

## Agency problems in basic education in Mexico: an institutional diagnosis

### Problemas de agencia en la educación básica en México: un diagnóstico institucional

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**Abstract:** Given the centrality that the educational reforms of *Pacto por México* give to the rules of the game –*vis a vis* teacher behavior–, this paper examines its preexisting institutional design. The starting point was the existing claims that such design created agency problems. Our purpose was to prove the configuration of a specific type of agency problem: organizational moral hazard. We deconstructed normativity with the Institutional Grammar Tool (IGT), proposed by Crawford and Ostrom (1995). IGT allows to systematically identify –if any– the rules present in policy documents, unveiling the genetic code of policies that configure arenas where individuals display their interactions. We found that the way control management at schools is structured in relation to the application of sanctions to teachers constitutes a moral hazard situation given its assumptions.

**Key words:** *Pacto por México*, basic education, teacher behavior, moral hazard, Institutional Grammar Tool (IGT).

**Resumen:** Dada la centralidad que la reforma educativa del *Pacto por México* pone a las reglas del juego –*vis a vis* conducta docente–, este artículo examina el diseño institucional que le precede. Se problematizaron afirmaciones como que el diseño previo creaba *problemas de agencia*. El objetivo fue demostrar la configuración de un tipo específico de problema de agencia: el riesgo moral organizacional. Se destruyó la normatividad con la Herramienta de la Gramática Institucional (IGT), de Crawford y Ostrom (1995). El IGT permite identificar sistemáticamente las reglas presentes –si las hubiere– en documentos de políticas, develando el código genético de las políticas que configuran arenas, lugar donde los individuos interactúan. Se encontró que la forma como se estructura el control administrativo en los planteles en relación con la aplicación de sanciones a maestros constituye una situación de riesgo moral dado sus supuestos.

**Palabras clave:** *Pacto por México*, educación básica, conducta docente, riesgo moral, Herramienta de la Gramática Institucional (IGT).

## Introduction

According to North (1993), organizations, just as individuals' interactions, are shaped by the rules of the game. Interactions are opportunities and restrictions that guide the behavior of individuals through incentives. This configurative process is referred to when it is said that game rules matter.

Ostrom's works transform this thesis, highlighting the role of language in rules (Kiser and Ostrom, 1982; Siddiki *et al.*, 2011; Crawford and Ostrom, 1995; Ostrom, 2005). According to this author, by means of language rules have the potential to significantly shape the individual's behavior and the organizational context in which interaction occurs. As a result, in order to have a better comprehension of the behavior and performance of the actor, it is necessary to review the language of the rules of the game, and how language shapes organizations.

The reform on framework regulation of basic education in Mexico, effected in 2013, has a pragmatic line, similar to the previous one. Bracho and Zorrilla (2015) state that the reform intends to modify the behavior of the actors of the educational system, as well as to encourage new patterns of conduction and interaction inside and outside the organizations, which would take place by means of a scaffolding of new rules. The latter is the hypothesis of the reform intervention<sup>1</sup>, which is clear. However, the causality hypothesis<sup>2</sup> is not that clear. It is only suggested that the problem is behavioral, and the previous rules scaffolding is the responsible.

### The problem: the causality hypothesis

In his reflections, Jaime Torres-Bonet (TB), head of the SEP (Public Education Secretariat), provides elements (twice, 1943-1946 and 1958-1964) that produce a causality hypothesis. Not only does he identify the regulatory piece of the old scaffolding, but he also indicates organizational and behavioral patterns that come from it. TB witnessed the assembly of the institutional arrangements for basic public education tendencies until today. An institutional arrangement can be understood as a set of rules or agreements, formal or informal, which regulates the specific activities of a

1 The intervention hypothesis is 'the government action method that will influence the decisions and activities of the designated recipient groups' (Knoepfel *et al.*, 2007: 59).

2 The causality hypothesis is the 'political response to the question what or who is capable of making changes so that it is possible to solve the collective problem (Knoepfel *et al.*, 2007: 57).

group of people, aiming at certain goals (Davis and North, 1971). Loyo-Brambila (2010) says that, among the structuring normative pieces, the one with the heavier configurative clout for the education system came from the environment. This normative piece was the *Estatuto Legal para los Trabajadores de los Poderes de la Unión*, introduced by President Lázaro Cárdenas (1934-1940) and ratified by President Manuel Ávila Camacho (1940-1946) in 1941.

According to TB, this *Statute* created two problems regarding teaching personnel. The first was perceptual-behavioral. With this Statute, there was no more 'regular escape doors but resignation, retirement or decease' (Torres-Bodet, 1994: 65), which affected teachers' behavior and beliefs. 'The Statute made them believe that joining (whatever it took), and remaining was enough (Torres-Bodet, 1994: 65)'. The worst thing about this belief, is that it led to 'statism', a term coined by TB himself to refer to labor relaxation. He clarifies: 'I use the word 'statism' to refer to the immobility of the static (Torres-Bodet, 1994: 64-65)'. Thus, with the Statute, the teachers' beliefs as well as the performance and effort in daily activities were affected.

