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ANALYSIS OF THE AUTONOMY AND THE REGULATIONS OF THE PRIVATE HIGHER EDUCATION IN
MEXICO

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ABSTRACT

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According to the Mexican law, private individuals are allowed to grant higher education as long as they fulfill the established requirements. Different a priori (legislation, agreements, basic requirements and approvals) and a posteriori (supervisions and recognition of degrees) instruments are used by multiple authorities to regulate the system, constraining mainly the academic autonomy of the higher education institutions. However, these mechanisms seem not to be sufficient because, in recent years, many low quality private higher education institutions have flourished. Therefore, in order to understand how these regulations constrain or enhance the institutions' capacities and explore their role in the proliferation of low quality institutions, this study analyzes in depth the nature of the private higher education in Mexico, the current mechanisms that regulate the sector, and the different degree of the autonomy that they enjoy in their several dimensions.

To achieve the purpose of this study, a qualitative research, and more specifically, an exploratory qualitative inquiry research, has been carried out. Hence, first of all, this research starts by analyzing the private higher education and the characteristics of the autonomy it enjoys, as well as the current mechanisms that exist for its regulation. Second, it reviews the policy documents that today regulate the private higher education in Mexico (The Mexican Constitution, The General Law of Education, The Law for the Coordination of Higher Education, the Agreement 243 and the Agreement 17/11/17), and the contributions that other authors have made over time, to have a better understanding of the phenomenon. Third, it analyzes the information collected in several interviews, in order to comprehend the interpretations of those involved in the phenomenon. Thus, a purposive sampling was selected and semi-structured interviews were carried out to explore the perspectives of different actors that are part of the higher education system in Mexico, playing diverse roles in the field, and with varied working experiences in different institutions.

The findings of this research reveal that private higher education in Mexico is perceived as a fundamental sector of the tertiary education level, playing a specific role for the formation of the elites that opposed the ideology taught at the public sector, but also for granting education to a sector of the population that is left without access from the public sector. Therefore, private education has become a complex topic of study. In general, it has been found that private higher education institutions enjoy a high degree of autonomy, as regulations do not seem to limit very much their ability to act and self-govern. While they enjoy higher degrees of autonomy in the financial, organizational and staffing dimensions, the academic dimension is the most constrained. Despite this high degree of autonomy, most participants do not consider that regulations have been the reason for the proliferation of low quality education institutions, as the literature has pointed out; on the contrary, participants concur that the lack of access is the main reason for their proliferation.

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I. Introduction

I. 1 Research problem

Private higher education institutions began in Mexico in the early 1910's. Before, the state and the Church had all the control over the higher education institutions but, as the revolutionary war¹ took place, the private sector saw the opportunity of granting education away from the government's ideology² (González, 2012). However, its expansion was very short due to the lack of recognition by the government (Rodríguez & Ordorika, 2011), so only one institution, the *Escuela Libre de Derecho*, survived during the years.

For this reason, the birth of the private Mexican university is located, historically, until the second half of the 1930's when the economic boom, the population growth, and the Spanish immigration³ led a couple of businessmen to the establishment of several institutions (Martínez, 2012; Rangel, 1979). Therefore, from this moment on, private higher education has multiplied considerably (Urquidi et al, 1967), especially during the 90's, when neoliberalism policies were introduced in the country (Instituto de Investigaciones sobre la Universidad y la Educación México, 2002), promoting privatization, deregulation and the reduction of the state's intervention to increase competition (Friedman, 1951). Thus, by 2010, Mexico had a total of 1339 private universities around the country (de Garay, 2013), and 1800 by 2011 according to Álvarez (2011).

The Mexican private university is regulated by different instruments as they are the Mexican Constitution, the General Law of Education, and the Agreements 243, and 17/11/17. The Mexican Constitution (Poder Ejecutivo Federal, 2017 as amended 1917) in its third article, and the General Law of Education (Cámara de Diputados del H. Congreso de la Unión, 2017 as amended 1993) clearly state that private entities can provide education in all its different types and modalities, as long as all the established requirements in the law are fulfilled, and the state has granted the Recognition of Official Validity of Studies (RVOE). The Agreements, in particular, establish the general conditions and basis that the institutions need to fulfill to get the Recognition (Agreement 243: Secretaría de Educación Pública, 1998), and the procedures they must follow during the process (Agreement 17/11/17: Secretaría de Educación Pública, 2017).

The Recognition of Official Validity of Studies is granted by the Ministry of Education, and does not assure quality; on the contrary, it merely assures that the minimal requirements established by the law are met (Secretaría de Educación Pública, 2015). Buendía (2016) mentions that the Ministry of Education approves the majority of applications to obtain the Recognition, rejecting only a minority. As requirements are minimal, higher education institutions enjoy a high degree of autonomy. Nonetheless, institutions enjoy it in different degrees, according to the parameters defined in the Agreement 17/11/17 (Secretaría de Educación Pública, 2017). Also, there are some institutions that are granted the RVOE by presidential decrees, which enjoy even a higher degree of autonomy.

¹ The revolutionary war was an armed movement that began in 1910 with the purposes of overthrowing Porfirio Díaz, who had exercised power for more than 30 years, and of expanding the access opportunities for the upper middle class to power. The movement lasted for 16 years, properly ending in 1928 with the creation of the national party who dominated the power for more than 71 years (Serrano, 2012; Aguilar & Serrano, 2012).

² The struggle of ideologies between liberals and conservatives had dominated the political sphere throughout the nineteenth century, to the extent that institutions of higher education closed their doors depending on the party that held the power at the time (Bolaños, 2000).

³ Spanish thinkers that had left their country due to the Civil War were great supporters of the development of the higher education system (Pla, 2001).

The autonomy of higher education institutions has been studied to a large extent, especially in the recent years. Different authors (Raza, 2009; Volkwein and Malik 1997; Berdahl, 1990; Enders, de Boer & Weyer, 2013) have analyzed it from several perspectives, creating diverse classifications for its better understanding. Today, the most widely accepted categorization for the autonomy consists of analyzing the concept according to the activities or the operational dimensions of a higher education institution. Therefore, according to Estermann, Nokkala and Steinel (2011), the institutional autonomy has four dimensions: 1) organizational autonomy, 2) financial autonomy, 3) staffing autonomy, and 4) academic autonomy.

Based on this categorization, in general terms, the organizational autonomy refers to the capacity of choosing its leaders and its governance structures; the financial autonomy relates to the possibility of deciding the mechanisms used to raise the resources needed for its operation, as well as the capacity to manage its finances; the staffing autonomy has to do with the capacity of establishing norms and procedures for selecting, hiring, promoting and dismissing its workers; and finally, the academic autonomy appertains with the student's selection, and the competency in creating and offering new programs.

A private university in Mexico enjoys high degree of organizational autonomy, financial autonomy, and staffing autonomy, but faces constraints in the academic autonomy. In other words, it is able to organize itself and decide its form of government, having its own internal rules and procedures; also, it is able to hire and remove its academic and administrative staff as pleasing, and to decide which students will study in it. In addition, it has freedom of teaching and researching, and the ability to decide what to do with its resources and how to spend the profits it makes (Marsiske, 2010). Namely, the need of authorization is reduced to the plans and study programs, as well as the ability to issue titles and degrees. Other minimal considerations regarding the accreditation of the staff and the conditions of the real state, where the process of education takes place, are also considered (Secretaría de Educación Pública, 1998).

Hood (2004) describes four different ways in which a government exercises control over its institutions: mutuality, contrived randomness, competition, and oversight. Even though these are contextualized to the public sector, oversight is applicable to the private sector. It refers, on one hand, to the laws and regulations and, on the other hand, to the inspections and monitoring processes carried out to assure compliance. The Mexican Ministry of Education uses both of them to assure that the minimal requirements are met by the private institutions. Therefore, ordinary and extraordinary inspections are carried out by the Ministry's supervisors (López, 2010). The first inspection takes place prior of granting the Recognition, to make sure the application matches reality. Nevertheless, Kent (2004) and Canales (2016) point out that the lack of actual supervision after getting the Recognition, and of proper sanctions when requirements are not met, are the main problems of the system. In addition, there are some institutions that enjoy the "simplify regime" or administrative simplification, in which private universities with historic tradition in granting a high quality education, when applying for the Recognition of Validity of Studies do not need to detail the study programs (Rodríguez, 2004a; Buendía, 2011).

This has led several authors like Rodríguez (2004a), Silas (2008), Acosta (2011), Cuevas (2011a), de Garay (2013), Álvarez (2011) and Buendía (2016), to conclude that there is a very flexible and low regulation policy towards private higher education in Mexico, contributing to the establishment and proliferation of low quality and low cost institutions, who grant university degrees to a low and medium low economic sector of the population that is left without accesses to the public education. These institutions either operate without the RVOE or with a partial recognition in some of their programs (de Garay, 2013; Aguilar, 2003).

Therefore, the Instituto de Investigaciones sobre la Universidad y la Educación México (2002) identifies two different types of private institutions in the country: those destined to the formation of the Mexican elite, and those low quality institutions for the masses, as mentioned above. But, as de Garay (2013) points out, all of these are teaching oriented institutions who mainly form professionals for the labor market, and who exert political influence through their graduates and the positions they occupy in the public sphere.

I. 2 Research gap

Despite the fact that private higher education has grown considerably, as we have seen, the Instituto de Investigaciones sobre la Universidad y la Educación México (2002) and Buendía (2009) recognize that its study has not been relevant in the Mexican research agenda. As a matter of fact, Ibarra (2001) found out that between 1987 and 1996, the period of boom of this private sector, only four papers were published in this study field, while 218 referred to the public institutions. And, most of the existing research regarding the private higher education institutions is classified under three categories:

- 1) Historic development, and conceptualization: Instituto de Investigaciones sobre la Universidad y la Educación México (2002), Acosta (2011), Durand, Bravo and Contreras (2007), González (2012), Rangel (1979), Urquidi et al (1967), Gama (2010), Arias (1985), Olivier (2007), de Garay (1998), Silas (2005a), Serna (2006).
- 2) Privatization and neoliberalism: Aboites (1997), García (2006), Rodríguez and Ordorika (2011), Labra (2003).
- 3) Expansion and quality issues: Buendía (2011, 2016), Cuevas (2011a), Gil (2005), Kent (2004), Muños and Silva (2013), Rodríguez (2004a).

As can be seen, in the recent years the research on Mexican private higher education institutions has increased. However, there is still not enough research to understand its complexity, as Buendía (2016) points out. In addition, as seen before, most research focuses on the historic development of the Mexican private higher education system. Few authors, like Instituto de Investigaciones sobre la Universidad y la Educación México (2002), Acosta (2011), Olivier (2007), Muños and Silva (2013), and Buendía (2016) address the issue of the lack of regulation.

The Instituto de Investigaciones sobre la Universidad y la Educación México (2002) worries about the increase of the higher private education institutions without the proper regulations. Acosta (2011) describes the policies implemented by the Mexican government to regulate the private higher education institutions. Olivier (2007) studies the historical changes of these regulatory policies. Muños and Silva (2013) do the same, raising the problem of equity. And Buendía (2016) studies the problems of regulation, control and quality that the private higher education faces in Mexico. Nevertheless, all authors conclude that further studies should be carried out to understand its complexity and make recommendations for improvement.

Referring to the autonomy of private institutions few studies have been carried out. Serna (2006) for example, analyzes the granting autonomy to private universities from the legal perspective, and Rodríguez (2004a) mentions the high degree of autonomy private universities enjoy, especially when achieving the administrative simplification. However, most studies analyze the concept and implications of the autonomy of the public institutions.

As private higher education in Mexico develops it becomes more and more complex. Hence, Rodríguez

(2008f) asserts when mentioning that

The rules must change: it is not the same to interact, as in the fifties, with a handful of private elite universities, or as in the eighties with a sector divided between good and poor quality institutions. Now things are more complex: the private system is more complex, it has different dynamics of growth, diversification, academic specialization, [...] among other guidelines. It is necessary to recognize this complexity and build a proper system of regulation.

Moreover, Buendía (2009) concludes, that there are remaining topics that need to be researched about the private institutions like “the regulation and its relationship with the autonomy, and the responsibility to exercise it” (p. 11). Thus, in the context it has been introduced, there is a clear need to study the regulatory policies exercised by the Mexican government over private higher education institutions and their relationship with the autonomy of the institutions. Acosta (2011) suggests in his study that there is a problem with the regulation of the Mexican private higher education sector as the current instrument, the RVOE, does not really assure quality, it mainly focuses on general requirements like teaching staff and infrastructure (Rodríguez, 2017d). Muños and Silva (2013) agree with Acosta when mentioning that still has not been established a regulatory and policy framework that guarantees the quality. Rodríguez (2004a) and Buendía (2011) worry about the high degree of autonomy private institutions enjoy due to very flexible regulations. And, Olivier (2007) notes that there are incongruences among the regulatory policies.

Hence, the purpose of this study is to analyze in depth the nature of the private higher private education in Mexico and the current mechanisms that regulate the sector, as well as to explore the different degree of the autonomy that they enjoy in their several dimensions, in order to understand how these regulations constrain or enhance the institutions’ capacities and explore their role in the proliferation of low quality institutions.

To achieve the purpose, this study is guided by the following questions:

- 1) How is private higher education perceived in Mexico?
- 2) To what extent private higher education is regulated in Mexico and what level of autonomy does it enjoy in its several dimensions?
- 3) How are regulations and the existing level of autonomy related to the proliferation of the low quality institutions?

To answer these research questions, this investigation has been structured based on the qualitative methodology, and specifically on the exploratory qualitative inquiry approach. Therefore, three main sources have been used to present its findings: the literature review, the analysis of policy documents, and the data collected on the interviews.

I. 3 Structure of the thesis

To answer the previous questions, the following research has been structured into four main sections: Chapter I. “Literature review and analytical framework”; Chapter II. “Methodology”; Chapter III. “The Mexican private higher education system”; and, Chapter IV. “Conclusion”. The first chapter, “Literature review and analytical framework”, has the purpose of establishing the theoretical framework that provides the foundations for this research. Therefore, it explores, reviews and analyzes the contributions of different authors to the fields of the autonomy and the regulations, with specific focus on higher education institutions. In this sense, the concept of autonomy is defined; the dimensions of the autonomy are

explored and explained; the state of autonomy in higher education is analyzed; and its specificity in the private sector is highlighted. In a similar way, the characteristics of a public policy are identified, with focus on the instruments; the diverse conceptualizations of instruments are studied; the instrument of the regulations is scrutinized to detail; and the regulatory instruments used for higher education are carefully examined centering, specially, on the ones used to regulate the private higher education sector.

Then, in the second chapter, "Methodology", the process of data collection and analysis is explained to detail. In this regard, the basic qualitative research is explained and its choice for this investigation is justified; the profile of the participants is described; the process of data collection is detailed; the process of data analysis is construed meticulously; the processes for achieving validity and reliability are indicated; and the issue of cross cultural research is addressed.

Following, in the third chapter, "The Mexican private higher education system", the historical development of the Mexican private higher education is unveiled, for a better understanding of the policy today, through the comprehension of its evolution over the years; the Mexican private higher education sector today is briefly illustrated; the regulatory instruments to the private higher education are analyzed to detail; the degree of autonomy of these institutions is explored; and the results of the data collection are examined and contrasted.

Finally, in the fourth chapter, "Conclusion", the analytical framework, the document analysis of the Mexican context and the results obtained from the interviews are compared, in order to find similarities and discrepancies, and to establish conclusions. Also, limitations of the research have been addressed and recommendations have been issued. It is hoped that these pages are found useful and interesting to the reader, to reflect in an issue of such importance for higher education, as it is the private sector.

II. Literature review and analytical framework

II. 1 Understanding private higher education

Higher education, as we conceive it today, has its roots in the middle ages, where the first universities were established, becoming the center of the intellectual activity by focusing on the tasks of extension and dissemination of the existing knowledge (Abbagnano et al, 2000; Newman, 2011; De Ridder-Symoens, 2003). Today, higher education institutions are educational organizations responsible for forming men and women in their freedom and in the different areas of the knowledge in order for them to perform successfully their professional tasks, contributing to the human progress and the social justice (Autores varios, 2009). Duderstadt (2000), Rhodes (2009), and Brennan, King and Lebeau (2004) coincide when pointing out that they are key institutions for the development of the economy, politics, social structures and culture, through their main activities of teaching, researching and extending the culture.

In other words, higher education institutions play a fundamental role in society, in its progress, its economic prosperity and its wellbeing by forming the human capital, developing skills for the labor market, producing knowledge, creating science and technology, and fostering social cohesion. Castells (2001) has clustered these different functions that higher education institutions perform into four main tasks: first, they propagate ideologies; second, they educate the elite population, becoming places where networks are built up; third, they produce new knowledge through research; and fourth, they train professionals for the labor market. In summary, as we can see, higher education institutions play diverse roles in society, being all of them essential for the society's development and progress.

As the tertiary level has developed throughout the years, and the process of massification has taken place, higher education has diversified, being this sector no longer exclusive to the university. For instance, in the particular case of Mexico, the higher education system is formed by 11 different types of institutions⁴ (Secretaría de Educación Pública, 2006), that mainly developed in the 20th Century. Within these 11 different types, private higher education institutions can be found.

Private higher education has had different development processes throughout the globe, being in Mexico a key player in the sector of tertiary education, where its grown has not been exclusive of the process of massification. On the contrary, as Castells (2001) mentions, educating the elite population has been the most important task of these institutions in the developing countries for years, and so has been the case of Mexico.

Private higher education, in general, has mainly developed in the 20th Century as Levy (2007) points out, as the separation of the Church from the state duties was consumed, and a clear division of public and private sectors arose. To put it differently, before, what we consider today the private and public sectors used to cooperate and work together, but from the process of secularization on, a marked division on responsibilities took place.

Without taking into account the United States, Levy (1986; 2011) considers Latin America as the pioneer region of the private higher education, where this sector began developing in the 1930's, in opposition to the ideologies transmitted by the government in public universities. From then on, it has grown

⁴ The 11 different types of institutions that form the Mexican higher education system are: 1) public federal universities; 2) state public universities; 3) public technological institutions; 4) public technological universities; 5) public polytechnic universities; 6) intercultural public universities; 7) teacher education institutions; 8) public research centers; 9) private institutions; 10) public institutions that depend directly on the Ministry of Education or the local Ministries of Education; and 11) other public institutions, that do not fit the descriptions mentioned above (Ministry of Public Education, 2006).

consistently, until suffering a major boom in the 90's as the neoliberal ideology was implemented in the region, and deregulation and privatization became a trend. Today, private education is an important sector of the tertiary level (Altbach, 1998b) to the extent that Cheng (2009) has asserted that the state's monopoly in higher education has finally ended.

However, it is still major topic of debate, as different postures surrounding the nature of education exist. Certainly, education cannot be considered as a public good because it is excludable and rivalrous (Tilak, 2008), but it cannot be denied as a human right, because it is inherent to the human being regardless its purchase capacity. Understanding education as a semi-public good, the study of private higher education becomes relevant today, specially with the aim of reducing the risk of turning education into a million dollar industry whose only objective is making money. Education, foremost, is an ongoing process of self-development and growth of the human being in every aspect (Bernal, 2007).

In this sense, private higher education institutions are understood as organizations established by either businessmen or religious congregations that assume the task and responsibility of granting tertiary education to a specific population⁵. As in the case of public institutions, they are responsible for the education of professionals who commit themselves to the truth and to the service to the common good, playing a strategic role in national life in both the public and private sectors. Therefore, their principal mission does not, and should not differ from the specific one of higher education, even though that Levy (2008) asserts that they pursue different goals than public institutions.

Although this statement is true, as in some cases the individual economic interests exceed the desire to achieve the common good, in its essence higher education institutions educate, and the term education clearly encompasses a positive concept since it implies the improvement of the human being through the search for the good and the truth. On the contrary, the term learning does not necessarily imply improvement, and therefore there may be positive learning that fosters the growth of the person, or negative learning that distances it from the good and the truth. In this way, it is in practice where certain institutions of higher education teach instead of educate.

As a sample of it, the different objectives that have driven its development; on one hand, private higher education institutions have emerged as oppositions to the ideology implanted by the government but, on the other hand, as Altbach (2005a) points out and in most cases, to fill in the gap of the public sector, facilitating the access that the state fails to provide, in the absence of space, as Levy (1986) denotes. Indisputably, private higher education offers diversity to the sector of tertiary education, ending with the state's monopoly on education. And it is undeniable that, in many countries, private higher education institutions enjoy great prestige and are even considered as the best option to study tertiary education, as so is the case, as Altbach (1998b) points out, of many Latin American countries.

Levy (1986) mentions that the clearest distinction between public and private occurs in the legal framework, although the source of the financial resources might seem the clearest signal of the ownership of an institution. For its nature, private institutions tend to private investment, in contrast with public institutions that are financed by the state. Thus, private higher education institutions acquire most of their capital through the payment of tuition fees. However, it is important to remember that in many countries students pay tuition fees in public institutions despite the ownership of the state (Altbach, 2005a). For example, in Mexico, *Universidad Nacional Autónoma de México* (UNAM), the main public higher education

⁵ It is important to mention that this conceptualization of private higher education is aligned to the context to which this investigation belongs: Mexico, where the dichotomy between public and private institutions is very clear. Because, as Levy (1986) comments, the dichotomy of the public and private does not exclude the intervention of one another.

institution, requests what it is called a regulatory fee of \$0.20 Mexican pesos, which is approximately \$0.01 dollars annually (Universidad Nacional Autónoma de México, 2012). Also, in many countries the government gives financial support to the private institutions throughout loans or research funds⁶ (Geiger, 1988; Altbach, 1998a; 1998b; Fielden & Cheng, 2009; Ditttrich & Weck-Hannemann, 2010; Levy, 2011).

Another distinction, as Levy (1986; 2007; 2008) identifies, is that private institutions have mainly focused on the professionalization of the labor force, as specialization has become their priority. To put it differently, private higher education institutions have been characterized for preparing men and women as workforce for the industry and business sectors. As this statement can be clearly applied to the case of the Mexican institutions, it is also important to note that the public sector also tends toward professionalization in this particular country, where very few institutions truly make research and produce knowledge.

As can be seen, some characteristics of the private higher education that have been previously pointed out, can be generalized to the sector, but they are not exclusive. Other characteristics that will be pointed below, on the contrary, show the heterogeneity of the sector.

Ownership. Private higher education institutions might be owned or affiliated to different groups. Both Levy (2007; 2009; 2011) and Altbach (2005a) recognize religious organizations like the Catholic Church, as the first group to have established private higher education institutions. While their participation in higher education has been decreasing over time, in Mexico they still represent a strong sector associated with quality. Businessmen constitute the other majority group that has established higher education institutions, being their institutions more diverse in quality. Altbach (2005b; 2005c) also points out that some of these new private institutions can be owned by families. This means that a family not only owns the institution but, generally, it is in charge of its administration and governance, ensuring its continuity and its original mission. While some family-owned institutions might have been established for a noble cause, in most of the cases the economic profit becomes the priority in this kind of business, where all the family members, or most of them, depend on the profits to live. In fact, Fielden and Cheng (2009) comment that, in many cases, the founders of the institutions perceive a very large salary, turning higher education into a very attractive business.

Legal constitution and the use of surpluses. Private higher education institutions might be constituted as non-profit organizations or as for profit. Non-profit organizations are advocated to the cause, in this case education, and instead of paying taxes they reinvest all the surpluses in the institution to achieve and excel in their mission. For profit organizations' main objective, on the contrary, is making money; therefore, investors can keep their money for themselves, reinvest it in the institution, or decide to invest it in other businesses. Altbach (1998a; 2005a; 2005b) mentions that for profit organizations in higher education are growing fast, and this can be seen in the context of Mexico, where they did not exist over 20 years ago, and today they mainly belong to international groups (Rama, 2012) like Laureate and Apollo (Levy, 2007; 2011). Regarding for profit organizations Altbach (2005a) worries about the transparency in the use of their resources and their financial strategies. For Levy (2009) usually for profit institutions are low quality.

Specialization. As the mission and the consolidation of private higher education institutions vary considerably, the academic profile of the institutions may differ. Altbach (2005a; 2005b), Ditttrich and

⁶ Cheng (2009) makes a comprehensive and detailed classification of the spectrum of possibilities of public investment in the private higher education institution. In general terms he presents the following classification: 1) joint venture public and private institutions; 2) government appropriation of some of the activities of the private institutions; 3) public project based management like research funds; 4) indirect public subsidies like scholarships; 5) one and only public subsidy like the land grants; 6) no money from public investment.

Weck-Hannemann (2010), and Fielden and Cheng (2009) point out that some institutions are highly specialized and concentrate their academic offer in just one area of the knowledge, especially those market driven disciplines. While some private institutions can be specialized in health sciences, most of them tend to focus in social and administrative sciences, as it is the case of the Mexican private institutions due to the low investment required in the infrastructure these disciplines require (Baptista & Medina, 2011; Kent & Ramírez, 1999). Other reason for this specialization is, according to Ditttrich and Weck-Hannemann (2010) its market orientation. This means that they establish their programs according to the disciplines that students seem more interested on studying because their survival depends on enrollment numbers. However, other institutions seek a more comprehensive offer according to their nature as universities, educating in the different areas of knowledge.

Orientation and students. As there is high especialization in most private higher education institutions, Ditttrich and Weck-Hannemann (2010) also point out that they tend to have a more regional orientation, meaning that students' preparation focuses on national or even more local needs. Therefore, most students tend to be from the same region where they operate. In addition to this, students tend to be more diverse. In other words, as flexibility is higher due to the orientation to the costumer, and the focus on the professionalization of the labor market, private education students might be working at the same time they are studying, specially when studying degree programs where experience in the field is rewarded, or be committed to motherhood responsibilities.

Academic profession. The academic profile goes hand in hand with the academic profession; mainly private institutions tend to operate with mostly part time professors, instead of full time academics (Altbach, 2005a). In many cases this is associated with saving money (Altbach, 2005b), as hiring full time professors requires paying higher salaries. In these cases the academic freedom might also be constrained, as the hourly hired professor becomes only an executor of the curricular content, while at the same time, in many cases, lacks the theoretical knowledge and the research skills that the academic profession requires and develops. Nevertheless, this cannot be generalized, as there are some private higher education institutions committed to develop the academic profession.

Research. As most private higher education institutions operate with part time professors, the small number of full time academics is over burned with administrative responsibilities, leaving research behind (Altbach, 2005a; 2005b; Levy, 2008). In this sense, their focus on the professionalization of the labor market is better understood, as there is little time and human resources committed to producing new knowledge.

Quality. Quality is perhaps the main issue of the private higher education institutions. While some of them take care of fulfilling and exceling quality standards many more institutions, specially the ones established recently and whose purpose is to make money, do not pay attention to the quality. Increasingly today, many private institutions can be identified as demand absorbing, which can be distinguish for their low quality education (Altbach, 1998b), fact that has led Levy (2007) to conclude that many so called private higher education institutions cannot really be called universities. In other words, these institutions operate in many cases without the government's recognition and, hence, without being accredited and certified for taking care of the quality standards; they take advantage of the growing consumers' demand, in an opportunity to make profit. Other aspect that might not contribute to increase the quality of the private higher education institution its precisely its market orientation, as in order to keep the students enroll and paying fees, there might be an over focus in keeping students satisfied as both Ditttrich and Weck-Hannemann (2010) and Psacharopoulus (2004) comment, and little rigor in the admission process. To put it differently, the need of receiving the money from the tuition fees to keep the instituion afloat might lead to

enroll more students based on the capacity to pay the fee, rather on the required profile for completing the higher education program, translating into underachieving students that know they will get a degree without the greatest effort.

Autonomy. Private higher education institutions enjoy a greater degree of autonomy than public ones, especially financially, administratively and academically speaking (Altbach, 1998a). This means that even though they enjoy more freedom to make most of the decisions, they still are subject to some external control by the government, quality assurance agencies, and the society in general.

Regulations. Regulations are meant to ensure quality and efficiency (Fielden & Varghese, 2009). However, Altbach (2005a) suggests that in general, private higher education suffers little constraints being the market the main source of regulation. Levy (2007; 2011) brings forward an interesting fact that regulations to the private sector tend to be established after its first development, and so has been the Mexican case. Due to this fact, most regulations to private higher education are lax, as they tend to a laissez-faire policy, leading to the development of low quality institutions. For this reason, today most systems have turned to the quality assurance processes as the key mechanism to regulate the private education, but in many systems, like the Mexican one, it remains a voluntary option for the private providers (Cuevas, 2011b; González, 2012). Other regulatory mechanisms include professional associations, to put an example, and balances through funding schemes, which seem to be incrementing lately. However, as quality is as varied as it is mentioned above, this task is quite complex. In addition, regulations depend from one country to another; some systems are overregulated for granting private education like the Indian case (Altbach, 1998a), while most systems are so deregulated that the expansion of diploma mills has been an issue over the last couple of years. Levy (2011) points out that sometimes, the groups owning the private institutions, like the religious one, exert a lot of power, making it difficult for the system to regulate them. In other cases, the governments prefer to keep loose regulations to promote entrepreneurship, and consequently job creation and the circulation of economic resources. Therefore, for Fielden and Cheng (2009) the task is so challenging that the government has mainly limited to create incentives that attract private investors to align with the national agenda.

Governance and transparency. Altbach (2005a) points out that data related to private higher education institutions is usually not available to everyone. This is due mainly because the economic resources invested are not public but private. Consequently, for this characteristic it is very difficult to demand accountability (Levy, 2007). To put it differently, they have the responsibility to be only accountable to their stakeholders, but not to the society as a whole, as the tax money is not invested. However, in most cases, and as in most of the businesses, the shareholders and the governing bodies keep the information for themselves, and use it to make the institutional decisions, omitting sharing this information with consumers and the staff. Inclusive, as Salto (2016) mentions, there is a tendency in private institutions to hire managers for the administrative purposes, leaving academics behind in the decision-making processes (Levy, 2008).

The characteristics described above help understand the typical typology of private higher education institutions that has been developed by authors like Levy (2009). Usually presented as a dichotomy, it is important to remember that there are institutions that can be found between the spectrums of both poles. Thus, private higher education institutions tend to be classified as elite institutions or demand absorbing. Elite, as its name indicates are usually identified as world-class universities or, failing that, universities with high national prestige which grant education to the privileged. These institutions tend to be selective and expensive, as they are identified for its quality education; usually they are conservative and tend to

entrepreneurial education. On the contrary, demand absorbing institutions are considered non-elite; they tend to be small, and non-transparent, and the quality of education is dubious. Therefore, they can be questioned as higher education institutions.

The following Table 1 “Characteristics of private higher education institutions by type of institution” seeks to have a greater understanding of the types of institutions mentioned above, according to the characteristics that distinguish them. Again, it must be remembered that nuances are found between both poles.

Table 1. Characteristics of private higher education institutions by type of institution

	Elite institutions	Demand absorbing
Ownership	Religious congregations Businessmen	Businessmen Families Politicians
Legal construction	Non-profit	For profit
Source of income	Mainly tuition fees but some indirect funding through research funds and scholarships	Tuition fees
Specialization	A more comprehensive offer oriented to the different areas of the knowledge	Highly specialized; they concentrate their academic offer in just one area of the knowledge, generally social sciences and humanities
Infrastructure	High investment: laboratories and special equipment, but still lacking the infrastructure of the public institution	Non-specialized infrastructure
Academic profession	High number of hourly hired professors	
	More commitment to develop the academic profession in the long run	No desire to expand full time professors as the main objective is the economic surplus
Orientation	Professionalization of the labor market	
Research	Desire to increase and improve research but most academic staff is over burden with administrative tasks. Therefore little research is carried out	No desire on carrying out research
Quality	High quality Quality certified by accreditation agencies Legal recognition by the government	Low quality. In many cases they operate without government’s recognition and/or without quality assurance accreditation
Autonomy	High degree of autonomy	
Regulations	Mostly low constraints by regulatory instruments	
Governance	Academics form part of the governance bodies	Managers integrate the governance bodies
Target population	High and upper middle class	Middle low and low social class
Degree offer	Doctoral, master and undergraduate education, with specialization and certifications	Undergraduate education, specialization and certifications

Table elaborated by the author based on the information presented above.

As can be seen so far, private higher education constitutes a varied and diverse study field in terms of development, objectives, population of students, sources of income, and values taught, which makes it very complex to develop an inclusive public policy. However, in this task is, foremost important, that the essence of higher education is preserved.

The private sector has grown steeply in recent years, and with it, the number of students has multiplied, especially as the sector has diversified. Today, it has become a considerable part of higher education systems that cannot be denied, and its growth will continue to take place, in most of the countries so, more than ever, it is essential to deepen in the issues that have remained pending.

Two of these pending issues are precisely the autonomy and the regulations. As can be seen, autonomy seems to be highly enjoyed by private higher education institutions, while regulations tend to be lax. Autonomy is highly appreciated in the academic world generating an important weight when looking to regulate the system more efficiently; specially, as most economical resources of this sector are private, the public sector is hesitant to intervene in the governance of these institutions. On purpose, little was deepened in the previous analysis of the private higher education, since this will be done in the next sections of this research. However, what can be seen in the aforementioned that private higher education institutions, in general, enjoy a high degree of autonomy as little is restricted by the lax regulations. While autonomy is the heart of academic work, regulations play an indispensable role in ensuring the quality of the system. Therefore, a balance is needed for a healthy system. In other words, to what extent can a private higher education institution exert autonomy while the government imposes some limitations and constraints to assure the quality?

Following the concepts of autonomy and regulations will be explored and analyzed to, later on, understand how they coexist. This will provide with an analytical framework that will allow to understand the present situation of the higher education institutions in the context of Mexico, with the aim of, subsequently, answering the following research question: To what extent private higher education is regulated in Mexico and what level of autonomy does it enjoy in its several dimensions? How are regulations and the existing level of autonomy related to the proliferation of the low quality institutions?

II. 2 Autonomy

II. 2.1 The concept of autonomy

Autonomy is one of the most important aspects and strengths of a higher education institution in order to achieve successfully its responsibilities of teaching, researching and the spreading the culture. The concept is widely used in both the political and academic spheres, in a constant struggle by the institutions to obtain greater degree of autonomy and by the government to exercise greater control through regulations, for the preservation of educational quality. In other words, there is a permanent tension regarding this matter.

Higher education institutions have been historically linked with different authorities, being these the Church or the state, to guarantee societal accountability (Nybom, 2008). Therefore, autonomy is not something that one has or does not have, but is exercised in different degrees, according to its multiple dimensions. The word autonomy comes from the Greek words of *autos*, which means one self, and, *nomos*, which refers to norms or law. As González (2004) mentions, autonomy is the capacity that a person or an institution has to be governed by its own law. Namely, in this context, it is the ability of an institution to govern itself under its own rules.

At the beginning, autonomy was mainly understood as academic freedom and academic self-governance, granted specifically to individual people rather than to an institution as a whole (Fumasoli, Gornitzka & Maasen, 2014; Amaral & Magalhães, 2001). In other words, autonomy used to refer to the capacity of teaching, researching and discussing ideas freely and without censure, in the aim of seeking for the truth, and to the ability of making decisions regarding academic matters such as designing the curriculum and awarding degrees, among others.

Nevertheless, over the years, the concept has been extended. Hence, today, autonomy is defined by Varghese and Martin (2013) as the “freedom of an institution to run its own affairs without direct control or influence by the government” (p. 18). Autonomy, hence, is enjoyed at the institutional level and it implies freedom from part of the government, and authority from part of the institutional managers. To put it differently, autonomy is, on one hand, the capacity to act internally, and on the other hand, the ability to act independently from the government. However, autonomy is different from sovereignty, and does not mean a complete separation from the state (Narro, 2011); on the contrary, it means also complying with the law and being accountable to the society.

For this reason, Grau (2013) asserts that a good relationship between the government and the higher education institution is fundamental to assure autonomy. In other words, as autonomy is an attribution granted by the state, a respectful and pleasant relationship with it is essential, in order to keep the degree of autonomy that has been enjoyed until now; on the contrary, an atrocious relationship with the government fractures the autonomy and leads to a greater control and, hence, to the reduction of the degree of freedom of action that the institution enjoys.

Autonomy and accountability are, therefore, a constant negotiation between the state and the institution (Roversi-Monaco et al, 2003), a renewable contract (Neave, 2012) where their operation and interference is agreed and the institutions’ academic position is constantly being redefined; a negotiation between the institution and the government to assure that the mission of the university is being fulfilled (European University Association, 2005). According to Narro (2011) “it is illusory to think that autonomy is won once and for all, permanently there are new challenges and new tasks for university students in the desire to preserve and expand it in all its facets” (p. 27). Paraphrasing, as autonomy is an attribute granted by the authority, it is limited in certain aspects and, therefore, the quest to achieve more autonomy, and the struggle to maintain it, is endless.

In other words, higher education institutions will always seek to increase their autonomy in order to govern themselves more freely by making their own decisions regarding their own matters because, in reality, they know better than anyone else how to perform on the tasks and duties they do in the best possible way. In words of Mayntz (1993) autonomy is a protective mechanism against the “the destructive consequences of ignorant state intervention” (p. 15).

However, the government will also always seek to exercise greater control since, on the one hand, the institutions exercise a fundamental role in society by training professionals, producing knowledge and extending the culture; hence, the state needs to protect and make sure that the human right to education is fulfilled in the society where it exerts control. The state is responsible for safeguarding this human right, and for securing and ensuring the interests and common goods of its people. On the other hand, for the most part and speaking specifically of the public university, universities use public funds to sustain, keep afloat, and carry on their responsibilities; thus, the state must ensure the good use and the correct administration of these financial resources. It cannot go away from demanding accounts and regulating higher education.

In this sense, autonomy goes hand in hand with the structures designed by the government for controlling and monitoring the quality (Roversi-Monaco et al, 2003); in other words, with the accountability of the institution. Thus, based on this argument, for Nybom (2008) autonomy cannot be considered a negotiation but a technical formula with quantitative indicators that guarantee that the institution safeguards the public good of education. The author mentions that for the state, autonomy is an “operational tool promoted and accepted [...] as the best practical means for running ‘university business’ efficiently” (p. 136). Autonomy, then, is a functional instrument that ensures the proper functioning of higher education institutions; the best tool that the state has found to govern harmonically over the institutions.

But autonomy is more than delegating authority, because as Fumasoli, Gornitzka and Maasen (2014) point out, it has also to do with the historical conditions of a country, and the role the institution has played over the years. This means autonomy is achieved throughout the years, but it is influenced by the culture and values of the country. Hence, autonomy, from one country to another, is perceived and interpreted in different ways.

Accordingly, for Narro (2011), and Estermann and Nokkala (2009), autonomy refers to the degree of control that the government exercises over the higher education institutions at a specific time and place. Hence, autonomy is dynamic as it varies from one context to another, and from one historic period to another, depending on the particular circumstances. Autonomy then is built upon the conditions of the environment and the legal framework of the country where the institution is located. This legal framework is essential for Martuscelli and Martínez (2013), and for González (2004) as it is the one that grants the university a full legal and decentralized status that allows it to operate without certain interference from the state. It is the mechanism the authorities use to give the autonomy to an institution, and to safeguard it.

To say it in a different way, autonomy is embodied in the law, by means of which legislators make it a norm, making it an obligation to be respected by the authority of the government. The legislation, then, is the one that safeguards the university’s autonomy and prevents being breached. However, this legislation also denotes certain responsibilities that autonomy implies with it; therefore, the university is not untouchable, but it must respond responsibly to duties that autonomy imply with it. In other words, it is a socially responsible institution that is given a free margin of action so that it can perform its tasks successfully and without being tied to the personal interests of the political sphere. Nonetheless, it is important to remember that the legal autonomy might not be the same as the real autonomy (Raza, 2009; Enders, de Boer & Weyer, 2013). To put it differently, in some countries the legal framework might grant a high degree of autonomy to the higher education institutions, but the fact is that governments can still constrain the institutions, or on the other way around, the law might restrain the institution for managing itself, but in reality there is no application or implementation of the law. Namely, the degree to which the law is applied is also an indicator of the amount of autonomy enjoyed by institutions in a system.

Autonomy enables universities to make changes inside its organization, but also guarantees that there is academic freedom when carrying on its activities of teaching and research (Nybom, 2008; Prodi, 2003). Then, autonomy has to do with self-determination and self-regulation, as well as with the imposed limits exerted by the government (Henkel, 2005). To put it differently, it grants the possibility for an institution to act independently from the government in its own matters, but this does not mean that it does not comply with the national regulations and laws, which are meant to protect the system and its people. It cannot be forgotten that every higher education institution is part of a state, and therefore they have to comply with

its norms, rules, and regulations. In other words, to the legal framework of each country (Martuscelli & Martínez, 2013), and with other mechanisms, the government uses to exert control to protect the people.

In this regard, increasing autonomy means increasing evaluation and accountability measures, through mechanisms such as funding schemes, accreditation processes, and supervision that affect the institutions governance (Anderson & Johnson, 1998; Beleiklie & Kogan, 2007; Raza, 2009; Berdahl, 1990). As Nybom (2008) continuous, autonomy “is certainly no synonym for independence; it is rather a case of widened scope of decision making under certain important constraints, with less local power but more local responsibility than ever before” (p. 137).

Universities are not isolated from the world; on the contrary, and certainly autonomy does not mean that they turn out to be “ivory towers” (Narro, 2011, p. 16) that do not communicate with the outside world. On the contrary, communication is essential for interacting with society and for responding to its needs through its daily work activities. Autonomy and responsibility go hand in hand. According to González (2004) the university’s autonomy does not opposes to the public good, but on the other hand it is itself a public good. It is in the university where freedom and responsibility make sense. As Narro (2011) mentions:

Autonomy is freedom to think, say and do in the framework of the aims of the institution. Therefore it requires spaces to exercise criticism and to propose, to conduct itself independently in the saying and doing of academic order, as it also demands respect, understanding and support (p. 17).

Autonomy then enables higher education scholars and students to express without constraints, but it requires the maturity to be exercised with respect and with responsibility for the actions and consequences that derive from it. Therefore, autonomy has several dualities; first, it is given by an authority, but at the same time it is exercised by another one, that although it is less powerful on a national scale its role is determinant for the progress of the society to which it belongs, since it produces knowledge for the public sphere and prepares and trains future government officials. Second, it involves freedom and obligation; not only to comply with national norms and to be accountable to society, but also that all dialogue requires responsibility for what is said and for the implications of what it may bring. Therefore, requires commitment to the truth with the desire to always seek it above all. Third, requires talking and listening, a dialogue among all actors, a continuous questioning and search for answers in which one accepts the own limitations and searches to build knowledge through the interaction with others.

As can be seen, autonomy is a complex concept and, even though the legal framework is meant to protect it, Neave (2012) suggests that this do no necessarily guarantees it. On the contrary, today the pressure for the institutions to develop their own capacity with less support and greater control has become a challenge. A university has to develop its capacity throughout the power that is granted to determine its own mission and programs, as well as the resources that will be used to fulfill so (Kogan & Hanney, 2000), but with less resources than ever before and with more constraints than in the past. As Huisman and Currie (2004), Henkel (2005), and Nybom (2008) claim, restrains have increased, and hence, Grau (2013) concerns that the academic identity has been diminished, especially because of the increment of the legislation.

In short, the autonomy of a higher education institution is a dynamic and contextual attribute that depends partly on the culture and values of a society and partly on the inherited regulatory mechanisms that have been used by the government through the history to protect the higher education. Neither a complete autonomy nor a perfect autonomy exist, as accountability is always needed, but a good balance is necessary for the development of a healthy system.

II. 2.2 The dimensions of the autonomy

Autonomy in higher education can be analyzed from several perspectives. Classically, scholars have classified autonomy into two main groups: substantive and procedural autonomy (Raza, 2009; Volkwein and Malik 1997; Berdahl, 1990), which correspond to the nature of the actions. Hence, substantive autonomy refers to the decisions that correspond to the academic matters or pedagogical aspects, concerning the activities that affect or have an impact on the teaching and the research of the institution. Substantive activities include designing the curriculum, awarding degrees, appointing the staff, or establishing admission policies. Furthermore, the procedural autonomy deals with the managerial and administrative activities carried out at the institution. These activities include budgeting, contracting, financial management and the selection of non-academic staff, among others.

