

PUBLIC-PRIVATE
PARTNERSHIPS (PPPs)
AS TOOLS
FOR PRIVATISATION
IN EDUCATION



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1. Introduction

Public-Private Partnerships (PPPs) came into existence in 1992 in the United Kingdom as an accounting trick used to avoid government restrictions on public debt, a feature that remains their main attraction for governments and international institutions. As the rest of Europe and the world started to limit public debt with the application of austerity measures, PPPs took off as a component of privatisation policy and a way of balancing budgets through the concealment of debt.

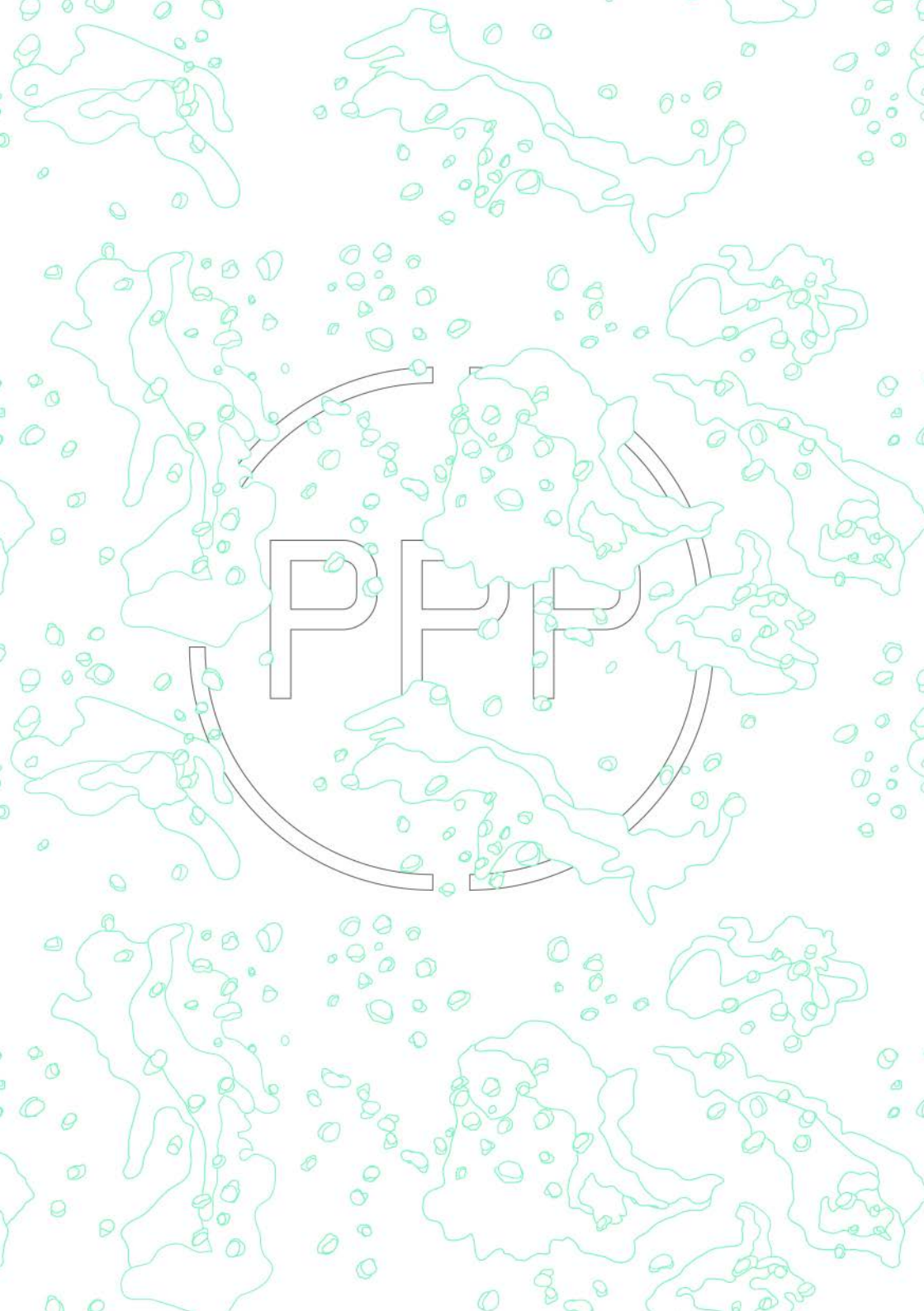
Currently, we are experiencing a boom in the PPP model, which is becoming almost the only solution used to finance and/or manage our public goods and services. The mantra we hear again and again is that “private enterprise” is more “effective” and “efficient” in the management of our productive and reproductive economy. Thus, the private sector should be invited into sectors that have traditionally been in the public domain (such as health, education, transportation, energy infrastructure, international development aid, care services and social work etc.) and facilitate its participation, to improve the way these sectors work.

This report demonstrates that PPPs work very well for investors, the private sector and the ruling political class, while frequently draining public funds and often failing to respect the environment and respond to the needs of citizens. In this regard, the recently published report by the United Nations Special Rapporteur on the right to education expresses its concern about “the persistent shortage of public education funding and the rapid and unregulated expansion of private sector entities”, threatening “the effective exercise of the right to education for all and the achievement of Sustainable Development Goal 4” (United Nations, 2019).

In the case of education in the Spanish State, private participation in the sector is a structural part of the system, which is made up of three branches: public schools, “concertada” schools (charter schools – private schools subsidised by the state) and private schools. However, PPPs in education have offered additional benefits which have distinguished them from classic privatisations and justified them as innovative, and, what is more, allowed privatisation policies to be implemented without this being made explicit (Verger, 2012). Thus, the PPP model has been used as a strategy to increase the presence of the private sector in the award of public service contracts and in the use of public funds (Verger, 2012). In general, “PPP” tends to be used as an umbrella term which encompasses any type of private participation in public education, from agreements for the provision of totally public education to agreements for the provision of almost totally private education (Education International, 2009).

The example of school canteens reveals that private participation through the PPP model does not translate into greater “efficiency” and “effectiveness”, but fails to provide a fair, social and environmentally sustainable service. The current management system of school canteens displays significant shortcomings regarding the quality of the service, high service costs, opacity in financial management, precarious working conditions for the (mainly female) staff, and a clear tendency in favour of hiring large catering companies¹. This promotes “the commercialisation of school canteens”, limits opportunities for medium and small businesses and restricts the participation of parents and families and the schools themselves in the management of school canteens.

¹ Mass catering companies are understood as companies that provide food services to groups of people that are in a specific place at the time of eating and cannot move from the place where they carry out their activity. This includes places like schools, canteens, hospitals and prisons, among others.



2.

MAIN RISKS OF PUBLIC-PRIVATE PARTNERSHIPS (PPPs)

PPPs vary by country and sector (ODG, 2018). They can range from informal and short-term collaborations to implement specific programs or projects, to more complex, formal and long-term contractual agreements in which the private sector collaborates in the supply of assets and services (Hall, 2015).

The experience of PPPs has been overwhelmingly negative and few have obtained positive results for the public interest, exposing the public to tremendous risks.



WHAT IS A PUBLIC-PRIVATE PARTNERSHIP?

