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## Noble Standing, Education and Networks Judges of the Turku Court of Appeal 1623–1753

*The Turku Court of Appeal, founded in 1623, was the second Swedish court of appeal. This article examines the educational and career backgrounds of the court's judges from 1623 to 1753. The research shows that the educational level of the judges rose quickly and many had also studied at foreign universities, but it was not until the eighteenth century that they were almost exclusively educated in Sweden. At the same time career paths within the Court of Appeal started to emerge, whereas in the (early) seventeenth century career paths had been more varied and had included different positions with the Crown's administration. A comparison with the first Swedish court of appeal, Svea, shows some differences between the two courts in the seventeenth century, but similar trends in the eighteenth century. Finally, the article shows that the networks and contacts of the judges also played an important part in their career paths.*

### 1 Introduction<sup>1</sup>

In the seventeenth century a “judicial revolution”, as it is often called, took place in Sweden, and as part of it courts of appeal were founded. The Turku Court of Appeal, situated in south-western Finland, then part of Sweden,<sup>2</sup> was the second of them and was established in 1623. The courts of appeal were crucial for the development of Swedish legal history for a number of reasons. They played an important role in unifying the administration of justice in a country where the judiciary was almost completely in the hands of laymen. The courts of appeal were also a gateway for the limited reception of Roman law that took place.<sup>3</sup> The research that can

be done on the Turku Court of Appeal is unfortunately limited, as the Great Fire of Turku nearly completely destroyed the archives documenting the first two centuries of the court.<sup>4</sup> Therefore, all information that can be gathered is important, and examining the judges of the court can give at least some perspectives on the way it functioned. This article provides information on the educational and career backgrounds of the appeal court judges in the light of the Turku court.

The purpose of this article is to illustrate the changes that took place among the judges of the court during a period of roughly 100 years. The sample years were chosen in 50 year intervals: 1633, 1683, and 1733. This is a period during which much happened in Sweden. To gain a better perspective, two additional years were examined: the founding year of the court 1623 in order to highlight a contrast in the development of the court's first years, and 1753 in order to assess whether the changes we recognised in

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<sup>1</sup> I want to thank the referee for the valuable suggestions I received and Professor Heikki Pihlajamäki for his comments on an earlier version of this article.

<sup>2</sup> Turku was the second largest town in Sweden up to the mid-eighteenth century. See KARONEN, Pohjoinen suurvalta 38–40.

<sup>3</sup> PIHLAJAMÄKI, *Stick to the Swedish law 171*; JÄGER-SKIÖLD, *Studier* 49–55.

<sup>4</sup> BLOMSTEDT, *Kuninkaallisen* 32.

1733 remained permanent. Using the biographical information compiled of the judges,<sup>5</sup> I will examine how many of them had a formal education, what kind of career paths led them to a judgeship at the court, and how this changed during the research period. The limited space does not allow a more detailed analysis of their education,<sup>6</sup> but considering the predominately lay character of the Swedish judiciary of the time it is already relevant to determine the number of men who had been exposed to some form of education. A short comparison will also be made to the Svea Court of Appeal, the first court of appeal founded in Stockholm in 1614.

## 2 The Outset: Seventeenth Century Changes

During the reign of Gustav Vasa (1523–1560) the Swedish crown gained strength and was able to start building the structures of a functioning state. This was carried on by King Gustav II Adolf (1611–1632), who together with Chancellor Axel Oxenstierna initiated important reforms. These concerned both the administration and the judiciary. In this context, a set of courts of appeal were founded in the early seventeenth century. The goal was to control the country better and to unify judicial practice, which was almost completely in the hands of laymen. The courts of appeal sent circulars to the lower courts, which in turn had to send their decisions to the court of appeal. As a result written proceedings started to replace

the traditional oral proceedings.<sup>7</sup> At the same time Sweden was able to expand its territory and rise to become a great power in Europe. Naturally this affected the need for a well-organised administration and judiciary, too. The power struggle between the old aristocracy, the Crown and the new rising lower nobility was also an important factor during that period.<sup>8</sup>

The courts of appeal were structured along the model of the *Reichskammergericht* and the French *parlements*. In the courts of appeal a distinction was made among the judges between those of the nobility and those who were learned. The first court of appeal, that of Svea, was divided into three classes and was led by a president. The first class comprised of councillors of the realm (*riksråd*), the second class of other noblemen, and the third class of men, who were not noble, but supposed to be “learned and knowledgeable in the law”.<sup>9</sup> There was, however, no formal requirement of education until the mid-eighteenth century, and even then it was not followed very rigorously.<sup>10</sup>

