

MASTERS PROGRAMS IN LAW IN LATIN AMERICA AND THEIR IMPACT ON UNDERGRADUATE LEGAL EDUCATION

By:

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a. It is a well-known fact that one of the key features which distinguish legal education in the United States from that of Latin America is that, in the former, law studies are a post-graduate endeavor conducted after students have gotten a college education. In stark contrast with the situation prevalent in the U.S., in most of Latin America students start their legal education right out of high school, when they are barely seventeen or eighteen years of age.

As it can be imagined, the experienced of legal education by students who have already experienced four years of university-level training vis-à-vis students who are exposed for the first time of their lives to the university cannot be underestimated. Indeed, the focus, sense of purpose and personal and intellectual maturity of U.S.'s law students are simply incommensurable to that of the Latin American teenagers that attend law school immediately after graduating from high school.

Given this context, and perhaps in order to 'compensate' for the lack of any university-level general education that entering law students have in Latin America, traditionally legal education in the region devoted the first year or so to teach students courses loosely related to law, such as history, economics and philosophy. This explains in part why to get a law degree in Latin America usually takes five (instead of three years). Indeed, it was as if under the 'umbrella' of a J.D. (*Licenciatura en Derecho*) students in the region got two years of college-level education and three of legal studies properly.

With its virtues and defects the fact is that the legal education just described managed to last for most of the twentieth century. This model, however, has been under pressure in recent years as globalization and the 'demonstration effect' of the U.S. model has started to have an impact in the legal education of Latin America. Thus, we see in recent years a tendency in law schools of the region to shorten legal education to four and, in some cases, to even three years. Theoretically this should not be a problem, after all if U.S. law students can get high-quality legal education in three years why wouldn't a Latin American one be able to do the same? The problem, however, is as it that the latter students lack those four years of college education that the U.S. law students have, *with all the skills that come with it*, such as analytical and critical thinking, oral and writing skills, and in general, the capacity to learn effectively. Not to mention the fact that U.S. law students—due to the sheer fact of being four or more years older than their Latin American peers—are personally more mature, thus more likely to know what exactly they want law school to do for themselves.

Given this context, to assume that in three years a Latin American student will be able to learn the same legal subjects (and with the same degree of depth) than a U.S. student is to assume the rather implausible position that four years of university-level education (i.e., college) amounts to nothing when it comes to be prepared to start law school. To the contrary, I submit that *US law students are able to learn law effectively precisely because they have had four years of college education* and that to assume that their Latin American peers could do so without that experience is a deeply flawed illusion.

b. One important consequence of the trend currently underway in Latin America to reduce the number of years of legal education from five to four (or even three) years has been the introduction of master degrees in Law, which are meant to provide the legal specialization that a shortened undergraduate legal education cannot provide. Thus, across the region masters in law programs have flourished and they are more and more appealing not just to recent law graduates, but also to older lawyers who want to fill gaps in their legal education.

The problem with these programs, however, is that they tend to be part time, that is, taught in the evenings and early morning of Saturdays to students already burdened by work. Therefore, these supposedly 'graduate' programs tend to be even less demanding and formative than the undergraduate ones. The difference of course, is that the students—even if tired and overworked—are more mature and focused than their undergraduate peers.

In this context, my own institution, the Law School of Universidad Diego Portales (in Santiago, Chile) started last year with a Masters in Law Program that it is designed for undergraduate that are full time students and which begins when they are in the last portion of their fourth year of law. The experience is too recent to have definite conclusions about it, but we have already seen preliminary evidence that indicates that a full-time Masters Program is far more effective than the regular one in terms of filling the gap of not having college education prior to law school (typical of Latin American Law schools).

c. Aside from experiences of post-graduate legal education such as the one I have just mentioned in the previous section, the fact remains that legal education in most of Latin America continues to be an undergraduate enterprise. This context, complemented with the increasing availability of masters in law programs raises the question of what is the best use that it can be done of the four to five years of undergraduate legal education.

I submit that—particularly in the first two years—law schools in Latin America should aim at the training of analytical as well as practical skills that will prepare them to learn effectively when they finally confront legal subjects. Thus, for example, I am convinced that subjects such as philosophy, logic and even mathematics are crucial in those formative years. Of course, such studies should be combined with history and economics, and courses aimed at developing practical skills such as writing and oral expression.

To do this early on will enable Latin American law students to be more effective students of legal subjects at both the undergraduate and graduate level.

d. We have seen how the basic scheme distinguishing L.A. legal education from that of the US has profound impacts in the type of students that enter these two worlds. Given that change in legal education is typically slow in Latin America it is likely that for the foreseeable future things will continue in this region the way they have been over the last hundred years or so. In this context, it is very important to think through the way in which undergraduate legal education can be complemented with post-graduate legal education in Latin America. In other words, the increasing tendency to have Masters in Law in the region necessarily poses challenges to what is being done in the undergraduate level. Thus, for example, if Masters degrees will offer specialization to law graduates one should consider training undergraduate students more analytical skills instead of instilling in them legal information. In short, the current trend toward post-graduate education offers the opportunity to Latin American law schools to rethink the way they are teaching law undergraduates, in ways which could make up for the lack of skills

that US law students have (due to the four year of university-level education they got at college), which provide them with more general skills, that ultimately help them later to perform better at the law schools.

If the previous remarks are on target we should move in Latin America aggressively to train undergraduate law students in skills. Thus, the study of classics, philosophy, mathematics and history could be of crucial relevance, particularly in the first two years of the undergraduate period. The bet is that by educating students recently out of high school on subjects that train them to think and express their thinking properly they will be able to learn faster and more effectively the legal subjects that will be taught in the last two to three years of the undergraduate level.