The institutions which promote PPPs use very broad definitions, thus leaving room for PPPs to be used to achieve a wide variety of objectives in various sectors, such as transport, social housing and healthcare, and to be structured to adopt different approaches. The World Bank defines a PPP as an “agreement between the public sector and the private sector where some public services or tasks are provided by the private sector under an agreement of shared objectives for the provision of the service or infrastructure”. The Organisation for Economic Cooperation and Development (OECD) defines PPPs as “long-term contractual agreements between the government and a private sector partner where the latter finances and provides a public service, using a capital asset and sharing the associated risks” (OECD, 2012). The European Commission defines PPPs as “collaboration between the public and private sector for the development of public infrastructure and / or the provision of a public service, either in the design, construction, financing, operation or maintenance phases (or in a combination of these phases) where the concessionary organisation receives payments from service users or from the public administration” (European Commission, 2004).

In practice, these broad definitions have been translated into policies and laws which allow various types of PPPs, through arrangements such as concessions, joint ventures or contractual PPPs. In the water supply and sanitation sector, for example, PPPs can range from a minor private sector involvement using a service contract to comprehensive privatisation.

There are three main types of PPPs:

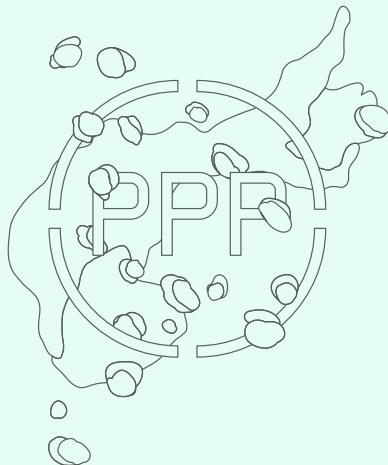
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- A** → **Concessions.** Where the private actor is authorised to charge the public for the use of the facilities, usually by paying a toll, a fee or a bill (for example, a water bill or road tolls). This can be complemented by subsidies paid by the government. The toll, fee or bill reimburses the private costs of the construction and operation of the facilities.
-
- B** → **Joint / mixed companies,** or institutional PPPs, where both the public and private sectors become shareholders of a third company.
-
- C** → **Contractual PPPs,** where the relationship between the parties is governed by a contract. In the EU, the most common form of PPP is the “turnkey” contract for design, construction, financing, maintenance and operation. Here the private sector partner is entrusted with all phases of the project, from design to construction, operation and maintenance of the infrastructure, including fundraising (European Court of Auditors, 2018). In the Spanish State, two different models have been identified which fall under this category: one is the PFI (Private Finance Initiative) model and another is the PPP (Public Private Partnership) model, which are summarised in the section below.

The private party receives a return on its investment in two main ways. One is a “**user pays**” scheme, for example through tolls on the highway or through a fixed payment on the supply bill. The other is the “**Government pays**” formula. This means that payment to the private sector comes through regular payments from the public partner based on the level of service provided. Payments may depend on whether the good or service is provided according to the quality defined in the contract or on how many users the services are provided to, such as a ‘hidden toll road’ which is free for users although the government pays a fee per driver to the operator (ODG, 2018).

Taking into account the main characteristics that projects managed by PPPs have shown in practice, we can give the following definition:

DEFINITION OF PUBLIC-PRIVATE PARTNERSHIPS

PPPs are medium or long-term contracts between the public and private sectors. Backed by public guarantees, the private sector builds and / or manages goods or services traditionally provided by public institutions (whether national, regional or local), such as hospitals, schools, roads, railways, water, sanitation and energy infrastructure, amongst others. In this way, the project risk is shared between the public and the private sector or rests entirely with the public sector. The contract can cover the design, construction, financing, operation or maintenance phases, or all of them. The private actor receives payments from users or from the public administration.



THE MAIN RISKS OF PPPs

There is already a large body of literature demonstrating the risks that the PPP model may entail². In summary, we identify four main risks:

1 → PPPs ARE MORE EXPENSIVE

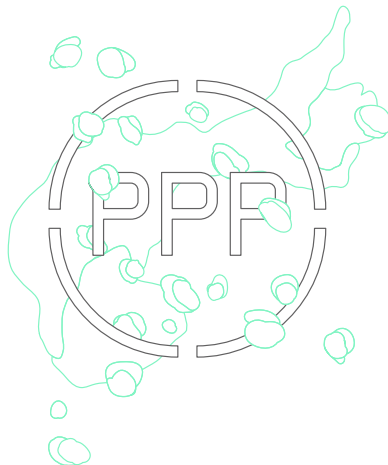
PPPs are, in most cases, the most expensive method of financing a project. They cost governments – and therefore citizens – significantly more in the long term than if the projects had been directly financed through public debt. This is due, amongst other reasons, to the higher interest rate for private financing operations compared to government loans, to the fact that private sector companies expect to obtain a profit from their investment increasing the overall cost of the investment, or to the increase in the final cost of a project due to renegotiation costs. The privileged position of the private sector company, the lack of experience of the public entity in these negotiations and the lack of transparency means that renegotiation generally significantly increases the cost of the project (ODG, 2017b). However, PPPs may be politically profitable for the ruling political class, since they offer the possibility of doing “great things” in a short period of time (the 4 years until the next election). Short-term policies are often beneficial in the electoral realm, but not in the long term for public coffers.

2 → PPPs MOVE RISKS TO THE PUBLIC DOMAIN

In principle, in a PPP project, risks should be assigned to the party that is best able to manage them, in order to achieve the optimal balance between the displacement of risk and the compensation of the party that assumes it (European Court of Auditors, 2018). The private sector partner is often responsible for the risks associated with the design, construction, financing, operation and maintenance of the infrastructure, while the public sector partner generally assumes regulatory and political risks. However, experience has shown that when these risks are assumed by the public entity they often result in **contingent liabilities**. These are hidden costs, payments that governments may have to make for assuming risks if a future uncertain event occurs which is outside the control of the government, such as if the demand falls below a specific level (demand risk).

² See for example: ODG (2017b), International Manifesto (2017), European Court of Auditors (2018), EURODAD (2018), ODG (2018), EURODAD (2019).

Current PPP accounting practices allow governments to keep the project out of their accounts, since it is the private sector and not the government that holds the loan that finances the project. This can be called “creative accounting”, where the real cost of a project is hidden “off the balance sheet” and therefore not transparent or auditable. Therefore, there is a complete lack of information on public guarantees in PPP projects. Currently, it is not possible to calculate exactly how much public debt could be created through the PPP model if the public sector has to save a private investment, converting private debt into public debt. These practices expose public finances to excessive risks, and many of these “bailouts” can be described as illegitimate debts.



WHAT IS AN ILLEGITIMATE DEBT?

In international law, a debt is illegitimate if:

- It comes from loans that, because of how they were granted or managed or what they financed, directly or indirectly threaten the dignity of the life of citizens and endanger peaceful coexistence among peoples.
- It is debt that derives from financial agreements that (either in the contracting or renegotiation phases, or in what they establish, in what they finance or in the impacts they cause) violate human rights or the principles of international law recognized by the nations of the world which govern relations between states and between peoples.
- External debt can also be considered illegitimate in its entirety, as a mechanism of domination and impoverishment which perpetuates unfair and unequal South-North relations and responds fundamentally to the interests of creditors: in particular, the economic elites (in the Global North and South).
- A debt whose funds are used to acquire means and weapons for the repression of the population or for other questionable purposes, such as buying warships, submarines, fighter jets and combat helicopters.
- Debts incurred behind the backs of citizens, in contravention of their rights, or which contribute to deteriorating or destroying the environment.
- Bank bailouts are also included, because they do not fulfil the aims for which they were conceived but instead enable the private financial sector to get rid of toxic assets, to pay part of its debts and to restructure obtaining large profits.

