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Teresa Delgado Vergara
University of Havana

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TEACHING LAW IN CUBA

*Teresa Delgado Vergara**

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I. BACKGROUND

The study of Law in Cuba began at the same time as university education in the country.

In 1728 the Real y Pontificia Universidad de San Jerónimo was founded. The bachelor's degree in Law was among the first degrees offered. At that stage, Cuba was still under Spanish colonial domination, and legal studies were influenced by scholasticism.¹

When the liberation was frustrated by the intervention of the United States, first in our war of Independence, and consequently in the political, economic, and social destiny of our country, the North American presence was felt in academic life, but was limited to introducing its pragmatic perspective in some areas of the study and science of Law.²

During the neocolonial republic the Kelsenian influence favoring the normativist conception of law was apparent as well as the legal positivism of León Duguit, currents that not only left their mark on legal theory and legal education but also in the ideas that inspired the constitutional reforms of 1940.

After 1959, normativism continued to mark the teaching of Law, and in 1976, with the creation of the Ministry of Higher Education and the promulgation of the Constitution (still in force and modified in 1992), the first curriculum with pedagogical and scientific aspirations was begun, called Plan A, a name that suggests it was already foreseen that others

* Dr. Teresa Delgado Vergara is President of the National Commission of Law and Associate Professor of the University of Havana.

1. Father Félix Varela distinguished himself in the struggle against the inflexibility of this academic and philosophical current from his professorship of Constitutional Law.

2. Introducción al Modelo del Profesional del Plan D de estudios de Derecho.

would follow as society continued to advance and change.

This was a very elementary plan, based on empirical considerations, with a notable reduction of teaching hours and composed only of the most basic essential subjects.

“However, very soon a reaction against these positions took place and all the country experienced an intense process of institutionalization of the political system, the State, and the system of Law. In light of the Constitution (. . .) a good number of legal regulations were approved that completed the Cuban legal system and gave absolute support to the academic and scientific efforts in this branch of the social sciences.”³

In this way, it was necessary to begin designing a new plan, logically called Plan B, which attempted to overcome the deficiencies, omissions, and errors of its predecessor Plan A, which remained in force with gradual adjustments until the 1980s, as the 1990-1991 academic year began with the new and promising Plan C.

The implementation of Plan C began a period of new scientific and legal understanding, and was the culmination of a commendable academic willingness to provide legal studies with a scientific character and theoretical-doctrinal distinction, attempting to discard the positivist positions that inspired previous plans. For that reason, the guiding principle of Plan C was: “To teach Law and not legislation.”

This contributed to form jurists capable of interpreting rules, even when these were changed by the dialectical course of socio-economic, cultural, and even political processes. A jurist that knows Law and not solely pieces of legislation is capable of managing institutions, which allows him or her to have influence on the process of regulatory improvement, the just administration of the law, and even to understand comparative Law.

In order to achieve the objectives of Plan C, the content of the various disciplines and subjects had to be reformulated to increase the theoretical-doctrinal perspective in scientific terms, favoring the comprehension of the principles and concepts of our Franco-Roman legal system; and also to endow the *pensum* with an investigative and practical component that would contribute to the formation of professional habits in an appropriate balance with theoretical training.

The faculty had to be further developed in order to attain these goals, a methodological task intended to build an educational process focused on active methods of teaching and learning that permit the student “to learn to learn,” and to start being the main actor in his or her own training in the classroom and in pre-professional practices.

New historical, political, economic, and international circumstances required a process of improvement for Plan C, regarding the number of

3. *Id.*

hours and the introduction of some subjects,⁴ which would form the preface to what would be the future Plan D, which is in effect today.

The current Plan of Study for the Law degree was approved by the Ministry of Higher Education in April 2008 and began to be applied in the University of Havana in the following academic year (2008-2009). Its teaching process was modified as well as the structure of some disciplines in 2014 and 2016.

Plan D was conceived with the idea of reducing the classroom time of the various subjects that make up the basic curriculum of the degree and to establish forms of evaluation that allow the assessment of student learning in each subject, maintaining the fundamental premises that have already been discussed: “To teach Law and not legislation,” and “Linking theory with practice.”

