

METHODOLOGICAL MODEL FOR THE RESEARCH FUNCTION IN THE PROFESSIONAL TRAINING OF LAWYERS

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Abstract

Introduction: The training given at the School of Law, is characterized: the research function is almost not present in the teaching-learning process, a high percentage of teachers are not trained in the management of research skills; there are certain signs of work in active methodologies, a high percentage of graduates graduate through the Special Degree Program, the current curriculum does not train professionals in research skills and abilities, a high percentage of students perceive their teachers with a regular academic performance and many of them have no knowledge of the professional profile of the graduate.

Objective: To design a methodological model to develop research skills in the professional training of lawyers.

Methodology: It consisted of data collection through: classroom observation, application of surveys to students and teachers. The data collected were subjected to a process of selection, analysis, critique and codification.

Result: Design of a methodological model based on Tobón's competency-based approach and the Tunning Project, the theory of critical-humanistic teaching and Jorge Witker's theory of active education.

Contribution: The proposed methodological model, will allow the strengthening of scientific competencies in the training process at the Law School and would constitute one of the most significant changes in legal education and would allow a wide incidence in the university sphere.

Keywords: Lawyers, Research skills, Professional training.

Received: 15/03/2022

Accepted: 30/06/2022

DOI: <https://doi.org/10.37497/sdgs.v10i2.222>

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MODELO METODOLÓGICO PARA A FUNÇÃO DE PESQUISA NA FORMAÇÃO PROFISSIONAL DOS ADVOGADOS

Resumo

Introdução: A formação dada na Faculdade de Direito, caracteriza-se: a função de investigação quase não está presente no processo de ensino-aprendizagem, uma elevada percentagem de professores não é formada na gestão de competências de investigação; há certos sinais de trabalho em metodologias activas, uma elevada percentagem de licenciados licenciados através do Programa de Licenciatura Especial, o currículo actual não forma profissionais em competências e capacidades de investigação, uma elevada percentagem de estudantes percebe os seus professores com um desempenho académico regular e muitos deles não têm conhecimento do perfil profissional do licenciado.

Objectivo: Conceber um modelo metodológico para desenvolver competências de investigação na formação profissional dos advogados.

Metodologia: Consistiu na recolha de dados através de: observação em sala de aula, aplicação de inquéritos a estudantes e professores. Os dados recolhidos foram submetidos a um processo de selecção, análise, crítica e codificação.

Resultado: Concepção de um modelo metodológico baseado na abordagem baseada na competência de Tobón e no Projecto Tunning, a teoria do ensino crítico-humanista e a teoria da educação activa de Jorge Witker.

Contribuição: O modelo metodológico proposto, permitirá o reforço das competências científicas no processo de formação na Faculdade de Direito e constituiria uma das mudanças mais significativas na educação jurídica e permitiria uma ampla incidência na esfera universitária.

Palavras-chave: Advogados, Formação profissional, Pesquisa científica.

INTRODUCTION

The pedagogy of law has already begun to be applied and the didactic methods that are being used motivate the student (Witker, 1985). The training of the lawyer requires certain necessary elements that must be taken into account to achieve suitable professionals to the social demand (Efron, 2010), among them we have: a methodology that problematizes the teacher-student interaction; promote the ability to interpret the rules, legal doctrine and training for the creation of new rules; the development of reflective and adaptive skills to adapt to the new demands that economic, political, social and cultural changes impose on the profession (Witker, 1995).

The importance of the research lies in the fact that this model constitutes a guiding document to carry out the teaching-learning process with the objective of developing research skills to train an efficient lawyer, in any function to be performed, and according to the new social

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demands and in a context of internationalization of education that requires suitable professionals. In addition, it constitutes a guiding document to be taken as a reference by other Professional Schools that wish to improve the teaching-learning process.

