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Law, Government, and Society in J.R.R. Tolkien's Works (2022), by José María Miranda Boto

Douglas C. Kane
dougkane@protectingrights.net

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Law, Government, and Society in J.R.R. Tolkien's Works, by José María Miranda Boto. Zurich and Jena: Walking Tree Publishers, 2022. xxxvi, 264 pp. \$24.30 (trade paperback) ISBN 9783905703436.

To describe *Law, Government, and Society in J.R.R. Tolkien's Works*, by José María Miranda Boto as a “dense work” would be a vast understatement. By way of illustration, the book contains an astonishing 639 footnotes. The bibliography of works cited in the book is 20 pages long, and ranges from works by a who's who of Tolkien scholarship, to more obscure pieces about the legendarium (including most if not all of the few previous attempts to address the role that legal matters play in Tolkien's secondary universe, including my own), a large amount of often arcane legal references, and an array of philosophical, historical, and literary treatises.

In a private communication to me in August 2020, Miranda Boto indicated that he was rewriting his previous Spanish-language book on Tolkien and Law, *El Derecho en Tolkien* in English. However, he states in his Introduction that the result “is a completely different book” (xxiii). After noting that Tolkien himself describes his work as an “elaborate form of the *game* of inventing a country” (*Letters* 196), Miranda Boto says that the purpose of this book is to “deal with the place of law in that game, even if, at first sight, its presence is very small” (xxv). He adds that “one of the main goals of this book is ... to identify pre-existing legal institutions that could have been a source of inspiration for Tolkien” (*Ibid.*) and that “the merit of this book aspires to that of boring exhaustivity, legal scholarship own goal, or in the words of Shippey (2006: 30), ‘typical hobbit-work, full of things we knew already, set out fair and square with no contradictions’” (xxvii). Miranda Boto certainly achieves the goal of exhaustivity, but in the process, he runs the risk of some readers who (unlike this reviewer) are not used to legal scholarship, may indeed find it boring.

Nonetheless, this is a serious and important study, and this is marked by the fact that the Foreword to the book is provided by Tom Shippey, widely considered to be one of the deans of Tolkien scholarship. Shippey goes so far as to say that “the current work is perhaps the most fruitful and unexpected way of approaching what so many have sought, the core of Tolkien's thought and his philosophy” (xvii). Moreover, as Shippey also notes “the topic is approached with an appropriate sense of fun” (*Ibid.*), which goes a long way to mitigate the exhaustive nature of Miranda Boto's scholarship.

Although English is not Miranda Boto's native language, the writing is for the most part fluid and readable. While there may be a few places that material was

originally written in a different language, for most readers who are not attorneys, it probably suffers more from translation from “legalese” to English than from Spanish to English.

The book is divided into four Parts: Part One: Law and Tolkien; Part Two: Law and Government in Arda; Part Three: Law and Society; and Part Four: Law as a Joke in Tolkien’s Works. Each Part is divided into between four and ten chapters. These are followed by a semi-serious Epilogue, “*The Lord of the Rings* as a Tool to Teach Labour Law.” There is also an Appendix “Law in Tolkien’s Personal Life,” which also has three separate sections. Finally, there is the voluminous Bibliography. Unfortunately, no Index is included.

Part 1: Law and Tolkien

This first Part begins with the question “Is there a place for law in Tolkien’s work.” This is a pertinent question since, as Miranda Boto points out, though readers asked for “linguistic, musical, geological, economical, historical details . . . nobody asked about law” (3). He observes that nonetheless “law is one of the ‘green suns,’ using Tolkien’s own idea present in “On Fairy-stories” that will test Arda’s coherence (4; see also *Tolkien On Fairy-stories* 61).¹

Miranda Boto then jumps directly into the heart of the matter, examining how Tolkien applies moral law, natural law and positive law in his work. He correctly observes that “In his writings, Tolkien clearly made his choice. A plain conclusion of this research is the predominance of Natural Law over Positive Law. . . . The common source for Natural Law in Arda is, most certainly, Eru Ilúvatar who, despite not being mentioned in *The Lord of the Rings*, is the origin of all good things in the world” (13–14). He goes on to analyze the questions of common law vs. civil law, law vs. justice and the intersection of law and sin (specifically regarding the doom of the Noldor and the ban on Men from setting foot in Valinor). This Part concludes with a look at “the most intimate and autobiographical” (36) of Tolkien’s writings, “Leaf By Niggle.”

Part 2: Law and Government in Arda

¹ As Miranda Boto acknowledges, I made a similar point in *Law and Arda*. I enjoyed his observation that “legal training on either side of the Atlantic thus leads to the same conclusions (4).”

