

The quality of governance of the education system. The case of the LOMLOE*

La calidad de la gobernanza del sistema educativo. El caso de la LOMLOE

Francisco LÓPEZ RUPÉREZ, PhD. Director of the Educational Policies Chair. Universidad Camilo José Cela (fllopezr@ucjc.edu).

Abstract:

In the context of a highly complex social and economic landscape, getting educational reforms right is a crucial part of governance understood as the ability of governments to design, formulate and implement public policies. This work focuses on the quality of governance in the education system. It starts by reviewing the concept of governance and its characteristic features. It then considers the quality of governance in education based on an integrated conceptual model, which is validated through a Delphi process of consultation of experts, and an international comparative analysis. The main results of an exploratory evaluation carried out in 2017 of the quality of governance in the Spanish education system are described next. Finally, the contributions of the LOMLOE legislation introduced

in (2020) are analysed and evaluated in the light of the criteria derived from this conceptual model. The main conclusion that emerges from these empirical results is that the Spanish education system has a long journey ahead of it in terms of improving the quality of its governance.

Keywords: governance, quality of education, assessment, educational reform, educational legislation.

Resumen:

Ante un panorama social y económico altamente complejo, el acierto en las reformas educativas constituye un elemento decisivo de la gobernanza, en tanto que capacidad de los gobiernos para diseñar, formular e imple-

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mentar políticas públicas. El presente trabajo se centra en la calidad de la gobernanza del sistema educativo. Para ello, parte del concepto de gobernanza y de sus rasgos característicos. Seguidamente, se detiene en la calidad de la gobernanza en educación a partir de un modelo conceptual integrado, y validado empíricamente a través de un procedimiento Delphi de consulta a expertos y de un análisis internacional comparado. A continuación, se describen los principales resultados de una evaluación exploratoria de la calidad de la gobernanza del sistema educativo español, efectuada en 2017. Y, finalmente, se analizan y valoran las aportaciones de la LOMLOE (Ley

Orgánica de 29 de diciembre de 2020, por la que se modifica la Ley Orgánica 2/2006, de 3 de mayo, de Educación) a la luz de los criterios derivados de dicho modelo conceptual. La conclusión principal que emerge de estos resultados empíricos es que el sistema educativo español tiene por delante, en materia de calidad de su gobernanza, un amplio recorrido de mejora.

Descriptor: gobernanza, calidad de la educación, evaluación, reforma educativa, legislación educativa.

1. Introduction

In the context of a society and economy that are increasingly knowledge-based, the quality of education and training systems is vital for personal progress, economic growth, and social development (Kairamo, 1989; OECD, 2015; CEOE, 2017; Hanushek & Woessmann, 2019). This situation, which has become increasingly apparent since the start of the current century, has been accentuated by the effects of the Covid-19 pandemic (Reimers, 2021).

In view of this complex panorama, the successful formulation of educational reforms and their implementation is undoubtedly a requirement of governance activities, insofar as it represents the ability to design, formulate, and implement public policies. The OCDE (2015) has highlighted some essential general

features: long-term vision, attention to the political management of reforms, and creating trust among members of the public.

The impact of the quality of governance on countries' progress has been established by econometric studies fostered, among others, by the World Bank (Kaufmann et al., 1999a, 1999b; Sebastián, 2016), that have empirically established that good governance is a causal factor of development (Kaufmann, D. & Kraay, A., 2002). Nonetheless, in the field of education, there is a lack of international studies that examine the impact of the quality of governance on students' results (López Rupérez et al., 2017, 2020).

Educational governance has an impact all parts of the system as its effects

cascade through the different organisational levels, reaching each pupil as an individual. Hanushek et al. also made a similar argument (2016) concerning the impact of the quality of school management. These arguments suggest that the quality of governance of educational systems will be a factor that predictably has a significant influence when explaining the results of the system as a whole.

This work starts by examining the concept of governance and the characteristic features of good governance. It then considers the quality of governance in education on a dual conceptual and empirical basis, the appraisal of the second of these bases draws on the results of a Delphi process and on a comparative international analysis. Next, the principal results of an exploratory evaluation of the quality of governance in the Spanish education system are described. Finally, it analyses and evaluates the contributions of Spain's Organic Law 3/2020, of 29 December, modifying Organic Law 2/2006, of 3 May, of Education (LOMLOE) in light of criteria derived from earlier studies.

2. The concept of governance

The word governance relates to "the exercise of authority within a given sphere" (Hewitt de Alcántara, 1998, p. 105). The end of the last century saw an increased interest in conceptualising it, led by the World Bank (World Bank, 1989, 1992, 1994). This new protagonism of "governance" as a term resulted in a

proliferation of approaches and meanings, leading some authors to describe the expression as an umbrella term that can cover a wide variety of meanings (Porrás, 2018).

In the World Bank's first approach, it identified three basic aspects of governance:

(i) The form of political regime; (ii) the process by which authority is exercised in the management of a country's economic and social resources for development; and the capacity of governments to design, formulate, and implement policies and discharge functions. (World Bank, 1994, p. xiv)

Kaufmann et al., on the basis of an empirical study commissioned by the World Bank, would later subsequently define governance as

The traditions and institutions that determine how authority is exercised in a particular country. This includes (1) the process by which governments are selected, held accountable, monitored, and replaced; (2) the capacity of governments to manage resources efficiently and formulate, implement, and enforce sound policies and regulations; and (3) the respect of citizens and the state for the institutions that govern economic and social interactions among them. (Kaufmann et al., 2000, p. 10)

Another important contribution to the concept came from the United Nations, through one of its senior officials (Hewitt de Alcántara, 1998), who established that "... 'governance' involves building consensus, or obtaining the consent or acquies-

cence necessary to carry out a programme, in an arena where many different interests are in play” (p. 105).

