

## The Legal System of Iran

A foreign observer cannot understand the American legal system by reading the Constitution, the Statutes at Large and the United States Reports. These do not disclose a political party's role, the ineffectual electoral college, the work of the legal profession generally, nor the potency of the Washington and New York lawyer in particular.

Formal legal sources must be supplemented by texts, law reviews, the popular press, magazines, descriptions of non-lawyers<sup>1</sup> and by, it is suggested, reading some recent fiction. The latter might include novels by Lee, Cozzens and Drury, and the novels and short stories of Auchincloss and Robert Traver (Judge Voelker).<sup>2</sup> Indeed, to explain the workings of our legal system to a layman or to a foreign lawyer, fiction may be more instructive than treatise.

Similarly, in Iran the formal legal system is an amalgamation of traditions and scholarship emanating from Islam, Europe, Asia and the heterogeneous cultures of Persia. Familiar institutions flourish—courts, legislatures, administrative agencies and police—but despite common forms they operate in a context unfamiliar to the Westerner.<sup>3</sup> Insight into the cultural

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<sup>1</sup>Descriptive and general works on American legal institutions helpful to a foreign observer might include: CARLIN, *LAWYERS ON THEIR OWN*; MAYER, *THE LAWYERS*; SMIGEL, *THE WALL STREET LAWYER*; LEWIS, *GIDEON'S TRUMPET*.

<sup>2</sup>COZZENS, *THE JUST AND THE UNJUST*; *GUARD OF HONOR*; AUCHINCLOSS, *POWERS OF ATTORNEY*; *THE GREAT WORLD OF TIMOTHY COLT*; TRAVER, *THE ANATOMY OF A MURDER*; TRAVER, *SMALL TOWN D.A.*

<sup>3</sup>Materials in English pertinent to Iranian Law include: Bartsch, *The Industrial Labor Force of Iran: Problems of Recruitment, Training and Production*, 25 *MIDDLE EAST J.* 27 (1971); Bishop, *Anglo-Iranian Oil Company Case*, 45 *AM. J. INT'L L.* 749 (1951); *Anglo-Iranian Oil Company Case*, 15 *MOD. L. REV.* 102 (1952); Feliciano, *Anglo-Iranian Oil Dispute*, 26 *PHIL. L. J.* 55 (1951); Aghababina, *Compulsory Affixation of Trade-Marks to Certain Products in Iran*, 39 *T. M. REP.* 682 (1949); Engel, *Iran and the Optional Clause*, 22 *TEN. L. REV.* 365 (1952); *Constitutional Law in Iran*, 49 *ABA J.* 568 (1963); *International Petroleum Cartel in Iran*, 11 *J. PUB. L.* 64 (1962); *Oil, Caviar and the Law*, 12 *HARV. L. S. BUL.* 9 (1961); *Patent and Trademark Regulations Effective July 15, 1958*, 57 *PAT. & T. M. REV.* 31 (1958); Farmanfarma, *The Oil Agreement Between Iran and the International Oil*

context so important in understanding law may, therefore, be gained best from unconventional sources.<sup>4</sup>

Further insight is supplied by knowledge of the expanding Iranian economy, now experiencing one of the world's most rapid growths. Industrial production, oil revenues and transportation facilities are improving annually and the rate is likely to be sustained *if* the present level of political stability continues. The completion in 1972 of the railroad to Europe through Turkey and the expansion of ports in the Persian Gulf contributes to immediate growth possibilities. Private business interests are extensive, although oil resources are nationalized and some industries are government operated.

Iran shares the challenging problems of the West: a growing urban population, fractious students, inadequate vocational educational facilities, a shortage of trained managers, an acute shortage of water, and pollution which threatens the air of Tehran and the waters of the Caspian. Iran's capacity to respond is aided by the wealth of its oil reserves; the promise of copper and other mineral deposits; the artistic abilities of its people, who treasure the appearance of beauty; a strong central government led by the Shah; the competence of western-trained technicians and bureaucrats found in several Ministries; and by well-equipped, but untested, armed forces.