II. CURRENT CHARACTERIZATION OF THE DEGREE

The undergraduate teaching of Law is structured in two pedagogical modules.⁵

The classroom module is developed in five academic years. The student dedicates his or her full time to studies, class attendance is obligatory, and the classroom component is combined with research and work components.

The mixed module has a duration of six years. This period strengthens self-preparation skills, and involves face-to-face activities consisting of meetings, consultations, and mentoring.

The goal is that, upon finishing the degree, a jurist graduates with a comprehensive training, one that allows him or her to perform professionally in every area of legal practice: organizations, institutions, companies, firms, the Office of the Prosecutor, and courts. Graduates may also work as instructors in higher education. In all cases, instruction is combined with training in the values appropriate to a socially conscious jurist. This is seen in the design of the various course programs and syllabuses, all of which must contribute to different educational strategies that foster the formation and consolidation of values in students, not only technical learning.⁶

The degree consists of a core curriculum and an elective curriculum.

4. Environmental Law, for example, was introduced as a new subject due to the importance of the environmental perspective in the training of all university professionals in today's world.

5. Law may be studied through traditional classes or via distance learning.

6. Among the strategies that have been developed we find: prevention strategy, economic strategy, language strategy, and others whose object is to provide values in their different areas for the formation of the jurist, from a curricular and extracurricular angle.

In the first year students receive the so-called core subjects and subsequently the specialized subjects are introduced.

It also covers other general disciplines including subjects like language (English), physical education, philosophy, Cuban history, political economy, socio-political theory, national security and defense.

The subjects that form part of the elective curriculum constitute a segment of the *pensum* intended to stimulate the active participation of the student in his or her formative process. They are selected by the student from an offering related to the various disciplines of the specialization, as well as the interests and potential areas of practice of the jurist. The course offering will vary according to the possibilities of each University in which the degree is offered, and may be revised and renewed periodically by the professors and the Degree Committee [*Comisión de Carrera*], in order to keep the content of study compatible with the needs of the country or territory in question.

The elective portfolio includes subjects like: Influence of Roman Private Law on Our Legal System, Legal Latin Course, Forensic Speaking, Legal Status of the Individual and Comparative Law, Latin American Political Models and Integration, Municipal Government and Action, Sociology of Law, Bioethics and Civil Law, Current Trends in Tort Law, Real Estate Law and Urban Planning, Insurance Law and Business Systems, Comparative Social Security Law, Alternative Dispute Resolution, International Humanitarian Law, International Human Rights Law, Law of Treaties, Immigration Law, International Procedural Law, Criminal Philosophy, Constitutional Criminal Law, Penitentiary Law, Victimology, International Criminal Justice, and Economic Criminal Law.

The core curriculum includes the basic disciplines and their integrating subjects:

Historical Foundations of the State and Law: The purpose is to provide students with a historical understanding of legal phenomena, so that they may analyze the evolution of the Law. It also has a vocational mission, as it introduces the student to content from the various branches of the Law. It comprises the following subjects: General History of the State and Law; History of the State and Law in Cuba; and Roman Law.

Fundamental Theories of the State and Law: Although this academic discipline appears in the 1990s, its contents date back to the first curricula of the colonial period. It explains the principles and doctrines that serve as the foundation for the legal and political phenomena under study, highlighting the guiding role of the regulatory system, especially constitutional norms, with respect to the political and legal system of each country; it also analyzes the mechanisms of political power, as well as state and administrative organization and functions. The subjects that compose it are: General Theory of the State, General Theory of Law,

Philosophy of Law, Constitutional Law, Administrative Law, and Legal Research Methodology.

The specific disciplines and the composition of their subjects is the following:

Civil and Family Law: This is a fundamental discipline in the comprehensive formation of a jurist. The principles objects of study are legal relationships of a civil nature and Family Law, constituting an indispensable doctrinal and theoretical foundation for the exercise and successful comprehension of any other branch of the Law. It comprises the following subjects: General Civil Law; Property Law; Law of Obligations, [*Derecho de Obligaciones*]; Contract Law; Family Law; Inheritance Law; Copyright Law; Notarial Law; Agricultural Law; General Procedural Law and Civil Procedure.