After this concept had been developing for more than two decades, Spain’s Real Academia de la Lengua added the following definition to its dictionary (RAE, 2017):

The art or form of governing that has the objective of achieving lasting economic, social, and institutional development, promoting a healthy balance between the state, civil society, and the market economy.

3. Distinctive features of good governance

Although other aspects, dimensions, and approaches to governance have been developed in recent years (Snyder, 2013; OECD-CERI, 2015; OECD, 2016; Burns & Köster, 2016a; López Rupérez et al., 2017; López Rupérez, 2021), contributions by other international organisations such as the United Nations, the European Union, or the OECD, that are based on the foundations laid by the World Bank, mean that this institution’s focus can be referred to as the “classical model” (López Rupérez et al., 2017).

From this focus, it is possible to move towards establishing what could understood by good governance. According to the World Bank (World Bank, 1994),

Good governance is epitomized by predictable, open, and enlightened policy

making (that is, transparent processes); a bureaucracy imbued with a professional ethos; an executive arm of government accountable for its actions; and a strong civil society participating in public affairs; an all behaving under the rule of law. (p. vii)

The UN (United Nations, 2007) adds,

Governance is “good” when is allocated and manages resources to respond to collective problems, in other words, when the State efficiently provides public goods of necessary quality to its citizens. Hence, states should be assessed on both the quality and the quantity of public goods provided to citizens. (p. 4)

The OECD, through Fazekas and Burns(2012, p. 7), emphasises four activities of the state in the field of governance: “(1) articulating a common set of priorities for society; (2) providing coherence; (3) steering; and (4) accountability.” This work is innovative in its explicit link between governance and the idea of coherent and responsible prioritisation of action, and the organisation subsequently returned to in the educational sphere (OECD, 2015).

In keeping with the body of institutional contributions that form part of what we have called the “classical model”, it is possible to formulate a decalogue for good governance as follows.

Good governance:

A1. Is based on consensus building and on participation by agents.

- A2. Places special importance on the selection of the people in charge.
- A3. Manages resources efficiently.
- A4. Involves performing functions thoroughly.
- A5. Takes care of the quality of regulation.
- A6. Ensures priorities are defined precisely.
- A7. Promotes accountability.
- A8. Guarantees ability in management.
- A9. Promotes transparency.
- A10. Assumes the principle of responsibility.

4. The quality of governance in education

There is sufficient empirical evidence for it to be possible to conclude that governance and its quality are factors that have a significant influence on the advance of social, political, and economic systems, and on their degree of development (Kauffman et al., 2002; Grindle, 2004; Sebastián, 2016). Although there is no similar body of evidence relating to educational systems, it is clearly acceptable to carry over the essence of this general conclusion and state that the quality of governance in education is a basic element for explaining how this system can improve as well. This is the assumption we accept below.

4.1. Integrating models

Along with the “classical model”, and the possibility of it being transposed to the specific sector of education, at least two other relevant models have been described in the literature. These start from different but complementary perspectives, and integrating them might provide a more complete characterisation of good governance in educational systems. These two models of educational governance are, on the one hand, inspired by the paradigm of complexity (Burns & Köster, 2016a) and, on the other, by the broader notion of organisational intelligence applied to education (López Rupérez, 2021).

The complexity-based model has distant antecedents in the reflections by López Rupérez (1997) on the suitability of regarding educational systems as highly complex and conceiving them from the paradigm of complexity (Morin, 1991). The same idea was developed, two decades later, at some length by the OECD's Centre for Educational Research and Innovation (CERI) in its Governing Complex Education Systems (GCES) project (CERI-OECD, 2015).

An analysis of the available literature on this topic (Snyder, 2013; OECD, 2016; Burns & Köster, 2016a) allows us to extract the following characteristic features of governance in education in line with this focus (López Rupérez et al., 2017):

- B1. It champions capacity building through training of intermediate levels of government.

B2. It backs processes of accountability based on evaluation.

The two basic pillars of this model of governance are knowledge and people.

B3. It requires a strategic vision of where the system is being led.

On the basis of the above, the principal characteristics of this third focus can be listed as follows:

B4. It adopts a holistic and multilevel focus on the system.

C1. It places great importance on feedback and evaluating policies.

B5. It is flexible and adaptive.

C2. It promotes adaptive responses.

B6. It focusses on processes.

C3. It pays special attention to implementation.

B7. It is based on knowledge, empirical evidence, and research.

C4. It involves personal engagement by people in charge at a high-level.

B8. It places importance on the national level.

C5. It promotes involvement of agents from lower levels, especially teachers.

C6. It is based on knowledge, empirical evidence, and research.

C7. It places importance on the national level.

The third model corresponds to intelligent governance (López Rupérez, 2021), not in the strict sense of political institutions (Berggruen & Gardels, 2012), but rather with regards to the more restricted domain of the educational system. This model is aligned with the idea of organisational intelligence on the one hand (Albrecht, 2002; Yolles, 2005; Haber-Veja & Mas-Bas-nuevo, 2013; Christmann, 2014) and with the principle of making people substantive allies of governance in education on the other (López Rupérez, 1994; Levin, 2010).

Although the three models considered — classical, complexity-based, and intelligent governance — have different intellectual origins, all of them relate to the governance of the educational system.

TABLE 1. Integrated conceptual model for good governance of educational systems.

