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Educational Freedom or Teaching State? : political discussion of the school subvention law in 1951. A key episode on a deep cleavage in the history of Chilean education.

### Abstract

The aim of this article is to analyze the political discussion on Law nº 9864 (January 25, 1951), which reformulated the school subvention system in Chile. This episode is taken just as a sample of a major contradiction of the educational history of Chile: the cleavage between supporters of a market-oriented education against those who defended a strong Teaching State.

The main sources on which this study is grounded are political debates in Chilean congress, articles on press and written testimonies of promoters and critics of private cooperation in State's action as ultimately responsible for public education.

One of our main findings is that in this conflict at the early 1950's is shown the initial public emergence of contemporary *subsidiarity principle*, cornerstone of an idea that eventually prevailed in Chilean educational policies after the civic-military dictatorship (1973-1990) led by Augusto Pinochet.

### I. Background of the subsidy system

One of the crucial points of the demands of the social movement that has emerged in Chile with particular force since 2006, mainly expressed through the so-called *penguin revolution*<sup>1</sup>, has been a critical evaluation to the financing structure and supply management education paid with tax funds. In the numerous protests arose from several organizations, academic forums and socio-political groups, the expression: ¡No al lucro! (*No to profit in education!*) has become a common topic primarily identified with the existence of a system of schools and subsidized institutes, extended throughout the country, which have functioned according to the guidelines of stimulating participation of the private sector in the educational offer that were boosted *manu militari* since the 1980s. At a horizon of social policies in education aimed principally to resolve the inequities of the system, focused at present from the perspective of the quality of education to which children of Chile have access rather than the entrance to the education institutions, the *common sense* of the uninformed actors (though militantly mobilized) usually identifies the subsidized education exclusively as a product born mainly of educational policies of the dictatorship of Augusto Pinochet, without noticing the time depth of this subsystem in Chilean education history and changing nuances of a structural nature relationship between state and private portions of educational offer with tax funds.

The abysmal gap between the material and financial possibilities of the Chilean State and its purposes to ensure an educational offer with a comprehensive coverage deal, framed in different paradigms of state-society relationship through two centuries of republican life since first drafts of educational policies after the end of independence wars by 1818. It has constituted a structural gap that led to cohabitation of state schools, on one hand, and private schools and institutes that receive state subsidies, on the other hand. The first legal expressions of these can be found in the grants of aid for the operation of the Seminary of Santiago in October 1834. Years later, the national budget incorporated subsidies associated with missionary work among Mapuche people in the southern border area, allocating \$50 to each teacher of primary schools (Soto Kloss, 1963, p. 56). These first experiences of delivering tax funds to individuals, usually from religious orders, were the result of specific situations and therefore lacked of any fixed and universal criteria, which began to emerge in the second part of the nineteenth century. Thus, the Elementary Education Law of 1860 established initial parameters which were subsequently improved in 1889 through the first Subsidies Regulation (Decree 170 of the Ministry of Justice, Cult and Public Education), legal body that tries to operationalize through a Visitation of Subsidized Schools in the early years of the twentieth century. The identification of a more specific criteria for subsidization (which leave behind the release of funds by figures without an explicit base and oriented to the main idea of assigning an amount per pupil enrolled and considering as reference the unit costs of education of the students belonging to the state system) coincides with a substantial increase in the amounts that subsidized schools received in the changing century, educational institutions whose doctrine has enriched in the second half of the nineteenth century, to the extent that they were not only religious schools those receiving tax help, but also establishments supported by local lay associations such as the Society of Elementary Education or schools emerged from the initiative of other organized groups like artisans and workers societies.

The increasing corporate pressure for tax funds for the private provision of education, certainly had differentiated levels when regarding organizations of a more oligarchic matrix (under charitable or philanthropic ideological orientations, according to the clerical-lay polar pair) or from sectors that represented a *from below* social demand for education (Toro & Pablo, 1993). In either case, it is useful to appreciate that the problem of subsidies, in the turn of the nineteenth to the twentieth century, is implied as another element in the conceptual transit that is happening in a period of increasing questioning of the oligarchic liberal approach: state education policy under the early premise of the *Teaching State* in the dual dimension of attending the welfare of society as a