This classification provides a broad picture of the concept of autonomy. Nevertheless, as autonomy and governance have changed over the years, this distinction has seemed not to be enough (Fumasoli, Gornitzka & Maasen, 2014). Therefore, in a deeper analysis, authors that will be studied next, suggest a division of autonomy according to the activities of the institution itself: the organization, the finance, the staffing and the academic. Other classifications have been proposed like the one of Enders, de Boer and Weyer (2013), but will not be analyzed in this study, as their established dimensions seemed to be overlapping⁷.

In this sense, the first one is the **organizational autonomy**, which refers to the capacity of an institution to organize itself internally (Grau, 2013). This means a university can make their own decisions regarding its governance bodies and its academic structures. In other words, enjoying organizational autonomy means exercising institutional leadership and deciding on the leadership model (Estermann & Nokkala, 2009).

Second, the **financial autonomy**, which is considered by Grau (2013) as the heart of an institution's autonomy, or in other words, as the one that enables an institution to carry out other tasks. Financial autonomy is defined as financial self-sufficiency that guarantees independence, allowing acting according to its own interest rather than political and marketing oriented ones. Estermann and Nokkala (2009) understand the financial autonomy as the diverse ways of getting economic resources and funds for carrying on the daily activities, and the ability to allocate them according to its own needs. This autonomy is crucial for the university as it has direct influence over other aspects of the institution.

Third, the **staffing autonomy**, defined as the ability of the higher education institutions to hire their own staff and negotiate with them the terms of their employment conditions (Estermann & Nokkala, 2009).

Finally, the **academic autonomy**, which is, perhaps, the one in which the academic identity builds upon (Henkel, 2005) and the core dimension of a higher education institution (Grau, 2013). For González (2004) the "academia is the university itself" (p. 72), for which academic freedom is essential. Namely, the academic autonomy is specific of institutions advocated to education, and therefore it refers to the very thing of education: the educational act.

Neave (2012) relates the academic autonomy of a university with the "pedagogical act" (p. 28) as it has to do with the freedom of teaching and researching. In other words, it can be defined as the power

⁷ Enders, de Boer and Weyer (2013) identify two dimensions of the autonomy: 1) ability to make decisions, which include the managerial (financial and human resources decisions), policy (decisions about the resources and the services they provide), and governance (decisions regarding structures, processes and policy instruments) autonomies; and 2) constraints to decision making process, which contains the financial (sources of income), legal and interventional (reporting, auditing and evaluating interventions from the government) autonomies.

exercised by the university's staff in determining their own work. It refers to the institution's capacity on choosing its institutional strategy and its academic profile (Estermann & Nokkala, 2009). However, in any system, nor for public or private institutions, academics control all this type of autonomy. On the contrary, they all face constraints from the government (Neave, 2012), and even from the market as Henkel (2005) points out.

The following Chart 1 "The dimensions of the autonomy" presents, graphically, the different aspects, activities and abilities, per dimension of autonomy, that are affected by the diverse degrees of autonomy that an institution has. The chart intends to be a Venn diagram, where autonomy is the big universe that encompasses the four different areas: organizational, academic, staffing and financial. Within each area, the activities have been allocated, classifying them, at the same time, according to their nature of administrative (procedural) or academic (substantive) tasks. Highlighted some activities, that even though have been classified into the substantive categories, because of their great pedagogical impact, are highly administrative.

Of course, it should be clarified that the chart represents the maximum autonomy that an institution can enjoy until today, since this is what is understood up to now by autonomy. However, as autonomy is a dynamic concept, it might be broaden in the future, as it has happened historically, and that has been documented in this research. In addition, it is important to mention that this chart does not represent the autonomy of a particular institution, but the possibilities of autonomy that are given. The autonomy depends on the regulations of each country, as will be seen later and, therefore, it is very difficult to combine all these elements in one system. However, there are systems in which autonomy is greater, allowing institutions to perform more of these listed activities.

As can be seen from the chart, the two major areas in which higher education institutions enjoy more autonomy are the organizational and the academic ones. However, the nature of both differs, while the organizational autonomy focuses mainly on administrative activities, academic autonomy, in substantive activities. In the case of staffing autonomy it is observed that several activities have been duplicated. This is because although, in their nature they are administrative tasks, they have a significant impact in the academic area. Therefore, the distinction between administrative staff and academic staff has been made in the nature of the activities.

It is observed, broadly speaking, that the autonomy increase has focused more on the freedom to make administrative decisions than academic decisions, which in fact are easier to measure and be accountable for, allowing the state to exercise greater control in those areas and without the need to be the one that makes the decisions. In fact, Anderson and Johnson (1998) found out in their research of the state of autonomy in 20 countries, that academics perceive the governments exercise the most authority to the academic standards (excluding activities like teaching and curriculum design), and the use of financial resources.

With the population's increase after the Second World War, with the growth of the markets after the relatively global bonanza of the postwar period, and the massification process of the higher education systems, the state has delegated managerial and administrative activities since its capacities have been surpassed. In this context, it makes sense that it has delegated activities that are easier to be measured, in contrast with the academic activities that, while some freedoms were already enjoyed due to the existence of the academic freedom, they are, in generally, more difficult to be measured and evaluated. Although the quality assurance processes have tried to do so, in most of the contexts they have not had the desired outcomes, as will be seen later in the case of Mexico.

Chart 1. The dimensions of the autonomy

Autonomy			
Organizational		Academic	
Procedural	Substantive	Procedural	Substantive
Determine legal status Define internal rules and procedures Select members of executive board and academic bodies Establish criteria and durability of leadership positions Dismiss the university's head Select external members in the governing bodies Determine administrative structures Create a legal entity Decide the orientation of its governance bodies	Decide mission and goals Determine academic structures Define internal rules and procedures Establish criteria and durability of leadership positions	Decide the number of students	Determine mission and academic profile Open/close programs Design curriculum and content Establish admission mechanisms Design and implement quality assurance mechanisms Make research decisions Select language of instruction Award degrees
Staffing		Financial	
Procedural	Substantive	Procedural	Substantive
Recruit and select administrative staff Determine salary scales Establish staffing policies Dismiss academic staff Promote administrative staff	Recruit and select academic staff Establish mechanisms to assess staff's performance Dismiss academic staff Promote academic staff	Keep surplus Borrow money Own buildings Charge tuition fees Invest in financial markets Decide expenditures. Determine sources of money	

Chart elaborated by the author based on the findings of Raza (2009), Grau (2013), Kogan and Hanney, (2000) Estermann, Nokkala and Steinel (2011), and Martuscelli and Martínez (2013)

II. 2.3 The state of autonomy today

The phenomenon observed in the previous chart can be explained with the recent events that have taken place in higher education. In recent years, as neoliberal policies have been implemented and New Public Management has been adopted, aiming to solve the problems of bureaucratization, inefficiency and over regulation, business-management tools have been introduced in the public sphere (Ziegele, 2008; Enders, de Boer & Weyer, 2013). Therefore, the relationship between the government and the public higher education institutions has been transformed. In other words, from control and over regulation, the

government's role changed to supervisor; from highly centralized decision making, decentralized structures were adopted (Kivistö, 2008). Namely, granting autonomy, developing mechanisms for accountability, and strengthening institutional leadership, among others, have been the main changes implemented.

This means that governments have tried to step away from the every day decision of the institutions, especially in the managerial aspects, with the aim of gaining efficiency. However, accountability, as has been mentioned before, is still there and has even increased (Huisman & Currie, 2004; Henkel, 2005; Nybom, 2008), as institutions have to respond to the society's expectations and demands.

Fumasoli, Gornitzka and Maasen (2014) study the recent autonomy trends in public institutions, especially in the European context, to find out that it tends towards centralization, formalization, standardization, legitimization, and flexibility. To say it differently, as autonomy has seemed to increase with the changes in the regulations, institutions have suffered some transformations in order to play a more relevant role in the administration of their resources. First, institutions autonomy has tended to centralize governance bodies, encouraging managers to assume positions of responsibility and decision making instead of academics. Second, internal procedures have tried to be formalized, as reporting and output indicators have become mechanisms to ensure accountability. Third, there has been a professionalization and specialization of the administrative staff. Fourth, flexibility has been granted, especially in the research sphere and profile, giving more possibilities to researchers so that they can apply for additional research funds.

As can be seen, the increase of autonomy has mainly centered in the organizational dimension of the institutions, and the administrative issues, while academic autonomy has mostly remained the same in the recent years. Nor the autonomy has been enjoyed in activities that have a greater national level implication and that could lead to conflicts with the government. Hence, the state has preserved the tasks of designing the national policy and strategy for higher education, in order to coordinate it with the national objectives of negotiating the budget at both system and institutional levels, and of coordinating the higher education sector with other relevant areas for the country (Fielden, 2008). For this reason, Marginson, cited by Anderson and Johnson (1998), has stated that higher education today has become a product of the state, serving for its own purposes, as academic freedom, sublimely, is limited by the government. Higher education institutions, in contrast with the first institutions, have become a government's vehicle to transmit its ideology, as it was seen at the beginning that Castells (2001) suggested.

In fact, the government's control over the higher education institutions can be classified into four main groups, as Fielden (2008) has noted. The first one concerns the state's tight control over the higher education institutions where these are owned and operated directly by the Ministry of Education or another dependency or agency of the state. The second one are the semi autonomous institutions, owned by the government but with a little more margin of maneuvering. The third one refers to semi-independent, where the institution is not owned by the state, but it is highly supervised monitored and regulated. The fourth and final institutions are completely independent meaning that their ownership is private too, but the control is made by linking the institution's objectives to the national strategy, in many cases through funding schemes.

Fielden's (2008) first two classifications refer to the public sector, while the last two concern to the private one. The following Chart 2. "Degree of autonomy enjoyed by each type of institution" illustrates the control the government exercises to these institutions. It is important to note that degrees vary according to the country and the specific institution; hence, in one country different semi autonomous institutions can enjoy different degrees of autonomy, but this chart is meant to represent the generalities. Independent

institutions are more rare, as they are private institutions that have been granted complete freedom to act. In the case of Mexico, this segment is integrated by private institutions that have been granted more autonomy by presidential decrees, as will later be studied. In general terms, independent institutions operate with a greater degree of organizational, staffing, financial and especially academic autonomy, than semi-independent and semi autonomous institutions. Specifically, they operate without requiring getting the states' authorization when creating or closing new programs, capability that semi-independent institutions do not enjoy.

It can also be seen that semi autonomous and semi-independent institutions are regulated to some extent by the government and, even though they enjoy a greater degree of autonomy than the ones completely operated by the government, the state does keep control over them. Hence, both institutions enjoy a similar degree of autonomy, but both are regulated in different ways as will be later analyzed. Nevertheless, it cannot be denied that private institutions do enjoy a greater degree of autonomy than public ones, as seen in the chart.

Chart 2. Degree of autonomy enjoyed by each type of institution

Operated by the government	Semi-independent	Independent
Semi autonomous		
--	Degree of autonomy	+

Chart elaborated by the author based on the findings of Fielden (2008).

The degree of autonomy depends on the degree of control exercised by the government to a particular institution, but both private and public institutions enjoy it in different ways. As autonomy is contextual, as it has already been said, in some countries semi-independent institutions' autonomy can be more similar to semi autonomous; it all depends on each country's regulations.

II. 2.4 The specificity of autonomy for the private higher education

So far, the concept of autonomy has been explored in a general way. Nevertheless, it is precisely to distinguish the particularities of the autonomy in the private sector. In some contexts, like the Mexican one, this particular task is convoluted, because there is a false belief that if the investment of the higher education institution is private, the institution is already autonomous and the state cannot get involved and interfere in its affairs⁸.

However, as it has been previously said, autonomy is not the act of letting do without any restrictions; on the contrary, it is an attribute that goes hand in hand with accountability and, therefore, with the regulations of the state. Now, the state regulates different aspects in a myriad of ways and to diverse extents, as it will be studied in a later stage of this research. Regulations constrain some aspects and, in higher education, these vary and depend from private to public institutions. Therefore, the private sector, as the public one, enjoys some degree of autonomy, while it is also regulated by the state. However, the form and limitations are different from one sector to another, as it will be analyzed now.

In general, private higher education institutions enjoy a greater degree of autonomy than the public sector, as Raza (2009) points out, where the clear exceptions are countries like India and Kazakhstan. In the particular case of Mexico, private institutions enjoy a considerable degree of autonomy, as regulations have been limited.

⁸ See authors Pinto (1974), Poder Judicial (2005), and Carpizo (2002).

As found in their research, Estermann, Nokkala and Steinel (2011), Estermann and Nokkala (2009), Fielden, (2008), and Bennetot and Estermann (2017) agree that public higher education institutions, in general, face the most constraints in the organizational and staffing autonomies, having more freedom when it comes to the academic matter. In contrast, private higher education institutions enjoy the greater degree of autonomy in the organizational aspects, while the academic one is the one that faces the most constraints (Bernasconi, 2011; Geiger, 1988; Levy, 2011). See ANNEX 1 for detail information and comparison of the different degrees of autonomy enjoyed by the public autonomous institutions and the private ones.

In other words, as a whole, private higher education institutions seem to enjoy a greater degree of autonomy in contrast with the public ones. Operated by the government higher education institutions (non autonomous) are the ones that face the most constraints and restrictions, while independent institutions are the ones that operate more freely. Independent institutions, in general, seem to face restrictions in the financial aspects, as in many countries private higher education institutions have to be non-profit organizations, which means that they have to reinvest their surpluses in improving the institution's capacity. Therefore, the owners of the institutions cannot profit from them. This phenomenon can also be seen in semi-independent institutions where the financial autonomy is also constrained, although is not the one that faces the most restrictions. However, following, a detailed analysis contrasting the different degrees of autonomy in autonomous public institutions and private institutions, according to each dimension of the autonomy, is presented. Segments of ANNEX 1 are included (Tables 2, 3, 4, and 5), but explanations and detailed information are found in the annex section⁹.

The **financial autonomy** for private higher education institutions is usually constrained because institutions usually have to be registered as non-profit institutions. This forces the institutions to use of the surpluses to improve the higher education institutions and the pedagogical act, and limits the sources of revenue. Nevertheless, as it will be seen later, mechanisms to assure accountability in this regard are constantly missing. Often this occurs due to the private nature of the institutions, where private investments are used to carry on their activities. In many cases, this obliges the government not to be able to exercise control over the economic resources and financial matters generating a lack of transparency about the acquisition and use of their resources (Altbach, 2005a). Hence, this makes it difficult for the government to assure that there is compliance with the legislation.

Table 2. Degree of financial autonomy

From ANNEX 1

	Public	Private	
	Semi autonomous	Semi-independent	Independent
Keep surplus	High	Medium	Low
Borrow money	Low	High	High
Own buildings	High	High	High
Charge tuition fees	High	High	High
Determine tuition fees	Low	High	High
Invest in financial markets	Low	Medium	Medium
Decide expenditures	High	Medium	Low
Determine sources of money	High	Medium	Medium

In other cases, recently some countries have granted more financial autonomy to private higher education investors granting the possibility of establishing for profit institutions. This can lead to even more problems when regulating the system, as possibilities for ensuring that education does not become a multi-million dollar business are now limited. In this case, there is no room for regulations on the use of resources

⁹ Each segment is based on the findings of Bennetot and Estermann (2017) Estermann, Nokkala and Steinel (2011), Estermann and Nokkala (2009), Bernasconi (2011), Fielden (2008), Geiger (1988), OECD (2003), and Levy (2011). Additionally, for each segment, the word high means, that, in generally, that type of institution is able to carry out that activity without restrictions from the government; medium, that institutions face some restrictions needing to comply with some requirements, requiring approvals or confirmations, or having to carry out negotiations with the government; and low, that restrictions are faced, ceilings are set, and processes and parameters need to be followed as established by the law.

and surpluses, which even gives the possibility of investing the money of the institution in the financial markets without any protection to the consumers (students), as has happened recently in Mexico.

In contrast, it can be seen that public institutions have been granted some degree of autonomy in the financial matters recently, but still face some constraints. While most public institutions can own their buildings, charge tuition fees, keep surpluses, and decide on the expenditures, they still face restrictions on determining tuitions fees, borrowing money, and investing in financial markets which make a lot of sense as most of the money that is being used comes from tax payers. Hence, the government has to ensure that the institution, on one hand, makes good use of its resources without getting into debt, but on the other hand, that tuition fees remain accessible to the population. In short, since the resources used by these institutions are public, the state can demand accountability; it is understood and expected to do so, because society demands it. In this way, autonomy faces constraints.

Other aspect of the autonomy that faces constraints in private institutions is the **organizational autonomy**, which is precisely the one that has advanced the most on reducing restrains in the public sector.

Independent institutions are the ones that operate more freely in this regard having to be legally constituted mainly as non-profit institutions as the legislation points out. Hence, their legal status is subject to regulation. Similarly, semi-independent institutions, in most cases, have to comply with the legal status determined by law. This, as has been mentioned, has been changing and has become less restricted, granting investors the possibility to decide on the legal status of the institution.

Table 3. Degree of organizational autonomy

From ANNEX 1

	Public	Private	
	Semi autonomous	Semi-independent	Independent
Determine legal status	Low	Medium	Medium
Define internal rules and procedures	Low	Medium	High
Select members of executive board and academic bodies	Medium	High	High
Establish criteria and durability of leadership positions	Low	High	High
Dismiss the university's head	Low	High	High
Select external members in the governing bodies	Low	High	High
Determine structures	High	High	High
Create a legal entity	High	High	High
Decide the orientation of its governance bodies	Low	High	High
Decide mission and goals	Low	Medium	Medium

In addition to this aspect, it can be seen that semi-independent institutions can establish their own mission, goals, rules and procedures, but in most countries need authorization of an external authority to make sure they comply with the national objectives and the country's legislation. Thus, in this regard, autonomy is not completely enjoyed, as so is the case of the semi autonomous institutions, which also need this approval, as it is important that they also comply with the national higher education legislation and strategy.

Nevertheless, regarding the institutions' leadership structures, the private sector enjoys a greater degree of autonomy as it can decide freely the arrangement of its governing bodies, the members of these bodies, the periodicity of the positions, and the internal rules and procedures to name its authorities. Moreover, they can appoint or dismiss the institution's authority without accountability to an external authority. In other words, the internal government of the institution is under the internal control of its structures, as in any other business operated by private investors, but must follow the legislations established in what concerns with its relationship with society.

In contrast, public institutions, being part of state institutions and operating with public funds, suffer more limitations meaning that they have to follow more rules and guidelines, specially in the composition and structure of their governing bodies, as well as qualifications of their members and periodicity of the

positions. Furthermore, even though they can select their leaders they require the external approval to legitimate the positions. These regulations over the governing bodies are meant to keeping the institution aligned to the governments' goals but also to ensuring a harmonious relationship between the state and the institutional authorities, where, among them, their work is not hindered.

Now, both staffing and academic autonomies vary considerable from public to private institutions. Regarding the first one, the **staffing autonomy**, private institutions enjoy a considerable higher degree of it, while public institutions face more severe restrictions. In the case of independent institutions, there seem to be no visible constraints regarding this issue. However, semi-independent institutions do face some

Table 4. Degree of staffing autonomy

From ANNEX 1

	Public	Private	
	Semi autonomous	Semi-independent	Independent
Recruit and select academic staff	Medium	Medium	High
Recruit and select administrative staff	High	High	High
Determine salary scales	Medium	High	High
Establish staffing policies	Medium	Medium	High
Dismiss staff	Low	High	High
Promote staff	Medium	High	High

limitations. For instance, even though they can select their academic staff, this has to comply with some general requirements that include degree level, prior experience and activities they have to carry out, according to the level of the program where they will be working. Hence, staffing policies are not at the complete disposal of the institutions, as they usually have to follow national

guidelines, as well as each country's labor laws. The established guidelines are meant to protect and ensure the quality of the institutions as, otherwise, any person without a university professional training could become an academic, resulting in a dubious quality institution, and affecting the quality of the higher education system as a whole.

In contrast, public institutions face more restrictions in this regard, as their staff is composed by public servants or civil servants and, therefore, they are subject to the state's accountability. Thus, public institutions face restrictions and external regulations to which they need to comply with when establishing their staffing policies, recruiting and selecting their personnel, and dismissing or promoting their staff. In some cases, external approval is needed for some promotions or dismissals. Additionally, salaries are not a single decision of the institution, as once again, the resources of the institution are public. Then, they are more accountable for them, for which established salary ceilings ensure the healthy finances of the institutions, as well as greater equity and justice in the distribution of salaries.

Finally, the **academic autonomy** is the one that faces the most constraints in the private higher education institutions. Nonetheless, there is a great disparity between independent institutions and semi-independent ones. Independent institutions enjoy a high degree of academic autonomy meaning that they can open and close programs, and design their curriculum and content without any restrictions, including the

Table 5. Degree of academic autonomy

From ANNEX 1

	Public	Private	
	Semi autonomous	Semi-independent	Independent
Decide the number of students	Medium	High	High
Determine academic profile	High	High	High
Open/close programs	Low	Low	High
Design curriculum and content	High	Low	High
Establish admission mechanisms	Medium	High	High
Design and implement quality assurance mechanisms	Low	Low	Low
Make research decisions	High	High	High
Select language of instruction	High	High	High
Award degrees	High	Low	High

need for approval from an external authority. They also face no constraints in determining their academic profile as well as the number of students they enroll. This is similar to semi-independent institutions, which also face no constraints in this regard. As private higher education institutions depend on the tuition fees to

survive, if they were not able to do so they would become bankrupt. In other words, private institutions depend on the market needs and demands; therefore they tend to orient their academic profile to the interests of the market, in order to be able to attract students into the institution.

The number of students they enroll depends basically on the capacity the institution has in both their infrastructure and personnel. If institutions were set a ceiling or limit of students they should enroll, there would be a risk that they would lose money, in the case their staff and their infrastructure were more expensive than the income they receive from the tuition fees.

Basically, the only aspect that is restricted for independent institutions is the quality assurance mechanism, which, in most countries, is designed and implemented by external agencies either belonging to the government or that have been granted power by the government to monitor the quality of the system. This constraint in the autonomy is due in order to protect the quality of the system because, when the same institution is part of and judge of the processes at the same time, personal or institutional interests can get involved in detriment of the systems and affecting the students' education. In addition, as the OECD (2003) mentions, these restrictions also help assure the labor market that their future employees are well prepared, avoiding an unemployment crisis.

In this same sense, semi-independent institutions are more restricted in the academic autonomy than in other aspects, in order to protect the quality. Independent institutions are supposed to have gained certain privileges due to tradition and outstanding performance that other private institutions still do not enjoy. Therefore, semi-independent institutions are more controlled by the government to avoid unwanted behavior and protect the human right that is higher education.

For this reason, most of these institutions cannot open and close their programs as pleasing, but need an external authority to approve the new programs beforehand, in order to make sure these programs fulfill a specific list of requirements and follow the guidelines that have been established. These requirements include the number of credits and hours the programs need to have according to the level, and the guidelines instruct how objectives, outcomes, methodologies and assessing mechanisms, among others, should look like. However, despite these constraints, they can select, for example, the language in which they want to teach their programs.

Lastly, another important restriction these institutions face is the capacity to award their own degrees. While independent institutions do not need the degrees to be rectified or validated by an external authority, semi-independent institutions need to do so, and therefore, the degrees they issue enjoy no validity if they are not signed and recognized by the external authority. This to ensure that the institution is approved and recognized by the state, and that operates legally and in accordance with the established requirements. This is, then, a form of control that guarantees the distinction and the legitimacy of institutions that operate in violation of the law.

As can be seen, autonomous public institutions enjoy a greater degree of autonomy in this regard. Although in general, they are also subject to quality assurance by external agents and to the recognition and approval of new programs or their closures, public institutions are able to design their curriculum and decide on their content without having to fulfill specific requirements or having to follow some guidelines. Additionally, they grant their own degrees without the need for these to be recognized or approved by the state, as they are already part of the state's system, and therefore have its backing.

As in the case of private institutions, public ones are able to determine their orientation, make their research decisions (although in both cases face indirect restrictions through funding or, in other words,

research is oriented through funding schemes to align with the state objectives), and determine the language of instructions. In contrast with private institutions, they face constraints deciding the number of students, and in establishing their admission mechanisms where restrains, interestingly, depend on the level of the studies. These restrictions are meant to protect vulnerable populations and minority sectors by ensuring more accessibility to the higher education system.

As Bernasconi (2011) points out, the main difference between the autonomy of the private and public institutions lies down in the fact that, while public institutions tend to be born autonomous, private ones acquire autonomy through time, by becoming independent institutions. This means that private institutions are granted autonomy, and generally this comes with time, while for public institutions is easier to get it, as sometimes they are even born being autonomous.

In conclusion, private higher education institutions seem to enjoy a higher degree of autonomy than the public ones due to the private nature of the institutions, making it more difficult to control some of its dimensions. These institutions enjoy more freedom in establishing their leadership structures and in the use of their resources, but face limitations in the academic autonomy and the aspects of the other autonomies that overlap with it. Hence, they have to comply with a series of requirements for designing curriculum and recruiting academic staff, to mention some, and they need external approval for other issues like granting degrees or opening new programs. In other words, their main restrictions are meant to protect the quality of education (academic autonomy), and to avoid that education becomes a million dollar business where its essence gets lots (financial autonomy).

Next, the regulatory instruments will be delved for a better understanding of why it is necessary to intervene in the autonomy of higher education institutions and what are the mechanisms to be used for this purpose.

II. 3 Regulations

II. 3.1 Public policies and their instruments

Regulations have been less studied specifically on the field of higher education, in contrast with the concept of autonomy where scholars have developed a substantive literature in the specificity of autonomy in field. This requires a broader study, starting from the concept of public policies to dismantle the term and unveil the particularities of the instruments used to regulate higher education institutions.

In this sense, public policy can be widely understood as a series of actions designed and implemented by a government (Cochran, Meyer, Carr & Cayer, 2009); a series of rules and norms that aim to solve a problem or to achieve a specific goal (Kraft & Furlong, 2013) of general interest for the whole population or for its vast majority (Torjman, 2005). In other words, public policies are a series of activities or processes that have been designed by the government to achieve a specific aim that concerns to a population or a segment of that population. In order to reach the goal, they are usually accompanied by a legal framework that reinforces its implementation.

Lowi and Ginsburg define public policies as “an officially expressed intention backed by a sanction, which can be a reward or a punishment. [...] a law, a rule, a statute, an edict, a regulation or an order” (Fischer, Miller & Sidney, 2007, p. XIX) elaborated by the legislative power and launched by the public administration (Wilson, 1887) to solve the problems that are presented (Anderson, 2010). In other words, a rule created by the government that uses sanctions or rewards to influence the behavior of a population (Lowi, 1985), but for Simeon (1976) they are not exclusively made to solve a problem. To put it differently,

public policies are governmental actions that materialize through different instruments¹⁰ and that pursue a specific objective, which sometimes might be to solve a problem, while other times may only be to improve the living conditions.

Because of the above, public policies are distinguished by being inscribed in a context. Namely, Kraft and Furlong (2013) point out that they are created in and for a specific social, economical, political and cultural context that, although this context does not determine them it does have an influence on them. Therefore, what works in a context might not have the same positive impact in another one.

According to Simeon (1976) public policies have three dimensions. The scope or the extent to which one thing is of public interest; the means or the way in which the policy is enforced; and finally, the distribution or the allocation of the resources. Therefore, public policies deal with aspects that go beyond the private aspect of a human being, where choices and responsibilities correspond only to a particular person, and thus, their degree of compulsion varies accordingly. In other words, some policies imply total compliance while, for others, compliance is voluntary. Also, they can either distribute resources to different extents, or they can constrain them.

Public policies result from a decision-making process (Sharma, 2016; Torjman, 2005), and involve the integration of different actors and elements (Velásquez, 2009), making them very complex (Sharma, 2016). In fact, the process of planning and implementing public policies is called governance (Mayntz, 2006). To put it differently, policies are born from a dialogue between experts, law makers, politicians and the society, that is raised up after identifying the specific problem that is aimed to be solved; a dialogue that needs to consider a great number of formal and informal elements, including the values of the population involved, as well as a compilation of the available information of the problem, to explore and analyze all the possible solutions that can be implemented; a dialogue that ends, as far as possible, with a consensual decision that is reflected in the laws and that will be implemented soon.

As can be seen, the process of making public policies is quite complex, and to this it is added the diversity of public policies that exist today, and that have been developed over time. Lowi (1985) proposes a simple classification that allows having a broad panorama of these types: distributive policies, regulatory policies, redistributive policies and constituent policies. It can be observed that the sanctions and the scope of the population represent the differentiating elements of the policies, which constitute important aspects to understand, in a later stage of this research, the regulatory instruments. Nevertheless, in broad terms, regulatory policies are policies that are individually targeted and are usually accompanied by a sanction. In other words, these impose obligations, and hence, sanctions if not followed.

Regulatory policies are designed for specific populations, which means that they seek to solve problems that are incumbent on certain actors of society. Therefore, they do not apply to everyone, but are exclusive to a segment of the population. Moreover, due to their nature of imposers of obligations, to ensure compliance they are accompanied by a sanction. Thus, there is a penalty that needs to be fulfilled or covered when not complying with the law.

Now, to add to its complexity, public policies are composed of a series of elements or different parts that are connected. Authors like Velásquez (2009) and Hall (1993) have studied these elements of the public policies. First, public policies pursue a purpose; the purpose refers to the goal or aim that it is intended to achieve with the public policy. Then, they use instruments or objects and resources in their implementation. Also, they consider the setting or the context. To say it in another way, they consider the

¹⁰ Legislation, regulations, taxes, or subsidies, among others.

past experiences and the available information of the problem when deciding on the instruments. Finally, they are evaluated or assessed to identify the strengths and the areas of opportunities of the policies. Stewart, Hedge, and Lester (2008) stress the importance of the evaluation, as it is fundamental in order to make the necessary adjustments that will lead to the desired results. Namely, evaluation and the subsequent readjustment of the policy are essential for the success or the failure of the policy.

As it has been pointed out, instruments are an important element of the public policies because they indicate the *how* and the *with what*, pointing out the methodology and the objects and elements that support the process. Instruments make the public policies concrete as Lascoumes and Simard (2011) assert, to such a degree that it can be concluded that without them, the objective would not be reached. Understanding the instruments allows a greater comprehension of how governments operate and what distinctions exist among them.

However, again, it is a convoluted task because its study has taken place from different perspectives, to the extent that Bressers and O'Tool (1998) claim that the diverse typologies and ways of understanding the instruments seem to be constantly overlapping, and in many cases incompatible. This diversity, to some extent, has evolved as policy instruments have been developed by both economists and political science actors (Howlett, 2005), and by the fact that the state has grown and developed considerably in the last couple of years (Le Galès, 2011). As the study of the instruments and their typologies is a research subject in itself, it is not intended here to make an exhaustive analysis of these, but to have a varied and complete panorama that allows a later understanding of the concept of regulations, since these are a particular kind of the instruments. In this way, for a better understanding, Hood's classification will be taken as the guide to understand what instruments are.

Hence, Hood (2007) argues that there are three main perspectives from which the instruments that make up public policies have been studied: instruments understood by their "instrumentality" or nature, instruments understood as institutions, and instruments understood as tools. Let's delve a little into each of these understandings.

II. 3.1.1 Instruments as tools

The theory of the instruments understood as tools, has been developed by authors like Linder and Peters, Howlett, and Bressers and O'Tool. In general terms, they consider instruments as the key element between the objective of the policy and its achievement. Therefore, the criteria for choosing the instrument are extremely important.

For these authors, policy instruments are devices, mechanisms and tools that the government uses to reach its goals and direct the behavior of a population (Howlett, 2009, 2005, 1991; Linder & Peters, 1989; Bressers & O'Tool, 1998). Paraphrasing, instruments are a fundamental part of the policy design, as they constitute the method or the apparatus that enables the consecution of the purpose. Hence, they involve, to some extent, the authoritarian use of power exerted by the government.

Policy instruments depend on the preference of choice of policymakers (Howlett, 2009, 1991; Bressers & O'Tool, 1998). In other words, the perception that the policy makers have of the instrument and their preferences, as well as the nature of the institution, is what determines both if it will be used or not, and which expectations should be there (Linder & Peters, 1989). Hence, familiarity with the instruments becomes key to the success or the failure of the policy. Therefore, instrument choices are subjective rather than objective because they depend on the people that make the decisions. Instruments are selected from a wide variety of options; from a list or catalogue; hence the policymakers are the center of the policy

design as selecting the instrument is their most important responsibility. Therefore instruments are classified according to their perspective of their instrumentality, which refers to their precision, intrusion, costs, coerciveness, and complexity to be administered.

When instruments are seen as a tool, they are understood as mechanisms selected from an inventory or toolkit according to the context and policymakers preferences, who tend to weight the cost-efficiency and the risk of the implementation's failure. From this perspective, the instruments are supported by a legal framework to achieve a specific goal that concerns to a certain population. These mechanisms provide or constrain a resource through enhancing or limiting the freedom of the group of people. During their implementation, the community can take an active role in the achievement of the goal or can remain inactive, depending also in the role of the government. All the instruments involve a risk for the government that designs and implements them, as the reactions of the population might be against the policy.

II. 3.1.2 Instruments for their instrumentalities

From the perspective of the theory of instruments understood as instrumentalities or, to put it differently, by their nature, instruments are diverse and need to be carefully coordinated to achieve the expected results or the purpose of the policy. This theory overlaps in many ways with the first one, because some authors start from the point that instruments are tools, as it will be seen. In other words, it constitutes an extension of the previous theory. The theory of instruments understood by its nature has been developed by authors like Hood and John.

For this perspective, instruments are presented as a toolkit (Hood & Margetts, 2007; John 2006, 2011), as they are indeed tools. Nonetheless, in order for these tools to be clearly understood, they suggest a classification by its nature. On one hand, Hood and Margetts (2007) propose a classification structured as a dichotomy: instruments for detecting and instruments for effecting. As the name implies, the detectors are meant to identify and get information, while the effectors seek to make an impact. In other words, some instruments recognize and uncover the data from the environment while the others are responses and consequences from an action. Here we can find a difference with Hood's (2007) first perspective of instruments as tools, as in this case instruments are analyzed according to the role of the state.

On the other hand, John (2006; 2011) distinguishes three different natures of the instruments: top down (legal instruments or laws and regulations and financial like public spending and taxation), internal to the state (the organizational aspect of the government like bureaucracy, public administration and institutions), and non-standard (personal instruments like information, deliberation and networks). To explain it differently, the author describes the mechanisms into three groups: those that direct the people's actions, encouraging or penalizing their behaviors, those who structure the power to exert influence in the way of acting, and those who persuade to achieve a desired objective.

II. 3.1.3 Instruments as institutions

Authors like Foucault, Lascombes, and Le Galès have developed the theory of instruments understood as institutions. The conception of instruments as institutions is part of the philosophy of Foucault, whose work in the analysis of the relationship between the state and its population is the forerunner of this theory. For Foucault (1988) the relationship between the state and its people becomes systematical, as it is molded throughout the perceptions, both positive and negative, that the people build from their experiences and from the historical information they have of the government institutions. In other words,

the technologies for governing or the instruments develop through and from this relationship between actors, where shared values and perceptions get attached. This systematization becomes important as it builds a correlation among society members: policymakers and people, and it is the main instrument needed to carry out the state's intervention when solving a problem. Instruments are fundamental for reorienting these behaviors and perceptions.

Starting from Foucault's philosophy, Lascoumes and Le Galès (2007) understand policy instruments as "a device that is both technical and social, that organizes specific social relations between the state and those it is addressed to, according to the representations and meanings it carries" (p. 4). In other words, policy instruments are more than mechanisms or tools because they encompass the values and the perceptions of both the state and its target population.

Thus, Le Galès (2011) also sees policy instruments as the mechanisms that direct the relationship between a government and its population. They are also a source of power that influences these relationships. In this sense, it is important to acknowledge that they might privilege a group of people while constraining another group. To put it differently, policy makers might pick a problem to solve, over another that is more important because it might be more convenient to their own purposes. Hence, instruments are undoubtedly knowledge, or to be more precise, knowledge about how to control a social group when exercising the power. As Lascoumes and Simard (2011) conclude, instruments are institutions that seek to reinforce the power of the authority.

In contrast with the other theories, for this perspective, the way power is executed and its relationship with the population are the criteria for identifying the different instruments. Instruments involve values and perceptions they cannot be picked from the toolkit box as the previous authors suggest; on the contrary, each of them is particular and corresponds to the characteristics of the power relationship of the particular context. Thus, international and national actors play an important role in the selection of the instruments.

In summary, instruments, seen as institutions, are a combination of different elements and not only an isolated technical device. They are institutions that enable the execution of the policy to achieve the expected purposes. Instruments, hence, are more complex as they result from the relationship of power between the policymakers or government leaders and the people, to ensure the order of the society. They are dynamic and not static.

II. 3.1.4 Contrasting the different theories

As can be seen, the conceptualization and classification of the public policies' instruments is diverse, and depends from the perspective the author takes to make the analysis. There are countless other classifications, however, it is believed that the previous work presents the necessary basis to understand the instruments that the regulations represent.

The following Table 6 "Classification of instruments according to the different perspectives" comprises a comparative synthesis of the previous analysis. The terms used by the authors are reflected in the chart, as well as it is important to mention that the role of the state is based on the classification of Le Galès (2011), although the competitive state is added to understand the other authors' classification, and John's (2006; 2011) comparison of facility of introduction and effectiveness are included, adding the information to the classification that is not considered by the author.

Table 6. Classification of instruments according to the different perspectives

State's role	Perspective from which instruments are understood					Example of instruments	Degree of coercivity	Degree of effectiveness	Facility to introduce		
	As tools		As institutions	As instrumentalities							
	Linder and Peters (1989)	Howlett (2009)	Le Galès (2011)	Hood and Margaretts (2007)	John (2006; 2011)						
Social guardian	Regulations	Legal	Legislative and regulatory	Authority	Top down	Legal	+ Coercive	Weak	High		
Redistributive state	Expenditure		Economic and fiscal	Treasure		Financial				Public spending, taxation, grants, subsidies, transfers, loans, funding plans, land allocations	Weak
Competitive state	Public ownership	State's organization		Organization	Organizational or internal to the state	Public administration, bureaucracy		Medium	Medium		
						Pensions, social security, unemployment insurance, and rent controls				High	Weak
						Corporations, institutions and public enterprises					
Market state		Market	Best practices and standards			Contracts, subsidies, auctions, taxes, downsizing, penalties, deregulation, and privatization		Medium	Medium		
Audience democracy	Exhortation		Agreement and incentive based		Non-standard or personal instruments	Advice, training, reports, education, surveys		Medium	High		
			Information and communication	Information		Information, deliberation, speeches, conferences, advisory, and research					
		Network system		Networks, associations and services		Weak				Medium	
	Private			Self-regulation		- Coercive				High	

Table elaborated by the author based on the information presented above.

From the table it can be seen that even though names vary from one author to another, they coincide in most of the instruments' classification, according to the roles the state plays. The first major group, to which all the authors refer even from different perspectives, is the legal one, which is precisely the one where the regulations correspond. Although the terminologies are diverse and constantly overlapping, it can be observed that this kind of instruments is precisely where the authors agree that the state exerts the most authority, as their degree of coercivity is the highest. Hence, this implies that sanctions are used when not complying with the government's will, because, as noted, some examples of instruments are fines and imprisonments. Other examples of instruments are laws and rules, meaning that there is a legal framework or collective contract that indicates the desired behavior and the sanctions that follow if it is not met.

Also, an interesting point concerns to the effectiveness and the facility of introduction of the instrument. In this particular case, it can be seen that these legal instruments are very easy to introduce, in comparison with other instruments like the institutions, but their effectiveness tends not to be very strong; that is, its impact can be questioned, as sometimes they can be ineffective.

The analysis of the rest of the table will not be carried out at this moment because it is not the topic of this investigation, but it is available to the reader to interpret it. The table delivers an introduction to the subject of regulations in order to proceed next with a detailed analysis of them. However, before moving on, it is important to conclude that instruments vary according to the interpretation that the different authors make of them. Policy instruments are influenced by different actors, goals, networks and issues that take place in a specific territory, as well as by the political system that has been established (Linder & Peters, 1989). They vary from one country to another (Howlett, 2009), change over time (Lascoumes & Le Galès, 2007), and interact among each other, resulting on a very hazy mix (Howlett, 2005; 2009). Therefore, all these aspects allow and increment the interpretations that have been made to the conceptualization of the instruments letting see that they are an essential element that is fundamental to policy design. Consequently, the quid is how these instruments are coordinated in the system to achieve the desired objectives and to solve the problems for which they are being implemented, as their application depends directly on the authority that selects them.

II. 3.2 Regulations as a type of instrument

As has been said before, regulations are a particular kind of policy instruments used by governments to impose a mandate¹¹. Since the rise of the regulatory state, as Gilardi and Maggetti (2011) and Malyshev (2002) mention, regulations have become even more relevant than before in the study of politics as they have turned out to be one main form of governance.

Regulations are a normative device characterized for being highly coercive, as it is through them the state exerts the most authority. Regulations are described by Howlett (2009) as the use of a legal authority to assure there is compliance. In other words, regulations are supported by a legal framework. Hence, in many cases, they are often accompanied by financial sanctions or even imprisonment (Loui, 1985; Bresser & O'Tool, 1998; Howlett, 2011). Namely, regulations impose obligations that have to be fulfilled by the target population, and they involve sanctions if there are not followed.

For this reason, for both Bresser and O'Tool (1998) regulations are directive or coercive mechanisms, as the objective of the government is to control the behavior of a specific sector of the population, limiting their freedom. Regulations indicate a way of acting, based on the government's objectives (Howlett, 2011).

¹¹ Usually, governments combine these instruments (Le Galès, 2011).

For the author they are commands that control a population's actions. To put it differently, the state determines a compulsory manner of conducting for target populations, aligned to its objectives, and uses regulations to assure the corresponding actions. In many cases a penalty is endorsed to ensure the behavior. However, despite the sanctions, regulations are based on respect and cooperation, as Selznick (1985) mentions. Therefore they are not intended to be hostile, but to safeguard a common interest. Thus, they are, in a way, more an intentional intervention than a banning (Koop & Lodge, 2017); a direct involvement where standards are set, actions and compliance are monitored, and sanctions followed when the law is violated. To say it with another words, regulations are acts of protection, and therefore, they are always present, even though sometimes one might not be completely aware of them.

Regulations are a set of rules that aim to influence behaviors while constraining other ways of acting that are considered undesirable. For Cohn (2011) laws are the essence of the regulatory policy, they are the "apex of the regulatory pyramid" (Fielden, 2008, p. 9); in other words, they are a central part of the regulations. Laws regulate in many single ways; they establish procedures for opening new businesses, they structure formal work relationships, and they delimit power, among others, to control organizations (Bernasconi, 2011). However, not all legal frameworks are a regulation, as Selznick (1985) points out, nor all the ways of social control exercised by the state. Black (2002) even mentions that regulations are "*less than law*" (p. 23), meaning that the law or the rules are only an instrument for the regulations, but they are also "*more than law*" (p. 25) as regulations are broader than a set of rules. Nonetheless, the clearest distinction between both terms is made by Cohn (2011) when asserting that regulations can be voluntary while the law must always be obeyed.

In other words, regulations are not just rules, they refer to different mechanisms that intend a specific and directed control, relatively permanent over a period of time, that might be either voluntary or mandatory; they consist on different tools, like incentives and contracts that are applied and guarded by a specific state authority (Baldwin, Cave & Lodge, 2012; Selznick, 1985). Hence there is a specific body that ensures that the regulation is followed, and different mechanisms are used to regulate the diverse actions. Regulations, then, are established by the government, generally by one of the Ministries, by a recognized body or by an independent agency, whose authority has been granted by the state, in a delegation of a particular task.

