

6-2-2021

Legal Education in Argentina: A Plea for Comparative Law in a Multicultural Environment

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Agustín Parise, *Legal Education in Argentina: A Plea for Comparative Law in a Multicultural Environment*, 81 La. L. Rev. (2021)

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Legal Education in Argentina: A Plea for Comparative Law in a Multicultural Environment

*Agustín Parise**

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INTRODUCTION**

The presence of comparative law in multicultural classrooms extends an invitation to explore the challenges and opportunities of the

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** References to Argentine legislation include amendments and modifications, even when the original numbers of legislation are preserved for citation purposes. When available, references are provided also to electronic sources, where readers, beyond the borders of Argentina, can easily retrieve the official texts of the referred legislation. Page numbers in the pin cites of some footnotes refer to electronic versions of the sources, due to a lack of access to hard copies.

internationalization of legal education.¹ After all, law is a social, cultural, and vital phenomenon that operates in a given reality.² Nevertheless, as a result of globalisation, law graduates deal more with transnational relationships and need to adapt to the interplay of different legal systems and cultures: they need to acquire more interdisciplinary knowledge.³ Further, knowledge should not be exclusively of law, because graduates should know other disciplines and learn to interact with them (e.g., economics, political science, psychology, and technology).⁴ Lawyers will know the rules, yet they will need to adapt their interpretation to new situations to be gestated in a globalised social context⁵ and will need to be aware of other ways that regulate human behaviour.⁶ They will be lawyers *sans frontières!*⁷

Legal education merits attention, because universities offer an optimal environment to bring together different peoples, local and from beyond.⁸ Werner Goldschmidt correctly pointed out that challenges in teaching are “always current, because there will always be teachers and students, and

1. On the internationalization of legal education, see THE INTERNATIONALISATION OF LEGAL EDUCATION (Christophe Jamin & William van Caenegem eds., 2016).

2. José M. Abram Luján, *La enseñanza del derecho. La necesaria consideración de los problemas concretos de la comunidad a la luz de los derechos fundamentales. Objeto de la formación de los hombres de derecho*, 202 EL DERECHO [E.D.] 627, 6 (2003).

3. Rogelio Pérez Perdomo, *Introducción*, in LA FORMACIÓN JURÍDICA EN AMÉRICA LATINA: TENSIONES E INNOVACIONES EN TIEMPOS DE LA GLOBALIZACIÓN 11, 22–23 (Rogelio Pérez Perdomo & Julia Rodríguez Torres comp. 2006); Jorge Horacio Alterini, *La enseñanza del derecho*, 1988-C LA LEY 687, 4 (1988).

4. Rosalía Muñoz Genestoux & Daniela Vetere, *El impacto del derecho internacional de los derechos humanos en la enseñanza del derecho de familia: desafíos actuales*, 74 DERECHO DE FAMILIA. REVISTA INTERDISCIPLINARIA DE DOCTRINA Y JURISPRUDENCIA 285, 2 (2016).

5. Horacio H. Brusa, *Diseño de la enseñanza del derecho*, 2003-E LA LEY 1006, 11 (2003).

6. Wibo M. van Rossum, *Resolving Multicultural Legal Cases: A Bottom Up Perspective on the Internationalization of Law*, in THE INTERNATIONALIZATION OF LAW AND LEGAL EDUCATION 113, 113 (Jan Klabbers & Mortimer Sellers eds., 2008).

7. Walter F. Carnota, *La enseñanza del derecho*, 2011-D LA LEY 1296, 1–2 (2011).

8. Máximo Pacheco Gómez, *Historia y misión de las universidades*, in GABRIEL AMUNÁTEGUI: MEMORIA Y HOMENAJE 89, 101 (Facultad de Ciencias Jurídicas y Sociales ed., 1961).

they are normally placed in a reciprocal relationship of dissatisfaction.”⁹ Studies on legal education have gained momentum in the Republic of Argentina during the past decade,¹⁰ because scholars had alerted the legal community of the need to restate many aspects of that area of knowledge.¹¹ Argentine legal education was subject to constructive criticism, and pedagogical techniques called for change.¹² Scholars study the Argentine curricula and its pedagogical traits, in which positivism clearly prevails,¹³ for some even as a matter of “religion.”¹⁴ Empirical studies reveal enriching results on self-awareness of strengths and weaknesses,¹⁵ even

9. Werner Goldschmidt, *El análisis de casos como elemento imprescindible de la enseñanza jurídica*, 43 LECCIONES Y ENSAYOS 197, 197 (1971) (translated to English by author).

10. Silvina Pezzetta, *Ejercicio sobre las opiniones y expectativas de los estudiantes de Derecho. Entre la conformidad y la crítica*, 12:24 ACADEMIA 211, 217 (2014).

11. Enrique Mariscal, *Volviendo a pensar sobre el enseñar y el aprender*, 1:1 ACADEMIA 67, 94–95 (2003).

12. Julio César Cueto Rúa, *El ‘Case Method’: Observaciones sobre la enseñanza del Derecho en los Estados Unidos*, 71 LA LEY 847, 1 (1958); see also *Primer Encuentro entre Profesores y Alumnos sobre la Enseñanza del Derecho*, 77 LECCIONES Y ENSAYOS 285, 288 (2002) [hereinafter *Primer Encuentro*]; *VI Encuentro de profesores y alumnos: “La enseñanza y el aprendizaje del derecho,”* 83 LECCIONES Y ENSAYOS 319, 320 (2007).

13. Pezzetta, *supra* note 10, at 218.

14. Juny Montoya, *The Current State of Legal Education Reform in Latin America: A Critical Appraisal*, 59 J. LEGAL EDUC. 545, 548 (2010).

15. See, e.g., HORACIO M. LYNCH ET AL., *LA EDUCACIÓN LEGAL Y LA FORMACIÓN DE ABOGADOS EN LA ARGENTINA* (2d ed. 1988); FELIPE FUCITO, *EL PROFESOR DE DERECHO DE LAS UNIVERSIDADES DE BUENOS AIRES Y NACIONAL DE LA PLATA: UN ESTUDIO COMPARATIVO* (2000); Ana María Brigido & Carlos Alberto Lista, *Orden social y socialización en la carrera de abogacía de la UNC: la perspectiva de los alumnos*, 2:3 ACADEMIA 199 (2004); Carlos A. Lista, *Legal Education in Argentina: From Ideals of Justice to a Value-free Conception of the Law*, 2 WEB JOURNAL OF CURRENT LEGAL ISSUES [J.C.L.I.] (2011), available at <http://webjcli.ncl.ac.uk/2011/issue2/lista2.html> [<https://perma.cc/2HEA-NGDZ>]; Nancy Cardinaux, *Las investigaciones sobre educación legal universitaria en la Argentina: diagnósticos y perspectivas*, 2:1 REVISTA PEDAGOGÍA UNIVERSITARIA Y DIDÁCTICA DEL DERECHO [R.P.U.D.D.] 13 (2015); Carola Bianco & María Cecilia Carrera, *La enseñanza del derecho desde las representaciones sociales de los docentes de la Facultad de Ciencias Jurídicas y Sociales de la UNLP*, 38 ANALES DE LA FACULTAD DE CIENCIAS JURÍDICAS Y SOCIALES 685 (2008).

though an increase of studies of the sociology of law would be beneficial in order to fully grasp the status of legal education.¹⁶

Argentina may be deemed a multicultural and multi-ethnic jurisdiction that invites dialogue amongst members of society.¹⁷ Already the Preamble of the Argentine Constitution welcomes immigration and states that the constitutional text aims “to form a national union, guarantee justice, secure domestic peace, provide for the common defense, promote the general welfare and secure the blessings of liberty to ourselves [i.e., Argentines], to our posterity, and to all men of the world who wish to dwell on argentine [sic] soil.”¹⁸ The final passage, especially, creates an open social contract for those who want to subscribe to it, and ultimately fosters the progress of social diversity.¹⁹

Argentina is traditionally considered an “immigration” country.²⁰ It has welcomed immigration for more than 200 years, though the origins of immigrants to Argentina changed throughout all those years. Immigrants arrived, at different time periods, from Europe, from the Americas, and to

16. María Inés Bergoglio, *Argentina*, in ENCYCLOPAEDIA OF LAW & SOCIETY: AMERICAN AND GLOBAL PERSPECTIVES 91 (David S. Clark ed., 2007). Sociology of law received attention early during the 20th century at University of Córdoba. See Hilda Eva Chamorro Greca de Prado, *Un siglo de sociología en la Facultad de Derecho y Ciencias Sociales de la Universidad Nacional de Córdoba*, 17 CUADERNOS DE HISTORIA 22 (2007).

17. GUSTAVO ADOLFO LUQUE & LUCÍA GRACIELA RIVEROS, ALUMNOS EXTRANJEROS EN LAS UNIVERSIDADES ARGENTINAS 26 (2009); *Diversidad cultural*, ESTUDIÁ EN ARGENTINA, <https://estudia-en-argentina.com.ar/category/diversidad-cultural/> [<https://perma.cc/NDJ6-AK29>] (last visited Sept. 25, 2020).

18. CONSTITUCIÓN NACIONAL, Preámbulo (Aug. 22, 1994) (emphasis added). The Preamble in an English translation reads:

We, the representatives of the people of the Argentine Nation, gathered in General Constituent Assembly by the will and election of the Provinces which compose it, in fulfillment of pre-existing pacts, in order to form a national union, guarantee justice, secure domestic peace, provide for the common defense, promote the general welfare and secure the blessings of liberty to ourselves, to our posterity, and to all men of the world who wish to dwell on argentine [sic] soil: invoking the protection of God, source of all reason and justice: do ordain, decree, and establish this Constitution for the Argentine Nation.

National Constitution of the Argentine Republic, POLITICAL DATABASE OF THE AMERICAS (July 16, 2008), http://pdba.georgetown.edu/Constitutions/Argentina/argen94_e.html [<https://perma.cc/7ZZN-GRG7>].

19. MARÍA ANGÉLICA GELLI, CONSTITUCIÓN DE LA NACIÓN ARGENTINA: COMENTADA Y CONCORDADA 5 (2d ed. 2004).

20. Lawrence M. Friedman, *The Shattered Mirror: Identity, Authority, and Law*, 58 WASH. & LEE L. REV. 23, 40 (2001).

a lesser extent, from Africa and Asia.²¹ The degree to which the country welcomed immigration also changed: at times being restrictive, while at other times being open and flexible.²² The number of foreigners fluctuated during the more than 200 hundred years of Argentine history. For example, the first National Census, from 1869, indicated that Argentina had 1.7 million inhabitants, of which 12.1% were foreigners,²³ mainly migrating from Europe (e.g., France, Italy, and Spain).²⁴ The latest National Census, from 2010,²⁵ indicated that Argentina had 40.1 million inhabitants, of which 4.5% were foreigners,²⁶ mostly from neighbouring countries (e.g., Bolivia, Paraguay, and Peru).²⁷ In 2001, there were 133,471 lawyers in Argentina, offering a ratio of 368 lawyers per 100,000 inhabitants, a leading number in the Americas.²⁸ Further, in the period 1998–2009, 134,234 students graduated from Argentine schools of law, 37,140

21. Diego R. Morales, *Derechos humanos de los migrantes en Argentina: Apuntes sobre nuevas perspectivas jurisprudenciales*, 1:2 REVISTA DERECHO PÚBLICO 345, 345 (2012); Barbara Hines, *An Overview of Argentine Immigration Law*, 9:2 IND. INT'L & COMP. L. REV. 395, 397–98 (1999); Barbara Hines, *The Right to Migrate as a Human Right: The Current Argentine Immigration Law*, 43 CORNELL INT'L L.J. 471, 474 (2010) [hereinafter Hines, *The Right to Migrate*].

22. María Cristina Rodríguez de Taborda, *Doscientos años de inmigración en Argentina (1810-2010)*, LA LEY ONLINE 121, 1; DONALD S. CASTRO, *THE DEVELOPMENT AND POLITICS OF ARGENTINE IMMIGRATION POLICY 1852-1914: TO GOVERN IS TO POPULATE* 257–66 (1991).

23. Ernesto Cerro, *La migración en la República Argentina y especialmente en Tucumán entre 1869 y 1914*, in LA INMIGRACIÓN EN LA ARGENTINA 81, 81 (1979).

24. *Id.* at 82.

25. For detailed and official information on the 2010 National Census, see *Censo 2010*, INSTITUTO NACIONAL DE ESTADÍSTICA Y CENSOS, <https://www.indec.gob.ar/indec/web/Nivel4-Tema-2-41-135> [https://perma.cc/E8JQ-M9Z3] (last visited Sept. 26, 2020).

26. Morales, *supra* note 21.

27. INSTITUTO NACIONAL CONTRA LA DISCRIMINACIÓN, LA XENOFOBIA Y EL RACISMO [INADI], *Migrantes*, in BUENAS PRÁCTICAS EN LA COMUNICACIÓN PÚBLICA 29, 32 (2011). For studies on the migration mainly from neighbouring countries, see ORGANIZACIÓN INTERNACIONAL PARA LAS MIGRACIONES, [OIM], *El impacto de la migraciones en Argentina*, in CUADERNOS MIGRATORIOS NO. 2 (2012).

28. María Inés Bergoglio, *Transformaciones en la profesión jurídica en América Latina. Empresas jurídicas y nuevos discursos profesionales*, in 1 SOCIOLOGÍA DEL DERECHO. CULTURAS Y SISTEMAS JURÍDICOS COMPARADOS 529, 571 (José Antonio Caballero Juárez et al. eds., 2010).

graduating from the school of law of University of Buenos Aires (UBA).²⁹ Argentina could, therefore, be deemed a melting pot, a reality shared with other jurisdictions in the Americas (e.g., the United States).

