

# LEGAL EDUCATION IN ARGENTINA AND OTHER SOUTH LATIN AMERICAN COUNTRIES

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## INTRODUCTION

Legal Education in most Latin American countries is provided both by public institutions and by private law schools.

In Argentina, there are 17 public law schools, each of them depending from a different national university, all over the country. All of them are tuition free and only few fees have to be satisfied by students. This is a common feature of education in the country and has been the pivotal factor of the dynamics of social mobility and of the establishment of a professional middle-class. Since 1958 private schools have been allowed to be established and a few confessional universities began to work. At present, there is a great number of private law schools in the country, most of them with particular orientations (e.g. confessional, business-oriented, etc.)

In Uruguay there is only one public law school, the Universidad de la República, awarding law degrees. In 1985, the Catholic University started its careers, soon followed by other private institutions. As in Argentina, public university is free. In Paraguay and Bolivia there is a dozen of university institutions, some of which are dedicated to the teaching of law.

Chile provides the same pattern, a few public universities and some private ones<sup>1[1]</sup>. Brazilian Universities show a difference for they can be federal, local -that is, set up by the federated state or by the city's government- and private<sup>2[2]</sup>.

In any case, the establishment of MERCOSUR through the Treaty of Asunción in 1991 paved the way for the adoption of rules harmonizing and even recognizing university degrees in the region. Furthermore, an Association of Universities of Argentina, Brasil, Paraguay and Uruguay<sup>3[3]</sup> -the so-called Montevideo Group<sup>4[4]</sup>- has been set up and the first meeting of Law School Deans took place in December 1999. All these countries share the continental law regime and have inherited the chair pattern of european universities and its one cycle curriculum.

Law studies are satisfied in an average of 5/6 years and students have to pass satisfactorily 28/35 obligatory courses of all branches of law, including a practical litigation course, in order to qualify for a law degree.

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<sup>1[1]</sup> In this case, a paper will be submitted to this Seminar by legal educators belonging to the country

<sup>2[2]</sup> Idem.

<sup>3[3]</sup> Universities of Buenos Aires, Nacional de Entre Ríos (there is no law school), Nacional del Litoral, Nacional de La Plata, Nacional de Rosario and Nacional de Córdoba from Argentina; Federal Universities of Rio Grande do Sul, Santa Maria, Santa Catarina, São Carlos, do Parana, Universidade Estadual de Campinas from Brazil; National University of Asunción from Paraguay and Universidad de la República from Uruguay.

<sup>4[4]</sup> <http://www.grupomontevideo.edu.uy>

In Argentina, universities award a first degree in law (professional ) and in most countries, the local bar recognizes alumni without any other proof of proficiency.

## **CURRICULA**

As stated before, most public and private law schools in Argentina have adopted a one cycle curriculum integrated by 26 to 35 mandatory courses. Teaching is scheduled in years according to a progressive vision of law. That being so, the starting point uses to be an Introduction to Law or General Theory of Law (Jurisprudence) assorted with a Theory of State, Constitutional Law (usually in 2 or 3 parts so as to cover general principles and main institutions, National and Local Constitution, Comparative Law), Civil Law (General Institutions, Obligations, Contracts, Real Estate, Family Law, Inheritance Law), Criminal Law, Commercial Law (Commercial Obligations and Contracts, Corporations), Labour Law and Social Security, Administrative Law, Procedure (Civil and Criminal), Public International Law, Conflict of Laws, Economy and Financial Analysis, Sociology, History, Natural Resources and Environmental Law.

Students either have to attend classes (generally a 75% of attendance is required) and pass exams or to study on a free basis and pass exams. Evaluations are both written and oral.

The University of Buenos Aires Law School<sup>5[5]</sup> adopted a three-cycle curriculum that associates the features of the main european universities -because of the great population- and the characteristics of seminars and workshops that on a credit basis have cristallized in american universities. A separate briefing follows.

The Universidad Nacional de La Plata<sup>6[6]</sup> has approved a curriculum in five years with 31 obligatory courses. There is a mixed system of classes, namely, the Law school offers courses for those students who will pass their full and final examination with a three-member jury; special performance courses for those students that qualify in the light of the grades they have already obtained and who pass the course because of their participation in class and their satisfaction of written tests; courses of litigation. Students are evaluated by written and oral examinations. A few courses are structured on the grounds of a practical approach through cases and other materials.

The Universidad de Rosario Law School <sup>7[7]</sup> has structured six years of studies with four courses of one year and 26 courses distributed either on a semester basis or all over the year. The subjects' denomination corresponds to the main branches of law. There is also a course on general litigation. It shares a common approach with the Universidad del Litoral Law School<sup>8[8]</sup> from which it was separated some years ago.

