



"DILIGITE JUSTITIAM QUI JUDICATIS TERRAM." "Ye who judge the earth, give diligent love to justice"



# TERRUM

**New Free Textbooks, but at what cost?**  
By Javier García.



## New Free Textbooks, but at what cost?

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Switching the location of states on a map of Mexico, misrepresenting the solar system, and including wrong dates of certain historical events, are just some of the most criticized errors of the newly released free textbooks of Mexico's Ministry of Public Education (SEP) for the 2023-2024 school year. Although much of the controversy is focused on the political indoctrination related to the ideology of the president Andrés Manuel López Obrador's (AMLO) political party, the greatest criticism made to the textbooks is about their elaboration, approval, and distribution process. These books were developed following a pattern similar to that adopted in many of the current government's projects: avoiding the legal and regulatory procedures required for the implementation of public policies, infrastructure projects and approval of new laws and reforms. For example, the fast-track approval by Congress of the President's "Plan B" in electoral matters, or the attempt to transfer the National Guard to the Secretariat of National Defense without obeying the Political Constitution; both declared unconstitutional by the Supreme Court of Justice of the Nation. On this occasion, the free textbooks were also made in the pure style of the current public administration, without consulting or allowing the due participation of all those involved and without following the steps established by law, thus violating the human right to education of minors and parents.

José Vasconcelos Calderón, Mexican educator and philosopher, first Secretary of Public Education, who is credited with driving the contemporary culturalization of Mexico, understood better than anyone that in order to eradicate analphabetism in the country, he had to include all individuals of the nation, without discriminating or excluding; mainly the indigenous, as his desire was to make them Mexicans through education. Although AMLO's government seeks to assimilate an inclusion of the LGBTQ+ community in the textbooks, the differences between both individuals are enormous. The first one established an auxiliary and provisional department of Indigenous Education to undertake the national program of Cultural Missions, in which "missionary teachers" would be given the task of educating the most vulnerable populations in culture, technology, and health thereby achieving a nationwide literacy<sup>1</sup>. The second has focused on centralizing education and not allowing the opinion of teachers, educators, and parents in the elaboration of the free textbooks at issue.

When the rights of vulnerable groups are at stake, they fall within a suspect classification ("categoría sospechosa" in Spanish) foreseen by the Constitution. This means that a reinforced interpretation of the law is required from all authorities to ensure greater state protection against any type of discrimination they may suffer. Since children and adolescents are in a formative and developmental stage, they are classified as a suspect classification by age.

In order to achieve their reinforced protection, the State must take into account the principle of the best interests of the minor, infancy or childhood. Recognized by the Declaration of the Rights of the Child, the Universal Declaration of Human Rights, the Convention on the Rights of the Child<sup>2</sup> and in Article 4 of the Political Constitution (included until 2011), the best interest of the child refers to the fact that: "in all decisions and actions of the State, the rights of children shall be fully guaranteed, these rights being those of food, health, education and healthy recreation for their integral development. This principle shall guide the design, implementation, monitoring and evaluation of public policies aimed at children<sup>3</sup>."

1.- Secretaría de Educación Pública. 2020. ¿Quién fue José Vasconcelos? <https://editorial.upnvirtual.edu.mx/index.php/invitaciones/blog/472-quien-fue-jose-vasconcelos#:~:text=Vasconcelos%20cre%C3%ADa%20en%20una%20visi%C3%B3n,Su%20deseo%20era%20hacerlos%20mexicanos>

2.- Ratified by Mexico on September 21, 1990

3.- Article 4 of the Political Constitution of the United Mexican States.

First, it is important to understand the direct impact on the right to education of children and youth. In order for Mexican authorities to comply with the mandates of Article 3 of the Constitution, on the provision of mandatory, universal, inclusive, public, free, and secular education, they have the duty to provide enhanced protection and act immediately to prevent the violation of this right. This obligation of the State implies that in all phases of the elaboration of educational policies, from planning to the implementation of measures such as the production, approval, dissemination, and distribution of the books at issue, the best interests of the minor, must be prioritized. The mere age of the minors represents the objective element to bind the State in a situation of special guarantor of human rights, through the best interest of the minor, to take measures to ensure that the education provided, through such books, complies with the constitutional parameters<sup>4</sup>.

The distribution of textbooks not only involves an affectation to education in the individual sphere of the person, but to the collective and related to basic education for the 2023-2024 school year. Therefore, it is also important to understand this right from its social dimension. Although the textbooks are not addressed to parents, they do have a preferential right to choose the type of education to be given to their children<sup>5</sup>, as well as an express power to participate in the educational process<sup>6</sup> and to communicate when the processes of the study plans are not followed<sup>7</sup>, which is why the National Union of Parents ("Unión Nacional de Padres de Familia" in Spanish) filed an amparo against the distribution of the textbooks. This is also the case for specialists, state governments, and teachers, who have legal standing for such participation, as well as to demand the suspension of acts of authority or to request due remedies when their acts have not followed the formalities of the legal procedure.

Since the nature of the right to education is of a social nature and it is a diffused right<sup>8</sup>, it represents not only a right of which an individual is the holder, but also a duty of participation and collective intervention that guarantees its effectiveness with respect to its beneficiaries, the children and adolescents<sup>9</sup>. The above is based on Articles 3 of the Constitution and 3 of the General Education Law, which require the democratic participation of various social actors - already mentioned - for the implementation of plans, programs, and free textbooks.

The free textbooks are the main instruments to fulfill the right to education and are therefore vital to promote the formation of critical and active citizens in the democratic life of the nation. From the beginning of the elaboration process of the new textbooks, the SEP arbitrarily selected those who would give their opinion on them, behind closed doors of state governments, specialists, teachers, and parents, in order to limit them to a single vision. A vision that eclipsed the best interest of the child and which does not allow it to provide a special advantage to the protection of the right to education. The new books have caused an enormous polarization in Mexico, provoking a rejection towards them, so, "if you don't know what to do with the books, use them to stop the leg of the bed" as the governor of the state of Tabasco stated.

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4.- Ruling in Amparo 784/2023, Third District Court on Administrative Matters in Mexico City, Judge Yadira Elizabeth Medina Alcántara, May 25, 2023, page 33.

5.- Article 26 of the Universal Declaration of Human Rights.

6.- Article 3 of the General Education Law.

7.- Article 22 of the General Education Law.

8.- Rights that by their nature are not owned by an individual but correspond to all or to a group.

9.- Ruling in Amparo 784/2023, Third District Court on Administrative Matters in Mexico City, Judge Yadira Elizabeth Medina Alcántara, May 25, 2023, page 44.

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