Part I of this paper provides an overview of legal education in Argentina. It addresses some challenges that education faces in the country, the current legal framework, and an historical evolution, highlighting the main shifts that occurred in Argentina. Part II explores the place of multiculturalism and comparative law within Argentine schools of law. It therefore helps visualize how both aspects developed and are currently perceived in this jurisdiction. Part III looks at post-graduate studies as a laboratory for multiculturalism and comparative law. A number of teaching experiences at the doctoral level at UBA³⁰ serve as practical examples to show how comparative law and multiculturalism can evolve together in the classroom and result in a fruitful combination. Finally, brief closing remarks aim to provide unity to the topics addressed in the previous parts.

I. LEGAL EDUCATION

The right to education is paramount in Argentina, and is considered a fundamental pillar of the preservation of the rule of law.³¹ An Argentine Constitution was signed in 1853³² and was based on, among others, Spanish antecedents and U.S. constitutional principles.³³ The current Argentine Constitution dates from 1994, and a series of texts preceded it.³⁴ A number of provisions in that constitutional text speak to the right to

29. Sandra M. Wierzba et al., *La universidad pública y el servicio a la comunidad. Aportes desde la Facultad de Derecho de la Universidad de Buenos Aires*, 9:18 ACADEMIA 207, 215 (2011).

30. It should be noted that the information and opinions dealing with UBA are those of the author of this paper and are not to be understood as being endorsed by that school of law or by the university at large.

31. Florencia Cordeiro Rial de Carranza Torres, *Derecho a la información en materia de educación*, 2002 LA LEY CORDOBA 689, 4 (2002).

32. A constitutional reform took place in 1860 and, amongst other things, helped reflect the reunion of the seceded province of Buenos Aires and the rest of Argentina. See VÍCTOR TAU ANZOÁTEGUI, *LA CODIFICACIÓN EN LA ARGENTINA (1810-1870): MENTALIDAD SOCIAL E IDEAS JURÍDICAS* 340 (1977).

33. Viviana Kluger, *Argentina*, in 1 THE OXFORD INTERNATIONAL ENCYCLOPEDIA OF LEGAL HISTORY 215, 216 (Stanley N. Katz ed., 2009).

34. For example, the *de facto* regimes introduced changes to the text in 1966, 1972, and 1976. BENJAMÍN BURGOS, *CURSO DE DERECHO CONSTITUCIONAL* 72 (2001).

education in Argentina.³⁵ For example, article 14 of that constitutional text states that all inhabitants should enjoy the right “to teach and to learn.”³⁶ This call to teach and learn is for all inhabitants and not only for citizens, which is in line with the Preamble of that constitutional text.³⁷ In addition, that constitutional text states, by means of article 75, paragraph 18, that the National Congress has the power to “provide for the prosperity of the country, . . . and for the progress of education, drawing up general and university educational plans.”³⁸ In addition, paragraph 19 of that same article, incorporated in 1994,³⁹ states that the National Congress has the power to “enact laws referring to the organization and basis of education consolidating national unity and respecting provincial and local characteristics.”⁴⁰ Further, that article, in paragraph 22, grants

35. Jorge Horacio Gentile, *La educación en la Constitución, 2001-2002* EL DERECHO CONSTITUCIONAL 590 (2002).

36. Article 14 in an English translation reads:

All the inhabitants of the Nation are entitled to the following rights, in accordance with the laws that regulate their exercise, namely: to work and perform any lawful industry; to navigate and trade; to petition the authorities; to enter, remain in, ...travel through, and leave the Argentine territory; to publish their ideas through the press without previous censorship; to make use and dispose of their property; to associate for useful purposes; to profess freely their religion; to teach and to learn.

National Constitution of the Argentine Republic, supra note 18.

37. See *supra* note 18 and accompanying text; Gonzalo Álvarez & Guillermo Ruiz, *La organización histórica del nivel universitario según sus bases constitucionales y legales*, in LA ESTRUCTURA ACADÉMICA ARGENTINA 139, 140–41 (Guillermo Ruiz ed., 2012); María Angélica Gelli, *Educación y cultura, espejos de la política argentina*, 2016-A LA LEY 706, 5 (2016).

38. Article 75, paragraph 18 in an English translation reads:

To provide for the prosperity of the country, for the advance and welfare of all the provinces, and for the progress of education, drawing up general and university educational plans, and promoting industry, immigration, the construction of railways and navigable canals, the colonization of government-owned lands, the introduction and establishment of new industries, the imports of foreign capital, and the exploration of inland rivers, through laws protecting these aims and through temporary grants of privileges and stimulating rewards.

National Constitution of the Argentine Republic, supra note 18.

It should be noted that the text was present in the previous constitution, yet with different numbering. See also Gelli, *supra* note 37, at 5–7.

39. GELLI, *supra* note 19, at 110.

40. Article 75, paragraph 19 in an English translation reads:

To provide everything relevant to human development, economic progress with social justice, the growth of the national economy, the

constitutional status to a selection of international treaties subscribed to by Argentina.⁴¹ Some of those treaties expressly incorporate the right to

creation of jobs, the professional training of workers, the defense of the currency value, the scientific and technological research and development, their overall diffusion and beneficial use. To provide for the harmonious growth of the Nation and the settlement of its territory; to promote differential policies in order to balance the relative unequal development of provinces and regions. These initiatives shall originate in the Senate. To enact laws referring to the organization and basis of education consolidating national unity and respecting provincial and local characteristics; which ensure the state responsibility that cannot be delegated, family and society participation, the fostering of democratic values and equal opportunities and possibilities with no discrimination whatsoever; and which guarantee the principles of free and equitable State public education as well as the autonomy and autarky of national universities. To enact laws protecting the cultural identity and plurality, the free creation and circulation of artistic works of authors, the artistic heritage and places devoted to cultural and audiovisual activities.

National Constitution of the Argentine Republic, *supra* note 18; *see also* Álvarez & Ruiz, *supra* note 37, at 146.

41. Article 75, paragraph 22 in an English translation reads:

To approve or reject treaties concluded with other nations and international organizations, and concordats with the Holy See. Treaties and concordats have a higher hierarchy than laws. The American Declaration of the Rights and Duties of Man; the Universal Declaration of Human Rights; the American Convention on Human Rights; the International Pact on Economic, Social and Cultural Rights; the International Pact on Civil and Political Rights and its empowering Protocol; the Convention on the Prevention and Punishment of Genocide; the International Convention on the Elimination of all Forms of Racial Discrimination; the Convention on the Elimination of all Forms of Discrimination against Woman; the Convention against Torture and other Cruel, Inhuman or Degrading Treatments or Punishments; the Convention on the Rights of the Child; in the full force of their provisions, they have constitutional hierarchy, do not repeal any section of the First Part of this Constitution and are to be understood as complementing the rights and guarantees recognized herein. They shall only be denounced, in such event, by the National Executive Power after the approval of two-thirds of all the members of each House. In order to attain constitutional hierarchy, the other treaties and conventions on human rights shall require the vote of two-thirds of all the members of each House, after their approval by Congress.

National Constitution of the Argentine Republic, *supra* note 18.

education.⁴² Education, hence, is present in different provisions and addressed from different angles within the Argentine Magna Carta, extending across all provinces.

Multiculturalism is addressed expressly in the Argentine Constitution in the context of Native Americans. Article 75, paragraph 17, of the constitutional text indicates that the National Congress has:

To recognize the ethnic and cultural pre-existence of indigenous peoples of Argentina. To guarantee respect for the identity and the right to bilingual and intercultural education; to recognize the legal capacity of their communities, and the community possession and ownership of the lands they traditionally occupy; and to regulate the granting of other lands adequate and sufficient for human development;⁴³

42. *E.g.*, Organization of the Americas [OAS], American Declaration of the Rights and Duties of Man, Article 12 (May 2, 1948), available at <http://cidh.oas.org/Basicos/English/Basic2.American%20Declaration.htm> [<https://perma.cc/9VWZ-ZZ8E>]; Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217 (III), Article 26 (Dec. 10, 1948); International Covenant on Economic, Social and Cultural Rights, Article 13, adopted Dec. 19, 1966, 993 U.N.T.S. 3; Convention on the Rights of the Child, Article 28, opened for signature Nov. 20, 1989, 1577 U.N.T.S. 3; see Daniela L. Yankielewicz, *Derecho a la educación inclusiva. Importancia de la implementación de ajustes razonables en toda la trayectoria educativa de las personas con discapacidad*, 2017 REVISTA DE DERECHO DE FAMILIA Y PERSONA 232, 1 (2017). For further international instruments that deal with the right of education and that have an impact in Argentina, see Lucas Tomás Dolan, *El acceso a la Educación Superior y la Autonomía Universitaria. Breves reflexiones desde la óptica del Derecho Internacional*, EL DIAL DC2204 1, 2–4 (2016).

43. Article 75, paragraph 17 in an English translation reads:

To recognize the ethnic and cultural pre-existence of indigenous peoples of Argentina. To guarantee respect for the identity and the right to bilingual and intercultural education; to recognize the legal capacity of their communities, and the community possession and ownership of the lands they traditionally occupy; and to regulate the granting of other lands adequate and sufficient for human development; none of them shall be sold, transmitted or subject to liens or attachments. To guarantee their participation in issues related to their natural resources and in other interests affecting them. The provinces may jointly exercise these powers.

National Constitution of the Argentine Republic, *supra* note 18; see also GELLI, *supra* note 19, at 111.

This provision offers personal rights for Native Americans to attain a bilingual and intercultural education that the legislative branch has to assure.⁴⁴ Leading scholars have noted the extension of that right to all inhabitants, beyond Native Americans.⁴⁵

There are 111 universities in Argentina,⁴⁶ and the majority of private and public universities offer legal studies.⁴⁷ The University of Córdoba (1613) offered the earliest teaching,⁴⁸ when the teaching of the *Institutes* started to take place in 1791.⁴⁹ Teaching also developed, amongst other

44. GELLI, *supra* note 19, at 111.

45. *Id.*

46. DEPARTAMENTO DE INFORMACIÓN UNIVERSITARIA, SÍNTESIS DE INFORMACIÓN ESTADÍSTICAS UNIVERSITARIAS 2017-2018 17 (2019).

47. For comprehensive readings on the history of Argentine universities, see, for example, PABLO BUCHBINDER, *HISTORIA DE LAS UNIVERSIDADES ARGENTINAS* (2d ed. 2010); CONSEJO DE RECTORES DE LAS UNIVERSIDADES PRIVADAS, *HISTORIA DE LAS UNIVERSIDADES ARGENTINAS DE GESTIÓN PRIVADA: 45° ANIVERSARIO* (Christian Balbo ed., 2003). For a short overview of the structure of schools of law and the law curricula in Argentina, in English, see Mónica Pinto, *Internationalisation, Globalisation and the Effect on Legal Education in Argentina*, in *THE INTERNATIONALISATION OF LEGAL EDUCATION*, *supra* note 1, at 37, 40. For an overview of the law curricula at a number of universities, by 2000, see OSVALDO ALFREDO GOZAINI, *LA ENSEÑANZA DEL DERECHO EN LA ARGENTINA* 124–125 (2001). Six public universities existed until 1955 in Argentina. There was a proliferation of private universities in the period from 1956 to 1970. Since 2005, at least 22 public and 10 private universities were established in Argentina. See COMISIÓN NACIONAL DE EVALUACIÓN Y ACREDITACIÓN UNIVERSITARIA, *CALIDAD EN LA EDUCACIÓN SUPERIOR* 17 (2015) [hereinafter CONEAU]; DEPARTAMENTO DE INFORMACIÓN UNIVERSITARIA, *supra* note 46, at 17–18.

48. CONEAU, *supra* note 47, at 13. For information on the origins of education in Córdoba, see Marcela Aspell, *Jesuitas y franciscanos. 400 años en la “Universitas Cordubensis Tucumanae,”* 22 *CUADERNOS DE HISTORIA* 59 (2012); Marcela Aspell, *Un sueño se había cumplido. La fundación de la Universidad de Córdoba*, 17 *CUADERNOS DE HISTORIA* 59 (2007).

49. For the origins of law studies in Córdoba, see Roberto I. Peña Peñalosa, *La Facultad de Jurisprudencia de Córdoba (1791-1807)*, 8 *CUADERNOS DE HISTORIA* 215 (1998); Aldo Armando Cocca, *La Primera Cátedra (1791) y la primera Facultad de Leyes (1796) de la Universidad de Córdoba en el desarrollo del derecho del siglo XVIII*, 28 *REVISTA DE HISTORIA DEL DERECHO “RICARDO LEVENE”* 23 (1991). For a history of legal education in Córdoba, mainly during the 19th century, see Carlos Luque Colombes, *Notas para la Historia de la abogacía, El grado universitario, el título de abogado y la práctica forense en Córdoba*, 12 *REVISTA DEL INSTITUTO DE HISTORIA DEL DERECHO* 156 (1961).

public universities, at UBA (1821),⁵⁰ University of La Plata (1890),⁵¹ and University of Litoral (1919).⁵² Private universities also developed, with, for example, the establishment of the University Argentina de la Empresa (1956),⁵³ University of Belgrano (1964),⁵⁴ University of Palermo (1986),⁵⁵ University Austral (1991),⁵⁶ and University Torcuato Di Tella (1991).⁵⁷ The curricula at universities evolved at different paces and included different courses, naturally. Scholars have elaborated accounts of the evolution of different fields of law within courses at universities, and

50. For information on the Academy of Jurisprudence of 1815 that predated UBA, see Abelardo Levaggi, *Bicentenario de la creación de la Academia Teórico-Práctica de Jurisprudencia de Buenos Aires*, 12:24 ACADEMIA 237 (2014); Ricardo Levene, *Antecedentes históricos sobre la enseñanza de la jurisprudencia y de la historia del derecho patrio en la Argentina*, 2 REVISTA DEL INSTITUTO DE HISTORIA DEL DERECHO 78, 103–18 (1950). The by-laws of that academy were analogous to those of other academies in Latin America. See Martin Böhmer, *Legal Education Reform: How the Academy at Chuquisaca Forged Argentina's Founding Elite*, 63 J. LEGAL EDUC. 373, 404 (2014). For a study on the teaching at UBA, see ABELARDO LEVAGGI, *EL CULTIVO DE LA HISTORIA JURÍDICA EN LA UNIVERSIDAD DE BUENOS AIRES (1876-1919)* (1977). For one of the most authoritative studies on the history of UBA at large, see TULLIO HAPERÍN DONGHI, *HISTORIA DE LA UNIVERSIDAD DE BUENOS AIRES* (2d ed. 2002).