Industries are replacing subsistence agriculture and an urban way of life is on the way to becoming more dominant than rural. However, the shortage of wise and educated men, an inefficient bureaucracy and a fragile

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*Consortium: The Law Controlling*, 34 TEXAS L. REV. 259 (1955-56); Jacobs, *Economic Rationality and Social Development: An Iranian Case Study*, 2 STUDIES IN COMPARATIVE INTERNATIONAL DEVELOPMENT 137 (1966); *River Boundaries: Legal Aspects of the Sha-t-al-Arab Frontier*, 9 INT'L & COMP. L. Q. 208 (1960); Maloney, *Injunction without Sanction: The Iranian Fiasco*, 27 IND. L. J. (1952); Kahdduri, *Iran's Claim to the Sovereignty of Bahraavn*, 45 AM. J. INT'L L. 631 (1951); *Iranian Family Protection Act*, 17 INT'L & COMP. L. Q. (1968); Soratgar, *Arbitration in the Iranian Legal Systems*, — ARB. L.J. 143 (1965); *The Sapphire Arbitration Award; The Procedural Aspects: A Report and a Critique*, 3 COL. J. TRANS. L., 152 (1965); U.S. Bureau of Labor Statistics, Dep't. of Labor, BLS Report No. 276, *Labor Law and Practice in Iran* (1964); Wall, *The Iranian-Italian Oil Agreements of 1957*, 7 INT'L & COMP. L. Q. 736 (1958); Westberg, *The Joint Stock Company in Iran*, 22 BUX. LAW. 147 (1967); *Foreign Investments in Iran*, 24 BUS. LAW. — (1969); Westberg and Brand, *The New Iranian Joint Stock Company: 1969 Amendments to the Commercial Code*, 4 INT'L LAWYER 900 (1970); KHADEM, ALI, *THE LAW AND THE FOREIGN NATIONALS IN IRAN* (Tehran 1970); Bank Markazi Iran, *Centre for the Attraction and Protection of Foreign Investments*, INVESTORS GUIDE TO IRAN, (1969); U.S. Military Assistance Advisory Group to Iran and the Judicial Department. *Imperial Iranian Law and the Iranian Legal System* (1965).

<sup>4</sup>*Fiction: VAUGHN, L., THE JOKEMAN* (a novel set in a Persian University); ES-FANDIARY, *IDENTITY CARD; THE DAY OF SACRIFICE*; MORIER, *HAJI BABA OF ISFAHAN*, (a classic); WAUGHBURTON, *INNOCENCE AND DESIGN*; *Histories: AVERY, MODERN IRAN; COONS, CARAVANS; FRYE, PERSIA; RAMANZANI, THE FOREIGN POLICY OF IRAN*; Interview with Shah, U.S. News & World Report, Jan. 27, 1969.

sense of public order suggests to this observer a need for caution in predicting a placid future for the country.

Iran's law-makers have been influenced by several diverse and conflicting traditions. The first influence is the product of traditional Persia and of conservative Islam—it is difficult because of tradition to effect changes in the laws of marriage, divorce and family responsibilities. The existence of extended families, the persistence of small ethnic and cultural groups and the character of Islam, make the adaption of western inspired ideas and institutions often impractical, if not politically impossible and undesirable.

The second set of influences is European, from primarily French sources. The French civil and commercial codes, because of their logical structure, were easy to imitate and adopt in the early years of this century, but a wide gap remains, particularly in the non-urban areas, between law and actual practices. In an Iranian village the European laws of commerce have little relevance. The third influence, more modern, is an increasing sense of Iranian nationalism, first stimulated by fears of Russian and British threats to independent development, and now stimulated by the Iranian Government economic reform programs. Nationalism helps to minimize the centrifugal forces of the country, supports skepticism of European, Russian, and American methods, and harbors a deeply felt wish to find locally inspired solutions to domestic problems.

Foreign advisers remain throughout the country, but their influence is steadily decreasing, and foreign investors are required to maintain training programs that are designed to train Iranians to replace foreign employees. The process of adaptation of European and American laws has continued, although the Iranians have resisted adapting the court-inspired jurisprudence that accompanies them.

