



Education Privatization and its Impact on the Right to Education

Summary of Issues for the UN Committee on Economic, Social and Cultural Rights Pre-Session on Chile, December 2014

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Chile's experience with privatisation in education is unique: a systematic move to privatisation over the whole country and over a period of 30 years. Lessons learned from the situation in Chile are thus crucial for the situation in Chile, but they can also inform the reflection in all other States considering similar privatisation policies.

The analysis of the Chilean education system shows that privatisation creates or deepens inequalities between socio-economic groups and creates a strongly segregated society, which is a violation of the right to education. This systemic inequality and segregation nullifies the potential for education to power socio-economic mobility and end intergenerational poverty.

Privatisation of Chile's Education System: From the 1980s Reforms to Nowadays

During the 1980s, under the Pinochet military regime, Chile undertook a dramatic policy shift towards privatisation of its education system involving amongst other things:

- The devolution of responsibility for administration of educational institutions from Ministry of Education to local municipalities;
- The introduction of a voucher system whereby schools are funded by the State on the basis of the number of students attending daily;
- The deregulation of school curriculum. The reforms were undertaken in the name of efficiency and school 'choice'. The theory was that commercialising the relationship between schools and families would thereby incentivise increased quality.

As a result, Chile became one of the most privatised education systems in the world. Before 1973 80% students were enrolled in *public* schools; by 2014 at least 60% of students are enrolled in *private* schools.

Discontent with the system and inequalities it creates led to huge public protests in 2006 (Penguin Revolution) and 2011 (Chilean Winter), particularly amongst students.

Current Situation

There are currently 3 types of schools in Chile:

- **Public schools:** Free schools subsidised by the State and managed by the municipalities. In 2011, 40% of pupils attended these schools (OECD, *Education at a Glance 2014* (2014)).

- **State-subsidised private schools:** partially subsidised by the State and partially by private funding (mainly through fees and charges). Almost all of them have private owners. In 2011, 53% of pupils attended these schools (OECD, *Education at a Glance 2014* (2014)).
- **Independent private schools:** Entirely private and entirely funded by student fees. In 2011, 7% of pupils attended these schools (OECD, *Education at a Glance 2014* (2014)).

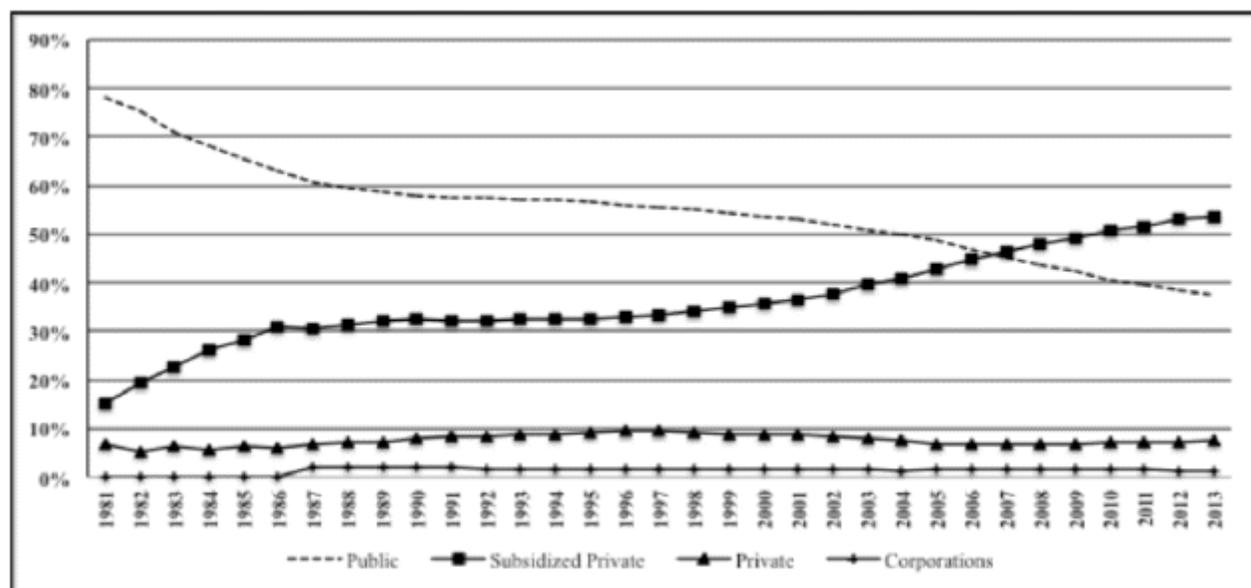


Figure 1 - Evolution of school enrolment in Chile by school type (%) over years 1981 - 2013

Chile's education system is highly dependent on private funding. It has the highest share (amongst PISA countries) (40%) of private expenditure in education at all levels of education (20.8% of this is from households: compare with 8.8% in Argentina; OECD, *Education at a glance 2014: OECD indicators* (2014), p. 245.). Many of the private schools, including those receiving public funding, actually make profit.