51. FUCITO, *supra* note 15, at 49. For a history of teaching at Córdoba and Buenos Aires until the late 19th century, see José María López Olaciregui, *Régimen Jurídico de la Universidad Argentina: Sus bases y su historia*, 3 REVISTA JURÍDICA DE BUENOS AIRES 55, 74–103 (1960). For information on the teaching of law at University of La Plata during the first decades of the 1900s, see Carlos Enrique Pettoruti, *Modernismo filosófico, reforma universitaria y enseñanza del derecho en la Universidad Nacional de La Plata. Con motivo del centenario de la Universidad Nacional de La Plata*, 36 ANALES DE LA FACULTAD DE CIENCIAS JURÍDICAS Y SOCIALES 403, 9–14 (2005).

52. CONEAU, *supra* note 47, at 13. For information on the training of lawyers in the city of Rosario during the late 19th century, see Miguel Ángel de Marco, *Orígenes de la enseñanza del Derecho en Rosario*, 20 REVISTA DEL INSTITUTO DE HISTORIA DEL DERECHO “RICARDO LEVENE” 136, 137 (1969).

53. CONSEJO DE RECTORES DE LAS UNIVERSIDADES PRIVADAS, *supra* note 47, at 37.

54. *Id.* at 85.

55. *Id.* at 195.

56. *Id.* at 166.

57. See UNIVERSIDAD TORCUATO DI TELLA ESCUELA DE DERECHO, https://www.utdt.edu/ver_contenido.php?id_contenido=492&id_item_menu=1349 [<https://perma.cc/W7DR-BJQF>] (last visited Sept. 27, 2020).

include, amongst other, the evolution of constitutional law,⁵⁸ criminal law,⁵⁹ labour law,⁶⁰ legal history,⁶¹ public law,⁶² public international law,⁶³ and Roman law.⁶⁴ Private schools of law proliferated since the 1950s in Argentina; however, most students are enrolled at public universities,⁶⁵ where tuition-free education is offered.⁶⁶ That aspect of access to

58. For information on the teaching of constitutional law, see, for example, Héctor José Tanzi, *La enseñanza del Derecho Constitucional en la Facultad de Derecho de Buenos Aires*, 9:17 ACADEMIA 85 (2011); Héctor P. Lanfranco, *La cátedra de Historia y de Derecho Constitucional en la Facultad de Derecho de Buenos Aires y sus primeros maestros*, 8 REVISTA DEL INSTITUTO DE HISTORIA DEL DERECHO 63 (1957); Ramón Pedro Yanzi Ferreira, *La enseñanza de los derechos constitucional y procesal constitucional en la Universidad Nacional de Córdoba. Siglos XIX y XX*, 19 CUADERNOS DE HISTORIA 63 (2009); Jorge Reinaldo Vanossi, *La enseñanza del Derecho Constitucional. Escuelas, tendencias y orientaciones*, ACADEMIA NACIONAL DE DERECHO 225 (1999).

59. For information on the teaching of criminal law, see, for example, JUAN SILVA RIESTRA, *EVOLUCIÓN DE LA ENSEÑANZA DEL DERECHO PENAL EN LA UNIVERSIDAD DE BUENOS AIRES* (1943).

60. For information on the teaching of labour law, see, for example, Miguel Ángel Sardegna, *Historia de la cátedra de Derecho del Trabajo y de la Seguridad Social en la Facultad de Derecho y Ciencias Sociales de la Universidad de Buenos Aires*, 33 REVISTA DE HISTORIA DEL DERECHO "RICARDO LEVENE" 223 (1997); Ramón Pedro Yanzi Ferreira & Mercela Aspell, *La enseñanza del derecho del trabajo en la Facultad de Derecho y Ciencias Sociales de la Universidad Nacional de Córdoba*, 13 CUADERNOS DE HISTORIA 61 (2003).

61. For information on the teaching of legal history, see, for example, Ramón Pedro Yanzi Ferreira, *La enseñanza de la historia del Derecho en Córdoba (1894-1985)*, 3 CUADERNOS DE HISTORIA 125 (1993).

62. For information on the teaching of public law, see, for example, Ramón Pedro Yanzi Ferreira, *La enseñanza del Derecho Público en la Universidad de Córdoba 1834-1999*, 12 CUADERNOS DE HISTORIA 33 (2002).

63. For information on the teaching of public international law, see, for example, Isidoro Ruiz Moreno, *La enseñanza del Derecho Internacional Público en la Universidad de Buenos Aires (1822-1968)*, 25 REVISTA DEL INSTITUTO DE HISTORIA DEL DERECHO "RICARDO LEVENE" 381 (1979); Ramón Pedro Yanzi Ferreira, *La enseñanza del Derecho Internacional Público en la Facultad de Derecho y Ciencias Sociales de la Universidad Nacional de Córdoba. Siglos XIX-XX*, 2012-2 REVISTA DE LA FACULTAD - UNC 177 (2012).

64. For information on the teaching of Roman law, see, for example, Eduardo R. Elguera, *La enseñanza del derecho romano en la Universidad de Buenos Aires*, 13 REVISTA DEL INSTITUTO DE HISTORIA DEL DERECHO "RICARDO LEVENE" 60 (1962); Ramón Pedro Yanzi Ferreira & Marcela Aspell, *La enseñanza del derecho romano en la Universidad de Córdoba*, 11 CUADERNOS DE HISTORIA 13 (2001).

65. Cardinaux, *supra* note 15, at 14.

66. Pinto, *supra* note 47, at 40.

education enabled the democratization of the legal profession, social mobility, and the proliferation of a professional middle-class in Argentina.⁶⁷ It should be noted that the bar association swears in law graduates at the bar association in which they practice law, and there are no bar examinations or continuing legal education requirements.⁶⁸

A. Challenges

Advocates for change in legal education have raised attention to the need to update the curricula at schools of law in Argentina. For example, starting in the 1950s, Julio César Cueto Rúa advocated for changes in Argentine legal education.⁶⁹ His teaching experiences in the United States (e.g., Louisiana State University) transformed him into a channel for change in legal education and into a bridge for the development of comparative law.⁷⁰ In the 1970s, Julio Chiappini alerted the legal community of the need to change due to a legal education that evolved around the lectures, the exegesis of the positive law, and neglected practical skills.⁷¹ More recently, in the 1980s, empirical surveys undertaken by the *Foro de Estudios sobre la Administración de Justicia* (FORES), with Horacio M. Lynch amongst its founders, pointed to the pre-eminence of information over formation in Argentine schools of law.⁷²

67. *Id.* at 39; María Inés Bergoglio, *Las facultades de derecho argentinas entre las tradiciones y los esfuerzos de cambio*, in LA FORMACIÓN JURÍDICA EN AMÉRICA LATINA: TENSIONES E INNOVACIONES EN TIEMPOS DE LA GLOBALIZACIÓN 13, 104 (Rogelio Pérez Perdomo & Julia Rodríguez Torres eds., 2006).

68. See also Pinto, *supra* note 47, at 41. For information on the legal profession in Latin America, also with references to Argentina, see ROGELIO PÉREZ-PERDOMO, *LATIN AMERICAN LAWYERS: A HISTORICAL INTRODUCTION* 23–69 (2006). For information on the legal profession in Argentina during the last three decades, see María Inés Bergoglio & Jerónimo Carballo, *Segmentación en la profesión jurídica: Cambios ocupacionales de los abogados argentinos, 1995-2003*, 3:5 ACADEMIA 201, 205–08 (2005).

69. For information on the life of this scholar, see Julio César Cueto Rúa, *One of the Most Prominent Argentinean Jurists, Has Passed Away - He Was an Academic and Political Centrist - His Passing*, 13 L. & BUS. REV. AM. 793 (2007).

70. See, for example, his ideas as presented in Cueto Rúa, *supra* note 12; JULIO C. CUETO RÚA, *EL “COMMON LAW”: SU ESTRUCTURA NORMATIVA, SU ENSEÑANZA* (1957); JULIO C. CUETO RÚA, *FUENTES DEL DERECHO* (1961).

71. Julio O. Chiappini, *Crisis y soberanía en la enseñanza del derecho*, 91 E.D. 943, 1 (1975).

72. Enrique V. del Carril, *La enseñanza*, in LA EDUCACIÓN LEGAL Y LA FORMACIÓN DE ABOGADOS EN LA ARGENTINA 73, 81 (2d ed. 1988); *La educación*

Scholars considered that teaching was mainly theoretical and subject to passive methods,⁷³ while assessment was undertaken mainly by means of memorizing information, rather than by aiming to analysis and synthesis. In general, there was a disconnect between what was taught and what was required for the practice of law.⁷⁴ Leading scholars regarded memorizing as a defect in the 1990s.⁷⁵ As early as the 1980s, scholars alerted that in the digital era, it was useless to devote efforts to *memorize and repeat* data, especially if that was detrimental to the time devoted to learning *how* to deal with that data.⁷⁶ Once more, in the 2010s, experts pointed to the need to reduce memorizing and the need to implement assessment by means of application and reflection, thereby developing intellectual abilities.⁷⁷

Efforts for change triggered momentum, and teachers welcomed the changes in the classrooms, with some success.⁷⁸ For example, clinical education⁷⁹ was introduced in a number of Argentine schools of law,⁸⁰ role-playing was implemented as an additional tool in some courses in the

legal y la formación de abogados en la Argentina. (Conclusiones de la encuesta sobre la educación legal y formación de abogados en la Argentina - anexo sobre situación profesional), 1984-D LA LEY 1396, 1 (1984) [hereinafter *La educación legal*]. See the criticism to the prevailing method, in Lidia B. Hernández, *La autocrítica: un punto de partida para mejorar nuestra enseñanza del derecho*, 1985-A LA LEY 872, 2–3 (1985).

73. del Carril, *supra* note 72, at 81; *La educación legal*, *supra* note 72, at 1.

74. *La educación legal*, *supra* note 72, at 1.

75. Felipe Fucito, *La enseñanza del Derecho y las profesiones jurídicas*, 1993-B LA LEY 833, 3 (1993).

76. Luis Moreno Ocampo, *La enseñanza del derecho. Una experiencia de cambio*, 1984-D LA LEY 1349, 1–2 (1984).

77. Federico Matías Apostolidis, *Investigación y enseñanza en la Facultad de Derecho de la Universidad de Buenos Aires*, 3:4 CARRERA Y FORMACIÓN DOCENTE REVISTA DIGITAL 45, 56–57 (2014); Javier F. Aga, *Enseñanza del derecho. El diagnóstico de Sócrates de nuestra educación jurídica*, 2015-IV JURISPRUDENCIA ARGENTINA n.p., 2 (2015); Martín Böhmer, *Ensayo sobre la necesidad de consistencia pedagógica en el derecho argentino*, REVISTA PENSAR EN DERECHO 11, 20 (2012).

78. *Primer Encuentro*, *supra* note 12, at 288.

79. For information on the development of clinical education in Latin America, see Arturo J. Carrillo & Nicolás Espejo Yaksic, *Re-imagining The Human Rights Law Clinic*, 26 MD. J. INT'L L. 80 (2011); Erika Castro-Buitrago et al., *Clinical Legal Education in Latin America: Toward Public Interest*, in THE GLOBAL CLINICAL MOVEMENT 69 (Frank S. Bloch ed., 2010).

80. Clinical education was introduced, for example, at the universities of Córdoba, Palermo, and at UBA. María Cristina Plovovich, *Enseñanza para la práctica del derecho. Clínica Jurídica de la Escuela de Abogacía. Facultad de Derecho y Cs. Sociales de la U.N.C.*, EL DIAL DC1895 (June 6, 2012).

1980s,⁸¹ while problem-based learning also reached Argentina, yet in more recent years,⁸² trying to leave behind, whenever possible, the exclusivity of lectures.⁸³ New information technologies were also incorporated into the teaching in some courses.⁸⁴ These experiences, however, are somehow isolated events, far from being considered main trends.⁸⁵ Further, students and faculty pointed to the need for a more interdisciplinary conception of law, already in the early 2000s.⁸⁶ Other disciplines such as economics, history, and sociology started to enter the realm of the law, first in the periphery and slowly moving to core issues.⁸⁷ They have indeed offered empirical and theoretical approaches to the study of law,⁸⁸ though more of these efforts are required.