Regarding the teaching of law, Zamudio (1995) indicates that in spite of scientific and technological progress and the advances in university research in recent years, in the training of lawyers in Latin America (Colombia, Argentina, Chile, Mexico, Peru, among others), the traditional method of verbal or discursive teaching is still applied. This attitude fosters passivity, dependence and conformism in the student, turning him into what Morán (2003) calls "a mental passive". The curricular model of the faculties, the lack of resources to achieve quality indicators and promote research, the methods of teaching law continue to be, in the XXI century, ritualistic, rote, authoritarian and dogmatic (Morán, 2003). Montoya (2009), questions the absence of proposals from law programs, to seek solutions to serious social problems, the lack of answers and alternatives to the serious humanitarian crisis (Taken from Bedoya, et al., 2013). The Lima Bar Association (CAL), reports that "... the new legal regime has reduced the academic requirements causing serious damage to the training of lawyers, causing a decline in the quality of the legal professional". (Bocanegra, 2012, p. 12).

In the study on Law Teaching and Lawyers' Education conducted by Bocanegra (2012), he points out that we live in a context of commercialized and insufficient quality education, with low or no requirements to graduate and obtain a professional degree, "distance learning" further impoverishes university education, just as in the case of obtaining professional degrees in an expeditious manner.

In view of the deficiencies in the educational process of law teaching, proposals have been made, such as Mederos (2010), who states that the teaching-learning process should be structured, based on the protagonism of the students in the different moments of the learning activity. Guerrero (2007) proposes the implementation of the Semilleros de Investigación Program. Machado, et al. (2008), state that the development of research skills in the formative process of professional development of higher education students. In 2012, Gordillo et al., propose, as far as possible, to reduce the use of lectures, and to adopt active teaching methods with prior design of work to be done by students in class as learning tasks, and under the programming, control and direction of the teacher, giving a series of methods that could be used by the teacher.

Law schools need to implement a methodological model that is assumed by all the educational agents involved, with identity, responsibility and commitment. The idea of the work is to improve the educational process at the university, to train qualified professionals with critical, reflective and humanistic capacity, and that contribute to the social development of the

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region and the country, therefore the main objective was to design a methodological model to develop research skills in the teaching-learning process in the professional training of the lawyer.

METHODOLOGY

The research was carried out with the participation of 13 teachers of the specialty of Law and 93 students enrolled in the School of Law from the V to XI cycle, stratified random sampling was used to determine the number of students per cycle that constituted the sample. The field work was carried out, which consisted of data collection by means of: The class observation form, in order to obtain information regarding how teachers transmit knowledge to students in the development of the teaching process, this information was complemented with the application of surveys to inquire about the opinions of student, and teachers of the specialty of law regarding the use of teaching strategies and the guidance given for the development of research skills Once the data collection was done, they were subjected to a process of selection, analysis, criticism and coding. The methods of descriptive statistics were used for the elaboration of statistical tables and graphs and the analysis statisticians.

For the theoretical part, the following methods were used: historical-logical analysis, the method of analysis-synthesis, the systemic approach, the inductive-deductive method and the theoretical generalization and modeling, which facilitated the design of the methodological model to develop the investigative function in the students of the School of Law. The tasks developed to validate the methodological model were carried out with students of the second cycle of the School of Law, which consisted of the use of didactic material of readings, as well as the formation of research teams; in both cases the central ideas were debated and the students did exercises of argumentation, oratory, writing, interpretation and analysis, giving positive results especially in those students who participated very little or almost nothing, when it came to participative theoretical classes (exposition-dialogue).

RESULTS

In the analysis of the current study plan of the School of Law, it was detected that there is only one subject implicitly referred to the research activity, it does not have logic courses, the basis for developing the legal method, it has a course on Elocution and Technical Writing, there is no sequentiality in the dictation of some subjects, another aspect to highlight is that the study plan considers social sciences subjects, which are the basis of Law (Philosophy, Sociology and Economics).

Purizaga-Sorroza, M. A., Campos-Ugaz, W. A. ., Campos-Ugaz, O. ., Hernandez, R. M., & Garcia Flores, L. A. . (2022). Methodological Model for the Research Function in the Professional Training of Lawyers.

