

Training and labour legislation

Herramientas para la transformación

El rescate de la calificación
Elenice Monteiro Leite

Formación y legislación del trabajo
Héctor-Hugo Barbagelata

Competencia laboral: sistemas, surgimiento y modelos
Leonard Mertens

Formación basada en competencia laboral

Competitividad, redes productivas y competencias laborales
Marta Novick - M.A. Gallart (coordinadoras)

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Héctor-Hugo Barbagelata

Formation et législation du travail
Héctor-Hugo Barbagelata

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Kindness of Emilio Ellena, Santiago, Chile

Héctor-Hugo Barbagelata

Training and labour legislation

Trends in recent legislation
on vocational training

International Labour Office

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Prologue

Many of our industrial societies are undergoing a dynamic mutation caused mainly by technology, which launches us into the age of information and communications. Changes are so rapid, dramatic and inevitably also so creative and destructive from a social point of view, that we do not manage to control them in a satisfactory manner, particularly regarding the «social» element.

It is for that reason that the mutation is also a *crisis* for our legislation and industrial relations systems including social policies– as clearly shown by the increasing *fracture sociale*.

At the same time, other local communities and hundreds of millions of workers continue to perform traditional agricultural activities, which is a clear illustration that although often called a «global village»– our world grows at different rates in different places.

What is occurring in our developed world is not so much a transition from an agricultural society towards an industrial one, and more recently towards a services/ information sector, where most of the active population would be concentrated, but rather a merging together of the various sectors into a single one, in such a way that the information sector becomes predominant and somehow absorbs the agricultural and industrial ones.

This reality becomes evident if we analyse the cost of any given product. For example, let us take the cost structure of a motor car. That cost does not primarily depend on the wages paid to workers at the assembly line; the bulk of it is made up by expenditures connected with conception, design, research, advertising, financial services, distribution, marketing, insurance, etc. To sum up, all of them services or forms of knowledge that can also be obtained from distant places by means of bits.

In other words, value-added sources are going from the material to the immaterial, from the product itself towards knowledge about it, its intellectual property... the storing, handling and dissemination of knowledge. This knowledge is so rich, varied and rapidly changing that it is impossible for any one enterprise to have it always available; on the other hand, that is not necessary, as data can be obtained through technological information-communication highways, sometimes from very remote locations, as indicated above.

These factors have led to a heyday of the larger enterprises, which in a process of out-sourcing delegate tasks and services that other companies can

perform better and more economically. This brings about a competitive interaction among subcontractors that cheapens, improves and speeds up services.

Such tendencies lead in turn to chains of (economic) contracts among outside suppliers at one end, and SMEs at the other, constituting networks.

Simultaneously, labour relations are becoming decentralised and employment links individualised. Former employees of many companies become independent consultants that try to handle their own portfolio of clients, and join networks in projects of varying duration. They are freer, but also much less secure.

So it happens that many persons are losing their jobs and, in time, some of them get other jobs that –as Robert Reich, Professor and U.S. Secretary of State rightly pointed out– are more complex, for they require problem-solving skills.

Needless to say, all this has a far-reaching impact on educational and vocational training needs.

Education/vocational training have an ever increasing importance, as they must escort future employees into the world of labour and prepare them to act in it, taking into account the differing rates of development of the diverse regions and subregions of the world.

We can assert with no hesitation whatsoever that the best insurance for employment nowadays is the right for people to be trained and to acquire competencies enabling them to secure profitable employment, either as employees, independent workers or entrepreneurs.

Consequently, «communication skills», *savoir faire*, are just as important as basic or technical knowledge. In an information society, it is more important than ever that workers should be pro-active, should understand problems, help to solve them and collaborate in teams.

For others, the acquisition of basic skills such as reading and writing may also be important steps for a significant participation in an increasingly complex world.

Therefore, Professor Héctor–Hugo Barbagelata’s study on the current situation regarding legislation on education/vocational training, and the conditions under which the Law applies, is more than welcome. Of special importance is his survey of apprenticeship, in view of the urgent need to establish links between education and employment.

The right to an ongoing education/vocational training should be, now more than ever, a proclaimed goal as element of social justice, as the ILO rightly upholds.

Professor Barbagelata’s study offers a complete and detailed picture of the rights to vocational training, and bears witness once again to the great South American tradition of legal scholarship in labour matters.

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Introduction

The present comparative study of legislation on vocational training throughout the world, prepared by an international authority in the matter, Uruguayan Professor Héctor-Hugo Barbagelata, is a very significant contribution to the current debate on the reform of training policies and systems in order to meet the new needs of a labour world that is undergoing rapid and deep transformations.