## 3 The Turku Court of Appeal

The Turku Court of Appeal was founded in 1623 – nine years after the establishment of the Svea Court of Appeal. Establishing the court in Turku was part of the attempt to develop Finland and control the eastern part of the realm better.<sup>11</sup> The Turku court was, however, more modest than its model. Unlike the Svea court the Turku court did not have a separate class of councillors of the realm. The court was simply divided into two classes: the noble and non-noble assessors.<sup>12</sup>

<sup>5</sup> All information of the Turku judges stems from WESTERLUND, Turun hovioikeuden, unless stated otherwise.

<sup>6</sup> A more thorough future research on the topic will require cross-referencing Westerlund’s information with matriculation records of various European universities.

<sup>7</sup> PIHLAJAMÄKI, Johdatus varhaismoderniin 132–135.

<sup>8</sup> See e.g. ENGLUND, Hotade huset.

<sup>9</sup> BLOMSTEDT, Kuninkaallisen Majesteetin 34–36.

<sup>10</sup> BJÖRNE, Patrioter 95.

<sup>11</sup> See KARONEN, Pohjoinen suurvalta 234–271; LEHTINEN, Turun hovioikeuden.

<sup>12</sup> BLOMSTEDT, Kuninkaallisen 33–34.

### 3.1 Gaining in Education: Judges of the Court in 1623 and 1633

When the court was first established in 1623 the general level of education among the judges was still comparatively low. The president of the court as well as three of the six noble assessors had some experience of academic studies – all of them abroad. The president, Nils Bielke, for instance, had studied at the universities of Rostock and Siena.

None of the assessors of the non-noble class had studied anything. This is particularly interesting, because the non-noble assessors were supposed to be the “learned men” of the court. Instead they did all have some practical experience in legal matters and local expertise as they had worked as circuit court judges (*lagman*) or law readers (*lagläsare*) prior to their employment at the court of appeal. If not learned in an academic sense, one could still argue that to a certain extent they were knowledgeable in the law.

In 1633 the situation had changed. The president of the court and all but two of the noble assessors had studied: four of them abroad, one also in Sweden and in one case, the assessor’s studies are unspecified. The group of non-noble assessors had, however, changed drastically: by now eight of the nine assessors had a formal education. Six had studied abroad and five in Sweden. Pehr Wigelius, for instance, had obtained a doctorate in law at the University of Basel in 1631, two years prior to his assessorship at the Turku Court of Appeal. Among the non-noble judges in 1633 we also find Johan Olofsson Dalkarl (later Stiernhöök), who has been called “the father of Swedish jurisprudence”. He had made an extensive *peregrinatio academica* – to Uppsala, Leipzig, Jena, Wittenberg, Rostock, Leiden, London, Oxford and Cambridge – and had a significant role in drafting legislation in the mid-

seventeenth century. His influence lasted even longer.<sup>13</sup>

In the first years of the court president Bielke chose his assessors quite freely. In 1628 and 1630, however, the central government supplemented the corps of assessors by nominating new men. In 1630 this happened when the new president, Bror Andersson Rålamb was appointed. Yrjö Blomstedt suggests that Rålamb may have wanted to replace the old assessors, who only had local expertise of administering justice, with new, more qualified men. All of these men came from Sweden, whereas the non-noble assessors in 1623 were probably all Finnish. An appointment letter from 1630 stated that the King wished the court to be staffed with men who were “learned in the law and capable”. Another larger appointment to the court was made in the autumn of 1633. During Jöns Kurck’s presidency (1633–1652), many efforts were made to improve judicial matters in Finland. For instance, in 1635 the auscultator corps, which had already been established at the Svea Court of Appeal some years earlier, was introduced at the Turku court. A young man in hopes of a career as a state official could thus learn jurisprudence and administrative practice as a trainee (*auskultant*) at the court.<sup>14</sup>

When looking at the judges’ careers, the years 1623 and 1633 are similar when we consider all but the non-noble judges. In both years the presidents were men of higher nobility and had a broad experience of university studies. They had also served in the military, in public administration, in the judiciary, in diplomatic service and at the diet, to mention only a few examples. The other noble assessors had similar experiences, though not nearly as extensive as the presidents – and not as extensive as the judges of the Svea Court of Appeal, as we shall see. For the non-

<sup>13</sup> URPIAINEN, Johan Stiernhöök.

