

Winter 2005

## French and U.S. Modes of Educational Regulation Facing Modernity

Denis Meuret  
*Universite de Bourgogne*

Follow this and additional works at: <https://www.repository.law.indiana.edu/ijgls>



Part of the [Comparative and Foreign Law Commons](#), [Education Law Commons](#), and the [International Law Commons](#)

---

### Recommended Citation

Meuret, Denis (2005) "French and U.S. Modes of Educational Regulation Facing Modernity," *Indiana Journal of Global Legal Studies*: Vol. 12 : Iss. 1 , Article 10.

Available at: <https://www.repository.law.indiana.edu/ijgls/vol12/iss1/10>

This Symposium is brought to you for free and open access by the Law School Journals at Digital Repository @ Maurer Law. It has been accepted for inclusion in *Indiana Journal of Global Legal Studies* by an authorized editor of Digital Repository @ Maurer Law. For more information, please contact [rvaughan@indiana.edu](mailto:rvaughan@indiana.edu).



**JEROME HALL LAW LIBRARY**

INDIANA UNIVERSITY  
Maurer School of Law  
Bloomington

# French and U.S. Modes of Educational Regulation Facing Modernity

DENIS MEURET\*

Similar principles guide the educational reforms currently taking place in most countries: ensuring that all eligible people can attend school, ensuring that the skills and knowledge imparted are relevant to the real world, ensuring educational institutions are accountable for results through more frequent use of evaluations and feedback, and ensuring that parents and students assume more responsibility for education.

It is tempting to think that these reforms are spreading because they are encouraged by such international organizations as the Organisation for Economic Co-operation and Development (OECD), the European Commission, or the World Bank or, alternatively, by influential countries such as the United States. Some authors consider these reforms as representing a new form of colonialism that endangers national cultures.<sup>1</sup> Some even call it an “epidemic.” The movements behind these reforms are all the harder to explain because rich countries are not economically dependent on international organizations’ subsidies. Institutional theory may provide the answer: countries’ educational systems increasingly look alike because countries copy each other. This copying is facilitated by membership in international organizations.<sup>2</sup>

This paper postulates that this common model of education is spreading because it fits the current needs of educational governance in highly industrialized societies. Because the requirements educational systems must satisfy are similar, the solutions are similar. Even a cursory examination of the assumptions that

---

\*Doctor in Political Science at the University of Paris IX (1985), Professor in Educational Sciences, Université de Bourgogne. I have gained some familiarity with the French educational system by working 15 years for the Ministry of Education. I would like to express my gratitude to the U.S. researchers, administrators, principals, and teachers in Florida, Indiana, and New York who have given me insight into the U.S. system. I would like sincerely to express my gratitude to Maurice Garnier of Indiana University—Bloomington for the very helpful comments on an earlier draft of this paper. However, all opinions expressed here are mine alone.

1. Benjamin Levin, *An Epidemic of Education Policy: (What) Can We Learn From Each Other?*, 34 *COMP. EDUC.* 131, 131–141 (1998).

2. See generally John W. Meyer et al., *World Society and the Nation-State*, 103 *AM. J. SOC.* 144 (1997) (reviewing evidence in support of the proposition that world-society models shape nation-state identities, structures, and behavior).

shape educational policy across the globe reveals that, in fact, countries share many of them. For example, education is increasingly necessary to lead a good life, in particular to avoid unemployment.<sup>3</sup> High wages and good working conditions often require many years of schooling. As a result, citizens demand an effective education for their children.

This is in sharp contrast to earlier times when the state had to impose education on reluctant parents. Now, citizens hold public officials accountable for the effectiveness of educational systems, including the extent to which education is equitably available. Most governments acknowledge that education represents a major responsibility. Even in the United States, where individual states are mostly responsible for the regulation of education, the No Child Left Behind Act (NCLB)<sup>4</sup> represents a significant increase in the involvement of the federal government in education.

This belief that education is central to the good life explains why parents want to have a say in their children's education and why the discourse on the accountability of schools is popular. The demand for accountability is reinforced by two other factors.

First, education has become a continuous good. It has become desirable to acquire even a few additional skills, or even a slightly more advanced diploma (a master's degree in addition to a bachelor's degree, for example). Because of this, small differences in effectiveness matter. If small differences in achievement have important social consequences, then differences in achievement that are caused by uneven distributions of educational opportunities will be considered inequitable.

Second, government officials believe that education will bring about economic growth, as well as greater social cohesion (the school creates a common socialization outcome), and will produce better citizens.<sup>5</sup> So, they ask for accountability not only in behalf of the consumers, but also in behalf of the public interest.

In short, the reason why the social demand for education fits the spreading educational model may be presented as follows: citizens are increasingly eager to

3. For instance, in France during the 1970s, the risk of unemployment for 15–24 year-olds was independent of the school career of the individual. In 2002–2003, the rate of unemployment of the same population was 15% for those with a tertiary education versus 45% for those who left school without a diploma. Ministère de l'Éducation Nationale, *L'État de l'École* (2004).

4. No Child Left Behind Act, 20 U.S.C. §§ 6301–6600 (2001).

5. See, e.g., OECD, *THE WELL-BEING OF NATIONS, THE ROLE OF HUMAN AND SOCIAL CAPITAL* 35 (2001).

benefit from an effective and equitable educational system that provides access to the highest levels of achievement, and they hold schools accountable for achieving these goals. Because state officials are convinced that education provides economic and social benefits, and because citizens hold these officials accountable, the state makes its agents and organizations more accountable.

Since most countries have these characteristics, it is not surprising that they should all experience a significant move toward greater accountability. However, educational systems are deeply rooted in their own history.<sup>6</sup> Thus, it is worth asking whether each country's tradition facilitates the implementation of the common model described above. In order to answer this question, I compare France with the United States.

I suggested earlier that the assumptions that shape education are common to all wealthy countries. However, the extent to which the assumptions described above fully guide organizational practices is determined by conceptions of education that are deeply embedded in the national culture. My argument is essentially historical: traditions may facilitate some changes and hamper others. I note here that I do not view traditions as an unavoidable source of resistance to change, nor do I view differences between countries as the result of intangible national cultural characteristics. Certain social arrangements make changes relatively easy while others make changes extremely difficult.

As a method of investigating the questions that I raised, I compare the evolution of regulation, which is an important aspect of all educational systems, because it articulates the relationship between the polity and educational institutions. Regulation represents a very useful vantage point from which to see how citizens and their representatives act to ensure that educational institutions fulfill their new functions. These actions are naturally influenced by cultural traditions, and it is the influence of these traditions' effects that we want to examine.

