

2017

The Regulation of Legal Education and the Legal Profession in Mexico: An Ongoing Battle

Ximena Medellin Urquiaga

Recommended Citation

Ximena Medellin Urquiaga, *The Regulation of Legal Education and the Legal Profession in Mexico: An Ongoing Battle*, 50 INT'L L. 425 (2017)
<https://scholar.smu.edu/til/vol50/iss3/4>

This Symposium is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in International Lawyer by an authorized administrator of SMU Scholar. For more information, please visit <http://digitalrepository.smu.edu>.

The Regulation of Legal Education and the Legal Profession in Mexico: An Ongoing Battle

XIMENA MEDELLÍN URQUIAGA¹

During the past forty years, Mexico has experienced a process of modernization and openness to external actors. It has become an enthusiastic participant in different international fora, actively promoting globalization in political, social, and economic spheres. Mexico has also updated its own national legal system to become more competitive and attractive to foreign investment. Structural constitutional reforms have combined with international agreements, transparency laws, and institutional building in areas such as human rights, electoral processes, and economic competition. The overall image is that of a healthy and sustainable state, with a solid juridical framework, and a thriving legal community.

Despite these positive developments, Mexico is a country where inequalities still permeate all aspects of its social, political, and economic life. Inequalities also affect the legal profession, seriously endangering individual rights of access to justice, due process guarantees, and ultimately, *Estado de Derecho*.

For example, during a recent Congressional hearing on the regulation of lawyers, it was argued that the quality of legal services can substantially fluctuate from one legal field to another.² There are also noticeable variations in opportunities to access qualified legal representation throughout different regions in the country.³ Clients in Mexico City may have a greater choice from among a wide range of professionals. This may not be the case in other states and even less so in rural communities.⁴ There can also be a sharp difference in professional fees associated with, but not necessarily correlated to, the quality of legal services. Good lawyers will normally be more expensive, leaving vast sectors of the population without adequate representation. Bearing in mind the intricate nature of the Mexican legal system, the lack of legal assistance has become a serious obstacle in gaining access to justice for most people.

1. Assistant Professor of Law at Centro de Investigación y Docencia Económicas (CIDE), Mexico City. Coordinator of the Law Degree Program at CIDE.

2. Public congressional hearing on the Promotion of Quality Legal Professional Services, PDF format, http://www.senado.gob.mx/comisiones/puntos/constitucionales/docs/Audiencias/AudienciasPD_version090915.pdf (last visited Oct. 20, 2016).

3. *Id.*

4. *Id.*

Amidst an ongoing debate on the regulation of lawyers in Mexico, this paper explores some relevant features of the juridical framework governing both legal education and legal practice. In particular, this paper analyzes the possible relationship between such regulation and some prevailing problems with legal services in Mexico. This paper does not suggest that regulation is the sole determining factor of the said problems; rather, it argues that regulation can be an influential element. Thus, debates on social conflicts associated with the operation of the legal system ought to consider how the ways in which lawyers are regulated can perpetuate shortcomings and exacerbate such conflicts.

This paper is divided into four main sections. The first is devoted to analyzing the regulation of legal education. This section also includes a general review of the current state of law schools in Mexico. The second section is focused on regulation of the legal profession. It also explores some current debates on reform of the legal framework for regulating lawyers. The third section offers some general information about the Mexican regulation on transnational lawyering. The last section presents some general conclusions.

I. Regulation of Legal Education in Mexico

Recent academic studies have examined in detail the development of legal education in Mexico over the last forty years.⁵ This paper does not attempt to duplicate those studies, but rather aims at connecting some problems associated with legal education in Mexico to its legal framework. The premise is that the rules governing legal education are inadequate to assure the appropriate operation of law schools. Given the importance of legal education, guaranteeing its quality is a social imperative. Deficiencies in the training of law students will negatively influence professional practice and, in turn, may perpetuate inherent problems of the legal system.

A. GENERAL BACKGROUND

One distinctive characteristic of the Mexican context is the disproportion between the number of law schools and the total population. The *Centro de*

5. See, e.g., Ayllón, Sergio López y Fix-Fierro, Héctor, "Cambio jurídico y autonomía del derecho: un modelo de la transición jurídica en México," *Estado de derecho y transición jurídica*, 2002; Serna de la Garza, José María y Juárez, José Antonio Caballero, "Estado de derecho y transición jurídica", *Universidad Nacional Autónoma de México*, 2002, p. 112; Ayllón, Sergio López y Fix-Fierro, Héctor, "¿Tan cerca, tan lejos! Estado de derecho y cambio jurídico en México (1970-2000, UNAM, 2000; Fix-Fierro, Héctor, "Culturas Jurídicas Latinas de Europa y América en Tiempos de Globalización", 2003, p. 565; Lever, Lorenza Villa, "Modernización de la educación superior, alternancia política y desigualdad en México", 2013, p. 81; Ayllón, Sergio López y Fix-Fierro, Héctor, "Del gobierno de los abogados al imperio de las leyes: estudios sociojurídicos sobre educación y profesión jurídicas en el México contemporáneo", 2006, p. 5; Hurtado, Luis Fernando Pérez, "Content, Structure, and Growth of Mexican Legal Education," *Journal of Legal Education*, May 2010.

Estudios sobre la Enseñanza del Derecho y el Aprendizaje del Derecho (Center for Studies on Legal Education and Law Learning) has estimated that in 2013 there was one law school for every 69,861 inhabitants.⁶ Such disproportion is a direct consequence of the exponential increase in law schools established in Mexico during the past forty years. According to recent studies, in 1979 there were only ninety-seven law schools and 58,000 law students. Those same studies estimate that by 2003, the number of law schools had risen to 526 and, at the same time, the number of law students was close to 200,000.⁷ This trend continued over the next decade.

Although there is no official database on the exact number of law schools currently operating in Mexico, at a recent Congressional hearing, the General Secretary of the *Asociación Nacional de Universidades e Instituciones de Educación Superior-ANUIES* (National Association of Universities) affirmed that by 2014-2015 there were approximately 945 public or private institutions legally entitled to issue law degrees. He also highlighted the stunning increase in the number of law students, which by the same period amounted to over 329,000.⁸ But somewhat different figures have been presented by the Center for Studies on Legal Education and Law Learning. According to their analysis, by 2013 there were over 1,608 institutions offering a law degree and/or other equivalent degrees (such as international law and international commerce).⁹ The same report concluded that around ninety-five percent of law schools currently operating in Mexico are private institutions.¹⁰ On the other hand, the Center reported less students, in comparison with ANUIES's figures.¹¹

This variation in numbers may be explained by methodological divergences. In the absence of an official database, it is difficult to conclude which of these figures is more accurate. This, of course, is a problem in itself. Nonetheless, there is an undeniable conclusion: Mexico has experienced a phenomenal increase in the number of law schools. The Center for Studies on Legal Education and Law Learning estimates that in

6. Las escuelas de Derecho en México, Centro de Estudios sobre la Enseñanza y el Aprendizaje del Derecho, A.C., HTML Format, <http://www.ccead.org.mx/art%C3%ADculos-de-investigaci%C3%B3n.html> (last visited Sept. 20, 2016).

