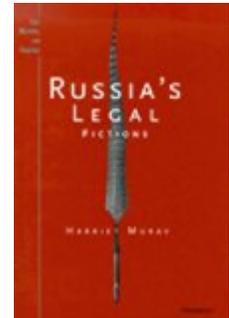




Harriet Murav. *Russia's Legal Fictions.* Ann Arbor: University of Michigan Press, 1998. 263 pp. \$49.50, cloth, ISBN 978-0-472-10879-4.



Reviewed by Susan Z. Rupp

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Murav explains in the Introduction to this monograph that she is primarily interested in the relationship between law and literature, and more particularly, the contestation over authority and power between the two in Russia and the Soviet Union. All five of the writers examined in this work were put on trial, and accounts of their experiences are often, if not always, considered. However, Murav is less concerned with the historical particulars of the frequent confrontations between writers and the tsarist or Soviet regime than with the question of how the writer "imagines and represents the law and legal language authority" (p. 2) and in turn, how laws and the courts conceive of writers and fiction.

Citing the work of Susan Stewart and Dominick LaCapra, Murav adopts the notion of the literary trial as "an investigation into the nature of authorship" (p. 2). This concern with the relationship between author and text often assumes the central place in Murav's study, obscuring her earlier stated concern with the interaction between writers and the legal system. Murav's analysis draws heavily upon the post-modernist

canon, with citations of Foucault, Bakhtin, Derrida, Lotman and Uspenskii all appearing in the first pages of the monograph. The author employs shorthand allusions to these figures throughout the monograph, which will challenge all but those steeped in post-modernist theory.

Four of the six chapters which follow relate to the imperial period, beginning with the trial of Sukhovo-Kobylin in the 1850s and ending with Dostoevsky's *Diary of a Writer* in the late 1870s. The final two chapters of the book examine Solzhenitsyn's *Gulag Archipelago* and the Daniel and Siniavskii trial. Three of these chapters (those dealing with Dostoevsky, Solzhenitsyn and Siniavskii) have been published previously. Murav has little to say about the approximately eighty years separating Dostoevsky and Solzhenitsyn beyond acknowledging a fundamental discontinuity in legal development (p. 12). This caesura is particularly problematic, since Murav explores the implications of the reformed judicial system introduced in 1864 in the early chapters of the book, yet says virtually nothing about Soviet legal principles and practice prior to the 1960s.

The first of the chapters examines the case of Sukhovo-Kobylin, a playwright tried for the murder of his French mistress in the 1850s. The case, which originated in the Moscow courts, eventually made its way to the Senate and the Minister of Justice himself before the playwright was cleared of all charges. Murav focuses on the trilogy of plays Sukhovo-Kobylin wrote during this period. These plays, two of which were held up by the censors for several decades, savage the pre-reform judicial system for its notorious delays and corruption. Murav perhaps exaggeratedly states "that there is no rule of law, or even a professed ideology of the rule of law, in Russia in 1850 goes without saying" (p. 19).

With reference to Foucault's notion of the theater of power, Murav goes on to assert that instead "the exercise of the law is a demonstration of the tsar's own personal power" (pp. 21-22). Of course, while punishments might have been carried out publicly, trials in the pre-reform period were closed; thus, Foucault's ideas, as Murav herself seems to recognize, may have little applicability to the Russian case. Following this ambivalent assessment of the pre-reform courts, Murav digresses into a discussion of the nobility's anxiety about emerging changes in the social hierarchy and the apparent inability of the existing political order to defend it. The diffuse, scattershot approach employed in the discussion of Sukhovo-Kobylin is characteristic of the monograph as a whole.

The following chapter focuses on the judicial reform itself, rather than the interaction between writers and the legal system. Murav, citing a handful of works on the subject, summarizes the essential elements of the judicial reform before focusing on the jury as "a new form of judicial heteroglossia in the public space" (p. 59). The author characterizes the jury as a carnivalization of official culture, as well as the focus of efforts to construct a new narrative about the Russian *narod*. The chapter closes with a confusing discussion

of the opposition between Old Testament law and New Testament conscience, with the former represented by traditional autocratic prerogative and the latter by the reformed courts as distilled in the jury. Indeed, there was a significant tension between the regime and the court system in the post-1864 period, but Murav's examination lacks a consistent focus and the points that she raises here might have been better integrated into the two chapters which follow.