1. Governance with a holistic and multilevel focus (B4)	
1.1	It considers the existence of relationships and interdependencies between the different levels of the system (individual, institutional and governmental) (B4)
1.2	It preserves the importance of the national level (B8)
1.3	It seeks consensus (A1)
1.4	It promotes participation by agents from lower levels, principally teaching staff (A1 and C5)

2. Governance with leadership ability (A8)	
2.1	It has a strategic vision (B3)
2.2	It establishes priorities clearly (A6)
2.3	It places special importance on the selection of the people responsible for the policies (A2)
2.4	It involves strong personal involvement by people responsible for the policies with processes of improvement (C4)
3. Process-centred governance (B6)	
3.1	It manages resources efficiently (A3)
3.2	It carries out its main functions correctly (A4)
3.3	It develops appropriate quality regulations (A5)
3.3	It pays great attention to implementation (C3)
4. Governance based on knowledge, empirical evidence, and research (B7)	
4.1	It is flexible and adaptive (B5 and C2)
4.2	It promotes and uses knowledge and research to formulate policies better (B7)
4.3	It places great importance on feedback (C1)
4.4	It evaluates the impact of policies (C1)
5. Governance based on capacity building (B1)	
5.1	It establishes different formulas for sharing knowledge about policies and their implementation with stakeholders (B1)
5.2	It helps the main agents acquire and use relevant information for successful implementation of the policies (B1)
6. Governance linked to accountability (A7 and B2)	
6.1	It places great importance on transparency (A9)
6.2	It establishes mechanisms for accountability (A10)

Source: López Rupérez et al. (2017).

Therefore, when analysing their characteristics, some inevitable and even desirable overlaps can be found. Consequently, it is necessary to integrate them, eliminating overlaps and ordering and structuring the remaining elements hierarchically. Table 1 shows the results of this, which provides an integrated conceptual model. The structure shown in this table was validated in an earlier study (López Rupérez et al., 2020a) through a Delphi process of consulting experts (Landeta,1999).

4.2. A comparative international view

It is also necessary to subject this framework to another complementary validity test, based on individualised analyses of different developed countries that have been able to change for the better, to be blunt, in recent decades. Portugal, Singapore and Finland, despite being very different from one another, share this feature.

Some of the governance practices developed by these successful educational

systems will now be identified and compared with the characteristic features of quality governance typical of the integrated model that is summarised in Table 1.

The first case is Portugal, whose educational system has made internationally recognised advances over the last two decades (OECD, 2019). In an earlier

TABLE 2. Comparison of the features of educational governance in Portugal, according to the OECD evaluation, with the provisions of the integrated model described in Table 1.

Features of educational governance in Portugal according to the OECD evaluation	Comparison with the integrated model described in Table 1
- The process started with a preliminary phase of compiling knowledge and evidence on the demands of the context of the 21st century.	4.1 It promotes and uses knowledge and research to formulate policies better.
- It developed a detailed and coherent strategic plan.	2.1 It has a strategic vision.
- It seeks expert guidance and contributions from educational agents through consultations, debates, and careful communications.	1.1 It seeks consensus. 1.4 It promotes participation by stakeholders from lower levels, principally teaching staff. 4.1 It promotes and uses knowledge and research to formulate policies better.
- It achieved general agreement and, thus giving the reforms stability.	1.1 It seeks consensus.
- It is open to feedback associated with evaluation as a way to correct errors and learn from experience.	4.3 It gives lots of importance to feedback. 4.4 It evaluates the impact of policies.

Source: Own elaboration.

work involving a systematic comparison of Spain and Portugal (López Rupérez & García García, 2020), we concluded that, beyond the individual decisions Portugal had taken regarding educational policies, there was one very general feature that emerged from our detailed analyses and explained all of the rest. This feature was the quality of its governance in education.

When it evaluated the Portuguese curriculum reform, the OECD (2018) concluded

ed with the description (p. 7) summarised in Table 2. Each of the five features described in the OECD assessment corresponds with one or more of the provisions of the integrated model of quality of the governance of educational systems shown in Table 1.

The second case is that of Singapore, a country whose advances over the last decade in large-scale international evaluations such as PISA (OECD, 2019) or TIMSS (TIMSS, 2020) have earned it a

TABLE 3. Comparison of the features of Singapore's educational governance, according to the analysis by Harris et al. (2014) and the provisions of the integrated model described in Table 1.

Features of Singapore's educational governance according to the analysis by Harris et al. (2014)	Comparison with the integrated model described in Table 1
- Its implementation is guided by a successive series of master plans.	2.1 It has a strategic vision. 3.4 It places great importance on implementation.
- Each master plan is informed by prior results of substantive research into its issues and objectives.	4.1 It promotes and uses knowledge and research to formulate policies better.
- The time scale can extend – in successive phases – over a total time greater than a decade.	2.1 It has a strategic vision.
- Its implementation avoids the superficial and pursues a deep integration of educational policies and practices; requiring sufficient time and a certain initial security provided by the results of prior research.	4.1 It promotes and uses knowledge and research to formulate policies better.
- It is supported by continuous evaluation of its development, and by formative feedback that enables changes to be made in the process of implementation and the promotion of data-based realignment regarding the actions of the people responsible for teaching policies and practices.	4.3 It gives lots of importance to feedback. 4.4 It evaluates the impact of policies.

Source: Own elaboration.

place among the so-called “high-achieving school systems”.

Harris et al. (2014) analysed the implementation observed in Singapore of policies for developing digital technologies in schools and identified a basic model of action, the particular features of which are summarised in Table 3. As in the case of Portugal, and despite Singapore's distinctive political system, it is again possible to observe correspondence between the features of its educational governance and a significant proportion of the group of sub-criteria from the integrated model, summarised in Table 1.

The third case is that of Finland. This country is especially interesting in educational matters. This is not just because in the 1990s it still did not have the privileged position in the international panorama that it would occupy in the following decade (Sahlberg, 2015), but also because it has developed a model which, in the opinion of analysts, draws significant attention owing to the originality of its approaches, especially when compared with those of Britain and the USA (Hargreaves & Shirley, 2009). Table 4 summarises some of the features of educational governance in the Finnish system, according to the description by

TABLE 4. Comparison of the features of Finland's educational governance, according to the analysis by Sahlberg (2015), and the provisions of the integrated model described in Table 1.