whole and being a product of its demands (Núñez Prieto, 1997, p. 8). Along this line of sense, in the arguments for or against the existence of tax subsidies to operate private schools that collaborate to fulfill the constitutional mandate of ensuring access to education (mainly elementary education), it can be appreciated the installation of a logic of social policy with higher degrees of consistency. This is related to the transfer from a primal horizon of actions of episodic nature, based on an enlightened approach, towards a process of increasing complexity that should be undertaken (in a reactive rather than propositional mode) of the consequences of economic transformation, the popular manifestations of social tensions in the urban setting and additional products of the crisis of both the mono-exporting modernization as of the oligarchical political order experienced by the country in the first third of the twentieth century.

From the above, it is appreciated that the tax subsidies to private schools will become an increasingly widespread resource during the twentieth century. According to Juan Luis Ossa, from the world of actors that are involved in issues regarding teaching, barriers were presented to the assignation of tax funds to individuals for educational purposes based on three major areas of controversy: opposition, already mentioned, between approaches that promoted the strengthening of the identification of public education with management only through the State; general disagreements regarding the education budget and its management; and finally, suspicions generated among teachers, especially the syndicate in the National Education Association, about the quality of teaching that was delivered in schools beneficiaries of the tax subsidy (Ossa Santa Cruz, 2007, p. 77). It can be appreciated that these core arguments would remain for various decades, encouraging the debate which constitutes the main focus of interest of these lines and forming part of the current criticism to the existence of subsidized private education in Chile.

1920 marks a milestone in the history of school subsidies since the Mandatory Primary Education Law incorporates them as another axis of the state's policy destined to liquidate illiteracy indicators and to ensure the formation of fundamental competencies for the consensual and institutionalized incorporation of national majorities in the project of capitalist modernization and strengthening of inclusive political trends in a context of global threat related to the destabilization of the oligarchical model and the outbreak of anti-liberal tendencies. The Law 3,654 dedicated its fourth paragraph to regulate different types of subsidies, establishing requirements for their provision and quantifying the fiscal contribution per student enrolled in up to \$25 per year paid in due months, after checking the average attendance ( a matter that was certainly one of the historical practical gaps of the subsidies system). Along with establishing

the obligation for employers and landowners to open and maintain schools, the State recognized and encouraged the collaboration of these actors in the fight against illiteracy and lack of schools through the provision of subsidies.

It is relevant to appreciate that the new tasks emerging for social policies in the following decades, in the transition from *Protection State* to *Welfare State*, will be marked by a strong fiscal investment in different fields related to the wellbeing of the majorities (mainly those that possess mechanisms of social and union pressure in urban massive politics that characterized the period of radical party governments between 1939 and 1952). Thus, the fields of social welfare, health and housing, became priority for public policies (Arellano, 1985, p. 32). Regarding education, the amounts were increased consistently and the participation of private institutions in the provision of education grew significantly. In this sense, as has been pointed out to account for the political education of the period, it can be appreciated an interesting tension between the discourse of the core of various coalitions supported in the 1940s, the Radical Party, who claimed that public education was an exclusive synonymous of state education and, moreover, the actual practice of their governments, which faced the urgent social demand for education utilizing all available tools, including subsidies to private education.

Given this recurrence in the use of school subsidies, embedded in a practice that originated in the nineteenth century, is valid to ask how plausible is the idea of understanding them as tools of social policy conceptualized according to modern approaches, that is, intended as:

“A cohesive and temporalized set of actions, mechanisms and instruments, conducted by a public agent, explicitly aimed to improve the distribution of opportunities or to correct the assets allocation in favor of certain groups or social categories” (Atria, 2006)

From this definition, it makes sense to observe, at an initial exercise of analyzing the problem, if in the process of legislative discussion of the regulation of school subsidies, in the context of the 50s, existed an explicit awareness regarding if they constituted public policy tools destined to remedy structural deficiencies in access to education (and, therefore, equity) or, quite simply, if they responded to the inertia of practice drawn from the nineteenth century. Similarly, the conjuncture of an unprecedented rise in tax subsidies generates a controversial field that mobilizes arguments, some of which are anchored in the field of problems inherent to the lay-clerical struggle and others who look toward the redefinition of the role of the State within a time of increased expectations and threatening signs of economic stagnation.