Education is a special kind of good; it is not available through the classic market because supply and demand do not operate in the traditional manner. Nor is it a Weberian bureaucracy since prescriptions and rules often fail to regulate the behavior of teachers and other agents. Economists call education an "agency relationship" between the authority responsible for delivering educational outcomes and the agents who actually do the work (teachers, parents, and students).<sup>7</sup> In an

---

6. See generally MARGARET S. ARCHER, *SOCIAL ORIGINS OF EDUCATIONAL SYSTEMS* (1979) (describing how educational systems develop and change, and how society affects their change).

7. See PAUL MILGROM & JOHN ROBERTS, *ECONOMICS, ORGANIZATION AND MANAGEMENT* (1992).

agency relationship, regulations are the process by which public officials affect the actions of the agents when direct prescriptions are impossible or insufficient, a situation that frequently arises in education. Incentives, teacher training, and educational programs are elements of regulation.

After a presentation of what I call the “traditional models” of education in France and the United States, I examine the current modes of regulation of each educational system, and finally, investigate the legacy of tradition, that is, how the traditional models still affect regulation.

## I. THE TRADITIONAL MODELS

The “traditional models” are conceptions of education which may be related to the parallel figures of John Dewey (1859–1952) and Emile Durkheim (1858–1917); both of whom were major intellectual figures of their time, deeply involved in the design of the traditional model of education in their respective countries—progressive education in the United States, and the Republican model (*le modèle républicain*) in France.

These models may be called “traditional” because they are well established, because they still strongly influence the conception of education that is more prevalent among teachers, and because they are advocated by and implemented in the main educational institutions in each country.<sup>8</sup> In France, the strongest proponents of this model are the *agrégés*, a powerful political lobby. Some of them, mostly teachers of language arts, publish books<sup>9</sup> about their awful experiences in depressed areas when confronted with young “barbarians.” This very idea suits the Republican model very well, as it will become evident later in this paper.

I believe that political philosophy, more than sociology, can explain the deepest roots of these conceptions of education. These roots deal with how the political tradition in each country defines the qualities which have to be devel-

---

8. In France, the traditional model is advocated by the *Écoles Normales Supérieures* and the *Société des Agrégés*. The “*agrégés*” are middle or high school teachers who have passed a highly competitive examination. They receive higher wages and fewer teaching hours than the other teachers in secondary schooling. The equivalent of *Écoles Normales Supérieures* in the United States could be Teachers College of Columbia University, the University of Illinois at Urbana-Champaign, or the Harvard College of Education. For the United States, see generally JOHN D. PULLIAM & JAMES J. VAN PATTEN, *HISTORY OF EDUCATION IN AMERICA* (8th ed. 2003).

9. E.g., FANNY CAPEL, *QUI A EU CETTE IDÉE FOLLE UN JOUR DE CASSER L'ÉCOLE?* [WHO HAD THIS FOOLISH IDEA TO BREAK THE SCHOOL? ] (2004).

oped by education in order to make good citizens. Only different conceptions of government—in the more general meaning of the word—can explain why in similar societies, with similar sectors concerned with education (e.g., teacher corporations, families and students, employers, the public administration), the conceptions of education in France can be so different from those in the United States. Note also that conceptions of education that refer to the Deweyan, as well as to the Durkheimian, model are advocated, and present, in both countries. But while the one that dominates in the United States has always been politically defeated in France, the reverse is true in the United States. Another indication that these models are linked to politics is that they are not “traditional” in the sense that they would be the most ancient form of education. Indeed, both of them had to fight former conceptions of education, strongly linked to religions: puritanism in the northeastern United States and Catholicism in France.<sup>10</sup> Rather, they represent in both countries the traditional form of public education in a secular and democratic society.

I first address the political and philosophical contexts of education in both countries, and then examine their effects on the conceptions of education and on how schools are organized.

#### *A. Political and Philosophical Context<sup>11</sup>*

The French state grew out of the ideas of Jean-Jacques Rousseau rather than John Locke, which meant that society was viewed first and foremost as one political community. For Rousseau, the “normal” or current state of affairs is one of domination, envy, and fear, not of individual freedom, free association, and exchange based on mutual interest. “Man is born free; and everywhere he is in chains.”<sup>12</sup> Individual freedom can proceed only from a political act, the *contrat social*, “a form of association that will defend and protect with the whole common force the person and goods of each associate, and in which each, while unit-

---

10. See ANTOINE PROST, *ÉDUCATION SOCIÉTÉS ET POLITIQUES* (1997) for a discussion of education in France. See also THEODOR ZELDIN, *FRANCE 1848–1945: INTELLECT, TASTE AND ANXIETY* (1977). See PULLIAM & VAN PATTEN, *supra* note 8, for a discussion of education in United States.

11. Denis Meuret, *School Choice and Its Regulation in France*, in *EDUCATING CITIZENS: SCHOOL CHOICE AND PUBLIC VALUES* (Patrick J. Wolf & Stephen Macedo eds., 2004) (partly inspiring this section).

12. JEAN-JACQUES ROUSSEAU, *OEUVRES COMPLÈTES: DU CONTRAT SOCIAL OU PRINCIPES DU DROIT POLITIQUES* 351 (Gallimard 1964) (1762) (author’s translation) [hereinafter *OEUVRES COMPLÈTES*].

ing himself with the others, may still obey himself alone, and remain as free as before.”<sup>13</sup> In other words, other people represent a threat more than an opportunity and can be turned into the latter only by the political act of the *contrat*. The body created by this act is the Republic.

It would be unfair, both to France and to Rousseau, to consider the French state as a pure application of Rousseau’s ideas. However, it is likely that Rousseau’s legacy explains, in part, why in France state action is conceived within a framework in which society is supposed to proceed from the state. Without the state, society would descend into barbarianism and chaos immediately. Whereas in the Anglo-Saxon world, the legacy of Locke’s philosophy partly explains why the state is supposed to proceed from and be subordinate to society.<sup>14</sup>

The idea that other people are a threat is common to Hobbes and Rousseau. For Hobbes, this threat is a fact of nature; for Rousseau, it is a fact of civilization. And the threat justifies both Rousseau’s republic and Hobbes’s absolutism.<sup>15</sup> That in turn may help explain Tocqueville’s observation that the French Revolution perpetuated absolutism, as well as destroyed it, thereby “enhancing the might and rights of public authority.”<sup>16</sup> In the Republican model, the individual is an ambivalent figure, split between his proclivity toward the past and its superstition, and through education and reason, his inclination toward the Republic and the common good.<sup>17</sup>

The United States, and more generally the Anglo-Saxon tradition, does not differ from the French model as Burke said England did, but rather by a conservative respect for all the traditions that built the concrete individual.<sup>18</sup> The two models differ because the U.S. model considers the individual as a will, as a project, as a potential. I believe that Adam Smith made that decisive shift possible through his representation of society’s order as the result of men’s “natural desire

13. *Id.* at 360.