The chapter on Suvorin and Akhsharumov more successfully addresses the relationship between law and literature as played out in the courts, both real and imagined. In one of the first literary cases brought before the reformed courts in 1866, Suvorin was charged with crimes against the government and society for his work, *It Takes All Kinds: Scenes from Contemporary Life*. Questions of authorship and authority, and the assertion of legal control over literature are satirized in Akhsharumov's *The Model: A Juridical Fiction*, where the real-life prototype for a novel on the emancipated woman sues the fictional author for ruining her life.

In both instances, the courts insisted upon identifying the author with the narrator and characters in his work. Such an identification, Murav contends, was made more likely by the realist aesthetics of the period. Although Suvorin was an adherent of realism, his defense rested in part on a rejection of the coincidence between author and narrator, an ambiguity addressed by Akhsharumov, who criticized the realist aesthetic. Murav closes with a brief discussion of the broader implications of the judicial reform, but these are not clearly tied to the preceding discussion of Suvorin and Akhsharumov.

The analogous chapters relating to Dostoevsky and Solzhenitsyn are much more about the authority of the writer than they are about the writer's confrontation with the legal system. In both instances, Dostoevsky and Solzhenitsyn are portrayed as writers who assert authority beyond

the literary realm, who present themselves as "lawgivers" or "moral legislators." Murav's examination of Dostoevsky focuses on his discussion of several criminal cases in *Diary of a Writer*. Murav rejects Walicki's contention that Dostoevsky was consistently critical of the jury, and is equally dismissive of the argument that Dostoevsky's ideas about the judicial system reflected the Slavophile perspective. Yet, Murav herself offers no clear sense of Dostoevsky's views on the reformed legal system, as she is primarily concerned with his conception of Russia and the role of the writer in determining the nation's fate. Similarly, the discussion of Solzhenitsyn's *Gulag Archipelago* has virtually no connection to the relationship between law and literature. Beyond a rejection of the existing political regime (and hence, one assumes, its legal system), the focus of Murav's analysis is Solzhenitsyn's assertion to extra-literary authority akin to that made by Dostoevsky a century earlier.

While the chapter on Siniavskii also addresses the question of the writer's authority, Murav more successfully relates this issue to the relationship between the writer and the legal system. The analysis of Siniavskii's trial and his work is easier to comprehend and more persuasive than that offered in earlier chapters. Murav's essential conclusion is that the law, particularly Soviet law, is intolerant of the sort of ambiguities and polyvalence characteristic of literary works. As in the earlier discussion of Suvorin, whose case is paralleled to that of Siniavskii, the court rejects the writer's attempts to distinguish himself from the characters he has created. Unfortunately, much of the impact of this analysis is undermined by a comparison with American libel cases involving literary works. If one is bound only to texts rather than external realities then such a comparison might work; otherwise, the applicability of American case law to an understanding of the Soviet experience is extremely suspect.

Murav's work is dense and often confusing. She assumes a thorough knowledge of post-modernist writers and shifts abruptly from one subject to another with little to guide the reader beyond a series of subheadings. The exhausted and bewildered reader, therefore, might be disappointed when Murav states, "I have decided to forgo the usual summarizing conclusion." Instead, she summarizes how her own research might respond to James Boyd White's *Acts of Hope: Creating Authority in Literature, Law, and Politics*. Apparently, it is assumed that the reader is familiar with this work, since her treatment of it is allusive at best. Perhaps Murav is directing her argument at those in the law-and-humanities field, for she again raises comparative questions that are absent from most of the monograph. While the conclusion returns to some of the points raised earlier in the book, several new issues are now raised. While such a denial of definite meaning might accord well with a post-modernist perspective, some readers might simply feel exasperated.

It is difficult to determine the audience for this monograph. Certainly, it is not intended for undergraduates, and historians may find the work impenetrable and of little interest. The proponents of post-modern literary analysis, along with those in the law-and-humanities field, might be those most interested in and conversant with the issues raised in Murav's work. Historians concerned with the Soviet legal system might be better off turning to the works of John Hazard, Harold Berman, Peter Solomon and Eugene Huskey. Those interested in the judicial system in late imperial Russia have fewer resources at their disposal. While the traditional historiography has long maintained that the 1864 judicial reform brought elements of a Westernized, progressive legal system to Russia, while never culminating in the creation of a *Rechtstaat*, little substantive work has been done in this area beyond the social and cultural studies of Girish Bhat, Cathy Frierson and Joan Neuberger. Perhaps other historians will

take up the study of this subject rather than leaving it to the literary critics.

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