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Reality and Criticism of Giftedness in the Spanish Education System

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Abstract

The paper tries to be a critical analysis of and a theoretical reflection on minority students: gifted children in the Spanish education system. To carry out this study and achieve the objectives set up, we took into account a qualitative methodology, framed within the constructivist paradigm in the social sciences. Being a gifted child in Spain is a problem because gifted children are not being adequately addressed, as the Ministry of Education recognizes. An objective analysis of the current situation can become a way of changing it. In addition, we have to pay attention to the principles and rights of the awareness of diversity.

Keywords: *law, education, minority, giftedness, Spain*

Introduction

This work tries to be a critical analysis and a theoretical reflection on minority students: gifted children in the Spanish education system from the first third of the twentieth century until now. The article 27 of the Spanish Constitution of 1978 recognizes that all citizens have a fundamental right to education. This right is also included in the European Union Charter of Fundamental Rights, established in Strasbourg on 12th December 2007.

The General Education Law 2/2006 of May 3 considered attention to diversity as a fundamental principle. This General Law states that students with high abilities need educational services different from the ordinary ones.

The General Education Law 8/2013 of 9 December, for the improvement of educational quality, specifies that students with high abilities have special educational needs.

Therefore, the Spanish Constitution, as the supreme law of the Spanish legal system guarantees the right to education to students with high abilities, like the current General Education Law 8/2013, but it does not make it clear if students with high abilities enjoy this right.

In 2012, the Spanish Ministry of Education published a report on the situation of the education system for the 2009–2010 academic year. According to that report, the situation had not improved as only 5840 students with high abilities were identified and experts say there have to be more than 500,000 in the Spanish classrooms. According to the latest report published by the Ministry, concerning the 2013–2014 academic year, there were only 15,876 gifted students, 10,366 of whom were men and 5,510 women, out of a total of 8,075,841 students enrolled in Spain, representing a percentage of only 0.20% of the total. This means that more than 145,000 gifted students are enrolled in Spain and are not receiving special education, and, most likely, 50% of these students would swell the numbers of school failure according to studies by the Ministry itself.

Being a gifted child in Spain is a problem because gifted children are not being adequately addressed, as the Ministry of Education recognizes. However, what is the worst is that they are ignored by a system which does not strive to implement mechanisms for early detection, to identify them through Educational Administration. Such mechanisms were established by the General Education Law 2/2006 and the current General Education Law 8/2013 to address this untenable situation of institutional neglect of students who may be considered at high risk from a socio-emotional perspective, as Fernandez (2006) points out.

Common language does not help these children. It is dangerous to use discriminatory language. It is important to remember that the most important thing is the sense which is in language, not in reality (Gil, 2011). Thus, we find lack of coordination between theory and practice, because although there are lots of rules and legislative arrangements devoted to the right of education based on language and culture, they have not been applied by education authorities, despite the importance they have been given (Fuller, 2004).

We have to say that the success or failure of the education system is not marked by a particular educational practice but it has to be redirected to the student and it has to be appropriate to the context and to the exception (Pallares, 2014).

An objective analysis of the current situation can become a way to change it. In addition, we have to pay attention to the principles and rights of the attention to

diversity, which has to be suitable for the educational reality if the aim is a modern and fair education. The General Education Law 8/2013 states this in its preamble, where it states that no one can imagine a quality education system if eliminating any trace of inequality is not a priority. The main function of the current education systems should be to encourage students to acquire the necessary learning to satisfy their need for knowledge transfer (Pallares, 2013), especially in those cases where an educational intervention is needed, either because of educational needs or due to giftedness.

Research Methodology

To carry out this study and achieve the objectives set up, we took into account a qualitative methodology, framed within the constructivist paradigm in the social sciences. This methodology is normative because it shows the rules of procedure explicitly. Hence, this will help us to achieve our objectives. However, we must understand that in the field of social sciences, especially in the educational area, there are many paradigms which share premises and theories but can totally differ, too (García Ruiz, 2012).

We will interpret it with the help of common indicators of validation in order to attain certain objectivity in the educational research (Garcia and Martin-Sanchez, 2013). Therefore, the characteristics of qualitative research in education meet the interpretation, individual and subjective, occupying a prominent place. Scientific language and educational research overcome the artificial limits of the more positivist methodologies since the educational phenomenon “requires intellectual rigor and its own holistic view of postmodern, qualitative and revisionist method (Martin-Sanchez, 2014: 86).

Given these characteristics as well as the paradigms where we have fallen under, we have chosen a hermeneutical approach to this study because it is a political-educational analysis with a historical perspective. This method allows us to bear in mind those educational events which cannot be studied individually but we must pay attention to the historical, social and economic context where those events happened. In addition, it allows us to understand the current educational problems, as argued by Cohen et al. (2011).