The results obtained with respect to the application of the interview to the teachers of the School of Law from which the following information was obtained: 92% of the teachers of the School of Law, are professionals with long experience with specializations in civil, constitutional, commercial, criminal, tax, environmental, administrative law, they exercise their profession as: litigators, advisors of public institutions, judges, prosecutors, civil servants and those who exercise administrative work in State institutions. Two of them have doctoral degrees and 6 have master's degrees in their specialties. Some teachers have no knowledge of the type of professional they are training and 40% of the teachers have pedagogical training. Seventy percent said they knew the active education approach and only 40% of them defined it more or less correctly. Regarding the knowledge of methodological strategies to develop research skills in students, 90% of the teachers responded that they know them; 100% stated that they provide counseling to students and that they encourage them to carry out scientific research. All of them answered that they have attended scientific research events in the last 3 years, as well as events of their specialty with greater frequency at the national level, and they have done so as assistants, others as organizers or as exhibitors.

When the observation form was applied to determine the use of methodological teaching strategies that lead to the development of the investigative function, it was identified that 62% of the teachers do not visually represent the topic to be developed, they do it orally. The most frequent types of instruments used by teachers for the development of classes are: relevant chapters of a text (62%), offprints (31%) and, to a lesser extent, summaries of works, written presentations of a topic (23%), minutes (15%) and 8% of teachers use guidelines (regulations).

With regard to knowledge transfer, it was determined that 100% of the teachers make use of presentations by students, and to a lesser extent make use of simultaneous dialogue (38%), and in the same proportion use group discussion and master class (31%) and only 23% hold seminars, and only 1 teacher makes use of conferences. Fifty-four percent of teachers propose research work for the subjects they teach.

In the evaluation of research skills, with regard to the delimitation of the topic of the presentation, they were qualified with a good and regular level, and when communicating the structure of the presentation, they were qualified between a good and regular level. Regarding the adequate use of media and materials, a large percentage does it regularly (54%); 69% do not use innovative techniques and strategies; regarding the generation of discussions and research opportunities, 69% have a regular level and 23% have a very good level; 8 teachers sometimes allow reflection and deepening of the topic and 5 teachers do it almost always. When asked about the comments made by teachers based on other scientific sources and empirical elements (experience), 54% do so at a regular level, and 46% do so between a good and very good level; It was also established that 77% of the teachers promote the solution of the problem on a regular

Purizaga-Sorroza, M. A., Campos-Ugaz, W. A. ., Campos-Ugaz, O. ., Hernandez, R. M., & Garcia Flores, L. A. . (2022). Methodological Model for the Research Function in the Professional Training of Lawyers.

basis, 61% of the teachers regularly help or lead their students to a critical or self-critical reflection and with regard to the proposals made by the teachers have a scientific basis, it was determined that 84% have a regular level of acceptance, it was also noted that 73% of the proposals formulated by the teachers are viable with a regular level and the rest have a good and very good level. Another aspect to take into account in order to deduce the management of research skills in the teachers of the School of Law, is with respect to the formulation of conclusions, obtaining the following results: 69% of teachers draw conclusions that serve as premises for further research.

The results obtained from the surveys applied to the students are the following: Regarding the use of methodological teaching strategies, 83% of students responded that very sporadically teachers visually represent the topic to be developed; with respect to whether the teacher relates the topic discussed in class with the regional, national and international reality, 68% stated that sometimes they do; Likewise, 60 students reported that sometimes the teacher makes a visual and semantic codification of concepts, propositions and explanations. Regarding whether teachers develop the class using instruments for the development of the class, most of them (50 students) said that teachers use expositions and that most of the time they do it themselves, and in a smaller proportion, they stated that there are teachers who use chapters of relevant reading, giving guidelines (regulations), summaries of works and minutes; With respect to the evaluation criteria used by teachers in the development of the practical part of the subject, they indicated that the most common technique they use is the drafting of lawsuits, followed by contracts, jurisprudential analysis and very few pointed to tax returns, affidavits, books, theory, memorization, practice and case analysis.