The Universidad Nacional de Córdoba Law School<sup>9[9]</sup> has recently introduced amendments to its curriculum . At present , throughout six years of studies, the students have to pass 31 mandatory courses with a total attendance of 1.770 hours of classes.

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<sup>5[5]</sup> <http://www.fder.uba.ar>

<sup>6[6]</sup> <http://www.unlp.edu.ar>

<sup>7[7]</sup> <http://www.200.3.125//carrgr.html>

<sup>8[8]</sup> <http://www.unl.edu.ar/facultad/fcjs/>

<sup>9[9]</sup> <http://www.uncor.edu>

In all Argentine public universities, the curriculum is adopted by the Directive Council of the Law School, whose members are representatives of Faculty, Alumni and Students, and, afterwards, by the University Council, integrated by the Deans of all schools, and representatives of the three abovementioned sectors.

In the private sector, confessional universities have started late in the 50s –in 1957 the Universidad del Salvador, an institution managed and supported by the Jesuit Congregation and in 1958 the Catholic University of Argentina- but continue to grow with the establishment of the Austral University in 1995, an Opus Dei supported institution. In the 90s there was a revival in the establishment of new institutions that imported and adapted the model of foreign universities, mostly American. In all cases, the curricula go from 30 to 42 courses that have to be passed by the students who have the granted right to attend all courses corresponding to their level. Only the recently created Di Tella University has conceived a 140 credits curriculum, which can not yet be evaluated because it started working only three years ago.

Private Law Schools in Argentina have either a Board or a President that with the assistance of Deans or Directors approves the curricula.

Uruguay's scope is rather different for it only has one public university, the Universidad de la República<sup>10[10]</sup>, which started in 1836 to operate as a School of Legal Science. It has implemented a six years curriculum with 30 courses to be passed throughout 422 hours of attendance. The course system follows the same pattern as the one in force in the Argentine University of La Plata. The law degree awarded is the J.D. but even when its denomination is different from the one in force in the rest of the region it is considered as a professional degree, in no way equivalent to the Ph.D.

In the private sector, the University of Montevideo<sup>11[11]</sup> has conceived ten semesters with compulsory attendance to classes. The curriculum emphasizes the business approach as well as other integration-oriented aspects, namely, Common Law institutions (Legal Methods, Basic Guidelines on Contracts and Torts, International Trade Contracts, Litigation and Alternative Dispute Resolution, Corporations, Securities and Capital Markets Regulation), Legal Portuguese language and some confessional questions as Natural Law, Theology, Ethics, Deontology, Catholic Church Social Doctrine.

In Paraguay, the National University of Asunción<sup>12[12]</sup> has established its headquarters in Asunción but has filiates in Coronel Oviedo, Pedro Juan Caballero and San Juan Bautista de las Misiones. After a century of operation, the UNA has made renewed efforts to consolidate a legal career in its country. The one cycle curriculum it offers is integrated by 41 courses that have to be passed through examinations. It awards a professional law degree.

In Bolivia, the Universidad Mayor San Andrés<sup>13[13]</sup> started preparing students in law as far as in 1830. Actually, former University of Chuquisaca together with Argentinian University of Córdoba had been the pioneers in law studies and contributed to the

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<sup>10[10]</sup> <http://www.rau.edu.uy>

<sup>11[11]</sup> <http://www.um.edu.uy>

<sup>12[12]</sup> <http://www.una.py/derecho/>

<sup>13[13]</sup> <http://www.umsanet.edu.bo>

formation of the great leaders of the Independence period. The law courses are structured in five levels with 36 courses distributed in four areas, namely, Civil Law, Criminal Law, Political Sciences and Social Sciences. Students are awarded a first law degree that do not enable them for litigation (licenciado en derecho). As other public universities in the region, The Universidad Mayor San Andrés is governed by representatives of students and faculty.

Public and Private institutions in Uruguay and Paraguay share their main features with argentinian ones.

## **ADMISSION PROCEDURE**

In almost all public Law schools of the region there are no pre-requisites for admission except a high school certificate(Bachelor) . In the private sector admission procedures are in force indirectly because of economic or intellectual constraints.

## **STUDENTS**

Relating to students population, statistics information is provided in Annex. The huge part of such population are undergraduate students (In fact, figures only concern undergraduate students). In public universities, because of their tuition free character, as shown at the introduction of this paper, students belong to all social classes. Elemental education is granted on a free and obligatory basis in most countries concerned in this paper. At present, at least 75% of public universities law students are part-time for they have some sort of formal or informal job.

