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Educational Reform

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I. Introduction: Education and Governance

While various authors and scholars of the Science of Public Administration have not agreed on the definition of governance, the fact is that their analysis refers us to the processes of change in the State and their environment. Talk of governance necessarily implies a description of institutions, rules and norms through which policies are developed and implemented, where accountability is required. In this sense, the reform involves broadly to change the rules of the game, i.e. modify the processes by which decisions are made and implemented on behalf of the members of any organization or a society.¹

As stated Joan Subirats,² if we talk about education and governance, we have to defend a conception of training more linked to public service, i.e. a set of policies that have as the ultimate aim improving the citizenship's living conditions.

¹ Rodrik, Dani, "Thinking about governance" in, Fukuyama, Francis et al, *Governance, Growth and Development Decision-Making*, Washington, DC, World Bank, 2008, pp. 17–24.

² Subirats, Joan, "Gobernanza y educación" en *Educación y Vida urbana*, 20 años de ciudades educadoras, Asociación Internacional de Ciudades Educadoras, Barcelona, 2009, pp. 227-240.

On the other side, the UNESCO³ has said that in order to understand the importance of good governance in terms of teaching, it is necessary just consider the alternative. Bad governance leaves parents and communities faced to an educational system that do not meet their needs: Children in the classroom, but without the most basic educational materials and teachers without training or motivation, unable to improve student achievement. Thus, good governance involves not only transparency and accountability, but a real commitment to equality of opportunities for all citizens.

The state of education in Mexico has chiaroscuro. We have strengths that cause us pride as the full coverage in primary education, or higher rates of free delivery of textbooks in the worldwide, figures that reach 238 million copies per school year.

However, we also have weaknesses. At the beginning of this administration there were 5.2 million illiterate and more than 10.1 million functionally illiterate, a total amount of 15.3 million in a country of 112 million people.

Also, the enormous efforts made to expand coverage at all levels, were offset by high dropout rates. This situation worsened due to insufficient professionalization of teachers, backwardness and deterioration of school infrastructure, low quality and marked differences in access to education, specifically for people with lower revenues.

This scenario could not continue. Therefore, the President Peña Nieto determined that education should be a priority on the public agenda and urged a reform in this area, which includes constitutional amendments, published in the Official Journal of the Federation on February 26, 2013, as well as amendments to the Education Act. In September of the same year he issued two new statutes: Professional Service Law and the National Institute for Evaluation Law.

II. Educational Reform's Content

To fully understand the educational reform we must take into account that any system, in order to be considered complete, must have rules of different structure, according to the Italian jurist Norberto Bobbio.⁴

For half a century on has insisted that there should be a distinction between value structure rules, principle rules and standards rules, as the hermeneutical keys of any system.⁵

³ *"Superar la desigualdad: Por qué es importante la gobernanza"*, Informe de Seguimiento de la EPT en el Mundo. UNESCO, 2009.

⁴ Bobbio, Norberto, *Il positivismo giuridico*, Turin, 1961.

⁵ Prieto Sanchís, Luis, "Prólogo", in García Figueroa, Alfonso, *Principios y positivismo jurídico. El no positivismo principialista en las teorías de Ronald Dworkin y Robert Alexy*, Madrid, Centro de Estudios Políticos y Constitucionales, 1998, pp. 17-20.

Values are rules that indicate the general goals that the entire system must reach in a compulsory way. With the principles, the system is a little more concrete, condensing in a simple expression a set of compelling actions that must be performed to meet the values. Finally, the rules are systems which require performing certain behaviors and impose legal consequences.

According to this idea, rules are systems of the first grade, principles of the second grade and values of the third degree, as Robert Alexy wrote.⁶ This gradation does not depend of its obligatoriness, but of its abstraction and of the interpretative work that each one requires.⁷

The rules must be applied in light of the principles that govern them, which can offer solutions in cases not expressly regulated. In turn, the principles must be completed and understood them according to the values that they develop.

Under this distinction, I will undertake education reform with a deductive approach, starting with the values, passing through the principles and reaching to the rules in order to achieve the full understanding of this amendment to the Mexican education.