In this sense, this research is centered on this regulation, the state's regulations because, as Black (2002) points out, even though most research has been done at the state level, regulations take place at different levels, going beyond the state's scope. To put it differently, the regulations can either be at an internal level or at an external (Higher Education Commission, 2013), meaning that the private sector internally also regulates itself.

At the state level, the regulatory bodies might combine actors from the government or from the society, as Black (2002) asserts, who work together and intertwine their actions for the achievement of the goals. In other words, regulations involve two sides, or a power relationship as Koop and Lodge (2017) identify. On one hand, the regulatory body exercises the power, while on the other hand, the regulated population complies. However, the regulatory body is not exclusively formed by state workers; on the contrary, in some cases, self-regulatory associations have an important role in helping the state regulate the system. Thus, roles vary from one situation to another, according to the aspect that is being regulated, but interactions are always interdependent.

From another perspective but in a similar way, Dunsire (1993) defines regulations as instruments used by the government to correct a deviation. Therefore, if the actions of the target population were not

rectified, the objectives established by the policymaker would not be met. Then, regulations are issued to ensure that the proscribed way of acting is being followed. To say it with other words, in some cases the desired behavior would not be followed voluntarily and therefore the regulation is needed to assure the coveted action.

In short, up to this point it can be said that regulations can be understood as focused state interventions that are framed by legal norms and that use different tools to assure compliance, with the aim of controlling specific behaviors of the society. Nevertheless, in a more positive way, the Higher Education Commission (2013) of the United Kingdom, perceives regulations not only as mechanisms to assure compliance or enforce of behaviors, but as tools that encourage improvement, driving or directing actions to best practices. Namely, regulations lead the way into the most effective way of action, from which the most possible positive results will emerge. Similarly, Floud (2005) asserts that regulations today, in market-economy driven countries, pursue the purpose of granting more power to the people. To put it differently, regulations are not meant to constrain but to indicate the best way of acting that, in the long run, benefits society the most. Once again, regulations are meant to protect.

As can be seen, one aspect for which regulations are understood in different ways derives from the diverse objectives that the government has when implementing a regulation. Regulations, in many ways, are issued to protect consumers from the failures of the market (Baldwin, Cave & Lodge, 2012) or for distributing the risk (Black, 2002). This means that they are prescribed to avoid monopolies, to refrain businesses from taking advantage of consumers, to protect quality, to promote information flow, but foremost and most important, to safeguard public goods and human rights, like it is the case of higher education.

II. 3.2.1 Different regulatory mechanisms

Regulations can be found in many different fields like the economical, the legal, the political, the organizational and the social and the personal ones, and they operate too, in different levels. Nonetheless, they are also, at the same time, a mixture of economical, legal and managerial principles as Malyshev (2002) mentions. Both Howlett (2011) and Koop and Lodge (2017) distinguish, for instance, between the direct government regulation and the indirect regulation. However, Howlett (2011) explores it in detail. For the author, the direct government regulations clearly constrain and control; to put it differently, they are commands imposed by the government that are precise and sharply established. These include legal instruments and independent regulatory commissions. On the other hand, the indirect government regulations are mechanisms where control is pursued through means where the government does not interfere, or its intervention is very slight and almost unperceivable. These include the delegated professional regulation and the voluntary regulation.

Table 7 “Classification of regulatory mechanisms” compares the most common instruments that are used today to regulate. The table is based on the findings of Howlett (2011), Cohn (2011), Gilardi and Maggetti (2011), and Malyshev (2002) but it includes some analysis points suggested by Koop and Lodge (2017), like the regulator. The table starts from the nature of the intervention, based on the role the government plays in each mechanism, and analyzes the four main types of regulatory instruments mentioned above. Also, the table shows that these instruments are intertwined and that, although the application of all is not needed at the same time to operate efficiently, operating by themselves would hardly lead to reach the desired objectives. In other words, two or more regulatory mechanisms are usually coordinated for the successful public policy implementation.

Table 7. Classification of regulatory mechanisms

Nature of intervention regulatory instruments	Types of regulatory instruments	Description	Instruments	Regulator	Costs	Efficiency											
Direct	Legal instruments	Laws and rules that direct behavior. In other words they establish the rights and the obligations of a particular population or segment of the population.	<table border="1"> <tr><td rowspan="6">National</td><td>Constitution</td></tr> <tr><td>Statutes</td></tr> <tr><td>Ratified international agreements</td></tr> <tr><td>Secondary legislation: orders and decrees</td></tr> <tr><td>Contracts, treaties, licenses, franchises</td></tr> <tr><td>Judicial decisions</td></tr> <tr><td rowspan="3">International</td><td>Transnational conventions and agreements</td></tr> <tr><td>International law</td></tr> <tr><td>International court judicial decisions</td></tr> </table>	National	Constitution	Statutes	Ratified international agreements	Secondary legislation: orders and decrees	Contracts, treaties, licenses, franchises	Judicial decisions	International	Transnational conventions and agreements	International law	International court judicial decisions	Public	Low costs when the law is emitted, but the implementation costs can be expensive.	Depends of the people's good will and the level of legitimacy of the body that issues the law. Hence, usually need reinforcement to work, like agencies, patrols, guards, police, and courts.
	National	Constitution															
Statutes																	
Ratified international agreements																	
Secondary legislation: orders and decrees																	
Contracts, treaties, licenses, franchises																	
Judicial decisions																	
International	Transnational conventions and agreements																
	International law																
	International court judicial decisions																
Independent regulatory commissions	Many different specialized bodies established and administered by the government by issuing a status that delineates their power and responsibilities.	<table border="1"> <tr><td>Ministerial departments</td></tr> <tr><td>Ministerial agencies</td></tr> <tr><td>Independent advisory bodies</td></tr> <tr><td>Independent regulatory authority Ex: industry, commerce and trade, consumer protection, food, finance, etc.</td></tr> </table>	Ministerial departments	Ministerial agencies	Independent advisory bodies	Independent regulatory authority Ex: industry, commerce and trade, consumer protection, food, finance, etc.	Public	Expensive	Depends on the level legitimization of the commission. Efficiency declines if the commission has been associated with corruption or other scandals. More transparency, more efficiency.								
Ministerial departments																	
Ministerial agencies																	
Independent advisory bodies																	
Independent regulatory authority Ex: industry, commerce and trade, consumer protection, food, finance, etc.																	
Indirect	Delegated professional regulation	Different bodies composed by representatives of a profession, to whom the government has transferred authority to regulate aspects related to a discipline or a practice.	Many different bodies, according to the professional fields. The number varies from one country to another. Some examples: layers, doctors, etc.	Private or semi-public	Low costs	They enjoy a higher degree of legitimacy so they tend to be more efficient. Nevertheless, they can also be surrounded by corruption scandals, hurting their efficiency.											
	Voluntary regulation	Self-regulation. Regulation without the need of creating agencies, as it is mainly market based.	<table border="1"> <tr><td>Compliance plans</td></tr> <tr><td>Regulatory exemption programs</td></tr> <tr><td>Government-industry negotiated agreements</td></tr> <tr><td>Certification</td></tr> <tr><td>Challenge programs</td></tr> <tr><td>Design partnerships</td></tr> <tr><td>Standards auditing and accounting</td></tr> <tr><td>Codes of conduct</td></tr> </table>	Compliance plans	Regulatory exemption programs	Government-industry negotiated agreements	Certification	Challenge programs	Design partnerships	Standards auditing and accounting	Codes of conduct	Private	Low costs	Difficult, it depends on the government's capacity to persuade a population to conform. There is a degree of government intervention needed in order for these mechanisms to work.			
Compliance plans																	
Regulatory exemption programs																	
Government-industry negotiated agreements																	
Certification																	
Challenge programs																	
Design partnerships																	
Standards auditing and accounting																	
Codes of conduct																	

Table elaborated by the author based on the findings of Howlett (2011), Cohn (2011), Gilardi and Maggetti (2011) and Malyshev (2002).

At a first glance, the table gives the impression that the legal mechanisms are the most explored and diversified ones, a fact that could be due to being considered, by excellence, the traditional regulatory mechanisms. In fact Cohn (2011) mentions that there is a belief that regulations were, at first, only composed by laws. Although the table does not allow it to be appreciated, the role of the legal framework in regulations has been commented on repeatedly in this research, to such an extent that authors such as Selznick (1985) and Black (2002) have made the distinction between both: the regulation and the law. This fact clearly gives the impression that these instruments tend to be the most used by the governments when controlling a behavior. Nevertheless, what the table does allow is to have a clearer understanding of this regard. On the one hand, it is observed that they are low cost instruments, without considering their implementation costs, since they only need to be written by the legislative body or be dictated by the judicial authority. On the other hand, it is appreciated that they constitute the basis or support of other regulatory bodies, as they tend to be inefficient if they are applied alone. That is, the legal instruments provide the bases, structure, operating rules and the justification of existence of the other regulatory mechanisms. In other words, other instruments are required to enforce and execute the law, as well as to sanction when their authority is violated.

The table also allows contrasting and comprehending two regulatory mechanisms that are partly similar but that indeed have notable differences: the independent regulatory commissions and the delegated professional regulation. The nature of the government's intervention in both mechanisms is different, meaning that authority is shared by both the government and the private sector, but both instruments appear to be similar by the fact that the government delegates authority to regulate. In the first case, the independent regulatory commissions, authority is delegated to an independent group that, even though it depends economically on the government, it has a certain degree of autonomy in its execution and administration, in order to protect from political and private interests. To put it differently, the independent regulatory commissions are intermediaries between the government and the target population that is being regulated, while in the second case, the delegated professional regulation, the authority is completely delegated to the experts in the topic, letting act with a high degree of autonomy. For its nature, as this last group does not depend entirely on the government, the costs that it generates are lower.

On the contrary, the creation, implementation and execution of the independent bodies represent a considerable expense for the government, since all expenses are made with public money. From their degree of effectiveness it is observed that both are highly effective as long as they are transparent and accountable, because the corruption scandals damage their authority affecting the legitimacy of the body. In many occasions, and especially in the case of the independent regulatory commissions, these are established to achieve the legitimacy that the government has already lost, and that is needed to be able to regulate an issue. However, governments have recently increased dramatically the number of these commissions as they have turned out to be an easy solution to the problem, affecting the legitimization and credibility of this regulatory instrument and losing its efficiency.

Regarding this issue, it is interesting to note that their decision making power has become relevant today politically speaking, as the number, of independent regulatory commissions has tended to increase (Gilardi & Maggetti, 2011; Malyshev, 2002). This means that decisions are taken, more than ever before, by a group of people that has been appointed by the government officials, and not by democratized elections. On a later stage of this research it will also be seen the impact of the delegated professional regulation in the Mexican private higher education landscape and their repercussion aggravating the problem of the proliferation of low quality institutions.

In a most recent way, Malyshev (2002) mentions that some countries have already established central oversight bodies, which regulate regulators, overseeing the good implementation of the regulatory policy. This has not been included to the table, as they operate in the different countries at diverse levels and with different power attributions making it difficult to generalize.

Finally, the mechanisms that vary the most are those of self-regulation that, although it is seen that by their nature they do not need further support, they are not always followed by the population. In other words, the fact that they are voluntary affects their efficiency. It can be seen that the negotiations constitute an instrument of these regulatory mechanisms that might be well followed by both sectors because several things might be at the stake for both if not followed; but above all, certification is the mechanism that would like to be highlighted now, due to its relevance to the topic of higher education, where, it is commonly used to assure quality. In many contexts, but specifically the case of Mexico, quality assurance is a voluntary regulatory mechanism, that generates low costs for the government, but whose efficiency is also not what is desired (Cuevas, 2011b; González, 2012). This topic will be explored later, but mentioning it now helps to begin drawing and understanding the particular Mexican situation.

In short, the instruments seem to be simpler than they are, but deep down they are not so simple, as can be seen. Each one has particularities that serve different purposes but, at the same time, they are intertwined; therefore, a healthy regulatory system needs the combination of these mechanisms in a strategically way, in order to achieve the objectives for which the public policy has been implemented, and to efficiently protect the public good and the human rights.

To add complexity to the matter, regulations take place at the federal or regional level, depending on each country's decisions (Fielden & Varghese, 2009), and are also influenced by the different actors, goals, networks and issues that take place in a specific territory, as well as by the political system that has been established in a particular time (Linder & Peters, 1989; Hall, 1993; Howlett, 2009; Lascoumes & Le Galès, 2007). Therefore they vary from one country to another and change over time. Before, they used to be more functionalist; today they are mainly used to increase the capacity of governments to govern or guide (Mayntz, 1993).

As can be seen, for a regulatory instrument to work, a large number of elements must be conjugated, or it must have certain specific characteristics that are often difficult to achieve because the results vary from one context to another, making it difficult to predict what is most of the times unpredictable. The intention of the policymaker can be good when trying to solve the problem, but in many cases the policy might turn inefficient or immeasurable, or even unfair in the practice, or it simply leads to a greater inequality in the distribution of some specific good, making the policy fail and leading to having to re-create another policy. However, considering these criteria while designing the policy helps avoid some problems.

II. 3.2.2 Failure of regulatory instruments

Bresser and O'Tool (1998) and Linder and Peters (1989) agree that many times policy instruments do not contribute to reduce or eradicate the problem for which they were created. Sometimes, as Hall (1993) mentions, unplanned events occur overpassing the dealing capacity. That is to say, that in many occasions there are events that could not have been planned at the time of making the public policy, and that can interrupt or damage the execution of the policy. Therefore, the expected results are not obtained. To mention an example, a natural disaster might have a great effect in a policy instrument.

Notwithstanding, for Bresser and O'Tool (1998) policy failure is due to the fact that policy instruments are usually chosen according to the politicians' favorite kind of instruments instead of their effectiveness

and capacity to be implemented, or they choose them to hide certain objectives that the elites want to achieve and otherwise would not be accepted, as Le Galès (2011) points out. Also electoral objectives take part in the choices of instruments as Lascoumes and Simard (2011) explain. In other words, many times the one that should be the main objective of a policy, like the preservation of a public good or a human right, goes below the personal interests of the politician who makes the law. Therefore, the design, implementation and monitoring of a public policy are left apart running in a superficial way, which often only contributes to aggravating, in the long term, the social problems.

Also, when deciding on regulations, there are many assumptions as Dunsire (1993) and Elmore (1987) suggest that can lead to the failure of the policy. Elmore identifies (1987) these assumptions: first it is assumed that the behavior, without the regulation, will be contrary to the one that is desired; therefore, the establishment of a framework that regulates the conduct is needed. In this sense other policy instruments that are more persuasive are discarded, since they are perceived as insufficient to modify the behavior (Hand, 2012). Second, it is assumed that everyone for whom the regulation is created should comply with the policy instrument. Third, it is assumed that the target population has all the information needed to act accordingly. And fourth, that the existence of a sanction assures compliance.

These assumptions, often done without thinking, determine the turn of a public policy, as it will be seen later in the case of higher education in Mexico. The policy may be well stated and justified, but the target population lacks the complete information it needs to follow it, to such degree that it cannot dimension why its compliance is necessary or the consequences of not complying at all. In other words, in many cases regulations are made from the perspective of policymakers without considering the opinion and the knowledge of the population in question and the experts in the subject, leading to undesired results.

Nevertheless, on more technical issues, for Linder and Peters (1989) policies fail because there is a lack of understanding of the instruments that are chosen to reach the goals. In other cases instruments are chosen according to the resources that are available at the moment, despite they will be effective or not (Bresser & O'Tool, 1998). This could have derived, as it has been mentioned before, from considering the instruments merely as an option from a list, without understanding them in depth and having carried out a detailed analysis at the time of making the decision. Instruments need to be analyzed before deciding on them, considering all their possible consequences of their implementation, and if there are no convincing options creativity can be used to develop new instruments that could be closer to achieving the objectives.

Also, another technical aspect is mentioned by Le Galès (2011) who points out that policy failure is closely related to the numerous actors that interact at the different levels of governance. That is, the actions and responsibilities of the actors are not entirely clear and they overlap, as it will see in the case of Mexico. Another issue is the lack of authority during the implementation process (Hall, 1993; Baldwin, Cave & Lodge, 2012) because, as it has already been seen, the lack of legitimacy of the body that executes the policy affects, to a large extent, the success of public policy. In other words, the good perception of the regulatory body is essential for the policy to succeed as well as the degree of transparency in all the implementation process. Here it is important to remember that policies are not only about designing them but also about implementing and enforcing them; that is to say that, for a favorable outcome, the diagnosis, planning, execution and evaluation require the same attention and follow-up from policymakers and policy executors.

Finally, Baldwin, Cave and Lodge (2012) comment that a failure of the regulatory system might also derive from an overregulation or from an under regulation. Namely, overregulation refers to the excessive regulatory instruments implemented on a system that depletes the target population and it does not yield

the desired results. On the contrary, under regulation means that the regulatory system is so loose that undesired actions escape the constraint without any serious consequences. Thus, it can be seen that no extreme pole is good, but a balance in policy and regulatory instruments is needed for a successful intervention.

In short and to put it differently, Dunsire (1993) suggests that policies are, in general, difficult to implement, as they are not natural, but a source of power (Le Galès, 2011). To remember, regulations are an intervention in order to protect a public good or a right, where there is a regulated-regulatory power relationship, for this reason they are, per se, complex. Hence, Howlett (2009) points out, that instrument choices should be carefully planned and assessed because there are crucial factors that affect the failure or success of the policy. Deciding on policy instruments, and more specifically on regulatory instruments, takes time, as analysis and reflection on their implications on each of the daily dimension is needed. Therefore, it cannot be rushed.

II. 3.3 Regulatory instruments in higher education

Despite the fact that higher education regulation is not a particular topic of interest for researchers in regulations (Black, 2015), it can be easily concluded that the regulation of higher education has different objectives and styles around the world. In other words, regulatory instruments in higher education vary from one country to another. According to Fielden and Varghese (2009) regulations begin with allowing the private sector to create a campus, and continue with approving its operation, authorizing their study programs, assuring its quality, monitoring their performance and collecting their taxes. All of the above to avoid fraudulent providers, protect naïve students, avoid the detriment of quality, and create a balance between private investment and public interest. To put it differently, control of what is happening in higher education is important to balance the market orientation of private providers as a country cannot base all its higher education system solely on the fields that are commercially attractive.

Similarly, the Higher Education Commission (2013) agrees that regulations in higher education are needed to assure the sustainability of the system, the student's experiences, the quality of the system, and future investments. Hence, higher education systems are regulated to protect the human right to tertiary education, ensuring the quality of the system and the collective interests, that may be displaced when the system is oriented only by the interests of the market.

As the role of the state has changed from provider to regulator, the legal frameworks of the countries have been strengthened (Mok, 2005). Therefore, the role of the state as a regulator has been emphasized, as previously has been seen, giving priority to its responsibility of controlling and monitoring, rather than granting education. In this sense, Hood (2004) classifies the different regulatory approaches used in higher education into four categories, while Lodge (2015) offers examples regarding the field of higher education:

- 1) Oversight: monitoring and directing individuals, which in higher education can be seen in the reports the institutions have to deliver to the authorities, the inspections by the authorities to the institutions, the evaluation process that include quality assurance, and appointments done by the ministries.
- 2) Mutuality: confronting individuals to horizontal relations, like peer review, and collegiate decision-making.
- 3) Contrived randomness: unpredictable processes like reviewing the processes of the higher education institutions, setting new evaluation criteria, and circulating staff.
- 4) Competition: refers to actions that foster rivalry. In higher education these include rankings, and

competing over grants or students.

As can be seen, the state carries out all these different tasks when regulating the system, as they complement each other. However, each country prioritizes differently each of these activities, bringing with them different advantages and disadvantages. While some countries exercise more the role of monitors of the system, others seek to regulate it through the national and international rankings that have gained worldwide relevance in recent years. Despite this fact, the oversight approach has become the most relevant in the last couple of years, as governments have tended to exercise their power through supervisions and inspections generating an audit explosion (Lodge, 2015). In higher education this has especially happened with the increase in quality assurance mechanisms, which also involve some mutuality activities.

As will be seen later, in the case of Mexico, oversight and mutuality are the roles that the state plays the most. These different approaches will help to understand, in a better way, the regulatory mechanisms used in higher education, since the approach that each country follows is decisive for the choice of instruments.

Having said the above, Fielden and Varghese (2009), Floud (2005), and the Higher Education Commission (2013) enumerate the different elements of the higher education regulatory framework:

- 1) Legislation: norms and rules that contain the obligations, rights, and minimum requirements for the higher education providers.
- 2) Procedures for establishing private institutions: processes for temporary recognition, registration and accreditation.
- 3) Quality assurance process.
- 4) Grants and loan schemes: instruments used to attach conditions with financial resources.
- 5) Procedures for reporting performance: assessment.

If we contrast these mechanisms with the regulatory instruments, as it can be seen in table 8 “Specific regulatory mechanisms used in higher education by their classification”, most of the instruments used to regulate higher education are legal but, as it has been seen before, it makes good sense since they are the base that structures and grants power to the other mechanisms. It can also be seen that most of the instruments are meant for the government to exercise direct control over the system.

However, it is also appreciated that the quality assurance instrument exercises indirect control. This has been classified, at the same time, as delegated professional regulation and as voluntary regulation. On one hand, as delegated professional regulation because, in most cases, it is the professionals of the different disciplines that carry out this process. In the specific case of Mexico, as will be seen, there are several institutions, but all of them use the discipline-based approach to perform the task. On the other hand, as voluntary regulation because, generally and reiterating the case of Mexico, the quality accreditations are voluntary processes that grant a certificate, which provides distinction and prestige to the institution, increasing its legitimacy, but that are not needed to operate.

In addition, the specific mechanisms used in the regulation of higher education can also be seen in the table. Hence, it can be seen that each of the umbrella instruments: legislation, financial (loans and grants) and quality assurance, materialize in different ways. It is observed from the table, once again, the predominant role of the legislation in the regulation of higher education. In other words, when it comes to private education, they are essential for determining which organizations are meant to be private and

Table 8. Specific regulatory mechanisms used in higher education by their classification

Nature	Types of regulatory instruments	Instruments	Regulatory instruments used in HE ¹²	Specific mechanisms		
Direct	Legal instruments	National	Constitution	Constitution		
			Ratified international agreements	Ratified international agreements		
			Statutes	General laws		
			Secondary legislation: orders and decrees	Decrees		
			Specific norms and procedures	For establishing institutions	Temporary permissions or provisional registrations	
					Registrations	
					Licensing	
					Authorizations	
					Basic requirements checklists	Infrastructure
						Resources
						Equipment
						Staffing
						Activities
						Curriculum
					Basic safety standards	
Mechanism for establishing and recognizing programs						
Accreditation and recognition as higher education institution						
Administrative procedures acts						
For carrying on activities	Established guidelines					
	Approvals					
	Validations					
	Confirmations					
	Restrictions					
For reporting performance	Ceilings					
	Management reports					
	Statistical reports on performance					
	Reauthorizations					
For assuring quality	Audits					
	Accountability mechanism					
Grants and loans	Recognition of degrees					
	Supervision					
Funding schemes	Basic funding or funding formula					
	Performance based funding					
	Research funds					
Taxes	Vouchers					
	Subsidization					
Independent regulatory commissions	Not generally used for regulating higher education					
Indirect	Delegated professional regulation	Discipline-based professional bodies	Quality assurance	Internal quality assurance	Self-regulations	
	Voluntary regulation	Certification		External quality assurance	Internal audits and self reports	
					Peer review	

Table elaborated by the author.

¹² Higher education.

which are meant to be public as Bernasconi (2011) points out. Hence, in this part of the legislation, the predominance of the constitutions over the other laws is appreciated, being in each country the supreme rule that guides to the other norms. Then international treaties are also observed, because they have become relevant in the field of education, influencing the systems. Specifically in Europe, the Bologna Process has laid the path towards which the educational policies of each country in the region are being oriented, in order to establish an integrated Higher Education Area. Afterwards, general education laws of each country are located, where the regulations for higher education can also be found. These refer to the specific set of rules that structure and guide the particular actions on the field of education and higher education. Also as a part of the legislation, the decrees issued by the executive branch, the judicial power or autonomous regulatory institutions, play an important role regulating higher education, as they express authoritative orders or dispositions that must be complied to.

More specifically, within the legislations, the procedures for establishing, operating, and reporting the institutions are found, especially when private investment is involved. As can be seen, within the procedures for establishing the institutions mechanisms such as temporary or provisional registrations, authorizations, basic requirements checklists, instruments for creating new programs, accreditation and recognition criteria for the institutions, and administrative procedures acts, are used. These mechanisms mainly concern to the administrative part, except for the creation of the new programs and the accreditation of the institution, which focus more on the quality, or at least that is the impression they give since, as will be seen later, it is not always the case. However, because they are located in the legislative part, it makes sense that they refer, instead, to the list of processes and requirements that must be met to establish an institution of higher education, indicating the respective sanctions in the case of breaking the law. In addition, in this part of procedures, as already mentioned, there are also the accountability processes that, as seen, generally take place through administrative reports, audits, and performance reports that monitor the daily duties and accomplishments of the institutions. Here it is important to mention that the procedures are materialized in diverse ways depending on each country. In the specific case of Mexico they are called Agreements.

Regarding the financial regulatory instruments, these are executed through contracts and therefore also have legal support. Nevertheless, in this classification they have been separated from the legal mechanisms for a better understanding, although it must be remembered that the instruments are always intertwined, especially the legal ones that provide the sustenance of most of the others. Hence, the financial instruments mainly used in higher education are the grants and loans, and these are supported by three main mechanisms for allocating funds: basic funding or funding formula, performance based funding or funding allocated according to the achievement of set criteria, and funding schemes where negotiations between regulator and regulated take place. Most funding granted to private higher education institutions use this last mechanism, the funding scheme, as resources are given indirectly through research funds, scholarships, and vouchers in most of the systems.

Finally, the quality assurance instrument takes place on two levels: inside the institution that depends on the internal regulations and quality parameters that are established inside, and the external evaluation, where an extrinsic body certifies the institution. External quality assurance accreditation is, generally, carried out by a delegated professional regulatory body, which requests an internal report on the quality of the institution based on standards previously established by the agency. This report is later reviewed on-site by professionals of the same discipline, in a peer review scheme, to check its veracity and to finally decide the verdict consisting on accrediting or not the institution.

As it can be seen, the mechanisms used for regulating higher education are varied but not extensive; that is, that there are really a small number of tools which are quite similar or resemble in particular ways, especially the legislative ones. Although this does not interfere on its efficiency, the above is noted from the table's landscape portrayal. The efficiency, as has already been mentioned depends on the adequacy of the instrument to the particular situation and the execution of the policy. Lastly, it is important to make the distinction that both financial and quality assurance instruments operate in different ways in the public and private sectors, not to mention that all instruments' design and implementation varies from one country to another and differs according to the way they are connected to each other.

Also, it is fundamental to mention that higher education institutions can be regulated by more than one system as Kogan and Hanney (2000), and Anderson and Johnson (1998) point out. Here the focus has been mainly on the government's regulation, as it has been insisted throughout this research. Nevertheless, it is worthy to remember that higher education systems are regulated by both the governments and academics. The governments regulate through policy and bureaucracy, through the mechanisms already mentioned, while the academics regulate through the invisible hand and their own internal framework that sets the rules of the game. This internal regulation goes beyond internal quality assurance parameters corresponding to the whole self-regulatory process, which, according to Mayntz (2006) has become more popular with time, as the governments have implemented a deregulatory policy. Self-regulation, as the author describes, implies a constant negation between the involved actors, whose interests vary and may be opposed, to reach agreements that are of public interest. In this case, the state's role is the one of supervisor. Hence, self-regulation is always regulated at the end.

Concluding, regulating a higher education system is a complex task because it involves different edges, actors, tasks and perspectives, which in reality have been little studied by literature as it has been previously discussed. However, its study, analysis and understanding is essential to guide and develop healthy systems that really ensure the educational quality while preserving the public good and the human right that is education. As Buendía (2016) has asserted, a higher education system that lacks the proper regulations causes the appearance and proliferation of different types of institutions whose objective is, in many cases, far from the human improvement, the production of knowledge, and the extension of culture, the essential tasks of higher education.

II. 3.4 The specificity of the regulatory policy for the private higher education

If it has been said that regulation on higher education has not been explored in the literature, less is the case on the private higher education¹³, where a conceptualization and a framework have been missing and, instead, the topic has been analyzed using a methodology of case studies to understand the particular situation of a particular country or region, as the regulatory policy depends properly on the context and place of design and application. The lack of an analytical framework might be due, on one hand, to a generalize lack of regulatory policy, as the sector actually began developing with no restrictions from part of the states (Levy, 2011).

But on the other hand, it is not distant from reality that, in many cases, the public and private sectors are treated in the same way, as Bernasconi (2011) asserts, as the public sector repeatedly tries to exercise control over the private sector in the same way as it does it to the public one, for lacking the knowledge and the experience on controlling this sector. Derived from the above, the state has had an important

¹³ Not to confuse with the general topic of the distinction among public and private higher education where research is more extensive.

impact in molding the private sector. In words of Geiger (1988), “the state also to a considerable extent molds the conditions of existence for private controlled institutions” (p. 700). Hence, the pressure exerted by the state through the regulations undoubtedly shapes the system and, in particular, the private institutions, generating that they become similar to the public ones.

Therefore, it cannot be denied that the private sector, over the years, has imitated the public institutions, voluntarily or involuntarily, tending to isomorphism. In many cases there is a dual coercive tendency, on one hand from the governments, but on the other hand from society who pushes the institutions to look and act like the public sector in order to become legitimate (Levy, 2012). In fact, Bernasconi (2011) studied the differences and similarities between both sectors in the context of Latin America from the perspective of the legislation, to find out that even though they do not differ substantially, private higher education institutions suffer more constraint than public autonomous institutions.

Table 9 “Differences between public and private higher education institutions from the legislative framework” compares both sectors according to the findings of the previous author. As can be seen from the table, the mission, the activities, and general requirements for both admission and graduation processes, are merely the same for both private and public sectors, and the Ministries of Education, federal and local, play an important role in the coordination of the system as a whole. In contrast, the autonomy capacity represents the attribute where both sectors differ substantially. Autonomy, as has been seen before, allows institutions to govern and organize themselves under their own criteria, making their own decisions about the use and the distribution of their economic and human resources, and determining their pedagogical action. It can be seen from the table, than being a public autonomous institution represents an advantage in this area, since the state tends to exert less control, specifically when it comes to the academic autonomy where there are more restrictions as private universities, in general, cannot grant their own degrees and need the authorization of the public authority for opening new programs. Constraints on these aspects, as Geiger (1988) mentions, include the curriculum, the degree requirements, and sometimes even the way the class is conducted. In other words, the academic content and the didactical methodology are subject to the authorization of the state’s authority. However, the organizational autonomy, specially referring to deciding the way of arranging the leadership structures, suffer less constraints for private institutions, who can freely select their administrative design.

To add on, as the investment of this sector is mainly private, it becomes even more difficult for the state to intervene and exert control as it does in public institutions where the allocation of funds depends on the fulfillment of the established parameters, which in many cases are oriented towards the quality of the system (Levy, 2011). Research funds and scholarships, which are the main means by which the state grants financing to private universities, do not actually lead to sufficient pressure and control, especially when institutions are oriented mainly towards the professionalization of the labor market rather than to research. In this way, financial mechanisms are rarely used in the regulation of higher education, as they are not as efficient as the government would like them to be. Nonetheless, Geiger (1988) points out that even though private institutions seem to be less restricted in the financial aspect, the fact that most of the times they have to be constituted as non-profit organizations represent a major limitation, specially in today’s world when every time the needs are greater and life is more expensive. To put it differently, with the specialization of knowledge, facilities and preparation and formation of academics have become increasingly demanding, for which in many cases the money obtained from the tuition fees is not enough to maintain the quality and compete with public universities, especially, when they are restricted from doing other activities to obtain resources, and they have to limit their options for collecting money from the

tuition fees and the philanthropy. This strict regulation is only meant to protect consumers. Namely, these constraints are meant to protect students, but sometimes can create a challenging situation for the institutions.

Table 9. Differences between public and private higher education institutions from the legislative framework

Legislation		Public	Private
Mission		Mission does not differ from one sector to another. Generally the mission includes: professionalization of the labor market, research, dissemination of knowledge, extension of the culture	
Activities		Both sectors have to carry out the same activities: teaching, research, and the extension of culture	
General admission requirements		Secondary studies are required to study in both sectors	
Graduation requirements		Do not differ substantially from one sector to another, but do vary from one country to another. Thesis is the most common graduation requirement	
Autonomy	Organizational	More freedom in establishing own rules	In general, even though they create their own rules, these need to be approved by the state's authority and they need to be based on the ones of the public institutions
		A collegiate governance is expected	Their form of governance is decided completely by the institution's owners
	Academic	Capacity to grant own degrees	There are restrictions on granting degrees, unless full autonomy is achieved by the institution
		No need for approval when opening new programs	Need of approval when opening new programs, except when full autonomy is enjoyed
Organization of the system		Mostly the Ministries of Education are in charge of the higher education system but, in some cases, autonomous federal universities can exert also some control over the system	Corresponds to the Ministries of Education, either federal or local levels.

Table elaborated by the author based on the findings of Bernasconi (2011).

As has been seen, the amount of autonomy may not vary between sectors, public and private, but the form and what is restricted is different as Levy (2012) has rightly asserted. In the next section of this research, the relationship between autonomy and regulations will be explored in greater depth. However, before deepening in that subject, Levy (2011) also explores the regulations in the different types of higher education institutions that have already been mentioned: elite (including religious-owned institutions) and demand absorbing. For the two sectors, the author concludes that, in general, there is a lax regulatory policy, commonly engaged in the policy of *laissez faire*, and once again, one of the main reasons why this happens is precisely the weight that university autonomy has on the systems. This means that both elite and demand absorbing institutions are regulated in the same way, and autonomy represents the main constraint to increase the regulations.

Additionally, the author points out that sometimes, the groups that own the private higher education institutions exercise great political, economic, social and moral power in the country in question, as may be the case of some religious congregations that have educational institutions, representing a great challenge to regulate. Namely, the same society and the control that these groups exercise over the government,

generates greater permissiveness that, although the institutions owned by these groups are recognized for their quality, the situation causes a conflict with low quality institutions which advocate for a similar treatment because, to their perception, is fair. This has resulted in a single regulatory policy despite the diversity of the system, where quality suffers the most.

In other cases, governments prefer to keep loose regulations to promote entrepreneurship, and consequently job creation and the circulation of economic resources, not to mention that private education helps alleviate the pressure exerted by the high demand for tertiary education that governments have not been able to satisfy due to a lack of resources.

Thus, most regulation to the private sector tend to be low (Geiger, 1988), mainly consisting on basic requirements regarding safety conditions and minimal pedagogical issues in the search of a decent quality system, and hoping that the market, itself, regulates the system in a better way. However, as Levy (2011) suggests, the market regulations have tended to fail as demand absorbing institutions keep on growing even despite the dubious quality, the lack of transparency and the little legitimization of the institutions in general.

Based on the research that has been done, it can be concluded that the regulations to the private higher education institutions do not depend on the type of institution (elite/demand absorbing). However, when comparing with the public sector, similarities and differences can be found. First, the legislation barely differs between the public sector and the private sector, except from the specific norms and procedures for establishing a private institution, opening new academic programs and granting degrees, where private higher education suffers the most constraints and has to comply with a list of basic requirements in order to operate. Second, regarding the financial resources, it has been said that the private sector is mainly kept afloat by private investments, and specifically tuition fees, hence it is less regulated than the public sector, but it is mostly limited to the constitution of non-profit organizations. Third and finally, the quality assurance mechanisms commonly represent a regulatory instrument used in private higher education more than in the public sector as, in many countries, public institutions exercise their own measures to control the quality.

Lastly, it must be mentioned that the regulation of private higher education has turned out to be complicated and expensive, due to the multiple dimensions and the immense variety of the sector. This makes it difficult for it to be analyzed from a general perspective, since it depends properly on the context and place of its design and application. For this reason, in this research it will be addressed exclusively, at a later stage, the design and implementation of regulations for the Mexican private higher education system.

II. 4 Regulations and autonomy in private higher education institutions

Throughout the years, researchers, academics and politicians have tried to find the good balance between autonomy and regulations (Fumasoli, Gornitzka & Maasen, 2014), between the state's intervention to protect the human right to higher education, and the capacity of an institution to make its own decisions in order to carry on their task in the best and most appropriate possible way. Nevertheless, as the authors point out, the perfect balance does not exist.

From the academics perspective, more autonomy improves the performance. Therefore, in the last couple of years, reforms towards the increase of autonomy have taken place, as the state has assumed a role of supervisor and has implemented New Public Management reforms, as has been mentioned before. In some cases, the states have been surpassed by the grown of the system, which has forced them to

delegate some specific tasks. In other cases, institutions have been very good at negotiating more autonomy. In some countries, institutions have played a determinant role for which, throughout the years, their autonomy has been consolidated, while in other countries, market demands have helped increase the autonomy of its institutions.

Raza (2009) and Fielden (2008) suggest three different ways in which governments have delegated these administrative responsibilities. First, some governments have decided to delegate control to local authorities. Second, governments have delegated control to specialized bodies. And third, governments have delegated control to the academic institutions. Nevertheless, none of these three ways are free from government intervention (van Vught & de Boer, 2015), but the nature of the intervention has changed to be more indirect.

Namely, institutions have gained more independence and autonomy in making internal decisions for their organizations, but also the governments have increased their control over the outcomes and the responsibility of the institutions. Hence, this has demanded new forms of accountability, for which regulations have changed over the years, exerting control over the institutions in different ways than before. Therefore, in contrast with the highly centralized control exercised by the government before, where there was a “detailed planning and a strict control” (Amaral & Magalhães, 2001, p. 10), the regulations today have tended to oversight instead; to monitor and supervise instead of imposing, leading to more responsibilities for the institutions and more administrative work for academics.

Quality assurance processes, new financial schemes and administrative tools, like reporting, have been used to monitor the system, to the extent that academics worry about their recent increase (Huisman & Currie, 2004; Henkel, 2005; Nybom, 2008; Volkwein & Malik, 1997). Even in some cases, as Huisman and Currie (2004) found out, these new accountability mechanisms, that have been implemented to regulate the system, have been perceived as bureaucratic and inefficient inside the higher education systems, while the support the institutions used to receive has declined over the years (Knott & Payne, 2004).

Enders, de Boer and Weyer (2013) have called this phenomenon regulatory autonomy, where there is a perceived increase on the autonomy, but in reality, the state has used this autonomy as a tool to exercise more control over the institutions, aiming to align more closely the higher education objectives to the countries’ goals. For Berdahl (1990) the increment of the accountability has led to the decrease of autonomy. Hence, undoubtedly, both the autonomy and the regulations have been redefined in the last years and, even if in the first glimpse autonomy seems to have been favored, this might not be the case. On the contrary, in many cases it has decreased with the recent reforms to the regulatory policy.

As a consequence, the states still influence higher education institutions in multiple ways, and even though institutions have been granted more institutional autonomy, the “freedom is [limited] only to act according to the wishes of the government” (Maassen & van Vught’s, 1988, p. 68). Therefore, governments delimit institutions’ actions, and make sure that they comply with the goals they have established through mechanisms as supervision and monitoring. As de Boer and van Vught (2016) assert, based on Maassen and van Vught’s findings, higher education institutions enjoy autonomy as far as the state allows them. In words of the authors

Institutions take decisions in the shadow of hierarchy. In the new planning system, a biannual dialogue, institutions must respond to the government agenda, indicating that the government largely sets the direction of the system [...]. Funding becomes conditional on the institution’s mission and strategic plan [...]. Quality control and evaluation systems will be developed and become mandatory (p. 26).

In this sense, funding mechanisms have been precisely an instrument used to achieve more control over the system, with an over quantification of the performance of the institutions. To alleviate this tendency, quality assurance mechanisms have been implemented to increase, precisely, the quality of the systems, but these have also tended to bureaucratization and quantification, which does not necessarily improve the systems, and to the standardization of both private and public sectors.

The following table 10 “Regulatory mechanisms by the dimension of the autonomy they constrain”, illustrates the different regulatory mechanisms used for each dimension of the autonomy, accordingly to the degree of the autonomy that has been granted to a system. Hence, it represents the two contrasts between the highly regulated systems, where the government exerts a central control, and the lowly regulated systems where the state oversees the higher education institutions. A distinction between both private and public sectors can also be found.

A centralized government control refers to the situation in which the state concentrates the power, as it possesses all the knowledge of the object it is regulating, while in the oversight control the power is delegated, as it is assumed information is missing for regulating the object (van Vught & de Boer, 2015; de Boer & van Vught, 2016). Hence, in the centralized control, the decision-making process and the implementation of the policies are carried out directly by the government, while in the oversight control there is more room for different actors to participate, as there is decentralized power. In this type of control the government establishes the rules and monitors the system mainly through incentives and contracts. Of course, nuances are found between these two poles, according to the autonomy’s conceptualization and the country’s specific situation and traditions, leading to centralize more some dimensions of the autonomy than others. Therefore, the table is just a generalization of the most drastic scenarios.

From the table, it can be seen that similar mechanisms are used in both types of government’s control (centralized and oversight) but, while lowly regulated systems tend to accountability through reports, audits, and supervisions, highly regulated systems include these and also add, external confirmations and approvals, ceilings, restrictions, impositions, and the need to follow more precise norms and guidelines, among others. In few words, lowly regulated systems tend to post regulatory mechanisms or instruments that regulate the outcomes, while highly regulated systems tend to ante and post regulatory mechanisms, controlling a priori and a posteriori the educational act. A classification of a priori and a posteriori mechanisms is found in the table, where a priori instruments include those that condition the pedagogical experience before it actually takes place, while a posteriori mechanisms include those who are meant to make sure that the compliance actually takes place, after the educational act has occurred.

As it have been said before, both private and public sectors include a mixture of this a priori and a posteriori regulatory mechanisms, and are more regulated in some dimensions of the autonomy than in others, but tending to an increase of the a posteriori ones. In other words, there is a tendency to the oversighting control rather than the centralized control, as it used to be in the past (Amaral & Magalhães, 2001). But this control has turned out to be a bizarre hybrid, as Maassen and van Vught (1988) have stated, where, on one hand, the state tries to keep a tight control of the system while, on the other hand, it pushes it to self-regulation and market regulation.

As a result, different studies have been carried out to understand how this apparent increase of autonomy, throughout the changes in the regulation, impacts the higher education systems. Volkwein and Mailik (1997) found out no relation between academic and financial autonomy with the quality of the institutions, but in contrast Knott and Payne (2004) argue that the way the governance of the system and

Table 10. Regulatory mechanisms by the dimension of the autonomy they constrain

Autonomy	Mechanisms used in							
	highly regulated systems: central control				lowly regulated systems: over sighting control			
	Public higher education		Private higher education		Public higher education		Private higher education	
	A priori	A posteriori	A priori	A posteriori	A priori	A posteriori	A priori	A posteriori
Organizational	Authorizations Established guidelines Basic safety standards Legal instruments	Reports Audits Reauthorization Approvals and validations of decisions External confirmations	Authorizations Established guidelines Basic safety standards	Reauthorization	Basic safety standards Legal instruments	Accountability mechanism Performance reports Supervisions Audits	Basic safety standards Legal instruments	
Financial	Basic funding or funding formula Established guidelines Restrictions Salary ceilings	Reports Audits	Restrictions		Funding schemes	Performance based funding Audits Funding schemes evidence	Funding schemes	Funding schemes evidence
Staffing	Basic requirements checklists Established guidelines Restrictions Ceilings Labor laws	Approvals	Basic requirements checklists Established guidelines Labor laws		Labor laws	Performance Reports	Labor laws	
Academic	Set external quality assurance agency Mechanisms for establishing and	Supervisions External quality assurance agency	Set external quality assurance agency Mechanisms for establishing and	Recognition or validation of degrees Supervisions External quality assurance	Negotiated contracts Basic safety standards Norms on facilities,	Performance reports Supervisions External quality assurance agencies	Basic safety standards Norms on facilities, equipment and resources	Supervisions External quality assurance agencies

Autonomy	Mechanisms used in							
	highly regulated systems: central control				lowly regulated systems: over sighting control			
	Public higher education		Private higher education		Public higher education		Private higher education	
	A priori	A posteriori	A priori	A posteriori	A priori	A posteriori	A priori	A posteriori
	recognizing programs Registrations Licensing Basic requirements checklists Negotiated contracts Established guidelines Set admission criteria Restrictions Imposed curriculum / curriculum requirements Basic safety standards Norms on facilities, equipment and resources Guidelines on activities		recognizing programs Registrations Licensing Basic requirements checklists Established guidelines Restrictions Curriculum requirements Basic safety standards Norms on facilities, equipment and resources Guidelines on activities	agency	equipment and resources			

Table elaborated by the author based on findings of table 8 “Specific regulatory mechanisms used in higher education by their classification”, the chart 1 “The dimensions of the autonomy” and the ANNEX 1, table 14 “Autonomy according the type of the institution”.

the regulatory mechanisms are designed, is essential for granting more opportunities to higher education institutions to develop and excel in their activities. Berdahl (1990) has also asserted that a state that intervenes and restrains the academic autonomy damages the higher education system, while similarly, van Vught and de Boer (2015) suggest that a highly control system can affect the quality, as academics might constantly feel frustrated of not being able to pursue their professional interests freely. In short, most of the studies have found out that the academic autonomy is precisely the one that has the most influence in the performance and quality of the institutions and, interestingly, is the one that suffers the most constraints in the private higher education sector.