7. Saavedra, Camilo, "Aprender la Constitución. Un análisis sobre la enseñanza del derecho constitucional en México a partir de los planes de estudio de 25 instituciones de educación superior," *Revista del Centro de Estudios Constitucionales*, núm. 2.

8. Public congressional hearing on the Promotion of Quality Legal Professional Services, *supra* note 2.

9. Las escuelas de Derecho en México, *supra* note 6. For a complete list of all relevant institutions identified by the Center for Studies on Legal Education and Law Learning, see <http://www.ccead.org.mx/base-de-datos.html> (last visited Nov. 22, 2016).

10. See Public congressional hearing on the Promotion of Quality Legal Professional Services, *supra* note 2; Hurtado, *Content, Structure and Growth of Mexican Legal Education*, *supra* note 5, at 567.

11. Las escuelas de Derecho en México, *supra* note 6.

the past ten years, three law schools have been established every week throughout Mexico.¹²

Some of the problems described above intensify because of a particularly formalistic approach to legal education that still prevails in most institutions. Law students are primarily expected to learn statutory rules and some binding judicial criteria established by federal courts.¹³ In general, legal training does not focus on legal skills.¹⁴ Such drift facilitates the operation of law schools that do not have the institutional or personnel capabilities to prepare students to address complex legal problems through innovative and effective arguments. Individuals with little preparation for the role of law professors can become responsible for teaching law students, despite their own professional or academic shortcomings.¹⁵ Although there are some ongoing debates about the need for a profound reform of legal education in Mexico, concrete initiatives are still isolated efforts by specific institutions.¹⁶ Furthermore, there is no consensus on what such reform should mean or include. Thus, reform of legal education has not been a focal point in the current debate about legal profession. The unfortunate result is a progressive deterioration of the foundations for the operation of any legal system: the capabilities of its own lawyers and judges.

B. REGULATION OF LEGAL EDUCATION IN MÉXICO

The problems associated with legal education in Mexico may be at least partially located in the governing regulatory regime. As a starting point, it is important to emphasize that there is no specific national or state legislation on legal education. Instead, such matters are regulated by general norms on higher professional education.

12. *Id.*

13. A particular characteristic of the Mexican legal system is the concept of *jurisprudencia*, as an autonomous source of law, different from and additional to statutory law and judicial decisions. Once a federal court has ruled over a constitutional remedy, it can select specific paragraphs or sections of the decision that contain relevant criteria. Then, such paragraphs become of public domain after been published in *Semanario Judicial de la Federación* (Federal Judicial Weekly Report). If the same criterion is used five or more times in different decisions by the same court, it becomes binding to all lower courts. A distinction between case-law and *jurisprudencia* is that the latter focuses only on the judicial criteria established by federal judges, without referencing the relevant facts of the case. Thus, *jurisprudencia* becomes another abstract and general norm, similar to statutory law. For further information about Mexican *jurisprudencia*, see for instance, José María Serna de la Garza, *The Concept of Jurisprudencia in Mexican Law* 131 (Mexican Law Review I-2, 2009).

14. López Ayllón & Fix-Fierro, *¡Tan cerca, tan lejos!*, *supra* note 5; Fix-Fierro, *et. al.*, *Culturas Jurídicas Latinas de Europa y América en Tiempos de Globalización*, *supra* note 5.

15. *Id.*

16. See, e.g., Magaloni, Ana Laura, "Cuellos de Botella y Ventanas de Oportunidad de la Reforma a la Educación Jurídica en México de Élite," *Del gobierno de los abogados al imperio de las leyes*, cit.; Fix-Fierro, Hector, *Del Gobierno de los Abogados al Imperio de las Leyes. Estudios sociojurídicos sobre educación y profesión jurídicas en el México contemporáneo*, 1a. ed., Mexico, Universidad Nacional Autónoma de México, 2006.

The basic requirement to operate a law school in Mexico is incorporation to the *Sistema Nacional Educativo* (National Education System), as defined by the *Ley General de Educación* (National Education Act).¹⁷ All public universities become part of the system immediately after they are established by law. On the other hand, to be incorporated to the National Educational System, private institutions must apply to the General Office for Professional Practice at the Ministry of Education for *reconocimiento de validez oficial de estudios* (official recognition of valid studies).¹⁸ In general terms, only those institutions which are members of the said system can issue valid degrees in professional occupations, including law.¹⁹

Formal requirements to obtain an official recognition of valid studies are fairly general and they are applicable to all forms of private education, from primary schools to professional programs. According to article 55 of the National Education Act, applicants must prove they have (i) qualified personnel; (ii) appropriate facilities which can meet health, security, and “pedagogical” needs; and (iii) curricula deemed adequate by federal or state authorities. In practice, assessment of the relevant requirements is mostly a perfunctory process, with no substantive evaluation of the institutional capabilities to train individuals in specific professional fields. Authorization is limited to individual programs in specific localities.²⁰ In other words, private institutions will have to apply for an independent official recognition of valid studies for every single program, in each campus.

Once an institution has obtained official recognition of valid studies, a non-binding periodic evaluation is left to a private association: The *Consejo para la Acreditación de la Educación Superior—COPAES* (Council for Accreditation of Higher Education).²¹ This Council has a specific branch for law schools, known as the *Consejo Nacional para la Acreditación de la Educación Superior en Derecho—CONAED* (National Council for Accreditation of Higher Law Education). Accreditation by this organization is based on a self-evaluation process. Law schools must submit a work plan

17. Ley General de Educación [LGE] art. 10, Diario Oficial de la Federación [DOF] 13-7-1993, últimas reformas DOF 22-03-2017 (Mex.).

18. *Id.* at art. 54.

19. For further details on the legal framework governing creation and operation of law schools in Mexico, see Luis Fernando Pérez Hurtado, *Content, Structure, and Growth of Mexican Legal Education* 567 (Journal of Legal Education, May 2010).

