Toulouse and Paris: the ties of competing law schools

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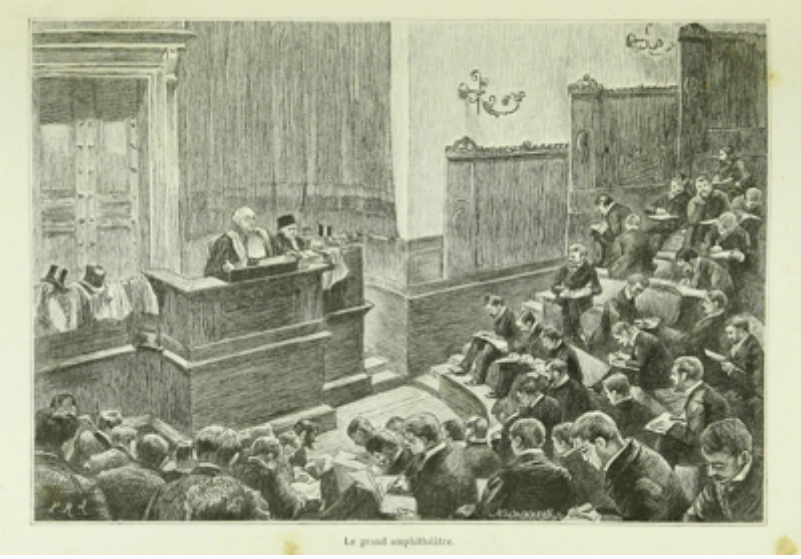

Paris and Toulouse are the two most important law schools in France. Throughout the 19th century, they dominated the French academic landscape, notably by their attractiveness, their enrollment numbers and the degrees they awarded. They and a dozen other legal faculties on the territory created by Napoleon from as early as 1804 shared the same professionalization objective: they organized examinations and delivered the titles necessary for the practice of legal and judicial professions (magistrates, lawyers, teachers, etc.) to children of the most privileged classes. Everywhere, education was focused on civil law, Roman law and procedural law. Little to no provision was made for other branches of law (administrative law, commercial law or legal history). The contemporaries, among whom some famous writers (Balzac, Zola and others), severely judged the teaching methods and the content of the courses. Most often boredom, routine and conformism were the ones to truly seat the benches of the amphitheaters. There is some injustice in taking this black legend at face value. Everyone agreed on the seriousness of legal education, the rigor of the teachers

(though some of them retained their originality and taste for innovation) and the utility of knowledge which, superficial though it may have been in its transmission, constituted a common cultural background of the ruling elites.

It was not until the 1860s that a certain intellectual and scientific ambition began to grow within the law schools. Under the Third Republic, they underwent significant changes. To cope with the competition from private institutions, to adequately train the clientele attracted by the public service, to respond to the economic and social transformations of French society, reforms were undertaken to better adjust the education to the challenges of the time. Evidence of this modernization, new disciplines appear in the curricula (political economy, constitutional law, public finance, colonial law, etc.). The most motivated legal apprentices could move towards a doctorate in legal science or in political and economic science. The faculties gradually opened up to slightly less wealthy social classes. But the high cost of education still excluded (and would for a long time to come) the working classes. The Belle Époque is often considered the “golden age” of law schools. For better and for worse, they managed to uphold their hegemonic position in the higher education of the French elites – considered by many a “Republic of Jurists”. They took full part in the debates surrounding the birth of economic and social sciences (Léon Duguit and a few others even wanted to recognize them as “faculties of social sciences”) as well as in the propagation of Republican catechism. The political and social expertise of law professors was recognized and valued. Is it any wonder that most of the tutelary figures of French legal science (from Hauriou to Duguit, including the Esmein, Gény, Saleilles, Thaller, Planiol, etc.), these French “great jurists”, belong to this era of glorious memory? During this period, the faculties of Paris and Toulouse, major players in the national academic history, experienced contrasting developments. While the former outrageously dominated the academic space, the latter was able to use its assets to build an enviable reputation and a respected position in the legal spheres.

Hierarchies

The university reform supported by the republican power tried to rebalance the hypercentralized organization of the French system and to develop the scientific spirit of academic institutions. The shortcomings of the Napoleonic academic model have become glaring, and some even blame it for the defeat of 1870. The Third Republic

endeavored to initiate a movement of reforms, by increasing the number of teachers, encouraging the creation of new faculties (Bordeaux, Montpellier or Lyon), expanding the older ones, strengthening their financial means or modernizing their management (cf. Law on Universities of 1896). The policy of decentralization yielded certain results, in particular by revitalizing several provincial poles, but it did not undermine the prominence of Paris, which was, in short, consubstantial with the French system. To give just one example, 43% of students (all faculties combined) were concentrated in Paris in 1914. While Toulouse retained its status as the second law school in France, it remained far behind the first. On the eve of the Great War, the Parisian faculty boasted some forty teachers when Toulouse had around twenty. At the same time, the former claimed over 7,500 students (just under half of all the law students in the country), while the latter could barely oppose a thousand.