## **II. Discussion of the Subsidies Law of 1950.**

The last years of the government of radical president Gabriel González Videla (1946-1952) passed within worrying signs of political crisis and economic stagnation. Considering as a background the deep polarization derived from domestic manifestations at the beginning of the Cold War (which involved the breaking of the initial political alliance and the proscription and persecution of the Communist Party), the search after achieving political balance led to the emergence of a cabinet of *social sensitivity*, starting in 1949, which introduced in government Conservatives and Social-Christians, and generated a fracture within a radicalism that was already starting to show worrying signs of party decaying, which would be exposed in the conjuncture presented in these pages, since in the discussion of the draft law of subsidies the positions of the government faction severely confronted in favor of the proposal against those who belong to the major part of the radical parliamentary group.

Against this background, in late 1950 was discussed heatedly in the National Congress a proposal generated by the conservative Senator Julio Pereira in July of that year, supported by the Government through its Minister of Education Bernardo Leighton, founder of the Falange Nacional (National Phalanx, a social-Christian party), which was guided by two main lines: establish the fixing of the subsidy of each student attending free private schools to a 50% of the revenue cost per student and, on the other hand, facilitate the management and collection of such subsidies, regulating its annual delivery in the first half of each year and not by semiannual partialities, which in practice had led to the establishments to receive a payment due for several months and to depend on informal ratings or the credit system for subsidizing operational expenses, plus in some cases generating loss of committed amounts, which should have been executed in the budget within the year and often it was not possible due to bureaucratic obstacles. The product of the legislative work of the Committee on Public Education and the analysis in both chambers was the Law 9,864, of January 1951.

The general terms of the discussion on the draft law of subsidies have been followed through two sources: the sessions of legislative bodies and discussions present in the press. A first consideration to keep in mind is that the reaction that the analysis process aroused among print media and subsequent approval of the initiative to establish a subsidizing criteria based on a fixed proportion of the average cost of a student formed in public schools, was not distinctively turbulent. The most divided means with their respective competing positions were limited generally to spread, almost without comment, the arguments presented by the deputies and senators in Congress sessions. The exception came from the area of the liberal right sectors, in which the word was

held mainly by *El Mercurio*, newspaper that raised its position on the issue under discussion through an editorial in which it was argued that:

"Another important consequence of the project is that with its presentation is clearly indicated that the evolution of the country has become indispensable in the concept of a teaching State. Some years it was thought that the State would be the only educator, chimera that has been gradually abandoned, either by economic difficulties involved, either by the moral commitment that fall on the weak shoulders of a few officials. In Chile, after this project, the State will continue teaching, but will no longer pretend, as before, the exclusivity of the educational function, won't make a side, with gesture of imperial arrogance, as many that could have helped in that task. In contrast, will call in collaboration to all Chileans with relative generosity, as it will be given to them subsidies that will allow installing educational institutions over decent and reasonable basis." <sup>ii</sup>

The controversy about the relevance of Teaching State, understood as the definition of a desirable state monopoly of education, became one of the axes of discussion of the law of subsidies during the legislative process. The initiative of the Executive, expressed in a Message to parliamentarians to give urgency to the process of the law proposal, was damaging this expensive expectation to the speech of political radicalism to the extent that was making explicit the recognition of the difficulties that the State had to fulfill its tasks concerning educational coverage. The reporting Deputy of the project, Conservative Hugo Rosende, stated that:

"First, the Government recognizes the extremely serious problem of illiteracy that seriously comprises the progress of our democratic system and the cultural level of our people. Also, the Executive recognizes that the mere action of the State in educational matters is insufficient to solve this problem quickly and properly" <sup>iii</sup>

That diagnosis expressly contained in the message of presidential initiative conditioned an important part of the discussion of the project, polarizing arguments in two difficult to reconcile fields, and distant in terms of programs, starting from a different conclusion about what actually happened with the existence of the Teaching State (or, rather, its attempt over time) and, moreover, of contrasting development projects of education policies to meet the urgencies of the moment. As stated at the beginning of these pages, three lines of discussion derived from controversial legacies from late nineteenth century and early twentieth century, could be recognize through the speeches of the various parliamentary as in force: the already mentioned, about fiscal monopoly of

public education under the wing of the concept of Teaching State; critical remarks about how harmful it was that public funds may be handled inappropriately and budgets destined for education were not clearly defined and executed; and finally, concerns about the quality and conditions of exercise of teaching in schools receiving tax subsidy.