Features of Finland's educational governance according to the analysis by Sahlberg (2015)	Comparison with the integrated model described in Table 1
- It has had a strong forward-looking approach that inspired what they aimed to be, "building a sound basic education for each child financed through public funds and locally governed". This has led political action towards the desired results.	2.1 It has a strategic vision.
- It started the process of change in the 1980s rethinking the theoretical and methodological foundations of teaching and learning.	4.1 It promotes and uses knowledge and research to formulate policies better.
- It has strongly backed key people in the fundamental task of teaching: it has put in place a very demanding system of teacher recruitment and training and has delegated significant responsibilities to them.	5.1 It establishes different formulas to share information with the main agents about the policies and their implementation. 5.2 It helps the main agents acquire and use relevant information for successful implementation of policies.
- It has developed effective strategies for implementing policies, with the involvement of teachers, school management, and people in charge at the local level.	3.4 It places great importance on implementation. 1.4 It promotes participation by agents from lower levels, principally teaching staff.
- It has reconciled centralisation and decentralisation, a national conception of the curriculum with a key role for other lower-level jurisdictions in accordance with the formula "central direction, local decisions".	1.2 It preserves the importance of the national level.

Source: Own elaboration.

Pasi Sahlberg (2015), a teacher, researcher, and international analyst of Finnish origin, as well as other national and international studies (Gordon et al., 2009; Finnish National Agency for Education, 2017).

In summary, all of the features of educational governance of the countries considered have counterparts in the integrated model of Table 1, despite this model having been developed through independent processes.

5. An exploratory evaluation of Spain

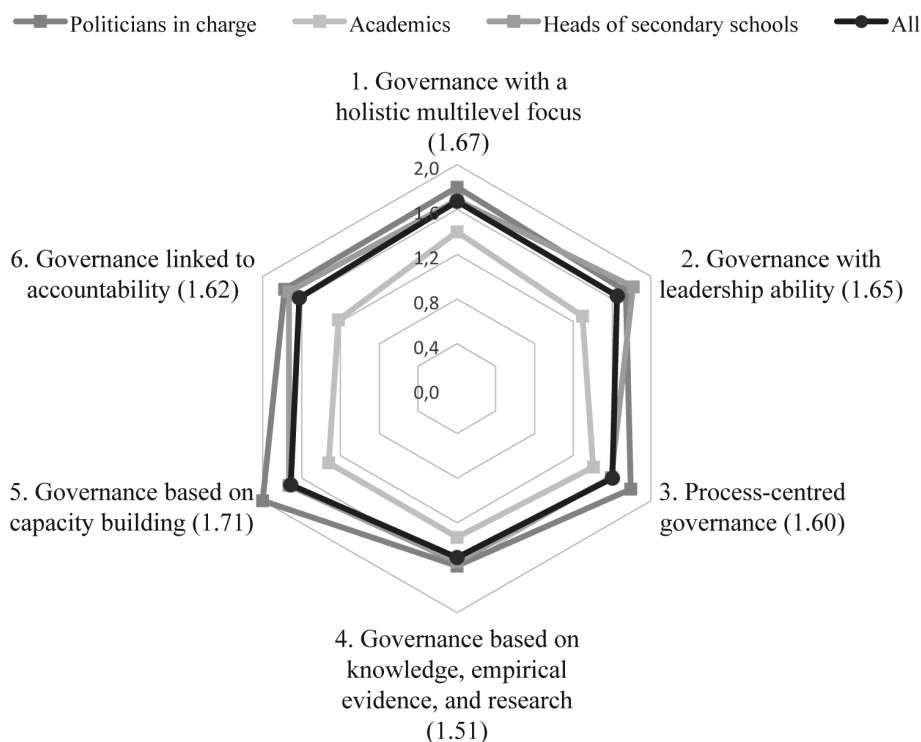
In the international sphere, there is abundant empirical evidence for the impact of the quality of teachers on student performance, and also on the influence the quality of school leadership on this performance (Hattie, 2003, 2009; Leithwood & Seashore, 2012; Branch et al., 2012; Hanushek et al., 2016; López Rupérez et al., 2020b). However, empirical evidence on the impact of the quality of governance of the system on educational attainment

has until now been lacking. This is partly because of an absence of suitable evaluation instruments.

In the study mentioned above (López Rupérez et al., 2017; López Rupérez et al., 2020a), an analytical framework was developed in an initial phase involving a Delphi process with a panel of 21 renow-

ned experts. The framework was structured around 6 criteria, 20 subcriteria, and 88 items for evaluating the governance of educational systems. This expert panel acquired a strong degree of familiarity with the questionnaire and its members had a high level of competence. Their recommendation was to use it as a convenience sampling tool to carry out a first evaluation

GRAPH 1. Evaluation of the quality features of governance (subcriteria of the questionnaire) in the Spanish education system by subcriterion and group of experts.



Source: López Rupérez et al. (2017).

of the quality of the governance of Spain's education system. Although the sample size means that this evaluation is merely exploratory, this second phase paves the way for a broader and more representative study. To illustrate this, the main quantitative results of this evaluation are shown in Graph 1¹.

This graph shows the average results obtained for each of the six criteria — described in Table 1 — from the questionnaire, measured on a five-point Likert scale relating to the level of quality of governance: (0) very low, (1) low, (2) medium, (3) high, (4) very high. It also shows their disaggre-

gated by the group of experts: the politicians responsible for it, academics, and directors of secondary education schools. In addition to the grading observed by group with regards to the strength of the opinion, a consistently low level of the results is notable, with the lowest value (1.51) corresponding to the criterion of *Governance based on knowledge, empirical evidence, and research*. However, and unlike Spain, this is a characteristic clearly present in the three international cases considered above.

6. An analysis of the LOMLOE in light of the preceding framework

The integrated framework for good governance of educational systems described in Table 1 can now be used to evaluate the governance approaches that have been associated with the most recent educational reform in Spain, formulated through Organic Law 3/2020, of 29 December, amending Organic Law 2/2006, of 3 May, regarding Education (LOMLOE). Even though, in this case, according to Adams et al. (2001), we are viewing an intermediate stage in the realisation of the reforms — between rhetoric and implementation —, we perform a qualitative evaluation below, carried out in light of the facts and taking as its basis the six criteria of the framework in question.

