

Foreword

§1. Preliminary remarks

1. A research project about legislation on vocational training requires, first and foremost, a clarification of the terms describing it and constituting the title of the study.

The first of them, legislation, does not call for many explanations, apart from the fact that it is taken in its broadest sense; it includes, by whatever name they are known in each country: constitutional norms; laws issued by central legislative bodies; those passed by states or provinces, members of a Federal State; municipal ordinances; as well as regulations dictated by administrative entities of different juridical nature and, in particular, by vocational training institutions.

2. The term vocational training (VT) raises more difficulties in a study of this kind.

This is due not only to the fact that there is no generalised agreement as to its meaning, but to several other things, such as the indiscriminate use of many terms¹ that cannot always be considered synonymous, and the added difficulty of their translation into different languages.

In any event, no nuances or variants have been established among the different terms for the purposes of this research, on the understanding that they all refer to the same thing. That is to say, training dispensed

¹ Different languages use, more or less freely, different terms which are at times synonymous, and at others imply relevant or slight differences. Thus, in English the words or phrases mainly found are: *training* and *vocational training*, but *vocational education*, *skill training*, *on-the-job training*, *service training*, *occupational training*, *practical training*, etc. are also employed. Similarly, the most current expression in French is *formation professionnelle*, but though the term *formation* has a more general meaning, other phrases, sometimes synonymous are usually found such as: *éducation non formelle*, *enseignement professionnel*, *instruction technique*, *formation pratique*, *formation occupationnelle*, *formation sur le tas*, etc. This also happens in Spanish with: *formación profesional*, *formación*, *formación productiva*, *formación técnico-profesional*, *educación profesional y técnica*, *instrucción técnica*, *capacitación*, *preparación profesional*, etc.

«mainly outside the formal education system, either in an enterprise or in a workers' training centre»² or, from another viewpoint, all educational modalities aimed at training for the performance of a job and for obtaining occupational qualifications, except at higher level.

3. Such a definition of vocational training is not therefore in keeping with what the training imparted by any institution, centre or enterprise in any given country ought to be to deserve that name.

In other words, the instrumental definition that we shall be using to discuss the regulations of the different countries is not in line with the conceptual approach of item 2.1 of Recommendation 150/1975³. This does not mean to say, however, that we shall not bear it in mind in taking a second look at those same laws and at the vocational training systems that they have created, particularly concerning their compliance with the demands of the right to VT and the legitimate expectations of trainees.

4. For reasons that lie within the objective pursued, this research survey –and in consequence the present report–, will be circumscribed to rules directly relating to vocational training as described above.

That is to say that despite the latitude ascribed to the term legislation, neither the research project nor the study will include provisions that are linked to training but pertain to the educational system or to schooling legislation.

5. To finish these preliminary remarks, we should add that despite the fact that this study deals only with VT legislation within the bounds indicated above, it in no way denies the importance of other sources of VT Law; nor is it a purely formal exercise that ignores the facts of reality or the force of established norms.

Quite the contrary, we are very well aware of the importance that those other sources have for VT, particularly tripartite or inter-professional agreements and, in general, collective bargaining at all levels. Likewise, we are far from merely adhering to the letter of laws that in many places have not even begun to be applied, and nearly always have only limited force, effectiveness and efficiency.

Apart from the nearly insurmountable difficulties that research of that scope would imply, and the information imbalances that might result if we try to make it world-encompassing, there are other arguments

² J.R. Hernández Pulido, *Relaciones industriales y FP*, Mexico, INET, 1978, p.39-40 and notes 26 and 27 a p. 52 and 53.

³ The text of this provision states that the essence of the concept consists of «*unveiling and developing human aptitudes for an active, productive and satisfactory life and, together with the different forms of education, improving individual aptitudes to understand, individually and collectively, all aspects of working conditions and the social environment, and bringing influence to bear upon them*».

to confine our project to legislation as it emerges from the texts. We shall see them in the following section.

§2. Object and method

6. Our purpose in undertaking this research was to try to find out how VT problems were seen in the present-day world, and in what direction answers were pointing.

We thought that an adequate way of conducting our work would be to examine legislation adopted in recent years on the subject.

7. Our justification for using this approach in surveying the training problems of different countries, and the solutions found to them, stems from acceptance of Emile Durkheim's dictum that legislation is the passkey to the knowledge of social reality.

We should also bear in mind that, over and above their application, regulatory texts document what jurists have since ancient times called *mens legis*, i.e., the purpose pursued by the Law. They therefore tell us about matters that were considered and the course that was intended for them.

In other words, knowledge of the legislation enables us to interpret it in two different ways: as an instrument to learn about the situation at the moment of promulgation and, simultaneously, as an expression of intent to modify that situation to a lesser or greater degree, although ironically, those changes often cause things to remain the same.