<sup>14</sup> BLOMSTEDT, Kuninkaallisen 59–60, 72–74, 91; GAUNT, Utbildning 50–52.

noble assessors there is a clear change: from offices in the local administration to more important judicial and administrative tasks – in town courts or the Central Mining Agency, for instance. This is naturally linked to the immense improvement in the education of the non-noble judges. It is also worth noting that of the nine non-noble assessors in 1633, four were later ennobled. For these educated non-noble men, the assessorship seems to have been a stepping stone on a path to higher social standing.

Thus, the early years of the Turku court show a very quick shift from an overall non-educated group of assessors to a fairly well-educated one, at least when measured by Swedish standards of the time.

It should be noted, though, that the education the men had received was not always in the field of law. The studies of noblemen often included a variety of different subjects, ranging from chivalry exercises to languages, history, politics and the law, for instance. A few had even studied something completely unrelated, though this certainly was exceptional. The vice president of the Turku Court of Appeal in 1633, Olof Bure, had studied at foreign universities and hospitals, and had obtained a doctorate in medicine in Basel. Before his ventures into law he had worked as the King's personal physician. Three years later he was ennobled and became mayor of Stockholm, then attended the diet and in 1633 became vice president of the Turku court. Next to his degree in medicine he was learned in many fields and possessed a library with many juridical books as well.<sup>15</sup>

### 3.2 Buds of Change: Judges of the Court in 1683

The middle sample year is 1683. As was true already 50 years earlier, we again find that almost all the judges had studied. Only one of the

noble judges is not listed as having had any formal education. The situation in 1683 is different from 1633 only in respect to the places where the men had studied. Whereas in 1633 we find ten judges who had studied abroad, and six who had studied in Sweden, the situation is now more balanced, and there is a slight turn towards the increased importance of a domestic education. Seven men had studied at a Swedish university and six abroad.

Except for the president and vice president, who had held many different offices of the Crown, the careers of the judges seem to reflect more conventionally the work of legal professionals than fifty years earlier – especially in the noble class. In 1633 it was common for the noble assessors to have worked in the military prior to their office at the court. Now only one appears to have been in the military, and even he had only been an accountant there. Instead we find men, who after their studies built their careers in the judiciary. Anders Krook (later Gyllenkrook), for instance, studied for several years in Uppsala, then went on a study journey abroad and after returning home became a non-noble assessor of the Turku court for 24 years before advancing to the noble class. In addition he was appointed assize court judge (*häradsövding*) and associate circuit court judge (*underlagman*) during this time. During his studies he appears to have defended at least two juridical dissertations and it seems safe to guess he was specifically aiming at a career as a lawyer.

To conclude, the year 1683 appears as a “middle ground” with slight changes, which can be put into perspective when we go further towards the mid-eighteenth century.

### 3.3 Education at Home: Judges of the Court in 1733 and 1753

Finally, the years 1733 and 1753 serve as the last years of reference for this examination. In contrast to the earlier years, there was no longer a division between noble and non-noble assessors.

<sup>15</sup> BLOMSTEDT, *Kuninkaallisen* 83.

In 1698 the class division of the judges had been abolished from the Swedish courts of appeal. Beside the president and vice president there were now assessors and appeal court councillors (*hovrättsråd*), chosen among assessors, who had already served at the court for a number of years.<sup>16</sup>

Looking at the studies of the judges it becomes clear that training at a domestic university had now without a doubt replaced the studies abroad. In 1733 all but one of the twelve judges had studied something, and all of them in Sweden. Two of them had also studied abroad. All of the 14 judges in 1753 had studied in Sweden and again we find two who had also been on a study journey abroad. Even though a small minority of the judges had also attended some studies abroad it is clear that now the way to acquire an education was to attend a Swedish university.

The Great Northern War (1700–1721) seems to have affected the careers of the judges as we find a greater number of men in 1733, who had served in the military, than in 1683. For some it was an opportunity to use their judicial knowledge as military judges. We also see a slight shift towards men building their careers within the court of appeal. Five of the twelve judges had held some office within the court before becoming judge – as secretary or appeal court prosecutor (*hovrättsviskal*), for instance. In 1633 and 1683 only three judges had done this. The trend becomes more evident when we include the year 1753. Now there are eight judges who had prior careers at the court and they were often lengthier than in 1733. Carl Lagerborg, a judge in 1753, finished his studies in Uppsala in 1731. After that he spent his whole career at the court: first as trainee (*auskultant*), then as extraordinary office worker, vice notary, assessor, appeal court councillor and finally vice presi-

dent. Career paths within the court begin to emerge.

