



Market- and government-based higher education reforms in Latin America: the cases of Peru and Ecuador, 2008–2016

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Abstract

National higher education systems have undergone a series of transformations in recent decades. Since the 1980s, regulatory systems governing higher education have witnessed a number of changes. In particular, there has been a shift away from a model of state control, to one of state oversight, in which the state designs a framework of rules and policy objectives for the system as a whole, and institutions have greater freedom to establish their own mission and pursue their own priorities (Neave and Van Vught 1991, quoted in Musselin and Teixeira 2014:4). The differences between one country and another in terms of the type of regulation that is adopted are the result of political and ideological factors. This study contributes to the debate by describing the transformation of two higher education systems in Latin America. Through an analysis of a series of documents, legislation, and norms, as well as media reports on the matter, we show how in each of the two countries, different relationships between the market, the state, and the universities have emerged, and can be explained by political factors and ideological contexts of each country. In the case of Ecuador, the definition of policies, university autonomy, and the creation of regulatory agencies allows the state's presence and political influence to be felt, while in Peru, a market-based philosophy guides educational policy and content. Thus, in Ecuador, in contrast to Peru, the university itself is less autonomous, and the university system is governed by the principle of responsible autonomy, with limitations in the form of supervisory and quality control responsibilities distributed among public organizations, where representatives of the executive branch make up the majority of board directorships. The regulatory process is less gradual in nature, which may have hastened the closure of universities. In this sense, we will discuss how the different ideological contexts and relationships between social and political actors lead, on the one hand, to government-based regulation (Ecuador), and on the other, to a market-oriented framework (Peru). Although technocracy is a characteristic of both processes, there are nuances in the way the relationship between the state, market, and universities develops.

Keywords Higher education reforms · Latin America · Peru · Ecuador · State intervention

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The global transformation of regulatory systems and the heterogeneity of resulting models

Research has shown that universities learn from each other, which leads to a high degree of similarity among them. For this reason, several authors have noted that despite cultural, social, and economic differences among countries, it can be said that higher education is a globalized institution (Frank and Meyer 2007; Meyer et al. 2006; Ramirez and Tiplic 2014), both in academic contents and in goals. As was described by Musselin (2005), concrete evidence of this is seen in the reforms that European systems experienced in the 1980s and 1990s: the concerns expressed by the university systems among various European countries were very similar in nature, which then led to the adoption of similar approaches and the implementation of a similar range of solutions.

The recent adaptation of university systems and their forms of governance and evaluation to market rules is a common element of the transformation experienced in recent decades (Teixeira et al. 2004; Regini 2011). According to Gornitzka and Maassen (2000) and Enders et al. (2008), state-centered forms of governance have been rejected and replaced by other forms, under the strong influence of the “New Public Management” model (De Boer et al. 2007; Hüther and Krücken 2013), which introduced the application of private-sector management strategies and techniques to the public sector (Musselin and Teixeira 2014: 1). As Ferlie and other authors point out, this included the implementation of benchmarking and other strategies. Quasi-markets aimed at increasing competition were created, as well as agencies focused on the distribution of funding, evaluation, and performance quality and efficiency, among other criteria (Ferlie et al. 2008, quoted in Musselin and Teixeira 2014: 1).

Therefore, since the 1980s, university systems have generally moved away from a model of state control to one of state oversight, as Neave and Van Vught (1991) describe, in which the government designs a framework of regulations and policy objectives for the system as a whole, and institutions have greater freedom to establish their own mission and pursue their own priorities (quoted in Musselin and Teixeira 2014: 4). Despite such an expansion of common problems and solutions, forms of governance and organizational structures vary greatly and tend to be deeply rooted in national, cultural, and political contexts. Clark (1983), for example, proposed the concept of a triangle of coordination between market, state, and university in order to classify countries according to the roles of various actors in the dynamics of university control. According to Martens et al. (2010), higher education systems are marked by a set of culture-driven guiding principles that define the role and function of higher education. As Neave (2003) notes, there are specific national regulatory frameworks that reflect the particularities and the historical, institutional, and cultural development of higher education systems.