14. See generally JOHN LOCKE, *TWO TREATISES OF GOVERNMENT* (Cambridge University Press, 1963) (1690).

15. See, e.g., Robert Derathé, *Du Contrat Social, Introduction to OEUVRÉS COMPLÈTES*, *supra* note 12, at cvii–cviii.

16. ALEXIS DE TOCQUEVILLE, *L’ANCIEN RÉGIME ET LA RÉVOLUTION* 79 (Gallimard 1967) (1856) (author’s translation).

17. For example, for Durkheim, the role of education is to build a person. However, he conceived the “person, not as a concrete individual, but as what is respectful and sacred in him, a human being.” See Jean-Claude Filloux, *Durkheim et l’Éducation aux Droits de l’Homme*, in DURKHEIM, *SOCIOLOGUE DE L’ÉDUCATION* (Joelle Plantier & François Cardi eds., 1993).

18. See PIERRE ROSANVALLON, *LE MODÈLE POLITIQUE FRANÇAIS* (2004).

to improve their condition," and the idea that the will to change, which was previously thought to be the problem, was really the solution. Smith's framework legitimated the government of society and of capitalism by the state.<sup>19</sup>

From that fundamental difference come two distinctions which are closely related to education: the trust that can be given to others and the conception of progress.

The 1996 edition of the Word Value Survey stated that 35.6 percent of U.S. adults declared that it was possible to rely on most people, while only 22.8 percent of French people said that people were reliable. This could be expected, considering that the civic community in the United States comes about as the result of an agreement among people "who had to trust each other because the fate of everyone depended on the trust she could have in the others."<sup>20</sup> In France, people are potential enemies that only the state and a thin layer of civilization manage to convince not to harm one another.<sup>21</sup> The United States relies far more on mutual trust and mutual sharing of "American values."<sup>22</sup> According to the French model, individuals freely chose to create a state to protect themselves from each other. Without the state, society would end in chaos or in anomie. The nation is based on respect for the law and institutions of government. In his texts on what schools should teach, Durkheim encourages schools to focus instruction on social morality far more than on human rights.<sup>23</sup>

According to the U.S. model, the state is necessary to help guarantee the values and relations that the people choose; the goal of the inaugural contract is to create a society rather than a state. It can be said with only little exaggeration that French people have to show that they are worthy of their administration, while U.S. administrations have to show that they are worthy of their people.

In France, progress is measured by the distance to perfection, which is why reform is very difficult. The leftists claim that the expected progress is insuffi-

19. See generally Denis Meuret, *A Political Genealogy of Political Economy*, 17 *ECON. & SOC'Y* 225 (1988) (tracing the connection between economics and politics over the last 200 years).

20. Cf. JACQUES DONZELOT, *FAIRE SOCIÉTÉ: LA POLITIQUE DE LA VILLE AUX ÉTATS-UNIS ET EN FRANCE* (2003) (comparing city-level politics in the United States with city-level politics in France).

21. See generally MICHEL CROZIER, *LE PHÉNOMÈNE BUREAUCRATIQUE* (1963) (the first study showing how, in French productive organizations, the mistrust toward other people led to the multiplication of bureaucratic rules).

22. DONZELOT, *supra* note 20.

23. Filloux, *supra* note 17.



cient because the ideal is so far away, and the conservatives think that it threatens a stable but fragile order. Another illustration is the tendency of French people to view their country through a lens of extreme righteousness or extreme deprecation. For instance, the French think of France either as leading the world in resistance to the “Americanization” of culture, or as a country in unescapable decline.<sup>24</sup> This may be related to the political model; French society is always in tension between a state of perfection and a state of chaos.

In the United States, progress is conceived as improvement, which is expressed by Thomas Jefferson:

Although I do not, with some enthusiasts, believe that the human condition will ever advance to such a state of perfection as that there shall no longer be pain or vice in the world, yet I believe it susceptible of much improvement, and most of all, in matters of government and religion, and that the diffusion of knowledge among the people is to be the instrument by which it is to be effected.<sup>25</sup>

And Dewey writes, “The society of which the child is to be a member is, in the United States, a democratic and progressive society.”<sup>26</sup> The distinction is between a confident and secular conception of progress, and an anxious and metaphysical one.

These differing orientations toward institutions and individual interests have had powerful effects on these educational systems. I review some of these effects with regard to the role of education and its organization below.

### *B. Effects of the Role of Education*

One effect is that the French educational system is strongly oriented toward achieving civic aims and preparing children for their roles as citizens.<sup>27</sup> This might be related to Montesquieu’s conception of republican government, which

24. See NICOLAS BAVEREZ, *LA FRANCE QUI TOMBE* [THE FALLING FRANCE] (2003). This book was among the best selling books of the winter of 2003.

25. PULLIAM & VAN PATTEN, *supra* note 8, at 103.

26. John Dewey, *Ethical Principles Underlying Education*, in JOHN DEWEY ON EDUCATION 113 (Reginald Archambault ed., Univ. of Chicago Press 1974) (1964) [hereinafter JOHN DEWEY ON EDUCATION].

27. Jack Lang, Speech on the Reform of the Middle School (Apr. 1, 2001).

is grounded on *virtue*—that is the subordination of one's personal interest to the public good—"which most needs education."<sup>28</sup> Civic aims are pursued by the teaching of basic subjects, which is conceived as a way of "providing to each child the symbolic framework for his belonging to the national community."<sup>29</sup> Education does this by teaching that knowledge is a good in itself, and not because it can help citizens reach private goals, such as earning money. Rather than view the pursuit of private interests as a public good, as the Smithian model does, this model holds that the pursuit of private interests undermines the Republic. A well-known French intellectual wrote an article in *Le Monde* that was critical of a proposed reform of high schools that Socialist Minister Claude Allègre had put forth. A teacher, he wrote, "has responsibility only to the logic of the subject he teaches,"<sup>30</sup> and certainly not to give priority to aspects of the subject that would be useful in the real world. But traditional education in France is not despotic; it encourages Roman freedom, which stems from virtue and greatness. The more one is in control of oneself, the freer one becomes. This type of liberty is distinguished from the modern form of liberty which comes from the equality of human beings, and is therefore limited only by the liberty of others. The Deweyan idea that education has to favor human "growth," that "[t]he child is born with a natural desire to give out, to do, and that means to serve,"<sup>31</sup> is grounded on a more optimistic, more egalitarian conception of man.

