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REVOLUTION IN LATIN AMERICAN LEGAL EDUCATION: THE COLOMBIAN EXPERIENCE*

EDWARD A. LAING**

INTRODUCTION

HIGHER EDUCATION: THE GENERAL SETTING

The most striking feature of higher education in Colombia is the proliferation of universities and other institutions.¹ After the foundation of the University of Saint Thomas in 1580, two other institutions were founded by religious orders in the 17th century and one in the 18th century. Several more appeared in the 19th century, the National University being founded in 1867. By the end of the 19th century only five of these institutions were in operation, but between 1900 and 1940 four new ones emerged. The proliferation commenced after 1940. From that date until the present over 30 have been established.² Today there are forty-three universities and other institutions of higher learning,³ These vary considerably in terms of student numbers,⁴ course offerings and quality, but show some marked similarities in terms of usual absence of full-time teaching staff,⁵ location⁶ and lack of much post-graduate education or original research.

It has been suggested that the main reasons for the upsurge of centres of higher learning have been: the increase in numbers of the population of university age, the structural changes of Colombian society (especially the growth of urbanization), changes in occupation of the active members of the population and the pressure of the middle classes for social mobility through education.⁷ Today there are thirty-three

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universities classified as: national (created as such by law), official sectional (created by regional Departments or municipalities under the provisions of a national decree)⁸ and private (run by non-profit corporations or foundations). These offer normal basic and post-graduate degree courses. In addition there are some ten institutions of higher learning which mainly offer short-term courses generally in specialized technical subjects.⁹

Law is normally taught in full-time day courses. Of the twenty-one institutions offering that subject in 1972 only three offered short-term courses.¹⁰ The average length of the courses was five years, one law school offering a six-year program, while the three night law schools offered a seven-year program. The programs are described by a variety of names which largely correspond to the names of the faculties and of the degrees they offer. These include "law", "jurisprudence,"¹¹ "law and political science," "philosophy, juridical and political sciences,"¹² "law and social sciences", and "law and socio-economic sciences."¹³

Three major historical tendencies in higher education in Colombia have been noted. Firstly, the emphasis on humanism and christianity and the conscious construction of a "christian society" modeled on Spain, which marked the period of the colonial university. Secondly, the period of liberal-professionalism which preceeded and followed national independence (in 1819), during which law and letters and, later, medicine and engineering, predominated. During both of these phases traditionalism and conservatism prevailed.¹⁴ This period lasted well into the present century and still has an effect on the educational scene. The product of the university has tended to be society's elite whose cultural and educational predilection has been described as "generalist." The idea has been that "the teachers and graduate 'doctors' are gentlemen."¹⁵ During this period law was consistently the most popular of the traditional disciplines, as the "generalist" nature of many law school curricula of the period will demonstrate.¹⁶ The third tendency is a modern one, post-dating the Second World War, which has been described as one of technicalism and democracy made necessary by social pressures and changes and by the dynamic of national development.¹⁷ Although the lack of research into the areas of social and natural sciences and the need for rational administrative and structural reorganization of the university system still prevent the Colombian University from claiming to have truly modernized, other features of modernism have become established. These are the high percentage of women receiving higher education, the

increase in number and variety of courses and the high percentage of students pursuing technical and scientific courses. Thus, matriculation figures show that percentages for engineering and natural sciences (excepting architecture) increased from about fourteen in 1935 to over thirty in 1968 and those for agricultural and veterinary sciences from 3.4 to 6.6. Other notable growth figures have been economics, administration and social sciences (together from 2.7 in 1950 to over 18% in 1968). At the same time health sciences and medicine have decreased.¹⁸ But most remarkable has been the drop in matriculation figures for law: from almost 40% in 1935 to slightly over 10% in 1968.¹⁹ At the same time law has been supplanted as the generalist career; not by economics and social sciences, as in some other countries, but by technical sciences, notably engineering (and economics).²⁰

LEGAL EDUCATION: THE BACKGROUND OF TRADITIONALISM

In view of the relative youth of the modernization process which has been described, it is not surprising to discover elements of traditionalism in legal education today. It is therefore useful to summarize briefly several aspects of legal education as traditionally known in Colombia.

Socio-philosophical considerations

Whether they were the cause or the effect of the tendencies to be presently described is a matter of speculation. But the Colombian (and the Latin-American) law school and university helped to produce and perpetuate the class distinctions and social cleavages which were earlier mentioned. The universities' selection procedures and the costliness of the facilities they offered ensured that matriculants and graduates belonged to an elite.²¹ As noted already, the favorite course of study for this elite was law which was to some extent regarded as an index of acceptability or cultural attainment or of the abilities which were useful in the achievement of the higher positions in the bureaucratic hierarchy and in getting one's feet on the rungs of the power ladder.²² Elitism and power-possession tend to be perpetuated, but to a large extent also conduce to conservatism, particularly when power descends vertically and regularly (rarely in Latin America) or when it is transferred, by whatever means and with whatever frequency, from one to another of a limited number of equally balanced groups.²³ Traditionally, therefore, conservatism has been a feature of the law and society. In law and legal education the tendency has been to

stress historicism and positivism as cardinal features of law, the teaching of which was designed to produce "jurists" cast in the traditionally exegetical mold by a system which eschewed intellectualism (unless traditionally endowed) and creativity,²⁴ and which extolled professionalism.²⁵ As an Uruguayan writer said of Latin-American universities:

It is well known that [they] are largely structured on the open "professional-Napoleonic" model: this is very true for law studies. The basis of this model is that the University is fundamentally designed to prepare professionals; this concept arose with the violent dissolution wrought on the traditional University by the French Revolution. As Luis Schers Garcia says—"As a mark of anti-intellectualism, teaching is put into the hands of practical, functionary or professional men."²⁶

The negative sides of this conservatism have been a lack of interest in technical matters and scientific method in the advancement of the university and in progress (both social²⁷ and economic) of a society in which, traditionally, private law and the individual with wealth or power were placed above the collectivity and public law.

The system we have described contributed to professional attitudes resistant to change, the retention of outworn techniques and to an inward-looking and resilient law school organization and internal structure, with outmoded curricula and methodologies.²⁸

Structure of law schools

Regarded globally, the existence of many parallel institutions within an underdeveloped economy has been regarded as unnecessary duplication of costly resources with a resultant underproductiveness of the average institution.²⁹ Within most universities the relative isolation of the individual schools due to the absence of integrative mechanisms, the endeavors of individual faculties to offer comprehensive programs which often suffered from lack of profundity, the virtual lack of applied research and methods of communication with the masses, have all conduced to neo-traditionalism.³⁰ With such a background, deficiencies in curricula, teaching and evaluation methods and the absence of a mutually beneficial impact of law on the community are not surprising features of legal education.

The aspects of the traditional curriculum of Colombian law schools which have been most criticized have been: its rigidity, narrowness and

bias towards the formation of limited professionals in areas of conventional knowledge, with an accompanying failure to provide the student with optional courses;³¹ attempted comprehensiveness along with consequential lack of depth and variety in individual course areas;³² and its failure to make adequate provision for individual student development through participation and personal attention.³³ The following are illustrations of these failings: (i) Absence of courses on the social sciences (and the relation of law to society), on economic law and on forensic deontology or professional ethics.³⁴ (ii) Failure to provide the student with practical exercises and with the opportunity to see law in operation and some of the by-products of the legal process, such as prisons.³⁵ (iii) The disregard of decided cases (*jurisprudencia*) in the teaching of law.³⁶

An attempt was made by legislation to remedy these deficiencies in the curricula of the official universities (national and official sectional). Decree No. 1569 of 1934 established a six-year program consisting of a preliminary year followed by five "courses." In the preliminary year the student would study the general history of social, political and economic institutions of the "principal countries;" legal Latin; forensic psychology and biology; Spanish and philology; introduction to law, and the principles of accounting and mathematics as applied to finance and business. The following subjects were established for the subsequent years: civil law (4 years); Roman law and mercantile law (2 years each); and legal philosophy, constitutional law, political economy, canon law, public international law and the history of diplomacy, sociology, civil procedure, administrative law, penal law, taxation, penal procedure, mining and hydrocarbons law, evidence, forensic practice, private international law, banking and related topics, national economics and statistics, and legal medicine (1 year each). This was the basic pattern of studies in public and private universities throughout the country, though some law schools offered other programs such as sociology of the Americas, labor law and the law of the Indies.³⁷

Throughout Latin America, as elsewhere, for many years there has been active discussion about the most suitable methods for teaching law. Despite changes, however, the traditional system which has prevailed there, as it still does in, e.g., England and other parts of Western Europe, is the formal lecture method (*la lección magistral* or *la lección catedral*). This method has largely prevailed in Colombia where active student participation (by class dialogues, project work, research, seminars, use of source materials other than the basic codes, individual attention and the

use of decided cases) has been rare. So has practical skill teaching in anything but the elementary forensic techniques. Of course, as some Latin American writers point out, the varieties of these modern methods are not above comment or criticism.³⁸

In Colombia the formal lecture method has been perpetuated by the legal conservatism which we have described, by the fact that the majority of the law school teaching staff is part-time and by a preference for doctrinal positivism. Although it has been lauded by many, some of its more dubious side effects have often been: the development of dogmatism and unquestionability on the part of the teacher, the student learning to subdue his natural inquisitiveness and to become examination-oriented, and, generally, the exaggeration of the theoretical and doctrinal at the expense of the more practical aspects of the law.³⁹

Insofar as firsthand observation of this "magisterial" method is concerned, the writer was able to observe the following interesting varieties: a young lecturer in international law reciting from memory the thoughts of Aquinas and Suarez; students reading out aloud for class benefit from provisions of the Civil Code, with the lecturer, again without notes, driving home their significance; and a form of "sledge-hammer" teaching, where the teacher anxiously stated legal principles in a "one, two, three" order followed, at intervals, by the question: "*¿Me explico o no me explico?*" (Have I made myself clear or have I not?).

As far as teaching materials are concerned, the general position has been an absence of texts specially prepared for students. The only available books have usually been the doctrinal works generally available. Casebooks or materials books have been unknown, with students relying on their codes and other legislative instruments and on lecture notes ("*apuntes*") written by themselves, other students or the lecturer, and sold in mimeographed form.

As already indicated, traditionally there has been little instruction in practical matters. Thus, in a country where the elitist nature of law studies and the virtual absence of a critical social science element in the instruction offered have prevailed, law schools and law students have not rendered services to the general community.