The other problem was about administrative control. He said: 'In 1943 I imagined (...) labor union contributed to improve centralization' (Torres-Bodet, 1994: 243). Not everything happened according to the plan. When he came back, fifteen years later,<sup>3</sup> he realizes from a administrative point of view, that centralization was not recommended just like labor union unification did not seem to improve positively the quality of teachers' work.' (Torres-Bodet, 1994: 243).

The problem was that SEP (Torres Bodet, 1994: 243) had

(...) lost contact with the reality of thousands of schools supported by the government. Our direct informants were inspectors that, as active members of the union, concealed the teachers' absences, since they knew that in the long term it would be more helpful than their superiors' recognition.

The theoretical-conceptual scope of this problem will be analyzed later. Some works have theorized the link between labor arrangements and teaching behavior. Ezpeleta is one of those (1992, 1997, 2004a; Ezpeleta and Furlán, 1992; Ezpeleta and Weiss, 1996.). He proposes a classification of regulations, one of the most successful in research in Mexico (Tapia-Uribe, 2004). Ezpeleta defines public schools as 'complex configurations, regulated by different and specific regulations, written and unwritten, and not always coherent'.

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3 It refers to his second period in charge of the SEP (1958-1964).

These are the labor, administrative, and pedagogical regulations. The first two have better defined control mechanisms for pedagogical action and behavior (Ezpeleta, 19902 and 2004b). Ezpeleta also says that 'labor rules (...) seem to constitute, in the campuses, the support of bureaucratic power.' (Ezpeleta, 1990: 22). He called these 'strong bases' or 'strong parameters'.

In campuses, teachers face a double reference system, labor and the administrative, which means distinct tolerance ranges (Ezpeleta, 1997) or institutional precariousness (Ezpeleta and Weiss, 1994). Because, in daily life, the role of the head teachers is limited to being a formal representative for the community and education bureaucracy; 'for teachers (...) they lack formal and technical authority' (Ezpeleta and Weiss, 1996: 59). The immediate higher position, the superintendent, does only paper work (collecting statistics, creating documents, etc.)

Superintendents are not capable of solving interschool problems (Gómez-Nashiki, 2010). When it comes to dealing with the teaching staff, which is one of their tasks, 'labor union interest is allowed as the way to hegemonize the rules' (Ezpeleta and Weiss, 1996: 60). This occurs because 'they owe their position to the labor union representative, and continue in their position because of that' (Ezpeleta and Weiss, 1996: 60). This is the loss of control TB mentions.

The configurative effects of these arrangements permeate the organizational sphere, incurring that way in the teaching staff's behavior. According to Gómez-Nashiki (2010: 799), in the campus, the power comes from the 'dominant alliances formed and established in the institution' rather than from the formal authority. Alliances are formed between groups of teachers, with the intervention or approval of the labor union leader. Ezpeleta and Weiss (1994: 80) stated there are some teachers who, through their behavior, 'make the institutional tolerance tense'.

One of those behaviors is absenteeism, though it is not the only one. A 'combination of regulations and embodied applications (...) provides numerous reasons that legitimate absenteeism' (Ezpeleta and Weiss, 1994: 81) and similar behaviors. As TB said, the response would be the concealment from the campus' authority, supported by the regulations mentioned before.

These findings, as well as TB's observations, could be partially incorporated by the Agency Theory (AT). In this theory, the problems identified by TB are agency problems. AT assumes that, being recruited by the principal, the agent would make a questionable representation of their abilities, interests and preferences. The principal cannot verify such representation (Jensen and Meckling, 1976; Ferris, 1992; Moe, 2005; Shapiro, 2005). This is called information asymmetry.

Such challenge would attract a disproportionate number of low-quality applicants (Moe, 1984). The behavior of the agent is called *ex-ante* opportunism (Lane and Svante, 2000; Lane, 2008). At the end, there is a risk of making an opposing agent selection (Rauchhaus, 2009; Shapiro, 2015; this is not the only problem though).

Principal's problems continue appearing after agents are hired or join the institution. During this phase, information asymmetry persists, making it difficult for the principal to know the agent's behavior/effort, hired by the principal to accomplish the activities they are not capable of doing. The agent has more information (Gibson *et al.*, 2005; Levacic, 2009; Lane, 2008; Ferris, 1992, Shapiro, 2005). This is called hidden action. Also, monitoring the actions of the agents is expensive. It is then necessary to hire a supervisor (an agent that is the agent's principal, a teacher, the teacher in this case) to do so. This new relationship can also worsen the problems previously mentioned.

The agent-principal relation (A-P) implied in TB's observations goes further. A third element, key in the loss of control (hidden action) and resulting behavior appears. This character is the supervisor. Tirole (1986) developed a model in which the role of the supervisor makes A-P relation more complicated.

The supervisor introduces a collusion possibility with the agent *vis à vis* the principal. The most significant effect of this collusion is information manipulation, which can occur in three different ways: existent evidence hiding or distortion, the no-creation on the agent's behavior/effort. When the information that has to be reported is difficult to verify, the collusion is particularly feasible. It is clear that collusion is not convenient for the principal.

