

Background paper prepared for
the Global Education Monitoring Report

Non-state actors in education

Regulating Public-Private Partnerships, governing non-state schools: An equity perspective

This paper was commissioned by the Global Education Monitoring Report as background information to assist in drafting the 2021/2 GEM Report, non-state actors in education. It has not been edited by the team. The views and opinions expressed in this paper are those of the author(s) and should not be attributed to the Global Education Monitoring Report or to UNESCO. The papers can be cited with the following reference: “Paper commissioned for the 2021/2 Global Education Monitoring Report, Non-State Actors in Education”. For further information, please contact gemreport@unesco.org.

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2021



ABSTRACT

The global expansion of non-state actors as providers of basic education has frequently taken place under the umbrella of some form of public-private partnership (PPP). PPPs have expanded despite an increasing number of studies warning about the possible negative consequences of higher levels of private provision on equity, such as school segregation and students selection practices. As a response to these equity concerns, different actors have engaged in an intense debate on the pros and cons of PPPs and, specifically, how the governance of private subsidized schooling can be put at the service of the right to education. A growing consensus has emerged around the idea that the ultimate impact of PPPs depends largely on the specifics of their policy design. As a result of this debate, several international organizations call to adopt regulatory frameworks that could contribute to inhibit both school segmentation and opportunistic behaviors in the context of PPPs.

Despite the centrality of regulation and accountability efforts in the debate around PPPs in basic education, the different policy options and instruments available for such purposes have been less systematically examined. The first objective of this paper is to identify the main regulatory and accountability dimensions involved in the governance of private subsidized schools, as well as the main policy designs available for each of these dimensions to promote equity in education. On this basis, the paper examines how different PPP regulatory dimensions can affect educational equity. The evidence presented is based on a review of the available literature on the relationship between PPPs and education equity in education systems with a significant presence of publicly funded private schools. Finally, the paper systematizes the main lessons drawn from the literature reviewed regarding the regulation of private subsidized schools in the context of PPPs.

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1. Introduction

Over the past few decades, the involvement of non-state actors (e.g., private companies, NGOs, faith-based institutions, etc.) in the provision of basic education has increased dramatically, particularly in middle- and low-income countries (Verger, Fontdevila & Zancajo, 2016; UNESCO, 2017). Although the increasing involvement of private providers in the countries of the Global South has frequently been the result of the expansion of private independent schools, usually Low Fee Private Schools (LFPSs) (Walford, 2015), different countries have adopted or are considering the adoption of some form of Public-Private Partnership (PPP) between private providers and the State. In high-income countries, a significant number of national education systems have a long tradition of education PPPs (e.g., Belgium, the Netherlands) while others have adopted them over the past few decades (e.g., the US, England).

At the same time that PPPs for education provision are spreading, various national and international actors are warning about the potential negative effects that these policies tend to have on equity in education. Over the past few years, a consensus that PPPs for education provision impact negatively on social and educational inequalities has emerged, particularly by increasing school segregation and social stratification among schools, or even by fostering the marginalization of the most disadvantaged students (Macpherson, Robertson & Walford, 2014; Waslander, Pater & Weide, 2010; OECD, 2012; Alegre & Ferrer, 2010).

As a result of these concerns, different international organizations have claimed that public regulation is a key dimension to reconcile the supposed positive effects of the involvement of private providers, with better outcomes in terms of equity. However, currently, the regulatory approach to PPPs faces two main challenges. Firstly, it is not clear what PPPs regulation entails in the educational sector. Different actors have proposed regulatory reforms, based on very different perspectives. While certain stakeholders recommend increasing managerial, post-bureaucratic and market accountability policies, others consider that the State should play a more important role in establishing stricter rules and concrete goals, as well as in actively monitoring private providers. Secondly, evidence relating to the impact of regulatory measures on PPPs' performance and, in particular, on education providers' behavior is still scarce. While the impact of education PPPs has generated an important debate within academic and political circles, the effects of the design of these policies and the regulatory frameworks under which they operate, have been less studied and analyzed. Indeed, the controversy and debate around the effects of education PPPs can be partially explained by the omission of the role of

regulatory frameworks and policy design characteristics in current research (Verger, Moschetti & Fontdevila, 2020).

The debate around the capacity of regulatory frameworks and policy designs, oriented towards inhibiting the potential negative effects of PPPs for education provision, is particularly relevant in the context of the education and development agenda. Within international development circles, education PPPs have been gaining prominence over the last two decades – a process that, as documented by Verger (2012), owes much to the dissemination efforts of experts, affiliated to a range of international agencies, including the World Bank Group or the Asian Development Bank. More recently, different international stakeholders, such as the Global Partnership for Education, UNICEF and especially the World Bank Group, particularly through the International Finance Corporation, have pointed out that PPPs can play an important role in achieving the Sustainable Development Goals (SDGs) (Powell, 2016; Verger & Moschetti, 2017; see also Global Partnership for Education, 2019). Although, in some contexts, PPPs and other forms of non-state actors' education provision seem to have been successful in expanding access to primary and secondary education (Pedró, Leroux & Watanabe, 2015; Moumné & Saudemont, 2015), this expansion is not always compatible with the promotion of equity in education and quality education for all. In this regard, the main concerns about education PPPs revolve around their capacity to create new forms of discrimination or access barriers for socially disadvantaged students, as well as to exacerbate the social segmentation and stratification of national education systems.

This paper's main objective is to review the key regulatory options and reforms oriented towards improving the equity outcomes of PPPs for education provision. With a view to this objective, and based on an analysis of the literature, the paper identifies the most relevant dimensions of PPPs' regulatory frameworks and explores the policy options adopted by different national education systems to promote equity therein.

The paper is structured as follows. The next section synthesizes the main concerns on the impact of education PPPs on equity, as well as the prominence that a regulatory approach is acquiring in the international debate relating to these policies. The third section summarizes the analytical approach and the methodological strategy applied in the research presented here. The fourth section presents the main findings of the research according to the dimensions of PPPs regulation identified. Finally, the fifth section revisits the main conclusions of the research and elaborates on its policy implications.

2. The governance and regulation of PPPs for education provision

Non-state actors play an increasingly prominent role within education systems across the globe – as providers of core and supplementary education services, but also in the areas of funding or policy formulation. In relation to education provision, in particular, the growing centrality of the non-state sector has been paralleled by an increasing awareness of the need to establish appropriate governance and regulatory frameworks, which ensure that private provision does not impact negatively on system-level education goals, including equity. PPPs represent a case in point in this regard for, over the last decade, a consensus has emerged not only in relation to the problematic impact and the risks entailed in this policy, but also regarding the potential of regulatory frameworks to tackle such negative externalities.

This section discusses the growing centrality of PPP regulatory frameworks within academic and policy debates, in order to situate such a theme within the broader debate about the role and impact of non-state school providers in educational systems. This section gives an overview of the centrality acquired by PPPs as one of the main forms in which non-state education provision has crystallized, and then traces the evolution of the PPP debate. Here, we pay particular attention to the effects of PPPs on educational inequalities, and to the emergence of a new wave of regulatory measures that aim to address the equity risks and challenges associated with PPPs.

2.1. PPPs for education provision: meaning and policy scope

Over the past few decades, PPPs have acquired an increasingly central presence in global education debates. However, the concept of PPP has been transposed into the education field in a broader sense than in other sectors, such as water supply, transportation or energy (Verger & Moschetti, 2017). In these and other sectors, PPPs tend to be seen as a financial arrangement for the building of new infrastructures, or as a governance strategy that implies a very close relationship between the public and private sectors, in the sense that the two sectors collaborate at the level of policy formulation, generate spaces for mutual learning and share risks (Khanom, 2010). Therefore, in these cases, the conventional outsourcing of a service, would not be considered as a PPP. In contrast, with regard to social services such as education, the concept of PPP tends to cover a broader range of policy options. For instance, according to the World Bank, PPPs in education are a continuum that involves different levels of engagement between the public and private sectors, including subsidies to private schools, contracting-out educational services, the private management of public schools, or competitive funding schemes for both public and private schools (Patrinos, Barrera-Osorio & Guáqueta, 2009).

Under the umbrella of education PPPs, it is possible to identify different types of arrangements and agreements between the State and private actors. The three most common types of PPPs in the

educational sector cover: 1) the provision of the core education service (i.e., school management and teaching); 2) the building and maintenance of school facilities and 3) the provision of ancillary education services (e.g., school meals, transportation, cleaning services). PPPs for education provision, which are the focus of this paper, encompass a broad range of policies and programs that entail a contract between the State and the private sector in which public sources fund an education service and a private actor delivers it. Specifically, it is possible to distinguish between three main policy categories:

- 1) **Contracted schools.** Private schools that are directly contracted by the government to provide the education service in exchange for total or partial public funding. Under this scheme, schools are not necessarily publicly funded on a per-capita basis.
- 2) **Charter schools.** State-owned schools that are managed by private entities. Frequently, these schools enjoy higher levels of autonomy than traditional public schools.
- 3) **Vouchers.** Private schools receive public funding depending on the number of students enrolled. In some cases, private schools can combine voucher and privately funded students.

Bellei and Orellana (2014) consider that the design of PPP programs might also differ significantly according to the public requirements for private schools, in exchange for receiving public funding. These authors distinguish between the following levels of requirement:

- 1) **No additional requirements.** Within certain voucher programs, private schools receiving public funding do not need to meet any particular requirement beyond those which apply to private independent schools.
- 2) **Increased accessibility.** The most basic requirement for private schools in exchange for public funding is to increase their accessibility to specific groups of students or particular educational options. This objective can be achieved in two different ways: regulating the admissions policies of private schools or providing public funds specifically for the enrollment of targeted students.
- 3) **Educational inputs and processes.** Other PPPs' policies entail the establishment of specific regulations for publicly-funded private schools. These regulations can relate to the delivery of the official curriculum, to teachers' credentials and employment conditions, or to students' admission criteria, among others.
- 4) **Attain education achievements.** The last category of requirements refers to PPP programs that establish the achievement of specific learning standards and academic performance objectives as a condition for private schools to renew the contract and continue receiving public funds.

Box 1. Independent and government-dependent private schools.

From the point of view of regulation, it is important to conceptually distinguish between *independent* private schools and *government-dependent* private schools. International statistical definitions consider any educational institution which receives at least 50% of its core funding 'from government agencies or one whose teaching personnel are paid by a government agency – either directly or through government' as a private government-dependent school (UOE, 2019, p.26). Frequently, in exchange for public funding, private government-dependent schools should conform to certain public regulations that do not apply to private independent schools. However, as the OECD (2017a) points out, the fact that private education institutions should comply with public regulations does not mean they can be considered public, since their ownership continues to be private.

Overall, we consider relevant for the analysis of the regulatory frameworks, those PPPs for education provision in which public funding covers most of the expenses of the schools (>50%) and involves certain public requirements for private schools, in exchange for public funding (frequently formalized in a contract between the State and the school), in addition to the basic requirements for school authorization/licensing, applied to the domain of private schools.

2.2. Concerns and debates relating to the effects of PPPs on educational inequalities

Although education PPPs are spreading globally, evidence of their impact on areas such as student achievement or pedagogic innovation, remains inconclusive. While the ability of PPPs to improve the effectiveness and efficiency of education systems is frequently one of the main arguments of their advocates, evidence shows contradictory results regarding their impact on these dimensions. Certain studies identify the positive effects of PPPs on the efficiency of education systems and learning outcomes (Hoxby, 2003; Woessmann, 2005; Woessman, Lüdemann & Schütz, 2007; Chakrabarti, 2008), while others show that their impact is negligible or almost negligible (Hsieh & Urquiola, 2006; Musset, 2012; Belfield & Levin, 2002; Rouse & Barrow, 2009). However, there are studies that show the adverse effects of the achievement gap between different socioeconomic groups of students (Mizala & Torche, 2012; Baum, 2017). In the specific case of southern countries, a systematic review of different forms of PPPs for the provision of education (i.e., contracted schools, vouchers or subsidies) concluded that the evidence on the aggregate impact of these interventions on learning outcomes is still scarce and frequently inconclusive (Aslam, Rawal & Saeed, 2017).

One of the main arguments of PPPs' advocates is the capacity of these policies to promote pedagogical innovation and to foster the diversification of school supply (Chubb & Moe, 1990; Peterson, 1990; Tooley, 1997). Nevertheless, the vast majority of the evidence available points out that education PPPs do not necessarily promote pedagogical innovation or contribute to the diversification of school supply (Lubienski, 2006; 2009; Villalobos & Salazar, 2014; Fiske & Ladd, 2000). Indeed, in certain contexts, research has shown how market dynamics have increased back-to-basis pedagogies as a means of responding to the preferences of families, who tend to privilege academic approaches (Hastings et al., 2005; Glatter et al., 1997).

Evidence of the effects of PPPs in relation to educational equity is much more conclusive. Over the past few years, a consensus relating to the risks that PPPs pose with regard to equity in education has been prevalent. This is particularly relevant, given that certain influential international organizations have advocated and promoted PPPs as a means of expanding the educational opportunities of socially disadvantaged populations and achieving global education development objectives (see Bano et al., 2014; Patrinos et al., 2009; LaRocque & Lee, 2011; cf. also Box 2 below). Despite PPPs having contributed to the expansion of primary and secondary education in certain countries (Pedró, Leroux & Watanabe, 2015; Moumné & Saudemont, 2015), they have usually done so at the cost of increasing educational inequalities. Different studies show how education systems in which private provision and market mechanisms (i.e., choice and competition) play a relevant role, tend to result in worse outcomes in terms of equity (Alegre & Ferrer, 2010; Elacqua, 2012; Waslander et al., 2010; Dumay & Dupriez, 2014). This is, for instance, the case of Baum (2017), who analyzes the effect of educational PPPs on equity in 17 different education systems and concludes that PPPs expand ‘social disparities, by disproportionately serving students in the upper income quintiles’ (p. 24). Similarly, a recent comparative study of different European countries concludes that, if public expenditure per pupil is accounted for, countries with large numbers of private, subsidized schools tend to have higher levels of academic segregation (Eurydice, 2020: 15). Other studies relating to education privatization and market mechanisms in education have shown that PPPs end up contributing to the marginalization of the most disadvantaged students (Macpherson et al., 2014; Ndimande & Lubienski, 2017).

Box 2. PPPs and development agendas

Global goals and international development agendas (i.e., EFA, MDGs, SDGs) have been strategically mobilized by certain donors and governments to justify and legitimize PPPs and other market-oriented policies. To them, private provision is portrayed as a quick and effective strategy to increase access to basic education – a goal recurrently emphasized in such agendas (see Fennell, 2010; Rose, 2010; Srivastava, 2010a).

To a great extent, development goals have been deliberately ambiguous regarding the expectations placed on the private sector in terms of education provision. For instance, SDG 4 and the related ‘Education 2030 Declaration and Framework for Action’ (UNESCO, 2015a) recognize that the private sector has a key role to play in realizing the right to education, but notes that the State remains the duty bearer of education as a public good, and that collaboration with the private sector requires regulatory and accountability measures to ensure it is line with the principle of education as a public good (p. 28, 70). The private sector is expected to strengthen public education by providing extra resources, expertise and additional services, but it is less clear whether the private sector is also expected to directly provide core education services (p. 59). Overall, in these and prior UN initiatives, while the private sector is recognized as a key development partner (Morgan, 2017), it is less clear how it contributes to the very delivery of public services (Draxler, 2016, 2020). Such dynamics cannot be dissociated from the fact that global goals typically involve a certain compromise between an array of organizations with different political preferences. Given the uneasy nature of these alliances, such

agreements are unlikely to either endorse or rule out controversial policy ideas – as is clearly the case of PPPs in education.

Although it cannot be directly inferred that global development agendas do (or do not) support private provision or PPPs in education, the sense of urgency surrounding global goals have been strategically mobilized by PPPs' advocates to promote this policy option, while rendering recipient countries and donors more receptive to such proposals (Rose, 2010; Verger, 2012). These dynamics have, for instance, been documented in the case of Pakistan, where the MDGs and the EFA have been invoked as a means of legitimizing an ambitious PPP program and have stimulated domestic interest in this policy approach (Bano, 2008; Sarward & Khan, 2016; Ifran, 2015). Similarly, in the case of India, PPPs appear to be perceived as an appropriate policy alternative to achieve the targets set by EFA, MDGs and SDG, particularly in the context of budgetary constraints (Srivastava, 2010b; Gowda, 2020). There is also evidence that some government officials have been particularly benevolent with LFPs as they perceived them as being instrumental in reaching the EFA commitments (Srivastava, 2008).

Concerns relating to the equity risks of education PPPs have recently transcended the academic sphere and currently form part of the policy discourse of key international stakeholders. For instance, the OECD has produced extensive evidence as to how the presence of universal or targeted vouchers is associated with higher levels of social stratification between public and private schools (OECD, 2012a), how education systems with higher levels of competition between schools tend to show lower levels of social inclusion (OECD, 2014), or how the apparent advantage of private schools in terms of learning outcomes, is primarily explained by their more favorable socioeconomic composition of students (OECD, 2011). Regarding school choice, a recent report also released by the OECD, demonstrates that relaxing the role of residence as a criterion of admission and fostering the capacity of families and students to choose schools, tends to increase school segregation (OECD, 2019).