Legal education was only part of a total educational picture which urgently required change. Although in 1958 legislation was passed providing for university inspection and vigilance, and the Association of Colombian Universities was formed with the objectives, *inter alia*, of

safeguarding and improving academic performance and programs and generally raising standards and conditions in universities and the community they served, progress was fitful. And, despite the efforts of the National University Fund to stimulate educational progress, the general picture has been rather bleak. However, as will be seen below, there have been considerable improvements in *legal* education. The need for and some of the more immediate causes of these improvements will be discussed below. If we may speculate on the deeper reasons, however, they might well be due to the fact that, since 1950, the demand for places in law schools has very greatly reduced and the directive position in society has shifted from the lawyers. Accordingly, the law schools have been trying to reestablish their power-base and the popularity of the legal discipline by putting their houses in order.

The movement for change can be divided into two periods: the years immediately preceding 1959 and those after 1959. As will be seen, it has been part of a wider Latin-American movement. Before 1959 the campaign was largely restricted to critical law review articles. Since that year it has taken a more positive and active form.

THE MOVEMENT FOR CHANGE

BEFORE 1959

Though during this period the volume of critical literature on legal education in Latin America was not large and in places somewhat cautious and groping, the focus was largely on the matters already discussed. Though to some extent the movement was home-grown, it was heavily influenced by reforms in legal education in Europe.⁴⁰ Basically the cry was for reappraisal and for the non-rejection of and experimentation with all plausible methods of legal education.

As would be expected, the philosophical basis of the suggested reforms was the necessity for a humanitarian base for law students. Thus:

A law student ought to be well-instructed about some of the principles and basic learning of history, sociology, philosophy, literary art (not science nor technique, but art) all of which constitute the humanist base of the jurist. Without it the student will become an ignorant charlatan (*rabulo*) or a shyster, the worst of the known professional degenerations, because such a state of affairs signifies the loss of the normal ethical standards and the deification of the adjective above the substantial.

This was said in 1951 in a Puerto Rican law review.⁴¹ As late as 1963 similar views were being expressed, for example, by the Uruguayan proceduralist Gelsi Bidart,⁴² who stressed the need to form humanist lawyers who regarded law as an art and had technical accomplishments. Notably absent from these statements, however, was any reference to the social function of law and the lawyer and the needs of the community.⁴³

Not very much was written during this period about curricula, and the few proposals tended to relate more to general objectives.⁴⁴

Educational methods had been under criticism for a considerable period, the *lección catedral* being most discussed.⁴⁵ An increasing interest was shown in educational methods in which there was more student participation (*el método activo*).⁴⁶ Again the models were primarily European, especially Spanish, e.g., some writers tracing the origins of the case method to ancient Rome and through Ihering to Spain,⁴⁷ and somewhat vaguely describing the varieties of that method as being the Anglo-American and the "European-continental."⁴⁸ However, even where there was concrete discussion and suggestion it often had an argumentative and unrealistic flair.⁴⁹

Some of the proposals for practical education included suggestions that law students should, in addition to formally taught forensic practice, observe the law in action in lawyers' offices, governmental legal departments and courts,⁵⁰ and learn about notarial procedure by observation.⁵¹

Very little was said about the needs of society, especially its poorer members,⁵² or about the needs of the student, except for the felt need to improve the efficiency of the legal profession through better training. Professional improvement was also largely the reason for such suggestions as the need for graduate and non-graduate seminars, discussions on topics of legal interest, inter-change of students and teachers between universities, attendance by teachers at regional and international conferences, student and teacher travel and study abroad, and for the possession of doctoral degrees as a necessary prerequisite for entry into the teaching profession.⁵³

AFTER 1959

In 1959 the first conference of Latin American Law schools was held in Mexico City; it marked the beginning of the current phase in the legal education of the region. Three other similar conferences have been held,

and throughout Latin America there has been detected a new spirit to modernize legal education. Colombian law schools and educators have participated in the movement. In this subpart we will give a brief account of the Latin American conferences and other conferences, as well as other stimulants to current experiments in legal education in Colombia.

The Conferences Of Latin American Law Schools

In all, there have been four conferences. A fifth, scheduled for Buenos Aires in 1967 was not held. The first was held in April 1959 at the National Autonomous University of Mexico in Mexico City, which houses the influential Institute of Comparative Law; it was attended by two hundred and fifty delegates from all over the region. This was followed by the second conference in April 1961 at the National University of San Marcos in Peru; one hundred and twenty-three delegates attended. The third was held in April 1963 at Santiago and Valparaiso in Chile. This was attended by one hundred and seventy-eight delegates from fourteen countries. The fourth conference was held in Montevideo, Uruguay in April 1965. Delegates from fourteen countries attended. Colombia was represented at all of the conferences,⁵⁴ The obvious immediate achievement of the conferences was the opportunity they afforded the participants to meet and to exchange ideas. Formerly these had often reached Latin America indirectly from Europe through law reviews and visits there by law teachers. And, by this time the experience of some of the law schools of Argentina, Mexico, Uruguay and Chile was becoming particularly valuable. Many of the developments which are described in Part III are a direct result of these exchanges.

The subjects discussed at the conferences were: aims of legal education; basic organization and structure of the law school, particularly curricula and course structures; library holdings; legal research; practical education methodology; relationships between law schools; position and function of law teachers; role of the law school in Latin America and its function in the community; the law school and the state; student welfare. The following is a summary of the major recommendations of the conference on the matters mentioned.

(1) Aims of legal education

In addition to the need to develop a respect for law and to impart a knowledge of the "principal institutions," (recommended as the major

objectives of law teaching by the second conference) emerging from the first conference was the recommendation, made in connection with curricula suggestions, that legal education should be adjusted to the social needs of the community and be related to its needs and those of the rest of Latin America. This was repeated at the third conference, while the fourth conference suggested some specific programs for law schools to follow in fostering the social and economic welfare of the community and its members.⁵⁵ The fourth conference urged as a necessary aim of legal education the production of "a man of law," who would be a skilled technician with a firm cultural base. The last two conferences made several recommendations about the method of producing lawyers with superior technical skills. Particularly at the first and fourth conferences, social justice, individual dignity and responsibility, the sound administration of justice and respect for legal order were some of the aims and objectives stressed.

(2) *Basic organization of the law school*

In their recommendations on such topics as legal research and methodology there was some development of this theme; this will be taken up later on. Of interest at this point are the suggestions, made by the second conference, that law schools should offer night courses as well as day courses (so that law studies could reach all sectors of the community); the recommendation of the fourth conference that doctoral courses lasting at least two years should be established; the recommendation that special postgraduate teaching should be organized; various pronouncements on the organization of the teaching profession and a statement (made by the first conference) on the basic rights of teachers; that special postgraduate teaching should be organized; and the various proposals about the curricula.

The first conference stressed that the curriculum should aim at teaching basic legal skills and providing a suitable social and legal culture. And in the majority of the conferences the view was urged that the curriculum should aim at flexibility and without overloading and with a minimum of compulsory and a large number of optional subjects. The fourth conference recommended that the basic program should last five years, while the second conference made suggestions about the basic courses which should be offered. These were: introduction to law and social science; theory of the state; constitutional law; administrative law; sociology; economics, (both theoretical and practical, in two courses);

public finance and finance law; international law (the first conference had suggested "Inter-American international law"); Roman law; civil law; commercial law; labor law; penal law; procedure; legal philosophy; history of law or legal institutions; and professional ethics.⁵⁶ In addition, the fourth conference recommended the creation of chairs of comparative law in order to "unify" Latin American law and urged (as did the first conference) that courses in professional ethics should be taught.

(3) *Library holdings*

Nothing really concrete was said about this vital topic, which was an area in which one might have expected some positive results. Only the fourth conference recommended that cataloging and classification schemes should be set up where they did not exist and that there should be exchanges of technical information, texts, *jurisprudencia* and "legal research."

(4) *Legal research*

Again one might have expected the conferences to discuss and identify areas of fruitful action, suggesting topics for concentration of energies by individual law schools or groups of schools. But they did not. However the fourth conference suggested that law schools should create institutes and departments charged with permanent study of the codes and with fundamental research and did make a few concrete proposals aimed at the stimulation, in a general sense, of research and "scientific production." It also suggested that a Latin American office of legal research should be established.

(5) *Practical education*

The last three conferences all urged the necessity of developing this area, stressing the "intimate relationship" between theory and practice. Concrete suggestions were made by the second conference, such as teaching students to draft legal instruments, giving lectures on the practical aspects of law and obliging students to attend and *participate in* the activity of "organs entrusted with the application of law" and to work in legal (aid) clinics. Interestingly, the second conference's recommendations on practical education included proposals that the case method and problem method should be used in such teaching and that the handling of legal sources should be a necessary part of practical education. This would seem to be

a laudable aim. But apparently it was intended that such methods should not be used in connection with courses on theory.

(6) *Methodology*

What we just said is borne out by the fact that in discussing methodology in general, the conferences merely mentioned in broad terms the need to use a wide range of teaching techniques; but when they came to discussing actual methods, though stress was placed on the need for preseminars,⁵⁷ seminars,⁵⁸ the active method of teaching and, where possible, audio-visual aid, there were no recommendations about the detailed techniques which should be used; nor was express mention made of some of the methods popular elsewhere, e.g. in the U.S.A.

(7) *Relationships between law schools*

This was discussed several times, the fourth conference recommending that national conferences should be held and that all possible exchanges should be encouraged.

(8) *Position and function of law schools*

In addition to what has already been said on this, we may note the recommendation of the second conference that teachers should have knowledge of teaching methods and that the teaching of pedagogic skills should be instituted. The fourth conference also made recommendations about the teaching career, part and full time teaching and security of employment.

(9) *Law school's role in Latin America and its function in the community*

In addition to what was discussed under the heading of general aims and objectives of the law school, the fourth conference elaborated on this theme, stressing the part which the jurist could play in the development of the region, especially if its law could be unified. If this may sound unattainable at the moment, so must the so-called "statute of the American man," a set of proposals tending to guarantee the effective exercise of social and economic rights. It was also suggested that the law school

should concern itself with teaching law in its social setting and promote social and cultural welfare of the community, for which it should provide free legal assistance and disseminate knowledge about law to all sectors and levels of the community. To this latter end law schools should establish centres through which they could contribute to civic formation and afford basic legal services. Interestingly, despite appearances, these somewhat elevated objectives have not been disregarded in Colombia and elsewhere.

