

The new Spanish educational legislation: why public education will not improve

La nueva legislación educativa: por qué no mejorará la educación pública en España

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Abstract:

This paper provides some reasons that explain, in the view of the author, why the present eagerness of the Spanish Educational Authorities to reform all levels of education, from primary school to the universities, will not improve the quality of the Spanish educational system.

Keywords: Forthcoming Spanish educational legislation, primary school, secondary education, universities.

Resumen:

Se exponen algunas razones por las que, en opinión del autor, el reciente afán legislativo de las autoridades educativas españolas que afecta a la enseñanza primaria, la secundaria, al bachillerato y a las universidades, no mejorará la calidad de la enseñanza en España.

Descriptores: próxima legislación educativa española, educación primaria, educación secundaria, universidades.

1. Introduction

I have hesitated, I admit, before writing this article. Defending the quality of public education in Spain is an increasingly difficult task, especially when struggling against the dominant trends and pedagogical clichés

that, under the semblance of improving it, achieve exactly the opposite. Moreover, I find it hard to accept without comment certain constructs *à la page*, such as the ubiquitous ‘competences’¹ that confuse doing with comprehending, and whose plasticity gen-

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erates an abundant literature dealing with their definition and scope. Nevertheless, after decades as a university professor and researcher — and after patiently reading the new laws, in force or still in draft form — I have resolved to expose my opinion. What follows explains why.

The first thing that must be pointed out is the legislative inflation that will affect the Spanish educational system should all the initiatives currently pursued prosper — as is likely to be the case. The number of pages is revealing: the LOMLOE or ‘*Ley Orgánica que Modifica la Ley Orgánica de Educación*’, known as the Celaá Act, takes up 85 pages of the Boletín Oficial del Estado (Spanish Official State Gazette) (BOE 30-XII-2020). The remainder of legislation on non-university education are Bills under the responsibility of the new Minister for Education and Vocational Training (*Formación Profesional*, FP), Pilar Alegría. This legislation comprises the following: *Borrador (Draft) del Proyecto de real decreto por el que se establece la Ordenación y las Enseñanzas Mínimas de la Educación Primaria* containing 140 pages; *Borrador del Proyecto de real decreto por el que se establece la Ordenación y las Enseñanzas Mínimas de la Educación Secundaria Obligatoria* [ESO - Obligatory Secondary Education, four school years from age 12 to 16] has 315 pages including its Annexes. The *Borrador del Proyecto de real decreto por el que se establece la Ordenación y las Enseñanzas Mínimas del Bachillerato* extends to 500 pages with its Annexes; the recent *Real Decreto* (BOE of 17-XI-2021) *por el que se regulan la Evaluación y la Promoción en la Educación Primaria, así como la Evaluación, la Promoción*

y la Titulación en la ESO, el Bachillerato y la FP is concise, at 13 pages. The *Documento de Ley Orgánica del Sistema Universitario* (LOSU, drafted by the present Minister for Universities, Manuel Castells) has 92 pages (despite which it constantly refers to future legislation) to which we should add those containing the new 70-page *Estatuto para el Personal Docente e Investigador* (PDI) announced in the LOSU, some versions of which have already circulated (as ‘*Draft(s) for consultation*’) but are now presumably obsolete. Thus, on non-university education gravitate — literally — 1053 pages of laws, and a further 160 or so on university education, before taking into account all the amendments to Universities’ Statutes that a new LOSU would imply. With the *Organización de las Enseñanzas Universitarias y del Procedimiento de Aseguramiento de su Calidad* (BOE 29-IX-2021, 42 pp.) the total reaches 1255 pp. The exact number of pages is of course of little consequence but, ignoring their content for a moment, the order of magnitude is astonishing: well over one thousand pages. Without recalling Gracián, this figure should prompt anyone with a sense of proportion to question this legislative pulse: less than half this number should suffice. And not only is significant what these highly repetitive texts include, but also what they do not: the Celaá Act, for instance, unbelievably omits Spanish as the vehicular language in the whole of Spain.

How has such normative excess been reached? To illustrate this, let us consider an earlier case of unnecessarily prolific legislation: the *Decreto que regula los Estudios Oficiales de Doctorado* promulgated by Ángel Gabilondo, Minister of Education at

the time, (BOE 10-II-2011, maintained with no changes in the BOE of 29-IX-2021, Art. 19.4). Its 17 pp. describe the aim, definitions (eight!), structure, et cetera and, of course, the inevitable competences, capabilities and skills that must be delivered in a doctoral programme: twelve, no less. A legislator with a less Baroque frame of mind would have stated one single ‘competence’ along the following lines: “a doctor [PhD] must be able to conduct original research and communicate the results” (and, as far as possible, to direct research conducted by others). Describing ‘personal capabilities and skills’ such as “working as a team and individually in an international and multidisciplinary context” (Art. 5.2) is to precise obvious aspects that nevertheless might be inappropriate. For example, the illustrious mathematician Grigori Perelman, who ‘won’ the Fields medal (equivalent in Mathematics to the Nobel prize) for proving the Poincaré conjecture (one of the mathematical problems ‘of the millennium’), would not be qualified as doctor — he received his PhD Degree in 1990, in Leningrad — according to the mentioned ‘capability’ given his acutely reserved and individualistic nature. So much so, that Perelman did not wish his results to be published in standard scientific journals, and declined both the Fields medal offered at the Madrid International Congress of Mathematicians (2006) and the million-dollar Clay Millennium Prize in 2010. This detailed casuistry, therefore, to describe what a proper doctoral programme should achieve is superfluous and futile. Furthermore, the BOE not only lists (Art. 5) these twelve competences, capabilities and skills to be acquired by all doctors, but also cautions that the doctoral programme “shall guaran-

tee, as a minimum, the acquisition of the basic competences” and, “at least, the required personal skills” on said list. “As a minimum” and “at least”, since there may be others to be addressed; it just a question of looking harder for them.