An illegitimate debt is therefore a debt that the borrower cannot be forced to pay.

"Illegitimate debt" is not a technical or legal notion, but a political concept that evolves depending on the territorial context. That is, it must be the citizens themselves who democratically define what illegitimate debt is at a certain historical moment³.

The definition of a debt as illegitimate is independent of the political organization of the State that contracts it, be it a dictatorship or a government constitutionally elected at the polls. The non-payment of such a debt is not due to legal issues, but to the unjust and morally illegitimate nature of a debt that generates great inequalities and goes against the common good.

3 For example, definition of the Public Debt Audit Platform (PACD), citizen platform of the Spanish State that emerged from the 15M movement in 2011: <https://auditoriadadana.net/2013/04/11/lo-que-quiere-decir-la-pacd-when-talks-about-citizen-audit-of-debt-and-illegitimate-castcat/>

3

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**PPPs THREATEN DEMOCRACY THROUGH
LACK OF TRANSPARENCY AND CORRUPTION**

PPPs often suffer from a lack of transparency and limited public scrutiny, which in many cases leads to poor decision-making due to reduced supervision and increased opportunities for corrupt behaviour (ODG, 2017b). The lack of transparency is a consequence of poor fiscal transparency and opaque decision-making processes. Many countries do not publicly disclose the full details of the guarantees and contingent liabilities associated with PPPs, or the conditions which generated them or their contracts, which are of vital importance for public scrutiny. This makes fiscal policy decisions less informed and encourages governments to move forward with projects even when they can create fiscal problems in the future.

In addition, PPP contracts often undermine the right and obligation of the State to regulate in the public interest. PPPs can limit the ability of governments to enact new policies - for example, reinforced environmental or social regulations - if they affect specific projects. It could be said that PPPs mortgage the future, reducing opportunities for future governments to implement progressive policies.

4 → PPPs CAUSE SOCIAL, ENVIRONMENTAL AND GENDER IMPACTS

PPPs can result in social, environmental and human rights abuses. In many cases, the private sector selects a small number of the most profitable projects and convinces governments to give priority to investment in these projects, not taking into account the distortion this causes in the provision of public services or its impacts on human rights and the environment. The final service does not matter, economic profitability matters: the “business of building.” In the case of infrastructure, this has created a tendency to finance mega-projects according to the Big-Big-Big paradigm: big projects, big investments, big corporations (XSE, 2018). A paradigmatic example in the Spanish State is the failed Castor project, which is currently pending resolution, and has generated a strong social resistance⁴.

The construction of large projects under the PPP model – such as dams, power grids, oil rigs, gas pipelines, mines, ports, railroads and highways – produces violations of fundamental human rights. Large infrastructure projects or corridors (such as the Belt and Road Initiative in China) are destroying territories and ecosystems, and displacing entire communities, especially in the Global South, where they also face violence and repression by corporations.

The PPP mega-project model has a devastating climate impact, which endangers future communities and generations which will be affected by climate change, especially in the Global South. Mega-projects designed worldwide are based primarily on high carbon transport (airports, highways) and energy infrastructure (including fossil fuels).

⁴ The Castor Case is a citizen action in the form of a criminal complaint, promoted by the ODG, Xnet and the IDHC. Its objective is to identify those responsible and end the fraud and impunity generated around the Castor project; a gas storage facility that has not operated for a single day, executed by EscalUGS of ACS, with the complicity of the PP and the PSOE. The cost of the controversial compensation to the company was initially charged to gas consumers, and has now slowed down but is pending final resolution: <https://casocastor.net/>

The PPP model exacerbates gender inequality. First, the search for profits by the private sector restricts access to services for the most vulnerable people, often women, migrant women etc. For example, a change in public transport prices especially affects women, as they are the main users, either going to work or to perform care work. In addition, the more governments pay private companies, the less they can spend on essential social services with a gender perspective, such as universal social protection, vital to the realisation of women's rights. Finally, the objective of the private investor to obtain profits limits the provision of decent work for women in PPP projects. For example, there is a growing tendency to use international agencies to outsource workers with flexible contracts (Graham, 2010). Outsourcing erodes working conditions, especially with regard to the prevention of occupational hazards.



3. PUBLIC-PRIVATE GOVERNANCE IN EDUCATION

The private sector was already participating in education prior to the appearance of the term “PPP”. However, in recent decades the application of this financing and management model was used as a strategy to give more and more space to the private sector in the award of public service contracts and in the use of public funds (Verger, 2012).

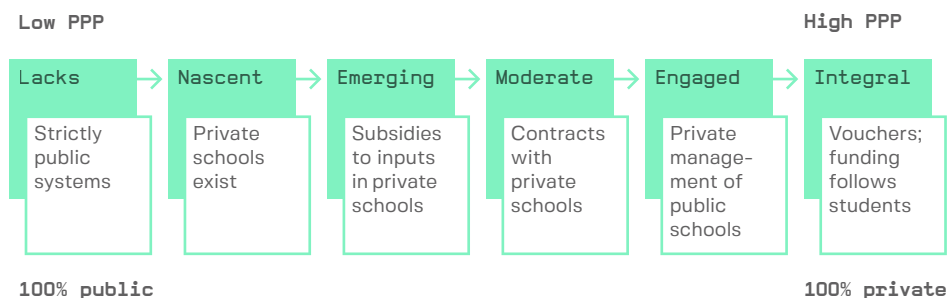


The expansion of PPPs in education began in the 1990s. The diffuse and broad notion of Partnership offered an additional benefit, distinguishing PPPs from classic privatisation and justifying them as innovative, and, what is more, allowing privatisation policies to be implemented without this being made explicit (Verger, 2012). Therefore, PPPs were nothing more than the conceptual vehicle used to rebrand and promote the old privatisation agenda in the educational field (Moschetti, 2018). In general, “PPP” tends to be used as an umbrella term which encompasses any type of private participation in public education, from agreements for the provision of totally public education to agreements for the provision of almost totally private education (Education International, 2009).

PPPs in education take diverse forms and include private management of public facilities, production of materials, subcontracting of places for disadvantaged children, private management of public facilities and educational financing formulas that follow demand to encourage a free choice of school, regardless of whether this is public or private. However, their management does not differ from traditional privatisation formulas and is definitely “public spending on private services” (Verger and Bonal, 2012).

According to the World Bank, there are varying levels of commitment between the public and private sectors in the constitution of a PPP in education (See figure 1). This begins at an incipient point of low commitment, where private and public schools operate independently, and then the commitment evolves to an integrated level, in which the private sector provides education in its entirety under a voucher scheme.

Figure 1
PPP models in education



Taken from Patrinos, Barrera Osorio, & Guáqueta (World Bank Publications, 2009).

However, this classification does not account for the significant differences which exist between individual PPP programmes. That is to say, there is a wide range of policy options and various models that can be implemented under the PPP umbrella. For example, voucher schemes may differ significantly depending on whether they are specific or universal, or if they provide partial or complete financing. Charter⁵ schools can also be very diverse depending on the degree of autonomy, innovation or competence allowed according to various laws. PPPs can also take the form of state subsidies to private schools or private management of public schools, among others. From this we can conclude that the political and regulatory frameworks of PPPs cover a wide variety of modalities and involve ambiguities that depend on various political and social variables and of which there has been little research which proves the effectiveness of these interventions in improving educational systems (Verger, 2019).