(10) *The law school and the state*

The fourth conference made some general suggestions aimed at improving the efficiency of the "democratic representative regime."

(11) *Student welfare*

Basic rights, duties, and liberties were outlined at the first conference, while the fourth conference, apart from urging that the ethical and social formation of the student was necessary for the integral formation of the "man of law" who could respond to the demands of the modern world in a socially responsible manner, discussed the need for and made some recommendations for the improvement of student welfare.

The loftiness of many of the recommendations, particularly those at the fourth conference, cannot be denied. Some of them might appear to be unrealistic and presently unattainable in most of the countries and law schools of the region; and their existence might tend to obscure some of the more immediately useful portions of the proposals. Furthermore, while a degree of vagueness is understandable in proposals of the nature of many of these, it is disappointing that in several matters of everyday and vital concern, the conferences did not set down for future guidance some of the accumulated experience of progressive law schools in the area. Nevertheless, as a Chilean commentator on the fourth conference remarked, teachers attending the conferences did obtain the opportunity of talking to their counterparts from elsewhere; this was educationally useful and was a break from the "stupid isolation" which formerly existed. This, the spiritual coming together and the widening of horizons were worthwhile achievements notwithstanding the "flagrant discordance" between the accords of the conferences and their application in each law school.⁵⁹

Conferences and other stimulants to legal education in Colombia

As indicated already, Colombians have not been behind in the movement to reform legal education, stimulating influences on which have included conferences, the formation and work of the Association for the Reform of Law Teaching (*Asociación para la Reforma de la Enseñanza del Derecho*: ARED), the enactment of a new code of civil procedure and other new legislation, and the legislative reform of the legal profession and legal education.

The conferences have included national conferences of law students,⁶⁰ conferences (particularly on methodology) sponsored by ARED and five seminars of Deans of Colombian law schools. It may be noted that similar conferences have been held throughout Latin America, e.g. in Argentina,⁶¹ Brazil,⁶² Central America,⁶³ Chile⁶⁴ and Peru.⁶⁵

The seminars have been sponsored by the Colombian Association of Universities (*Asociación Colombiana de Universidades*: ASCUN).⁶⁶ They were all held in Bogotá in December 1960, June 1961, May 1964, September 1968 and December 1970. The following is a summary⁶⁷ of their main recommendations.

(1) *Function of law schools*

In this connection the third seminar was considerably influenced by the conclusions of the first three Latin American conferences. It therefore urged as a basic element in the formation of jurists, the need to afford students with a clear conception of the institutions and the matters governed by them, in the context of a "humanistic and functional" background. The professional's "civil formation" (through such courses as political institutions, Colombian constitutional law and customary law) was therefore important. One of the law schools' highest aims should be making contributions to the handling and solving of national problems by "normative means": a clear endorsement of the role of law as perceived by many Latin American jurists.

(2) *Basic law school program and curriculum*

The first seminar recommended that the basic program should last five years with a minimum of eighty-eight hours per week spread over that period, ten of which would be devoted to "intensifications" (for

elaborating and complementing basic teaching), forensic practice, specialization, preseminars and seminars. The fourth seminar recommended the institution of semestralisation and the credit system, the number of credits for each course being equal to the number of teaching hours per week. The minimum number of obligatory credits should be ninety-six hours, of which seventeen should be devoted to preseminars (3), seminars (7) and legal clinics (7). As to actual study plans, as a result of the deliberations of the second seminar, the Administrative Committee⁶⁸ of ASCUN and the National University Fund accorded to a basic plan of studies in June 1961. This was passed into law by the Minister of Education in June and amended in August.⁶⁹ Prevailing curricula were discussed in detail at the third, while the fourth seminar elaborated the above-mentioned credit system. Curricula and other provisions of the 1970 legal education legislation were discussed in detail at the fifth seminar.

(3) *Postgraduate studies*

These were discussed, without recommendation, at the fourth seminar.

(4) *Practical education*

The recommendation of the first and second seminars was that this should take place in the final year and should include the study and handling of realistic problems. The seminars urged that this objective would be facilitated by mounting preseminars, seminars and forensic practice. By 1970 a few law schools had established legal aid clinics and the fifth seminar recommended that the University of Antioquia's scheme should be studied and, if possible, adopted by the various schools. The clinic was seen as a valuable learning experience and a social service, and courts were urged to cooperate with such programs and the government invited to enact legislation to allow students to participate in the lower levels of the penal process. Such legislation was enacted in 1971.

(5) *Teaching methods*

The first seminar recommended that memorization by rote of legal texts and doctrines should be avoided, while the June 1961 Accord urged the seeking of a balance between theoretical and practical knowledge and the quest for forming professionals, jurists and researchers. Social and economic facts, as well as the legal order should be studied, stated the

Accord, which proposed that magisterial exposition should permit student dialog with the teacher and be combined with the various forms of active teaching. The third seminar, in the same vein, discussed the various measures of practical education mentioned and urged a continuous exchange of ideas and experiences between teachers.

(6) *Specialization*

The 1961 Accord exhorted law schools to orient the future lawyer in his final year towards specialization. Commenting on the new legal education legislation, the fifth seminar recommended that the government permit such students, instead of offering the final "*preparatorio*" examination, to pursue specialist courses toward doctoral degrees either at their own school, if it taught the speciality, or at another.

(7) *Teaching staff*

In addition to the suggestion of the third seminar that teachers should exchange ideas, the 1961 Accord urged the organization of the teaching career whose members should ideally be fulltime or, if necessary, half-time (not merely part-time). Measures should be adopted to improve quality and capacity.

Among the other matters discussed at the seminars was the need for law schools to participate in international meetings and the reorganization of the examination system.

If only for the exchange of ideas and experiences of the various schools, the seminars must be judged successful. But particularly in the areas of program organization, including curricula, and practical education, they have been very useful and have contributed to the process of uniformity and modernization which has been further impelled by the new legislation. Commenting on the fourth seminar, Dr. Fernando Hinestrosa, the Minister of Justice and former rector of Externado University saw the task of "renovation, actualisation and technicalisation of legal studies," which in some ways was a new development, as

... transcending the boundaries of the cloisters and becoming a true national proposition, to the realization of which the previous meetings of deans of Latin America and Colombia with their analysis, declarations and recommendations and the individual experience of faculties of law ... were of inestimable value.

In view of the severe criticisms which had been made of lawyers and the serious conflicts which had threatened the very existence of the state and compromised its institutions and national confidence in its authorities, efforts such as these were particularly welcome. And although there were not any longer "too many lawyers" and lawyers no longer monopolized positions of responsibility, law was

... not simply a science or a mere technique, nor speculative knowledge, nor a vulgar method of doing things. But, as in its classical Roman ancestry, Law continued to be an art and, as such, require[d] a solid theoretical conception, a simple and direct method of reasoning and decision and an universal criterion, with a clear humanist flavor...

Though its influence has been apparently much more limited than the seminars of law deans and the recent legislation, ARED and its members have also helped to stimulate the reform in legal education. This is particularly the case since its members are among the most articulate and vocal of the law schools participating in the seminars.⁷⁰ The Association was formed in March 1969 by the law schools of Antioquia, Cauca, Externado and the National Universities. Subsequently the national universities dropped out, and the University of the Andes and the Major College of Our Lady of the Rosary joined. All types of Colombian universities are members: national (Cauca), departmental (Antioquia) and private (the other three). The membership also displays a variety of characteristics including: independent liberalism (Antioquia), Catholic conservative (Rosary), research oriented (Externado and Andes), modernist (all except Rosary) and elitist (all). Some are old (Rosary, 1653, and Antioquia, 1803). Others are more modern (Externado, refounded in 1918, and the Andes, 1948). One, the Andes, is American-influenced. Two of them publish two of the three important law school law reviews of Colombia: *Revista de la Facultad de Derecho de la Universidad Externado de Colombia* and *Estudios de Derecho* of Antioquia.

ARED is a nonprofit-making legal entity whose capital is subscribed in equal shares by its members and which is run by a board of directors of which each dean is a member. Its objects are, *inter alia*, the exchange of students, personnel and materials; the training of its members' teachers; stimulation of research; intensification of professional practice at law school level, especially through legal aid clinics; promotion of specialization by graduates, the members agreeing that their law schools (apparently in combination) should offer degrees in public administration, administration

of justice and public ministry practice, political science, economic law, civil law, penal law, labor law and international law; and the promotion of the dissemination of law throughout the community.

Implementation of many of these objectives is yet to be commenced; for instance, the progress of research, as elsewhere in Colombia, is very slow and specialization has proved difficult to organize. The Association has sought to implement another of its objectives, the publication of a law review. But so far only one issue has appeared; in some respects its contents are a fair sample of Colombian law reviews, with articles on economic crimes (by a Supreme Court judge), procedural aspects of constitutional adjudication (by another Supreme Court judge), law and language (by a law professor with qualifications in philosophy, letters and law) and the logical structure of legal norms⁷¹ (by a second year law student at the Andes, under the direction of an exponent of the active teaching method on that school's staff). Interestingly the review contains four Supreme Court judgments, two on labor law and two on penal law. Two recent government decrees on the organization of the legal profession are also set out verbatim; and the review devotes space to news about ARED's activities. The Association has also published one issue of a bulletin (intended to be bimonthly) with further news about ARED and several articles, some of them reprints from other journals.

ARED and its members have also studied legal aid services in Costa Rica and Chile; and some of them have established clinics. There have been educational visits by representatives of its members to Europe, the U.S.A. and Chile, in the latter case to attend methodology seminars and visit libraries and the influential Institute of Teaching and Research. More importantly, several of the member law schools have sought to reorganize their programs, particularly with "intensifications" or concentrated teaching in selected areas, and organization of seminars and preseminars (especially at Cauca and Externado). Experimentation in teaching methodology has progressed, particularly at the Andes, Cauca and Externado. The greatest achievement of the Association, in its opinion, were the two methodology seminars held in January and September/October 1970. An active participant at both seminars was Professor William Headrick of the Catholic University of Puerto Rico.

For its basic activities ARED has received some financial assistance from the Ford Foundation. The International Legal Centre also helped in connection with the seminars. Despite the fact that these, and other

activities could only have been beneficial, there has been some reluctance of other law schools to join ARED, and teachers using the modern methodologies have experienced considerable student resistance and been accused of brainwashing and conducting unwholesome Yankee practices.

