

The purposes of education and Spain's LOMLOE* educational legislation: Controversial questions in educational action

Las finalidades de la educación y la LOMLOE: cuestiones controvertidas en la acción educativa

Francisco ESTEBAN BARA, PhD. Associate Professor. Universitat de Barcelona (franciscoesteban@ub.edu).

Fernando GIL CANTERO, PhD. Professor. Universidad Complutense de Madrid (gcantero@ucm.edu.es).

Abstract:

The LOMLOE, like any other law concerning education in an advanced democratic society, puts in place a new system to achieve the aims of education. However, as with any other education law, its wording and implementation raise contentious issues. Some are political in nature while others are more specific to the pedagogical field. In any case, they all relate to the purposes of education. This paper presents some of these controversial issues, perhaps the ones that are causing the most debate at a social level, especially in the field of education. These issues are: the idea of educational and social inclusion and how it is managed with regard to state-funded pri-

vate centres, in particular ones that follow a single-gender education model and ones that cater for special educational needs; the competence-based curriculum and all that this entails; the objective of educational success and the role of evaluation in achieving it; and finally, the question of religion. This article does not set out to criticise the new education law. Instead, it seeks to consider how these controversial issues relate to the purposes of education. It concludes that the LOMLOE has some good points but that at the same time a political approach to the pedagogical predominates, which instead of integrating and opening itself to freedom and plurality, eliminates options without considering pedagogical arguments.

* Organic Law 3/2020, of 29 December, which amends Organic Law 2/2006, of 3 May, on Education.

Revision accepted: 2022-11-29.

This is the English version of an article originally printed in Spanish in issue 281 of the **revista española de pedagogía**. For this reason, the abbreviation EV has been added to the page numbers. Please, cite this article as follows: Esteban Bara, F., & Gil Cantero, F. (2022). Las finalidades de la educación y la LOMLOE: cuestiones controvertidas en la acción educativa | *The purposes of education and Spain's LOMLOE educational legislation: Controversial questions in educational action*. *Revista Española de Pedagogía*, 80 (281), 13-29. <https://doi.org/10.22550/REP80-1-2022-04>
<https://revistadepedagogia.org/>

ISSN: 0034-9461 (Impreso), 2174-0909 (Online)

Keywords: LOMLOE, purposes of education, inclusion, competence-based curriculum, assessment, religion.

Resumen:

La LOMLOE (Ley Orgánica 3/2020, de 29 de diciembre de 2020, por la que se modifica la Ley Orgánica 2/2006, de 3 de mayo, de Educación), como cualquier otra ley educativa de una sociedad democrática, formaliza un nuevo escenario para alcanzar las finalidades de la educación. Sin embargo, y también sucede con el resto de las leyes educativas, su redactado y concreciones presentan cuestiones controvertidas. Unas son de orden político y otras son más propias del ámbito pedagógico, en cualquier caso, todas ellas atañen a las finalidades de la educación. En este trabajo se presentan algunas de esas controversias, acaso las que

más debate están ocasionando a nivel social, especialmente, en el ámbito educativo. Esas cuestiones son: la idea de inclusión educativa y social y cómo se gestiona cuando se habla de los centros concertados, sobre todo de los de educación diferenciada y de las necesidades educativas especiales; el currículo competencial y todo lo que ello conlleva; el objetivo de éxito escolar y el papel que la evaluación tiene en ese logro; y, por último, el asunto de la religión. Se concluye que la LOMLOE presenta ciertas virtudes, pero, al mismo tiempo, predomina erróneamente un enfoque político de lo pedagógico que, en vez de integrar y abrirse a la libertad y pluralidad, clausura opciones sin atender a razones pedagógicas.

Descriptores: LOMLOE, finalidades de la educación, inclusión, currículo competencial, evaluación, religión.

1. The purposes of education, education laws and the LOMLOE

While Socrates was in prison waiting for his death sentence to be carried out, he had an interesting dialogue with his friend Crito (Plato, 43a-54e) who tried to convince him to escape. However, the man who was known as the gadfly of Athens did not agree with this idea. We all know how this story ends. Their conversation covered justice, the law, civil disobedience, and the effects the opinion of a majority can have. Socrates also invites us to consider the following: if we believe that a law is unjust because it harms us, should we not believe the same when it benefits us? Over 2,000 years have now

passed and Socrates' question reappears every time a new law is proposed or there is an attempt to reform one that already exists. There will be supporters and detractors of any rule issued by the competent authority that mandates or prohibits something, which is how *law* is defined in the dictionary of the Real Academia Española; but regardless of what position particular individuals adopt in line with their patterns of thought, interests or motives, we should consider whether the proposal is in accordance with justice and whether it backs the good of the people who are governed, ultimately, whether it will facilitate us doing what we should (Sandel, 2011).