The economic and political domination of the capital was manifest in the academic world. Higher education was a luxury, a mark of social distinction. During the interwar period, the percentage of university students between 19 and 22 was never above 3%. The expense was considerable for families, especially when it involved a geographical detachment of the student and their settlement in another city. Either way, law studies presented the advantage of being relatively unselective in school, while simultaneously opening a very large number of doors for higher-class children; most of the professions they sought took the path of law school. While this social selectivity was a major and general characteristic of higher education, it did not present itself in the same way from one faculty to another. In 19th-century Toulouse, most of the students were the sons of longstanding landowners, born in the liberal and commercial bourgeoisie. The eve of the Great War saw a very sensitive development, as the sons of the liberal professions became a majority on the benches of the faculty. These students represented a certain local elite, but not necessarily the great, wealthiest families who played a leading political and social role. As far as the available data allow us to confirm, it appears the sons of the higher society of Toulouse had begun to spurn law school. Conversely, the larger, more contrasting and shimmering (although not working class in the least) Parisian student population, however, concentrated the very wealthy and influential categories. The sons of the “elites of the Republic”, endowed with extensive social networks, political support, considerable economic capital, were preparing to enter the senior civil service, embark on a great career as business lawyers or even dreamed of a national political destiny. Research into student trajectories and legal outlets under the

Third Republic are lacking. However, some trends were emerging: the Toulouse faculty mainly fed the judiciary and local administrations, while the Paris faculty also fed the cogs of the high state administration, nurtured political circles and trained the business elite.

This Parisian prominence was also observed in the teaching corps itself. Historian Christophe Charle has clearly shown that, throughout the territory, the profession of law professor was often a promotion channel for the middle classes of the bourgeoisie, accessible to those to whom the more prestigious curricula remained closed. In many ways, law aggregation offered meritocratic (and more egalitarian) perspectives to intellectuals. Future teachers were often awarded brilliant grades and prizes during their education. The introduction of a national aggregation competition in 1896, supposed to guarantee a better quality and homogeneity of the teaching body, ultimately widened the gap between Paris and the province. The young law doctors from all over France who prepared for this competition in the capital, with Parisian teachers, maximized their chances of success. In the first decades of the century, 60% of the graduates in legal history and over 55% of the graduates in private law came from the academy of Paris. Many provincials came to Paris to get a rigorous preparation for the competition and to join the future professors of the jury which, again, is dominated by Parisians. Although new teachers started with several years in provincial faculties, many candidates strove to return to Paris. This return was, in the academic space, a marker of excellence and success. The competition for access to Parisian chairs was stark, even more so in the fields of medicine or humanities. It was only accessible increasingly late, between the ages of 40 and 45. It should be noted that Toulouse resisted this Parisian attractiveness of teachers better than other faculties. We will come back to this. In all cases, Parisian professors enjoyed privileged access to prestigious institutions of knowledge (many of them are members of the Academy of Moral and Political Sciences), rubbed shoulders with the hierarchical elite of the law (starting with the members of the Cour de Cassation (French Supreme Court)), and complemented their teachings with symbolically and financially lucrative activities: private consultations, consulting or political-administrative positions. Much more so than their provincial colleagues, they were involved in editorial ventures that increased their scientific visibility and influence in doctrinal debates, drawing on the powerful legal publishing sector. The majority of disciplinary or sub-disciplinary journals were founded by Parisians (some Toulousians also joined their editorial boards); the “doctrinal” journals with predominantly provincial focus were only a

handful. In Toulouse, we note the existence of the Recueil de Législation de Toulouse [Legislative Compilation of Toulouse] or, even later, the Revue de droit rural et d'économie agricole [Rural Law and Agricultural Economy Review]. It should also be reminded that accessing a Parisian position offered opportunities for a major national political career or participation in expert functions (litigation committee, Board of Governors, advisory councils, etc.). Under the Third Republic, the Parisian faculty thus had seven deputies and two ministers in its own ranks. Paris or the French desert?