As stated above, new legislation in Colombia has made an impact on the legal education revolution. These have included legislation reorganizing notarial practice and establishing a state monopoly over notarial services, the office of the notary becoming a state office,⁷² reorganizing and establishing the duties and fees of judicial auxiliaries and collaborators;⁷³ reorganizing the judicial career service;⁷⁴ reestablishing court and judiciary organization;⁷⁵ and the new Code of Civil Procedure enacted in 1970.⁷⁶

The new Code⁷⁷ seeks to remedy the following defects in the former civil procedure under the Judicial Code of 1931:⁷⁸ delay, discrepancy between the truth of the facts and the decision, victory to the stronger party at the expense of the weaker, individualism and privatism. The Code also marks a distinct advance away from the former written trial method towards a greater degree of orality. Thus in all proceedings, testimony and interrogatories are oral while two types of proceedings⁷⁹ are virtually completely oral. The Code also authorizes future legislation which may provide for complete orality. Clearly, these aspects of the Code, if observed and enforced by the judges, will have the distinct effect of compelling lawyers to improve their techniques considerably and to learn many new skills which they never before possessed. Speed, orality and party equality will certainly necessitate elaborate training of the new lawyer. These remarks also apply to the following basic principles⁸⁰ which the draftsmen of the Code sought to follow:

(a) Protecting the weak and the poor. This is done by the *amparo de pobreza*, whereby persons unable to afford to pay for their costs and expenses without losing the wherewithal to live and certain other persons can apply for the court to appoint an attorney at state expense. If the litigant obtains an economic benefit from the proceedings he must pay the attorney normally 20% or, in some cases, 10% of the benefit less the fees the latter receives from the state. Furthermore the judge has power to obtain any necessary proofs and evidence and to sanction temerity, bad faith, procedural fraud and other vices. Despite the existence of a confession in court, proof to the contrary is permissible. And a defendant's silence or inaction is not *ipso facto* conclusive proof against him.

(b) The judge's personal control over the taking of proofs and furnishing of evidence and interrogatories. He can call witnesses, experts and other assistants and must generally carry forward the trial process.

(c) Procrastination is sought to be avoided, with the elimination of unnecessary interlocutory proceedings and appeals. Parties and their attorneys can be condemned in costs for temerity. Nullity proceedings are now limited and procedural nullity situations can be cured in many cases.

(d) Rather than being a mere spectator in the civil process, as formerly, the judge is now regarded as a state official representing the state's interest in advancing the legal order through a fair, efficient and orderly trial.⁸¹ The criterion is now the ascertainment of the truth of party allegations and not victory to the astute or the strong. *La verdad verdadera* (the whole truth) is now put above *la verdad formal* (*formal truth*).⁸² The judge now has a large measure of participatory powers, including those which are investigatory, clarificatory and facilitatory. Thus Article 179 of the Code provides:

Proofs can be ordered on the petition of a party or officiously, when the magistrate or judge consider them useful for the verification of facts relative to the allegations of the parties. Nevertheless, in order for evidence of witnesses to be ordered officiously, it is necessary that they be mentioned in other proofs or in any other procedural step of the parties.

An order for officious proofs cannot be appealed or otherwise reversed. The costs of taking proofs shall be borne by the parties in equal shares, without prejudice to a final order for the payment of costs.

(e) The simplification of procedure, limiting special proceedings with their own particular rules to twelve types.⁸³

(f) The establishment of the principle of only one appeal.⁸⁴

These provisions will therefore now require a new breed of lawyer and a new brand of legal education. As a writer⁸⁵ pointed out, the lawyer's sense of responsibility will now have to be very high and, in the endeavor to ascertain the whole truth, he will have to work much harder and more efficiently than before, eschewing dogma, formalism and prevarication; becoming fully interested in the trial process, seeking to guarantee substantive rights through the finding of facts, learning to be constructive and, in fact, to think.

An attempt was made in 1970 to reorganize the legal profession in Colombia. However, the statute⁸⁶ was declared unconstitutional. As a result Decree No. 196 of 1971 was enacted. In order to be able to practice law a person must be inscribed in the national registry of lawyers. This must be decreed by the superior court of the judicial district in which the person resides, which must publicize the application for inscription and give all persons an opportunity to attack the application. Only, persons who have recognized law degrees, and who are not judicially interdicted or have not been convicted of offences carrying a penalty of imprisonment or banishment to a colony and are on that account deemed by the tribunal to be unfit for practice, can be admitted. The statute specifies that the lawyer's social function is to collaborate with the authorities to perfect the country's legal order and to achieve a just and proper administration of justice. Furthermore his "principal mission" is to defend the rights of society and individuals. He must also advise, help and assist persons in their legal relations. He has seven basic duties, the statute setting forth at length what are considered breaches thereof. The duties are to: conserve the dignity and decorum of the profession; lawfully collaborate in the just and proper administration of justice; observe and demand moderation, seriousness and due respect in his relations with judicial officials, the opposing party and his lawyers and other persons who participate in professional matters; work with absolute loyalty and integrity in his relations with clients; maintain professional secrets; attend to his professional duties with zealous diligence; and conduct himself loyally with his colleagues. Breaches may be sanctioned by private warning, public censure, suspension from two months to two years and cancellation of his license.

An innovation of the statute, which has had an immediate impact on legal education, is the provision that officially recognized law schools may organize legal aid clinics (*consultorios jurídicos*) whose establishment is subject to the approval of the appropriate superior tribunal. These must be directed by professors or lawyers with the assistance of students in the last two years who, in coordination with the directors, may participate in penal proceedings at the pretrial level (*instrucción*) or fully in minor trials before municipal courts, in single instance labor proceedings and in administrative labor conciliation procedures, and in minor civil cases before single instance municipal courts.

Finally the new legislation on legal education. Originally two decrees were passed: No. 970 of 1970 and No. 971 of 1970. After the Supreme Court declared some provisions of No. 970 unconstitutional in 1970, Decree No. 1390 of 1970 was passed making certain amendments to

the former Decree. Then Decree 1391 of 1970 was enacted, replacing Decree 971. These statutes represent a radical reformation of legal education in Colombia, with the comprehensive regulation of most of the subjects discussed in this article. The detailed provisions will be discussed subsequently. However, a summary of the legislation follows:

Decree 970 first of all specifies primarily the mission, duties, responsibilities and functions of law schools throughout the country. Study plans are regulated in detail by Decree 1391, which requires the provision of common obligatory subjects, optionals and subjects of free student choice, courses using the active teaching method and instruction in research techniques. Time must also be allocated to practical work and legal aid clinics. These study plans are also envisaged in Decree 970, which stresses that law teaching should combine the theoretical with the practical, the knowledge of doctrine and jurisprudence with the techniques of creation, interpretation and application of law, and the legal norms with the political, economic and social facts governed by them. Decree 1391 also outlines the entry examinations which should be taken by doctoral candidates, and provides that law schools shall organize courses related to juridical activities, particularly the judicial, notarial and registral functions. In addition Decree 970 requires them to promote courses for lawyers, both of the refresher variety and for the formation of teachers and researchers. The criteria for examinations and assessment are set out in Decree 970. A National Council of law schools is created by Decree 1391. It consists of four deans: the dean of the National University, and one dean from a nonnational public university and two from private universities, in both cases chosen by the deans of the law schools belonging to that category. The Council is charged with maintaining relations with international organizations of equal or similar nature, advising the government in its supervision of law schools and its formulation of minimum programs and assistance to law schools in conserving and increasing their academic levels.

Several problems which have arisen out of the new legislation will be discussed later. The general reception of the legislation has not been unfavourable, though it has been criticized for its attempted comprehensiveness and absolute nature in many respects. Many of the comments have been about the difficulties of practical implementation. Thus for economic reasons, the proposals that the active method and measures of practical education be inaugurated have been questioned. And in this connection, and others, the difficulties of changing old thought patterns

have been mentioned. It might also be somewhat unrealistic to expect law schools to teach the many new courses they must offer to undergraduates and may offer to postgraduate students, and law teachers to devote time to research and at the same time to mount several additional types of extension courses for the thousands of lawyers, judges, judicial auxiliaries,⁸⁷ notaries, and officials and employees of the registry service and the public ministry.⁸⁸

THE LAW SCHOOL TODAY

We now look at the general picture today, making some comparisons with the situation elsewhere in Latin America and some critical comments.

THE NEW SPIRIT

A dynamic and positive tendency is probably the best description of the current movements in and philosophy behind Colombian legal education.⁸⁹ According to Decree No. 970, law schools now have a mission:

...The study of, research into and popularization of the national legal system, with the objective of forming a conscience on the part of the citizenry which, affirming the values of the fatherland's tradition and respect for individual and collective guarantees, must preserve the republican institutions, representative democracy and public liberty, within a clear sense of civic duties, an ethic of social service and the conception and interpretation of law as the renewed expression of justice, progress and equality.

Law schools must therefore "adequately train those who must administer justice, infusing in them an authentic spirit of social apostleship and, in interpreting the law, a dynamic and solidaristic criterion," it being the law school's duty, furthermore, "to train professionals who conceive and practice the exercise of the legal profession as a true social function." All of these objectives and duties are complemented by the requirement that law schools "shall exalt public service as the most noble and useful of the jurist's activities."

Clearly then, the new legislation indicates a desire to move away from the conservatism, narrow professionalism and self-interested elitism previously described. Strong views such as those expressed by the eminent legal philosopher Naranjo Villegas⁹⁰ and, more haltingly, by the deans at their third seminar, have won over more limited opinions, among which

we must now include those of the Latin American conferees. As will be recalled, the legislative scheme is part of a general overhaul of legal institutions and the philosophies behind them, without which it would be merely a statement of principle.

This statement of mission and these objectives and duties is complemented by the general tenor of the undergraduate study plans set out in Decree No. 1391, the implementation of which, according to Decree No. 970 must, *inter alia*, be based on the "security of the realization of the social aims of legal culture and the best intellectual, moral and physical formation of students, guaranteeing in every case freedom of teaching, study and research." Note should be made of the requirement of Decree No. 1391, that

The teacher's dedication to the University must be such that it permits him, according to the nature of his subject, to reconcile teaching and research with judicial, administrative or professional practice so as to offer to the student the most complete theoretical and technical preparation.