Of course, education laws are not free from philosophical reflection. We know that: "Any people that reach a certain degree of development, finds itself naturally inclined to practice education" (Jaeger, 1957, p. 3). However, no people should content itself merely with guaranteeing the right to education. It must also consider whether the laws it passes do justice to the purposes of education since, in the words of Spinoza:

When we say that someone has done something by right, we're not saying he's done it in the best way. It's one thing to cultivate a field by right, and another to cultivate it in the best way. It's also, I say, one thing to defend oneself, preserve oneself, make a judgment, etc., by right, and another to defend oneself, preserve oneself, and make a judgment in the best way. So, it's one thing to command and have responsibility for the Public Affairs by right, and another to command and govern Public Affairs in the best way. (1986, p. 1)

These purposes have been the subject of debate since time immemorial, and it is fair to assume that every place, era, and intellectual current, with their highly regarded authors, will have focussed their attention on some more than others. This historical reality is of use when we consider certain aspects of human nature that must be encouraged and educated, but at the same time it can lead us towards a position of unilateralism or exclusivity or place fragmentary visions of the purposes of education before us (liberalism, communitarianism, Marxism, personalism, etc.).

It is, therefore, advisable to embrace integrating proposals that speak of well-lived lives (Llano, 2002), the cultivation of humanity (Nussbaum, 2005), or human fulfilment (Ibáñez-Martín, 2017). As well as not losing sight of the complexity and full meaning of the purposes of education, these proposals are in line with article 26.2 of the UDHR (Universal Declaration of Human Rights):

Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.¹

Of course, we could cite many other similar documents and declarations that follow the same lines, among which Agenda 2030, adopted by the United National General Assembly on 25 September 2015, stands out owing to its current relevance.² Spain's new education law, the Organic Law Modifying the Organic Education Law (LOMLOE), also known as the "Celaá Law", partly points in the direction discussed above. Its preamble refers to "integral education" organised around five focuses, namely: children's rights, in accordance with what is laid down in the United Nations Convention on the Rights of the Child³; gender equality; a transversal focus on ensuring that all students have guarantees of success in education; consideration of the Sustainable Development Objectives (SDO) as laid down in Agenda 2030; and finally, consideration of

the digital transformation that is happening in our societies (Organic Law 3/2020).

Although these general principals may well be shared by a majority of people, the law includes a series of implementations and features that have provoked a variety of opinions and deserve our attention. The aim of this work is to consider some of these contentious questions. Some are political in nature while others are more pedagogical, but they all relate to the purposes of education, to the development of the human personality we have been discussing. In relation to the political questions, we will focus on particular aspects that relate to the idea of inclusion promoted by the LOMLOE. And with regards to pedagogical ones, we first consider the support for a competence-based curriculum, then the proposal for defining educational success and its evaluation, and finally how religion is handled. Following the advice of Socrates and Spinoza, our intention is not to judge the LOMLOE on whether its effect on us is negative or positive, whether it acts against or in favour of our interests, whether or not it is well-drafted from a legal perspective. Instead, we intend to consider whether, from a pedagogical position, it does a good job of considering and channelling the purposes of education, that is to say, fully and integrally developing the personalities of future generations of citizens. We should note at the outset that in several aspects of this law, a political approach to pedagogy is wrongly dominant, and instead of integrating and opening itself to freedom and plurality, this closes off options without considering pedagogical arguments.

2. Contentious political issues regarding the purposes of education: the idea of inclusion

One of the questions the LOMLOE raises and which causes the most debate relates to inclusion. This word appears 17 times in the act, usually linked to “the effective equality of men and women”. Its support for this is clear and, of course, is encouraging for a public that wishes to eradicate the scourge of gender-related violence and discrimination of any type, in other words, that wishes to live in a more fair and equal society. We should note some of the LOMLOE’s proposals for fostering the inclusion of students, at least the three that to us seem most important and striking. The first of these calls for inclusion to be boosted through a public education service with a package of measures that try to regulate state-funded independent schools. The most notable of these measures are: prohibiting the transfer of public land to state-funded independent schools; the gradual creation of places in public schools instead of places in state-funded independent centres; and the requirement for state-funded independent schools to guarantee free provision “of access to complementary activities and school services” if they wish to continue receiving public funds (Organic Law 3/2020 sec. I/122916).

