

BRITISH AND SOVIET POLITICS: LEGITIMACY AND CONVERGENCE. By *Jerome M. Gilison*. Baltimore: Johns Hopkins University Press, 1972. xv, 186 pp. \$8.50.

This excursionary essay into comparative politics is welcome; it is ten years since Brzezinski and Huntington's *Political Power USA/USSR* (1963). The work concentrates on the legitimizing functions of Parliament and the Supreme Soviet and gives in the penultimate chapter (5) a model and several "scenarios" on the policy-making process of the two countries. Convergence is treated only briefly (pp. xiii-xiv, 180-81). The method is structural-functional (which "tends to underline similarities," p. x), building on Almond and Powell, Easton, and Weber (pp. 2-3, n. 1). The book has no bibliography and a weak index.

This comparative study will provide useful material for class and seminar discussion. Professor Gilison finds that the representative assemblies do not make law (p. 107), but rather legitimize and impart authority to it (pp. 93, 100, 105). Of particular interest are the "scenarios" of chapter 5 (pp. 138-69), which trace the course of low and high salience policy-making through the tiers of British and Soviet government charted on page 125.

On the critical side, two words. Professor Gilison's earlier work reveals an incisive analytical and critical capacity. But in this book his standards of evidence appear relaxed. He assumes rather than demonstrates the legitimacy of Soviet government (pp. 4, 11, 179); survival of a government does not in itself indicate legitimacy. Evidence for the British case is ample; for the Soviet case, assumptions often replace data (for example, see pp. 76, 95, 135, 147-50, 156, 168). Second, in taxonomy, likeness increases with distance from the object. On page 117 it is stated, "From a functional point of view, the Supreme Soviet and the British Parliament are more alike than is commonly acknowledged." The same can be said of a fin and a foot.

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DIE RUSSISCHE JUSTIZREFORM VON 1864: ZUR GESCHICHTE DER RUSSISCHEN JUSTIZ VON KATHARINA II. BIS 1917. By *Friedhelm Berthold Kaiser*. Studien zur Geschichte Osteuropas, 14. Leiden: E. J. Brill, 1972. xv, 552 pp. 91 Dglds.

This monograph about the Russian judicial reform of 1864 is a surprisingly interesting book about problems which seem to belong to the past but indeed have become very topical. The book might be helpful in understanding the political struggle for justice in any authoritarian regime. Like other regimes, this type needs an effective system of justice in order to preserve its own existence, but on the other hand every authoritarian ruler tries to transform the system of justice into an obedient servant of the administration; such dependence, of course, undermines the efficiency of justice as an instrument of social stability. These two tendencies are colorfully presented in Kaiser's book. It is a learned and thorough study written with German *Gründlichkeit*, but it is never boring. Some chapters are almost fascinating.

The book contains the following main parts: (1) a description of the state of justice in Russia between Catherine the Great and the Reform of 1864, (2) an

analysis of various attempts to reform the Russian system of justice in the first six decades of the nineteenth century, (3) an analysis of the new laws of 1864, their origins, and social meaning, and (4) a study of the post-reform period, the steps backward, and new attempts at reform up to the October Revolution in 1917.

The foundations of the Russian system of justice were laid down by Catherine II. In the nineteenth century this system hindered the development of Russian society. The courts were organized on the feudal principle of *sosloviia*, with special tribunals for the peasants, town citizens, noblemen, and *raznochintsy*.

In 1861 in Russia there took place an analogue of the French and English revolutions. Tsar Alexander II liberated the Russian peasants from serfdom. The consequences of the tsar's *ukaz* were far-ranging, and inevitably influenced the system of justice. The author shows step by step how the judicial reform was carried out and how a miracle almost happened by which backward, autocratic Russia received judicial legislation based on the "most perfect models" (V. Maklakov, *Russian Review*, 1913), which D. M. Wallace characterized in the following way: "As a whole, the architecture of the edifice is decidedly French, but here and there we may detect unmistakable symptoms of English influence" (*Russia*, 1877; quoted by Kaiser, p. 412).

How could that have happened? This is the basic problem which Kaiser is unable to resolve. He underestimates the influence of two social events—the "liberation of the peasants" and the growth of capitalism—on the legislation. One does not have to be a "materialist" like the Soviet author B. V. Vilensky (quoted in the book) to argue that socioeconomic reasons ultimately determined the decisions of the Russian government. Before the "liberation" Alexander II remarked: "It is better to take the initiative and to repeal the laws of serfdom from above than to wait until they be repealed from below" (p. 433).

The tsar acted in the same spirit in regard to the judicial reform. The Russian government realized that the development of industry, trade, and commerce had to be based on a modern judicial system. The necessary legal institutions and norms had already been elaborated in the West; they were transplanted to Russia. The tsar's government had to depart from the "native" traditions, because the only alternative was an obsolete anti-Western ideology with consequent social, economic, and all-too-obvious military bankruptcy. In these circumstances Alexander II gave up some of his principles and made another of the famous Russian rapprochements with the West—but of course with some reservations, which are also underestimated by Kaiser. The tsar still preserved the administrative right to send his real or imagined enemies to Siberia. This reservation shows that the judicial reform was not a true liberalization, but only a reorganization in order to make the administration and the police more effective and in order to create a legal basis for the newly imported idea: "Enrichissez vous!"

Reading about the troubles of the old nineteenth-century Russian liberals prompts one to think about the "liberals" who live and act under Communist regimes. Every liberal opposition must fight as Zarudny and his friends did in the 1860s—for the independence of the courts, for the strict separation of powers, and for the observance of laws.

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