U.S. education favors the empowerment of the individual to enhance his ability to act in and for the world.<sup>32</sup> For instance, mathematics taught in U.S. schools has to take into account the role that mathematics plays in an individual's life, and that rarely involves complex mathematical concepts, such as those applied by academic mathematicians and researchers.

In contrast, the aim of French education is to open the child's eyes and allow him to reject the superstitions and the misconceptions which are his natural fate. The school has to teach reason and should endeavor to develop critical minds

28. CHARLES MONTESQUIEU, *DE L'ESPRIT DES LOIS* XX (Gallimard Idées 1970) (1752) ("C'est dans le gouvernement républicain que l'on a besoin de toute la puissance de l'éducation . . . [en effet] la vertu politique est un renoncement à soi-même, qui est toujours une chose très pénible.").

29. Marc Fumaroli, *Non, Claude Allègre, l'Amérique n'Est Pas le Modèle Idéal*, *LE MONDE*, Dec. 17, 1998.

30. Régis Debray, *À Monsieur le Ministre de l'Éducation*, *LE MONDE*, Mar. 3, 1998.

31. Dewey, *supra* note 26, at 119.

32. See JENNIFER HOCHSCHILD & NATHAN SCOVRONICK, *THE AMERICAN DREAM AND THE PUBLIC SCHOOLS* 1-2 (2003) (discussing the relationship between school and the American dream).

that are fortified against blind attachments to local communities and the prejudices that inform pedestrian thinking.<sup>33</sup>

A second effect is that the pedagogical view of mistakes is different in the two systems. For teachers in France, although their training teaches them, and their supervisors try to persuade them, that student mistakes should be viewed as a pedagogical opportunity, something stronger in the teachers' collective character seems to view student mistakes as shortcomings. That is probably why, in some international evaluations, like the Program for International Student Achievement (PISA) or the Progress in International Reading Literacy Study (PIRLS),<sup>34</sup> French students have a higher percentage of "unanswered items" than do U.S. students, and why French students underestimate their skills more than their U.S. counterparts. Further, French people who have studied in U.S. schools report that U.S. students are taught to discuss, debate, and work together, more so than are students in French schools.<sup>35</sup>

More fundamentally, in the U.S. model, children are supposed to learn from the world. There is an "organic connection between education and experience."<sup>36</sup> For Dewey, consideration and observation of the world fosters learning, because students can see contradictions, problems, and "troubles,"<sup>37</sup> engage them, and try to solve them. In the French model, the world does not educate, it corrupts. When Luc Ferry was Minister of Education, he wrote that the delete-

33. For Durkheim, if science has to be learned in high school, it is not as it would be for Dewey, to discover and better understand the world; it is "de fixer dans l'entendement des notions qui puissent ensuite servir de règles à la pensée" [to fix in mind some notions which will give some rules to thought]. Viviane Isambert-Jamati, *L'Enseignement des Sciences de L'Homme au Lycée Selon Durkheim*, in DURKHEIM, *supra* note 17, at 170.

34. PISA is an OECD program technically managed by a consortium of researchers led by ACER (Australian Council for Educational Research). PIRLS is one of the numerous evaluations managed since 1970 by an association of researchers, the IEA (International Association for the Evaluation of Educational Achievement). These two evaluations are currently the only ones where unanswered items were accounted for.

35. See *L'Enseignement aux USA*, in CAHIERS PEDAGOGIQUES No. 392 (Mar. 2001). These parents generally do not send their children to urban schools, where they could have another experience, because the higher the social and academic status of the student body in the United States, the more "Deweyan" the school. See for instance the Bank School for Children in New York City. However, the higher the social and academic status of the student body in France, the more "Durkheimian" the curriculum. Very famous high schools like Louis le Grand or Henri IV in Paris are known to use a traditional pedagogy.

36. JOHN DEWEY, *EXPERIENCE AND EDUCATION* 25 (Touchstone 1997) (1938).

37. John Dewey, *Ends and Values*, in JOHN DEWEY ON EDUCATION, *supra* note 26, at 89.

rious influence of the modern world is evident in the "exacerbation of individualism."<sup>38</sup> The minister, whose ambivalent view of individualism is in line with Durkheim's, tried to draw a distinction, albeit a murky one, between "individualism," which is a "characteristic feature of our modernity," and "exacerbated individualism," which is the most considerable threat to today's schools. The world outside the school's walls is evil (since it celebrates instant, effortless gratification), and not something rich to be explored and discovered with passion and pleasure. Therefore, the world must become an abstraction in order for learning to take place, a precondition that proceeds from both political and pedagogical principles.

In the United States, the world is seen quite differently. It is a physical place with social meaning where nature and society are intriguing and fascinating. The U.S. model emphasizes science and discovery,<sup>39</sup> while the French model highlights mastery of mathematical or linguistic rules, which are conceived not as an end, but as a means to teach discipline and provide a "sense of effort."<sup>40</sup>

Still another effect is that the French system is more elitist than the U.S. system. *Social* elitism is not compatible with the Republican model, *academic* elitism is. In this model, education has to "remove" children from the ordinary world, which is, almost by definition, possible only for an elite. There is also a distinction between primary schooling, which has a strong moral role, and secondary schooling, which aims to "awaken and develop the general ability to think."<sup>41</sup> The tension in the French model between "teaching modern morality and civics as a new catechism" and "teaching the individual to be free by teaching him to reason" is eased to a large extent by assigning the former task to primary schooling and the latter task to secondary schooling. By contrast, Dewey's idea that children are "born with a natural desire to give out, to do," comes close to the famous motto, "Everybody can learn!"

38. LUC FERRY, *LETTRE À TOUS CEUX QUI AIMENT L'ÉCOLE* 42 (2003).

39. See generally Dewey, *supra* note 26; Dewey, *supra* note 36 (arguing that experience is a vital element to learning and should be incorporated into educational models); RICK BASS, *THE SKY, THE STARS, THE WILDERNESS* 87 (1997). Rick Bass's short story is beautiful praise of knowledge as discovery.

40. See FERRY, *supra* note 38, at 140 ("Too often, these last years, a kind of demagoguery wanted to transform school into something else, a place to live, a place for play activities which would ban every effort of the child, while all forms of acquisition of solid knowledge, grammar, dictations, and mental arithmetic would disappear.") (author's translation).