## 4 The Svea Court of Appeal in Comparison

The Turku court was the second Swedish court of appeal to be founded. Therefore it is important to briefly make a comparison with the realm's first and most prestigious court of appeal: the Svea Court of Appeal in Stockholm, founded in 1614.<sup>17</sup>

Some differences in the education of the judges at the two courts are noticeable in the early seventeenth century. As we could see, in 1633, only ten years after the establishment of the court, a clear majority (13 of 16) of the Turku judges already had some formal education – and especially the non-noble assessors were very well trained. At almost the same time the situation is somewhat different at the Svea court. In 1634, when the Svea court had already been running for twenty years, 13 of the 20 assessors seem to have had an education, which is only a slight increase compared with the situation when the court was founded. Unlike in Turku, it was the group of non-noble judges, which was the least learned: only three out of seven had an education.

In the second half of the seventeenth century the number of educated judges rose at the Svea court as well. In 1674, for instance, all first and second class assessors, and seven of the ten third class assessors had some experience of academic studies. In 1734 the educational level in Svea and Turku would seem to be very similar. All

<sup>17</sup> The following information is based on an analysis of the biographical information of the Svea judges from the sample years 1614, 1634, 1654, 1674, 1694, 1714, 1734 and 1754 compiled from ANJOU, Kongl. Svea Hofrätts and from the Svenskt biografiskt lexikon.

<sup>16</sup> BLOMSTEDT, Kuninkaallisen 40.

but one of the Svea judges had studied with certainty – almost all of them in Uppsala. As was the case in Turku, the studies abroad declined drastically in the eighteenth century. In 1734 four of the Svea judges had spent time at a foreign university, and in 1754 only one.

With regard to the career-patterns, the situation among the Turku judges was clearly different. The careers of the men working at the Svea Court of Appeal were distinctly more “state-oriented” as they often held several important offices, accompanied the King or Queen abroad, and participated in peace negotiations, among other things. Towards the turn of the century these differences start to even out and in the early eighteenth century we see the same change towards careers within the court as in Turku.

## 5 The Role of Networks

Besides education, another seventeenth century aspect deserves to be noted: the contacts and networks of the judges. While there was a need for qualified officials, having a suitable education was not the only factor to be considered. Power struggles within the aristocracy and between the aristocracy and the Crown were ongoing, which had an impact on the appointments to different offices, too. The growing administration needed more officials, and therefore it was important to endorse the careers of men loyal to oneself. Thus patron-client relationships were mutually beneficial.<sup>18</sup> Meritocracy was an unfamiliar concept in Swedish society of the time, and climbing the career ladder with the help of more prestigious men was common.<sup>19</sup> A good example of how contacts were meaningful is the career path of Mikael Wexionius. He was the son of a preacher and had studied in different

European countries. During his travels the Chancellor of Sweden, Axel Oxenstierna, was his patron and supported his studies also financially. After Wexionius’s return to Sweden, Oxenstierna appointed him, against his will, as professor of history and political science at the newly-founded Academy of Turku. Wexionius soon felt it was beneficial to change patron. He therefore became the client of Per Brahe, who was the governor general of Finland, an important man of law, and had been involved in founding the Academy of Turku, for instance. With Brahe’s help Wexionius obtained the professorship in law, which he was aiming for, and Brahe also endorsed his ennoblement. But Wexionius was not satisfied with this: he was aiming at an assessorship at the Turku Court of Appeal. Finally, after some years and a helping hand from Brahe, he reached exactly that position.<sup>20</sup> Brahe also supported Gustaf Grass, vice president of the Turku court in 1683, on his way to an assessorship and vice presidency at the court.<sup>21</sup>

Power struggles could also affect the careers in unwanted ways. As the comparison with the Svea Court of Appeal shows, Stockholm was still the most important town in the realm and positions there were coveted by men of means and power. Therefore a transfer to Turku, for instance, was not necessarily a welcome change, and could be used in order to remove *personae non gratae* away from the centre of power.<sup>22</sup> Samuel Åkerhielm, president of the Turku court in 1733, was sent from Stockholm to Turku, as he had been at odds with Chancellery President Arvid Horn for some time.<sup>23</sup> These examples show the social circumstances in which the judges pursued their careers. They also illustrate the power struggles between the higher and lower nobility and the Crown.