Such law teachers and researchers, states Decree No. 970, must be prepared by the law schools themselves, which are also to act as consultants to public organs in their tasks of creating and applying the law, guard over the proper administration of justice, analyse national legal problems objectively, foment scientific research and study contemporary legal systems. Naturally these functions will be performed by the law teacher, and on him will fall the responsibilities of implementing the legislation in their proper spirit. Objectivity, scientific method, vigilance and expertise will now demand a rejection of dogmatism, self-sufficiency and overbearingness. Openness and receptivity, even to foreign ideas, are now the necessary virtues.^{91 92}

STRUCTURE OF LAW SCHOOLS

Within such a short time it is difficult to assess the changes. Clearly however, the law school's independence of action has been effectively limited by the comprehensiveness of the legal education legislation, especially the provisions: on programs; creating continuous governmental control over education both independently and with the advice of the new National Council, and, perhaps, those requiring the establishment of an Association of Law Schools to assist in the "coordination and seriousness

of the programs of juridical formation." On the other hand these may not necessarily be seen as limitations or, if so, as improper ones.

The law schools' obligatory and semiobligatory spheres of activities have certainly expanded, although implementation of most of these is yet to come. They must now: teach a broad, varied and in many cases new range of undergraduate courses; if they offer such degrees, teach pre-doctoral and specialist courses in certain areas, for certain periods and by certain methods; prepare their own teaching staff; teach a wide range of non-law students; organize pure and applied research; actively adopt new methods and become centres for practical education; understand and interpret new legislation such as the 1969 Commercial Code, the 1971, Penal Procedure Code and the novel 1970 Code of Civil Procedure, already mentioned, and now vital to legal education; and be veritable crusaders. Some investigatory and doctrinal energies will now be devoted, one expects, to elaborating the silent injunction of the Procedure Code that the whole truth is the object of judicial proceedings; the mandate of "the conception and interpretation of law as a renewed expression of justice, progress and equality;" and the urging that, in conducting law studies and in interpreting and applying legal norms, the spontaneous search for truth and science, the social spirit and the moral context must be advanced. Will the law schools be able to restructure themselves to fulfil their new tasks and carry out the programs described below?

Curriculum

Not only in Colombia but elsewhere in Latin America there have been considerable modifications in study plans in recent years. Between 1959 and 1965 alone, some eleven law schools elsewhere had modified or were modifying their curricula substantially.⁹³ Since that year several others have modified them.⁹⁴

According to Decree No. 1391, the Colombian curriculum must include the following types of courses: those which are "*basic or common obligatory*," which each law school must offer; those which are *optional*, consisting of groups of courses of a legal, social, economic, administrative or political science nature; and courses of *free choice* on legal or related topics or on general culture, or on languages, which can be freely chosen by the student. The obligatory courses are: introduction to law; economics (economic theory, and economics of Colombia); political law (constitutional theory, Colombian constitutional law, general and special administrative law); penal law (general and special); labor law (general theory,

individual labor law, collective labor law and social security); civil law (general part, persons, goods, obligations, contracts, successions and family); commercial law; procedural law (general theory, administrative, penal, civil, labor and law of evidence); public international law; public finance; legal philosophy; Spanish and writing; and legal deontology. Table I will demonstrate the extent to which the compulsory programs of those Colombian schools about which there is information (mainly relating to pre-1970 programs) differ from these provisions. In particular it will be noticed that in several of them, courses in private international law, legal medicine and a foreign language were compulsory. That Table also compares the current compulsory offerings of certain law schools in Chile, El Salvador, Peru and Puerto Rico. Basically the compulsory offerings are similar, with the notable exception of courses in deontology.⁹⁵ The Decree also specifies the order in which the basic courses should be taught; for this purpose they are divided into four groups. The fifth law deans seminar concluded that this provision should be interpreted merely as a guide and that the order should not be considered as absolute.

The Decree establishes six groups of optional subjects at least one of which is to be selected by the student. Each law school is required to offer those groups which it considers most necessary and which it believes it can adequately manage. The fifth seminar thought it would be convenient if the minimum number of groups which a school could offer could be specified. The number of subjects to be offered in each of the groups varies from eight to ten. We can mention only a few.⁹⁶ Group (1) Political law (including development theory and planning); (2) Penal law (including criminal psychopathology and penitentiary law); (3) Labor law (including agrarian law, cooperative law, social security and industrial medicine); (4) Private law (including notary and registry practice, agrarian law, waters law, industrial, intellectual and horizontal property, and mining law); (5) Economic law (including development and treaties); (6) International law (including private international law and comparative constitutional law). The fifth seminar thought that the law schools should be allowed to offer substitute subjects and to drop others.

Finally the free choice subjects. The possible offerings are many, as the legislation sets no limit. We may note the following subjects which have been taught in some law schools in recent years: Latin, mathematics, humanities, literary perspectives, history of law, logic, Spanish and Indian law, statistics, anthropology, religious culture, catholic law, history of culture and accounting.⁹⁷

The organization of the basic curriculum of the Colombian law school may be compared with those of some of the Latin American countries we have mentioned. Thus in Peru, at a conference held in 1964,⁹⁸ it was agreed by the national universities that the law program should last six years, the first of which, the humanities cycle, should be devoted to liberal arts courses; in 1970 San Marcos extended the first cycle to two years, thus making the program a seven-year one.⁹⁹ And in the University of Puerto Rico the program lasts a bare three years, as in the United States. The program in El Salvador lasts five and one-half years, but, unlike the other universities, the optional courses there are concentrated in the final semester. In all of the schools mentioned herein the year is divided into two semesters, which is also inevitable in Colombia, with its new and comprehensive programs. In the Table which follows, a comparison is made of the basic obligatory courses formerly (or in the case of the Andes, Gran Colombia and Antioquia, presently) offered at eleven representative Colombian law schools, the offerings authorized by the 1961 Accord,¹⁰⁰ and the basic (credit) program suggested by the fourth Colombian seminar, with that of the 1970 legislation. Information on five selected Latin American schools or groups of schools is also supplied. Since all schools offer a (basically similar) course on introduction to law, this is not mentioned.¹⁰¹

It is much too early to try to assess how well the legislation is working. It is possible that, given the diversity and number of law schools in Colombia, the legislation might be a bit ambitious, especially since it will be very expensive to carry out many of the programs and adopt the modern methodologies which are also required. It might have been preferable, perhaps, to require certain law schools in cities with several law schools to specialize in certain course areas. And it would have been useful to remember that not every law entrant wishes to or can play the part of the well-rounded lawyer. As Naranjo Villegas suggested in 1966,¹⁰³ there are probably at least three categories of legal aspirants: the "doctors," themselves specialists and taught by specialists; the professionals, and the intermediate professionals (e.g. secretaries, legal assistants, various low level persons and, it may be added, miscellaneous civil servants). At any rate the curriculum valiantly seeks to carry out the noble objectives of the legislation, particularly the pro-society bias; and much of the discussion today is over such topics as the utility of offering special comparative law courses or teaching law comparatively and/or with reference to its historical background and whether the law school should offer relevant non-law courses as a part of the basic five year program, as all schools now seem to do, and which and how such subjects should be taught. As for postgraduate courses and research, much has still to be accomplished.

Teaching methods

Decree No. 970 states that

The teaching of law ought to alternate between the magisterial dissertation and general information, and the method of active student participation in such systems of application as group projects, seminars, legal clinics and practicals of different sorts.

And No. 1391 states that apart from the obligatory and optional courses, the law course must contain

Courses of active teaching, such as group projects and seminars, for the understanding of the methodology and techniques of bibliographic research, scientific work and the study of themes which develop and deepen the ordinary programs, with the effective participation of the student by means of practical exercises and research practice.

Periods specifically dedicated to practicals and legal clinics which afford training in the performance of the diverse activities of law.

There is some inconsistency between the two Decrees. The first seems to indicate that the active method should be used throughout the program, as long as it is used along with lectures. This would seem to be in keeping with the general thrust of the legislative scheme. The latter Decree however, seems to imply that active teaching methods should be used only in practicals. It seems that the former interpretation is the preferable one.¹⁰⁴

A synthesis of current Latin American opinion favorable to the active teaching method stresses its conduciveness to: the professional formation of the student, as opposed to his mere information, thus equipping him to handle legal sources; his intellectual development which culminates in his acquiring a measure of originality, independence, creativity and antidogmatism and an ability to evaluate existing law and the possibilities of renovating it, and the creation of a useful measure of character formation in which dialog is preferred to harangue.¹⁰⁵ Furthermore, as a teaching method, some Latin American writers now stress its suitability for the enlivenment of the terse dry bones of Code-based law, for marrying the substantive and the adjectival, for facilitating the needed departure from examination orientation and for maximizing the benefits of the learning process.

All the various techniques which are suggested urge that the method works best with a smaller class, the ideal size not to exceed forty students. A measure of compulsory attendance is desirable and actual techniques currently discussed and attempted are the basic Socratic method, semi-organized student-student classroom discussion, limited student-teacher classroom dialog and directed research and writing. Research and writing is still underdeveloped, certainly in Colombia, as are audio-visual techniques, which are casually mentioned. Whatever method is used, Latin American reformists are now also discussing the problem of materials for teaching use. The case method and the problem method, focusing not only on confrontation law practice but also on the preventative and creative, are very much in vogue among them. There is also considerable discussion about the utility of reported cases (*jurisprudencia*) as a vehicle for the dramatic presentation of ideas and problem-solving techniques. Strangely to a common lawyer, several detractors urge that decided cases might have been

wrongly decided and that lawyers do not usually solve actual problems by references to cases. Interestingly, among those who urge the utility of *jurisprudencia*, law teachers who have had or have contact with North America are probably in a majority.¹⁰⁶ The biggest problem of all has been seen to be that of obtaining written material for student use in advance of classes. Doctrinal works, the few student manuals and printed lectures (*apuntes*) are considered quite inadequate. The only remedy is apparently to have each teacher prepare and constantly revise mimeographed materials eclectically selected (from legal and other sources). But this gives rise to considerations of lack of experience, energy, time and funds. One law school (Andes) requires each course leader to produce a set of materials. This is complied with willingly. But the Andes is a wealthy university and the law school a young one.

As would be expected, it is believed that the various techniques may be used in connection with lectures, conferences, preseminars, seminars, individual sessions and legal clinics.

