



Legal research in the teaching-learning process, a challenge in the career of Law, at UNAN-Managua

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SUMMARY

The teaching-learning process of legal research, in the UNAN-Managua Law course, since its entry into the current educational model in 2013, it has represented a challenge in the institution, because it implies an update in all areas of training, for both protagonists: students and teachers. The present evaluation and critique within a prudential period of seven semesters, was considered to know the context of legal research, advances, weaknesses and strengths, as well as its behavior in accordance with the educational model. At this point it is possible to observe that, the legal pedagogy and the scientific investigation of law are traditional curricular contents, also theoretical, technical and methodological that must be adapted to the juridical epistemic processes developed in Latin America.

INTRODUCTION

This research is part of the research line number 3, for institutional development of the National Autonomous University of Managua (UNAN-Managua), which prescribes as the “Validation of the application of teaching-learning strategies in the UNAN-Managua”. In such

a way that, it makes an evaluation in the context and processes of formation of the juridical investigation, from the experience of teachers and students in the teaching-learning of those subjects that have as purpose to develop the scientific conscience, from the research in the major of law, as of the curricular reality and plans of study on the investigation in the career.

Therefore, it is indicated that the teaching-learning of Law in Nicaragua, its pedagogy and methodology have their own characteristics, but the perspective of training based on scientific research is still a challenge, as the implementation of the same model that has assumed the UNAN-Managua as of 2011, for the general education of the Law Degree, which must be based on assumptions, foundations, principles, didactics, techniques, pedagogies and specific methodologies for its realization.

The above is the context and tangible signs of the transition in teaching in Higher Education in Nicaragua. It should be said that there is no specialized background on the Methodology of research in the Science of Law in Nicaragua, nor teaching strategies or learning of law based on legal research. Their methods or pedagogies are the product of the spirits of the national jurists, not of the strategies of the national law schools or of the UNAN-Managua,

For the theoretical foundation and hermeneutic analysis, from the pedagogical practice for legal research and its methodologies, as background, some authors such as Witker (1996), Fix-Zamudio (2007) and Leon Armenta (2005) -among others- point out that this is widely developed in Our America with criteria that are the basis for the proposal in the new formation of Law and legal research. It should be noted that Chile also has a tradition in theories, such as Argentina, Colombia, Peru and Venezuela, the latter with a lot of heterogeneity, while Law Science itself demands it.

Regarding the Nicaraguan context, legal research, carried out by jurists recognized by all of Nicaraguan society, is generally not exempted from the exegetical, normative and positivist paradigm, but the contribution of a jurist could be highlighted, which could be the point of starting in the investigation of the science of Law. Jurists like Solorzando (1999) and Escobar Fornos (2000) (from the nineties and present), who implemented jurisprudential methodology, encyclopedic doctrine and comparative law, but at the same time positivist; Solorzano, made his legal contributions to Nicaraguan Commercial Law, making a proposal of glosses to the Commercial Code. His research focused on the spirit of the norm and regulation, with a classical technique of law, the gloss of the rule. Escobar focused his research on the civil Right or contractual theory, also to the laws of the Public Registry, all this centered to the interpretation of the norm. Montiel Argüello (1971), he also contributes significantly to the construction of law in his work "Nicaraguan Civil Jurisprudence", likewise Huembre and Huembes (1971) and

his work “New Dictionary of Nicaraguan Jurisprudence”, both are referents of methods and techniques of Law and its jurisdictional application.

The implication and association of teaching-learning and scientific research of law, from curricular strategies, legal didactic, could mean for Nicaraguan society, the institutional qualitative level, legality and legitimacy in each act or social event-as long as the existence of a sociological praxis of law, modulated by and from the techniques of teaching and methodology in legal research, as a strategic axis of the teaching-learning model of Law at UNAN-Managua, it becomes a strategic content to carry out.

The above mention is a necessity and imperative to conduct research that systematizes, structures and proposes the initial assessment on teaching and learning, which contributes in the validation to the current teaching model, which also has the purpose of training the undergraduate student, from legal-social methodological didactics for training in scientific legal research.

In this research, two main categories are considered, in which one corresponds to one of the axes of the educational model of the institution; and the other, the generic basis of the same model, the teaching-learning of law and legal research. It can be said that this research will be analytical exploratory, with a qualitative approach, in as much, the values of greater weight, will be of qualitative judgment of the protagonists, that is of the teacher and the student who build knowledge, who participate in the teaching process -learning in the research strategy of law, and from the hermeneutic-constructive theory as well.