2. The case of mathematics

The propensity for empty, pretentious and counterproductive detail would suggest that these legal texts were drafted by ‘experts’ (who, incidentally, remain anonymous) endeavouring to think up a growing number of entries, however absurd these may be. For instance, and still within the domain of mathematics, the mentioned *Borrador* for Primary Education includes such pearls of pedagogical wisdom as “to develop social skills acknowledging and respecting the emotions and experiences of others and the value of diversity, participating actively in heterogeneous working teams in which roles are assigned to build a positive identity as a student of mathematics, enhance personal wellbeing and establish healthy relationships” (Specific competence number 8). Other statements include “emotional self-regulation: self-conception and learning of mathematics from a gender perspective” or “respect for the emotions and experiences of others toward mathematics” (Basic knowledge F.1, socio-emotional awareness). It is not obvious what role the word mathematics plays in these texts, nor how they enlarge upon what any teacher would do as a matter of course, yet they contain further remarks in the same spirit. May the following serve as a final example, worthy of holding the Western

world in awe: “the addition, subtraction, multiplication and division of natural numbers resolved flexibly and sensibly”. Students’ mathematical competence is not going to be improved in this manner, although we may hope that teachers will have the good sense to ignore all that is pointless in these *guidelines*. Perelman, by the way, won the first gold medal at the International Mathematics Olympics in 1982 at the age of 16. We can be sure he did not add, subtract, multiply and divide “flexibly and sensibly”.

In fact, the *innumeracy* or mathematical illiteracy that this legislation persists in *not* correcting is a serious problem, to the extent that it impacts negatively on the quality of democracy. Citizens lacking sufficient education in mathematics, as implied in the PISA reports commented below, are defenceless against much of the information they receive: they are a captive population. Information very often has a numerical content that these citizens are unable to fully understand, an essential requirement before they can make judgements or decisions. This is why teaching mathematics to children and adolescents has *enormous* importance beside the fact that, when scores are higher in the PISA reports, the GDP also grows. Mathematics constitutes a language that, as any other, must be learned at an early age; later, it becomes much more difficult. Countless opportunities are lost by individuals who have received a poor education in mathematics. Although at first this is deemed unimportant or is brushed off on the grounds of being more inclined toward ‘letters’, it ultimately poses an insurmountable barrier in many aspects of life. It might perhaps be

presumed that being a theoretical physicist and hence a ‘science’ scholar explains my advocacy for mathematics. However, whenever any authority (or journalist) issues a mathematically impossible statement — and we have to put up with too many of these — it is inevitable to ask ourselves whether they can calculate $\frac{2}{3}$ of $\frac{4}{5}$ as proof of minimal — really minimal — mathematical competence. Those unable to readily give the answer $\frac{8}{15}$ (eight fifteenths) can consider themselves victims of poor quality mathematical education in their youth. Unfortunately, the new legislation will do nothing to solve this serious problem.

3. Equality and effort

Constantly recurrent, often in identical context, are the expressions “gender” and “gender perspective”: 31 times in the Celaá Act, 90 in the *Borrador* for Primary Education, 122 in the *Borrador* for Secondary Education, 182 times in the *Borrador* for Bachillerato and 23 in the LOSU. Conversely, the ‘effort’ made *by students* is only mentioned twice in the LOMLOE, once (Art. 27) in the *Borrador* for Bachillerato and 4 times (allowing a generous interpretation) in the Annexes. In the latter, ‘effort’ appears a dozen times more, but as “individual and collective efforts against climate change”, “efforts by the healthcare and scientific staff”, “peace keeping efforts”, etc. It appears that reminding students of the need to dedicate effort to their studies is politically incorrect. The LOSU likewise makes no mention whatsoever of the term ‘effort’, which is surprising: the cost of tuition at state-funded universities is much greater than the enrolment fees, and univer-

sity students should correspond with their effort to that made by society in defraying their expenses.

It goes without saying that the efforts made by institutions, healthcare staff, etc. are meritorious; what is less than clear is their relation to the learning process for the subjects in the students' curriculum, which should be safeguarded by the laws on education. Similarly, it is difficult to understand what is meant, for instance, by the "contribution made by numbers to the various fields of human knowledge from a gender perspective" (Basic Knowledge in mathematics F.2). If the intended meaning is that girls should not be left behind in this "contribution made by numbers", it would suffice to say so, stating the obvious. It would be better to state clearly, as occurs once in the *Borrador* for Secondary Education (Art. 7c), that it is necessary to "value and respect the difference between the sexes and the equality of rights and opportunities for both" and to "reject stereotypes that discriminate between men and women" (and other groups, we might add). However, reading the constant references to the gender perspective it is difficult not to recall the conceptists, or Ortega, who affirmed that "clarity is the courtesy of the philosopher" (here, the legislator) and, far less positively, some of the obscure statements by post-modern philosophers of three or four decades ago. A gender perspective in mathematics? They might as well refer — for example — to the disquisitions by Luce Irigaray on the omitted femininity of fluids in the laws of physics or on why Einstein's equation $E=mc^2$ is sexed² because "it privileges the speed of light over other speeds

that are vitally necessary to us". Regaining our senses, what is essential is to prevent sexist bias of any kind and, in particular, to avoid the impression that "girls and women" are excluded from certain reserved areas. This would be much more effective than repeating the word 'gender' 448 times.

4. Knowledge and merit

This simple word count evinces the concerns of the anonymous authors of the mentioned drafts and annexes, who in their drive to 'keep up appearances' fail to address what is fundamental: the acquisition of knowledge. It is indirectly suggested that learning should not entail any great effort, that *comprehension* is secondary (hence the insistence on 'competences') and that students of their own accord can be left to re-discover the concepts with a little prompting, almost as part of a game. However, this is *impossible*: humankind took centuries to establish schools of philosophy, or for a Newton to appear, or to unravel the structure of ADN (a breakthrough that has allowed us to develop vaccines against COVID-19). We cannot expect schoolchildren to discover the laws of movement by themselves: even Aristotle himself made flagrant errors in this regard. *Study* requires *effort* and the *merit* of making it deserves recognition. However, "merit" appears only once in the *Borradores* for Primary Education, ESO and Bachillerato but not in reference to students: Specific Competence number 6 for History of Art establishes that students should value the "social and material importance of our artistic and cultural heritage, appreciating the complexity and merit inherent to the work done by the profes-

sionals in charge of its maintenance”. Once again, we are faced with relativism: it seems that the paintings in the El Prado Museum carry the same importance as the (meritorious) work of those who look after them.