UNESCO has also pointed out the potential risks that private provision and market mechanisms in education pose in relation to equity. The 2017/18 edition of the Global Education Monitoring Report states that 'encouraging education systems to function more like markets is likely to benefit better-resourced schools and families, leading to greater inequality' (UNESCO, 2017: 61). The same report also warns about the impact of public subsidies to attend private schools (e.g., voucher schemes). The evidence reviewed in the report shows that instead of expanding the capacity of choice of low-income students, these subsidies can increase inequalities, particularly when schools charge add-on tuition fees to families or select students. The landmark UNESCO publication '*Rethinking Education. Towards a global common good?*' also emphasized the risk related to the expansion of privatization. While the report affirms that the involvement of private providers can generate new educational opportunities for some social groups, it also highlights the potential risks in terms of fulfilling the right to education:

The reproduction and possible exacerbation of inequalities of learning opportunities resulting from privatization in all its forms raises important questions about the notion of education as

a public good and about the role of the state in ensuring the right to education (UNESCO, 2015b: 75).

Even the World Bank, a long-time advocate of privatization and pro-market policies in education (Verger & Bonal, 2012; Mundy & Menashy, 2014), has recognized the possible unintended consequences of these policies. As Srivastava (2017) points out, the '*2018 World Development Report*' (World Bank, 2018), focused on education, makes certain direct statements relating to the possible negative effects of education privatization. Although the report considers that the involvement of private actors in the provision of education has some virtues (e.g., filling the gaps in State provision, introducing innovative pedagogical approaches or responding to the preferences of families or minority groups), it also highlights the possible opportunistic behaviors of private providers in terms of student selection or information biases, as well as the underlying equity concerns. In this respect, it observes that "private schools may skim off the higher-income students who are easiest and most profitable to teach, leaving only the more disadvantaged students in the public system" (World Bank, 2018: 177). The World Bank report also states that the expansion of private provision 'can undermine the political constituency for effective public schooling in the longer term' (World Bank, 2018: 177).

2.3. The focus on public regulation

As a response to concerns relating to the impact of PPPs and other forms of education privatization on equity, public regulation has recently emerged as the main policy option to tackle education inequalities, resulting from private actors' involvement in the provision of education. Advocates of strengthening the regulation of PPPs argue that effective regulations would inhibit families' and schools' opportunistic or unintended behaviors which trigger educational inequalities, thereby improving the equity outcomes of PPPs. A recent OECD policy document summarizes this approach as follows: 'What matters are smart policies that maximise the benefits of choice while minimising the risks, and establishing a level playing field for all providers to contribute to the school system' (OECD, 2017: 3). Whilst certain international stakeholders are optimistic about the fact that effective regulations can allow education systems to combine the supposed positive effects of education PPPs (e.g., diversification, innovation or responsiveness) with better outcomes in terms of equity (OECD, 2017b; World Bank, 2018), others adopt a more pragmatic approach to this topic. This is, for instance, the case of Rizvi (2016), who argues that:

[...] given the rapid rise in demand for education around the world, and an almost universal commitment by governments to ensure universal education for all, an educational system that is funded exclusively through the public purse is no longer a realistic option— especially in view of the inability or disinclination of most nation-states to fund educational expansion through taxes. Some degree and forms of privatization thus appear inevitable. If this is the case, then the question is no longer whether private actors should be allowed in education,

but rather, to what extent and how should their activities be regulated, and to what end. (p. 2).

Nevertheless, the examination of the policy recommendations of key international organizations regarding the regulation of education PPPs, reveals that there are different - and to some extent contrasting - approaches to this issue. Two broad approaches or modes of PPP regulation can be identified. On the one hand is a '*command and control*' regulation strategy, in which the State plays a central role in establishing prescriptive rules and enforcing them through inspections and sanctions (Baldwin, Cave & Lodge, 2012; Black, 2002). On the other hand, is a '*market-based*' (post-bureaucratic or incentive-based) regulation strategy, which emphasizes the role of market mechanisms and managerial accountability policies to guarantee that providers achieve certain standards, particularly in terms of educational outputs (Baldwin et al., 2012; Lodge & Wegrich, 2012). Examples of the former approach can be found in the recommendations of the UN Special Rapporteur on the right to education, who urges States to establish comprehensive regulatory frameworks to ensure that education PPPs are oriented towards the public interest and that private actors meet the quality standards required. The UN Special Rapporteur also considers that public authorities should adopt punitive actions against those private actors who engage in opportunistic behaviors or corruption practices (United Nations, 2015). A similar approach is included in certain UNESCO policy documents. For example, Moumné and Saudemont (2015) consider that legislative measures need to be taken to regulate and monitor private education providers, including prescriptive and prohibitory obligations, setting out minimum standards or, in the case of PPPs, establishing contractual arrangements to ensure they respond to the needs of all students and create an effective legal environment. A recent international civil society initiative, namely the Abidjan Principles¹, also emphasizes the role that the State should play in the context of the expansion of non-state actors in education. Although the Abidjan Principles recognize the right of private entities to establish educational institutions, these principles also consider that the 'States must take all effective measures, including particularly the adoption and enforcement of effective regulatory measures, to ensure the realization of the right to education where private actors are involved in the provision of education' (The Abidjan Principles, 2019, p. 19). In order to accomplish this mandate, States are expected to develop accountability systems which, in the case of private providers, allow the enforcement of educational standards, as well as the collection of data to analyze the impact of these providers on fulfilling the right to education.

¹ 'The Abidjan Principles on the human rights obligations of States to provide public education and to regulate private involvement in education' were released in 2019 and are the result of an intense process of discussion involving right to education organizations, NGOs and other international civil society organizations.

In contrast, the market-based approach is emphasized by international organizations such as the World Bank. For instance, the policy documents produced in the context of the World Bank's SABER-Engaging the Private Sector Program tend to highlight the role of market- and test-based accountability mechanisms, as well as information systems, to ensure that the activity of private providers engages with the goal of equality of opportunities. In this regard, Lewis and Patrinos (2011) consider that regulatory frameworks need to promote competition and school autonomy, but also establish standards accompanied by large-scale assessments, to ensure that the standards in question are accomplished. In this respect, accountability systems are expected to furnish education providers with the necessary incentives to meet the expected standards but also empower families to exercise choice, exit and voice (Baum et al., 2014). Furthermore, World Bank documents also stress the role educational outputs should play as key indicators of quality assurance standards, rather than accountability being based on inputs or process requirements (Baum et al., 2014). In relation to demand, Baum et al. (2014) affirm that the government needs to ensure that all social groups have access to relevant information (e.g., schools' performance) enabling them to exercise 'real choice' and make private providers more responsive to their needs. However, World Bank policy recommendations also consider that certain 'distributive action' is required to ensure that all students enjoy the same opportunities. In this regard, removing, through regulations, access barriers such as excessive tuition fees or selective admissions for targeted students, are considered necessary measures to reduce inequality in terms of access (Baum et al., 2014).

Finally, the OECD position regarding the regulatory frameworks of PPPs seems to combine both approaches summarized above. On the one hand, the OECD considers that the benefits of school choice can only be achieved in a regulatory environment which guarantees high levels of autonomy for education providers. This is based on the assumption that 'the benefits of school choice only accrue in environments where schools and teachers enjoy a great deal of autonomy' (OECD, 2017b, p. 5). On the other hand, it also recognizes that, in an environment characterized by 'greater school autonomy, decentralization and a more demand-driven school' (p. 3), the State must be held responsible for establishing clear guidelines and goals. However, regarding the way in which schools should be held accountable, the OECD tends to emphasize traditional forms of bureaucratic and administrative accountability, rather than managerial or market approaches.

PPPs regulatory frameworks can cover a broad range of dimensions, although not all of them are equally relevant from an educational equity perspective. Recently, certain regulatory dimensions have gained prominence in both academic and policy debates, given their more direct effect on the generation of social and educational inequalities. This is particularly the case with regard to add-on tuition fees, selective admissions and for-profit providers, for which a considerable body of evidence

has accumulated over recent years. Thus, the possibility of schools charging add-on tuition fees or developing selective admissions policies can repeatedly be found as constituting an access barrier, particularly among the most socially disadvantaged students. As Boeskens (2016) points out, econometric simulations and empirical evidence show that the presence of add-on tuition fees or selective admissions, can negatively affect access to PPP schools on the part of socially disadvantaged students. The negative impact on equity in relation to selective admissions and add-on tuition fees on segregation and social stratification between public and private schools has also been found in different case studies (Fiske & Ladd, 2000; Jabbar, 2015; Elacqua, 2012; Alves et al., 2015). The third dimension of regulation that has also attracted considerable attention is the inclusion of for-profit providers in PPP schemes. Although evidence relating to the impact of for-profit providers is very limited, it has generated important debates within academic and political circles. While some authors consider that profit generation can offer providers the necessary incentives to access the education market and increase the diversity and effectiveness of education systems (Friedman, 1955; Lieberman, 1989; Lewis & Patrinos, 2011), others warn of the possible corruption risks or the fact that not all public funding would necessarily be dedicated to educational activity (Levin, 2001; Abrams, 2016). Regarding these three dimensions of regulation, Verger et al. (2020) found that those PPPs which prohibit add-on tuition fees, selective admissions or for-profit providers, tend to obtain better equity outcomes. However, the impact of other regulatory dimensions of PPPs on educational equity remains under-analyzed. For example, although they are frequently presented as a policy option to improve equity in the context of PPPs, there is no substantial evidence that needs-based funding schemes or controlled school choice systems reduce school segregation or social stratification among schools.

Education PPPs can be regulated with an equity focus but regulating PPPs can also present important challenges. Firstly, regulations are not always enacted by educational actors as policy makers expect or as legal texts imply (Ball, Maguire & Braun, 2012; Maroy & van Zanten, 2007). Although regulations should be accompanied by the necessary mechanisms to enforce it, it is also important to understand the different and complex incentives that educational actors face and the logics of action and/or strategies that these actors deploy to respond to such incentives. For example, studies conducted in England, New Zealand, Chile and the US demonstrate how schools do not necessarily react to per-capita funding schemes by trying to attract as much demand as possible, but by selecting the most socially advantaged students even when existing regulations do not allow selective admissions (Woods et al., 1998; Fiske & Ladd, 2000; Wylie, 2006; Contreras et al., 2010; Jabbar, 2015; van Zanten, 2009). In the US or Chile, evidence shows that schools sometimes respond to external performance assessments, designed as quality assurance or accountability devices by promoting teaching to the

test or, even by engaging in gaming and cheating practices (Jennings & Bearak, 2014; Stecher, 2002; Zancajo, 2020).

The second challenge that policy initiatives, oriented towards changing the regulations education PPPs face, is a significant level of open opposition or resistance. Frequently, private providers and families with children, enrolled in private schools, emerge as influential interest groups and are reluctant to adopt stricter regulatory frameworks (Delvaux & Maroy, 2009; Demeuse & Friant, 2011; Bellei, 2016; Zancajo, 2019). Finally, from a more technical point of view, the implementation of complex regulatory frameworks requires high levels of resources and technical capacity. This could be particularly challenging for southern countries in which budgetary restrictions, technical capacity and underdeveloped State apparatus can act as barriers.

3.The regulation of educational PPPs: a research framework

Despite the prominence acquired by PPP regulatory frameworks as a strategy to address equity challenges, the regulation efforts in the area of education have been subject to limited theorization. This section aims at devising an analytical framework to understand PPP regulations in a theoretically informed way. To this end, the section starts by situating regulation issues in connection to broader debates on the governance of education systems and the changing role of the State, and follows by identifying a number of theoretical insights, useful for making sense of the emergence and heterogeneity of the regulatory frameworks. In order to provide a certain degree of analytical and conceptual clarity, this section also identifies the main regulatory dimensions relevant for the study of education PPPs, and the potential of each of them to address the equity challenges posed by PPPs. The section finally provides an overview of the methodological strategy on which our research relies.

3.1. Theory and politics of regulation

The global expansion of education PPPs has altered the way in which education systems are governed and regulated in numerous educational systems. The increasing presence of non-state actors which are a result of PPPs, together with other recent transformations in education, such as the intensification of decentralization processes or the spread of evaluation instruments have contributed to regulation gaining salience in the governance of education (Braithwaite, Coglianese & Levi-Faur, 2007). In a broad sense, the regulation of education systems can be defined as the set of rules and principles that are intended to influence the behavior of the actors involved in the system (Dupriez &

Maroy, 2003). According to Black (2002), the process of regulation also entails designing the control and accountability mechanisms that ensure compliance with the rules established.

The analysis of the regulation of PPPs in education should take into account the fact that the involvement of private subsidized providers frequently results in transformations that go far beyond changes in ownership of the service provider. The adoption of PPPs entails significant changes in the way in which schools are funded, their level of autonomy or the families' and students' capacity to choose, among other dimensions. To a great extent, most PPP frameworks in education are aligned with what Maroy (2009) denominates 'post-bureaucratic modes of governance'. These new modes of governance, which has spread worldwide in the past few decades, shares certain common traits with the concept of PPPs, such as the promotion of private provision, the emphasis on school autonomy and diversification as a means of improving education quality, the expansion of school choice or the use of external performance assessments as an accountability mechanism. From a regulatory perspective, it is important to take into account the fact that education PPPs frequently trigger, by design or by default, market mechanisms in the educational system that significantly alter the way in which education actors interact among them (Rizvi, 2016).

In many Western countries, the aforementioned transformations have meant important changes in the role of the State in relation to the governance and regulation of social services, such as education. In contexts that have experienced processes of partial or complete privatization, the State moves from playing a leading role in the funding and provision of social services ('welfare state'), to acting primarily as a regulator of such services ('regulatory state') (Majone, 1994; Yeung, 2010). This transformation does not entail 'the wholesale relinquishing of control by the State over service provision, reflecting its reconfigured mission as a regulator, rather than direct provider, of welfare and other essential services' (Yeung, 2010, p. 68). It is precisely this dissociation of the State's role as regulator and provider in post-bureaucratic modes of governance, which makes the role of the regulatory frameworks a contributing factor in ensuring all educational providers are aligned with the norms, rules and goals of the system (Maroy, 2012). However, whilst the State maintains the role of regulator, it is not necessarily in charge of accountability processes or the enforcement of regulations. In certain education systems, semi-independent public agencies or even private actors assume the monitoring, evaluation, inspection and sanction of private and public providers.

Nevertheless, the regulatory frameworks of PPPs are far from homogenous. Two main factors can explain this regulatory diversity. Firstly, as West and Nikolai (2017) point out, governments decisions to fund private schools can be taken in pursuit of different *policy goals*, which, in turn, shape the regulatory frameworks in which these policies crystallize. Governments can adopt education PPPs for different reasons and under diverse circumstances. While some countries publicly fund private schools

as a means of supporting the expansion of primary or secondary education, in other countries, these policies are adopted to guarantee freedom of instruction, expand school choice and competition, increase the diversity of the education systems or promote school autonomy². Policy goals are, in fact, a core component in any 'regulatory regime' (Levi-Faur, 2011). Regulatory regimes can be defined as the set of objectives, principles, rules, mechanisms of control and actors involved in the regulation of a specific social domain, which respond to the policy objectives that are intended to be achieved. The regulatory regime orientation (Vogel, 1996) allows us to examine the coherence and consistency between the different dimensions of regulation, as well as identifying the control mechanisms established to guarantee the observance of these norms. From the perspective of the regulatory regimes, and by focusing specifically on the policy goals, it is possible to identify at least five types of regulatory approaches of PPPs for educational provision, namely freedom of instruction, freedom of instruction with equivalence, market approach, autonomy and educational expansion. See the main characteristics of each approach in Table 1³.

² Although this section emphasizes the role of national actors and factors in the adoption of education PPPs, in the countries of the Global South, it is particularly important to consider the role of international organizations and aid agencies in the adoption, formulation and regulation of these policies. While in certain cases these organizations have promoted PPPs via aid-conditionality, many of them have also dedicated a significant effort to disseminating these policies as a programmatic idea and as a technical solution for the educational challenges that middle- and low-income countries face (Verger, 2012).

³ However, it is important to take into account that, in real situations, PPPs combine different policy goals, or PPPs have evolved over recent years, with certain systems adding new policy goals to the original policy design or adopting new and more sophisticated instruments to pursue the original policy goals.

Table 1. Typology of PPP for educational provision based on the dominant policy goal

Dominant policy goal(s)	Main characteristics	Examples of Countries/Education systems
Freedom of instruction	<ul style="list-style-type: none"> - The aim to guarantee the freedom of instruction appears as the main driver of public funding of private schools. - Frequently, the original aim was to ensure a certain level of state support to denominational schools. 	Australia, France, Denmark.
Freedom of instruction with equivalence	<ul style="list-style-type: none"> - The main policy goal is to guarantee freedom of instruction but ensuring equivalence between private subsidized and public schools. - In many cases, the original aim was to incorporate faith-based providers into the 'public system'. 	Belgium (French and Flemish Communities), Spain, England (religious schools), Netherlands, Ireland
Market approach	<ul style="list-style-type: none"> - Private subsidized schools emerged as a consequence of pro-market (ideological) reforms. - Although this type combines policy goals of other types, the distinctive characteristic is the (initial) aim of promoting competition as a means to improve effectiveness and equity. 	Chile, Sweden
Autonomy	<ul style="list-style-type: none"> - Autonomy as the main driver of effectiveness, innovation and equity improvement - New modalities of school are envisaged as the means to overcome state schools lack of autonomy. - Frequently, this type can be considered as a second generation (or second best) of pro-market policies. 	US, Canada (CS- Alberta), England (Academies and Free Schools)
Educational expansion	<ul style="list-style-type: none"> - Private subsidized providers or other forms of PPPs such as charter schools are adopted to respond to primary or secondary education expansion. - Private subsidized schools oriented to complement the places shortages of State schools or 'fill the gap' in those areas which the government is not able to attend properly. - Relative weak regulations in issues such as add-on tuition or selective admissions, as well as problems of enforcement. 	Colombia, Liberia, Uganda.

