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Developments in Latin American Legal Education

Monica Pinto*

In Latin America, public education has been, and remains, a matter of public policy. Its development and its potential to reach different social classes has depended on the economic model of each society; consequently, it has reflected, to varying degrees, the fragmented nature of the societies in the region.

By definition, public universities are large institutions and, within them, law schools traditionally are very well populated. Law schools and, too, universities, have suffered the ramifications of the *de facto* regimes that, from time to time, have emptied our classrooms of the minds that Europe and the rest of the world honored through international chairs and well known prizes. The *curricula* and the faculty experienced changes. This antecedent explains that academic freedom is a must and pluralism is the device.

It was not until the 1950s and 1960s that private university education was authorized in the region. Prior to that time, confessional institutions run by the Jesuit corporation—the Del Salvador University, the Holy See, The Catholic University, and the Austral University administered by the *Opus Dei*—were the established schools in the area. In the 1990s, additional corporation-sponsored institutions were established.

Very expensive and exquisite teaching is provided by institutions like the Universidad de Lima, the Universidad Diego Portales, and the Universidad Torcuato Di Tella. Their performance is quite good. They have not, however, attained the requisite number of graduates needed to exert considerable influence in society. They average approximately 50 graduates per year. Nevertheless, in some countries private universities are larger than public ones, as can be seen in Chile and Columbia.

Most public universities have a one cycle *curriculum* that requires

* Professor and Vice Dean, University of Buenos Aires School of Law, Argentina. Former Assistant Dean for Academic Affairs (1994-2002).

compulsory class or passage of compulsory exams. A professional first degree is awarded upon successful completion of the curriculum. A continental law regime promotes the uniformity of substance and method. Law schools generally follow the European model of large lecture-style classes. Links among law professors in the region have been excellent and the signature of agreements has been traditional. Unfortunately, we are unable to assess whether those arrangements have been the instrument for an exchange.

Law school *curricula* used to be very provincial in outlook and only the teaching of public international law demonstrated to students the existence of a larger legal world.

In the 1980s, Latin America began a new democratization period in which the respect for the rule of law was supported by the introduction of new economic patterns. At that time, most Latin American countries were burdened with international debt. The attempts to create a new international economic order, namely the NIEO, failed in the 1990s.

Then, an internationalization of legal studies began. In Argentina, human rights law became a mandatory course in the law school *curriculum* of the University of Buenos Aires and, for historical reasons, included material on the Inter-American System as well as the universal system. Environmental Law, which took off after the Stockholm Conference in 1982, was next on the list. In the past decade, those countries—our countries—were integrated into the free-market model with the assistance of international financial institutions and the United States Government. Economic Integration, Trade Law, Bioethics, and International Criminal Law were all incorporated into the law curricula.

In the 1990s, post-graduate studies in the United States, generally LL.M.-oriented, became somewhat more affordable, from both the intellectual and economic point of view, for the majority of middle-class students. Nevertheless, the feasibility of any such candidate to engage in post-graduate studies remained, in large part, a matter of his or her economic and social position. As law firms increasingly sought attorneys trained in foreign institutions and in different legal systems, they began to require LL.M. degree holders and changed their way of providing services. They organized like American law firms and retained prominent professionals.

Legal education continued to up-date programs focusing on novelties in different fields of law. Our own experience at the Post-Graduate Department of UBA is that the number of courses offered has doubled since the early the 1990s. Of course, law schools in the region have approached the internationalization of legal education via different strategies. Undergraduate students and faculty, too, began similar exchange programs and they proved to be very fruitful.

The main challenge from the Latin American perspective is implementation: how to fill in the gaps, how to cope with the differences, how to balance the disparities between parties (e.g., a large public, tuition-free, institutions in Latin America vis-à-vis a rather small, private, and selective institution in the United States). High foreign language standards, strict selection processes, and a rigorous selection of upper grades holders are helpful criteria.

Historical and traditional reasons lie behind the excellent relationship between Latin American and Spanish law schools, less important are *ad intra* Latin-American links. Co-operation with non-Spanish-speaking European institutions is not as frequent because of the smaller number of candidates speaking the given language. Links with Law schools in the U.S. are special—even when the great majority are private institutions, as living expenses are cheaper than in other parts of the world. Foreign language and teaching methods adapted to a common law system also make a difference.

Let us consider a representative sample of the situation in Latin America. In Chile, the Universidad de Chile, a public institution, offers student exchange programs with the Law School of Paris II (*Panthéon-Assas*) and the University of Puerto Rico, as well as a “visit” to Yale Law School. This visit lasts two weeks and it allows interaction with local students and faculty, albeit mainly on social grounds, as it does not authorize course enrollment. This seems to be a standard practice of Yale Law School because it has established a similar program with the Law School of the Universidad de Palermo, a rather young private university in Buenos Aires. Undergraduate studies—special programs as well as English courses—are offered to the Chilean Universidad Diego Portales fourth year Law students in several U.S. law schools, namely Charleston, Texas Christian University, the University of Delaware, Boston University, the University of New Orleans, Tulane University, and the University of California at Riverside. The Universidad Diego Portales reciprocates at its Santiago headquarters, and they receive approximately 200 students from Germany, Belgium, France, the U.S., and Argentina.