None pointed to the argumentation of cases and the clinical learning of law, fundamental criteria in the formation of the lawyer under an investigative approach; likewise, 87% of students indicated that the teachers indicate them research works directed to the subject and 44% said that they were carried out by consultants and a higher percentage of students said that this did not occur. Regarding the learning strategies, the information obtained, with respect to the evaluations applied by the teachers, 64% indicated that sometimes they require memorization; 69% said that sometimes they made analysis and interpretation of the information learned; with respect to the valuation of creativity in their work, very few teachers valued this criterion (56%), and in a lower proportion they indicated that never and another group said that they always did. Sixty-nine percent of teachers sometimes use innovative techniques and strategies.

Regarding the coherence with which teachers develop the subject of the class, 65% stated that sometimes this happens, it should be noted that this situation is worrisome in the sense that there is no adequate and meaningful learning in the teaching-learning process; regarding the generation of discussion and research opportunities in the classroom, 63% of the students said

Purizaga-Sorroza, M. A., Campos-Ugaz, W. A. ., Campos-Ugaz, O. ., Hernandez, R. M., & Garcia Flores, L. A. . (2022). Methodological Model for the Research Function in the Professional Training of Lawyers.

that sometimes they do it; 67% of the teachers sometimes allow reflection and deepening of the subject. From the collection of information on learning strategies, 68% of students stated that sometimes teachers base their knowledge on other scientific sources and empirical elements. 68% of students stated that sometimes professors promote solutions to legal problems; and 62% of the informants stated that sometimes the comments made by professors help and/or lead to reflection or self-criticism; 74% of the respondents stated that sometimes the comments made by their professors have a scientific basis; they also reported that sometimes the comments made by professors are feasible (74%).

Regarding the conclusions reported by the teachers on the topics developed, 69% say that sometimes these serve as premises for further research. Sixty-seven percent of students indicate that sometimes teachers elaborate evaluation instruments, and that sometimes they evaluate correctly and according to the role assumed by each work team (77%) and 19% of informants reveal that they never do so; with regard to the evaluation of the quality of the reading or readings, 63% say that sometimes they adopt this criterion; and 62% perceive that the evaluation made by teachers is sometimes formative and 27% consider that the evaluation is always formative.

DISCUSSION

From the results obtained, it can be deduced that the teaching-learning process in the Faculty of Law and Political Science reproduces almost all the characteristics generally present in Latin American universities and in the country in the training of lawyers (Bocanegra, 2012).

From the analysis of the data collected from the students, regarding the methodological teaching strategies that should be used in the development of the teaching-learning process and the strategies that teachers use for learning legal regulations, in all criteria the alternative sometimes predominated, which would indicate that there is a high percentage of teachers who have a slight knowledge of these aspects or who know them but due to time constraints do not allow them to adequately prepare the strategies to be used in the transmission and learning of law students.

With respect to the research function necessary in the formation of the lawyer (Witker, 2008), it is almost not present in the teaching-learning process in the formation of lawyers, because the vast majority of teachers at the School of Law, are not trained with respect to the management of research skills, so they are not prepared to develop them in the teaching-learning process, This is manifested in the inadequate guidance to students in the execution of their research activities or tasks, low motivation for research, inadequate guidance in thesis advising,

Purizaga-Sorroza, M. A., Campos-Ugaz, W. A. ., Campos-Ugaz, O. ., Hernandez, R. M., & Garcia Flores, L. A. . (2022). Methodological Model for the Research Function in the Professional Training of Lawyers.

this is due to the fact that teachers do not develop research, on the other hand, they do not know the strategies that allow the development of research skills. This results in a lack of significant learning in the student and a lack of motivation to do research. This situation is evidenced in a great number of candidates to licentiate (lawyers) do not present a thesis to obtain the professional degree, preferring to follow the course of the Special Degree Program (PET), in which they are only required to present a thesis, which is developed with a low level of knowledge of the research activity, and it is impressive that these lacking quality are approved, because they are evaluated with the criterion that this is only a formal requirement, and that it is not an element for the disapproval of the aspiring lawyer.

Likewise, it is inferred that teachers do not handle pedagogical criteria, reason why they are not adequately preparing students for the development of research skills necessary for conducting research in the field of the legal system once they graduate from higher education, because they are not confronted with the solution of problems associated with the lawyer's professional fields of action from the first formative cycles. Exposure predominates as a learning strategy in the professional training process at the School of Law, these are mere repetitions that are redundant without prior analysis, which is why they do not achieve significant learning that is useful in their profession as well as in their daily life.

