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Legal epistemology and research-based pedagogy in higher education

Epistemología jurídica y pedagogía investigativa en la educación superior

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ABSTRACT

The aim of this study is to analyse the premises of legal epistemology and research pedagogy in Ecuadorian higher education. Research training in law degree programmes faces three structural tensions: the contrast between legal positivism and qualitative approaches, the gap between theoretical transmission and the development of concrete research skills, and the mismatch between quantitative validity criteria and the demands of qualitative rigour applied to legal phenomena. Through an analytical-interpretative literature review of twenty specialist sources, pedagogical conditions were identified to overcome these tensions: incorporating epistemological reflection into methodology programmes, consolidating research as a constitutive teaching practice, and adopting criteria of credibility, transferability, dependability and confirmability as evaluative benchmarks. It is concluded that transforming legal research training requires the articulation of curricular reform, sustained teacher training and explicit epistemological reflexivity.

Descriptors: epistemology; legal education; research work. (Source: UNESCO Thesaurus).

RESUMEN

El estudio tiene por objetivo analizar las premisas de la epistemología jurídica y la pedagogía investigativa en la educación superior ecuatoriana. La formación investigativa en las carreras de Derecho enfrenta tres tensiones estructurales: la contraposición entre el positivismo jurídico y los enfoques cualitativos, la brecha entre la transmisión teórica y el desarrollo de competencias investigativas concretas, y la inadecuación entre los criterios de validez cuantitativos y las exigencias del rigor cualitativo aplicado al fenómeno jurídico. Mediante una revisión documental analítico-interpretativa de veinte fuentes especializadas, se identificaron condiciones pedagógicas para superar dichas tensiones: incorporar la reflexión epistemológica en los programas de metodología, consolidar la investigación como práctica docente constitutiva y adoptar criterios de credibilidad, transferibilidad, dependencia y confirmabilidad como referentes evaluativos. Se concluye que transformar la formación investigativa jurídica requiere articular reforma curricular, formación docente sostenida y reflexividad epistemológica explícita.

Descriptores: epistemología; enseñanza jurídica; trabajo de investigación. (Fuente: Tesauro UNESCO).

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Research articles section

INTRODUCTION

The question of how to teach research in a law degree inevitably leads to a more fundamental question: what kind of knowledge does legal scholarship produce, and under what conditions can that knowledge be considered valid; far from being a matter reserved for legal philosophers, this question determines, in the day-to-day practice of research training programmes, which methods are taught, the criteria by which students' work is assessed, and what implicit conception of law the lecturer conveys when designing a methodology module.

The outlook for research training in law degrees at Latin American universities is not encouraging in this regard; the hegemony of legal positivism as the dominant theoretical tradition has tended to legitimise, by extension, a vision of legal research restricted to normative and exegetical analysis, whilst qualitative, comprehensive and interdisciplinary approaches have frequently been relegated to a secondary position or directly ignored in the design of methodology curricula; In this vein, Melet-Padrón (2018) has pointed out that this situation does not stem from an epistemologically grounded choice, but rather from institutional inertia that confuses the specificity of the legal phenomenon with the exclusivity of a single method for addressing it.

In teaching practice, this inertia gives rise to three tensions which this paper aims to examine: the epistemological tension between legal positivism and qualitative research approaches; the pedagogical tension between the transmission of theoretical knowledge and the development of specific research skills; and the methodological tension between the validity criteria inherited from the quantitative paradigm and the demands for rigour inherent in qualitative research applied to the legal phenomenon; identifying these tensions, describing their educational consequences and proposing pedagogical conditions to overcome them constitutes the aim of this study.

In the context of research training programmes, Parada-Trujillo et al. (2025) have proposed a framework of methodological pathways aimed at organising research training in law with greater epistemological coherence, whilst Nizama and Nizama

(2020) have demonstrated the relevance of the qualitative approach to addressing the issues that define the agenda of contemporary law; these contributions, together with the advances in the systematisation of criteria for qualitative rigour made by Noreña et al. (2012), Sandín-Esteban (2000) and Cornejo and Salas (2011), provide the necessary elements to construct an integrated understanding of the tensions that limit the quality of research training in law.

In light of the above, the research aims to analyse the premises of legal epistemology and research pedagogy in Ecuadorian higher education.

METHOD

The research adopted a qualitative approach of an analytical-interpretative nature, based on a systematic literature review of twenty academic sources specialising in the fields of legal epistemology, legal research methodology, qualitative rigour and university teacher training; the relevance of this design is grounded in the conceptual and propositional nature of the research problem, the subject of which is not empirically observable in a concrete reality, but rather requires elaboration through the critical analysis of existing academic literature, in line with the principles of documentary research outlined by Nizama and Nizama (2020).