Source: Adapted from Zancajo, Verger & Fontdevila (2021).

The second key factor behind the diversity of the regulatory frameworks of education PPPs is related to the economic, political, social and/or historical characteristics of the national contexts in which PPPs are adopted. For instance, in the case of the US, the fragmentation of political power and the existence of multiple veto points along the policy-making process, have prevented the adoption of school voucher schemes at federal level, and have facilitated the advance of other forms of PPPs that

enjoy more bi-partisan support, such as charter schools (Klitgaard, 2008). Path-dependence and historical factors appear as determinants of the PPPs' reforms adopted in some countries and the way in which they are regulated. In Denmark, the relevance of self-assessment and self-regulation of private education providers can be partially explained by the fact that these schools were created as a means of protecting education from what was considered an excessive influence of the State over faith-based institutions. This historical feature has decisively shaped the different accountability and evaluation regulations applied to private subsidized and public schools in this Nordic country (Olsen, 2015).

Interest groups are frequently portrayed as mediating agents in the adoption and design of PPPs. As Baldwin et al. (2012) point out, certain groups of actors have more capacity to influence the regulations of a specific social domain. In the case of education PPPs, the cases of Belgium, the Netherlands or Spain show how political pressure, exerted by faith-based institutions, have played a crucial role in the adoption, regulation and permanence of publicly-funded private schools as a significant faction of the educational offer (Bonal, 2000; Verger et al., 2016). In the US, a wide range of interest groups, from neoliberal and conservative think-tanks to organizations representing minority groups, are crucial to understanding the adoption and expansion of charter school legislations (DeBray-Pelot, Lubienski & Scott, 2007). Indeed, the literature has shown how privatization and pro-market reforms tend to create new interest groups (e.g., private providers' associations or families with children enrolled in private subsidized schools) with the potential of generating a lock-in effect should attempts be made to revert or reform these policies or drastically alter the way in which they are regulated (Carnoy, 2003; Delvaux & Maroy, 2009; Zancajo, 2019).

Finally, other authors emphasize the role of partisan politics, influencing the adoption and the policy design of education PPPs. For instance, in her study of privatization and marketization reforms in different European countries, Gingrich (2011) concludes that social democratic parties tend to emphasize the State capacity of control in their regulation, while conservative parties are more inclined to promote market mechanisms, such as choice and competition. Nonetheless, social democrats are less reluctant to adopt market mechanisms in education within socially equal societies than in contexts where high levels of inequalities prevail (Hicks, 2015). Similarly, in the US, Köppe (2017) identifies significant differences between the Democratic and Republican Parties regarding their regulatory approach to charter schools. Although both parties have actively promoted the expansion of these types of schools, Democrats are more inclined to adopt strict regulations that reduce the role of market mechanisms and guarantee equal access, whereas Republicans tend to support a more pro-market and pro-choice approach.

3.2. Key regulatory dimensions

Existing research examines different regulatory dimensions of education PPPs in a fragmented way. To the best of our knowledge, a comprehensive framework that synthesizes all the relevant dimensions involved in the design of these policies has not been systematized yet. To overcome this gap, we have developed a framework that summarizes the most relevant dimensions of regulation relating to education PPPs, namely, authorization of providers, funding, school choice and admissions, autonomy, evaluation, accountability and teachers' workforce.

The main characteristics of each dimension are shown in Table 2.

Table 2. Education PPPs dimensions of regulation

Dimension	Description	Sub-dimensions
Authorization of providers	Legal provisions which establish the requirements that educational providers need to comply with in order to be eligible to receive public funding. Beyond basic eligibility requirements, some education systems also establish different authorization criteria that allow to take into account the potential impact of the new provider on dimensions such as effectiveness or equity.	<ul style="list-style-type: none"> - Eligibility requirements. - Criteria to fund a new provider.
Funding	This dimension includes the regulation of the level of public funding received by private providers, the criteria followed to distribute public resources, and what expenses can be covered with these funds. Some PPP policies also regulate private funding (e.g., families, private sector, donors) that private subsidized providers are allowed to receive.	<ul style="list-style-type: none"> - Level of funding. - Type of funding (non-categorical funds, categorical funds, direct provision of resources). - Funding distribution (per-capita, formula funding). - Private contributions (families, private sector, donors).
School choice and admissions	In some national contexts, the regulation of PPPs also includes legal provisions on how the process of school choice should be organized or the admission processes schools should follow.	<ul style="list-style-type: none"> - School admission requirements. - Priority criteria. - Assignment mechanisms.
Autonomy	Publicly funded private providers can enjoy different levels of autonomy regarding the curricular, pedagogical or managerial dimensions.	<ul style="list-style-type: none"> - Curricular. - Pedagogical. - Managerial.
Evaluation and accountability	Publicly funded private schools should follow different requirements regarding evaluation and accountability. This dimension includes government inspections but also other evaluation and accountability requirements, as well as the participation in external assessments.	<ul style="list-style-type: none"> - Inspections. - Participation in external assessments and final examinations. - Accountability requirements (financial, curricular, pedagogical).
Workforce (teachers)	The regulation of teaching professionals is one of the key dimensions of regulation for private subsidized schools. This dimension includes certification requirements and work conditions.	<ul style="list-style-type: none"> - Certification requirements. - Hiring and firing procedures. - Salaries.

Source: Authors' elaboration.

3.3. The equity challenges of PPPs: a focus on the mechanisms

Regulation has the potential to improve or compensate PPPs' negative effects on equity. Nonetheless, for regulation to be effective, it is necessary to consider the social mechanisms that explain *how* PPPs - and the market mechanisms PPPs trigger - produce or foster educational inequalities (Zancajo &

Bonal, 2020). Mechanism-based approaches provide a better understanding of the educational and social dynamics that PPPs promote, with a focus on the responses that these policies generate among educational actors (e.g., schools, families, students, etc.) and how, in turn, these responses affect equity. Furthermore, the analysis of PPPs' impact on equity needs to consider that the involvement of private providers in education does not necessarily increase inequalities *per se*, but that inequalities are rather the result of market mechanisms (such as choice or competition) that frequently accompany the adoption of PPPs. For instance, existing evidence shows how families' strategies of choice or schools' logics of action, responding to competitive incentives, explain why and how PPPs tend to lead to educational inequalities, social stratification among schools and the marginalization of most socially disadvantaged students (Verger, Bonal & Zancajo, 2016; Jabbar, 2015; Woods, Bagley & Glatter, 1998; van Zanten, 2009). In the following pages, we will present each of these mechanisms and argue why they represent equity challenges for educational systems. Specifically, we will focus on three main mechanisms, namely the socioeconomic stratification between public and private schools, the inequitable distribution of resources between the public and private sectors and the discretion of private providers.

Socioeconomic stratification between private and public schools and school segregation

Education systems in which public and private subsidized schools coexist, tend to present higher levels of social stratification between schools and school segregation, usually in favor of private institutions (see, for example, OECD, 2012; Alegre & Ferrer, 2010). The higher level of stratification and school segregation, associated with PPPs, can be explained by five key mechanisms or enabling conditions. Firstly, per-capita funding, a frequent characteristic of PPPs, incentivizes schools not just to attract as much demand as possible but also to select the most academically able or socially advantaged students, who are perceived as less 'costly' to educate (van Zanten, 2009). Secondly, in the context of school choice expansion, self-selection dynamics, unequal preferences of schooling or strategies of choice among social groups, also contribute to stratification between schools and to school segregation dynamics. Thirdly, oversupply due to the low entry barriers that characterize most PPPs can create opportunities for most advantaged students to switch from their local public schools to private option, phenomenon commonly known as 'white-flight'. Fourthly, the unequal distribution of private schools, frequently located in urban and socially advantaged areas, also reduces the choice options of certain social groups, and contributes to the concentration of similar profiles of students in certain schools. Finally, in a context of competition, educational institutions can face incentives to

develop specific religious, linguistic or philosophical orientations as a means of attracting more advantaged social groups, which in turn, can inadvertently foster discrimination or exclusion of minority groups.

Regarding stratification and segregation, three main dimensions of regulation have the potential to compensate or inhibit the mechanisms that induce their effects. Firstly, as part of the authorization process of new providers, public education authorities can establish requirements that consider education planning criteria and avoid oversupply situations, guarantee a more balanced distribution of private and public schools or prevent the overrepresentation of certain religious, linguistic or philosophical orientations. Secondly, the regulation of school funding can also play an important role in reducing student selection practices or self-exclusion dynamics. For instance, needs-based funding schemes can make educationally or socially disadvantaged students more 'attractive' and can inhibit the incentive that certain schools face to exclude them. The prohibition of add-on tuition fees or the establishment of tuition caps can also impact positively on equity, by eliminating the economic access barriers faced by certain students, eliminating price discrimination or reducing the potential processes of self-exclusion (Baum et al., 2014; Boeskens, 2016). Thirdly, in the case of school choice, regulations oriented to increase the level of centralization of the system, have the potential to ensure fairer access to schools, avoiding the practices of subtle selection, inhibiting the arbitrary criteria of admissions, compensating for the asymmetries of information between advantaged and disadvantaged social groups and inhibiting the effects of choice strategies developed by middle- and upper-middle-class families (Elacqua, Iribarren & Santos, 2018). At the same time, the pro-equity criteria of prioritization or the imposing of quotas on the number of places, can facilitate the access of previously excluded students to certain schools, impacting positively on school segregation (Elacqua et al., 2018; OECD, 2012).

Inequitable distribution of school resources

Education PPPs can also generate, by design or by default, an inequitable distribution of school resources. For instance, allowing family or other private financial contributions for schools can result in an uneven distribution of funding resources between schools. At the same time, the dynamics of social and educational stratification explained above also have consequences in terms of inequalities regarding the distribution of school resources. In contexts of flat per-capita funding, schools concentrating on high proportions of socially disadvantaged students assume higher costs as compared with schools with advantaged student bodies, with the same level of resources. Finally,

unequal distribution can also affect human resources, particularly teachers. In the context of high managerial school autonomy, schools can be incentivized to recruit less qualified or less skilled teachers as a means of reducing their costs. Therefore, high levels of school autonomy over human resources can give rise to teacher sorting dynamics or even to the segmentation of the teacher labor market⁴. It is thus possible to assume that school autonomy in relation to teacher employment and compensation exacerbates the inequalities in students' access to educational opportunities.

Regarding the inequitable distribution of resources, school funding regulations can play a key role in compensating for those inequalities. On the one hand, the prohibition of add-on tuition fees or the use of sliding scales, which assign public funding as an inverse proportion of a school's fees, can be policy options that compensate for the inequalities in school resources. On the other hand, the adoption of some form of needs-based funding schemes enables the distribution of public funding according not only to their level of enrolment but also their student characteristics, making it possible to provide additional resources to those schools serving a higher proportion of disadvantaged students. In the case of teachers, regulations oriented towards unifying the credential requirements and hiring requirements, can prevent schools from relying on less qualified teachers and reduce the segmentation of the teachers' labor market.

Directionality of private providers and lack of alignment with policy goals

The last equity challenge of PPPs in education concerns the misalignment regarding the system-level objectives as a consequence of the discretion of private providers in the application of regulations and norms (e.g., curriculum, school admissions or add-on tuition fees). Frequently, the high level of school autonomy that characterizes most PPPs, coupled with the absence of appropriate quality-assurance mechanisms, the lack of relevant information relating to private subsidized providers or the limited capacity of public authorities to oversee the activity of private subsidized providers, can lead to high levels of directionality in the practices developed by schools. PPPs frequently involve a legal accountability relationship between the State and the private sector through a juridical contract, in which the rights and duties of all parties involved in the arrangement are specified. Nonetheless, as

⁴ That is, the split of the teacher labor market into a primary segment, offering high wages and desirable working conditions, and attracting the more skilled professionals and a secondary sector, offering lower-paying posts and less job stability, and represented by the least-skilled professionals (cf. Gulosino, Ni & Rorrer, 2019; Cannata, 2011).

we will develop in section 4, these contracts do not necessarily cover all the possible dimensions of accountability.

In this regard, the regulation of evaluation and accountability schemes can play a strategic role in ensuring that all publicly-funded schools, independently of their ownership, are correctly aligned with the quality standards and regulations, as well as the equity goals and objectives set by the government (Hooge, Burns & Wilkoszewski, 2012). Administrative accountability schemes are frequently presented as a way of solving the potential principal-agent problems that emerge in different policy domains. Principal-agent problem can arise in relation to many types of public services configurations, but are more frequent in the context of PPPs, given the fact that private providers tend to enjoy high levels of autonomy, a broad decision-making capacity and their goals are not necessarily aligned with the goals of the contracting element. This is particularly the case among governments that try to promote educational opportunities through PPPs, since one of the most common challenges in PPPs is to neutralize the tendency of private providers to select students or charge fees to families (Gauri & Vawda, 2004). Another important function of accountability policies in PPPs is to make sure that all publicly-funded schools comply with the minimum quality standards.

Wrapping up

Breaking down the PPPs' social mechanisms affecting equity and viewing them in relation to the regulatory dimensions presented above, allow us to identify which regulatory dimensions and policy options can inhibit or compensate the emergence of equity challenges. Nonetheless, the relationship between regulatory initiatives and educational equity is far from linear. It is important to point out that the effect of any PPP regulatory framework depends on how the different dimensions of regulation interact with one other (Boeskens, 2016). For instance, the potential effectiveness of different school choice regulations regarding their capacity to reduce school segregation, can be mediated or affected by the design of school funding regulations. In this regard, the capacity of families to exercise choice can be very constrained if, for instance, add-on tuition fees are allowed (Elacqua, Montt & Santos, 2013). Similarly, the enforcement and the impact of different provisions on certain regulatory dimensions, such as the prohibition of selective admissions or add-on tuition fees, frequently depend on the design and effectiveness evaluation and accountability systems to monitor their accomplishment and avoid discretionary practices.

To conclude this section, in Table 3, we summarize how the different regulatory dimensions interact with the equity challenges of PPPs. The table provides us with the specific categories and lines of inquiry that have guided our analysis.

Table 3. PPPs equity challenges, dimensions of regulation and policy options.

Equity challenges	Enabling conditions or mechanisms at play	Dimensions of regulation and policy options				
		Authorization of providers	Funding	School choice and admissions	Evaluation and accountability	Workforce
Socioeconomic stratification between public and private schools and school segregation	Self-selection dynamics and differences in families' preferences and patterns of school choice		Prohibition or limitation of fees	Centralization of the school choice and admissions procedures Priority access for disadvantaged students		
	Student selection based on ability or socioeconomic status and/or discrimination against specific social groups (e.g., along religious or ethnic lines).		Needs-based funding schemes	Centralization of the school choice and admissions procedures Reducing school autonomy in the admission process and minimizing room for arbitrary decisions		
	Oversupply of school places exacerbating school competition dynamics and facilitating 'white-flight'	Use of educational planning criteria in the authorization of new private subsidized providers				
	Unequal distribution of private subsidized schools across the local area	Use of educational planning criteria in the authorization of new private subsidized providers				
	Over-representation of certain religious, linguistic or	Ensuring the diversity of private subsidized provision to make it				

	philosophical orientations within the private subsidized sector	accessible to different social groups				
Inequitable distribution of human and economic resources available to schools	Uneven level of private contributions		Prohibition or limitation of fees			
	Unequal distribution of disadvantaged students translating into unequal expenses for schools		Needs-based funding schemes			
	Unequal distribution of more experienced or skilled teachers in particular school sectors					Harmonization of qualification requirements and licensing procedure, and equalization of salary scales and working conditions for public and private subsidized schools
Discretionality of private subsidized providers and limited alignment with system-level objectives	Lack of information on private subsidized providers /limited oversight on the part of public authorities				Allowing for a rigorous monitoring of all providers; and for the detection of irregular behaviors	
	High levels of school autonomy				Ensuring a minimum standard of quality in terms of educational process and outcomes	

Source: Authors' elaboration

3.4. Methodological approach

Analysis of the literature

This paper is based on an analysis of available literature addressing the theme of PPP regulation in the field of education, whether from a comparative or a country-specific perspective. Two main sources of evidence have been considered: academic research and grey literature (i.e., documents produced by specialized organizations in the form of reports or working papers, and not distributed by a conventional publisher).

For the identification of relevant academic outputs, we relied on a systematic approach oriented towards maximizing the plurality of perspectives and minimizing bias. To this end, a search was conducted in the main international academic repositories (i.e., Scopus and Web of Science), as well as the key repositories for French and Spanish scientific literature (i.e., HAL and Revues/OpenEditions Search and Dialnet, respectively). Searches were conducted on the basis of a common syntax, derived from the research questions guiding this paper⁵. The syntax can be consulted in the annex of the paper, and consists of three main groups of keywords:

- a) **Different denominations of education PPPs** – oriented towards capturing the different modalities of this policy.
- b) **Dimensions of regulation and specific regulatory instruments** – oriented towards ruling out those evaluation studies, focusing exclusively on the impact of PPPs, with limited consideration for the regulatory environment in which these programs operate.
- c) **Selected cases** (i.e., the name of the country and locally relevant PPP programs or related measures).

Based on the results retrieved from these searches, a two-step selection process was conducted, with a first screening based on the title, and a second screening based on the abstract.

⁵ Note that the search protocol restricted the scope of the review to those documents published in English, Spanish or French.