With respect to the teachers' knowledge of the active education approach in the teaching-learning process, although they responded that they know them; however, they confuse the strategies with the methods, techniques and philosophical or psychological currents. If we compare the answers of the teachers with respect to counseling with those of the students, they differ because 56% of them stated that their teachers do not provide counseling outside the classroom. It should be noted that teachers who have studies in teaching do not use the strategies according to the topics covered, as well as the new pedagogical approaches, developing their classes in a traditional way as well as those who do not have this training. Although the great majority of teachers have attended scientific research events in the last 3 years, as well as events in their specialty; however, this information is not reflected in the quality of the theses presented by the graduate to obtain the professional degree, nor in the completion of theses. All the professors of the School of Law, in spite of not having mastered didactics, feel qualified to train legal professionals; they perceive themselves as "good" teachers, an opinion contrary to that expressed by the students, who state that there are very few "good teachers".

The evaluation made by the students on the development of research skills, qualifies most of their teachers in the regular range and as good and very good in many aspects. This means that

we have the basis to improve the work of teachers in the classroom, and that we have some teachers who reach a level between very good and good.

From the results obtained, it is inferred that teachers do not handle pedagogical criteria due to lack of knowledge or lack of planning in their syllabic programming, in addition to the lack of time to summarize the content of the reading and that very sporadically the teacher gives premises that serve as references to conduct research and that students rarely perceive that the conclusions on the subject are clear and pertinent.

From the analysis of the data collected from the students, with respect to the methodological teaching strategies to be used in the development of the teaching-learning process and the strategies they use for learning legal regulations, in all criteria the alternative sometimes was predominant, which would indicate that there is a high percentage of teachers who have a slight knowledge of these aspects or who know them but due to time constraints do not allow them to adequately prepare the strategies to be used in the transmission and learning of law students.

From the results obtained with respect to methodological teaching strategies, it is concluded that there is a certain potential in teachers to apply strategies that lead to the development of the investigative function and also the use of handouts and photocopies of relevant chapters in the teaching-learning process can be reoriented, since these instruments become a means to advance in the development of syllabic content, due to the loss of class hours.

The novelty of the research is that, based on the results obtained, a methodological model has been designed based on the development of the investigative function in the professional training of the lawyer, which is the answer to the problem of the deficient development of the investigative function, which will allow improving the learning of investigative skills in the training process of the future lawyer. The development of research skills in both teachers and students will contribute to their multidimensional training and thus improve learning in various areas of law. Every model is based on the principles of scientific theories, precisely the present model has conceptual theoretical support in three perspectives: (See Figure No. 1)

1. The theory of active education, proposed by Jorge Witker (1985). The teaching-learning process based on the theory of active education, students become true protagonists of the teaching function, willing to discuss academically under the direction of the teacher and thus the investigative function prevails. Witker (1985), argues that for active teaching in law schools, methodological strategies and techniques aimed at teaching should be used.

Purizaga-Sorroza, M. A., Campos-Ugaz, W. A. ., Campos-Ugaz, O. ., Hernandez, R. M., & Garcia Flores, L. A. . (2022). Methodological Model for the Research Function in the Professional Training of Lawyers.

