REPORT ON LEGISLATION AND OTHER ASPECTS RELATED TO THE EDUCATIONAL SYSTEM IN EL SALVADOR

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EXECUTIVE SUMMARY

In fulfilling the Scope of Work respecting the Legal Analysis specified in PIO/T-519-0168-3-90031, the basic aspects considered to be fundamental to the educational system of El Salvador are summarized as follows:

1. The study of the juridical ordinances which constitute the basic legal framework of the state's education activities were:
   - The Constitution of 1983
   - General Law of Education
   - Law of the Teaching Profession
   - Law of the Roster of Teachers (Escalafon)
   - Law of Assistance to Teachers
   - Internal Regulations of the Executive Branch.

The conclusion is that the secondary legislation regarding the field of education does not contradict, but rather harmonizes with the 1983 Constitution of the country.

The legislation, in general, is adequate and operational; however, there are aspects where legislation is needed to complete the legal framework of the educational system. It is also essential to elaborate procedures to implement such laws, as was originally contemplated.

In short, the aforementioned laws are juridical instruments which embrace and sustain the philosophy of the 1968 Educational Reform.

A special note found in pages 28-29 of the full report on the General Law of Education notes that the key issues of the Educational Reform have been neither discredited nor refuted, and enjoy wide acceptance in some sectors. Nevertheless, in 1968 and for years thereafter, a greater dissemination of the contents and projections was lacking, particularly to institutions participating in the process.

2. A section dealing with the powers of the Executive Branch is included because of the Ministry of Education's wide-ranging scope of activities granted by Internal Regulations of the Executive Branch. (See pages 13-18 for details.) As with other constitutional or regulatory authorizations, the philosophical scope for action is adequate to meet the needs of the educational sector.

3. As respects the Law of the Teaching Profession, there is a need to comply with the relevant ordinances so that benefits mentioned in the Law -- i.e., social benefits and better salaries -- may truly help those for whom they were granted.
Furthermore, a professional training program needs to be developed, particularly for basic education personnel.

4. According to the 1983 Constitution, p:e-school, basic (Grades 1-9), and Special Education shall be provided free of charge by the government.

There are no legal restraints to expansion of the education budget, nor to the designation of a certain amount of the budget for education. There are, however, constitutional restrictions against ear-marking special taxes exclusively for Education. Donations must be used for the ends specified by the donor.

Basic education resources derive 90% from public sources and 10% from the private sector.

5. According to the Municipal Code, the promotion of certain activities, including education, is incumbent upon Municipalities. Included in the authorized educational activities are the building and maintenance of schools. Evident advantages would accrue if Municipalities participated to a greater degree in the educational process.
I. INTRODUCTION

The basic legal framework within which education is carried out in El Salvador consists of the following juridical regulations: I - Constitution of 1983; II - General Law of Education; III - Law of the Teaching Profession; IV - Law of the Roster of Teachers (Escalafon); V - Law of Assistance to Teachers; VI - Internal Regulation of the Executive Branch.

II. CONSTITUTION OF 1983

The constitution in force in El Salvador since December 20, 1983, was enacted by the Constituent Assembly on December 15, 1983, published in the Official Gazette No. 234 of Volume 281, December 16th of the same year.

In the Basic Juridical Statute of El Salvador, the Constituent Legislature introduced important modifications to the Constitution of 1962 (which, with few amendments, was identical to the Constitution of 1950). It resulted in important changes in the life of the country, because it grants a major role to the state in matters previously considered to be of private concern. The Constitution of 1950 broadened considerably the objectives of the state, among which are those related to education. Nevertheless, until 1969, no laws were passed regulating, in a systematical manner, matters relating to the educational system. During that period, the existing laws focused on the need to solve isolated problems. They refer to specific subjects, such as: National Literacy Crusade, Special National Culture Contests; Assistance to Teachers; Medical and Hospital Services to Teachers, etc. These types of laws are of minor importance, not dealing with the major problems of education in El Salvador.

The constitution now in force contains new precepts due to its philosophical contents, even though numerous concepts are unnecessary in a document of this nature, resulting in a rigid character which prevents evolulutional interpretation of law.