⁵ Relatively autonomous schools that are financed with public funds, but are generally managed by the private sector and are exempt from following certain public regulations (Verger, Moschetti, Fontdevila, 2019).

3.1 ORIGIN AND DEVELOPMENT OF PPPS IN EDUCATION IN THE SPANISH STATE

In the Spanish State, private participation in the sector is a structural part of the education system, which is made up of three branches: public schools, charter schools (schools sponsored by a public voucher system) and private schools. Charter, or “concertada”, schools are private schools (private services) that receive and are managed with public money (subsidised) and operate according to requirements established by law. These stipulate that the admission of students should operate as for public schools, that the teaching should be totally free and that the educational administration must give prior authorisation for the school to be opened and define how much funding it will receive.

In fact, subsidy schemes had been implemented prior to the development of the PPP concept and most of these programmes are treated in the literature as unique arrangements, rather than examples of PPPs. Moreover, there have not been enough studies on the effectiveness of the implementation of PPPs in educational systems in terms of expanding access, improving quality and equity or promoting educational innovation. In fact, the academic evidence which does exist suggests conflicting results in these and other dimensions (Verger, Moschetti, Fontdevila, 2019).

Along with other public services, the participation of the private sector in the education system of the Spanish State has its origin in the 19th century. Its justification came from the inability of the State to guarantee access to education due to the high illiteracy rates of a time characterised by civil wars and a stunted economy and social system (Díez, 2017b). The first attempts of the State to regulate the education system in the Spanish State date back to the Moyano Law of 1857, which established compulsory and free primary education from 6 to 12 years. The task was delegated to municipalities which, lacking both the will and the resources, ended up creating a public education network which was unstructured, insufficient and incapable of providing universal schooling. Given the state’s inability to meet the schooling needs of the population and reduce the high illiteracy rate, the law itself stimulated private sector participation (Díez, 2017b). This task fell mainly to the Catholic Church, which saw in the control of education an opportunity to prevent and amortise the progressive de-Christianisation of society and to maintain its political, social and cultural control. The neglect of the State and the sparse public policies in the education system were the perfect opportunity for the church to gain an educational monopoly, mainly in the privileged classes of society (Díez, 2017b). After the civil war, during the Franco regime, the

church established an explicit alliance with the government, which allowed it to obtain an almost complete monopoly in education whilst investment in public schools remained minimal.

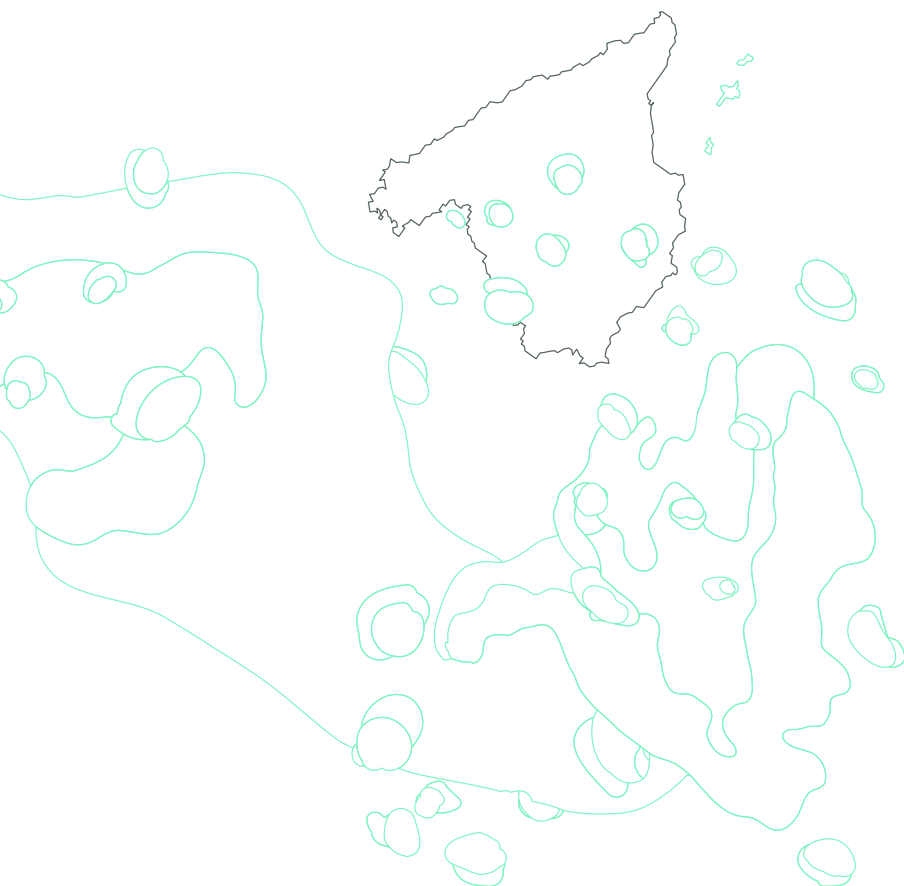
In 1970 the General Education Law (LGE after the Spanish acronym), in its article 3.1, reverted to considering “education as a fundamental public service”, and regulated and structured the education system, allowing private schools to offer free school places and obtain certain financial support from the State in return (Villarroya, 2000). The Spanish Constitution of 1978 dictated the two fundamental principles that govern the current educational system: that of freedom of education and that of universal education. Regarding the first, it recognises the right of private initiatives to create educational centres, as well as the right of parents to choose an educational centre. Derived from the principle of universal education comes the obligation of the State to guarantee access to free education. Consequently, the Constitution again ratifies the support of private schools by public authorities. However, there is no regulatory scheme for these subsidies.

Subsequently, in 1985 the Organic Law Regulating the Right to Education (LODE after the Spanish acronym) was enacted, which established the current model of public aid for private education. One of its main objectives was to streamline the use of public resources in education and balance the coexistence of the right to education and the freedom to choose a school. “Compatibility” in the double (public/private) educational system is regulated, where charter schools are the mechanism for public intervention in the private education sector. This law entails an attempt to regulate and homogenise the education system, regulating the financing of charter schools through an economic module that is determined annually in the General State Budget (PGE after the Spanish acronym), taking into account the schools’ staffing and operation costs (Villarroya, 2000).

It is important to note that the charter schools were established on a provisional and temporary basis due to the lack of a sufficiently broad public school network to guarantee access to education in the face of an increase in demand for school places due to demographic growth and the mandatory expansion of education until the age of 16 as established by the Organic Law of General Management of the Education System (LOGSE after the Spanish acronym) in 1990.

Later, the 2006 Organic Education Law (LOE after the Spanish acronym) established equal levels of schooling between public and private schools. This law placed both types of school on an equal footing, even in terms of receiving material and human resources (Rodríguez, 2018). Finally, the Organic Law for the Improvement of Educational Quality (LOMCE after

the Spanish acronym) was implemented in 2013 amid strong criticism and disagreement from various educational sectors and the general population. It is the ultimate expression of the liberalisation of the education system and the promotion of private initiative in accordance with the neoliberal policies of the capitalist business system. This law allows educational centres to be created and chosen according to social demand, that is, it delegates the State's obligation to guarantee sufficient school places to the private sector by increasing public investment in private schools and decreasing investment in the public network. Additionally, the charter schools' funding review periods were extended from 4 to 6 years and segregation by sex was allowed (Díez, 2013).