Competition

Unlike the faculties of science and humanities satellited by the capital, however, the provincial law schools boasted a certain attractiveness and an effective academic life. For teachers, choosing to make a career there was seldom a default choice, but a career strategy for those who preferred provincial establishment over Parisian glory. Toulouse perfectly illustrates such a configuration. The attractiveness of Paris only moderately affected its student clientele. Long unrivaled in its region, the Toulouse faculty mainly attracted students from the departments of the Southwest (the share of whom attending the Paris faculty would decrease with the creation of new faculties such as that of Bordeaux). It welcomed foreign students (Russians, Egyptians, Spaniards, etc.) and had more than thirty on the eve of the Great War (in Paris, the number of foreign students was approaching 900 around 1910). Ultimately, before 1914, its recruitment pool tightened significantly around Haute-Garonne and its bordering departments. A similar trend was evident in the teaching profession: many Toulouse professors had studied and wished to complete their careers there. Certainly, some only made a short visit to the Pink City to better finish in Paris (for example, Charles Beudant, Achille Mestre or André Fliniaux), and Maurice Hauriou's failure to accede to a Parisian chair remains in memories. But, in general, these teachers (who frequently started their career in other southern cities or in Algiers) opted for a permanent return to the Occitan capital, far from the lights of Paris.

Where Paris highlighted its influence and its academic power, Toulouse boasted a prestigious legal tradition dating back to the 13th century (the founding of the university has been dated back to 1229) and a never refuted historical sensitivity that contrasts with the methods of law interpretation traditionally in force. This sensitivity was notably illustrated by the humanist jurists who studied or taught in Toulouse (from Jean de

Coras to Pierre Grégoire, Jacques Cujas to Jean Bodin) but also, from the 1850s onward, by the emergence of its “Historical School of Law”, which borrowed its methods from German jurists. In fact, during the Second Empire, Toulouse was, after Strasbourg, a decisive place for Franco-German intellectual exchanges. In 1851, several Toulouse professors participated in the creation of a unique institution devoted to legal science, the Toulouse Academy of Legislation, which obtained the collaboration of the greatest German jurists of the era (Savigny, Mittermaier, Bluntschli, etc.). Still today, the Academy continues its work after more than a century and a half of existence. This is how Toulouse made the renewal of legal methods (in the fields of administrative law, criminal law or international private law) a battle horse and a marker of identity. Successive generations of teachers continue to refer to it. While in France several faculties have had similar scientific and critical ambitions (for example, Strasbourg and Lyon), the Parisian faculty never really carried such a reforming ambition as a banner (even if, of course, some of its teachers were at the forefront of intellectual debates and were able to evolve their discipline).

The Republic’s academic policy has contributed to increased competition among law schools. The creation of new State faculties and, following the Freedom of Higher Education Act of 1875, new public institutions (Catholic faculties, municipal schools, private institutions) increased the educational offer. To satisfy their career and/or strategies, students and professors alike saw a significant increase in their choices of institutions, courses, training and positions. The material conditions were improved: many buildings were renovated and libraries were created or enlarged. Faced with social and economic developments, changes in the State, and requests for professional certification of families, the government multiplied and generalized the subjects taught. Previously focused on civil law, the training was enriched by courses in the fields of legal history, political economy, constitutional law, administrative law, colonial legislation, etc. The law schools did not intend to be mere vocational schools but institutions of high culture where the “legal spirit” and fundamental principles were transmitted. Newly proposed funding (through university foundations or municipalities, for example) complemented the offer according to local needs and included a series of complementary courses, open classes or optional exclusive conferences. Naturally, Parisian resources were much more important than those of the other faculties, but they attempted to use them cleverly in the service of a more or less ambitious and coherent policy. In Toulouse, State support allowed for the creation of complementary courses

(Pandects, international law, legal history, etc.). In the same way, the city had, for several years, taken charge of courses in maritime law, rural legislation and economics, or comparative civil law. The southern university itself instituted courses in penitential and social science. In terms of teaching and science, the Parisian faculty remained very attached to a classical culture, seldom making displays of boldness, following (frequently enduring) developments rather than preceding them. Despite its privileged position, it never really defined an international policy, did not seek to strengthen practical teachings and showed only a marginal concern for openness to the outside world. Without even mentioning the establishment of a Catholic law school, Parisian teachers nevertheless had to face competition from the École libre des sciences politiques (1872) and the École des hautes études commerciales (1881). This competition did not exclude, for teachers and students alike, bridges between these institutions. The fact remained that Paris, more than any other faculty, was under formal notice to (re)position itself on the market of administrative competitions and the preparation of executives of the nation. Toulouse and the other hexagonal faculties naturally played their part in the development of these “government sciences” (embodied by the teaching of political economy). The Toulouse faculty symbolically offered a scholarship to send a brilliant student to the École libre des sciences politiques. In 1896, public law underwent a major boom, facilitated by the division of the aggregation (the formation of a community of public law specialists, with its specific scholarly and educational tools, attentive to the work of the Conseil d’Etat (highest administrative Court in France)). Some Parisian professors even donned the clothes of jurists of the republican state, guardians of its principles and values. Despite the opening of a few public courses (in Paris, Toulouse, Bordeaux or Nancy) and the efforts of some lawyers, “social science” (that is to say, nascent sociology) most often remained on the doorstep of reluctant legal faculties. Nevertheless, around 1900, it became necessary for the faculties of literature and some Parisian institutions (Collège libre des sciences sociales, École des hautes études sociales) to claim this territory, its approach and its results.