In effect, as a result of the impact of globalisation of economies, liberalisation of markets, technological innovations and restructuring of production and trade, there is a growing tendency towards investing in human capacity, in response to the implacable competitive challenge that countries, enterprises and individuals themselves have to face.

Changes in the organisation and management of productive processes, and in the content of work posts, are bringing about a veritable revolution in the way of acquiring, adapting enriching, using, recognising and valuing the qualifications of a labour force. At the same time, in an effort to become competitive in the world market, or remain competitive, most countries have opted for a pattern of economic growth that has proved unable to generate the number and level of jobs required to absorb the productive capacity of the men and women who wish to work, and are available to do so.

In view of this picture, pressures and expectations lead to a reform of education and training systems, in the hope that they can iron out the differences between manpower supply and demand, and reconcile the needs of economic growth to those of social equity, on the basis of an improved human capital. In industrialised countries as well as in those in transition, and the ones in varying phases of development, training policies and systems are under close scrutiny, and show renewed dynamism in their pursuit of modernisation in order to attain higher levels of efficiency, effectiveness and equity.

If legislation is the key to knowledge of social reality, as the author says following Emile Durkheim's reasoning, this comparative study is of vital interest to promote the renovation and reform of vocational training systems.

On the one hand, the thorough study that Professor Barbagelata makes of the legislation of this kind in force in a great number of countries from all continents, provides an overview of the current situation, as well as an idea of the concerns and intentions reflected by each law when it was promulgated. On the other, his strict comparative analysis of legislation adopted over the last five years in a diversity of countries tells us about international trends, revealing the achievements and gaps of those laws and of course, hinting at the distance that may exist between norms on vocational training, and the degree of actual application of them.

The frequency, wealth and depth of vocational training regulations within the framework of recent labour legislation, shows the growing importance of this aspect in the broader context of human resources policies, employment policies and labour and social policies. At a deeper level, the author points to at least four main sets of trends in world regulations:

i. Emphasis on economic considerations and access to employment

A comparative analysis of recent legislation on vocational training shows a distinct process of reformulation of objectives, particularly in developing countries. The role of vocational training is emphasised *vis-à-vis* economic goals and access to employment, albeit «without necessarily sidestepping educational objectives and references to the contribution of vocational training to individual realisation and development, and improvement of the living standard of workers».

According to the author, three objectives emerge in the various legislations in connection with the economic and employment dimensions of vocational training, with differing degrees of importance:

- meeting the need of national communities to have human resources capable of promoting or sustaining economic development;
- meeting the needs of enterprises for qualified manpower, and therefore focusing the attention of vocational training systems on that target; and
- facilitating access and reentry into the employment market.

ii. Widening recognition of the right to training

The subject of wider recognition of the right to vocational training appeared early on in international legislation, and has been improved by successive rules. It was already present in the Preamble to the ILO Constitution (1919), right through to the Philadelphia Declaration (1944) and in subsequent laws.

Apart from the international sphere, it has also been included by several countries in their recent internal legislation, although not in a general manner.

iii. Growing decentralisation

Professor Barbagelata identifies four ways in which increasing decentralisation is implemented through legislation on vocational training:

- by widening participation of the various social agents in the formulation of training policies, and also in aspects regarding their application and operation of the relevant services;
- by incorporating private actions and services centered round enterprises into national training systems.
- by reallocating the resources that finance training; and
- through territorial decentralisation processes in the management of training systems and activities.

iv. Growing importance of practical training with the consequent development of new labour and training contracts, and revaluing of apprenticeship contracts.

In some way as a corollary to previous tendencies, practical training in plants and enterprises is given preeminence. As a result of this, recent legislation includes «new models of contracts and labour relations regarding training and, of course, a revaluing of apprenticeship contracts».

The author devotes a considerable part of his study to rules governing apprenticeship contracts, which embody the combination and integration of the above trends within a specific area, namely the training of young people in transitional schemes from school to work. Professor Barbagelata's critical analysis of apprenticeship, and his recommendations about its regulation, are highly pertinent at a time when countries with different backgrounds in the setting up and operation of policies and programmes for training the young, go back again to the

essential principles that underlie the different forms and approaches of apprenticeship schemes that have been tried out in all parts of the world.

The present study means the attainment of an objective shared by the Training Policies and Systems Branch (POLFORM) of the ILO, at world level, and Cinterfor at the level of the Americas. This objective is to provide ILO member nations – and specially their employers' and workers' organisations – with an instrument for legislative orientation in defining new options and avenues for change in vocational training policies and systems.

POLFORM and Cinterfor are honoured to publish and distribute jointly the result of this study, entrusted to Professor Barbagelata. The first edition of this book was published in Spanish as a tribute to the author himself, and it is now been published in English and French for the benefit of countries throughout the world.

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