20. Ley General de Educación, *supra* note 18.

21. See COUNCIL FOR ACCREDITATION OF HIGHER EDUCATION, <http://www.copaes.org/> (last visited Sept. 2016). The Council is the only private institution authorized by the Ministry of Interior to carry out evaluation process of universities and professional schools. It was created based on a recommendation of the National Association of Universities. The Ministry of Education, the National Association of Universities and other professional associations compose the Council's General Assembly, including the Mexican Bar Association. Such association is one of the most important lawyer's professional organizations in Mexico, although it is not the only one. Thus, its participation in the Council for Accreditation of Higher Education may provide a distinctive advantage, in comparison to other national or local professional associations for lawyers.

and complete a questionnaire designed by the Council.²² Payment of relevant fees is also a *sine qua non* requirement. In addition to the self-evaluation questionnaire, the accreditation process before CONAED includes the participation of an external review panel. The Council will convene this panel from a predetermined pool of lawyers (not necessarily law professors) to assess specific aspects of the questionnaire. There is no detailed public information about the external review panel, nor about its composition or powers. Thus, it is difficult to predict how much participation or influence such panel could have in a particular review process. From a transparency perspective, there should be enough public information to allow any person to assess the accreditation process before CONAED. Without this, there is a greater risk of manipulation and discretion on the process.

But as previously mentioned, evaluation before the Council is not legally required for the operation of a law school.²³ Currently, the Council has only certified sixty-one law schools out of the total universe of private and public institutions in Mexico.²⁴

This general review of regulation of legal education in Mexico highlights some of its most fundamental problems. The unprecedented increase in the number of private law schools is directly related to legal requirements which are easy to meet and do not necessarily guarantee quality. Without a functional educational scheme, markets are flooded with lawyers who will replicate, and possibly aggravate, the system's characteristic inadequacies.

II. Regulation of the Legal Profession in Mexico

Lawyer regulation in Mexico is not a new phenomenon. In fact, there is a long history. In 1853, Federal Congress adopted a statute containing detailed regulation of all forms of legal practice.²⁵ These included judges, clerks, and lawyers. For practitioners, such as litigators, federal legislation ordered mandatory affiliation with professional associations.²⁶ It also established a form of professional certification by means of a rigorous examination by local or federal supreme tribunals. Despite its historic significance, the said federal statute emphasized qualifications required to

22. See INSTRUMENTO DE AUTOEVALUACIÓN 2015, PDF format, <http://www.conaed.org.mx/INSTRUMENTO%20DE%20AUTOEVALUACION%202015.pdf> (last visited Sept. 2016).

23. The accreditation process before the Council is different from evaluation before the Ministry of Education, as established in article 55 of the National Education Act. The latter is a one-time assessment, required in order to become part of the National Education System. On the other hand, evaluation by the Council is a periodic process, aiming at guaranteeing quality of education services.

24. See INSTITUCIONES ACREDITADAS POR CONAED, HTML format, <http://www.conaed.org.mx/programas.html> (last visited Oct. 2016).

25. Ley para el arreglo de la administración de justicia, PDF format, <http://bibliohistorico.juridicas.unam.mx/libros/2/999/34.pdf> (last visited Sept. 2016).

26. *Id.* at arts. 283-308.

practice law without addressing issues related to ongoing competence, disciplinary procedures, or accountability mechanisms.

In 1875, mandatory affiliation was terminated as a requirement for legal practice in Mexico. Nonetheless, the system continued, allowing for the creation of voluntary professional associations. By 1970, there were three major national bar associations: (i) the *Ilustre y Nacional Colegio de Abogados de México* (1760); (ii) the *Barra Mexicana, Colegio de Abogados* (Mexican Bar Association) (1922); and (iii) the *Asociación Nacional de Abogados de Empresas* (National Association of Lawyers for Business) (1970). These national professional associations still exist today. They are complemented by an undetermined number of local organizations, created and recognized by state law. But despite their long history, these lawyers' professional associations are widely perceived as primarily social networks, with little impact on the actual regulation of legal practice in Mexico. There is no official information on the total number of lawyers currently affiliated with national or local associations.

A. CURRENT REGULATION OF LEGAL PRACTICE IN MEXICO

Regulation of legal practice in Mexico is characterized by its fragmentation and incoherence. Different federal and local statutes regulate specific aspects of the legal profession.²⁷ At the same time, codes of ethics have been left to the realm of private organizations. Although the coexistence of multiple state and non-state regulators is not uncommon or necessarily problematic, there are conspicuous inconsistencies in how they operate. For example, crucial aspects of legal practice, such as exceptions to client-lawyer confidentiality or responsibility for negligent discharge of professional duties, are regulated with distinctively different standards in state law and private codes. This confusing scenario results in several contradictions and legal loopholes, which for all practical purposes, result in quasi-deregulated legal practice.

But there are some distinctive exceptions to this unfortunate state of affairs. Public notaries, as well as *corredores públicos* (commercial notaries), are subject to stricter regulation. These particular forms of legal practice entail *fe pública* (public faith) as a means of official certification of documents

27. Commonly, discussion, commentaries, and analysis on professional practice in Mexico are only based on reference to the *Professional Practice Act for Mexico City*. Although this statute was indeed adopted by the Federal Congress, it is not a federal or national law. According to the Mexican Constitution, Federal Congress has been vested with powers to pass legislation applicable within Mexico City. Nonetheless, as mentioned before, such legislation is not federal in nature. That would be a misconstruction of the Mexican legal system. In fact, there are thirty local acts on professional practices, adopted by the legislators in several Mexican states. None of them refer specifically to lawyering, but still define the general framework for practicing law in the country. Consequently, a detailed analysis on the regulation of the legal profession ought to consider all these statutes, not only the *Professional Practice Act for Mexico City*.

and legal transactions.²⁸ Public notaries are even empowered to intervene in family law matters, including divorces. There is, therefore, an imperative public interest in regulating the exercise of such powers. A public notary's patent can be revoked based on breach of their obligations, thereby disqualifying particular individuals from ever again engaging in this form of practice.²⁹

Beyond these exceptions, legal practice in Mexico is based on a licensing scheme. The foundation of such scheme is a law degree, which as I have explained, must be issued by a State university or a private institution with official recognition of validity of studies. The relevant diploma must be registered with the Ministry of Education. In turn, the Ministry will issue a formal accreditation of individual studies by means of a *cédula profesional*. In broad terms, this identification card serves as official evidence of professional training in particular fields, not limited to law. The card assigns each professional a unique identification number, which should be referenced in all documents related to professional practice, including medical prescriptions, architectural blueprints, or law suits.

A *cédula profesional* is valid throughout Mexico. This means that lawyers can practice law without any jurisdictional limitations, even if the relevant degree was issued by a local institution or university. Lawyers do not have to prove actual knowledge of local law before intervening in legal matters in a particular state, despite the fact that state regulation in areas such as family or criminal law can vary substantially from jurisdiction to jurisdiction.