The process of selecting the documentary corpus prioritised sources from the last twenty-five years, with particular attention to Ibero-American and Latin American scholarship due to its contextual relevance, although without excluding contributions from other academic traditions where these were relevant to the study's thematic axes; the diversity of perspectives thus brought together served as a resource for theoretical triangulation, in line with the credibility strategies described by Noreña et al. (2012) and with the notion of epistemological solidarity proposed by Sandín-Esteban (2000) as the foundation of qualitative validity.

The corpus was analysed using qualitative content analysis, identifying emerging conceptual categories organised around the three tensions constituting the research object; these categories were systematised using double-entry conceptual convergence matrices, which enabled the contributions from the various sources to be articulated within a coherent analytical structure; the analysis process was recorded in a methodological diary as a strategy for accountability and

confirmability, as indicated by Cornejo and Salas (2011), which ensured the traceability of the interpretative decisions adopted throughout the research.

The contextualisation of the results within the framework of Ecuadorian universities drew on the work of Villamar (2021a, 2021b), Fabara-Garzón (2016) and Milanés-Gómez et al. (2019), whose characterisations of the Ecuadorian higher education system and university teacher training provide the necessary empirical reference for assessing the relevance of the proposed pedagogical conditions.

ANALYSIS OF THE RESULTS

The documentary analysis enabled the results to be organised around three epistemological, pedagogical and methodological tensions that underpin the teaching of research in law degree programmes; each tension is associated with specific pedagogical conditions that would allow it to be overcome within the framework of research training programmes in the Ecuadorian university context.

First tension. Legal positivism and qualitative research approaches

The first tension identified in the documentary corpus is epistemological in nature and is expressed in the contrast between the positivist conception of law—which reduces it to a closed system of norms amenable to formal-logical analysis—and qualitative research approaches, which recognise the interpretative, contextual and evaluative dimensions of the legal phenomenon as an irreducible condition for its understanding.

In this vein, Melet-Padrón (2018) argues that legal science cannot reduce its object to the rule as an observable datum; law is expressed in rules, but is realised in interpretations, practices and power relations that no strictly exegetical analysis can capture in their complexity; this observation leads to the recognition that the qualitative approach does not represent one methodological option amongst others, but rather a requirement derived from the very nature of the legal phenomenon when approached from a comprehensive perspective; In line with this, Nizama and Nizama (2020) reinforce this position by showing that the issues defining the agenda of contemporary law—from the social effectiveness of norms to access to justice for vulnerable groups—cannot be addressed using the tools of traditional normative analysis.

The persistence of this tension in Latin American law programmes has specific educational consequences; firstly, it tends to legitimise an impoverished view of legal research, reduced to the exegesis and systematisation of norms, thereby rendering the sociological, philosophical and historical dimensions of the legal phenomenon invisible; secondly, it creates confusion among students regarding the object of study of law and the sole legitimate method for approaching it; a confusion which, as analysed by Bonilla-Montenegro (2010), constitutes a direct consequence of the paradigms that organise the dominant legal theory within each institutional context; thirdly, it prevents productive dialogue between legal education and the social sciences, which compromises graduates' ability to understand law in its social and political dimensions.

The pedagogical condition for overcoming this first tension consists of incorporating epistemological reflection as an explicit component of legal education programmes, so that students can recognise the assumptions underpinning each methodological approach and critically evaluate their relevance to different types of legal problems; from this perspective, Witker (2008) argues that truly integrative legal research must combine normative analysis with social, historical and philosophical perspectives on law, which presupposes lecturers capable of guiding this integration from a reflective and non-dogmatic epistemological stance.

Second tension. Classroom theory and concrete research skills

The second tension is pedagogical in nature and is expressed in the gap between the transmission of methodological content in the classroom and the effective development of research skills among law students; this gap is not unique to legal education, but it takes on a particular form within it due to the predominantly lecture-based teaching tradition and the lack of a culture of formative research that characterises many undergraduate programmes in the Latin American context.

In this regard, Land and Organick (2022) describe this gap as one of the most persistent problems in legal education and point out that curriculum design must be geared towards transferring theoretical learning into concrete research practice; their proposal aims for students not only to be familiar with the epistemological foundations and methodological techniques of legal research, but also to be capable of applying them in real contexts of knowledge production; this approach aligns

with the perspective of Parada-Trujillo et al. (2025), who propose organising formative research into a pathway of increasing complexity that leads students from an understanding of theoretical foundations to the independent production of legal knowledge with social or institutional impact.