Table 4. Overview of the screening process

	Global North	Global South	Total
Total academic repositories– Excluding duplicates	3,627	825	4,452
<i>Scopus</i>	1,580	540	2,120
<i>Web of Science</i>	1,375	512	1,887
<i>Other</i>	1,310	--	--
First screening	589	109	698
Second screening	105	55	160
Additional sources (hand-picked)	152	24	176
Total	257	79	336

Source: Authors' elaboration.

The corpus of literature identified on the basis of academic databases was complemented with a number of manual searches. This was oriented at compensating for different research gaps identified in the initial corpus of the selected documents. These additional sources were identified through a series of ad-hoc, country-specific searches on Google Scholar – a less discriminating academic search engine, more likely to bring up relevant grey literature or academic literature aimed at a domestic audience and not indexed in the main academic repositories. Finally, the repositories and online libraries of selected international organizations were also reviewed in order to identify relevant pieces of research, addressing the PPP regulation debate, whether from a comparative or a country-specific perspective. Table 4 below offers an overview of the number of products identified and selected at different stages of the screening process.

This combination of data sources and search strategies enabled us to compile a geographically balanced body of research. Table 5 below offers a breakdown of the reviewed papers, according to their geographical focus. The selected papers were reviewed, with the relevant information collected and systematized in the form of country-specific extraction sheets. The country sheets synthesized the most relevant information related to the different dimensions of the regulatory framework of each of the PPPs in place in the country, with a particular focus on the reform of or changes to the regulatory environment.

Table 5. Distribution of the literature by countries

Country	Papers from academic repositories	Additional sources	Total
Argentina	17	2	19
Australia	5	6	11
Belgium	7	15	22
Canada	5	9	14
Chile	8	31	39
Comparative	19	11	30
Colombia	6	1	7
Denmark	3	7	10
France	9	8	17
England	9	11	20
Hungary	0	8	8
India	11	4	15
Ireland	1	9	10
Liberia	3	2	5
Netherlands	5	9	14
Pakistan	9	8	17
Slovak Rep.	0	6	6
Spain	8	6	14
Sweden	9	10	19
Uganda	5	4	9
US	21	9	30
Total	160	176	336

Source: Authors' elaboration.

Limitations of the study

It should be noted that, despite the advantages of the systematic literature review methodology in terms of diversity and transparency, such a strategy has certain limitations. Firstly, this approach tends to reproduce or even amplify certain research biases, specifically, the over-representation of certain countries and regions, and the under-representation of others. While Anglo-Saxon and Western countries, in general, are the object of a large body of scholarship, PPPs in low- and middle-income countries have been significantly less studied. These asymmetries are mainly explained by the fact that PPPs are a comparatively recent phenomenon in the Global South. However, such gaps ultimately

indicate a persistent divide between central and peripheral areas in terms of research production, funding and dissemination.

A second limitation of this methodological approach is associated with the evolving nature of regulatory frameworks, and the fact that, in many countries, the PPP regulation debate is already an incipient one. Thus, while a number of countries have engaged in processes of PPP reform over the last few years, such transformations have not always been captured by academic literature, which necessarily lags behind real-time changes.

Finally, it is important to bear in mind that regulatory frameworks, processes or issues rarely constitute the main object of PPP scholarship. Consequently, regulatory frameworks are sometimes described in a rather superficial and descriptive way. There is thus limited evidence on the political economy or the implementation process behind these reforms. Such absences render it particularly difficult to assess the effectiveness and feasibility of certain policy options, as well as the trade-offs and challenges they are likely to pose to different education systems.

4. Regulating towards equity: international trends and policy options in PPPs for education

In this chapter, we present the main results of our analysis of the literature, according to the following regulatory dimensions: authorization of providers, funding, school admissions and choice, autonomy, evaluation, accountability and teachers' workforce. For each of these dimensions, we briefly discuss the available policy options, more clearly aligned with an equity agenda, and then we present the experience of different countries in relation to the adoption and implementation of such measures.

4.1. Authorization of providers

The eligibility criteria of PPP providers and the corresponding authorization procedures determine which types of schools can receive public funding.

In most PPP programs, there are either no educational planning criteria, or demand is the main criterion taken into account to authorize a new publicly-funded private provider. Indeed, frequently, private providers only need to demonstrate a certain level of (potential) demand to be eligible to receive public subsidies. This market-based approach in the authorization of providers tends to be more conducive to school segregation and social stratification between schools. In contrast, a more active role of the State in the process of providers' authorization can contribute to reducing the negative externalities, produced by market-led approaches, in which access to education provision is

highly liberalized. Stricter regulations in this dimension take into consideration not only the level of educational demand, but also how the new schools requesting public funding can affect the composition of the school supply, students' enrolment patterns or the effects of new offers on the sorting of students.

Despite the prominence of social demand as a criterion to authorize private providers to receive public funding or to create new PPP schools, more recently, different PPP programs have started to consider *education planning criteria* within authorization processes⁶. Another approach to regulating the authorization of new publicly-funded providers is the implementation of competitive *bidding processes* to select them. This policy option provides the educational authorities with an increased capacity to determine the profile of providers accessing public funding and to apply educational planning criteria in the process of new providers' authorization.

The role of education planning criteria

Several countries in which social demand was the main criterion used to authorize new private subsidized providers have adopted regulatory reforms to give education planning criteria a more relevant role. These reforms do not necessarily mean that social demand is no longer considered when authorizing new providers, but factors relating to the existing school supply or the impact of new providers on other schools are also considered.

In the mid-nineties, **Sweden** reformed the authorization process of new providers to avoid an uncontrolled expansion of private subsidized schools and to increase the role of the State in the planning of school supply. The new regulations established that the public agency in charge of the authorization of new private subsidized providers would apply what Sahlgren (2016) terms as the 'no harm requirement'. This requirement establishes that the opening of a new subsidized school should not have a negative effect on public schools located in the same area. It is considered that the establishment of a new private subsidized provider negatively affects public schools if it reduces their level of enrolment significantly – to the extent of forcing their closure. This requirement is also oriented to avoid 'market failures' relating to situations of oversupply or the instability of private

⁶ Although this is not developed in the academic literature, we distinguish between social demand and educational planning in the criteria used in the authorization process of publicly-funded providers. In this regard, social criteria use indicators relating to the number of students or families interested in enrolling in the school. By contrast, the educational planning criteria refer to the use of the number of places or the diversity of existing educational providers as the basis for authorizing a new provider.

supply (Meyland-Smith & Evans, 2009; Miron, 1996; Sahlgren, 2016). However, in practical terms, the percentage of applications of new providers that have been denied on the basis of such considerations, has tended to remain relatively low (Sahlgren, 2016).

Similar considerations relative to the school supply have also acquired greater centrality in the state of **California**. Its government has recently passed a bill establishing more discerning entry criteria for the establishment of new charter schools. According to the original charter law, adopted in 1992, school districts were required to authorize any charter school that met basic requirements – an arrangement that, according to certain critics (most notably, teacher unions), has led to the uncontrolled growth of the charter school sector, undermining local control and potentially putting school districts under financial strain (Fensterwald, 2019; Luna, 2019). In response to such concerns, the adoption of the Assembly Bill 1505 in 2019 allows charter authorizers to take into consideration how the new charter school would affect public school districts. More specifically, the new bill stipulates additional criteria, on the basis of which, districts are permitted to turn down a charter school proposal – for instance, if the new charter is deemed unlikely to serve the interests of the community by undermining or duplicating the existing offer, or if the school district is in a difficult financial situation that would be exacerbated by the opening of a new charter school (CTA, 2019; CCSA, 2019a).

Another criterion of authorization involves the schools' contribution to the diversity of the education system. In **the Netherlands**, to be eligible to receive public funding, new private providers, until very recently, have had to demonstrate not only their capacity to attract a sufficient level of demand, but also to what extent they contribute to the diversity of school supply. The school 'philosophy' (*richting*), which can be defined as a specific worldview (either religious or ideological) is taken into account to assess how the school contributes to the diversity of school supply. Schools are required to demonstrate they are offering a specific philosophy that is not already covered by other schools in the area where they plan to settle (Maussen & Vermeulen, 2015; Vermeulen, 2004). However, the implementation of this criterion as part of the authorization process of new providers, has faced different implementation challenges and has been subject to criticism. Firstly, this is because the regulation establishes that the school 'philosophy' needs to be 'recognized', i.e., it needs to have a significant foothold in society, beyond the education sector. As a consequence, minority religious groups in the country frequently face difficulties with regard to receiving public funding (Walford, 2003). Secondly, it is often difficult to determine to what extent a school 'philosophy' is significantly distinctive from others in the same local area, which can induce the adoption of arbitrary decisions (Vermeulen, 2004; Walford, 2003). Given these difficulties and ambiguities, certain organizations and

groups have for a long time advocated the reconsidering or even the suppressing of school philosophy criteria (Franken & Vermeer, 2019; Maussen & Vermeulen, 2015). Despite the resistance to such demands, particularly among Christian political parties, a recently approved law (More Room for New Schools Act, passed on May 2020) addresses these concerns by modifying the ‘philosophy’ criterion. Thus, starting in June 2021, new schools no longer need to prove that they adhere to a recognized philosophy, and the school philosophy will no longer play a decisive role in the school authorization process (VNG, 2020; Ministerie van Onderwijs, Cultuur en Wetenschap, 2020).

In **Belgium** (French-speaking and Flemish communities), the diversity of school supply is also an eligibility criterion for new publicly-funded private providers. In this case, the authorization process of new providers takes into account the social demand for the new school, but also the distance (modulated by the population density) to other schools with similar educational projects or pedagogical orientations (Ministère de la Fédération Wallonie-Bruxelles - Direction des Relations Internationales, 2016; Vlaams Ministerie van Onderwijs en Vorming, 2020).

In the case of **Chile**, the educational reform, introduced in 2015, within the so-called Inclusion Law (*Ley de Inclusión*) combined both the existing school supply and the contribution to the diversity of the education system, as criteria for the authorization of new providers. The new private providers need to meet one of the following conditions to be eligible to receive public funding: 1) the existence of unsatisfied enrolment demand in the local area not covered by other publicly-funded schools (private subsidized or public), 2) the absence of a similar educational project in the area (Ley 20845, 2015).

Bidding process and eligibility requirements

Other countries have established bidding processes to which private providers, seeking to obtain public funding are requested to apply. For instance, **Ireland** has recently modified to a great extent, the way in which private providers are authorized to receive public subsidies through this type of bidding process. While in the past public funding for private providers was subjected to a few basic requirements (e.g., facilities standards, official curriculum, etc.) (Buchanan & Fox, 2008), since 2011, the Ministry of Education (Department of Education and Skills) has assumed a more active role in the authorization process of new private subsidized providers. Currently, private providers’ access to public funding is determined on the basis of a bidding process. The Irish government identifies local areas where the school supply needs to increase because of demographic changes and releases

competitive tenders to select new, private, subsidized providers. This bidding process allows public authorities not only to increase their control over the publicly-funded school supply, but also to guarantee diversity among new education providers, thus responding to the increasing religious pluralism in the country (Department of Education and Skills, 2020).

The use of procurement or bidding processes to select new, publicly-funded providers is particularly common among charter school programs. However, in this case, the use of competitive tenders is not oriented towards increasing control over the school supply but is aimed at targeting a particular school profile and selecting the management organizations. For instance, the Partnership Schools for Liberia (PSL) and the Schools in Concession (*Colegios en Concesión*, CEC) program in Bogotá (Colombia) regarded bidding processes as an important tool for selecting private providers responsible for the management of public-owned schools. In the case of **Liberia**, competitive tenders were adopted as a result of the controversy regarding the initial bilateral agreement between the government and the Bridge International Academies because there was deemed to be a monopoly on contracting (Cameron, 2019; Romero, Sandefur & Sandholtz, 2020). However, as Cameron (2019) points out, even then the process was not considered sufficiently competitive and transparent. Similar implementation problems were reported in the case of the charter schools' program in **Colombia**. In this case, Edwards, DeMatthews and Hartley (2017) consider that the process was not competitive for two main reasons. Firstly, the government selected an initial pool of providers, based on the test results of their schools in other areas and these providers were directly invited to take part in the bidding process. Secondly, the criteria that applicants had to meet was extensive and the per-capita funding, provided by the government, was fixed before the process. As a result, it was difficult for many of the potential providers to become eligible and the government had to persuade most of the providers to participate in the process.

The charter school program, *Education Management Organizations*, developed in the **Pakistani province of Sindhi** also includes a competitive process of bidding to select the organizations in charge of the management of schools. This bidding process involves two different phases. Firstly, the technical capacity of the management organizations that have applied is considered. Technical capacity is assessed, based on the organization's previous management experience, the work plan proposed to manage the schools, the profile of the professionals proposed, the strategies proposed to achieve the performance and the efficiency targets required. In the second phase of the evaluation, the management organizations which have qualified in the first phase are assessed on the basis of the financial proposal presented (LaRocque & Sipahimalani-Rao, 2019).

In Pakistan, we also find per-capita subsidies programs that include complex entry processes for private schools. For example, in **Punjab**, the Foundation Assisted Schools (FAS) program established a three-phase process to select the participating providers. One of these phases consists of an inspection visit to the schools that have previously applied via open tender, conducted by the officials in charge of the program. In this inspection, the infrastructure of the school or the pupil-teacher ratio is assessed (Bano, 2008). Furthermore, the selection process also includes an academic performance test completed by students already enrolled in the schools (Barrera-Osorio & Raju, 2015).

Finally, **Chile** has recently modified the requirements for private subsidized providers, so not all types of providers are able to receive public funding. The 2015 Inclusion Law establishes that for-profit providers are eligible to receive public funding (Bellei, 2016). This change in the eligibility criteria of private subsidized providers was adopted to guarantee that all public funding was dedicated to educational activities (not private benefits). The existing for-profit private subsidized providers have been given a two-year transition period to become not-for-profit organizations if they wish to maintain public funding (Muñoz & Weinstein, 2019).

4.2. Funding

School funding is a determinant dimension in the regulation of PPPs. Funding instruments are especially important in terms of their implications for educational equity (Elacqua et al., 2018; Levin, 2002; OECD, 2019). This is so for two separate, albeit intertwined reasons. Firstly, funding regulations are necessary to guarantee that students across the system are afforded the same educational opportunities and receive educational support according to their needs, thus preventing or addressing achievement gaps between public and private schools. Secondly, funding regulations also have an impact on the very distribution of students across schools. In marketized contexts like those created by many PPP frameworks, school choice and school admissions processes are directly shaped by tuition fees and the value of per student subsidies. Therefore, funding decisions are of fundamental importance in preventing the concentration of socially disadvantaged students in particular school tiers, and in attenuating social stratification dynamics across schools.

Policy options regarding the funding of PPPs can be classed into two main categories. The first category concerns the regulation of private funding received by schools, particularly the regulation of tuition fees and other parental contributions. From an equity perspective, the most frequent option is the blanket prohibition of tuition fees and parental add-ons⁷, which is frequently paralleled by a rise in

⁷ While this discussion primarily applies to universal programs, the prohibition of parental add-ons is a crucial feature of targeted vouchers, i.e., programs that provide private schools with per-capita grants for certain categories of students. Since these are often explicitly oriented towards increasing access to private schools for

the level of public subsidies. Other options include the imposition of tuition caps or the use of sliding scales, according to which public funding is in inverse proportion to the school's fees charged to families. These arrangements are oriented towards widening access to private schools and ensuring a certain equality in the availability of resources at school level. The second category of pro-equity funding regulations concerns the criteria used in the allocation and distribution of public funds to private schools. Here, we find PPP funding schemes that account for student characteristics and that provide supplementary resources to schools serving disadvantaged populations. These measures can be grouped under the heading of compensatory funding mechanisms (see Box 3) and are more frequently found in high-income countries and in those countries with long-established PPP schemes.

Box 3. Compensatory funding mechanisms: formula funding and targeted programs

The notion of *compensatory* or *needs-based* funding encompasses any resource allocation mechanism explicitly oriented towards assigning additional resources (financial, human or otherwise) to those schools serving a higher share of disadvantaged students. In practice, this category includes two distinct policy options, namely:

- ***Needs-based formula funding*** is a particular approach to the allocation and distribution of resources that takes into account school-specific needs resulting from the characteristics of the student body, the school site or the school program – rather than giving schools the same allocation per student (Caldwell, Levačić & Ross, 1999; Levačić & Ross, 1999). School funding formulas with an equity rationale explicitly acknowledge that certain students are more 'costly' to educate than others, and that schools should be funded accordingly. Thus, they focus on a series of student characteristics that are considered to indicate some form of disadvantage – including low socioeconomic status, home language being different from the language of instruction, learning difficulties or low educational achievement (Fazekas, 2012; Levačić & Ross, 1999).
- ***Targeted schemes*** are those that provide schools serving specific student groups with additional resources. Unlike formula funding programs, targeted schemes are external to the main resource-allocation mechanism and take the form of a separate grant, which is often made conditional on specific accountability requirements or the development of quality improvement or spending plans (OECD, 2017c).