As mentioned previously, a *cédula profesional* is an equivalent to occupational licensing that does not require affiliation to a professional association to practice law throughout Mexico. In spite of the fact that lawyers in Mexico are not obliged to be part of a professional association, several local regulations of professional practice rely on them for important purposes. Depending on the jurisdiction, such associations may be empowered to set guidelines and criteria on issues such as: professional fees, conflicts of interest, justified abandonment of legal representation, marketing, advertising, and professional secrets and privilege. In other cases, local statutes (instead, or in addition to, private codes of ethics) govern these same matters, although with different standards.

Some specific examples may shed light on the practical implications of such normative disparity. With respect to professional secrets, some state statutes establish that professionals are obligated to keep in confidence all

28. See, e.g., Ley del Notariado para el Distrito Federal, arts. 42, 166, Diario Oficial de la Federación [DOF]; Ley del Notariado del Estado de Jalisco, art. 80, Diario Oficial de la Federación [DOF]; Ley del Notariado del Estado de Michoacán, art. 3; Diario Oficial de la Federación [DOF]; Ley del Notariado del Estado de Puebla, arts. 11-13, Diario Oficial de la Federación [DOF].

29. See, e.g., Ley del Notariado para el Distrito Federal, *supra* note 28, at arts. 197, 229; Ley del Notariado del Estado de Jalisco, *supra* note 28, at arts. 154-156; Ley del Notariado del Estado de Michoacán, *supra* note 28, at arts. 113, 116; Ley del Notariado del Estado de Puebla, *supra* note 28, at arts. 142, 175.

communications with their clients, with the exception “of mandatory reports required by law.”³⁰ But in other local legislation, the exceptions to such obligations are significantly broader.³¹ In addition to state law, codes of ethics of professional associations, which also set forth lawyer-client confidentiality rules, expand its scope to cover all communications with third parties and colleagues, without requiring direct connection with a client’s business.³² Such confusion is replicated in matters such as conflicts of interest or professional fees.³³

In sum, the current regulation of professional practice in Mexico is fragmented to such a degree that it is dysfunctional. Relevant rules can be established in specific local statutes, codes of ethics, or additional criminal, civil, or procedural legislation. As a consequence, it is not easy to determine the scope of lawyers’ obligations, or even rights, which are fundamental for the legitimate discharge of professional practice.

B. LAWYERS’ RESPONSIBILITIES AND ACCOUNTABILITY MECHANISMS

In addition to the articulation of substantive norms, the comprehensive regulation of legal practice must include specific forms of liability and/or responsibility, as well as enforcement or accountability mechanisms. In Mexico, those features are also affected by the system’s inconsistencies and contradictions.

Mexican law does not provide any specific means of professional liability or disciplinary procedures. Conflicts related to legal practice, such as negligence, malpractice, or wrongdoing, can instead lead to criminal responsibility or civil liability. Lawyers responsible for breaching their legal

30. Ley del Ejercicio Profesional de la Ciudad de México, art. 36, Diario Oficial de la Federación [DOF]; Ley del Ejercicio Profesional del Estado de Jalisco, art. 8 § III, Diario Oficial de la Federación [DOF].

31. According to article 42 of the *Ley del Ejercicio Profesional del Estado de Querétaro* (Professional Practice Act for Queretaro), professionals will not be obligated to keep in confidence any information transmitted by their clients if: (i) they are expressly dispensed by the client itself; (ii) the professional suffers a grave and unjustified attack by its client and needs such information to defend its interests; (iii) there is a judicial decision. See Ley del Ejercicio Profesional del Estado de Querétaro, art. 42, Diario Oficial de la Federación [DOF].

32. Código de ética de la Barra Mexicana, Colegio de Abogados arts. 10-12, Diario Oficial de la Federación [DOF]; Código de ética de la Asociación Nacional de Abogados de Empresas, arts. 10-12, Diario Oficial de la Federación [DOF]. The Code of Ethics of the Ilustre y Nacional Colegio de Abogados de México sets different standards on this same matter. As set forth in article 2 §3, professional secret covers all communications and information transmitted by the client or third parties, as long as it refers to the client’s business. In other words, there is no general rule of secrecy to all third parties or colleagues, as it is established in the codes of ethics of the other national professional associations. In addition, the Code of Ethics of the Ilustre y Nacional Colegio de Abogados de México includes two different exemptions to professional secret: (i) litigation on professional fees; and (ii) voluntary confession by the client on his/her intention to commit a crime in the future. Código de ética del Ilustre y Nacional Colegio de Abogados, art. 2 §3, Diario Oficial de la Federación [DOF].

33. Ley del Ejercicio Profesional de la Ciudad de México, *supra* note 30, at arts. 31 and 32.

obligations may be sanctioned with imprisonment, fines, or compensatory damages but, in general, will not be barred from the practice of law. In fact, in Mexico, no form of responsibility or liability can result in permanent disqualification. Only specific crimes can result in the temporal suspension of professional practice as punishment. Thus, even lawyers who may be found criminally responsible would still be able to practice law in the future. Likewise, because membership in a professional association is not mandatory, expulsion resulting from a breach of a code of ethics would not impair future practice.

Within this general framework, it is important to underline that some of the actions punishable under Mexican criminal law include: (i) knowingly submitting false evidence into court or alleging statutes which are not in force; (ii) attempting notoriously unfounded defenses or remedies; (iii) representing opposing parties at the same time or successively; (iv) unjustified abandonment of the legal representation of a client; and (v) failing to submit all relevant evidence in criminal cases.³⁴

Although criminal procedure can be considered an accountability mechanism, it has not proven to be a particularly adequate instrument to protect clients' interests. Between 1997 and 2012, less than 1,500 lawyers were prosecuted at the federal or state level for offences related to their professional practice.³⁵ These figures represent only a minuscule percentage of the total number of lawyers practicing law in Mexico.

In addition, it is worth noting that criminal law in Mexico is still dominated by the notion of corporal punishment as means of public retribution. Thus, compensatory reparations for victims of a crime are commonly relegated to a secondary place in criminal procedures. Despite recent constitutional and legislative reforms aiming to strengthen the role of victims within criminal procedure, in reality, clients may not obtain adequate compensation or integral reparation in case of criminal professional wrongdoing by their lawyers.