1. The value of the Educational Reform

The most important value that inspires and compels the Mexican educational reform is the child's best interests.

The Declaration of the Rights of the Child, adopted in 1959, constitutes the direct antecedent of the convention on the subject, in its numeral seven mentions that the "child's best interests shall be the guiding principle of those responsible for his education and guidance".⁸

It should be noted that according to Article 4 of the Mexican Constitution, administrative authorities and legislative bodies should have a primary consideration about the child's best interests.

⁶ Alexy, Robert, *Derecho y razón práctica*, México, Fontamara, 1993, p. 16.

⁷ Vigo, Rodolfo, *Los principios jurídicos*, Buenos Aires, Depalma, 2000, p. 11.

⁸ "Principle 7: The child is entitled to receive education, which shall be free and compulsory, at least in the elementary stages. He shall be given an education which will promote his general culture and enable him, on a basis of equal opportunity, to develop his abilities, his individual judgment, and his sense of moral and social responsibility, and to become a useful member of society. The best interests of the child shall be the guiding principle of those responsible for his education and guidance; that responsibility lies in the first place with his parents.

In this regard, the May 29, 2013, the Committee on the Rights of the Child of the United Nations stated that the child's best interest is a threefold concept:

- a) It is substantive right of the child to have his or her best interests assessed and taken as a primary consideration in order to reach a decision.
- b) A fundamental, interpretative legal principle: If a legal provision is open to more than one interpretation, the interpretation which most effectively serves the child's best interests should be chosen.
- c) It is rule of procedure: Whenever a decision is to be made that will affect a child must include an evaluation of the possible impact, positive or negative.

In short, the child's best interests is a value placed at the top of the Mexican educational system. Therefore, against any doubt and any conflict of rights, judges, educational and administrative authorities and society as a whole, are required to interpret the controversy, so always ensure more and better benefits to children. The governance of the educational model is harmonized around that such value, encouraging the necessary conjunction that makes it fully operative.

2. Educational Reform's Guiding Principles

Once exposed to roughly the value of the child's best interests that inspires educational reform, it is now time to analyze the principles that shape it: quality, equity, and State stewardship.

a) Quality

The constitutional amendment specifies that all education provided must be of quality. This is a true rule of law whose purpose is to regulate all the teaching of Mexico, expressed by structure principle, which considers a variety of situations that must be constantly improved to fulfill the right to education.

The quality principle is a realization of the reform's value: only with a better and effective education can be ensured the child's best interests. This is not an abstract concept but as mentioned Professor Alexy, it is an optimization's mandate.⁹ Despite not having a choice structure is a true legal principle that must be met.

As of February there is a legal and enforceable minimum standard required of all educational service: continuous improvement and the highest

⁹ Alexy, *op. cit.* p. 86.

academic achievement of students.¹⁰ It is a requirement that officials responsible for education in the country that does not go through one way, but requires constant innovation in administrative management to make efficient and effective this principle.

In this sense, is defined by Mexican law as “the congruence between the objectives, outcomes and processes of the education system, according to the dimensions of effectiveness, efficiency, relevance and equity”.¹¹

Importantly, the principle of quality has an inherently relational nature, i.e., it place immediately to the educational model addressing the needs of its recipients in a measure of relevance. Thus, society and the market are key factors for the integration and characterization of the quality, making it measurable and therefore effective.

b) Educational Equity

In second place is equity, sovereign virtue of democracy as the jurist Ronald Dworkin renamed it, which gives to the authorities the task of promoting the conditions for equality of individuals and groups, is real and effective.

The United Nations has stated that the concept of inclusive education is based on the right of all students to receive an education that will meet their basic learning needs, enrich their lives and seek to develop the potential of each person, eradicating all form of discrimination on physical, social, ethnicity, gender, religion or sexual orientation.

c) State Stewardship

If the State does not lead education, it can't satisfy the child's best interests. We must remember that in recent years has changed its role, as its primary function the satisfaction of the basic needs of national defense and maintenance of public security have been added to meet the aspirations of the welfare of its citizens.