6.1. Governance with a holistic multi-level focus

Analysis of the content of this law shows a certain concern with an inte-

grated concept of the education system (1.1). This manifests itself, for example, in the assumption of the focus typical of lifelong learning as a paradigm for defining the policies, which takes into account not only the different stages of education, but also their interrelations (OCDE, 2001); or the explicit concern with the transitions between stages. This is apparent both in the preamble to the law, and in its provisions.

However, the actual governance of the process of formulating the new policies cannot be said to display the first distinguishing feature of good governance, as, when appealing to objective data, it is not possible to conclude that the importance of the state level has been preserved (1.2), that consensus was effectively pursued (1.3), or that the participation of agents from lower levels, principally teaching staff, was promoted (1.4) (see Table 1).

In relation to subcriterion 1.2, and as an example, an equilibrium has been broken which was born with the LOGSE (Organic Law on General Organization of the Educational System) and is maintained in the LOE (Organic Education Law) itself — the law to which the LOMLOE refers — regarding the division of competences between the central government and the educational administrations of the Autonomous Regions concerning “minimum teaching requirements”, increasing the percentages that correspond to the regional administrations at the expense of the ones that pertain to the state (see section 6.4 of

the LOE in the wording in paragraph 4 of the single section of the LOMLOE). A similar claim could be made about the new wording of Additional Provision 38 which eliminates the explicit reference to Spanish as the working language throughout all of the state, which was present — along with the co-official languages in the respective Autonomous Regions — in the previous law. Most notably, it explicitly delegates guaranteeing the corresponding right to the regional educational administrations.

Owing to the difficulty of evaluating subcriterion 1.3, it is necessary to turn to objective data. So, for example, from a total of 156 amendments presented by the main opposition party in the Congressional stage of the legislative process, four were accepted by the government, while none of the 184 presented in the Senate were (BOCG, 2020a, 2020b, 2020c, 2020d).

Finally, and with respect to subcriterion 1.4, the fact that during the parliamentary process², the appearance of subject experts, enshrined in the Congressional Regulations (Congreso de los Diputados, 2020), was dispensed with for the first time is objective evidence of insufficient participation. While it is true that during the previous legislature the legislative proposal from which the LOMLOE derived was subjected to the compulsory expert opinion of the State School Council, as the highest participatory body from all of the sectors that make up the educational community, inspection of the indicators that reflect this subdimension

of the analytic framework relating to participation (López Rupérez et al., 2020a) confirmed that this too has not been a quality feature of the governance of the reform.

6.2. Governance with leadership ability

As Table 1 shows, this good educational governance criterion comprises four subcriteria. In relation to the strategic vision (2.1), the positioning of the LOMLOE has been summarised in the official literature (MEyFP, 2021) through the explicit wording of the following strategic focusses or pillars:

- It encourages gender equality.
- It fosters continuous improvement of educational centres and personalised learning.
- It gives a central role to digital competence.
- It recognises the importance of education for sustainable development.
- It recognises the higher interest of the minor and makes the rights of the child one of the governing principles of the system.

As analysis of the legal text reveals, it contains a complex vision of the relationships between the context, the educational system, and its development; the vision of the system is integrated in the short, medium, and long terms; and there is an attempt to anticipate the future of conformity with this vision (see

the third level of realisation of the framework in López Rupérez et al., 2020a). This future dimension, which is unmistakably present in the legal text, does not stop a return to the past being postulated, as expressed in the preamble which says “it seems it is necessary to reverse the changes promoted by the LOMCE” (BOE, 2020, p. 122870).

In relation to subcriterion 2.2, which concerns the setting of a relatively small group of priorities, the LOMLOE follows the Spanish tradition of enacting all-encompassing laws that run the risk of largely reducing educational reforms to their rhetorical level, according to the formulation of Adams et al. (2001), with a consequent loss of real efficacy. On the other hand, and as analysed below, the very limited appeal to evidence results in an interpretation of its priorities based on other types of foundations.

Finally, and with regards to the selection of the people responsible for the policies (2.3) and their personal involvement in their development or implementation (2.4), there are no objective reasons to deny that the process has proceeded successfully in this case. However, the fact that the critical phase of implementation of the new policies has still not started prevents us from making an informed valuation in relation to this last aspect.

6.3. Process-centred governance

The subcriteria that develop this criterion for the quality of educational gov-

ernance (see Table 1) largely refer to a broader concept of educational reforms and their management that includes all of their phases or stages, including implementation (López Rupérez, 2021). Nonetheless, with regards to the third subcriterion (3.3)³, since the second phase of legal formulation at the highest level, has ended, the process of reform can be analysed.

Even partially releasing the LOMLOE from responsibility for its highly specific approach to rules — which tends towards verbosity and excessive regulations — the new organic education law has returned to the legislative technique of “embedding” which was introduced, for the first time, in the history of Spanish education in the LOMCE. As the name suggests, this involves embedding or interweaving a variety of regulatory texts within a law or regulation. This sort of hybridisation results in an obvious loss of transparency and causes significant difficulties for the uninitiated when interpreting it. As the Spanish Constitutional Court observed in its judgment STC 46/1990 (cited by Segovia Marco, 2015):

The requirement of section 9.3 (of the Spanish Constitution) regarding the principle of legal certainty means that legislators must pursue clarity and not regulatory confusion, they must ensure that jurists and members of the public know what to abide by in relation to the matter on which they legislate, and they must avoid causing objectively confusing situations such as that which is undoubtedly created in this case given the highly complex set

of cross references between regulations found here. (p.13)

Although it refers to a different case, the Constitutional Court's admonition is applicable to the result of using this technique in an education law that concerns the exercise of a fundamental right. Surprisingly, the LOMLOE again falls back on embedding based on an earlier previously embedded corpus, obviously reducing the regulation's transparency even more and increasing the difficulty of reading it. This means that the new law does not comply with this subcriterion for quality of educational governance specified in the indicators of the third-level realisation³ (López Rupérez et al., 2020a).