Regulating tuition fees

An early example of the full elimination of school fees in exchange for increased public funding can be found in **Sweden**. When private subsidized schools were introduced in the early 1990s, they received

disadvantaged or underserved populations, they usually prevent schools from demanding fees from voucher-eligible students, as in the case of the EVS program in Pakistan (Rabbani, Hameed & ul Haq, 2014).

a subsidy per student amounting to 85% of the cost in public schools. This reduction was partially justified by the fact that private subsidized schools were allowed to charge families tuition fees, and were thus able to cover the remaining 15% (Klitgaard, 2008; Miron, 1996). This policy was abolished in 1996 by a reform which established that private subsidized schools should be free of charge and fully funded by the State. The change was oriented towards reducing financial barriers for low-income families and promoting greater equality in terms of access to private schools, and it was followed by the introduction of other pro-equity measures. Thus, not only private subsidized schools were banned from charging tuition fees, but they were also required to refrain from selective practices and to rely on the same admission criteria as public schools (Lachance, 2020; Wiborg, 2015).

A more recent example of funding equalization dynamics can be found in **Chile**. In 2015, the Inclusion Law put an end to the possibility of private subsidized schools charging tuition fees. Such a change is however expected to be implemented gradually, and schools abolishing fees are to be financially compensated for the loss of revenue. To this end, a new public subsidy has been created. This is known as the 'gratuity grant', and its value is expected to be progressively raised. Thus, those schools with tuition fees equal to or lower than the gratuity grant will immediately become free of charge. As for the rest of the schools, they have been requested to freeze tuition fees, and to progressively reduce those fees as the value of the gratuity grant increases. Schools choosing to maintain tuition fees will no longer qualify for public subsidies, thus becoming fully private schools (Treviño, 2018; Silva & Urzúa, 2018).

This progressive phasing out of tuition fees is not expected to be completed until 2025. The gradual nature in the implementation of the measure is not without risks, as this might create a sense of uncertainty among certain stakeholders (Santiago et al., 2017). However, the gradual character of the policy has been critical not only in guaranteeing the financial viability of the reform, but also in securing the political and social buy-in necessary for the adoption of the law, and in reducing resistance on the part of private providers and families (Zancajo, 2019). While the graduality of the process makes it difficult to estimate the effects of the policy measure, preliminary evidence points to certain unintended effects. Some observers have argued that the abolition of school fees might contribute to the decline in public school enrollment, since it reduces one of the main access barriers to private subsidized schools. Therefore, one of the potential unintended consequences of the prohibition of school fees is the acceleration of an already existing trend – the decreasing enrollment in the public sector (Navarro & Gysling, 2017; Sisto, 2019).

In other cases, eliminating tuition fees is a prerequisite for private schools seeking to take part in PPP schemes. This is the case of the subsidies policy launched in 2007 in **Uganda** as part of the Universal

Secondary Education (USE) program. The USE program was oriented towards broadening access to secondary education. To this end, the government established a system of per student subsidies as a means of reduce schooling costs typically absorbed by families, and unaffordable for low-income households. In response to limited public secondary school infrastructure, the program was extended to private schools as a means of quickly increasing supply (Barrera-Osorio et al., 2020; Omoeva & Gale, 2016). In order to receive public subsidies, private schools are requested to refrain from charging fees to those students benefitting from the voucher, under the assumption that the public subsidy will defray the totality of tuition expenses for these students⁸ (Barrera-Osorio et al., 2020; Baum, 2018). In practice, however, there is evidence that private (and public) schools continue to charge tuition fees to voucher beneficiaries, albeit at a lower rate (Crawford, 2017). In addition, certain schools continue to collect informal fees and request parental contributions in exchange for basic school services. Such irregularities are seen as the result of a weak regulatory environment and limited government supervision, but also as a result of the fact that subsidies per student are excessively low and are insufficient to cover schooling costs (Brans, 2013; Omoeva & Gale, 2016; Twinomuhwezi, 2018). Such dynamics might explain the limited success of the Ugandan PPP policy from an equity perspective and, as noted by Workadala and Barungi (2015), higher-income households are far more likely to benefit from private school subsidies than less affluent families.

A different approach to regulating tuition fees can be found in **Argentina**, where a sliding scale system has long been in place. As per the subsidies policy established in 1947 and modified by the 1991 reform, public subsidies are oriented towards defraying the cost of teacher salaries to a variable extent. The exact percentage of teacher salaries subsidized by the State depends on a number of factors, including the socioeconomic status of the student intake, the area served and the amount of fees charged by the school. The system is oriented towards ensuring a certain level of progressivity in public expenditure and towards fostering greater equality in school choice (Montoya & Frugoni, 2015; Narodowski, Gottau & Moschetti, 2016). Therefore, only those schools not charging monthly fees are allowed to receive subsidies representing 100% of the salary costs, although they can still charge a limited fee for operating costs. As for the remainder of fee-charging schools, the value of the subsidy

⁸ The program is universal in scope – all students are potentially eligible to receive a voucher. However, students need to achieve a pass in the examination on leaving primary school in order to be eligible for free secondary education, both in public and private subsidized schools. In addition, the program is being implemented gradually – starting with the lower grades and progressively adding new cohorts. Consequently, not all grades in schools are eligible for a voucher, and both voucher recipients and self-sponsored students coexist in the same schools. The prohibition of tuition fees only applies to the specific subset of students qualifying for the vouchers, whereas schools can continue to demand tuition fees from students not eligible for vouchers (Barrera-Osorio et al., 2020; Omoeva & Gale, 2016).

ranges between 40% and 80% of the total expenditure on teachers' salaries, with public subsidies being an inverse function of parental contributions, at least on paper (Moschetti, 2015; Morduchowicz, 2002; Narodowski et al., 2016). In practice, these pro-equity criteria are often loosely applied, and there are significant inconsistencies and asymmetries in the level of public funding received by private schools and the fees charged by schools. This is a consequence of the fact that current legislation does not define clear fund allocation formulas, nor does it specify which indicators are to be used to operationalize the allocation criteria. Such vagueness leaves education administrators with considerable room for discretion and allows for an inequitable or even regressive distribution of public funds across private schools (Mezzadra & Rivas, 2010; Moschetti & Gottau, 2016).

Compensatory funding mechanisms

Over the last few decades, different countries have experimented with some form of formula funding, targeted programs and similar schemes oriented towards compensating for the educational inequities associated with PPPs. However, these are not entirely new schemes everywhere – they constitute a well-established feature of the Dutch, the Belgian and the Australian systems, for instance. In the **Netherlands**, a system of weighted student funding has been in place since 1985. According to this system, resources are allocated to schools on a per student basis and the value of the subsidy is greater for certain categories of students identified as socially disadvantaged⁹, primarily on the basis of parental education. The arrangement was explicitly devised as a mechanism to foster greater equality across schools in a context of increasing school segregation – a trend that resulted from the high levels of school choice combined with an influx of immigrants in urban areas (Ladd & Fiske, 2011).

Compensatory policies also have a long tradition in the **Flemish and French-speaking communities in Belgium**. They were adopted at the turn of the millennium in response to multiple inequalities associated with school choice and the centrality acquired by private provision. In the case of the Flemish community, the system currently in place was initiated in 2002 and consolidated in a reform passed in 2008. As established by this last reform, the value of the operating grant allocated to both public and government-dependent private schools is adjusted so that schools serving a higher share

⁹ Note that, in order to guarantee the financial viability of the scheme, additional subsidies are exclusively allocated to schools concentrating on a certain share of disadvantaged pupils – and additional subsidies are only allocated to the number of students *above* this threshold, fixed at 6% since 2006 (Ladd & Fiske, 2011).

of disadvantaged students receive supplementary resources. To accomplish this principle, a share of the annual budget for school operational costs is set aside, earmarked for compensatory purposes and distributed among schools based on a wide range of indicators oriented towards capturing different forms of disadvantage (De Witte et al., 2019; Flemish Department of Education and Training, 2014). In the case of the French-speaking community, a needs-based targeted funding scheme was launched in 1998 and modified in 2009. The program aims at adjusting schools' resources to the socioeconomic origin of their students and relies on a funding-by-stages arrangement. Thus, schools benefiting from the program are classified according to their average socioeconomic level, and each group is given a weighting index which determines the allocation of extra means (Friant, 2016).

While both schemes share a number of parallelisms in terms of policy objectives and the underlying logics orienting them, they also exhibit a number of relevant differences with regard to policy design. Firstly, whilst the system adopted by the Flemish community relies on the use of *direct* indicators as the main criteria to allocate subsidies, the French-speaking community settled for a system of indirect indicators. Secondly, the indicators of social disadvantage taken into consideration by the two systems also differ; whereas the Flemish system takes into account variables relative to nationality, mother tongue or migrant origin, the French-speaking system relies exclusively on socioeconomic variables in order to capture social disadvantage (Friant, 2016). Finally, while in the French-speaking community the allocation of additional subsidies is optional and is only carried out at the school's request, in the Flemish community the subsidies are allocated automatically, i.e., the value of the operating funds received by each school is routinely adjusted by the public administration on the basis of their school composition.

In the case of **Australia**, the level of public funding received by private subsidized schools is partially determined by the average socioeconomic status of each school. Schools are assigned a socioeconomic score based on the students' area of residence. This score is used as a proxy of the capacity of the school community to contribute financially to the school's recurrent costs, and it translates into a discount in relation to the basic subsidy per student; thus, the higher the socioeconomic score, the lower the government contribution. The system, known as the Socioeconomic Status System (SES), was launched in 2001 as a means of advancing to a more transparent and equitable funding model for non-government schools (CIRES, 2017; DoESE, 2020). More recently, a reform passed in 2013 established for the first time a minimum amount of funding per student, as well as a new system of formula funding that takes into account aspects such as the number of students in poverty, indigenous or with limited English proficiency – thus refining the

system of indirect indicators (relating to the area of residence of students) previously in place (UNESCO-GEMR, 2021).

The cases of England and Chile feature among the most recent experiences with needs-based funding. These cases differ from those described above in that, in such settings, compensatory policies are adopted not only as a means of compensating for the unequal distribution of students across the system, but also as a means of preventing such unequal distribution by making disadvantaged students more attractive to schools.

In the case of **England**, a system of targeted funding known as *Pupil Premium* has been in place since 2011. As established by the program, any publicly-funded school (including state schools, Academies and Free Schools) receives additional funding for each student identified as disadvantaged, i.e., children from low-income families registered as eligible for free school meals at any point in the last six years, and those under the care of social services. While schools enjoy considerable autonomy in the use of the supplementary funds, there are a number of accountability mechanisms oriented towards promoting the effective use of the grant. This is particularly the case of league tables reporting on the attainment of Pupil Premium recipients, as well as of external inspections and reviews. However, it should be noted that Academies are subject to fewer transparency requirements than public schools, as they are not legally required to publish their strategy relating to the use of Public Premium funds (Foster & Long, 2020; Gorard, Siddiqui & See, 2021).

The Pupil Premium program was introduced with the objective of raising the achievement of deprived children and closing the poverty-attainment gap. As noted above, an additional objective was to counter segregation dynamics by de-incentivizing cream-skimming practices and by encouraging the creation of free schools in less affluent areas (West, 2015). The ultimate impact of the program remains, in any case, a matter of debate. While the analysis conducted by certain public agencies suggest that the attainment gap has experienced a moderate decline since the introduction of the program, recent work by Gorard, Siddiqui and See (2019) casts doubt on the validity of such results, pointing to problems relating to measurement and methodological limitations. At the same time, these authors have found preliminary evidence of the effectiveness of the program in reducing socioeconomic segregation between schools.

Another example of compensatory funding can be found in the Preferential School Subsidy scheme (known as SEP, for its acronym in Spanish) introduced in **Chile** in 2008. The reform established an additional per-capita subsidy for socially disadvantaged students, identified as *priority students*, along

with a supplementary grant for schools serving a high share of disadvantaged students¹⁰ (Elacqua & Santos, 2013; Mizala & Torche, 2013, Santiago et al., 2017). In 2015, with the adoption of the Inclusion Law, the program was expanded, the value of the SEP was increased by 20% and the program was extended to a new category of students designated as *preferential students* and comprising students from households in the lowest 80% of the income distribution, thus reaching the middle class. Preferential students are eligible for an additional subsidy amounting to 50% of the value of the SEP. The SEP reform has thus entailed a shift from a flat voucher scheme to a weighted/tiered voucher based on students' socioeconomic status (Sisto, 2019; Santiago et al., 2017)

One of the most distinctive features of the SEP program is its voluntary character, that is, the fact that schools need to apply to the program if they wish to benefit from the subsidy. Crucially, the awarding of SEP funds is conditional on a series of requirements for participating schools, including the development and implementation of a school improvement plan and a commitment to use the bulk of the SEP grant in the execution of such a plan. In addition, schools are required to refrain from requesting fees from those students targeted by the program and are explicitly forbidden from engaging in selective practices in the admission process¹¹ (Santiago et al., 2017). Finally, as we will develop further in section 4.4 below, the SEP program is tied to a standards-based accountability program which significantly raises the stakes attached to the national test for participating schools (Elacqua, Jaimovich & Román, 2019).

As in the case of the Pupil Premium program in England, the impact of the SEP program remains an object of debate. On the one hand, certain studies point to an improvement in the performance of private schools serving disadvantaged populations, thus contributing to closing the achievement gap (Mizala & Torche, 2017). On the other hand, available evidence suggests that the program has found limited success in the reduction of school segregation. Elacqua and Santos (2013) hypothesize that such limited effectiveness results partially from the fact that the most advantaged subsidized schools decided not to enter the SEP program. This decision was motivated by the fact that the additional funds were perceived as insufficient to compensate for the costs imposed by the SEP program, particularly in terms of student selection.

4.3. School choice and admissions

¹⁰ Priority students are identified on the basis of low family income, low maternal education or participation in welfare programs.

¹¹ Note however that, since the passing of the Inclusion Law, such requirements are applied to all schools, regardless of their participation in the SEP program.

Whilst the regulation of school choice and admissions remains absent in the educational debate of most southern countries, over the last few decades various countries of the Global North have adopted reforms of their school choice systems with the objective of improving equity (OECD, 2012; Musset, 2012). The regulation of school choice and admissions in the context of PPPs frequently has two main objectives. Firstly, to avoid the directionality of schools, particularly private subsidized, in relation to the admission of new entrants. Secondly, school choice regulations usually seek to reduce the effect of information asymmetries between advantaged and disadvantaged social groups, as well as to compensate for the effects on equity of the school choice strategies frequently developed by more socially affluent families (Ball, 2003). As the OECD (2019) summarizes, the regulation of school choice can play an important role in ensuring that the increased capacity of families to choose a school does not trigger or exacerbate school segregation:

Without appropriate regulations, school-choice programs may lead to greater socio-economic segregation between schools if only wealthy families take advantage of the greater number of options available and if oversubscribed schools are able to cream-skim the highest achievers (p. 6).

Although there is not a unique way of regulating school choice schemes from an equity perspective, there are certain general principles regarding the design of a school choice system that are expected to have a positive impact on school segregation and social stratification. Firstly, some level of centralization or coordination in admission criteria is recommended as a means of avoiding the use of arbitrary or discriminatory criteria by schools, or the development of student selection practices (Elacqua et al., 2018). For instance, the establishment of common enrolment procedures, prioritization criteria and calendars can avoid discriminatory practices, reduce information asymmetries or prevent the self-exclusion of the most disadvantaged social groups from certain school options (OECD, 2012; see Box 4). In this regard, the evidence shows that when private subsidized and public schools do not share common school choice and admissions regulatory frameworks, academic segregation and the impact of students' socioeconomic background on performance tend to be greater (Eurydice, 2020). Secondly, providing priority access to targeted students can improve their capacity of choice and promote a more balanced distribution of students among schools. In this regard, establishing prioritization criteria or quotas for socially disadvantaged or special needs' students can reduce the potential negative effect of school choice on school segregation (Elacqua et al., 2018; OECD, 2012).

Box 4. Controlled school choice systems: a policy option at the service of equity

Controlled school choice systems have appeared as one of the main policy options to make compatible families' capacity of choice and a balanced distribution of students according to their socioeconomic background (Musset, 2012; OECD, 2012; Abdulkadiroğlu & Sönmez, 2003). Despite the diversity of school choice designs that can be considered as controlled systems, Cantillon (2017) provides a framework that allows breaking down its three main components.

The first component refers to the rules that guide the process of school choice. In controlled systems, families do not choose the school directly but express their schooling preferences. Frequently, this means that families can express their schooling preferences by sorting out schools located in a specific area (e.g., neighborhood, municipality, region).

The second component of controlled school choice systems refers to the way in which applications are prioritized in the case of over-demand. Nevertheless, in many cases, prioritization criteria not only have the objective of managing situations in which the number of applicants is higher than the places available, but also of favoring a more balanced distribution of students from different social groups and of fostering higher levels of diversity within schools. Regarding the possible prioritization criteria, Cantillon (2017) distinguishes between two main categories: absolute and conditional priorities. Absolute priorities are those that are applied regardless of the number of eligible students (one of the most common being the presence of siblings already enrolled in the school); whereas conditional priorities are those based on students' characteristics (e.g., educational, socioeconomic, etc.) but establish a maximum percentage or number of beneficiaries. For instance, many school systems establish quotas for socially disadvantaged or special needs' students.

The third component of a controlled choice scheme is the mechanism used to assign students, taking into account their preferences and the prioritization criteria established. The most basic approach to this issue is using the 'first come, first served' principle. However, the application of this principle often faces implementation and equity problems. To overcome these problems, controlled school choice systems frequently use a certain kind of assignment algorithm. Broadly speaking, assignment algorithms aim to maximize the number of students that obtain a place in their first choice of school (immediate acceptance algorithm) or to reduce the effect of strategic behaviors in relation to expressing schooling preferences (deferred acceptance algorithm).