The figure of Miguel de Unamuno is controversial, and not only for his statement (1906) “let them invent, then, and we will benefit from their inventions... electric light is just as effective here as where it was invented” in the polemic he maintained with Ortega y Gasset. Similar doubts are raised by his well-intentioned *Amor y Pedagogía* (1902), a bitter satire on pedagogical and scientific trends. But in one of his *Arabescos Pedagógicos* Unamuno hit the mark with the statement³: “we seem afraid to teach children how hard, how demanding it is to work. This has led to having them learn by playing, which always ends up as playing at learning. And the master who is teaching them plays, plays at teaching. And neither is he, strictly speaking, teaching, nor are they, strictly speaking, learning anything worthwhile”. Indeed, in my view Unamuno is indirectly criticising the ‘competences’ trend currently rampant given that “on abandoning the notion that learning is comprehending in favour of the idea that learning is doing something of a practical and social nature, there is but a short distance to claiming that learning should be an entertaining and ludic engagement”, as stated⁴ by Inger Enkvist, a Hispanist and expert on education at the University of Lund. In any case, students, as their name implies, must study and find their effort rewarded. That merit — *that of the students*, I insist — is not mentioned even once in the Celaá Act, the drafts for Primary Education, ESO, Bachillerato

and Annexes thereto, despite taking up over 1000 pages, is revealing. It could be surmised that good students are to be stigmatised for their audacity (there is no better term for it) and merit in striving to learn.

A controversial issue is the institutionalisation of progressing from one year to the next despite not having passed one or more subjects although, again, words like *fail* or *failed* are taboo and are not used in order to avoid hurting susceptibilities. For example, the *Borrador* for ESO establishes (Art. 16.2) that “students will progress to the next year when the teaching body is satisfied that any subjects or fields of knowledge in which they have not obtained a pass will not prevent them from successfully following the next year’s syllabus and holds expectations for their favourable recovery and that said progression will benefit their academic advancement. In any case, students who have passed all subjects or fields of knowledge studied, or who have received a negative grade in one or two subjects, will progress to the next year.” To this we must add that ESO assessment will be “continuous, learning-focused and integrative” and “conducted collectively” (BOE 17-XI-2021, Art.10), that second-chance examinations disappear and that “the Secondary School Graduate qualification will be standard and issued without a grade⁵” (Art. 16.3). Students with difficulties may be derived to a “curricular diversification” programme (Art. 13) but it is not hard to imagine the problems some of these students may encounter if they go on to Bachillerato. Minister Pilar Alegría has recently defended her yearly progression measures in a TV interview arguing that “the majority of

those [students] who repeat a year end up increasing the school dropout rate”, which “in Spain is very high, currently at 16%, for which reason we should prevent these students from being abandoned to their fate”, going to the extreme of claiming that “repeating a year is unfair”. Universities Minister Castells has expressed his affinity with the Minister of Education and FP considering it “unfair” and “elitist” to prevent students from progressing to the next year on the grounds of a failed subject because “this amounts to trampling on those at the lower end and favouring those at the top”.

The *Borrador* for Bachillerato follows a similar reasoning. Art. 21 in this Draft establishes that “students will progress from first year to second year of Bachillerato on passing the subjects studied or obtaining a negative evaluation in a maximum of two subjects” although, “at any event, students must enrol during the second year in any first-year subjects pending. Educational centres must organise the required recovery activities and evaluation of subjects pending in the organisational framework set forth by the educational authorities”. Pursuant to Art 22.3 in the Draft, the qualification of *Bachiller* will require “a positive evaluation in all the subjects covered during the two years of Bachillerato” although, “exceptionally, the teaching body may decide to grant the qualification of *Bachiller* to a student who has successfully passed all subjects but one”, provided that the grade point average reaches a minimum of 5. Independently of how these conditions for progression to the next year, which may occasionally be justified, are judged, it seems likely that classes to which students are

accepted without a pass in all the previous year’s subjects may suffer a loss in academic level. It is true that we can hardly disagree with Minister Castells in his claim that “the right to study is not dependent on circumstances, and, should students face difficulties at any time, we should give them the opportunity to overcome them and continue leading a normal life”. However, it is important to establish limits, and both the disregard for merit patent in all the above mentioned texts and Minister Pilar Alegría’s personal outlook will cause students, parents (and comparisons among teaching centres as well) to establish undue pressures on the teaching committees.

Of course, failure and the school dropout rate are grave problems, but they should be tackled appropriately. Some twelve years ago the *Consejería de Educación de la Junta de Andalucía* [Andalusian regional ministry of education] decided to address these problems creatively granting an economic incentive to the region’s teachers based on the number of students who passed, which gave rise to rather a scandal. The current proposal by the Ministry of Education (MofE) and FP for progressing to the next year in ESO is, of course, different, but in it one may nevertheless perceive a second reading: an attempt to resolve the school dropout rate by concealing it, despite the ensuing devaluation of the Secondary School Graduate diploma and prejudice to those who did obtain it through their effort. Moreover, it remains to be seen whether this policy is successful in retaining students who fail if they do not *really* receive special coaching. It is hard to uphold that a culture of per-

sonal effort is being sustained for students, as declared by Minister Pilar Alegría (who makes it extensive to teachers and families, something that *va de soi* for the former), when it is sufficient to read the legal texts referring to ESO or Bachillerato to appreciate that this is not the case.