6.4. Governance based on knowledge, empirical evidence, and research

One feature of the education systems of developed countries is their complexity (López Rupérez, 1997; López Rupérez, 2021). Accordingly, it is worth noting the words of Burns and Köster (2016b) who said "With the growth in complexity, governance has become a knowledge intensive activity" (p.20). This same view has been taken into account by high-achieving school systems. This was also, to some extent, the practice in Spain in other times, which resulted in the development of a white paper as a forerunner to the organic laws regarding education. However, this practice has been abandoned and with it the rigorous support by the law for knowledge, empirical evidence, and research. When the four subcriteria of this feature are analysed, and also when

considering the indicators from the third level of implementation (López Rupérez et al., 2020), it is possible to conclude that the LOMLOE does not sufficiently comply with this characteristic feature of quality educational governance.

6.5. Governance based on capacity building

Capacity building is one of the instruments for supporting the successful formulation and implementation of policies, through training middle levels of government or the main agents. As it affects all phases of educational reforms, applying this criterion to the case of the LOMLOE is, for the moment, premature. Nonetheless, the limitations identified above regarding the participation of the main agents in the processing of the Law make it possible to note that some of the corresponding subcriteria have not been satisfied (5.1).

6.6. Governance linked to accountability

This characteristic feature of quality governance of the educational system is supported, in line with the model described above, by two basic pillars: transparency and responsibility, as accountability understood in a strict sense (see Table 1). And the fact is that the transparency of results, with all necessary precautions to protect individual rights appropriately, facilitates the implementation of accountability mechanisms.

A detailed analysis of the LOMLOE reveals a backward step when compared to its predecessor. For example, transparency of results is repeatedly men-

tioned in the preamble to the LOMCE as one of the principles that inspires the Law and is then set down in the wording of section 2b. 4 of the LOE (paragraph 2 of the single section of the LOMCE) where “transparency and accountability” are included among the principles governing Spain’s education system. This principle is then reflected in the wording of section 147.2 of the LOE (paragraph 90 of the single section of the LOMCE) (BOE, 2013; p. 50-51).

The LOMLOE, even though it does not modify section 2b.4, does eliminate the reference to transparency — except for educational inspection activities — and largely corrects the wording of section 147.2 given by the LOMCE cited above (see the new wording of section 147.2 of the LOE, paragraph 77 of the single section of the LOMLOE).

In line with the above, the principle of accountability also decreases in the LOMLOE, which limits it to educational agreements by which funds are allocated to schools (the wording of section 116.4 of the LOE in paragraph 59 of the single section of the LOMLOE) and to the quality actions (the wording of section 122.2 of the LOE in paragraph 64 of the single section of the LOMLOE). Only the census-based diagnostic evaluations, carried out by educational centres in the fourth year of primary school and second year of compulsory secondary education (sections 21, 29, and 144 of the LOE in the wording given by the LOMLOE), could with some effort

be interpreted as including a certain degree of accountability.

7. Conclusion

When the LOMLOE is confronted with the typical criteria of the quality educational governance model described in Table 1, it does not reach an adequate level, nor does it reach this level when compared with the most frequent features of the group of countries analysed. These results, along with those derived from the exploratory evaluation of Spain’s educational system described above, seem to indicate consistently that Spain’s educational system has a long way to go to improve the quality of its governance.

Notes

¹ For other quantitative analyses, see López Rupérez et al. (2017).

² In the processing of the LOCE (Organic Teaching Quality Law, 2002) 25 experts appeared; in that of the LOE (2006), 43; and 50 appeared in the processing of the LOMCE (Organic Law for Improving Quality of Education, 2013). (See *Diario de Sesiones del Congreso de los Diputados*, numbers 569 and 587 from 2002; 375, 379, 396, 397, 398, and 399 from 2005; and 368, 370, 371, 373, 375, 377, and 379 from 2013, respectively.)

³ 3.3.1. They ensure that the content of the regulations is appropriate for the policies they are intended to control, without distorting them.

3.3.2. They take care with the consistency, correctness, and accessibility of their legal drafting, avoiding obscure wordings and errors or contradictions, whether internal or in relation to other regulations.

3.3.3. They seek to align the greatest possible number of relevant agents from the educational system with the objectives of the regulations through dialogue.

3.3.4. They incorporate contributions from lower levels that improve the drafting of the regulations.

3.3.5. They promote bureaucratic streamlining in the conception, application, and development of the regulations, avoiding excessive, superfluous, or redundant production of regulations that asphyxiate the creative capacities of the agents of the system..