Regardless the motive for the hidden action, the agent-teacher is at a moral hazard (Levacic, 2009; Rauchhaus, 2009; Shapiro, 2005; Lane, 2008; Casson, 2007, Ferris, 1992; Arnott and Stiglitz, 1991). This is a moral hazard situation because the only thing that regulates the behavior of the agent is their moral code. But this mechanism is not the only one that leads to that situation. TB mentions another one linked to the motivation problem. This mechanism is the contract that formalizes the agent-principal relation.

The contract can be designed in a way that 'a hiring part changes their behavior after signing (it)<sup>4</sup>' (Lane, 2008: 5). Arnott and Stiglitz (1991) explain that 'the moral hazard makes assured individuals to make little effort'<sup>5</sup> (Arnott and Stiglitz, 1991: 80). Giving labor security, the contract

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4 Our translation.

5 Our translation.

creates a moral hazard status, which can lead to labor relaxation just like TB said. This is called *ex post* opportunism (Lane and Svante, 2000; Lane, 2008).

It is important to distinguish the two conditions in which information asymmetry occurs: the a-institutional and the institutional. TA refers to the first, since the information advantage attributable to the agent occurs because of the direct contact between they and their daily personal or organizational reality. The advantage is cognitive. The contract or arrangement ends up being the answer to the agency problems resulting from the duties the principal gives the agent.

On the contrary, the asymmetry (and the 'strong base' perspective) TB mentions was *institutional*, since the effects were attributed to the *Statute*. SEP could not obtain information due to the collusion between supervisors and agents (directors and teachers), which according to TB, is linked to the same Statute by the labor union.

It is necessary to point that the arrangements resulting from the *foundational* normativity structured organizational and behavior dynamics, though this is not enough. This contribution examines the design configurative effects, leaving the details aside. It takes the form of a 'black box'. The recent reforms would have a greater impact if the constitutional specific components behind the behaviors mentioned were pointed.

The aim of this study is to support the configuration of the agency problems mentioned by TB. We do so by the de-construction of the referred normativity language. We want to show how the coalition between director, supervisor and teacher occurs, a moral hazard situation where work stability and collusion meet. This work intends to be the explanation of a missing reform diagnose.

## Method

### *Material selection*

The Statute was applicable between 1941 and 1963. During that last year it was substituted by the 'State Workers Federal Law, Subsection B, Constitutional Article 123' (LFTSEC). The article 123 had been reformed in 1960 with the addition of subsection B, and thus it legally supported the labor relations with the State workers.

Being the Statute substituted, the LFTSE regulated the subsection B, becoming it of general observance for all federal workers, including basic education teachers. Though each state government can create their own

legislation regarding this matter, we assume the Statute-LFTSE has been a referent. We also believe the arrangements of LFTSE have been referents for state normativities, and for analysis purposes, they are essentially the same arrangements.

Since the Statute regulated the labor relations of federal workers, in 1946 the 'Regulation of General Work Conditions for Public Education Secretariat Workers' was decreed (Regulation), completing the normative framework for SEP employees. Despite the Statute not being current anymore, the Regulation has survived ups and downs until today.

This work analyses LFTSE and the Regulation. Both normative pieces structure different issues related to labor relations between federal employees-agents and this. So, only the articles that structure exit possibilities or, in TB's words, 'escape doors', were selected. Chapters VI and VII of the Title II from the LFTSE were examined. There, the procedures for 'suspension' and 'termination' are established. From the *Regulation*, the Chapter XII, which deals with 'infringements' and 'rewards', is analyzed.

### *Data gathering and analysis*

Data gathering for this work's investigation was carried out through a LFTSE content analysis. We relied on the IGT proposed by Crawford and Ostrom (1995). IGT is commonly used to deconstruct formal institutions (regulations, laws, etc.), which operationalizes throughout institutional statements. An institutional statement is 'a restriction or linguistic shared opportunity that prescribes, allows or suggests the individuals and corporative actors actions or results'<sup>6</sup> (Crawford and Ostrom, 1995: 583). An institutional statement consists of components, grammatical units (see table 1)<sup>7</sup>. This way, the institutional arrangements are reduced to their linguistic expression through statements (Crawford and Ostrom, 1995; Basurto *et al.* 2009).

Initially, Crawford and Ostrom (1995) gave the institutional statements some grammatical components: attribute (A), deontic (D), condition (C), purpose (I), and *or else* (O). Afterwards, Basurto *et al.* (2009) and Siddiki *et al.* (2011) added the 'object' (B) component. In the table 1 these components are defined and exemplified. The Deontic requires some precisions though. This operator specifies if an actions is required ('has to' or 'must'), permitted ('can') or prohibited ('must not' 'cannot').

6 Our translation.

7 All the tables are in the appendix, at the end of the article. Author's note.

It has not to be always specifically written, it can be implicit as well (Basurto *et al.*, 2009). Additionally, it can be out of the statement; it can be at the beginning of a paragraph or section. The Deontic varies because of the prescriptive force (Crawford and Ostrom, 1995). For example, 'have to' and 'must' have not the same prescriptive force. These differences are essential when outlining the force of an institutional statement.