41. Isambert-Jamati, *supra* note 33, at 169-170.

An educational hierarchy is compatible with the Deweyan model, for bright students have access to richer, more complex experiences, and therefore acquire more power through their education. However, hierarchy and elitism are not synonymous. Elitism supposes the existence of a distance between the few and the many, a circumstance to which the French model is more favorable than the U.S. model. Paradoxically, when writing about secondary schooling, Durkheim does not mention that it is reserved for a small elite; Dewey does. A modern French commentator excused Durkheim's blindness by blaming it on the "period."<sup>42</sup> But Dewey, writing in 1899,<sup>43</sup> six years earlier than Durkheim, acknowledged the elitism of U.S. secondary schooling. This demonstrates that France and its educational model were more accountable for Durkheim's blindness than was the "period." This difference between the two systems is also shown by the existence in France (and the absence in the United States) of separate vocational schools, the function of which is to allow the Republican model to survive despite the necessity of opening secondary schooling to more students. Another example is in higher education, where there is a continuum between the least and most esteemed universities in the United States, whereas in France the gap in prestige is quite large between the universities taken as a whole and the *Grandes Écoles*.

### *C. Effects on the Organization of Education*

Four organizational features of the two educational systems may be linked to the political construct that I described earlier: centralization, the role of parents, the nature of the curriculum, and the ability or willingness of the establishment to change.

Most scholars believe that the centralization of the French system came about as the result of fights with Catholic schools<sup>44</sup> and by the idea that education has to be linked not to the ancient world of the provinces, but to the nation. In the beginning of the Revolution, the public celebrations attempted to create a direct link between the individual and the nation, and to remove every intermediary body.<sup>45</sup> In that respect, it is possible to see education today as a descendant

42. *Id.* at 177.

43. John Dewey, *The School and Society*, in JOHN DEWEY ON EDUCATION, *supra* note 26, at 295, 309.

44. See generally Antoine Prost, *Les Écoles Libres Changent de Fonction*, in 4 HISTOIRE GÉNÉRALE DE L'ENSEIGNEMENT ET DE L'ÉDUCATION EN FRANCE 413 (1981).

45. See ROSANVALLON, *supra* note 18.

of the revolutionary celebrations; the same kind of withdrawal from the real and imperfect world was imagined in the sentimentality of the celebrations and the rigor of education. In the United States, by contrast, citizens seem to be ready to accept rather important inequalities of resources among school districts, because, as Chief Justice Warren E. Burger observed in *Milliken v. Bradley*,<sup>46</sup> “No single tradition in public education is more deeply rooted than local control over the operation of the schools.” Existing communities are not the enemies of the state, nor in competition with it; they are a link between the individual and the nation, and as such, a support for the state.

Of course, the difference between the two educational models fits very well with the idea that parents are more welcome in schools in the United States than in France, and also that parents are keener to help the schools in the United States. This is one of the main differences that French parents living in the United States observe.<sup>47</sup> The policies in France encourage parents to teach their children respect for the school and teachers,<sup>48</sup> while in the United States, policies are aimed at making parents more involved in the academic success of their children.<sup>49</sup> In the United States, the interests of the child and the interests of society are the same; the child’s success is good for the child, but also for the community and the country.

This happy convergence is not easily accepted in France, where the idea that private interests and the public good may coincide is somewhat disturbing. This is especially true when it comes to poor children. Many Bourdieusian sociologists are very happy to show that spending more time in school only gives false hope to the poor.<sup>50</sup> The claims of these sociologists are warmly received by the

46. 418 U.S. 717 (1974), *quoted in* Stephen Macedo, *Equal Citizenship and the Problem of Educational Apartheid*, Communication to the RAPPE seminar on *La Ségrégation Scolaire* (Dec. 2003).

47. See *Le Système Scolaire Américain*, in *CAHIERS PÉDAGOGIQUES*, *supra* note 35.

48. JEAN-PAUL PAYET, *COLLÈGES DE BANLIEUE* (1995).

49. One example is the “Success for All” design, which carefully plans frequent interactions between the school and parents to help the child learn. See ROBERT E. SLAVIN & NANCY A. MADDEN, *SUCCESS FOR ALL AND ROOTS AND WINGS* (1996).

50. E.g. STÉPHANE BEAUD, *80% AU BAC . . . ET APRÈS? LES ENFANTS DE LA DÉMOCRATISATION SCOLAIRE* (2002). The idea that students are deceived into believing that most students are able to enter higher education is common to Bourdieusian sociologists and to the most conservative advocates of the traditional model. Interview with Fanny Capel, *Télérama* (May 26, 2004) (“On abaisse les exigences, on facilite le cursus des élèves, mais on leur ment.” [“The standards are lowered, therefore the students’ academic course is easier, but one lies to them.”]).

media, even though they do not represent what really happens.<sup>51</sup> In fact, poor children, even in France, derive some benefit from a longer school career. And yet, most French people still see only the dark side of the French educational model. According to the Republican model of education, children of the poor are taught to protect the Republic from superstitions and disorders, which are often associated with poverty, rather than act for their own sakes or interests. Therefore, the model dictates that people who pretend that children will derive some benefit from longer schooling can only be liars. If the poor go to school for the sake of the nation more than for their own sakes, it may be expected that they would derive no benefit from spending more time in school.

Another effect is the difference between French and U.S. curricula. In the U.S. model, the curriculum does not need to be precisely defined since the lessons have to account for the characteristics of each child and his environment.<sup>52</sup> In the French model, the curriculum must be strongly defined since the aim of schooling is to get children to forget about the specificities of their direct environment and attain an abstract comprehension of the world.

The last effect of the political difference in organization between the two countries' educational organizations is the ability or willingness of each educational system to experiment and change. This is the diachronic aspect of the centralization versus decentralization debate. The traditional French system is established once and for all; there is no reason why it should change. Therefore, any suggested change is perceived as a potential betrayal that will result in a lowering of requirements, and therefore of standards.<sup>53</sup> In contrast, in the United

51. For instance, in the summer of 1997, the national newspapers in France gave considerable play to Dominique Goux & Eric Maurin, *Démocratisation de l'École et Persistance des Inégalités*, 306 *ÉCONOMIE ET STATISTIQUE* 27, 27–39 (1997), which showed that the educational inequality among social groups remained stable between the sixties and the seventies. However, the newspapers did not mention another paper, Claude Thélot & André Vallet, *La Réduction des Inégalités Sociales Devant L'École Depuis le Début du Siècle*, 334 *ÉCONOMIE ET STATISTIQUE* 3, 3–32 (2000), which showed that the opening of secondary schools from 1985 to 1995 resulted in a reduction of these inequalities. *La Bataille de l'École*, *LE MONDE*, Aug. 29, 1997; *La Richesse des Parents n'est Plus le Facteur Principal de la Réussite Scolaire des Enfants*, *LIBÉRATION*, Aug. 28, 1997.