Inequalities and Segregation

As a result of the situation:

- Chile has the most socio-economically segregated education system of all PISA countries (The OECD Program for International Student Assessment (PISA) is undertaken by 65 OECD countries).
- The degree of socioeconomic integration, which measures the socio-economic diversity of students within schools, is less than 50% in Chile, while the average for OECD member countries is 74% and figures peak at over 89% in Finland and Norway. According to PISA, in Chile 23.1% of the difference in pupil's performance in mathematics can be attributed to socio-economic status (OECD average is 14.8%). Chile is 3rd most unequal country on this basis (out of 66 PISA countries). Thus students from disadvantaged families in Chile are less likely to achieve high levels of performance.

Enrolment, by type of school
(Percentages)

Type of school	Income quintile				
	I	II	III	IV	V
Municipal	42.39	27.60	16.06	10.66	4.24
Private (subsidized)	22.34	22.63	21.26	20.59	13.37
Private (fee-paying)	4.64	4.64	4.49	12.37	75.26

Figure 2. Segregation by socio-economic status according to types of schools

- Chile has a 2-track education system: elite high fee paying schools take on high-performing students; and free and cheaper schools with lowest performing students.

Some of the causes of discrimination and stratification:

- **Low regulation** of school fees, in addition to tax incentives to families to send their children to fee paying schools.
- **Myth of ‘school choice’** – poorer families’ school choice is constrained by affordability and geographic location.
- **Entry requirements and tests** are used by schools to select the best academic students thereby reinforcing segregation. Most secondary schools and most private primary schools use entry tests and requirements for socio-economic information to select students (e.g.: marriage certificates, application fees, certificate of salary). Since 2009 the law has prohibited schools that receive public funds from selecting students based on previous academic results and socio-economic information.¹

Contrary to the Chilean system, the highest performing education systems across the OECD are those that combine quality with equity.² Additionally, PISA results and other research show that school choice – and, by extension, school competition – is related to greater levels of segregation in the school system, which may have adverse consequences for equity in learning opportunities and outcomes.³

Access to education based upon the capacity to pay fees, which is a consequence of privatisation, “*flies into the face of prohibited grounds of discrimination*”.

-UN Special Rapporteur on the Right to Education, 2014

The situation in Chile is contravening the principles of non-discrimination and equality of opportunity, which are strongly protected under international law, including under the International Covenant on Economic, Social and Cultural Rights.

¹ See: *Ley General de Educación*, Articles 12 (“[...] en ningún caso se podrá considerar [...] el rendimiento escolar pasado o potencial del postulante. Asimismo, en dichos procesos no será requisito la presentación de antecedentes socioeconómicos de la familia del postulante.”), 13 and 14.

² OECD, *Equity and Quality in Education: Supporting Disadvantaged Students and Schools*, OECD Publishing (2012).

³ OECD, *PISA 2012 Results in Focus: What 15-year-olds know and what they can do with what they know* (2014), p. 54.

Current Reforms

The 2013 election campaign of the current President, Michelle Bachelet, focused heavily on proposals for addressing these stark inequalities in the Chilean education system. However, the path back from a highly privatised system is arduous and long and vested economic interests and privileged positions will be hard to move.

Given the extent to which the current education system in the State Party is affecting the realisation of the right to and the extent to which the State Party has been failing to fulfil its obligations under the ICESCR, it is urgent that reforms in the line of the 2014 *Reforma educacional* be adopted and implemented as a matter of priority. Issue of profit making for schools, in particular those that receive public funding, are crucial.

Suggestions for the List of Issues

The education system in Chile is currently not compliant with articles 13 (right to education), in combination with 2(2) (non-discrimination) of the Covenant. These same issues were raised by the Committee in its 2003 review of Chile and by the Committee on the Rights of the Child (CRC) in 2007.

We are concerned “*at the disparity in the quality of education offered in municipal and private schools*”.

-CESCR, concluding observations: Chile, 2003

We are concerned “*that certain vulnerable groups, including [...] children from disadvantaged socio-economic backgrounds [...] continue to be victims of discrimination, particularly in their reduced access to education*”.

-CRC, concluding observations: Chile, 2007

We recommend the following the CESCR raise the following issues:

- Is the State party planning on moving to rebuild a public system of quality schools, in line with its obligations under the ICESCR? Is the State Party considering moving away from the voucher system in a near future?
- Given that previous reforms have failed to guarantee the realisation of the right to education without discrimination, can the State Party give the timeline within which it is planning to effectively address segregation and discrimination in the education system as a matter of priority?
- How will the government concretely ensure that schools receiving public funds do not practice any form of entrance selection, do not charge additional fees, and do not make profit?
- By when will the State party plan to have effective and totally abolish the system of shared payment?

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