Criminal Sciences: The object of study is crime and its legal and social consequences, from a general and specific point of view; that is: theoretical conceptions, classifying regulations, legal practice, and comparative law, as well as the most effective methods and strategies for the detection and prevention of crimes. It consists of seven subjects: Criminal Law Part I; Criminal Law Part II; Special Criminal Law; Criminology; Criminalistics, Medical Jurisprudence, and Criminal Procedural Law.

Business Law: It comprises a group of branches of the Law regulating legal relationships of an economic and labor character, as well as those relating to social security, finance, maritime activity, commerce, industrial and environmental property, all of which require a coherent scientific and pedagogical interaction. It consists of: Economic, Labor, and Social Security Law, Finance Law, Maritime and Commercial Law, Industrial Property Law, and Environmental Law.

International Law: It brings together two independent areas of knowledge: Public International Law and Private International Law, whose common denominator is the legal relationships that involve the intervention of foreign entities. Their importance within the curriculum is based on the progressive participation of Cuba in international relations and in the growing dynamism of this field, which demonstrate a complex nature that involves Cuban citizens. It provides students with the prevailing principles and legal institutions in international inter-state and interpersonal relations.

The primary core discipline is Theoretical and Practical Foundations of Legal Performance. It consists of practical and investigative components and aspires to be a harmonious complement to the theoretical training the student receives along with other disciplines. It includes Integrating Legal Exercises I; II; III; IV; and V, and Coursework I y II [*Trabjos de Cursos*]; as well as the Capstone Exercises [*Ejercicios de Culminación de Estudios*], which are the State Examination and the thesis

[*Trabajo de Diploma*]. The former is generally the ordinary means of completing the program of study, while the latter is an exceptional means, according to the potential offerings presented by the country's Centers for Higher Education.

This discipline completes the different abilities required of the graduate for his or her professional performance.

The State Examination has priority as a general, fundamental means of completing the study of Law, and is developed in one of the disciplines under study. The Examination also evaluates the investigative component: as part of this exercise, students must complete a theoretical dissertation on a current topic of doctrinal importance, and they must demonstrate theoretical knowledge of the question and the use of relevant methodological tools.

The thesis [*Trabajo de Diploma*] is an exceptional means of completing one's studies. These dissertations can be done by those students with a higher academic caliber that have achieved good results in research activities during the degree program.

The Deans, after prior consultation or in coordination with the relevant Board of Directors, can announce at the beginning of each academic year the indications necessary to select the students that will complete their theses [*Trabajos de Diploma*].

III. THE METHODOLOGICAL ORGANIZATION OF TEACHING

The pedagogical structure is composed of groups of disciplines and subjects formed by the corresponding professors and directed by an instructor with an advanced degree of knowledge and superior academic rank, charged with methodologically guiding the educational process.

In the classroom module, the educational process is developed in two essential forms: conferences and practical classes. The content of the subject is imparted in the former, and is debated and evaluated in the latter. The assessment of students' effort is systematic, whether oral or written in class, through partial and final exams, or through work outside of class.

In the mixed module, guidance meetings are held that seek to provide methods for independent study, remove doubts, and assess how well students are learning the material. Partial and final exams are also held.

IV. THE NEAR FUTURE OF TEACHING LAW IN CUBA

We are presently approaching a new process for improving university studies in the country. In order for the degree in Law to reflect

socioeconomic changes, we must make two essential assumptions as we begin to work on the design of the new Plan E: a system of comprehensive professional formation (an idea already conceived and put into effect under the current Plan D); and a training system that continues to achieve an adequate articulation of the undergraduate and the postgraduate.

In this sense, the goal is to train a competent graduate in law, whose basic abilities allow him or her to specialize in any field of professional action, through a continuous and harmonious transition from undergraduate to graduate education.

The basis for Plan E is to understand undergraduate education as part of a continuous process of professional formation. In order for this to be achieved, it will be necessary to focus on the distinction between undergraduate and graduate educational content.

Student self-learning continues to be favored. As a result, teaching-methodological activity must be designed in accordance with methods that allow the guidance and control of the teaching process with a pedagogical conception that encourages the role of the student as the main actor in his or her own training.

The processes of improving and/or modifying the plan of studies continue to strengthen the comprehensive training of the students, with the goal of producing graduates with technical competence as well as ethical and social responsibility, which is the fundamental mission of university instructors in their task of teaching Cuban Law today.

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