LEGAL EDUCATION AND STUDENT POWER IN BOLIVIA

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Law schools in South America are much more activist than the law schools in this country. Their political and social importance is far greater, and they want no part of the post-graduate isolation that our law schools enjoy.

Bolivia is often regarded as the quintessential Latin American republic. This is certainly true with regard to the universities. Bolivia's universities suffer in extreme form from nearly all of the problems typical of Latin American higher education. An understanding of Bolivia's law schools, then, can be generalized to some extent to other countries.

The bulk of Bolivia's four million people live on the treeless plateau between the two ranges of the Andes. This is the Altiplano, averaging more than 12,000 feet above sea level. Yet the vast Amazon basin jungle to the east comprises over two-thirds of the country's land area. Sixty to seventy percent of the Bolivian population are illiterate Indian peasants, living off their flocks of sheep and llamas and their hard-won harvests of potatoes.

The Social and Political Roles of the University

Bolivia experienced what many scholars believe was a social revolution when Victor Paz Estenssoro came to power in 1952. Most of the rich owners of the large estates left Bolivia as land reform swept the country. Consequently the Bolivian peasantry is now relatively well off. The extremely wealthy moneyed class, found in other parts of Latin America, is not found in Bolivia, either in the country or the city. Since study in the Bolivian universities is for all intents and purposes free, there are now many lower class students in attendance.

Nevertheless, education is still out of reach for the great masses. According to the statistics of the Department of Education Planning of the Ministry of Education, in 1964, of every 100 urban children who reached school age, only 69 entered primary school, and of these 69, only 19 will complete the first six years. In rural areas, the figures are 38 and 3 respectively. Most poor families find it too great a sacrifice to provide for a child in school when he could otherwise be working, especially in the rural areas, where often there are either no schools

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or they are far away. Consequently, a university education is rare enough to put the graduate in an upper class status almost automatically.

There is very little competition for grades and the university tends to remain more a social mechanism than an institution of learning. Class standings are not computed. Achievement is measured largely by passing or failing, and ultimately by the mere possession of the university degree.

As a rule in Latin American governments the executive branch is far stronger than the legislative and judiciary branches — if not in theory, certainly in practice — and the university students find themselves one of the few forces able to fill the power gap. The students are a potent opposition to a harsh or unpopular government, and under the present political system they play an important and necessary role. In the Bolivian revolution of November, 1964, for example, the student demonstrators and martyrs were second only to the armed forces in toppling the regime of Paz Estenssoro. The bullet-pocked walls of the tall yellow university building in La Paz are a silent testimony to this fact.

Of the seven universities in this small country, the Universidad Mayor de San Andres in La Paz is the most politically oriented, or at least the most politically influential, because of its location in the capital. San Andres is a sort of political rookery, and the party inclinations of the deans and students are common knowledge. Its law school is the only one, of the seven law schools in the country, to enjoy "free attendance" or unlimited cuts (*libre asistencia*). In a system where lectures are important and books are scarce, and where the university becomes a vital instrument of social mobility, one can understand why this free attendance is probably the law school's biggest problem. Attendance usually runs around thirty-five percent.

The politics in Latin American universities tends to be opposition to the government in power, and thus the political pattern often changes not long after revolutions or elections. Beyond these immediate swings, however, there has been a trend over the past fifteen years from liberalism to Marxism.

Student Power in the University

The students of San Andres have the power to maintain free attendance because of their equal representation with the professors on the governing boards of the university. This is the system of co-government (*co-gobierno*). Before 1918 the governments of Latin America controlled the universities, but in that year, the university of Cordoba, Argentina, fought for and obtained autonomy. There had always been a tendency toward student participation in Latin American universities, and thus co-government and autonomy rose together from the Cordoba

reform.[1] The reform reached Bolivia in 1930 after the students fought for the downfall of President Hernando Siles and were rewarded accordingly by the new military junta. Autonomy is now required by the Bolivian constitution. Between 1930 and 1954 the students had one-third of the seats. The equal student-professor ratio of co-government was attained in Bolivia in 1954 in a "university revolution" during which the universities were forcefully taken over by Victor Paz's MNR[2] party adherents. When the non-MNR students regained control of the universities, they insisted on an *equal* voice.