When analyzing the normativity, the form in which institutional grammar structures the different situations is handled, considering the editing of all the components. All statements have, as a minimum, components ABIC (attribute, object, purpose and condition). In some cases, there is a *strategy*, which imposes conditions for action with a minimum prescriptive force. In contrast, when the statement has a Deontic, there is an ABDIC rule, with prescriptive force. Having an 'or else', there is an ABDICO, with a higher level of prescriptive force than the rule's. Thus, the strategies are 'regularized plans that individuals realize inside an incentive structure' (Ostrom, 2007: 23).

The degree of information that actors have over the situation's interaction structure is essential in order to outline the necessary strategy. Teacher's everyday interaction on the operative level allows them to get detailed information and deep knowledge about the action possibilities, this is, about the strategies to develop.

The rules are action or result prescriptions focused on no-material rewards. Rules constrain. Culturally inducted -more than punished by a Constitution-, their transformation is slow and subtle. Even though they can emerge from the individual, most of them are gained in a community where the individual frequently interacts (Ostrom and Basurto, 2010).

To sum up institutional statements combinations structure action situation in the education system, that is, they set the possible actions or results suggested or mandatories for the actors. The punishments and penalties application to teachers, which leads to the termination ('regular escape doors'), are analyzed on this framework. Therefore, this work thoroughly analyzes each institutional statement that relates to this action situation. In order to determine the force of all the statements it is necessary to know if they are: strategies, norms, or regulations; but there are other components that must be taken into account (attribute, component, and purpose) so that it is possible to determine the degree of contribution to the action situations.

## *Results*

This section is divided in two parts. The first one analyzes the infringements referred in the *Regulation*; that is, penalties that might lead to the termination. This is a 'slow rail' that leads to the exit. As in every other organization, punishment application supposes the autonomy of the principals (schools directors) for authority, in this case, penalties application. The *Regulation* adjusts a diversity of teacher's behavior (punctuality, effort, attendance, etc.) that are essential for, among others, orders and functioning of the school. The punishments application relies on the director (on the attribute, according to IGT's language). However, as previously said, this assumption turns out to be problematical because of the operative personnel's dependence on the labor union for their promotion and other benefits.

### *Slow rail*

Chapter XIV of the Regulation 'Penalties and Rewards' is analyzed here. The content of Chapter XII corresponds to some part of the LFTSE contents, which is why it is analyzed later. Articles 70 to 75 in Chapter XVI are the 'conceptualization' of the chapter. Article 70 says that 'In all penalties and rewards cases no foreseen by the Statute, the preventions of this chapter will be applied.' LFTSE has thus prevalence. Article 71 determines the infringements workers can receive, presented in a progressive way, from a minor infringement to a severe one; it starts with warnings, and verbal and written estrangements; then there are bad marks on their service record, the loss of the right to get a salary; employment, position or work suspension, and finally, the major infraction, the designation termination.

Article 72 states that the department head will make written estrangements, with a copy for the Personnel Department and the Hierarchy National Commission. For this particular case, the department head is the school's principal, teacher's immediate boss. Article 73 stipulates that three estrangements are equal to a bad mark. This is given by the Personnel Department, central administrative body that is not related to the field interactions (Table 2). Yet, as stated in Article 74, there must be two conditions.

Condition C1 refers to the accumulation of three estrangements mentioned in Article 73. The intervention of the Personnel Department occurs once they get the three estrangements notification. Condition C2, accumulative, is that it has to be legitimately requested by the Direction of

the A2 campus. The director of the school must not only issue estrangements, but request the bad mark as well.

This supposition must be seen through interests and preferences affinity that structure the *Regulation*. The 11th Article of the *Regulation*, and LFTSE fraction III from the Article 15, say that the contracts the Secretariat can have with their workers can be permanent, temporal, for a set period, or for a certain work. LFTSE's 6th Article defines base workers as irremovable. Therefore, we consider irremovability and base as synonyms.

The Articles 5, 6, 7 and 8 from the *Regulation* are essential. Article 5 stipulates 'SEP base workers will be subdivided into three groups: teachers, technicians and administratives.' Article 6 defines who the teachers are, and Article 7 defines who the technical personnel are. Article 8 adopts a defining approach: 'The personnel who do not execute teaching and technic activities is considered administrative. All the operative academic personnel with agent and principal roles are base workers.'

Thus, labor irremovability is not only given to the lower positions in the academic hierarchy (teachers, for example), it is also given to the people in charge of supervising, controlling and monitoring that personnel. What Tirole (1996) mentioned relating the role of the supervisor gains importance here. Calvo-Pointòn *et al.* (2002: 204) explain that 'the role of the sector head is the last base position a teacher can get through ranking promotion.' In order to be able to get a promotion, it is necessary to be a base worker (Art. 38, LFTSE). It has also been said (Street, 1983; Ornelas, 2002 y 2008) that medium and high levels of education bureaucracy, are position that 'belong' to the SNTE. Because of this structuration, formal and informal, the possibilities of the head teacher automatically applying the infractions mentioned in the previous paragraph must be considered.