The need for change has been in the academic narrative already for several decades, as attested. A first, and paramount step, is that faculty members need to be willing to undertake change: human resources must be prepared for a change to take place.⁸⁹ And changes can be identified. For example, the private universities of Torcuato Di Tella and Palermo are innovative, aiming to leave behind the traditional and formalistic approach

81. Omar U. Barbero, *El desempeño de roles, técnica eficaz en la enseñanza del derecho*, 1981-C LA LEY 984 (1981).

82. Eduardo A. Díaz, *Claves para mejorar la enseñanza-aprendizaje de la práctica jurídica en la universidad. Competencias esenciales, "caso problema", y teoría-práctica*, EL DIAL DC2201 2–3 (Oct. 17, 2016); Eduardo A. Díaz, *Práctica profesional del abogado. Propuesta para mejorar su enseñanza-aprendizaje en la Universidad*, EL DIAL DC2054 3–4 (Dec. 2, 2015).

83. Criticisms of the overabundance of lectures as a means to teach law are present in the literature. See, e.g., GOZAÍNI, *supra* note 47, at 30; Andrea I. Podestá, *Breves reflexiones acerca de la enseñanza del Derecho de Familia*, 2014 LA LEY ONLINE 513, 1–2 (2014).

84. Johanna Caterina Faliero, *Las TIC: acortar brechas de tiempo y espacio, promover la interdisciplina y la globalización de los aprendizajes*, 4:6 CARRERA Y FORMACIÓN DOCENTE REVISTA DIGITAL 50 (2015).

85. For another example of change, this time in the teaching of family law, see José María Bielsa Ros, *El trabajo creativo en la enseñanza del derecho de familia*, 2013 LA LEY ONLINE 366, 2 (2013).

86. *II Encuentro entre profesores y alumnos "Repensar el plan de estudios" Facultad de Derecho Universidad de Buenos Aires*, 79 LECCIONES Y ENSAYOS 399, 399 (2004).

87. Rodolfo Díaz, *Sobre la enseñanza de la abogacía. Inclusión del Análisis Económico del Derecho*, 2004 LA LEY ONLINE 1008, 6 (2004).

88. *Id.*

89. Eduardo O. Álvarez, *Enseñanza y difusión de la norma jurídica. (La reforma pedagógica en la Facultad de Derecho y Ciencias Sociales de la Universidad de Buenos Aires)*, 1985-B LA LEY 734, 3 (1985).

to legal education, exploring connections between law and other areas of knowledge, such as economics, political sciences, and moral and political philosophy.⁹⁰ In the public sphere, scholars likewise have deemed the University of Córdoba innovative even beyond the borders of Argentina, having implemented, for example, the teaching of skills within the ambit of legal clinics.⁹¹

B. Historical Evolution

Argentina is a federal republic, as stated in the Argentine Constitution,⁹² being the second largest country in South America.⁹³ It is divided into 23 provinces and the Autonomous City of Buenos Aires. Argentina inherited the continental European system of law from Spain. In public law, however, especially in constitutional law, it considered elements of the U.S. model.⁹⁴

Higher education in the current territory of Argentina, and in Latin America at large,⁹⁵ can be traced back to the Spanish colonial period.⁹⁶

90. Bergoglio, *supra* note 67, at 125; Montoya, *supra* note 14, at 553–54.

91. Montoya, *supra* note 14, at 557–58.

92. CONSTITUCIÓN NACIONAL, *supra* note 18, at art. 1.

93. GERMÁN C. GARAVANO, III INFORMACIÓN & JUSTICIA 15 (2011).

94. Ricardo Zorraquín Becú, *La recepción de los derechos extranjeros en la Argentina durante el siglo XIX*, 4 REVISTA DE HISTORIA DEL DERECHO 325, 357 (1976).

95. For an overview, in English, of Latin America, with valuable references to Argentina, see M.C. MIROW, *LATIN AMERICAN LAW: A HISTORY OF PRIVATE LAW AND INSTITUTIONS IN SPANISH AMERICA* 34–37, 116–21, 184–94 (2004). See also PÉREZ-PERDOMO, *supra* note 68, at 69–84.

96. For information on the origins of Latin American universities, see ÁGUEDA MARÍA RODRÍGUEZ CRUZ, 2 *HISTORIA DE LAS UNIVERSIDADES HISPANOAMERICANAS. PERÍODO HISPÁNICO* (1973); LUIS ALBERTO SÁNCHEZ, *LA UNIVERSIDAD LATINOAMERICANA, ESTUDIO COMPARATIVO* (1949). For information on the origins of legal education in Argentina until the 1910s, see MARÍA ISABEL SEOANE, *LA ENSEÑANZA DEL DERECHO EN LA ARGENTINA: DESDE SUS ORÍGENES HASTA LA PRIMERA DÉCADA DEL SIGLO XX* (1981). See also Felipe Fucito, *Los estudios universitarios en la Argentina. Antecedentes históricos y marco sociocultural de su desarrollo*, in *EL PERFIL DEL ESTUDIANTE DE DERECHO DE LA FACULTAD DE CIENCIAS JURÍDICAS Y SOCIALES DE LA CIUDAD DE LA PLATA* 13 (1995); Felipe Fucito, *La enseñanza del derecho en la Argentina. Antecedentes históricos y estado actual*, in *EL PERFIL DEL ESTUDIANTE DE DERECHO DE LA FACULTAD DE CIENCIAS JURÍDICAS Y SOCIALES DE LA CIUDAD DE LA PLATA* 39 (1995). See also extending until the 1990s, FUCITO, *supra* note 15, at 49–106. For a brief overview of the first Argentine universities, see Álvarez & Ruiz, *supra* note 37, at 158.

Education during the 16th and 17th centuries was mainly reserved for the aristocracy.⁹⁷ Universities had been transplanted by the Crown and the Church to the Americas, not always responding to the needs of the local societies.⁹⁸ Later, during the late 18th and early 19th centuries, lawyers were the key to the formation of the new republics, playing a fundamental role in the independent movements. Universities at that time could be referred to as lawyer's universities.⁹⁹ At the start of the 20th century, the new social, economic, and cultural context in the region triggered change at universities, and also for Latin America at large.¹⁰⁰ In Argentina, a seminal reform in education took place as a consequence of the 1918 Reform at the University of Córdoba.¹⁰¹ Earlier attempts had failed at UBA at large,¹⁰² to some extent due to the conservative nature of law students and faculty.¹⁰³ The 1918 Reform extended to other points of the continent, and it called for, among others, self-government of universities, student representation, and the modernization of the curricula.¹⁰⁴ That reform also represented the emergence of an urban middle class and its access to the university.¹⁰⁵

The second half of the 20th century showed an expansion of the number of students that accessed higher education in Latin America.¹⁰⁶ Therefore, universities turned into platforms for social mobility of

97. FUCITO, *supra* note 15, at 49.

98. Julia Espósito, *Educación superior en América Latina. Algunas reflexiones sobre la necesidad de políticas educativas institucionalizadas*, 44 ANALES DE LA FACULTAD DE CIENCIAS JURÍDICAS Y SOCIALES 105, 2 (2014).

99. *Id.*; Alejandro Laje, *Consideraciones sobre la enseñanza del derecho para la conformación de los estándares requeridos para los planes de estudio en universidades argentinas*, 2004 LA LEY ONLINE 2424, 4 (2004).

100. Espósito, *supra* note 98, at 2.

101. See the brief—yet clear—description of the 1918 events in CONEAU, *supra* note 47, at 93. See the more elaborate approach in Norberto Fernández Lamarra & Cristian Gonzalo Pérez Centeno, *La autonomía universitaria en Argentina y América Latina*, in LA AUTONOMÍA UNIVERSITARIA A DEBATE. UNA VISIÓN DESDE AMÉRICA LATINA 51 (Rosario Muñoz et al. eds., 2010).

102. “UBA at large” in this paper refers to all the faculties of the University of Buenos Aires.

103. Juan Carlos Agulla (H), *Crisis en la Facultad de Derecho de Buenos Aires (Una huelga estudiantil a principios de siglo)*, 31 REVISTA DE HISTORIA DEL DERECHO “RICARDO LEVENE” 11, 26–27 (1995).

104. Espósito, *supra* note 98.

105. Carlos Tünnermann Bernheim, *Implicaciones de la autonomía universitaria para el siglo XXI*, in LA AUTONOMÍA UNIVERSITARIA A DEBATE. UNA VISIÓN DESDE AMÉRICA LATINA, *supra* note 101, at 21, 29.

106. Espósito, *supra* note 98.

members of the middle class.¹⁰⁷ Lawyers in the region started to offer a more socially diverse composition, in light of gender and ethnicity.¹⁰⁸ For example, in the 1960s, at University of Litoral, it was noted that due to social mobility, students were more heterogeneous in regards to their finances and social and culture background, when compared with 30 years before.¹⁰⁹ A number of law students in Argentina are first-generation graduates, coming from complex socio-economical and vulnerable sectors, and they consider the university as a place for progress.¹¹⁰ Universities can offer a broad projection on society, as a laboratory for life, *mutatis mutandis*, as it had occurred at the time of the great migrations of the previous century that took place in Argentina.¹¹¹ After all, people should view higher education as an instrument for social progress.¹¹²

Three periods can be identified in the history of legal education in Argentina. The first period extended until the second half of the 18th century, together with the Bourbon Reforms.¹¹³ The Bourbon Reforms found counterpart movements in Europe, in for example Austria, France, Portugal, and Prussia.¹¹⁴ In Spain, Pedro Rodríguez de Campomanes y Pérez and Gaspar Melchor de Jovellanos led these reforms.¹¹⁵ These reforms, accompanied by the establishment of academies, called for lawyers that would be good thinkers, facilitating the control of Spain over the new territories.¹¹⁶ The second period extended during the last 25 years of the 19th century, at the time of the national codes and the gestation of

107. *Id.*

108. María Inés Bergoglio, *Cambios en la profesión jurídica en América Latina*, 5:10 ACADEMIA 9, 10 (2007).

109. Nicolás M. Tavella, *La contribución pedagógica en el ámbito universitario*, in TEMAS DE PEDAGOGÍA UNIVERSITARIA (TERCERA SERIE) 35, 42 (1960).

110. Nicolás Diana, *Algunas ideas inhábiles (o no tanto) sobre la enseñanza universitaria del derecho*, 2016 LA LEY ONLINE 2882, 3 (2016).

111. Sandra Quinteros, *Innovación en la enseñanza universitaria*, 1:1 CARRERA Y FORMACIÓN DOCENTE REVISTA DIGITAL 8, 13 (2012).

112. Estefanía Barrós Griffiths, *La educación universitaria y la proscripción de las barreras discriminatorias asociadas a la condición social del estudiante*, EL DIAL DC642, 2 (July 4, 2005).

113. Martín Böhmer, *Una enseñanza del derecho para la democracia constitucional argentina*, 2012 LA LEY ONLINE 1945, 1 (2012).

114. JOSÉ MARÍA OTS CAPDEQUÍ, EL RÉGIMEN DE LA TIERRA EN LA AMÉRICA ESPAÑOLA DURANTE EL PERIODO COLONIAL: CURSILLO DICTADO EN LA UNIVERSIDAD DE SANTO DOMINGO 105 (1946).

115. *Id.* at 106.

116. Böhmer, *supra* note 50, at 397. That study offers enriching perspectives of Argentine actors.

the state.¹¹⁷ Codification brought changes in the teaching of law, not only at Argentine schools of law, triggering in judges an exegetical approach that resulted in a lack of attention to social consequences.¹¹⁸ This extreme position ultimately ignited an alternative approach, during the first decade of the 1900s,¹¹⁹ recognizing social phenomena as a means to better understand legal rules.¹²⁰ Jurists, such as Alfredo Colmo, in 1915, invited others to look beyond the mere letter of the vernacular codes.¹²¹ As in other jurisdictions across the globe, that shift paved the way for studies on comparative legislation. The third period is taking place since the end of the 20th century, with the return to democracy.¹²² That third period is also shaped by globalisation. The Argentine Constitution gained a dominant position, together with international treaties and the role of the Argentine Supreme Court.¹²³ Society now claims to respect the concept of law both within and beyond the national forums.¹²⁴ Lawyers have to be trained to move at ease in that new habitat, a place where the respect for democracy, Constitution, and rule of law coexists.¹²⁵

C. Legal Framework

There is an existing legal framework in which public and private higher education takes place in Argentina. The framework consists of a number of federal laws that deal with education (at a general and specific level) and that operate within the scope provided by the Argentine Constitution. An early enactment took place in 1885 by means of Law

117. Böhmer, *supra* note 113.

118. Jonathan Miller, *Judicial Review and Constitutional Stability: A Sociology of the U.S. Model and its Collapse in Argentina*, 21 HASTINGS INT'L & COMP. L. REV. 77, 100–08 (1997).

119. VÍCTOR TAU ANZOÁTEGUI, *LAS IDEAS JURÍDICAS EN LA ARGENTINA (SIGLOS XIX-XX)* 135–36, 166–170 (3d ed. 1999).

120. Eduardo Zimmermann, *Abogados, científicos y estadistas. Debate sobre la enseñanza jurídica en la Argentina del primer Centenario*, 20:119 CIENCIA HOY 36, 40 (2010).

121. Rosario Polotto, *Hacia una nueva experiencia del derecho: El debate en torno a la enseñanza práctica del derecho en la Universidad de Buenos Aires a comienzos del siglo XX*, 34 REVISTA DE HISTORIA DEL DERECHO 213, 225 (2006). It should be noted that Alfredo Colmo was a pioneer in advocating for studies on sociology of law. Felipe Fucito, *Alfredo Colmo y la educación jurídica: un pensamiento actual*, 2001-F LA LEY 1346, 1–2 (2001).

122. Böhmer, *supra* note 113.

123. *Id.* at 3.

124. *Id.*

125. *Id.* at 4.

1597, dealing with national universities.¹²⁶ A number of enactments took place following the one of 1885, even during the *de facto* periods.¹²⁷ Argentina currently has a general law of education and a special law of higher education.