The power of university students is as great in Bolivia as anywhere in the world. Though other Latin American university students are represented on the governing boards, and the students wield considerable power through strikes and demonstrations, only Bolivia has equal representation (*co-gobierno paritario*) of students and teachers on the governing boards of both the department and the university itself.

In all Bolivian universities, each department has its own governing board (*consejo directivo*). In addition to these departmental governing boards, there is a university-wide board (*consejo universitario*) composed of all the deans of the departments, a student representative from each department,[3] the leader of the university-wide student group, the Rector and the Vice-Rector of the university. This board conducts the important business of the university. It approves appointments of professors, deans, and the few assistant instructors, made by the department boards, and it apportions the university budget among the various departments. Each department, as well as the university as a whole, has a set of by-laws (*reglamiento*) under which its board must operate. Finally, there is the university assembly (*claustro*), which consists of all the professors and deans and an equal number of students. Its task is to meet every three years to elect the Rector and Vice-Rector.[4]

Though it is obvious that the students have only to capture one vote in either board in order to carry the day, the faculty almost invariably avoids voting in a block because on most issues both students and teachers divide along political party lines, and, because the students have additional power in student strikes. The university at Sucre is the only Bolivian university without equal co-government or 50-50

[1] A good survey and history of Latin American universities is: H. BENJAMIN: HIGHER EDUCATION IN THE AMERICAN REPUBLICS (1935).

[2] *Movimiento Nacionalista Revolucionaria* is the National Revolutionary Party which supports Victor Paz.

[3] At San Andres there are the following departments: law, engineering, medicine, dentistry, pharmacy, economics, physical sciences, adult education, architecture, philosophy and letters, biological sciences, and social work.

[4] The Rector and Vice-Rector are the rough equivalent of a United States university's President and Vice-President.

representation of students and professors on the two governing boards. (At Sucre there are only two students on each board.) But student control is a reality because political ties transcend student-faculty differences, student strikes are a constant threat, and students have equal representation in the assembly (*claustro*) which elects the Rector every three years.

The purely student organizations are parallel. The Local University Federation (F.U.L.) is university-wide, one student elected from each department. The elected leader of this group is the General Secretary (popularly known in La Paz as the Little King (*Rey Chico*) because of his national political power). Each department has its own student organization, the Student Center (*centro de estudiantes*). The president of this is a member of the department governing board, as is the student representative to the university-wide board. (The students therefore elect two fewer general members of the department board so that the students won't outnumber the faculty.) These student organizations articulate student opinion, organize strikes and demonstrations, publish newsletters and sponsor speakers and social events.

The Organization and Operation of the Law School in La Paz

Law schools in Latin America are invariably departments (*facultades*) within the university rather than separate post-graduate schools as in the United States. In the law department at San Andres, which is typical of Bolivia, the governing board (*consejo directivo*) is composed of the 24 professors, 24 students elected by their fellow students, plus the dean. This board elects the dean and the secretary of the law school and conducts the business of the law school. Each of the groups represented by the five years of study has an equal number of student representatives on the board, in spite of high attrition, with the fifth year students getting the odd extra places if any exist.

The Bolivian high school curriculum is more ample than that in the United States, touching upon such subjects as philosophy and economics. However, professors are quick to complain about their students' inadequate preparation in high school, and there are those who would like to see a year or two of general instruction given before the normal department work is commenced. (Many public secondary schools in Bolivia are so crowded that only three or four hours a day of classes are available for each student.)