MATERIALS AND METHODS

Regarding the focus of this research, due to the greater emphasis on the use of qualitative information, this research is carried out through the application of the Qualitative Philosophical Research Approach (Pedroza, 2017). Regarding the level of commitment of the researcher, the research adheres to the Socio-constructivist Paradigm, according to the position of Ferreiro (2004), since it deals with how the teaching content is acquired, as well as how it is transited from a state of inferior knowledge to another higher order, moreover, how the thought categories are formed.

A qualitative research technique like the analytical in-depth interview, was applied to five teachers who have a great teaching experience in the UNAN-Managua. In addition to their substantive chairs of law, methodology of scientific research for the law and their commitment to research in the career. It was also applied a non-parametric survey to fifty fourth-year students of the career, according to Álvarez-Gayou (2003), “to obtain descriptions of the world

-legal in the concrete case- of the interviewee regarding the interpretation of the meanings of the phenomena described” (p.109).

RESULTS AND DISCUSSION

For the description of the process from legal research, the 78 % define their teaching-learning in legal research as practical theory. Judgment of value given by the student, which had two more options, that is, they could choose that the process in which they develop as lawyers, being students, is theoretical or scientific. In such a way that this criterion is part of the generalized conception from the empirical formation of the student, where by the same order and design of the curriculum this offer subject as Practices of professionalization, specialization or familiarization, for which, the practical aspect, and in theory-practical sum obeys mainly, to that strategy of relating the student and some of its contents with the institutional logic of the state or private entity, to which the student will perform those practices. There is no association of that strategy with legal research properly.

On the other hand, and assuming the criteria of the protagonists, if it were not for the practices of professionalization, civil practice, criminal and notarial practice, we would be faced with a purely theoretical training, and totally disconnected from the scientific research of law. The major of Law assumes the empirical field, the one where the student develops the skills of litigation and legal representation; within this order it can be said that this is “a model of medieval background, says Witker (1985), since it is an authoritarian teaching technique based on the teacher, who monopolizes information, knowledge and method, relegating students to a passive and receptive role”.

Likewise, the key informants admit that students have an interest in research, that is, they overcome the curricular and teacher training conditions, even institutional. The student behavior associated with the educational model of 2011, and the study plans of 2013. express that 72 % of students would consider research in different academic priorities; First, they claim for training in legal research, because while the teacher seeks the easiest or fastest way, as a first criterion, avoid evaluating research, since it involves less teaching effort, the main protagonists of the educational model, the training in legal research then, it will be a pending matter for the curricular academic plan of the major of law at UNAN-Managua.

On the other hand, the key informant mentions that even the subject proposal for training and development of research was improved, it was not possible to establish a systemic association between subjects, times and strategies, whose relationship and sustenance is the search for the new educational model, which must follow socio-constructivist pedagogical assumptions, as proposed by Ander-Egg (1995), on the main characteristics: 1) Previous knowledge; 2) Significant learning; 3) The Student protagonist; 4) Teacher and institutional

accompaniment, to achieve the built-in learning. However, the socio-constructivism of Ander Egg does not intermediate in the process of formation, this by virtue of what the protagonists point out, only 8 %, that is, four students, had a complete 100 % support in the investigation process.

For this reason and for these purposes, teachers and students have to assume different roles from those they have traditionally played, recovering for themselves the right to speak and reflect on their actions. In such a way that, the content, to overcome that traditional teaching, the student, protagonist, assumes from the strategy “learning by doing” in the teaching-learning process, which seeks the effectiveness of the educational model, with an active, scientific formation and student technique.

If the students defines their training as theoretical-practical and the 66 % of the protagonists also confirm to have had a teaching support in their investigations From this, it can be stated that there are contents that demands students investigate, and that the professors who taught these subjects besides accompanying students in their research they also make research too.