While the academic autonomy faces the most restrictions, it has also been pointed out, throughout this research, that private higher education institutions tend to be less regulated than the public ones in the organizational and staffing autonomies, and that both elite or demand absorbing institutions are regulated in similar ways or even in the same way, as a multiple regulatory policy for the varied private sector would be costly and not feasible. As Levy (2011) has pointed out, the whole private sector is regulated in the same way, as it is thought that “one size fits all” (p. 391), even though the sector has highly diversified over the years.

The slightly differences between the elite and demand absorbing are basically in the constraints to the financial autonomy, as recently, in some countries, the legal framework has been modified to allow the establishment of for profit institutions. This means that these for profit institutions, generally demand absorbing, are now less restricted in the use of their resources, as they are now being able to keep their surpluses, invest in financial markets and decide their sources of revenue. Additionally these institutions are less likely to receive research funds, to put an example, for which other funding schemes use to regulate the system cannot be used to regulate this dimension of the autonomy in the private sector.

However, less regulation does not mean necessary more autonomy. Levy (2012) asserts that the degree of autonomy in private institutions is not necessarily higher, as autonomy can be restricted in many different ways and by different groups of power, not only the government. To put it differently, the market, the consumers, the owners of the institutions (religious or businessmen), and the lack of an academic tradition and profession can exert also restrictions affecting the institution’s autonomy.

From the table, it is also interesting to point out that, the regulatory mechanisms seem to be mainly a priori for the private sector: norms, guidelines, approvals, and authorizations, for which the nature of the regulation is different than for the public sector. While the public sector tends to accountability the private sector is slightly oversight. Norms and guidelines are given and must be complied with, but supervisory instruments seem to be lacking or are constantly missing, as can be seen in the table 10. Therefore, even though sanctions might be included in the legislations for punishing actions when violating the law, few mechanisms seem to make sure that there is actual compliance and accountability, giving place to low quality institutions and diploma mills. This might be due, as have been said before, to the fact that other regulatory mechanisms are more costly. Therefore, formal and implemented regulations are different, especially in the developing world, as Levy (2011; 2012) and Geiger (1988) point out, and might also varied according to the political, economical and moral authority of the owner of the institution.

As Huisman and Currie (2004) acknowledge, most mechanisms used to regulate education can be described as “soft” instruments as they are not meant to sanction. In other words, as the tendency of increasing autonomy has taken place, the governments have found more difficulties in exercising the role of evaluators of the performance. Hence, even though there is an emphasis on the outcomes to justify the degrees of autonomy, the hard task of evaluating the capacity, the achievements and the accomplishments

of the institutions leads to focus mainly on parameters that can be quantified, which represents a challenge when it comes to assessing the quality because, is quality the number of graduates or the number of scientific publications?

Therefore, it becomes a very arduous duty applying the sanctions, especially because most instruments are not properly linked with the incentives, reducing the compliance. In other words, as it has been seen before, regulatory instruments in higher education tend to be legislative, being their efficiency relatively low as other mechanisms to assure compliance are needed at the same time. As Raza (2009) mentions, linking mechanisms with incentives is essential to assure consistency. Nonetheless, also designing a system where the tools for applying the policies are coordinated, and that includes different types of mechanisms is essential to assure there is adherence to what is established by the authority. Hence, sanctions and rewards are fundamental for assuring conformity.

Moreover, as van Vught and de Boer (2015) point out, in the specific case of higher education, the academic profession has to be acknowledged first. Academics possess a highly specialized knowledge enabling them to make different decisions, especially those concerning to the development of higher education. However, academics tend to operate in fragmented specialized groups where their main concern is the advancement of their discipline and their self-interests, making the institution difficult to be managed. Autonomy inside autonomous institutions undoubtedly represents a challenge when trying to regulate the system to the extent that the authors above mentioned have claimed that “the fundamental characteristics of higher education institutions suggest that these institutions can only be externally controlled if the organizational variety is greatly reduced and if the professional autonomy is largely restrained” (p. 47), which would imply losing the very essence of higher education.

In this sense, turning into a more over sighting state control allows a greater internal autonomy at the moment of decision making when operating and administrating the internal work of the organization, generating a feeling of ownership of the processes and results. But, as private higher education providers tend to increase, it would be irresponsible to let the system regulate itself without any constraints, opening the doors to providers whose interests might not be solely grant education but to earn some profits, lowering quality standards. Hence, regulations and autonomy can never be dissociated; both a priori and a posteriori mechanisms need to be coordinated in a system to assure the proper regulation.

In the next stage of this research, the development of the regulatory policy for the private higher education in Mexico will be analyzed in depth, as well as the mechanisms that are used today to regulate the institutions. Also, the degree of autonomy they enjoy will be explored, in order to understand how these regulations constrain or enhance the institutions’ capacities and explore their role in the proliferation of low quality institutions.

III. Methodology

III. 1 Basic qualitative research or exploratory qualitative inquiry

The purpose of this study is to analyze in depth the nature of the private higher private education in Mexico and the current mechanisms that regulate the sector, as well as to explore the different degree of the autonomy that they enjoy in their several dimensions, in order to understand how these regulations constrain or enhance the institutions' capacities and explore their role in the proliferation of low quality institutions. For this reason, it has tried to analyze in depth the historic development of the private higher education and the characteristics of the autonomy it enjoys, as well as the current mechanisms that exist for its regulation, in order to create an analytical framework that serves as a basis for the discussion in the further steps of this research. Now, to address the specific topic of this research, the methodology that was used is the qualitative method, as its purpose is to understand how reality is interpreted (Merriam, 2009; Flick, 2007).

In other words, this study, rather than identifying causes and effects to predict future similar phenomena, sought to discover the meanings the involved actors give to the reality where they take part. As the same Merriam (2009) describes, qualitative research is an inductive process characterized by focusing on understanding the meanings. Hence, this study was characterized by being primarily explorative and descriptive.

A qualitative research is based on the assumption that there is no single reality as it is socially constructed throughout the different interpretations given to diverse events. Therefore, its basis lies in the philosophical perspective of the constructivist paradigm. Constructivism assumes that there are multiple realities as each person interprets reality in a different way (Crotty, 1998; Merriam, 2009; Flick, 2007). Thus, the main objective of this paradigm is to understand the meaning of a person's experiences, and then the complex reality that surrounds a phenomenon, rather to narrowing them down to few assumptions or conclusions. In order to describe, comprehend, and understand the phenomena, the constructivist paradigm listens carefully to the experts' interpretation and experience, as multiple participants' meanings are considered. The constructivist paradigm is very helpful for developing a historical and social construction of the reality (Creswell, 2003).

Therefore, Merriam's (2009) characteristics of the qualitative methodology guided this research. First, the perceptions of different actors that take part of higher education in Mexico were explored, as data collection was made through in depth interviews. Second, the research focused on understanding the perceptions that these actors give to the specific reality of private higher education in Mexico. Third, the researcher was the main instrument for data collection, reviewing the literature, conducting the interviews, and analyzing the information. Fourth, the research was inductive, as the purpose was to explore a phenomenon rather than to test a specific theory. And fifth and finally, it intended to be richly descriptive by delving into perceptions and experiences.

Correspondingly, based on Merriam's (2009) classification of qualitative research, this study was designed according to the exploratory qualitative inquiry approach or the basic qualitative research, which focuses on understanding the contextual meanings of those involved in the phenomenon and their interpretations of the phenomenon according to their experiences (Crotty, 1998). Therefore, a basic research approach was used in this investigation for a better understanding of the regulatory policy from the perspectives of those actors involve in the higher education system in Mexico. Subsequently, structuring the research according to the basic research approach satisfied the interest of extending the

knowledge on this particular topic, hoping that this research, in the future, can help improving the reality. In other words, that policymakers in Mexico find this research useful for improving the regulations to the private higher education institutions.

In a basic research, data is generally collected through interviews, observations, and the analysis of documents, comparing and contrasting this information to find commonalities and discrepancies and to identify the connections among each other. As Creswell (2009) understands the process, the findings, which are usually descriptive and analytical, are coded or categorized into different groups usually labeled according to the participant's language, to at the end, establish how these are related.

As for this reason, qualitative research is usually considered to have an emergent design. This means that although a general research design is planned at the beginning of the quest, it takes shape as the information is collected and analyzed. Following, the participants will be described, as well as the data collection and analysis processes, and the validity and reliability of the research.

III. 2 The participants

The participants of this study are part of the higher education system in Mexico, playing different roles in the field. The sample was selected deliberately or with a purpose, in order to achieve the particular goal of this research, and to obtain information that allows a better understanding of the current regulations to the private higher education institutions in Mexico, the degree of autonomy they enjoy, and their need and the system's need to issue recommendations to the current regulatory policy. For the selection of the participants Merriam's (2009) criteria was considered: 1) the participants were experts in the field, 2) the sample was varied, 3) recommendations regarding who to interview from other interviewees were considered (snowball technique), and 4) the interviews were carried out until finding redundancy. The above with the purpose of exploring different perspectives of the phenomenon (Creswell, 2009), or more specifically with the aim of discovering multiple understandings of the private higher education in Mexico.

Hence, nine interviews were carried out from which seven participants work at private higher education institutions, one works at a public higher education institution, but has also worked in the past at the subdivision of higher education of the Ministry of Education, and finally, one works at a quality assurance agency dedicated to assure the quality of higher education programs. This diverse sample was chosen to collect a wider perspective of the phenomenon that was being studied, considering public and private institutions (both elite and demand absorbing), different regulatory bodies, diverse positions of power, various roles in the system, and the accessibility to the researcher. Some participants were already known by the researcher, but others were contacted using the snowball technique.

The following table 11 "The description of the participants" summarizes the profiles of the participants that were interviewed for this study. It is important to point out, that the numbers are not meant to be added, since the trajectory of the participants is very varied, and over the years they have occupied multiple positions and worked in different institutions. The table, therefore, shows the area of experience of the participants. For that reason, it could give the impression that a greater number of participants were interviewed, but what in fact shows is the profile of the nine interviewees. The detailed profile of the participants is included in ANNEX 2.

Table 11. The description of the participants

By type of university	Private sector	8	Elite	7	Autonomy by presidential decree	1
					Administrative simplification	7
			Demand absorbing	1	Regular autonomy	1
	Public sector	1				

By professional trajectory	Full time professors	7		
	Professors	2		
	Administrative staff: <i>Servicios Escolares</i>	2		
	Research professors	3	University researcher	1
			SNI affiliation	1
			International affiliation	1
	Directors of academic programs	2		
	Deans	2		
	Rector	2	Elite	1
			Demand absorbing	1
	Governing bodies	3	Elite public / private	2
			Demand absorbing	1
	Quality assurance agencies	2	President	1
			Evaluator	1
Ministry of education	1	Subdivision of HE	1	
Academic journal	3			

By years of experience	More than 30	2
	Between 20 and 30	4
	Between 10 and 20	3

III. 3 The data collection

As this was an exploratory qualitative inquiry research, data was collected through interviews, and the analysis of documents. The interviews that were carried out were in-depth, open interviews. As Patton (2002) mentions, interviews give direct quotations of a person's experiences and perspectives. Hence, selecting a purposeful sample concedes the opportunity to explore the richness of the topic in depth. On the other hand, the documents that were analyzed included different studies from the experts in the field, the legal documents, records and official publications.

The interviews. Interviewing, as Merriam (2009) acknowledges, is probably the most important tool for collecting data in a qualitative research, as the researcher engages with the expert on the phenomenon in a meaningful conversation. Interviews help understand the points of view of the actors involved in the phenomenon, and help access to information that is not directly available (Patton, 2002). While there are different types of interviews, for achieving the purpose of this study, semi-structured interviews were conducted.

A semi-structured interview is characterized by being less structured than the structured interview and more structured than the unstructured one. That is, that a semi-structured interview is based on some predetermined questions, but has the flexibility to add or omit questions, or to change the order, according to the fluency of the interview. Therefore, a list of questions was prepared in advanced, before the interviews of this research were carried out. Semi-structured interviews gave the possibility to explore new

topics that the interviewees addressed that had not been considered before, and that helped expand the research. It also allowed adding new questions or making some modifications to the interview's guide, as more interviews took place.

The participants were contacted by e-mail, where the research's purpose was explained and the interview was requested. A sample of the e-mail is included in the ANNEX 3, in both the original language, Spanish, and the corresponding translation to English. As the participants accepted the interview the time was set.

As the researcher is studying abroad, the interviews were online, using different electronic platforms. In most of the cases, eight interviews out of nine, Google Hangout was used as the platform. This tool allowed the researcher to see the participants while carrying out the interview, having a more lively interaction. Whatsapp was also used for one of the interviews, but in this case it was only a voice call.

General questions were asked to all the interviewees. However, as their experiences and expertise vary, also different questions were asked to get the most out of each one's particular experiences and knowledge. All the interviews were recorded, with previous consent of the participants. As the interviews took place at different times, it was possible to transcribe each one of them before the next one took place. That allowed modifying the interview's question guide, making the necessary adjustments as one went deeper into the subject. The final version of the interview's guide is presented in ANNEX 4 in both Spanish and English languages.

Approximately, the nine interviews lasted around one hour, and were conducted in the Spanish language. All of them were recorded with prior consent of the participants, and have been transcribed one by one, as soon as the interviews finished. All of the participants received a letter of confidentiality explaining, once again, the purpose and the scope of the research, as well as the way their information would be used. The letters explain that the information was recorded with their consent, and that it would be used for the thesis research. Recording the interviews was essential to make sure the exact words of the interviewees were preserved in the further analysis of the information. Nonetheless, additional notes were taken during the interview to track down the main aspects that have been covered. Also, to assure confidentiality, the participants decided under which name they wanted to be quoted so that they cannot be linked with the research. Likewise, some information that can directly identify them was omitted.

The interview questions were designed to collect information about their perceptions regarding their experiences in the higher education system. The first questions can be classified as knowledge questions and had the purpose of getting factual information, but they also had the goal of establishing rapport with the participants so they could feel confident and share later their perceptions. Other questions included questions to find out the interviewees' opinion on a topic, interpretative questions for getting to know their interpretation of the topic, devil's advocate questions to challenge the interviewees about controversial topics, and ideal questions to find out the respondents' ideal situation. Multiple questions, leading questions and yes/no questions were avoided. The interview guide **interview's question guide** is included in ANNEX 5, in both original language (Spanish) and in English.

Interviewees seemed very open to respond, sharing their insights, beliefs, opinions, perceptions and experiences. The researcher, who also has worked on the private higher education sector in Mexico, tried to avoid leading questions. However, as Creswell (2009) acknowledges, the researchers experiences tend to influence the interpretation of the data. In this sense, all interviews have been aware of the researcher's position in relation to the topic, and have been encouraged to share all their insights, emphasizing the interest on their experiences and knowledge, as they are experts on the field and have been selected for

that reason. Finally, there was a followed up with the participants for clarification of the information when needed.

The Document Review. Reviewing documents is another source for collecting information in a qualitative research as Merriam (2009) and Wolcott (1994) point out. Document review gives a better understanding of the phenomenon and has a great place in this investigation, as one of the purposes is to comprehend how the private higher education institutions in Mexico are regulated and the degree of autonomy they enjoy to govern themselves. Therefore, the history of the regulations to the private sector was analyzed from the documents and contributions that other authors have made over time, and also the policy documents were examined (The Mexican Constitution, The General Law of Education, The Law for the Coordination of Higher Education, the Agreement 243 and the Agreement 17/11/17) which are the axis and the support of the regulations to the private sector in Mexico. The review of these sources was essential for the study of the topic.

III. 4 The data analysis

As Creswell (2009) recognizes, the process of analyzing the data consists in giving sense to the information that has been collected. Merriam (2009) mentions that in a qualitative research data is simultaneously being analyzed as it is being collected, as it has an emergent design. In other words, the author describes the process as “inductive and comparative” (p. 175).

The first step to analyzing the collected data was transcribing the audio after the interviews had taken place. In this step, the interviews were cleaned from these words like “uh”, “um” and “right?”, as they hold no significance in the interpretation of the findings. Later, it was followed Creswell’s (2009) and Merriam’s (2009) process for analyzing the information. Hence, the analysis begun with the identification units of meaning, which are words, phrases, or “meaningful or (potentially meaningful) segment of data” (Merriam, 2009, p., 176), that contain relevant data for answering the research questions. This process is called by Creswell (2009) open coding. The criteria that was followed to select the units was first, that the information was relevant to the research and that helped answer the research questions, and second that it was information that stood by itself as no more information was needed (Merriam, 2009).

Then, these units were coded into subcategories, and later they were grouped into categories. Coding is the process of organizing the collected data, or now the units, and labeling them usually using the participant’s own words (Creswell, 2009). Categories are “abstractions derived from the data and not the data themselves (Merriam, 2009, p. 181). The initial subcategories of this research included types of regulations, perceptions of the degrees of autonomy, and the needs of both regulations and autonomy, among others.

Later, after creating the codes, these categories, as Creswell (2009) and Wolcott (1994) mention, were positioned within the theoretical framework that has already been researched, into the axial or analytical coding. For this axial coding, the coding takes place around the essential aspect of the category, exploring the conditions of the phenomenon. For example, in this research, in the category problems of the regulatory policy, general problems of the regulatory policy, problems of the a priori mechanisms, problems with a posteriori mechanisms, and problems with the enforcement of the regulation, have been included among others.

Finally, after having all the categories, hierarchies and connections were established among them, to identify the results of the study, based on the participants’ perspective. This process is called by Creswell (2009) selective coding, as the objective is to explain how these categories are connected. To show the

relation of these study's categories, a scheme is presented in the corresponding section of "Results", showing how they are connected. Grouping the information into categories helped to have a more fluid discussion between the literature review and the interview results, as well as to evidence the findings of the study while answering the research questions. During this process the information was interpreted.

III. 5 Validity and reliability

Presenting valid and reliable information is a concern of every researcher (Merriam, 2009). Therefore, to achieve this purpose, this research was carried out with rigor and in an ethical manner. Merriam (2009) suggests that validity and reliability are "approached through careful attention to a study's conceptualization, and the way in which the data are collected, analyzed and interpreted and the way in which the findings are presented" (p. 210). In this sense, providing a rich description is essential in a qualitative research so that the findings make sense to the reader.

More precisely, reliability or consistency refers to the fact that the study convinces the readers, the researchers and the experts in the field because it has been carried out with rigor (Merriam, 2009). In other words, for Creswell (2009) it means that its findings are consistent with the work of other researchers. To achieve the reliability of this research the following actions were carried out: 1) the research was carefully planned; it began with a proposal that took shape as the research emerged. 2) It presented a detail theoretical framework that guided the research. 3) An exhaustive literature review of the topic was carried out. 4) It took care of the way the information was collected, analyzed and interpreted. 5) The transcription of the interviews was double checked and contrasted again with the audio to avoid misinterpretations of the information. 6) It aimed to present the findings in the most clear possible way.

Validity or credibility and transferability means that the study is congruent with reality as it shows its holistic and multidimensional perspective (Merriam, 2009). Validity was achieved in this study through the triangulation of the information. In addition, to having the participants review the transcription of their interviews.

Triangulation. Triangulation is the first and most common strategy to achieve validity. As Denzin and Lincoln (1998) identify, there are multiple types of triangulation. Hence, in this study, documents were reviewed and analyzed, and interviews were carried out to have multiple methods of data collection. Regarding document analysis, multiple sources of data were consulted. These included written documents, mainly articles from academic journals, academic books, policy documents, reports and laws, in order to have a better understanding of the regulations and the degree of autonomy at the Mexican private higher education institutions. This allowed having different sources of data. Concerning to the interviews, these meaningful conversations with the experts helped find out more precise answers to the research questions that were formulated and that guided this research.

Respondent validation. To assure validity, before analyzing the interview's information, the participants were asked to read the transcriptions, to make sure that everything they meant was captured precisely and to avoid misinterpretations. The transcriptions of the interviews were sent via e-mail to the participants and they all confirmed that they had received the document. None of the participants requested to modify the responses. In addition, one of the interviewees was contacted furtherly to clarify some of his answers. The clarifications were added in the transcription document.

III. 6 Cross cultural research

One of the main concerns of this research was precisely that is cross-cultural. This research studied the reality of the Mexican private higher education sector, and seeks to be helpful for policymakers in the country. However, it was prepared to be presented in the English language to the Finnish and international academic community in Finland.

As for this reason, one of the most important challenges that this research faced was translating the interviews preserving the meaning and the spirit of the participants, as translating the interviews literally most of the times lead to meaningless phrases. For this issue, and as the interviews were carried out in the Spanish language, the coding process was done as well in Spanish. Nevertheless, for the international academic community to have accessibility to the data, the selected units of information presented in the findings of this research were translated carefully into English by the researcher. The units are only presented in the English language in order not to exceed the limit number of pages of the thesis work.

IV. The Mexican private higher education system

Before going deep into the topic that concerns us, the regulations of the private higher education institutions in Mexico and the degree of autonomy of the institutions, it is important to understand in depth the system of private higher education existing in this country, which is impossible to comprehend without knowing its historical development. For this reason, this first section explores the process of establishment and expansion of the private sector aiming to becoming aware of the role the state has played for it to happen in such a way. Also in this first section, after concluding with the historical development, it will be sought to understand the current status of private higher education today, studying its characteristics but, above all, analyzing its diversity and heterogeneity.

IV. 1 Historical development of the Mexican private higher education

Private higher education began in Mexico from the hand of the creation of the colonial structures, as the Spanish missionaries established several institutions to teach arts, philosophy and education to the population, and later religious congregations like the Jesuits, established schools for the education of the aristocracy (Olivier, 2007; Buendía, 2016). However, due to the development of institutions and subsequent events, the beginning of the private higher education is located until the early 1910's as the private sector saw the opportunity of granting education away from the government's ideology (González, 2012), which had been characterized by a constant fight between liberals and conservatives throughout all the 19th century (Bolaños, 2000).

In fact, public higher education had been unstable since Mexico had won its independence from Spain in 1821 (del Arenal, 2011) as the struggles to govern the country led to a century of political instability where these two major forces fought for the power (Bolaños, 2000). Hence, the colonial institution of the university, represented mainly by *la Real y Pontificia Universidad de México* (the Royal and Pontifical University of Mexico)¹⁴ suffered the ravages of this struggle, weakening and fracturing over the years.

La Real y Pontificia Universidad de México indeed was a deeply Medieval institution that for two hundred years cared little about renewing its knowledge, keeping aloof from the revolutionary ideas of enlightenment that were rapidly gaining popularity in the colonial Mexico (Marsiske, 2006). This fragile institution continued to weaken with the constant struggle for power engaged in a two-party system whose alternation as the controlling force resulted in continuous constitutional modifications and expeditions of laws in such short periods of time that resulted impossible to keep up (Bolaños, 2000). While the conservatives supported the role of the Church in the higher education system, conservatives fought against it reducing the legitimacy of the institution¹⁵ (Villalpando, 2012; Tanck, 1984; González, 2012).

As a consequence the *Real y Pontificia Universidad de México* closed its doors several times by presidential decrees (Tanck, 1984), engulfed by an ideology that perceived it as "useless, irreformable and pernicious" (Carrancá, 1969, p. 39), to finally remained close since 1867 when the liberals took over the control of power, and drove the Church away from the public institutions. Other higher education

¹⁴ *La Real y Pontificia Universidad de México* was established in 1553 based on the mandate issued by the King Charles V in 1551 (Cervantes, 2003; Sánchez, 2002; Díaz, 1987) with the purpose of granting education to all, Spanish and indigenous, in the Catholic Faith and other disciplines (El Rey, 1551). Later on, in 1595 the Pope Clement VII granted the pontifical status to the university (Marsiske, 2006; Delgado, 1993). The university was a key institution for the development of culture and science in the colonial Mexico, preparing colonial leaders for the government and the Church (Bolaños, 2000)

¹⁵ José María Luis Mora, one of the most important liberal politicians of the time (Burke & Humphrey, 2007) emphasized the need of "tearing off the education from the hands of the clergy" (Bolaños, 2000, p. 34), since for him the Church holding the power was a retrograde symbol that evoked the colonial era.

institutions established by the Church in the colonial times were taken away from the Church's hands (Olivier, 2007) and became professional disciplinary schools where positivism was the main ideology (Rangel, 1979; Larroyo, 1983; Acosta, 2012).

The discontent caused by these decisions and by the lost of the humanist ideology in the public education, led to a fight for a more integral education similar to the one that which had been granted at the colonial university (Betancourt, 2014; Olivier, 2007). As a result, the *Universidad de México* (University of Mexico) was established by the government in 1910 (Quintana, 2010), but the beginning of the Revolutionary war that same year, and the fragility of this new institution, was not enough to satisfy the population. Therefore a group of private investors decided to establish the first private university in the country (González, 2012).

This first private institution established in 1912 in Mexico City, and that obtained the government's recognition, was the *Escuela Libre de Derecho* (Free School of Law), institution founded by a group of professor and students (Acosta, 2012; Aguilar, 2003). Other similar institutions attempted the same goal, but had to close their doors due to the lack of recognition (Rodríguez & Ordorika, 2011; González, 2012). Therefore, it took more than 20 years for the private sector to be officially born, as it was until the second half of the 1930's when the first expansion of the private sector finally took place.

On one hand, the political conditions of the country were pretty stable, as the Revolutionary war had ended in 1928 with the creation of the national party who will dominate the country's power for 71 years (Serrano, 2012; Aguilar & Serrano, 2012). On the other hand, the economic boom contributed to the population's growth and thus, for an increasing demand of higher education by the upper and middle classes (Martínez, 2012; Rangel, 1979).

In addition, the relationship between the government and the people, especially higher education students, was very complicated as the government constantly tried to impose ideologies that differed with popular values, and mainly with those of the Catholic religion¹⁶ (Acosta, 2005). One of these main ideologies that was tried to impose was the socialist doctrine (Rodríguez & Ordorika, 2011), but the lack of understanding of the Marxist and Leninist principles (Guevara, 1980; Ortiz-Cirilo, 2015), and the pressure of conservative political groups, generated several confrontations between the university students and the government (Marsiske, 1982; Olivier, 2007), to such a degree that autonomy to the main public institution was granted by the state in 1929 (Mayer, 2007), with the purpose of separating itself from the conflicts of rebellion that were inside the university (Poder Ejecutivo Federal, 1929).

The university, at this time, was seen by the government as a place of "sterile, idle and destructive agitation" (Orozco, 1993 p. 28), increasing the society's pressure of demanding a higher education that met its needs and that was consistent with its principles (Rodríguez & Ordorika, 2011; Olivier, 2007; Rodríguez, 2008c). To this demand, the vision of a group of Spanish immigrants joined (Martínez, 2012; Rangel, 1979); intellectual and businessmen that had left Spain due to the Civil War became the greatest supporters of the development of the private higher education over the years (Pla, 2001).

Therefore, the Mexican Constitution was modified in 1934, allowing the private sector to grant education, as long as it was secular. The Mexican State was in charge of authorizing new private providers of higher education (Poder Ejecutivo Federal, 1934 as amended 1917), laying the groundwork for what would later be the Recognition of the Official Validity of Studies (Blanco, 1994), and the Ministry of

¹⁶ Here is important to remember that the government tried several times to suppress the Catholic religion and create its own Church ruled by the hands of the state, similar to the case of England. This conflict led to the Cristeros war (Silva, 2014).

Education exerted the main power, granting the authorization or restricting it, as well as supervising these institutions (Rodríguez & Ordorika, 2011). However, the law did not specify the mechanisms for regulating these new institutions (Olivier, 2007). Also, as Rodríguez (2008b) mentions, during the 30's the *Universidad Autónoma de México* (UNAM), or the country's main public university, established a norm to recognize the studies carried out in private institutions that were incorporated. Hence, at this point, three mechanisms existed as options that could be used by investors to create a private university (Rodríguez, 2008c): 1) presidential mandate¹⁷, 2) through the incorporation to UNAM¹⁸, or 3) recognition by the Ministry of Education at either federal or local level.

From 1935 to 1959 seven different private higher education institutions were established around the country, but mainly in the bigger cities of Guadalajara, Monterrey and Mexico City¹⁹ (Acosta, 2005; 2012), led by *Universidad Autónoma de Guadalajara*²⁰ (Guadalajara Autonomous University), which preserved a religious orientation (Silas, 2005a; Baptista & Medina, 2011; Buendía, 2016). These institutions either were founded by a group of businessmen or by a religious organization like the *Compañía de Jesús* or the Jesuits in reaction to the government's policies (Levy, 2009). Institutions founded by businessmen, sought to train professionals with a new mentality in the economic, technical and administrative fields that will lead the country to development. These institutions' main objective was the preparation for the elite population that will run the companies. The institutions from the Church, had similar interests but reflecting the Catholic ideals in their formation, for professional ethics (Olivier, 2007; Silas, 2005a). Most of the institutions established during this period were secular (González, 2012).

Once again the 3rd article of Constitution was modified in 1946, slightly changing the conditions for the private sector to grant higher education. Higher education was separated from the other levels of education (primary, secondary, normal education, technical and rural) and was classified as non-restricted education meaning that the RVOE was the only condition needed to grant higher education (Poder Ejecutivo Federal, 1946 as amended 1917; Blanco, 1994). At this point, the role of each state became relevant in determining the necessary requirements to grant the recognition (Olivier, 2007).

With this modification, and after this first success of the private higher education institutions already operating, between the 1960 and the 1980, 13 more private establishments opened their doors²¹ (Acosta,

¹⁷ In fact, the Universities that had been established so far had won legitimization through presidential decrees. These were (González, 2012): *Escuela Libre de Derecho* (1912), *Escuela Libre de Homeopatía* (1930), and *Escuela Libre de Enfermería y Obstetricia* (1931).

The universities that have been granted the authorization by presidential mandate throughout the years are (Rodríguez & Ordorika, 2011): *Instituto Tecnológico de Estudios Superiores* (1952), *Colegio de México* (1962), *Instituto Tecnológico Autónomo de México* (1963), *Universidad Anáhuac* (1918), *Universidad Iberoamericana* (1981), and *Universidad Autónoma de Guadalajara* (1982).

¹⁸ According to Rodríguez and Ordorika (2011) this option has turned out to be the least appealing for private higher education institution, for which since the 80's it has not been really used. These might be because then these institutions have to follow the rules of the university to which they are incorporated, as well as respecting their supervision and control mechanisms (González, 2012).

¹⁹ These universities are: *Universidad Autónoma de Guadalajara* in 1935, *Universidad de las Américas* in 1940, *Instituto Tecnológico de Estudios Superiores de Monterrey* in 1943, *Instituto Tecnológico Autónomo de México* in 1946, *Universidad de las Américas-Puebla* in 1947, *Universidad Iberoamericana* in 1954 and *Instituto Tecnológico y de Estudios Superiores de Occidente* in 1957 (Acosta, 2005; 2012).

²⁰ *Universidad Autónoma de Guadalajara* was born from the conflicts between the main university of the state, *Universidad de Guadalajara*, and the governor. Hence, a group of professors decided to establish their own university (Olivier, 2007) as they were against of incorporating the socialist ideology that was imposed by the government (González, 2012).

²¹ These universities include (Acosta, 2005): *Universidad del Valle de México* (1960), *Universidad del Valle de Atemajac* (1961), *Universidad La Salle* (1962), *Universidad Tecnológica de México* (1966), *Universidad Panamericana* (1967), *Universidad de Monterrey* (1969), *Universidad Regiomontana* (1969), *Universidad Cristóbal Colón* (1969), *Centro de Estudios Universitarios* (1970), *Universidad Popular del Estado de Puebla* (1973), *Universidad Intercontinental* (1976), *Universidad de Valle del Bravo* (1976) and *Universidad del Noroeste* (1979).

2005), in which became, according to Baptista and Medina (2011), Aguilar (2003) and Acosta (2012), the period of most growth. Although most of these institutions started from the same principles as the previous ones, this expansion also opened the door to three universities established to absorb the demand of the middle class²², which in the absence of spaces in public universities lost the opportunity to study tertiary education (Aguilar, 2003; Acosta, 2005; Álvarez, 2011). By this time, private higher education had achieved legitimization by both the government and the society (Olivier, 2007), reaching a success that later will affect the laxity of the regulatory framework (Kent, 2004; Buendía 2016). Olivier (2007) mentions that the private universities established so far “responded to the diverse interests of the national elites. The most important private higher education institutions arose during this period and, in effect, they became selective establishments” (p. 58). González (2012) also supports this thesis when mentioning that private institutions arose in the country to keep the elitism that have been lost with the massification of the higher education, and as Acosta (2012) points out, to preserve the moral values this social group considered essential for their formation of their children.

As Acosta (2005) points out, in the subsequent years, the growth of enrollment of the private sector reached a 528% while the public sector’s one only grew by 40%. However, the public sector remained larger than the private (Kent & Ramírez, 1999; Buendía, 2016). The fact is that although private higher education had multiplied exponentially, the situation of the country did not contribute to the growth of the public sector either. Although socialism had been set aside and democracy and capitalism were adopted (Guevara, 1980), there was a detriment in the quality of higher education. On one hand, there was little investment on the tertiary level as the *baby boomers* phenomenon had demanded to concentrate efforts and resources in the elementary level, leaving the other educational levels behind (Urquidi et al, 1967). On the other hand, when this generation reached the higher education level a quick investment was made in a massive hiring of teachers and administrative staff that led to a bureaucratic problem (Marsiske, 2001).

The public sector during these years was characterized by low completion rate, high number of dropouts, inefficiency, poor teacher training, little research and high politicization (Fuentes, 2010; Larroyo, 1983; Kent, 1986; Gieger, 1986; González, 2008; Luengo, 2003; Kent & Ramírez, 1999; Baptista & Medina, 2008; González, 2012; Buendía, 2016). To which were added students’ strikes (68 Conflict²³, *El Halconazo* in 1971²⁴, 1999-2000²⁵), administrative and academic staffs’ strikes in 1972, 1973, 1977, and 1985²⁶ (Gonzalez, 2008; Martuscelli, & Martínez, 2013), internal conflicts of the institutions²⁷ like the students taking over the rectory buildings preventing the authorities from performing their functions (Hernández as referenced by González, 2009), and the cut of the public budget due to the economic crisis of the 70’s and 80’s (de Garay, 2013) and to the 1985 earthquake which generated a massive destruction of the capital city (Ordorica & Prud’homme, 2012). These events, which marked the instability and uncertainty of the sector, certainly pushed the development of the private sector.

²² *Universidad del Valle de México* opened in 1960, *Universidad Popular Autónoma del Estado de Puebla* in 1973, and *Universidad Intercontinental* in 1976 (Acosta, 2005).

²³ The 68 Conflict led by students of UNAM, and was joined by students from various public institutions of the capital city, which led to the closure of the institution (Moctezuma, 2008) and a struggle between the higher education sector and the government (Moreno, 1998) that ended in the Massacre of Tlatelolco. Although authors like Moreno (1998) doubt that the events have occurred as the university students narrate, other authors such as Guevara (1978) and Moctezuma (2008) reaffirm it.

²⁴ Student strike, from public institutions, that took place in 1971, in an attempt to resume the struggle that had guided the conflict of 68 (De la Garza, Ejea & Macías, 2014; Gómez, 2003; Medina, 1972).

²⁵ Students were against the new legal framework of the institution, which included the increase of tuition payment (de Garay, 2013).

²⁶ The public higher institution’s staff went on strikes several with the objective of pressuring the authorities to sign a collective agreement (Martuscelli, & Martínez, 2013), or to increase their salaries (De la Garza, Ejea & Macías, 2014; Ordorica, 2006)

²⁷ Two students had died during internal clashes (Ochoa, 1976).

Hence, students from the middle and upper classes easily preferred to invest in private education²⁸ rather than to venture into the doubt of whether they would finish their studies one day. Private institutions that so far, most of them, were considered elite institutions (Levy, 2009) inside the country, as quality was better taken care off than in the public sector. Also, many academics from public universities decided to step out from the highly politicized and instable environment founding their own universities (Kent & Ramírez, 1999). Thus, by 1980, 180 private higher education institutions existed in the country (Acosta, 2005), number which kept on rising by the establishment of branches by the most successful institutions in the different states²⁹ (Rodríguez, 2008c; Rodríguez & Ordorika, 2011).

However, this instability, added to the fact that the state had been relatively absent in the regulation of the private sector (Luengo, 2003; Álvarez, 2011; Muños & Silva, 2013; Buendía, 2016), opened the door to the establishment of institutions oriented to satisfy the demand of the sector of the population that was left outside the public system³⁰ (Kent & Ramírez, 1999), beginning the process of stratification and diversification of the sector (Olivier, 2007; Rodríguez & Ordorika, 2011; Acosta, 2012). This process multiplied with the signing of the North America Free Trade agreement with the United States and Canada in the 1992 as, in order for it to operate, Mexico had to under go a major reform to liberalize its economy (Villareal & Ferguson, 2015).

Following the advice of World Bank and the International Monetary Fund, the country adopted the neoliberal policies in order to be more competitive. This new economic and political model promoted the reduction of the state intervention and the cut of the public expenses with the aim, at least in theory, to achieve macroeconomic stability through the liberalization of markets (Torres, 2011; Klees, 2008). Privatization of public higher education institutions did not take place, but new private institutions were established, as the legal framework was reformed to incentivize private investment (Olivier, 2007) through deregulation (Rodríguez & Ordorika, 2011; Buendía, 2016). Also, the diversification of the offer was persuaded by the government (Rodríguez, 2008a).

Accordingly, the 3rd article of the Constitution now clearly defined the Recognition of Validity of Studies (RVOE) as the mechanism to regulate private education (Poder Ejecutivo Federal, 1993 as amended 1917), and this could be granted by the President, the Ministry of Education (federal or local) or by an autonomous public higher education institution (Rodríguez, 2008d), as it had used to be. The RVOE constituted the “act of the educational authority, by virtue of which it is determined to incorporate a plan and program of studies that a private provider grants to the National Education System” (Secretaría de Educación Pública, 2015) and, even though institutions can operate without it, as Rodríguez (2017a) mentions, having the RVOE is the only way in which the student can get the professional license or *cédula profesional*, document needed for exercising some professions³¹. Lacking the RVOE means that there is no public authority that supports the program as Aguilar (2003) asserts. However, still the institutions can issue diplomas.

²⁸ As Silas (2007) mentions, private higher education becomes a popular option when the return on the investment is clear and visible.

²⁹ For instance the *Instituto Tecnológico de Monterrey* has 32 campuses along the country, combined with 33 campuses known as *Tec Milenio*, making it the most extended institution. *Universidad Anahuac*, 10 (without adding their subdivisions), *Universidad Iberoamericana*, 8, *Universidad La Salle*, 15, and *Universidad Panamericana*, 3, among others. All these above mentioned institutions are oriented to the elites. *Universidad del Valle de México* has 37, but this institution was established to absorb the demand (De Garay, 2013).

³⁰ In many cases the spaces to public universities are overcrowded by low achieving students that come from the university's high school institutions, that enjoy an automatic access to higher education despite their grades and performance (Gil, 2005).

³¹ The professions vary from one state to another, but to name some examples, nor a medical doctor nor a lawyer can work without the professional license (De Garay, 2013).

As neoliberalism took place, it is also important to mention that the country went through a new economic crisis in 1994 cutting once again the budget destined to higher education (Martínez, 1992). So, more than ever, the growth of the private sector represented a relief for the government while demand for tertiary education continued to increase along with the population at that school age, and the strikes in the public sector continued³² (Ordorika, 2006; Rosas, 2001; Muños & Silva, 2013). According to Kent and Ramírez (1999) by 1995 there were 9.4 million Mexicans on the tertiary school age (between 20 to 24 years old, but only 13% could make it to higher education. Therefore, between the year 2000 and 2001, higher education institutions that aimed to absorb demand incremented by 40% (Silas, 2005a), as many families preferred to spend their money in these new private institutions of dubious quality rather than nebulating their children's future career for not having a university degree (Instituto de Investigaciones sobre la Universidad y la Educación México, 2002; Gil, 2005). Hence, by 2010 the total number of private institutions reached the number of 1,339 (de Garay, 2013), and 1,800 by 2011 according to Álvarez (2011). However, this author mentions that if the institutions are counted by each campus or franchise individually, the number raises up to 2,815.

To reduce the problem of the proliferation of low quality institutions, the government implemented a new regulatory policy, the quality assurance process, which became voluntary options for private higher education institutions. This quality assurance regulation was primarily an initiative pushed by the elite higher education institutions (Kent & Ramírez, 1999; Rodríguez, 2004a), and aimed to increase competition and quality (Rodríguez & Ordorika, 2011). Correspondingly, the National Evaluation Commission or *Comisión Nacional de Evaluación* was created in order to assess Higher Education Institutions throughout three main actions: self-assessment, the evaluation from experts, and peer review. In its first attempt to evaluate the institutions, the Commission failed due to the lack of participation and interest of the academic community. For this reason, it almost disappeared in 1996 (Rubio, 2007). Nevertheless the Council for the Accreditation of Higher Education (COPAES) was created the year 2000, for accrediting accreditation agencies, to support the Commission and the evaluation processes (Luengo, 2003). In addition, the Federation of Private Mexican Higher Education Institutions³³ (FIMPES) assumed a quality assurance role in 1992 (Baptista & Medina, 2008; Luengo, 2003).

Despite this complicated start, pressure from international organizations, as well as the increasing competition, helped quality assurance become important (Hernández, 2006). However, as it is voluntary, in less than 16 years, only 30 institutions have been accredited by COPAES (Consejo para la Acreditación de Educación Superior, 2015), and from this only around 10 are private institutions (Rodríguez, 2017d), despite the more than 2,000 that the author has identified in a previous work (2017c). In other words, only 26% of the programs have received the accreditation (Rodríguez & Ordorika, 2011). In words of Luengo (2003) the results of the quality assurance policy have been "variable and sometimes diffuse" (p. 12).

As quality assurance remained voluntary in 1998, the Agreement 243 was issued, in order to indicate the basic requirements needed to grant private education. Subsequently, the Ministry of Education began working on a regulatory framework specifically for the tertiary level (Rodríguez, 2008d). The author mentions that the already created in 1981, FIMPES, read the first draft and described it as overregulated, beginning a process of negotiation between the two institutions (FIMPES and Ministry) that ended up in the

³² Among other things, the strikes of 1999 sought to eliminate the recent established tuition fees and the admission exam to the public sector, for students that have studied in a high school incorporated to the national university (Rosas, 2001).

³³ FIMPES was created to increase collaboration between private higher education institutions among each and communication among these and the Ministry of Education (Rodríguez & Ordorika, 2011)

Agreement 279 in 2000, which, as Muños and Silva (2013) point out, details the requirements for granting and getting the RVOE for a private higher education institution.