The recently enacted Iranian Maritime Code, for example, is comfortably familiar to lawyers who are aware of the Limitation of Liability Act, the Carriage of Goods by Sea Act and the Geneva Conventions of 1958. On the other hand, the Iranian Civil Code, virtually identically the same as the French, has not generated delictual law similar to that of France. Civil tort liability in Iran usually flows from statutory criminal liability.

The persistence of Islamic law is aided by difficulties in communicating and enforcing more recent innovations throughout the country, because of the high proportion of rural population which remains relatively isolated. As roads improve, railroads are built and telecommunications extend more widely, the influence of reforms inspired by the Tehran Government will increase. Perhaps there will be a change in the pattern which heretofore

has existed—the most conservative Iranians have always come from the country where the influence of Islam is strongest.

Reza Shah, father of the present Monarch, and founder of the Pahlavi dynasty, could not wholly discard the heritage of Islam, even if he had wished, although he did much to reduce the power of the Moslem clergy. Only a strong and confident ruler could have entered the holy mosque at Qum in cavalry boots, as Reza Shah once did, to admonish severely a mullah who, a day before, had scolded the Queen for an inadvertent drop of her veil. Reza Shah was a strong secular ruler, but it was politic for him to adapt a republican form of government.

The Shah is reported to have considered seriously following the example of his neighbor Mustapha Kemal of Turkey to become “President,” but because of conservative religious leaders who feared a repetition of the secularization of Turkey, Reza Shah assumed the ancient Peacock throne. In so doing he also embraced a modern Constitution, but he gained unchallenged leadership in fact. The single most important unifying force in Iran’s history may be a fitful allegiance to the monarchy. The present ruler surely enjoys even more support than his father, although opposition to him is strongly felt, sometimes expressed and vigorously suppressed.

Iran’s Constitution of 1906, as revised in 1907, 1925, 1949 and 1967, is among the world’s oldest in continuing effect. The monarchy is constitutional in form, although it has ancient title-deeds; the 25th century anniversary of its foundation by Cyrus was celebrated in 1971. The active leadership of the Shah and Empress, who would be Regent in the event of the Shah’s death during their son’s minority, should not be underestimated—all recent administrative and social reforms are traced to the Shah’s call for a “White Revolution” in 1961.<sup>5</sup>

Land reform, nationalization of forest and water resources, women’s political rights and rural courts of justice are among the proposals which have already effected significant changes in Iranian life. One can confidently predict that the Shah will propose further reforms, and that these too will profoundly influence the institutions and habits of Iran. The Shah’s speeches, widely publicized, and his appointments are critically important to understanding the nature of Iran’s aspirations and government. The Shah appoints all Ministers of State and the Minister of his Imperial Court. Ministers of State, however, are constitutionally answerable to the Parliament for their official acts.

The Constitution, inspired in part by Belgian and French law, organizes government along executive, legislative and judicial lines. Executive power:

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<sup>5</sup>IRAN ALMANAC 1971, p. 517.

is reserved to the Shah, that is to say, the Laws and decrees shall be carried out by the Ministers and State officials in the august name of his Imperial Majesty in such manner as the Law defines.<sup>6</sup>

The Shah appoints Ministers, Governors of the 18 provinces, he is commander-in-chief of the armed forces, he is competent to declare war and conclude peace, and he issues decrees and orders for the enforcement of law. The Constitution affirms that responsibility for executive acts rests with the various Ministers of State—the Shah is “free of responsibility,” but his personal influence is widely felt, and he commands considerable loyalty and affection. The depth of feeling about the monarchy cannot be understood from a mere reading of the Constitution or of the popular press. However, there remains significant dissent, particularly among some university students. The existing unrest is seldom publicized.

Legislative power, according to the Constitution, is divided among the Shah, the National Consultative Assembly, known as the Majlis, and the Senate. The latter, although authorized much earlier, did not sit until 1949. Each has the right to initiate proposals, but laws are effective only after they are approved by both Majlis and Senate, and are signed by the Shah. The Constitution directs that a law must not be “at variance with the religious principles of Islam.”<sup>7</sup>

The sometimes spirited proceedings of the Iranian Parliament are publicized in the local press. Its business includes its constitutional functions of debating proposed laws and passing upon the government budget. The Parliament is also empowered to approve treaties, except those which are necessarily secret, and authorizes the construction of roads and railroads. The Majlis, numbering 268 in 1971, is in form popularly elected; most of its members are nominated by either the Iran Novin Party (230) or the Mardom Party (37). Its membership includes representatives of the most significant religious communities in Iran in addition to Islam: Christian, Jewish and Zoroastrian.