52. See, e.g., LINDA McNEIL, *CONTRADICTIONS OF SCHOOL REFORM* (2000). The first sentence of the book states its general thesis: "Standardization reduces the quality and quantity of what is taught and learned in schools."

53. No fewer than fifteen leading French scholars signed on to an editorial published in *Le Monde* against the attempted high school curriculum reforms proposed by former Minister of Education, Claude Allègre. These scholars demanded Allègre's resignation, defended their careers, and demanded a curriculum that would allow them to remain true to teaching. Olivier Beaud et al., *Claude Allègre, Énième Pompier Pyromane*, *LE MONDE* (Mar. 24, 2000).

States, the conception that school is somewhere between the child and the real world makes the educational system more receptive to change based on the requirements of either the child or the world. The head of a U.S. educational association declared in a French review, "Our school, by its very nature, is always challenging itself."<sup>54</sup>

#### *D. The Models and Their Challengers*

Thus far I have only examined the models on which French and U.S. educational systems are based, not how the systems operate in reality. "Models" refer to "conceptions of education, which seem more natural in a given country because they suit best the role that the narrative of [the country's] political system attributes to education." Naturally then, there will be gaps between the model and reality.

In the *French Political Model*,<sup>55</sup> Pierre Rosanvallon writes that Tocqueville's representation of a republican state, with nothing but "an immense and empty space"<sup>56</sup> between it and the individual, is not completely accurate. He argues that, in reality, intermediary bodies existed between the two. The country would have been paralyzed had not some of those bodies, which the French Revolution suppressed, been reintroduced, however reluctantly, as a kind of concession to reality. This is the tension found in French education today, between the traditional Republican model, in which education allows individuals to directly participate in political society through mastery of reason and acquisition of *virtue*, and a more "American" version of education, where consideration is given to communities, parents' goals, and children's emotions and feelings. The latter exists in France only as a concession to the times or to necessity. Every attempt to use it as a norm is strongly attacked in the newspapers and derided in the streets. Among the demonstrators are teachers, who in the privacy of their classrooms, teach their students in ways that are dissimilar to the "American" way.<sup>57</sup>

Another example of the gap between the model and reality is that each country has its advocates for the "foreign" model. In France, between the two world wars, Célestin Freinet proposed an approach to schooling which was very

54. Sharon Frantz, *Forces et Faiblesses*, LES CAHIERS PÉDAGOGIQUES, Mar. 2001, at 37–38.

55. ROSANVALLON, *supra* note 18.

56. TOCQUEVILLE, *supra* note 16, at 141.

57. See FRANÇOIS DUBET & MARIE DURU-BELLAT, *L'HYPOCRISIE SCOLAIRE* (2000).



similar to Dewey's Progressive Education.<sup>58</sup> The *Cahiers Pédagogiques* published a special issue in 2001 that cast the U.S. system in a very positive light. Though such advocacy is generally rare in France,<sup>59</sup> there are French authors, like Philippe Meirieu<sup>60</sup> for example, who belong to this school of thought. It is interesting to note that while Durkheim and Dewey were leading intellectuals in the field of education, Freinet was a primary teacher.<sup>61</sup> It is almost as if this alternate model in France could only be advocated by people who have been in the trenches. This also explains why advocates of the traditional French model criticize Philippe Meirieu with a contempt that they would not dare to use against anybody else.<sup>62</sup>

The U.S. model is also advanced by the *Instituts de Formation des Maîtres* (the French school of education) through a strong advocacy for constructivism, and even the French Ministry of Education tries (very often unsuccessfully) to develop interdisciplinary programs and promote so-called "hands-on" learning.

Similarly, in the United States, some authors (e.g., Allan Bloom<sup>63</sup>) and some very well-known reports,<sup>64</sup> propose a critique of the U.S. model from a French perspective. Similar to the Ministry of Education, the U.S. Department of Education argues in favor of the "other" model, at least to an extent, which includes a return to basics and a more strongly defined curriculum.

58. DAVID CLANDFIELD ET AL., COOPERATIVE LEARNING AND SOCIAL CHANGE: SELECTED WRITINGS OF CÉLESTIN FREINET (1990) (introducing in English Freinet's pedagogy).

59. This judgment by Régis Debray is far more representative of the opinion that many French people have on the U.S. educational system: "Cette modernisation à l'américaine vaudra force applaudissements à ses promoteurs, mais aussi, pour les autres, une production record d'alphabètes, comme aux Etats-Unis." See Debray, *supra* note 30. Note that Debray depicts the reform that he critiques—the proposals by the Minister Allègre—as very popular, which was not the case. This is because it is always better, for those who use the Republican rhetoric, to present their positions as non-populist: the farther from the opinion of the *vulgus*, the nearer to *virtu*.

60. See PHILIPPE MEIRIEU, LE CHOIX D'ÉDUQUER (1991).

61. See PATRICK BOUMARD, CÉLESTIN FREINET (1996).

62. See, e.g., ALAIN FINKIELKRAUT, UNE VOIX VIENT DE L'AUTRE RIVE 77–78, 117–19 (2003) (Finkielkraut accuses Meirieu of preparing an "Auschwitz of culture").

63. See, e.g., ALLAN BLOOM, THE CLOSING OF THE AMERICAN MIND (1987). It is interesting to note that this book was published in French the same year as it was published in English in the United States. I am not aware of any contemporary U.S. book explaining the Deweyan position that has been translated into French.

64. See, e.g., THE NATIONAL COMMISSION ON EXCELLENCE IN EDUCATION, A NATION AT RISK: THE IMPERATIVE FOR EDUCATIONAL REFORM (1983).

This supports the idea that political models have an underlying influence on the education in both countries. In fact, both educational models are present in both countries, but the dominant model in one country has always been defeated in the other country, either in a political battle or through passive resistance from actors in the field.<sup>65</sup>

## II. THE TWO MODES OF REGULATION

There are two types of modes of regulation. First, there is “regulation by results,” where, in economic terms, the principal sets certain standards, measures achievement, and creates incentives, both positive and negative, that are geared to this achievement. Second, there is “regulation by process,” where the principal encourages agents to implement practices that are known to be effective. The first type presupposes that the “agents” who could perform better do not try hard enough or do not try in the right way, while the second assumes that they do not know how to do better.