On the other hand, it could be argued that philosophical concepts are more appropriate to a doctrine than to a law, whatever its rank. A juridical regulation clearly must contain the supposition which gives it life and the provisional aspect.

This document deals with the specific aspects related to basic education.
III. CONSTITUTIONAL PROVISIONS CONCERNING EDUCATION, SCIENCE, AND CULTURE

Stated in Section Three, Chapter II, Title II of the 1983 Constitution are the principal precepts defining and limiting the government's "Education, Scientific, and Cultural" activities. We refer to the principal precepts because the law contains other rules regarding the subject under discussion. They are presented to provide the reader with the exact text of the constitutional ordinances, and for the analysis of the secondary laws. In effect, the following articles specify:

"Art. 1. El Salvador recognizes the human person as the sole reason for the actions of the State, which is organized for the achievement of Justice, juridical security and common welfare. Therefore, it is an obligation of the state to ensure to the inhabitants of the Republic the enjoyment of freedom, health, culture, economic welfare and social justice."

"Art. 32. The family is the fundamental unit of society and will be protected by the State, which will pass necessary legislation and create appropriate organizations and services for its integration, welfare and social, cultural and economic development."

"Art. 40. A system of professional education for the training and preparation of human resources is established."

"The law will regulate the scope, limits and manner in which the educational system will be put into action."

"Apprenticeship contracts will be governed by law, in order to guarantee to the apprentice the teaching of an occupation, fair treatment, equal remuneration and social security benefits."

"Art. 51. The law will determine which companies and establishments, by their special circumstances, are obligated to provide the worker and his family with adequate dwellings, schools, medical assistance and other services and benefits necessary for his well being."

The text of the constitutional articles pertaining to "Education, Science, and Culture" are as follows:

"Art. 53. The right to education and culture is a basic right of the human individual; consequently, its protection, promotion and dissemination is an obligation and primary purpose of the State. The State will stimulate research and
"Art. 54. The State will organize the educational system creating the institutions and necessary services. The freedom to establish private educational institutions is guaranteed to citizens of the State."

"Art. 55. Education has the following purposes: to achieve the total development of all people in their spiritual, moral and social dimensions, contribute to creating a more prosperous, just and human democratic society; to inculcate respect for human rights and the observance of the corresponding obligations; to fight against all intolerance and hate; to know what really goes on in this country, and to identify with the values of the Salvadoran society; and, contribute to the unity of Central America."

"Parents have the right to choose the nature and form of their children's education."

"Art. 56. All the inhabitants of the Republic have the right to receive preschool and basic education to enable them to function as useful citizens. The State will provide for the creation of centers of special education. Pre-school, basic and special education will be free when provided by the State."

"Art. 57. The teaching at official educational centers will be essentially democratic."

"Private schools will be subject to State regulations and inspection and may be subsidized when they are not profit oriented. "The State may take sole charge of the preparation of teachers."

"Art. 58. No educational establishment may deny admission to pupils based on the nature of the union between their parents or guardians, or to social, religious, racial or political differences."

"Art. 59. Literacy is of social interest. All the inhabitants of the country will contribute towards the literacy as determined by the law."

"Art. 60. To serve as teachers, persons must demonstrate capability according to the law."

Subvention is aid of a permanent nature, different from subsidy which is of temporary type. Art. 3, lit. f. Organic law of Budget.
"The teaching of national history, civics, morals, the Constitution of the Republic, human rights and conservation of natural resources will be obligatory in all schools, whether public or private, civil or military."

"National History and the Constitution should be taught by Salvadoran professors."

"Freedom to teach all the doctrines of one's professional field (academic freedom) is guaranteed."

"Art. 61. Higher education will be governed by a special law. The University of El Salvador and other State universities will enjoy autonomy in teaching, administrative and economic aspects. They should render service to society through the concept of academic freedom. They will be governed by statutes within the framework of said law, which will establish the general principles for the organization and functioning of the universities."

"Allocations destined for the support of the State universities and those needed to assure and increase their patrimony will be provided for annually in the public budget. These institutions will be subject to the supervision of the relevant governmental organization."

"The special law will also regulate the creation and functioning of private universities, with respect to academic freedom. These universities will render a social service and without profit motives. The same laws will regulate the creation and operation of official and private technological institutes."