Half of the 60-member Senate are elected, half are appointed by the Shah. Thirty Senators are from Tehran. In theory, if not in practice, Senators must be Moslem, be at least 40 years old, and have at least fifteen years experience in an area of public service such as the civil service, the judiciary, in education or among the clergy. The Senate is to be selected from “among the well-informed, discerning, devout and respected persons in the country.”<sup>8</sup> The Senate is generally a co-equal body to the Majlis except that the Senate may not deal with financial matters. Both the Senate

<sup>6</sup>Art. 27, Supplementary Constitutional Law of 1907.

<sup>7</sup>*Ibid.*, Art. 27(1).

<sup>8</sup>Art. 45, Constitutional Law of 1906.

and the Majlis can, by an absolute majority vote, dismiss a government minister. Moreover, they can summon a minister before them to answer questions relative to his responsibility.

Salaried government employees may not serve in either Majlis or Senate, and members of the Majlis may not take any government office until three months have elapsed after their resignation from the house. Senators who accept a government appointment are deemed to have resigned their seats. There seems to be no reason to doubt that the Parliament includes men of great ability. In recent years, however, the leadership potential of the Senate and Majlis have not been called on to any great extent, and they function as an important arena for debate, discussion and publicity.

Judicial functions are exercised by the civil courts under the supervision of the Ministry of Justice, by military courts functioning under the Minister of War, and by locally elected lay-courts, Houses of Equity in rural areas, and Councils of Arbitration in cities. Of historical significance are the religious courts of Islam. They were severely hampered by a law of 1936 requiring judges to have law degrees from secular universities. By 1940 the religious courts were merely advisory bodies, victims of the increasing secularization of society.

A Supreme Court, acting as a court of cassation, sits in eleven sections, of four judges each, in Tehran. Its decisions are not widely circulated and consequently the authority of judicial precedent as a source of legal learning is slight. Proposals to publish certain Supreme Court decisions are current, however, and it is possible that in the next decade the development of court-mode rules, may begin. The Ministry of Justice does publish occasional circulars which may include reference to judicial opinions.

A Criminal High Court operates in the provincial capitals, as a court of first instance. Members of this body, composed of three judges in minor cases, and five judges in graver ones, investigate felonies. In civil actions, this court functions as a Court of Appeals. It is composed of two judges from the panel. If the two judges cannot agree in a particular case, a third judge is appointed by the Chief Justice of the Court, and the third judge decides the case.

The lowest courts of first instance (*Dadgah-e-Bakhsh*) have civil jurisdiction in matters involving controversies in amounts under 50,000 rials (about \$650). Their criminal jurisdiction is restricted to imposing sentences of less than one month. Judges sit alone. The primary court of first instance (*Dadgah-e-Shahrestan*) has civil jurisdiction in controversies involving more than 50,000 rials and criminal jurisdiction over offenses punishable by more than one month and less than three years imprisonment.

Several judges and a single prosecutor are assigned to this court, but a session of the Court requires only a single judge. In towns where no primary court of first instance is established, the jurisdiction of the lowest court of first instance is increased to cover controversies involving less than 100,000 rials. Judges in these lower courts are frequently young, but they have received some special training in addition to their law degree. Of course their performance is closely watched by those responsible for recommending promotion to the higher courts.

Only 1,600 regularly appointed professionally trained judges serve throughout Iran—it is one of the few countries with a shortage of legal professionals. The Ministry of Justice finds it difficult to recruit young lawyers for the judiciary, partly because of low salaries and partly because university graduates do not wish to live in remote provinces. This shortage, reinforced by widespread discontent with the quality of justice available in rural Iran, led to a proposal by the Shah in 1963, to establish courts of justice not staffed by professionals.