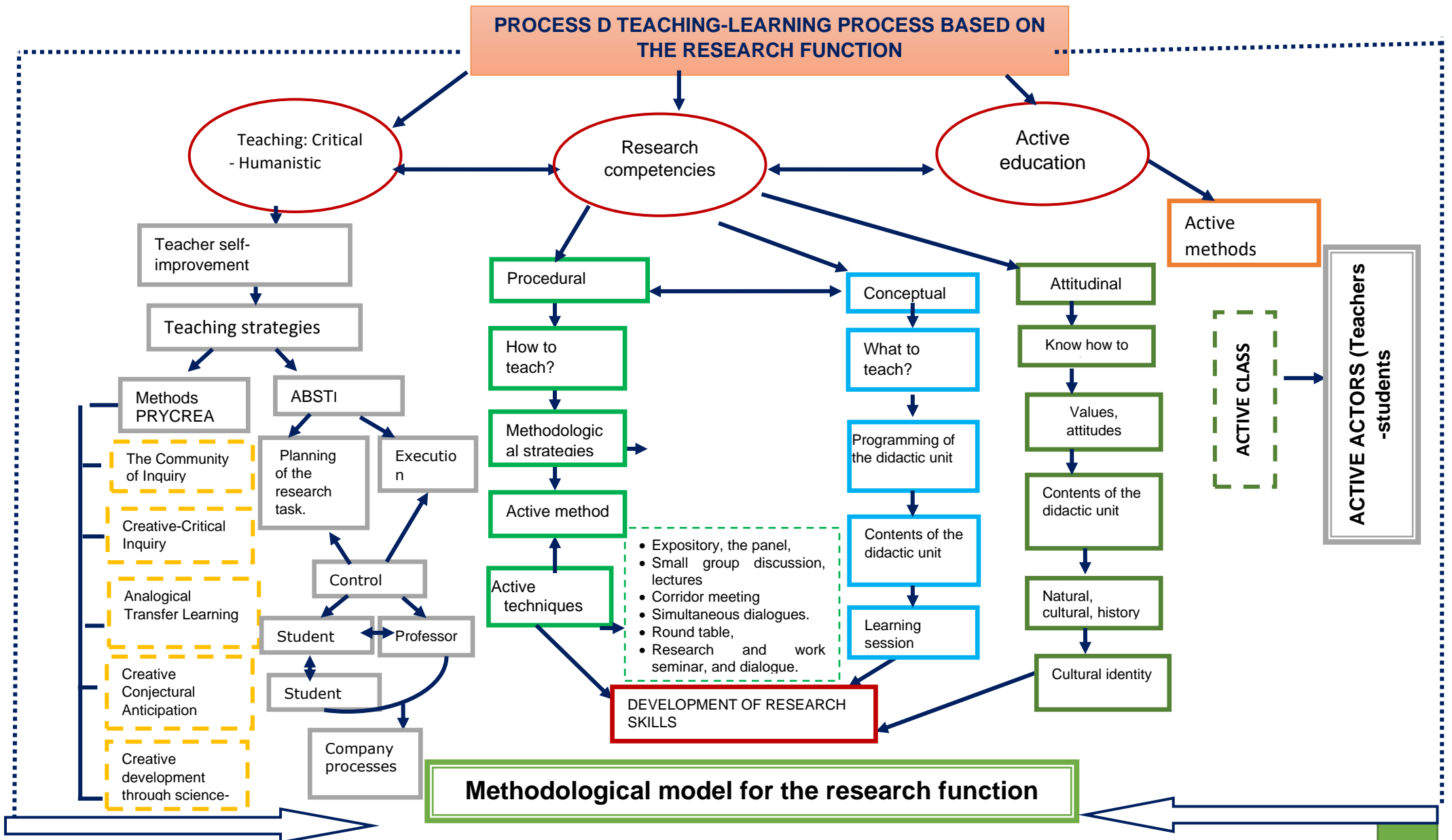
2. The critical-humanistic teaching model, suggested by Jorge Witker (1995), with this model the student develops his personality and cognitive capacities around the social needs for a collectivity in consideration of scientific work and also because it adapts to a new epistemology of law where the how to learn is subsumed in a what to learn, uniting form and content, law and social reality. The didactic strategies used are: Learning Based on the Solution of Research Tasks (ABSTI), (Machado: 2008) and PRYCREA (acronym that summarizes the expression reflective and creative person), (Gonzales: 2002).

3. The research competencies approach has been taken as a reference to the proposals in the ALFA Tuning Project, those of Tobón (2008), Gordillo (1997), Devoto (2005), Matienzo (2009), Noodt Taquela (1999), Alterini (1990), Machado and Montes de Oca, Rodríguez and Mena (2008), this approach develops capacities for the performance of relatively new tasks, integrating different knowledge (knowing how to be, knowing how to do, knowing how to know and knowing how to live together), to carry out activities and/or solve problems with a sense of challenge, motivation, flexibility, creativity, understanding and entrepreneurship, within a perspective of metacognitive processing that contributes to personal development, the construction and strengthening of the social fabric, the continuous search for sustainable economic-entrepreneurial development, and the care and protection of the environment and living species.

