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Pillars of the Postgraduate Formation of the Jurist in Cuba

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PILLARS OF THE POSTGRADUATE FORMATION OF THE JURIST IN CUBA

*Mayda N. Goite Pierre** & *Marta Fernández Martínez***

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I. PILLARS OF HIGHER EDUCATION IN THE PRESENT CENTURY

The 21st Century has been characterized by the strengthening of the process of globalization, not only in an economic sense, but in all spheres of social life, and this includes the educational processes, such that it is society that imposes challenges on contemporary education, since the development of professional competences is necessary for the production of knowledge and the construction of a democratic society, thereby enabling people to position themselves within the social context of knowledge and risk and to integrate within it, contributing thoughtfully and critically to the construction and development of the human being as an individual and to society as a whole.¹

This situation fosters an unprecedented demand for higher education, accompanied by a broad diversification and a greater awareness of the fundamental importance the level of education has for the sociocultural and economic development of nations, as well as for the construction of the future, for which the present generations should be prepared with new competences, knowledge, and ideals.

Higher education comprises all kinds of studies, training, and research in the post-secondary level, whether imparted by a university or other learning establishments accredited by the corresponding State authorities as centers of higher education.

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1. MELLA GARAY ELIA. “La Educación en la sociedad del conocimiento y del riesgo” en *Revista Enfoques educacionales*.

The systems of higher education should increase their capacity for living amid uncertainty, in order to transform themselves and to provoke change, to address social needs and promote solidarity and equality; to preserve and exercise scientific rigor and originality with an impartial spirit as an essential prerequisite to achieve and maintain a high level of quality; and to place students in the forefront of their concerns in the perspective of a lifelong education, so that they may be wholly integrated in the global society of knowledge in the present century.

Among the topics of contemporary debate over higher education are:

- (a) Higher education and its objectives in the 21st Century
- (b) The role of the social sciences in the analysis of global problems
- (c) The integration of teaching and research
- (d) Measures to ensure democratization and at the same time promote the quality of higher education.
- (e) The diversification of education systems and their link to the productive sector.
- (f) The role of continuing education in higher education with a view to meeting the new needs of an increasingly diversified demand.
- (g) Intellectual independence and academic freedom as an essential condition for teaching and research, without which institutions of higher education may become mere instruments of large corporations. Relations with the state and contractual policies with the productive sector.
- (h) The impact of globalization on the plans and programs of study in the institutions of higher education.
- (i) The need to address in a comprehensive way the problem of financing higher education.

In consonance with the preceding, the innovative trends in Latin American Higher Education today are:

- The existence of a clear trend toward reorganization and flexibility in its academic structures.
- The need for the department to triumph as a unit of teaching and research.
- The achievement of interdisciplinary and transdisciplinary approaches through the organization of programs and projects with the concurrence of various disciplines.
- Offering short-term degree programs in response to new social demands or combining these with long-term programs.
- In view of the specialization of knowledge, creating

universities dedicated to a specific area (agriculture, pedagogy, and others).

- The successful regional and sub-regional integration in Central America and the Caribbean. In postgraduate studies, the results of the CAB countries are notable.
- The existence of open systems at the university level (Venezuela, Costa Rica's UNED, Colombia's Unidad Universitaria del Sur, Brasilia's Distance Education System, Mexico's UNAM).
- Providing greater coverage through distance education.
- Continuing education so that graduates remain current in their disciplines.
- Incorporating the concept of continuing education to a greater degree.
- Creating regional and sub-regional associations and networks.

Higher education presently faces great challenges in adjusting to the conditions of a different reality. This illustrates the need to achieve important changes to renew higher education in such a way that it not only will offer efficient responses to new conditions, but also exercise the academic, scientific, and technological leadership that society demands. "the solution will be to build a common Latin American university space."²

At this moment the university, especially in Latin America, faces gigantic challenges. The educational policies elaborated by various governments according to the demands of the specific context of each nation are extraordinarily important in order to guarantee that institutions of higher study not only survive, but also carry out the basic functions and tasks, in accordance with the current situation.