The Universidad de Asunción (UNA), the main law school in Paraguay, has celebrated a great number of co-operation agreements with other universities in the world, mainly with Spanish-speaking but also some English- and French-speaking law schools. These macro-agreements provide the framework by which cooperative arrangements have to be created and fostered. As is often the case with other cooperation policies, it is difficult to ascertain precisely how successful these agreements have been. The Peruvian Universidad Nacional Mayor de San Marcos shows a similar pattern. These macro-agreements

evidence little importance if they are not implemented in a specific field of law.

In Argentina, most national universities have agreements in force with partners in Europe, primarily with Spain. On the other hand, our neighbor Uruguay has developed a different pattern, namely a well-done policy of international relations within the region. In fact, the Universidad de la República, in Montevideo, is the founder of the so-called "Asociación de Universidades del Grupo Montevideo".

Education is not an item expressly mentioned in the 1991 Treaty of Asunción, the agreement that established the *Mercosur* (Common Market of the South) among Argentina, Brazil, Paraguay, and Uruguay. Early in the development of the relationship, which also affects Bolivia and Chile, it was agreed that high school degrees would be ipso facto valid for the purpose of allowing university applications and most university degrees for post-graduate courses. In June 1998, an optional system for the evaluation of graduate studies was instituted with implementation committees at the domestic level. A year later, the Common Market Council approved an agreement granting mutual validity to first university degrees as well as to post-graduate degrees for teaching and research purposes. The most-favored nation clause is included in the agreement.

Relationships among law-schools have materialized through other associations, too. The Presidents of six universities in Brazil and in Argentina, and of the public universities of Asunción in Paraguay, Chile in Santiago, and de la República in Montevideo, established the *Asociación de Universidades del Grupo Montevideo* (AUGM) with the aim of collecting the best human and material resources of the region, to capitalize research and development, to improve continuous education and the management of large public institutions, and to enhance the involvement of the university with its society. Soon after establishing the AUGM, the Deans of the respective law schools began to meet on an annual basis: in 1999, at the Universidad de la República in Montevideo, Uruguay; in 2000, at the Universidad de Buenos Aires, Argentina; and, in 2001, in Florianópolis, Brazil. A number of initiatives have come about as the result of their meetings. One of the main items on the agenda of the Law Branch of the *Asociación de Universidades del Grupo Montevideo* is the mobility of faculty and students.

Two other gatherings are worthy of mention. The first is the *Unión de Universidades de América Latina* (UDUAL), founded in 1949. Faculty and student exchange is one of its main goals. The second is based in Argentina, a permanent Meeting of Deans of Public University Law Schools that is convened twice a year.

I will now relate the tale of my own law school, the University of

Buenos Aires School of Law.

When democracy was re-established in 1983, public universities recovered their "autonomy" and their peculiar governing system. Like each academic unit within UBA, the Law School is headed by a Dean and a Board composed of representatives of the faculty, the students and the alumni. All board members are appointed after polls are held in their respective constituencies. The Dean and the Vice-Dean are appointed by the Board which, after proposal of the Dean, also appoints the Assistant Deans for Academic Affairs, Finance, Research, and for Activities with the Community.

The curriculum in force was approved by the Superior Council of the University of Buenos Aires by Resolution 809 in 1985. Teaching is divided in three cycles, namely the Common Basic Cycle, the Common Professional Cycle, and the Professional Oriented Cycle.

The Common Basic Cycle (CBC) constitutes the first year of all the degrees offered by the UBA. It consists of six mandatory subjects that have to be satisfied in order to be enrolled in the next Cycle. CBC Administration is concentrated in one academic area for all the students of the UBA. For law students the subjects are: Introduction to State and Society, Introduction to Scientific Thought, Law, Economy, Political Science, and Sociology. The two other cycles are managed directly by the law school.

The Common Professional Cycle (CPC) consists of 14 courses that lead to a Bachelor of Law Degree. The Professional Oriented Cycle (CPO) has three mandatory subjects for all orientations and 52 credits. A first law degree is awarded at the end of this cycle, which also entitles the graduate to practice law after registration to the respective bar. This three-cycle curriculum allows the Law School to have rather large courses in the CPC—a maximum of 80 students—and small seminars in CPO—not more than 30 students—in a good mix of the approaches practiced by, respectively, the large, public universities in Europe and the small, selective institutions in the United States.

