



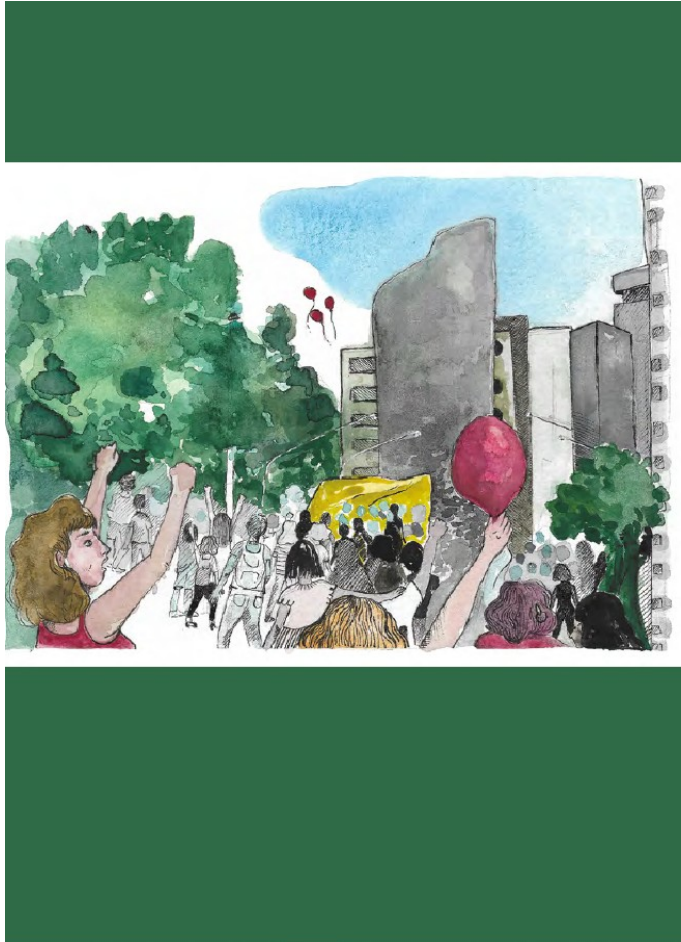
Campaña
Latinoamericana
por el Derecho
a la Educación

Profit and education in Latin American and Caribbean legal frameworks





Profit-making in education legislation in Latin America and the Caribbean



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SUMMARY

PRESENTATION

THEORETICAL AND METHODOLOGICAL FRAMEWORK

FINDINGS: PROFIT IN EDUCATION AND DEGREES OF PERMISSIVENESS

FINAL NOTES AND RECOMMENDATIONS



Target

Based on the concern of the Latin American Campaign for the Right to Education (CLADE) with the growing commercialisation of education in Latin America and the Caribbean, the study sought to understand how the region's legislations regulate for-profit activities in education, understanding the extent to which countries' legal frameworks allow, encourage or impede for-profit activities in education.

The analysis included nine countries in the region: Argentina, Brazil, Chile, Colombia, Haiti, Honduras, Mexico, Paraguay and Peru.



Features of the conceptual framework

Profit-making activities are understood as the set of initiatives that result in the expansion of a person's or group's wealth. Thus, we considered the legal conditions that stimulate the capital increase of national or supranational private actors based on public subsidies.

Education, organised as an activity that promotes economic benefit and operated by governments and corporations as a field for business, is gradually expanding on a global scale. In the first half of the 2000s, the international education sector was worth around US\$ 2.2 trillion annually. (OLIVEIRA, 2009).

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The aim was to observe the degree of inducement, permission or impediment in relation to profit-making in compulsory education through the allocation of public funds. Thus, legislation was considered to be:

Inductive when it provides benefits to private actors through the transfer of public funds or through tax exemption.

Permissive when they do not express the possibility of profit from educational activity at the national level, but allow, by omitting the issue, sub-national or subsequent arrangements that favour the private for-profit sector.

Taxing when they explicitly veto, prohibit or limit profit-making in compulsory education through public funding of private action.