Tünnerman calls for a kind of teaching that is capable of creatively integrating general education and specialized knowledge from a particular branch, as well as the scientific method. He also expresses reservations about indiscriminate privatization, which could lead to greater exclusions. According to the author,

the present challenge is how to combine [*articular*] the acquisition of knowledge with the immense mass of information available. What is important is not the mere accumulation of knowledge, but knowing what type of information is necessary, where to find it, and how to use it. The question that remains is how to translate the available information into curricular materials and into adequate

2. CRUZ CARDONA, Víctor; "Desafíos del postgrado y el doctorado en América Latina." En: www.vacruz@usal.es, junio, 2015, p. 9.

teaching methods.³

What is needed is a university that is a center of education for permanent development and retraining; a university with solid fundamental disciplines, but also a broad diversification. The goal should be for students to graduate from the university not only having acquired their diplomas but also the relevant knowledge for living in society, as well as the skills to apply and adapt that knowledge to a world in constant change.

The last decade has seen a proliferation of declarations and agreements among the political leaders of our countries intended to chart a course to reversing the current situation in our region in the field of education.

Several efforts in the field of higher education and research stand out, such as the Declaration of the 2005 Ibero-American Summit, held in Salamanca, which proposed the creation of an Ibero-American Knowledge Space, oriented to the inevitable transformation of higher education in our countries, by means of making necessary connections between research, development, and innovation; the July 2008 Declaration of the Regional Conference of Higher Education (CRES) held in Cartagena de Indias; and the Guadalajara Agenda “For a Socially Responsible Ibero-American Knowledge Space,” approved in June 2010 by the representatives of 1,044 universities.

These initiatives envisioned the creation of a space for collaboration between the universities, centers of research, and companies in our countries, in pursuit of the creation, transmission, and transfer of scientific knowledge.

One of the challenges in creating a knowledge association in our region is to achieve the appropriation of knowledge by the systems of production and by civil society, in what is known as the science-technology-society triad, as the university should produce and achieve the transference of scientific and technological development. Educational institutions must ally with governments, industry, and the service sector in order for this transference to be produced with greater quality and efficiency, as there is no development without a process of added value, in the hands of the knowledge-generating centers.

Despite this necessary alliance between the top research institutions and industry, education cannot be considered a commodity, as its preservation and strengthening represents an essential obligation of the State.

Among the efforts identified by the initiative for the creation of a

3. TUNNERMAN BERNHEIM, Carlos; “La educación permanente y su impacto en la educación superior,” Ediciones UNESCO, México, 1992, p. 67.

knowledge society, we find programs for the free mobility of undergraduate students in different countries, the standardization and recognition of higher educational credentials between our countries, cooperation on topics related to programs of quality assessment and accreditation for the centers that impart university education, the strengthening of doctoral programs, the strengthening of university-business interface units, known as centers for the transfer of research results, and the fostering of a culture of innovation, among many other activities.

It is apparent that these projects are only possible through a university that is actively engaged in society, one that recognizes higher education's commitments to social cohesion and inclusion, biological and cultural diversity, and indigenous cultures, as well as its identification with our nations' serious problems of inequality, injustice, poverty, gender, and sustainability. Higher education is a public social good, a universal human right, and a State duty, which forms the basis for the strategic role that it should play in the processes of sustainable development in the countries of the region.

On a more general educational level, the approval of Goals for 2021: The Education We Want for the Bicentennial Generation [Metas 2021: La Educación que queremos para la Generación de los Bicentenarios] stands out. Approved as part of the 20th Ibero-American Summit held in Mar del Plata in December 2010, it represents an ambitious educational program for the coming years, through which the countries of Latin America can achieve a historic development at the educational level.⁴

II. CUBA. PROGRAMMATIC DESIGN OF THE POST-GRADUATE TEACHING OF LAW

Post-Graduate education in Cuba is one of the cardinal guidelines of work in the system of higher education. It is founded on several basic pillars:⁵

- The historical evidence of the centrality of education, research, and collective learning of the development processes.
- The need for long-term education throughout life, supported by self-directed learning and socialization in the production of knowledge.

4. 2021. *Metas Educativas. La educación que queremos para la generación de los bicentenarios. Documento final*. Organización de Estados Iberoamericanos para la Educación, la Ciencia y la Cultura (OEI), Madrid, 2010.