Private institutions' population belong to upper-middle and high classes. Notwithstanding this fact, most private law schools have scholarships available. Furthermore, some institutions whose priority is a very high level of excellency –and, therefore, have structured a system of teaching and learning in small groups with very high costs- have felt obliged to recruit some of their students from the middle classes through some tuition waivers.

All law schools are offering graduate courses which are generally the Master of Laws (LL.M.), the Doctor of the Science of Law (J.S.D.) as well as other graduate programs.

## **FACULTY**

In public universities in the three countries, faculty members are appointed after public selection on the grounds of background and teaching tests. Local and foreign professors, either from other countries or from other universities, are invited to act as members of a jury whose advise has to be considered by the Directive Council of the Law School and afterwards by the Council of the given University, whose decision is constitutive of the position.

Appointments are made for periods of 5 to 7 years and may be renewed. There are no tenures in public universities in the mentioned countries. Faculty structure is based on european models, namely, Chair or Full professor, adjunct professor, assistant professors, assistants.

Private universities usually engage their professors on the grounds of their knowledges and teaching abilities through a contract.

## **ALUMNI**

Most latin american universities prepare their students for the practice of law while they also seek to prepare them for public administration, research, teaching and the Judiciary. At present, our countries have a great number of law graduates who are not practising law *stricto sensu* while they are in office because of their law degree. This phenomenon has reached corporations and other institutions where a law degree is a requisite as it gives a uniform platform concerning theoretical approaches.

## **MERCOSUR REGULATIONS**

Education is not an item expressly mentioned in the Treaty of Asunción that sets up the MERCOSUR (Common Market of the South) among Argentina, Brazil, Paraguay and Uruguay.

In December 1991, a Meeting of the Ministers of Education adopted a Protocol whereby a Regional Co-Ordination Committee was set up and began working on three areas, namely, a positive citizen conscience towards integration, the formation of human resources and legislation harmonization.

Early in the development of the relationship, and with effects vis-à-vis Bolivia and Chile too, it was agreed that high school degrees would be *ipso facto* valid with a view to allowing university applications and most university degrees for post-graduate courses purposes only.

In June 1998, a facultative system for the evaluation of graduate studies was convened with implementation committees at domestic level.

In June 1999, the Common Market Council approved an agreement granting mutual validity to first university degrees as well as to post-graduate degrees only for teaching and research purposes. The most-favoured nation clause is included in the agreement.

## **THE UNIVERSITY OF BUENOS AIRES LAW SCHOOL**

The University of Buenos Aires (UBA) is legally based on the Edicto of August 12th, 1821, and acts according to Law No. 23.068, the Executive Order No 154/83 and the University Statute passed by the University Assembly of October 28th, 1958, with the respective amendments approved on July 22nd, 1960 and November 11th, 1960.

The University of Buenos Aires is a public organization which aims at the promotion, diffusion and preservation of culture. In this context, it has set up thirteen schools and a Common Basic Cycle for all of them.

The University of Buenos Aires Law School is a public institution, one of the thirteen schools and/or faculties of the University of Buenos Aires, which is autonomous from the Government, the Ministry of Education, even when chartered by it to award a first

law degree. As each academic unity within UBA, the Law School is headed by a Dean and a Directive Council composed by representatives of the Faculty, the Students and the Alumni. All of them are appointed after polls in their respective constituencies. The Dean and the Deputy-Dean are appointed by the Council which, after proposal of the Dean, also appoints the Secretaries for Academic Affairs, for Finance, for Research and Doctorate, for Institutional Relations and for Activities with the Community.

The curriculum in force was approved by the Superior Council of the University of Buenos Aires by resolution 809 in 1985. Teaching is divided in three cycles, namely the Common Basic Cycle, the Common Professional Cycle and the Professional Oriented Cycle.

The Common Basic Cycle (CBC) constitutes the first year of all the degrees offered by the UBA. It has been conceived as the preparatory course in order to provide students a balancing period and a training in a different kind of studies. CBC Administration is concentrated in one academic area for all the students of the UBA. It consists of six courses that have to be satisfied in order to be enrolled in the next Cycle, namely, two courses that are common to all university careers - Introduction to State and Society, Introduction to Scientific Thought-, two that are common to all social sciences oriented careers, that is Political Science and Sociology- and two that are specific for law students, Law and Economy.