One typology that reflects this heterogeneity, and which is a starting point for this study, is that proposed by Dobbins (2011), who describes three main types of regulatory systems found in European countries. The first is the state-centered model, in which the state exercises direct control of all or nearly all aspects of higher education, including admission requirements, curricula, and exams. Universities have little autonomy. In Neave’s (1996) words, the state acts as guardian (quoted in Dobbins 2011: 37–38). The second type is one that promotes “academic self-governance,” which is characterized by a weak state administrative role and very strong self-regulation. Ideally, this model is based on a “state–university partnership, governed by principles of corporatism and collective agreement” (Clark 1983: 140, quoted in Dobbins 2011: 39). This type of regulation has often led to a deterioration in the quality of teaching, as

well as to massive bureaucratization and mistrust between the state, universities, and society. The third type of regulation is market-oriented, based on the premise that universities function better if they operate as businesses in a context where student choice and market liberalization prevail. As stated above, many of its ideas are based on the New Public Management approach and management principles of private enterprises. In this context, according to Dobbins (2011), the state is not responsible for oversight of the system, but rather promotes competition and ensures quality and transparency.

How can we explain the differences between countries in terms of choosing one system over another? According to previous studies, the heterogeneity of systems is connected to institutional, socioeconomic, and political differences among countries (Heidenheimer 1981; Hokenmaier 1998; Hega and Hokenmaier 2002; Pechar and Andres 2011). Triventi (2014) notes that this heterogeneity reflects institutional profiles of educational systems that are the product of historical processes, cultural characteristics, and ideological perspectives which are not restricted to the educational field. In addition, historical legacies—that is, past organizational forms that are present in reform processes—also matter. They do so by providing the organizational contexts within which action can be taken at any particular point in time, providing the identities of groups in which certain actions are not allowed, and defining what individuals and groups can consider and can act upon at particular times and in specific places (Clemens and Cook 1999; Clemens 2007). In the case of Eastern Europe, for example, pre-communist and communist legacies act as an institutional memory, including interests that may reduce reform opportunities (Neave and van Vught 1991, quoted in Musselin and Teixeira 2014:4).

In Latin America, university autonomy is the prevailing institutional legacy, although it has always been built through interaction with the government in power at the time. In that sense, university autonomy would approach self-regulation, but with latent political control. One of the milestones of this institutional development was the Cordoba Reform of 1918, which was regional in scope and introduced student co-government, wherein students participated in the election of all university offices (Pelaez and Stretch 1963), along with student participation in university affairs and freedom of instruction (Brunner 1990). This was a reaction to the crisis faced by the Latin American university model which was in a period of decline after the wars of independence, and which still carried traces of the colonial university model (Brunner 1990). The Latin American university model had been perceived as an “oligarchic ivory tower removed from the concerns of the vast majorities, unwilling to open up to modernity and to the rapidly expanding middle class and controlled by politicians and chair holders of little academic accomplishment or vocation” (Arocena and Sutz 2005 cited in Bernasconi 2008: 31). Tensions arose between the academic community and between universities and the state. The universities, therefore, became highly politicized. As a result, reform movements emerged in most of the countries of the region at the beginning of the twentieth century (De Figueiredo-Cowen 2002: 473).

The Latin American university thus inherited a model in which, despite the freedom to teach and learn, a code of service and loyalty to the state was required (Brunner 2011: 143), and thus the university would always be sensitive to political and governmental intervention.

Since the 1950s, several changes have taken place in Latin America, including rapid urbanization and industrialization, population growth, and widening of socioeconomic inequality, as well as the expansion of the middle class (De Figueiredo-Cowen 2002: 475). In the 1960s and 1970s, the privatization of the higher education sector began in Argentina, Colombia, and Brazil (De Figueiredo-Cowen 2002: 476). In the following decades (1980s

and thereafter), the sector continued to grow without much regulation. It also diversified and became competitive, adopting the logic of a market economy that favored privatization of universities (Espinoza 2010: 11). In recent years, quality assurance initiatives have emerged in response to the growth in the number and diversity of higher education institutions without adequate regulation of quality (Espinoza 2010: 10).

The sector's growth dynamic and the quality crisis among universities are phenomena experienced by the two countries that constitute this study: Peru and Ecuador. The demand for higher education by a population subgroup of young people who have completed basic education has increased in both countries (Weise and Laguna 2008: 431). According to Weise and Laguna (2008), there has been an increase in the number of private educational institutions with loose regulatory schemas and with curricular offerings tied to the market and away from social needs. Finally, the public sector is weak compared to the private sector, which typically lacks the desirable levels of quality (Weise and Laguna 2008: 444). Figure 1 shows the distribution of student enrollment in public and private higher education institutions in Latin America. As we can see, in 2000, before the recent reforms in both countries, there was little difference between the percentage of enrollment in public institutions in Ecuador (63%) and Peru (56%).

