French Law faculties on the post-war media scene: a vengeful and hopeful reconstruction

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A L'INSTITUT DE DROIT INTERNATIONAL

L'institut de droit international, qui n'avait pu se réunir durant toute la guerre, vient de tenir, sous la présidence de sir Thomas Barclay, son vice-président, dans la salle des Actes de la faculté de droit de Paris, une courte session extraordinaire. Une trentaine de membres appartenant aux nationalités française, alliées ou neutres y ont pris part.

L'institut, qui s'est borné à l'expédition des affaires administratives, a décidé de se réunir en session ordinaire à Washington, en octobre 1920, sous la présidence de M. Elihu Root, pour examiner les infractions au droit des gens commises durant la dernière guerre.

A test for French society as a whole, the Great War was also a test for academic environments, law schools especially. These “diverse little societies”, as Immanuel Kant called them, which would be a part of the “scientific state” that is the University, were devastated by a conflict that mobilized the whole of society in the war effort. Law schools, according to a well-established tradition, had so far remained rather closed on themselves. Enjoying the position of “professional faculties”, in the same way as the faculties of medicine, they did not cease to attract in their amphitheaters, promotions of students whose important numbers guaranteed the finances, as well as the growth of the teaching staff. In addition, this influx made it difficult to even use university premises, which were rebuilt in the first decades of the Third Republic.

A few months after the beginning of hostilities, in November 1914, the traditional solemn first day of class, one of the few university demonstrations where the public massed alongside professors, students, and local and national notables, revealed the extent of

the draft. If the professors of the Paris Faculty of Law, the most present through the national press, had for many been spared due to their age, it was quite different for those of provincial faculties but especially for students, called en masse to defend their homeland. It was therefore to a handful of reformed young men, not yet mobilized, and a few female students that law school promotions thence boiled down to.

In spite of the desertification of amphitheaters, which, just a day before, had been crowded, the professors who remained behind nevertheless sought to make their contribution to the Sacred Union. Maurice Hauriou, dean of the Toulouse Faculty of Law, thus set academics the goal of defending “la culture helléno-latine [Hellenic-Latin culture]”. His Parisian counterpart, Ferdinand Larnaude, said he wanted to prepare for “la Victoire contre les Barbares [Victory against the Barbarians]”. The war to be waged was therefore deeper than a simple inter-State conflict: it was a “legal war”. Therefore, among the literati, the jurists who had not joined the battlefields found themselves invested with a particular mission, which took different forms on the public scene. First, legal faculties opened their courses to the public, who went there to see academic luminaries discussing war-related topics. The purpose of these interventions was actually to demonstrate the multiple faults attributable to Germany. This was the case of Louis Renaud, the famous “juriste du ministère des Affaires étrangères [jurist of the Ministry of Foreign Affairs]” and 1907 Nobel Prize winner, who dealt with the theme of the “law of the war on land”, thus exposing German breaches of this set of legal rules. For their part, the students who were not mobilized organized the first commemorations in honor of their classmates and elders who fell in battle. A mass in their honor even brought together public and private higher education institutions in 1916.

The participation of law faculties in the war effort, however, was not limited to this adaptation of the university environment to the exceptional conditions of the time. The faculties were present on the frontline, which the readers of newspapers could see by scrutinizing the lists of those who had “died for France” devoted to the staff of the Ministry of Public Instruction. But the leaders of these institutions who remained behind were also working to design new legal mechanisms to cope with the unprecedented context. They thus created the National Action Committee for the Comprehensive Reparation of War Damage, which became their preferred space for reflection during the conflict. Faced with the appalling destruction caused by it, and relying on a law passed at the end of 1914 providing for the future creation of mechanisms of reparation,

they intended to contribute their expertise to the national will. Moreover, by devising the rules according to which individuals and professionals could claim compensation from the State, they seemed to escape, unlike their colleagues in other disciplines, the simple promotion of the virtues of a democratic society in the face of barbarism, against a background of latent anti-Germanism since the defeat of 1870. Until the end of hostilities, the issue of compensation for war damage would therefore remain the showcase for the participation of university jurists in collective mobilization. It would even allow them to occupy a special place in the academic world by reinforcing their image as experts free from any ideological and political inference, an image they had been seeking for very long.

The peace that was emerging from the signing of the Armistice at Rethondes on November 11, 1918 seemed likely to involve law faculties once again, if not more. Indeed, international law must become the tool for lasting peace. Thus, the “legal war” was followed by “peace through law”. However, the reconstruction in which the law faculties were engaged was promising to be difficult. Two academic worlds, separated during the war, were reunited again: the one that had melted into the mass of fighters gone to the front, and the one that had taken part in the intellectual mobilization at the back. For the latter, this meeting meant the emergence of a number of concrete problems. For when it came to ideology, when professors demonstrated the innocence of France in the outbreak of hostilities, or else to technique, when they determined the contours of compensation for material damage, they essentially stuck to theoretical constructions. The observation of the extent of the destruction, but above all the return of soldiers to civilian life, caused a shock in French society as a whole, which resonated particularly in law schools. They were suffering the heavy toll of four years of war. Their student numbers took nearly ten years to return to those of before 1914. All this, mingling with the joy of victory and peace, created a strange atmosphere that would make the substrate of reconstruction.