Following the Shah's recommendation, the Majlis authorized, in 1963, the creation of rural courts, known as Houses of Equity, to "investigate and settle the differences and disputes arising among the inhabitants of a village." By the end of 1971, well over 3,000 Houses of Equity were established but more than 15,000 are reportedly needed. Estimates on their operation are favorable. They are rapidly replacing the adjudicatory functions heretofore fulfilled in practice by landlords, clergy and police, and they frequently replace the formal judiciary. Each community elects five from their number to serve, three as regular members, two as alternates to sit in the event that a regular member or his relatives are involved in a case.

Elections and judgments of the tribunal are reviewed by the judge of the nearest court of first instance, but in only a handful of reported cases has a judgment been reversed. The statute directs, whenever possible, that those elected to a House of Equity be literate, but in a vast land of widespread illiteracy this is not always possible. Therefore, an important part of rural justice is the contribution of a member of the so-called Literacy Corps, consisting of young men and women who have completed secondary school, and are fulfilling their obligation of national service by serving as teachers in rural Iran. Members of the Literacy Corps are authorized to serve the Houses of Equity as scribes, investigators and reporters.

Jurisdiction of these village tribunals is extensive. It includes competence to hear civil claims involving less than 10,000 rials (a substantial sum in rural Iran—\$130), claims involving movable property involving less than \$650 if the parties consent, family disputes, claims of adverse posses-

sion and nuisance. The Houses of Equity may not determine title to land, nor are they competent to declare water and timber rights, both having been nationalized several years ago. Appeals from decisions of Houses of Equity may be taken to the lowest court of first instance, which is authorized to reverse or sustain the verdict.

The rural courts also exercise some limited criminal jurisdiction. Their authority here is exercised only with respect to minor offenses, and they may impose fines not in excess of 200 rials (about \$2.60). More serious offenders may be detained by order of the village court and evidence of a serious crime can be collected and preserved.

Parties to rural litigation pay no fee, and members of the tribunal receive no compensation. All that is required is a place to meet and a book in which to keep records. The latter is supplied by the Ministry of Justice. The meeting place can be any public building—often a mosque or a school. Some villages have constructed a small building to serve the tribunal. Most judgments of the Houses of Equity are self-executing and require no police assistance, although police are directed to carry out the tribunal's orders when necessary.

Comparable to the village tribunals are the Councils of Arbitration being established in Iran's cities—including Tehran. These are also lay-staffed, but some small compensation is paid the serving members. Members are elected from local districts, three regular and two alternates. Each Council has an Adviser assigned by the Ministry of Justice who is, in theory, a person with some law training. Advisors, if they are lawyers, must give up their practices—consequently this position is often held by a retired lawyer or civil servant.

A significant number of the elected members of the Arbitration Councils are women, about 20 percent in Tehran, where the duties are sometimes very time-consuming. Jurisdiction is restricted to cases involving a defendant residing or doing business in the district, disputes concerning immovable property or a business carried on in the district. In addition, the amount in controversy may not exceed 20,000 rials unless the parties agree to jurisdiction. Where the underlying complaint involves a crime, jurisdiction over the amount in controversy is increased to 50,000 rials.

Criminal jurisdiction of the Arbitration Council involves minor offenses where the maximum penalty does not exceed two months imprisonment and/or a fine of 20,000 rials. Arbitration Council jurisdiction includes authority to impose fines for traffic violations—but in some cities the police are authorized to assess and collect such fines. Where police have such authority the Arbitration Councils have no jurisdiction.

Iran's Constitution calls for an independent judiciary, although a foreign

observer may question how much independence is possible where appointment and promotion to a higher court, or to another court, is handled by the Ministry of Justice. Because promotion is slow, and the work too often dull and frustrating, some judges resign to take important positions in the civil service, or to become teachers in the University.

Neither the Constitution, nor the influential French tradition, provide for judicial review of legislative action, although the Constitution does require that laws "be consistent with the holy principles of Islam." No institution to evaluate this consistency has been established, although one is authorized by a curious provision in the 1907 Constitution. Article 2 of the Supplementary Constitutional Law of 1907 directs the selection of at least "five devout doctors of Islamic law and jurisprudence" who were also to be "conversant with the exigencies of their age." This "tribunal" is authorized to evaluate proposals of the Parliament and reject any which contravene the principles of Islam.