The Common Professional Cycle (CPC) consists of 14 courses, two of which are annual, the others being offered on a semestral basis, twice a week in classes of an hour and a half each: Jurisprudence (Legal Philosophy), Theory of State, Human Rights and Guarantees, Elements of Civil Law, Elements of Constitutional Law, Civil and Commercial Obligations, Civil and Commercial Contracts (annual), Elements of Civil Procedure, Elements of Criminal Law and Criminal Procedure (annual), Elements of Real Estate, Elements of Administrative Law, Elements of Labor Law and Social Security, Elements of Commercial Law, Economic and Financial Analysis. Approval of this cycle enables to a Bachelor in Law Degree.

The Professional Oriented Cycle (CPO) has three mandatory courses for all orientations, namely, Public International Law, Civil and Commercial Corporations and Family and Inheritance Law and 52 credits distributed as follows :

- - 4 credits in the Social Sciences Department
- - 4 credits in the Department of Legal Philosophy
- - 8 credits in the Department of Professional Practice
- - 16 credits in at least 2 different Departments
- - 20 credits in the selected field .
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Approval of this cycle enables to the Diploma of Attorney-at-Law and a certification of the selected orientation, professional practice not being limited to such branch of law.

In the context of professional practice, large resources are deployed in order to improve the quality of the service provided to the students and to the community at large, through a free legal bureau. To that end agreements have been concluded with several NGOs, most of them human rights oriented, courses on the Rights of the Child, as well as litigation in special areas, civil, criminal, administrative, alternative dispute resolution, have been set up.

This three-cycle curriculum allows the Law School to have rather large courses in CPC –a maximum of 80 students- and small seminars in CPO –not more than 30 people- in a good mix of large and public European universities with small and selective American schools.

In the context of legal studies, UBA Law School's purposes are to award to its students a strong basic formation so that they can get concepts, institutions and abilities as well as the handling of proper legal instruments to approach the legal analysis of everyday situations.

To that end, the fourteen mandatory courses of CPC and the three of CPO that are common to all orientations provide the context in which the knowledge of rules, general principles, legal doctrine as well as case-law has to be reached through learning and teaching activities that promote reasoning, legal reading, critical analysis from a legal standpoint as well as from other perspectives with a view to finding a solution or by the implementation of alternative dispute resolution methods.

On such grounds, students arriving to CPO have to choose their main orientation through 20 credits for other 16 have to be distributed in at least two different areas, four in Jurisprudence and 4 in Social Sciences. Other 8 are for a mandatory litigation course offered in NGOs, the law school own free legal clinic, where the student has to act as an attorney in real cases under the supervision of a professor.

In the third cycle, the student has to go through the fundamental questions, not the basic ones, of the field of interest he or she has chosen and through present questions that have to be complemented by others. The seminars offered to such purpose have a workshop format.

The target of this scheme is a graduate with enough legal reasoning so as to be clear about the situations he or she will have to face, of its legal reading, of the possible diagnosis and ways of action. Our graduate has to develop his or her abilities so as to be able to get a constant formation, in his main discipline and in others keen to it.

Teaching is developed throughout two academic periods or semesters, starting in the second week of March ending by the end of June, restarting in the second week of August and ending in the last week of November.

There are requisites for the enrollment in different courses that are not applied to foreign exchange students. The Law School allows up to three courses in CPC and of 12 credits in each semester of CPO to its students. With an average of 1500 courses, our curriculum is both rich and varied. The assignment rate we have reached is of 96% in timetables that start at 7.30 am and end at 10.30 pm, that is to say that 96% of our students get courses and only a 4% remains unsatisfied.

As the leading law school in the country, ours counts many of Argentina's leading legal professionals and scholars among the ranks of the faculty. Faculty Members are appointed after public selection on the grounds of background and teaching tests. The teaching is structured in chairs in the same way of the European universities.

From 1996 we are investing in Co-Operation Programs with foreign institutions, focusing primarily student and faculty exchange. We started with a post-graduate program with the Catholic University of Louvain and the University of Paris-Sorbonne (Paris I) on Corporations and Contract Law. In America, we began our exchange with Columbia Law School in 1996. Up to now, we have received seven Columbia students and three Faculty Members and we sent two of our students in January 2000. We have more or less the same sort of engagement with Tulane Law School and the Boston University School of Law, with which we are only starting exchange. On a non-conventional basis, we have received students from the University of Colorado at Boulder, the University of Miami at Coral Gables. In Europe, we have an agreement in force with the University of Paris Panthéon-Assas (Paris II) where two of our students are studying right now, three Paris II students have already been with us. Faculty members are also visiting both institutions. We have signed an agreement with the University of Orleans last year.

