

"THE FIRST THING WE DO, LET'S KILL ALL THE LAWYERS"

Review by Joris de Moel

Law, Government and Society in J.R.R. Tolkien's Works by José Maria Miranda Boto, Cormarë Series 43; Walking Tree Publications, 2022. 264 pages. Paper, amazon.com \$24.30, Barnes & Noble \$24.30, Tolkienshop €18.50 + shipping <https://www.tolkienshop.com> Grey-blue green cover, cover art by Gonzalo Díaz García. Contents: "Foreword" by Tom Shippey, "Introduction", "Part One: Law and Tolkien", "Part Two: Law and Government in Arda", "Part Three: Law and Society", "Part Four: Law as a Joke in Tolkien's Works", "Epilogue: The Lord of the Rings as a Tool to Teach Labour Law", "Appendix: Law in Tolkien's Personal Life", "Bibliography".

Professor Shippey in the "Foreword" briefly discusses the role of law and justice in Tolkien and why the present work will improve our knowledge of the subject. He also points out how real life events likely shaped Tolkien's narrative, primarily the Nuremberg Trials.

There have been shorter essays on targeted aspects of law and justice in Tolkien's works, but this is the first full-length book as far as I am aware. Professor Boto starts with Tolkien's works he will be excluding, to wit, almost all of the History of Middle-earth, mostly for reasons of time and space. This is quite understandable. On some occasions he does refer to them and cheerfully admits to this. It is certainly admissible, since they might be seen as parliamentary debates are in the interpretation of statutes. As a major theme in the book might well be "Humour in the laws of Tolkien", that cheerfulness is all to the good. Pay attention to the footnotes. Nobody expects the Spanish professor's humorous footnotes.

There is a short introduction into the philosophy of law, the arguments between Moral or Natural law, which must be discovered or deduced, and Positive Law, which is created by legislation. I personally have always thought "positive" was picked by a lawyer who rather desperately tried to whitewash the reputation of a profession neither universally loved nor admired.

A major difference between Earth and Arda is of course the total absence of canon law in the development of legal traditions in Middle-earth. The Laws of the Shire go back to the old laws of the Kings, which are (apparently) immutable and (so it is generally agreed by Hobbits) just and fair. Custom and ritual are accorded a major place in the dealings of the law, and it seems to Boto that most of the basic law of Middle-earth is Natural or Common law. The title of Doomsman for Námo/Mandos is an indication of this. Doomsman was the name of those who, based on custom, came to judgments in Anglo-Saxon times.

Considerable space is given to the succession of kings. (Or lords, or chiefs. As long as they have sovereignty, it is much of a muchness.) I personally would have been interested in the opinion of the author with regards to the succession of Nolo-finwë/Fingolfin and the maiming of Maedhros compared to the notion of the "unmarried body of the king" in many lordships on Earth. But that is possibly more anthropological than legal in nature.

The division of realms and disputed, or elective, successions were historically very common. In Anglo-Saxon England there was the term *ætheling* to denote princes eligible to the throne. In mainland Europe Pepin the Short (haired) and his brother elected and then deposed their last ineffective Merovingian (long-haired) cousin as king. Edward I of Wessex, son of Alfred I, had to fight his cousin, the son of Ethelred I, for the throne.

Alfred was not the only uncle to assume the throne, by-passing a nephew. Charlemagne hastily got rid of his brother's son and heir. And possibly the brother too. His empire of course was divided by his grandsons. The abovementioned Edward usurped and deposed his niece, Aelfwynn, the second Lady of the Mercians. And tried to scrub her from history. John I very successfully got rid of his nephew Arthur. (All were put in monasteries. Not having such an easy way of getting rid of unwanted family members must have *really* cramped the style of Middle-earth's rulers.) Also, uncles are dangerous.

The trial of Beregonid is of course discussed. I feel in this case, like in the judgment of Éomer, the author might have taken a look at the Dooms of Anglo-Saxon kings.

And what about our dear hobbitish Hobbits? Are they Hobbits in the meaning of the word?¹

In the sense that they want a well ordered society and to achieve this, abdicate their sovereignty and abide by laws, yes. Of course Hobbes centered this sovereignty in a king, who is absent in the actual ruling of the Third Age Shire, but very much present in the sense that the legitimacy of the (according to Boto, likely oligarchical) Shire government in the end springs from this long-absent monarch.

There are many points touched upon in the book, and I do not agree with all the interpretations, but it is certainly thought provoking and I feel might be of interest to both general readers and scholars with some interest in how Middle-earth's system of law and government might have functioned, and also how Tolkien's thinking shaped it. Which, as Boto says, may well have been a paraphrase of, "The first thing we do, let's kill all the lawyers". (Henry VI, Part 2, Act IV, Scene 2)

Note

1. Hobbitish: rustic. Hobbitist: follower of Thomas Hobbes. (Oxford English Dictionary)

Works consulted:

Pollock, F., and F.W. Maitland. The History of English Law before the Time of Edward I. Reissued with a new introduction and select bibliography by S.F.C. Milsom. (2nd edition 1895, thus Cambridge 1968).

Stephenson, C., and F.G. Marcham. Sources of English Constitutional History. A Selection of Documents from A.D. 600 to the interregnum. New York and London, 1972.