2. The *quality and effort* of the teaching work is little relevant if judged by the sanctions considered for its breach. Article 39 states that 'work intensity will be determined by the set of tasks assigned to each employee in the internal regulations of each Secretariat Unit.' It has to be clear that the labor union and officials must elaborate these regulations.

Besides, there is no special treatment (Table 3) when 'the teaching activities are not executed as actively and appropriately as it is required' (Article 77, fraction V); it is combined with lower responsibilities, such as acting intrusively, not being polite and diligent with people, denigrating government events and disobeying authority, and not reporting irregularities. The sanctions can be estrangements, verbal and written warnings, or bad marks. The one applied (this is relevant) will depend on the 'department head's judgment.'

3. Article 76, and subparagraph *a* to *e* from Article 80 are about delays. Article 76 states that being generally unpunctual, and not fulfilling the controls used for its measuring (Article 25, fraction II) will mean bad marks (Article 71, fraction II). It could also mean the loss of the right to get the wage corresponding to the unjustified absence. Subparagraphs from Article 80 explain the delays; it needs to be mentioned that there are infringements and delays scales.

These infringements start with bad marks, then the right of receiving a wage will be lost (if the worker appears at work after 30 minutes, that would be an absence), work suspension and, finally, the termination is asked to the Tribunal. The director of the school is responsible for monitoring the punctuality and attendance of the academic personnel, as well as their performance.

4. Article 78 regulates some of the conducts of the education workers. It is the article of the government's operative level of the education system. We will not deepen into each one of the (un) expected conducts. What will be emphasized are the infringements worth verbal and written estrangements. These infractions can lead to more serious sanctions, depending on the gravity or reoccurrence.

If these are not worth (conditions and details are not specified), the Secretariat will be able to request the Tribunal the termination of the designation, which is the most serious sanction. The deontic "allow the SEP" does not force it, it just empowers it, but for this to happen, the Secretariat needs to have much information provided by the school's directors. Though it is not mentioned, information flow has to upgrade the organizational operative hierarchy.

5. The only cases in which termination seems to not have difficulties are those described in the Article 79. In these, the worker has the initiative to set a foot out of the education system. The first refers to the resignation case. If the worker leaves work without his resignation being accepted, or without handing files, records, figures, or goods that are their responsibility, the worker will be ceased.

The second refers to a new attachment. If the worker does not transfer to 'the new attachment's place, indicated by the Secretariat, in no more than five days from the date of the pending concerns' rendition of their previous work' he will be ceased. Regardless of the responsibility the worker can have. Neither this article nor the *Regulation's* give more details.

6. Absences can also lead to termination. Here, absences must be reported to the Personnel Department in order for the sanction to be effective. As

said before, it is the director's responsibility to monitor the attendance of the academic personnel. It can be difficult to assume the director will apply the norm just because it is established, especially if, as in this case, the sanctions to the base worker for breaching are not clearly specified.

7. Suppose the director –contrary to what has been said before- acts independently, giving estrangements to whom, according to their judgment, deserves it. Articles 75 and 81 (Table 4) weaken the II in Article 74 (Table 2). The first part of Article 75 has the same punitive tone that Article 74's: 'Bad marks will be permanent on the worker's record'. Then the redemption opportunity appears in components D3, I2, A3 and C4 from Article 81.

Its structuration is simple and vague, compared to the (relative) precision of the infringements. C3 condition to make up for the bad marks, is the realization of 'extraordinary services, praiseworthy actions or other motives that may justify such reward. But what makes an action 'extraordinary or praiseworthy'? According to whom? There is no clarity about this neither in the articles nor in the *Regulation*.

This part highlights the two facts configuration. The first one refers to the attribute, a key component. The *Regulation* assumes the director (and other operative level directors)'s autonomy in order to apply sanctions. Without this automat intervention, infringements would have no disciplinary effect. Nevertheless, these positions are base works. The second element refers to the disciplinary effects established in Articles 75 and 81. The latter still about ambiguity and the lack of clarity in the institutional statements.

### *Fast rail*

Chapter XII from the *Regulation*, and chapter VI and VII from the LFTSE are equivalents. These are about suspension and termination. Suspension does not mean worker's termination (Art. 45, LFTSE). Suspension causes are similar for both norms. For the LFTSE, 'the worker having an illness that could be dangerous for the people working with him' (fraction I); 'Temporary custody (...) followed by an acquittal or detention imposed by legal or administrative authority, unless, relating to an arrest, the Tribunal decides there must be termination'.

Lastly, 'Workers in charge of handling of funds, monies or goods, *could* be suspended up to sixty days by the head of the corresponding department if there is any irregularity during their management, while there is an investigation and the termination is being decided'. The deontic 'could' only authorizes, showing the distinctive tone of the normativity.

No base worker can be ceased unless there is a fair cause. That is how the Article 46 from the LFTSE begins. Then the fair causes are listed, each fraction representing each kind of them. One of the causes from fraction I –the abandonment- is made by Article 60 from the *Regulation*. Fractions II, III, and IV are clear for the law, since they do not require more elaboration. These are the ‘regular escape doors’ that TB referred to, contrary to those from fraction V. Because of how the institutional statement is written, the Secretariat has to first –no later- ask the Tribunal for a resolution for the subparagraphs causes. This means five different action courses are required, which will be seen later.

