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June Starr's Law As Metaphor: From Islamic Courts to the Palace of Justice (book review)

David M. Engel

University at Buffalo School of Law, dmengel@buffalo.edu

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LAW AS METAPHOR: FROM ISLAMIC COURTS TO THE PALACE OF JUSTICE by June Starr. Albany: State University of New York Press, 1992. 243 pp.

Reviewed by David M. Engel, School of Law, SUNY at Buffalo.

In the late 1960s, June Starr conducted research on disputing in a rural, seaside village in southwestern Turkey. She explored the mechanisms by which disputes were handled and related village-level, unofficial dispute processing to the activities of the district court in the provincial center of Bodrum. Returning to her subject roughly twenty years later, Starr discovered that much had changed in her research setting. During her first stay, the town of Bodrum had been a quiet and isolated place, but in the 1980s she found that it had become a "chic summer gathering place" for the "beautiful people," including Mick Jagger and Princess Margaret. Formerly difficult of access, it now boasted an airport, an enlarged facility to accommodate nearly 200 yachts, and a nearby "Club Med." Tourism and prosperity had transformed Bodrum, and a visit to a nearby village suggested that there were ripple effects throughout the rural countryside.

Starr tried to resist a broadly negative view of these changes or a romanticized nostalgia for her research site as it used to be. Yet her sentiments were clearly divided, and she found it difficult -- as most of us would -- to reengage with the place and the people with whom she had once lived:

I could not bring myself to impose new memories over those I still cherish from the village I knew so well, so I did not return to Mandalinci [the fictitious name for the village where she had lived from 1966 to 1968], although someday I may. Nor did I look up my Bodrum friends, whom I also treasure, although someday I may do that, too. (86)

The book she has written is, not surprisingly, a reflection on time and change. Starr avoids what might have been a more obvious choice, however, and does NOT ask simply how the village and the court have been transformed during the twenty years between her first and second visits. Indeed, as the quoted passage makes clear, she did not even return to the village that had been the primary focus of her earlier study. Instead, Starr has written a far more ambitious book, which addresses issues of law and society across centuries rather than decades and which considers not only Bodrum District but the larger geographical expanse of the Ottoman Empire and the modern state of Turkey. She asks how anthropologists and historians, by merging their insights, might trace broad processes of legal, political, and social change at both state and local levels. She argues that a shifting focus from the national stage to the village and district level is essential for understanding the workings and meanings of law within states.

The clue that begins this adventurous intellectual "chase" across centuries and subcontinents is a fact so obvious that the author had failed to recognize its significance in her earlier writings: As I pondered the events that had changed the course of Turkish history, paralleling them to the data I had collected in Bodrum, I realized something so obvious I had taken it for granted, namely, how important secular law and a generally secular outlook had been in Bodrum town and in the village I studied. . . . In Bodrum district of those years, although the people practiced Islam, there was little interest in pursuing Islamic solutions to conflicts. (xxxiv)

The puzzle is, why would the Islamic citizens of Bodrum handle their conflicts by

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secular means and with reference to secular norms? In attempting to answer this question, Starr demonstrates how the everyday lives of villagers are linked to those of distant elites in the urban centers and how present contests over land, families, and gender relations are shaped by historical events of the recent -- and distant -- past.

Starr sketches the formation of the modern Turkish state, under the leadership of Ataturk, out of the remains of the Ottoman empire in the early twentieth century. The eventual triumph of secular, western-oriented ideology at that time can be explained not only by the traumatic upheavals and population shifts following World War I, but also by events during the nineteenth century that led to the emergence of secular political and legal thought among the young, educated elite who supported Ataturk and his reforms.

The remarkable activities of Ataturk led not only to the creation of a Turkish state but to the displacement of Islamic law and legal institutions. The Eurocentric, reformist spirit of the age is captured by Starr in a remarkable quote, in which Ataturk's new minister of justice, Mahmut Es'ad Bey, explains why Islamic family law would be replaced in Turkey by the wholesale adoption of the Swiss code:

Why waste our time trying to produce something new when quite good Codes are to be found ready made? . . . The Swiss Code is a good Code; I am going to have it adopted, and I shall ask the Assembly to proceed to a vote en bloc, as Napoleon had his Code voted. If it had to be discussed article by article, we should never get through it. (16)

How an Islamic country got to the point where it seemed sensible to transplant Swiss family law "en bloc," and what the consequences of this legal transformation were at the district and village level, are the questions that animate this fascinating study. Unlike other studies that emphasize the resilience of traditional social and religious structures in the face of state-level encroachments, this study is largely a "success story" from the perspective of the reforming elites. In this book, moreover, the government and its functionaries (including the judges) are not portrayed in menacing terms, nor is the dominance of western legal and political theory over Islam viewed with regret. Other writers, operating from different perspectives, might have told the story differently.

The reasons for the predominance of secularism are complex and appear to relate to demographic and political factors as much as to the force of law and legal institutions. Starr does not pretend to be able to tell the whole story, and readers will come away from this book with the feeling that it provides intriguing clues and suggestions rather than definitive explanations. Nonetheless, the plan of the book is ambitious, and the narrative swings back and forth from large-scale to small-scale inquiries. At times this leads to a sense of disorganization and redundancy. It is a difficult strategy to carry off. The author must identify and explain matters -- at the local and the national levels -- that are sometimes very complex. For the most part, she succeeds. The presentation is clear, unpretentious, and readily understandable by those who know little about Turkey. More importantly, this book suggests a multi-level approach to the study of law and legal change that will help to shape the research of scholars who are increasingly committed to the proposition that local, national, and global processes must be studied in terms of their interrelationships and interactions over time. Because it tells a fascinating story and because it suggests a research strategy that would be appropriate in other contexts, this is a book well worth reading.