scottish ideas was Moscow it would be worth mentioning the main center of German ideas in Russia – University of Dorpat (today Tartu in Estonia). This part of Russian academic history is not mentioned. The next chapters in which the author focuses on the description of the most important Soviet legal theoreticians are similar in construction and methodology, with particular attention to the facts and ideas at hand. One gets the feeling that he is much more interested in getting the right description of events than in reflecting on the meaning of events. In general, the work is very descriptive. As a research exercise, the author has been very careful in material selection. However a trap always exists in such a situation—the tendency to make big simplifications. This is quite visible in chapter six, in his description of the different forms of autonomy in Russian history. I do not know what the intention may have been, but there are two mistakes which go beyond simplification. The first is related to the University of Dorpat, mentioned previously. In the subchapter describing the autonomy of the Baltic provinces, the author wrote about freedom for protestants which included the "Protestant University at Dorpat" [p. 124]. The problem is that this Protestant University in the Baltics never existed. The *Kaiserliche Universität Dorpat* founded in 1802 was a German-language school and had only one faculty of Protestant Theology. In the tendency to synthesize, the author failed to mention that the Baltic Provinces were Russified only at the end of the 19<sup>th</sup> century. The university was renamed on *Imperatorskij Jur'evskij Universitet* with Russian as a lecturing language. This has been addressed in E. Donnert (2007) work, among others. The other mistake is related to description of the forms of autonomy in Poland. While the description appears fine, one mistake – "Code civil of Napoleon and other French legislation were preserved, with obligatory force in the Duchy of Poland from 1 May 1808" [p. 127]. The Duchy of Poland never existed. The proper name of state was the Duchy of Warsaw (180-1815). The lack of the name Poland was an element of the Tilsit Treaties between Napoleon I and Russian Tzar Alexander I. The name Poland appeared again along with the Congress of Vienna and creation the Kingdom of Poland in 1815 – unified with Russia.

In the last ten chapters, B. Bowring presents an historical picture of changes in Russia after the collapse of Soviet Union, including an abundance of statistical data and citations. Even there the reader has a feeling that author is trying to run out from his conceptual arguments, and that he mainly seeks to describe the work of others.

To conclude, B. Bowring's book has some weak points. On the one hand, the author emphasizes that the book is not a work of legal history or ideology. As a consequence, it is hard to identify who the main audience for the book is. I am guessing that B. Bowring wanted to show the link between Russian 18<sup>th</sup> century phantasmagorias, Soviet philosophy and today's Russia. Many people, including academics or journalists, have said the same in describing Putin's politics. Finally, the cover suggests exactly that narration. The author is accepting it as a statement and the rest of the book complies to the main idea. Unfortunately, the reader sometimes has to guess because the text does not always articulate this. For sure, the strongest point of the book is the selection of material. The problem is that the book is not for those who are just starting their adventure with Russian history and its legal or socio-legal ideas. The synthesis is too heavy-handed to rightly understand the author's intentions. A Western European reader would have to possess deep knowledge of the topic in order to engage with the text. An Eastern European reader may find positive elements, but he or she may finish the book with the feeling that nothing new was established. Nevertheless, despite the gaps and mistakes, "Law, Rights and Ideology in Russia" could represent a good summary of the problem. Unfortunately, it is only a descriptive summary. In my opinion, the author missed the opportunity to advance an interesting field of research.

Another problem is the timing of the book's publication. The year 2013 was the beginning of Ukrainian crisis. Until the Maidan Revolution, some ideas presented by B. Bowring were not in full view, especially in Western Europe. The events from 2014 and 2015 may have made many phenomena in Russia more visible.

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