In addition to this, and hoping institutions will regularize their situations, according to Álvarez (2011), Rodríguez (2004a; 2006; 2008a) and Rodríguez and Ordorika (2011), several institutions that have fulfilled over time the requirements established by the law, and specially the new criteria of the Agreement 279, and that were affiliated to FIMPES, were granted the status of Record of Academic Excellence (*Registro de Excelencia Académica*) or commonly know as administrative simplification, which allowed these institutions to obtain the RVOE without needing to hand in the plans and study programs when carrying out the procedure³⁴. FIMPES's quality assurance process was approved by the government in 2002 (Rodríguez & Ordorika, 2011), and became the only evaluator for private higher education institutions according to Aguilar (2003). However, this initiative did not yield the expected results, since the expected isomorphism did not occur; on the other hand, it opened more the door to the proliferation of low quality institutions better known in Mexico as *universidades patito*³⁵ or ugly duckling universities. As Rodríguez (2006) points out, here it is important to mention that before this initiative was crystallized in the law, some private higher education institutions already had this simplified regime since the 90's³⁶, and even some of them had already received more academic autonomy.

Also, starting from 2005, a series of actions were carried out to reinforce the RVOE. Among them, the recognition of 22.1% of the programs was denied, and more than 4,000 sanctions were carried out for non-compliance with the law (Álvarez, 2011). Similarly, in 2007 an agreement was signed between local and federal authorities to improve the coordination of the process of obtaining the RVOE because, since as it is administered at the same time by the different instances, responsibilities are not clear (Rodríguez, 2006; Rodríguez & Ordorika, 2011). As Rodríguez (2006) asserts, the degree of compliance with the law lies in the ability to exercise an effective control in the quality assurance process.

In 2012 the Ministry of Education established a program to increase and promote the quality of private higher education institutions that were granted by this instance the RVOE (Buendía, 2016). The program was named *Programa de Fomento a la Calidad en Instituciones Particulares del Tipo Superior* and included an evaluation of the programs that enjoyed this type of RVOE in order to be classified into different levels, and with the purpose of carrying on the recommendations proposed.

Over the years, the Ministry of Education has tried to increase the regulations to private higher education institutions. Nevertheless, Rodríguez and Ordorika (2011) mention that FIMPES, worried about the over regulatory policy that was tried to be implemented, has opted to negotiate its quality assurance mechanisms instead to align it to the Ministry's requirements. Undoubtedly, the characteristics of the RVOE and the deregulation policy have contributed to the proliferation of diploma mill institutions (Rodríguez, 2004a).

In 2017 new rules for the RVOE were proposed in the Agreement 17/11/17 which substitutes the Agreement 279 (Secretaría de Educación Pública, 2017a), but this only referred to the regulations of the

³⁴ Up to 2017, a total of 37 institutions enjoyed the administrative simplification status (Rodríguez, 2017c).

³⁵ *Universidades patito* makes reference to low quality institutions, but as Rodríguez (2008a) points out the term mainly began to be used by politicians implying a denial of the failure of the government to control and assure the quality of the institutions. The author suggests other terms like illegal, fraud or deceit institutions, but those terms imply the responsibility of the state, by evidencing its role in their proliferation.

³⁶ This universities included (Rodríguez, 2006): *Universidad Iberoamericana, Universidad la Salle, Universidad de las Américas, Universidad Anáhuac, Universidad Autónoma de Guadalajara, Instituto Tecnológico de Estudios Superiores de Monterrey, Instituto Tecnológico Autónomo de México, Instituto Tecnológico de Estudios Superiores de Occidente y la Escuela Bancaria y Comercial.*

open system and online education, and the administrative simplification as Rodríguez (2017a) has pointed out. The open system and the online education certainly have grown considerably since the year 2000 when the Agreement was issued. Hence this proposal sets an amount of academic hours needed to be fulfilled by the program, and details new requirements when summing the study program³⁷ (Rodríguez, 2017b). Concerning the administrative simplification, it opens the doors to institutions to be accredited by other agencies, in addition to FIMPES, to get the special status. It also establishes new requirements for an institution to reach the level 3 of this administrative simplification, which to date, can only be fulfilled by two institutions (Rodríguez, 2017d). Not more significant changes are included in the proposal.

In summary, the flexible and low regulatory policy towards private higher education in Mexico undoubtedly has contributed to the proliferation of low quality and low cost institutions (Acosta, 2011; Cuevas, 2011a; de Garay, 2013; Muños & Silva, 2013; Buendía, 2016, Álvarez, 2011; Instituto de Investigaciones sobre la Universidad y la Educación México, 2002; Silas, 2008). Surprisingly, these institutions either operated without the RVOE or with a partial recognition in some of their programs (Aguilar, 2003; de Garay, 2013). The Ministry of Education recognizes only 20,861 programs with RVOE belonging to 1,799 institutions (Secretaría de Educación Pública, 2017a). Hence, Acosta (2011) and Muños and Silva (2013) suggest that the problem with the regulatory policy is that the RVOE does not really assure quality. Olivier (2007) also notes that there are incongruences among the regulatory policies.

IV. 2 The Mexican private higher education system today

Undoubtedly, as can be seen in the previous section, the Mexican state has played an important role in the multiplication of the private higher education in the country mainly because it has assumed a distant and permissive role. However, also the challenges of coverage, and the preferences of some stratus of the population to enroll in these institutions have helped the sector developed (Rodríguez, 2008f).

Although in the beginning private higher education was associated with high quality standards, over the years it has extended its market and has taken advantage of the state's inability to grant education, as well as internal conflicts that public education has crossed (Kent & Ramírez, 1999; Kent, 2004; Levy, 2009; de Garay, 2013). Silas (2007) and González (2012) agree that this transformation of the private higher education system from elite to demand absorbing has mainly occurred following the demands of the labor market, which everyday seeks more and more professionalization of the employees, promoting the commercialization of the knowledge. Therefore, today we can find very diverse private higher education institutions in Mexico, from 100 students to 10,000, and from being founded more than 100 years ago to those that have just been established recently (Batista & Medina, 2011; Acosta, 2012).

Álvarez (2011) has estimated a total of 2,815 higher education institutions, considering the different branches, and 1,800 universities without counting the other campuses, while de Garay (2013) identifies 1,339 and Rodríguez (2017c) more than 2,000. This discrepancy is better explained by Rodríguez (2008c), who mentions:

How many exactly? Who knows. As the Ministry of Education has recognized in several occasions, the lack of a national census of institutions of upper and upper secondary level is one of the elements that explains the dynamics of *patito* schools. [...] the diversity of the forms of ownership and control over the establishments that are part of the private educational system, makes the census even more difficult [to take place].

³⁷ This new requirements include: the pedagogical model, the didactics and the learning platform, among others (Rodríguez, 2017d).

What the Ministry of Education does have in its website is a list of programs that have been granted the RVOE and of those that do not enjoy it any more (Secretaría de Educación Pública, 2017b). It is worth mentioning that the list of programs with RVOE is greater than that of those that have been revoked, and among those that do not have it any more, at the federal level, out of 174 pages of information, only the last 29 pages include the programs that have lost the RVOE due to a sanction, the other programs' RVOE was withdrawal upon request.

In this growing market of private higher education, several authors (Kent & Ramírez, 1999; Instituto de Investigaciones sobre la Universidad y la Educación México, 2002; Álvarez, 2011; Muños & Silva, 2013; Silas, 2005a; 2007) have tried to make a comprehensive classification of the institutions that today exist in the country, as there is no official classification, and institutions vary from massive system of campus to those who barely have an academic infrastructure and can be questioned as universities (Kent & Ramírez, 1999). In addition, according to Álvarez (2011) the distribution of the private higher education institutions in Mexico is very unequal while 94% of the municipalities in Mexico City enjoy the presence of these institutions, in Oaxaca, to mention an example, they are only present in the 2%. In fact, Serrano (2008) mentions that 60% of the higher education institutions in Mexico City are private³⁸. However, as the author points out, that even though the private sector has helped increased the access to the tertiary level of education, higher education is still not enough for Mexico's population in this school age.

The following table 12 "Classification of private higher education institutions in Mexico" summarizes and contrasts these classifications in order to get an overview of the private sector. As can be seen, the classifications are constantly overlapping, but the variety of the sector remains high, generating challenges for regulation.

In conclusion, it can be seen that the universe of private higher education in Mexico is very diverse and heterogeneous. It is clear that education as a good that can be consumed, is clearly accepted in the country; however, its growing development towards small and low quality institutions, focused only on economic gains and in the needs of the market, requires the study of regulatory instruments. The new complexity of this subsystem of higher education seems to indicate that the RVOE has been insufficient to guarantee quality, and that the role of the state, passive and lax, must be rethought. As Buendía (2016) mentions regulatory policies seem to be missing and are indeed needed to promote the integration of the system.

Therefore, in the following section, the regulatory policy of higher education in Mexico will be analyzed carefully and thoroughly, studying each of the instruments that are currently used, in order to understand why the dynamics of this sector have taken place in this way, and subsequently make recommendations to avoid the future proliferation of these institutions of dubious quality, and to strive for the integration of the system.

³⁸ Despite this fact, public institutions in Mexico City still have enrolled more students (54%), as their size is larger (Serrano, 2008). However, this varies from entity to entity; in some states, the public institutions have enrolled even the 96% of the students (Instituto de Investigaciones sobre la Universidad y la Educación México, 2002).

Table 12. Classification of private higher education institutions in Mexico

Instituto de Investigaciones sobre la Universidad y la Educación México (2002), Luengo (2003)	Kent & Ramírez (1999)		Characteristics defined by: Aguilar (2003), Rodríguez (2004), Silas (2005b; 2008) Cuevas (2011b) Baptista & Medina (2011)	Muños & Silva (2013)	Levy (1986)	de Garay (2013)	Silas (2005a; 2005b)	Silas (2005a)	Buendía (2016), Álvarez (2011)	Álvarez (2011)	
Elite	Medium size	-Full time academic staff -Inclusive academic offer		Consolidated institutions	Private catholic universities	Multidisciplinary institutions: offer programs in several disciplines and have more than 2,000 students enrolled	High profile institutions, universities that meet at least two quality criteria FIMPES, ANUIES o Accreditation agencies	Non-profit	Most prestigious ones can charge more than \$1,000 dollars monthly	Regional networks	
	Massive systems									Multiregional networks	
Demand absorbing	Small institutions	-Market oriented -Focused on professionalization of the labor force -Professors only hired to teach a course	-For profit -Few academic offer -Low degree of academic freedom -Lack of research -Focused on middle and low middle class -Professors only hired to teach a course -Inexpensive tuition fees -Little invest on the infrastructure -Some are owned by families	Emerging institutions	Non-elite secular institutions or demand absorbing	Disciplinary institutions: those that focus in only one or two disciplinary areas and have less than 2,000 students enrolled	Midprofile institutions: with only one quality criteria	For profit	Moderate prestige ones around \$400 dollars	National and networking systems	
										Multi city state systems	
	No infrastructure								Low profile institutions that only have RVOE	Low prestige that charge around \$90 dollars during the bachelor studies ³⁹	Multi campus institutions
											Single campus institution

Table elaborated by the author.

³⁹ Exchange rate from US Dollar to Mexican Peso calculated based on the recently average rate: 1 USD = 20 MXN.

IV. 3 Regulations to the Mexican private higher education system

As we have seen, based on Fielden and Varghese's (2009), Floud's (2005), and the Higher Education Commission's (2013) elements of the higher education regulatory framework, the Mexican private higher education is regulated by:

IV. 3.1 Legislation

The Mexican Constitution (Poder Ejecutivo Federal, 2017 as amended 1917) in its third article, subsection VI, establishes that private individuals can provide higher education as long as they are granted the RVOE. However, the law does not detail or explain the process or conditions to acquire it.

The law also establishes that all education granted in the country has to develop harmonically the different faculties of the human being, promoting the love for the country and the values of justice, independence and solidarity. In addition, even though public education is secular, private education can have a religious orientation and thus, can be granted by religious congregations.

The General Law of Education (Cámara de Diputados del H. Congreso de la Unión, 2005 as amended 1993) constitutes the main legal framework that regulates the private higher education sector. The law contains the responsibilities that refer to the three different governing bodies in Mexico (Executive, Legislative and Judicial Branch) and empowers local governments to develop their own laws on education, urging them to rely on federal law.

Aligned with the Constitution, in its article 1, confers the possibility for private individuals to grant education with authorization or the RVOE. In its article 7, the law describes the characteristics of the education that any institution, including private, must grant. In its article 13, it confers the power to grant the recognition to both central and regional governments at the same time. In its article 54, it states that the RVOE is attributed to each program specifically and not to the institution as a whole.

Article 55 establishes the needed requirements to obtain the RVOE. In article 57, the responsibilities of the private providers are established: follow the law, teach the approved study program, grant a certain percentage of the profit as scholarships, and collaborate with the authority during inspections and evaluations. Article 75 mentions that violating article 57 will be sanctioned, but only two general sanctions are mentioned in article 76: that there will be fines and the revocation of the RVOE. However, the article does not include cause and action. Article 77 adds other actions that are to be punished like claiming they have recognition without having it. Article 59 only establishes that private providers that do not have the recognition, need to mention it when marketing the institutions' programs. Finally, article 78 establishes the process to determine the sanctions, and it mentions that this will be issued according the each particular case, including the socio-economic conditions of the offender.

The Law for the Coordination of Higher Education (Cámara de Diputados del H. Congreso de la Unión, 1978) is a specific law for the tertiary level that establishes the responsibilities of the state at federal and local levels. This law recognizes the capacity of private investors to grant higher education and recognizes the RVOE as the mechanism to regulate the programs offer by these institutions. In its article 16 it grants the Ministry of Education of each state the power to confer the RVOE, while in article 17 it grants this faculty to public autonomous institutions, that have been selected for this purpose, to do so. In addition, in article 18 it establishes that the degrees from private institutions need the authentication of the public authority to be valid. Also, in article 19, the law mentions that after having the RVOE, the institutions need

to register at the Ministry of Education and failing to do so will lead into a fine of 100 thousand pesos or the closing of the institution. No more information regarding private institutions is contained in the law.

Analysis: As can be seen from the legal framework is “the only aspect that shows the relationship in the constitutional authority of the state is the granting of official license” (Buendía, 2016, p. 45) to the programs. Moreover, as Blanco (1994) mentions, the law contains limited guarantees for private higher education and practically no incentives. In other words, the information contained in this law is scarce, and many things are taken for granted. Even though the law distinguished higher education from the other levels, when deepening into each point, in most of the cases, it is not specified to which level it is referring to, evidencing that it is difficult to regulate all types and modalities of education under the same law, even though that private education has been classified differently, into restricted and unrestricted.

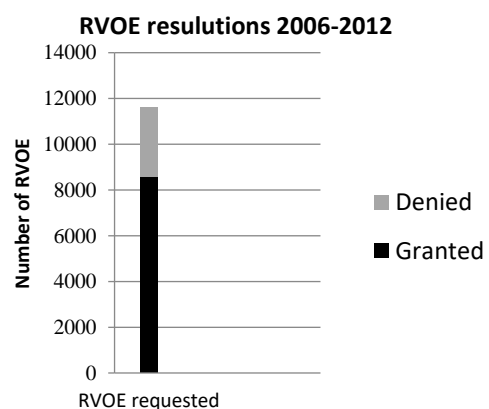
In addition, many things remain said in between, demonstrating one of the assumptions the Elmore (1987) has identified by pointing out that policies assume that the target population has all the information needed to act accordingly. For example, it is mentioned that there will be sanctions, but these are not clearly specified as de Garay (2013) reaffirms. Only one sanction is mention in the Law for the Coordination of Higher Education (Cámara de Diputados del H. Congreso de la Unión, 1978) but these only refers to the failure to register after having the RVOE. When mentioning that there will be fines and the revocation of the RVOE, it is not specified which action leads to which sanction, violating the principle of proportionality. The principle of equality is also violated when the socio-economic conditions of the offender come into consideration while applying a sanction. Thus, as the discretionality of the authority that applies the sanction is enunciated in the law, the door is opened for abuse and corruption as Blanco (1994) acknowledges.

In addition, here we can see here that it is being assumed that the existence of sanctions will assure compliance (Elmore, 1987). According to Hand (2012) a sanction is more likely to assure a behavior after weighing the costs between following the rule and not, action that the lack of information of the Mexican law does not allow to do so.

Moreover, the first and fundamental responsibility of an institution is to get the RVOE to teach the program, but there is no detail sanction of what it happens if a program is offered without the recognition. As can be seen from article 59, the only visible effect is the need to let future students know that the program does not have the recognition. González (2012) addresses this topic when mentioning that the law “does not establish express obligation for private institutions to obtain the RVOE, however, individuals who teach studies without RVOE have the obligation to mention in all their advertising [...] to avoid cheating students and parents” (p. 56).

Tuirán, subsecretary for the division of Higher Education during the last presidential term (2006-2012), reported, at the end of his administration’s period (2012), that of a total of 11,636 RVOE requested, 8,592 were granted while the rest, 3,044 were denied. The following graphic 1 “RVOE resolutions 2006-2012” shows this data in a visual way, evidencing the ease process for obtaining the recognition. As Blanco

Graphic 1. “RVOE resolutions 2006-2012”



Graphic done by the author based Tuirán (2012)

(1994) mentions, one of the main problems is that it remains at the discretion of the competent authority to assess whether the requirements are met or not.

In Tuirán's (2012) report it can also be seen that although 7,084 programs were sanctioned during that period of time, only 921 were cancelled, which does not imply the closing of the institution. It is important to mention, that in the page of the Ministry of Education there is no available information concerning the number of programs that have been granted the RVOE.

Another point that can be seen in this legal framework, as already mentioned is the responsibilities of each instance of government. However, these are not clear and overlap. In fact, Blanco (1994) mentions that the participation in granting the RVOE of federal and each states' authorities, as well as the autonomous public institutions selected to do so, gives the possibility of having multiple diverse requirements to get the recognition. Rodríguez (2004a) has studied this topic and the way it has been portrayed in the media, specially in the year 2003, when the Ministry of Education and UNAM were involved in a contradictory dialogue where both institutions blamed each other for allowing the development of the low quality institutions as the RVOE has been granted to almost anyone who applies for it. Rodríguez documentation of the news bulletins clearly shows the shortcomings of the legal framework in the regulation of the system. The author even quotes the newspaper *La Jornada*, which mentions: "UNAM demarcates itself from low quality universities [...]. UNAM is an academic entity, not an educational authority, and therefore does not regulate the system of national education; the latter corresponds to the SEP [Ministry of Education]" (p. 17). So why then UNAM can grant the RVOE? How can then UNAM supervise a program?

Additionally, it can be seen from the legal framework that the a posteriori regulation is not clear; no procedures and no parameters are defined. To say it differently they are only mentioned. This can, undoubtedly, lead to its inefficiency.

In conclusion, the Mexican legislation assumes that private providers of higher education have all the needed information to fulfill the law and that responsibilities are clear for each one of the actors that take part of the process. However, by only mentioning that there will be a sanction, the compliance with the regulation cannot be assured, and there is a visible overlapping problem when carrying on the tasks of granting RVOE, which has led to approving almost every study program that wants to be opened by private higher education institution.

IV. 3.2 Procedures for establishing private institutions

The **Agreement 243** (Secretaría de Educación Pública, 1998), was established by the Ministry of Education, and contains the general conditions and basis that the institutions (at any level of education) need to fulfill to get the RVOE. Here the different processes according to the level of education are detailed. The first two sections of the Agreement contains technical information, the third section establishes that information regarding professors credentials, the infrastructure and the study plans need to be presented to the authorities, but the only one that includes the list of documents that are needed, is the infrastructure.

The **Agreement 17/11/17** (Secretaría de Educación Pública, 2017a) contains the procedures that must be followed to get the RVOE and ratifies the authorities that grant it (Ministry of Education at the Federal and local level, and some public higher education institutions). This agreement is particular to higher education. It defines the most important terms, and contains information regarding the formats that need to be filled in, the detail list of documents that need to be handed in, and the minimum requirements regarding of the personnel, the infrastructure and the study programs that need to be fulfilled to get the Recognition.

Regarding the physical spaces, it mentions that it has to comply with the conditions established by the Ministry of Education, or, where appropriate, decentralized bodies empowered to do so at the moment the request is issued; in other words, it has to have the established hygienic, security and pedagogical conditions to carry out the learning process. Concerning the authorization of the curriculum of the academic program, it needs to comply with a minimal number of credits and hours established by the Agreement, according to the degree level of the program, and specifies the elements it must have (learning outcomes, student profile and graduate profile, evaluation methods, and the content of each course). Finally, with respect of teaching staff and the academic fulltime staff, the Agreement classifies the staff, and specifies the criteria for selection (degree level) according to the level of the program, and the activities they must be carry on while teaching, according to the classification (teaching, researching and tutoring). In addition, a department of School Services (*Servicios Escolares*) is required to keep the records of the students, the legal documents, and to carry out the activities of incorporating students to the Ministry of Education every semester and paying the proper fees.

The procedures to get the RVOE consist in filling in the forms included in the Agreement (format of application), handing in the curriculum⁴⁰, and the description of the infrastructure⁴¹; the review of the documents by the authority and a visit to the institution to certify the veracity of the information regarding the infrastructure.

The Agreement also mentions that inspections will take place, but does not detail the process; namely it does not include the specific objective or sanctions that might derive from the breach of the law. When speaking about sanctions the Agreement mentions the articles of the **General Law of Education** that talk about them and, once again, points out that they will be established according to the situation. What it is more detailed is the procedure to modify the RVOE, and to the removal of the RVOE in case of breaching the law. It also specifies that granting education without RVOE is not sanctioned, if it is properly communicated in the publicity. However, it also gives the Ministry of Education the responsibility to communicate periodically the list of programs that have RVOE and the ones that have been removed.

Finally, the Agreement includes a new program, the Program for Improvement of the Institutions (*Programa para la Mejora Institucional*), a voluntary program in which institutions can participate by being accredited by a quality assurance accreditation. Briefly, the program consists in classifying these institutions into three groups: 1) institutions in process of being accredited, 2) accredited institutions and 3) consolidated accredited institutions, according to certain criteria like the percentage of accredited programs, the percentage of professors in the National System of Researchers (SNI) or the percentage of students that take the general exam for graduating. The benefits of participating in this program include, besides prestige for the institution, an administrative simplification in the procedures for getting RVOE's, incorporating students to the Ministry of Education and the certification of the documents.

Analysis: The first thing that is important to mention is that, for the nature of the Agreement 17/11/17, this is left to the interpretation of the state educational authorities, so it is applied differently in the 32 states of

⁴⁰ The curriculum has to have: duration, number of semesters, profile, learning outcomes, justification of the pedagogical model, name of the courses, amount of hours of independent work and class time, number of credits, content, evaluation, and licenses (if required).

⁴¹ The description of the infrastructure includes: legal documents of the property, special dimensions of the building, description the building (number of classrooms and their capacity and their conditions, number of cubicles, technological hardware, internet), the justification of the building, working conditions, sustainability, and the existence of a contingency plan. Most of the criteria has to be indicated by parameters of yes/no, good/medium/bad, and numbers. Other documents required: legal document that proves that the infrastructure can be used (property or rent), receipts, the documents of the legal entity, and a document that assures the safety of the building.

the Republic (Muños & Silva, 2013). This means that frequently occurs that when the federal Ministry of Education denies the RVOE the private higher education institutions request it to the local Ministries of Education, or the other way around, leading finally to the approval of the program despite its quality.

Second, as the authors point out, it does not apply to the universities that are granted autonomy⁴². Finally, there is a third opportunity for the programs to get the RVOE throughout the recognition of the program by an autonomous institution.

As for the Agreements, here it can be seen that information is more precise, especially in the 17/11/17, detailing the process and documents that are needed. Therefore, fewer assumptions take place. However, there are still things in between, or things that are not specified like the sanctions. Now, if we go deeper and remember Fielden and Varghese's (2009) purpose for regulating higher education: ensuring efficiency and assuring quality, the regulatory legal framework for private education in Mexico falls short. We can see here that these instruments seem not to be carefully planned as Howlett (2009) had mentioned, and probably due to the lack of information that politicians had at the moment of issuing the law (Lascoumes and Le Galès, 2007) regarding the management and quality assurance of education.

It can also be seen in the Agreements that the private higher education institutions enjoy complete freedom in deciding which programs to offer, the admission procedures and the number of students they enroll as Buendía (2016) comments. Nonetheless, constraints will be analyzed in the following section of this research, as it is in the academic autonomy where more restrictions are faced. So, even though they can decide which programs they can offer, the content has to be approved by getting the RVOE. As can be seen, the procedures and documents for getting the RVOE can be reduced to a checklist of documents and most of the regulation is done by a priori mechanisms.

IV. 3.3 Quality assurance process

Before detailing the quality assurance process, it is important to mention that the RVOE does not assure quality. On the contrary, it just assures that the minimal standards for offering an educational program are met (de Garay, 2013). Silas (2005b) best describes this situation when mentioning that legally, institutions in Mexico do not need to be accredited to assure the quality standards, but being so gives prestige and legitimization to an institution. In other words, as it was seen from the legal framework, quality assurance processes are not mandatory for private higher education institutions, but voluntary (Cuevas, 2011b; González, 2012). Therefore, according to the authors, their influence have been limited to improve quality, as only few institutions have been certified. As de Garay (2013) points out, only 17 % of the programs had been accredited by 2011.

Having said this, quality assurance process and mechanisms for the Mexican private higher education institutions are the following:

Council for the Accreditation of Higher Education (COPAES) (Consejo para la Acreditación de Educación Superior, 2015) is the legal institution that authorizes and supervises the accreditation agencies that private higher education institutions then hire to get accredited (Cuevas, 2011b). By 2010 (last information available), only 537 programs have been accredited by these organisms (Subsecretaría de Educación Superior, 2010), despite that some private institutions have even more than that number of programs (Cuevas, 2011b). The Council makes sure the accreditation agencies have indicators and standardized

⁴² However, here it is important to mention that universities that have been granted more autonomy by presidential degrees still need RVOE to offer a program. By these presidential decrees they get the RVOE.

parameters for the evaluation. These include of the following categories: personnel, curriculum, evaluation of the learning process, institutional services, students, infrastructure, research, institutional collaboration, and management of the programs (Consejo para la Acreditación de Educación Superior, 2016).

The National Association of Universities and Higher Education Institutions (ANUIES) (Asociación Nacional de Universidades e Instituciones de Educación Superior, 2017) is an aggrupation of higher education institutions, private or public, whose main objective is to promote the improvement of the teaching, researching and expansion of the culture of the Mexican higher education system. ANUIES was established in 1950 and throughout the years has played a fundamental role in planning, elaborating, coordinating and evaluating the policy of the tertiary education in the country (Buendía, 2013). Nevertheless, as the author points out, it was until 1998 when it began to play his role as an evaluator.

Today, as the association points out, only 187 higher education institutions belong to it, being 1.3% private institutions (Asociación Nacional de Universidades e Instituciones de Educación Superior, 2017). The association, as such, does not have the mission of certifying or accrediting the quality of the institutions, but being part of it gives prestige and recognizes its quality (Silas, 2005b).

Hence, to become a member of ANUIES, according to Cuevas (2011b), the association evaluates the institution's: mission, norms, planning, infrastructure, programs, evaluation methods, personnel, students, and financial balances. The evaluation as Buendía (2013) enlists, involves first, a self-evaluation process; second, a visit to the institution to corroborate the veracity of the self-evaluation report; and third, the results that consists either in the acceptance of the institution, which also includes rectifying its permanence, or in the non-acceptance.

The author also points out that in order to be affiliated to the ANUIES the institutions have to have been at least operating for at least 10 years and thus, have reached both administrative and academic consolidation.

The Federation of Private Mexican Higher Education Institutions (FIMPES) (Federación de Instituciones Mexicanas Particulares de Educación Superior, 2015) is an aggrupation of private Mexican higher education institutions who seeks to improve collaboration and communication among the institutions. FIMPES was created in 1981 (González, 2012), and today it integrates 109 private institutions. To be part of it, institutions need to go through a certification process (Federación de Instituciones Mexicanas Particulares de Educación Superior, 2015), which is carried out at the institutional level in contrast with the RVOE, which is specific to each program. Since 1992, FIMPES has assumed the role of evaluator, accrediting the quality of the private higher education institutions that want to be affiliated to it. As Buendía (2013) mentions, getting these accreditation by FIMPES means being recognized as a quality institution, increasing the prestige and the public image.

The process consists first, in a self-evaluation, and ends in verification of the information provide by the association (Cuevas, 2011b; Buendía, 2013). Among other requirements having at least one generation of graduates is needed to become a member of FIMPES (de Garay, 2013).

The self-evaluation is done based on a series of indicators, which include (Cuevas, 2011b): mission, personnel, resources allocation, programs, norms, institutional philosophy, organizational structure, and research activities. In total there are over 160 indicators. In this self-evaluation process the same institution reviews the above-mentioned indicators and elaborates a final self-study report (Aguilar, 2003).

The report, as the same author mentions, is revised by a team of seven academics from different higher

education institutions who make sure of its veracity. Visits and observations to the institution that is being evaluated also take place to verify the report. Finally, a Commission, composed by nine academics gives the verdict: not accredited, accredited with some conditions, accredited with recommendations, accredited without observations, and fully accredited (Buendía, 2013).

According to Rodríguez (2017c), only 60 private higher education institutions have been accredited and, from these, 26 do not have any observations or recommendations, which means they are fully accredited. As de Garay (2013) points out, these institutions represent more or less the 8.1% of the private higher education in the country. Nonetheless, as Acosta (2012) mentions being part of FIMPES today means being recognized as a high quality and prestigious institution.

Analysis: As can be seen, all this quality assurance agencies have different methodologies, and have different objectives too, which are not directly related to the assurance of the quality of the private higher education system. Both ANUIES and FIMPES were not established to assure quality, but belonging to the association gives prestige and helps legitimate to the institutions (Silas, 2005b; Buendía, 2013). COPAES, on the other hand, certifies accreditation agencies who are for profit organisms. Silas (2005b) also points out that international accreditation agencies can assure the quality of private higher education institutions, but this was not added in the list, as it is not a national mechanism.

In addition, it can be seen here that the policy for quality assurance is again too flexible, as it is voluntary to get accredited. Out of the 1,800 private institutions (Álvarez, 2011) only 27 belong to ANUIES (de Garay, 2013) and 108 to FIMPES (Cuevas, 2011b). It is clear that the government, when issuing the policy, assumed that private institutions would be willing to achieve legitimization and avoid being seen as diploma mills. However, the Mexican academia has perceived quality as a checklist of indicators they have to fulfill (Buendía, 2011) as processes are mainly centered in technical issues (Silas, 2013), because there is not an integral policy. There is a lack of a well-planned National policy and instead, each accreditation agency establishes their own parameters and indicators to assess the quality of education, according to their criteria of how it should be. But no one evaluates these institutions, nor they are subjected to audits (Diaz, 2005). In other words, there are no mechanisms to regulate them.

IV. 3.4 Grants and loan schemes

This regulatory mechanism, at least in Mexico, does not apply to the private sector that enjoys a high degree of autonomy in this aspect; this is due to the fact that there is no public capital invested on them. Pinto (1974) Poder Judicial (2005) and Carpizo (2002) agree that private institutions in Mexico are created by the will of private investors. Hence, they operate with their own resources making it impossible for the state to interfere in the way they use them. Therefore, the organizational structures remain also in complete internal control of the private investors.

In summary, as Buendía (2016) mentions, regulations in Mexico facilitate competition and the establishment of new institutions, as barriers are minimal. Hence the student is not protected in the system. As it can be seen, even though there is an extensive legislation, the only mechanism to apply this legislation is precisely the RVOE, as other mechanisms to assure compliance either do not exist or are not carried out, or they are voluntary. In addition to this, the regulation takes place by program and not by institution, meaning that an institution can offer recognized programs and not recognized programs at the same time, and there are no sanctions for offering a program that lacks the RVOE, as long as it is mentioned

while marketing the program. Finally, as can be seen, regulations seem to focus on meeting some basic technical requirements that do not necessarily assure quality.

IV. 4 Degree of autonomy of the private higher education institutions in Mexico

In the specific case of the Mexican context, autonomy is a key concept when speaking about the universities. It has been in the public speech since the 19th century (Martuscelli & Martínez, 2013; Garciadiego, 1997), although it was first conferred to the National University until 1929.

When autonomy was first granted, it gave the university the possibility to govern itself throughout its own structure and internal regulations, as well as to create its own academic programs and to use its financial resources according to its needs (Poder Ejecutivo Federal, 1929 as amended 1917). Of course, these activities were carried on with certain degree of interference from the government, but aiming, at the end, to achieve a complete detachment in the future from the state. Interestingly, the main purpose for granting autonomy to the university was not academical, but the desire of the government to detach from the disciplinary and the governance problems suffered by the institution due to students' protests⁴³ (Marsiske, 1982).

For González (2004) the autonomy granted to the Mexican higher education institutions has allowed the expansion and the diversification of the tertiary education and, therefore, of the teaching and of the research. As a matter of fact, the private higher education sector in Mexico began developing just after autonomy was granted to the main university, in the second half of the 1930's (Martínez, 2012; Rangel, 1979).

According to Asociación Nacional de Universidades e Institutos de Investigación Superior (1979), over time, 32 public universities have been granted autonomy. Since that year and to date, only one more public university has received autonomy. On the private sector higher education institutions like *el Instituto Tecnológico de México* and *Universidad Autónoma de Guadalajara*, also enjoy certain degree of autonomy that the other private institutions do not have (Cossío, 2006).

The degree of autonomy that all these higher education institutions enjoy has changed over the years, increasing or decreasing. However, most of the research that has been done in the country focuses on the legal and philosophical aspects that characterize it, and it is based on the "ideal autonomy" granted to the national university (UNAM).

Namely, little research has been done on autonomy in the private sector. This is largely due to a generalized assumption that private institutions are already autonomous from the state, as there is no public capital invested on them. Nevertheless, it is also due to the fact that the term autonomy is related specifically to the public sector. In other words, the Constitution has defined the concept of autonomy in relation to the public sector, for which it is claimed that private institutions cannot be considered autonomous, because legally they cannot be granted autonomy, as the Constitution does not allow it (Serna, 2006). Hence, instead of referring to autonomy on the private sector, it is addressed as the capacity to manage themselves, especially in the administrative aspects.

Autonomy, for the Mexican Constitution (Poder Ejecutivo Federal, 2017 as amended 1917), is granted by the state to certain higher education institutions giving them the responsibility to govern themselves when carrying on their activities of teaching, researching and spreading the culture. Autonomy therefore implies

⁴³ Understanding the government, the Revolution war (1917-1928) followed by the Cristeros war (1924-1928) had just ended (Aguilar & Serrano, 2012).

that these institutions have to be accountable to the society by fulfilling their mission for which they were created, and by being transparent in the use of their resources.

Then, autonomy is understood as a legal construct granted by the law, that when given, universities become full legal entities that are able to act without the interference from the government in its main activities, safeguarding the freedom of teaching and researching (Martuscelli & Martínez, 2013).

In words of Poder Judicial (2005) autonomy in Mexico is legally understood as an

Attribution of self-government that has its origin in a formal and material legislative act from the Congress or local legislatures, through which they [higher education institutions] are granted academic and patrimonial independence to determine, subject to the provisions of the General Constitution of the Republic and in the respective laws, the terms and conditions in which they will develop their educational services, their admission requirements, promotion and permanence of their academic staff and the way in which they will administer their patrimony (Poder Judicial, 2005, p. 9).

As autonomy is an attribute that is given, and it implies the capacity of an institution to select the members of its governing bodies, to establish its own study programs, and to administer its resources according to its needs, for Carpizo (2002) it refers only to public institutions.

Pinto (1974) and Poder Judicial (2005), agree with Carpizo (2002) that private universities already enjoy autonomy and there is no need for it to be given by the state. In other words, private universities are created by the will of private investors. Hence, they operate with their own resources making it impossible for the state to interfere in the way they use them. Therefore, the organizational structures remain also in complete internal control of the private investors.

Hurtado (1976) also points out that autonomy refers to independence from the head of the state basically, as all the higher education institutions, being autonomous or not, or private or public, need to comply with the legislative power of the country where they are established. Based on this definition, a private university does not need to be granted autonomy because it already enjoys certain degree of freedom, as it does not depend on the Federal government to operate.

Indeed, private higher education institutions in Mexico are autonomous in many aspects, but they certainly face some constraints. For instance, according to the Constitution (Poder Ejecutivo Federal, 2017 as amended 1917) private individuals can provide higher education as long as the state has granted the Recognition of Official Validity of Studies. The Ministry of Education grants this RVOE with the objective of assuring that the minimal requirements established by the law are met (Secretaría de Educación Pública, 2015).

In the Agreements 243 and 17/11/17 the conditions to get the Recognition are established. These conditions include (Secretaría de Educación Pública, 1998, 2017):

- 1) A proper physical space to carry on the educational act, in compliance with the hygiene, safety and pedagogical conditions established by the Ministry of Education, or, where appropriate, decentralized bodies empowered to do so at the moment the request is issued.
- 2) The authorization of the curriculum of the study program that will be taught by the institution. The curriculum needs to comply with the number of credits and hours established by the law, according to the degree level of the program. Also, the objectives of the content, the learning outcomes, the methodologies, and the assessment process of each course of the program are reviewed by the authorities.

- 3) Competent and prepared staff. The teaching staff and the academic fulltime staff have to comply with the criteria established by the law. The law indicates the minimal degree that each professor has to have, according to the level of studies where they will be teaching and working.
- 4) The approval of the internal norms and rules of the institution. The norms of the institution have to be aligned with the Constitution. In addition, there are some specific topics that the internal rules of the institutions have to consider by law like dropout causes and procedures, to give an example. However, although the topic must be address in the internal rules, the only case where there must be compliance with the parameters established by the law is the one referring to granting scholarships. The internal rules are reviewed and approved by the authority.
- 5) The granting of 5% of scholarships, according to the total number of students enrolled in the institutions. Nonetheless, the institution has the freedom to select and give the scholarship to the students as pleases, as long as the 5% is given. Some procedures and considerations are advised for this process.

As can be seen, the Mexican private higher education institutions suffer the most constraints in the academic dimension, while there seem to little constrain regarding the staffing, organizational and the financial ones. Concerning to the financial autonomy, the only requirement is that the institution has to grant scholarships to 5% of its enrolled students (Secretaría de Educación Pública, 2017a).

Regarding the financial dimension, most of the institutions are non-profit institutions. Nevertheless, this is changing, granting the possibility now to establish for profit institution. Non-profit institutions are exempted of paying certain taxes, expecting they invest all their profits in the institutions. However, for profit private higher education institutions in Mexico are not restricted to invest their surpluses in the institution; on the contrary, they can decide how to use them and on what to spend them.

For profit private higher education institutions in Mexico are considered a business, and according to Guerra (Miranda & González, 2015) they even pay more taxes than a regular corporation. Higher education institutions pay between 25 to 30% of their profits as taxes, and there are no tax reductions or loans from the public sector. They have to pay the payroll tax, the property tax, and the participation in INFONAVIT and the social security of the employees. However, non-profit institutions are exempted of paying taxes, as they are meant to reinvest all their surpluses in the institution.

As has been said before, autonomy is something dynamic that changes according to the particular circumstances of the context, and thus it is enjoyed in different degrees by the diverse institutions. For this reason, there are some private universities, semi-independent institutions, in Mexico that enjoy a “simplify regime” or administrative simplification (Rodríguez, 2004a, 2006; Buendía, 2011). This simplify regime means that an institution that has been operating in compliance with the law for ten years, that has been accredited by an agency to assure quality standards, that belongs to the recently created Program for the Improvement of the Institutions, and that has not been sanctioned in a period of time of three years, is allowed to present less documents than the required ones to receive the RVOE (Secretaría de Educación Pública, 2017a). Still they make the incorporations and have to present the legal documents of their certification in the Ministry of Education, but they are less supervised.

Other institutions like *Instituto Tecnológico Autónomo de México* and *Universidad Autónoma de Guadalajara* enjoy even a greater degree of autonomy and can be considered independent according to Fielden’s (2008) classification. De Garay (2013) mentions that the *Instituto Tecnológico y de Estudios Superiores de Monterrey*, *Universidad Anáhuac* and *Universidad Iberoamericana* enjoy absolute academic autonomy when creating and implementing new study programs as the RVOE has already been granted.

The autonomy these institutions have received is granted, as Cossío (2006), Serna (2006) and de Garay (2013) point out, by a presidential decree outside the Constitution, and its degree differs from one institution to another. González and Guadarrama (2009), after analyzing the Constitutional Controversy 102/2003 by the Minister Cossío, conclude that private institutions in Mexico receive only legal autonomy, which refers to the administrative procedures needed to operate, while public universities are granted with constitutional autonomy. This legal autonomy is materialized through a particular agreement between the institution and the authority.

Serna (2006) clarifies that these two autonomies are very different. The constitutional autonomy refers to the organization of the public administration. Nonetheless, as private institutions are outside the public administration, and they enjoy all the rights established by the law, they need to comply with it. In other words, the principle of legality contained in the Constitution constrains the possibility of determining new rights and obligations in favor of private education (Blanco, 1994). In fact, public institutions are not regulated by the same laws, as the General Law of Education excludes them, while it does apply to the private sector.

Hence the legal autonomy of private institutions is defined according to the law (Serna, 2006); in other words, this autonomy is defined in relation to the power that the authority exerts, especially in its capacity of the state to influence the curriculum. Therefore, the presidential decrees give the selected institutions a vote of confidence for the creation of their own curriculum.

In short these institutions have been granted more academic autonomy than the semi-independent ones, meaning that they are the least constraint in the system. These independent institution, enjoy specifically more academic autonomy than regular semi-independent private institution.

IV. 5 The results

This study started with the questions: How is private higher education perceived in Mexico? To what extent private higher education is regulated in Mexico and what level of autonomy does it enjoy in its several dimensions? How are regulations and the existing level of autonomy related to the proliferation of the low quality institutions?

To summarize the analysis of the documents table 13 "Degree of autonomy of the private higher education institutions (semi-independent) in Mexico and the regulations that constrain it" has been elaborated. The table shows the level of autonomy enjoyed in each dimension, by the semi-independent private higher education institutions in Mexico, as well as the regulatory instrument that constrain it. The table takes the dimensions of autonomy from the chart 1 "The dimensions of the autonomy", as well as the parameters to define the level of autonomy that are presented in the subtitle II. 2.4 "The specificity of autonomy for the private higher education". In addition, it takes the regulatory instruments from those presented in Table 8 "Specific regulatory mechanisms used in higher education by their classification" and the a posteriori and a priori parameters of Table 10 "Regulatory mechanisms by the dimension of the autonomy they constrain". Finally, the information contained in the table regarding the specific case of the autonomy and the regulations for private higher education in Mexico is taken from the previous analysis that has been carried out in section IV "The Mexican private higher education system".