Argentina, as mentioned, has a general law of education. Experts criticized Law 26206¹²⁸ of 2006 at the time it was enacted,¹²⁹ and the law derogated from the previous provisions presented in Law 24195 of 1993.¹³⁰ The current law, in its first article, refers to the right to teach and learn that is prescribed in the Argentine Constitution, together with the international treaties to which it subscribed.¹³¹ Education is presented as a national priority,¹³² a public good, and a personal and social right, guaranteed by the State.¹³³ According to Law 26206, the national education policy aims to, *inter alia*, strengthen the respect for cultural diversity, being open to the regional and Latin American integration;¹³⁴ guarantee an educational inclusion, attending the most vulnerable groups;¹³⁵ assure equality and no discrimination;¹³⁶ and assure respect for the cultural identity of Native American peoples, while promoting multiculturalism.¹³⁷ Law 26206 also points to promoting policies towards equal education, thereby dealing with situations of injustice, marginalization, stigmatization, and other forms of discrimination that derive from culture, ethnicity, and gender, amongst others.¹³⁸ The State must guarantee quality of education, regardless of the social and

126. Álvarez & Ruiz, *supra* note 37, at 146.

127. Enactments include, for example, Law No. 13031. Nov. 4, 1947 [15.905] B.O. (Arg.); Law No. 14297, Jan. 18, 1954 [17.567] B.O. 1 (Arg.); Law No. 20654, Apr. 1, 1974 [22.883] B.O. 2 (Arg.); and decree-laws 477/55, 6403/55, and 10775/56. *Id.* For an overview of the legal framework for higher education in Argentina, in English, from Juan D. Perón to the return to democracy, see Anne Proffitt Dupre, *Transforming Education: The Lesson from Argentina*, 34 VAND. J. TRANSNAT'L L. 1, 14–20 (2001).

128. Law No. 26206, Dec. 27, 2006 [31062] B.O. 1(Arg.).

129. Enrique I. Groisman, *Crítica de la ley de educación*, 2007 LA LEY ONLINE 1451 (2007); Enrique I. Groisman, *Observaciones al Proyecto de Ley de Educación N° 26.026*, 2006 LA LEY ONLINE 417 (2006).

130. Law No. 26206, Dec. 27, 2006 [31062] B.O. 1 (Arg.).

131. *Id.* art. 1.

132. *Id.* art. 3.

133. *Id.* art. 2.

134. *Id.* art. 11, ¶ d.

135. *Id.* art. 11, ¶ e.

136. *Id.* art. 11, ¶ f, v.

137. *Id.* art. 11, ¶ ñ.

138. *Id.* art. 79.

geographical origin, and the gender or cultural identity.¹³⁹ Law 26206 prescribes that the curricula, at the different levels of education, should strengthen a Latin American perspective, mainly of Mercosur, within the framework of a national identity that is respectful for diversity¹⁴⁰ and the cultural diversity of Native Americans.¹⁴¹ Indeed, integration processes should not be narrowed to trade; they should also attend political, cultural, social, and educational aspects.¹⁴²

Law 26206 recognizes a right to a bilingual intercultural education, though at primary and secondary levels.¹⁴³ This provision is in line with article 75, paragraph 17, of the Argentine Constitution.¹⁴⁴ That effort to attend a bilingual and intercultural education aims to preserve and strengthen the culture of Native American peoples, and to reach a dialogue between different cultures, fostering respect and acknowledgment of differences. This, *mutatis mutandis*, could be also transposed to higher education.

Argentina has a special law of higher education. The university community in Argentina also criticized Law 24521¹⁴⁵ of 1995.¹⁴⁶ Experts claimed, for example, that the executive branch was allowed to interfere in the activities of universities, by means of the actions of the Ministry of Education.¹⁴⁷ According to Law 24521, the State has to promote policies of educational inclusion that acknowledge different genders and the multi- and inter-cultural processes.¹⁴⁸ Universities can also dictate, by means of internal regulations, instruments that could be regarded as affirmative actions, to facilitate financial support to students with lower income and special enrolment benefits for students that work or need to attend family needs while enrolled at universities.¹⁴⁹ The State must also establish effective means to integrate with other educational systems at an international level, in particular with jurisdictions from Mercosur and

139. *Id.* art. 84.

140. *Id.* art. 92, ¶ a.

141. *Id.* art. 92, ¶ e.

142. Espósito, *supra* note 98, at 1.

143. Law No. 26206, Dec. 27, 2006 [31062] B.O. 1(Arg.), at arts. 52–54.

144. *See National Constitution of the Argentine Republic*, *supra* note 18.

145. Law No. 24521, Aug. 7, 1995, 28204 B.O. 1 (Arg.).

146. Gonzalo Álvarez, *Objeciones a la constitucionalidad de la ley 26.002, que reforma la Ley De Educación Superior*, 2005-E ANALES DE LEGISLACIÓN ARGENTINA 5781, 1–2 (2005).

147. *Id.*

148. Law No. 24521, Aug. 7, 1995, 28204 B.O. 1 (Arg.), at art. 2, ¶ c.

149. Barrós Griffiths, *supra* note 112, at 3.

Latin America.¹⁵⁰ According to Law 24521, universities must create and disseminate knowledge and culture in all its forms, while preserving national culture.¹⁵¹ Further, universities, both private and public, should aim to preserve a cultural and educational relationship with foreign institutions.¹⁵² Finally, experts, such as Atilio A. Alterini, pointed out that the law should have aimed to further preserve the national culture.¹⁵³

II. DIVERSITY AND CONTRAST

Multiculturalism offers diversity to the classroom, while comparative law offers a forum where contrast can be perceived and welcomed. The presence of comparative law in multicultural classrooms indeed invites educators to explore the challenges and opportunities of the internationalization of legal education. Argentina sensed the interest for comparative legislation first, and comparative law only later, already during the second half of the 19th century. Students, scholars, lawyers, and judges benefited from their knowledge of this tool for the development of legal science. It should be noted that knowledge will be a paramount asset for development during the third millennium, and the handling of legal information should be optimized, facilitating access to doctrine, jurisprudence, and comparative law, alike.¹⁵⁴

A. Awareness of Cultural Backgrounds

Cultural diversity is not a foreign element for Argentine classrooms at schools of law. As mentioned before, universities turned into platforms for social mobility, while law graduates started to offer a more socially diverse composition, in light of gender and ethnicity. In Latin America at large, 270,000 students were enrolled in institutions of higher education by 1950, and that number grew to 15 million by 2005.¹⁵⁵ Argentina was no

150. Law No. 24521, Aug. 7, 1995, 28204 B.O. 1 (Arg.), art. 2, ¶ e.

151. *Id.* art. 28, ¶ c–d.

152. *Id.* art. 29, ¶ n; art. 63, ¶ f.

153. Atilio A. Alterini et al., *Bases para una nueva Ley de Educación Superior*, 2005 LA LEY ONLINE 2090, 4 (2005).

154. Eduardo L. Gregorini Clusellas, *La educación legal y la abogacía ante los nuevos desafíos*, 2003-F LA LEY 1483, 1–2 (2003).

155. Adriana Chiroleu, *Los contextos que enmarcan la reforma de la ley de educación superior: entre desafíos y oportunidades*, in IDEAS SOBRE LA CUESTIÓN UNIVERSITARIA. APORTES DE LA RIEPESAL AL DEBATE SOBRE EL NUEVO MARCO LEGAL PARA LA EDUCACIÓN SUPERIOR 37, 39 (Mónica Marquina & German Soprano eds., 2007).

exception to that growth, and social and economic reasons can help explain the growth. There was a need for more skilled workers in more developed economies, and there was social mobility amongst members of society that society had previously excluded due to gender, age, or economic conditions.¹⁵⁶ Regarding schools of law, and similarly to other Latin American jurisdictions, social composition is now more diverse in Argentina, while female student population overpasses that of male students, already for a number of decades.¹⁵⁷ For example, at UBA at large, the number of female graduates increased 485% from 1940 to 1958, while for the same period the number of male graduates only increased 236%.¹⁵⁸

Foreign students—still limited in numbers—are attracted to Argentine schools of law, bringing their cultural traits with them. As will be mentioned in Part III of this paper, the migration of students is sensed at post-graduate level, where students already acquired instruction in the legal basics of their home jurisdictions, hence resulting in a more enriching comparative approach for student to experience at the hosting jurisdictions. Different universities and research institutes should further develop temporary migration of students and faculty, which already exists, by means of additional mobility agreements.¹⁵⁹ A trend towards the increase in mobility of students in Latin America can be traced to the mid-1990s, when several policies were implemented.¹⁶⁰ A decade ago, Argentina came after Canada, the United States, and Uruguay, as a continental leader in the reception of foreign students.¹⁶¹

156. *Id.*

157. María Inés Bergoglio, *Diversidad y desigualdad en la profesión jurídica: consecuencias sobre el papel del Derecho en América Latina*, 6 *VIA IURIS* 12, 16, 25 (2009); see also Bergoglio, *supra* note 67, at 104; PÉREZ-PERDOMO, *supra* note 68, at 106–07.

158. Tavella, *supra* note 109, at 43.

159. AGUSTÍN PARISE, *OWNERSHIP PARADIGMS IN AMERICAN CIVIL LAW JURISDICTIONS: MANIFESTATIONS OF THE SHIFTS IN THE LEGISLATION OF LOUISIANA, CHILE, AND ARGENTINA (16TH-20TH CENTURIES)* 46 (2017).

160. LUQUE & RIVEROS, *supra* note 17, at 22–23.

161. *Id.* at 24.

Foreign students are indeed welcomed in Argentina.¹⁶² Disposition 20699¹⁶³ of 2006 of the National Migration Office regulates the enrolment of foreign students in Argentina.¹⁶⁴ It states that hosting education institutions (e.g., universities) must assist and guide foreigners towards the regularization of their migration status in conformity with article 7 of Law 25871 of 2003.¹⁶⁵ Law 25871¹⁶⁶ provides the main legal framework for immigration in Argentina,¹⁶⁷ and according to article 7, the irregular migration status of a foreigner will not impede admission to a university.¹⁶⁸ Students from member and associate states to Mercosur who pursue formal enrolment at official education institutions, upon application before the National Migration Office, will be granted a temporary residence for up to two years.¹⁶⁹ Enrolment requirements for non-Mercosur foreign students vary according to visa requirements,¹⁷⁰ and those foreign students will be granted a temporary residence for up to two years, with an option to extend the stay.¹⁷¹

The interest in attracting and welcoming foreign students is growing in Argentina. For example, the Autonomous City of Buenos Aires aims to increase the number of foreign students,¹⁷² and has established the

162. For an overview of the requirements to study as a foreigner in Argentina, aimed to prospective students, see MINISTERIO DE EDUCACIÓN, GUÍA DE EDUCACIÓN UNIVERSITARIA EN LA ARGENTINA PARA ESTUDIANTES INTERNACIONALES 9–11, https://efran.cancilleria.gob.ar/userfiles/2018/estudiar_en_argentina_-_esp.pdf [<https://perma.cc/PK8V-4844>].

163. Disposición 20699/2006 Dirección Nacional de Migraciones May 23, 2006 30911 B.O. 9 (Arg.) <http://servicios.infoleg.gob.ar/infolegInternet/anexos/115000-119999/116523/texact.htm> [<https://perma.cc/EV9R-VNAF>].

164. For more information, see Luca C.M. Melchionna, *Global Legal Education and Comparative Visa Regulations*, 19 *TRANSNAT'L L. & CONTEMP. PROBS.* 515, 575–76 (2010).

165. Disposición 20699/2006, 30911 B.O. 9 (Arg.), at art. 2, ¶ c. This premise was also defended by courts in Argentina.

166. Law No. 25871, Jan. 20, 2004 [30322] B.O. 2 (Arg.).

167. See generally Hines, *The Right to Migrate*, *supra* note 21; Agustín Parise, *Migration and Law. Report on the Republic of Argentina*, in *INFORMES DE LA ASOCIACIÓN ARGENTINA DE DERECHO COMPARADO AL XIX CONGRESO DE LA ACADEMIA INTERNACIONAL DE DERECHO COMPARADO* 225 (2014).

168. Law No. 25871, Jan. 20, 2004 [30322] B.O. 2 (Arg.), at art. 7.

169. Disposición 20699/2006 Dirección Nacional de Migraciones May 23, 2006 30911 B.O. 9 (Arg.), at arts. 2–4.

170. *Id.* arts. 8–15.

171. *Id.* art. 16.

172. See, e.g., Ricardo Braginski, “*Turistas de estudio*”: *llegan más de 50.000 al año y buscan que sean el doble en 2021*, *CLARÍN* (Oct. 6, 2017),

program *Study Buenos Aires*.¹⁷³ As part of the Office of Tourism of the city, the program offers the basic information to facilitate the integration process of foreign students. As mentioned by Alberto Barbieri, Rector of UBA at large, “the interaction with people from other cultures enriches the cultural background of everyone.”¹⁷⁴

The number of foreign students is growing in Argentine universities.¹⁷⁵ That growth, however, still has no specific weight in light of the total number of university students. In 2017, there were approximately 2 million students pursuing pre- and graduate studies in Argentina and 160,000 students pursuing studies at a post-graduate level.¹⁷⁶ That same year, there were 63,140 foreign students pursuing pre- and graduate studies in Argentina, while there were 10,873 foreign post-graduate students.¹⁷⁷ That is to say, only 3.4% of students were foreigners in Argentina. This situation is not new, since, for example, an empirical study undertaken at the school of law of the University of La Plata, in 1995, showed that no students had completed their secondary education beyond the borders of Argentina.¹⁷⁸ Yet, foreign students do have an impact for some universities. For example, the private University of

https://www.clarin.com/sociedad/turistas-estudio-llegan-50-000-ano-buscan-doble-2021_0_HJKIT8Snb.html [<https://perma.cc/R398-X6NY>].