Parallel to criminal law, Mexican federal and state law provides a civil action in a case where one person causes damage to another, as a direct result of the intentional or negligent conduct of the former.³⁶ This could potentially be an additional way to enforce a lawyer's responsibilities. But, the client would have the burden of proof. Furthermore, it is important to stress that Mexican law normally limits civil remedies to compensatory

34. Código Penal Federal [CPF], arts. 231-233, Diario Oficial de la Federación [DOF], 14-08-1931, últimas reformas DOF 23-01-2009 (Mex.). Since criminal law in Mexico is a concurrent jurisdiction, local criminal codes may include other offences specifically directed at lawyers.

35. Encuesta Nacional de Victimización y Percepción sobre Seguridad Pública, PDF format, http://www.beta.inegi.org.mx/contenidos/proyectos/enchogares/regulares/envipe/2016/doc/envipe2016_zac.pdf (last visited Sept. 2016).

36. See, Código Civil Federal [CC], art. 1910, 31-08-1928, Diario Oficial de la Federación [DOF], últimas reformas DOF 24-12-2013 (Mex.); Código Civil para el Distrito Federal, art. 1910, 26-5-1928, Diario Oficial de la Federación [DOF].

damages. Only in exceptional cases, not related to professional responsibility, have courts ordered punitive damages.

It must also be noted that the codes of ethics of the Mexican Bar Association and the National Association of Lawyers for Business call for lawyers to spontaneously admit their negligence, malpractice, or wrongdoings, to accept their responsibility, and to proceed to compensate any damages caused to clients.³⁷ In addition, the codes of ethics of the three national associations set forth the duty of every lawyer to notify the relevant association in the case of any professional misconduct by another lawyer.³⁸ Disciplinary procedures are only regulated in detail by the guidelines established by the Mexican Bar Association; none of the other associations have a similar document.³⁹ Nonetheless, according to the statute of the said association, its Board of Honor may entertain complaints against its members, the members of other professional associations, as well as the judiciary.⁴⁰ Sanctions may vary from a simple warning, temporary suspensions from the association, or recommendation to the General Assembly for definite expulsion.⁴¹ There are not public resolutions or statistics regarding the actual number of lawyers that have been accused of breaching the code of ethics of a professional association. As private institutions, professional associations are not bound by the Mexican transparency law and, thus, are not obligated to make such information available to the public. On the contrary, they are legally obliged to protect all private data that may include information related to disciplinary procedures.

State legislative regimes also provide some means for accountability, although there are important disparities among them. The result is a checkerboard regulatory regime. For instance, according to article 40 of Professional Practice Act for Queretaro, all professionals are obligated to pay damages resulting from their inexperience, negligence, or wrongdoing, *inter alia*.⁴² This law does not provide specific remedies, but only refers in general terms to judicial mechanisms and decisions.⁴³ On the other hand, the Professional Practice Act for Jalisco refers to arbitral procedures in

37. Código de ética de la Barra Mexicana, Colegio de Abogados, *supra* note 32, at art. 29; Código de ética de la Asociación Nacional de Abogados de Empresas, *supra* note 32, at art. 29.

38. Código de ética de la Barra Mexicana, Colegio de Abogados, *supra* note 32, at art. 22; Código de ética de la Asociación Nacional de Abogados de Empresas, *supra* note 32, at art. 2; Código de ética del Ilustre y Nacional Colegio de Abogados, *supra* note 32, at art. 5.9.1.

39. Reglamento de procedimientos para el trámite de quejas ante la Junta de Honor, Diario Oficial de la Federación [DOF].

40. Estatutos de la Barra Mexicana de Abogados, art. 35, Diario Oficial de la Federación [DOF].

41. *Id.* at art. 43.

42. Ley De Profesiones Del Estado de Queretaro, art. 40, 03-08-2009, últimas reformas 05-10-2011.

43. *Id.*

the case of “client’s dissatisfaction.”⁴⁴ It establishes particular rules on specific matters such as arbitrator selection and information, which must be considered when deciding a case.⁴⁵ Alternatively, the Professional Practice Act for Mexico City calls for the participation of an expert witness who would have to determine whether: (i) the professional acted in accordance to “scientific principles and applicable techniques generally accepted in a given profession;” (ii) given the particular characteristics of the case and circumstances, appropriate means were used to represent the client’s interests; (iii) all appropriate measures were taken to guarantee a positive outcome; (iv) the professional devoted all necessary time to the case; and (v) there were any other special circumstances which could have negatively affected discharge of duties and quality of services.⁴⁶ While at first blush this might seem promising, it must be noted that the Professional Practice Act for Mexico City also establishes that if the case is ruled against the client, she or he will have to cover not only professional emoluments and court related expenses, but also may be ordered to compensate the professional for any damages to his or her public reputation.⁴⁷ In practice, such a norm can seriously hinder clients’ actions. Considering the intrinsic information asymmetry between lawyers and clients, it could be difficult for the latter to prove any wrongdoing by the former.

In July 2015, the Mexican Supreme Court of Justice [SCJN] ruled over a case involving an alleged breach of contract and the payment of excessive emoluments with respect to the legal services rendered.⁴⁸ Previously, a lower federal court upheld the client’s free will was impaired due to information asymmetry, and thus, the contract was void.⁴⁹ The SCJN took a different approach and argued that there was a collision between the right to equal protection before the law and free development of personality.⁵⁰ After

44. Ley Para El Ejercicio de las Profesiones del Estado de Jalisco, art. 14, 13-08-1974, últimas reformas 20-11-2012.

45. *Id.* at art. 18. According to this provision, when deciding a case arbitrators must consider if the professional (including but not limited to lawyers): (i) acted with efficiency in accordance with principles, systems, and criteria generally accepted in specific professional fields; (ii) used all adequate materials, instruments, and resources, based on specific characteristics of a case; (iii) adopted all reasonable measures to ensure a positive outcome; (iv) devoted necessary time to discharge his/her obligations; (v) acted based on any agreement reach with clients; and (vi) any other relevant information.

46. Ley Reglamentaria Del Artículo 5o. Constitucional, Relativo Al Ejercicio de las Profesiones en el Distrito Federal, art. 34 §1, Diario Oficial de la Federación [DOF] 26-05-1945, últimas reformas 19-08-2010.

47. *Id.* at art. 35. In general terms, this article establishes that if the arbitration decision or the judgment are averse to the professional, he/she will not be entitled to charge any fees and shall also compensate the client for damages sustained. Otherwise, the customer will pay the corresponding fees, court, or conventional process expenses, as well as compensation for any damage on the professional’s reputation. Other similar local statutes do not provide possible compensation to the professional.