The gap between theory and research practice is exacerbated, in the Ecuadorian context, by shortcomings in the research training of university law lecturers; in this regard, Fabara-Garzón (2016) notes that these shortcomings represent a structural obstacle to the implementation of innovative proposals in methodology programmes, because a lecturer who does not actively conduct research cannot effectively guide their students' research process; Similarly, Milanés-Gómez et al. (2019) note that the professionalisation of teaching based exclusively on the accumulation of academic credentials, without incorporating research practice as an essential component of the university lecturer's professional identity, reproduces in methodology programmes the very same gap between knowledge and practice that one seeks to overcome in students.

The technological component adds a further dimension to this tension that legal training programmes cannot ignore; within this framework, Neubauer and Rosen (2022) describe the transformation of legal research in the digital age and highlight that the proliferation of databases and resources providing access to case law has substantially altered documentary research practices; for his part, Stepka (2022) analyses the impact of artificial intelligence on legal practice and notes that these transformations intensify the need for more sophisticated interpretative and critical skills, rather than rendering them dispensable; from an ethical perspective, Weinhardt (2020) adds that the use of large volumes of data in social and legal research raises dilemmas that can only be addressed from a reflective methodological stance.

The pedagogical prerequisite for reducing this second tension is the integration of research as a constitutive teaching practice; in this vein, Castro-Sánchez et al. (2025) argue that research-based teacher training constitutes the most appropriate route for transforming legal methodology programmes, because when the teacher actively engages in the type of research they guide, their teaching is not limited to the

transmission of techniques, but rather models a research stance that students can recognise and progressively internalise.

Third tension. Inherited validity criteria and qualitative rigour in the legal context

The third tension is methodological in nature and concerns the mismatch between the validity criteria inherited from the quantitative paradigm—centred on objectivity, replicability and statistical generalisation—and the demands for rigour inherent in qualitative research when applied to legal phenomena; this mismatch is not merely technical, but reflects a fundamental epistemological incompatibility between two distinct conceptions of what it means to produce valid knowledge.

In this regard, Sandín-Esteban (2000) traces the trajectory by which validity criteria in qualitative research have shifted from positivist objectivity towards forms of legitimation that recognise the interpretative and situated nature of knowledge; this shift does not imply a renunciation of rigour, but rather its redefinition in terms consistent with the nature of the research object and its purpose; from this perspective, the criteria of credibility, transferability, dependability and confirmability systematised by Noreña et al. (2012) constitute, not a watered-down version of quantitative criteria, but a set of epistemologically relevant benchmarks for assessing the quality of qualitative research.

The application of these criteria to the legal context requires, however, specific operationalisation; in this regard, Cornejo and Salas (2011) note that methodological rigour in qualitative research implies an epistemic stance consistent with the nature of the phenomenon under investigation; in law, this coherence demands that credibility be verified through consistency between the theoretical framework adopted, the questions posed, the techniques used and the conclusions reached, and not simply through the prolongation of fieldwork or the saturation of categories in the sense in which these concepts apply to generic social research.

Transferability requires, in the legal context, a description of the legal system, institutional practice and socio-political context that enables the reader to assess the relevance of the results for other legal systems or historical periods; from this perspective, Noreña et al. (2012) note that the richness of this contextual

description is the condition that distinguishes transferable legal research from a mere particularistic description; Dependency, for its part, is ensured through the systematic recording of the methodological decisions adopted throughout the research process, an aspect that Nizama and Nizama (2020) identify as particularly relevant in qualitative legal research, where the researcher's line of argument carries an epistemological weight that cannot be concealed behind a supposed objective neutrality.

Confirmability takes on a particular dimension in law: the legal researcher does not approach the phenomenon from a neutral position, but rather from a dogmatic background, a professional practice and a value framework that condition their interpretation of the subject; in view of this, von Unger (2021) proposes ethical reflexivity as a research practice that makes these preconceptions visible and subjects their influence to methodological control; this proposal is particularly relevant to research training in law, where the identification of one's own legal preconceptions and the willingness to question them constitute skills that must be developed progressively throughout the training programme.

The pedagogical condition for overcoming this third tension consists of incorporating criteria of qualitative validity as evaluation benchmarks from the earliest stages of research training; this early incorporation implicitly conveys a conception of legal knowledge based on argumentative coherence, methodological honesty and awareness of the researcher's position, rather than a conception based on the accumulation of citations or the mere technical and formal correctness of research outputs.



Figure 1. *Epistemological, pedagogical and methodological tensions.*
Source: Image created by nano banana 2 based on information provided by the researcher.