Methodology

In addition to the bibliographical review, the information analysed was obtained from the following sources:

- **Primary sources:** current texts of the National Constitution, General Education Law, complementary laws and regulations concerning public and private financing in education. The content was observed, as well as absences.
- **Interviews with intentionally selected actors:** through questionnaires to experts in the corresponding countries. They contributed to the interpretation and significantly broadened the understanding of how the laws operate in each context.

Dimensions of education and forms of privatisation that make the profit motive viable (Adrião, 2018).

Dimensions	Educational offer	Public education management	Curriculum
Ways to make profit viable	<p>Public funding to private organisations: supply-side subsidy through agreements, contracts or arrangements made between governments and private organisations;</p> <p>Demand-side subsidy through tax incentives</p> <p>Parental choice incentives</p> <p>Publicly funded public schools.</p> <p>Scholarships</p>	<p>Transfer of school management to for-profit organisations.</p> <p>Transfer of management of teaching networks/educational system to for-profit organisations.</p>	<p>Public procurement and adoption of curriculum designs developed by the private sector;</p> <p>Public procurement, adoption or subsidy of educational technologies developed by the private sector;</p> <p>Purchase or adoption of curriculum inputs developed by the private sector;</p> <p>Purchase or adoption by the public sector of private education systems;</p>



Summary table Chile

HIERARCHY OF FOR-PROFIT REGULATION IN EDUCATION, DIMENSIONS AND FORMS OF PRIVATISATION, GRADIENT OF REGULATION

PERSPECTIVE OF ANALYSIS	CHARACTERISATION	REGULATION
Hierarchy of profit regulation in education	- Constitutional and infra-constitutional at national level	- Constitutional and infra-constitutional at national level National: private provision is not restricted and is encouraged and supported in parental choice programmes
Dimensions and forms of privatisation	Dimension Supply Forms Public funding to private organisations Encouraging parental choice Public School Management Dimension	Transfer of public funds to private provision only to non-profit institutions Exemptions Decree Law #825 Law 20.845/2015: does not specify how the grant resources may be spent, does not prohibit the hiring of private consultants
	Form: Privatisation of school management Curriculum Dimension	Exemptions: Decree Law #825 Law 20.845/2015: does not specify how the grant resources may be spent, does not prohibit the purchase of inputs, technology, didactic material, etc... from private companies. Exemptions Decree Law #825
Degree of earnings regulation	Inducer	Induces, through different dossiers, that education is a profitable activity.

Source: own elaboration based on national legislation in force until July 2019.



Some key findings

1-) Four countries have national constitutions that emphasise parental freedom of choice as central - rather than the human right to education which is guaranteed by the state.

They are: Chile, Honduras, Peru and Paraguay.



2-) **With regard to the degree of permissiveness of profit-making in legal frameworks, it was possible to identify:**

- **Inducing legislation**, as in the cases of Chile, Honduras, Haiti and Paraguay.
- **Permissive legislation**, such as Argentina, Brazil, Colombia, Mexico and Peru.
- No country was found that completely **prohibited** for-profit activities in compulsory education. In the case of Argentina, however, it is worth noting the explicit prohibition of bilateral and multilateral agreements that promote the commercialisation of education.
- **Profit-making takes place mainly through:** (1) the transfer of public funds to private institutions, directly or indirectly, (2) tax waivers and tax exemptions in various formats.



3-) All expert interviews pointed to gaps in their countries and strategies to circumvent and ultimately not comply with any mechanism that prohibits or hinders the allocation of public resources to the for-profit sector.

* Among the strategies is the presence and/or establishment of organisations that are legally non-profit (and therefore eligible to receive resources), and are therefore effectively for-profit.



Recommendations

Finally, the study points to three main axes of recommendations, indicated in a convergent manner by the interviewees:

production of information / research;

dissemination of information / campaigns;

political confrontation with a view to changes in legislation in order to guarantee the exclusivity of public resources for public education.



Recommendations

For CLADE, the results of this research show that there is a long way to go, considering the variety of forms of profit in and through education, which grow with the support of the law and in the shadow of existing legal loopholes. We are concerned that public resources are not adequately channelled to strengthen free public education, adding gravity to the lack of sufficient funding to guarantee the human right to education in many contexts. (CLADE,2021, p.51)





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Thank you very much!