The Bolivian student may enter any department, including law, directly after high school, providing he passes the entrance examination of the department. The role of the university is specialization. The student does not take courses outside his department. Each department is a distinct entity and there is little or no interaction among them, in spite of the duplication of courses that may result.

The study of law is especially attractive in Bolivia because the students attend classes before and after work and during one of the two lunch hours. In 1962, fifty-six percent of the law students in La Paz worked a full eight hour day in addition to their studies.[5] In this way students support themselves while attending school. A great many students decide on law school after working for several years, and then, too, many drop out for a year or more and return. In 1962, forty-four percent of the law students at San Andres were over 30 years of age.[6]

The emphasis on lectures is brought home by the fact that the San Andres law student has about twenty-five classes a week. Since he works an additional forty hours, correspondingly little emphasis can be placed on reading. Also, instruction is almost entirely theoretical. The case method is not used, and there are no practice courts or debates. However, a few of the students do get jobs in the courts.

Almost all the professors in Latin America are part-time. They are paid a small honorarium which is far short of a living wage, and are chiefly rewarded by the prestige connected with their being university professors. The early morning, noon and night classes enable them to engage in a private practice or government work as well as teach, but the system allows little time for research.[7]

When there is close competition for a professor's chair (*cátedra*) at San Andres, professors are chosen by a competitive oral examination on the subject they are to teach. The examiners consist of the dean, two professors of the dean's choice, and two chosen by the governing board of the department. These five also hear a public lecture by each candidate and a debate among all candidates. All are graded and the highest scorer wins the chair or professorship. If the candidates are less evenly matched, or a few in number, their writings and reputation can decide the awarding of the chair without the examination.

Classes are conducted at San Andres six days a week, Monday through Saturday. The class hours are the same for all five years of the study of law. These hours are 8 to 9 a.m., 12 to 1 p.m., 6 to 6:45 p.m., 6:45 to 7:30 p.m., and 7:30 to 8:15 p.m.

In the first year of study students have six hours a week of Political Law, Introduction to Law, Roman Law, Criminology and History of Law. Second year students have five classes a week of Public International Law, Penal Law, Civil Law and Sociology, and six of Constitutional Law. Third year students have five classes a week of Political

[5] 1962 ANUARIO ESTADISTICO 33-34 (published by the Universidad Mayor de San Andres).
[6] *Id.* at 27.
[7] At the University of Chile Law School in Santiago, the professors are half time; they spend all morning in the law school and work outside in the afternoon.

Economics, Mining Law, Penal Law, Civil Law and Commercial Law and four hours of Agrarian Law. Fourth year students have four classes each of Administrative Law and Medical Law and five classes each of Private International Law, Social Law, Civil Law and Finance. In the fifth, and last, year students carry five classes of five hours each in Criminal Procedure, Court Practice, Philosophy of Law, Civil Law and Civil Procedure.

Many of the professors have written their own texts and published them at their own expense, and even though these texts are usually paperbound, not all the students can buy them. Often the professor or the university will sell a mimeographed short text or outline. There is little written work assigned for classes and the Socratic method is not used, though some professors ask questions or invite discussion.

The system of examinations is a surprise to the American lawyer. The salient feature to us is that the Bolivian law student never fails an exam irreparably — there is always another chance to take the exam in that course. The student never "flunks out" of law school, since the severest sanction for failing exams is disqualification from taking other exams. He may have to wait until the next academic year, but even so, the exams are given three times a year.

The school year starts in May or June (in La Paz), and the first round of regular exams (the first *turno*) starts around January 16 and continues into March. Suppose a second year student fails penal law and civil law in the first exams. He then has another chance at each in April in the second round. If he again fails both, his penalty is to wait until January of the next year to try again. If he failed only one course, he could take a special "make-up" exam before the first regular round next year, but failing two, he is ineligible.

I have heard estimates of as high as sixty percent for the number of students who fail at least one final exam in one of the two regular rounds. The exam system allows a student to stay in school indefinitely, and provides a haven for youngish politicians (in their twenties and thirties) who may not have the time or inclination to study very hard.