Much more than the (too distant) Parisian competition, the faculty of Toulouse suffered mainly from that of provincial rivals. It had to face the creation of the faculties of Bordeaux (1870) and Montpellier (1878). These institutions reduced not only its recruitment pool in the South but also the income it could hope to derive from the influx of students. A Catholic law school even came to be, albeit briefly. After 1900, the

Toulousian dean and his colleagues were also concerned about the appearance of law schools in Limoges (1909) and Clermont-Ferrand (1913). Their teaching staff consisted mainly of lawyers. They were financed by municipalities concerned with satisfying families who wanted to guarantee the future of their offspring without exile or unnecessary costs. To this competition, sometimes deemed unfair, was added the fear of being downgraded, of being distanced or even “provincialized” in an academic space that was still deeply national (the era saw a lot of tension between “little homelands” and the national State). The ambition of Toulouse was indeed to combine its ancient and unique legal tradition (nourished by its Occitan history) and its ability to remain the other great French law school, capable of bringing contradiction to the first. In short, to be not only a provincial faculty but a faculty with a national ambition outside of the capital. Delicate equation. During his long deanery, Maurice Hauriou never ceased to chase after this ambition which would allow his faculty to reconcile tradition and modernity, to maintain its rank in a credible manner. The German model was not very far away. Not to play in equal parts with Paris (which would hardly be possible) but to be a law school in its own right, concerned with the quality of studies, the worth of the teachers, the scientific and pedagogical reputation of the institution, its relations with professional worlds. In 1905, for example, the faculty founded a technical institute of law, including a school of notarial law and a practical school of law.

Conflicts

Was this Parisian domination inevitable? Provincial faculties were increasingly reluctant to be treated by the ministry as “second class” institutions. The persistent feeling of being mistreated by successive governments and being somewhat disdained by richly endowed and enjoying substantially privileged Parisian colleagues lead them to consider collective action to defend their interests. The initiative for provincial collective action starts in Toulouse. In 1904, Maurice Hauriou, a professor specialized in administrative law, planned to create an association of members of law schools to bring provincial universities closer to the centers of power (starting with the ministry) in order to be able to influence their own destiny. The aim was both to achieve an overall improvement of the status of provincial teachers (the conditions of provincials were much lower than that of Parisians) but also to improve their representation in the various committees, juries, etc., systematically dominated by the Parisian faculty. This project then obtained the support of thirteen colleagues from more peripheral disciplines

that aimed to challenge the model of civil and judicial excellence. This project ended up failing in the face of the resistance of the Parisians and the more traditional fringe of the provinces, still attached to this civil and judicial orthodoxy. However, the Toulouse initiative was not entirely in vain. This creation of an association of members of law schools was born in 1909 on a new, more consensual and inclusive basis. Paris and the civilist model were less stigmatized. Still, the Parisian faculty was defiant of this association intended to defend common interests but which offered provincial spokespersons a platform to challenge centralism and the seizure of resources (human, financial, symbolic, etc.) by the capital. Patronage (not to say recovery) by Parisian teachers of major collective operations turned out to be a necessary condition for their viability or success. In 1901 already, Nancy civilist François Gény regretted that the young Société d'études législatives, originally created by him and a few others to animate the methodological and scientific reflection in the provinces, had transformed into a think tank at the service of Parisian power and ambitions.

The provincial faculties undoubtedly had some legitimate reasons to denounce the attitude of their guardianship and of the Parisian faculty. Hauriou was able to tap into the growing dissatisfaction of some of his colleagues. He set in motion a collective movement of protests that would grow in importance with time. After the Great War, the disagreements between Paris and the province would become less and less discreet, especially on the question of the salaries of law professors. Still, conflicts did not go so far as to secession and the unity of the body, hidden as it was, prevailed. Beyond martial declarations, Hauriou, who became president of the aggregation jury in 1920, recruited with his colleagues two provincials… and three Parisians. Rather than a direct confrontation with Paris, provincial faculties most often preferred, among others, strategies of territorialization (for example, by establishing local "doctrinal schools") or internationalization (by investing in international congresses or teaching abroad). On the eve of the Great War, Toulouse, via Maurice Hauriou, embodied this era of "doctrinal cathedrals" while Paris, on the other hand, continued to dream of itself as rector of national legal life.

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