



# THE TEACHER-STUDENT PEDAGOGICAL RELATIONSHIP AT THE LAW SCHOOL OF THE UNIVERSITY OF GUAYAQUIL DURING COVID-19

Marco Alexander Chinín Macanchí<sup>1</sup>, Ángel Silverio Barrios Miranda<sup>2</sup>

## Abstract

One of the most interesting topics in University Pedagogy is the teaching-learning relationship between Teacher and Student, which supposes as an ideal effective transmission of knowledge that is expected to be productive for the benefit of Society, meaning that the academic training brings to the student a possibility of full achievement.

The way of seeing the pedagogical relationship between teacher and student changed radically since the pandemic redefined the educational paradigms, as well as the application of new methods and study techniques for students. This phenomenon was evidenced in the Law Career, noting very significant changes in the processes of feedback and evaluation.

6624

**KeyWords:** Pedagogical relationship, covid-19, teacher-student.

DOI Number: 10.14704/nq.2022.20.8.NQ44686

NeuroQuantology 2022; 20(8): 6624-6630

<sup>1</sup> Assistant Professor of the School of Law - Universidad de Guayaquile

<sup>2</sup> Associate Professor of the School of Law - Universidad de Guayaquil



## Introduction

One of the most interesting topics in University Pedagogy is the teaching-learning relationship between Teacher and Student, which supposes as an ideal effective transmission of knowledge that is expected to be productive for the benefit of Society, meaning that the academic training brings to the student a possibility of full achievement.

The way of seeing the pedagogical relationship between teacher and student changed radically since the pandemic redefined the educational paradigms, as well as the application of new methods and study techniques for students. This phenomenon was evidenced in the Law Career, noting very significant changes in the processes of feedback and evaluation.

It is necessary to understand that the relationship between Teacher - Student had a disjunctive reality and expectation, the first one sought virtuality to replicate its didactic model of knowledge transmission on the student, while the second one developed more expectations on the virtual model, and many of which could not be embodied due to lack of human commitment, which arises from the humanism that should lead to excellence to the students.

The effects of COVID-19 and its impact on the educational system entail a marked discussion, in education, they are creating a mistaken vision of the teaching-learning process. Many teachers believe that transmitting knowledge from virtuality is equivalent to teaching and students are erroneously building the paradigm that attending classes virtually automatically means learning.

The success of the pedagogical teacher-student relationship does not depend on whether it is face-to-face or virtual; it is the result of being able to adequately articulate subjects that have good methodological support, in which the student is allowed to be critical of reality, enjoy knowledge under current trends, which must be consistent

with the jurisprudential, normative and doctrinal components, always synchronized with the changes presented by comparative law and the general principles of law.

Finally, the current debate does not lie in blaming and/or victimizing teachers or students, it is called to strengthen student bonds, under the guidelines of academic commitments that allow striving for excellence, that is to say, the education of Law, being a social science, is called to transcend because it undoubtedly seeks to improve the quality of life of human beings, strengthen the State and develop new contributions from the pedagogy to the Law.

## ERRORS IN THE TEACHER-STUDENT PEDAGOGICAL RELATIONSHIP DURING COVID

After making several classroom visits to different parallel courses at the Law School, it could be seen that in many classes, as Aienza points out, "the positivist normativism is mainly interested in a structural, anatomical analysis, while the approach of Law as argumentation leads to a study of a rather functional and physiological character", which implies the existence of pedagogical difficulties for the teaching of Law.

In reality, the expectation presented by students is to receive an education of a proceduralist nature, that is to say, one that generates sufficient academic and professional competencies, which will serve them in their professional practice. Such an aspiration, which seeks an immediacy in the conception of learning, leads the student not to be interested in deepening at the research level. In this regard, Aguiló Regla states: "The relevant aspect of legal excellence is not, therefore, the memoiristic accumulation of rules, but an adequate combination of normative knowledge and the development of methodological skills oriented to the solution of legal problems".

According to Espinoza Silva, the teaching of law is mostly carried out by professionals in the legal sciences, who transmit their work experience to the students, through knowledge and experience concerning the regulations that their practice



generates, therefore, an error in the pedagogical relationship between teacher and student is found in the didactic strategies and methods used in the teaching-learning process, most of which are reduced to an oral reproduction of legal texts.

The aforementioned finds very adequate support and justification in Article 168, paragraph 6 of the Ecuadorian Constitution: "The substantiation of the processes in all matters, instances, stages and proceedings will be carried out through the oral system, under the principles of concentration, contradiction and dispositive". The teacher who practices professionally seeks through his teaching to strengthen the future competencies of his students.