48. Amparo Directo 6055/2014, la Primera Sala de la Suprema Corte de Justicia de la Nación.

49. *Id.*

50. *Id.*

considering the relevant facts, the SCJN concluded that there was not substantive disparity between the contracting parties (i.e., the client and her lawyers) that could justify a limitation to their contractual autonomy (as part of the right to free development their personality).⁵¹

The fact that the case was finally decided based on constitutional law, instead of other rules governing the professional practice of lawyers, has important implications. The standard established by the SCJN may prove difficult to replicate in other cases, and it certainly does not answer some of the most pressing questions regarding the Mexican legal framework on legal professional services.

Beside this case, it is difficult to identify other relevant judicial decisions, either by the SCJN or by other federal courts. The lack of applicable precedent and clear judicial interpretation further complicates the operation of a regulatory scheme full of legal loopholes.

C. CURRENT DEBATES ON REGULATION OF THE LEGAL PROFESSION IN MEXICO

The lack of a comprehensive regulatory regime for the legal profession has led some practitioners and scholars to advocate for a complete renovation of the juridical framework governing lawyering in Mexico.⁵² The key ideas were to (re)incorporate mandatory association and develop certification mechanisms.⁵³ The specific proposal was twofold. It included a series of constitutional amendments, as well as a national law regulating different aspects of lawyering.⁵⁴

According to the proposed constitutional provisions, Federal Congress would be empowered to determine the conditions required for professional practice, including mandatory association, periodic certification, or occupational licensing.⁵⁵ Those same provisions would allocate to professional associations the role of governors of professional practice.⁵⁶ In order to achieve this outcome, article 28 of the Mexican Constitution would incorporate professional associations as an explicit exception to the constitutional anti-trust clause.⁵⁷ This regulation would not be limited to

51. *Id.*

52. See, e.g., Oscar Cruz Barney, *Una Ley General de la Abogacía Mexicana*, 27 *HECHOS Y DERECHO* (2015), <https://revistas.juridicas.unam.mx/index.php/hechos-y-derechos/article/view/7244/9180>.

53. Cervantes Andrade, Raúl, “*Iniciativa con proyecto de Decreto por el que se reforman los artículos 5º, 28 y 73 en materia de Colegiación y Certificación Obligatorias*”, *GACETA DEL SENADO*, vol. LXII, núm. 2SPO-86/45808, Feb. 20, 2014, p. 1, available at http://infosen.senado.gob.mx/sgsp/gaceta/62/2/2014-02-20-1/assets/documentos/Inic_PRI_Reforma_Constitucional.pdf.

54. *Id.* at 1, 6.

55. *Id.* at 10.

56. *Id.*

57. *Id.* at 9.

lawyers, but could also apply to other professions, if the Federal Congress so decided.⁵⁸

In addition to these constitutional amendments, the new regulatory framework for legal practice in Mexico would be complemented by a national (general) law called the *Ley General de la Abogacía Mexicana* (Mexican Lawyering Bill) [MLB].⁵⁹ Although advocates for the new system publicly presented a Bill of the said act, it was not formally submitted for legislative discussion in Congress. Nonetheless, this Bill became the focal point of public debates on the matter. Thus, it is important to examine some of its main features.

In contrast to current regulation, the MLB established a system based on mandatory affiliation to professional associations, as well as periodic certification through non-state institutions.⁶⁰ All lawyers in private practice would have to become members of a professional association to practice law.⁶¹ This requirement would apply even if they were not representing clients in court, but only providing consultancy services.⁶² In contrast, lawyers in the public sector, including prosecutors and public defenders, would be excluded from affiliation and certification requirements.

The MLB also defined some of the most relevant entities of the new scheme. In this regard, bar or professional associations of lawyers were described as private entities of public interest, which by means of individual affiliation group together, in a non-transitory way, those lawyers who exercise the legal profession.⁶³ According to the same MLB, the goal of these associations would be the improvement, monitoring, defense, and proper exercise of the profession as means to protect the right of access to justice of all individuals.⁶⁴ The MLB also established a maximum number of professional associations permitted at the national and state level,⁶⁵ and it set forth specific requirements which any organization would have to meet in order to be recognized as a national or local professional association.⁶⁶

By law, professional associations would be authorized to take all necessary actions to fulfill their mandate. Those powers would include adopting norms

58. *Id.*

59. *Ley General de la Abogacía Mexicana* (2015), <http://renace.org.mx/renace2015/wp-content/uploads/2015/12/Ley-General-de-la-Abogac%C3%ADa-Mexicana-PROYECTO-FINAL.pdf>.

60. *Id.* at art. 3.

61. *Id.* at art. 56.

62. *Id.* at art. 7.

63. *Id.* at art. 25.

64. *Id.* at arts. 26 and 27.

65. *Ley General de la Abogacía Mexicana*, *supra* note 59, art. 41, 48. According to articles 41 and 48, there could be no more than five national bar associations and the same number of local bar associations of each of the thirty-two federal states.

66. *Id.* at art. 39. Essential requirements for recognition as a professional association (*colegio*) include: (i) evidence of service in favor of lawyering, such as scientific publications, seminars, training courses, conferences, and other academic activities; (ii) a code of ethics; and (iii) minimum number of members.

governing professional practice of lawyers (such as codes of ethics),⁶⁷ as well as taking actions to defend their members' interests and rights before private and public actors.⁶⁸ In other words, professional associations would control and defend lawyers at the same time.

Furthermore, professional associations would be entitled to carry out disciplinary procedures and to sanction lawyers. According to the MLB, relevant sanctions may include: (i) a private and oral warning; (ii) a written warning; (iii) a recommendation to state institutions for disqualification from legal practice for a period not exceeding two years; or (iv) an expulsion from the relevant association, with a recommendation for revocation of the patent to exercise the corresponding administrative or judicial authority.⁶⁹

In addition to professional associations, the MLB provided for the creation of certification agencies or entities. As well as professional associations, certification entities are private institutions of public interest.⁷⁰ In order to be recognized as a certification entity, private institutions must have certification plans and instruments, adequate facilities, material, and human resources as well as "economic support" (not financial resources) in the amount determined by the relevant authorities.⁷¹

In general terms, private lawyers would be required to undergo an initial certification process no more than five years after their affiliation to a professional association.⁷² Afterwards, they would have to renew their professional certification every five years.⁷³ Lawyers would not be able to be recertified if their own professional association had sanctioned them.

A third relevant actor within the proposed scheme is the Comisión Interinstitucional de Colegiación y Certificación de la Abogacía (Interinstitutional Commission for the Association and Certification of Lawyering) [CICCA]. The main mandate of the Commission is to serve as a control mechanism for the certification entities.⁷⁴ In other words, the Commission would decide whether an entity had, in fact, the capabilities to certify lawyers as the MLB requires. The decision of the Commission would have to be confirmed by the General Office for Professional Practice at the Ministry of Education.⁷⁵

67. *Id.* at art. 26 §§I, IV-V, 27 §§I-III, 30-32.

