



ANALYSIS OF THE METHODOLOGY USED IN LAW CLASSES AT THE UNIVERSITY OF GUAYAQUIL DURING COVID-19

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Abstract

This paper uses legal research to analyze the different methodological levels of the teachers of the Law School at the University of Guayaquil, to understand the pedagogical level of the teaching model applied for the transmission and generation of knowledge to the students.

Moving from the legalistic model in the educational process of law teaching to the neo-constitutionalist model entails new challenges and opportunities, as well as greater axiological and academic commitments, which means that these must be strengthened in the research plan itself and the different professionalizing levels demanded by the State.

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Introduction

This paper uses legal research to analyze the different methodological levels of the teachers of the Law School at the University of Guayaquil, to understand the pedagogical level of the teaching model applied for the transmission and generation of knowledge to the students.

Moving from the legalistic model in the educational process of law teaching to the neo-constitutionalist model entails new challenges and opportunities, as well as greater axiological and academic commitments, which means that these must be strengthened in the research plan itself and the different professionalizing levels demanded by the State.

The COVID-19 pandemic forces a redefinition of the very conditions of life of humanity, which implies great changes in the paradigms of university education, therefore, virtuality becomes an indispensable pedagogical tool that makes it possible to carry out the educational process.

This article seeks a systemic analysis of the methodology used by teachers in their classes, observes whether the presence of the pandemic could have changed the pedagogical vision of teachers regarding the pedagogical model they had for their students, and also assesses the normative and curricular structure provided by the Law School to consolidate its activity.

It is necessary to understand the methodology and technique that is taught in the different classes, which will allow improving and strengthening the legal research of the educators themselves, as well as of the students and contribute in a better way to the graduation profiles, providing them with a better academic background, characterized by an excellent axiological level related to skills, abilities and competences that guarantee the students to be competitive entities in the different areas that the world of Law offers them.

METHODOLOGICAL CONSIDERATIONS

It is legally necessary to express some fundamental criteria, among them the Research criterion, according to Perez This presupposes increasing the sphere of our knowledge, starting

from what is known to seek the unknown, for which reason is required as the articulating axis.

According to Witker , the legal method is the space in which the jurist develops diverse techniques for approaching the legal phenomenon in the context of its diverse reality (historical, human, social and academic), which will undeniably allow for an adequate interpretation of the Law; therefore, methodically, the Legal Sciences require new theoretical, practical, cognitive and creative, reproductive and productive, scientific and supra-scientific, objective and subjective elements.

The aforementioned evidences that Law, being a social science in charge of the social order, has a rich and prolix methodology, as for the general scientific methods that are very particular to it are the following: analysis, synthesis, induction, deduction, definition, classification, division, specifying the legal methods themselves, these are Interpretation and its exegetic schools, Free Scientific Research, Teleological and Objective Interpretation.

The Methods of Integration of the Law are custom, analogy and the rules or general principles of the Law, which are harmoniously complemented with those of Legislative Creation of the Law: a) Role of the Legislator in the Creation of the Law, b) Factors Generating the Law and c) Techniques for Drafting Legal Norms.

The above shows that Law is a social science, which has a certain structure, however, it is not a finished product, it is always under constant construction, therefore, Bobbio argues that epistemologically the Legal Sciences must be investigated from a given system of rules; and as a dynamic set of prescriptions that are adapted and change with social relations, and that requires the researcher an interdisciplinary effort.

THE ROLE OF THE STATE IN THE LAW TEACHING PROCESS

Before the Covid 19 pandemic, the law teaching model had a normativist vision, inspired by the constitutional vision, supported by the Kelsenian model, the clearest example being the pyramid described in Article 425 of the Constitution,



which sought to overcome the legalist paradigm, which prescribed the inexorable compliance with the law.

Law Schools, in their curricula, have implemented within the prevailing model of neoconstitutionalism, practices tending to the consolidation of comprehensive higher education. In this regard, the Ecuadorian Constitution in Article 27 states that "Education will focus on the human being and guarantee its 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 ...".