Table 13. Degree of autonomy of the private higher education institutions (semi-independent) in Mexico and the regulations that constrain it

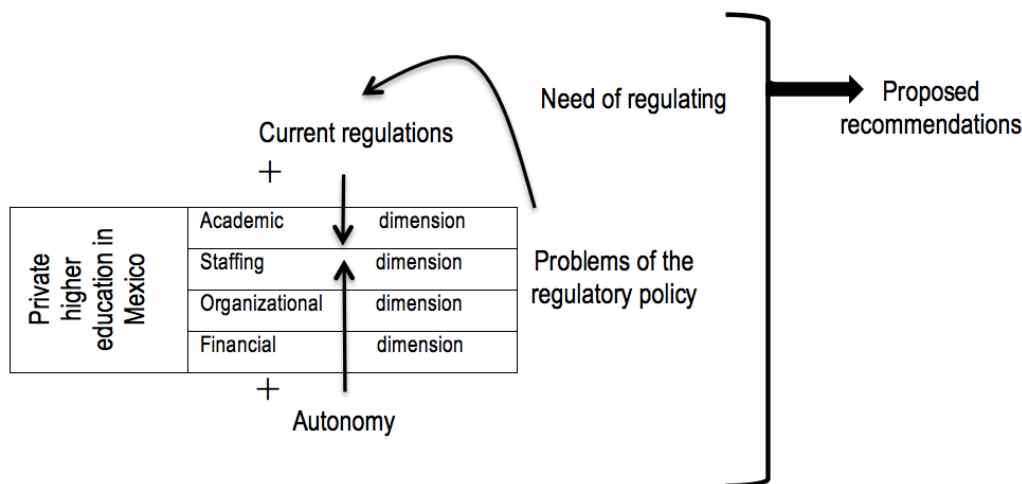
Dimension	Activity	Degree of autonomy	Regulatory mechanisms					
			A priori mechanisms			A posteriori mechanisms		
			Type of mechanism	Mechanism	What is indicated	Type of mechanism	Mechanism	What is indicated
Financial	Keep surplus	Medium				Taxes	- Payroll tax - Property tax - Participation in INFONAVIT	Pay regular taxes of any business. However, non-profit institutions are exempted from property tax
	Borrow money	High						
	Own buildings	High						
	Charge tuition fees	High						
	Determine tuition fees	High						
	Invest in financial markets	High						
	Decide expenditures	High						
	Determine sources of money	High						
Organizational	Grant scholarships	Medium	Specific norms	Agreement 17/11/17	- 5% to scholarships			
	Determine legal status	High						
	Define internal rules and procedures	Medium	Specific norms	Agreement 17/11/17 Approval	- Aligned to the Constitution - Inclusion of some specific topics			
	Select members of executive board and academic bodies	High						
	Establish criteria and durability of leadership positions	High						
	Dismiss the university's head	High						
	Select external members in the governing bodies	High						
	Determine structures	Medium	Specific norms	Agreement 17/11/17	- Have certain departments like School Services, and a library			
	Create a legal entity	High						
	Decide the orientation of its governance bodies	High						
Staffing	Decide mission and goals	Medium	Specific norms	Agreement 17/11/17 Approval	- Aligned to the Constitution			
	Recruit and select academic staff	Medium	Specific norms	Basic requirements checklists at Agreement 17/11/17	- Degree level - Activities that must be carried out			
	Recruit and select administrative staff	High						
	Determine salary scales	High						
	Establish staffing policies	Medium	Specific norms	Federal Labor Law	-Regular working conditions			
	Dismiss staff	Medium						
Promote staff	High							

Dimension	Activity	Degree of autonomy	Regulatory mechanisms						
			A priori mechanisms			A posteriori mechanisms			
			Type of mechanism	Mechanism	What is indicated	Type of mechanism	Mechanism	What is indicated	
Academic	Decide the number of students	High							
	Determine academic profile	High							
	Open/close programs	Medium	Legislation	Constitution General Law of Education Law for the Coordination of Higher Education Agreement 243		- Need to have the RVOE for being part of the National System of education but can operate without it	For assuring compliance	Supervision	Ordinary and extraordinary visits to the institution to assure that the requirements are met. The authority decides when and how many
			Specific norms and procedures	Agreement 17/11/17	Mechanism for establishing and recognizing programs	- Recognition of Official Validity of Studies granted by the Ministry of Education at both Federal and local levels, and by some public autonomous universities			
					Basic requirements checklists	- Need to fulfill requirements to get the RVOE: infrastructure, resources, equipment, activities and curriculum			
	Design curriculum and content	Medium	Specific norms and procedures	Agreement 17/11/17	Approval	- The program and the fulfillment of the requirements are reviewed by the authority in order to get the RVOE			
	Establish admission mechanisms	High							
	Design and implement quality assurance mechanisms	Medium					Voluntary external quality assurance	Internal audits and self reports Peer review	-Fulfill requirements established by private accreditation agencies (FIMPES, accreditation agencies recognized by COPAES, or international agencies) and present the evidence. Or by ANUIES which is a non governmental organization
	Make research decisions	High							
	Select language of instruction	High							
Award degrees	Low					For assuring quality	Recognition of degrees	Authentication of the degree is needed for it to have validity, and the granting of the professional license (Only programs with RVOE)	

Next, the findings of the interviews are presented. In addition to corroborating the questions that have already been answered, the interviews have been useful to understand how the actors involved in the Mexican higher education system perceive these regulations and their constraints, as well as the degree of capacity they enjoy to govern themselves. In addition, they have been useful to get to know and to comprehend the problems that derive in the regulatory policy between the action or inaction of the state to control the private higher education system, and the degree of freedom exercised by institutions to self-direct and self-determine. From this previous reflection, some recommendations have emerged to improve the regulatory policy for private higher education in the country.

In this way, first it is presented a diagram that shows the relationship of the categories that have been found in this research, in which it will be deepened later. Chart 3. “The research findings” presents the ten categories found in this research. As can be seen, private higher education in Mexico is formed by four operational dimensions: academic, staffing, organizational and financial, which are placed according to their different degrees of autonomy. The academic dimension is placed at the top, next to the + sign of the current regulations, meaning that it suffers the most limitations. On the contrary, the financial dimension is placed at the bottom, closer to the + sign of autonomy, which means that it enjoys a higher degree of autonomy. It can be seen that the line from current regulations is shorter than the one from autonomy because, as it has been said before, in general private higher education institutions enjoy high degrees of autonomy. It can also be seen that both lines are clashing, meaning that they are constantly in tension leading to the problems of the regulatory policy. However, as there is a need of regulating the system, some proposed recommendations emanate to improve the regulatory policy without the detriment of the autonomy.

Chart 3. The research findings



Having analyzed the relationship of the categories that have been found, each category will be explained to detail:

IV. 5.1 Private higher education in Mexico

Private higher education in Mexico is conceived by the participants in a similar way. This category includes their conceptualization and the different types of institutions that the participants perceived in the sector.

Conceptualization. As Levy (1986) has mentioned, even though that the legal framework of an institution is the main element used to distinguish private from public ones, the ownership and the sources of the financial resources are the clearest and most frequent parameters used to make this distinction. This can clearly be seen as the participants of this study used these terms to classify the Mexican higher education. Therefore, the private higher education is conceptualized, by the participants, as the education that continues after high school and it is not granted by the state. In other words, for the participants, the main element that distinguishes the private higher education institutions from the public ones is the ownership of the institutions. Participants used different terms to describe this, such as “not managed by the government” and the ones that “does not belong to the state”. For example, Fernando clearly mentions: “higher education is the one that takes place after high school, and it can be granted by the state or not. The one that is granted by the state is public, and the one that is not, is private”.

Another characteristic of the private higher education institutions in which the participants coincide, is that the financial resources invested in these institutions come from private investment and not from the state. Participants use the following expressions to point this out: “financed by private investment”, “private capital invested”, and “do not receive money from the government”. In this sense, participants agree that private higher education in Mexico does not receive money from the federation or from the states, as its expenses are not included in the public budget; in other words, the money comes from private resources. Benito better describes this when he mentions: “it is an education that it is financed, basically, by persons or associations that have nothing to do with the state in economic terms”, and if Levy’s (2007; 2009; 2011) and Altbach’s (2005a; 2005b; 2005c) findings are remembered, these institutions are usually owned or affiliated to different groups as religious congregations (Silas, 2005a; Baptista & Medina, 2011; Buendía, 2016; Levy, 2009; Olivier, 2007), businessmen (González, 2012) or families.

However, some participants also acknowledge that tuition fees play an important role in the subsistence of these institutions. “Students have to pay” and they “charge a tuition fee for their services” are some phrases that point this out, but this cannot be used as the only parameter as Altbach (2005a) has glimpsed, because in many countries students pay tuition fees in public education, and such is the case of at least UNAM, in Mexico, where even if it is minimal, a fee is charged.

Another distinction, pointed by some participants and authors like Levy (1986; 2007; 2008) and Dittrich and Weck-Hannemann (2010) is that private institutions have mainly focused on the professionalization of the labor force. Thus, participants agree that most private higher education institutions in Mexico are focused on forming people for the labor market. Their perceptions include: “focused on forming professionals” and “higher education for the labor market”. For example, José Manuel mentions: “it seeks to prepare people to work in the business sector”. Nevertheless, one of the participants acknowledges that a private institution has the responsibility of not only teaching, but also carrying out research and extending the culture: “its purposes, of which they are a part of, are research, teaching, and cultural extension” (Isabel). This coincides with the findings of Duderstadt (2000), Rhodes (2009), and Brennan, King and Lebeau (2004) on the role of higher education in the society, and with the findings of Bernasconi (2011) who mentioned that both public and private institutions have to carry out the same activities of teaching, researching, and extending the culture.

Reason of existence of private higher education institutions. Private higher education has developed for multiple reasons around the world. These include the separation from the Church and the state (Levy, 2007), the reaction against imposing ideologies (Levy 1986, 2009, 2011; Acosta, 2005; Rodríguez & Ordorika, 2011; Olivier, 2007; Rodríguez, 2008c), the formation of the elites (Altbach, 1998b; Olivier, 2007;

Silas, 2005a; González, 2012), and the massification process and the state's inability to grant higher education to all (Altbach, 2005a; Levy, 1986; Aguilar, 2003; Acosta, 2005; Álvarez, 2011; Kent & Ramírez, 1999). In Mexico, it has been seen that it does not only correspond to the massification process.

In this sense, the participants recognized different reasons. On one hand, it emerged as a response to a social need, as the society decided to grant higher education because they felt unsatisfied with the one that was being granted by the state. But, on the other hand, the private sector also expanded because the public sector lacked the spaces to satisfy the demand of all those who wanted to study this level of education. Hence, it can be seen that the first wave of higher education institutions began as a reaction from the elite population against the ideologies taught by the government in the public institutions, but they expanded and proliferated because of the lack of spaces in the public institutions as the population that demanded higher education grew. José Manuel, for example, addressed the first reason when he explains that private institutions emerged as a response from the society as the state was failing to satisfy their needs:

They respond to the private needs that the state is failing to satisfy, regarding the economic development, and the professional development of the people. Then they are a response to something they consider the state cannot do by itself or that it is not doing well enough.

On the other hand, participants like Carmen recognize that the private sector has expanded because the public sector lacks spaces to satisfy the demand of all those who want to study this level of education. She says: "private institutions emerged because the public ones were unable to satisfy the demands of access".

Typology of private higher education institutions. All the participants of this study recognize that there are different types of private higher education institutions in the country, as diverse characteristics can be identified. This study began presenting a broad classification based on Levy's (2009) findings of elite and demand absorbing institutions. Most of the participants coincide with the author that these parameters can be used to describe the universe of private higher education institutions in Mexico. However, some presented other parameters that reflect the multiple classifications that have been carried out in the country. Other major dichotomies of classification that the participants mentioned are: high and low quality; and for profit and non-profit.

Elite, high quality and non-profit institutions seem to overlap in the description made by the participants, as well as the demand absorbing, low quality and for profit. In the first dichotomy, the terms "elite universities", "elite religious universities" "demand absorbing universities" were frequent, coinciding with the classifications made by Instituto de Investigaciones sobre la Universidad y la Educación México (2002) and Luengo (2003). Most participants agree that these elite institutions are the ones with the highest tuition fees as Buendía (2016) and Álvarez (2011) had foreseen. For example, Karla says: "the elite ones are the expensive institutions".

Also, some participants clarified that this classification of elite and demand absorbing is more extensive. In this regard, Pilar mentions that inside the demand absorbing institutions, there are many different types:

Inside the demand absorbing universities, there are some we can say they are consolidated, as they have a certain educational project; there are others that aspire to become elite; and finally others that definitively can be considered using the derogatory term of *patito* universities, garage universities, that they only seek to make money.

Patito universities are perceived by the participants as the lowest quality institutions in the country. Participants emphasize that the government permits these institutions to exist, but their quality is questionable and the graduates' preparation dubious. Some graduate professionals "in two years, one year, they finish" as Carmen mentions. All of the participants acknowledge that these institutions are not recognized by the government, but have proliferated because there is a clear need of higher education and a lack of access to the public system.

They are described by participants as "mediocre", "bad and insufficient". Participants also consider that they "do not have anything", referring to the lack of the RVOE and the lack of infrastructure, and they agree that they "cannot be called universities". All the participants mention that they "take advantage" of the students, while they make profit out of them. José Manuel summarizes this perception: they "simply establish a small business in which they play with the dreams of many people without assuring quality and taking advantage of the need that exists of higher education".

In the second dichotomy, participants distinguish between the high quality and the low quality institutions, coinciding with Silas's (2005a; 2005b) classification. Participants use the terms "high quality universities" and "*patito* universities" to distinguish these two categories, and they also use quality assurance mechanisms to identify high quality institutions as "belong[ing] to ANUIES". Participants agree that low quality institutions help satisfy demand, and that there are some institutions that are trying to improve their quality: "there are many institutions in between those two, that are trying to achieve quality" (Margarita). However, they also recognize that there are some whose only interest is the economic benefit without caring about the quality.

Thus, this classification overlaps with the third dichotomy, the for profit and non-profit classification, or according to their legal entity, which has also been studied by Silas (2005a). For the participants, for profit institutions are mainly interested in making money. They tend to associate non-profit with "doing things well" and for profit with "business" or with focusing "only in the enrollment numbers". However, some recognized that not all for profit institutions are low quality, as there are some elite institutions, interested in granting a high quality education. In this regard, José Manuel mentions:

Among for profit higher education institutions, we can find those who focus on doing things well, so, even though they are a business, they care about the quality, and others that simply are looking forward to making money with the minimal quality standards just to keep the business afloat.

As we can see, these different ways of classifying the private higher education in Mexico seem to overlap. Elite institutions are usually high quality and expensive, even though not all of them are non-profit, while demand absorbing institutions are less expensive and usually for profit, and their quality levels vary from good to low. Isabel points out some characteristics of these middle and low quality demand absorbing institutions, emphasizing that their purpose, above everything, is to make money:

What is important there, is only the enrollment numbers. They relatively pay professors very good, but they are not allowed to do anything. It is very massified. Everything, everything has to be like, too much lineal, and there is no academic freedom, neither the opportunity of innovation and creating different courses. Professors have to align, and that is everything. They are focused on a segment of the population that is the biggest, in the medium socioeconomic level and lower medium, and they are teaching to this sector but without quality. I think this happens because they do not have a clear definition of what a university is.

Reasons why low quality institutions proliferate. As could be seen, most of the private institutions are for profit and demand absorbing. The participants explain why these institutions have expanded considerably

in the last couple of years, admitting that there is a societal need for studying higher education that is not being met, as the public sector lacks the possibility to grant access to all the students that apply to it. This coincides with the findings of Altbach (2005a), Levy (1986), Aguilar (2003), Acosta (2005), Álvarez (2011), Rodríguez (2008f), and Kent and Ramírez (1999), who identified massification and the lack of access to the public sector, as the main reason for the proliferation of private higher education institutions, but contrast with Kent (2004), Buendía (2016), Luengo (2003), Álvarez (2011), and Muños and Silva (2013), who assert that the lax regulatory policy has been the cause for the proliferation of low quality institutions.

Participants coincide that these low quality institutions help “solving a social need” of “access” to higher education, and represent an “option to study” for young people that lack the resources to access to elite private institutions and that, at the same time, have been denied a space in the public sector. In this sense, most of the participants agree that the lack of access helps the proliferation of the private institutions, as they help satisfy this need. Benito explains better this situation, as he emphasizes the important role of private higher education in the development of the country. He says:

Unfortunately, there are many complex social and political phenomena. One is access. In Mexico, as you well know, the percentage of access to higher education is extremely low. [...] and you have to expand the access; of course, you have to expand it. And today, private higher education in Mexico grants education to more than the third, to a little more than the third part of the total coverage in higher education. And yes, we are far away; and that needs... private higher education plays an important role in the development of the country.

Carmen also adds that, in the country, having a university degree is everything because, if not, you are not perceived well in the society: “also in Mexico, if you don’t have an academic degree you are not well seen by the society”. This has contributed to the proliferation, because then it is preferred to have a degree from these institutions than not to have it at all. In short, low quality institutions proliferate because there are many people that seek to study the tertiary level and the state has been unable to grant access to all of them.

From this first category, private higher education in Mexico, the following can be concluded: first, private higher education is the one that does not belong to the state and uses private investment to finance itself; second, it exists because there are social needs that have not been met by the state’s education, either in professional preparation or the education in some values, or because there is a lack of access to the tertiary education; and third, there is an extensive classification of private institutions that, in some cases, overlaps, but in broad terms there are high quality, elite and expensive institutions, middle quality demand absorbing institutions, and low quality, inexpensive institutions, that are also called *patito* universities, whose purpose is to make money.

IV. 5.2 Current regulations

Regulations are the instruments used to influence the behavior of a sector of the population, limiting certain actions that are considered undesirable, while indicating the best way to act. This category includes: instruments that regulate private higher institutions in Mexico, authorities that regulate, differentiated regulation, and perceptions regarding the regulations.

Instruments that regulate private higher institutions in Mexico. Regulations to higher education are composed by different instruments as Fielden and Varghese (2009), Floud (2005), and the Higher Education Commission (2013) have pointed out, and as Table 8 “Specific regulatory mechanisms used in higher education by their classification” shows up. In this regard, participants of this study acknowledge that there

are diverse mechanisms that regulate private higher education. The first one that is being addressed is the legislation, as the legislation represents one of the most important regulatory instruments, to the extent that Selznick (1985) and Black (2002) had to make a distinction between it and the regulations. Frequently, participants address to the legislation as the “norms”, and they mentioned the most important legal instruments: “the Constitution” “the General Law for Public Education” and “the Law for the Coordination of Higher Education”. These three legal mechanisms have been already analyzed in section “IV. 3 Regulations to the Mexican private higher education system”.

Participants agree that the Mexican Constitution is the main legal instrument that regulates private higher education, and they comment that the request of the RVOE is expressed in the General Law of Education, as the authority grants the authorization for private individuals to grant education through it (Cámara de Diputados del H. Congreso de la Unión, 2005 as amended 1993). For all the participants, the RVOE is the mechanism that grants validity to the studies. Hence, they concur that it is considered the main regulatory instrument. They also explain that this is granted by program, not by institution: “this regulation, among other things, requires that all the programs have the Recognition of Official Validity of Studies” (Pilar). In other words, the RVOE is granted to each program specifically, so one institution can have as many RVOEs as programs it teaches.

All the participants agree that the RVOE only requests certain credentials for the professors, like the “CV of the professors”, to fulfill certain requirements regarding the curriculum or the academic program, like “the number of credits by course”, and the “total number of credits of the academic program” according to the degree, and to fulfill some infrastructure requirements. This coincides with the information contained in the Agreements 243 (Secretaría de Educación Pública, 1998), and Agreement 17/11/17 (Secretaría de Educación Pública, 2017a).

Some participants also mentioned other instruments used by the Mexican government to regulate the private higher education. The most recurrent were the supervisions. For example, Isabel also mentions that inspections are a mechanism used to make sure that what has been approved, actually takes place in reality; but by her comment it seems that these are not very common, as she states that “if by any chance an inspector appears”. The full comment says:

The thing is that if you are going to open a program, [Isabel], you have to fulfill all the requests. Everything, because if by any chance an inspector appears, that he might or might not appear, and finds something wrong, he closes it. That is that he [The Ministry of Education] might close your study program.

In this sense, participants also mention that when the law is not complied, sanctions are used to assure the future compliance. Remembering, sanctions were an important aspect of the regulations as Lowi, (1985), Bresser and O’Tool, (1998), and Howlett (2011) had pointed out.

Authorities that regulate. In Table 7 “Classification of regulatory mechanisms” based on the findings of (2011), Cohn (2011), Gilardi and Maggetti (2011), and Malyshev (2002), different regulatory authorities were identified both public and private. Consistent with these findings, and with the findings of Rodríguez, (2004a; 2008c) and Blanco (1994), participants of this study recognize different authorities when it comes to the regulation of private higher education institutions in Mexico: the Federal Ministry of Education, the local ministries of education located at each state of the Republic, and the public autonomous universities, not to mention the accreditation agencies which are voluntary mechanisms and which will be addressed later. In this respect, José Manuel indicates:

There are three models of getting the Official Validity of Studies [...] or four, if you want to call it that way. By the Federal Ministry of Education, that is one. The Ministry has the possibility of reviewing all the RVOEs that are incorporated to it. It has a lot of power. Then, the Ministries of Education of each state; they have less [RVOEs]. And then the public universities, the big ones, that incorporate some other universities and recognize their programs as if they were their own. And then there are other universities in the states like UDG or the Politécnico Nacional [National Polytechnic] that also incorporate programs.

Participants also allude that, sometimes, the President has granted RVOEs too. However, they concur that most of the programs are regulated by the Ministry of Education, as the regulation by public universities, specifically UNAM, is more bureaucratic and grants less autonomy. Participants describe this regulation by public universities as “mores jealous” or as “excessive administrative bureaucracy”, because they perceive that it pretends to “control everything” because there “everything is regulated”. Hence they recognize that, today, most private higher education institutions are incorporated to the Ministry of Education in order to be less constrained and to enjoy more autonomy.

Regarding the quality assurance agencies, participants perceive these organizations as an aid to the regulation of the system. For the participants, the quality assurance agencies help regulate the quality of the system. For example, Karla explains the differences between the regulation from the public authority and the regulation from the private accreditation agencies. She mentions: “the Ministry of Education gives you the opportunity to teach a program, it recognizes it, but then there are institutions that measure how you are achieving your institutional goals”. However, here it is important to mention that these are still voluntary.

Differentiated regulation. Participants of this study mention that mechanisms employ to regulate private higher education are the same; however, they point out that the number of procedures and the degree of supervision varies if you have already been accredited by FIMPES or other accreditation agencies, as authors like Álvarez (2011), Rodríguez (2004a; 2006; 2008a; 2017a; 2017b; 2017d) and Rodríguez and Ordorika (2011) have also asserted when explaining the Record of Academic Excellence (Agreement 279) or the Program for the Improvement of the Institutions (Agreement 17/11/17: Secretaría de Educación Pública, 2017a), commonly known as “administrative simplification”. The Program for the Improvement of the Institutions has also been explained in the analysis of the autonomy enjoyed by the Mexican private higher education institution in section “IV. 4 Degree of autonomy of the private higher education institutions in Mexico”.

Consistent to those findings, participants agree that the differentiated regulation consists on different “degrees of supervisions”; in other words, it depends on the amount of inspections and control exercise by the authority. Participants perceive these different degrees of supervision in a positive way. For them they mean “trust”. This is explained by Pilar when she mentions: “they will not need to supervise you so much because they already know you do things right”. Similarly, for Karla, this grants the regulatory authority the possibility to regulate more those who need it the most. Hence, she states that this helps focus the efforts in institutions that need it the most: “other institutions might require more attention than these ones in their operations, because the level of development of the institutions is different”.

Perceptions regarding the regulations. Several of the studied authors like Rodríguez (2004a), Silas (2008), Acosta (2011), Cuevas (2011a), de Garay (2013), Álvarez (2011) and Buendía (2016), have concluded that the regulations to the Mexican private higher education institutions are very flexible. Nevertheless, participants of this study have different perceptions of the regulations. While for some of them the regulations do not assure quality, others claim that the policy is designed to assure the minimum quality.

Hence, some participants consider the regulation to be very permissive, as it focuses only on the technical aspects. They describe the regulation as being focused only in fulfilling requirements. These participants describe it as “lax”, and as a “checklist” or “control board”, where “quality is not being assured”. For example, Isabel mentions: “regulation focuses on the administration and the infrastructure [...]. Everything is fulfilling a requirement, a checklist”.

On the contrary, for other participants, the regulations do pretend to assure a minimum degree of quality, but they agree that the regulation, by itself, is not enough to guarantee it. In this regard, participants mention: “the law aims to guarantee a minimum of quality” (José Manuel) and “the minimum requirements are focused on having a minimum level of quality” (Fernando). This is consistent with the findings of de Garay (2013).

As there are different regulatory instruments, participants have diverse perceptions regarding those. In this sense, some of them agree that the problem is not the legislation, as they describe it as “excellent”, “very good” and “enough”. While others concur that the sanctions established in the legislation are flexible, which is consistent to de Garay’s (2013) and Blanco’s (1994) findings. The participants describe the sanctions as “lax”. However, for some participants this is understood and intentional, as it is impossible to consider every single situation in the law. For example, Fernando mentions: “there is no capacity for determining all the details of the different violations and their corresponding sanctions”. And José Manuel asserts that it is impossible to foresee everything: “sometimes the regulation does not foresee everything [...], the issue is to always have in mind that regulations have limits [...]. It is not enforceable, what does not exist”. Here he clearly states that regulations will always have limitations because there is no capacity of legislating everything.

All the participants agree that the problems are the mechanisms used to assure there is compliance with the law, as they are “sporadic” or practically inexistent. However, this problem will be addressed later, in the category “Problems of the regulatory policy”. Finally, regarding the quality assurance mechanism, some participants perceive it as a key factor to guarantee quality, even though it is a voluntary instrument. For participants, this mechanism grants a “differentiation” between institutions, as it helps institutions distinguish among each other, coinciding with Silas’s (2005b) findings.

Regarding the fact that the compulsory regulation is carried out by program and not by institution, participants seem to prefer the way it is, by academic program and not for the institution as a whole, as some quality assurance agencies do. Carmen explains the reasons why the regulation is focused on the program and not on the whole institution, as different programs have different needs regarding professors and infrastructure; therefore, they need specific regulations or a regulation that takes care of those considerations. She says:

So, if you do it [the regulation] for the institution as a whole, what I think is that maybe, we have a lot of professors experts in medicine but then, why might we be able to offer a doctoral program in law? [...] I think that is why. And also, the institution, the infrastructure that each program requires. If you have many professors experts in law or medicine and you want to offer a program in advanced computer technology, if you don’t have a computer lab, you cannot offer it.

In short, the regulatory policy for private higher education institutions in Mexico is mainly composed by the instrument of the legislation, which details the basic requirements needed for a program to be approved by the authority. While some participants perceive the regulatory policy as lax and technical, other mention that it is designed to assure minimum quality standards. Participants seem to agree that the problem of the policy is not the legislation, but the lack of other mechanisms used to regulate the system.

The system is mostly regulated by public authorities, whose responsibilities tend to overlap. Private agencies only regulate through the quality assurance agencies, but this remains as a voluntary mechanism.

IV. 5.3 Autonomy

Autonomy is the capacity of an institution to govern itself according to one's own rules. This category includes: the concept of autonomy and the different degrees of autonomy.

Concept of autonomy. The concept of autonomy in Mexico is primarily associated with the public institutions, as there is a constitutional controversy that private institutions cannot be granted autonomy. While some participants agree that private institutions do not enjoy autonomy, others consider they do.

Here, it is important to mention that participants used as a reference the conceptualization of autonomy in public universities, to analyze the term for the private sector. Participants agreed that the purpose of autonomy is to avoid the interference of the state in the educational activity, as Varghese and Martin (2013) had anticipated. Some participants also mentioned other characteristics of public institutions' autonomy that are not enjoyed by private institutions. For example, Francisco and Margarita mentioned that in autonomous public universities like UNAM, not even the policemen have the authorization to enter to the campus. They describe that autonomy is understood in Mexico as being "untouchable". Therefore, some participants do agree with Pinto (1974), Poder Judicial (2005), Carpizo (2002) and Serna (2006) that it cannot be said that private institutions enjoy autonomy. In this respect, Pilar mentions: "I think there is no autonomy in private universities". Fernando also explains that private institutions do not enjoy autonomy, as they are dependable of the owner's decisions; hence, the academia does not govern the institutions, coinciding with the findings of Levy (2012). Fernando mentions:

But the concept of autonomy is more rigid than that. I can have different capacities of acting, but in the moment that there is a conflict, the owner of the capital or of the university imposes his will. That does not happen in a public university.

However, other participants disagree and do consider that private higher education institutions enjoy autonomy. These participants conclude that the concept of autonomy is not well understood in the country. Karla, for example, after analyzing the 3rd article of the Constitution, which conceptualizes autonomy, concludes that higher education institutions enjoy autonomy in many aspects:

I think that if we take the 3rd article of the Constitution as a reference, private higher education institutions enjoy autonomy. That is, we govern ourselves, we manage our resources, we establish our selection criteria. Which students we pick, which professors; we design our curriculum. The Ministry of Education doesn't tell you to use something or apply something. On the contrary, I think we enjoy autonomy.

Other participants agree that private higher education institutions enjoy autonomy, but they emphasized that this is mainly for their financial and organizational activities, as they still have to comply with the legislation in the academic activities, but such has been mentioned by Narro (2011), who asserted that autonomy also means complying with the law. Hence, these participants mention that autonomy in private institutions is "only for their internal administration" (Francisco). They also used terms as "internal ability" or "management autonomy". Pilar summarizes this perception: "they could be autonomous because they make their own money, but for me they are not autonomous in the sense of the law".

Different degrees of autonomy. It has been mentioned that there is a differentiated regulation in Mexico (Agreement 17/11/17: Secretaría de Educación Pública, 2017a; Álvarez, 2011; Rodríguez, 2004a, 2006,

2008a, 2017a, 2017b, 2017d; Rodríguez & Ordorika, 2011), and therefore, private institutions enjoy diverse degrees of autonomy. All the participants coincide that the autonomy that one institution has, depends on how much it is regulated. So, either an institution enjoys the regular autonomy, more autonomy due to the simplified administration, or even more when the RVOE is granted by presidential decrees.

Participants agree that there are many benefits from enjoying the simplified administration, which include less reporting, less bureaucratic procedures and less time consumption. They also coincide with Álvarez (2011), Rodríguez (2004a, 2006, 2008a) and Rodríguez and Ordorika (2011), that this autonomy is granted to the institutions that have proved over the years that they carry out transparent procedures, and that they comply with the regulations. Participants use terms such as “skip some processes” and “broad autonomy” to define the benefits, and concur that one of the main differences is the degree of supervision. They mention that supervision is “much more tenuous”. In this regard, Karla explains:

Obviously, there are many [differences compared] with the ones that do not enjoy the simplified administration. There are, for example, you have to take everything like all your students' incorporations, you have to take all certifications and leave them there until an official signs them, and that can take until 6 months. That is, that is the difference with the simplified administration, between those institutions that enjoy it, and those that do not.

Similarly, Benito also agrees that the institutions that enjoy the highest degree of autonomy, almost face no constraints by the regulations:

Since the 279 agreement, and now with the new agreement, the Program for Improvement of the Institutions, an institution in the third level, which is the highest, enjoys like a 90% of self-management autonomy. The only thing that remains as a faculty of the state is what we call the authentication or the legalization of the documents. The rest, practically the state doesn't know anything of what is happening until they legalize the degree. [...] there is a broad, broad autonomy of management. Of course, it cannot have its own laws, but it has its internal regulations.

However, when comparing the simplified administration with the presidential decrees, not many differences were perceived by the participants. Participants consider these presidential decrees as “something outside the legislative power”, granted by the president. They point out that these institutions also get the RVOE, but the conditions for it vary from one institution to another, as it depends on the agreement that has been done between the President of the Republic and the institution. This coincides with the findings of Cossío (2006), Serna (2006) and de Garay (2013). Participants agree that the benefits of these presidential decrees consist in enjoying more academic autonomy like the capacity of issuing their own academic degrees without needing the authentication from the Ministry of Education, or the benefit of being able to teach a program in multiple campuses without needing several RVOEs. For the other institutions, each program, in each campus, needs a new RVOE. Nonetheless, participants recognize that they still have to comply with the regulations. For example, Karla mentions: “at the end we need to comply with the same things”.

In conclusion, not all participants agree that the degree of freedom the institutions enjoy to carry on their activities can be considered as autonomy, as the concept in Mexico seems not to be well understood, and takes as a reference the Constitution's constraint that this is only granted to public institutions. However, going through the activities that the 3rd article refers when granting autonomy, it could be said that private institutions enjoy autonomy in some way. As there is a differentiated regulatory policy, some private institutions enjoy a higher degree of acting possibilities, as there are less a posteriori mechanisms used to regulate (supervisions and reporting).

IV. 5.4 The financial dimension

It has already been said that the financial dimension refers to the financial self-sufficiency of an institution, and that private higher education institutions in Mexico are characterized by the investment of private resources, including the tuition fees. This category includes few regulations to the financial dimension, high financial autonomy and reasons for having a high financial autonomy.

Few regulations to the financial dimension. Participants agree that the tax collector is the regulator of this dimension, as for-profit institutions have to pay taxes. Such information coincides with Miranda and González's (2015) findings. Most of them just referred to the "tax collector", "SAT" or the "Ministry of Finance" as the regulatory authorities, while others differentiated between the income tax and the social security tax managed by the "*Instituto Mexicano del Seguro Social*" or the Mexican Institute of Social Security. Some of the participants also acknowledged the responsibility of the institutions of giving certain percentage of the profits for scholarships, as established by the law. For example, José Manuel summarizes the regulations:

A private for-profit institution has, in addition to the income tax, the tax of the scholarships, that, even though the state doesn't receive the money directly, it gives it back to the users as it is commanded by the state; in that sense it is like a kind of tax. [...] let's say that that is the only legal obligation, that you give the 5% of the profit you make as scholarships, [and] 32% of tax income.

This coincides with the findings presented in Table 13 "Degree of autonomy of the private higher education institutions (semi-independent) in Mexico and the regulations that constrain it" based on the analysis of the policy documents (Secretaría de Educación Pública, 2017a). However, from José Manuel's comment, we can see that he emphasizes that those responsibilities are for for-profit institutions, distinguishing between for-profit and non-profit institutions, where for-profit ones have to pay the taxes. Regarding the non-profit he mentions: "non-profit higher education institutions, for the reason precisely of being non-profit, they are exempted from paying taxes [...], which conditions the institutions to not having profits, in order to reinvest all the money for the purpose that is being sought". This coincides with the findings of Geiger (1998,) who had mentioned that being non-profit ties an institution to reinvesting all its profits in education.

High financial autonomy. The participants of this study perceive a high degree of financial autonomy, as there are few constraints to this dimension. They use phrases as "there is freedom to administer their resources", "capacity of self-determination of their resources", and "manage" or "use economic resources as they please", as long as they have fulfilled their responsibilities of paying taxes (if for-profit), paying to their employees, and granting the 5% of the profit in scholarships. These definitions coincide with the one of financial autonomy presented by Grau (2013) and Estermann and Nokkala (2009).

Participants also enumerate some activities where this financial autonomy is enjoyed: the ability to determine their sources of money, or being "self-sustaining" as recurrently mentioned, the capacity to decide on the amount of tuition fees they want to charge, the possibility of investing in the stock market, and the capacity of creating the legal entity. Francisco explains the benefits of being able to decide what kind of legal entity the investors in private higher education want to constitute:

Perfectly, a university can invest in whatever it wants, first, and second, this is the most important, this is the most important, they have the possibility of establishing themselves as they think it is the best for them. That is, that a legal entity is established to create a university. And this legal entity can get its resources from the

people or from the stock market. That is, a group of persons can create a legal entity that can be non-profit or for profit, having the possibility of earning money through the stock market.

Hence, comparing with the tendencies of the financial autonomy presented in section II. 2.4 “The specificity of autonomy for the private higher education” based on the findings of Bennetot and Estermann (2017), Estermann, Nokkala and Steinel (2011), Estermann and Nokkala (2009), Bernasconi (2011), Fielden (2008), Geiger (1988), OECD (2003), and Levy (2011), private higher education institutions in Mexico seem to enjoy a higher degree of autonomy in the financial activities than the trend explored.

Reasons for having a high financial autonomy. As the resources invested in the institutions come for private investment, most of the participants perceive there should not be more intervention from the state in this regard. They concur that the state “shouldn’t take part” and that they should enjoy financial autonomy because their resources are theirs. These participants agree that private institutions are like any other private business and, therefore, they should be treated as so, with the general limitations that are imposed to these. They agree that private institutions have to carry out many activities like charging tuition fees, or receiving donations to earn the resources they need to survive and hence, if the money is “lawfully earned”, they should enjoy economic freedom. Also, one of the participants considers it is very difficult, in reality, not to invest in the institution, as investment is always needed to maximize the profits.

In contrast to these opinions, for one of the participants there should be another regulation, a legislative instrument that assures that the minimum necessary resources are invested in the institutions, at least when it is established, to assure they have the minimum infrastructure required to operate. He mentions:

I think that other aspects should be regulated, but in a minimal way, in a minimal way. I think that there should exist a law, for example, that would guarantee that you have a determined amount of economic resources, so you are able to cover the initial costs and have a specific infrastructure which is essential for the university (Francisco).

To conclude the financial dimension, it can be seen that private higher education institutions suffer little constraints in this regard, which include the taxes and the scholarship percentage they have to grant. Regarding the other activities that are included in the financial dimension, they enjoy a high degree of autonomy. Participants seem to agree, in general, that there is no more need for regulatory mechanisms in this perspective.

IV. 5.5 The organizational dimension

The organizational dimension refers to the capacity of an institution to organize itself, making its own decisions regarding its governance and structure. This category includes the technical regulatory mechanisms, the high degree of organizational autonomy and the perceptions about the high degree of autonomy.

Technical regulatory mechanisms. The participants of this research do not perceive many mechanisms that regulate the organizational dimension. They only acknowledge some departments or requirements that, by law, the institutions have to have like “a library” and “*Servicios Escolares*” or School Services, department that is in charge of the relationship between the Ministry of Education and the higher education institutions, making sure the institutions comply with the law. This coincides with the findings presented in Table 13 “Degree of autonomy of the private higher education institutions (semi-independent) in Mexico and the regulations that constrain it” based on the analysis of the policy documents (Secretaría de Educación Pública, 2017a). However, the participants did not point the necessity of needing the approval of

the internal rules and procedures, or of the mission and goals of the institution, which might lead to think that this is a process that is carried out when the institution is established.

Participants agree that this regulation is meant to assure the “school management”, “the compliance with the law”, “the administration”, and that there is an “organizational structure” in the university. Nonetheless, they also point out that this structure can be adapted to the particular needs of the institution. In this regard, Karla mentions:

To have an administrative department, to have schools, faculties, academic units; but no, there is not really something that constrains you from organizing your university as you want. There are some rules, of course, something you have to have [...]. But that's it, let's say, the structure, you can have one staff or 10 and so on, it depends on the needs of your institution.

This coincides with Estermann and Nokkala (2009), who assert that enjoying organizational autonomy means exercising institutional leadership and deciding on the leadership model. However, other participants as José Manuel, mention that most of the departments or positions that an institution has to have, derived from the constraints that any other private business suffers. He claims:

In general, at the organizational level, there are no limitations other than those that are common for any other private institution in the country. For example, [...] regarding the topic of paying taxes, well, there has to be a person specialized on that topic in the organization. In that sense, let's say, the regulation creates the need to some positions that are intended to meet the demands that the state imposes to private institutions. In the same way, the School Services department is also there to satisfy the state's regulation regarding the educational activity.

High degree of organizational autonomy. As few limitations derive from the mechanisms that regulate the organizational dimension, the participants perceive that there is a high degree of autonomy. Participants describe the organizational autonomy of the Mexican private higher education institutions as: “they can be organized as they please and nobody tells anything” (Pilar), and “they govern themselves according to their laws and according to their governing bodies” (Francisco). This corresponds to Estermann and Nokkala's (2009) and Grau's (2013) definition of organizational autonomy. And, comparing with the tendencies of the organizational autonomy presented in section II. 2.4 “The specificity of autonomy for the private higher education” based on the findings of Bennetot and Estermann (2017), Estermann, Nokkala and Steinel (2011), Estermann and Nokkala (2009), Bernasconi (2011), Fielden (2008), Geiger (1988), OECD (2003), and Levy (2011), private higher education institutions in Mexico seem to enjoy a similar degree of autonomy in the organizational activities than the trend explored.

Perceptions about the degree of organizational autonomy. In this regard, participants have different perceptions, while some agree that this degree of autonomy is necessary, others recognize that other regulations are needed. Participants that concur that there is no need for decreasing the organizational autonomy and increasing the regulation, consider that this autonomy is the one that distinguishes a private from a public institution. They mention that the organizational autonomy helps the institutions operate according to their philosophy and to solve their problems as they take place. For these participants, this capacity is an asset that helps the institutions distinguish between one another, and from the public institutions. They value the “freedom of association” that it grants. Benito's comment clearly reflects this position: “I think that the internal situation of the institutions and their government, in fact, the internal management of the institutions, is an exclusive faculty of the institutions”.

On the contrary, other participants recognize a need of more regulatory mechanisms. These participants perceive a need for regulating the distribution of power in the governing bodies of the institutions, so that a person's unique decision does not affect a whole institution. Therefore, they agree that it should be regulated that institutions have a "council" for making the decisions. In other words, they support creating regulations to assure there is a council that makes the decisions of the institution and not a single person, regarding the selection of the leaders and the use of the financial resources. For these participants this regulation would avoid: "making financial decisions that can hurt the university" (Isabel), "that the rector is a prestigious person, and that hasn't committed a crime" (Francisco) and the "finger pointing" of the leaders (Margarita).

In conclusion, the organizational dimension is constrained by a technical regulation that includes creating specific departments and positions for assuring compliance with the requirements established by the law. Private institutions enjoy a high degree of autonomy as they can structure themselves as they think it is more adequate, they can make their own decisions, and they can select their leaders. Some participants recognize this degree of autonomy as appropriate for the institutions to carry on their responsibilities, but other participants perceive that the distribution of power of the governance bodies needs to be regulated, as well as the probity of the people that create and govern these institutions to assure the good use of the invested resources.

IV. 5.6 The staffing dimension

The staffing dimension refers to the capacity of an institution to hire its own staff and to establish its employment conditions. This category therefore includes: technical regulation, perceptions about the degree of staffing autonomy and high degree of staffing autonomy.

Technical regulation. The participants of this study agree that there are some a priori regulations that institutions need to comply with, which include some technical requirements specified in the Agreements and the "Federal Labor Law". Relating to the technical requirements, the participants mention that they have to comply with the degree level. Participants use terms like "minimum degree", "certain academic degree", degree "according to the degree level where they will be teaching", "papers" and "experience" to refer to the requirements needed by a professor. Participants also agree that these requirements have decreased over the years, especially with the new agreement, the 17/11/17, which grants more autonomy to the institution. For example, Benito mentions: "the professors' requirements, today, with this new agreement, have been suppressed. In the 17/11/17 there is nothing left of these requirements. In fact, all the responsibility is given to the institution". This coincides with the findings presented in Table 13 "Degree of autonomy of the private higher education institutions (semi-independent) in Mexico and the regulations that constrain it" based on the analysis of the policy documents (Secretaría de Educación Pública, 2017a).

Nevertheless, participants also make an important distinction when mentioning that these requirements in the regulatory mechanisms focus on the academic staff and not on the administrative one. For example, Fernando mentions: "the administrative personnel does not concern to me as much as the academic staff".

Other participants point out that quality assurance mechanisms are the ones that set up more requirements to be fulfilled in the staffing dimension. However, it is important to remember that these are not mandatory.

High degree of staffing autonomy. Participants of this study perceive that institutions enjoy a high degree of autonomy regarding the staffing dimension, as they are able to carry out many activities without facing

too many constraints. They use phrases as “they have a lot of freedom” and “you are the one responsible” of your employees, to describe the staffing autonomy. Participants also enumerate some activities where this staffing autonomy is enjoyed: hire the personnel they desire, establish contractual relationships that benefit both parties, decide on the number of employees, and “classify their academic staff” according to their needs, coinciding with Estermann’s and Nokkala’s (2009) definition of staffing autonomy. For example, Francisco mentions:

Regarding the administrative and academic staff they have a lot of freedom, also regarding the functions of their academics. They can classify their academic staff in different ways and they can have contracts of different natures with them. They can have as many employees as they want [...]. They can hire the professors they want.

Some participants also point that there is so much flexibility, that sometimes an institution does not need to comply precisely with all the requirements established in the agreement, as there are some other processes like the equivalence, that grants institutions the possibility of hiring an academic staff that does not have the document that certifies the degree of studies that is needed to teach in a specific level.

Margarita explains this:

There is an agreement [...] that says, look: you don’t have to have your documents, you don’t have to have a document that says that you have bachelor’s or master’s studies, but I can make you an equivalence of contents. I can make an equivalence of documents and then, I can hire a professor that doesn’t have the document.