In the second Part, the focus turns to how the various societies in Tolkien's secondary universe are governed. Tolkien famously wrote "My political opinions lean more and more to Anarchy philosophically understood, meaning abolition of control not whiskered men with bombs) -- or to 'unconstitutional' Monarchy" (*Letters* 63). So, it is not surprising that Miranda Boto begins this discussion with a chapter entitled "We, the Kings." This is an overview of the different titles taken by the rulers of Elves, Dwarves and Men, concluding with a reminder that "at the time of the War of the Ring, the Drúedain were led by Ghân-buri-Ghân, who called himself 'great headman' (*RK* 1089), a title never mentioned elsewhere. Nonetheless, Théoden recognized his authority and dealt with him as a peer" (48). He then turns to discussing how these rulers rule. He observes "the majority of rules among Elves and Men are pure royal desires made law, the ultimate expression of the Roman maxim *Quod principi placuit, legis habet vigorem* (*Institutiones* I 1,2,6), what pleases the king has the force of law" (50). This is followed by a discussion of the rules of succession to the throne, which leads to the thorny and often contradictory question of when females ascend to the throne (and when they do not).

One of the most interesting discussions in this Part is "Legal Remarks on the Stewards of Gondor" (81–88). Miranda Boto observes "the episode of Cirion and Eorl is particularly relevant from the legal point of view, as it shows the extent of the power of the stewards. The choice of the character is not casual, as Cirion is describes as 'a man of little pride and of great courage and generosity of heart, the noblest of the Stewards of Gondor' (*UT* 327). This man brought the exercise of the surrogated power to its zenith, as he put into practice personal privileges of the kings" (84). This discussion is followed by descriptions of various counselors, regents, and other advisors, and then "Assemblies, Meetings and Moots."

Next, he looks at how law is administered given that "one remarkable trait in Tolkien's works is the complete absence of professional, trained lawyers. He made real the remark in *Henry VI (Part 2)* about killing them all" (101). He focuses on the judgments of the Valar on Melkor and Fëanor, Thingol on Túrin and Turgon on Eöl. Regarding the latter, he notes "the words of Turgon in this episode embody perfectly the previously proposed idea of *voluntas principis* as source of law. His judiciary performance is understood as the prolongation of his role as lawmaker: 'And here I am King and whether you will it or will it not, my doom is law' (*Sil* 159)" (104).

An unfortunate omission in this section is any discussion of the trial of Húrin in Brethil, in which he is "represented" by Manthor, a descendent of Haldad, the first Chieftain of the Haladin (*WotJ* 279-291). Miranda Boto states in his

Introduction, “Whatever its literary splendour and usefulness, *The History of Middle-earth*, in an effort to be consistent with legal scholarship rules, had to be left out” (xxviii). I have to say, I disagree with that judgment, particularly where it involves texts such as “The Wanderings of Húrin” that have no other versions published elsewhere, and which are at least as complete and valuable as some of the texts included in *Unfinished Tales* that Miranda Boto does include.

This Part ends with a description of the judgments and punishments assessed, highlighted by a discussion of the judgment of Beregon by Aragorn, a scene that is depicted in the cover illustration by Gonzalo Díaz García.

Part 3: Law and Society

The third Part focuses on how law intersects with aspects of society other than formal government in Tolkien’s works. It begins with an examination of feudalism and nobility in Gondor, which then moves to a more in-depth look at the roles of the princes of Dol Amroth. Miranda Boto observes that “the proper status of Dol Amroth would have been some kind of palatinate, in a strange relationship to the central power such as Burgundy or Brittany had with the kings of France” (125). He then looks at the role of marriage in society. He first points to four examples that follow the two-fold pattern engagement and wedding known as “trothplight”: Arwen and Aragorn; Níniel and Túrin; Erendis and Aldarion; and Nimrodel and Amroth (129–130). He then looks at some exceptions to that pattern: Éowyn and Faramir; Galadriel and Celeborn; and Tom Bombadil and Goldberry (130–131). He ends this discussion with an episode that he describes as “almost inspired by Arisophanes’ *Lysistrata*: the abandonment of the Ents by the Entwives” (133–134). This is followed by a more detailed outlining of “The Laws of Marriage.” Here again, the book suffers from Miranda Boto’s decision to exclude the works that are published in *The History of Middle-earth*. He acknowledges that “The second marriage of Finwë is central in the development of the fate of the Noldor and its moral aspects are well developed in *The History of Middle-earth*” (136) but then fails to address the extraordinary work “The Laws and Customs Among the Eldar”² that includes some of Tolkien’s most profound writing. This represents a major failing in a book addressing the legal underpinnings of Tolkien’s legendarium. Miranda Boto indicates in the Introduction that “If this book ever was on the verge of a second edition, *The History of Middle-earth* would be the focus of the enlargement of the text.” In my

² *Morgoth’s Ring* pp. 207–253.

opinion, such an edition would be greatly enhanced by this enlargement, and I sincerely hope that Miranda Boto gets that opportunity.