5. PISA, Finland and the selection of teachers

In defending her policy, the Minister for Education and FP has set the example of “what is being done in the Northern European countries whose results draw our attention, such as Finland and Norway”. To make more informed comparisons, let us consider the PISA (Program for International Student Assessment) reports, the OECD tests measuring mathematics, science and reading comprehension levels in 15 year olds. The most recent, not exempt from some controversy, were held in 2018 with the participation of 79 countries (owing to the pandemic, the next edition will be in 2022). Spain obtained its worst results in mathematics (481 points) and in science (483) since PISA commenced in 2000, with a low percentage of very good students. All in all, Spanish schoolchildren scored below the OECD average of 489 points. The reading comprehension results for Spain were not included in the report because the OECD detected ‘anomalies’ in those tests. We might ask which country took first place: as in 2015, it was China with 579 points (followed by Singapore), well ahead of any other in the three PISA areas. In broad terms, Spain, with no global classification for 2018 due to the mentioned ‘anomaly’, ranked 34th in mathematics and 30th in science (where

China obtained 591 and 590 points). United States gained 25th place with 495 points and Russia 30th with 482. Finland and Norway occupied positions 10 and 23, respectively, with their global scores; in mathematics, science and reading comprehension they took positions 16, 6 and 7 (Finland) and 19, 27 and 19 (Norway).

Let us consider Finland, pointed out by the Spanish minister Pilar Alegría from among “the countries we look upon with envy and admiration”, although countries such as Germany, Belgium, France, UK, Poland and Portugal also did better than Spain in the PISA tests. To begin with, this comparison requires us to consider the rigour applied to selecting teaching staff at Finnish schools, for which there is no parallel in Spain. In Finland, the social prestige of teachers is very great and on a par with the extremely high standards required for admission to the corresponding university programmes: greater than for law or medicine. The Counsellor at the Finnish National Board of Education could proudly say that “it’s a quite wonderful thing that even nowadays we have every year about 8,000 applicants who want to be teachers, and only 10% are accepted in each year. So, it means that among the good ones we can pick 10 %”. As a consequence, Finnish universities prepare excellent candidates guaranteeing very high teaching standards. If now we consider funding⁶ (which nevertheless is not everything, as evidenced in Spain by the PISA results segregated by Autonomous Communities⁷) and the fact that the number of classroom hours taught by Finnish teachers is among the smallest in the OECD, it becomes clear that there is

still a long way to go beyond the ‘continuous assessment’ policy.

In fact, *the selection of teaching staff is the key to quality in public education* (and often the weakness in private education). It is obvious that public education is a public service and that, as I have pointed out elsewhere, this statement only holds true when the recipient of this service is correctly identified. In the present case the target audience is made up primarily of young students, and not the teachers themselves. This principle, which should be self-evident, is constantly flouted. I still remember some ‘competitive’ examinations of many years ago, with assessment scales that likened a week’s photography course to a Ph. D., and for which points awarded to temporary staff for years in post enabled candidates who had *failed* the knowledge exam to exceed the maximum of 10 points required and obtain the position. As a consequence, there were external candidates who, even scoring 10 points in the knowledge exams, failed to secure a position for being unable to add points for time in post as temporary staff. These candidates, however, were a far better prospect *for the students*, as those who failed the knowledge tests should never have been allowed to teach. In fact, such assessment scales should be described as AASDPE: Allegedly Academic Scales Designed to Penalise Excellence. This is how, using them, the *Ley de Acceso a la Función Pública* (BOE 10-IV-1995, consolidated text of 2006) governing access to civil service scales or bodies, purporting to “guarantee the principles of equality, merit and capability, as well as that of publicity” as stated in its Art. 4, can be bypassed. Although the LOMLOE refers to

“all citizens” right of access to public employment in accordance with the constitutional principles of merit and capability”, the AASDPE allow sufficient loopholes to dodge it. By contrast, Finland is a good example to follow: its stringent teaching staff selection process and firm financial commitment to education placed it in tenth place in the 2018 PISA survey (Finland even took the first position in 2000, but lowering curricular levels always brings consequences). Here, the new Bachillerato will offer four (five in practice) modalities or curricular paths, as opposed to the previous three, and will include some fifty subjects that will generate greater material needs. And, although the responsibility for education has been transferred to the Autonomous Communities, we cannot but question the MofE and FP’s good intentions on reading in full the mentioned BOE dated 17-XI-2021. While in principle it is only meant to “establish evaluation and promotion within Primary Education, and evaluation, promotion and qualification in ESO, Bachillerato and FP”, the decree includes an Additional Provision establishing that “the implementation of the measures included in this royal decree shall not cause any increase in allocations or personnel remuneration, or any other staff expenditures”. How is this provision—for instance—coherent with the proposed increase in modalities and subjects in Bachillerato? We can only imagine the anxiety being experienced at schools regarding what is coming to them.

6. The new Bachillerato

This will include four *modalities*: Science and Technology, Humanities and Social Sciences, Arts (with two variants: Artistic

with Music and the Performing Arts, and Artistic with the Visual Arts) and General. It will offer some fifty subjects distributed into six/eight common subjects (Physical Education, Spanish Language and Literature I and II, Philosophy, Foreign Language I and II, History of Spain and History of Philosophy), modality-specific and elective subjects. Whereas the Secondary School Graduate diploma provides access to Bachillerato and Intermediate Vocational Training (*Formación Profesional de Grado Medio*), the Bachillerato Graduate diploma provides access to Advanced Vocational Training (*FP de Grado Superior*) and to University. Vocational Training in Spain gets less attention and funding than it deserves.

Annex I to the Draft for Bachillerato (16 pp.) is dedicated to students' Competence Profile ('competences' again) on completing the two years of Bachillerato. The General Competences are eight: competence in linguistic communication; plurilingual competence; mathematical competence; competence in science, technology and engineering (STEM) [there is a Freudian omission here: STEM stands for Science, Technology, Engineering *and* Mathematics]; digital competence; personal, social and learning-to-learn competence; citizenship competence; entrepreneurial competence and, lastly, competence in cultural awareness and expression. Annex II (461 pp.) deals with specific competences, evaluation criteria and the knowledge inherent to each subject, occupying on average some nine pages. Despite the confidence allegedly deposited in the teaching staff, the latter is effectively deprived of scope for action, although we may expect it to take the minutely detailed guidelines

cum grano salis. I will not remark on Annex III, a blend of commonplaces and wishful thinking fortunately not exceeding a single page. Lastly, Annex IV establishes a table of classroom hours which, in the case of common (compulsory) subjects are as follows: Physical Education, 35 hours; Philosophy, 70 h; History of Philosophy, 70 h; History of Spain, 70 h; Spanish Language and Literature I, II, 105 + 105 h; Foreign Language I, II, 105 + 105 h. To these must be added 87.5 hours for each modality subject, which total 4 + 3 subjects per year plus further subjects added by the Autonomous Regions. Of this total, 10% may be subtracted in the case dual official languages; students of religion, an elective subject, will avail of a minimum of 70 hours during this stage.