For Espinoza Silva, the teacher-student relationship can generate a serious error in the classroom activity, because the former, to comply with institutional documents in which contents and their scope are verified, may sacrifice academic quality to cover the diverse amount of legal information, therefore, the student may confuse legal knowledge and experience with memorizing skills.

A marked error that the student has during his learning process is to think that the PhD will grant him professional competencies, since there is a tendency to confuse the investigative level with the professionalizing one, both share as a common edge the richness of knowledge, differentiating because the Investigation entails reflection and experience in the acquisition of knowledge regarding the investigated reality, while the professional level seeks to generate competences for the free exercise in any of the areas.

The student mistakenly confuses academic titles with professional accomplishments, which generates expectations for the teacher to carry out an exegetical study of the norm, which is judged by the student as a categorical and express knowledge of the norm, and therefore of the Law, a serious error, having skills and knowledge of an area of the Legal Sciences does

not always imply that the student knows the Law.

For the above, Cordova argues that an error in the teaching of Law is the segmentation of the study of Civil Law, into four parts, according to the number of Books that compose it, being an error of mesocurrículum; the indicated, leads to the student still see his teaching and other branches of Public Law, with a reductionist vision, as well as legalistic in extreme, this approach aggravates the methodological divorce in the teaching of Legal Sciences, the student wants to understand and learn that which in the first term is only productive: regulations and jurisprudence, neglecting doctrine, general principles of law and comparative law.

The referred appreciation, which is misunderstood by the student, does not allow him to glimpse that the jurisprudence is a final result of the legal system, which came to require the careful review of other national and international realities, thus generating legal research with a good methodological approach.

In the classroom visits, as a result, it was observed that the student in his basic understanding of rights, principles and institutions of law, reaches memorization of concepts and definitions in the short and medium term, this occurs because he does not feedback what he learns because by not participating interactively in class, as Espinoza Silva says the student does not acquire other skills such as analysis, synthesis, argumentation and the logical-legal ability to provide solutions to potential problems presented by his career.

Legal education is also too formalistic since it seeks preferably to transmit a mass of information, referring to the content of the legal norms and the elements necessary for the student to be able to interpret these norms.

According to De Lima , This seriously affects the student-teacher relationship, since the former has a vision of teaching by manuals, and the



student aspires to a legalistic vision, this leads to the loss of creativity, and the possibility of an enriching and proactive pedagogical process is left aside, the result is that students do not want or can infer knowledge, because they need the teacher to inexorably provide definitions on the subject matter covered in class.

A major error in teaching and learning is memoiristic and mechanical knowledge, Córdova argues that this vision of teaching generates difficulties between teachers and students, this scheme does not allow the student to develop comprehensively and achieve a critical view of reality.

The teacher does not manage to create in his student an academic commitment, this is because the student does not see that his teacher will give him the necessary methodological tools for the legal activity, which is characterized by being conceptual, linguistic and logical, in the different classrooms it is developed in different concepts, definitions and terms destined to understand, support, normalize and analyze the social order, as well as the combination of factual and normative statements that allow the student to argue in favor of one or another tendency from the legal, which is the essence of Law.

It is necessary to specify for Espinoza Silva that the immediacy of academic results affects the teacher-student relationship, which does not allow for an adequate teaching-learning process, due to the desperation to meet evidence and indicators, the various methods and strategies to improve the transmission of knowledge of law within a humanistic framework are not adequately applied.

The classroom visits showed that students do not generate a marked commitment to learning, for example, turning off the camera to attend class, firstly constitutes an emotional blockage towards the class and the teacher, secondly does not allow the teacher to verify the feedback process regarding the contents raised, a third important area, lies in that the student is demonstrating a

set of ideas, beliefs and thoughts that does not allow him to generate a proactive and constructive interaction.

The classroom process requires Socratic humility on the part of the student, who must understand that only the student who follows the human and academic leadership of his teacher progresses academically, even the mistakes serve as a mirror so as not to make them. To turn off a camera in front of the teacher is not only an act of impoliteness and facilism in the classroom, it means the non-practice of the various essential human values, the demonstration of the lack of a socio-affective domain, the non-consolidation of adequate extra and intra-university interpersonal relationships, and therefore, the total lack of solidarity and mystique of service concerning professional training and social service.