The sources we used were the readings of secondary sources on giftedness to focus on the sources which interest us, i.e., the legislation in its development. We consulted books on legislation and we were enriched by them all and we found them by searching them online. In addition, we got the reports from the Ministry of Education.

The right to education in the Spanish education system

The right to education is fundamental and it has two dimensions: one is subjective while the other is objective. If we bear in mind the subjective dimension, gifted children's right to education could be defined as a subjective public right which is linked to the status of the person in the abstract which is currently recognized and guaranteed by the Spanish Constitution and the laws which developed it. Therefore, anyone can enjoy this right. On the other hand, we can speak of an objective dimension: Fundamental rights are foundations to political order and social peace as justified by the Article 10.1 of the Constitution.

The fact that everyone has the right to education is recognized by the Spanish Constitution of 1978 and by the European Union Charter of Fundamental Rights signed in Strasbourg on 12th December 2007.

The right to education has four essential characteristics: availability, acceptability, adaptability and accessibility arising from the *International Covenant on Economic, Social and Cultural Rights of the United Nations*, which is now ratified by almost every country in the world.

The Article 13 of this Covenant recognizes everyone's right to education aimed at the full development of the human personality and the sense of human dignity. Therefore, gifted children who have been identified have the right to be educated. On the other hand, those gifted children who have not been identified have the right to be identified by the education administration as prescribed by the General Education Law 2/2006.

The research has been contextualized in the Spanish education system at the stage of primary education in the 21st century. We must bear in mind that every socio-cultural context is made up of different people. As Alcon Granado (2005) states, gifted people contribute to the formation of that diversity. These students have rights and they are defined as gifted people by the current scientific research. Fernandez (2006) argues that gifted people are a risk group from a socio-emotional perspective. We cannot forget what Sanchez and Lopez (2012: 18) state to understand this situation better: "Other emotional problems affecting gifted people are the lack of understanding by the school and society."

Gifted students' education is a challenge because they deserve educational attention so that they can achieve the maximum development of their personal capacities. The General Education Law 2/2006 includes and recognizes them as pupils with special educational needs. The Article 57 of the General Education Law 8/2013 states that gifted students need an education different from the ordinary one.

From a comparative perspective, Spain must adapt to gifted students' needs and guarantee the right to a quality education, a fundamental right of members of any country, regardless of religion, ethnicity or gender (Arnové, 2009).

Attention to diversity is not only focused on gifted children, it is a fundamental right for all, enshrined in the International Convention on the Rights of Children by the United Nations General Assembly on 20th November, 1989. Spain signed it on 30th November, 1990, so it has been part of the national legal order since then. Article 29.1 literally reads: "State parties should at all times aim to provide programmes which develop the child's personality, talents and mental and physical abilities to their fullest potential." This clearly demonstrates the need for state policies first before government policies, in order to harmonize these two sectors of development in a longer time frame. In this case, the question is whether the government and public schools are the most suitable places for creating a positive identity (Welch, 2001).

As we have pointed out, the Education Administration must care for those gifted students who have been identified. However, the real problem is detecting them since they go completely unnoticed in the classroom without being identified as can be seen in the latest statistics published in 2015.

It is clear that a broad concept of cultural diversity includes the concept of giftedness. Nevertheless, we do not see the concept of cultural diversity in the legislation and in many cases, there is an emphasis on competitive and discriminatory aspects through education and legislation (Carnoy y Rhoten, 2002). As a result, there is a rift between the legislative approaches and the subjects' diversity and pluralism within any education system.

Giftedness in the Spanish Education Legislation

At the European level, the Bologna process proposes a new educational model which puts learners in the center of the process not only as recipients of knowledge. The combination of changes in the educational context is similar to replacing the traditional teaching model centered on learning.

Salaburu (2010: 54) states that one of the conclusions adopted by the EU Council of Ministers of Education was that "the level of compatibility was enough to enable citizens to benefit from their diversity rather than being penalized or limited by it."

With the General Education Law 2/2006, the principle of attention to diversity is a fundamental principle as stated in its preamble. Thus, the principle which was

discussed earlier as exceptional will now apply generally. As a result, it will benefit not only gifted students but all students who will have to be treated according to their educational needs.

The General Education Law 8/2013 considers that students with high capacities need attention different from the ordinary one. It also gives importance to attention to diversity, as stated in its preamble (VII).

To prevent problems, the Article 19.1 of the General Education Law 2/2006 states that at the primary stage, the focus is on attention to the diversity of students and the prevention of learning difficulties, acting as soon as these difficulties are detected. Therefore, it is clear that attention to diversity is a pedagogical principle on which legislation is based, and must link teachers' educational practices for all students without exception.