In both countries, large public universities have seen substantial budget cuts, deterioration in academic quality, a shortage of scientific research, low teacher remuneration, and a growing presence of students with diverse cultural backgrounds (Weise and Laguna 2008: 439). The reform policies promoted in the two countries in the 1990s featured the same approach and the same components (Weise and Laguna 2008: 444).

In this context, then, the objective of this paper is to show how Peru and Ecuador—with very similar higher education systems—have adopted different regulatory processes in response to the crisis in the wake of the reform of the 1990s. In Peru, the reform has featured a more market-based approach, while the process in Ecuador has involved a more state-focused system. Thus the first illustrates a case of market regulation, while the second is a case of government-based regulation. The main difference between the two is in the impact of the institutional legacy of university autonomy. In the Peruvian case, the period under analysis starts 2 years before the university law reform of 2014 and extends through the end of 2015, while the Ecuadorian case covers the period between 2008 and 2014. Our analysis in this paper

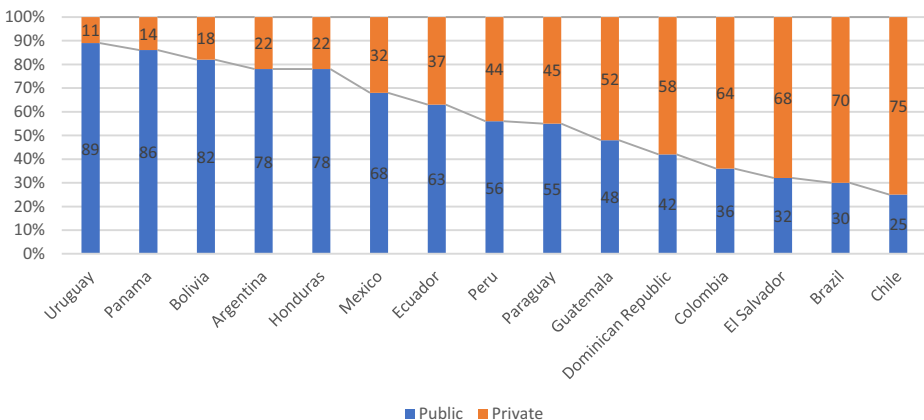


Fig. 1 Distribution of enrollment in public and private higher education institutions (2000)

does not include the impact of the two types of reforms on the quality of education, nor does it take into account the developments after 2015 in Peru and 2014 in Ecuador.

Peru and Ecuador and the regulatory model crisis

In Peru, the university model that emerged both from the University Act of Peru (Law¹ No. 23733, 1983) and from the enactment of Legislative Decree No. 882 (1997) underwent an important reformulation. While this act conceived a university model based on the idea of a university community, non-profit in nature, with teacher and student participation mechanisms and under a paradigm of institutionalized self-regulation in the National Assembly of University Presidents [Asamblea Nacional de Rectores; ANR], the decree allowed educational institutions to be organized in any way, including as a for-profit entity. In addition, it allowed a high degree of freedom in the way that educational centers at any level (including universities) could be structured. It is also important to understand that the ANR emerged as a vehicle for coordination between universities, with autonomy in its operation, election of officials, approval of regulations, and organization of its bodies (Benavides et al. 2016).

In the event that a university's evaluation results were unfavorable, the ANR was required to notify the legislative branch so that it could repeal the law that allowed for the creation of said university. This mechanism was designed to ensure the quality of university education and to close universities failing to meet quality standards. In 1995, the National Council for the Authorization of the Functioning of Universities [Consejo Nacional para la Autorización de Funcionamiento de Universidades; CONAFU] was created. CONAFU belonged to the ANR, with membership comprising former university presidents, and its role was to authorize the operation of new universities at the national level.

However, this procedure was challenged by the Constitutional Court. In 2008, that body ruled that “both the ANR and CONAFU have acted unconstitutionally by the abuse of rights, inasmuch as, with the mechanical and regulatory application of the provisions that established the requirements for the licensing of universities and subsidiaries, they have undermined and strayed from the constitutional principles that this implementation should follow.”² The court drew attention to what was interpreted as the state's refusal to supervise the quality of education provided by private universities by conferring this function to the ANR and CONAFU, autonomous bodies that are not directly attached or supervised by the state, and that are comprised of current and former university presidents.