Comparing with the tendencies of the organizational autonomy presented in section II. 2.4 “The specificity of autonomy for the private higher education” based on the findings of Benetot and Estermann (2017), Estermann, Nokkala and Steinel (2011), Estermann and Nokkala (2009), Bernasconi (2011), Fielden (2008), Geiger (1988), OECD (2003), and Levy (2011), private higher education institutions in Mexico seem to enjoy a higher degree of autonomy in the staffing activities than the trend explored.

Perceptions about the degree of staffing autonomy. The participants of this study have different opinions regarding the level of autonomy enjoyed by the institutions in their staffing dimension. One participant considers that this high degree of autonomy in selecting the staff can lead to recruit according to friendship rather than merits. However, most participants see the positive and the negative aspects of this regulation and level of autonomy. Regarding the positive characteristics, they perceive the regulations generally as “reasonable”, but concerning the negative ones, they consider that it is too much responsibility granted to the institution, and that that could be an issue when speaking about a low quality institution. Participants worry about institutions that “do not invest in their staff”, that “do not train them”, that “do not fulfill the requirements” (Karla) because the one affected is the student. In other words, they consider that, clearly, the regulations are designed in the way that the institutions are completely responsible for their staff, because the decisions the institutions make, regarding them, affect the quality of the service they grant. Then, if an institution is prestigious and responsible, they make a lot of sense and are appreciated, but if one is a low quality institution, they are not so convinced. Benito illustrates this position:

It is something good, on one hand, if we speak about a serious institution [...], well, it has the responsibility to hire its professors, but, if we talk about a university that is just a business, [...], and they are giving this institution the responsibility of selecting its professors, well.

Other negative aspect that they point out, is that the regulation does not consider exceptions and, therefore, sometimes, in some particular cases, it can be illogical. For example, José Manuel mentions: “there could be a case where there could be a lot of quality, independently of the degree level that the professor has”, referring to the fact that a degree does not precisely guarantee the highest quality.

In conclusion, the staffing dimension is constrained by a technical regulation that consists, mainly, on having a specific degree. Therefore, private institutions in Mexico enjoy a high degree of autonomy in this regard. Participants have mixed opinions about this degree of autonomy because, even though they appreciate its high degree, they worry about the quality of the teaching in the low quality institutions when such degree of freedom is enjoyed.

IV. 5.7 The academic dimension

The academic dimension refers to the educational act. This category includes many a priori regulatory instruments, perceptions of the regulations to the academic dimension, medium degree of academic autonomy and accreditation mechanisms.

Many a priori regulatory instruments. The participants of this study commented that the academic dimension is the one that is the most regulated of all the dimensions, and they stated different instruments that regulate this dimension like the “legal rules”, the “individualized legal acts”, the “requirements”, and “the inspections”. Participants coincide that the main constraint needed to get the RVOE are the basic requirements, as well as the approvals. Also, most participants detail this list of requirements that the authority requests for getting the RVOE which include: the number of hours and the number of credits according to the level of the program, the pertinence and content of the program, the teaching strategies and the evaluation methods of the course. Margarita summarizes this information mentioning that they review and approve the curriculum, in addition to the personnel’s characteristics that have already been mentioned before. She says: “those are the things the RVOE requests: curriculum, and academic staff”.

However, José Manuel points out that there is a general academic regulation, but for some specific programs, like Medicine, other regulations take place, as they are not only regulated by the Ministry of Education, but also by the Ministry of Health. He mentions that those regulations are much harder to fulfill:

There is a core in which someone is coerced or limited particularly, this happens in all the programs. But in those of the health disciplines, this is more complicated, because then you not only have the academic regulation but also the regulation imposed by the Ministry of Health, which is stricter than the academic regulation; here you have interinstitutional committees that approve each program. So, sometimes, the Ministry of Education approves the program, but when it gets to CIFRHS, it is denied.

Finally, as it has been seen before, institutions can operate without RVOE; nevertheless, the participants stress the importance of it, as it is the only way to get a degree that is certified by the authority and the professional license. Therefore, it is the only one that is valid at the end. For example, Carmen states: “it is worthy that it has been registered. The professional license is what it is worthy, [...] the professional license, that is what endorses you as a professional”.

All these findings coincide with the ones presented in Table 13 “Degree of autonomy of the private higher education institutions (semi-independent) in Mexico and the regulations that constrain it” based on the analysis of the policy documents (Secretaría de Educación Pública, 2017a).

Medium degree of academic autonomy. As it has been mentioned, there are some constraints that the institutions face in the academic dimension. Therefore, participants perceive mainly academic autonomy in

the educational process itself, where they consider institutions enjoy high degree of academic freedom. In addition to this academic freedom, participants enumerate different activities where the academic autonomy is enjoyed. These include, deciding on their educational model, freedom of expression, capacity to decide their teaching strategies, and the ability of selecting their own students. They use phrases such as “the state never tells you “and “can freely decide” to emphasis the academic autonomy enjoy in these specific aspects. However, participants also perceive some limitations in this dimension of the autonomy, especially in the creation and the structure of the curriculum. Francisco, for example, mentions: “I think that the academic autonomy is indeed limited in terms of content determination and, in the organization of the curriculum”.

Positively, participants point out that the degree of academic autonomy has increased over the years, especially with this new Agreement 17/11/17. Hence, most of the participants agree that it grants more freedom in the creation of the curriculum of the academic programs. Karla explains that now, institutions have the capacity to choose the didactical model they want to follow, instead of having to comply with the one the Ministry of Education has decided. She mentions:

The 279 was less flexible, for example, in curriculum design, because they had to be based on the behavioral approach. Taba, Tyler, you had to use Bloom’s taxonomy for your objectives. You couldn’t use another approach. [...], but now, it gives you more options as to curriculum approaches. It doesn’t force you to use competences, or to be oriented to the learning outcomes, now you choose; you choose your goals, your purposes. As you wish. The only condition is that what you tell them you will be teaching, you actually teach it.

Perceptions of the regulations to the academic dimension. The participants of this study agree on the need of an academic regulation to guarantee the quality of the system, and they understand that it is the dimension that faces the most constraints in its autonomy. For example, Francisco mentions that the regulations focus on the academic dimension because it is the nature of the higher education institutions:

Those institutions, what do they do? They provide teaching services. So what do you need to regulate? Not that they have a lot or little money for establishing themselves, that might seem not important, might, might seem not important. What is the important thing? It is not the only one, but what is the most important thing? That the institution does well its job. Which one? Teaching. And what does it have to do to teach well? Well, there are certain characteristics, certain curriculum, and certain quality in its structure. Apparently it is not important, as I was telling you before, that the law regulates other things like the resources of the legal entity, or the quality and morality of the people that integrate the legal entity that form the university or any educational institution because what is really important is that they are good educational institutions.

As can be seen, this coincides with the findings of Henkel (2005), Grau (2013), González (2004) and Neave (2012), who suggest that the academic autonomy is the core dimension of a higher education institution. Nonetheless, most of the participants agree that the academic regulation is focused on the technical aspects, failing to guarantee the quality. On this regard, they use expressions like “it doesn’t guarantee you anything”, “it does not guarantee quality”, “it’s very easy!” to describe the regulatory policy, coinciding with authors like Rodríguez (2004a), Silas (2008), Acosta (2011), Cuevas (2011a), de Garay (2013), Álvarez (2011) and Buendía (2016). Participants also describe the requirements like “techno-pedagogical” and “not very difficult to achieve”. Other participants consider that the regulation is meant to assure the minimum degree of quality. They describe the policy as the one that “sets up the minimum requirements”.

Most participants emphasize the role of the institutions, and their responsibility in not to remain in the minimum requirements, but always to go further to achieve high quality. Pilar asserts: “I think that a

university, a prestigious higher education institution, self-imposes it [quality]”. José Manuel also comments that the role of the persons that form the institutions, their honesty, their ethics and their engagement to the educational activity are key to achieve quality:

Something that cannot be regulated by an external regulation, that there has to be the commitment from those who are there. At the end, let’s say, I have thought about it before, personal honorability is better than the legal regulation, and then having a personal commitment.

Accreditation mechanisms. As it has been said before, most participants agree that the RVOE does not assure quality and therefore accreditation instruments help in this regard. Participants agree that this regulation goes beyond the minimum requirements, reviewing many aspects of the institutions and the programs, and being less flexible. They concur in describing accreditation as “stricter” than the mandatory instruments, as they check in detail the different operational dimensions of an institution. Participants mention that accreditation agencies “check you everything”, and that their indicators are based on what is considered a quality education. Isabel summarizes this:

These national and international accreditation agencies, based on certain guidelines and parameters, tell you if you meet or not what is considered to be the quality in education; they do not only check the curriculum, but the organizational aspect; they check that there is a structure, that you have all the economic resources, that you have good libraries, and so on. That is, they check everything. That is, the organizational aspects, the academic dimension, the research structure, everything from the school or faculties is reviewed, and then they come to verify it.

Some participants agree that accreditation is a way in which higher education institutions have organized themselves to regulate the quality. They enumerate the accreditation agencies: “FIMPES”, “ANUIES” and “the accreditation agencies of COPAES”. They describe them as auto organizations or associations of professionals that help protect themselves and protect the quality of the discipline, coinciding with the findings of Table 7 “Classification of regulatory mechanisms” based on Howlett’s (2011), Cohn’s (2011), Gilardi and Maggetti’s (2011) and Malyshev’s (2002) research, where delegated professional regulation is also a type of regulatory mechanism. Carmen, for example, describes accreditation agencies as a “guild” meant to protect the disciplines. Participants explain that these accreditation agencies are “private” organizations because they do not belong to the state. For Benito, being private agencies is the main reason why they are voluntary mechanisms but, for him, this is an advantage, as they are isolated from the perversity that the state can have:

For me, that is very wise. Generally when the accreditation is mandatory, the one responsible for the accreditation is generally an organism from the state, then that becomes perverse. [...] Accreditation agencies have nothing to do with the state’s structure.

Starting from this, participants perceive different roles that the accreditations play in the Mexican society. Some consider accreditation assures that the academic programs are relevant to the society’s needs, and that the institutions have the capacity to grant a program. Others view it as the mechanism to achieve the administrative simplification and be less regulated, while they also help get the RVOE much easier. For example, Benito mentions:

With this, you can participate in a certain degree of simplified administration, as the agreement grants it [...]. In the agreement 17/11/17 it says that if an accreditation agency has made an analysis of the academic program before getting the RVOE, they don’t get the RVOE immediately, but this facilitates the evaluation process of the academic program and the curriculum.

Most of the participants also point out that they help differentiate quality institutions from the rest by giving prestige and distinction, as Silas (2005b), Acosta (2012), and Buendía (2013) had anticipated. This is pointed out by José Manuel when he mentions: “for other institutions in Chalco or Chimalhuacán that are accredited by FIMPES, this is a way of showing that they have a better quality than those located in front of them”. Margarita also explains that being accredited is essential for being considered a quality higher education institution. She mentions:

For being considered a high quality university and not *patito*, you have to be in FIMPES, in ANUIES, and at least one of your programs should be validated by one of the accreditation agencies of COPAES. This is one thing, although it is not official, if you are not accredited, your university is not considered of quality.

As can be seen, participants also recognize that accreditation is a voluntary mechanism. In this regard, they use terms such as “voluntary” and “not mandatory” to describe this policy, as Cuevas (2011b) and González (2012) have already pointed out. Hence, Pilar explains that the participation in the accreditation processes depends on the heads of the institutions: “you decide to get accredited because your leaders decide it”. Participants recognize that there is a low participation in the accreditation processes. Karla, for example, mentions:

We talk about the number of universities, that there are thousands; that is, I think there are 800 public universities: federal, national, and from the states’ systems, plus the CONACYT centers, and adding all the technologic institutions, that those are around 200, and then there are 2,000 and something private universities. At the time I researched the topic, only 35 of those had been accredited by FIMPES.

Benito also puts an example of the low participation, when giving numbers of the programs that have been accredited in the field of education: “there are 1,500 programs in education at the university level that have to do with forming professionals on education, including the normal schools. And, out of this, María, only 59 are accredited”. He mentions that, in many cases, this is because they are small institutions that do not have the proper infrastructure to get accredited: “evidently this is due to the lack of infrastructure, but not necessarily due to the lack of quality [...]. It requires a lot of resources to be at the third level. A very strong institution in the academic and the financial aspects”.

This low participation coincides with the findings of Cuevas (2011b), González (2012), de Garay (2013), Rodríguez (2017c) and Álvarez (2011). Some participants consider that this low participation in accreditation processes is due to the fact that it is not a priority in the Mexican higher education system. Carmen, for example, states: “there is such degree of other needs, that is the truth, that the last priority is the accreditation”.

In short, the academic dimension is the most regulated by the Mexican authorities. Instruments like the legislation, the agreements, the RVOE, basic requirement lists and approvals are used, as it can be seen, and most of them are a priori mechanisms. Participants perceive the most constraints in the creation and the opening of new programs, and in granting valid degrees, as other activities were not addressed. However, they acknowledge that more autonomy has been granted recently in the creation of the curriculum. They also perceive accreditation as the mechanism that helps assure quality and that gives prestige to institutions. Nonetheless, they acknowledge the low participation of the institutions in this instrument, as the accreditation is voluntary.

IV. 5.8 Problems of the regulatory policy

The participants of this study pointed out many problems that derive from the current regulatory policy and the tension with the autonomy. These include: general problems of the regulatory policy, problems of the a priori mechanisms, problems with a posteriori mechanisms, problems with the enforcement of the regulation, and responsibility of all the actors involved.

General problems of the regulatory policy. The first problem that the participants of this study perceive, is that the regulations are not designed for assuring quality. The participants' comments regarding this issue include "regulation is not based on quality" (Margarita), and they coincide that this is mainly due to the fact that quality is not yet defined. Participants mention that the problem of not assuring quality, is the lack of understanding of the concept, as this still has not been operationalized mainly because it is an abstract term. Therefore, it is difficult to be measured. The perception of the policy not focused on quality, coincides with the findings of Rodríguez (2004a), Silas (2008), Acosta (2011), Cuevas (2011a), Álvarez (2011) and Buendía (2016).

Another general problem that the participants mention is the fact that there are multiple authorities that regulate the system, coinciding with the findings of Rodríguez, (2004a; 2008c), Muños and Silva (2013) and Blanco (1994), and with the ones of Le Galès (2011) who points out that policy failure is closely related to the numerous actors that interact. One participant describes this using the term "mess". Some participants agree that having multiple authorities has increased corruption, because there is always one authority that is more permissible than others. Participants point out that this is specially a problem at the local levels. In this regard José Manuel mentions: "many patents [RVOE] at the states' level are given to former officials who open their institutions in their entities". Pilar agrees with him and, especially when there is a friendship involved:

The RVOE is granted by the autonomous university of the state and then, they have neighbors, friends, *compadres*⁴⁴, etc. that make business with it. That is what is happening; it is not granted by the Ministry, the autonomous universities can also grant it.

Problems of the a priori mechanisms. The participants perceive several problems in the mechanisms used to regulate private education before the educational act takes place. Some participants perceive these regulations as being very technical, and hence, not designed to measure the essential things. They describe the a priori instruments as "flexible" and "lax", as they consider there are not many requirements needed to fulfill for opening an institution. Specifically one of the participants considers that this is the cause of the proliferation of low quality institutions. She mentions: "I think that the problem of it being so lax, the norms, right?, is that these inadequate institutions keep on proliferating in Mexico" (Margarita). For her, opening a taco restaurant is more difficult than opening a higher education institution. This coincides with the findings of authors like Rodríguez (2004a), Silas (2008), Acosta (2011), Cuevas (2011a), de Garay (2013), Álvarez (2011) and Buendía (2016). In contrast, for other participants like Benito, it is not that it is an easy process to get the RVOE, but the experience one gets, makes it very easy at the end to get many RVOEs:

Let's say that I don't think it is an easy process [...]. What happens is that you become an expert in the process, the same, there is a learning process on how to obtain a RVOE, you learn the way and then it is easy.

Participants also agree that the law does not prohibit an institution from offering a program without the recognition, as long as it is mentioned in the publicity, as was seen when analyzing the policy documents

⁴⁴ Mexican term used to designate a very good friend, that usually is appointed as the godfather of one of the kids.

(Agreement 17/11/17: Secretaría de Educación Pública, 2017a; The General Law of Education: Cámara de Diputados del H. Congreso de la Unión, 2005 as amended 1993), and as González (2012) had pointed out. They agree that these institutions “are not breaking the law” (Francisco). Some participants seem to sympathize with this legislation and the lack of sanctions for granting a program without the RVOE, as long as it is mentioned to the students before they enroll. For them this is not a punishable action, because the institutions are not deceiving anyone. Students decide to enroll knowing the fact that their studies are not valid. For example, José Manuel mentions:

If an institution grants an education that does not have the Official Validity of Studies and it recognizes this fact, it is not deceiving anyone and will grant a degree that will be endorsed by it. What validity does that have? The validity that other people give to it by offering or not offering a job to that person that has been granted the degree.

However, some other participants consider that there is miscommunication in this regard. One participant asserts that most of the times students are not aware about the policy of the RVOE and the characteristics that a program has to have to really be an academic program. Therefore, students do not ask before enrolling to an institution if the program has the RVOE. The participants also point out that not having the RVOE is not only a problem of low quality institutions. Some participants acknowledge that, some times, institutions want to save time in the process of getting the RVOE and they began granting a program without having the recognition because they depend on the tuition fees to survive. Concerning this issue, Margarita shares her personal experience; she studied a master’s program in a prestigious institution to find out, when she was graduating, that the RVOE was still in process:

I studied my masters at [omitted name], let’s say, it has prestige. That’s it, it is not the university around the corner. It has campuses all around Mexico. It has campuses in the whole world. When I enrolled to my masters, I never thought about asking if it had RVOE, and my masters didn’t have RVOE. [...] that is, it has happened also to the quality institutions.

Despite this fact, some participants point out that, in most of the cases, the students that study programs without RVOE at those low quality institutions are “retired” people that want to increase their knowledge in a topic in a simple educational experience. Hence, they consider that this is “valid, and that that shouldn’t be restricted nor controlled by the state” (Fernando).

Most participants also recognize that the law does not contemplate many sanctions when an institution does not comply with it. Similarly, de Garay (2013) had mentioned that sanctions are not clearly specified for private higher education providers. This is a problem of the under regulated systems, as Baldwin, Cave and Lodge (2012) had commented, where the regulation is so loose that undesired actions escape the constraint without any serious consequences. In this regard José Manuel mentions:

The fact is that the mechanism of incrimination, of incrimination is missing. [...] If I have RVOE and I do not fulfill the requirements that the RVOE establishes, why is that not sanctioned? Well, on one hand, the law does not foresee many sanctions, and that limits the capacity to sanction. But, on the other hand, because it is also a political problem, that is, who will deal with the problem of closing a university.

All the participants of this study agree that the main reason why low quality institutions have proliferated in the country is the lack of capacity by the state to grant higher education to all the population. Hence, they agree that low quality institutions proliferate precisely because they grant access to the tertiary level, and closing or sanctioning them will be a political conflict. Participants consider these institutions give an “opportunity” and a “possibility” to a sector of the population that, otherwise, would be

left out from the system. They mention that they help the state satisfy a demand, they help “satisfy these needs”. Therefore, participants consider that this “regulation starts from the state’s recognition that it is unable to grant education to all. [The system] has not grown proportionally with the increase of the population” (Francisco).

In other words, they point out that the lack of access helps proliferate low quality institutions, as students have no more options to study a tertiary level because the high quality ones are expensive for them and the public system lacks the capacity to grant education to all. Participants agree that for the state, it is better to have those students studying there than to increase the unemployment level if it is unable to guarantee a job or a space in the public education system. Then the policy prioritizes the avoidance of this problem instead of the increase of the quality.

Also, referring to this political strategy, one of the participants mentions that institutions are not closed because of the dilemma of encouraging investment, coinciding with Levy’s (2011) findings. Fernando claims: “we are facing two opposing values: or a high quality education that reduces the possibility of investing in that area of the private institutions, or lowering the requirements and making it an interesting area of investment”. Benito also points out that it is very difficult to revoke the RVOE, the process is long, and complicated, and usually the institutions are favored in the final decision:

The process for the authority retiring the RVOE is much more complex than the one of granting it. And it can be a process, legally speaking, that can take many years, and that due to inefficiency or whatever, it is very easy for the authority to lose it [the trial].

Finally, regarding the a priori mechanisms, some participants perceive that they are very rigid and do not lead to innovation, as they are designed to structure the academic programs in a disciplinary way, rather than in a multidisciplinary one. Also, some participants mention that once the RVOE is granted, it is very difficult to make changes to a program, inhibiting changes and updates. In fact, most participants concur that one main problem of the regulation is that it does not request updates to the academic programs. Participants asserted that the RVOE does not need to be renewed and, in most of the cases, institutions do not update it for fear of losing it. Benito explains this issue:

And we find institutions that were granted the RVOE in the 70’s, in the 80’s, in the last century, and that is their curriculum today; they won’t change it because they are afraid that if they are supervised they will find out they don’t have the conditions to get it [RVOE] any more. [...] the RVOE is forever, and you don’t have even the obligation to update your curriculum.

Problems with a posteriori mechanisms. The problems with a priori mechanisms, and some of the reasons why they are designed in this way, have already been presented. Nevertheless, participants also point out some problems of the a posteriori mechanisms or those instruments that occur after the educational processes take place. All participants recognize that, in many cases, the actual educational act is different from what was handed in the paper to the Ministry of Education. For example, Margarita says: “one thing is the program that was approved by SEP, [...] and finally another thing is what you are teaching”.

Participants concur that there is a lack of a posteriori mechanisms use to regulate the system. They express that these mechanisms are “missing” or are “scarce”. In this regard, Francisco mentions: “there is a lack of other mechanisms that assure that there is compliance with the law”. Especially, all the participants agree with Kent (2004) and Canales (2016), that there are no supervisions to assure that institutions comply with the law, even though they are supposed to take place. Some participants mention that there is a “lack of supervision” and “follow-up”, others consider it is “sporadic” and “very, very sporadic”. In fact, Benito

mentions that supervisions only occur when someone complains that the institutions are doing something wrong:

It does not happen [...]. In fact, in the practice, the supervision only takes places when there is an evident problem in the institution. Then, or someone complains that they have committed an injustice. [...] even if you don't have the simplified administration. In fact, without me having the data, but from my experience, I can tell you that there are no supervisions.

All participants agree there is "a need of supervision", but they understand that the number of institutions is so big that it is a very difficult task. In other words, the number of institutions makes it a problem to supervise them all. Pilar mentions: "we need more supervision, and yet we are so many, so many, there are two thousands or more institutions". This coincides with the estimation of higher education institutions made by Álvarez (2011) and Rodríguez (2017c). The participants concur that one of the problems of supervising so many institutions is the lack of personnel in the Ministry of Education to carry on those supervisions. For example, Isabel mentions: "they lack personnel, that the Ministry of Education has little staff in the subdivision of higher education [...]. In higher education there are not many, they are not enough".

Some participants also add another problem to the lack of personnel, and that is the lack of competent personnel to supervise programs from very different disciplines, as they might not have the knowledge and the skills to do so. In this regard, José Manuel mentions: "I think the issue of supervision is about the issue of having personnel, but also competent personnel. Let's see, supervising a Masters in Tax Law. Let's see who will supervise you? With which authority? With which knowledge? To review what?". Benito concurs with him when he says that the personnel in the Ministry do not have the expertise in all the academic fields to regulate all the programs. He mentions:

We have a regulatory authority that does not have the academic capacity, and I think it is impossible to have it. The Ministry of Education receives over 1,700 requests every year for getting the Recognition of Validity; over 1,700 different programs, of course. Which regulatory authority has the capacity of evaluating seriously 1,700 curricular proposals? It doesn't exist in the world.

In addition to the human resources, some participants also concur that the Ministry of Education lacks the infrastructure and the economical resources to carry out the supervisions to all the great amount of institutions that exist.

Furthermore, participants perceive diverse problems of the design of the quality assurance mechanisms used to regulate the system. In first place, they understand why they are voluntary, and acknowledge that, in the way the policy is constructed, it cannot be mandatory because of the high costs they represent to the institutions. They describe quality assurance processes as "very expensive", and they consider most institutions "cannot afford them" as they would need "to invest a lot of money". Participants recognize that these processes are only affordable for prestigious institutions that charge expensive tuition fees. Therefore, they are not accessible for small institutions that have just started, that are willing to comply with the law and that are working hard to become high quality. They recognize that these institutions, at the moment, lack the economic resources to get accredited. Karla explains this:

Sadly these accreditation processes have an economic cost. There are some small institutions that have just been established and that have the will of doing things right, but at the moment, their recourse are limited to achieve survival and to fulfill the minimal requirements. These institutions might be very good, but they are very small, and they have carried out a great effort to assure the quality, but they might not have the economical resources to get accredited by an accreditation agency, maybe it will take them a while to have

the resources to do so. So, if you make accreditation mandatory to keep the RVOE, well they might not be able to do it now.

Some participants consider quality assurance accreditation processes are expensive because they are carried out by private organizations. Also, other participants perceive some problems that derive from being private. Some observe that, in order to survive economically, they need to accredit the higher institutions or their client will go away. Carmen says: “and then, if they do not accredit you, you go away”. In this sense, José Manuel also points out that there can be low quality accreditation agencies too: “as there are *patito* universities, there are also *patito* accreditation agencies”.

Other participants also consider that, in many cases, the quality assurance accreditation is not focused on quality. These participants perceive the accreditation process is focused in collecting “documents” and in technical requirements. For example, Margarita mentions: “if you make an analysis, they do not focus on quality”. This coincides with the findings of Buendía (2011) and Silas (2013) who claim that the academia perceive quality assurance processes as a checklist of indicators centered in technical issues. To this can be added that some participants perceive some of the recommendations given by quality assurance agencies as unrealistic to met, demotivating the process of reaccreditation. Carmen puts an example regarding a professor working on a veterinary academic program:

She tells me that the recommendation is that they build a hospital inside the university. But the university does not have the money for that. So, then [she says] we are going to get accredited now, but then, in three years, when they come to review again what we did, they will realize that there is not going to be a hospital. Then we are going to lose the accreditation.

Problems with the enforcement of the regulation. In addition to leaving without access to higher education to a sector of the population that has already been mentioned, participants also point out other reasons why the regulation is flexible, because, as José Manuel clearly mentions that the law is one thing and the reality is another thing: “you can see a clear gap between the law and what actually happens”.

First, most participants coincide that the regulations are not enforced because these institutions play a fundamental role in granting higher education to a sector of the population. Participants observe that these institutions take away the pressure of the government from its inability to grant access. Second, all participants agree that the subdivision of higher education at the Ministry of Education lacks the economic resources to guarantee compliance with the law. They consider there is not “enough money in the government”, and that there “has been little investment”, as higher education is “left aside” when making the budget for education. Therefore, Isabel, among the other participants, concludes that tertiary education “is given very little budget”.

Third, all the participants consider there is a lot of corruption in the system and that limits the enforcement of the regulations. They mention: “we have a very corrupt country” (Isabel) and “corruption definitely messes everything” (Pilar). Participants consider that ethics are missing in the system, as all the regulations can be violated by corruption if the people that are part of the system are not honest and honorable. Some participants mention that one of the main problems of enforcing the regulations, and where corruption is usually present, is the fact that sometimes the RVOEs are granted to ex public officials or to current officials making it difficult to sanction them. As, in many cases, these officials have a high influence in the political life of a community or at the national level, it might be “inconvenient” to sanction them or close their institutions. Also, in some other cases, participants acknowledge that there is a friendship among the university leaders and the public officials making it difficult to enforce the regulation. Participants simply say: “they are friends”, and that is a problem. Other situations that the participants

commented included that the RVOEs, sometimes, are granted as prizes to ex public officials, rather to programs that fulfill the requirements. Participants point out that in these cases, the RVOE is perceived “as a reward for their services”. Finally, one participant also acknowledges that, in some cases, the institutions’ leaders or their family members might have donated money to the government making it, once again, difficult to sanction: “there are certain favoritisms towards people whose parents donate a lot of money, then, those persons become untouchable” (Isabel).

However, all the participants recognize that corruption is not exclusively a problem of the state but a problem from the institutions and its individuals as well. Participants allude that some institutions “tend to lie”, and consider this as “terrible cases”. Some situations where this happens are the inspections, as institutions show only their best side when the inspector shows up, and therefore, the authority does not get to see the reality of what is happening in them. Another situation in which the institutions lie, is in the establishment of their legal entity. José Manuel explains this:

There are institutions that have a RVOE and a legal entity, and when they are going to be sanctioned, suddenly it changes because of the way the RVOE is granted. Then, how can someone that doesn’t exit anymore be sanctioned? So there are people that transfer the RVOEs from one legal entity to another.

In his statement it can be seen that institutions do many illegal things to avoid being sanctioned, complicating the capacity of the authority to do so. Other way of acting corruptibly is pointed by Isabel where the professors that are supposed to teach do not teach. That means that a person that has the credentials to teach because he or she fulfills the requirements, only lends his or her name for the institution to be granted the RVOE, but, at the end, this person will not be teaching. She says: “many times they don’t teach, that is, they give their names, they get the money, but they do not even know the students. They never show up, they never anything”.

Responsibility of all the actors involved. The participants of this study agree that all the actors of the education system have some responsibility on the failure of the regulatory policy. Some participants concur that the government does not fulfill its responsibility. They consider that it “it washes its hands off”. Karla, for example mentions that according to the Constitution, the government should make sure that the education granted is of quality, but that is not the case. She mentions:

The 3rd article of the Constitution establishes that the person has the right to receiving quality education. So as it is a constitutional right, the state has the responsibility to make sure all education is of quality. So, exactly, that doesn’t happen.

Nevertheless, other participants, are more positive about the actions carried out by the government. Some acknowledge that, at least, it informs in its website which programs have the RVOE and which have lost it.

Most of the participants agree that this lack of compromise is not only a problem of the government, but also the institutions have some responsibility. For example, Margarita claims: “the authority and the institutions both are to blame”. Karla assents with Margarita that some institutions are not even interested in creating a good curriculum, they only seek to fulfill the minimum requirements. She says:

There is no compromise from the institutions not even in designing a good curriculum. They really make things just to see if they get the RVOE, but they are not really conscious of what they want; sometimes they hand in the documents, and it is just a copy-paste for all the courses, the only different thing is the name of the course.

Participants point out that some institutions lack of compromise because they are only interested in the economic benefits, and they do everything to maximize the profit. For example, José Manuel mentions that there are some institutions:

In which if one wants to pay in cash, pays to a legal entity; if one wants to pay by check, pays to another legal entity; and if one wants to pay with credit card, pays to another legal entity. And here everything is arranged to make the most profit.

One participant also points out that the society does not help, because technical education is not well perceived in the country, so everyone wants to have a university degree. Therefore, it is better to have a degree by a low quality higher education institution than not having one at all. Then, these institutions have to do little to enroll students and, as the enrollment is assured, there is no need to become high quality.

Finally, participants agree that the most affected from this regulatory policy are the students, as they perceive it is very difficult for students from low quality institutions to get a job after graduation. Isabel states: “basically who gets affected there is the student [because, at the end], who takes care of them? Who helps them? That is, they are left alone”.

In conclusion, participants perceive many problems of the regulatory policy: the regulations do not focus on quality as they are very technical; the participation of many authorities leads to overlapping and gives more room to permissiveness; they are inflexible for innovation; there is a lack of a posteriori mechanisms to assure compliance; quality assurance mechanisms are expensive; and the enforcement of the law is a complicated task as the authority lacks the necessary economic and human resources, and there is corruption and lack of compromise from all the actors of the system.

IV. 5.9 Need of regulating

Even though many problems have been encountered in the regulatory policy, all the participants of this study agree that the private higher education sector in Mexico needs to be regulated. This category includes: quality assurance, student protection and the protection of the society

Quality assurance. First, all participants agree that private higher education institutions need to be regulated to ensure education is “equitable” and quality is assured in the system, as the Higher Education Commission (2013) had pointed out. They coincide that the lack of regulations can lead to granting degrees without even fulfilling the basic requirements of a minimum level of quality, including designing programs where students graduate after a short period of time, because this makes studies more attractive for them. Hence, participants consider that the lack of regulations can lead to an abuse and turn “into debauchery” of private institutions, where these private providers act as they please, prioritizing the business over the quality, and taking advantage of the public good that is education. For example, Pilar mentions:

Can you imagine they would get rid of that? The amount of bad establishments that would do things in a very clientelistic way. That you finish your master with 15 credits, [...]. That would make people believe there is a business. I think there must be a regulation.

Student protection. Regulations are also important to protect students, as some participants highlight. This corresponds with the findings of Geiger (1988) and Baldwin, Cave and Lodge, (2012). Participants clearly mention that regulations are meant “to protect the student”. In other words, they consider that they help

safeguard the students from institutions and people that might take advantage of them. José Manuel clearly mentions this: “it is necessary to create a series of rules that help minimize that abuse”.

Nonetheless, some participants consider that today, in many cases, the regulation is failing to do so. These participants emphasize that this should be one of its priorities. They consider the regulations today leave students “unprotected” as many low quality institutions “deceive” many of them. Isabel, for example acknowledges this failure:

You have a very big problem with all these students that studied, paid; they stole from them because someone got rich and they were left without, without, recognition of studies. [...] many low middle class families invest all their resources as they see a possibility, but instead of helping them, they steal from them.

Here she points out that these students trust the institutions but, at the end, they will not get a recognized degree. Participants emphasize that regulations should help reduce this problem and avoid the proliferation of low quality institutions.

The protection of the society. Some participants also perceive the important role of the regulations in avoiding low qualified professionals in the labor market. In this regard, Fernando mentions that regulations are needed: “to protect the society from a professional”. Francisco concurs with Fernando and explains why this regulation is needed, mentioning that there is a high risk that an unprepared professional performs a job for which the minimal knowledge and skills are lacking. He says:

The fact that these institutions exist, cause that people lacking the training, the skills, and the knowledge of a profession are incorporated into the labor market; they don’t even have the essential knowledge to carry on the simplest tasks of a profession. That is, they haven’t had a complete training, they haven’t deepened into the knowledge, they lack the necessary and sufficient knowledge needed for certain professions.

In short, it can be seen that participants recognize the need of regulating the private higher education sector to assure quality, to protect students from getting scammed, and to protect society from professionals that lack the knowledge and the skills to perform a specific profession.

IV. 5.10 Proposed recommendations

Participants of this study contributed to this research proposing some recommendations to improve the regulatory policy. This category includes: general recommendations to the regulatory policy, recommendations to the organizational dimension, recommendations to the financial dimension, recommendations to the staffing dimension, recommendations to the academic dimension, need of all actors to cooperate and need of balance between the regulations and the autonomy.

General recommendations to the regulatory policy. First of all, some participants emphasize the need of competent and well-prepared staff, with prior experience in the higher education sector, that work in the regulatory bodies applying regulations. For example, Francisco says: “I would recommend that more people that have worked in the academic sector, full time or at least part time, would work in the government’s regulatory system and in the application of the law”.

Second, other participants agree that a stricter policy is needed. For some of them, a program without the RVOE should not be allowed to be opened by the authority. For example, Margarita says: “I would say that you cannot offer a program if you don’t have the RVOE, that although this do not assure quality, but no, I don’t give it to you”. Others, instead, support more the idea of being more rigorous in the credential of the professors and in promoting quality in the teaching. These participants claim that more severe

requirements or “limits” are needed to get the RVOE, and use adjectives like “stricter”, “harder” and “stronger” to describe them. Specially, they coincide that more requisites are needed in the staffing dimension: “we have to be stricter in the level of teachers” (Fernando), and in the establishment of new institutions. Hence, these participants concur that a priori mechanisms need to be reinforced in order for the regulation to be focused on quality. In this regard, Margarita says that “a regulation more centered in quality rather than in documents” is needed. This coincides with authors like Rodríguez (2004a), Silas (2008), Acosta (2011), Cuevas (2011a), de Garay (2013), Álvarez (2011) and Buendía (2016).

Third, another participant supports the idea that more incentives are needed in the regulatory policy, as Raza (2009) had suggested. He mentions that incentivizing high quality private institutions can help them expand, giving them the possibility to enroll more students, some that, because of the lack of spaces, might finish enrolled in the low quality institutions. Francisco says:

Another way to discourage the establishment of private higher education institutions, can be by using incentives; by rewarding the best private institutions with economic resources so that they can expand their facilities, improve their infrastructure, and open more spaces for students to study at high quality institutions.

Need of a posteriori mechanisms. Most of the participants of this study agree that supervision is needed to improve the system. They emphasize that this supervision has to be “periodic” and “conscious” and, of course, it has to “avoid corruption”. For the participants, supervision is key to ensure that what has been approved by the authority, actually takes place in the institutions. Also, one participant points out that it is needed to assure pertinence with the labor market’s needs.

Participants also agree that supervision should be more present at institutions that either are beginning, or that need to improve their quality, supporting the differentiated regulation. For example, Karla mentions: “there must be more follow-up by the Ministry of Educations to the institutions that need it the most”. Isabel agrees that this differentiated regulation is needed to provide more help to those institutions that need it the most, to really help them improve. She claims:

I would focus not that much on the big ones, but in regularizing all second level and third level institutions in the whole country [...]. So that really, that is, that they improve to reach the ones that are already good quality. And, as they improve, regulation decreases, let’s say, supervision.

Furthermore, most participants agree that, in addition to the supervisions, the curriculum needs to be periodically reviewed, to examine what is being taught. They claim the RVOE cannot be granted once and forever, but, on the contrary, they suggest the regulations include these periodical evaluations of it, to enhance the updates of the programs. They express that these examination processes must be “careful” and “serious”. For example, Isabel emphasizes the importance of updating the curriculum periodically, and she acknowledges the need of establishing mechanisms to make these reviews a mandatory regulatory policy when she recommends:

It should be mandatory for the programs to be reviewed at least every 5 years, and that there would be a follow-up regarding the observations to the curriculum that have been made in the evaluation, to make sure they have been made, and new recommendations should be made to keep on satisfying the new needs because we live in continuous change. We cannot have the same curriculum for 25 years.

Some participants also talk about an obligatory accreditation policy. They suggest that for an institution to keep its RVOEs, getting the accreditation should be a condition. In this regard, Margarita says: “making universities to have it. That if in 5 years they haven’t been accredited by FIMPES, sorry, you are out, I

remove your RVOE". Carmen also supports the mandatory accreditation, but she acknowledges that then it should be costless. She says about the obligatory accreditation process: "maybe yes, then they shouldn't charge. It wouldn't be bad, that the government, within the budget [...] includes some money for accreditation". Participants also point that in the follow ups of these accreditation agencies, it should not be open for the institution to choose who should be interviewed, but there should be a random selection so that what is really happening at the institutions can be seen.

In addition to the supervisions, participants also agree that there is a need to enforce the law. José Manuel mentions: "I think that the law should be enforced". Pilar adds that the law should be enforced equally to all despite the friendship ties among the authority and the institution: "my recommendations, that the law is enforced, that the regulations are enforced to everyone, and to forget about that thing of the *compadre* that owns an institution".

Francisco also insists about this enforcement of the law, but he also points out that some institutions should be closed. Francisco says: "there should be a better enforcement of the law. This will lead to the closing of many institutions, maybe not all, but at least some *patito* universities, the worst". Isabel agrees with him that programs and institutions that are not good enough, that are not updated and that do not give students what they promised, should be closed. She states: "there is a need of closing down programs that are not updated, that are not relevant, that do not satisfy the needs of the population, and that offer things that they are not being given to the students". Fernando concurs with them when he mentions: "*patito* universities? I think that it is necessary to close them, as many as possible, and as quickly as possible".

Recommendations to the organizational dimension. Referring to the organizational dimension, some participants coincide that the regulations should assure the probity of the investors that are building a new higher education institution. They mention that it is needed to assure that the persons establishing an institution are ethical and responsible, and that they are not only pursuing economical benefits. For these participants the "probity" of the investors and of the leaders of the institution needs to be guaranteed, so that the student's protection is ensured. Participants mention that it has to be assured that they are "honest, "ethical", "prestigious" and "morally good professionals", that they do not have a "negative history" and that do have not committed a "crime". Isabel, for example, proposes a similar mechanism to the law 3 out of 3 used to assure the honesty and transparency of the politicians that are running in for a public position. She mentions: "there should be a 3 out of 3 for regulating those who are part of the council of the educational institutions". In this 3 out of 3, the person has to upload to a public platform on the Internet all his or her information including CV, properties, patrimony and fiscal information, and the interests s/he has to publicly and transparently assure he or she is clean. Francisco better summarizes this perspective:

The human beings that get together to create a legal entity must have a social probity and must prove that they do not have a negative history. I think this should be more regulated, that they should regulate the people that are part of the legal entity and those who will be in charge of the administration, the operation and the direction. For example, that the rector is a prestigious person, and that hasn't committed a crime. For example, that the leaders have no criminal records. Something like that would be good, it would be good that there was a law where these were requested, to prove they are morally good professionals.

Other participants do not focus so much on assuring the probity of the persons that form the institution, but they highlight that a regulation that supports the establishment of university councils for the decision-making processes is needed, to avoid organizational structures where only one person makes all the

decisions. For example, Margarita says: “there should be a council that selects the rector that is going to manage the university”.

Recommendations to the financial dimension. In general, participants did not perceive that changes are needed to the regulations of the financial dimension. Nevertheless, Isabel points the need of a regulation that promotes transparency in the use of the resources, where the information of where you obtained the resources and how you are using them is available to the educational community. She says:

You should have there your financial states so that everyone could see them and see where the money comes from and how it is spent, to check that it goes to the institution and not to buy a Jacuzzi for the family [owner of the institution].

Recommendations to the staffing dimension. Some participants concur that the selection of academic professors should be more regulated. Participants mention that both the institutions and the Ministry of Education should be more careful when approving a professor to teach in an academic program, and they suggest the modification of the basic requirements to have better prepared professors. Participants propose to request some documents like certifying their “morality”, to prove the quality of the work the professors have done through their trajectory, and to assure quality and ethics. They also stress the need of verifying that the professors that have been approved by the authority when granting the RVOE, are the actual professors of the program. In this regard, Margarita mentions: “I think that they have to review the professors better. I think this is very important, and review that those professors are the ones that are teaching and giving the lectures”.

Recommendations to the academic dimension. Some participants agree that the regulations to the academic dimension should be more flexible, leading to more capacity of decision-making, especially when designing an innovative academic program, because knowledge changes constantly. However, they understand that the regulatory body is not capable of granting this flexibility today. For example, Benito asserts: “if we had a regulatory authority capable of evaluating the curricular proposals in all dimensions, then it could be more flexible”. Therefore, he proposes that the Ministry should work together with the accreditation agencies, or at least that they have to approve the academic program before getting the RVOE, to grant more flexibility in the creation of the curriculum. He says:

To lean on accreditation agencies, because, effectively, accreditation agencies have the specialized staff in each one of the, of the different areas of the university’s knowledge, and I regret that it remains optional. I do think they should get the approval of the curricular proposal [...]. I, as a regulatory organism, I don’t put you any restriction. You can make the curricular proposal as you want, as you need, as you think it will work better, just justify it to the specialist, which is the body that is accrediting you [...]. That an accreditation agency approves the curricular proposal.

Need of all actors to cooperate. All the participants of this study emphasize the importance of all the actors that form part of the education system to cooperate to increase the quality. They mention that “will” is essential to achieve cooperation and to reach consensus among all the actors of the higher education system. However, they consider that, at the moment, will “is lacking”. For example, they emphasize that institutions need to “auto regulate” themselves. They reinforce not only the role of the state to regulate, but also the need of the society to help regulate the system, and the will of the institutions to follow those regulations for achieving a common good. Concerning this issue José Manuel mentions:

There has to be a regulation in which the society auto regulates itself, and there is a need for the state to establish certain parameters and that also has the desire of fulfilling those parameters, and of applying the law. [...] education is not only what others do, but what we all do.