3.2. THE CONSEQUENCES: INDIRECT SELECTION OF PUPILS, DISCRIMINATION AND INEQUALITY

The legislative changes have promoted an expansion of the private network, under the banner of charter schools, which is considered as a double public school network (Diez, 2017b). This double school network has become an force for inequality due to the selection of students by socio-economic level (as fees are charged to families), by origins or by religion: an exclusive ideology that has led to increased spending from public funds.

The Ministry of Education and Vocational Training publishes the following information in its 2018-2019 school report (2018a): the total number of students in general non-university education for the 2017-2018 academic year was 8,158,605, of which 67.5 % attended public schools, 6.9% attended private schools and 25.7% attended charter schools - private schools with publicly subsidised places of which 60% belong to the Church. These results contrast with European statistics, where the average is 81% attending public schools, 13% attending charter schools (which operate differently in each country) and 6% attending private schools. This allows us to identify that the Spanish State falls short of the European average in the number of public schools and exceeds the European average in charter and private schools (Sánchez, 2017).

Private participation in education raises serious concerns about negative effects on the right to education, especially in relation to the availability and accessibility of free education, equal educational opportunities and the quality of education. For example, public schools enroll 79.5% of immigrant students despite schooling 67.5% of Spanish students, whereas charter schools enroll 14.8% of immigrant students compared to 25.7% of Spanish students (2018a).

Similarly, charter schools tend to intensify social inequalities, since they establish conditions or requirements that prevent access for some children, for example, by imposing the famous “voluntary” fees that select families that can afford to pay and excludes those that cannot (Sánchez and Ordaz, 2019). These rates can be referred to as “extracurricular activities” or “additional services”, but these names hide selectivity and exclusion.

Another factor to criticise is educational segregation⁶, which is an indicator of educational inequity. In Catalonia in particular, charter schools enroll half the number of foreign students that would be expected given their size and location. 63.8% of public schools, almost two thirds, have more than twice as many foreign students as their nearest charter school. School segregation in this case refers to how far removed the school is from the social milieu which surrounds it. For example, in the district of Nou Barris there are two schools, 200m apart, with 48% and 1.2% immigrant students respectively: the first public and the second a charter school. In the district of Sants-Montjuïc the same trend is repeated, with neighbouring public and charter schools with 30% and 1.32% immigrant students respectively (Oliveres, Rodríguez and Puente, 2019).

On the other hand, there are doubts about coverage and equity in the operation of charter schools. Charter schools are mainly present in large municipalities, which concentrate the majority of the school-age population: that is, where there are the greatest opportunities to profit and the lowest average costs per student, due the proximity of the students to the schools, the reduced cultural diversity requiring less curricular diversification and the greater capacity of families to assume additional expenses. On the other hand, the public network needs to extend any area, including rural areas, where the student ratio is significantly lower and where charter schools do not exist. These classrooms may be less crowded and more expensive for the public treasury, but they are equally necessary and the expansion of educational coverage, mainly for vulnerable families, should be a main educational objective.

We must also mention the separation of schools into categories. The State encourages competition through published school rankings, which order them by the results of examinations such as PISA exams, where charter schools are shown as having better results and methodologies than the underfunded public schools. Therefore, selectivity and discrimination of students is generated in terms of which students are able to enter the schools with the highest rankings.

6 This term refers to the unequal distribution of students in educational centres according to their personal or social characteristics, for example, the country of birth, belonging to an ethnic-cultural group, or the socio-economic or cultural status of their family (Murillo, Belavi, Pinilla, 2018).

PUBLIC EXPENDITURE ON EDUCATION

Regarding financing, public spending⁷ on education in 2017 for all Public Administrations and Universities was 49,508.5 million euros, an increase of 3.9% over the previous year. However, despite this increase it is lower than the expenditure allocated for education in 2010 (the year in which the education budget cuts after the 2008 crisis began) of 53,099.3 million euros - a reduction of -7.25%. Simultaneously, public spending on education relative to GDP in 2017 stands at 4.24% (4.25% in 2016). (Ministry of Education and Vocational Training, 2018a). Moreover, the percentage growth is lower and far below the average of the countries of the Organization for Economic Cooperation and Development (OECD) of 5.1% (El Diario.es, 2019).

Public spending in education⁽¹⁾

Year	Included financial sections ² (millions of €)	Excluded financial sections ² (millions of €)
2008	51.716,0	51.122,9
2009	53.895,0	53.374,9
2010	53.099,3	52.557,7
2011	50.631,1	50.343,9
2012	46.476,4	46.215,9
2013	44.958,5	44.475,4
2014	44.789,3	44.461,7
2015	46.597,8	46.262,4
2016 ³	47.579,0	47.189,7
2017 ⁴	49.508,5	48.999,4
2018 ⁴	51.275,9	50.644,3

(1) Refers to total spending on education (liquidated budgets) of public administrations, including universities. Source: Statistics of Public Spending on Education. General Secretariat of Statistics and Studies/General Technical Secretariat/Ministry of Education and Vocational Training.

(2) Financial sections 3 (current operating costs), 8 and 9 (financial assets and liabilities from capital operations).

(3) Provisional values.

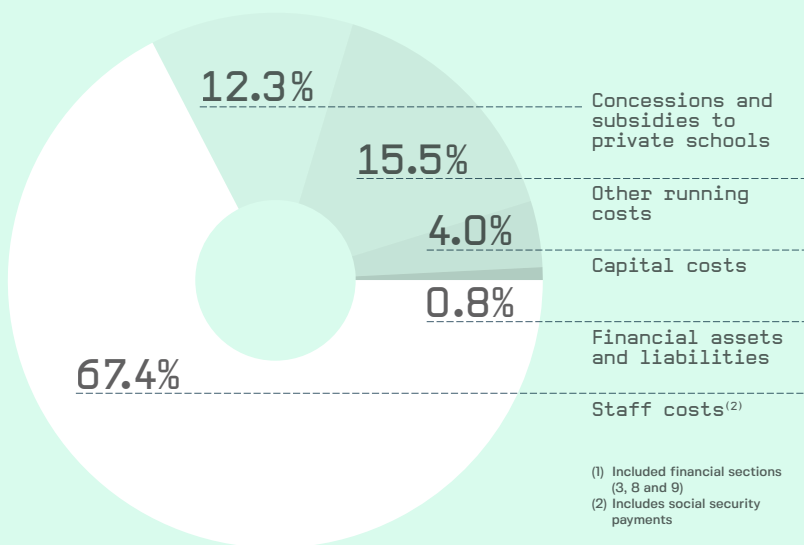
(4) Estimated values based on available liquidated budgets (2017) and initial budgets (2018).

Source: Ministry of Education and Vocational Training, 2018

⁷ Public expenditure on education. For the purposes of these statistics, public expenditure is the expenditure destined to education by the Administrations and Public Universities, regardless of whether it is destined to public or private schools. It has been considered, therefore, that it is the nature of the funder and not that of the recipient, which determines the public or private nature of education spending (Ministry of Education and Vocational Training, 2019)

It should be added that the amount given to charter schools and private schools in 2017 amounted to 6,179.4 million euros, representing 12.5% of expenditure and an increase of 2.0% over 2016 (6,056.3 million euros) (Ministry of Education and Vocational Training, 2017).