And the law is very clear, stating that attention to diversity is a fundamental principle, as stated in the Article 4.3 of the General Education Law 2/2006. But the law goes even beyond ideology, stating that when diversity requires it, relevant organizational and curricular measures will be taken. Thus, it is clear that action will be taken when circumstances require it to fit all students' diversity.

Gifted students have special educational needs and the General Education Law 2/2006 ensures they will not be discriminated by applying the principles of normalization and inclusion so that there is effective equality in access to education and retention.

We can also find in the legislation that the education of gifted students will not take place in special schools because diversity enriches ordinary classes and the principle of inclusion and non-discrimination is expanded as needs can be met in ordinary schools by implementing the necessary measures of attention to diversity.

The Article 74.2 of the General Education Law makes it clear that the identification and assessment of the educational needs of students with special educational needs will take place as soon as possible, by personnel with adequate qualifications. This circumstance is reinforced by Article 76, which deals with students with high intellectual abilities. It gives responsibility to the Education Authority to take steps to identify students with high intellectual abilities and assess their needs soon. The Educational Administration has to adopt action plans to meet the needs of students with high abilities.

What is more, attention to diversity is a principle which must be stated in the education project of the school. That is why the Article 121 of the General Education Law 2/2006 deals with attention to diversity as a teaching resource to improve student learning and as support for teachers to perform their work better.

To achieve equity, the Title II of the General Education Law 2/2006 deals with student groups that require education attention different from ordinary because they have specific educational needs, as is the case of students with high capacities (in whom gifted ones would be included). The aim is that all students are subject to inclusion and are integrated into the education system. The principle of inclusion must ensure the development of everybody.

The Article 71.2 of the General Education Law 2/2006 considers gifted students as subjects requiring different educational attention and the Educational Administration is responsible for ensuring the resources needed by students to achieve the maximum development of their personal capacities.

The realization and determination is guaranteed by schools, which become organizations where comprehensive care of students is guaranteed, as stated in Article 72.3. Thus, schools are the ones to meet the needs of students with high abilities. Moreover, the concept of school is not as abstract as Educational Administration, which can be seen in the Article 76 of the General Education Law 2/2006 and Article 58 of the General Education Law 8/2013. We have to add the slow pace of the Administration.

Results and Conclusions

The Spanish Constitution of 1978 in its Article 27 recognizes that everyone has the right to education and classifies it as a fundamental right. Everyone's right to education is also included as a fundamental right in the European Union Charter of Fundamental Rights, established in Strasbourg on 12th December, 2007. In addition, it is a right recognized in the 1989 Convention on the Rights of Children of the United Nations, ratified by Spain in 1990.

Gifted students are not receiving the educational attention they need so the rights under the Article 27 of the Spanish Constitution and the General Education Law 2/2002 and 8/2013 have been violated.

Gifted students' right to education could be defined as a subjective public right which is linked to the status of the person in the abstract and currently recognized and guaranteed by the Spanish Constitution and by the laws which developed it. Therefore, anyone can enjoy the right to education.

Although there have been approaches to address the issue of giftedness, the Spanish educational policies to address students with high capacities have been postponed. The General Education Law 2/2006 was the first to consider gifted students as individuals with specific educational needs. In addition, it stated that

schools, not the abstract educational administration, would adapt the curriculum to provide comprehensive care to gifted students. It is obvious that pedagogy and educational theories and practices cannot accept homogeneous designs of educational policies, which do not pay attention to individual differences, freedom, identity or justice (Ferraz, 2012).

Gifted children who have been identified have the right to be educated and those who have not been identified are entitled to being identified by the Education Authority as prescribed by the General Education Law 2/2006 and the General Education Law 8/2013, because firstly they have to be identified so that they can access the education system, which has to provide the right to education. If they are not identified, this may involve the partial deprivation of the right to education by ignorance of their educational needs. This may result in the loss of accessibility of many gifted children to their right to comprehensive care of their educational needs, which remain hidden in the shade if they are not identified as gifted.

The General Education Law 2/2006 and the General Education Law 8/2013 try to ensure that all students achieve the maximum development of their individual, social, intellectual, cultural and emotional capabilities. In order to do that, they need to receive quality education adapted to their needs. In the General Education Law 2/2006 and in the General Education Law 8/2013 general pedagogical criteria are pursued. Therefore, attention to diversity should be applied to all students. Gifted students are involved in and benefit from the pedagogy of diversity, which is considered a necessity and will apply to all students, not just those who have specific needs for educational support.

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