Regarding the criticisms of the management of funds provided through subsidies, parliamentarians opponents to the existence of these, grouped their doubts about the many vices generated by both the desire they identified openly as commercial from part of the regents of the participating schools, and also based on own failures of implementing the subsidy policy by the agencies concerned. In this way, it was argued that it might be preferable to target funds to the numerous areas of the tax education on which diagnoses were already made about their shortcomings, rather than risk the use of huge amounts of money to subsidize a set of schools that could eventually be challenged as beneficiaries of tax money, losing resources that were for urgent use. It was mainly alluded to the complications of control over the tuition declared by the owners of the schools and the difficulties of operating the amounts derived from it, situation that led to, in occasions, a budget destined for subsidies simply remain unexecuted or to be implemented as a vicious habit the late payment of the respective fees, being engaged in a chain the budgets of each year by the flaws in the system during the previous year. This heavy inheritance which had to carry over his shoulders each annual budget, also appeared enhanced according to lawmakers who opposed the law of subsidies, by the presumption that the resources needed to meet the basic assumption of the project would not exist or would not have sustainability over time, an argument that proponents of the pro-government initiative dismissed, stating that it was possible to finance its cost due to expectations of the rising in the international price of copper, the main Chilean commodity, which involved increasing tax revenues at a time in which, however, the benefits of export of copper were not associated with state ownership of the reservoirs, as would occur starting from the nationalization of the copper mines during the Popular Unity government (1971).

The opposition based on operating problems and denounced commercial motivations of the owners of schools receiving subsidies, pursued to strengthen its arguments placing in sight that the explosive increment in the amounts did not correlate with the effective expansion of enrollment or with the quality of the education delivered. In this same set of qualms emerged perhaps the most critical to the existence of subsidized: the ease with which the owners had to artificially amplify their incomes lying on the registration lists. That problem had become a recurring complaint during the previous years, and in the presidential balance on the progress of the country in 1949, González Videla had

stated that several schools lost their status as contributors to the educational role of the State because the figures were falsified to receive a larger amount of subsidies, which was detected by the ministerial inspectors (Mensaje, 1950, p. 186). One problem with the draft law of subsidies was that it mainly focused on establishing a basic floor of economic survival for a large number of collaborative schools of the State, a dramatic problem given the inflationary environment of the country, but did not provide sufficient administrative protections for an adequate inspection, which only emerged with some clarity by the regulations of the Law 9,864, that was adopted rather late, in February 1959, in a context in which it was tried to have more control and coordination over financial and operational dimensions of education policies, which is a transcript, for example, of the creation of the Superintendency of Education in 1953.

Already with a few years of operation, the Law 9,864 continued receiving criticism. However, it is interesting bringing a voice that has to do with the experiential dimension of the operation of the policy: a supervisor and system analyst. Respect to that, his testimony provides data on the difficulties of supervising the correct compliance of the regulations that benefit subsidized schools, the main one being certainly the transparency regarding the numbers of students served. From a careful survey data, generated with the purpose of presenting an overview of the state of education in a rural and indigenous province of southern Chile, this officer came to the following reflections and judgments, in a complaint tone, about the course of school subsidies:

”What is the cause of this unusual desire to create and maintain private schools? A large percentage of them are well placed; but many, many have arisen to satisfy the appetite of profit that has attracted a good compensation as the result of subsidies by average assistance.

These schools have been classified as "witches schools" by the public opinion, they almost doesn't count with the requirements explicitly outlined in the Law: maintaining a minimum average attendance of 20 students in rural areas (...) The supervisory task becomes difficult for educational officials of that province because of the high number of schools, both public and private, that they have to attend; for the extensive territory, for poor roads, some of which are impassable in the rainy season, and for the lack of means of transport. There are schools located in such remote areas that several days are required to visit them. Some have never been visited by a competent official.” (Aria, 1956, p. 176)



In connection with realities as presented in the previous testimony, emerges the third line of criticism that was already pointed out: opponents to law of subsidies denounced the negative impact of it over the main actors of education policies, that is, teachers and students. Regarding the former, the deputy Nestor Sandoval, member of the Radical Party, expressed concern about the situation in which teachers would remain, considering it was a widespread practice in the private system beneficiary of subsidies that teaching was executed by people that did not possess the necessarily sufficient professional certifications and also, if the trend of previous years was maintained at greater involvement of private enrollment in the whole system, they would become more and, moreover, would not occur the necessary labor incorporation of pedagogically trained graduates of Normal Schools.