✓ **Distribution of public spending on education⁽¹⁾ by category (2016)**



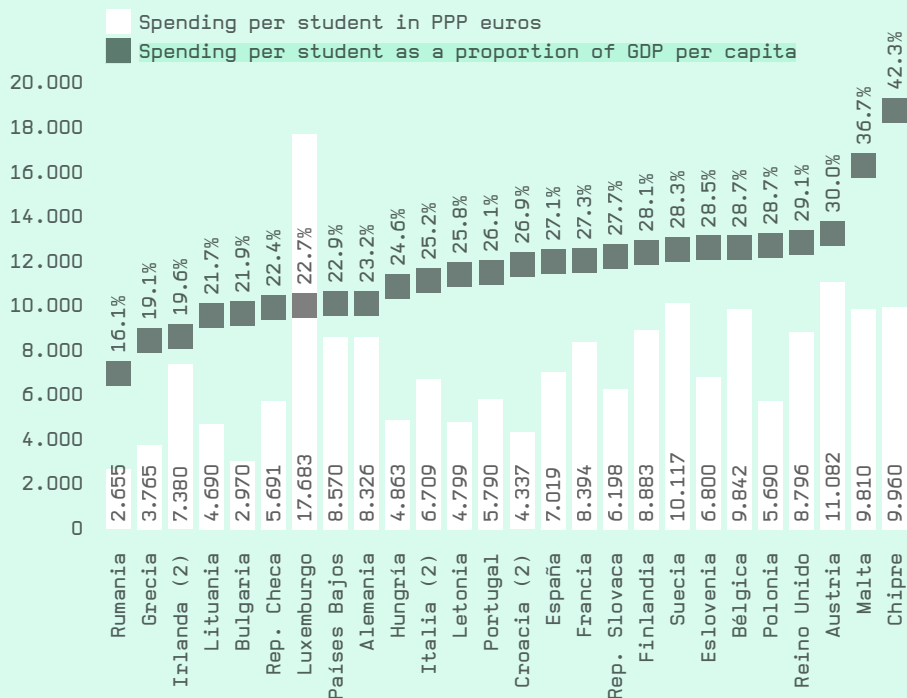
✓ Source: Ministry of Education and Vocational Training, 2018a.

The following graph shows a comparison of public spending on education per student in the countries of the European Union as a percentage of GDP per capita. The country with the highest expenditure per student in EUR PPP (euros, purchasing power parity adjusted)⁸ is Luxembourg with 17,683 EUR PPP and with the lowest is Romania with 2,665 EUR PPP. The Spanish State allocated 7,019 EUR PPP per student in 2015, below of the average of the countries of the European Union (10,169 EUR PPP and 29.2% GDP per capita). (Ministry of Education and Vocational Training, 2018).

⁸ Purchasing power parity (PPP) is an economic indicator used to compare the standard of living between different countries, taking into account the gross domestic product per capita in terms of the cost of living in each country.



Gasto por alumno en instituciones educativas públicas⁽¹⁾ y como porcentaje del PIB per cápita. Países de la Unión Europea. Año 2015



Note: Full information is not available for countries that do not appear in the chart.

(1) Considering the set of all educational levels, except for early childhood educational development (first cycle of infant education).

(2) Data for the year 2014.

Finally, there is a complex debate about public spending on a public school student versus a charter school student. Officially no figures have been published showing the expenditure on students in charter schools, but the sector itself and its supporters state that the cost per student of a charter school is lower than in a public school. However, this argument invites criticism since financial contributions made by parents represent approximately 40% of the budgets of subsidised schools (Verger, Moschetti, Fontdevila, 2019). While tuition fees at private government-assisted schools are illegal, these schools have developed a variety of strategies to charge parents under other pretexts, including "voluntary" donations and "optional" extracurricular activities that are informally presented to families as mandatory (Villarroya, 2000).



4. CASE STUDY: PRIVATE MANAGEMENT OF SCHOOL CANTEENS

Private participation in education systems is increasingly present and increasingly significant, due to neoliberal reforms aimed at liberalising markets and reducing costs. Large business and transnational groups are now offering these services. Management activities that do not directly affect academic content or the quality of the education system, but other areas or niches of the market such as information management, transportation or school canteens are moving over to large, often politically well-connected, private companies.



School canteens are considered by the public administration as a complementary service offered within the compulsory education system, but beyond this, school meals are part of the right to education, as they promote the present and future health and well-being of the school population.⁹

The current management of school canteens demonstrates significant deficiencies regarding the quality of the service, high service costs, opacity in financial management and a clear tendency in favour of hiring large catering companies¹⁰. This promotes “the commercialisation of school canteens”, limits opportunities for medium and small businesses and restricts the participation of parents and families and the schools themselves in the management of the canteens.

Indeed, the current system of privatised school canteens is managed by catering companies, which apply business logic such as mass production at minimum cost, which implies highly processed foods and central kitchens far away from schools cooking non-local food, which generates serious social, environmental and economic impacts.

⁹ As the World Health Organization (WHO) argues, a school is a space for the acquisition of theoretical and practical knowledge about health, nutrition and the construction of basic eating habits for healthy eating and the prevention of obesity (Ballesteros and Villar, 2010). Likewise, it is a tool for the holistic education of the child, by generating spaces for interacting with others and strengthening environmental awareness, social and cultural responsibility and an awareness of the origin and management of the food in their local area.

¹⁰ Mass catering companies are understood as companies that provide food services to groups of people that are in a specific place at the time of eating and cannot move from the place where they carry out their activity. This includes places like schools, canteens, hospitals and prisons, among others.

REGULATIONS

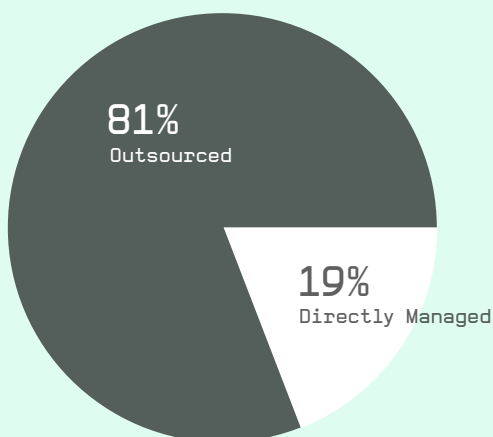
The legal framework that regulates the school canteen service in public schools in the Spanish State is the MEC Order of October 24, 1992 and Royal Decrees 82/1996 and 83/1996. These establish four management models: first, the concession of the service to a company in the sector; second, contracting a daily supply of meals; third, direct management by the school and the fourth and final, the coordination of the service with municipalities or with other entities such as parent-teacher associations (Soler and Duch, 2014).

However, the competency to regulate school canteens rests with the Autonomous Communities. Therefore, according to the general regulatory frameworks, each Autonomous Community has developed its own regulations and guidelines which define the characteristics of the service, management models, organisation and operation. Despite the fact that the direct management model exists, the laws adopted by the different Autonomous Communities tend to give priority to outsourcing to external companies. A global food justice study (VSF, 2013a) reveals that 81% of schools had indirectly managed (outsourced) canteens compared to 19% that maintained direct management (school management).



Figure 2

School canteens, direct and outsourced management.



Source: Created by the authors based data from VSF (2013b).