To achieve this objective of free provision, the current government has increased provision in the budget for state-funded independent schools by 5.6% compared to 2018. Having said all this, it may seem that there is the same or more demand for state-funded independent schools compared to public schools and that it necessary

to shift course, but reality shows us that this is not the case. Without going into too much detail, in recent years, as the Spanish Ministry of Education and Professional Training itself has reported⁴, around 70% of students in mainstream education are enrolled public centres, around 25% are enrolled in state-funded independent centres, and around 5% are enrolled in private centres. We might assume that many families that opt for public schools through ideological and/or pedagogical commitment, and that many others do not feel as drawn to this type of school but find that their socio-economic position gives them no other option. Whatever the case, real life tells us that there are families, and a good number of them, that choose to send their children to state-funded independent schools, without of course forgetting those that opt for private schools.

But beyond these figures, in-depth reflection is required. It is worth considering article 26.3 of the UDHR — “Parents have a prior right to choose the kind of education that shall be given to their children”⁵ — or recalling the words of Francisco Tomás y Valiente who was President of Spain’s Constitutional Court from 1986 to 1992 and was sadly assassinated by the terrorist organisation ETA in 1996. He was actually appointed by the left-of-centre PSOE (Spanish Socialist Workers Party), and he stated, in a dissenting vote on judgment 5/81, as a primary manifestation of freedom of teaching:

The absence of a state monopoly on education and, in a positive sense, the existence of institutionalised educational pluralism.

As has recently been stated in France, educational freedom is a form of equilibrium. It means that neither the state nor any other collective, for example a religious one, can imperiously dominate young people. It also means that the head of the family is not stripped of the rights he possesses by the very nature of things, concerning the formation of the spirit of his children⁶.

Supporting a free public education system, a position surely held by anyone who believes in the UDHR and defends human dignity, is a good way to back inclusion, and so the aim of the LOMLOE is worthy. However, should this support include a reconfiguration of state-funded independent schools so that they can be turned into public schools? It is hard to believe that the public school is the only flagship of inclusion or that it is the sole model capable of developing students’ personalities well. Ultimately, it is an ideological bias to believe that only the public educational centres can guarantee per se the formation of citizens committed to democratic values and the common good. Guaranteeing the educational character of what we all share as human beings in order to achieve the fulfilment of our development within the community is more a problem of pedagogical commitment to the greater good of future generations than commitment to the hand that controls the purse strings (Gil Cantero, 2022). In fact, as Higgins and Knight-Abowitz have already shown (2011, p. 386 and *passim*), there can be greater comprehension and moral sensitivity towards the values of coexistence in a fully private centre than in a publicly run one.

Furthermore, the LOMLOE focusses special attention on state-funded independent centres that opt for single-gender education as, in the words of the minister Celaá, it considers that they “contravene the general principles of inclusive education and co-education”⁷.

The controversy about single-gender education has been a feature of educational debates for years.⁸ It is good to know that this is not an exclusively Spanish concern. The USA, UK, Australia and South Korea, among other countries, also have single-gender educational centres, and it is worth noting that in the USA, for example, there is a strong trend towards the creation of this type of centre (Calvo, 2013). Of course, it is not a religious question, and the countries mentioned are not majority Catholic. Whatever the case, if the LOMLOE upholds that it is necessary to persuade, and even penalise, centres that dedicate themselves to shaping personalities but do not believe in gender equality or similar things, we could not agree more; there is no place for such centres in a democratic society. The controversy lies in deciding whether they exist on the basis of whether they practise co-education, or to put it in simpler terms, whether or not boys and girls share classrooms and breaks at all times in these centres. It is true that societies function best when men and women are together and respect and value one another as they should (Sennet, 2012). However, this is not the result of spending time together, but instead of receiving a good education (Gurian, 2010; Gordillo, 2017; Camps & Vierheller, 2018; Ibáñez-Martín, 2007). To put it another

way, it is hard to say that sexist patterns of thought and behaviour are the result of a lack of co-education. Instead, it seems more reasonable to attribute them to poor education. Without going further, the report on gender-based violence in schools published by UNESCO and UN Women (2016) supports what we have been saying: single-gender education does not appear to be the cause of the problem and co-education has not so far shown itself to be the best possible system for tackling this social scourge.