173. See *Study Buenos Aires*, BUENOS AIRES CIUDAD <https://study.buenosaires.gov.ar/en> [<https://perma.cc/Y6RZ-GMHH>] (last visited Apr. 16, 2021).

174. José María Costa & Lucrecia Lacroze, *Cuántos extranjeros estudian en universidades argentinas y de qué países vienen*, LA NACIÓN (Nov. 9, 2017), <https://www.lanacion.com.ar/sociedad/cuantos-extranjeros-estudian-en-universidades-argentinas-y-de-que-paises-vienen-nid2071328/> [<https://perma.cc/5C5Z-47ZW>] (translated to English by author).

175. See, for example, the coverage of the matter by the press in Javier Drovetto, *Estudiar en el exterior: Se consolidan los viajes de intercambio*, LA NACIÓN (Oct. 24, 2016), <https://www.lanacion.com.ar/sociedad/estudiar-en-el-exterior-se-consolidan-los-viajes-de-intercambio-nid1949814/>

[<https://perma.cc/7PKJ-LK9D>]; *Educación. La Educación Argentina Mantiene Su Prestigio, Especialmente para los Latinoamericanos La cantidad de extranjeros que estudian en el país ya es record*, CLARÍN (Mar. 22, 2007), https://www.clarin.com/sociedad/cantidad-extranjeros-estudian-pais-record_0_SJt-jKWJCYx.html [<https://perma.cc/ELL2-PZZK>].

176. There were 2,005,152 students pursuing pre- and graduate studies in Argentina, while the number of post-graduate students was 159,345. DEPARTAMENTO DE INFORMACIÓN UNIVERSITARIA, *supra* note 46, at 10.

177. *Id.* at 36.

178. *Características demográficas y socioculturales de la muestra*, in EL PERFIL DEL ESTUDIANTE DE DERECHO DE LA FACULTAD DE CIENCIAS JURÍDICAS Y SOCIALES DE LA CIUDAD DE LA PLATA 63, 76 (1995).

Belgrano pointed out to the press that 20% of its students are foreigners.¹⁷⁹ In Argentina, the vast majority of foreign students come from the Americas (93.6%), followed significantly behind by Europe (4.6%), and in a scarcely representative way from Asia (1.4%), Africa (0.4%), and Oceania (0.1%).¹⁸⁰ Foreign students historically tended to arrive mainly from neighbouring countries.¹⁸¹ In 2017, in public universities most pre- and graduate students came from Peru, Brazil, and Paraguay; while in private universities, the majority came from Brazil, Colombia, and Peru.¹⁸² At post-graduate level, that same year, the main jurisdictions shifted to Colombia, Ecuador, and Brazil leading amongst public universities, and with Ecuador, Colombia, and Brazil leading amongst private universities.¹⁸³

The growth in the foreign-student population may call for awareness on the role of faculty members. For example, students and faculty members indicated at UBA already in 2002 that the law being taught did not convey the required knowledge “for the understanding of the world [events].”¹⁸⁴ It is important to note that faculty members play a paramount role when dealing with international and multicultural classes, since they have to motivate students and transmit skills.¹⁸⁵ Experts suggest that attention to multicultural classes within the curriculum should be devoted while the number of students is small, hence reducing potential challenges.¹⁸⁶ Argentine universities should be alerted at this early stage, since changes could be implemented in a timely manner. Experts also point out that students trained in a classroom of diverse composition are

179. Costa & Lacroze, *supra* note 174.

180. DEPARTAMENTO DE INFORMACIÓN UNIVERSITARIA, *supra* note 46, at 40 (using statistics totalling 100.1%).

181. See, for example, the coverage of the matter by the press in Guillermo Tomoyose, *Cada vez más extranjeros eligen el sistema universitario argentino*, LA NACIÓN (Sept. 8, 2010), <https://www.lanacion.com.ar/cultura/cada-vez-mas-extranjeros-eligen-el-sistema-universitario-argentino-nid1302449/> [<https://perma.cc/YXM5-C6M5>].

182. DEPARTAMENTO DE INFORMACIÓN UNIVERSITARIA, *supra* note 46, at 42.

183. *Id.* at 43.

184. *Primer Encuentro*, *supra* note 12, at 286 (translated to English by author).

185. WIM SWAAN, INTERNATIONAL CLASSROOM DEVELOPMENT: IMPLEMENTATION OF AN INTEGRAL PROGRAMME IN MAASTRICHT’S SCHOOL OF BUSINESS AND ECONOMICS 8 (2015) (paper presented to the 14th IACCM (International Association for Cross-Cultural Management) Annual Conference), available at https://web.archive.org/web/20180420234943/http://iaccm2015.sie tar.at/proceedings/PRACTpaper_IACCM2015_Swaan.pdf [<https://perma.cc/9E6R-HUBK>].

186. *Id.*

better equipped to perform in a globalised environment.¹⁸⁷ Hence, the globalised element should be preserved and respected while implementing changes.

B. Expansion of Perspectives

This paper advocates for a legal education that takes a comparative perspective, due to globalisation, since the education models are based on a matrix of social, economic, cultural, and political conditions that require attention.¹⁸⁸ It is time to recognize that more attention should be devoted in Argentina to the study of comparative law, especially in light of globalisation and its effects.¹⁸⁹ Globalisation, after all, has triggered more interaction amongst nations, calling for more comparative and international courses at a vernacular level.¹⁹⁰ As mentioned by Mónica Pinto, “this global context requires people trained to face diversity, sensitive to local particularities while at the same time not losing theirs and that global perspective.”¹⁹¹ Further, as pointed out by Graciela Medina, comparative law enriches the array of potential solutions to existing international conflicts and even strengthens understanding amongst jurisdictions.¹⁹² Comparative law should not be considered only a showcase of provisions, however, since it should help to compare and assess the different understandings.¹⁹³

Argentine scholars recognized that the changing realities called for the teaching of law that would include, whenever possible, elements of comparative law.¹⁹⁴ An ideal scenario would benefit from the inclusion of comparative law elements throughout the different courses that compose

187. See *International Classroom*, EDLAB, <https://edlab.nl/innovation-old-3/international-classroom-2/> [<https://perma.cc/B6Y7-S6TG>] (last visited Sept. 27, 2020).

188. Manuela González & Nancy Cardinaux, *Conclusiones*, in *LOS ACTORES Y LAS PRÁCTICAS: ENSEÑAR Y APRENDER DERECHO EN LA UNLP* 265, 272 (Manuela González & Nancy Cardinaux eds., 2010).

189. See generally Agustín Parise, *La Imperiosa Remisión al Derecho Comparado en las Investigaciones de Carácter Jurídico*, *LA LEY - SUPLEMENTO UNIVERSITARIO* 36 (2002); Graciela Medina, *La enseñanza del Derecho Comparado*, in *ESTUDIOS DE DERECHO COMPARADO* 33 (Pedro Aberastury ed., 2016).

190. Pinto, *supra* note 47, at 37.

191. *Id.* at 43.

192. Medina, *supra* note 189, at 43.

193. Jorge Reinaldo Vanossi, *Comentario a un proyecto de plan de estudios*, 21-22 *LECCIONES Y ENSAYOS* 241, 246 (1961).

194. Alterini, *supra* note 3, at 4.

the law curriculum.¹⁹⁵ Placing different courses in light of the relevant comparative law can only result in an enriching formation for students and future lawyers. Another approach pointed and aimed to the teaching of comparative law at both graduate and post-graduate levels.¹⁹⁶ In the first level, the teaching should take place primarily by means of courses on the main legal systems of the world.¹⁹⁷ The private University Argentina de la Empresa offers such a course in the first year of its curriculum, for example.¹⁹⁸ In the second level, comparative law should be taught in a way that builds on the earlier courses while focusing on a specific area of study.¹⁹⁹ Here is where foreign students can especially enrich the outcome of a course by sharing their experiences from their home institutions.

Comparative legislation was proposed in several curricula in Argentina, already during the second half of the 19th century.²⁰⁰ Members of the Generation of 1837,²⁰¹ such as Juan Bautista Alberdi,²⁰² advocated for the need to study comparative legislation.²⁰³ Further, comparative law had academic gravitation in Argentina since the early 20th century.

195. Parise, *supra* note 189, at 36–37.

196. Medina, *supra* note 189, at 50.

197. *Id.*

198. The course is entitled *Introducción a los sistemas jurídicos*. See *Abogacía*, UADE, <https://www.uade.edu.ar/facultad-de-ciencias-juridicas-y-sociales/abogacia/plan-de-estudios/#!> [<https://perma.cc/ZPZ6-KWLW>] (last visited Apr. 16, 2021); see also Medina, *supra* note 189, at 50.

199. Medina, *supra* note 189, at 50.

200. See generally Abelardo Levaggi, *Juan Bautista Alberdi y el plan de estudios de derecho*, 39 REVISTA DE HISTORIA DEL DERECHO 1 (2010).

201. About the Generation of 1837 and its members, see OLSEN A. GHIRARDI, *LA GENERACIÓN DEL '37 EN EL RÍO DE LA PLATA* (2d ed. 2005). See also Jonathan M. Miller, *The Authority of a Foreign Talisman: A Study of U.S. Constitutional Practice as Authority in Nineteenth Century Argentina and the Argentine Elite's Leap of Faith*, 46 AM. U. L. REV. 1483, 1501 (1997); CASTRO, *supra* note 22, at 15–25.

202. See generally JUAN B. ALBERDI, *BASES Y PUNTOS DE PARTIDA PARA LA ORGANIZACIÓN POLÍTICA DE LA REPÚBLICA ARGENTINA* (2004 [1852]). See also Miller, *supra* note 201, at 1501; CASTRO, *supra* note 22, at 15–25; Orlando Lázaro, *Alberdi, Avellaneda y la Inmigración*, in *LA INMIGRACIÓN EN LA ARGENTINA* 73, 75 (1979); Jorge Gonzalez-Jacome, *Emergency Powers and the Feeling of Backwardness in Latin American State Formation*, 26 AM. U. INT'L L. REV. 1073, 1101–03 (2011).

203. See the letter from Juan B. Alberdi to Lucas Gonzáles, dated April 16, 1850, in Juan B. Alberdi, *Carta sobre los estudios convenientes para formar un abogado con arreglo a las necesidades de la sociedad actual en Sudamérica escrita por el abogado Alberdi a un joven compatriota suyo*, *Estudiante de Derecho en la Universidad de Turín, en Italia*, 8:15 ACADEMIA 167, 170 (2010).

Examples can be found in the literature and in the proposed changes to the curricula. The claim to reduce the exegetical approach to the law and to include other social sciences went as far as recommending changing in UBA, in 1904, half of the courses of positive law to include comparative law components.²⁰⁴ That failed attempt would have resulted in courses on comparative constitutional law and comparative legislation, for example.²⁰⁵ Another illustration is found in the opening lecture for the academic year 1909 at UBA, in which Wenceslao Escalante pointed to the need to include comparative law in the curriculum, together with legal history, both dealing with public and private law.²⁰⁶

Other important events that welcomed comparative law also took place in Argentina during the 20th century. In the University of Córdoba, an Institute of Comparative Law was established in 1939.²⁰⁷ Further, the Argentine Association of Comparative Law was established in Buenos Aires in 1947, as a result of the efforts of a number of pioneers in the field, including Ignacio Winizky.²⁰⁸ Again in the 1940s, a foreign publication pointed to the presence of comparative civil and commercial law as parts of the doctorate in jurisprudence at UBA,²⁰⁹ and to the teaching of Argentine and comparative law within the civil law courses of the six-year graduate studies at University of Litoral.²¹⁰ These comparative components are to be commended, and were not new at that time, since already in the inaugural speech for the class of 1920, Benito A. Nazar Anchorena stated that at University of Litoral “our [Argentine] law and

204. Alberto David Leiva, *La opinión del Claustro de la Facultad de Derecho de Buenos Aires sobre el Proyecto de Reformas al Plan de Estudios (1904)*, 13 REVISTA DE HISTORIA DEL DERECHO 91, 91–92 (1985); Zimmermann, *supra* note 120, at 39.

205. Leiva, *supra* note 204, at 93.

206. WENCESLAO ESCALANTE, APERTURA DE LOS CURSOS DE 1909 12 (1909).

207. U.S. OFFICE OF THE COORDINATOR OF INTER-AMERICAN AFFAIRS, LAW SCHOOLS IN THE OTHER AMERICAN REPUBLICS 4 (1942).

208. Pedro Aberastury, *Prefacio. La necesidad de estudiar comparativamente el Derecho*, in ESTUDIOS DE DERECHO COMPARADO 11, 11 (Pedro Aberastury ed., 2016). For information on the life of Ignacio Winizky, see Horacio Sanguinetti, *Recordando a Ignacio Winizk[y]*, 55 LECCIONES Y ENSAYOS 287 (1990); *Acto en Homenaje a Ignacio Winizky*, DERECHO AL DÍA (June 29, 2006), <http://www.derecho.uba.ar/derechoaldia/tapa/acto-en-homenaje-a-ignacio-winizky/+1669> [<https://perma.cc/4L72-WE6C>].