"The State will oversee the democratic functioning of higher educational institutions and oversee the adequacy of their academic level."

"Art. 62. The official language of El Salvador is Castilian. The government has the obligation to oversee its preservation, dissemination and respect thereof."

"The indigenous dialects spoken in the national territory are part of the cultural patrimony and will be preserved, disseminated and respected."

"Art. 63. The artistic, historical and archeological wealth of the country constitutes part of the Salvadoran cultural treasure, which will remain under the safekeeping of the State and be subject to special laws for their conservation."

"Art. 64. The Patriotic Emblems are: the National Flag, the Coat of Arms and the National Anthem. A law will
of its four clauses, of which two are cited to give this report a better structure and clarity, omitting the other two for purposes of brevity:

"I. That education is the appropriate means to achieve the fulfillment and balance of the human personality, and at the same time, is an element of social transformation and economic development."

"IV. That it is necessary to establish a legal regulation that determines the basis of the educational reform and establishes the characteristics of the national educational system, including the private schools, whose collaboration in the educational development of the country must be recognized."

The "General Law of Education" has a logical structure. Its 112 articles are organized into eight titles, which are systematically divided into chapters containing provisions that regulate specific aspects of certain legal areas.

Title I, for example, is divided into two chapters: Chapter I, Objective of the Law; and Chapter II, Purposes of National Education.

Title II contains eight chapters, which in 40 articles deal with everything related to the "Educational System", which, since the "Educational Reform", includes the following levels: preschool, basic, middle, and higher education. In title II, adult education, special education, and some forms of education of the arts also are regulated.

The participation of parents in the educational process of their children is defined in the General Law of Education, Chapter IV, Title VII, referring to "Parents". Nevertheless, such participation should be more extensive, dealing with matters of greater relevance to education. At present, communication exists with parents only to inform them about the performance of the student and to request collaboration with schools in social activities and improvement of the educational center, as well as in the defense of the rights of the students.

With respect to the employment of technicians and teaching aides, the General Law of Education, in Chapter I, Articles 51 to 54, Title IV of the same, establishes with sufficient dimension the need to use those means in the preparation of students, according to modern educational techniques. (V, Art. 35 No. 10 Internal Regulation of the Executive Branch).

In summary, the general law of education contemplates the purposes of education; the educational system; pre-school education; basic education; middle level education; higher
regulate everything concerning this matter."


The 1983 Constitution introduced new provisions to the 1962 Constitution in "Educational, Scientific and Cultural" aspects, which improve the concepts of the latter; but in its philosophical essence does not modify what the Constitution of 1950 proposed to achieve as the primary purpose of the State:

"To attend to the total development of the personality of the students so that they may render constructive cooperation with the society; to inculcate respect for the rights and obligations of man; to fight every aspect of intolerance and hate, and to promote the ideal of unity among Central American nations."

V. LEGAL SYSTEM OF THE EDUCATIONAL REFORM OF 1968

At the beginning of 1969, four laws and one regulation were issued which effectively dealt, in a technical and modern manner, with the majority of subjects pertaining to the educational system. They are:


VI. COMMENTS ON THE "GENERAL LAW OF EDUCATION"

The basis of the law under discussion is contained in the text
education; adult education; special education; teaching of the
arts; rights and privileges of teaching; democratization of
teaching; methods and aides of teaching; orientation and systems of
evaluation; plans and study programs; and compatibility and
conformity of course credits, duties of the Ministry of Education
with respect to the subject of teaching, official and private
educational centers, of teachers, supervisors and students, of
parents, and the procedures for imposing sanctions.

VII. COMMENTS ON THE "LAW OF THE TEACHING PROFESSION"

The "Law of the Teaching Profession" regulates the teaching
profession, the preparation of teachers, entry into teaching,
performance while teaching, registry of teachers, specialization,
impediments, the rights and obligations of teachers, prohibitions,
dismissal or probation, disciplinary rules, and the procedures for
imposing sanctions.

The requisites regarding curriculum, teacher qualifications,
promotions, and professional self-improvement of teachers are
controlled legally by the "Law of the Teaching Profession" of 1969
previously mentioned, especially in Articles 1,2,4,5,6,7,8,9,10,
11-16. The relevant part regarding specialization and improvement
can be found in Chapter V, Title II, Articles 17 to 19 of the
aforementioned Law.