Based on the characteristics of the model focused on the development of research skills, and taking into account the different fields of action of legal professionals, a line of research has been undertaken, referring to the basic courses in the training of lawyers, such as Legal Argumentation, Legal Rationale, Legal Deontology, General Theory of Process, Constitutional Law: Legal Argumentation, Legal Razonamiento, Legal Deontology, General Theory of Process, Constitutional Law. Likewise, integrating courses are proposed, which are constituted by transversal courses: Integration Seminar I, Methodology of Scientific Research I and II, Seminar of Legal Research I and II, Thesis Seminar I and II.

For its implementation, three stages have been considered: Coordination and achievement of the commitment of the authorities of the National University of Tumbes; then the curricular planning and then the application of the design.

FIGURE N° 01: Methodological model for the research function in the professional training of the lawyer



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The actions to be developed to execute these paths are in correspondence with the characteristics of the pedagogical model implemented in universalization, it is not about superimposing actions and overloading teachers, but the development of research skills should be linked to the teaching work, taking the experience implemented in the Municipal University Headquarters (SUM) of Los Arabos (Cuba), (Matienzo: 2009), the following actions are proposed:

First Stage: Determination of the current status of the development of research skills in students of the fifth, seventh, ninth and eleventh cycles of the Bachelor's Degree in Law. **Second stage:** Determination of the actions to be taken by the teacher for the development of research skills. **Third stage:** Execution of the actions.

The skills to be developed in law students should go from the simplest to the most complex, i.e., as the student progresses, the development of more difficult skills will be involved. **Fourth stage.** Control, feedback and evaluation of the development of the investigative skills, as well as the attention to the difficulties that the students present in the development of the same, which are followed individually in each one developing other activities that can overcome the deficiencies. It is important to pay attention to the fulfillment of the objectives of each teaching activity, which will allow this and the students to know the progress of the experience and to make the pertinent adjustments during the course of the semester and how the contents of the subject are assimilated.

Competency-based learning requires a varied evaluation system, so the evaluation of the results of the model will be given at two levels: in professional training through individual and/or group tutoring; review of papers and projects; control of project presentations or parts of projects; feedback of exercises and their resolution (cases, problems, among others) and in the practice of the profession, it will be measured through the existence of socio-legal research groups, formed by graduates of the School of Law of the National University of Tumbes, trained with this model. The groups must show verifiable results as a product of the projects they develop. Likewise, scientific publications in the legal and socio-legal area and the social impact generated by their research will be taken into account, an inquiry that is of great relevance to review the social use of research knowledge.

CONCLUSIONS

The methodological model required for the professional training of lawyers in their various fields of professional action, should be based on the research function in the teaching-learning process, having as theoretical foundations the competency-based approach, the critical-humanistic teaching and the theory of active education, the same that complement each other.

Purizaga-Sorroza, M. A., Campos-Ugaz, W. A. ., Campos-Ugaz, O. ., Hernandez, R. M., & Garcia Flores, L. A. . (2022). Methodological Model for the Research Function in the Professional Training of Lawyers.

The characteristics of a lawyer trained under this methodological model based on the investigative function, will be easily recognizable: with excellent ability to reproduce texts and legal rules with enough fidelity; use of a fluent language; facility to integrate into multidisciplinary teams and creative in proposing solutions to specific cases. In other words, we will have young lawyers who are up to the tasks expected of them.

With the proposed model, the teacher becomes a guide for his students' learning, resulting in a much more active role on the part of the students, for this it is essential that the teacher implements activities aimed at developing research skills in the teaching-learning process and that will help the student to have direct contact with reality and find answers in accordance with their training and criteria to the problems that occur in the country.

The proposed methodological model allows the strengthening of scientific competencies in the training processes in law schools, which would constitute one of the most significant changes in legal education and would allow a broad impact on the public sphere.

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