In 1907 many proponents of the reform which sought to eliminate the nearly absolute power of the Shah, feared also that the reform would injure the religious foundations of the nation. Religious feelings remain strong, and are especially powerful in rural areas, but the legal system which has developed since 1907 has accommodated itself to many of the basic Islamic traditions, and no one today seriously urges the establishment of the reviewing body authorized in 1907. Largely this is because of the strength, shrewdness and tact of the present Shah and his father, Reza Shah.

Illustrating the law's ability to modify tradition which must be changed, is the Family Protection Law of 1967. Plural marriages have become less common in Iran, largely because of economic factors, not because the law forbids polygamy. The Family Protection Law of 1967 allows plural marriage, but places important conditions on it. Before a second marriage is legal an independent judicial evaluation of the husband's financial condition is required, and a court must consult the first wife, who presumably could block a second marriage. Westerners should understand that an important motivation for plural marriage is that it supplies a convenient and acceptable method for taking care of homeless and nearly destitute women. Often the second wife is a widow, a relative or a close family friend who needs the care that in other parts of the world might be supplied by public welfare.

Divorce is made much more difficult by the new law which establishes reconciliation procedures which must be fulfilled before a divorce is approved. Provision for alimony and child support can be made by the Family Court. Although the new law's effect is only beginning to be felt, reports consistently state that it is helping to improve the conditions of Iran's women who lacked security under religious law.

One tradition which has not been eliminated is the strong role of the military. In addition to jurisdiction over members of the armed forces, military courts have authority over spies, those who threaten the life of the Shah or Crown Prince, persons committing armed robbery and armed smuggling, narcotics smugglers (a capital offense), persons who take arms against the State, persons who assault military guards (including oral threats and insults), persons who assist deserters and persons who intentionally destroy government property.

The extensive jurisdiction of the military courts may seem surprising to the foreign observer. Part of the explanation lies in understanding that military authority is a primary means of extending the power of the central government to distant, and often independently acting, parts of Iran where civil authority is weak. Smugglers, for example, are frequently reported to be heavily armed, and willing to fight pitched battles with police or army. Military authority, therefore, may be critically necessary where the local community and the local judges fear retribution. Moreover, until recently tribesmen in remote parts would attack travelers on the highway—military jurisdiction over such offenders was deemed necessary to bring the wayward nomads and enterprising bandits under control.

Iranian authorities continue to be sensitive to threats of assassination and rebellion—memories remain strong of several abortive attempts on the Shah's life, and of a strong effort in 1946 to establish an independent Soviet Azarbaijan. Military jurisdiction, therefore, is viewed by many as an important method of maintaining the nation's unity. Although most of the military judges are law graduates, there is some lack of confidence in their impartiality. One of them, an able lawyer serving as chief of the Tehran military tribunal, was assassinated in front of his home in Tehran in 1971, in an attack viewed by many as an attack upon the régime.

The armed forces of Iran have been critically important supporters of the Pahlavi dynasty. Reza Shah began his career in the Russian-officered Cossack regiment, around the turn of the century. Under his aggressive leadership after the first coup in 1921, Iranians gradually replaced the Russian and Swedish officers and a new and proud officer class developed devoted to Iran. Officers today frequently send their sons into the armed services, thus reinforcing the officer class.

Another underlying reason for continuing military jurisdiction is that the government has more confidence in the honesty, loyalty and integrity of military judges, and more regard for their efficiency, than it does in those appointed by the Ministry of Justice, who operate under the cumbersome civil law, and are believed to retain some loyalties to opponents of central government.

Vocal opponents of the Pahlavi dynasty have included the conservative

religious leaders who feared secularization; the tribal chieftans who preferred a nomadic independence impossible to maintain in the 20th century, and the landlord class which has fought to maintain its vast estates. Government confidence in the army, therefore, is natural, although it is a fragile base for long-term order. Middle class technocrats and businessmen are developing strength and influence which may be a more substantial basis for the success of modern Iran.