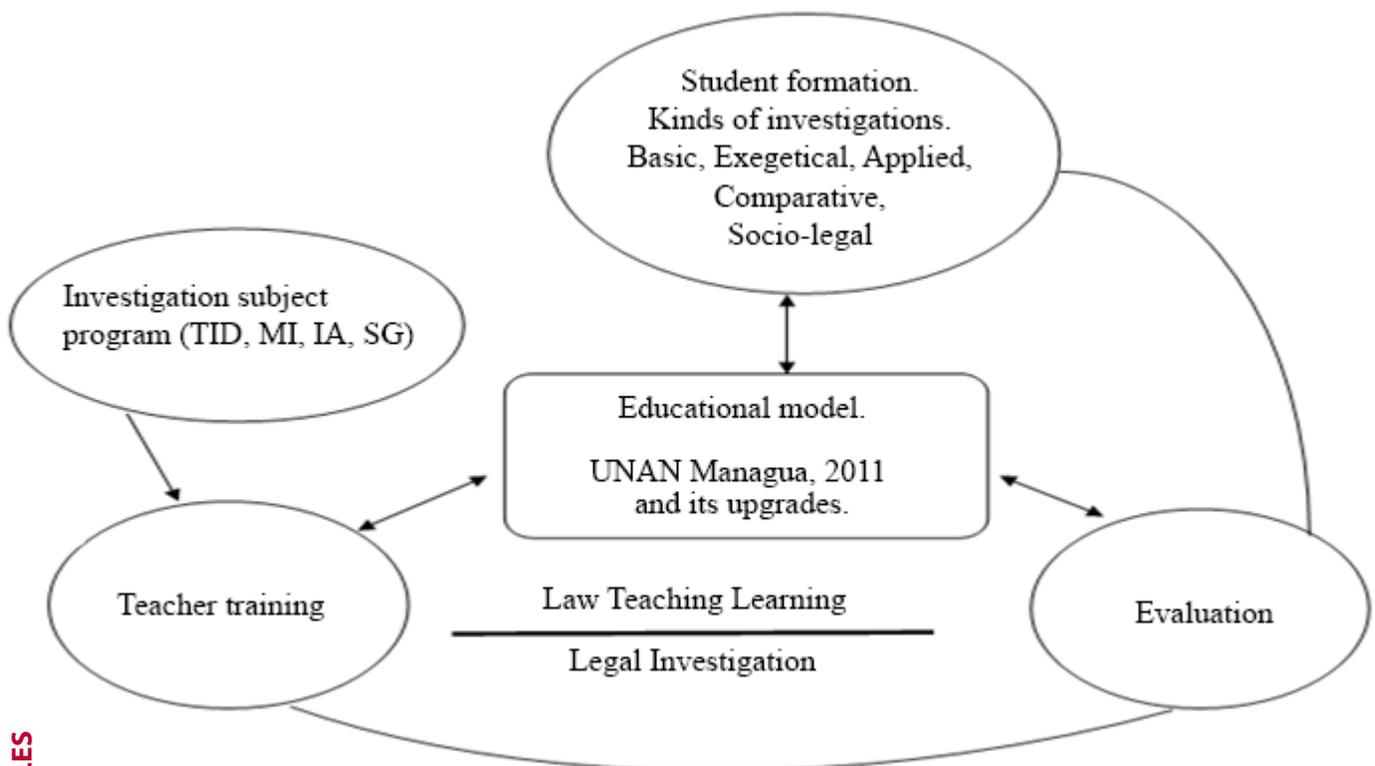
The key informants (teachers) and the protagonists (students), consider a starting point the pedagogical and scientific legal epistemology on the teaching-learning process of legal research in law, from the perspective of the current educational model of 2011 and its curricular network in force since 2013, in which, the synthesis of Witker (2008), which says that interdisciplinarity should be insisted on as transdisciplinarity, that is, incorporate complex thinking to achieve a job with doctors, with economists, to study labor law as part of company law, becoming this the main premise for the present context.

Besides that, what is expressed by Ander Egg (1995), who says that learning is nourished by external help from educators and other colleagues -because all the protagonists of the educational system are immediately co-responsible for learned/constructed knowledge, which should be related to the contribution, is substantial, because the students have made fifty-four investigations, with the described variations.

However, there is no relation with the Latin American and epistemic proposal with the results and findings expressed by the participants, since 92 % of the students have not participated in Forums or Scientific Development Days; Furthermore, if 62 % of students say they have not acquired the skills of a researcher, and 78 % of students say that the Law Degree does have the conditions to train them as a researcher in the Law, then, as there is a significant difference between the variables of categories, is subject to subjective conditions as optimal institutions for research in the career of Law, despite the contradictions and internal articulation.

While, legal research is adapted to a more concrete and social logic, and according to the contribution of Ragin (2007), to concrete purposes of law as: 1) Identify the behavior of the subject or social sectors in relation to the law in the particular and general; 2) Evaluate the effectiveness of the law, doctrines, values and philosophy of law; 3) Make predictions regarding the process of law formation, structural and social criteria integrated into the law and measure the effectiveness of the law; 4) To develop the hermeneutics and the legal constructivism partner, sociology, philosophy and deontology of Law; 5) Explore the heterogeneity of the Law from what is prescribed by the scientific method; 6) Integrate the social, legal and political subjects, as protagonists in the investigations; and 7) Make progress in the theory and treaties of Law.

In short, the need for the teacher to abandon the attitude of monologue and engage in a dialogue with his/her students, so that they participate in discussions, write monographs, and carry out seminary work. This proposal by Fix-Zamudio (2006), may be part of the career research strategy, once the training of teachers in social research and in the epistemology of sciences is also considered, constituting the necessary bases, for the development of socio-legal knowledge.