Some features of the French and U.S. models suggest that “regulation by results” should be more developed in France, and “regulation by process” should be more developed in the United States. In the French system, the precise curriculum, and its highly academic orientation, make it easy to set standards and to measure results. Also, the centralization of the French model makes it easy to compile data on any school in the country, reducing the costs and enhancing the benefits of inter-school comparisons. And the strong authority of the state makes it possible to overcome almost any possible resistance. On the other hand, in the United States, the autonomy of each local system, the close proximity of the schools to the center of regulation (the district), and weakly defined results should favor regulation by process.

However, the philosophical background of the respective political institutions, a stronger force than any of the above features, produces the opposite result.

---

65. It would be very interesting to compare how the same discourses differ in both countries—for instance, to compare Bloom’s discourse and the one of the *agrégés*. My hypothesis would be that the subordinate discourse presents itself from a technical perspective, while the dominant one uses a more political and moral approach.

### A. Regulation by Results

Consider in turn the three components of regulation by results: standards, measurement of achievement, and incentives.

Thirty years ago, standards were almost unknown in the United States. Florida was a pioneer when the 1973 Educational Accountability Act called for state curriculum standards to be set in all core subjects and for state assessment for all students in every grade to measure student achievement.<sup>66</sup> Proponents of these standards maintained that an absence of standards “worked to the disadvantage of low-income students.”<sup>67</sup> Opponents argued that standards would narrow the curriculum, especially for disadvantaged students.<sup>68</sup>

NCLB requires the states to adopt challenging academic standards in math, language, and science by 2005–2006.<sup>69</sup> These standards are made available to the public, and it is noteworthy that in France a similar effort has been made: the “*programmes nationaux*” have been published in pocket books.<sup>70</sup>

So the only differences are that in France, standards are set at the national level and they exist for all subjects, whereas in the United States, standards are mandated at the national level, but the definition of these standards is left to the states. Florida’s educational system seems to track closer to France’s. Like France, Florida has standards for all subjects. Both systems also have very detailed explanations of what skills students should possess. But there is one significant difference between the two systems. This difference is not in the presentation of the skills that have to be possessed, which is rather detailed in both cases, but rather in the way these skills are presented. The Florida Depart-

66. Carolyn Herrington, *Educational Accountability and Assessment in Florida: Where Have We Been, Where Are We Going?*, Paper presented at the Reuben O’D. Askew Annual Conference, Gainesville, Fla., at 25 (Mar. 2004). For a description of the current Sunshine State Standards, see Florida Department of Education, at <http://www.firn.edu/doe/curric/prek12/index.html> (last visited Feb. 1, 2005).

67. THE EDUCATION TRUST, *FACT SHEET #1: STANDARDS*, at <http://www2.edtrust.org/NR/rdonlyres/82FA87DD-62D2-415E-8426-32FD14CF2EF8/0/factsheetrev4.pdf> (last visited Sept. 24, 2004).

68. *E.g.*, McNEIL, *supra* note 52.

69. See No Child Left Behind Act, 20 U.S.C. §§ 6301–6600 (2001).

70. Qu’apprend on à l’école maternelle? *Les programmes 2004–2005*, 192 (2004), available at <http://www.cndp.fr/produits/detailsimp.asp?ref=755D0081>; Qu’apprend on à l’école primaire? *Les programmes 2004–2005*, 352 (2004), available at <http://www.cndp.fr/produits/detailsimp.asp?ref=755D0082>.

ment of Education presents the standards as “a reform effort...to align curriculum, instruction and assessment. They identify what students should know and be able to do for [the] 21st century, and are thus both content standards and performance standards.”<sup>71</sup> On the other hand, the French Ministry of Education presents these skills in relation to the logic of the subject<sup>72</sup> and explains to the teacher not only what he has to do to teach the skills, but also how the student learns these skills. Thus, the French emphasize process while Florida stresses results. This is also the case at the national level in the United States, where the Education Trust presents NCLB standards as “what all students should know and be able to do.”<sup>73</sup>

Additionally, in France, the objectives of the educational system are expressed in terms of the child’s school career, while in the United States, they are expressed in terms of the child’s mastery of skills (that is, at least since the passage of NCLB). In France, for the first time, the *Loi d’orientation de l’éducation* (1989) set two objectives: by 2000, 80 percent of a given cohort should reach the end of secondary schooling, and no one in that cohort should leave the educational system without a degree. But it did not specify the skills which would have to be acquired. The idea that no one should leave school without a minimum set of skills was indeed advocated in France by, among others, the report of the *Commission Fauroux* in 1990, and more recently by the *Commission Thélot* in 2004.<sup>74</sup> But the idea never succeeded, because proponents of the traditional model feared that a defined minimum skill set could develop into a norm, and that might lead to a lowering of standards overall. So the *Syndicat National de l’enseignement du second degré*, the main teachers union, accepted the idea that the school had to provide “a common culture,” but maintained that “this culture cannot be grounded on skills or behaviours.”<sup>75</sup>

71. Presentation of the Development of Mathematics Grade Level Expectations, Florida Department of Education, available at <http://www.firn.edu/doe/curric/prek12/pdf/introma.pdf> (last visited Feb. 1, 2005).

72. Qu’apprend-on à l’école élémentaire? (2002), available at <http://www.cndp.fr/archivage/valid/17083/17083-3864-6317.pdf> (last visited Feb. 9, 2005) (e.g., “Le cycle 2 marque l’entrée véritable des élèves dans l’univers des mathématiques” [“In grades 3–5, the pupils really enter the universe of mathematics”]).

73. THE EDUCATION TRUST, *supra* note 67.

74. See, e.g., Pour la Réussite de Tous les Élèves, Rapport de la Commission du débat sur l’avenir de l’école présenté par Claude Thélot [For the Success of Every Child, Report of the National Commission Chaired by Claude Thélot] (2004).

75. See Débat National sur l’Avenir de l’École, at <http://www.debatnational.education.fr/>.

Of course, in every educational system, student achievement must be measured. But we are concerned here with the kind of measure which is used to evaluate not only students, but also schools or school systems. In the United States, student test results are published in school report cards in almost all of the states, either for all schools (nineteen states) or for selected schools (thirty-one states). In addition, at least thirty-four states have implemented an extended form of public school choice.<sup>76</sup> So, these test results heavily inform the process of regulation—at least through parental school choice. Increasingly, the tests are also linked to incentive programs.