The expression "sustainable development" appears 54 times (*sic*) in the text although no explanation is given regarding how this should be achieved⁸ apart from referring to the United Nations' 2030 Agenda. The CC2 'operative descriptor' has, of course, laid down that "on completion of their basic education, students shall" participate "in community-focused activities such as decision-making or dispute resolution, in a democratic spirit, showing respect toward diversity and commitment to gender equality, social cohesion, sustainable development and the *achievement of world citizenship*" (my italics; what would Greta Thunberg remark were she to read this?). Climate change is likewise repeatedly mentioned. However, it should rightly be referred to as *anthropogenic* climate change, and for two reasons: firstly, so that society takes responsibility for its origin, as it has not appeared *ex nihilo*, and secondly, to avoid its trivialisa-

tion through referring to the many climate changes — e.g. glaciations — that have occurred on larger time scales.

In general, there is too much empty verbiage and wishful thinking. For instance, the evaluation criteria for Specific Competence number 1 in Geology requires students being able to «defend aspects related to knowledge in the fields of biology, geology and environmental sciences, reasoning their position while adopting an open, flexible, receptive and respectful attitude towards others». This statement is a further example of *langue de bois*: it is obvious or inconvenient, since the necessary respect cannot — for example — validate a rejection of the theory of evolution (mentioned in Biology only once and indirectly in Basic Knowledge B; there is also no mention of Crick and Watson in the specific Competence 6 in Biology). Incidentally, Darwin is not mentioned even once (nor are Newton or Einstein where we might expect finding them). This relativist “open and flexible” attitude produces ignoramuses who reject vaccines. Another instructive comparison is the space dedicated, for instance, to Artistic Projects and to Physics. The former requires 12 pages and the acquisition of 11 specific competences, while for Physics (which I refrain from remarking on) 7 pages and 6 competences suffice. No less ‘interesting’ are the 10 pages devoted to Artistic Fundamentals, the Knowledge for which is presented in considerable confusion, or those dealing with Cultural and Artistic Movements that are limited to movements in the past century with scarce repercussion (e.g., *Arte Povera*). The criteria for History of Art reflect a curious imbalance that I will not describe here, but the evalu-

ation criteria for Specific Competence number 3 include “identify and understand the complex nature of the artistic creation process ... promoting art that is committed to achieving the Sustainable Development Targets” (sic). And, with regard to Basic Knowledge, great emphasis is placed on its social (it is surprising that ‘transformative’ is not added) nature. “Renaissance Art” seems of little relevance as compared, for instance, with “art as a means of domination and control”, “art and its propagandistic value”, “art and nationalism”, “art and collective identity”, etc. The subject Cultural and Artistic Movements in the general modality should “contribute to the awareness of self-identity, and also to the comprehensive education of students in citizenship values, respect for diversity in artistic expression and in the promotion of intercultural dialogue”. Is this an allusion to the alliance of civilizations⁹ meant to compensate for the pernicious insistence on “self identity” made previously? (these allusions to the ‘*identidad propia*’ are frequent in the texts despite the fact that, in the past, self-identities have never brought anything beneficial to Europe). The subject also refers, selectively, to twentieth century movements; absences include, for example, socialist realism in the USSR and China or expressionism. In History of Philosophy, Clara Campoamor — to give an example — is not mentioned despite the study of feminist thinking lists various feminists. The subject History of Spain essentially and surprisingly begins with the 19th century and directly envisages a plural-national State.

It is true that many of the texts in this critique are still only ‘Drafts’. But we can

only expect changes such as, literally, replacing “socio-emotional awareness” in mathematics with “socio-affective skills” and other no less profound substitutions. Our schoolchildren will not go far with the curricula detailed in the Annexes. Lack of rigour is rife and, with any due exceptions, the Specific Competences, their Evaluation Criteria, and the entailed Knowledges evidence the wish that students, notwithstanding the repeated allusions to diversity and respect which they should also deserve, end up thinking on the same lines as those who designed those very competences and key knowledge requirements. It is a pity that the *Weltanschauung* they reflect should also be so narrow, which incidentally constitutes a further *contradictio in terminis*.

7. A reflection on Secondary Education

In *The Memory Chalet* [Penguin, 2010], the moving autobiography the great historian and essayist Tony Judt (Hannah Arendt awardee, 2007) dictated while bedridden with ALS, the condition that led to his demise, he praises the quality of the free education he received at Emanuel College of London, an institution founded by a cousin of Elizabeth I. Judt was always grateful for the instruction he received there, thanks to which he went to Cambridge University (King’s College). During the period 1944-1976 Emanuel was a “voluntary-aided grammar school”, free of charge, accessed after completing primary education, the 11+ exam and an interview. *Grammar Schools* have existed for centuries (Shakespeare attended the one at Stratford), and remained

after the major education reform (the *R.A. Butler Act*, 1944) undertaken by the coalition government led by Churchill during WW2. These state-funded schools with a high academic level were obliged to merge with the *Comprehensive Schools* by Oxonian Harold Wilson, who won the election in 1964, as part “of the unfortunate integration process of the British education system” according to Judt, or to become public schools (meaning private, despite the misleading English terminology). Judt had always been highly critical of this labour party reform. In his magnificent *Postwar* (2005) he wrote:

The destruction of the selective state schools of England merely drove more of the middle class to the private sector ... Meanwhile, selection continued, but by income rather than merit ... leaving the children of the poor at the mercy of the weakest schools and the worst teachers, and with much reduced prospect of upward educational mobility. *The ‘comprehensivisation’ of secondary education was the most socially retrograde piece of legislation in post-war Britain* [my italics].