The aforementioned article guarantees that the State shall promote the development of competencies and capacities for job creation, which implies that education is indispensable for the development of knowledge, and therefore, it becomes a strategic axis for national development, which implies and generates a great responsibility for the University, which according to article 355 of the Constitution is called to recognize the universities and polytechnic schools academic, administrative, financial and organic autonomy, under the objectives of the development regime and the principles established in the Supreme Text.

The constitutional norms described above have made it possible for Public and Private Universities, through their university autonomy, to design a pedagogical model by their reality, justice, solidarity and peace. It will stimulate the critical sense, art and physical culture, the difficulties faced by the Law Schools lie in complying with the regulatory provisions issued by the control agencies of the field. This means that compliance with institutional evidence often makes it difficult to enter from the institutional to the strengthening of academics itself.

THE CONTEXT OF LAW TEACHING

Transmitting legal knowledge does not mean teaching law, Carbonell argues that it is necessary the express existence of conditions that the educational model, which is fully related to the structure of the legal system itself, and

ultimately to the political context, must meet.

The aforementioned author goes so far as to question whether the law is seen as a knowledge of a practical nature or whether it is a social science in charge of ordering society through the law, therefore, its learning requires a great deal of institutionalized technical knowledge, as well as an effective understanding of the socio-political, economic and cultural context that are inherent to the very nature of the legal phenomenon

The foregoing shows that the teaching of law will always present tensions, as a result of its social transformation, since it always seeks that the legal sciences in a world currently characterized by globalization provide answers to the needs of society.

The teaching of Law must be effective, so González maintains that the University must provide its students with real tools to face their professional challenges, which are based on the effective knowledge of the diverse demands of the social environment; therefore it is necessary for the Academy to overcome patterns of legal culture, as well as techno-bureaucratic models that are more concerned with the fulfillment of curricular and classroom evidence than with the formative, historical, axiological, professional and competitive sense of the future legal professional, thus continuing to reproduce obsolete perceptions and practices, inefficient to respond to the demands of the social process and profoundly unjust.

The Constitution of Ecuador determines that the very essence of the human being is holistic, that is, integral, under this constitutional paradigm it is necessary to redefine the educational context of the students of Legal Sciences, which must begin with a set of basic intellectual skills aimed at the improvement of intellectual processes, which evidently will allow advancing to a stage of full research.

Capella expresses that for an adequate strengthening in the teaching of law, the teacher must provide contextualization, the student must be situated in time and space, he will be helped to relate his reality with the set of previous knowledge he has, and new knowledge will be



developed. In this way, a historical and transcendent sense will be provided to the educational process of the students, at the end of the class he will understand the real value of his knowledge as well as the historical importance it has and he will be able to give a value to it.

The aforementioned provides evidence that the teaching of law does not only imply the transmission of knowledge, it means that the teacher, through his teaching, can generate in his students the capacity to enhance abstraction, to generate new intellectual operations, to create and/or improve research profiles, to guide the students in new and multiple strategic actions for their next professional practice.

THE IMPACT OF COVID-19 ON THE TRADITIONAL LAW TEACHING AND LEARNING PROCESS

Globalization has generated profound changes in the State itself, which was severely affected by the COVID-19 pandemic. Many countries were forced to reduce the movement and mobility of people, which undoubtedly affected their quality of life.

For Gonzales, this historical requirement forces to rethink the institutional identity of the different Law Schools, in terms of their teaching. This means building a new curricular archetype aimed at multidisciplinary knowledge, which is pragmatic and operative, without forgetting the very essence of the Legal Sciences, which is found in their very sources.

The COVID-19 should be seen as a valid pretext that imposes on Law Schools the need to de-ideologize chairs, update knowledge, pose new educational challenges, open lines of research and course leave historical traces on the part of educators towards their students, starting with the teaching of law.