Finally, and in relation to students with special educational needs, supplementary provision four of the LOMLOE allows a period of ten years for “ordinary centres to put in place the necessary resources to be able to meet the needs of students with disabilities in the best conditions”⁹. The social inclusion of people with special educational needs is one of the best things a society can achieve, and it enables us to gauge the human and humanising quality of the society. However, intentions must take into account the educational reality. Students who have some type of disability, especially if these are severe, need personalised attention from specialised professionals, that is to say, from teachers who not only want to collaborate and help, but also know how to do so. In general, teachers in ordinary schools do not have this type of training, and it is important to recognise that while diversity in the classroom can be a good thing, it can also be harmful for the students who need the most help, as some international studies argue (Messiou, 2017; Boynton Hauerwas & Mahon, 2018). In the case of special edu-

cational needs, it is necessary to tread very carefully and do things very well. This means having special educational centres that do more than support mainstream centres.

In short, the purposes of education come to nothing if inclusion is not integrated into them, because a human personality is complete and integral if it firmly backs the inclusion of all people, whatever their needs. However, it is desirable to note some controversies caused by the type of inclusion the LOMLOE promotes or, as some have rightly noted, an inclusiveness that is the mask that promotes other ideas (Ibáñez-Martín, 2020). A mask that is removed when we recognise that education is intrinsically essentially inclusive but at the same time differentiates (Del Pozo Armentia et al., 2020; Meirieu, 2022).

3. Contentious pedagogical questions for the purposes of education

3.1. The competence-based curriculum

The LOMLOE includes a competence-based curriculum. It argues that this will make it possible to offer personalised teaching and will result in students learning significantly and meaningfully, and, above all, will result in what this law calls “educational success”. Among other measures it eliminates the classification of subjects into core, specialised and elective ones; it promotes the connection and complementarity between formal and non-formal education; it implements new organisational and methodological measures that are adapted to the present time; and

it strengthens coordination between the different educational stages with the aim of ensuring continuity in learning. This is no minor change. Instead, it is an in-depth modification of the teaching, learning, and evaluation process, and this surely justifies the proposed creation of a “unit within the Ministry of Evaluation and Professional Training” that, in collaboration with Spain’s Autonomous Regions, will review and update the curriculum.¹⁰

The competence-based model is novel in many ways, but in the way it is implemented, we can identify the principles of the constructivist educational paradigm that was the basis of the LOGSE, the education law that the PSOE implemented in the early 1990s (Coll et al., 1990). The LOMLOE more decidedly pursues a competence-based curriculum, leaving to one side the content-based curriculum. Of course, at no point does this law state that content must disappear from the curriculum, but we can conclude that its position does not support it: content becomes part of the competences and must be adapted to them. As an example, one of the co-authors of the new model of learning at school speaks of “vital and desirable” learning, suggesting that we are moving away from a curriculum filled with superfluous content that should make way for content that is truly necessary (Coll, 2021).

The situation described above raises a number of questions. Firstly, and perhaps most obviously, it gives the feeling that there is a desire to take a firm step away from an education that is often described as classical or traditional. No education is

perfect, but it would perhaps be a mistake to change all of that education; in the end, many citizens and professionals who have proven themselves to be competent in many areas ranging from involvement in social causes to the invention of technological devices we all use today have emerged from those traditional schools. A growing body of literature from recent years refers to something like this when lamenting the dismantling of the school of content (Moreno, 2006; Pericay, 2007; Luri, 2020; Bellamy, 2021), and there is also literature that calls for the recovery of the heartbeat of school education, that human activity par excellence that readies people to wonder before culture and science (L'Ecuyer, 2013; Balduzzi, 2021; Fuentes, 2021).

The second question relates to how the word competence is conceived. This term, on the one hand, derives from linguistics, more specifically from the “linguistic competence” construct that Noam Chomsky developed (1977) to explain the natural processes on which study in that discipline is based. This term has become widespread and is now familiar to us in communicative, digital, and emotional competence for example. Competence also comes from the professional or working world. In this field, competence helps to identify the stages or phases of the training of a technician in whichever area; or to put it another way, it is a means of dividing and classifying the skills or abilities necessary for the efficient discharge of a given profession. A competence is: “*the detailed elaboration of the aspects on which ‘training’ or ‘teaching’ should be concentrated*” (Díaz Barriga, 2006, p. 14; italics added).