All examinations are oral and have the practical effect of preventing cheating. Each student, when his name is called, picks up a folded piece of paper with a number on it, then sits before two or three professors and holds forth on the section of the course outline represented by the number he picked at random. The examiners ask questions, may guide the examinee's thoughts back onto the right track, and finally grade his performance. This is his final, and usually only, grade for the course.

For the degree in law (*licenciado*), the student who has completed

his five years of study must take the comprehensive examination of the law department (*examen de licenciatura*), which is offered every three months, or he must write a thesis. (Only the university in Sucre gives the doctorate law degree which requires another year, but by custom all Bolivian lawyers are called Doctor.) The student chooses his field — judicial law, political law, or social law. Only in social law can he write a thesis. In the other two, on the day of the examination he is given by lot a narrower field within the larger, and he holds forth on this before a panel of seven professors.

Until recently, to be admitted to practice, the graduate had to take the formidable court examination (*examen de la corte*) before a panel of judges, lawyers, a professor and a prosecutor. This was dispensed with by decree of the military junta in September, 1965, and the universities are now trying to decide how to make the law department's comprehensive examination more truly comprehensive.

Conclusion

The distraction from solid academic pursuits that results from the social and political nature of the Bolivian university is readily recognized. The problem is probably greatest in the law schools because (1) law is naturally a more political career, (2) law schools in Bolivia are part-time and less demanding on the student, and (3) law is by long tradition an attractive and popular profession. In the past this was especially true. Recently, however, engineering, the sciences and the social sciences have gained respectability in Bolivia as subjects for university study. The enrollment in the law school at San Andres has been roughly constant over recent years while the rest of the university has experienced increasing pressure for admittance. In most of Latin America there has been a problem of an excess of lawyers, especially in the capital cities, and this is the case in Bolivia today. Thus the increasing acceptance in the universities of the less traditional professions such as engineering, and the relatively decreasing enrollment in the law department, is welcome in Bolivia and elsewhere.

The price of university autonomy has been university poverty. Governments cannot be expected to finance their severest critics, and since student fees are nominal, the Bolivian universities have chronic fiscal problems. The total yearly budget of San Andres, for example, is surprisingly low: the 1959 to 1962 average yearly budget divided by the average number of students comes out to $150.00 per student per year.[8] Even this figure is slightly inflated because of the high number of students (nearly fifty percent of those in the freshman year) who drop out

[8] 1962 ANUARIO ESTADISTICO 41 (published by the Universidad Mayor de San Andres).

before the school year is over. Students complain that simple legal research is impossible because of the paucity and irrelevance of the books in the tiny law library. Even such necessities as blackboards, chalk, and paper are all too often lacking. Some help is found in loans and gifts from the United States and international agencies, but these are usually for capital construction and equipment, and otherwise can only be considered as stop-gap measures.

One might well ask why the national government doesn't found its own "non-autonomous" university to avoid or reduce the problems of co-government, finance, and student strikes. This was done in Bolivia with some success with the Bolivian Technical Institute, but in the 1964 revolution the Institute was turned over to San Andres, largely as a reward for the university students' help in overthrowing the previous government. As a separate entity, the Institute exists no more.

However, the fact remains that the universities cannot be expected to become more academic, more truly intellectual, until the society in which they function finds substitute social and political institutions. Education will have to become widespread enough to diminish the gap between the educated and the uneducated, forcing the university student and graduate to work harder for their status. Other forces, such as industry, labor, the judiciary and the legislature, will have to weigh more heavily in the balance of power to relieve the necessity of student vigilance of the executive branch of the government. One scholar has said: "A society has the school system its culture can contrive and absorb. The school system changes as the society changes, and there are no miracles to be looked for."[9]

[9] F. TANNENBAUM, THE UNITED STATES AND LATIN AMERICA 44 (1963).