IMPACTS OF A SCHOOL CANTEEN SYSTEM MANAGED BY CATERING COMPANIES

→ IMPACTS ON SERVICE QUALITY

In relation to the nutritional quality of school menus, the Spanish State has the most overweight children in Europe: 44% of children (VSF, 2013b). The outsourcing model has clear repercussions on the food served in school canteens. Thus, a study by Muñoz et al. (2018) concludes that a significant proportion of the menus analysed did not follow the recommendations contained in the Consensus Document for food in educational facilities, denouncing the low proportion of vegetables (despite the recommendations to make vegetables a fundamental element of menus), excess animal protein and abuse of fried foods. This means that the diets of children are restricted to mass-produced food, with no guarantees of origin or quality, cooked in distant kitchens, with no consideration of local cultural traditions of the area and increased transportation costs and pollution, and with nutritional quality compromised in favour of profits and larger-scale business considerations.

→ IMPACTS ON DEMOCRACY AND PARTICIPATION

The main factor that undermines democracy and community participation is the clear regulatory tendency towards the privatisation of canteen services, which limits direct management by schools and the adoption of ecological and community initiatives, as well as limiting the participation of parent-teacher associations and families in the preparation, control and regulation of menus and food. Thus, in Madrid, for example, a mother denounces that “families have a voice but no vote to influence the companies that provide the catering service in schools, but even so we pay and our children eat, there is no obligation [to provide information] beyond indicating the menu, there is no information on the origin of the food, nor the cooking methods, transport nor quality of the food”¹¹.

It should also be mentioned that the regulations facilitate the formation of oligopolies, due to the high concentration of the market in a few companies, which can then set prices and control the market for their own benefit. This is the Spanish case, where four large companies control 58% of the school canteen market: Serunion with 30% of the market, part of the Elinor Group controlled by French capital; Compass Group with 17% of the sector,

11 <https://www.20minutos.es/noticia/3570294/0/cambio-modelo-compra-publica-alimentos/>

based in the United Kingdom and the group with the highest turnover in mass catering in Europe; Aramark with 13%, funded with US capital; and Ausolan with 10%, of Spanish origin. After them, there is the Mediterranean and Sodexo group, each with a 3% stake and finally others such as **Clece of the ACS group** and IAS Foodservice, for which no information about their market share is known (Muñoz NA et al., 2018).

We can also consider the case of the **cartel of catering companies** in the Basque country, where seven companies that have provided school canteens for at least 12 years fix prices for school lunches¹². This fact is especially serious given that it originated from public procurement under current regulations and also had a direct impact on family budgets and public funds. In the end, the companies were fined 18 million euros.

This also generates vulnerability for small and medium enterprises or companies of the Social and Solidarity Economy since they cannot participate in public tenders, which involve very large food volumes or other requirements that can only be assumed by large companies with a high debt capacity: a form of discrimination and tactical exclusion. Considering this, the VSF report on global food justice (2013b) denounces that “the regulations established by these decrees benefit large companies, which can adjust prices by buying cheap raw materials, but they are a great impediment for small entities that are committed to healthy eating”.¹³

12 <https://justiciaalimentaria.org/actualidad/siete-empresas-de-catering-cometen-fraude-en-los-comedores-escolares-ha-llegado-el>

13 <https://justiciaalimentaria.org/el-catering-acaba-con-las-cocinas>

→ **LACK OF TRANSPARENCY**

In addition, contracts are very complex and the negotiations are hidden by the principle of commercial confidentiality, a fact that hinders scrutiny by civil society and even governments. This lack of transparency leads to the avoidance of accountability by the private sector, thus increasing the risk of corruption (ODG, 2018b). In fact, the USTEC-STEs education trade union denounces mismanagement by the county councils and even their collusion with catering companies. The union denounces that the councils have purposely delayed grants for school lunches, so that the parent-teacher associations cede the provision of the canteen service to catering companies that can use their borrowing capacity and financial muscle to offer the service despite the delays¹⁴.

→ **FINANCING AND OPACITY**

Another key factor is the participation of venture capital funds in the catering business, which carry out most purchases. Catering companies resort to financialisation as these firms look for new opportunities to purchase or absorb companies or to make significant investments. An example of this is the Mediterranean Catering company that, in order to continue with its growth strategy or “to give continuity to the company” in the words of its CEO, has given its shares to Private Equity Investments Ibersuizas (Soler, Duch, 2014). Investors are attracted by the profits that privatised education services offer. For example, the Sindicat de l'Ensenyament de Catalunya [Teaching Union of Catalonia] (USTEC) of the Girona region has estimated the economic profits that a catering company can obtain through the management of a school canteen. These calculations are made with data from public school canteens managed by Serhs. Firstly, the cost of the raw material for each meal is 97 cents, given that these distribution companies buy in bulk and without local or ecological criteria; secondly, the canteen monitor service costs 48 cents, due to low salaries and high numbers of students per monitor (40 students per monitor); and thirdly, the kitchen staff are paid 50 cents. In total, a school meal costs about 2 euros. So, if the family pays 5.50 euros for each meal, the profit is 3.5 euros per meal. However, if they pay 6.20 euros, which is the maximum price set by the Generalitat (the Catalan Government) and which has been frozen since the 2009/2010 academic year, the final profit on food rises to 4.20 euros per meal¹⁵.

14 <https://sindicat.net/2016/marc/menjadors/index.php>

15 <https://www.elcritic.cat/investigacio/menjadors-escolars-camp-de-batalla-per-a-les-grans-empreses-de-catering-10302>

The service of the school canteens is considered as an external and private market in relation to education, which prevents transparency over finance and investment costs, and hinders the supervision of the service by civil society. The Ministry does not monitor the quality of the service provision and its publications show general figures of the contribution that the regional government gives for operating expenses, but do not include the additional amount paid by parents for the service. Even so, Restauración Colectiva [Mass Catering], the industry website of the catering sector, publishes the, for now, most reliable information regarding the sector. This information indicates that the catering sector provided 256 million meals in schools for the year 2013, which would represent 26.2% of the total meals served by the sector with a turnover of 634 million in 2015. It must be noted that this figure does not include the direct management of canteens carried out by several schools (Muñoz NA et al., 2018).



SOCIAL IMPACTS AND THE VIOLATION OF ECONOMIC, SOCIAL, CULTURAL AND ENVIRONMENTAL RIGHTS (ESCRS)

The catering management model applied to school canteens directly violates children's rights to education and nutrition, since it relegates the service of the canteen to a complementary activity, understood only as the delivery of a good with no supplementary benefits of education on nutritional issues and healthy habits.

Additionally, the management of the canteens conceived as a business seeks maximum profits for private companies. This profit is greater the less is spent on raw materials and staff, and so these investments are reduced, resulting in inferior quality food purchased from international distributors and increasing the precariousness of working conditions with reduced wages, staff cuts, and increased the number of students per monitor¹⁶.

Therefore, the model is harmful to children, the economy, culture and the environment, violating the fundamental ESCRs. To begin with, environmental violations are generated by buying from large international distributors instead of buying from local producers, because fresh, seasonal, local products are not consumed; distant and large-scale cooking processes are carried out, with polluting emissions and waste generated in the transport of food to the kitchens and meals to the schools, not to mention the possible nutritional deterioration of the meals in transit. As well, local businesses and employment are not supported, and the economic rights of local producers are violated as their markets are devoured, which could damage or end local industry.

The model violates social rights in many ways, starting with the pupils whose rights to education and adequate, sustainable food are affected and also through the principles of equality and non-discrimination. For example, students with special educational needs are excluded from the system, since their diet and supervision requires special attention, an additional investment that is not contemplated within the commercial school canteen model¹⁷.