The competence-based educational focus can be regarded as useful and appropriate, firstly because it is the reflection of personal development (in the Chomskyan sense), and secondly, because it makes it possible to solve problems and act with ease in particular specific circumstances (in the professional and employment sense). However, it is important to ask whether this approach, all things considered, “is an outfit one puts on, whether this be the oldest faculties of intelligence, or erudite knowledge” (Perrenaud, 1999, p. 61). The competence-based curriculum could give many teachers and educational administrators the feeling that they are renaming old terms, and also the sensation of having to fit what was already being done into a new mould while important questions do not fit into the new competence-based model. In effect, this model prioritises the question of how over the question of what and, therefore, things: it conveys a strategic, instrumental, utilitarian image of education. Is there room in this competence-based model for flourishing through theoretical knowledge, the vision of the ultimate purposes of life, or the idea of being a good person? It does not seem to leave space for in-depth understanding of the value of wisdom, nor what supports a good will, not indeed the effort — hard work — that makes it possible to achieve any competence.

The third question relates to the issue of educational content, those questions, which, as Sánchez Ferlosio said (2002), are in no-man’s land and belong to all. People search out these questions, commit to getting hold of them, and with care and effort

discover the pleasure and joy of grasping them. Here it is worth mentioning a topic that has been in the spotlight for years: memorisation. It is possible that in previous eras this mental faculty was overused, and we now have a vast virtual cloud with immediate access that knows everything, but none of this overrides the educational value of knowing content and of knowing that you are someone who is called upon to acquire it. In the contemporary valuation of content and the possible memorisation of it, which it must be said, does not only affect formal education,¹¹ we can identify among other currents: a utilitarianism that rejects anything that does not bear the stamp of efficiency and efficacy (Ordine, 2013); a moral liberalism that praises individuals, disconnecting their horizons from meaning and culture (Calvino, 2015); and an “ethics of domination” that puts freedom of choice at the gravitational centre of the development of human personality (Lears, 2003). Some would also say that it plays a part in the abandoning of common sense. It is worth recalling the episode years ago featuring Adolfo Muñoz Alonso (1915-1974), who was a professor of philosophy, politician and rector of the Universidad Complutense de Madrid, and José Solís Ruíz (1913-1990) who was a minister under the dictatorship of Franco. The latter championed a bill for a law in Spain’s parliament that would dedicate more hours at school to sport, taking them away from classical languages. In part of his speech, the minister asked the audience a provocative question: what is the use of Latin? The professor, who was there, suggested an answer: “To give one example, señor minister, so that you, who

was born in Cabra [a Spanish municipality in the province of Córdoba], are an *egabrense* and not anything else”.

The fourth and final question points to a more serious absence as the discussion on any aspect of competences distracts us and even prevents us from considering the most radical purposes of education. In effect, they distract us because while we debate and expand the multiple and endless lists of competences, as effective causes, we stop considering the end goals... Competent at what? In early 1872, having recently turned 27, Nietzsche made a forecast that to some might recall the situation in which we are living:

In this quarter all culture is loathed which isolates, which sets goals beyond gold and gain, and which requires time. [...] What is required above all is “rapid education”, so that a money-earning creature may be produced with all speed; there is even a desire to make this education so thorough that a creature may be reared that will be able to earn a great deal of money. (Nietzsche, 2009)

Also, as we have said, the debate about competences carries us away from understanding what training good people comprises in the necessary depth and precision, as what is good is shown and recognised from a “given order” (Reyero & Gil Cantero, 2019, p. 220), while competences, like any case of utilitarian interest, are negotiated and managed from an “*accessible fund*” (Hadjadj, 2018, p. 40; italics in the original). Educating is not measuring or calculating (Gil Cantero, 2020). Educat-

ing is not just learning to manage which competences interest me depending on circumstances and objectives. Educating is not creating managers of competences. Educating is taking ownership of the call of the goods that resonate, that “ring”, in some ends or limits.

3.2. Evaluating learning

The LOMLOE overturns the evaluation of learning. It eliminates the educational pathways that the previous law established, giving the impression that it is neither good nor ethical to divide students by academic ability and/or performance. It reintroduces curriculum diversification programmes to encourage equal conditions when, for example, obtaining the title of graduate in compulsory secondary education (ESO). The evaluable learning indicators also disappear and final assessments are eliminated from primary school, compulsory secondary education, and the baccalaureate. In short, evaluation becomes informative, formative, and indicative for the educational centres themselves, for families, and of course for students.