Table 5 contains the action courses that need to be followed when those causes occur. The *Regulation*, contrary to the LFTSE, is older and primitive, short in details. That is why it is analyzed first. When it comes to the fraction V causes, Article 59 orders the Secretariat to file a claim before the Court of Arbitration to cease the worker. This Article’s statement is overwhelming. Besides, it makes clear that the Secretariat is not authorized to cease any worker. While the claim is still in process, fraction III from Article 58 forces the Secretariat to ‘previously and invariably’ ask for permission to the SEP to cease the worker. The other statement forces the labor union to allow the SEP when it shows that ‘the facts the worker is accused of are one of those mentioned in the fraction’ (C2). Therefore the only thing the SEP can and should do, is to demand and ask for permission.

The language of the LFTSE adopts a less punitive tone. This can be seen through the use of deontic. The action courses are not limited to suspension and termination, as it is in the *Regulation*. The option of relocating the worker is added. Thus, the organizational configuration becomes weak and simple when imposing sanctions. Some other actors get involved in the decision making as well.

C7 from Article 46 states that before any caused mentioned in fraction V, an administrative report must be filed. For obvious reasons, the ‘office’s superior head’ or the base personnel are responsible for filing it. The implicit deontic (D4) is clear: ‘must be filed’. For the act to be used subsequently as a ‘action’s base instrument’, it must be signed by various people: the sanctioned, the office’s head, the labor union representative, position witnesses, defense witnesses and attendance witnesses.

The administrative report is the only *mandatory* action this statement imposes. The last paragraph of Article 46 introduces C8 condition, which contravenes, or at least neutralizes the peremptory of Article 59 from the *Regulation*: ‘If according to the incumbent the claim proceeds’, then the

claim is filed. It is no longer necessary as it is in the *Regulation*. Regardless of whether the cause is serious or not, the incumbent will be able to 'suspend the effects of the designation'. But the corporatism gets involved even in such a *weak* purpose as the I2 (suspension), and for such a *high level* in the organization as the department's head (A2). The same paragraph introduces C4 condition, which is not likely to occur: 'if the corresponding labor union agrees with that'. Here, action courses branch, depending on whether the causes are serious or not.

The head has a resource in case the labor union refuses the permission to suspension. Besides C4 condition, a new condition (C5) appears to apply that resource: 'when it has to do with any of the serious causes mentioned in subparagraphs a), c), e), and h); that is, when the causes affect the order and governance of schools. Only in those cases 'the head will be able to ask for the termination of the designation,' regardless of agreeing or disagreeing with the labor union. If the deontic is read in a literal way, the head will be only authorized to act, but not obliged to, not even in serious cases. The statement continues: the Tribunal 'will provide the suspension separately (...) without continuing the procedure until finishing it during the corresponding term, in order to determine whether the termination of the designation proceeds or not.'

About the not serious causes (subparagraphs b, d, f, g, i, and j) it is not clear how the action will continue according to this institutional statement. We consider that the first paragraph of Article 46 offers an exit to both, the serious and not serious cause. This statement authorizes (D1: could) the superior head (the director, for example) to order the removal of the worker 'to a different office from that where he is working, in the same state (...) until the conflict is solved by the Federal Conciliation and Arbitration Tribunal'. However, if the claim proceeds, as mentioned before, depends on the head's judgment and if there is an accurate events report.

The deontic is the key component of the statements previously analyzed, a component that shows if an action is required, allowed or prohibited. The deontic 'could' from LFTSE, innovative in relation with the Regulation, is a-directional: nor prohibits neither obliges. It allows other elements to incorporate in the decision formula. It creates a discretionary framework for the actors to promote or not the referred action-purpose, depending on no-normative criteria. When it comes to a movement that leads to termination, the department's head has to make the decision, which reinforces the discretionary framework.

Thus, the SEP cannot cease any base worker. It can only temporary suspend them, as long as the labor union agrees. The only thing the 'office's head' can do is to order the replacement of the worker to a different department. This is, the variety of sanctions widen, dissolving. With the deontic 'could', the decisive connotation of the action courses disappear.

## Discussion and conclusion

This work shows how labor normativity, repository of the rules of the game for Mexico, structures agency problems. This paper contributes to the institutional analysis field of basic education. With the theory framework from TA and the IGT methodology, it was showed that the *LFTSE* and the *Regulation*, the successors of the Statute, set rather than solve the agency problems of basic education.

What TB says about the Statute 'having more regular escape doors than resignation, decease or retirement', shows risky moral situations in a double sense. It complicates how limited the 'escape or exit doors' are, and points the absence of 'normal' mechanisms that are not activated when they should be. This occurs because the Statute itself allows the formation of coalitions among supervisors (head teachers), and teachers (agents), making the collusion easier. Thus the information asymmetry would mean loss control for the SEP.