6627

#### DIFFICULTIES IN THE PROCESS OF TEACHING AND LEARNING LAW

The educational process in which the Legal Sciences are involved is not easy, it begins by overcoming the following traditional definition: "Law is in charge of regulating the normative order of Society through the law, inspired by the application of justice as a value", which obeys a pedagogical tradition in which many teachers have been trained and continue to do so.

The challenge today is to question the definition of previous lines, to rethink Law as the social science in charge of regulating Society through the law, to guarantee a full coexistence, which is inspired by deep values of coexistence, among them justice and equity. The above-mentioned implies that the teacher can rethink his current vision of Legal Sciences so that through continuous learning of pedagogy he can enrich his knowledge, experiences, abilities and skills in favor of the holistic development of his students.

It is necessary to understand that the teaching-learning process of Law must be integral, it must have as components jurisprudence, regulations, doctrine, comparative



law and general principles of Law, this implies a holistic approach as established in the Constitution in its article: "Education will focus on the human being and guarantee his holistic development, within the framework of respect for human rights, sustainable environment and democracy; it will be participatory, compulsory, intercultural, democratic, inclusive and diverse, of quality and warmth; it will promote gender equity...".

From the experience of the classroom visits to the students of the Law School, it was possible to appreciate facts that generate difficulties within the teaching-learning process, which are consistent with those raised by López :

- a) The addressee of the changes in the study plans and programs,
- b) updating of the teachers,
- c) the expiration of knowledge,
- d) resistance to the new plans and
- e) the ideological component.

a) The addressee of changes in curricula and programs of study, this difficulty according to López : leads to the following possibilities in the debate: University education should be focused on serving society. It should be aimed at benefiting the production plant, or it should be focused on the student acquiring knowledge in an area of activity that will allow him to access an advantageous economic and social position.

The reflection described above leads to affirming that the classes observed in the classroom visits obey the rigorous compliance of an institutional regulation that is reflected in the study plan, which implies that students develop a marked academic discipline to improve their level of acquired knowledge.

b) The updating of teachers, in this regard López In the classroom visits, it was observed that there are teachers with an academic level, but not pedagogical, in other cases lawyers with work experience and a professional level, but without the required pedagogical background.

c) The expiration of knowledge,

methodologically, after having carried out the classroom visits to some teachers of the Law Career, it is worth questioning in the first place, what the student learns is useful in the short, medium or long term, in the second place is the very necessary fact of being able to assess whether their learning is significant for the academic context in which they develop, and finally, the relationship between the knowledge learned during the career and professional life.

In this regard, Molina analyzes that the law student should seek to achieve productive knowledge, the challenge lies in the teacher having sufficient emotional intelligence during the pedagogical process so that the student can learn, value and apply all the legal knowledge received during the educational process, which agrees with Carbonell's statement: "the horizon of the teaching of the best teachers goes beyond the duration of the subject they teach and goes beyond to try to influence the subsequent years of their students' lives".

d) Resistance to the new plans, López analyzes that these contents may generate great resistance among teachers and students. The reasons may be the following: a) the lack of knowledge and the proliferation of institutional, student and administrative rumors regarding their profile and scope, b) the inertia of certain managers, students or teachers who may feel displaced from their comfort zone, c) the loss of privileges or comforts by some of the participants in the educational act, d) the introduction of new theoretical schemes to the existing reality, e) the introduction of new theoretical schemes to the existing reality.

e) The ideological component, following Fukuyama: "the endpoint of the ideological evolution of mankind and the universalization of Western liberal democracy as the final form of human government" , that is to say, it is necessary to de-ideologize the classes and allow students to objectively interpret and evaluate reality in its most pragmatic context so that from their experience they can provide an enriching





professional and/or investigative contribution.

The classroom visits carried out show that the teacher acquires a strong institutional commitment, both in the formative and academic aspects, being concerned about the pedagogical process, which does not always occur with the student's participation, which is not always active, dynamic and prepositive of new realities.

The student, during the pandemic, has been virtually programmed to attend and confirm knowledge, the latter materializes in an exam or activity in class that constitutes part of his final grade, that is to say, the pedagogical relationship between teacher and student is not strengthened much more because the students still do not assume the historical, humanistic and academic commitment in search of excellence, which demands academic self-assurance.

The aforementioned is supported by the statement of Peñuelas Reixach who points out the need to avoid confusing the memorization of knowledge acquired in the classroom as a true pedagogical process. It does not make sense to limit the pedagogical relationship Teacher - Student to the transmission of information from the Teacher to the Student without passing operations of logic and creativity through the head of the latter. It is necessary to go the real constitution of a true paradigm of education in Law, in which it is understood that the Teacher is the soul of the faculty and the student is the beneficiary of the educational process.