The implications of the new legislation are therefore far-reaching. There are problems of: library and other material resources, including electronic devices; manpower acquisition, training, retention and remuneration, since the average 35% of full and half time teaching staff are insufficient for active teaching; institutional and individual traditionalism and bureaucratism, and, worse, considerable resistance of students to any method seemingly United States inspired or financed. Recognizing most of these difficulties, the fifth law deans seminar concluded that the economic foundation of the country's law schools would have to be significantly increased, if the desired and required reforms of law and law teaching were to be successfully executed.

Practical education and community service

In Latin American legal literature over the past ten years, due stress has been made of the necessity to wed the theoretical to the practical (for professional and intellectual reasons),¹⁰⁷ for the law school to communicate to the members of the community a knowledge of law and of their basic legal rights, for lawyers and law students to be keenly aware of the social basis and function of law and for law schools to establish legal aid clinics (both as a teaching vehicle and as a community service). In Colombia this movement has culminated in the legal education legislation. Thus Decree No. 970 of 1970 states:

In the teaching of law the theoretical aspects should be combined with the practical; the knowledge of doctrine and jurisprudence with the techniques of creation, interpretation and application of law; the norms with the political, economic and social facts governed by them.

This is complemented by Decree No. 1391 of 1970 which provides that in the curriculum time should be devoted to practice and legal clinics. The socialist thrust of the legislation has already been underscored. Decree No. 970 furthermore, specifically provides that

The law schools shall organize courses of legal divulgation, of civic instruction and of preparation in communal activities.

The types of practical training which are currently in vogue in several Latin American countries today are generally of the following varieties: (1) *legal clinics*, intended to give the student a practical working knowledge of basic civil and commercial counselling and notarial practice through drafting, discussions and visits to lawyers and state offices. In many countries there are few or no form-books hence these matters are best learned in school. Furthermore law partnerships tend to be rare, and the lawyer must be taught beforehand. Teaching is often by the seminar method, with a certain element of formalized instruction.¹⁰⁸ (2) *Procedural practice*, which is necessary for the same reasons as the legal clinic. Apart from class work, in drafting demands, interrogatories and other court documents, visits are sometimes made to the courts. And, following the American pattern, moot courts are held in Puerto Rico.¹⁰⁹ The legal clinic and the procedural practicals are often organized by autonomous or semi-autonomous practice institutes such as the Academy of Forensic Practice of Lima, the Institute of Practical Education of Cuzco and the Centre of Practical Education of San Marcos.¹¹⁰ Some of these institutes also organize or participate in the law school's legal aid work. None have yet been established in Colombia. (3) *Legal aid* which is generally considered a part of the formal teaching program. Sometimes the law school organizes a legal aid clinic, students performing advisory roles and attending court as assistants.¹¹¹ Sometimes it is a state-required service organized by a responsible body such as the bar association.¹¹² In some places students are attached to the indigent section of a court,¹¹³ Organized legal aid, like practical education, is a new thing in Colombia. Although Decree No. 196 of 1971 permits students to appear in certain courts and Decree No. 1391 of 1970 requires the establishment of legal aid clinics (*consultorios jurídicos*), only

a few law schools have rationally organized the latter. One of the better organized clinics is that of the Antioquia law school in Medellín. It is the vehicle used for that school's practical teaching program (*práctica forense*) in civil, penal, labor, commercial and administrative practice, which is required of all students. It is run by a director, assisted by three coordinators (in civil, penal and labor/commercial forensic practice) and two student monitors. The clinic is intended as a social service, open each day except Sundays and student vacations; although there is no strict eligibility criterion, clients must give some evidence of need and in any case must pay ten pesos (approximately U.S. \$0.05) for each visit and legal costs (unless these are waived by the director). Last year students who participate are given administrative and professional responsibilities in the running of the *consultorio*, advising clients and representing them in court. This is in addition to formalized teaching which is given to the students.

There has been no progress so far, however, in the divulgation and general community-assistance requirement of the legislation. Extension services, community oriented research and participation in neighborhood activities are yet unknown.¹¹⁴

The new law student

Basically the new legislation is aimed at facilitating the student and thereby producing a better professional. To date it is not clear what impact, if any, the changes have had on him. As we have pointed out already, there has been considerable student resistance to methodological change. The grounds have been mainly ideological, though one detects in this some of the endemic traditionalism already described. Also, no doubt, it is partly due to a certain degree of laziness on their part — to depart from copying lecture notes or buying cheap *apuntes*. But if the new methodologies and expansion in new and modern courses result in the production of novel materials and the input of a critical society-oriented program content, the resultant novelty and escalation in educational costs and output might transform the revolution into something the legislator never intended.

NOTES

¹German W. Rama, *El Sistema Universitario en Colombia* (Bogotá 1970) 39.

²Rama, *op. cit.*, p. 44; Asociación Colombiana de Universidades/Fondo Universitario Nacional, División de Planeación — El Plan Básico de Educación Superior (Bogotá 1969) 13 - 106.

³Fabio Bustos Olarte, *Guía Universitaria Colombiana* (Bogotá 1972).

⁴Only one university however, having more than 10,000 students. This was the National, which in 1968 had 11,082. With the exception of 4 universities (which had average enrollments of between 3,000 and 4,000 students) 16 universities each had slightly more than 1,500 students and 17 less than 1,000. See Rama, *op. cit.*, pp. 41-44.

⁵In 1966 only 33% of all teaching staff was full time. This, however, was an improvement over the 1957 figure of 18%. *Asociación Colombiana de Universidades/Fondo Universitario Nacional, La Educación Universitaria en Colombia: Introducción al análisis de sus conquistas, problemas y soluciones* (Bogotá 1967) 49.

⁶Most (and certainly the larger and better) of the universities are located in the larger cities. In Bogotá alone, a city of 2,000,000 residents, there are some 17 universities serving a student population of over 35,000. Total student enrollment in Colombia in 1969 was 65,000 while the total population of the country was approximately 20,000,000. See Rama, *op. cit.*, p. 33.

⁷Rama, *op. cit.*, pp 30-33. Colombia compares favorably with several other countries, in terms of number of university students per 10,000 of population: Argentina (1967) 95, Chile (1967) 62, Colombia (1969) 33, Mexico (1967) 29, Peru (1967) 59, Venezuela (1967) 46, Latin America (1960 average) 29, USA (1960) 201. *Ibid.*, p. 33.

⁸No. 277 of 1958.

⁹Decree No. 1297 of 1964 officially recognized 25 of these as universities and provided that only (recognized) universities could award *degrees* (in certain specified "professional" subjects including law, medicine, economics, public accounting and pharmaceutical chemistry) or *licentiates* (in certain other subjects such as educational sciences, philosophy, letters, chemistry, sociology, psychology, mathematics, anthropology, geography and nursing). Universities and other institutions could award *diplomas* in other approved subjects. Between 1964 and 1968 several other institutions were officially recognized as universities. By Decree No. 3156 of 1968 the Colombian Institute for the Promotion of Higher Education (ICFES) was created as an official arm of the Ministry of Education (succeeding the former National University Fund (FONDO) with the objectives of inspecting and supervising over higher education and, *inter alia* affording technical assistance to universities. Article 19 of that Decree provides that no institution formed after the Decree's promulgation can use the titles "faculty" or "universidad" or "universitario" (university) without governmental recognition: in this ICFES plays a major role.

¹⁰In international law and diplomacy (2) and in tax legislation (1). Bustos O., *op. cit.*, and *Plan Básico*, *op. cit.*, pp. 273-74. Excluded from the statement in the text are postgraduate courses which, in 1972, were being offered only by 5 universities — in penal and penitentiary sciences (National University), international law (higher School of Public Administration), labor law (National University and Javeriana University) and penal law and criminology (Medellin University). *Plan Básico*, *loc. cit.*

¹¹Only the old Major College of Our Lady of the Rosary, founded in 1655, used this expression, which is a clear misnomer in a civil law country such as Colombia.

¹²Used only by the University of St. Thomas.

¹³These descriptions and titles tend to be somewhat misleading as shown on other parts of this study.

¹⁴A highly critical and seminal work on higher education in Latin America is Darcy Ribiero's, *La Universidad Latinoamericana* (Montevideo 1969). Further reference may be made to the short work by Gale, *Education and development in Latin America with special reference to Colombia* . . . (London 1969).

¹⁵S.M. Lipset, *Elites, Educación y Función Empresarial en América Latina* (Buenos Aires 1967) cited in Rama, *op. cit.*, p. 113.

¹⁶See n. 13.

¹⁷*La Educación Universitaria* (cit. in n. 5) pp. 8-10.

¹⁸24.5% in 1935 to 10.86% in 1968.

¹⁹Source, Rama, op. cit., pp. 114-16.

²⁰*Ibid.*, pp. 116-17.

²¹For a survey of social origin of students see Rama, op. cit., pp. 72-89.

²²*Ibid.*, pp. 242-243. The high degree of student political activism on campus tends to reflect this, notwithstanding that it is sometimes directed at social ills.

²³After liberation in 1819, Colombia has, since 1830, experienced swings between the dominance of two major political philosophies and their adherents (Conservatism/Catholicism and anti-clericalism/Liberalism) and two major forms of state organization (centralisation and autonomous departmentalisation/federalism). The latter conflicts ceased in the 1880's but the former continued well into the present century, power changing hands occasionally (often accompanied by or due to considerable blood-letting). . . . The Catholic and Liberal parties agreed to (and) a national plebiscite in 1957 which approved a National Front effective from 1958-1970 (i.e., in fact 1974, since presidential elections are due that year). Now the presidency alternates between the two parties and national and local government is equally shared between them. See Hubert Haring, *A History of Latin America* (New York 1961) Chap. 31 and Galbraith, *Colombia* (London 1966).

²⁴Law was regarded as autonomous or self-contained.

²⁵See Abel Naranjo Villegas, *Necesidad de la Reforma de Facultades de Derecho* in XXV Estudios de Derecho (No. 70, 1966) (Antioquia) 123-34.

²⁶Fernando Fuego Laneri, *Conferencias de Facultades de Derecho Latinoamericanas*, in XXXIII Revista de Derecho y Ciencias Sociales (Concepción) (No. 132, 1965) 85 at p. 138.

²⁷In community services (including consultancy services and university extension) a study published in 1969 demonstrated that there was a very low level of output, particularly from law schools. See *Plan Básico*, op. cit., pp. 287-303.

²⁸See Asociación para la Reforma de la Enseñanza del Derecho, *Ponencia Presentada por la Asociación a la Conferencia Sobre Reforma de la Enseñanza que se Celebra en Valparaiso*, in ARED Boletín 1970.