In this sense, the institutional evolution of ANR drove it to become, according to several specialists, a corporate body, where university presidents exerted more influence than other actors in the educational community. According to the 2006 Ministry of Education report, ANR presented serious limitations for internal democratic processes, leading it to operate mainly in a corporate capacity (MINEDU 2006: 38).

In this scenario, the university system experienced a 200% expansion, growing from approximately 56 universities in 1996 to 140 in 2015. During this period, the first private for-profit universities were created, and important changes to organizational structures occurred, including statutory changes eliminating forms of student and teacher participation.

¹ Law No. 23733, December 9, 1983.

² Constitutional Tribunal Resolution File No 0017-2008-PI/TC, 2010.

The crisis the system's quality prompted the call for reform. According to a document issued by the Ministry of Education [Ministerio de Educación; MINEDU] itself, the proliferation of “for-profit” universities would have brought about universities without minimum standards of infrastructure and teaching quality or professionalization of teaching, and with no interest in developing research or the production of knowledge (CNSRU 2002: 33).

Meanwhile, in Ecuador in the 1990s, the creation of universities was not planned or controlled by the government. From the 1980s to 2006, the former National Congress was in charge of approving the creation of universities through the law, without any checks and balances from the executive in the form of evaluations or any type of regulation. The political instability that the country experienced—six presidents in 10 years—along with other factors resulted in a massive increase in the number of universities, 273% in 14 years (CEAACES 2013). In 2008, there were 216 university centers, including polytechnic schools and university extensions. An unknown number of these universities were approved by the National Congress without even having a favorable report by the now defunct National Council of Higher Education [Consejo Nacional de Educación Superior; CONESUP]. The state had no defined academic regulatory standards, and degrees were granted with no regard for the study load or the congruity between the degree and the material taught.

Additionally, higher education institutions offered a range of so-called postgraduate courses that lacked minimum requirements of teaching quality, research, and infrastructure. One study identified the conferment of degrees, specializations, and masters that failed to meet minimum quality requirements. Only 20% of these degrees were in the natural sciences, physics, engineering, or technology, while 80% were in fields such as administration, business, and social and environmental sciences (Vela 2012).

It is important to mention that by the end of the 1990s, Ecuador began to introduce changes to better regulate the system. The 1998 Political Constitution [Constitución Política de 1998] and the 2000 Organic Law on Higher Education [Ley Orgánica de Educación Superior (LOES) del 2000], created the constitutional and legal framework in higher education necessary to establish the system's quality objectives. Article 75 of the Political Constitution established scientific research and vocational and technical training as the main functions of universities and polytechnic schools. To ensure quality, the Autonomous Evaluation and Accreditation System was created through Article 79 and established an accountability process. It also ratified respect for autonomy and for the governing bodies of the system, including higher education institutions and higher technical and technological institutes.

As Rojas (2011) points out, with the 2000 LOES, the National Council of Universities and Polytechnic Schools [Consejo Nacional de Universidades y Escuelas Politécnicas; CONUEP] was replaced by the CONESUP, and the National Council for Evaluation and Accreditation of Higher Education [Consejo de Evaluación y Acreditación de la Educación Superior del Ecuador; CONEA] was designated as the entity responsible for executing the national evaluation and accreditation program. However, CONESUP failed to approve certain regulations in a timely manner,³ and also failed to implement monitoring mechanisms for academic activities. This led to the proliferation of postgraduate programs and the creation of undergraduate degrees that catered to clientelism.

The most serious consequences of this scenario for higher education were the precariousness of teaching, scarcity of research, and a greater number of private than public universities, thus continuously generating profits for a small number of families or power groups, and

³ Doctoral degree regulations (2007), academic framework regulation (2008)

reinforcing both unequal access to education and the centralization of institutions to Quito and Guayaquil. It is important to note that 80% of the universities that received the lowest scores in the 2009 evaluation were created during this decade. The evaluation was carried out by CONEA.

Reforms in different ideological and social contexts

In the Peruvian case, reforms are carried out from a market perspective in the context of state withdrawal and a major trend towards the advancement of regulatory processes. As Oszlak points out, “many governments have totally or partially renounced a significant portion of their direct delivery of goods and services, which is manifested in the transfer of these responsibilities to subnational agencies and the market” (Oszlak 2004: 1). It was in this context, as noted by Rivera (2004), that regulatory policies and policies promoting competition were created, and institutions with a certain degree of autonomy were developed to assume these functions.