The concept of stewardship is equivalent to the same function of governing national educational activity. In short, the State is responsible for planning, conducting, coordinating and guiding the overall strategy of social development.

¹⁰ Literally states: “Article 3 ° [...] II - The criteria to guide such education will be based on the results of scientific progress, fight against ignorance and its effects, servitudes, fanaticism and prejudice. In addition [...] d) will be quality, based on continuous improvement and the highest academic achievement of students.”

¹¹ Article 8, Section IV of the Education Act.

This concept does not obviate the importance of other actors in the social dynamics such as parents, organizations of civil society, unions and business organizations. The State stewardship must always be understood in the context of governance, where the role of each sector on the values and principles of the educational model is harmonized, improving their full effectiveness and legitimacy.

3. Educational Reform's Rules

To give effect to the value and the above principles, three sets of rules at the constitutional level were implemented, which in the secondary legislation were established. The systems created are: evaluation, teacher professional service as well as a system of specific tools to improve teaching conditions.

a) Educational Evaluation

The first set of reform's rules is the evaluation. If we want to improve the Mexican educational system, we need to know objectively what their strengths and weaknesses are.

As part of the reform of the National System of Educational Evaluation, that is coordinated by the National Institute for Educational Evaluation, existing since 2002, which was transformed into an autonomous constitutional body, according to Santi Romano,¹² becoming the highest authority in evaluation in the country.

This Institute is headed by a Governing Board composed of five members, who were appointed by the Senate from lists proposed by the Federal Government in April last year.

Secondary law states that this Institute is the head of the System of the National Educational Evaluation, which is made by the Institute itself, the educational authorities, and a Conference integrated by the Governing Board of the Institute, representatives of the Ministry of Public Education and secretariats' representatives of some states, and which aims to exchange information and experiences in educational evaluation.

Last November the Conference, which will allow the participation of all regions and the exchange of information and experience in order to reach a true collective hermeneutic, characteristic of all educational evaluation, was installed.

¹² Romano, Santi, "Nozione e natura degli organi costituzionali dello stato", *Scritti Minori*, Milano, Dott. A. Giuffrè Editore, 1950, pages. 1-40.

b) Teacher Professional Service

Secondly, based on the Constitution, a teaching professional service was established. Prior to the reform, vague criteria and bad practices governed access, permanence and promotion of teachers. In addition, teachers did not have a framework that gives them certainty and professional development opportunities in the workplace.

A study led by Dr. Mona Mourshed¹³ concluded that education systems with higher performance in the world, even though were significantly different in terms of structure and context, agreed to get the most suitable persons for teaching, in addition to training them until becoming them effective instructors.

Under these assumptions, it was established that the evaluation is the only way for engagements, promotion, recognition and permanence in the teaching service. In this context, have no validity the engagements and promotions that are not granted according to law.

It should be noted that this law, rather than an examination, foresees a process in which aspects such as planning, how to teach, the performance of the students, the classroom environment, collaboration with other school's members and relationships with parents will be discussed, among many other components, so we estimate that must take into account the particularities in which each teacher serves.

I note that on November 14 was published, in the Official Journal of the Federation, the Presidential Decree by which the National Coordinating Teacher Professional Service is created. This is a decentralized agency of the Ministry of Education that will exercise the functions that correspond to the unit on my charge in the Professional Educational Service.

c) Tools to improve teaching conditions

Finally, there is a system of rules that can be grouped as tools that help improve teaching conditions.

Among them we can mention the full-time schools. The working day in public primary schools was four and a half hours, in the case of primary and six in high school. The reform aims to gradually establish working days between 6 and 8 hours a day in order to get more time available for academic, athletic and cultural development.

¹³ Mourshed, Mona *et al*, *How the world's most improved school systems keep getting better*, McKinsey's &Company, 2010.

The reform prohibits the sale of low-nutrition foods in schools and also in the full-time schools that are in areas of high deprivation, where schemes have been defined for the food supply.