In the aftermath of the Great War, law schools were torn between the memory of the sacrifice, and the duty to overcome the test of a particularly deadly conflict. The same tension was visible throughout French society, but with regards to the second imperative, legal faculties had to redouble their energy as they were depositories of international law, presented as a key to peace. In reality, the two faces that were those of law schools during the conflict, one ideological and galvanizing, the other scientific

and pragmatic, did not cease to coexist. They thus appeared as clearly ambivalent agents. Claiming victory over the German enemy, they maintained the spirit of revenge. But participating in the construction of a lasting peace, they also tried to overcome past quarrels.

From Strasbourg to Versailles: consecrating the victory

Since the beginning of the Third Republic, the memory of the lost territories of Alsace and Lorraine had been raising the specter of defeat against Prussia. The French academic world was also bruised by the amputation of its Strasbourg faculties. Thus, in January 1919, national newspapers were proud to announce that the French flag was once again flying over the Alsatian university. German teachers were dismissed without hesitation. This return of the French university, after more than forty years of absence, first took place in a hurry, but the start of the of the following academic year was promising to be sumptuous. Attended by President of the Republic Raymond Poincaré, but also the Academie Française [a French institution in charge of delineating the French language], in the person of thephilosopher Henri Bergson, or the one who was presented as the “victor of Verdun”, Philippe Pétain. Nothing was left to chance to mark the return of this “fortress of pan-Germanism” to the French fold.

Delegates of the Strasbourg students were received at the Élysée Palace in June 1919. They then visited the Palace of Versailles, where the signing of the peace treaty with Germany was to take place, barely two weeks later. Ferdinand Larnaude, dean of the Parisian faculty, was also part of the French delegation. Having participated in the drafting of a memoir at the request of the Government in order to establish the responsibility of the Kaiser in the outbreak of the war, he also carried the idea of a special tribunal, which however would never see the light of day.

The Peace Conference, however, had a more important issue at stake: fixing the amount of compensation owed by Germany and its allies. It was actually the counterpart of the “charte des sinistrés [charter of victims]”, voted in April 1919, which sets up the famous compensation procedure on which law professors had been working for more than four years. Indeed, while discussions had long focused on the rules to be adopted, in order to compensate the injured citizens in the fairest way, the counterpart of compensation had always been the payment of a heavy price by the enemy. The Peace Conference thus recalls that the jurists did not only work for full compensation.

Their approach was also aimed at maximizing the assessment of destruction in order to impose the heaviest financial sanctions on Germany.

It was also against the opinion of France that the Treaty of Versailles laid the joint responsibility of Germany as well as its allies. Article 231 set the total amount of compensation at 132 billion gold marks. Of this amount, only 52 billion needed to be paid out immediately. This postponement of the debt must have allowed its holders to subsequently request its revision. However, France would always make a point of applying the motto of the Minister of Finance at the time, Louis-Lucien Klotz: “l’Allemagne paiera [Germany will pay]”. The professors of law followed in the footsteps of the Government by insisting, without success, on the normative value of the Treaty of Versailles and by denouncing German bad faith at each new opportunity of revision, in 1924 through the Dawes plan and in 1931 through the Young plan.

The attitude of law professors in the aftermath of victory was confusing to say the least. Among the intellectuals who had taken part in the war effort, they distinguished themselves by a marked distance from the passion for war. Their public courses, with a distinctly ideological vocation, became rare from 1916, when fatigue grew across the country. Nevertheless, while other intellectuals were rapidly distancing themselves from the simplifications they had made, the sudden adherence of master jurists to a victory in which the victor crushes the vanquished, strongly resembled a sudden volte-face. However, the latter was part of a strong trend, of which the Government was the initiator. This behavior attracted the ire of left-wing press in the 1920s, which deplored, for example, the fact that the homage to the dead was recovered, within the Paris Faculty of Law, by students of the Action Française eager to stir up enmity between European peoples.

The reasons for this development were probably multiple. Also, the resurgence of anti-Germanism among jurists was probably not unrelated to the awareness of the horror of war, after the return of students as well as colleagues from the front. Nevertheless, even though these middle-aged men had not seen the trench warfare with their own eyes, many had lost at least one son. The desire to revolve around power therefore seems a plausible explanation. During the conflict, these men had hoped they would finally be able to contribute to the legislative process. Nevertheless, their advice was only vaguely heard and the famous “charte des sinistrés” was in this respect a bitter failure. Despite this disappointment, they did not despair of one day becoming the

precious support of governments. They would rather confuse fidelity with impartiality than be sidelined again. However, the attitude of law professors was not homogeneous. Moreover, most of the professors who intervened in the public debate also showed a second face, more favorable to a lasting peace.