However, partly as a reflection of an institutional legacy where the university has enjoyed a great deal of autonomy, one of the great criticisms the new university law faced was the creation of a regulatory body. Particularly harsh criticism came from the major media outlets in the country, where prominent opinion leaders spoke out against the university law, citing its bureaucratic and inefficient nature, and arguing that the state would have no capacity to effectively regulate the quality of university education (El Comercio 2014a).

Echoing these criticisms, academic forums renowned for their professional practice spoke out against the law, this time for having violated the principle of university autonomy by creating a body that would regulate educational quality (El Comercio 2014b). The Federation of Private Institutions for Higher Education⁴ [Federación de Instituciones Privadas de Educación Superior; FIPES] was opposed to having a regulatory body in higher education, which they called a “vexation of freedom of thought” and a discouragement to private investment in education, since that entity would denaturalize university autonomy, subjecting the university to the political control of an organization (Peru 21 2014).

This backlash against the law was reflected in the lack of political support in congress, despite the many efforts of the executive branch, led by Minister of Education Jaime Saavedra. The university law ruling received preliminary approval on December 9, 2014, after 17 months of debate and with 16 chapters that would be discussed later in the plenary session. It was approved by a slim majority (9 of 17 total votes, 6 of the governing party) in the Congressional Education Commission. It is interesting to note that the distribution of votes remained almost the same months later during its final approval, with 56 votes in favor, 46 against, and three abstentions (Corresponsales 2014).

In this sense, the Peruvian case is one whose regulatory model followed international trends based on the liberal concept of giving the state a facilitatory rather than a controlling role. Peru’s case also arose in a difficult context due to public opinion pressures, the strength of private interests, and the care taken to safeguard the autonomy of universities, an institutional legacy that is legitimized and protected by the academic community.

In the Ecuadorian case, the reform occurred within the framework of the government’s ideological reformation. Indeed, the first article of the Ecuadorian constitution declares higher

⁴ Network created in 2009 composed of ten universities and several technological institutions, many of which are for-profit.

education a basic right. This sets the tone for subsequent articles that deal more specifically with the issue of education, such as Article 28, which states that “education shall respond to public interest and shall not serve individual and corporate interests” (Congress of the Republic of Ecuador 2008).

Thus, the design and implementation of regulatory mechanisms illustrates that the transformation of the Ecuadorian higher education system is based on the principle of social “well-being” and the creation of a knowledge society (Ramírez 2013). Therefore, it is understood that the changes in higher education heed the call for “social transformation” put forth by a government that declared itself a model of twenty-first-century socialism, and determined that after the “long neo-liberal night” (in terms of its proposal) of the 1980s and 1990s, equity in access to higher education was seriously impeded by the massive creation of for-profit private universities, thus justifying state intervention. Therefore, according to Article 350 of the 2008 constitution, higher education must be aligned with the objectives of the development structure, which is defined in Article 275 of the constitution as “the organized, sustainable, and dynamic set of economic, political, socio-cultural and environmental systems, which guarantee the attainment of well-being.”

Although the process of creating the LOES was participatory and resulted in agreements between the interested parties and the assembly members,⁵ these commitments were not honored. The law was finally approved by executive order, ignoring what had been agreed upon, which led to several public protests against its enactment (Ecuador Inmediato.com 2010; El Universo 2010; El Tiempo 2010; USFQ 2009; Eldiario.ec 2010). However, despite the government’s blatant disregard for the organizations’ position regarding the new law, societal opposition to the reform was not overwhelming. There were no extensive debates or major protests in the public sphere.⁶ Consequently, Rafael Correa’s government was able to take advantage of the obvious popular support he garnered in every election from 2006 onward, except for the last local elections held in February 2014.

Two different regulatory systems

Peru

Unlike the previous model, the new model recognizes that the state must “guarantee that the public service of university education is provided in the necessary quantity and with an acceptable level of quality to safeguard the public faith of the users of this service.” The state must therefore guarantee minimum standards of service and must intervene to correct competitive market failures (Benavides et al. 2016: 170).

As the British Council (2016) points out, the objective of University Law N. 30220, enacted in 2014, was to regulate the university higher education market, which comprises the public universities, the not-for-profit private universities, and the private for-profit universities (British Council 2016: 49–50). To achieve this objective, the act provides a regulatory framework

⁵ The agreements revolved around the creation of the Sector Secretariat, the composition and chair of the Higher Education Council and the Council for Evaluation, Accreditation and Quality Assurance of Higher Education, university autonomy, and the level of state control.