²⁹Darcy Ribiero, op. cit., cited in Enrique Balso, *Sistemas Modernos Universales de la Enseñanza del Derecho y Orientación Profesional del Abogado* in XII Revista del Colegio de Abogados de la Plata (No. 25, 1970) 337-423 at p. 389.

³⁰Cf. Ribiero, id. This has been compounded in some cases by unwieldy or top-heavy university and faculty bureaucracies and the presence therein of little or ineffective student and teacher participation. See *Plan Básico*, op. cit., pp. 187-239 and Rama, op. cit., Chap. XIII, which describes the present and past power structure as one of heteronomy. Thus in official universities, the state has 2 representatives on each of the university governing councils and the Church 1 representative; students and teachers each have 1 representative, but the rector is not a member. In private universities the owning foundation or corporation predominates.

³¹*La Educación Universitaria*, op. cit., pp. 33-35. See also Balso, op. cit., p. 389.

³²ARED Boletín, op. cit., *Ponencia*. Similar criticisms have been made of legal education elsewhere in Latin America, e.g. in Argentina. See Francisco E. Padilla, *La Enseñanza del Derecho* in 9 Revista Jurídica (Facultad de Derecho y Ciencias Sociales, Tucuman) (1961) 21-34.

³³*La Educación Universitaria*, op. cit., pp. 56-57.

³⁴See, e.g., *Escuela de Derecho — Informe del Dr. Moreno Jaramillo* in XI *Estudios de Derecho* (Antioquia) (Ser. IX, No. 93, 1923) 2148-52.

³⁵*Id.*, where he makes the point that prisons should be visited in order to "seduce" inmates to become clients (!)

³⁶See ARED Boletín, op. cit., *Ponencia*.

³⁷See John H. Furbay, *Education in Colombia* (Washington, D.C., 1946).

³⁸Thus the case method has been criticized as being difficult to transmit knowledge about normative structures, legal theory and legislation; as being hard to use in the first year of law school, and as tending to produce litigation oriented lawyers. On the other hand the "pure" Socratic method has been lauded as being useful as a vehicle for teaching in a system where legislation is predominant, as in Latin America. See Balso, op. cit., pp. 353-57.

³⁹See generally, *ASCUN FUNDO II Seminario de Facultades de Derecho* julio 1964) (Bogotá 1965) 109-110; ARED Boletín, op. cit., *Ponencia*.

⁴⁰Not until the 1960's did other influences, particularly American, begin to have a noticeable impact, e.g., on the general higher education scene, in the workings of the University of the Andes and the Assessor Mission of the University of California which studied higher education between 1966 and 1967 with the aim of assisting in planning for the educational, administrative and financial aspects of higher education and which produced the Plan Básico, op. cit., and *La Educación Superior en Colombia: Documentos básicos para su planeamiento* (Bogotá 1970).

⁴¹By Luis Alberto Sánchez in XX *Revista Jurídica de la Universidad de Puerto Rico* (No. 3, 1951) 239 at pp. 256-257.

⁴²In *Revista de Derecho y Ciencias Sociales* (Concepción) (No. 126, 1963) 33-45.

⁴³Cf. the early statement referred to in n. 35 with the law review article cited at n. 25 and further mentioned at n. 90.

⁴⁴See again, the article cited in n. 35.

⁴⁵See Rafael de Pina in V *Revista de la Facultad de Derecho de México* (Nos. 17-18, 1955) 261-275, referring to, though not completely agreeing with, the criticisms of the Italian Calamandri and his 1926 Spanish translator Xiran.

⁴⁶See, e.g., Luis Alberto Sánchez, op. cit., at p. 253.

⁴⁷See, e.g., Rafael de Pina, op. cit., pp. 271-274.

⁴⁸*Ibid.*, p. 272. Cf. Balso, op. cit., where the case method is described as one of the 3 varieties of the Socratic method, the others being the "pure" method and the problem method.

⁴⁹See, e.g., Gelsi Bidart's article referred to at n. 42.

⁵⁰Luis Alberto Sánchez, op. cit., p. 252.

⁵¹See Rafael de Pina, op. cit., pp. 263-264.

⁵²See n. 35.

⁵³Luis Alberto Sánchez, op. cit., pp. 252-254.

⁵⁴See *First Conference of Latin American Law Schools, held April 26-30, 1959 at UNAM* in 1 *Inter-American Law Review* (No. 1, 1959) 241-249; *Segunda Conferencia de Facultades de Derecho en Lima, abril 1961* in XIV *Boletín del Instituto*

de Derecho, Comparado de México (no. 41, 1961) 555-570; XXXI Revista Jurídica de la Universidad de Puerto Rico (Nos. 1-4, 1962) 151-153; *Tercera Conferencia de Facultades de Derecho...* in XVI Boletín del Instituto de Derecho Comparado de México (No. 47, 1963) 527-529; *Cuarta Conferencia de Facultades de Derecho...* in 19 Revista de Derecho Puertorriqueño (Año V, 1966) 255-274.

⁵⁵Some of these are mentioned later on in the text under the heading "Law school's role in Latin America and its function in the community."

⁵⁶In a short list of some suggested courses the first conference had recommended the teaching of "aboriginal" law, law of the Indies and the "national laws of Latin America" (comparative law?).

⁵⁷To be given in the first law school year to teach the student to use legal sources, especially legislation, bibliographies and court reports (1st con.). They are now used to instruct in writing skills.

⁵⁸To develop the research techniques acquired in preseminars, using them in individual activity and for problem-solving (1st conf.).

⁵⁹Fueyo Laneri, op. cit., pp. 138-39.

⁶⁰The 1st of these was held in 1959. See XVII Estudios de Derecho (Antioquia) (No. 54, 1959). Information on others is not readily available.

⁶¹XXXII Revista de Derecho y Ciencias Políticas (San Marcos) Nos. I-III, 1968) 455 at p. 462 (international congress of jurists at Buenos Aires, 1962).

⁶²Several of these have been held under the auspices of the pioneering Centre for Studies and Research in the Teaching of Law (*Centro de Estudos e Pesquisas no Ensino de Direito: CEPED*) in Rio de Janeiro.

⁶³See *Documentos de la Reforma de la Facultad de Jurisprudencia y Ciencias Sociales* in 2 Revista de Derecho (El Salvador) (1965) 421 at pp. 451-456, describing two Central American law school "Round Tables" held in 1963 which, *inter alia*, adopted a basic 6-year plan of studies.

⁶⁴See VIII Anales de la Facultad de Ciencias Jurídicas y Sociales de la Universidad de Chile (1968) reporting on a series of meetings of the country's law schools evaluating reforms in law teaching, which constituted "a valuable interchange of experiences and information among the various" law schools.

⁶⁵See *Homenaje a la IV Conferencia de Facultades de Derecho Latinoamericanas* in 4 Revista de la Facultad de Derecho de la Universidad Nacional de San Antonio Abad (Cuzco) (1965) which discusses 2 such conferences held up to 1964.

⁶⁶And, until 1968, the FONDO. Since that year the co-sponsorship has been by ICFES.

⁶⁷Based largely on the seminar reports and working papers published by ASCUN/FONDO and ASCUN/ICFES. See also *El Primer Seminario de Facultades de Derecho en Colombia* in Revista de la Facultad de Derecho de la Universidad Externado de Colombia (No. 1, 1961) 67-72.

⁶⁸A 6-member directive body coordinating the activities of ASCUN and FONDO, whose programs and objectives were harmonized in 1959, the FONDO remaining a governmental agency and ASCUN an independent organ. ICFES succeeded to FONDO in 1968. See n. 8.

⁶⁹See Table I below.

⁷⁰The rector of one of its members, Externado, was Minister of Justice in the government which instituted the important legislative reforms referred to in Part III, below.

⁷¹He discusses these themes: (1) "ought to be" and its inherent "pessimism" and misanthropism; (2) "can be", its main components of permission, obligation and prohibition and its ambit; (3) the "indispensable" "coercibility" of law and its different applications at the normative and decision-making levels; and (4) the implications of "electronic machines" for the crucial concept of "can be."

⁷²Decreets Nos. 960 of 1970, 1347 of 1970, 1682 of 1970, 2163 of 1970, 2165 of 1970 and 1037 of 1970.

⁷³Experts, translators, interpreters, curators *ad litem*, liquidators, partitioners and the like. Decree No. 2265 of 1965.

⁷⁴A comprehensive country-wide bureaucratic structure. Decree No. 250 of 1970. See also Decree No. 546 of 1971 establishing a social security scheme for members of the jurisdictional and public ministry branches of the service and their families.

⁷⁵Decree No. 1265 of 1970 — Organic Statute of the Administration of Justice.

⁷⁶Decree No. 1400 of 1970 (6th August). Official edition promulgated by Decree No. 2019 of 1970 (26th October).

⁷⁷It applies to procedure in all civil courts at all levels.

⁷⁸Much of what follows is based on the article, *El Nuevo Código de Procedimiento Civil* by Hernando Devis Echandia, who helped to draft the new code, in XII *Revista de la Universidad Externado de Colombia* (No. 1, 1971) 5-18.

⁷⁹(1) Proceedings of the smallest amount (*mínima cuantía*) where the amount in dispute is below 3,000 pesos, in some cases, or 2,000 pesos in others; (2) some 15 other types of proceedings regardless of amount, including: suspension and reestablishment of marital cohabitation, disputes over horizontal property, declarations of extinguishment of obligation or fulfilment of suspensive condition, and protection of one's name. Voluntary jurisdiction (mostly certain *ex parte* proceedings) and arbitration proceedings are also oral. "Shortened proceedings" (in some 17 types of situations are largely oral; these include: separation of goods of spouses, divorce from bed and board, deprivation of *patria potestas*, interdiction for waste and rehabilitation therefrom, possession of mines and indemnification for loss of such possession, rendition of accounts, ejection of tenants, payment by consignment, shareholder suits, certain suits relating to banking, oppositions to trade mark registration and analogous situations, etc.).

⁸⁰There are several others, mentioned by Devis E., *op. cit.*

⁸¹For these developments see Hernando Morales M., *La Prueba Oficiosa en el nuevo Código de Procedimiento Civil* in 196 *Revista de la Academia Colombiana de Jurisprudencia* (Bogotá, 1971) 37-51.