Several studies have demonstrated the relationship between adequate facilities and learning achievement. As promised the President since his election campaign, have started the Programa de Escuelas Dignas, with which we intend that all schools have electricity, water, bathrooms, furniture and facilities in good condition.

Another measure introduced in the reform concerns the autonomy in the management of schools, moving a series of decisions at each campus, especially those related to basic operation problems.¹⁴ The objective is to put the school in the center, giving more importance to the process of learning to administrative functions.

The principle of social participation has led to the creation of the Technical School Boards at the administrative level, which seek the exchange of experiences between teachers and administrators, as well as tools to support the Director for decision-making.

To improve teaching conditions, the creation of an Information System and School Management is also provided. To this end, Article Fifth Transitory, Section I of the constitutional reform determined that the National Institute of Statistics and Geography in 2013 carried on a census on the number of schools, teachers and students, to enable the authorities to make decisions based on one common base and reliable data.

III. Implementation of the Reform

Educational reform was not exhausted with these constitutional and legal changes, because it is a living process and long-term we have to build every day.

To consolidate it several actions we are performing. Soon will issue guidelines governing the self-management of schools, through which may improve its infrastructure, purchase educational materials, solve basic problems of operation and ensuring the active participation of students, teachers and parents.

Guidelines for the sale and distribution of food will also be posted in schools, in order to health care and healthy development of our children and youth, as mandated by the reform.

In the 2014-2015 school year the first competitive examination for aspiring new entrants will be performed; evaluation mechanisms serving staff will

¹⁴ Subparagraph a), Section III, Article Fifth Transitory the constitutional reform.

be defined, with the participation of the Ministry of Public Education, local authorities and the National Institute for the Evaluation of the Education.

Not later than March 2014, the local legislatures must adjust their respective educational legislation with the principles and rules set by the educational reform.

In the core of the Mexican educational federalism underlay a mandate for cooperation between different levels of government that have the task of educating new generations. As a result of this cooperation, in December the framework agreements for the implementation of educational reform were signed in Mexico City. These legal instruments, which will be complemented by specific agreements, will be the way through which we are obliged to cooperate in a concrete way to make effective the reform to the full extent.

The educational reform of 2013 establishes a vision and a set of principles, objectives and general guidelines that should be the basis for review and redefinition of the educational model in Mexico. Transitional Article 12 of the General Law of Education instructs to educational authorities to review the model as a whole, as well as plans and programs, materials and teaching methods.

The educational model is part of the strategic planning of the institution, therefore understands its mission, vision and educational or school management major projects. The ideal educational model is one that meets the needs, conditions and aspirations of each country.

On January 15, 2014, the SEP summoned the different actors involved in the basic education, secondary education, higher education and teachers' school –parents, students, researchers and scholars of education, local educational authorities, organizations and civil society in general interested in contributing to proposals– to National Consultation Forum for Review of Instructional Model, which will take place from February to June of this year.

Through these spaces, we seek to ensure that the quality becomes evident in the context of the Mexican educational system, taking into account the experience of teachers, principals and specialists in educational issues, in order to consider interest of those who will be the beneficiaries of this new reform: students, their families and Mexican society as a whole.

IV. Conclusions

Education reform of President Enrique Peña Nieto is at the legal forefront, besides being advanced from the point of view of political and educational. It is harmonizing the various actors that make up the educational model

from a logic based on values and principles, which provide it with legitimacy and promote its efficiency, enhancing their governance.

It is a positive reform from the legal point of view, because it uses suitable instruments for the steady progress of education, as the value of the child's best interests and the principles of quality and equity, as a means to recover the State stewardship in the art.

We are sure that from the present legal, social progress will be achieved in Mexico. However, this is not a preformative rule: this reform requires an administrative implementation, on which we are working, but also needs a theoretical study, which always opens up new perspectives.

With the educational reform of 2013, the Mexican government gives priority to natural work of teachers and students: teaching and learning. The educational model should reflect concretely, among other things, actions, guidelines, characteristics and conditions that allow realizing it.

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