VIII. COMMENTS ON THE "LAW OF THE ROSTER OF TEACHERS
(ESCALAFON) AND ITS REGULATION"

The objective of the Law of the Roster of Teachers (Escalafon)
is to make the teaching career a professional one and to stimulate
the efficiency of teaching at all levels in the educational system,
to arrange the teachers by classes and categories, to provide
opportunities for promotion, to assign teachers their professional
ranking, and to stimulate improvement among teachers by means of
a remuneration system according to their professional seniority and
merit.

The regulations of the "Law of the Roster of Teachers specify
details for achievement of the relevant Law.

This law is the only juridical ordinance herein analyzed which
was developed through its particular regulations.

IX. COMMENTS ON THE "LAW OF ASSISTANCE TO TEACHERS"

This Law establishes benefits for teachers who become ill
while in service, during the period of their disability, whether
permanently or temporarily. Such disability must be verified by
medical certificate from a physician designated by the Department of Teacher Welfare. This certification is not necessary in cases of illnesses, such as tuberculosis, cancer, mental illness, or total blindness.

A teacher who is sick or unable to work has the right, by agreement from the Executive Power in the Field of Education, to a monthly assistance stipend of 200 colones to be paid during the duration of the illness. This stipend cannot be embargoed or transferred. Long-term illnesses are verified at least twice yearly. The stipend is terminated if the ill person does not comply with medical prescriptions for treatment or cure, or once the illness is completely cured; or by death. In the case of the disabling illnesses mentioned, a Teacher has a right to a six-month leave of absence from his post, and if during this period he regains his health, he will return to the same post held before the leave of absence.

The Law of Assistance to Teachers also applies to teachers in private schools; however, if they receive economic benefits from other sources, such as Social Security, the State is only obligated to complement the stipend if it is less than the 200 colones.

The assistance benefits are enjoyed by in-service teachers in pre-primary, basic, middle, and higher non-university, official, or municipal educational centers. The time during which this stipend is received is computed as full-time service for the purposes of calculating retirement and pension benefits. The Law also applies retroactively to teachers sick or disabled before passage of the Law.

X. COMMENTS ON THE "INTERNAL REGULATION OF THE EXECUTIVE BRANCH"

The Council of Ministers is in charge of issuing the decree for the "Internal Regulation of the Executive Branch and its own Regulation" (Art. 167 No. 10. C.P. 83). Under the 1962 Constitution, the task of decreeing the Internal Regulation of the Executive Branch rested with the Executive Power of the President of the Republic and Ministers and Vice Ministers of State.

From a legal point of view, the "Internal Regulation of the Executive Branch has the power of law resulting from its juridical efficiency. The Internal Regulation is a source of positive law for regulating norms that make possible the planning, organization, direction, evaluation, and technical execution of the different activities of the national educational system, in coordination with those institutions responsible for operating educational programs.

The Internal Regulation of the Executive Branch currently in force was decreed by the Executive Branch in May 1976 and was published in the Official Gazette No. 87, Volume 251, May 12, 1976.
Considering it is of interest and essential that the content and scope of the legal precepts regarding "Education, Science and Culture" be understood, hereafter follows Art. 35 of the "Internal Regulation of the Executive Branch":

"Art. 35. It is the responsibility of the Ministry of Education:

1. To preserve, promote and disseminate education, in its intellectual, moral, civic, physical and artistic aspects.

2. To plan, organize, direct, evaluate, and operate the different activities of the national educational system, including the fundamental education system and extrascholastic education, in coordination with those institutions responsible for operating educational programs.

3. Organize, coordinate, and guide, technically and administratively, the educational services at all levels of the national educational system, adult education, special education, and the various types of artistic education.

4. Create the necessary institutions and services for the accomplishment of its goals, such as: pre-primary, basic, middle and higher education; centers of educational experimentation and specialization; universities.

5. Supervise and control the public and private centers of education.

6. Provide teaching personnel, didactic material, furniture, and equipment to official educational centers, commensurate with the State's resources.

7. Create programs and centers for adult labor training, for cultural and professional extension, for community development and for all types of education.