209. U.S. OFFICE OF THE COORDINATOR OF INTER-AMERICAN AFFAIRS, *supra* note 207, at 3.

210. *Id.* at 6–7.

comparative law will be studied.”²¹¹ Further, the curriculum for that year stated in that university that comparative law would address industrial law, labour law, law of railway systems, municipal law, and civil law.²¹² The *exposé des motifs* of the curriculum stated that graduates from that university would study the genesis, development, and current status of Argentine institutions compared with those of the “most advanced countries.”²¹³ Later, in 1957, scholars suggested incorporating a course on comparative law and legal history at University of La Plata, since, in the words of the proponent: “knowledge of the legal history of continental Europe, the Anglo-Saxon [world], and Latin America are essential for the formation of jurists, together with a limited introduction to comparative law, historical and current.”²¹⁴

The 21st century also called for interest in comparative law. In 2003, at UBA, stakeholders recommended changing the curriculum to add the term *integration*, due to Mercosur, in the name of the course on public international law.²¹⁵ Further, the curriculum of UBA, in 2004, pointed to the presence of comparative law elements in the requirements for constitutional law,²¹⁶ private international law,²¹⁷ and commercial law.²¹⁸ More recently, in 2017, an innovative, and much needed, course was offered at UBA on comparative law, bridging the common law and the Argentine system in the area of commercial law.²¹⁹ That course included leading comparatists amongst its instructors, such as Alejandro M. Garro, Héctor A. Mairal, and Rafael M. Manóvil. It is not rare that instructors refer in Argentina to legislation and decisions from other jurisdictions (e.g., from Europe), and there is a need to train students on the basics of

211. B. A. NAZAR ANCHORENA, DISCURSO INAUGURAL Y PLAN DE ESTUDIOS DE LA FACULTAD DE CIENCIAS JURÍDICAS Y SOCIALES DE LA UNIVERSIDAD DEL LITORAL 20 (1920) (translated to English by author).

212. *Id.* at 28.

213. *Id.* at 33 (translated to English by author).

214. Rodolfo Bledel, *La enseñanza de las ciencias jurídicas y sociales en nuestras Facultades de Derecho*, TEMAS DE PEDAGOGÍA UNIVERSITARIA (SEGUNDA SERIE) 129, 140 (1959) (translated to English by author).

215. *Resolución (CD) No 1570/03*, 2:3 ACADEMIA 265, 272 (2004).

216. PLAN DE ESTUDIO DE LA CARRERA DE ABOGACÍA- RESOLUCIÓN (CS) N° 3798/04 DEL 6 DE DICIEMBRE DE 2004 20–21 (2004), http://www.derecho.uba.ar/academica/carreras_grado/nuevo_plan.pdf [<https://perma.cc/P3AZ-VATY>].

217. *Id.* at 33–34.

218. *Id.* at 38.

219. See EL DERECHO COMPARADO Y SU POTENCIAL APLICACIÓN AL DERECHO ARGENTINO (2017), <http://www.derecho.uba.ar/investigacion/2017-tep-programa-comercial.pdf> [<https://perma.cc/6QM5-93CD>].

comparative law, if they ought to fully grasp the extension of those references.²²⁰

Scholars called to update the curricula in the 1990s at the time of the constitutional reform, and it called for more presence of comparative law²²¹ and international law. Article 75, paragraph 22 of the Argentine Constitution granted a number of human-rights treaties, as mentioned above,²²² constitutional status. The need to acknowledge that international presence also triggered changes in the curricula,²²³ and soon after the constitutional reform, together with the resulting new gravitation of international treaties, scholars alerted on the need for more attention to comparative law.²²⁴ Law curricula could be deemed parochial to some extent in Argentina, since it was rare to find self-standing courses that would address international or comparative law (e.g., public international law).²²⁵ Schools of law in Argentina, both public and private, now tend to include international aspects in the curricula.²²⁶

Mobility is an important aspect for the development of comparative law. The United States facilitated during the 1960s and 1970s the mobility of law professors to Latin America (e.g., Brazil, Chile, and Colombia) to export some of their teaching methods, yet those efforts were not pointed to Argentina.²²⁷ Argentine jurists, such as Cueto Rúa, enabled North American methods to start to percolate into the Argentine legal education method.²²⁸ For example, the case method did reach Argentina, yet with limited success. Experiences have been implemented in the private University Austral at a broader scale,²²⁹ and in some isolated courses at

220. Medina, *supra* note 189, at 37.

221. Hernán Munilla Lacasa, *La enseñanza de la ética en las facultades de abogacía*, 1996-C LA LEY 1460, 5 (1996).

222. See *supra* note 41, and accompanying text.

223. Pinto, *supra* note 47, at 42.

224. Jaime L. Anaya, *La enseñanza del derecho*, ACADEMIA NACIONAL DE DERECHO 507, 2–3 (2001).

225. Mónica Pinto, *Developments in Latin American Legal Education*, 21 PENN ST. INT'L L. REV. 61, 62 (2002). For an evolution of the teaching of public international law at the universities of Buenos Aires and Córdoba, see *supra* note 63 and accompanying text.

226. Pinto, *supra* note 47, at 42, 45.

227. Jonathan M. Miller, *El método de casos y la educación legal en la Argentina*, 48 LECCIONES Y ENSAYOS 339, 357 (1987).

228. See *supra* note 70 and accompanying text.

229. See UNIVERSIDAD AUSTRAL DERECHO, <https://www.austral.edu.ar/de-recho/posgrados/maestria-en-derecho-administrativo/#metodologia/> [<https://perma.cc/TBY2-N8SA>] (last visited Mar. 19, 2021).

other universities (e.g., the teaching of administrative law at UBA).²³⁰ Mobility is also developed by means of specific programs that aim to facilitate the reception of foreign students, both at a local and regional level. Accordingly, a number of Argentine universities have agreements with foreign counterparts, mainly from Spain.²³¹ For example, UBA welcomed during 2016 a total of 72 students from Europe and the Americas, enabling them to take courses during two semesters in Argentina and receiving credits in their home institutions.²³²

Mobility of faculty and students encountered a number of landmarks, and a non-exhaustive selection follows. For example, a Protocol was subscribed in Brasilia in 1991,²³³ by which Mercosur member states pointed to the need to remove administrative and legal barriers for the mobility and exchange of persons and things in the areas of science, technology, and culture, thereby trying to harmonize the education systems across states.²³⁴ It should be likewise noted that a Protocol of 1996, subscribed in Fortaleza,²³⁵ called for the validation of graduate degrees amongst Mercosur member states, aiming to facilitate mobility at a post-graduate level.²³⁶ Mercosur member states agreed by means of an Agreement of 1999,²³⁷ subscribed in Asunción, that graduate degrees would be valid, together with post-graduate degrees for teaching and

230. Osvaldo O. Otheguy, *La enseñanza del Derecho Administrativo: El Case Method*, 2012-F LA LEY 1039, 6 (2012).

231. Pinto, *supra* note 225, at 64.

232. FACULTAD DE DERECHO UNIVERSIDAD DE BUENOS AIRES, INFORME DEL SÉPTIMO AÑO DE GESTIÓN DE LA DECANA MÓNICA PINTO AL CONSEJO DIRECTIVO DE LA FACULTAD DE DERECHO EN SU SESIÓN DEL 14 DE MARZO DE 2017 4 (2016), <http://www.derecho.uba.ar/institucional/deinteres/informe-de-gestion-2016.pdf> [https://perma.cc/Z9AS-CZSE] [hereinafter, *UBA Informe de Gestión*].

233. BIBLIOTECA NACIONAL DE MAESTROS, PROTOCOLO DE INTENCIONES (Dec. 13, 1991), <http://www.bnm.me.gov.ar/giga1/documentos/EL000586.pdf> [https://perma.cc/WN7M-B3DM].

234. Luciana B. Scotti & Luciane Klein Vieira, *El Mercosur y la integración regional educativa: una aproximación al reconocimiento de títulos en nuestro bloque*, 11:22 ACADEMIA 89, 91–92 (2013). For an enumeration of Mercosur efforts, see *id.* at 92–104.

235. PROTOCOLO DE INTEGRACIÓN (Dec. 17, 1996), http://www.cartilla-ciudadania.mercosur.int/oldAssets/uploads/DEC_008-1996_ES_ProtocIntegrEd ucPostGrado.pdf [https://perma.cc/86ZH-VNE2].

236. Scotti & Vieira, *supra* note 234, at 94.

237. ACUERDO DE ADMISIÓN, (June 15, 1999), <https://www.mercosur.int/documento/dec-04-99-acuerdo-de-admision-de-titulos-y-grados-universitarios-para-el-ejercicio-de-actividades-academicas-en-los-estados-partes-del-mercosur/> [https://perma.cc/RJ4C-C3ME].

research.²³⁸ Mercosur member states may benefit from the Education Sector of Mercosur (*Sector Educativo Mercosur*),²³⁹ which aims to attain integration and development of education in the region, seeking to guarantee inter-culturalism and respect for diversity.²⁴⁰ Some scholars even called for a study of the Bologna Process as an example for Mercosur in its efforts to harmonize the national systems and to attain a standardization of degrees and curricula.²⁴¹

Efforts also took place likewise beyond Mercosur. An early start was sensed with the establishment in 1949 of the Union of Latin American Universities (*Unión de Universidades de América Latina*, or UDUAL).²⁴² Further, public universities from Argentina, Bolivia, Brazil, Chile, Paraguay, and Uruguay established in 1991 a network for cooperation entitled the “Association of the Universities of the Montevideo Group” (*Asociación de Universidades Grupo Montevideo*, or AUGM).²⁴³ More recently, in 2009, the Latin American and Caribbean Space for Higher Education (*Espacio Latinoamericano y Caribeño de Educación Superior*, or ENLACES)²⁴⁴ was established to offer a forum for discussion on inclusive higher education, nurturing reform processes.²⁴⁵

Moot courts offer a possibility to expand the perspectives of students and faculty, together with exchange programs with foreign universities.²⁴⁶ They offer a possibility to learn and teach in an intercultural context.²⁴⁷ These mobility programs are common in Argentina, both at public and private schools,²⁴⁸ and are far from being new.²⁴⁹ As pointed out by a

238. Pinto, *supra* note 225, at 64.

239. See *Que es el Sector Educativo del Mercosur*, MERCOSUL EDUCATIVO <http://www.edu.mercosur.int/es-ES/institucional/o-que-e.html> [<https://perma.cc/3PRY-46NG>] (last visited Sept. 27, 2020).

240. See also Espósito, *supra* note 98, at 5.

241. Scotti & Vieira, *supra* note 234, at 111.

242. See Pinto, *supra* note 225, at 64.

243. See *Institucional*, ASOCIACIÓN DE UNIVERSIDADES GRUPO MONTEVIDEO <http://grupomontevideo.org/sitio/institucional/> [<https://perma.cc/97RG-J6QS>] (last visited Sept. 27, 2020).

244. See ESPACIO ENLACES, <http://espacioenlaces.org/adhesion/> [<https://perma.cc/7WMQ-5JKW>] (last visited Sept. 27, 2020) (Uru.).

245. Espósito, *supra* note 98, at 5.

246. Pinto, *supra* note 47, at 42.

247. María Blanca Noodt Taquela, *La participación en competencias internacionales como estrategia de enseñanza-aprendizaje del derecho y como un modo de iniciación en la investigación*, 14:28 ACADEMIA 157, 166 (2016).

248. Pinto, *supra* note 47, at 42.

249. See, for example, the account by exchange students from UBA that attended a comparative law seminar at Tulane Law School in the United States,

student of UBA in the 1970s, an exchange experience enables “the best way to [share] the values of cultural order from one society to another.”²⁵⁰ It should be noted that exchange experiences also encompass internships and clinical experiences.²⁵¹ All these efforts—and others that have been omitted in this paper—will surely result in synergy and in an increase of mobility, ultimately enabling an increase in the multicultural aspect of classrooms at institutions of higher education, both in student population and faculty members.

III. POST-GRADUATE STUDIES AS A LABORATORY FOR MULTICULTURALISM AND COMPARATIVE LAW

The law classroom at post-graduate level offers a fertile field for multiculturalism. This claim is valid for Argentina, yet also for other jurisdictions. In the United States, for example, LLM programs have offered already for many decades a playfield where students from multiple jurisdictions engage in academic experiences. This part of the paper focusses on teaching experiences in two courses at doctoral level at UBA, during the period 2013 to 2019.²⁵² Those courses serve as practical examples to illustrate the interaction of comparative law and multiculturalism.

UBA is a major school of law in the Americas, due to its student enrolment and number of graduates.²⁵³ The student population was 27,370 in 2016, with 60% of students being female.²⁵⁴ Already by 1994, UBA offered more than 2,000 courses during one semester,²⁵⁵ and that number of courses persists.²⁵⁶ Cooperation programs with other schools of law in the Americas and Europe have been concluded, mainly since 1996,

as reported in the 1960s, at Teófilo Mejalelaty, *Becarios de la Tulane University: Crónica del viaje*, 15 LECCIONES Y ENSAYOS 141 (1960).

250. Agustín Ancil de Alzaga, *Reflexiones sobre los programas de intercambio estudiantil*, 42 LECCIONES Y ENSAYOS 255, 255 (1970) (translated to English by author).

251. Pinto, *supra* note 47, at 42.

252. It should be noted that the instructor in those courses is the author of this paper.

253. For an overview of UBA, in English, see generally Pinto, *supra* note 47, at 44; Mónica Pinto & Alejandro Gómez, *A Comment on Argentina's University of Buenos Aires Law School (Facultad de Derecho de la Universidad de Buenos Aires)*, 29 PENN ST. INT'L L. REV. 105 (2010); Pinto, *supra* note 225, at 64–68.

254. *UBA Informe de Gestión*, *supra* note 232, at 1.