Figure

In this scheme are represented those categories, which are the institutional, curricular and pedagogical conditions, as protagonists of the educational model of the UNAN-Managua.

It should focus on identifying the main weakness, in which the teaching-learning process in the Major of Law does not contain legal research, that is, there is a dilemma between traditional contents, the contents of the 2013 academic plan and what really demands legal, scientific and the epistemic multidimensionality, which has advanced greatly in other Latin American nations. Another factor identified is the teacher training and evaluation in legal research which is still a pending content for the major of Law.

In such way, the formation of the student in legal research will depend on the teacher training, the curricular contents, as well as the type of evaluation, so that the relationship between the student's training and the teaching accompaniment is meaningful, constructive and above all, pedagogical as a scientist.

On this reality, it should be noted that with the Educational Model of 2011 and their respective plans, they also propose to the academic unit new methodologies for evaluation in correspondence with the model. However, traditional major like law degree, has certain characteristics, since teachers do not have specific teaching training or legal research training. This hinder , closes and focuses on the positivist paradigm of teaching, in such a way that, any data or information and participation of protagonists in research, will still have some resistance.

FINAL ASSUMPTIONS

It is possible to identify that the pedagogy of law, in the law school of UNAN-Managua, starts from a teaching-learning process of the contents of each subject, always based on tradition. The findings of theoretical, didactic and methodological contents on Nicaraguan legal pedagogy or legal epistemology for research are almost non-existent.

In the Law Degree, it is not formed in the method of scientific research with the methodological foundations of Law, current initiated and developed in Mexico. There is an institutional pedagogical bias towards the positive, normative and axiological formation of Law, which has the effect that the Law student loses great opportunities to be scientifically trained.

In relation to the development and epistemological contents of the science of Law, the opportunity that the current Educational Model of 2011 (modified in 2015) is not being taken advantage of, for the training from the epistemology of law developed in several Latin American countries, for which, it fits the curricular adaptation in all the strategy of investigation in the right, from the interdisciplinary and multidimensional approach.

REFERENCES

- Álvarez-Gayou, J. L. (2003). *Cómo hacer investigación cualitativa. Fundamentos y metodología*. México, D.F.: Paidós educador.
- De León Armenta, L. P. (2005). *Metodología del derecho*. Editorial Porrúa. México.
- Egg, E. A. (1995). *La planificación educativa. Conceptos, métodos, estrategias y técnicas para educadores*. Río de la Plata: Magisterio del Río de la Plata.
- Escobar, Fornos. I. (2000). *Derecho de Obligaciones*. Hispamer.
- Ferreiro, R. (2004). *Más allá de la teoría: El Aprendizaje Cooperativo: El Constructivismo Social. El modelo educativo para la Generación N*, Nova Southeastern University.
- Fix Zamudio, H. (2007). *Metodología, docencia e investigación jurídicas*. Editorial Porrúa Argentina. Retrieved from: <https://www.corteidh.or.cr/tablas/r32767.pdf>
- Huembre y Huembes. J. (1964). *Nuevo diccionario de jurisprudencia nicaragüense*. 1ª edición. Imprenta Nacional
- Montiel Arguello, A. (1971). *Jurisprudencia Civil Nicaragüense*. Tomo I. Impreso en los Talleres de la Imprenta Nacional, Managua, DN, Nicaragua.
- Pedroza, P. M. (2017). *Curso de Metodología de investigación*. Farem-Carazo. UNAN-Managua.
- Ragin, C. C. y de Setién Ravina, C. M. (2007). *La construcción de la investigación social: introducción a los métodos y su diversidad*. Siglo del Hombre Editores.
- Solorzado, R. A. (1999). *Glosas al Código de comercio de Nicaragua: Concordancia y jurisprudencia*. Tercera edición. Hispamer.
- Universidad Nacional Autónoma de Nicaragua de Managua. (2011). *Modelo Educativo. Consejo Universitario*. Editorial Universitaria. (Modified in October 2015).
- Witker, J. (2008). *Hacia una investigación jurídica integrativa*. Retrieved from Boletín Mexicano de Derecho Comparado. Available in: <http://www.redalyc.org/pdf/427/42712213.pdf>
- Witker, J. (2008). *Metodología de la enseñanza del derecho*. Porrúa.
- Witker, J. (1996). *Técnicas de Investigación Jurídica*. Instituto de Investigaciones Jurídicas, Universidad Nacional Autónoma de México, Editorial.
- Witker, J. (1985). *Técnicas de la enseñanza del derecho*. (4ª edición). México: Editorial PAC. Retrieved from: <http://archivos.juridicas.unam.mx/www/bjv/libros/3/1070/1.pdf>