All these agreements proved to be very important for the development of our offering to the great and large public of UBA. The early participation in Moot courts contributed a lot to that end.

In the last five years, UBA Law School has been participating in the Philipp Jessup International Law Moot Court Competition sponsored by the American Society of International Law, in the Interamerican Human Rights Moot Court Competition organized by American University where we have been the winners twice, The Jean Pictet International Humanitarian Law Moot Court organized by the International Committee of the Red Cross where we reached a second position last year and in the Willem C. Vis International Commercial Arbitration Moot.

Post-graduate legal studies at UBA are varied, more than twenty independent courses, nine specialization graduate programs<sup>14[14]</sup> (Criminal Law, Natural resources Law, Family Law, Sociology, Administrative Law, Labour Law, Business law, Tax law, Administration of Justice), more than twenty updating graduate programs<sup>15[15]</sup>, a Master in International Relations and the J.S.D.

A summer program in four different areas is offered in July-August for local graduates as well as for those coming from other domestic and foreign universities. Courses offered by visiting professors are organized in English with materials.

Globalization has not furnished our public universities with more resources but it provided us the possibility of enhancing our relations with other institutions. Through the last years we improved our product, our challenge is to offer a good quality service for a large population on a free basis and with only one ideological engagement, National Constitution and Democracy.

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<sup>14[14]</sup> These programs' requisites are from 368 to 400 hours, which means from 23 to 25 credits.

<sup>15[15]</sup> Minimum 128 hours, which means 8 credits.



## STUDYING THE LEGAL PROFESSION IN THE LAW DEPARTMENT OF UBA

The Law and Social Sciences Department of the University of Buenos Aires in 1985 approved the establishment of a Program for the Study of the Legal Profession. Initiated in 1986, the teaching program is structured in academic cycles. There is a general basic cycle (*ciclo profesional común*) made up of six subject areas, two of which apply to each university field of study. There is also a general professional cycle consisting of fourteen basic subject areas, which provides a foundation, exposing the student to the central elements of each branch of law. Also a profession-oriented cycle in which three subject areas apply to each major, and which is made up of fifty-two credits, including professional practical instruction.

This plan of study (which is distinguished by intermediate diplomas such as the Bachelor of Law and minor diplomas such as Counsel) will pursue several objectives. From an administrative point of view, it permits 97.8% of the almost 27,000 active students in the department to be assigned to various courses. The basic format would be no more than 80 students in the CPC (*ciclo profesional común*) and approximately 35 people in the C.P.O (*ciclo profesional orientado*) seminars. This results in a free version of the major public European and private American universities. From the pedagogical view, it reflects the idea that the best teaching is done in a system in which the professors (the normal program is for 902) lead the students. This reduces the practice of the free examination, which, nevertheless, will remain in effect in all the required courses. At the same time, it encourages the apprenticeship mode of learning, which would not replace but combine with the traditional mode of professor-led classroom teaching. Looking to the future, this cyclic structure will foster the construction of a solid base of knowledge. It will provide the student with the tools and skills needed to confront a future in which the standards that they will be dealing with will almost surely exceed those that prevailed during the period of their education. Also, through the UBA XXII program, education towards a degree will be extended to units of the Federal Penitentiary Service (SPF) at Devoto and Caseros.

The quality of teaching has improved. The majority of professors on the faculty are appointed after preliminary public competition in front of panels made up of persons outside the field of study. The pluralism characteristic of our institution is reflected in the results of the competition, which lead to a significant enrichment of the courses offered. In 1999, a pilot program developed to evaluate teacher quality is expected to be used widely in the year 2000.

Professional practice will be strengthened through a better organization of the manner in which it is imparted. Teaching loads have been opened up to competition, and agreements have been concluded with civic associations so that each major field of study can include practical professional courses in Human Rights, Children's Rights, along with the traditional subjects of Criminal, Civil, Notarial, Preventive Justice and Mediation law.

Exchange programs have been set up between universities in the United States and Europe in which our students in C.P.O.- after a rigorous selection process- can take courses abroad for one year. We have also been consistently participating in international pleas competitions with increasingly beneficial results.

So the courses offered on the post-graduate level are abundant and varied. In addition to independent courses on current questions of interest, there are eight Professional Studies and a Specialization Program, twenty-one Refresher course Programs, two Interdisciplinary Programs, a Masters in International Relations and a Doctoral degree. The corollary to these studies has been the restructuring and refurbishing of the Departmental Library.

Scope, quality, cost-free, open and independent inquiry, and a democratic commitment: these are values that our institution preserves and strives to put into practice every day.