Apart from some nuances¹⁰, Judt’s defence of sound education, of merit, of public education quality and regret of the consequences of its loss — *which implies a parallel loss of equity* — is directly applicable to Spain. This reflection is especially valuable coming from a self-defined “universalist social democrat”, two admirable qualifiers with which I cannot help feeling identified. Another pupil of the Emanuel School was Sir Tim Berners-Lee, winner of the Charlemagne Prize and father of the World Wide Web (where would humankind be today without Internet –in particular, during the pandemic?). Another illustrious alumnus

was the theoretical physicist Peter Goddard, who coincided with Judt several years. Like Judt, Goddard declared “that the six years I spent at Emanuel were key to everything I did later”, commencing with a scholarship for Cambridge (Trinity College). Throughout his extensive career, Goddard (CBE, FRS) was Master at St John’s College and subsequently director of the Institute for Advanced Study at Princeton. Goddard, who in parallel to his scientific work held important responsibilities in education (in particular, he was *Governor* of Emanuel School from 1991 to 2003), has always defended that it is essential for young people to have “inspiring teachers”. It is sad, therefore, and this is the greatest reproach we can make to the discussed upcoming legislation as a whole, that those who surely claim to defend public [state] education are not favouring the social elevator that its quality should safeguard. Perhaps the reason is that, over and above a solid education — and education is a preparation for life — there is more interest in performing a social engineering that fits in with the opinions held by those driving the reforms. As we have seen, besides reminders of constitutional precepts such as equality among men and women, it is common to find Competences and Key Knowledge items that are subtly or expressly imbued with the ideology of the drafters of the reform, even in the scientific subjects. All in all, the proposed legislation will not give Spanish students the education they deserve.

8. The LOSU of Minister Manuel Castells¹¹

As in the case of pre-university education, it is also regrettable that in Spain

a State Agreement cannot be reached among the main political parties to afford stability to our Universities. After years of great upheaval, the Spanish University System (SUE) had recovered — functionally, if not structurally — from the nefarious effects of the devastating Spanish version (BOE 30-X-2007) of the Bologna Plan enacted by the Minister for Education, Social Policy and Sports, Mercedes Cabrera. This version paradoxically distanced the SUE from European universities, contrary to the Bologna Declaration of 19 June 1999. It is hard to understand how the ill-named four-year ‘degree’ was conceived without thinking of the highly questionable interest in extending three-year degrees to four years, or of the financial savings gained by reducing by one year the time spent at university, then and in the future, by students¹².

Before continuing I must mention, for full disclosure, that I was a member of the Committee of Experts (public, of course) for the Reform and Improvement of Quality and Efficiency in the Spanish University System, or *Comisión Miras* (named after the committee’s chair), whose conclusions (hereinafter, the Report) were made public on 13 February 2013. The Report stood on two fundamental principles:

P1) “Neither students’ social background, nor their place of birth, may condition the type or quality of education they receive”.

P2) “Universities, and most especially those that are state-funded, constitute a public service ... The reforms proposed

herein stem from the premise that the public that universities are bound to serve is, first and foremost, their students together with the society at large that provides their funding, with a commitment to their intellectual advancement and economic and social wellbeing. It is only after establishing these that, on a lower level of priority, the remaining two bodies that together with the student body make up a university, make their appearance: the Teaching and Research Staff (PDI) and the Administrative and Services Staff (PAS). Appreciating this perspective is essential in ensuring the best use of universities' autonomy, given that certain dysfunctions currently affecting Spanish universities arise from inappropriately identifying the public they should serve ... Universities should be at the service of society and not of themselves”.

That said, is it convenient at present to enact a new Universities Law?¹³ Yes, but not the proposed LOSU. The SUE needs a rigorous *aggiornamento* that will guarantee, additionally, *Good Governance* and the *Next Generation EU* funds. The SUE has lost steam since the *Ley de Reforma Universitaria* (LRU, BOE 1-IX-1983) promulgated by José M^a Maravall, Minister of Education and Science in the Felipe González cabinet, superseding the *Ley General de Educación* (BOE 6-VIII-1970) by Villar Palasí, very advanced for its time and which, *avant la lettre*, had adopted for the SUE the French 3+2+doctorate cycles that much later would become the European ‘Bolognese’ structure¹⁴ that was maintained by the SUE until 2007. But, what are the problems that need to be addressed in a reform of the SUE today? Beside the fact that a Ministry for Universities should also

be the ministry for Science and Research, the most outstanding are the following:

1. Under-funding, also of research.
2. The selection of PDI, far removed from the P2 principle: firstly, owing to the AASDPE criteria set forth by ANECA for accreditations and, secondly, to the nearly absolute local endogamy.
3. A suitable grants policy in accordance with P1, allowing mobility within Spain against the current localism that puts artificial blinkers on young minds.
4. The system of government that, despite claims to the contrary from most of the University Rectors, is neither efficient nor fully democratic, since society — the provider of public universities funds — is poorly represented.
5. Internationalisation, the essence of what universities are.
6. Universities' autonomy.
7. The extraordinary bureaucracy, wasting time and resources, including the proliferation of pointless committees encouraged by ANECA through unduly rewarding managerial tasks in its AASDPE-type criteria (as retribution for these is already provided for in economic terms and through reduced teaching hours).