This proposal will not put an end to the debate about evaluation, which has been going on for years now and usually focusses on the advisability of moving up a year with failed subjects or of whether titles should be awarded to students who have not passed all subjects. This debate has also intensified with the Covid-19 pandemic, as teachers have found themselves having to evaluate through the computer screen, and logically, taking into account the technological resources of the students, in other words, the socio-economic

conditions of their families. Nonetheless, this type of discussion is the tip of an iceberg that suggests that evaluation is not a minor question but instead is something of supreme importance for the purposes of education. Evaluation, at least from our point of view, must take into account some of the important questions that are not fully presented in the proposal of the LOMLOE.

The first of these relates to the surreptitious message being transmitted to students, to new generations of citizens. Society can be seen as a showcase of people who make an effort to achieve their objectives or fulfil their dreams, and many of them can be held up as examples of strength and resilience when things do not turn out as hoped. Furthermore, there is frequently no need to turn on the television. It is enough to observe what is happening at home, parents’ constant struggles to get by. That life is hard, at least for a great majority and especially in recent years, is an irrefutable truth however one looks at it. Evaluation may be one of the best educational strategies for starting to learn what a large part of the circumstances one will be involved in tomorrow will be like, or as Nicol said (1977), to realise we are not born whole and must go through life proving that we realise little by little what happens in reality. It is important to consider whether an evaluation that tends towards providing information and orientation, like the one proposed in the LOMLOE, fulfils this objective or whether it limits itself to making people aware, which is undoubtedly something other than what we have been describing.

The second question relates to the fostering of critical thinking. The fact this pair of words appears 10 times in the wording of the new educational law is to be celebrated. The “degree of development” of a people that Jaeger mentioned is not achieved with a citizenry that lacks the spirit that makes it possible to think differently (Llano, 2016) and escape from the scepticism that paralyzes the mind and soul (Derrick, 1982), ultimately making it possible to go through life with good judgement (Balmes, 1964). Do we not need professionals who ask themselves how to do things better than they are currently done? Or perhaps we do not need new generations of citizens who continuously question things that are put in front of them, people who ask themselves good and very good questions? An evaluation formulated in terms of orientation and information could numb this critical spirit, or to put it another way, it could make students believe that any behaviour is acceptable because this has been decided by the person who sets their work and that any value judgement is inherently meaningful (Esteban Bara, 2019).

The third and final question relates to the famous expression social mobility. This is, undoubtedly, one of the main objectives of the educational system of any democratic society. In short, free access to the education system must be guaranteed for all people. In this way they will have the same opportunities to rise to wherever their personal effort and individual talents take them. We should recognise, however, that this issue is not so simple and that, of course, it cannot be the sole responsibility of education. Acclaimed

studies have shown that a large part of the public in most European countries believe that social mobility or success, if we want to call it by that name, is decided by factors that are outside the control of individuals.¹² This could be a case of “what Plato called a ‘double lie’, a belief that despite not being true supports civic harmony because it encourages citizens to accept the legitimacy of certain inequalities” (Sandel, 2020, p. 102).

Whatever the case, we should be attentive to the little-studied but obvious feature of the human condition by which we limit ourselves to meeting the minimum requirements when there are no challenges in view; and, why not say it, before policies that foreground respect for people and with the best intentions smother them with attention, possibilities, and practicality, but leave doubts about whether they really respect them, insofar as they believe in the potentialities of the human personality (Sennet, 2003).

3.3. Education without religion

The LOMLOE repeals the articles of the previous law that made religion a specific subject in the two years of the Spanish Baccalaureate. From now, educational centres will be required to offer this subject but students will be free to decide whether to take it. The requirement for students who choose not to take religion to study an alternative subject is also abolished. Consequently, the article that specified the inclusion of religion in the average mark on the student transcript is also repealed. This subject ceases to have value, for example, for access to university or to obtain

state grants. To offset this, the LOMLOE makes education in civic and ethical values a specific area or subject with content referring to the Spanish Constitution, the UDHR and the Declaration on the Rights of the Child, sustainable development, global citizenship, equality of men and women, and values such as respect for diversity and the social importance of taxes. Admittedly, this new area meets important current social needs.