As a historical challenge for Law Schools, a holistic change is required, Zolezzi came to propose the need to overcome legal formalism, as well as the closed vision of the unrestricted interpretation of the law, for the passage of a new model, currently, the neoconstitutionalism as the prevailing model of the State, requires accepting a new social dynamic, which is possible through the breadth of critical thinking about the existing

legal rules. The above described, due to what happened during the pandemic, leads to the institutional need for the various teachers to build a new methodology that manages to articulate the aspects of jurisprudence, regulations, doctrine, comparative law, techniques and methods of research, as well as an effective link with society, without neglecting creativity for the creation of employment itself.

COVID-19 came to question the prevailing educational model of the Legal Sciences. In this regard, Lista considers that the university educational schemes for the teaching of Law cannot only be created and imposed in the Universities, they must at least be socialized and reflected upon for a real and effective linkage with Society, political institutions, bar associations, associations of magistrates, the administration of justice, doctrinarians and jurists and with them other specialists, who can contribute with a responsible criterion from other spheres so that the Academy can build a more inclusive, dynamic, modern, flexible and productive scheme concerning the teaching of Law.

THE METHODOLOGY USED BY PROFESSORS IN LAW CLASSES AT THE UNIVERSITY OF GUAYAQUIL DURING COVID-19

Some old-style philosophical thinkers believe that crises occur when the old has not finished dying and the new cannot be born, which applies in the field of Higher Education, since many years ago substantial changes were required in the paradigms of the teaching-learning process in Law Schools.

The educational system that is transmitted to students in the classroom needs a more modern and pragmatic approach, which does not imply forgetting the very essence of law, the challenge posed by the pandemic was to know in reality how the educational process was carried out when not being in physical contact and in real-time with the students.

A larger number of students than expected in a traditional classroom meant a greater challenge for the teacher, that is, transmitting knowledge without being able to count on social connectivity, much less being able to generate



effective feedback that favors new research experiences, in addition to not being able to make new contributions to legal research.

To determine the above, it was necessary to make classroom visits to various professors of the Law School of the University of Guayaquil, choosing teachers of Public and Private Law, after which it was verified that their subjects belong to the General Basic Level and Professional Level, as well as all areas of the Curriculum.

This meant delimiting the time of the sample, which was carried out during the normal class period of the First Partial of the 2021-2022 CII Cycle without the existence of pre-exam media pressure, which evidently could distort the sample and the very nature of being able to observe the methodology used in class by the teachers.

The methodology used by the teachers was positive in the fulfillment of the curricular regulations, that is to say, the guidelines established by the Vice Rectorate Guidelines were followed, and the students verified and validated the completion of the various academic agendas of each of the subjects, and it was appreciated that methodologically the teachers, in the context of the areas of the school, perform their professorship as follows:

Constitutional and Procedural Constitutional Law. In this area, there is a direct application of the methods of integration of law, and the use of analogy and general rules or principles of law is appreciated.

Economic. There is an application of general methods since it seeks to apply the synthesis (at an experimental and rational level, as well as reproductive and productive to understand the application of legal precepts of a financial nature. Likewise, there is a practical and operative use of deduction, definition, classification and division.

Civil and Procedural Law. There is a need for a marked contextualization of the class, which allows the student to understand objectively the various existing institutions, there is a strong emphasis on interpretation in its elements (grammatical, teleological, logical, systematic and historical), as well as in its process and results (declarative, extensive, restrictive, modifying and

abrogating interpretations).

Criminal and Procedural Law. There is an adequate use of the casuistic method, students receive classes with a very good systemic foundation because the methods of interpretation of the law are applied, therefore, in the classes teachers and students perform an interactive class, since the contents are developed through the schools of interpretation such as exegetic, free scientific research, teleological or finalist and objective interpretation.

Social and Labor Law. The teacher seeks that the student can understand the role that the legislator has had during the creation of the law, as well as analyze in depth the factors that have generated the law, which is strengthened by strong analysis and synthesis as a general method.