16 https://www.elconfidencial.com/alma-corazon-vida/educacion/2016-10-30/el-ca-tering-conquista-las-escuelas_1282448/

17 <https://www.fapac.cat/2017/06/08/fapac-impulsar-la-gratu-tat-del-menjador-escolar>

Finally, another special concern for unions, teachers and families is that the majority of children who apply for help with the cost of school meals do not obtain it, as the system does not provide sufficient vouchers and they only cover 50% of the cost of the meal. The FAPAC (a federation of parent-teach associations), warns that around 75% of families in Catalonia that need this support are denied it. The USTEC echoes this concern, contrasting the 300,000 children on the poverty line as counted by the Catalan Ombudsman with the less than 69,000 school meal support grants approved by the Department of Education throughout Catalonia¹⁸. It is clear supply does not meet demand. This is an example of an exclusive and discriminatory system.

¹⁸ <https://www.elcritic.cat/investigacio/menjadors-escolars-camp-de-batalla-per-a-les-gs-empreses-de-catering-10302>

5. Conclusions and recommendations

The privatisation of education in the Spanish State has been accompanied by the promotion of the public-private solution. The current situation is no exception. We experience an acceleration of the privatisation of services traditionally offered by the public sector (health, education, transport, infrastructure, etc.) through the PPP model in the Spanish State, and similar processes are happening around the globe. In this regard, the recently published report by the Special Rapporteur on the right to education of the United Nations expresses its concern about “the persistent shortage of public education funding and the rapid and unregulated expansion of private sector entities”, threatening “the effective exercise of the right to education for all and the achievement of Sustainable Development Goal 4” (United Nations, 2019).

In the case of education, private participation in the sector is not new, but has its origins in the 19th century. However, since the 1980s we have experienced an exponential growth of the PPP model. The use of PPPs in education offered the additional benefit of being distinct from classic privatisation and justified as innovative, which allowed privatisation policies to be implemented without this being made explicit (Verger, 2012). Thus, the PPP model was used as a strategy to increase the presence of the private sector in the award of public service contracts and in the use of public funds (Verger, 2012). In general, “PPP” tends to be used as an umbrella term which encompasses any type of private participation in public education, from agreements for the provision of totally public education to agreements for the provision of almost totally private education (Education International, 2009).

The case study of the school canteens reveals that private participation through the PPP model does not translate into greater “efficiency” and “effectiveness”. Rather, the model fails to provide a fair, social and environmentally sustainable service. The current management system of school canteens displays significant insufficiencies regarding the quality of the service, high service costs, opacity in financial management, precarious working conditions for the (mainly female) staff, and a clear tendency in favour of hiring large catering companies¹⁹ which promotes “the commercialisation of school canteens”, limits opportunities for medium and small businesses and restricts the participation of parents and families

¹⁹ Mass catering companies are understood as companies that provide food services to groups of people that are in a specific place at the time of eating and cannot move from the place where they carry out their activity. This includes places like schools, canteens, hospitals and prisons, among others.

and the schools themselves in the management of school canteens. This study has demonstrated the negative impacts of the model on the economic, social, cultural and environmental rights (ESCRs) of citizens, especially children. The PPP model makes it more difficult for vulnerable people (especially immigrants) to access services, and harms local ecosystems and the territory. It also tends to be opaque, to the advantage of corporate and financial lobbies.

Therefore, PPPs have been shown to be unable to offer more “effective” and “efficient” services than direct public management in key sectors such as education. PPPs as a financing and management mechanism are neither sustainable nor fair and often fail to guarantee a good quality service. Ultimately private investors are accountable to shareholders, not to citizens.

We therefore recommend:

**1 → QUESTIONING NEOLIBERAL POLICIES
AND AUSTERITY MEASURES**

The public sector is, above all, responsible for guaranteeing economic, social, cultural and environmental rights (ESCRs) of citizens and should not put the interests of private investors above social policies. Public financing must be guaranteed via General State Budgets, through a progressive fiscal policy that guarantees the income necessary to cover social, economic, gender and environmental needs.

**2 → LIMIT OR PROHIBIT THE PPP MODEL
IN KEY SECTORS TO GUARANTEE THE ESCRS**

Healthcare, education, transportation and infrastructure (among others) are common services and goods for the entire population living in a territory. The right of access to these services must be shielded in the Constitution as a fundamental and protected right ahead of private interests.

3 → **STRICT REGULATION, SUPERVISION, DEMOCRATIC MONITORING AND TRANSPARENCY WHILST MOVING TOWARDS A PUBLIC MODEL**

While moving towards the prohibition of PPPs in sectors key to sustaining a healthy and dignified life, a set of legal measures must be implemented to guarantee the regulation, supervision, democratic monitoring and transparency of PPP projects. There is an urgent need to provide detailed and effective legislation and competent supervisory bodies to supervise and control the granting, execution and termination of PPPs, to avoid the serious failures of PPPs that are occurring in the short term, and in the longer term to move towards their prohibition.

- The Independent Office of Regulation and Supervision of Public Procurement (**OIREscon**) should be endowed with real power to supervise and control PPP projects if necessary, taking into account public opinion through guaranteed participatory processes (see ODG publication “PPPs as tools for privatisation - The case of Spain”).
- A **multi-criteria evaluation of projects** must be carried out. Since PPPs can have economic, social environmental and gender impacts, they cannot be assessed only through an economic valuation. It is also necessary to take into account their social, environmental and gender dimensions, and therefore new evaluation criteria are needed. A multi-criteria analysis where these dimensions were taken into account would allow the comparison and evaluation of various forms of public financing against PPPs.
- All **risks to future public debt should be published explicitly and openly**, in order to ensure a proper risk assessment before a project begins.
- Transparency: **All contracts, economic agreements, clauses and details, by law, must be made public and easily accessible for scrutiny by citizens**, through a transparency portal or other platform managed, for example, by OIREscon.

4 → DISCLOSURE OF THE REAL COSTS OF PPPs

Since PPPs are an expensive form of debt, responsible accounting practices should be adopted and the costs of PPPs should be included in national accounts, for example by publishing the clauses outlining the risks that the public administration assumes in each project that can turn into future public debts for society. These costs should be recognized as public debt and, therefore, would be part of the debt sustainability analysis.

5 → OFFICIAL AND CITIZEN AUDITING OF PPPs

In the case of failed projects - or those with serious financial, social, environmental and gender impacts - the public authority should be obliged to carry out an audit to assess the damage caused to public funds, society or the environment. In case of violation of the ESCRs by the private party, the public party should be obliged to claim compensation from the guilty parties. In any case, if an official audit is not carried out, we recommend that citizen audits be undertaken to assess possible illegitimate debts and promote their non-payment.

6 → PROMOTE FAIR, SOCIAL AND ENVIRONMENTALLY SUSTAINABLE FORMS OF FINANCING AND MANAGING PUBLIC GOODS AND SERVICES

Public administrations can promote the creation of public-public collaborations or concessions, which are collaborations between a public body or a public authority and another non-profit organisation or organisation of general interest to provide services and / or facilities, aiming to transfer technical knowledge and experience. Although they are not yet sufficiently developed, these collaborations differ from PPPs in that they do not seek profitability but the transfer of knowledge and experience in the execution of projects. Through the Public Sector Contracts Law, commercial PPPs can be restricted and / or collaboration with Social and Solidarity Economy (SEE) entities can be promoted, whose objectives are social, environmental and gender sustainability. An alternative to public-private management of key services could be public-community management.

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