

LEGAL EDUCATION IN TURKEY: SOME THOUGHTS ON EDUCATION FOR FOREIGN STUDENTS *

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I

THE TURKISH Revolution is notable among the revolutions of our time in its scope, achievements, and low cost in human lives. A discussion of legal education, as of any aspect of contemporary Turkey, must begin with the Revolution.

In 1923 Kemal Pasha, later known as Atatürk, had enormous prestige and power as the creator of a government which had saved the country from dismemberment and made the Turks masters in their own land. Inspired largely by the ideals of the French Revolution, he used his powers to abrogate outworn practices and to modernize his country. He did not cut his country off from the West but determined to utilize what the West had to offer. The achievements were momentous. In the political field the sultanate was abolished, the Republic was proclaimed under a one-party system which is now turning into a multi-party system, and a new capital was established and developed. In religion the caliphate was abolished, the political power of the clergy ended, and the Republic of Turkey made a lay state. The Mohammedan law was abrogated and in its place there were adopted codes modeled after those of Western Europe. The ancient Arabic alphabet was supplanted by the simpler Roman alphabet, educational opportunities were broadened, and the universities were reorganized and strengthened. Modern methods of agriculture and industry were fostered. The fez and the veil were removed, polygamy was ended, and women were emancipated. The program is still on the march, fostered by strong national

* In the fall of 1948 I visited Turkey at the invitation of the Turkish Institute of International Law and lectured before the law schools of the two universities, the University of Istanbul and the University of Ankara, and before the School of Political Science in Ankara. I talked over problems and methods of legal education with the members of the law faculties individually and in groups and gained some knowledge of their methods by visiting classes.

I am indebted to Mr. Muammer Baykan of the staff of the United Nations for reading this paper in manuscript.

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pride. It is against this swiftly developing background that legal education is to be seen.¹

II

The new state required many judges, lawyers, and law-trained functionaries. With the abolition of Mohammedan law the old ecclesiastical schools of law vanished and new law schools were needed.

There are now two law faculties in Turkey, one in the University of Istanbul with about thirty-five hundred students and the other in the University of Ankara with about twenty-five hundred students. In addition, there is the School of Political Science at Ankara which teaches some law in training for the higher levels of the civil service. All of them are supported by the state.

In the program of study the general pattern is that of the law schools of the civil law countries, though there are some courses and developments called for by local situations and needs. The course of instruction covers four years. In the first year Roman Law and Introduction to Law are included. Civil Law is given all four years and the other basic subjects, like Commercial Law, Criminal Law, Constitutional Law, Administrative Law, and International Law, are given at appropriate times. Some broader courses are required, as, History of Law and Philosophy of Law. The curriculum contains subjects which in the United States would be given by the college, as, Political Science, Economics, and Finance, since the students go to the law school directly from the *lycée*. There are some electives in the last two years. A foreigner will be struck by a fourth-year subject devoted to the history and purposes of the revolutionary reforms. This subject is included in all the university faculties, though the level of discussion in the law faculty is naturally higher than in the other faculties since the law students have already learned much of the social and legal achievements of the Revolution.

The degree awarded at the end of the four years is *licencié en droit*. The doctorate may be awarded for advanced study.

For the law graduates there are three principal fields open. The first is the practice of law, which is preceded by a period of apprenticeship with judges or lawyers and by a state bar examination. The second is the judiciary. The career of a judge is separate from that of the practitioner, though it is possible to transfer from it to the practice of law. The third is the government service (e. g., the foreign service), in-

¹ A short account of the accomplishments of the Revolution is Wright, *Truths about Turkey*, 26 FOREIGN AFFAIRS 349 (1948). A fuller account is in DONALD E. WEBSTER, *THE TURKEY OF ATATÜRK: SOCIAL PROCESS IN THE TURKISH REFORMATION* (1939).

to which a law graduate may seek to enter in competition with the graduates of the School of Political Science.

The buildings housing the law faculties reflect the two characteristics of Turkey, a long and vivid past and a strenuous present. In Istanbul the law faculty occupies an old palace, later the Ministry of War, which is being modernized and also supplemented by a new library. Ankara, chosen as the capital in 1923, is almost wholly new. It is being transformed from a provincial town into a city which, like Washington, is devoted to the activities of government, and the law faculty and the School of Political Science occupy buildings recently constructed for their use.

The instruction is by lectures, practical exercises, and seminars. The lectures I attended were delivered with great force and received a degree of student attention which would be unusual in America. The practical exercises are largely given by the assistants in law instead of by the professors. Women form about the same proportion of the students as in American universities, and some of the assistants on the law faculties are women. In both universities there is what an American teacher would deem an inadmissible aspect. The largest classroom is much too small to hold the largest first-year classes, and first-year instruction would break down unless the students were considerate enough to stay away in large numbers—which, of course, they do.