8. Promote and direct campaigns of moral and civic education.

9. Promote scientific, humanistic, and applied order activities for students of all educational levels, providing the necessary resources to encourage such activities.

10. Use educational television and other means of communication in the teaching and cultural expansion.
11. Award the degrees designated by law, and certificates of achievement for basic, middle, and higher non-university educational levels; degree equivalencies; and recognition of degrees.

12. Build, improve, enlarge and equip buildings of the sector including recreational centers, sports facilities, and all of the facilities for nonformal education, such as museums, theaters, parks, historic sites, and monuments.

13. Grant subventions and fellowships related to this sector.

14. Manage the preparation, improvement, and motivation of the teaching personnel.

15. Promote and execute programs of teacher welfare.

16. Maintain the Registry of the Roster of National Teachers (Escalafon).

17. Award legal status to associations of parents.

18. Intervene according to the respective laws before the Boards and Court of the Teaching Career.

19. Research, evaluate, guard, restore, and extend the cultural patrimony of the country with reference to the historic, anthropological, ethnographic, archeological, and architectural wealth of the nation.

20. Publish scientific and cultural works, edit textbooks and didactic material.

21. Investigate, evaluate, guard, and spread the natural patrimony of the country (its flora and fauna).

22. Research and promote the different forms of artistic expression of man.

23. Promote the creation of artistic-cultural institutions, such as scientific/cultural associations, cultural centers, art academies, choruses, and orchestras.

24. Create, promote, and manage public libraries, archives, museums, recreational parks, zoos, and botanical gardens.

25. Organize, direct, and coordinate physical education and sports.

26. Promote and execute programs of student welfare.
27. Plan and execute activities for urban and rural youth.


29. Determine and guide, in cooperation with the Ministry of Foreign Relations, the participation, renewal, or rejection of international agreements pertaining to education and culture.

30. Any other duties established by law or regulation.

XI. TECHNICAL-JURIDICAL OPINION CONCERNING THE EDUCATION LAWS IN FORCE

The cited legal ordinances are essentially the basic framework within which all of the educational system of El Salvador currently functions. They adequately regulate the more important aspects of the system.

Prior laws, to the degree they differ from those cited herein, have been tacitly revoked and are no longer applicable. It is this current group that needs to be considered in any decision concerning initiation of reforms to improve the quality and efficiency of education.

The referenced laws are juridical instruments that define and support the philosophy which inspired the "1968 Educational Reform". Technically they are well defined, systematic, and free of contradictions. They are harmonious and, to facilitate their applicability, they anticipated the need for implementation through regulations, which the President of the Republic has the power to decree. They facilitate the updating and guarantee the effectiveness of the educational system, having made the corresponding evaluations previously. (Arts. 6, 59, 60, 62 and 108 of the General Law of Education and Art. 14 of the Constitution).²

The secondary legislation which regulates education in El Salvador does not contradict, but, on the contrary, is entirely harmonious with the 1983 Constitution.

To the present time, the respective projects to harmonize the education laws with the 1983 Constitution have not been presented to the Legislative Assembly by the relevant agencies, as specified in Art. 271 of the Constitution, and said laws continue to be applicable without amendments.

² This power was specifically delegated to the Executive Branch in the 1962 Constitution V. No. 15 Art. 78.
XII. CULTURE AND SOCIAL ASSISTANCE COMMISSION OF THE LEGISLATIVE ASSEMBLY

According to Article 131, No. 32, of the current Constitution, "it is the responsibility of the Legislative Assembly to name special commissions for the investigation of matters of national interest and adopt the agreements or recommendations deemed necessary, based on the report of said commissions". This series has been developed in Articles 12 to 17 of the "Internal Regulation of the Legislative Assembly". It is formally and materially a law, since the Legislative Branch decreed it based on power conferred by the Constitution in Art. 131, 1.

In the Salvadoran legal system of juridical regulation, the "Rules of Creation" exist only by constitutional mandate. An example of this is the "Internal Regulation of the Executive Branch" and the regulations issued by the Court of Accounts of the Republic. (Art. 195 6th. C.P.)