References

- Adams, D., G. Kee, & L. Lin (2001). Linking research, policy, and strategic planning to education development in Lao People's Democratic Republic. *Comparative Education Review*, 45 (2), 220-241. <http://dx.doi.org/10.1086/447662>
- Albrecht, K. (2002). *The power of minds at work. organizational intelligence in action*. AMACOM.
- Berggruen, N., & Gardels, N. (2012). *Gobernanza inteligente para el siglo xxi. Una vía intermedia entre occidente y oriente [Smart governance for the 21st century. A middle way between the West and the East]*. Taurus.
- BOCG (2020a). Congress of Deputies, series A, no. 7-3, of 19/11/2020. Report of the presentation. <https://bit.ly/3eD4xoY>
- BOCG (2020b). Senate, section I, No. 124-1062, of 12/17/2020. Amendments. <https://bit.ly/3FH1XtU>
- BOCG (2020c). Senate, Section I, No. 124-1110, of 12/17/2020. Veto proposals. <https://bit.ly/3mE4Vb9>
- BOCG (2020d). Senate, Section I, No. 126-1120, dated 12/21/2020. Amendments (continued). <https://bit.ly/3mI8XPE>
- Branch, G. F., Hanushek, E. A., & Rivkin, S. (2012). *Estimating the effect of leaders on public sector productivity: The case of school principals*. Working Paper 17803. National bureau of Economic Research. <http://www.nber.org/papers/w17803>
- Burns, T., & Köster, F. (Eds.) (2016a). *Governing education in a complex world*. Educational Research and Innovation. OECD Publishing. <http://dx.doi.org/10.1787/9789264255364-en>
- Burns, T., & Köster, F. (2016b). Modern governance challenges in education. In T. Burns & F. Köster (Eds.), *Governing Education in a Complex World* (pp. 17-40). Educational Research and Innovation. OECD Publishing. <https://dx.doi.org/10.1787/9789264255364-en>
- Congreso de los Diputados (2020). *Congress of Deputies' Journal of Sessions of 15 October 2020* (number 179, page 2). <https://bit.ly/3C-VPdNG>
- CEOE (2017). *La educación importa. Libro blanco de los empresarios españoles [Education Matters. White Paper of Spanish employers]*. CEOE.
- Christmann, J. P. (2014). *The contribution of Organizational Intelligence in creating value in companies*. ISCT Business School. Instituto Universitário de Lisboa.
- Fazekas, M., & Burns, T. (2012). *Exploring the complex interaction between governance and knowledge in education*. OECD Education Working Papers, no 67. OECD Publishing. <http://dx.doi.org/10.1787/5k9flcx21340-en>
- Finnish National Agency for Education (2017). *Education in Finland*. Finnish National Agency for Education.
- Gordon, J., Halasz, G., Krawczyk, M., Leney, M., Michel, M., Pepper, D., Putkiewicz, E., & Wi-niewski, J. (2009). *Key competences in Europe: Opening doors for lifelong learners across the school curriculum and teacher education. CASE Network Reports*, 8. Center for Social and Economic Research (CASE).
- Grindel, M. S. (2010). *Good governance: The inflation of an idea faculty research. Working Paper Series RWP10-023*. Harvard Kennedy School.
- Haber-Veja, A., & Mas-Basnuevo, A. (2013). Inteligencia organizacional: conceptos, modelos y metodologías [Organisational intelligence: Concepts, models and methodologies]. *Revista Eletrônica de Biblioteconomia e Ciência da Informação*, 18 (38), 1-18. <https://doi.org/10.5007/1518-2924.2013v18n38p1>
- Hanushek, E. A., Rivkin, S. G., & Schiman, J. C. (2016). Dynamic effects of teacher turnover on the quality of instruction. *Economics of Education Review*, 55, 132-148.
- Hanushek, E. A., & Woessmann, L. (2019). *The economic benefits of improving educational achievement in the European Union: An up-*

- date and extension. European Commission. <https://op.europa.eu/s/uOse>
- Hargreaves, A., & Shirley, D. (2009). *The fourth way: The inspiring future of educational change*. Corwin.
- Harris, A., Jones, M. S., Adams, D., Perera, C. J., & Sharma, S. (2014). High-performing education systems in Asia: Leadership art meets implementation science. *The Asia-Pacific Education Researcher*, 23, 861-869. <https://doi.org/10.1007/s40299-014-0209-y>
- Hattie, J. (2003). *Teachers make a difference: What is the research evidence?* [Paper Presentation]. Building Teacher Quality: What does the research tell us ACER Research Conference, Melbourne, Australia. https://research.acer.edu.au/research_conference_2003/4/
- Hattie, J. (2009). *Visible learning: A synthesis of over 800 meta-analysis relating to achievement*. Routledge.
- Hewitt de Alcántara, C. (1998). Uses and abuses of the concept of governance. *International Social Science Journal*, 50 (1), 105-113. <https://doi.org/10.1111/1468-2451.00113>
- Kairamo, K. (Ed.) (1989). *Education for life. A European strategy*. Butterworths & Round Table of European Industries.
- Kaufmann, D., Kraay, A., & Zoido-Lobato, P. (1999a). *Aggregating governance indicators. Working paper no 2195*. World Bank Policy Research.
- Kaufmann, D., Kraay, A., & Zoido-Lobato, P. (1999b). *Governance matters. Working paper no 2196*. World Bank Policy Research.
- Kaufmann, D., Kraay, A., & Zoido-Lobato, P. (2000). Governance matters. From measurement to action. *Finance & Development*, 37 (2). <https://www.imf.org/external/pubs/ft/fandd/2000/06/pdf/kauf.pdf>
- Kaufmann, D., & Kraay, A. (2002). *Growth without governance. Working Paper no 2928*. World Bank Policy Research.
- Landeta, J. (1999). *El método Delphi. Una técnica de previsión para la incertidumbre [The Delphi method. A forecasting technique for uncertainty]*. Editorial Ariel.
- Leithwood, K., & Sun, J. (2012). The nature and effects of transformational school leadership: A meta-analytic review of unpublished research. *Educational Administration Quarterly*, 48 (3), 387-423. <https://doi.org/10.1177/0013161X11436268>
- Levin, B. (2010). Governments and education reform: Some lessons from the last 50 years. *Journal of Educational Policy*, 25 (6), 739-747. <http://dx.doi.org/10.1080/02680939.2010.523793>
- López Rupérez, F. (1994). *La gestión de calidad en educación [Quality management in education]*. La Muralla
- López Rupérez, F. (1997). Complejidad y educación [Complexity and education]. revista española de pedagogía, 55 (206), 103-112. <https://revistadepedagogia.org/lv/no-206/complejidad-y-educacion/101400002067/>
- López Rupérez, F. (2012). Prólogo [Prologue]. In E. D. Hirsch, *La escuela que necesitamos* (pp. 21-30). Ediciones Encuentro.
- López Rupérez, F. (2021). *La gobernanza de los sistemas educativos. Fundamentos y orientaciones [The governance of education systems. Foundations and orientations]*. Narcea Ediciones-UCJC Stamp.
- López Rupérez, F., García García, I., & Expósito Casas, E. (2017). *La calidad de la gobernanza del sistema educativo español. Un estudio empírico [The quality of governance in the Spanish education system. An empirical study]*. Universidad Camilo José Cela. <http://hdl.handle.net/20.500.12020/825>
- López Rupérez, F., & García García, I. (2020). España vs. Portugal en educación. Una aproximación sistémica [Spain vs. Portugal in education. A systemic approach]. *Revista Iberoamericana de Educación*, 84 (1), 193-215. <https://rieoei.org/RIE/article/view/4042>
- López Rupérez, F., García García, I., & Expósito Casas, E. (2020a). Un marco analítico para la evaluación de la calidad de la gobernanza de los sistemas educativos [An analytical framework for the evaluation of the quality of governance of education systems]. *Revista Iberoamericana de Educación*, 83 (1), 53-76. <https://doi.org/10.35362/rie8313672>
- López Rupérez, F., García García, I., & Expósito-Casas, E. (2020b). School leadership in Spain. Evidence from PISA 2015 assess-