It is necessary to recall, before we continue, that since the advent of democracy and with the LRU, the improvement in the SUE has been spectacular. It is no less true, however, that such improvement has been mostly thanks to the University Teaching and Research Staff (the

PDI), to their national and European research projects (independent of the universities which, nevertheless, benefitted from the so-called ‘revolutionary tax’ on them) and to well designed programmes such as ICREA (Catalan Institution of Research and Advanced Studies) and IKERBASQUE (Basque Foundation for Science) among others. In a word, progress was mainly made in spite of, and not thanks to, the universities’ own organisation and structure. The SUE still suffers from a considerable relative backwardness which, as demonstrated by PISA in pre-university education, can and should be measured externally. The well-known Shanghai ranking (the ARWU [Academic Ranking of World Universities]) for 2021 only placed one Spanish university — that of Barcelona, UB — among the top 200 in the world and within the 151-200 group, which is a very insufficient score for Spain as the thirteenth world economy. In fact, smaller countries such as Belgium, the Netherlands or Denmark have 4, 9 and 3 universities, respectively, among the top 200.

Let us examine now whether the proposed LOSU is likely to improve the SUE. With regard to 1, funding, it is impossible to make an appraisal: minister Castells has made statements that are as diverse as they are optimistic, but his careless handling of figures fosters scepticism and makes it impossible to draw any conclusions in the absence of the corresponding Financial Report. At any event, funding is not established by the LOSU itself (despite referring to it 34 times). As for 2, the LOSU maintains the non-presential state accreditation for accession to teaching bodies (Art. 58.1) “to be regulated by a future royal

decree” (the Report demanded “*public accreditations*”). It also requires (Art. 58.1) the accreditation (in the spirit of Arts. 34 and 37 of the LRU) of sojourns totalling nine months’ duration at centres other than the institution at which candidates obtained their PhD, but on 11 November the ministry informed the trade unions that this appropriate requisite had been eliminated. The LOSU provides for university selection committees for entrance examinations to be formed by public ballot (Art. 60.4) with a majority of members external to the local university and public CVs (the Report additionally called for several six-year research periods). Should this requirement be upheld (changes within the LOSU have been constant), some progress could be made against the current absolute endogamy. Regarding grants, 3, Art. 2ñ does not respond to the requirements of principle P1. Nor will Art. 85.2, which sets forth that “the State shall establish the overall system of grants and student aid funded by the general stage budget”, guarantee mobility among *different* Autonomous Communities as required under principle P1. And, although according to Art. 101.1 “the Minister for Universities, the Autonomous Communities, and the universities themselves shall promote mobility and student exchange initiatives”, there is reason for scepticism except for the European mobility funding and the excellent Erasmus programme that fortunately do not depend on the LOSU.

Point 4, system of government (‘governance’ in the LOSU, Title VII), is given decidedly poor treatment; ill-treatment, in fact. To begin with, it does not seem appropriate to establish a 6-year limit for all positions, thus preventing overlaps that

are favourable in periods of transition¹⁵. The University Cloister (composed of PDI, students and administrative personnel) had previously been reduced — very aptly — to 100 members, but this limitation has now disappeared. The Governing Council (Art. 23) is made up of a number of members to be determined (50 in an earlier LOSU version), of which at least 10% belong to the Social Council (which has 20 members, Art. 24.3). Social Council members, however, are appointed by the Autonomous Communities' parliaments (one half from among those nominated by the university in question). Thus the Social Council's control capacity is brought into question; it is sufficient to recall events that befell in other spheres, and the origin of the savings banks disaster in 2008 to understand why. The independence of Social Councils and their essential role as representatives of the society that supports universities should be emphasised, not mediatised or politicised. The Rector (Art. 29) must be a civil servant "with three six-year research periods (if this requirement is maintained), three five-year terms teaching, and four years' experience in university management", not necessarily a full professor (*catedrático*), and elected by universal weighted suffrage with a majority of PDI. It is not reasonable to require 4 years of management experience: the Rector, who in particular should lead and implement the academic and research university policies of his/her university, is confused in the LOSU with the university's Manager (the *Gerente*). The Report required at least 4 six-year research approved periods for a Rector; it also allowed the candidate to be a foreign academic of renowned prestige. Clearly, the LOSU is not inspired on good universities.

Let us examine Internationalisation, 5. Why not address the root of this problem and urge the SUE to recruit at least a very modest 3%-5% of foreign teaching staff (PDI)? Art. 97 speaks of "boosting the internationalisation of the university system" leaving this initiative¹⁶ up to the universities themselves (Art. 97.1) which will be supported (Art. 97.2), but it does not explain how. Art. 92.1 will likewise not help promoting internationalisation by stating that "universities shall encourage the use of the co-official languages in their territories", particularly in view of the increasingly exclusive interpretation given to such 'encouragement' (to which universities must allocate funds, Art. 39.3c). A further hazard to internationalisation is, of course, the ANECA itself (strongly criticised in the 2013 Report) and its AASDPE-like criteria. The CNEAI or *Comisión Nacional de Evaluación de la Investigación* [National Commission for the Evaluation of Research] must recover its former independence from ANECA and prestige: it is enough to read the recent 9 principles and 20 (sic) guidelines to be applied by its evaluators to understand why. The ANECA, moreover, has recently been involved last October in an international scandal after an extravagant report suggesting that excellent scientific journals should not be considered as such. The Agency's current Director (since 2020), the mathematician Mercedes Siles, has recently appointed (BOE 24-XI-2021) "in view of the number of applications" further experts for the Assessment Committees of the CNEAI: two for Mathematics and Physics, two for Chemistry, one for Cellular and Molecular Biology and one for Natural Sciences. However, 14 are appointed to

Economic and Business Sciences, 4 to Social Sciences, Political Sciences and Gender Studies, etc. Let me summarize: ANECA *delenda est*. Regarding 6, it would not seem that the LOSU will help universities to recover any degree of autonomy (Art. 37) as this depends largely on financial aspects. In any case, a better system of government is a *prior* requirement for greater autonomy, and the LOSU will not provide it. Finally, it seems that — as might have been expected — bureaucracy does not officially exist; what little there is, it is ‘exterior’ (Art. 102). To sum up: *Nihil novum sub sole*.