Controlled choice systems and admissions policies

Different education systems have adopted regulatory reforms to increase the centralization of their school choice and admissions systems, as well as to establish the common criteria of admission and prioritization. These reforms are frequently adopted considering that high levels of decentralization and school autonomy regarding admissions affect equity negatively, particularly in terms of school segregation.

A relatively recent experience of structural reform in the school choice scheme can be found in the **French-speaking community of Belgium**. In 1997, an educational reform established the obligation for schools to accept all applicants without considering any requirement other than the adherence to

the principles of the education institution (Dupriez, Barbana & Verhoeven, 2018). However, between 2007 and 2010, and as a consequence of the intense debate around the high levels of school segregation, the government of the French-speaking community adopted a number of regulatory reforms to implement a controlled school choice system, as a means of guaranteeing compliance with the no discrimination principle in the process of school admissions. This process of reform entailed a significant transformation of the decentralized school choice system previously in place. Although the regulation was modified three times between 2007 and 2010, the final design established a process in which families can express their schooling preferences (up to 10 schools) on a unique form. Considering the preferences of families and the absolute (siblings or special needs' students) and conditional (socially disadvantaged students) priority criteria, schools are allowed to assign 80% of the available places. The remainder of the applications are assigned subsequently by a centralized system (Cantillon, 2013).

The school choice reforms adopted in French-speaking Belgium were characterized by a high level of public and political controversy and contestation, and were opposed by private providers' organizations and families with children enrolled in private subsidized schools. These actors considered that the adoption of a controlled school choice system undermined freedom of choice and generated unfair situations, due to the prioritization of certain groups of students (Danhier & Friant, 2019; Delvaux & Maroy, 2009; Demeuse, Derobertmasure & Friant, 2009). Beyond the political implications of the opposition to these reforms, Cantillon (2013) considers that the relative lack of social legitimacy has fostered families' and schools' to engage in different forms of resistance to the new regulation (e.g., subtle processes of student selection or fraudulent school applications.). In terms of impact, available evidence shows that, to date, the reforms adopted in the French-speaking community of Belgium have had little or no effect on school segregation (Friant, 2016; Danhier & Friant, 2019). In this respect, Danhier and Friant (2019) point out that the reforms have focused on the management of over-demand situations, on secondary education and that only the distribution of socially disadvantaged students has significantly reduced their impact.

Chile has also adopted an entirely new system to manage school choice and admissions in the context of the Inclusion Law, introduced in 2015. The new School Admission System (known as SAE, for its acronym in Spanish) is a controlled choice scheme. This new regulation of the school choice process was adopted in the context of structural education reform which, among other issues, prohibited selective admissions. Although a previous education reform approved in 2009 formally banned the selection of students based on their socioeconomic background or academic ability, such selection was still widespread in the Chilean education system, particularly among private subsidized schools

(Contreras, Bustos & Sepúlveda, 2010; Carrasco, Gutierrez & Flores, 2017). In the context of the new education reform, the need for establishing a centralized and common system of school choice was understood as a necessary condition to make effective the prohibition of selective admissions and to avoid the emergence of informal or subtle practices of student selection (Muñoz & Weinstein, 2019).

The new system establishes a common calendar in which families can express their school preferences through an online platform managed by the Chilean Ministry of Education. The online platform also provides families with information relating to each school, including the educational levels offered, the pedagogical approach, the performance in national assessments or the results of the school evaluation conducted by the Education Quality Agency, among other issues. Families are required to indicate a minimum of two schools of their preference through the platform, after which all students are automatically admitted to their choice of school in which the number of applicants is lower than the places available. In the case of over-demand, the new system establishes the following priority criteria: 1) the applicant has siblings already enrolled in the school, 2) the applicant is considered a priority student based on his/her socioeconomic status (up to 15% of the available places), 3) any of the parents of the applicant works in the school and 4) the applicant is a former student who has not previously been expelled from the school. Based on these criteria and the preferences expressed by families, applicants are assigned to schools using a deferred acceptance algorithm (Carrasco et al., 2019; Carrasco & Honey, 2019). Although it seems clear that the new system of school choice adopted in Chile makes this process more transparent and fairer, the evidence of its impact on equity and school segregation is currently relatively limited (see Box 5).

Box 5. Chile: What has been the impact of the new system of school choice?

Evidence of the effects and impact of the new system of school admissions in Chile is still limited, mainly because it was adopted in 2016 and has been implemented gradually in different regions of the country. It was not until 2019 that the new system was implemented across the whole country. However, certain studies have already assessed the impact of the new regulation regarding different dimensions – in particular, its effect on school segregation.

Carrasco and Honey (2019) have found that a higher percentage of students from lower socioeconomic backgrounds are able to access better schools (according to the evaluation of the Education Quality Agency) than before the implementation of the new system of school choice. However, the same authors point out that the gap between disadvantaged and advantaged students regarding access to better evaluated and high-performance schools has remained stable both before and after adopting the new school choice system. Similar results have been found by Sillard, Garay and Troncoso (2018), who do not observe a significant change in the distribution of socially disadvantaged students in schools. Finally, Kutscher, Nath and Urzua (2020) estimate that the effect of the new system of admissions on school segregation varies according to residential segregation and the composition of the school supply in each local area. In the case of residential segregation, the study finds that municipalities with higher levels of residential segregation have experienced an increase in school segregation with the new system of school choice. In contrast, municipalities with

lower levels of residential segregation have experienced a reduction of school segregation as a result of the implementation of the new regulation. According to the authors, this can be explained by the fact that, despite the new system providing low-income families with higher opportunities of choice, residential segregation can increase travel costs and reduce access opportunities. In the case of school supply, the authors also observe that municipalities with larger shares of private independent schools have experienced an increase in school segregation after implementing the new system of admissions. The negative association between the presence of private schools and school segregation is explained by the fact that affluent students switched from private subsidized to private independent schools, to avoid schooling with certain social groups as a result of the new regulation.

Different authors have pointed out that despite the new system of admissions makes the process of school choice fairer and reducing the possibilities of student screening, the differences in schooling preferences between socially disadvantaged and advantaged families explain why the new school choice system has not affected school segregation significantly (Carrasco & Honey, 2019; Sillard et al., 2018; Eyzaguirre et al., 2019).

In the case of **England**, the school choice reforms adopted in the past few years have focused on the regulation and coordination of the criteria applied during school admissions. It is important to bear in mind that in England, private subsidized providers (Academies and Free Schools) usually act as admissions authorities, which means that these schools have traditionally been able to set their own admissions criteria and manage the process. Nonetheless, different studies have shown that those schools with the autonomy to manage their process of admissions have tended to enroll students from higher socioeconomic backgrounds or those who are more academically able (see, for example, West, Hind & Pennell, 2004; Coldron et al., 2008; West, 2006). At the same time, schools' capacity to set their own admission criteria has facilitated the emergence of practices of student selection or dynamics, or fostered self-exclusion behaviors (Allen, Coldron & West, 2010). As a result of these concerns, the government developed a series of reforms to regulate school admissions.

Between 1999 and 2012, the regulations relating to school admissions were reformed several times. It is possible to identify two main approaches regarding these different reforms. On the one hand, the reforms of 1999 and 2003 did not establish mandatory admissions criteria but a series of guidelines to guarantee the admissions process and the criteria applied were 'clear, fair and objective' (West, Barham & Hind, 2011, p. 4). On the other hand, the 2007 and 2009 reforms established a number of requirements that admission authorities (local educational authorities and schools) had to meet. These requirements have affected the design of the admissions process and the criteria applied to prioritize applications. In the case of admissions, the new regulation prohibits a series of requirements that were considered unfair and could be considered as access barriers in relation to disadvantaged students, such as the need to adhere to the school educational project, the participation of families in activities outside school hours or families' economic contributions. At the same time, the new regulation also established the need to prioritize the admission of low socioeconomic status or special

needs students (West et al., 2011). Available evidence on the impact of the reforms adopted in England shows that the new regulations have increased social diversity within schools. However, Allen, Coldron and West (2010) consider that the positive impact of the reforms is explained by the establishment of priority access for disadvantaged students, rather than by the prohibition of certain admission requirements that were considered as indirect selection criteria.

Priority access for socially disadvantaged students

An alternative policy option in relation to school choice aiming to reduce the potential negative effects of PPPs on school segregation is the establishment of priority access rules for certain specific groups, particularly for socially disadvantaged students. While this is the main characteristic of targeted PPP policies (i.e., targeted vouchers), it is also possible to identify prioritization measures among large-scale PPPs.

In 2005, the **Flemish community of Belgium** established, on a voluntary basis, the possibility for schools to prioritize the access of socially disadvantaged students. Additionally, those schools enrolling 10% more socially disadvantaged students by comparison with the social composition of their local area were allowed to prioritize the enrolment of non-socially disadvantaged students (Nusche et al., 2015). In 2011, local school boards were allowed to establish mandatory quotas for socially disadvantaged and non-disadvantaged students in all schools within their area (Cantillon, 2011; OECD, 2015). Furthermore, the new regulation established that, in the case of over-demand, prioritization criteria should focus on guaranteeing the correspondence between the school population and the socioeconomic composition of the area in which the school is located. Despite this new regulation, Sierens Mahieu and Nouwen (2011) estimate that school segregation has remained relatively stable.

In 2009, the **Indian** government introduced the Right of Children to Free and Compulsory Education Act (RTE). One of the most relevant components of this reform was the obligation of private schools (aided and non-aided) to allocate 25% of their places to socially disadvantaged students (Morgan, 2017). Private unaided schools receive public funding equivalent to 'the level of state expenditure per child or tuition fee charged at the school, whichever is less' (Srivastava & Noronha, 2014, p. 51). In the case of private aided schools, they should reserve a percentage of places not less than the proportion of public funds received annually, subject to a minimum of 25%. Furthermore, private schools cannot charge fees or apply any screening process to these students (Walford, 2013). As Srivastava and Noronha (2014) point out, the 25% quota included in the RTE resulted in significant public and political

controversy. Certain stakeholders believed that this measure created a *de facto* PPP, since it meant the public subsidization of private funded schools. Others characterized the reform as a pro-equity measure, promoting access to private schools for the most disadvantaged students and reducing the high level of stratification and segmentation of the Indian education system.

Although, to date, there is no evidence of the effects of the new regulation, its implementation has faced various constraints. Some authors have drawn attention to potential implementation problems, but also to the unintended effects of the 25% quota included in the RTE Act for socially disadvantaged students. Firstly, the definition of the target population included in the RTE is excessively broad, which has allowed certain Indian states to narrow it down and reduce the proportion of students eligible for free places in private schools (Walford, 2013; Srivastava & Noronha, 2014). Secondly, the media has reported that certain private schools are not observing the reservation of school places and are refusing to enroll eligible students, raising doubts on the capacity of state governments to enforce this provision (Ashley, 2003). Finally, a possible unintended consequence of the 25% rule is the increase in school fees. It is important to bear in mind that the regulation establishes that private unaided schools will receive compensation for each vulnerable student enrolled under this scheme, equivalent to the public expenditure per student in government schools or, if they are lower, the fees charged by the school. As a consequence, Walford (2013) considers that low-fee private unaided schools have incentives to raise tuition fees.

In Bogotá (**Colombia**), the charter schools program '*Colegios en Concesion*' was established in the most deprived areas of the city, with the intention of serving vulnerable students (e.g., displaced students, low-income families) and providing these students with more opportunities in terms of school choice. Furthermore, the admissions policies that apply to public schools also apply to charter schools, including the principles of non-discrimination and the fact that residence proximity to the school is considered a priority criterion (Edwards et al., 2017; Edwards & Termes, 2019). At the same time, charter schools are not allowed to charge add-on tuition fees or select their intake on the basis of academic performance or ability. However, different studies have shown how the lack of accountability or supervision mechanisms have allowed the emergence of informal student selection practices based on academic performance or family commitment (Termes, Verger & Bonal, 2017; Termes et al., 2015). As a consequence, the prioritization criteria established by the regulations of the program have not been sufficiently effective and it is possible to affirm that charter schools 'have promoted school segregation in the local educational spaces in which they have been located' (Termes et al., 2017, p. 927).

In the **US**, the access to charter schools of children with disabilities has become a matter of academic research and societal concern. As Waitoller, Nguyen and Super (2019) point out, charter schools enroll a significantly lower percentage of children with disabilities than public schools within the same area. Different studies have shown how charter schools frequently develop practices oriented towards excluding students with disabilities, such as recommending families to move to another school ‘more appropriate’ for their children, applying disciplinary measures to disabled students or not providing them with the necessary services to meet their needs (Waitoller & Super, 2019; Welner & Howe, 2005; Waitoller, 2020). In this context, the ‘Every Student Succeeds Act’ approved in 2015 included certain regulatory provisions intended to address the concerns regarding the enrollment of students with disabilities in charter schools. The new federal education law requires charter schools to guarantee admission processes and retention practices that ensure equal opportunities for children with disabilities. In addition, charter schools’ authorizers are required to monitor charter schools’ practices to ensure they meet the needs of children with disabilities (National Council on Disability, 2018). Nevertheless, currently, there is no evidence indicating how these new regulatory provisions have been implemented and the extent to which they have improved the access opportunities to charter schools for children with disabilities.

Box 6. Bottom-up advocacy for inclusive regulatory instruments

In September 2019, an Argentinean NGO called ACIJ (*Asociación Civil por la Igualdad de la Justicia*) and the Human Rights Center of the University of Buenos Aires filed a class action lawsuit against the City of Buenos Aires government, reporting that privately managed schools systematically reject the enrollment of children with disabilities, and that the government of the city fails to control this practice. According to the two organizations, families of children with disabilities are forced to visit dozens of educational institutions before they are accepted. As a consequence, they end up enrolling in a regular school usually located a long way from their residence, not attending any school, or enrolling in a special school.

Within the framework of the lawsuit, together with evidence relating to enrollment denials, the two organizations requested the implementation of measures to disseminate and enact the right to inclusive education. One year later, in September 2020, the judiciary of the City of Buenos Aires resolved the lawsuit favorably. Among other measures, it ordered the publication of the prohibition to deny enrollment on the basis of disability in Ministry of Education sources and on the websites and billboards of private schools. It also ordered the implementation of an effective on-line channel to process the claims that families might have in the event of enrollment denials, and that these claims should be collated in an administrative file at the General Directorate of Private Management Education of the City of Buenos Aires.

Source: Asociación Civil por la Igualdad y la Justicia (2020). La Justicia puso un freno a la discriminación en escuelas privadas de la Ciudad de Buenos Aires. Retrieved from: <https://acij.org.ar/la-justicia-dio-un-paso-fundamental-para-el-cumplimiento-del-derecho-a-la-educacion-inclusiva-en-la-ciudad/>

4.4. Autonomy, evaluation and accountability

The involvement of private actors in education provision tends to be associated with higher levels of school autonomy in educational systems (Burns, Köster & Fuster, 2016). Indeed, many times, PPPs have been established as a means of contributing to the diversification of the educational supply through the involvement of non-state schools in educational provision. Thus, by design, most PPP frameworks tend to guarantee and even promote higher levels of autonomy and decision-making power to publicly-subsided private schools in domains such as the school's pedagogical orientation, teacher policies, school organization and budgetary decisions, among others. However, this higher level of autonomy does not mean that PPP schools are exempt from complying with centrally defined curriculums, learning standards or student admissions criteria, among other public regulations. Accountability frameworks play a strategic role in promoting that all publicly-funded schools, independently of their ownership, are correctly aligned with quality standards and also with the equity goals and objectives set by the government (Hooge et al., 2012).

The accountability regulations that apply to non-state actors in the context of PPPs can follow three main approaches. Firstly, the full integration between the accountability and evaluation framework that applies to the private subsidized sector with that that applies to the public sector. Secondly, the flexible integration forcing private providers to comply with some of the accountability requirements applied to the public sector regarding certain issues (e.g., teacher evaluations, performance assessments, etc.), but allowing flexibility in other dimensions (OECD, 2013). Thirdly, certain PPPs have developed specific or additional accountability schemes for private subsidized providers, as is frequently the case in relation to charter schools or voucher programs.

Private and public sector integration

Large-scale PPPs with a long-standing history tend to integrate private subsidized schools into the same accountability and evaluation framework that applies to the public sector. We observe this type of integration, especially in countries where PPPs have been adopted with the objective of equating all the providers that receive public funding, whether they be public or private.

This is the case with regard to the education system in **the Netherlands**, where both public and private schools are supervised by the Education Inspectorate, acting under the authority of the Ministry of Education. Schools are required to grant the inspectorate access and to provide the necessary documentation. The inspectorate is responsible for: a) checking compliance with regulations and

quality-related aspects (i.e., attainment of targets, but also pedagogical climate, school atmosphere, etc.; b) promoting the development of education through consultation with stakeholders and c) reporting to the Ministry of Education (Vermeulen, 2004). Primary and secondary schools are required to develop a school plan stating the school's educational philosophy and objectives, the actions to be taken to achieve these objectives, and to guarantee that parents and students, among other key stakeholders, have access to this plan (Vermeulen, 2004). Since the beginning of the 2000s, all schools are subject to an increasingly intensive test-based accountability regime (Browes & Altinyelken, 2019).

In **French-speaking Belgium**, where PPPs in education have a similar historical tradition to that in the Netherlands, 'the evaluation and assessment frameworks treats all schools equally, i.e., all schools are subject to the same rules and engage similarly in centrally dictated evaluation and assessment activities (in addition to their own sector's specific initiative)' (OECD, 2013, p. 71). A similar system is in operation in **Spain**, where inspection services and external evaluations are the same for public and private dependent schools. Nonetheless, this does not mean that the implementation of these policies follows the same pattern. For instance, in the case of Spain, certain researchers have observed that inspection services tend to be very cautious regarding the organizational autonomy of private owners and, accordingly, their presence is less significant in private subsidized schools than in public schools (Villaroya, 2003; Galicia Mangas, 2016).