In this sense, first, participants acknowledge that the government has to be stricter when regulating the system and set aside corruption. In other words, the state should have the will to avoid deception and “frauds”. Participants also agree that the government has the responsibility of informing, clearly and loudly to the society, which program does not have the RVOE, because even though they have a list on their website, most people, specially new young students, lack of this knowledge. In this regard, some participants support the idea and propose a communication campaign done by the government to inform the citizens about the programs that lack the RVOE. They emphasize that this campaign can be done using the social networks, and that it should indicate students the steps they have to take before enrolling to an institution, so that they assure its quality. In Pilar’s words:

A very important thing is that there is a communication campaign in social networks. [...] we have to educate the people, we have to do a lot of promotion in the social networks; young people that use a lot the social networks, so that they follow four steps when selecting an institution for studying there: that it is in the list of the Ministry of Education, that it is in FIMPES, or at least that it is in an accreditation process and not only that it is in the process, but that it gets the accreditation, and those that I cannot definitely choose. I think there must be a campaign so that people would not enroll in those institutions and then they would have to close the business.

Other participants stress also the role of the students. These participants stress the responsibility of the students to find out all the information regarding the institutions where they want to study, in order to avoid deception. This is mentioned by Margarita:

The problem is to form in the students the culture of asking, precisely, why they say their university is good. I mean, why I am going to enroll here, and not only because it is cheap. Or I am not going to enroll only because it is close to my house, because, finally, even if I am investing little or too much, at the end I am investing in my future. So there is the need of a culture where the student asks: excuse me, my program, who accredits it? To check in FIMPES, which is an open website; check in ANUIES, because it is also something cultural. If we worry about that, and we wouldn’t study there if they were not accredited, the institutions would worry about being accredited.

Regarding the government’s responsibility, some participants emphasize the need to plan the higher education system, as it cannot be only about opening new programs and new higher education institutions specialized in just a few number of disciplines. One participant also proposes more focus of the higher education system to the technical education, where some of these institutions can change their focus to satisfy this need. Hence, Carmen says: “in Mexico there is a lot of professional preparation. Maybe they can help to the technical education. Maybe in that way they can satisfy a need [...]. Maybe they can focus their careers on the technical education”.

Most participants stress the importance of increasing the offer of high quality education in both, public and private sectors, and the economic mechanisms to access to high quality and costly private education, in order to reduce the enrollment rate of low quality institutions and drive them out of the competition if they do not improve. For the participants, increasing the access to both public institutions and to high quality institutions, as well as promoting the improvement of medium quality institutions, will help the low quality institutions disappear. For example, José Manuel mentions: “as medium quality institutions respond to the needs, low quality institutions will disappear”. However, as Levy (2011) suggests, the market regulations have tended to fail, as demand absorbing institutions keep on growing even despite the dubious quality.

Participants also coincide that investors and leaders need to be aware of the damage they do to young people and society in general with low quality institutions, because, until they do so, low quality institutions will keep on proliferating. In this regard, José Manuel mentions: “this is the problem, until we realize that not treating the young people well is betraying ourselves and the young people”. As it can be seen, he highlights on the importance of the institutions becoming aware of their responsibility and the fundamental role they play in forming the future of the country.

Finally, some participants promote the creation of alliances among the actors of the system to strengthen the regulatory policy and the quality of the system. They propose that the Ministry of Education works together with the accreditation agencies. Karla, for example, mentions: “the Ministry of Education has to establish strategic alliances. I am convinced that if there already exist institutions committed to guarantee the quality of the education that the higher education institutions offer, they should establish alliances”.

Need of balance between the regulations and the autonomy. Finally, some participants emphasize the need to find a correct balance between the limits established by the government and the capacity of the institutions to govern themselves. In this regard, Francisco mentions:

It is important to find the balance between the state’s limits, but also to establish the minimum things the university has to fulfill [...], that the invasions to the activities are established and delimited by the law, but that they do not exceed of what it is needed.

José Manuel also addresses this need of balance, as both extreme poles can be dangerous for the higher education system. He says:

We cannot think that the regulations are the only thing needed to solve the problem, I think that would be like a crazy dream, almost everything; but also that the absence of regulations will lead to the maximum creativity. There needs to be a balance.

And when asked about increasing the regulations he concluded: “a strict state that intervenes a lot will not guarantee a better education either [...] sometimes we have to let life regulate us”.

In conclusion, most of the participants contributed to this research proposing some recommendations to improve the current regulatory policy. These recommendations include: adjusting requirements to focus on quality, periodical supervisions, obligatory accreditation mechanisms, stricter actions toward low quality institutions, enforcement of the law, mechanisms to assure the probity of the leaders of the institution, more rigor when approving an academic program, and a strong cooperation among all actors that form part of the system.

V. Conclusion

V. 1 Main findings

The purpose of this study was to analyze in depth the nature of the private higher education in Mexico and the current mechanisms that regulate the sector, as well as to explore the different degrees of the autonomy that they enjoy in their several operational dimensions, in order to understand how these regulations constrain or enhance the institutions' capacities and to explore their role in the proliferation of low quality institutions.

As we are coming to the end of this research, several conclusions can be pointed out that will be structured according to the research questions. Therefore, first of all, how is private higher education perceived in Mexico? Private higher education is perceived in Mexico as a fundamental sector of the tertiary education level. In this sense, higher education institutions are meant to contribute to the economic, political, social, and cultural development of a country (Duderstadt, 2000; Rhodes, 2009; Brennan, King & Lebeau, 2004) and such is the case of the Mexican private sector, as some of the participants coincide. The private higher education sector in Mexico has developed as a fundamental part of the tertiary sector, playing a specific role for the formation of the elites that opposed the ideology taught at the public sector. This has been acknowledged by international researchers such as Levy (1986; 2011) and Altbach (2005a), by national researchers like Acosta (2005), Olivier (2007), González (2012), and Silas (2005a), and by some participants of this research. As Levy (1986) points out, most participants agree that the source of the economic resources is the main characteristic to distinguish between private and public institutions. However, also both Levy (1986; 2007; 2008), Altbach, (2005a; 2005b) and some participants agree that the priority of these institutions is the professionalization of the labor market instead of research.

Nevertheless, as was seen through the pages of this research, the private sector is extensively varied in Mexico. Although initially it was associated with high quality and with the formation of the elites, today, its multiplicity makes it very complex. Nonetheless, both the general literature review (Altbach, 1998b; Levy; 2007, 2009) and those studies specifically concerning the Mexican context (Instituto de Investigaciones sobre la Universidad y la Educación México, 2002; Luengo, 2003; Kent & Ramírez, 1999; Aguilar, 2003; Rodríguez, 2004; Silas, 2005a, 2005b, 2008; Cuevas, 2011b; Baptista & Medina, 2011; Muños & Silva, 2013; de Garay, 2013; Buendía; 2016; Álvarez, 2011) identify, mainly, two different kinds of private higher education institutions: the elite / quality / non-profit, and the demand absorbing institutions / low quality / for profit. All of the participants of this study agree with this classification. However, in contrast to Levy's (2009) conclusion that usually for profit institutions are low quality, for some participants this is not necessarily the case and cannot be generalized.

Second, to what extent private higher education is regulated in Mexico and what level of autonomy does it enjoy in its several dimensions? Throughout this research it has been shown that private higher education institutions in Mexico face few constraints from the regulations, enjoying, subsequently, a general high degree of autonomy in its several operational dimensions. However, several precisions that derive from this question, can be concluded

Thus, even though some participants restrain from using the term autonomy to the capacity enjoyed by the private higher education institutions to govern themselves and make their own decisions in their multiple dimensions due to the constitutional controversy (Serna, 2006; Pinto, 1974; Poder Judicial, 2005; Carpizo, 2002), other participants agree that they enjoy certain freedom to administer their institutions

without the direct control of the government. All participants also agreed with Roversi-Monaco et al (2003), Narro (2011), Estermann and Nokkala (2009), and Henkel (2005), that this capacity has to have some limits established by the government. These limits are specified, as Martuscelli and Martínez (2013) pointed out, in the legal framework, which can be clearly seen for the Mexican case in Table 13 “Degree of autonomy of the private higher education institutions (semi-independent) in Mexico and the regulations that constrain it”. For most participants regulations are needed to assure quality, as the Higher Education Commission (2013) has asserted, and to protect the students, as Geiger (1988) has pointed out or the consumers in terms of Baldwin, Cave and Lodge, (2012), influencing the behavior of the population (Lowi, 1985).

In general, participants perceive a high degree of autonomy enjoyed by private higher education institutions, as regulations do not seem to limit very much their ability to act and self-govern. While they enjoy higher degrees of autonomy in the financial, organizational and staffing dimensions, the academic dimension is the most constrained, as Anderson and Johnson (1998), Bernasconi (2011), Geiger (1988) and Levy (2011) had pointed out. Interestingly, this dimension is the one that gives identity to the institutions (Henkel, 2005), being the axis of any educational institution (Grau, 2013). Nonetheless, as Fumasoli, Gornitzka and Maasen (2014) had also noticed, most participants also perceive an increase on the academic autonomy, but still would like more flexibility in the regulations to this dimension. On the other hand, participants did not seem to perceive new constraints to the autonomy, as Huisman and Currie (2004), Henkel (2005), and Nybom (2008) have pointed out as a tendency.

In contrast with the general trends of autonomy presented in the section II. 2.4 “The specificity of autonomy for the private higher education”, private higher education institutions in Mexico seem to enjoy more autonomy in the organizational dimension, being able to determine their legal entity, and in the financial dimension, having more capacity to determine their sources of money and to invest in financial markets. However, the staffing and academic dimensions suffer similar limitations with the general trend. Participants coincide that there is no need to increase the financial and the staffing regulations, but they disagree with respect to the organizational autonomy where, for some, there should not be more limitations, but for others, assessing the probity of the leaders and investors, should be included in the regulations.

Third, how are regulations and the existing level of autonomy related to the proliferation of the low quality institutions? In contrast to what was found in most of the literature review (Kent, 2004; Buendía 2016; Luengo, 2003; Álvarez, 2011; Muños & Silva, 2013), the lax regulatory policy was not identified by most of the participants as the main reason for the proliferation of the low quality institutions, but the inability of the public sector to grant higher education to all who pursue this level of studies, as Kent and Ramírez (1999) had also pointed out.

Despite this fact, this research had started from the findings of authors like Rodríguez (2004a), Silas (2008), Acosta (2011), Cuevas (2011a), de Garay (2013), Álvarez (2011) and Buendía (2016), who had concluded that there is a very flexible regulatory policy for private higher education in Mexico. Nevertheless, several findings regarding this issue can be highlighted, that shade this statement.

It can be concluded that most of the mechanisms used to regulated the private higher education institutions in Mexico are a priori: legislation, basic requirements and approvals, with only few a posteriori ones: supervisions and recognition of degrees, not to mention the quality assurance instrument which is voluntary. Therefore, other mechanisms introduced in Table 8 “Specific regulatory mechanisms used in higher education by their classification” seem to be missing, giving the impression that instruments are perceived in Mexico as tools, as they seemed to be picked according to the preference of the policy makers

(Howlett, 2009, 1991; Bressers & O'Tool, 1998), which, in this case, is clearly the legislation, as some participants mentioned.

The findings of Howlett (2011) assert that the legislation is the most common regulatory instrument because it is the most economical and the easiest to introduce. However, in many occasions, following the law depends on the personal's will, since the surveillance bodies to ensure compliance are very expensive. For this reason, its effectiveness is reduced. This seems to be the case in Mexico, since there are few a posteriori mechanisms to ensure that the law is complied with, because one thing can be what is delivered to obtain the RVOE, and another very different, reality, as some participants have asserted.

As Kent (2004) and Canales (2016) commented, supervisions rarely occur, as it is also confirmed by most participants. These mechanisms of control have not increased over time, contrary to the findings of Huisman and Currie (2004), Henkel (2005) Nybom (2008) Volkwein and Malik (1997), being it a lowly regulated system, based on the findings presented on table 10 "Regulatory mechanisms by the dimension of the autonomy they constrain". Therefore, supervision is very sporadic, and the main reason seems to be the lack of economic resources, the lack of personnel and the lack of competent personnel, as the participants highlighted.

These findings coincide with those presented on Table 7 "Classification of regulatory mechanisms" based on the studies of Howlett (2011), Cohn (2011), Gilardi and Maggetti (2011) and Malyshev (2002), and the ones from Hall (1993) and Baldwin, Cave and Lodge (2012), which showed that the success of the regulation depends on the level of legitimacy of the body that issues the law, and its ability to stay out of corruption. Regarding this last aspect, some of the participants also pointed out the problem of enforcing the law, especially because of the corruption issue from the authority that regulates it, but also from the institutions, as most participants acknowledged.

Nevertheless, if corruption was not a problem and supervisions actually were carried out, what would it be sanctioned and based on what? This is commented because the legal framework does not contemplate a large number of actions that are punishable, as it has been seen in the section IV. 3 "Regulations to the Mexican private higher education system", as even operating without RVOE is not considered an infraction as long as it is indicated in the advertisement. Some participants understand this policy, but other participants encourage a change on the policy. In accordance to the findings of Huisman and Currie (2004) the instruments that regulate private higher education in Mexico seem to be soft.

From the analysis of the regulatory instruments, it has been seen that the authority has assumed that all the information available to the actors is enough, which Elmore (1987) had pointed out to be a common reason for policy failure. These assumptions, as Blanco (1994) had acknowledged, contribute to increase corruption. However, for some participants the legislation was not seen as the problem of the regulatory policy.

On the contrary, some other participants did criticized the instruments claiming they are flexible and lax, coinciding with the findings of Rodríguez (2004a), Silas (2008), Acosta (2011), Cuevas (2011a), de Garay (2013), Álvarez (2011) and Buendía (2016); these can be supported after the analysis Tuiran's (2012) report, which shows that most programs that apply for the RVOE actually get it. While for most participants, and for Buendía (2011) and Silas (2013) the regulation is technical and does not focus on quality, for others it is meant to assure the minimum requirements of quality. Nevertheless, it is important to remember that the purpose of the regulation is not to guarantee quality, but that the minimal requirements to grant education are there (Secretaría de Educación Pública, 2015). But, should not the regulation serve to protect the user and to assure quality (Higher Education Commission, 2013; Geiger, 1988)?

One of the big problems in Mexico is the lack of a definition of quality. Although the academy has investigated the issue, regulatory bodies have not defined the word. So, how to guarantee the quality of a system if it is not understood what quality is? And why is quality accreditation voluntary? The voluntary regulation is understood because accreditation implies a cost, often excessive for small institutions as most participants acknowledged.

It is common that the government delegates authority to regulate to different bodies, as Raza (2009) and Fielden (2008) had pointed out. Nonetheless, in this case, private entities that survive with private investment assume that responsibility, as some participants pointed out, making it inaccessible to most institutions. Accreditation exists in Mexico since 1992 and only a small number of institutions or programs have been accredited as both the authors (Rodríguez, 2017c, 2017d; de Garay; 2013; Álvarez, 2011; Cuevas, 2011b; Rodríguez & Ordorika, 2011) and most participants acknowledged. Should not be thought another scheme for accreditation? An accessible scheme for the institutions and that it was obligatory? Or should not a policy that procures the development of internal quality assurance structures be encouraged?

It wants to be thought that the Agreement 17/11/17 aims to encourage voluntary accreditation with the PMI, however, what did its predecessor, the administrative simplification, achieve in this regard? Is this incentive enough for the institutions to voluntarily accredit themselves? Both authors (Acosta, 2012; Silas, 2005b; Buendía, 2013) and some participants agreed that accreditation today is meant to grant prestige to institutions and that it is the basis of the differentiated regulation, but there are institutions whose goal is not precisely to be prestigious.

Concluding about this differentiated regulation is complicated. Contrary to Levy's (2011) findings of a regulation for all the private higher education, Mexico has a kind of differentiated regulation. On one hand, the administrative simplification consists in less bureaucratic procedures and less supervision from the authority, which some participants appreciate, but on the other hand, there are some institutions that have earned some privileges by presidential decrees. These presidential decrees are unclear for the actors of the system, as they are particular to each institution. Both, some of the participants, and authors like Cossío (2006), Serna (2006) and de Garay (2013) acknowledge this fact. Regarding these special privileges both, Levy (2011) and one of the participants agree that they are enjoyed by some groups of the society that excerpt a political or social influence in the country.

Most of the participants and authors like Rodríguez (2008c), coincide that there are different authorities that regulate, but some worry about it, as having multiple authorities regulating the same things at the same time in the system, has led to an overlapping of duties and more flexibility and corruption (most of the participants; Rodríguez, 2004a, 2006; Rodríguez & Ordorika, 2011; Blanco; 1994; Muños & Silva, 2013). This is also pointed by Le Galès (2011) who suggests that policy failure is closely related to the numerous actors that interact at the different levels of governance.

The current regulation is carried out by programs, through the RVOE, and it makes a lot of sense because different programs have different needs as one of the participants had pointed out. However, who runs the educational institutions? How is it guaranteed that the purpose of these leaders is not only getting richer through the expense of a human right that is education? Would not a double regulation be needed per institution and per program? Of course, without limiting their ability to self-manage, but taking care of certain aspects when establishing an institution. This will undoubtedly help the government have a better control over the number of institutions that exist and the tasks they perform.

V. 2 Conclusion

As Levy (2011) argues, regulations for the private higher education institutions seem to have failed, and such seems to be the case in Mexico where low quality institutions multiply every day. Hence, it does give the impression that the regulatory policy is very lax, but more than lax it is a policy that is not focused or intended to guarantee quality on one hand, and on the other hand, it is incomplete, since a handful of mechanisms are insufficient to regulate a whole system. They lack incentives; they lack clear sanctions; they lack a legal framework that only regulates private education, as it is very complicated to regulate the different types and modalities of education with a single law when its nature is very different; they lack a posteriori mechanisms; and finally they lack the enforcement of the law.

Nevertheless, as it has been seen throughout this investigation, not all the regulatory policy is wrong and there are many aspects that must be rescued and preserved. Participants highlighted the positive aspects as they appreciated the trust that is given to them, emphasizing the role of ethics in the educational task. The recommendations included are, without a doubt, proposals that arise from the experiences of the actors that are part of the tertiary educational level, as it was sought to give them voice throughout these pages. Reinforcing a priori mechanisms to focus requirements on quality and to create links with incentives; carrying out a posteriori mechanisms and promoting instruments that include mandatory periodical reviews of the academic programs; establishing obligatory and accessible quality assurance mechanisms; and closing *patito* institutions that do not seek to improve, are some recommendations that have been suggested to help assure the quality of the system and to push low and middle quality institutions to improve through the regulatory policy. However, in order for the system to genuinely improve, it cannot be forgotten that the commitment of all its actors is needed, and above all, the willingness to put aside the corruption that damages so much our Mexico.

Therefore, this research, this in depth analysis of the private higher education sector, of the capacity of its institutions to govern themselves and of the limitations they suffer from the regulations, is expected to be useful for policymakers in Mexico, in the search of improving the regulations to the private higher education institutions without the detriment of their autonomy; but also it is hoped that this research is useful to the actors of the system (university leaders, investors, professors, academic and administrative staff), allowing them to carry a reflective process on their daily tasks and responsibilities, so that each one can contribute, from their position, to improve the system.

V. 3 Limitations and further research

Finally, among the limitations encountered during the creation of this research, the conditions of time and space undoubtedly stand out. The investigation was carried out while the researcher was studying abroad, becoming a challenge the accessibility of the participants narrowing down the possibility to expand the sample, as communication is slower when there is a distance and time difference of between. Although the interviews were stopped when redundancy was found, the possibility of expanding the data collection to enrich this work remains as an opportunity for a future. Another limitation arises in that the majority of the sample comes from universities that enjoy the simplified administration. Although participants from public universities, from demand absorbing institutions, and from universities that enjoy more autonomy by presidential decree, were included to collect varied experiences and perceptions, it is still a possibility of expanding research in the future.

Undoubtedly, several topics arise as a possibility for further research. It has been very interesting the link the participants have pointed out between the proliferation of low quality institutions and the lack of access to higher education. This is certainly a topic that should be explored in greater depth in the future, as the lack of accessibility has mostly been addressed from the inequality and social justice perspectives, and it has been mainly linked to the public sector. Other interesting topic that assuredly generates great interest is the quality assurance policy. Although it has been more analyzed in the literature, studies are missing to understand why the policy is structured in the way it currently is. In other words, further research to comprehend why the regulation does not guarantee quality, why it is only done by program, and why accreditation of quality is voluntary, can be carried out in the future.

Finally, other topic that drew attention during the elaboration of this investigation was the institutions that enjoy more autonomy granted by presidential decrees. This was a difficult topic to address because of the lack of literature on this issue, and because the agreements are different for each university. Without a doubt, a comparative study of the degree of autonomy these institutions enjoy in their different operational dimensions would be very interesting, in order to understand the scope of these decrees. Undoubtedly, many more topics can be mentioned where it is necessary to investigate more. Therefore, a great opportunity is pending for the future.

VI. Sources

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ANNEX 1

The following Table 14 “Autonomy according the type of the institution” analyzes the different degrees of autonomy enjoyed by the public and private institutions.

The classification of the institutions is based on Fielden’s (2008) classification that has already been analyzed before, while the findings on the state of autonomy are based on the research done by Bennetot and Estermann (2017) Estermann, Nokkala and Steinel (2011), Estermann and Nokkala (2009), Fielden, (2008), Bernasconi (2011), Geiger (1988), OECD (2003) and Levy (2011). It is important to mention that the table shows the generalities of the degree of autonomy according to each type of institutions but the fact is that it depends on the country. Therefore, for every activity corresponding to each one of the dimensions of the autonomy (organizational, academic, staffing and finance), the words high, medium and low can be found in each of the institutions’ types, where high means, that, in generally, that type of institution is able to carry out that activity without restrictions from the government; medium, that institutions face some restrictions needing to comply to some requirements, requiring approvals or confirmations, or having to carry out negotiations with the government; and low, that restrictions are faced, ceilings are set, and processes and parameters need to be followed as established by the law.

The generalization has been made to be able to contrast the public and the private sectors, but the truth is that in some countries both sectors can enjoy a more similar degree of autonomy, while in others there can be more disparities. For example, in the case of Mexico, the public sector enjoys a higher degree of autonomy in comparison to other counties, as the OECD (2003) has found out. Hence, the table includes a column in which the state’s degree is explained and other possibilities of degree of autonomy are mentioned.

Table 14. Autonomy according the type of the institution

		Public		Private			
		Semi autonomous		Semi-independent		Independent	
Organizational	Determine legal status	Low	Legal status determined by law	Medium	Generally not, but there are some countries where they can be either non profit or profit organizations	Medium	Generally not, but there are some countries where they can be either non profit or profit organizations
	Define internal rules and procedures	Low	Can create some internal laws but most depend on the country's legal framework	Medium	Define laws but most times require approval	High	Define rules, no need for approval
	Select members of executive board and academic bodies	Medium	Most can select the rectors, but still many public institutions need approval by an external authority	High	They select the members for their governance bodies	High	They select the members for their governance bodies
	Establish criteria and durability of leadership positions	Low	Most require to follow some guidelines established by law	High	Decide own criteria and periodicity of the positions	High	Decide own criteria and periodicity of the positions
	Dismiss the university's head	Low	Most need confirmation by an external authority, and the process is established by law	High	Can dismiss the head without restrictions from the government	High	Can dismiss the head without restrictions from the government
	Select external members in the governing bodies	Low	Most cannot appoint external members without approval, and many face constraints	High	Can decide if they want external members in the governance bodies, and the criteria	High	Can decide if they want external members in the governance bodies, and the criteria
	Determine structures	High	Most can create their structures, but some face restrictions by law	High	Can determine own structures, most suffer isomorphism from public institutions	High	Can determine own structures, most suffer isomorphism from public institutions
	Create a legal entity	High	Most can create legal entities, some only non-profit ones	High	Mostly non profit entities	High	Mostly non profit entities
	Decide the orientation of its governance bodies	Low	Most face restrictions by law	High	Can decide the orientation of the institution and the members of the governance bodies	High	Can decide the orientation of the institution and the members of the governance bodies
	Decide mission and goals	Low	Most face restrictions by law	Medium	Most decide specific mission and goals, but need to be based on the country's legal framework	Medium	Most decide specific mission and goals, but need to be based on the country's legal framework

		Public		Private			
		Semi autonomous		Semi-independent		Independent	
Academic	Decide the number of students	Medium	The number of students most of the time is either negotiated or set by the external authority	High	Most institutions can decide freely the number of students they enroll	High	Institutions can decide freely the number of students they enroll
	Determine academic profile	High	In most countries the academic profile is freely developed by institutions, but in some is predetermined	High	Institutions can determine their academic profile but this tends to be based on market needs	High	Institutions can determine their academic profile but this tends to be based on market needs
	Open/close programs	Low	Most institutions face restrictions when opening new programs, needing an external approval or accreditation	Low	Most institutions need the approval of an external authority to open a new program	High	Most institutions do not need the approval of an external institution when offering a new program
	Design curriculum and content	High	Most institutions can design the curriculum without constraints	Low	Most institutions face restrictions when designing the curriculum, and have to comply to external requirements	High	Most institutions can design the curriculum without constraints
	Establish admission mechanisms	Medium	For bachelor students most institutions face external restrictions, and either have to negotiate the admission mechanisms or are set by an external authority	High	Institutions can select and establish their admission mechanisms with the only constrain of the student having a secondary diploma before studying higher education	High	Institutions can select and establish their admission mechanisms with the only constrain of the student having a secondary diploma before studying higher education
		High	For degree students most institutions do not face restrictions from external authorities				
	Design and implement quality assurance mechanisms	Low	Most institutions need to comply to the quality assurance agencies and mechanisms delimited by the government	Low	Most institutions need to comply to the quality assurance agencies and mechanisms delimited by the government	Low	Most institutions need to comply to the quality assurance agencies and mechanisms delimited by the government
	Make research decisions	High	Most institutions seem to be able to make their own research decisions freely, but are controlled by financial schemes	High	Most institutions make their research decisions without restrictions	High	Institutions make their research decisions without restrictions
	Select language of instruction	High	Most institutions can select the language of instruction	High	Most institutions face no restrictions when selecting the language of instruction	High	Most institutions face no restrictions when selecting the language of instruction
Award degrees	High	Most institutions award their own degrees	Low	Degrees need to be recognized by the authorities	High	Most institutions award their own degrees	

		Public		Private			
		Semi autonomous		Semi-independent		Independent	
Staffing	Recruit and select academic staff	Medium	Most countries have to comply to the law requirements	Medium	They can select their academic staff, but have to comply to the law requirements	High	Can select their academic staff without restrictions
	Recruit and select administrative staff	High	Most countries can select their administrative staff without needing to comply to the law	High	No restrictions when selecting administrative staff	High	No restrictions when selecting administrative staff
	Determine salary scales	Medium	Most institutions face constraints when determining salaries, needing to comply to the law, or to an external authority; sometimes are negotiated, while others are set ceilings	High	Institutions decide the salaries of their staff	High	Institutions decide the salaries of their staff
	Establish staffing policies	Medium	Most countries face restrictions and external regulations that need to comply with when establishing their staffing policies	Medium	Even though most parameters can be freely decided by the institutions, the policies related to the academic staff hiring, teaching, and researching, need to fulfill basic requirements	High	Most institutions face no restrictions when establishing their staffing policies
	Dismiss staff	Low	Most institutions need to comply to the regulations and the labor law when dismissing the staff	High	Most institutions can decide when to terminate the contract of its employees, usually for justified reasons; labor laws apply	High	Most institutions can decide when to terminate the contract of its employees, usually for justified reasons; labor laws apply
	Promote staff	Medium	Most institutions cannot promote freely their staff as they face regulations	High	Most institutions can promote their staff as pleasing, according to their internal rules	High	Most institutions can promote their staff as pleasing, according to their internal rules
Financial	Keep surplus	High	Most can keep surplus without restrictions	Low	Surplus needs to be reinvested in the institution	Low	Surplus needs to be reinvested in the institution
				High	No limitations if they are for profit institutions		
	Borrow money	Low	Most face restrictions or cannot even borrow money	High	No restrictions for borrowing money	High	No restrictions for borrowing money
	Own buildings	High	Most can own buildings, but face restrictions if wanting to sell	High	Tend to own the buildings	High	Tend to own the buildings
	Charge tuition fees	High	Most can charge tuition fees	High	Charge tuition fees without constraints	High	Charge tuition fees without constraints
	Determine tuition fees	Low	Most face restrictions, ceilings or external impositions when charging tuition fees	High	No restrictions when setting tuition fees	High	No restrictions when setting tuition fees
Invest in financial markets	Low	Most are not able to invest in	Medium	Even though they could do it, being	Medium	Even though they could do it, being	

		Public		Private			
		Semi autonomous		Semi-independent		Independent	
		financial markets			non-profit organization in a way influences reinvesting the resources in the institution		non profit organization in a way influences reinvesting the resources in the institution
				High	For profit institutions do invest in financial markets		
Decide expenditures	High	Most face no restrictions in allocating resources		Low	Limited to improving higher education institutions if they are non-profit organizations	Low	Limited to improving higher education institutions
				High	No limitations if they are for profit institutions		
Determine sources of money	High	Most can create entities, and charge tuition fees		Medium	Even though there is no explicit sources of money, being non-profit organization limits to mainly tuition fees and philanthropy, in addition to public funds	Medium	Even though there is no explicit sources of money, being non profit organization limits to mainly tuition fees and philanthropy, in addition to public funds

Table elaborated by the author based on the findings of Bennetot and Estermann (2017) Estermann, Nokkala and Steinel (2011), Estermann and Nokkala (2009), Bernasconi (2011), Fielden (2008), Geiger (1988), OECD (2003), and Levy (2011).

ANNEX 2

The detailed profile of the participants.

PhD. Isabel. Isabel is a full time professor at a private higher education institution in Mexico, where she teaches, researches and directs a postgraduate program in Management of Educational Institutions. She is also an evaluator of higher education programs for two quality assurance agencies. She has been working in the field of higher education for more than 15 years now.

PhD. Margarita. Margarita is also a full time professor at a Mexican private higher education institution, where she teaches, researches and coordinates the graduation processes. She is also a consultant in educational processes of both private and public institutions. She is a member of the evaluation team of agreement 286. She has been working for 28 years in the Mexican higher education system.

LL.M. Francisco. Francisco is a full time research professor at a private higher education institution in Mexico. There he teaches and researches. Francisco is an expert in the constitutional law and the Mexican legal framework. He has been working in the field of higher education for 10 years.

PhD. Pilar. Pilar is a full time research professor at a Mexican private higher education institution, where she researches and directs the postgraduate programs of the School of Education. She belongs to the National System of Researcher [SIN] and within her research areas it can be highlighted the study of private university in the country. She is also the chief editor of an academic journal. She has been working in private higher education institutions for 25 years, and it is worth mentioning that she has worked in different private universities, where one of them has a greater degree of autonomy granted by presidential decree⁴⁵.

LL.M. Karla. Karla is a full time administrative staff at a private higher education in Mexico, where she directs the department of School Services [*Servicios Escolares*]. She is charge of making sure the university complies with the requirements of the Ministry of Education, being the connection between the two institutions. She has worked in the field of private higher education for 15 years. Before this, she also worked in the editorial direction of an academic journal. Within her research areas it can be highlighted the study of the regulations to private higher education in Mexico. Karla has also taught at public universities.

PhD. José Manuel. José Manuel has worked in the private higher education sector in Mexico for 27 years. Among the activities he has carried out, he has been a full time professor and researcher, as well as was as rector of an institution for 9 years, and member of the governing board of the university for more than 15 years now. Among his research interests, the institution of the university and its organs can be highlighted.

PhD. Carmen. Carmen is a full time researcher and professor at a private higher education institution in Mexico, where she directs the department of teacher training of the institution. However, she has been the director of an academic program and the dean of one the schools of the university. She has worked on the field of higher education for 33 years, and she is a researcher of the National Science Foundation of the United States. Her research interests include retention in higher education in Mexico.

PhD. Benito. Benito has worked in both private and public higher education institutions in Mexico. At public universities he has taught diverse courses, while at private institutions first, he was the director of the department of School Services [*Servicios Escolares*] for more than 13 years, and second, he has been the rector of a higher education institution that can be considered for absorbing the demand for over 20 years now. In addition Benito is also the director of an academic journal, position he has hold for 21 years, and he is the creator and the president of the board of directors of a quality assurance agency since 2007, agency that has accredited more than 56 programs on the field.

⁴⁵ On a later stage of this research the presidential decrees will be explained.

PhD. Fernando. Fernando has worked in the field of higher education for over 25 years, focusing mainly in the public sector. He was dean of one of the faculties for 8 years, and has been member of the governing board of four different public higher education institutions. In addition, he has worked at the public administration holding different positions that include secretary of the division of higher education at the federal Ministry of Education.

ANNEX 3

E-mail in the original language (Spanish) sent to the participants requesting an interview.

Estimado/a _____,

Espero se encuentre muy bien. Mi nombre es María Diez Uriarte y actualmente me encuentro estudiando la Maestría en Innovación e Investigación en Educación Superior (Masters in Research and Innovation in Higher Education), programa conjunto entre Danube University Krems, Beijing Normal University y la Universidad de Tampere, en cuya última institución me encuentro realizando mi tesis.

Mi tema de tesis es sobre las regulaciones a la educación superior privada en México y la autonomía de estas instituciones. En la revisión de literatura que he realizado, diferentes autores sostienen que la regulación actual es laxa de tal manera que esto justo ha dado cabida a la proliferación de las instituciones de educación superior de baja calidad. De esta manera ha surgido mi interés por explorar cómo está regulada hoy la educación superior privada en México y qué grado de autogestión gozan estas instituciones, con la finalidad de conocer el tema a profundidad y emitir recomendaciones que eviten, a futuro, la proliferación de las instituciones de baja calidad sin el detrimento de la capacidad de autogestión del sector privado.

Por tal motivo que quería preguntarle si lo/a podría entrevistar para obtener más información al respecto, y conocer dicho fenómeno desde su perspectiva.

La entrevista tendría que ser electrónica porque me encuentro en el extranjero, y sería de una hora aproximadamente. Esta puede ser anónima, si así lo desea. Y aunque no lo sea, la información es confidencial y solo para mi uso personal.

Agradezco de antemano sus atenciones y le envío un cordial saludo,

María Diez Uriarte

E-mail in English sent to the participants requesting and interview.

Dear _____,

I hope you are fine. My name is María Diez Uriarte, and I am currently studying the Masters in Research and Innovation in Higher Education (MARIHE), joint degree program between the Danube University Krems (Austria), the University of Tampere (Finland), the Beijing Normal University (China) and the University of Applied Sciences Osnabrueck (Germany). Precisely in the University of Tampere is where I am carrying out my thesis research.

My research topic is about the regulations to private higher education in Mexico, and the autonomy of these institutions. In the literature review I have carried out, I have found out that many authors consider that the current regulatory policy has allowed the proliferation of low quality institutions. Therefore, this has derived on me the interest to explore how private higher education in Mexico is regulated today and what degree of autonomy these institutions enjoy, with the aim of issuing recommendations that avoid, in the future, the proliferation of low-quality institutions without the detriment of the self-management capacity of the private sector.

For this reason, I am writing to you to ask you if I could interview you to get more information in this regard, and get to know the phenomenon from your perspective.

The interview will have to be online because I am now in Finland. It will last for about one hour, more or less, and it can be anonymous, if you prefer so. The information will be confidential and only for my personal use.

I thank you in advanced for all your attentions.

Best regards,

María Diez Uriarte

ANNEX 4

Letter of confidentiality in the original language (Spanish) sent to the participants.

Estimado/a _____,

Espero se encuentre muy bien. Antes que nada, agradezco de antemano su participación en esta entrevista, lo cual es de gran ayuda para enriquecer mi trabajo de investigación y conocer el fenómeno de la educación superior privada desde su perspectiva.

Como ya le he comentado con anterioridad, el propósito de mi estudio es analizar las actuales regulaciones a la educación superior privada en México, con la finalidad de proponer mejoras y evitar la proliferación de las instituciones de baja calidad, sin el detrimento de la capacidad de autogestión de aquellas instituciones que se apegan a los parámetros establecidos bajo la ley y que son reconocidas por su alta calidad.

La duración de la entrevista será de aproximadamente una hora, y el audio será grabado con fines personales, para un mejor análisis del contenido proporcionado, más solamente yo tendré acceso al mismo.

El estudio es confidencial, y si así lo desea puede usted participar bajo otro nombre con el fin de que no pueda ser conectado con el mismo en el futuro. Sus contribuciones serán citadas bajo el nombre que usted lo desee.

El estudio final será presentado a la Universidad de Tampere en Finlandia, donde es supervisado por Jussi Kivistö (jussi.kivisto@staff.uta.fi ; Tel. +358 50 4211070), actual director del grupo de investigación en educación superior (HEG: Higher Educación Group) perteneciente a la Escuela de Administración de dicha universidad.

Por su participación no habrá contribución económica, por lo que se le agradece de antemano la misma. Cualquier duda que tenga, quedo a su disposición.

Saludos cordiales,

María Diez Uriarte

Letter of confidentiality in English sent to the participants.

Dear _____,

I hope you are fine. First of all, I would like to thank you in advance for your participation in this interview, which is a great opportunity for me to enrich my research work with your perspectives, and deepen into the phenomenon of private higher education.

As I have mentioned before, the purpose of my study is to analyze the current regulations for private higher education in Mexico, with the purpose of proposing improvements that avoid the proliferation of the low quality institutions, without the detriment of the autonomy of those institutions that adhere to the parameters established by law and that are recognized for their high quality.

The interview will last approximately one hour, and the audio will be recorded for personal purposes, but I will be the only one that to have access to it.

The study is confidential, and if you wish you can participate under another name so that you cannot be connected with it in the future. Your contributions will be cited under the name you choose.

The final study will be presented to the University of Tampere in Finland, where it is already being supervised by Jussi Kivistö (jussi.kivisto@staff.uta.fi; Tel. +358 50 4211070), current director of the research group HEG (Higher Education Group), which belongs to the School of Management.

For your participation, there will be no financial contribution, for which I really appreciate your participation in advance.

If you have any questions, please do not hesitate to contact me.

Best regards,

María Diez Uriarte

ANNEX 5

Interview's question guide in the original language (Spanish)

Autonomía y regulaciones a la educación superior privada en México

1. ¿Qué se entiende por educación superior particular en México?
2. En términos generales, ¿cómo se clasifica la educación superior particular en México?
3. ¿Existen diferencias en las regulaciones a las distintas instituciones de educación superior particular en México?
 - a. Si sí, ¿cuáles son estas diferencias?
 - b. Si no, ¿por qué cree usted que no hay diferencias?
4. Algunos autores consideran que las instituciones de educación superior particular en México no pueden tener autonomía porque ésta, constitucionalmente, únicamente puede otorgarse a las instituciones públicas. Sin embargo, la autonomía es un concepto relacional y en algunos aspectos las regulaciones permiten ciertas libertades o un mayor grado de autonomía, por así decirlo, en algunos aspectos como la dimensión financiera. ¿Qué opina usted al respecto?
5. Podría describir, según su percepción el grado de autonomía o autogestión que gozan las instituciones de educación superior particular en México:
 - a. ¿Cuánta libertad gozan en los aspectos organizacionales?
 - b. ¿Cuánta libertad gozan en los aspectos financieros?
 - c. ¿Cuánta libertad gozan en las decisiones sobre sus empleados?
 - d. ¿Cuánta libertad gozan en los aspectos académicos?
6. ¿Qué opina de este nivel de autonomía o autogestión que gozan las instituciones de educación superior particular en México?
7. ¿Cómo piensa que las regulaciones actuales limitan la autonomía de las instituciones particulares?
 - a. Dimensión organizacional
 - b. Dimensión financiera
 - c. Dimensión de personal
 - d. Dimensión académica
8. Algunos autores considera que las instituciones de educación superior deben gozar un alto grado de autonomía académica para un buen desempeño y para mejorar la calidad. Sin embargo, las instituciones particulares de educación superior en México sufren las mayores limitaciones en esta dimensión (Eje: RVOE, requisitos básicos para profesores y currículum, etc.). Partiendo de esto, ¿considera usted que debería haber cambios en las restricciones a la dimensión académica en la política regulatoria?
 - a. Si sí, ¿qué cambios sugiere?
 - b. Si no, ¿por qué no?

9. En su opinión, ¿considera deberían existir más regulaciones a la educación superior particular para evitar la proliferación de las instituciones de baja calidad? ¿Por qué?
10. Algunos autores sugieren que la proliferación de las universidades de baja calidad se debe a la ineficiencia de la política regulatoria en México y los instrumentos usados para regular el sistema, debido a que hacen falta instrumentos que verifiquen el cumplimiento de la ley como supervisiones, reportes y auditorias. En otras palabras, la política regulatoria en México a la educación superior particular está compuesta por leyes, pero hacen falta otros mecanismos para asegurar que las leyes se cumplan. ¿Qué piensa al respecto?
11. Otros autores sugieren que las regulaciones a la educación superior particular son laxas y demasiado flexibles en México. ¿Qué piensa al respecto?
- a. Si sí, ¿por qué piensa que las regulaciones son laxas y flexibles?
 - b. Si no, ¿por qué considera usted que no son laxas y flexibles?
12. ¿Por qué piensa usted que el gobierno no cierra las instituciones particulares cuyos programas no cuentan con RVOE?
13. ¿Por qué piensa que los procesos de evaluación y acreditación de la calidad son opcionales para las instituciones particulares de educación superior en México?
14. Desde hace pocos años se ha permitido en México la creación de instituciones particulares con fines de lucro. ¿Considera que estas instituciones causan el detrimento de la calidad en educación superior?
15. De acuerdo con su experiencia, ¿qué recomendaciones sugeriría para mejorar las regulaciones a la educación superior particular en México, sin afectar su capacidad de autogestión?

Interview's question guide in English

Autonomy and regulations to private higher education in Mexico

1. What do you understand for private higher education?
2. In broad terms how can private higher education institutions be classified in Mexico?
3. Are there differences in the regulations between the different types of private higher education institutions?
 - a. If yes, which are these differences?
 - b. If no, why do you think there are no differences?
4. Some authors consider that private higher education institutions in Mexico cannot be granted autonomy, as autonomy, according to the constitution, can only be granted to public institutions. However, autonomy is a relational concept and, the regulations allow greater degree of self-governance in some operational dimensions than in others. For example, in the financial dimension. What do you think in this regard?
5. According to you perception, how much degree of autonomy do private higher education institutions enjoy in Mexico in the different dimensions: academic, financial, organizational and staffing
6. What do you think about that degree of autonomy that the different Mexican private higher education institutions enjoy?
7. How do you think that the current regulations constrain the autonomy of the private institutions in its different dimensions: organizational, staffing, financial and academic?
8. Some authors consider that institutions should enjoy a higher degree of academic autonomy for a good performance and for the enhancement of quality. However, private higher education institutions suffer the most constraints in this regard (Ex: RVOE, list of requirements for professors or for the curriculum, etc). Should there be changes in the restrictions to the academic dimension in the regulatory policy?
9. In your opinion, should there be more regulations to the private higher education to avoid the proliferation of low quality institutions? Why?
10. Some authors suggest that the proliferation of low private quality institutions is due to the inefficiency of the regulatory policy and the nature of the regulatory mechanisms, as there is a lack of a posteriori instruments like supervisions, reports and audits used in higher education to assure there is actual compliance with the law and the requirements. In other words, the regulatory policy for private higher education in Mexico is mainly composed by legislative instruments lacking mechanisms to assure there is compliance. What do you think in this regard?
11. Other authors claim that the regulations for the private higher education are lax and flexible in Mexico. What would you say in this regard?

12. Why do you think the government does not close institutions whose programs lack the RVOE?
13. Why do you think quality assurance mechanisms are optional for private higher education institutions in Mexico?
14. From a couple of years now the creation of for profit private higher education institutions in Mexico is allowed. Do you think that this institutions affect the detriment of the quality of the higher education system? Why?
15. According to your experience, which recommendations would you suggest to improve the regulations of the Mexican private higher education institutions without constraining the autonomy more?