In the meantime, we witness how China, after the disastrous consequences of Mao’s cultural revolution that literally destroyed its universities, ended up reforming its educational system bringing back effort and merit (the initial aim of the Shanghai ranking was, precisely, to gauge the *actual* quality of Chinese universities). Having left behind the “century of humiliation”, China is today the second world economic power, and, without implying any sympathy toward their national-techno-capitalist communism, the fact is that China has achieved in three decades what took other countries two centuries. Although not exactly in the terms he envisaged, it is what the politician and academic Alain Peyrefitte forecast in *Quand la Chine s’éveillera... le monde tremblera* (1973), whose sequel, *La Chine s’est éveillée*, was published in 1996. Singapore, as China before on a massive scale and, over a century ago, Japan during the Meiji restoration, grants scholarships to its best students to study abroad with a commitment to return for a period of time, with spectacular results. Japan, as we know, is

today the third world economy, followed by Germany. Good education not only leads to greater knowledge: it also raises the GDP.

I cannot consider other issues, among them the surprising practical indifference toward education of a large part of Spanish society, through lack of space. I will conclude with a reference to the Report¹⁷ since, despite the years that have passed, I believe it still contains the best diagnosis and proposals for reforming the SUE. Our universities do not deserve undergoing another full and traumatic restructuring that will not resolve their problems. Of these, the most pressing are two: the generational replacement of PDI and the extreme precariousness in certain sectors. And for both *there is a simple remedy that only requires the proper funding*: creating a suitable number of positions in a constant and tiered manner, eliminating the criteria set by the expendable ANECA (that furthermore hamper the incorporation of expatriated talent that the opacities in LOSU’s Art. 102 fail to resolve) and to follow principle P2 to cover these positions. University education will not improve with the changes put forward in the LOSU, that seem inspired by the words of Tancredi, the nephew of the prince of Salina: *se vogliamo che tutto rimanga com’è, bisogna che tutto cambi* [if we wish that all remains as before, we need to change everything]. Well, for the changes implied by the LOSU, it is much better to stay put.

Notes:

¹These ‘competences’ and ‘assessment by competences’ were introduced in Spain through the *Ley Orgánica de Educación* (LOE, BOE 4-V-2006, enacted by J. L. R. Zapatero)

and subsequently in the derogated *Ley Orgánica para la Mejora de la Calidad Educativa* (LOMCE, BOE 10-XII-2013, enacted by M. Rajoy); they were ubiquitous in both.

² See, respectively, R. Dawkins (1998), Postmodernism disrobed, *Nature*, 394, 141-143 and L. Irigaray (2002), *To Speak is Never Neutral*, Routledge. See also A. Sokal and A. Bricmont (1997), *Impostures Intellectuelles*, Éd. Odile Jacob.

³ The Mondays of “El imparcial”, Madrid, 17 November 1913; OC VIII, *Inquietudes y meditaciones*, p. 550, Escelicer (1967).

⁴ In a book that, the author tells me, is due to appear soon (my thanks to J.M. Lacasa for the quotation).

⁵ Not specifying the level achieved diminishes the ‘public attestation’ nature that any diploma conveys to society. Nonetheless, Art. 16. 4 establishes that “in any case, all students will receive, on concluding the ESO [Obligatory Secondary Education], an official certificate stating the number of years studied and the level of acquisition of the competences required during this stage”. As reality is obstinate, we may expect that employers will eventually demand this certificate too.

⁶ According to the World Bank (2019), Spain invested in education only 4.3 % of its GDP, well below the mean of 4.9 % throughout the OECD and of 5.2 % (Finland), 7.6 % (Norway), 5 % (Germany), 5.4 % (France) or 5.2 % (UK).

⁷ I acknowledge M. Gomendio for this information.

⁸ In fact, if there is development, it is *not* sustainable. The Earth at present supports 7800 million people, which the United Nations expects to reach 11200 by the turn of the century. All we can do is strive to mitigate unfair imbalances in the development of different areas of the planet, but we cannot speak of “sustainable growth” as this is a *contradictio in terminis* destined to soothe consciences.

⁹ See my Darwin y la alianza de civilizaciones (2009), *CLAVES de Razón Práctica*, 194, 20-27, also under ‘general articles’ at <http://www.j.a.de.azcarraga.es> (# 27).

¹⁰ Judt is not always precise; in particular, Emanuel was not a “direct grant grammar school” as he says in *The Memory Chalet* nor, as Peter Goddard (who coincided with Judt at Emanuel) told me, did the school have so many students at that time (about 700 rather than the 1000 claimed by Judt).

¹¹ Manuel Castells has resigned today (16th December 2021); he has been replaced by Joan Subirats. Nevertheless, the processing of the LOSU is likely to continue.

¹² See my ¿Universidades boloñesas 4+máster o 3+máster? (2015), *CIAN-Revista de Historia de las Universidades*, 18 (1), 21-54, journal published by the Instituto Figuerola de Historia y Ciencias Sociales de la Univ. Carlos III de Madrid, #44 in <http://www.j.a.de.azcarraga.es>

¹³ See J. A. de Azcárraga and F. M. Goñi (2014), *Sobre la necesidad de una reforma universitaria [On the need for*

university reform], **revista española de pedagogía**, 72 (257), 5-21. This need had been likewise identified in the report of a committee headed by theoretical physicist R. Tarrach, *Audacia para llegar lejos: universidades fuertes para la España del mañana* (2011), that contained several useful recommendations, also ignored.

¹⁴ The Report recommended that universities could voluntarily return to the 3 + 2 years *Bolognese* structure, predominant in Europe, but the law authorising this was rejected by the corporatist *Conferencia de Rectores de las Universidades Españolas* (CRUE) and the universities’ trade unions.

¹⁵ The underlying philosophy for these 6 years is that the present two 4+4 years system implies the first 4-year period is wasted because e.g. Rectors may fear losing re-election if they act beyond being mere caretakers. But this argument is wrong: it just shows that current university governance is badly designed (see the Report).

¹⁶ There was an excellent *national* programme for sabbatical years abroad and another reciprocal one for foreign doctors and technologists at Spanish centres; they no longer exist.

¹⁷ Available at <http://www.j.a.de.azcarraga.es> in the section general articles, or <https://www.uv.es/~azcarrag/> (# 36). These sites contain further papers on university issues.

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