These new proposals are typical of a state that does not have any particular religious denomination. It is easy to think that in a non-denominational society, religion is not a matter for the public educational system, but rather belongs in the private or family sphere. Nonetheless, the matter deserves a serious debate when considering the purposes of education, in other words, the complete and integral development of the human personality. Without wishing to go into too much detail, spiritual, existential, or transcendent intelligence has been identified. This is a dimension of the human intellect and/or a set of knowledge that from many points of view has a direct relationship with religion. Authors of the standing of Maslow (1943), Victor E. Frankl (1966), and Gardner (1999) among others have referred to this, underlining the importance of developing the ability to ask oneself about questions such as the meaning of life and death, the final fate of the physical and psychological world, human love, and the contemplation of beauty. Furthermore, at the start of the 21st century, we are seeing considerable growth in research and literature that tries to delve into the psychological cartography of this

intelligence. Among many other proposals, that of Zohar and Marshall (2001) stands out. They coined the term spiritual intelligence and they identify in it traits such as self-knowledge, flexibility, resilience, inspiration in universal values, refusal to cause harm to others, questioning of one's own actions, and constant doubt of what is established or conventional. Similar things are said when this reflection comes from the field of philosophy (Torralba, 2010).

We insist that with the subject of civic and ethical values and the content mentioned above that the LOMLOE proposes, many problems might be solved that currently affect a large part of the public, but it is hard to see this area as a substitute for spiritual intelligence, if, of course, this is what is intended. And if this is not the case, how do we explain that new generations of citizens no longer have to cultivate this intelligence that is typically human and so necessary nowadays? If it is the word religion that causes problems, perhaps alternatives should be considered such as religious culture, history of religions, or religion and person, whatever it takes to be able to work on spiritual intelligence.

4. Conclusions

A law like the LOMLOE that supports the development of the human personality of students is, in principle, well directed. This objective brings together the principal purposes of education that comprise the history of pedagogical thought to the present day and the purposes reflected in the principal international documents relat-

ing to the question of education. Nonetheless, it is reasonable and normal, as in any other law, for some contentious issues to arise, such as the ones we have identified here. The first and most obvious one is that we are currently at a rate of a new education law every five years. This situation, in our view, is not good for anyone, neither students nor teachers, nor families nor society as a whole, and we understand that it is hard to embrace the purposes of education without ignoring the ideological and party interests of the moment.

In relation to the political questions, some controversies have been identified resulting from the idea of inclusion that the law upholds. This is the objective, clearly, but it can surely be achieved by different routes, and perhaps it would be good for such a thing to happen in a democratic society. The LOMLOE could suggest that the purposes of education can only be achieved through a public system and a co-educational mode and this raises serious doubts. In relation to the more pedagogical aspects of the law, attention has been paid to those curriculum aspects that could affect the integral development of the personality. We cannot see how curriculum content is treated as just another part of the competences as it seems too important to us, so much so that from many perspectives, it shapes the competences themselves. We also question the type of evaluation proposed by the LOMLOE. This seems to be based on guaranteeing educational success and not on the educational and philosophical missions of the evaluation activity. We have also considered the role of religion as a stimulus of spiritual intelligence. We are

beings with meaning, we constantly ask ourselves questions that transcend us, and the answers we give ourselves, at both an individual and a collective level, make a major contribution to the development of future personalities.

Finally, perhaps adopting a more combative tone, we would like to question an aspect that runs through all aspects of this law, which we can very clearly find at the foundation of each of the controversial topics we have analysed. In effect, this new law, like previous ones, intrudes in the fields and positions chosen by teachers, pedagogues, and educators, thus going beyond its sphere of political influence. Education is, of course, a task for all, just like health and diet, but nobody would think to force a doctor to diagnose, prescribe, treat, and group patients in one single way. It should be assumed that educational professionals, like those from medicine, should learn all of possible solutions that have been proven to be effective at university so that they can flexibly propose what is best for each student and school. The problem, ultimately, continues to be the strong move towards making education an ideological question. It is enough to look at the famous commissions of specialists that have taken turns at advising the Ministry of Education: there is, of course, no pluralism and so while dialogue and debate are constantly mentioned, they are no more meaningful than discussions among between the fans of a football team. As Ibáñez-Martín has stated “the educational system cannot continue to be designed to promote the ideology of those who hold power, but instead

has much more profound responsibilities ahead of it" (2017, p. 15 and *passim*). There is a fear of pluralism. And there is no other way of curbing it or silencing it than by cutting off its source of meaning: liberty. There is a fear of true dialogue; a fear of opening up and listening sincerely, seeking truth, recognising the better argument, even from opposing positions, in search of agreements focussed on the good of the new generations as human beings in development. This fear of freedom, and consequently of pluralism, could result in totalitarian proposals like those we have already seen from some political groups in Spain that seek to assume the right to assess the veracity of information with a ministry of truth or to question the educational work of state-funded independent schools and private schools. Ceasing to put our political positions at the forefront is a way of respecting the profound nature of school as a school of liberty because "the truth of the political option (in education) is that of quality of teaching and that of the extent and depth of the knowledge we wish to transmit" (Lafforgue, 2019, p. 31).