As an element of critical judgment, Sandoval also stated that the law of supplements No. 8,392, of December 1947, had eliminated a provision that required the regents of schools that received subsidies to pay their teachers a living wage, which result in the generation of a greater profit of the owners of establishments that received subsidies, since this amount was increased and was release the constraint associated with one of the most important fixed costs in education: teaching work force. However, although Sandoval criticized the general sense of the project that would end up being approved as Law 9,864, recognized that the initiative in discussion repaired vices that were part of the traditional repertoire of criticism being made by opposition groups to the existence of subsidies from public funds handed to privates at the restatement of the living wage and establishment of minimum measures, though not satisfactory, of practice of teaching in private schools benefited with fiscal assistance. As can be seen, opponents of the project could realize that many of their concerns would be met by the details that the Law 9,864 established but, however, the already identified resentments remained unmoved and that constituted the background of the discussion: in what manner an education policy that had to take care of its dimension of permanence in time to satisfy a universal audience, that was in expansion by the demographic trends of the time and the effects on the demand because of a rapid urbanization, could respond to that task without having to rely on the collaborative action of a subsidized sector that had helped strengthen it for nearly a lifetime of the republican Chile, first under a timely complement nature and subsequently as a structural part of education policies.

Finally, it's worth noting that the conjuncture of discussion, adoption and early years of implementation of the law of subsidies, is presented as a crossroad that unites elements of the past and announcements of approaches that would have special importance in the coming decades. On one hand, the antinomy

Teaching State versus freedom of education, the suspicion against the rising amounts of tax money given to privates and its relevance in terms of meeting the goals of policy raised at the time (mainly focused on coverage but not ignorant of the need to ensure quality of service) and, on the other hand, the emergence of a challenge open to the pretended monopoly of public offer of education, task synthesized in an intervention of the falangist parliamentarian Tomás Reyes in a rather premonitory manner which would constitute years later part of the common sense of the critical educational policies of the Chilean Welfare State version. Reyes, grounding his support to the draft law of subsidies, invoked two principles that would later become in main ideas of the liberal speech: the benefits that competition would have over the quality of education and especially (considering the *imago mundi* derived from his Social Christian perspective), the primacy of what he understood as fundamental constituent agents of society, being family the first of them, over the political and administrative. On this basis, he proposed what at the time was already circulating as an idea behind the concept of *voucher*<sup>iv</sup>

“Is especially important to us that this project tends to satisfy a deeply felt aspiration of ours: the system of proportional distribution of funds destined to public education in the country. Such procedure will allow to give a wider and more concordant satisfaction to the thought of the family, which must always be predominant in children education; the bonus for school-age child in order that the family can choose freely the establishment where developing his studies, in our view, should be the formula that education can finally accommodate to in the country”

Reyes's words are interesting as a glimpse of how important is to develop a genealogy of the approaches based on the subsidiarity principle applied to the education policy, specifically, and social policies in general, understanding that its rootedness is more deep and structural (and therefore difficult to remove) than certain approaches of current discussions about education in Chile seem to hold.

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<sup>i</sup> *Pingüino* is a nickname, traditionally used with a bit of sarcasm, to describe secondary students because of their uniform (dark blue jacket, dark grey pants and white shirt). Since the 2006 movement its meaning has become less disdainful and in nowadays is proudly accepted as a generational and identity label for students themselves.

<sup>ii</sup> “Subvenciones para educación primaria”, in *El Mercurio*, december 9th, 1950, p.3.

<sup>iii</sup> Chamber of Deputies, extraordinary session, December 13th 1950.

<sup>iv</sup> Voucher would become a very important tool to meet the demand subsidy precisely by the mid-1950s as can be noticed in academic papers and conferences of Chicago economist Milton Friedmann (Aedo & Sapelli, 2001, p.45).