This Part continues with a discussion of other “family matters,” highlighted by the observation that “a remarkable moment of legal creativity appears in the relationship between Bilbo and Frodo” (143). Next is an arcane discussion on the passing of time that is saved from becoming even more tedious by not addressing Tolkien’s obsession with finding a correct formula for how the Eldar aged, as documented in Part One of *The Nature of Middle-earth*³. The final chapters in this Part address economic issues, property and military organization in considerable detail.

Part 4: Law as a Joke in Tolkien’s Work

This Part begins with a look at the comical contract that Bilbo is given by the Dwarves. Interestingly, Miranda Boto observes that Murray Smith analyzes this contract from an English law point of view and that I did so from a U.S. perspective, and that our conclusion was contrary to his under Spanish law. As he says, “That’s the funny thing about law” (181). This continues into a discussion of the “legal bother” that Bilbo has to deal with when he returns to the Shire (not yet so named) at the end of his adventure to find that he is “presumed dead.”

Miranda Boto next examines “the enigma of the government of the Shire” (188–198) and then the odd military history of the otherwise peaceful Shire (198–206). Finally, turning away from the legendarium itself, he looks at the mocking use of law in *Farmer Giles of Ham* (206–213).

Epilogue and Appendix

The Epilogue is subtitled “*The Lord of the Rings* as a Tool to Teach Labour Law.” In it, Miranda Boto takes a semi-comic, semi-serious look at the relationship between Frodo and Sam (before they set out on the quest to destroy the Ring) from the perspective of Spanish law, a topic that Miranda Boto is obviously quite knowledgeable about, as a professor of Labour law of the Universidad de Santiago de Compostela, Spain. I, as an employment law specialist in the United States, would have reached somewhat different conclusions. That is the funny thing about law!

³ *The Nature of Middle-earth*, pp. 7–164.

Finally, the Appendix looks at several legal issues that arose in Tolkien's personal life. These include his legal guardianship by Father Francis, and Father Francis demands regarding Tolkien's future wife, Edith Bratt (227–228). Also addressed is Tolkien's executorship of Joseph Wright's estate, and contractual matters including control of his works, and his sale of the film rights to *The Hobbit* and *The Lord of the Rings*. Finally, Miranda Boto looks at Tolkien's estate at the time his death and concludes that “we can affirm without hesitation that Tolkien died a rich man, in spite of all his life-long uncertainties” (242).

CONCLUSION

Overall, *Law, Government, and Society in Tolkien's Work* is an excellent and important work. The only significant criticism that I have is the decision to omit the texts included in *The History of Middle-earth* from consideration. I understand the desire to avoid the confusion of multiple versions of the same story, but as discussed above, Miranda Boto could have avoided that problem and still included works that were only included in that compilation, particularly the two that are so directly entwined with the subject matter of this study, “The Wanderings of Húrin” and “Laws and Customs Among the Eldar.” Perhaps at some point Miranda Boto will have an opportunity to include consideration of these texts in a second edition.

The only other issue that I have is not so much a criticism as an observation; at times the depth of citation to other works both of Tolkien scholarship and to legal and other philosophical treatises is almost overwhelming. However, the references to these sources almost always serve to enrich the points that Miranda Boto is making, rather than to provide a substitute for what he thinks (or for what Tolkien himself was expressing).

Ultimately, Shippey's observation that “the current work is perhaps the most fruitful and unexpected way of approaching what so many have sought, the core of Tolkien's thought and his philosophy” is not far from the mark. And I can think of no higher praise for a work of Tolkien scholarship.

Douglas C. Kane
Santa Cruz, California

Works Cited

Kane, Douglas C. “Law and Arda” in *Tolkien Studies IX*: 37–57. (2012).

- Miranda Boto, José María. *El Derecho en Tolkien*. Madrid: Ediciones Cinca. (2017).
_____. Private communication. (August 2020).
- Shippey, Thomas A. "History in Words. Tolkien's Ruling Passion." In Wayne G. Hammond and Christna Scull (eds.). *The Lord of the Rings 1954–2004. Scholarship in honor of Richard E. Blackwelder*. Marquette: Marquette University Press: 25–40. (2006).
- Smith, Murray. "Legal bother: Law and Related Matters in *The Hobbit*" in Lynn Forest Hill (ed.) *The Return of the Ring. Proceedings of the Tolkien Society Conference 2012*. Vol. II. Edinburgh: Luna Press Publishing, 123–142. (2016).
- Tolkien, J.R.R. *The Letters of J.R.R. Tolkien*. ("Letters"). Edited by Humphrey Carpenter with the assistance of Christopher Tolkien. (2000).
_____. *Morgoth's Ring*. Edited by Christopher Tolkien. (1993).
_____. *Nature of Middle-earth*. Edited by Carl F. Hostetter. (2021).
_____. *Silmarillion*. Edited by Christopher Tolkien (2nd ed). (2001).
_____. *Unfinished Tales*. Edited by Christopher Tolkien. (1980).
_____. *War of the Jewels*. Edited by Christopher Tolkien. (1994).