⁸²These developments follow the writings of the Italian Mauro Capellati and are in keeping with the trend in such countries as Spain, Chile, Guatemala (1965), Uruguay, Venezuela (1916), Cuba (1938), Mexico (1932), Brazil, Portugal (1939 and 1962), France (1958), Austria (1895), Germany, Italy (1942), the Vatican (1946), Peru and Argentina (1967).

⁸³In addition to voluntary jurisdiction and arbitration proceedings.

⁸⁴With the exception of proceedings of the smallest amount (no appeal) and certain Supreme Court proceedings. The Supreme Court is the highest court, normally taking cassation proceedings only.

⁸⁵Luis F. Gómez D., *Reforma de la Ley y Reforma de la Enseñanza del Derecho* in XII *Revista de la Universidad Externado de Colombia* (No. 2, 1971) 243-258.

⁸⁶Decree No. 764 of 1970.

⁸⁷See n. 73.

⁸⁸See Arts. 46-48 of Decree No. 250 of 1970 providing for the organization of a Judicial School to prepare judges, judicial auxiliaries and officials and employees of the public ministry for their jobs and to offer courses leading to promotion examinations. The school would also organize, either on its own or with the collaboration of universities, schools or public establishments, training courses in judicial techniques.

⁸⁹Gilberto Martínez Rave, *La Nueva Reglamentación de los Estudios de Derecho* (1970), prepared for the 5th law deans' seminar.

⁹⁰XXV Estudios de Derecho (Antioquia) (No. 70, 1966) 23-34.

⁹¹Martínez Rave, *op. cit.*

⁹²Cf. the 1968 Declaration of aims and objectives of law teaching of the law school of the University of Puerto Rico: (A) To achieve the most adequate intellectual and professional formation of its students by several measures including the provision of an "ethical/professional vision of law and the legal profession;" (B) To form the study and clarification of law in Puerto Rico; (C) To contribute equally to universal legal thought and to law in general; (D) To promote and facilitate the continuous education of its graduates and the bar in general, and (E) To stimulate the development of jurists. See *Informe Sobre El Nuevo Currículo de la Enseñanza de Derecho* in XXXVIII Revista Jurídica de la Universidad de Puerto Rico (No. 1, 1969) 7-69.

⁹³This was disclosed at the 4th Latin/American conference. The schools were: de Rosario, Argentina (1959), Santa Cruz de la Sieria, Bolivia (1960), Católica, Chile (1963), El Salvador (1963), Cuzco, Peru (1964), Panamá (1965), Tiujillo, Peru (1966), Chile (1966), San Marcos, Peru (1966), National Autonomous, Mexico (under active study), Costa Rica (1966). See 19 Revista de Derecho Puertorriqueno Año V, 1966) 255-274. The University of Tucumán and several other Argentinian universities had also changed. See Francisco de Padilla in 9 Revista Jurídica (Tucumán) (1961) 21-34 and Balso, *op. cit.*

⁹⁴See Table I below. These include: University of Puerto Rico (1969) and Catholic University of Lima (1967). See *Informe Sobre El Nuevo Currículo*, *op. cit.*, and Jorge Avendaño, Nuevo Plan de Estudios Rige en la Facultad de Derecho de la Universidad Católica in LIV Revista del Foro (Lima) (No. 2, 1967) 100-07. In Central America the Costa Rican and Salvadorean changes were part of a new coordinated Central American movement, and changes were expected elsewhere. See Documentos de la Reforma, CIF, at n. 63.

⁹⁵In addition we may note the following compulsory offerings for which the Colombian legislation does not make provision, *University of Chile* (3 campuses)—introduction to philosophy, history of political and social institutions of Chile, history, agrarian and mining law, philosophy (see VII Anales de la Facultad de Derecho y Ciencias Jurídicas y Sociales de la Universidad de Chile (1967): *El Salvador*—general principles of philosophy, general principles of registral law and the public registry, agrarian law, notarial law (see Documentos de la Reforma, *cit.*, at n. 63); *San Marcos, Peru*—rural and waters law, history of Peruvian law, private international law (see XXXIV Revista de Derecho y Ciencias Políticas (San Marcos) (Nos. I-III, 1970) 314-316); *Puerto Rico*—law and social change, international legal problems, notarial practice (see *Informe Sobre El Nuevo Currículo*, *op. cit.*).

⁹⁶Some of the law schools mentioned in the preceding note offer a wide variety of electives which compensate for the absence of some of the obligatory subjects in the Colombian scheme. Of interest are the following: air law (University of Chile, El Salvador, Catholic of Lima, San Marcos); comparative law (Catholic of Lima and San Marcos). Note: in Colombia the Andes offers this subject as an optional.

⁹⁷Again, this is paralleled by the other Latin American schools (we have) mentioned, in some of which such subjects as political doctrine and geography have been or are taught.

⁹⁸See n. 65.

⁹⁹See XXXIV *Revista de Derecho y Ciencias Políticas* (San Marcos) (Nos. I-III; 1970) 314-16.

¹⁰⁰See nn. 68 and 69.

¹⁰¹The outlines and contents of these courses reveal the Latin American predilection for the theoretical and philosophical aspects of law and the still frequent failure to attend to its actual social context. Thus a typical outline of the introduction to Law course is as follows: (a) Concept of law, including theory of the legal norm and law in the subjective and objective meanings; (b) Natural and positive law; (c) Public and private law; (d) Principal branches of public and private law; (e) Real and formal sources (concept of); (f) Legislation custom, jurisprudence and doctrine as formal sources; (g) Hierarchy of norms in Colombia; (h) Interpretation theories and actual criteria; (i) Application of norms in time; (j) Applications in space; (k) Legal technique. This is quite similar to the typical civil law outline. It is therefore not surprising to find that, in most courses (d), (f), (g) (i), (j) and (k) are underplayed or treated largely theoretically and that (h) is highly theoretical. On the other hand, such topics as logical structure of norms, coercibility, autonomy and heteronomy, exercise much attention, as question of nature of law. Even in law schools using modern materials and techniques, like the Andes and Antioquia, only Alf Ross's thought, Lon Fuller's *Speluncean Explorers* and U.S. cases on the legality of anti-miscegenation legislation have made new impacts on introduction courses. The interest in symmetrical theories reveals itself through the law school program, as a glance at Table I will reveal. Thus whole courses are devoted to the theoretical exposition of otherwise practical subject areas as procedure or partly substantive areas as Civil Law: General Part and Persons, despite the contrary organization of the actual Civil Code. Those tendencies are brought into sharper focus when it is borne in mind that in legal philosophy courses speculative knowledge and metaphysics are stressed and the courses often taught by philosophers proper.

¹⁰²Explanations: The course titles are based on the language of Degree No. 1391 of 1970. However, because of the law school's diversity of language, "labor law" has not been divided into its component parts and since before 1970, it was disregarded or treated separately, we entered social security separately. Some courses which are not obligatory in Colombia but popular have been included; these are foreign language, practice, sociology, legal medicine and private international law. "Public finance" is used here to describe a wide variety of topics which are or might be included; e.g. budgeting and tax legislation. We have subdivided "Roman law" because some schools still so do after 1970, as before. "General, persons and family" (under Civil Law) has been used to cover the following topics (which may or may not be included in any one school's program under that designation): general civil law, persons and family law. There has been some adjustment in a few cases for spread of one topic over more than one year or semester and for aggregation of courses with different titles lost under such rubrics as "labor law" and "commercial law". Where possible, teaching hours per week (H) and whether offered over year(s) (Y) or semester(s) (S) is indicated. Where there is no such information a tick indicates that the course is offered in some form. Question marks indicate that it is possible but unclear whether a course is taught or what time is devoted to it. Source materials on Universidad Atlántico were limited.

¹⁰³Op. cit., p. 133.

¹⁰⁴This was apparently the view of the 5th law deans' seminar. For reference see n. 67.

¹⁰⁵See id. and Gelsi Bidart in XXI *Revista de Derecho y Ciencias Sociales* (Concepción) (No. 126, 1963) 33-45 at p. 41.

¹⁰⁶See *Primer Seminario de Metodología de la Enseñanza Jurídica* 1 ARED Revista (No. 1, 1970) 111 -(23 by Dr. William Headrick of the University of Puerto Rico, and *Introducing the Method of Action Teaching in Latin America: Colombia's First Seminar on Legal Education* by the same writer in 23 Journal of Legal Education (1970-71) 333-343. The latter title is, of course, somewhat misleading.

¹⁰⁷The following is an early statement of these views: ". . . only by a conception of legal education united to knowledge of technical professional law practice can the student, from his first steps, obtain the forensic perspectives with which he will later have to live". XLIII Revista del Foro (Lima) (No. 2, 1956) 268-278. See also Vergara V in XXXIV Revista de Derecho y Ciencias Sociales (Concepción) (Nos. 137-138, 1966) 25 at pp. 27-29.

¹⁰⁸See, Vergara V., op. cit., pp. 28-29; and *ibid* pp. 33-34 for a description of a teaching program at Montevideo.

¹⁰⁹See *Informe Sobre El Nuevo Currículo*, op. cit.

¹¹⁰See Vergara V., op. cit., p. 32 (for discussion of a Bueno Aires Institute); XLIII Revista del Foro, op. cit., pp. 268-270 (the Lima Academy); 4 Revista de la Facultad de Derecho de la Universidad Nacional de San Antonio Abad (Cuzco) (1965) at pp. 81-82 (the Cuzco Institute) and XXX Revista de Derecho y Ciencias Políticas (San Marcos) (1966) (San Marcos Centre).

¹¹¹See, e.g., Vergara V., op. cit., p. 34 (Montevideo).

¹¹²As in Lima. See XLIII Revista del Foro, op. cit., p. 268, LIV Revista del Foro (No. 2, 1967) 80-83 and *ibid*. (No. 1, 1967) 75-78.

¹¹³As in Buenos Aires. See Vergara V., op. cit., p. 32.

¹¹⁴Recent Chilean developments are interesting. Since 1971 law students at the University of Concepción have been given a large measure of participation in the administration of the law schools and in the planning and assessment of its programs. "Socio-legal practice" is now an obligatory activity for the final 3 semesters which is carried out *inter alia*, in the legal aid clinic (which works along with the Bar Association and includes court attendance) and in "centres for legal preventative assistance," located in the marginal and poorer districts and designed to facilitate student involvement and assistance in community affairs. See *Reformas en la Escuela de Derecho de la Universidad de Concepción* in XXXIX Revista de Derecho (Concepción) (Nos. 155, 1971) 118-132.