Article 12 of the "Internal Regulation of the Legislative Assembly" provides for inquiry into matters under its responsibility through the following commissions: 1 - Legislation and Constitutional Points; 2 - Foreign Relations and Justice; 3 - Culture and Social Assistance; 4 - Labor and Social Security; 5 - Interior and Public Works; 6 - Economy and Agriculture; 7 - Finance and Special of Budget; 8 - Defense and Public Safety; 9 - Diplomatic and other exceptions; 10 - Public Welfare; and 11 - Politics.

The Commissions of the Legislative Assembly have great importance in legislative functions under the main authority of the Legislative Branch, as well as in other aspects referring to the subject of activity of said power.

The Commissions are given extensive authority for the study of matters submitted for their consideration, and the resolutions they issue can have a decisive influence in matters related to the work of the Assembly. (Art. 17 Intl. Reg. Legis. Assembly)

If the Commission judges it necessary, it can call upon any person or officer for assistance. At the same time, it can request reports and documents as may be necessary from other agencies of the Government and from private institutions through its Directive Board. (Art. 132 C.P. and 14 Reg. L.A.)

XIII. PARTICIPATION OF MUNICIPALITIES IN THE EDUCATIONAL SYSTEM

of the country: Article 4, No. 4, as follows:

"Promotion of education, culture, sports, recreation, sciences and the arts."

This legal obligation of the municipalities allows them to build and maintain schools in their respective communities, subject to the regulations established by the Municipal Code for the administration of municipal funds. The real problem is the lack of funds and administrative weakness of most of the 262 municipalities of the country, some of which are unable to pay a decent salary to the mayor, as the result of losses in collection of taxes and other income.

There could be some advantages to greater participation by the municipalities in the educational process. Among these are:

a) The municipalities have more administrative flexibility to manage their budgets, due to the autonomy assured by the Municipal Code, as noted in Titles I - Purposes and Field of Application; II - General Concepts; III - Municipal Responsibility; which grants them power, authority, and autonomy.

b) Article 94 of the Municipal Code, states in its first three clauses:

"Expenditures for the execution of works, provision of services by third parties and acquisition of supplies greater than five hundred thousand colones in value be carried out through public bidding."

"Expenditures for the same purposes greater than one hundred thousand colones and less than five hundred thousand colones will be made through invitational bidding."

"For expenditures of less than one hundred thousand colones bidding procedures are not required."

These procedures are more expeditious than those used by the Central Administration, which traditionally are very slow and annoying.

c) Works in the education sector, such as construction and repair of schools, respond to immediate and urgent needs of the inhabitants of the municipality. For this reason, there would be greater interest and effort in executing them. Additionally, local officials prefer to be on good terms with their constituents, so the motivation exists to carry out works projects during their term of office. Also, since the municipalities are smaller communities,
greater supervision and participation from neighbors in the works is possible. This allows for better management of available funds.

d) From the point of view of democratic development, it is useful to strengthen the municipalities. The Municipal Code, and some institutions contemplated in the same, aims at this, resulting in the cooperation of municipal governments. Education, therefore, is a field where action by the Municipality can be relevant.

In the past, the municipalities of El Salvador supported schools at the pre-primary, primary, and vocational levels. In many of the municipalities, schools function successfully. In January 1970, however, under a provision of the Law of the Teaching Profession, Article 3, the staff of the municipal schools were incorporated into the Ministry of Education.

Where conditions appear favorable, it would be useful for the municipalities to participate to a greater degree in the educational system of their respective communities; clearly under the technical supervision of the central educational authorities.

XIV. **FINANCING: PUBLIC RESOURCES, OTHER RESOURCES, DONATIONS**

Article 56, clause 2, of the Constitution of 1983 states the following: "Primary, basic and special education will be free when provided by the State". This provision agrees with the norms contained in Articles 9 and 46 of the General Law of Education, which state the following:

"Art. 9. The State should steadily increase pre-school education. This will be free of charge when provided in public schools".

"Art. 46. The concept of tuition-free basic education as an obligation of the State responds to the principle of equality of opportunities, founded on the democratization of teaching."

The concept of tuition-free basic education, which all inhabitants of the Republic have the right and privilege to receive, is established in a clear and definite manner in article 43 of the General Law of Education. Article 45 of the Law states:

At educational levels that are not free of charge, the rates charged by official centers shall not exceed the actual costs per student. Tuition rates will be established by the State."