From the United States to The Hague: Building a lasting peace

Law faculties, long engaged in the routine reproduction of the social body of jurists, had long been mere examination machines. However, they had experienced a real revival in the last decades of the 19th century, during which new professors devoted themselves more and more to research. They had even begun to develop ties with foreign universities on the eve of the Great War. Unfortunately, this put an end to this recent process. All communication was of course cut off with the universities of enemy countries, but relations with the institutions of friendly or neutral countries were also reduced to the congruent portion.

It was not until the entry into war of the United States, in April 1917, that one could observe a revival of French universities for their international relations. A few days later, the Minister of Public Instruction Théodore Steeg gave an interview to the *New York Times* and the *Chicago Daily News*, in which he invited American students to come and study “upstanding and proper science” in French universities. He intended to make them the new academic stay of young Americans, previously more inclined to attend German universities. The signing of the Armistice offered the first opportunity to make this wish come true. Allied soldiers present at the front had to wait for the ratification of the Treaty of Versailles before being demobilized. Nevertheless, on the solicitation of two associations of American soldiers, the *American University Union* (AUU) and the *Young Men Christian Association* (YMCA), General Pershing, in charge of American forces landed in Europe, authorizes men who had abandoned their university curriculum to join the American army to return to French University until the end of their incorporation.

Notwithstanding the inertia of political authorities, whose declarations were not followed by any effect, French universities organized themselves to welcome soldiers from across the Atlantic. In February 1919, a thousand student soldiers were welcomed in Montpellier. In total, six thousand men joined fourteen university cities, where the press encouraged the inhabitants to open their doors to these atypical students. But the exotic

language, jazz music and black skin of some of the marines soon faded before the unfairness endured by French soldiers. The latter were not allowed to return to their amphitheaters while the Americans found refuge there and the British returned to their own universities. The arrival of American students in French faculties therefore generated an ephemeral craze. However, if transnational academic relations would no longer be dealt with except within the academic framework until the end of the Third Republic, this event was symbolic of a desire existing within University to overcome national antagonisms.

The commitment of law professors to a happy reconstruction was particularly visible through their investment in the League of Nations. The latter, introduced by the Treaty of Versailles, revived a movement that intensified at the beginning of the century: that of “peace through law”, which set as its objective the orientation of international law in favor of lasting peace between peoples. While the violence of fighting increased pacifism in its most diverse forms throughout society, this trend was the embodiment of its liberal form. Moreover, it was not totally incompatible with the revanchist spirit that prevailed after 1918. The International Legal Union (ILU), which brought together academics and politicians with the aim of supporting the developments of the League of Nations, brought together for example only personalities from the countries of the Entente. The ILU revived the Institute of International Law of the Paris Faculty of Law, which undertook to train civil servants of all countries in international law, in order to guarantee peace between peoples.

France’s vision of international law at the League of Nations was determined by the political staff’s conception of it. Indeed, when appointing its delegates to successive assemblies, the Government chose personalities in accordance with its line. The rise to power of the left-wing cartel thus gave the advantage to more optimistic internationalists. This was the case of René Cassin, professor from Lille and president of the Federal Veterans Union (Ufac), who initiated the International Conference of Associations of War Mutilated and Veterans (Cimiac), working to bring together former soldiers of the Great War, across their nationalities.

Despite the solicitude of a number of their leaders for the internationalist project defended by the League, law faculties seemed to be moving diametrically away from it. The Paris Faculty of Law, at the forefront of the national press, was torn by the struggles between students sympathetic to the Action Française, who became the

majority within the General Association of Students of Paris (Agep), and those of the League of Republican and Socialist University Action (LAURS). The first provoked violent demonstrations in 1936, when Gaston Jèze, a renowned professor of public law, became the adviser of Ethiopian Emperor Haile Selassie to the League of Nations, in the context of the conflict between him and Mussolini's Italy. The League of Nations had been agonizing since the 1930s. It was unable to cope with the rise of the far right in Europe and powerless to appease many international conflicts. It was finally destroyed by the outbreak of the Second World War, as was the project of "peace through law".

The purpose here is not to judge the effectiveness of law faculties in the reconstruction process. Their real influence was very small. As has been mentioned, the political staff's receptivity to legal theory was limited. The complexity of the message was certainly the cause, but also the very notion of national will, which emanated the law from the representatives of the people. This half-tone portrait of law schools nevertheless highlights the very complexity of the word "reconstruction" as it resonates in Interwar society. Theories and affects met there, generating contradictory forces, which could go as far as paralysis.

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