68. *Id.* at art. 26 §VI, 26 §XIV, 26 §XVIII, 27 §IV. In accordance with articles 26 and 27, lawyer's professional associations would be responsible for (i) defending the rights and interests of their members (article 26 §VI); (ii) acting as mediators or arbitrators in conflicts among lawyers and/or between them and their clients (article 26 §XIV); (iii) sanctioning their members in case of any breach of their codes of ethics (article 26 §XVIII); and (iv) informing authorities of any illegal conduct carried out by one of their members (article 27 §IV), among others.

69. *Id.* at art. 36.

70. *Id.* at art. 71.

71. Ley General de la Abogacía Mexicana, *supra* note 59, art. 72.

72. *Id.* at art. 81.

73. *Id.* at art. 80.

74. *Id.* at art. 7 §V.

75. *Id.* at art. 10 §I.b.

The relationships among these various institutions are quite intricate. At the center of it are the professional associations. While such institutions can also function as certification entities, they may likewise intervene in the validation processes of other organizations as certifiers.⁷⁶ As mentioned before, they are also responsible for controlling, sanctioning, and representing lawyers in all matters related to professional practice.⁷⁷ In addition, professional associations could also participate in designing and reviewing law schools' curricula.⁷⁸

A detailed review of the MLB reveals several key points. First, it is clear that professional associations would have a prominent place in the new scheme. They would not only be able to govern legal professional services in Mexico, but also to influence other important actors in the system, including the CICCA, the certification entities, and the law schools.⁷⁹ Second, it is worth emphasizing that most of the obligations established by the MLB refer to the relationship between lawyers and their professional association. Matters related to professional duties towards clients are loosely regulated. Presumably, those provisions would have to be complemented by new codes of ethics, issued by the different professional associations. Nonetheless, bearing in mind the current state of affairs, it would have been preferable to have more detailed regulation, at least in essential issues such as professional secrecy, emoluments, and conflict of interests.

1. *The Anti-Trust Commission Opinion on Mandatory Affiliation*

In February 2016, the Mexican Anti-Trust Commission issued an advisory opinion on the proposed constitutional amendment. As specified by the Commission, the scope of this opinion was limited to the proposal's possible effect on the behavior of the market for legal services, especially with regards to economic competition.⁸⁰ Any other constitutional and legal implications, including potential restrictions to individual freedoms, were not directly or indirectly addressed in the opinion.

From the beginning, the Commission outlined some problems associated with the current regulation of professional practice in Mexico, i.e., the licensing model. On this basis, the Commission concluded that requirements commonly linked with such regulatory schemes tend to set artificial barriers to entry to markets for professional legal services.⁸¹ The

76. *Id.* at art. 14. According to article 14, in order to process any applications of a private institution to function as a certifying entity, the Interinstitutional Commission on Lawyering Mandatory Association and Certification would establish a committee of experts. Professional bar associations, among other relevant actors, can propose those experts.

77. *Id.* at art. 26.

78. *Id.* at art. 26 §XIII.

79. *Id.* at arts. 14, 26 and 75.

80. Comisión Federal de Competencia Económica, Opinión OPN-012-2015 y acumulado, opinion letter (Feb. 3, 2016), <http://www.cofece.mx:8080/cfcre resoluciones/docs/Mercados%20Regulados/V9/1/2415052.pdf>.

81. *Id.*

consequences of such barriers include reduction of supply, an anti-competitive scenario, and increases in the cost of legal services.⁸² The opinion relied heavily on documents produced by third party states' governmental agencies, as well as international organizations.⁸³

Building on this foundation, the Commission turned to the issue of mandatory affiliation. As would be expected, the opinion concluded that this particular form of regulation would create more obstacles to freedom of services, and thus, lead to even greater risks of anti-competitive behavior by relevant actors.⁸⁴ In a particularly provocative conclusion, the Commission stressed that when the regulated actors govern professional associations, they can become means to impair the practice of their competitors.⁸⁵ This concern would be even more serious if the number of professional associations were limited by the legal framework.⁸⁶

The Commission concluded that in the absence of any tangible evidence of a correlation between an expected increase in quality of legal services and the proposed scheme, the identified risks were unjustified and unnecessary.⁸⁷ Therefore, the Commission recommended (i) not to continue with the constitutional amendment process; and (ii) not to adopt a system based on compulsory affiliation of lawyers.⁸⁸

Debate about the MLB decreased significantly after the Commission issued its opinion. In fact, Congressional work on the constitutional amendment and the legislative framework has basically stopped altogether. In this regard, the opinion seems to have marked the end of the mandatory affiliation scheme, at least as it was designed in the previously described proposal. Nonetheless, given the problems also identified in this paper, it is reasonable to think that a new regulatory scheme will be up for debate sooner rather than later. There seems to be a broad consensus about the imperative to improve legal services in Mexico, as well as the shortcomings of the current regulatory regime. Thus, the question is not whether there should be a new legal regime, but what sort of normative scheme would improve legal services without disproportionately impairing freedom of professional practice and competitive behavior of relevant actors.

III. Transnational Lawyering

Transnational lawyering in Mexico is unequally regulated in different local legislations. While some local statutes explicitly forbid practice of foreign

82. *Id.*

83. *Id.* The Commission referred to different reports including Occupational Licensing: A Framework for Policymakers (White House); Competitive Restriction in Legal Professions and Competition in Professional Services (OCDE).

84. *Id.*

85. *Id.*

86. Comisión Federal de Competencia Económica, *supra* note 80.

87. *Id.*

88. *Id.*

lawyers in specific states in Mexico,⁸⁹ most local legislation subjects foreign lawyers to the same licensing scheme as national lawyers.⁹⁰ In other words, a foreign lawyer may practice law in several states throughout Mexico if she or he holds a law degree that is validated, authorized, and registered by federal and/or local authorities.⁹¹

Relevant rules of those statutes vaguely reference international treaties concluded by Mexico, without giving further details.⁹² From the context, it seems reasonable to argue that these statutes defer to any international agreement concluded by federal authorities on the matter. Likewise, the same provisions indicate that if there is no applicable treaty, the professional practice of foreign lawyers will be subject to rules of reciprocity.⁹³

In some exceptions, such as the Professional Practice Act for Chihuahua, professional services by a foreigner are regulated in more detail. According to article 44 of this Act, to practice in such state, foreign lawyers must: (i) be members of a professional association in their native country; (ii) have practiced law for at least five years; (iii) have working knowledge of Spanish; and (iv) submit a recommendation letter from their professional association, attesting that the person has not been subject to any disciplinary procedures, among other requirements.⁹⁴

In addition to state legislation, the code of ethics of the Ilustre y Nacional Colegio de Abogados de México also mentions foreign lawyers. But the relevant provisions deal with the conduct that Mexican lawyers must follow

89. See *Ley del Ejercicio Profesional para el Estado de México*, art. 15, 22-04-1957, últimas reformas 29-01-1976; see also *Ley sobre el Ejercicio de las Profesiones en el Estado de Morelos*, art. 18, 20-12-1967, últimas reformas 18-02-2015.