The basic contrast between the Turkish system of legal education and the American lies in the center of interest and emphasis. For the American law faculty the center is, of course, the student, and the method of treatment is through cases or problems which will fit the student to deal with the future cases and problems he will have as lawyer and as judge. The American law professor regards himself rather as a lawyer who has turned to teaching and who guides and assists the students in the development of their legal abilities.

For the Turkish law faculty the center is the law, and the instruction is devoted primarily to presenting a system and organization which will enable the student to understand and apply the law. The Turkish professor regards himself as a scholar and legal scientist who presents in his lectures the results of his scholarly and scientific work. In the selection and advancement of faculty members in Turkey much emphasis is placed on scholarly attainment and publication, and the acquisition of the doctorate within a prescribed time is essential. There are institutes in the university for the advancement of knowledge of various parts of the law, as, the Turkish Institute of International Law.

III

The Turkish law professors were very restrained in their comments on our law and education. I gathered they were critical of the lack of system in organization and statement of our law which keeps the common law from being an exportable product. They were critical, too, of our system of legal education which permits a law school graduate to be admitted to practice without ever having had any experience with judges or with practicing lawyers. They thought our total period of education, from primary school on, much too long and wasteful, and they would not desire it even if they could afford it.

On only one matter was their criticism explicit. This concerned the government of American universities and the protection of faculty members. In the Turkish universities the rector (or president) is chosen from the faculties for a term of two or three years, and neither he nor any member of his particular faculty can be selected for the succeeding term. The dean is similarly chosen for a brief term. The professors have life tenure under the law, and the governing body is made up from the faculties. The Turks doubt the wisdom of our system, under which the governing body is chosen almost exclusively from outside the faculties and the executive officers have long or unlimited terms. They doubt, too, that our informal safeguards of academic tenure and freedom are as strong and as wise as theirs, which are created by the law itself.

IV

French is the second language of most of the older faculty members in Turkey. This is natural because of the attractiveness of French culture and the historic relations of France with the Levant, as well as because of the adoption of codes on the French model.

Among the younger members English has a strong hold, owing, I think, to the dynamic yet stable character of British and American institutions, which make a strong appeal in a country carrying through a revolutionary and modernizing program. The very differences the common law presents call for study and consideration. I was impressed with the ability of several of the younger faculty members and with their suitability for graduate study here. The two law faculties would doubtless welcome opportunities to suggest those most able to profit by such study.

There are several difficulties in the way of graduate study in the United States. They exist, indeed, as to students from nearly all foreign countries, and they demand the attention of our law faculties. Our shortcomings in this respect prevent us from contributing our share to inter-

national understanding. They are the more serious because so large a proportion of the leaders in other countries study under the law faculties in their universities, and some of them would naturally wish to continue their studies in law here. But we in effect bar them from studying our political and legal institutions and ideas, and we turn them to study elsewhere. The difficulties I refer to are not financial, though fellowships are still important because of the lack of American dollars abroad. They are difficulties in curriculum and degrees, which are within the control of our law faculties.

The principal difficulty is the lack in nearly all of our law schools of a program designed for students trained in other legal systems who will be here for only a year or so. Our undergraduate courses are not what they desire. The ordinary graduate programs, assuming as they do a preliminary three years in detailed study of the common law, are not suitable. We do have something useful and important to offer to the future leaders of other countries in the study of our laws and institutions, but it can be given only through a program based on their own preliminary study and planned for them.²

A second matter, which may at first seem trivial, is the lack of appropriate academic degrees or awards for the work done here. These are particularly important for the younger members of foreign law faculties, whose retention and advancement will be affected by the quality of their graduate work as certified by a degree. The American bachelor of laws degree is out of the question. The usual law doctorate is likewise out of the question so long as it assumes special proficiency in the common law as a prerequisite. Various ways of surmounting the difficulty have been proposed. One is to create a special degree for the work, as, Doctor (or Master) of Comparative Law. If this is done the standards could still be high though the curriculum is different from that of the American student. Another method is to permit the student to do advanced work in his own law for a graduate degree here, as some European universities do. A third is to treat him as a special student while here working toward the doctorate in a university in his own country.

Unless our law faculties do develop satisfactory curricula and methods for foreign students, the United States will surrender to other countries a field of study which is of much importance in the peaceful development of the world.

² A conference held in Paris under the auspices of UNESCO in March, 1949, as Professor John Hazard informs me, adopted a resolution on the subject. It recommends that some universities in each country offer courses of study organized for foreign students who had been trained under other legal systems.