

## IN MEMORY OF PROFESSOR HAROLD BERMAN

*John Quigley\**

One icy day in the winter of 1966–67, at my Moscow State University dormitory on Lenin Hills, a letter arrived from Professor Berman. I was there researching the Soviet domestic legal mechanisms for export and import transactions, a topic I had developed under Professor Berman’s direction. My work was going well. To that point, Professor Berman’s assurance to my mother was holding—that I would not wind up in a Siberian prison camp.

Professor Berman’s letter recited that a research position had just opened at Harvard Law School, and that it would allow me to work on Russian law with him. He asked if I was interested. At the time, I was planning, after the stay in Moscow, to enter a Ph.D. program in political science at Columbia University. I immediately sent Professor Berman a joyful acceptance and gave up my slot at Columbia. The opportunity to work with Professor Berman was better than anything else I could imagine.

During the two years I worked with him, we wrote an article together and published a book. Professor Berman took very seriously what he wrote about law in Russia. He wanted the legal community in the United States to see beyond headlines and catch phrases. Professor Berman’s strong sense of the importance of this work rubbed off on me as I continued my research on the Soviet foreign trade system. If the two countries could trade, I imagined, the Cold War might thaw a bit. Whether the book I ultimately published had any such impact is doubtful, but I did absorb a sense from my work with Professor Berman that research in the law should be approached as an endeavor that carries ethical responsibilities.

I also absorbed a sense from him of the need to be accurate in what one writes. The Cold War time was highly charged politically. Opponents of one’s assertions could be harsh. As I research articles today, I still think of Professor Berman when I am tempted to make an assertion but am not sure I can back it up. This became especially important when I moved into research on the Middle East, which has occupied much of my time. There, too, a highly

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charged political situation renders it essential to say only what can be thoroughly substantiated.

I frequently think of Professor Berman in my dealings with law students. His concern for students has served as an inspiration. He devoted considerable effort to my development as a scholar and teacher. He and Mrs. Berman took me in at their home for delightful evenings of good conversation and encouragement.

November of 1967 was the fiftieth anniversary of the Russian Revolution. Soviet academics had recently begun to visit at Harvard, but they did not easily integrate socially. We invited them to a Russian-style party at my apartment, to mark the anniversary.

In the course of the evening, someone inevitably proposed a toast to the Russian Revolution. After the guests had downed the requisite shot of vodka, Professor Berman stood and asked, "What about other revolutions?" Since each toast would involve another shot of vodka, his proposal was met with enthusiastic approval. Proceeding in reverse chronological order, Professor Berman toasted, in turn, the French Revolution, the Glorious Revolution, and the Papal Revolution. He may have followed with other revolutions, but by then the vodka was affecting my cognitive capacity. These toasts, incidentally, were the first hint I had that Professor Berman was beginning to focus on Western legal history and the impact of revolutions, which would be the theme of his two *Law and Revolution* volumes.

Professor Berman's direct impact on my work continued into the last months of his life. In 2007, I was finalizing a book titled *Soviet Legal Innovation and the Law of the Western World*. I had discussed the book, which cited *Law and Revolution* extensively, with Professor Tibor Varady at Emory. After Professor Varady mentioned it, Professor Berman asked that I send page proofs: "It is just what I need," he wrote me, "for the third volume of my *Law and Revolution*, which will be devoted to the impact of the French, American and Russian Revolutions on the Western legal tradition."

I was delighted to learn of a projected third volume, and of the intended focus on the impact of the Russian Revolution. Other historians of Western law had not made that connection, although it seemed, both to Professor Berman and to me, that it explained much about twentieth century legal development in the West.

I was also gratified that Professor Berman thought that my book was worth his time to read. Read it he did, and he sent additional sources to bolster my arguments: a passage from Karl Llewellyn and a statement by Franklin Roosevelt. He was concerned that I had not sufficiently highlighted the ‘parental’ aspect of Soviet law. He wrote, “I still think after 60 years of teaching Soviet law that the greatest impact of the Russian Revolution on the Western Legal Tradition was its new conception of a ‘legal man’ as a youth to be educated, nurtured (here he inserted the Russian term) in social and political virtues. For some reason,” he continued, “this idea has never caught on! Please take another look at those pages [meaning from his book *Justice in Russia*] and think about it.”

I immediately sent the page proofs but removed the page of dedication, which was to him. I didn’t want him to see that page until the book was published. I had decided early on to dedicate the book to him—because of all he had meant in my life, and because the topic was more his than mine.

I did think about Professor Berman’s points and made revisions after re-reading *Justice in Russia*. I sent him a copy of the book as soon as I received it from the publisher. I was anxious to learn if he approved of my revisions on “parental law.” The next word I received was of his passing.