Flexible integration

In other countries with PPPs in place, it is assumed that the pedagogic, organizational and managerial autonomy that private schools tend to enjoy, needs to be compensated with additional financial and/or performance-based accountability measures. This accountability approach is more frequent in PPPs that follow school autonomy and market rationales. In most of these systems, the contracts with underperforming providers are not renewed if there are no significant improvements within a certain period of time, therefore, the schools managed by these providers can be outsourced to a different provider.

In the **United States**, the accountability policies established at federal level, do not distinguish between public and charter schools. However, differences emerge in the accountability systems established at state level. The charter school contracts, the terms and conditions of which are defined by each state, tend to guarantee higher levels of educational autonomy for charter schools at the same time, that subject these schools to specific outcomes-based accountability measures. Thus, if

charter schools wish to renew their contracts with the public authorities, they ‘must “prove” their value to receive another contract’ (Bulkley & Fisler, 2003, p. 318). The charter school authorizer plays a critical role in this respect.

In addition to providing oversight, [authorizers] are responsible for holding charter schools accountable for student performance. Oversight begins with review of applications for new charter schools and approval or denial of the application based on its adherence to criteria set forth in state law. Once a charter school has been approved, authorizers begin their job of holding the charter schools they authorize accountable by monitoring performance and, when the term of the charter ends, deciding whether to renew the school’s charter. In some states, when a charter school’s performance does not meet the expectations set forth in the charter contract or the school is rated poorly in the state’s accountability system, state policies require authorizers to revoke the charter and close the school (Thomsen, 2017).

In **Colombia**, the charter school program, adopted in the largest cities in the country, known as *Colegios en Concesión*, follows a similar rationale to that in the US, and contracts are not renewed if the schools do not meet specific learning outcomes standards. For instance, in Bogotá, 25 charter schools began operating in the year 2000 under 15-year contracts (Edwards & Termes, 2019). After the government conducted an evaluation of the program in 2014, 22 schools had their contracts renewed, while three of them, with unsatisfactory results, did not. In this case, however, the schools were not externalized to another private provider and were directly managed by the public authorities.¹²

In **England**, the accountability arrangement for Academies and Free Schools is similar to that described for charter schools. The Office for Standards in Education, Children's Services and Skills (Ofsted) inspects both Academies and Free Schools under the same framework that applies to public schools (Ofsted, 2015, as cited by West & Nikolai [2017]). Nonetheless, both individual Academies and Academy trusts can be dissolved by the central government if their test scores and examination results are deemed to be a cause for concern, and following an inspection by Ofsted (see Cawley, 2015). Academy chains have also been closed due to inadequate inspection results. In addition, there are Regional Schools Commissioners, appointed by the Department for Education, who oversee the performance of Academies and approve some of their strategic and management decisions. The Regional Schools Commissioners’ main accountability duties are: 1) taking action in cases when Academies and free schools are underperforming; 2) intervening in Academies where governance is inadequate and 3) taking action to improve poorly performing sponsors.

¹² See Malaver, C. (2019, March 24). 19 años después habrá nueva generación de colegios por concesión. *El Tiempo*. Retrieved from: <https://www.eltiempo.com/bogota/habra-nueva-generacion-de-colegios-por-concesion-en-bogota-341500>

In **Sweden**, inspection processes for the public and the private sector are increasingly similar. There, independent schools are required to: 1) engage with the evaluation and monitoring mechanisms established by the municipality where they are located; 2) participate in national tests and 3) participate in the National Agency for Education's reviews, evaluations and inspections (Rönnerberg, 2011). Sanctions are also increasingly similar, e.g., in both sectors there is the possibility of issuing fines to schools not meeting the required standards and the possibility of closing schools. Nonetheless, private dependent schools are subject to extra measures and evaluations, and inspection services take into consideration additional criteria when inspecting them, including adherence to the regulations on school admissions, issues relative to the impartiality of teaching, financial stability, issues relative to the number of students, management and licensing, among others (Rönnerberg, 2011; West, 2017). According to Shafiq and Myers (2014), inspectors in Sweden face the challenge of balancing the freedom of education of private subsidized schools (given their contribution to the diversification of the system) and making sure that these schools adhere to the national 'syllabus' (general objectives, knowledge and skills, democratic values). Despite these additional control mechanisms, private subsidized schools have more flexibility than public schools in terms of reporting to public authorities; for instance, they are 'are not obliged to keep records of students' grades' (Lärarnas Riksförbund, 2007; Arreman & Holm, 2011, p. 232), neither are they requested to fulfill other transparency requirements.

The function of supervising independent schools in Sweden was given to the Swedish National Agency for Education. However, this agency faced multiple challenges when fulfilling this task. According to certain observers, the agency's first evaluation reports relating to the private sector were very superficial (Wennström, 2019), and the agency, despite intending 'to inspect each independent school over a three-year cycle' could not do so 'due to an insufficient budget and the rapid growth of independent schools' which rendered the volume of inspections 'impossible to sustain' (Rönnerberg, 2011, p. 697).

In **Chile**, the Preferential School Subsidy Law, adopted in 2008, transformed the accountability system of the country significantly. As shown above, the law was adopted to improve the access opportunities of most disadvantaged students to private subsidized schools as a means of reducing school segregation and improving learning outcomes. The SEP law encourages inclusive admission practices by providing extra-funding (i.e., increasing the value of the voucher) to those schools that enroll vulnerable students. In exchange, schools are subject to stricter performance-based accountability measures. Underperforming schools lose autonomy and, among other measures, are obliged to contract external school improvement services. If they do not move to a higher performance category

within three years, 'the Ministry of Education reports this to the school community and encourages families to consider other schooling options for their children'. And 'if the school remains in the lowest category for four years, the Ministry will revoke its license to operate and receive public funding. The information on the school rankings is also widely disseminated to families and the public'. (Elacqua et al., 2018, p.23). The accountability provisions of the SEP law were scaled up to include the whole education system, with the adoption of the Education Quality Assurance System in 2011 (Verger, Ferrer-Esteban & Parcerisa, 2020). To date, nonetheless, it is unclear whether these measures have contributed to reducing the social segmentation of the Chilean school system, but there is increasing evidence as to how it has favored strategic behavior in the educational system, especially among underperforming schools (i.e., more teaching to the test, allocation of the most effective teachers in the groups to be externally evaluated, student tracking practices, etc.) (Elacqua et al., 2019; Falabella, 2020).

Although test-based accountability measures in Chile are very similar in public and private dependent schools, there are dimensions of the accountability system that are not fully equivalent. This is the case with regard to the teacher appraisal policy, since the Ministry of Education gives independence to school providers to formulate their own teacher evaluation procedures (OECD, 2013). Similarly in **Australia**, the Schools Assistance Act 2008 established that 'non-government schools have an obligation to meet national school performance and reporting requirements similar to those which apply to government schools', but 'school evaluation practices in the Catholic and Independent sectors may not be mandatory and the organization of teacher appraisal in the context of performance management processes is dissociated from state and territory School Improvement Frameworks' (OECD, 2013, p.72).

Specific accountability schemes for PPP schools

In several countries in the Global South, accountability systems for private dependent schools are different from those that apply to public schools. This tends to be the case because the accountability schemes applying to the public sector are weak or non-existent, and also because international donors, who are usually behind the establishment of PPPs by providing funding and/or technical assistance, create para-state agencies (in the form of foundations or similar entities to hold PPP schools accountable. Many donors adopt this approach owing to a lack of trust in the government to

fulfill this task, or because there is a certain level of urgency in relation to implementing the accountability measures.

In **Punjab, Pakistan**, the private schools that operate under the FAS program, the Education Voucher Scheme program (EVS) and the New School program (NSP), in contrast to the public sector, are strongly monitored and surveilled. The same management organization of the programs, namely, the Punjab Education Foundation (PEF), fulfills this function. As detailed by Irfan (2015, p. 182):

The financial assistance of PEF is subject to the performance of private sector partners on the pre-defined indicators outlined in the respective MoUs. In order to ensure the desired outcomes of the partnership, PEF monitors and evaluates student learning outcomes through the QATs [Quality Assurance Tests]. Surprise or informed visits are carried out by PEF monitors who are assigned to evaluate schools (in the case of FAS, EVS and NSP partners) (...). The details related to the monitoring of partners are outlined in the respective MoUs too (...). In addition to on-site monitoring by PEF there are some reporting requirements which make partners liable to share information about some indicators. This information (such as enrolment figures, number of teachers, etc.) is verified by PEF during the regular monitoring visits and in cases of any misrepresentation of facts or non-compliance with the terms and conditions laid down under the MoU, PEF reserves the right to impose penalties or even cancel the partnership (Irfan, 2015, p. 182).

In relation to both the EVS and the FAS, the PEF is in charge of both rewarding participating private schools according to their performance (Bano, 2008)¹³ and deciding which schools continue within the program, on the basis of their performance in the QAT, with continuity being terminated in the case of two consecutive failures in the test (Irfan, 2015). In fact, the PEF also sets the quality standards for passing the QAT. Finally, the 'PEF also reserves the right to impose penalties for breaches of the terms and conditions mentioned in the MoU' (Irfan, 2015, p. 171).

In **Liberia**, the PSL has adopted a similar accountability approach to many other charter school programs, in the sense that contract continuity is on condition that school providers achieve certain pre-established learning standards. However, a private international foundation such as the Ark Foundation has played an important role in the monitoring and evaluation of the program. According to Ark, the foundation has played a 'significant role in the delivery of the program', including helping to evaluate the PSL due to 'limited government capacity' (Aslam et al., 2017). This is also acknowledged in the official documents of the program, in which Ark is mentioned as providing 'policy advice, project management, operator and evaluator commissioning, capacity building of Ministry team, data analysis, fundraising, and communication' (MoE, Feb. 2017, p.14, in Hook, 2017, p. 17).

¹³ More specifically, and according to Bano (2008), 'Through a competitive system designed by the PEF, the school performing best on the QAT in the district is given a cash reward of Rs.50,000. In addition, five teachers in all schools in which 90 per cent or more students score at least 40 per cent marks in the QAT are given Rs.10,000 each' (p. 17).

4.5. Teachers

The regulation of the teaching force is central to the debate on the potential of PPP schemes. PPP proponents argue that the superiority of PPPs as a form of educational provision relies on the autonomy in human resources management that private schools enjoy. Such autonomy is expected to foster greater quality as schools are able to attract and retain teachers solely on the basis of their performance, and can offer salary bonus or other incentives (Patrinos et al., 2009; Baum et al., 2014; Lewis & Patrinos, 2011). Nevertheless, this comes at a price. In market-like situations, certain schools might be willing to reduce costs by hiring less-experienced or less-qualified teachers, and by relying on part-time staff and fixed-term contracts. The casualization of teachers' work has been documented in a variety of education systems with PPPs in place, both in the Global South, see ISER (2016) in the case of Uganda, or Afridi (2018) in the case of the Pakistani Punjab and in high-income countries, see Martindale (2019) on the Academies program in England. Such dynamics are not only problematic in terms of teacher wellbeing (which suffers because of lower salaries, lower job security, limited bargaining power, a less stable and collegial work environment, etc.) and the overall quality and efficiency of the system, but also generate important equity problems. It is thus possible to assume that school autonomy over teacher hiring and compensation exacerbates inequalities in terms of students' access to educational opportunities.

In order to prevent or at least minimize these dynamics, there are two main policy options. Firstly, establishing common or equivalent entry paths to the teaching profession (both in terms of required qualifications and/or teacher-certification or teacher-licensing procedures). This prevents the entry of poorly- or non-qualified personnel into the teaching workforce and ensures a minimum degree of equivalence in the teaching quality enjoyed by public and private schools. A second option that might contribute to preventing an uneven distribution of the most-skilled or more-experienced teachers is the establishment of common salary scales and working conditions – for instance, through centralized wage-setting (i.e., the requirement for private subsidized schools to adhere to the national pay scale) or the establishment of a private school teacher status similar to that of public school teachers (e.g., working hours, benefits, pension schemes, career and opportunities for professional development, among others). This can prevent certain school segments from disproportionately attracting and retaining the more qualified or more skilled teachers.

Credential requirements

In the **United States**, many charter school laws include waivers from state policies on teacher licensing. Charter schools are thus allowed to hire non-certified teachers or to hire teachers not meeting the certification requirements necessary for eligibility to teach in public schools, or to develop its own credentialing standards (Podgursky, 2006; Education Commission of the States, 2020). Therefore, and as noted by a report prepared by the Department of Education, charter schools tend to have a higher percentage of uncertified teachers than public schools (US Department of Education, 2016). However, while the deregulation of the teaching force has been a prominent feature of the US charter school model, the state of **California** has recently passed legislation that represents a shift away from such tendencies. More specifically, a recent bill (Assembly Bill 1505) establishes stricter requirements in relation to teacher certification, as of July 2020. The new legislation requires all new teachers entering charter schools to hold the same credentials required by their counterparts in the public sector. For those teachers already employed in the charter school sector, the law establishes a transitional five-year period, during which time they are expected to obtain the required credentials in order to remain in the profession (CTA, 2020). Such changes are oriented towards securing greater parity between charter and public schools, and represent a significant departure from the original charter school legislation, passed in 1992, which allowed for considerable flexibility in the hiring of teachers in charge of the non-core subjects' sector (Fensterwald, 2019). The new provisions regarding teacher certification are accompanied by other changes in the regulation of the charter sector, including a renewal process sensitive to schools' performance, as well as a more discriminating authorization process (see section 4.1).

It is important to bear in mind that the negotiation of such a substantive change proved particularly challenging from a political perspective. The reforms were largely the result of the advocacy efforts of a variety of education stakeholders, spearheaded by the state's two largest teacher unions, who were highly critical of the unrestrained growth of charter schools and the limited mechanisms of control available to public authorities. In line with this diagnosis, the original version of the bill sponsored by the teacher unions provided school districts with broad powers to reject charter schools and did not contemplate a transition period for the application of teacher certification requirements. This first draft was met with fierce opposition on the part of the California Charter School Association, an organization representing two thirds of California's charter schools (Luna, 2019). Only after months of

negotiation was an agreement reached, with the establishment of a five-year transitory period which played a key role in securing the move of the California Charter School Association to a neutral position (Fensterwald, 2019; CCSA, 2019b).

In the case of **France**, a process of harmonization of teacher-licensing procedures took place in the early 1990s. The so-called ‘Lang-Cloupet agreements’, signed in 1992/1993, established a system of recruitment for subsidized private school teachers equivalent to that in place for the public sector. The new policy established a national competitive examination essentially analogous to the one used for the selection of public-school teachers (Bourget, 2019). Teacher candidates are thus evaluated by the same juries and based on equivalent tests (Defresne, 2017; Monso, 2015). The system of teacher appointments, however, continues to differ between public and private schools. Whereas public school teachers are assigned to job posts on the basis of a centralized administrative procedure, private school teachers are directly selected by schools. Subsidized private schools are thus allowed to choose freely among the pool of examination-qualified candidates (Bertola, 2017; Meuret, 2004).

While the ‘Lang-Cloupet agreements’ affected the totality of private subsidized schools, they need to be understood as an attempt to settle a series of longstanding disputes between the State and Catholic school providers. The new licensing system was thus only one of the many demands put forward by representatives of the Catholic sector – other requests included payment of the accumulated debt¹⁴ and for the State to take charge of the compensation of auxiliary personnel. A compromise was only reached after a long bargaining process in which the Ministry of Education came to accept the introduction of the new licensing procedure (despite its initial reservations), while the Catholic sector accepted a reduction in the amount of reimbursement by the State as payment for the accumulated debt (Verneuil, 2011; Poucet, 2013). In contrast to the aforementioned case of California, the change in the licensing system was vigorously criticized by teacher unions, who perceived the change as a ‘concession’ to the Catholic sector¹⁵ (Bourget, 2019).

Sweden is another country that has recently experimented with an upward revision of teacher certification requirements. In 2010, a new teaching license policy was implemented. According to the new regulation, to obtain a license, teachers are required to hold an officially approved degree in education and complete a probationary period (Blomgren & Waks, 2017). As a result, and subject to further reforms, only licensed teachers can be offered a permanent position and only certified teachers are qualified to grade students (Börjesson, Karlsson & Lindgren, 2017; Hardy, Rönnerman &

¹⁴ The private sector argued that, for almost a decade, the State had not respected the proportionality principle on the basis of which private subsidized schools are to be funded, thus incurring a considerable debt.

¹⁵ Most private subsidized schools in France are run or affiliated with Catholic dioceses or parishes.

Beach, 2019). To be sure, the establishment of teacher certification requirements apply to both public and private subsidized schools. However, and as noted by Sahlgren (2016), ‘the new rules appear to affect independent schools more significantly than municipal schools’ (p. 20). This was, in fact, the case, since by 2015, the proportion of noncertified teachers was significantly greater in the private subsidized sector.

While the licensing system was oriented towards improving the quality of the education system, it is important to bear in mind that the change has had some unintended effects from an equity perspective, as the new system has led schools to compete for certified teachers, particularly in certain subjects in which there is a shortage. This has placed schools in deprived areas in a disadvantaged position with regard to attracting and retaining qualified teachers, thus reinforcing existing education inequalities (Börjesson et al., 2017; Kornhall & Bender, 2019).