The aforementioned author analyzes some fundamental elements that the teacher will provide during the relationship with the student, i.e., teaching, which obliges him/her to understand the following scenarios: a) student learning, b) the physical means used to make teaching and learning possible, c) the curriculum, or set of knowledge, values and skills to be transmitted, d) the knowledge, values and skills that the teacher wishes to transmit, and e) the teaching methods to be used.

The strengthening of the student-teacher pedagogical relationship is not unilateral; it is the result of agreements on study plans and programs that arise in the Faculty, López analyzes that managers, teachers, pedagogical advisors, students and actors of the workspaces for future lawyers should discuss the realities and social needs, this leads to rethinking general knowledge, abilities, skills, curriculum, academic components, and of course knowledge that has a good theoretical foundation and that can be used pragmatically for the benefit of society.

The student does not assume a more participative commitment with the teacher's class, does not allow the development of critical tools to the problems of society, being the Law a suitable means for the solution of the same, besides not valuing the effort of the Professor to implement new and potential academic content that need to be fed back, which will strengthen professional skills.

#### FINAL REFLECTIONS

It is necessary to understand that the academic relationship between teacher and student is not limited to feedback information, it requires a commitment from the pedagogy so that the transmission of knowledge allows the students of the Law Career to build constructive and functional learning according to the competences that the faculty offers to its students.

For the pedagogical relationship between teachers and students to flow in a better way, empathy is needed, as a result of emotional intelligence, that is to say, that the professor can transmit value in the knowledge he teaches, as well as usefulness in the professional and investigative field; in the same way the student is called to take advantage of the richness and strengths that the educational system offers, as well as the cultural, legal and pedagogical richness with which the teacher offers his class.

The difficulties in virtual classes are not only caused by difficulties in the teaching and learning process of the class itself but are aggravated by



the gaps presented by the students, which are often not addressed in the respective processes of recovery and pedagogical tutoring, which undoubtedly causes uncertainties and difficulties regarding the knowledge that the student can acquire, as well as many dissatisfactions in the teacher that his pedagogical and academic experience is reflected for the benefit of the classroom.

## References

1. Aguiló Regla, Josep, Positivismo y postpositivismo. Dos paradigmas jurídicos en pocas palabras, en Interpretación jurídica y teoría del Derecho, Palestra, Lima, 2010.
2. Asamblea Nacional Constituyente, Constitución de la República del Ecuador, Registro Oficial No. 448, lunes 20 de octubre de 2008.
3. Atienza, Manuel, El Derecho como argumentación, Ariel, Barcelona, 2006.
4. Carbonell, Miguel, Cartas a un profesor de derecho, Cevallos Editora Jurídica Quito, 2014.
5. Córdova, Luis, ¿Cómo mejorar la Enseñanza del Derecho? Ideas para un Debate, La Gaceta Jurídica, Diario La Razón, La Paz, 2015.
6. De Lima López, José Reinaldo, “Regla y compás, o metodología para un trabajo jurídico sensato”, en Observar la ley. Ensayos sobre metodología de la investigación jurídica, Trotta, Madrid, 2009.
7. Espinoza Silva, Francisco, “Métodos y estrategias para la enseñanza-aprendizaje del Derecho”, Daena: International Journal of Good Conscience, marzo 2009.
8. Fukuyama, Francis, “¿El fin de la historia?”. En Revista Estudios Públicos, Santiago, Número 37, 1990.
9. García, Luis, Elementos de Lógica para el Derecho, Temis, Bogotá, 2011.
10. López Durán, Rosalío, Lo oculto en la enseñanza del Derecho, Porrúa, México, 2008.
11. López Durán, Rosalío, “Cinco dificultades en la enseñanza del derecho: la implementación de un nuevo plan de estudios y su entorno”, Revista de la Facultad de Derecho de México, Tomo LXIX, Número 275, Septiembre-Diciembre 2019.
12. Molina Piñeiro, Luis, “La caducidad del conocimiento y la reflexión de Luis Recasens en torno del control social”. Homenaje, UNAM, Serie el Derecho y sus maestros, núm. 37, 2012.
13. Peñuelas i Reixach, Lluís, La Docencia y el Aprendizaje del Derecho en España. Una perspectiva de Derecho comparado, Marcial Pons, Madrid, 2009.