8. If legislation reveals concerns and intentions that, in view of their source, may be assumed to be predominant in a given country at a given moment, it is quite valid to infer from legislation the tendency followed by the society that adopted it, with regard to certain matters.

In connection with VT, the study of recent legislation seems then to be a suitable method for prospecting the trends and paths followed by each country.

9. Regarding the time-frame of the process of generation of the legal decisions we have to examine in order to detect trends, the very fast rate of current social development, both for individuals and for nations, has made it considerably shorter than it was in the past.

We may even think that tendencies prevailing now can, indeed must be detected in no less than five years' time, or in the frame of the present decade, on the understanding, however, that we are not establishing set limits, which would be artificial.

10. In this case, we are not trying to learn about the problems and legislative solutions of any one country, but about the world situation as a whole.

In detecting trends, the main advantage of a study covering a large number of countries, as opposed to one that includes a single nation, lies in the fact that in the latter case sudden mutations may occur, changes of tack that alter course, something that obviously can hardly happen in several countries at the same time.

10a. The difficulties of a comparative study are very great, especially if we wish to reflect trends at global scale. For the purposes of our rationale, we shall summarise them into two main tendencies.

First of all, and in relation to the time-frame we have established, it could happen that the conclusions resulting from comparing different legislations might not be valid, as legislative procedures may not take place simultaneously in a sufficiently representative number of countries to reflect a joint or shared movement or trend.

Secondly, and complementing the above, in order to decide that the trends detected are worldwide, legislations passed during the period under review should cover all geographical regions of the planet, and include countries reasonably representing all degrees of human and economic development, following varying traditions and governed by political systems of all kinds.

11. Such difficulties do not seem an impediment to researching the trends of training in the present-day world.

In effect, the great and pressing importance, nowadays and everywhere, of problems that we generally think VT may help to solve, has focused the attention of Governments and legislators from the most diverse and distant countries.

As evidenced by the non-exhaustive subject guide that we append to this document, that attention has resulted, during the period under review and immediately before it, in a vast amount of legislation that covers a sufficiently large number of countries, from all continents and of all sorts, to justify the assertion that it is in fact a representative sample of the universe under consideration.

12. The technique we used followed the lines of those usually employed in Comparative Law research. That is to say that after a survey –as exhaustive as possible– of the relevant texts, we proceeded to contrast the provisional categories stemming from our working hypothesis, with the data from the legislations surveyed.

We then systematised the data according to the established criteria, and made new groupings as superfluous details were eliminated, in order to shed light on the general trends.

We endeavoured to build a network of conceptual categories, based on references to the various legislations, avoiding insofar as possible the mere inventing of the laws and tendencies of each country.

In consequence of the above, references to legislative texts should be taken as backing to the assertions made. For the same reason, we picked examples for their clearness or the weight they had, although they might not be unique of their kind.

§3. Presentation plan

13. In accordance with what we have already stated, we shall try to establish, on the basis of our research, the trend lines that seem to be most widely accepted.

This may be done in two different ways. The first one would be to try and give an overall view, like an all-embracing synthesis, taking simultaneously into account the legislation relative to all training modalities.

A second approach, not contradictory but complementary to the first one, would be to analyse in some depth the different forms that regulations of training actions can assume.

14. For the purposes of our study we shall try to follow both paths at the same time, at least in part.

We shall consequently develop a first stage presenting an overall view of the current situation and the trends that can be discerned in training legislation at world level.

In a second stage we shall deal with specific case studies. On this occasion, however, they will be confined to apprenticeship contracts, for several motives that can be briefly summed up as follows:

a) for a number of reasons, apprenticeship contracts are the most homogeneous in the various legislations, and therefore lend themselves better to detailed comparison;

b) they are at present the training variant where the more widespread trends detected come together most clearly;

c) there is a firm current of opinion at international level, in the sense that a process of reevaluation of apprenticeship schemes is taking place everywhere;

d) through the study of legislation on apprenticeship contracts, we can learn how certain things work that pertain to training as a whole: for example, the role of policy-making and supervisory bodies, training plans, the requirements that trainers must fulfill, links with the educational system, promotion policies, evaluation and certification of training, questioning of the preeminence achieved by practical training, etc.

14a. After this second part, which is understandably longer, come the conclusions, with a section devoted to a recapitulation of the broad tendency lines and another one with references and comments on legis-

lation about apprenticeship contracts, including value judgements regarding their effectiveness *vis-à-vis* the right to training.

The work is completed by several annexes (a legislation guide, already mentioned; a list of abbreviations and acronyms utilised and their meaning, and a bibliography), and of course an index.