90. See *Ley Reglamentaria Del Artículo 50. Constitucional, Relativo Al Ejercicio de las Profesiones en el Distrito Federal*, art. 15, *Diario Oficial de la Federación* [DOF] 26-05-1945, últimas reformas 19-08-2010.

91. See *id.* at art. 17. According to article 17 of the said Act, if revalidation is not possible, the authority may establish a system of equivalences. In those cases, professionals (including lawyers) may be required to pass additional tests, as proof of knowledge.

92. See *Ley de Ejercicio de las Profesiones Para El Estado de Baja California*, art. 16, 10-06-1957, últimas reformas 06-09-2002; *Ley de Profesiones del Estado de Aguascalientes*, art. 23, 01-01-2000, últimas reformas 20-03-2000; *Ley de Profesiones del Estado de Nuevo León*, art. 17, 25-07-1984, últimas reformas 22-02-2012; *Ley de Profesiones Para El Estado de Guanajuato*, art. 16, 16-08-1959, últimas reformas 20-12-2005; *Ley Para El Ejercicio de las Profesiones del Estado de Jalisco*, art. 40, 46, 13-08-1974, últimas reformas 20-11-2012; *Ley Reglamentaria Del Artículo 50. Constitucional, Relativo Al Ejercicio de las Profesiones en el Distrito Federal*, art. 15, *Diario Oficial de la Federación* [DOF] 26-05-1945, últimas reformas 19-08-2010.

93. *Ley de Profesiones del Estado de Nuevo León*, art. 17, 25-07-1984, últimas reformas 22-02-2012; *Ley Reglamentaria Del Artículo 50. Constitucional, Relativo Al Ejercicio de las Profesiones en el Distrito Federal*, art. 15, *Diario Oficial de la Federación* [DOF] 26-05-1945, últimas reformas 19-08-2010.

94. *Ley de Profesiones Para el Estado de Chihuahua*, art. 44, 27-12-1997, últimas reformas 04-10-2010.

when acting in conjunction with foreign lawyers.⁹⁵ The code does not establish further requirements that the latter must meet in order to practice law in Mexico, nor does it expressly set forth obligations towards their clients.

In addition to these rules, current debates on lawyering have also addressed the issue of foreign lawyers. The MLB incorporates foreign lawyers into the new scheme of mandatory affiliation. Their professional practice in Mexico would still be subject to validation of their law degree by Mexican authorities, in accordance with international agreements or national statutes.⁹⁶ Likewise, it could be assumed that foreign lawyers would also have to join a Mexican lawyers' professional association. Without an explicit provision, it is difficult to argue that affiliation in their own native country would be enough to satisfy legal requirements in Mexico. Consequently, it is reasonable to conclude that, as it is now, in the new scheme there would not be a system of temporary licensing to practice law in Mexico. Moreover, article 26 of the MLB does mandate professional associations to keep a record of, and individual files on, all foreign lawyers practicing as "foreign legal counselors" in Mexico.⁹⁷

In short, according to current Mexican legislation, foreign lawyers would be able to practice law in most state jurisdictions, provided that they meet the necessary requirements including those related to their immigration status. As mentioned before, there are specific exceptions to this general rule. Nonetheless, such provisions would be most likely deemed discriminatory and could be fought through constitutional remedies. In any case, it is important to stress once more that rules governing legal services by foreign lawyers in Mexico are as vague as those applicable to Mexican lawyers. Those rules provide little protection to clients, and even less to third parties that could be affected by a lawyer's wrongdoing.

IV. Conclusion

Lawyer regulation in Mexico is broader and more complex than it could appear at first glance. Nonetheless, the practical effect of this extensive normative framework seems to be exactly the opposite of what would be expected. Instead of strengthening the quality of legal education and legal services, in line with the protection of individual rights to access to justice and due process, there are persistent deficiencies in the system that seem perpetuated, at least partially, by the same rules striving for its consolidation.

Coexistence between federal and state legislation, along with private associations' codes of ethics, should not necessarily weaken the regulatory

95. Código de Ética del Ilustre y Nacional Colegio de Abogados de México, art. 5 §§2, 7, 9 (1997).

96. Ley General de la Abogacía Mexicana, art. 6 §II (2015), <http://renace.org.mx/renace2015/wp-content/uploads/2015/12/Ley-General-de-la-Abogac%C3%ADa-Mexicana-PROYECTO-FINAL.pdf>.

97. *Id.* at art. 26 §VIII.

framework. But severe discrepancies among relevant provisions result in a system plagued with inconsistencies, loopholes, and contradictions. Under these conditions, it is difficult to precisely determine the scope of the rights, obligations, and responsibilities of lawyers toward their clients and the justice system at large.

There seems to be enough evidence to conclude that the problems of the Mexican legal system originate, in great part, from our legal education model. In comparison with lawyering practice, the regulation of law schools is extremely vague and highly flexible, resulting in an unprecedented spike in the number of law schools currently operating throughout Mexico. Despite its unquestionable importance, current debates about a new regulatory regime for the legal profession have almost completely excluded the issue of the governance of legal education and law schools.

The argument advanced in this paper does not attempt to undermine the importance of other contributing factors to the persistent shortcomings of the Mexican justice system. As I have mentioned from the beginning, Mexico is a country deeply marked by inequalities, informal means of justice, authoritarian political regimes, and corruption. These social, political, and economic aspects may have an even greater weight on our current problems than inconsistent legislation on lawyering. Nonetheless, the relevance of the latter cannot be excluded altogether.

Hence, it is imperative to continue forward with a constructive and inclusive debate about an improved constitutional and legal framework for legal education and legal practice. Such debate must not only bear in mind problems associated with previous proposals, such as the MLB, but should also be founded on the protection of freedoms and rights of all parties involved. Regulation must find a balance between freedom of professional practice and individual and social needs on the access to justice in Mexico. It should also consider the need to rethink the basis of legal education in Mexico. Only a complete overhaul of our regulatory framework, grounded on a profound reorientation of the role of legal services in Mexico, can add substantive value to respond to an ongoing and increasing crisis of the justice system.