It is apparent that to comply with the purposes stipulated in the Constitution on the subject of "Education, Science, and Culture", the State needs public resources to finance its programs.
In the constitutional system: "All the income of the Public Treasury will form one common fund to meet the needs and obligations of the State. The law may, however, earmark certain income for the service of the public debt. Donations may also be earmarked for the purposes indicated by the donor." (Article 224 C.P. 1983)

The principle stated above is known as "Common Fund" and its concept is described thusly: Taxes having a specific end or purpose do not exist in El Salvador; however, the law may earmark certain income for the service of the public debt.

The General Budget of the Republic contains the estimates of all income and expenditures for a specific fiscal period. Although, for experts in finance matters, it may seem pointless to say that the State budget constitutes a government program for the achievement of its purposes, it should be recognized that the Executive Branch distributes funds according to the priorities of its programs, resulting in an activity that is a government program (in this case education) having a lower priority in the allocation of resources.

Clearly, a relationship exists between means and ends in achieving the right of the population to education and culture, its conservation, promotion, and extension.

In spite of this, there are no legal obstacles which might limit the expansion of the budget for the education sector. The only limit is the income of the State, which should maintain the proportion of expenditures to be incurred in every fiscal period. If sufficient resources are available, either internal or external, there is no legal problem to expansion of the education budget; however, it is timely to remember, that it is an obligation of the Legislative Assembly "to determine the Budget of Income and Expenditures of the Public Sector, as well as its reforms"; and in the exercise of this authority "the Legislative Body may reduce or deny the requested credits, but may never increase them". There is also no objection to establishing a percentage of the budget reserved for education, but in every case it would be subject to variations in the total amount.

But there is a constitutional obstacle to earmarking certain taxes or contributions exclusively for education. (Art. 224 C.P.) The Constitution is clear in establishing that resources received as a donation should be destined for the purposes indicated by the donor.

At present, the public sector has a major role in financing the educational centers which provide basic education; but the private sector also participates in financing educational institutions. It is estimated that the percentage may be as much as 90% from the public sector and 10% from the private sector. On the
other hand, at middle level education, the private sector finances 50%.

Private sector enterprises are obliged to finance schools as specified by Article 51 of the Constitution, under special conditions such as when they are located far from public schools.

Attention is called to the text of Article 151 of the 1939 Constitution, which states as follows:

"All the central government income will constitute one fund, which shall be available for the needs and obligations of the State. Exceptions to that policy are limited to special purpose funds for service of the Public Debt, for the purchase and subdividing of land and construction of inexpensive housing for social improvement goals, and for the welfare institutions or for public education and official enterprises to which the law may grant autonomy. In the latter case, earmarking will be limited to the resources produced by the enterprise or institution in question."

As will be noted, the 1939 National Constituent Assembly demonstrated excellent vision of the great importance that "public instruction" has; one of the foundations of social equality for the achievement of justice, security under the law, and the common welfare.

XV. COMMENTS ON THE 1968 EDUCATIONAL REFORM

Comments regarding the 1968 Educational Reform are formulated in very general terms, because they are not based on any technical study of exact parameters or indicators. Only in this way would it be possible to prove, and to what degree, that the educational changes of 1968 have been a success or a failure, either totally or in part.

Laws issued subsequent to 1968 to provide support and establish a legal foundation for the new national educational system, as stated previously, were appropriate for accomplishing the sought-after objectives. Laws do not necessarily correct errors men make. In reality, any failures or nonconformity with the educational process have little to do with the laws which regulate it.

Deterioration resulting from any activity by the State not only should be examined in light of its specific function, but also in the application and compliance with the laws. There exist other causes or factors of a general nature, apart from education itself, which may contribute negatively to the outcome of an activity.

Lack of persistence and coherence in assuring adequate
continuity to the principles of reform might be found in the shortcomings in human behavior and attitudes. In light of this point of view, it would seem that certain critics of the Educational Reform confuse the human aspects with questions of essence.

In El Salvador, as elsewhere, some sectors support the thesis that everything was better in the past, which is an easy justification for an ultra-conservative outlook, that hampers the need to revise and reorder the system of social values, to the degree that the community develops or is modernized.