It is showed that labor security climbs the organizational zone of the operative personnel. The personnel working on principal positions (sub directors, directors, supervisors, etc.) were base workers as well as the teachers. This means they were also unionized. Would this fact lead to the formation of coalitions? Being this is a behavioral phenomenon, the normativity cannot identify it. TB said it actually could. He attributes inspectors (or supervisors) rationality when performing their duties. Inspectors tend to show loyalty to the labor union *vis a vis* the education authority. This loyalty has a material base.

Muñoz-Armenta (2008:399) remind us the SNTE controlled the mechanisms for 'giving incentives in the form of sanctions and rewards to all the education workers' during the time this study is being done. This control makes the formation of coalitions supported by the labor union possible; and as it was said before, union and labor logic prevail (Gómez-Nashiki 2010; Ezpeleta and Weiss, 1994).

Ostrom (2009: 15) remind us that the approval of a law does not necessarily mean creating an effective institution. The design is essential to

understand the level of effectiveness. The author points that 'the formal rules that someone –the participants, officials, or both- does not supervise and enforce, do not change the behavior, and are ineffective.

Apart from that, it is clear that the LFTSE and the Regulation consider a procedure in order to apply sanctions, after all that is its purpose. However, when analyzing the normativity, it was confirmed that the procedures for applying sanctions and for supervising suppose the persons with principal positions in an operative level would act in an automat way, in conformity with the norms. The advantage of making an institutional analysis with the IGT is that it allows overlapping different institutional interacting arrangements in different levels. So, the assumption of autonomy of the principal in the application of sanctions coexists, contrary to the supervisors and agents collusion.

Another consideration comes from the LFTSE's deontic, a piece that regulates serious sanctions. For their application, it starts from the previous assumption: these are only possible with the initial and independent intervention of the school's authority. The LFTSE also considers other sanction options before going for the termination. Besides, it emphasizes the department's head 'criteria' to proceed with the sanctions.

The deontics only empower the actors involved to apply any kind of sanction. This structure could remove stress from the education system administration. There is another side: another discretionary zone is created for the leading actors in the political game of the education system: the government representatives and the teachers' labor union. This option has historically been very handy. Hence, sanctions are susceptible to the political negotiations inside the education system.

This work has some limitations. First, the analyzed normative pieces are only the *LFTSE* and the *Regulation*. The normative *corpus* that can either influence or regulate teachers' behavior is much wider. Besides, the rules of the game are not just formal. There are also informal norms or rules that affect teachers' behavior. Future studies could provide further information. The TA, the theoretical perspective used, applies concepts (agency problems, moral hazard, etc.) that are unfamiliar in Hispanic studies.

Likewise, there could be bias in the assumptions of this theory about the nature of the actors, teachers in this case: utilities maximizer prone to incur in opportunistic praxis. Nevertheless, it must be considered that TB's observations about teachers' behavior lead the conversation to this point. Methodically there is also space for improving. Future studies will consider reliability in the analysis by using better methods.

To sum up, besides resignation, retirement or death, there were little possibilities for a teacher to be sanctioned or to lose their job. For this to happen, it was necessary that these things occur. It would be enriching that other studies take up the discussion to analyze the behavioral dimension of teachers.

This work is about the institutional arrangements that arose around 1940. Since 2012, with the return of the PRI in the executive, the reform *Pacto por México* is implemented. This might modify the arrangements previously mentioned; future investigations could take up this study's perspective in order to make a balance about the changes made regarding the agency problems.

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## Appendix

Table 1

**Fictional example of a codified institutional statement: the pupil will hand in substantial progress according to the stipulated dates in the calendar of X University; otherwise he/she will be withdrawn immediately.**

Component (ABDICO)	Component definition	Codification of a statement example
Attribute	Agents in charge of a particular action	“The student...”
Purpose	Action	“... will give ...”
Object	Animated or inanimate part of the recipient statement of an action	“... substantial thesis progress...”
Conditions (Strategy)	Spatial, temporary or procesual limits, in which an action is carried out	“... according to stipulated dates in the official school calendar of X University”
Deontic (Norm)	Operator that specifies if an action is required, allowed or prohibited	“... (has to, implicit)...”
Or else (Rule)	Punitive sanction associated with not doing an action as it was prescribed.	“... or he/she will be withdrawn immediately”.

Source: Made from Crawford and Ostrom (1995), Basurto *et al.* (2009) and Siddiki *et al.* (2011).

Table 2

### Grammar syntax of the Regulation, bad marks

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Art. 74. <sup>C1</sup> Previous excuse, <sup>B1</sup> bad marks <sup>D1</sup> will be <sup>I1</sup> imposed by <sup>A1</sup> the Personnel Department with a notification for the affected, <sup>C2</sup> and if requested, <sup>A2</sup> for the unit where the worker labors.

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Source: Own elaboration.

Table 3

**Grammar syntax of the Regulation (edited), various infringements**

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Art. 76. The infringement of the fraction II from the Article 25, will mean the application of that disposed by the fraction II from the Article 71 (bad marks on the record), with no detriment of the loss of the right to perceive the wage corresponding to the days when absences were unjustified.

Art. 77. The infringement of the obligations mentioned in the fractions V, VII, VIII, X, XV, and XVI from the Article 25 will mean the application of the fractions I (estrangements and verbal and written warnings) and II (bad marks on the record) from the Article 71 if it is the case, in the point of view of the dependence where the worker labors.