⁶ Explained in part by the great discrediting of the universities and the disapproval that citizens felt for the state of the higher education system, due to constant denunciations and scandals, the commercialization of degrees, and the low quality of education, among others.

for the creation, operation, supervision, and closure of universities, and seeks to promote improvement in the quality of services provided by university institutions (British Council 2016: 50). The Ministry of Education (MINEDU) is the governing body for quality assurance in Peru's higher education system.

The reforms in the Peruvian case aim to improve higher education services, without limiting institutions' ability to operate for a profit. According to the National Board for University Higher Education [Superintendencia Nacional de Educación Superior Universitaria; SUNEDU], university higher education is oriented towards achieving civil and professional competencies that meet the demands of society and the labor market (SUNEDU 2015). There is also a greater concern with satisfying the demands of the external environment (labor market, academic community, and the socioeconomic environment of each institution). The Constitutional Court shares this concern by pointing out that the law does not violate free market initiatives, since it does not limit free enterprise. Instead, it fulfills the state's supervisory, corrective, and regulatory role regarding the market. Likewise, autonomy is an important and sanctioned principle within the context of the university's needs. Autonomy, as stated in Article 8 of University Law 30220, is manifested in the following regulations (Congress of the Republic of Peru 2014):

- Normative: the power of self-determination for the creation of internal norms (statutes and regulations) aimed at regulating the university.
- Governance: the power of self-determination with regard to the structure, organization, and leadership of the university, according to its nature, characteristics, and needs. It is formally dependent on the regulatory framework.
- Academic: the power of self-determination to set the framework of the teaching-learning process within the university. This includes determining the curricula, research programs, and application and closure procedures. It is formally dependent on the normative regime and is the most complete expression of the university's *raison d'être*.
- Administrative: the power of self-determination to establish the principles, techniques, and practices of management systems, such as the organizational structure of its teaching and administrative personnel, with the aim of helping the university reach its goals.
- Economic: the power of self-determination to manage and dispose of institutional assets, as well as to establish criteria for the generation and use of resources.

The main body within the system is SUNEDU. Although there is another institution for accreditation (SINEACE) and another for the promotion of scientific activity (CONCYTEC), and the Department of Education (MINEDU) is responsible for guiding the system and promoting its quality, SUNEDU is the only body responsible for supervision and licensing, as stated in Article 22 of University Law 30220. Accordingly, SUNEDU's scope of legal power identifies it as the central authority for quality supervision, and at the same time and as stated in Article 12 of the same law, SUNEDU has technical, functional, economic, budgetary, and administrative autonomy.

Most of the members are chosen through a public tender. Among these is the superintendent, the highest executive authority of the SUNEDU, appointed per the Minister of Education's proposal for a period of 3 years, renewable for an additional period as indicated in Article 20 of University Law 30220. The other executive member is a CONCYTEC representative, who is given a position of director general or higher, as stated in Article 17 of University Law 30220. The remaining five members are selected through public tender—two

of whom are teachers from public universities and one a teacher from a private university—who must have a doctoral academic degree and 10 years of relevant work experience.

It is important to mention that the original model for the regulatory body could have been one of greater government control (as in the Ecuadorian case described below). In the initial project, the board of governors comprised members of public and private institutions,⁷ and thus had a mechanism of representation with a strong state influence. Another important difference was that the initial proposal contemplated the obligatory nature of a government structure based on the models of university assembly, university boards, president, faculty boards, and deans, as well as the universal vote (Benavides et al. 2016: 170). In the final version that contained the creation of the SUNEDU, however, this applies only to public universities, while private universities are governed by their own statutes.

It must be emphasized that a key characteristic of the licensing process in Peru is that it is gradual, and as granted by the SUNEDU, it allows a grace period for adaptation as part of the Progressive Implementation Plan for universities that fail to comply with all of the basic quality requirements (SUNEDU 2015).

Ecuador

From the outset, the regulatory policy in Ecuador has stipulated that the higher education system should be linked to the National Secretariat for Planning and Development [Secretaría Nacional de Planificación y Desarrollo; SENPLADES], the public agency in charge of development planning. According to Article 351 of the constitution, the higher education system must be linked to the national education system and the national development plan. The system should be governed by the principles of responsible autonomy, co-government, equal opportunity, quality, relevance, comprehensiveness, and self-determination for the production of knowledge within a framework of dialogue, universal thinking, and technological scientific production. It is also important to note that according to Article 352 of the constitution the institutions that comprise the system, whether public or private, cannot be for-profit, which must be guaranteed by the Council of Higher Education [Consejo de Educación Superior; CES].