255. NEIL GOLD, PREPARÁNDONOS PARA EL FUTURO. “HACIA LA EDUCACIÓN LEGAL EN ARGENTINA EN EL AÑO 2000” 25 (1994).

256. *UBA Informe de Gestión*, *supra* note 232, at 1.

receiving students from abroad and securing possibilities for students from UBA in those hosting institutions.²⁵⁷ UBA, as mentioned by its dean, aims to achieve a pluralistic community, and many of the experiences from the exchange programs have been later implemented to transform the content of the curriculum.²⁵⁸ The number of foreign students at UBA at large increased 482% in the past two decades, most being from South America.²⁵⁹ This number might further increase, since there was a record in 2017 in the number of foreign students that registered in the first common year (*Ciclo Básico Común*) of UBA at large.²⁶⁰ Enrolment in private universities is growing in Argentina, yet in schools of law, the number of graduate students has not declined in UBA.²⁶¹ This could relate to education being tuition-free, to the school benefiting from a positive reputation and international recognition, and to students still valuing the academic quality of the education that UBA provides.²⁶² Moreover, the by-laws of UBA at large state that racial, religious, or economic discrimination is not allowed.²⁶³ Finally, a number of faculty members of UBA are interested in legal education, and this is attested by the fact that UBA edits the peer-reviewed law journal *Academia*, which focuses on legal education²⁶⁴ and is a pioneer in the region.

257. Pinto, *supra* note 225, at 66–67.

258. *Id.* at 67.

259. As reported by the press, the number of students grew from 2,200 in 1996 to 13,200 in 2016. The author of this paper could not access that information from UBA, and reproduced the information made available by the press in *La cantidad de estudiantes extranjeros en la UBA creció 482% en 20 años*, CLARÍN (Oct. 17, 2016), https://www.clarin.com/sociedad/cantidad-estudiantes-extranjeros-uba-crecio_0_SyjnfiJ7yg.html [<https://perma.cc/TZD3-KSVE>].

260. See, for example, the coverage of the matter by the press in Mariano Gavira, *Afirman que hay un récord de extranjeros en el CBC y una “ola brasileña” en Medicina*, CLARÍN (Aug. 16, 2017), https://www.clarin.com/sociedad/afirman-record-extranjeros-cbc-ola-brasilena-medicina_0_rJD5W7b_b.html [<https://perma.cc/78ZN-AD5D>].

261. Sebastián Gonzalo Solé, *La UBA en el sistema universitario argentino. Un análisis estadístico*, 5:7 CARRERA Y FORMACIÓN DOCENTE REVISTA DIGITAL 56, 67 (2016).

262. *Id.*

263. See *Estatuto Universitario*, UNIVERSIDAD DE BUENOS AIRES art. 69, <http://www.uba.ar/download/institucional/uba/9-32.pdf> [<https://perma.cc/M57P-TXXX>] (last visited Sept. 27, 2020).

264. See, *Academia. Revista Sobre Enseñanza del Derecho*, FACULTAD DE DERECHO UNIVERSIDAD DE BUENOS AIRES, http://www.derecho.uba.ar/publicaciones/rev_academia/ [<https://perma.cc/PUK9-AWRM>] (last visited Sept. 27, 2020); see also Cardinaux, *supra* note 15, at 15.

Post-graduate studies in law flourished in Argentina since the 1990s. Some scholars explain that flourishing as a consequence of the deterioration of the graduate level curricula and the overabundance of lawyers, a reality that might trigger a need to distinguish from potential competitors.²⁶⁵ Public universities, especially, may be likewise interested in offering advanced degrees as a means to secure additional funding, since at the post-graduate level, education is not tuition-free.²⁶⁶ It should be noted that post-graduate studies abroad were more popular since the 1990s, yet were linked to the economic and social position of the graduates pursuing such studies.²⁶⁷ During the last decade, enrolment of students at the post-graduate level in Argentina was led by specializations, master studies, and doctoral studies.²⁶⁸ The leading field of study was commercial law, while human rights courses were underrepresented.²⁶⁹ This might be explained because lawyers may pursue advanced degrees to better position themselves in the labour market. At the post-graduate level, during the last decade, the number of male law students prevailed over the number of female law students in Argentina, altering the female predominance that prevails at the graduate level.²⁷⁰

Law is generally not considered a “universal” degree to pursue, since there is a need to acquire knowledge on the internal positive laws of a specific jurisdiction in order to practice.²⁷¹ Therefore, mobility grows at post-graduate level once graduates acquired the basic legal knowledge about their home jurisdictions.²⁷² Post-graduate experiences, therefore, come at hand when aiming to illustrate the interaction of comparative law and multiculturalism in the classroom. UBA offers intensive courses that grant credits to attain the doctorate degree.²⁷³ These courses attract post-graduate students from multiple jurisdictions and backgrounds. For example, in 2016, 564 students attended those four sessions, coming from,

265. Bergoglio, *supra* note 67, at 112.

266. *Id.*

267. Pinto, *supra* note 225, at 62.

268. Bergoglio, *supra* note 67, at 113.

269. *Id.*

270. *Id.* at 116.

271. *Perfil universitario de los estudiantes*, in EL PERFIL DEL ESTUDIANTE DE DERECHO DE LA FACULTAD DE CIENCIAS JURÍDICAS Y SOCIALES DE LA CIUDAD DE LA PLATA 87, 116 (1995).

272. PARISE, *supra* note 159, at 46.

273. See *Cursos Intensivos para Doctorado*, FACULTAD DE DERECHO UNIVERSIDAD DE BUENOS AIRES, http://www.derecho.uba.ar/academica/posgrados/doctorado_brasileno_es.php [<https://perma.cc/C9P2-VFRC>] (last visited March 19, 2021).

amongst other countries, Angola, Argentina, Brazil, Chile, Colombia, and Ecuador.²⁷⁴

The first course that serves as practical example is entitled “Legal History” (*Historia del Derecho*), and was offered in July 2013, 2016, and 2019, with a special focus on private law, meeting for 20 hours. Mobility at post-graduate level was confirmed in this course. The enrolment was 29 students the first two years and 21 students the third year. Students were from Argentina, Chile, Colombia, Ecuador, Mexico, and Peru, with a vast majority of students being from Brazil. Students had different backgrounds, being professors, lawyers, and judges. The gender composition was 13 female students the first year and 7 female students both on the second and third years. This confirms the previous statement that at the post-graduate level, the enrolment of male students prevails.²⁷⁵

The course description of that first course invited for the study of the legal history of the Western world.²⁷⁶ It aimed to leave behind an exclusively local vision of legal history, resulting in an interconnected and global understanding of the discipline. The course description also acknowledged that the diversity of origins of participants could enrich the product of the meetings. Further, it mentioned that a comparative approach would help to understand that some events that are considered isolated in one jurisdiction can turn into recurring events when looking at other jurisdictions. The meetings included lectures by the instructor, group work with primary sources, and presentations by students of their topics for the papers they were required to write to receive credits for the course. Accordingly, the meetings dealt with the use and value of comparative legal history; and with the legal history of Continental Europe (mainly the *Ius commune* period), the common law, seminal mixed jurisdictions, and Latin America. The last session dealt with legal transplantation and offered a forum for students to comment on their future papers. The instructor aimed at all times to trigger participation from students so that they would share experiences about their own jurisdictions. Therefore, comparative law was present during the meetings, and students were able to move across jurisdictions, understanding differences and similarities. Students were made aware of their own habitats and that of their colleagues. The literature also aimed to trigger global approaches, such as the designated reading on Latin American law, this being a book on general principles

274. *UBA Informe de Gestión*, *supra* note 232, at 10.

275. *See supra* note 270, and accompanying text.

276. *Programa del Curso - Historia del Derecho*, on file with the author of this paper.

drafted by Ricardo Rabinovich-Berkman.²⁷⁷ The course offered a means for students to strengthen the understanding amongst jurisdictions, especially when dealing with the Latin American legal history and the contents of the different papers by students. The course was taught in Spanish, yet at times students would recur to Portuguese or English as a means to find a common ground. The course could be deemed positive, since halfway during the course students and instructor had blended into an amalgam, in which cultural differences were acknowledged, though were not felt as an impediment to learn and move across jurisdictions at ease. The interaction of comparative law and multiculturalism was ultimately reflected in the papers that students wrote, since they did address their jurisdictions, though they were able to place their local events within broader contexts.

The second course that serves as practical example is entitled “Codification and Law” (*Derecho y Codificación*), and was offered in July 2015 and 2017, with a special focus again on private law, meeting for 20 hours. The enrolment was 23 students the first year and 21 students the second year, with students coming from Angola, Argentina, Brazil, Bolivia, and Ecuador. Again, the vast majority of students were from Brazil. Students once more had different backgrounds, and the gender composition was again predominantly male with seven female students the first year and nine female students the second year.

The course description took a similar comparative and global approach, and this time it highlighted codification as a legislative tool of interest due to its historicity and the impact it has had in the legal frameworks of different jurisdictions.²⁷⁸ As pointed out in the course description, the study of codification moved across both the horizontal and vertical axes that are provided by time and space. Looking at such movements across both axes helps to understand fully the circulation of ideas and the flow of legal paradigms.²⁷⁹ The meetings in the second course replicated the form of the first course, and dealt with the importance of codification, with the great 19th-century codification, and with the pollination of the phenomenon across the globe, with special attention to Latin America. In addition, students were made aware of the decodification and recodification developments, showing the resilience of that legal paradigm. The last session again offered a forum for students to comment on their future papers. Participation from students was once

277. RICARDO RABINOVICH-BERKMAN, PRINCIPIOS GENERALES DEL DERECHO LATINOAMERICANO (2006).

278. *Programa del Curso - Derecho y Codificación*, on file with the author of this paper.

279. PARISE, *supra* note 159, at 31–34.

more sought after, and students were therefore able to move across the time and space axes. The literature likewise aimed to trigger global approaches, this time by means of the seminal text on Ibero-American codification by Alejandro Guzmán Brito.²⁸⁰ The outcome of the course can be deemed positive: again, cultural differences were acknowledged, while participation by students and the content of the papers they wrote confirmed that comparative and historical studies are of special value for the understanding of the circulation of legal ideas or the flow of paradigms. The circulation of ideas implies a look into a jurisdiction of origin and a jurisdiction of destination. Furthermore, circulation requires the addressing of a shift: to study how things were *before* and *after* the idea circulated. The change can be sensed fully only by looking at two time periods: *ex ante* and *ex post*. The horizontal and vertical crossing of axes indeed provides a full, and unique, perspective on a specific aspect of the law,²⁸¹ and codification served as an example of that movement.

Post-graduate studies can serve as a laboratory for multiculturalism and comparative law, and the practical examples addressed in this paper help understand how that laboratory operates. It deals with the development of a place where differences are acknowledged yet are not to be considered barriers to learn and move across jurisdictions. More of these comparative and multicultural experiences would be only beneficial, and the content of this paper helps advocate for the development of such experiences in Argentina and beyond. The practical examples aimed at showing how comparative law and multiculturalism can evolve together in the classroom and result in a fruitful combination. These enriching experiences should not be a rarity: they should be developed more often, especially at the post-graduate level.

CONCLUSION

Comparative law and multiculturalism can coexist in the classroom at schools of law, and that interplay should be encouraged, especially in an “immigration” country such as Argentina. Globalisation calls for lawyers *sans frontières*; it calls for lawyers who know the rules and can adapt their interpretation to new social contexts, being actors that participate in a multicultural and comparative environment. This paper invites for more presence of comparative law in the teaching at schools of law in Argentina,

280. ALEJANDRO GUZMÁN BRITO, LA CODIFICACIÓN CIVIL EN IBEROAMÉRICA. SIGLOS XIX Y XX (2000).

281. PARISE, *supra* note 159, at 269.

while pointing to the value of updating the curricula and the teaching methods at schools of law in that jurisdiction.

This paper first provided an overview of legal education in Argentina. It addressed challenges and the current legal framework, followed by an historical evolution, highlighting the main shifts that occurred in Argentina. The paper noted that the Argentine Constitution acknowledges the right to education, and that two national laws regulate the preservation of that fundamental pillar for the rule of law in Argentina. On the one hand, there is a general law of education (Law 26206); and, on the other hand, there is a special law of higher education (Law 24521). The paper also noted that legal education is taking place in the context offered by the return to democracy and the percolation of globalisation, where the Argentine Constitution gained a paramount position, together with international treaties and the role of the Argentine Supreme Court.

The attention was then devoted in this paper to the place of multiculturalism and comparative law within Argentine schools of law. Cultural diversity is present in the classrooms in Argentina; since universities turned into platforms for social mobility, and law graduates offer a more socially diverse composition, in light of gender and ethnicity. Foreign students are growing in numbers in this jurisdiction, likewise. Foreign students, however, only represent a nominal number of the students within the total population enrolled at institutions of higher education. Argentine scholars recognized that the current reality calls for more presence of comparative law in the curricula. That call has been present, with different degrees of success, since the second half of the 19th century and is still ongoing, with some recent achievements that present an optimistic future. The paper also pointed to mobility of students and faculty members as an important aspect for the development of comparative law in Argentina and beyond.

The paper finally illustrated the contents of the first two parts by means of two practical examples. A look into post-graduate studies served as a means to discover a laboratory where multiculturalism and comparative law can co-exist and nurture each other. The teaching of courses at doctoral level at UBA showed that comparative law can be used in a multicultural context as a means to eliminate barriers to learn and move across jurisdictions while acknowledging and respecting cultural differences.

The time is ripe for changes to be explored in Argentina. The exploration of potential changes should benefit from previous studies that informed both points to improve and points to preserve. Advocates for change have found a place in the academic narrative already for a number of decades in Argentina. It is paramount that human resources, being the

main actors in the legal education stage, including students and faculty members, ought to be open to welcome changes, whenever and if needed. These actors should also be heard at the time of exploring change. Dialogue amongst actors seems to be the key for success in these endeavors.