In the context of legal studies, UBA Law School's purposes are to provide its students with a strong basic education so that they can understand concepts and institutions, develop their abilities, and to properly draft such legal instruments as might be required in everyday situations. To that end, the first cycle of study is designed to provide the context within which the knowledge of rules, general principles, legal doctrine, and case law has to be reached. These learning and teaching activities promote reasoning, legal reading, critical analysis from a legal standpoint, as well as an understanding of other perspectives, such as finding a solution or to achieve an alternative dispute resolution method.

Students arriving at the last cycle must choose their main orientation

and allocate twenty credits to it. The remaining credits are distributed in at least two different areas, with four in Jurisprudence and four in Social Sciences. The other eight are for a mandatory litigation course. In this final cycle, the student has to go through the fundamental questions of the field of interest he or she has chosen, and arrive at an understanding of other issues that also tend to be encountered in that field. The seminars are offered in a workshop format to achieve this end. The objective of this scheme is a graduate with sufficient legal reasoning to be clear about the situations he or she has to face, of their significance, and of their possible diagnosis and corresponding courses of action. Our graduate must develop his or her abilities in order to be able to achieve a foundation in the main discipline of choice and in those areas of the law related to it, and to update that knowledge constantly.

The school year is divided into two academic periods or semesters, the first starts in the second week of March and ends by the end of June, and the second starts in the second week of August and ends in the last week of November.

Last year, the first year of the twenty-first century, the Law School implemented two important instruments that will be enforced beginning with this academic year. On one side is what we call a "quality control system," which will allow our students to write an evaluation of teaching methods and contents, as well as of professors, at the end of each course; second, and interrelated with the first measure, a system to maintain student status, namely a series of requirements that must be satisfied yearly in order to retain standing as a student. The first instrument will make compulsory a practice that several professors already utilize in their courses and the second will reduce the number of students considered to be enrolled, in light of the fact that many "passive" students remain in the records.

In 1996, the international programs department of the University of Buenos Aires Law School began investing in cooperation programs with foreign institutions, focusing primarily on student and faculty exchange. We started with a post-graduate program with the Catholic University of Louvain and the University of Paris-Sorbonne (Paris I) on Corporations and Contract Law.

On the undergraduate front in the U.S., we began our exchange with Columbia Law School in 1996. We have more or less the same sort of engagement with Tulane Law School and the Boston University School of Law. On a non-conventional basis, we have received students from the University of Colorado at Boulder, the University of Miami at Coral Gables, and the University of Texas at Austin. In Europe, we have an agreement in force with the University of Paris Panthéon-Assas (Paris II) and Louvain-la-neuve (Belgium). We also signed an agreement with the

University of Orleans last year. We have also received students from Germany, Finland, the Netherlands, and Switzerland.

All of these agreements proved to be very important for the development the curriculum offered to the large student body of UBA. The early participation in moot courts contributed significantly to that end. In the last six years, UBA Law School has participated in the Philip Jessup International Law Moot Court Competition, sponsored by the American Society of International Law (where our team has been ranked among the first ten); in the Inter-American Human Rights Moot Court Competition, organized by American University (where we have been the winners twice); in the the Jean Pictet International Humanitarian Law Moot Court, organized by the International Committee of the Red Cross (where we reached a second position last year among five institutions, all of which, aside from our representatives, were French-speaking); and in the Willem C. Vis International Commercial Arbitration Moot, held in Vienna.

These strategies and tools further enhance the quality of the teaching and learning processes in a large universe of students and professors. We are well aware of the difficulties of reaching a homogeneous level in an institution with the features of ours; however, we are not in a position to give up that goal on the sole grounds of our dimension and heterogeneity. Instead, we are trying to build a pluralistic community.

Post-graduate legal studies at the University of Buenos Aires Law School fit in the common pattern of most high-level institutions. We offer two LL.M. degrees (e.g., a Master in International Relations and a Master in Law and Economics) and the J.S.D or Ph.D in Law. A winter program in four different areas is offered each August for local graduates and for those coming from other domestic and foreign universities; teaching is in Spanish. However, most of the courses offered by visiting faculty are organized in English.

The Law School has been awarded the task of compiling and editing the Law Digest. Its prestige and its faculty were the two main items considered by the Ministry of Justice in the selection process. The main legal publishing houses decided to join UBA in its presentation.

Several programs are under study, namely an LL.M. for foreigners—one year in Argentina studying Continental Law and *Mercosur* regulations—and a dual degree program with a Common Law institution.

Public education is still the best in the country. It sets high level standards for the country and its institutions. Individuals serving in Parliament, in the Judiciary, and in Administration have attended our courses.

Our mission is to offer a legal education of the highest caliber, for a large population, on a free basis. We meet this challenge with only one ideological engagement: to foster the National Constitution and the institution of Democracy. In Latin America, this is a huge task.