Article 355 of the 2008 constitution, on the other hand, recognizes the academic, administrative, financial, and organizational autonomy of universities and polytechnic schools in accordance with the objectives of the development plan and the principles established therein. According to the 2010 LOES, “responsible autonomy” refers to the reciprocal and cooperative relationships between universities and polytechnic schools, taking into account principles of justice, equity, solidarity, citizen participation, social responsibility, and accountability.

According to Article 108 of the 2010 LOES, universities and polytechnic schools, both public and private, must be created by law following a mandatory binding report sent from CES to the National Assembly. The CES report will be based on a mandatory report by SENPLADES, which must support the creation of the higher education institution and be submitted within 180 days.

The Constituent Assembly issued Constitutional Mandate No. 14, whose first transitory provision stipulated that within a period of 1 year, the following would be determined: “the academic and legal status of all educational entities under its control based on compliance with

⁷ Department of Education (MINEDU), National Center for Strategic Planning (CEPLAN), National Council for Science and Technology (CONCYTEC), two public universities, and two private universities.

its provisions and the rules that are currently in place” (Minteguiaga 2012: 99). This evaluation would be based on a technical report on “the level of institutional performance of higher education establishments, in order to guarantee their quality, promoting the improvement and closure of those that do not meet the standards” (Minteguiaga 2012: 99). The final report presented by CONEA established five categories (designated A–E) for classification of the system’s institutions (Rojas 2011: 61). The 2010 law established a period of 18 months for category E universities to streamline their institutional models.

There are many institutions responsible for the system, which reflects the high level of coordination between them. The 2010 LOES identifies the following institutions: the CES, the Council for Evaluation, Accreditation and Quality Assurance of Higher Education [Consejo de Evaluación, Acreditación y Aseguramiento de la Calidad de la Educación; CEAACES], SENESCYT, and the Department for the Coordination of Knowledge and Human Talent [Ministerio Coordinador de Conocimiento y Talento Humano; MCCTH].

According to Article 166 of the 2010 LOES, the CES is a body with legal capacity, its own assets, and administrative, financial, and operational independence, whose objective is the planning, regulation, and internal coordination of the higher education system, and maintaining the relationship between the system’s participants and the executive branch and Ecuadorian society. It is responsible for managing the licensing approvals, and it monitors, regulates, and sanctions institutions (Benavides et al. 2016: 180–181). Likewise, in conjunction with other agencies and with the governing body of higher education policy, it coordinates state policies and planning (Benavides et al. 2016: 181). It is ultimately responsible for approving and issuing regulations for the operation of the system, and it manages the information sent by SENESCYT (Benavides et al. 2016: 181). CES works together with CEAACES, and its members cannot include representatives of institutions that are subject to regulation or those a with vested interest in the areas to be regulated, as stated in Article 166 of the 2010 LOES.

CES, as the LOES 2010 states, is composed of the following members (Congress of the Republic of Ecuador 2010):

- Four representatives of the executive branch: the National Secretary of Higher Education, Science Technology and Innovation; the Technical Secretary of the National Planning System or an appointed delegate; the minister directing the national educational system or an appointed delegate; and the minister directing the production policy or its appointed delegate.
- Six scholars elected through a competitive public tender. These six members must meet the same requirements as those for the president of a university or a polytechnic institute
- A student representative who participates in the sessions and has voting power.

The president shall be elected from among the CES members by a majority vote of members with voting rights. Voting is mandatory among members, with the exception of those considered to have a conflict of interest, as established by Resolution No. 006-001-2011 of the CES. The scholars that make up the CES are selected through a competitive public tender organized by the National Electoral Council [Consejo Nacional Electoral; CNE], according to Article 168 of the 2010 LOES. Their selection considers the following: areas and scope of knowledge, and territorial and gender balance.

According to Article 171 of the 2010 LOES, CEAACES is a public technical body, with legal authority and its own assets, with administrative, financial, and operational independence, and is responsible for quality assurance in higher education, as indicated by Article 95

of the 2010 LOES. It works in coordination with the CES and has regulatory and management powers. Its members cannot include representatives of the institutions that are subject to regulation or those with a vested interest in the areas to be regulated (LOES 2010). The CEAACES will be in charge of regulating the institutional self-evaluation, and will execute the processes of external evaluation, accreditation, academic classification, and quality assurance, according to Article 173 of the 2010 LOES.