- ment and recommendations. *Leadership and Policy in Schools*. <https://doi.org/10.1080/15700763.2020.1770806>
- Ministerio de Educación y Formación Profesional (2021). *Enfoques de la ley de educación [Approaches to education law]*. <https://bit.ly/3CXk10P>
- Morin, E. (1990). *Introduction à la pensée complexe [Introduction to complex thinking]*. ESF Éditeur.
- OCDE (2001). *Analyse des politiques d'éducation. Chap. 1-2*. Éditions de l'OCDE.
- OCDE (2015). *Política educativa en perspectiva. Hacer posibles las reformas [Education policy in perspective. Making reforms possible]*. OCDE-Santillana.
- OECD (2015). *Final NAEC synthesis. New approaches to economics challenges*. OECD. www.oecd.org/mcm/documents/Final-NAEC-Synthesis-Report-CMIN2015-2.pdf
- OECD (2016). *Governing education in a complex world*. Educational Research and Innovation. OECD Publishing.
- OECD (2018). *Curriculum flexibility and autonomy in Portugal. An OECD review*. OECD. <https://bit.ly/33cX2jr>
- OECD (2019). *PISA 2018 Results (volume I): What students know and can do*. OECD Publishing. <https://doi.org/10.1787/5f07c754-en>
- OECD-CERI (2015). *Governing complex education systems (GCES)*. <https://oecdeditoday.com/governing-complex-education-systems/>
- Organic Law 2/2006, of 3 May, on Education. *Spanish Official State Gazette*, 106, 4 May 2006. <https://bit.ly/3p2zPKK>
- Organic Law 8/2013, of 9 December, for the improvement of educational quality. *Spanish Official State Gazette*, 295, 10 December 2013. <https://bit.ly/314YPJ5>
- Organic Law 3/2020 of 29 December 2020, which amends Organic Law 2/2006 of 3 May on Education. *Spanish Official State Gazette*, 340, of 30 December 2020, pages 122868 to 122953. <https://bit.ly/3ra9FIr>
- Porras, F. (2018). Modelo canónico, problemas fundamentales y gobernanza urbana [Canonical model, fundamental problems and urban governance]. *Open Insight*, 9 (15), 11-44.
- Real Academia Española (RAE) (2017). *Diccionario de la lengua española [Dictionary of the Spanish language]*. <http://www.rae.es>
- Reimers, F. M. (2021). *Reformas educativas del siglo xxi para un aprendizaje más profundo. Una perspectiva internacional [21st century education reforms for deeper learning. An international perspective]*. Narcea-UC-JC Stamp.
- Sahlberg, P. (2015). *Finnish lessons 2.0. What can the world learn from educational change in Finland?* Teachers College Press, Columbia University.
- Sebastián, C. (2016). *España estancada. Por qué somos poco eficientes [Spain stagnates. Why we are inefficient]*. Galaxia Gutenberg.
- Segovia Marco, A. (2015). La técnica legislativa en la elaboración de anteproyectos de leyes [Legislative technique in the drafting of preliminary draft laws]. *Gabilex*, 1, 5-44. https://gabilex.castillalamancha.es/sites/gabilex.castillalamancha.es/files/pdfs/articulo_tecnica_legislativa_as.pdf
- Snyder, S. (2013). The simple, the complicated, and the complex: educational reform through the lens of complexity theory. *OECD Education Working Paper*, 96. OECD Publishing. <https://doi.org/10.1787/5k3txnpt1lnr-en>
- TIMSS (2020). *Trends in international mathematics and science study 2019*. <https://www.iea.nl/studies/iea/timss/2019>
- United Nations (2007). *Public governance indicators: A literature review*. Department of Economics and Social Affairs.
- World Bank (1989). *From crisis to sustainable growth sub-Saharan Africa: A long-term perspective study*. The World Bank.
- World Bank (1992). *Governance and development*. The World Bank.
- World Bank (1994). *Governance. The World Bank's experience. Development in practice*. The World Bank.
- Yolles, M. (2005). Organisational intelligence. *The Journal of Workplace Learning*, 17 (1/2), 99-114.

Author biography

Francisco López Rupérez has a Doctorate in Physical Sciences and holds a Secondary School Chair. He is currently Director of the Chair in Educational Policies at the Universidad Camilo José Cela. He has been Director of the Liceo Español de París, Director General of Educational Centres of Spain's Ministry

of Education, Culture and Sports, Secretary General for Education and Professional Training in the same ministry, and President of the State School Council. He has written more than a dozen books and over a hundred articles in Spanish and foreign journals.



<https://orcid.org/0000-0003-2613-9652>