Iran is not troubled by an overabundance of lawyers, nor is it likely to be so long as only two law schools exist: At Tehran University (public) and at National University (private) both located in Tehran. A third is planned for Qum, a religious center near Tehran. Tehran University's Faculty of Law and Political Sciences is a four-year undergraduate institution—two-thirds of the students specializing in law and the rest in political science. Many of the professors of law are part-time practitioners.

Pressures for academic achievement are modest, but the students are highly selected, and the best of them perform quite well. Both schools have recently suffered from academic unrest shared, or course, with the rest of the world.<sup>9</sup> The academic year consists of 32 weeks, but holidays, free periods for pre-examination study and student "strikes," may reduce this period of instruction considerably. In the academic year 1970-71, for example, about seven weeks (more in some faculties) was lost because of student unrest.

Students attempt to memorize mimeographed notes, only a few legal texts are available and the lecture-method prevails. Gradually changes are being made, and it would be unfair to say that Iran's system of legal education is worse than that of many other parts of the world. A small, and higher quality, graduate program exists. A "Law Review" was recently started, but students are not participating in its publication, nor are the articles particularly helpful to the practicing bar.

Law graduates are sought by various government offices—about eighty each year are recruited by the Ministry of Justice, which would employ more if they could be found. After a training period, reduced recently from two years to six months, some of these young men and women enter service with the professional judiciary. Other competent law graduates seek positions with the Plan Organization, the Central Bank and other reputable government ministries.

Each year about 1,500 persons are admitted to the regular practice of law—in a total population of nearly 30 million. Admission is restricted to Iranian citizens who are residents, at least twenty-five years old, have

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<sup>9</sup>Student unrest was not given wide publicity. *But see* THE ECONOMIST, May 29, 1971. p. 40.

satisfactory character, and have served a one-year apprenticeship with a lawyer having at least ten years experience. Candidates must also pass an examination prepared and administered by the Iranian Bar Association. Almost all law practice is done by solo practitioners—attempts to maintain law firms have failed partly due to the strong preference of lawyers to be independent and unburdened by the special responsibilities of a partnership perhaps reflecting an old Persian proverb that “a pot held in partnership will never boil.”

Some lawyers do share the services of secretaries and the expenses of maintaining offices. A few members of the integrated bar have received American law degrees, but most of those with foreign training received their degrees in France or Belgium. There is one American lawyer who is listed as a business consultant with an office in Tehran. He is not authorized in fact to “practice law” and functions as an adviser. Most Iranian lawyers received their education at Tehran University’s Faculty of Law.

To the American versed in the ways of Washington lawyers, it is no surprise that a large part of an Iranian lawyer’s work involves finding paths for clients through the labyrinth of government ministries, offices and corporate organizations. A lawyer’s skill must include knowledge of the personalities of officials, familiarity with family relationships, sensitivity to the aspirations of employees, and tact. Iranians treasure friendships, and family ties are extensive and strong.

Law practice in the provinces involves more court work than in Tehran. Criminal law is a more important instrument of social and business control than in the United States. Indeed, the criminal law forms the basis in theory for most civil liability. However, many automobile accident claims, not involving injury to persons are decided by mutual agreement on the street on the spot without police intervention. The astute driver ought to carry enough cash on hand to pay the relatively modest amounts necessary to fix bent fenders and crushed bumpers.

One can be jailed for a failure to pay a debt; a useful and cheap reinforcement of a creditor’s power, and as an incentive to relatives to pay the debts of members of the family.

In form, other parts of the legal system follows French and Belgian models although the substantive law of property, of the family and of succession to property upon death, follow Islamic teaching. The French influence, moreover, has not brought about the adoption of a Council of State or an integrated system of administrative law. Some administrative tribunals do exist—one, for example, hears complaints against the civil service.

Criminal procedure places the burden of proof on the state, but great weight is accorded the police report, and a defendant has a heavy burden to

overcome its contents. There is nothing comparable to a writ of Habeas corpus, and trials do not always speedily follow arrests.

The Commercial Code became effective in 1933, (amended in 1969), and the Civil Code was influenced by those of France, Belgium and Switzerland. A new Corporation Law, designed to facilitate the mobilization of local capital includes features of security regulations as well as company law familiar to American Lawyers.