Based on Figure 1, the results were summarised; these show that the teaching of research in law degree programmes does not face isolated technical or curricular difficulties, but rather three interrelated structural tensions that operate simultaneously at the epistemological, pedagogical and methodological levels. The first tension reveals that the dominant legal positivism restricts the understanding of the legal phenomenon to its normative dimension, thereby obscuring the need for a qualitative approach as a requirement derived from the very nature of the subject matter. The second tension, for its part, exposes the persistent gap between the theoretical transmission of methodological content and the effective development of research skills; a gap exacerbated by deficits in the research training of teaching staff and by the emergence of digital technologies that demand new critical and interpretative skills. The third tension, however, highlights the epistemological inadequacy of applying quantitative validity criteria to qualitative legal research, which requires redefining rigour in terms of credibility, transferability, dependability and confirmability, with particular attention to the legal researcher's reflexivity.

In response to each of these tensions, the analysis identifies a specific pedagogical condition: the incorporation of explicit epistemological reflection into training programmes, the integration of research as a constitutive teaching practice, and the

early adoption of qualitative validity criteria as evaluation benchmarks. Taken together, these conditions shape a horizon of transformation for legal research in education that transcends curricular reform and points towards a reconfiguration of research culture within the Ecuadorian university context.

DISCUSSION

The three tensions identified in the findings are not independent of one another; they are intertwined in a problematic nexus whose underlying logic consists of the persistence of a conception of legal knowledge that has not been epistemologically scrutinised in training programmes; as long as this conception is not subject to critical reflection, curricular reforms and methodological innovations will tend to produce superficial changes without transforming students' research dispositions or the teaching practices that shape them.

In this context, the contributions of Eenmaa et al. (2022) are relevant; their proposal for a legal methodology aimed at overcoming oppressive models of legal education in development contexts indicates that the renewal of legal research training requires not only changes in content and techniques, but a transformation in the pedagogical relationships that organise the training process; this perspective connects with the ethical dimension of qualitative research proposed by von Unger (2021) and, in a convergent manner, with methodological reflexivity as a systematic practice of confirmability.

In turn, Vibhute's (2022) review of the ideas and methods of legal research provides a comparative perspective that allows the identified tensions to be situated within a broader debate on the nature of legal research and its quality criteria; this perspective is useful for putting into perspective the institutional inertia that tends to normalise the dominant methodological practices in each context and present them as the only possible ones.

From the specific Ecuadorian context, Villamar's (2021a, 2021b) works on legal research in Ecuadorian universities show that the problems identified have a concrete local expression; the absence of an established tradition of empirical and socio-legal research in Ecuadorian law faculties, combined with the shortcomings in the research training of lecturers highlighted, respectively, by Fabara-Garzón (2016)

and Milanés-Gómez et al. (2019), creates a scenario in which the proposed transformations cannot be implemented by curricular decree, but rather require sustained processes of teacher training and support.

From this perspective, the proposal by Castro-Sánchez et al. (2025) for research-based teacher training as a pathway to educational transformation offers an operational framework that can be aligned with the pedagogical conditions identified in the findings; if overcoming the three tensions ultimately depends on the epistemological and pedagogical quality of the legal methodology teacher, institutional investment in the training of such teachers is indispensable for any curricular reform that aims to be effective rather than merely declarative.

The criteria for assessing research-based learning merit specific consideration within this framework; in this regard, Bonilla-Montenegro (2010) points out that the paradigms underpinning legal theory determine what is considered legitimate knowledge in law; when assessment systems for research work in legal education prioritise technical-legal correctness over argumentative coherence and methodological reflexivity, they implicitly convey a positivist conception of legal knowledge that contradicts the stated aims of any qualitative reform; to that extent, modifying the assessment criteria constitutes a necessary, though not sufficient, condition for transforming research training in law.

CONCLUSION

An analysis of the premises of legal epistemology and research pedagogy in Ecuadorian higher education reveals that research training in law degree programmes is conditioned by three structural tensions of an epistemological, pedagogical and methodological nature, the persistence of which is not due to a reasoned choice, but to an institutional inertia that reproduces, without questioning it, a positivist conception of legal knowledge reduced to normative and exegetical analysis; overcoming this inertia requires, firstly, recognising that the legal phenomenon demands qualitative, comprehensive and interdisciplinary approaches as a condition for its full understanding.

Secondly, that research training only produces genuine competencies when the lecturer actively models a reflective research practice, rather than merely imparting

techniques divorced from the production of knowledge; thirdly, that the criteria of qualitative rigour regarding credibility, transferability, dependability and confirmability do not constitute a weakened version of scientific validity, but rather epistemologically relevant benchmarks for assessing the quality of legal research; it follows that the transformation of research training programmes within the Ecuadorian university context requires, as an indispensable condition, sustained teacher training processes, reform of assessment criteria, and explicit epistemological reflection in curriculum design; without these three components working in tandem, any methodological innovation will remain at the declarative level without influencing students' research dispositions or the practices of those who train them.

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CONFLICT OF INTEREST

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To legal professionals passionate about teaching and scientific research.

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