

Jorge Carpizo and His Generation

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Undoubtedly, many tributes will be made and the necessary eulogies written paying homage to the dimensions of the loss the university, the country, and the international community of constitutionalists have suffered with the passing of Dr. Jorge Carpizo McGregor.

In this article, I do not wish to refer to Jorge Carpizo's exceptionality as an individual, or to his fruitful personal labors, but to his being part of a generation of jurists that has made great contributions to the construction of new democratic institutions. This is because his membership in that group helps understand better his singular role as a bridge between generations, as Miguel Carbonell put it, but also as a mediator between the university, the state, and society.

Jorge Carpizo belongs to a generation born in the mid-1940s that gradually arrived at the conviction that it was necessary to prepare the reform of the Mexican state's public institutions through the study of comparative law. What



formative experiences could have brought about such an idea in that generation? Its members studied law in the National Autonomous University of Mexico's Law School in the 1960s. It was the decade when different political conflicts (the doctors in 1964-1965, the university conflict in 1966, or the 1968 movement) demonstrated the existence of middle-class urban groups that did not clearly fit into the state corporatism that had developed since the 1930s. The novel

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thing about these movements, as Ricardo Pozas Horcasitas would point out about the doctors, was that the kind of organization that the new social actors were fighting for had a strong component of professional identification and a fundamentally civic, autonomous feel. Their labor organization project was conceived as a fundamental part of citizens' civil rights, and less and less as a pact between the organizations and the state.

If the final response to these movements was repression, this was neither the Mexican government's first nor only reaction; but it was clear that at that time it had limited capacity for processing the unconditional demand for certain rights established in the Constitution, beginning with freedom of association and of expression. In contrast with those who thought that government repression canceled any possibility of peaceful political change and therefore opted for guerrilla struggle in the 1970s, these young jurists were receptive to the new social movements' "language of rights." That is, they were receptive to the idea that the path to change was marked by the 1917 Constitution itself—which, paradoxically, the political regime itself gave constant lip service to—and that the gradual reform of the institutions through law constituted the only peaceful, desirable alternative for

the country, even if it would still take an indeterminate but long time.

It is true that we jurists are reformists almost by necessity, because legal reform can only be done gradually and partially if it utilizes and respects the procedures for change established in the legal system itself. It is the great merit of this generation, with Jorge Carpizo at its head, that it took advantage of the natural reformism of the legal system to articulate it favorably with the regime's willingness to change since the end of the 1970s. The critical work that necessarily preceded the creation and reform of public institutions in the 1980s and 1990s was done under the protection of university autonomy. For that reason, it was also not mere chance that these same jurists struggled arduously to guide the 1970s university unionism through legal channels and to establish university autonomy in the Constitution, including freedom of thought in teaching and research, which are its constituent parts.

However, the generation I am referring to here would have achieved much less than it did, and its work would have run the risk of being ephemeral if it had not been capable of assimilating the legacy of previous generations, or transmitting it to the young jurists of today, and of contributing in the eyes of society to the legitimacy of and confidence in the new institutions that the old ones had already lost.

Jorge Carpizo's generation received the legacy of at least two previous generations: first, that of the jurists born in the last decade of the nineteenth century and the first decade of the twentieth. I am thinking here of figures of the stature of Don Mario de la Cueva, Don Antonio Martínez Báez, Don Antonio Carrillo Flores, Don Felipe Tena Ramírez, or Don Eduardo García Máynez, who collaborated decisively in the 1930s and 1940s in the creation of the new post-revolutionary legal institutions. All of them, by the way, were closely linked to what was then the National School of Jurisprudence.

The second legacy was that of the generation born in the 1920s. Some of its members, in turn, were enriched by the heritage of comparative law received from Spanish jurists in exile at a time when our country was subjected to the effects

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of intense nationalism, which also affected legal ideas. That seed, cultivated discretely by jurists of the stature of Héctor Fix-Zamudio and Sergio García Ramírez, brought forth abundant fruit, above all in the sphere of human rights and justice, when it became necessary to open and democratize existing institutions.

Luckily for us, a new generation of young jurists, educated mainly in our UNAM School of Law, has come upon the scene and taken up the reforming impetus and the example of Jorge Carpizo and the colleagues of his generation. Born mainly in the 1970s, this generation is already visibly displaying outstanding participation in public affairs. Its members did not have to suffer under the asphyxiating presidentialism of old; rather, their education and professional careers have developed in an increasingly free and open environment. It is understandable, then, that these young people have proposed contributing to broadening and deepening democracy by defending new causes, like legalizing the termination of

pregnancies; same-sex marriage; the rights of little girls, little boys, and adolescents; gender equality; and transparency and access to information. It will also fall to this generation to defend on a daily basis the conquests of its predecessor: there is no such thing as definitive conquests, much less in these turbulent times in which many have an interest in undermining and even destroying them.

Lastly, it should be mentioned that Jorge Carpizo and his generation's reform efforts were successful because they achieved a transformation in the intellectual capital derived from academic legal study carried out in impartiality, credibility, and confidence in the sphere of the new institutions. But above all—and this is a grave deficiency in the country today—they were carried out with a high, irreducible degree of institutional commitment.

What I have written here by no means aims to detract from Jorge Carpizo's work. Quite to the contrary: that work acquires even greater stature because he achieved a profound comprehension of the close ties that existed, in the circumstances in which he lived, between the rigorous study of the law, the interrelationship of generations, and the imperious need to foster changes in Mexico's public life. His life appears now as a unique synthesis—perhaps unrepeatable—of those three existential crosscutting threads. This is where I believe lies his most profound and enduring legacy. To be worthy of him, we must now do everything possible to preserve and enlarge it. ■■■