Instrumental. In the basic subjects, there is the application of general methods such as analysis, synthesis, induction, deduction, definition, classification, and division, which is strengthened when teaching the gaps in the law, as well as the integration of law by applying custom, analogy and the rules or general principles of the laws.

The above-mentioned leads to reflect that the Law Career is called to be a productive entity of the Society that seeks to satisfy its diverse demands, as well as a generating space of a marked potentiality of development. In this context, according to Lista, the Teachers through their knowledge, allow the students to opt for teaching and research, without reaching the same exercise of the professional activity of the Lawyer, which can lead the Educator to look for the multi-documentation.

In contrast to the above, most lawyers have a link with professional profiles, without having an express link with teaching, which is a great complication because their classes are limited to a technical class that although initially appreciated by the student, over time disappears because it was the result of a memorized understanding of short and medium range, which was not built based on meaningful learning.

The experience of the classroom visits leads to a review of the relationship between the pedagogical and legal discourse by each of the



teachers in their classes, which leads to Bernstein who proposes the need for a close relationship between the two, the pedagogical discourse lacks specific content. However, it generates transmission and acquisition, by its very essence, it is instructional and regulatory. The former creates competencies and skills to ensure the performance of the graduate in the legal field and the latter is eminently socializing, its rules seek to establish and prescribe the practice of morals, ethics and deontological principles.

To verify whether in practice the desired cognitive results are achieved, it is necessary to review and understand the degree of expectations of the teacher related to the student in the dynamics of the class itself, to which Lista analyzes that the value of the pedagogical discourse of the teachers will always be given by the highest degree of formalization, which will be related to the so-called explicit curriculum that is composed of the study plans, subject programs, load and time distribution, etc.

Brigido expresses that the educational message that law teachers use in the classroom is given through three elements of the educational message which are the curriculum, pedagogy and evaluation of knowledge and the power to articulate these entities allows the teacher in the classroom to generate real empowerment of the student towards the class.

Lista asserts that legal education requires a structural discourse characterized by: a) the organization of the contents, b) the knowledge that is transmitted and the skills that are developed, c) the legal teacher: a task of "teachers", d) the students: members of an anonymous audience, e) time is never enough, and f) evaluation.

It is necessary to understand that methodologically the teacher may encounter difficulties in the pedagogical process, the experience of classroom visits leads to the need for a marked reflection on the possibilities of changes in social control, education and law. In this sense, Brigido values the need for a new perspective aimed at investigating the conditions in which the educational process takes place.

Lista and Brigido analyze a new integral

approach in the teaching process, the pedagogical alternability supposes that methodologically the Teacher can question his teaching capacity if he were in the student's place, as well as the conditions that surround him, the great difficulty of the Teachers at the moment of teaching is that their knowledge and pedagogical levels are not always in agreement with the macro, meso and micro curricular levels that determine the Career. The previous expectations of the teaching and learning process of Law can be severely affected by external factors that affect the logic and daily life in which the University itself develops, which unfortunately happened with COVID-19.

FINAL REFLECTIONS

It is necessary a teaching self-questioning, that is to say, the University Professor is called to ask himself if his presence obeys a need for transcendence in the professional field that he wishes to materialize in the classrooms, or on the contrary, obeys the desire of the construction and strengthening of society through Higher Education.

The classes of the teachers of the Law Career count with methodology in their teaching, which supposes the application of the diverse general scientific methods of the investigation, which are complemented with the methods of interpretation of the law, as well as integration and legislative creation of the Law.

The classes taught by the professors entail the need to develop research budgets since there is a constant motivation for students to develop general knowledge about the subject under investigation, as well as the scientific spirit and Socratic humility, which implies the ability to recognize oneself as limited to knowledge, but also very avid in the search for truth through science.

Finally, students do not provide facilities for the strengthening of the educational process, which is possible through educational feedback, therefore, a greater academic commitment is needed, to correspond to the institutional effort that the University makes in the consolidation of its teaching staff, which is suitable from the professional field complemented with continuous



processes of pedagogical induction.

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