According to Article 175 of the 2010 LOES, CEAACES will be composed of six scholars, three of whom are selected through a competitive public tender organized by the CNE, and who will have to meet the requirements for university presidents, while the remaining three will be appointed by the nation's president. The six scholars who will make up the CEAACES will choose their president from among the three nominated by the executive branch.

Another important body is the National Secretariat for Higher Education, Science, Technology and Innovation [Secretaría de Educación Superior, Ciencia, Tecnología e Innovación; SENESCYT], which is the governing body for higher education public policy and is responsible for coordinating actions between the executive branch and the system's institutions, as noted in Article 182 of the 2010 LOES. It is headed by the National Secretary for Higher Education, Science, Technology and Innovation of Higher Education, appointed by the country's president. In addition to these roles, SENESCYT has expanded its scope to include the management and implementation of all policies under its remit, as well as coordination between the executive branch and institutions of higher education (Benavides et al. 2016: 179). Another important institution is the Department for the Coordination of Knowledge and Human Talent (MCCTH), created in 2012 by executive Decree 266. The MCCTH seeks to coordinate and evaluate the development, execution, control, and monitoring of public policies, programs, and projects in the knowledge and human talent sector (Benavides et al. 2016: 181).

As Benavides et al. (2016) point out, the Ecuadorian reform initiative enjoyed great political support from the presidency and the majority in congress (belonging to the ruling party), which allowed for forceful and rapid decisions, such as the closure of 14 universities, the establishment of a higher education system by way of a higher education law, and a policy of quality assurance with high levels of institutionalization (Benavides et al. 2016: 183).

Conclusion

Since the 1980s, higher education regulatory systems have been undergoing change at a global level. In particular, as Neave and Van Vught (1991) described, there has been a shift from a state-control model to a state-oversight model, in which the state designs a framework of rules and policy objectives for the system as a whole, and institutions have greater freedom to establish own mission and pursue their own priorities (quoted in Musselin and Teixeira 2014: 4). The differences between one country and another in terms of the type of regulation that is adopted are the result of political and ideological factors.

This study has contributed to the debate by describing the transformations of two higher education systems in Latin America. It has also shown how in each of the two countries, different institutional relationships have emerged between the market, the state, and the universities, and how this difference can be explained by the political and ideological contexts of each country. In Ecuador, the definition of policies, university autonomy, and the formation of regulatory agencies allows the state's presence and political orientation to be felt, while in

Peru, market-based ideas guide policy. Thus, in Ecuador, in contrast to Peru, the university itself is less autonomous, and the university system is governed by the principle of responsible autonomy, with limitations in the form of supervisory and quality control roles distributed among more public bodies, where representatives of the executive branch make up the majority of board directorship. Finally, the regulatory process is less gradual in nature, which may have enabled the closure of universities to occur more swiftly.

In this sense, we have explored how the different ideological contexts and institutional relationships between social and political actors have led, on the one hand, to a political regulatory framework, and on the other, to market-based regulation. Although an element of technocracy was present in both processes, there are nuances in the way in which the relationship between state, market, and universities ultimately develops.

Peruvian market regulation arises in a context in which there is no imbalance of power between state, market, and university actors, and its final position depends on some of the actors assuming a greater leadership role. In Peru, both the executive branch and the private sector, along with relevant actors from the universities themselves, have come together in an agreement to promote reform that does not seek to alter university autonomy or to radically challenge private-sector intervention in higher education. It is based on meeting minimum requirements in providing educational services that coexist with a weak private-sector presence. Autonomy, although weakened, continues to guide the reform process. In that sense, the institutional legacy of autonomy has endured throughout the period largely due to the reform movement's market orientation.

The Ecuadorian government-based regulation arises as a consequence of a weakening of the market (and its associated private interests), civil society, and university academic sectors vis-à-vis a government that has political and public support. Its regulatory capacity is strong, at least in the early phases of its implementation. Therefore, it is a model of state regulation with a heavy emphasis on “the public interest” and where basic conditions of quality are controlled, as well as issues related to the private market such as tuition cost control, elimination of administrative costs for issuance of titles, compulsory scholarships, and compulsory accreditation. Thus, we find a framework that features strong government intervention, is more prone to institutional control by the entities that comprise the system, and in which the executive branch has a strong presence.

As mentioned earlier, this paper has not analyzed the impact of the two types of reform on the quality of education. Further analysis is needed to answer that question and also to explore the most recent phase of reform in both countries, to ascertain whether the key characteristics of these reforms have been maintained, given the recent changes in social and political processes.

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