Art. 78. The infringement of the obligations mentioned in the fractions VI, IX, XII, and XIV of the Article 25, and the non-compliance of the preventions listed in the Article 26, will mean the application of the fraction I of the Article 71 (estrangements and verbal and written warnings), with no detriment of the severity of these infractions or the recurrence, if it is the case, allow the SEP to ask the Arbitration Tribunal the termination of the respective designations.

Art. 79. The infringement of the subparagraphs XI and XIII of the Article 25 will mean the application of the Article 71 of this Regulation (termination of the designation), with no criminal detriment of the responsibility the worker could incur in.

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Source: Own elaboration.

Table 4

**Grammar syntax of the Regulation, compensation of bad marks**

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Art. 75. <sup>B2</sup> Bad marks <sup>D2</sup> will be permanent in the worker's record, and <sup>D3</sup> could be <sup>12</sup> compensated with notes received by doing <sup>A3 C3</sup> outstanding services, deserving actions, or any other motive that justifies such reward.

Art. 81. <sup>A4</sup> Workers serving the Secretariat <sup>D4</sup> will have the right to <sup>B4</sup> rewards <sup>C4</sup> for the deserving services when doing their work, and they could <sup>D5</sup> consist <sup>I3</sup> of: <sup>B5</sup> a) Good marks in their record; and b) Letters of congratulation.

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Source: Own elaboration.

Table 5

**Institutional statements of suspension and termination causes,  
LFTSE and Regulation**

LFTSE
Art. 46. (Continued)
<sup>C<sup>1</sup></sup> In the cases in referring to (the) fraction (V), the <sup>A<sup>1</sup></sup> the Superior Head of the respective <sup>D<sup>1</sup></sup> Office could <sup>I<sup>1</sup></sup> order the <sup>B<sup>1</sup></sup> removal of the worker who might be led to the termination of their designation, to a different office from the one that the worker labors in, <sup>C<sup>2</sup></sup> if it is possible in the same state, by the Conciliation and Arbitration Federal Tribunal.
<sup>C<sup>3</sup></sup> <sup>A<sup>2</sup></sup> The Head of the Unit <sup>D<sup>2</sup></sup> could cease <sup>B<sup>2</sup></sup> the designation <sup>C<sup>4</sup></sup> for any of the causes referred to in fraction (V), if the corresponding labor unit agrees; <sup>C<sup>5</sup></sup> but if it disagrees, and <sup>C<sup>6</sup></sup> if it is about any of the severe causes mentioned in the subparagraphs a), c), e), and h), <sup>A<sup>3</sup></sup> the Head <sup>D<sup>3</sup></sup> could <sup>I<sup>2</sup></sup> ask for <sup>B<sup>3</sup></sup> the termination of the designation before the Conciliation and Arbitration Federal Tribunal, which will provide the suspension of the designation, with no detriment of continuing the procedure until finishing it during the corresponding term, in order to determine whether the termination of the designation proceeds or not. Once the tribunal decides...
Art. 46 Bis: <sup>C<sup>7</sup></sup> When the worker incurs in any of the actions mentioned in the fraction V of the previous article, <sup>A<sup>4</sup></sup> the Head of the Unit <sup>I<sup>4</sup>,D<sup>4</sup></sup> will make an <sup>B<sup>4</sup></sup> administrative record with the worker's intervention and a representative from the Labor unit, and the facts will be perfectly specified, as well as the statements of the worker and the proposed prosecution witnesses. The record will be signed by every person involved and by two other witnesses, and must be handed in that precise moment, one for the worker and one for the labor union's representative.
<sup>C<sup>8</sup></sup> If the <sup>A<sup>5</sup></sup> Head believes it is fair <sup>I<sup>5</sup></sup> to ask the Conciliation and Arbitration Federal Tribunal the termination of the worker's designation, the request <sup>I<sup>6</sup></sup> will be accompanied with the administrative record and the files that result from this request as instruments for the procedure.

10 It refers to the Article 45 from the LFTSE. The *Statute* was abrogated.

11 It refers to the Article 45 from the LFTSE. The *Statute* was abrogated.

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### Regulation

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Art. 58. The suspension of designation of the workers referred to in Article 431 of the Statute, with no detriment of that disposed by the Law of Responsibilities of Federal Officials and Employees, will be decreed according to the following rules:

I...

II...

III. <sup>C1</sup> In the suspension cases referred to in fraction V from the Article 44 from the Statute 2, <sup>A1</sup> the Secretariat will necessarily ask the <sup>B1</sup> concurrence of the Labor union, and <sup>A2</sup> it will be obliged to <sup>12 B2</sup> give it if the facts the worker is accused of are contained in the fraction previously mentioned.

Art. 59. <sup>C3</sup> For the application of fraction V from the Article 44 from the Statute, <sup>A3</sup> the Secretariat <sup>D3</sup> will necessarily <sup>13</sup> submit <sup>B3</sup> a claim before the Arbitration Tribunal, asking for the authorization to give the worker his/her termination, with no responsibility for the State.

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Source: Own elaboration.

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