<sup>18</sup> HAKANEN, Vallan verkostoissa; KARONEN, Pohjoisen suurvalta 198–206; LAPPALAINEN, Suku 34–40.

<sup>19</sup> HAKANEN, Vallan verkostoissa 98.

<sup>20</sup> HAKANEN, Vallan verkostoissa 97–98, 132, 147–149.

<sup>21</sup> HAGGRÉN, Gustaf Grass.

<sup>22</sup> LAPPALAINEN, Suku 187.

<sup>23</sup> HAGGRÉN, Samuel Åkerhielm.

## 6 Conclusions

The educational level of the Turku judges rose quickly – due, it seems, to a conscious decision to recruit more qualified men to the non-noble class. The state clearly was not oblivious to the benefits of having educated men in its offices. Of those men, who had for instance studied at foreign universities, quite a large number did end up working at a court of appeal at some point during their careers.<sup>24</sup> In the (early) seventeenth century studies abroad were more common, but reaching the eighteenth century studies become distinctly domestic. Why this change? One reason can be seen in the pronounced role of domestic law. In the seventeenth century the courts of appeal did apply foreign law to some cases, often concerning maritime law, but towards the end of the century attitudes hardened and in 1683 a royal decree was issued forbidding the use of foreign law. This was at the same time when Sweden turned to absolutism, therefore rejecting foreign law appeared to be a natural development.<sup>25</sup> The same prohibition can be found in the Law of 1734. Thus a shift towards purely domestic education also seems understandable.

At the same time the career paths of the judges change. In the eighteenth century more and more judges have focused on judicial tasks in their careers instead of various offices in the administration. Climbing up the career ladder within the court itself also became more common: the way to qualify oneself appears to have changed. This becomes clear when looking at the Svea court, where the change is even more evident than in Turku. In the early seventeenth century there were two differences when one compares the judicial staff of the Turku and Svea courts. Educationally the Turku court was at the front with a slightly greater number of

educated judges. In the Svea court, however, the judges had been more widely involved in state affairs, being in close contact with the Crown and acting as diplomats, for instance. These differences faded away towards the end of the seventeenth century and both courts show signs of turning towards domestic education and careers within the law. To some extent these changes can also be attributed to the changes in the position of the nobility, and the higher nobility's need to acquire a formal education in order to hold its place with the rise of a new lower nobility.<sup>26</sup>

While the Turku example suggests that the court soon consisted of a fairly educated group of judges, one should not make too far-reaching conclusions about the education of lawyers in seventeenth and eighteenth century Sweden in general. First, it is important to keep in mind that education did not always equal legal education. The aforementioned vice president Olof Bure, who had studied medicine and has been described as a learned man in other fields too, is a good example of how a broad knowledge in many fields and being in the King's favour were good stepping stones for a state career. Especially in the early seventeenth century it was common for a nobleman to have travelled broadly in Europe and to have studied political science and languages, for instance. This broad education did not prepare them merely for a judicial career, but rather for a state career, which might also include judicial offices. How then should we regard these appeal court judges, who were neither laymen nor fully-fledged professional lawyers? Perhaps a term such as "legal literates"<sup>27</sup> might be useful in this context as well, to grasp the educational and career backgrounds of the appeal court judges in the seventeenth century. They were men, who were able to un-

<sup>24</sup> VASARA, *Turusta Eurooppaan* 58–63.

<sup>25</sup> PIHLAJAMÄKI, *Stick to the Swedish law* 173–175.

<sup>26</sup> See ENGLUND *Hotade huset*.

<sup>27</sup> BILDER, *Lost Lawyers* 51.

derstand the law, through their more or less related studies and/or practice in state office, but they were not university trained lawyers with solely judicial careers. This only began to change during the eighteenth century. Secondly, it is important to remember that while the courts of appeal had an increasing amount of judges educated in law, the lower courts of the countryside were still to a great extent in the hands of men without any formal legal education.<sup>28</sup>

Keeping these conditions in mind, the example of the Turku Court of Appeal still shows the slow path towards a domestically trained and more professional corps of appeal court judges.

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<sup>28</sup> PIHLAJAMÄKI, *Stick to the Swedish law* 176–177.