5. Articles 1 through 10 of Resolution 132 of 2004 of the Ministry of Higher Education of Cuba.

- Favoring the elimination of national and international borders and access to the most advanced knowledge.
- Addressing society's need for training to face productive and cultural challenges.
- Promoting multi-, inter-, and transdisciplinary approaches.
- Developing flexible forms of organization with scientific rigor.
- It is structured in two ways: professional development and postgraduate academic training.
- All organizational variants are free for Cuban citizens with permanent residence in Cuba.

In the area of legal studies, one must begin with idea of teaching this particular branch of knowledge. Law is not a simple summation of legal bodies, but rather an organic and coherent regulatory system that follows principles, regulations, and connections that give it its scientific and technical character. Jurists cannot be trained—as they were for many years and still are in many parts of the world—as moderately knowledgeable interpreters of the positive legal order; on the contrary, teaching should take aim at scientific, doctrinal, and technical training, in an open and direct reaction against normativism.

The College of Law at the University of Havana, successor to the College of Laws and Jurisprudence created in 1728 upon the establishment of the Real y Pontificia Universidad de San Jerónimo de La Habana, has been ever since that time the cradle of enlightened and revolutionary men whose work has left its mark on the Cuban nation. It is today the leading institute for the study of Law in all the country, as well as the leader in post-graduate studies in all fields of knowledge.

The mission of teaching law in Cuba is to provide education and training in an open space that fosters continuous learning with a social conscience. That is to say, the stable and permanent links with organizations and institutes in the legal sector have succeeded in that research now helps to elucidate scientific problems in theoretical and practical terms.

Today's postgraduate system is organized in response to social demands and the needs of the academy. The system is regulated on the basis of the College's line of research entitled: "The Improvement of the Cuban Legal System," [El perfeccionamiento del sistema jurídico cubano] developed through 21 research projects in response to the social needs that prompted it.

The scientific policy of the College of Law of the University of Havana for more than 20 years has been to structure postgraduate education in two principal categories: professional development and academic training. Scientific activity is correctly organized according to instructor potential as well as the present social and legal needs.

Professional development is organized by means of short courses (of a week or several months) that result in a scientific degree and that vary annually according to demand and the development of the legal science. All are taught by professors with scientific and pedagogical expertise in the corresponding subject. These courses are offered in the capital as well as in the rest of the country.

The academic training of postgraduates is also structured through Specializations, Master's Degrees, and Doctorates. International collaboration also provides postdoctoral support. Today a range of programs are offered, such as:

- Specialization in Criminal Law.
- Master's in Constitutional and Administrative Law.
- Master's in Civil Law.
- Master's in Agricultural Law.
- Master's in Criminology.
- Master's in Labor and Social Security Law.
- Master's in the Law of Economics.
- Doctorate in Legal Sciences.

The research results of these programs contribute at the doctrinal level and with concrete proposals for the development and modernization of the Cuban legal system, corresponding to what is needed for the improvement of the institutional framework of the country.

These scientific answers have contributed to:

- Updating the nation's legal doctrine in tune with contemporary theoretical trends.
- Improving the culture of the legal sector, and of the public in general, anchored in the principles and values of respect for the law, and defense of social justice and rights.
- Improving the level of quality and efficiency of the legal practice in its different professional roles (prosecutors, judges, lawyers, legal advisors).
- As well as the processes of creation, interpretation, and application of the Law.
- The rescue of the historical legacy of national legal-political thought and of legal institutions.
- Improving the quality of the undergraduate and post-graduate teaching in the specialization of Law.

III. BY WAY OF CONCLUSION

Postgraduate teaching of Law in Cuba rests on a scientific foundation, with an anti-normativist conception. Teaching is articulated on the basis of the triad of elements posed by higher education for this millennium: academic, research, and labor, as a function of the continuous formation of professional excellence.

The post-graduate in Cuba is scientific, flexible, and permanently dynamic, giving shape to the phrase of José Martí, who said “Education is not only for change but is in the change” [“La educación no es sólo para el cambio sino en el cambio”].