The low moral level in which the country finds itself is not exclusively the fault of education. It is due, among other factors, to the process of confrontation between social forces, which have become an armed uprising as a result of serious and complex causes which it is not appropriate to analyze in this report.

As stated by the eminent North American professor John Holt, "to believe that the school is the place where virtue is preserved and disseminated to a society that lacks it, is a dangerous illusion".

It appears that the most general opinion among the population is that the results of the educational reforms are not entirely satisfactory. Causes of the failures of the system include the little background of knowledge which the educators of the reforms had, resulting in teachers not understanding them. At the same time, for political reasons, the reforms within the new educational system were constantly and persistently sabotaged by groups which opposed the reform, either from a radical or a moderate philosophical point of view. Such attitudes have resulted in the opinion that everything that is disliked or that upsets the professors, parents, and authorities of education can be blamed on the reform.

Negative publicity also helped to make the acceptance of the change more difficult. It should be noted, however, that the key issues of the reform contained in the "General Law of Education" have neither been discredited nor refuted, and enjoy wide acceptance in some technical sectors. For example, the Central American University "Jose Simeon Canas" approached with open minds the evaluation of the educational reform in its study published in their magazine ECA No 346, in August 1977. In this publication, the Salvadoran educational reform is vindicated, and it is recognized that the reform has been the victim of simplistic, loud, and widespread criticism.

There is no doubt that in 1968 and for years thereafter, a greater dissemination of the contents and projections of the reform were lacking and, above all, there was a failure to obtain the
cooperation of those involved in the process. At the same time, the lack of flexibility in the adaptations required for such an important change contributed to the neglect of the system.

XVI. OBSERVATIONS AND RECOMMENDATIONS

1. As has been maintained throughout this report, the legislation in force in the field of education is, in general, adequate and functional. There exist, however, some points where legislation is needed to make the juridical framework of the educational system complete. It is also true that changes and reforms should be introduced which experience justifies with the passage of time. Education is a dynamic process and the law should go hand in hand with the cadence of progress and change which the process requires.

2. In El Salvador, as in other countries of Latin America, the initial undertaking of a well-conceived task is carried out with early enthusiasm; but it is not pursued to its conclusion and many projects are left unfinished. This should not occur with the modernization of the educational process, where continuity is of incalculable benefit to society.

3. Technically, the laws related to the 1968 educational reform establish the need to issue regulations of development for certain cases or situations. In spite of this legal mandate, the regulations were not issued in a timely manner. This naturally becomes an obstacle to overall compliance with a law. It should be noted that this omission is not exclusive to the education sector. In all fields of public administration the lack of regulations to facilitate compliance with laws is notorious: it occurs because the will and resources to achieve the important task are not made available.

4. Economic benefits and medical-hospital services exist for teachers. These cover risks against life, health and their physical well-being and of their dependents. Institutions known as Teachers Welfare and the National Institute of Pensions for Public Employees are responsible for these matters. The system of social protection of teachers operates with contributions from the State and the teachers themselves. The National Institute of Social Security (NISS) offers similar protection to teachers in the private sector.

5. The laws and regulations concerning education are not duly integrated into a unitary body of norms governing the sector. (There is no code or compendium). Such a compendium is needed to carry out the integration of the legislation in force in the educational sector, and would facilitate achievement of better performance within the sector.

Most important of all is the need for the legal ordinances to
be complied with, so that the benefits mentioned in the laws may be profitably used by those to whom they are granted.

6. Long-term retention of teachers in service of the State should be stimulated through equitable social benefits and remunerative honoraria.

7. The State should comply with its obligation to plan and execute a system for preparation of teachers, sponsoring their growth and improvement, especially at the basic education level.

8. Effective and efficient participation by the parents of the students in the educational system should be planned for and stimulated.

9. Planning and financing of education through the municipalities, at least through the second cycle of basic education, should be seriously considered.

XVII. FINAL WORDS

This report has been prepared according to the written requirements contained in document PIO/T-519-0168-3-90031, pages 7 and 8, "Detailed Description, Legal Analysis", and verbally during interviews with Dr. Philip Schwab, Chief of the team of the Academy for Educational Development, and Drs. Claude Boyd, Jorge H. Sanguinetty, Enrique Herrera, and Regino Chavez.

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