In any case, Socrates' debate with *Crito* can be seen as an invitation to reflect on the LOMLOE, both for those who regard it as an unjust law for whatever reasons, and, perhaps more importantly, for those who believe it is the most just law of all, the best possible education law, and the one that is currently most appropriate for us.

Notes

¹ <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

² <https://www.agenda2030.gob.es>

³ <https://www.un.org/es/events/childrenday/pdf/de-rechos.pdf>

⁴ <https://www.educacionyfp.gob.es/servicios-al-ciudadano/estadisticas/no-universitaria/alumnado/matriculado/2019-2020-rd.html>

⁵ <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

⁶ <http://hj.tribunalconstitucional.es/es/Resolucion/Show/5>

⁷ <https://www.educacionyfp.gob.es/dam/jcr:3a9e-0faf-c60d-4f20-8dba-a7fd0a36f944/comparencia--ntegra-de-la-ministra.pdf>

⁸ It might be interesting to recall briefing note 37/2018 of Spain's Constitutional Court, published on 19 April 2018, regarding Judgment 31/2018, of 10 April. This note summarises, for the interested reader, the principal arguments behind the different judgments, in all of which Spain's highest court "Finds that single-gender education constitutional and leaves the door open to its public funding if the centres comply with the law": The Constitutional Court finds that single-gender education is not an inherently discriminatory educational model; it is an expression of a pedagogical method that considers this educational option to be more effective than others; it respects Spain's constitution and the international treaties regarding discrimination to which Spain is a signatory; in the event of constitutionally prohibited differences in treatment, these cannot be attributed to the model itself but instead are attributable to the specific school. https://www.tribunalconstitucional.es/NotasDePrensaDocumentos/NP_2018_037/NOTA%20INFORMATIVA%20N%C2%BA%2037-2018.pdf

Judgment 31/2018, of 10 April 2018. Review on grounds of unconstitutionality 1406-2014. <https://www.boe.es/buscar/doc.php?id=BOE-A-2018-6823>

⁹ <https://www.educacionyfp.gob.es/dam/jcr:f183be05-117d-4806-b24a-2f9f52d9b37f/loe-con-lomloe-texto.pdf>

¹⁰ <https://www.educacionyfp.gob.es/dam/jcr:cbc8947e-5105-4dd1-853b-dd398cf6d696/cambios-respecto-al-curriculo.jpg>

¹¹ The possibility of modifying certain competitive exams has also been raised as they are thought to focus too much on memorisation and are poorly adapted to the present time. This has inspired a lively debate among professionals from

various fields. https://www.elconfidencial.com/espana/2021-05-07/oposiciones-pecados-sistema-desfasado-fin_3067688/

¹² <https://www.pewresearch.org/global/2014/10/09/emerging-and-developing-economies-much-more-optimistic-than-rich-countries-about-the-future/>

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Authors' biographies

Francisco Esteban Bara is Associate Professor in the Department of Theory and History of Education at the Universitat de Barcelona. He has been visiting professor at various universities in Latin America and at the Center for Character and Citizenship at the University of Missouri-St. Louis-College of Education. In recent years he has been the Representative of the Rector of the Student Obser-

vatory of the Universitat de Barcelona and Vice-Rector for Communication at this university. His most recent books are: *La Universidad light* [The light university] (Editorial Paidós) and *Ética del profesorado* [Ethics of teachers] (Editorial Herder).



<https://orcid.org/0000-0002-8679-2090>

Fernando Gil Cantero holds a chair in Theory of Education in the Department of Educational Studies of the Faculty of Education (Teacher Training Centre) at the Universidad Complutense de Madrid. He is co-director with Professor David Reyero of the Anthropology and Philosophy of Education Research Group (GI-AFE) at the UCM. Winner of the Premio Esteve (2012). Editor since January 2019 of the journal *Teoría de la Educación. Revista Interuniversitaria*.



<https://orcid.org/0000-0002-6636-7601>