Regulating work conditions

The case of **Chile** offers a recent example of the process of equalization of teachers’ status and working conditions. The New System of Teacher Professional Development (STPD, Law 20.903), passed in 2016, introduced changes in several areas relative to the teaching profession, including initial teacher training, career structure and professional development. Importantly, and unlike most of the prior teacher reforms, the new law affects teachers both in the public and the private subsidized sectors (Ávalos, 2018; Treviño, 2018). Thus, one of the key innovations¹⁶ introduced by the new law, is the creation of a new career structure, common to all teachers working in schools receiving public funding. The new career ladder is linked to a new salary scale and a performance evaluation system and entails important changes in teachers’ working conditions and professional development opportunities. More specifically, the career structure established by the STPD is comprised of five progression stages (the first three being mandatory; the last two voluntary) associated with salary improvements, and progression up the career ladder is conditional following a performance assessment (Ávalos & Bellei, 2019; Santiago et al., 2017). As a consequence of the new system, teachers in the public and the private subsidized sector are also entitled to the same opportunities for professional development

¹⁶ Besides the System of Teacher Professional Development (and the associated modifications in working conditions and professional development described in the section), other important changes brought about by the new teacher policy include greater control over teacher education programs, a mentorship and induction program for new teachers and the use of more selective criteria determining entry into teacher education (Treviño, 2017; Santiago et al., 2017).

(Ávalos, 2018), and in-service teacher training is to be offered without charge (Treviño, 2017). In addition, and in order to render the profession more attractive, both starting salaries and the share of non-teaching hours have been significantly improved – with different provisions to make sure these changes are applied equally to public and private subsidized schools. Finally, teachers in schools serving a high percentage of socially deprived students receive salary bonuses and are entitled to a higher share of non-teaching hours – as a means of attracting high-quality teachers to disadvantaged schools (Ávalos & Bellei, 2019; Cabezas, Hochschild & Medeiros, 2019).

The articulation of a common regulatory framework for the teaching profession appears to enjoy broad support within the Chilean education community. As reported by Hochschild et al. (2014), the creation of a common career structure was one of the recommendations of the national consultation process that informed the preparation of the Inclusion Law (the so-called *Plan Maestro* – cf. Bellei, 2018). During the negotiation of the law, the need for a *universal* career structure was also emphasized by the teachers' union, who aimed at putting an end to the disparity of conditions and obligations to which teachers in different sectors were subject (Ávalos & Bellei, 2019). However, in order to guarantee the viability of the reform, the new system is being implemented in a gradual way. The STPD has thus been implemented in the public sector first; all new teachers and those working in public schools were expected to join the system by 2017. In the case of teachers working in the private subsidized sector, their integration into the new career depends on the schools' decision to join the STPD. Private subsidized schools are expected to enter the new system on a voluntary basis as of 2018 and until 2026, when the system is expected to become fully mandatory (Ávalos & Bellei, 2019; Cabezas et al., 2019)¹⁷.

Given the universal and comprehensive character of the reform, the new legislation can be expected to lead to a progressive homogenization of teachers' working conditions between the public and the subsidized sector. However, it is important to bear in mind that the launch of the STPD does not put an end to the duality of contractual regimes through which appointment and hiring procedures are regulated in the public and the private sector. Thus, employment in the public sector continues to be regulated according to the Teacher Status approved in 1991, whereas teachers in the private sector (including private subsidized schools) are subject to the general Labor Code (Cabezas et al., 2019).

¹⁷ According to Cabezas et al. (2019), it is expected that around one seventh of teachers in the private subsidized sector will join the system annually. If the number of private subsidized schools willing to join the STPD exceeds this quota, priority will be given to those serving a higher share of disadvantaged students, qualifying for SEP funding (see section 4.2).

The PSL program in **Liberia** constitutes a rare example of a PPP establishing a fully equivalent status for teachers working in public and private subsidized schools. At the same time, it also reveals the limits of formal equivalence in a system in which public and subsidized schools operate under different incentive structures and enjoy different levels of autonomy. As noted by Cameron (2019), the PSL program constitutes something of a deviant case of PPPs, in that teachers in outsourced schools remained civil servants enjoying permanent tenure and lifetime appointments. Private schools contracted by the government are thus required to select teachers from a pool of government teachers (Romero et al., 2019) and are not allowed to dismiss them (Cameron, 2019). However, there is some evidence that such provisions were not always fulfilled. As reported by Romero et al. (2017, 2020), certain private operators manage to dismiss teachers perceived as under-performing and transfer them to government schools¹⁸, even though they are not permitted to do so. In addition, certain subsidized schools make use of their autonomy to offer higher salaries to their employees. Finally, some private providers are given priority in selecting teachers, being allowed to interview recent teacher graduates and choosing candidates perceived to be a better fit for the school (Romero et al., 2017). Because of such advantages, teachers in PSL schools tend to be better-trained and more motivated than their counterparts in the public sector, thus contributing to a certain concentration of less effective or less skilled teachers in government schools (Klees, 2018; Romero et al., 2017).

Finally, the charter school program in **Colombia** (*Colegios en Concesión*, CEC) constitutes another example of the limits of salary equality in the context of high school autonomy. Thus, while teachers in CEC schools are compensated based on the national pay scale, they enjoy much less job security than their public sector counterparts. This is the case, as CEC schools take advantage of their high autonomy level to rely primarily on short-term contracts. In addition, certain CEC schools avoid hiring teachers at the top of the salary scale, and are sometimes unwilling to pay the full salary to which teachers are entitled, according to their seniority and qualifications (Termes et al., 2015; Edwards & Hall, 2017). As a result, teachers working in CEC schools tend to switch to the public sector when given the opportunity. Consequently, the CEC sector is characterized by a comparatively higher turnover rate and a lower share of highly educated teachers, as opposed to public schools (Bonilla, 2011).

¹⁸ In some cases, the dismissed teachers were not reallocated to public schools – thus remaining on the government payroll despite not actually being employed.

5. Discussion and policy implications

Over the past few years, public regulation has emerged as one of the priority areas of policy action, preventing PPPs from widening educational inequalities. The prominence acquired by regulatory frameworks in the debate around PPP policies and educational inequality is mainly explained by the great diversity in equity effects that PPP policies have triggered in different national education system, and by the assumption that differences in PPPs' institutional designs explain an important part of such heterogeneity (Boeskens, 2016). Effective regulatory frameworks are expected to counterbalance or inhibit the mechanisms and enabling conditions that result in an increase in educational inequalities within PPPs, particularly those affecting socially disadvantaged and other vulnerable groups of students.

Yet, despite the growing centrality of regulatory efforts in the PPP debate, available literature on such questions remains fragmentary, and equity-oriented regulatory strategies have not been systematically examined. This paper has contributed to fill this gap by identifying the most relevant dimensions of regulation of the education PPPs, as well as the main policy options with the potential to alleviate, inhibit or compensate the more problematic impact of PPPs in terms of equity. Table 6 summarizes the policy options identified in the review for each regulatory dimension of PPPs.

Table 6. Equity-oriented PPP regulatory strategies

Dimension of regulation	Policy options
Authorization of providers	<ul style="list-style-type: none"> - Incorporation of <i>education planning criteria</i> in the authorization of new private providers (considerations relative to their effect on public schools; enrollment patterns or the volume or diversity of existing school supply). - Use of <i>bidding processes</i> to select among private providers seeking to access public funding. - Establishment of more <i>discriminating screening processes</i> or eligibility criteria.
Funding	<ul style="list-style-type: none"> - <i>Prohibition of tuition fees</i> and other parental contributions (paralleled by an increase in public funding) or adoption of <i>tuition caps</i>. - Use of <i>sliding scales</i> (public funding inversely proportional to school fees). - Use of <i>need-based funding criteria</i> accounting for student characteristics and the schools' social composition.
School choice and admissions	<ul style="list-style-type: none"> - <i>Centralization and control of the school choice and admissions</i> procedures (common priority criteria for public and private subsidized schools, calendars and procedures).

	<ul style="list-style-type: none"> - <i>Prohibition of selective admissions.</i> - Provision of <i>priority access for disadvantaged students</i> (quotas or specific priority criteria).
Autonomy, evaluation and accountability	<ul style="list-style-type: none"> - <i>Integration</i> of private subsidized schools into the monitoring and evaluation framework in place for the public sector. - Development of <i>additional and more demanding accountability schemes</i> for private subsidized providers. - Creation of <i>accountability systems specific to private subsidized providers</i> and establishment of dedicated monitoring agencies.
Workforce	<ul style="list-style-type: none"> - <i>Harmonization of teachers' qualification requirements</i> and licensing procedures across the public and the private sector. - <i>Equalization of teachers' salary scales and working conditions</i> for public and private subsidized schools.

It is however important to bear in mind that the potential of many of these regulatory strategies remains largely untested and is open to debate. The evidence on the capacity of the different regulatory options reviewed in this paper to inhibit or avoid the negative effects of PPPs on educational inequalities is still relatively scarce. In addition, this paper has revealed several difficulties faced by regulatory frameworks oriented towards preventing or curbing inequalities in the context of education PPPs.

Some of the difficulties are associated with the many policy instruments that governments may use for the (re)formulation of the regulatory frameworks of educational provision. These instruments range from market accountability strategies to strict rules, established, managed and monitored by the State, and may be related to a range of different policy domains, such as school choice and admissions, authorization of providers, funding mechanisms or accountability of schools, among other interventions. The undefinition as well as the lack of theorization of the regulation of education itself (i.e., which specific policy dimensions are considered as part of the regulation in terms of a governance activity) becomes a challenge when systematizing which reforms are more optimal for neutralizing or alleviating the negative effects of PPPs on equity. However, the analysis of the policy options or reforms adopted to address the challenges posed by PPPs on education equity show an international tendency to increase State intervention, instead of establishing new forms of social and market accountability, or so-called 'incentivist' policies in education (see Scott & Jabbar 2014). Incentive-based regulations and market competition show important limitations in guaranteeing that private providers are aligned with the system-level equity goals defined by the State. As suggested by Table 6 above, most of the equity-oriented policy interventions reviewed here are characterized by

establishing rules, norms and standards to ensure that all schools, regardless of being publicly or privately owned, provide the same access and educational opportunities for all students.

The correct implementation of PPP regulations requires a significant amount of resources and technical capacity within public administration. Administrative accountability is particularly challenging, especially for the governments of the Global South. Many of these governments do not only need to develop their own inspection services and quality assurance agencies, but also face important financial accountability issues. Numerous papers on PPPs in low-income countries are in fact concerned with the financial use of public resources by private school owners, and the insufficient public control mechanisms and tools to address these issues.

From an equity perspective, administrative accountability can play an important role in ensuring that all schools, and particularly private subsidized schools, comply with pro-equity regulations in dimensions such as funding, school choice and admissions or educational achievement. However, accountability policies do not operate in a vacuum and the competitive values that the PPP programs tend to promote, on both the demand and supply sides, become one of the main challenges hindering the effectiveness of accountability measures. This is especially the case of those PPP frameworks that are enacted together with policies that give more freedom of school choice to families and/or promote school autonomy and competition between schools.

Overall, within PPP frameworks, private schools tend to be more sensitive, as well as more responsive to market dynamics and to families' demands than public schools, especially when an important part of their funding depends on how this demand fluctuates. More often than not, the administrative and market accountability mandates are misaligned or pursue different goals. Schools might need to solve this kind of tension by prioritizing one of the two mandates, at the expense of the other. For instance, educational authorities might request non-discrimination in admissions policies, but schools consider that their educational project and/or their family demand strongly relies on high academic standards and discipline, resulting in them attempting to avoid enrolling students that are less academically able or that misbehave in class (Waitoller, 2020). These types of tensions and informal dynamics are as frequent as they are difficult to reconcile, both in the Global North and in the Global South. However, they are especially challenging in countries that face more difficulties in organizing coherent, well-aligned and well-resourced accountability systems.

In addition, difficulties in identifying the effective regulations of non-state providers in tackling education inequalities are also linked with the diversity and particularities of institutional configurations of PPPs in concrete educational settings. There is a range of historical and cultural

features of educational systems that importantly condition who the private providers are, how diverse they are, the levels of autonomy they enjoy and their relationship with the State. Specific institutional configurations affect the mechanisms by which education PPPs cause processes of segregation and inequality (Zancajo & Bonal, 2020). The competition dynamics between providers, the systems of educational planning, the structure of residential segregation and the geographical distribution of schools, the capacity of schools to select students or the economic barriers of accessing certain schools constitute different mechanisms at play that generate different forms of education inequalities. The impact of the participation of private providers on education inequalities, as well as the effect of regulatory efforts, vary greatly depending on the particularities of different national, but also local education markets. The prohibition of school fees, for example, may have a limited impact on education systems that do not have control over educational supply or the entry of new providers, or that have open enrolment systems. Reducing schools' capacity to select their students may also have a limited effect if private schools are concentrated in specific geographical areas (usually the wealthiest). The conditions that enhance education inequalities in each education system, as well as in each local education market are crucial if adequate regulatory reforms have to be established. Understanding how privatization and marketization in education produce inequalities, is a first and necessary step for changing the rules of the game in an optimal direction, from an educational equity perspective.

Furthermore, the institutional configurations of education systems set the limits of what is 'thinkable' and feasible in educational reform and generate a strong path-dependence in education policy. When altering the rules of the game, the State usually faces the vested interests of educational providers, teachers and/or parents. Usually, this potential or anticipated resistance prevents reforms that might have the ability to reduce education inequalities.

Another significant conclusion of this paper is the need for systemic reforms. The reproduction of inequalities in education can barely be addressed by changing one single aspect of the regulations affecting the activity of publicly-funded private providers in education. The private sector's internal diversity and the interrelated traits of market mechanisms justify the need to address different dimensions of regulation simultaneously, if the negative effects of education PPPs are to be avoided. For instance, the quest for exclusiveness and distinction of certain social sectors cannot easily be eliminated by suppressing fees if no limits are placed on the autonomy of private providers in key areas, such as student selection and admissions, or if certain restrictions affecting school choice are not introduced. A single and non-systemic change in regulations can easily be bypassed by either educational providers or parents in the process of self-segregating from the most disadvantaged

groups. Regulatory reforms must clearly define what public interest in education is and fix the rules under which private providers may participate. Otherwise, the risk of reproducing education inequalities will remain high.

Likewise, despite its centrality, regulation is not the only domain of State intervention aimed at tackling inequalities linked to privatization. This is true for all education systems but manifests itself, in particular, in the countries of the Global South, where the distance between regulation, implementation and real practice tends to be broader. This paper has shown a number of examples where non-state actors or even a parallel State operate without following the norms set by the law. The absence or the weakness of supervisory systems facilitates this distance. Achieving the necessary accountability and checks and balances, requires a set of legitimate mechanisms that guarantee the State's capacity to enforce the regulation of PPPs. Frequently, the lack of technical capacity and financial resources make it difficult to hold private providers accountable, particularly in low-income countries. Educational governance becomes as important as a sound regulatory framework to avoid the negative effects of education PPPs on inequalities.

The debate relating to the pros and cons of education PPPs from an equity perspective is certainly an open one. The need of many education systems to expand access opportunities or introduce new providers in contexts in which public education faces the problems of meeting an increasing educational demand can be appealing reasons for enhancing education PPPs. However, one of the clear lessons that derives from this review is the need to introduce monitoring and compensatory mechanisms to ensure that the public interest prevails in publicly-funded private provision. The involvement of private providers in a system that guarantees equal opportunities and the public interest, needs a significant amount of State intervention in order to control the very inequality effects of privatization. Therefore, in this debate, it is important to take into account the economic and political costs, linked to education PPPs. If opening the space for private provision is a response to an objective of cheaper educational provision or a cost-reduction strategy, then the public interest will clearly be at risk. If this is not the goal, then governments should consider the transaction costs and the increased administrative burden associated with PPPs. Compensatory and monitoring measures may then carry a cost which might be even higher than direct public provision, which would question privatization policies' cost-efficiency expectations. In this regard, Languille (2017) concludes that the available evidence demonstrates that in the case of education - but also health - PPPs the administrative and management costs assumed by the States, challenge the supposed higher economic efficiency of these policies. Le Grand and Bartlett (1993) also point out that transition costs can undermine the efficiency of quasi-markets compared to bureaucratic social policy provision. In

addition, the capacity of such compensatory and monitoring strategies to reverse the inequalities generated by PPPs, ultimately remains unclear. Available evidence on the impact of the regulatory options discussed in this paper is still limited and inconclusive. Besides, the technical implications that these regulatory mechanisms entail and the limited administrative capacity in many low- and middle-income countries to enact them, call into question the real possibilities of granting equity in the context of wide-scale education PPPs. In many countries, international donors, national governments and/or educational entrepreneurs see educational PPPs as a solution to problems with existing school provision; nonetheless, there are certainly alternatives to this agenda, which consist of reforming and reinforcing the public system and improving educational planning with a view to guarantee equity and favor the quality of education.

Finally, and while these reflections are appropriate for those countries enacting and undertaking reforms of education PPPs, it is also important to bear in mind that there are risks in the current trends observed in Africa, Asia and Latin America regarding the expansion of an unregulated education market of LFPs. This expansion has been especially present in fragile States. The absence of any regulatory mechanism in some cases generates significant problems with regard to education quality. The need to introduce basic systems of regulation regarding school accreditation, teacher credentials, student-teacher ratios and other key organizational aspects is urgent if the public interest in relation to education is to be preserved.

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