To measure achievement, France exclusively uses value-added indicators, which for high schools, compare the actual rate of success on the *baccalauréat* to an “expected” rate given the social and academic composition of the school.<sup>77</sup> The same kind of indicators are calculated for middle schools; the promotion to high school replaces the passage of the *bac*. But these reports are only sent to the schools as a service provided by the administration to the professionals who want to improve.<sup>78</sup> In practice, they often are not even read.<sup>79</sup> These indicators were promoted by technicians at the Ministry of Education, and only accepted reluctantly at the political level, where they were tolerated more than endorsed. So, in the United States, accountability relates more to skills that students should acquire, while in France it relates more to a diploma. Note that between a high-skilled and a low-skilled person, there is a continuum, like between the more or less prestigious U.S. universities, while between those who passed a diploma and those who failed, there is a dichotomy, like that between the French *Grandes Écoles* and universities.

In France, the skills assessment is designed to assist teachers. The tests occur at major transitions: the beginning of the third year of primary school, the first year of middle school (sixth grade), and the first year of high school (ninth grade). This position at the beginning of the year allows teachers to make an accurate diagnosis of their pupils’ needs, without allowing anybody to measure the quality of their pupils’ former teachers. These tests are more or less valued by

76. EDUCATION COMMISSION OF THE STATES, REPORT OF STATE IMPLEMENTATION OF NCLB REQUIREMENTS (2004), available at <http://www.ecs.org/ecsmain.asp?page=/search/default.asp> (last visited Feb. 9, 2005).

77. JEAN VOGLER, L'ÉVALUATION 367 (1996).

78. *Id.*

79. INSPECTION GÉNÉRALE DE L'ÉDUCATION NATIONALE, L'ÉVALUATION DES COLLÈGES ET DES LYCÉES EN FRANCE 2004, 118 (2004).

teachers of third and sixth grades, but at ninth grade, most teachers have refused them, and the tests have been canceled at that level.

Thus, the most precise measurements of achievement available in France are insufficient to allow for meaningful accountability. Moreover, the indicators which potentially could be used to provide accountability do not, largely because of the lack of any incentives linked to them.

Indeed, incentives are better developed in the United States. NCLB includes the first set of (negative) incentives at the national level. For instance, either students are allowed to transfer to another school, or schools must provide external services to their students. There are also accountability systems at the state level. For instance, "the A+" plan in Florida<sup>80</sup> makes use of incentives. These could be positive (where well-performing schools receive grants) or negative (where poorly performing schools must go through "reconstitution").<sup>81</sup> The use of incentives in the U.S. educational system is a fairly recent development. Incentives in the United States can be created at the judicial level or through the administrative lawmaking process.

Perhaps surprisingly, in France, incentives do exist. Inspectors<sup>82</sup> allow teachers who use the methods that are recommended by the administration or that suit the inspectors' own appreciation of what good teaching is, to climb faster on the wage scale. However, two features prevent these inspections from fully becoming part of an effective accountability system: they are not linked to measures of the students' performance and they are positive only. Principals often complain that they are powerless to do anything about very ineffective

80. See Deborah Inman, *Educators and the A+ Plan: Voices from the Field*, in FLORIDA 2001: EDUCATIONAL POLICY ALTERNATIVES 87 (Carolyn Herrington & Katerine Kasten eds., 2001).

81. See, e.g., Helen Ladd, *The Dallas School Accountability and Incentive Program: An Evaluation of Its Impact on Student Outcomes*, 18 ECON. EDUC. REV. 1-2 (1999). On "reconstitution" (the replacement of the whole staff in a low performing school), see Heinrich Mintrop, *The Limits of Sanctions in So-called Failing Schools*, Paper Presented at the Annual Conference of the American Educational Research Association (Apr. 1-5, 2002).

82. Inspectors are former teachers who no longer belong to a school but visit their former colleagues, observe lessons, and give their former colleagues marks, which depend on what the inspectors deem to be the level of quality of their teaching. A secondary teacher is "inspected" only about five or six times in his or her whole career. When the traditional model was still strong, inspections came unexpectedly, and teachers feared them a lot. Today, teachers know when the inspector will come and visit. Inspectors have their own hierarchy, on top of which are the *Inspecteurs Généraux*, who inspect the most problematic teachers, chair the accreditation procedures of the teachers, and write reports for the Minister. Some of these reports will be mentioned further.

teachers. These inspections are really an example of regulation by process, not of regulation by results.

It is clear from this description that regulation by results is better developed in the United States than in France. In both countries, teachers are not fond of it, but they resist it more successfully in France—not because French teachers have stronger professional organizations (they do not)—but because the culture of results is more alien to the French traditional model than it is to the U.S. model.

### *B. Regulation by Process*

In this kind of regulation, the administration either authorizes school plans or proposes programs to the schools. The idea is that schools and teachers have to be provided with several pedagogical forms from which they must choose one that best adapts to their students, and this “adaptation” has to be verified by the administration.<sup>83</sup> Note that the idea of adaptation is a heresy for the Durkheimian model, while it is orthodox in the Deweyan model.

The authorization of school plans is an older formula in the United States than it is in France, where it appeared with the 1989 *loi d'orientation de l'éducation*. I am unaware of the success of this formula in the United States, but inspection reports show that it failed in France.<sup>84</sup> Very few schools—most of them in deprived areas—really use that formula; most of the others consider it a mere formality. Most often, school principals indicate in their plans very general objectives (e.g., “make the students succeed”), which are at odds with the idea of adaptation. In fact, without any examination of the effectiveness of these plans, the administration does not know how to properly manage them. If it monitors them too closely, it suppresses the autonomy of the actors; if it does not monitor them closely enough, it ceases to have any influence.<sup>85</sup> A new version of the plan uses the language of a contract. For example, the schools in *Zone d'Éducation Prioritaire* have to sign a *contrat de réussite* (contract of success) with the *rectorat*. This contract describes—for the most part in a very general way—the objectives

---

83. For a conceptual presentation of the distinction between regulation by results and regulation by process, see Denis Meuret & Marie Duru-Bellat, *English and French Modes of Regulation of the Educational System: A Comparison*, 39 *Comp. Educ.* 463, 466–471 (2003).

84. INSPECTION GÉNÉRALE DE L'ADMINISTRATION DE L'ÉDUCATION NATIONALE, *RAPPORT 1999* (1999).

85. CARINE LEPAGE, *L'AUTONOMIE DES ÉTABLISSEMENTS: ENQUÊTE EXPLORATOIRE*, UNIVERSITÉ DE BOURGOGNE, IREDU 84 (1999).

the *rectorat* want schools to reach.<sup>86</sup> An unsuccessful attempt was made to require all school heads to sign the same kind of contract with the *rectorat*. In both cases, passive resistance defeated proposed reforms.

One interesting form of regulation by process is when the administration prescribes optimal forms of schooling, which schools are free to implement or not. In France, one of these pedagogical forms is the *classes relais*. These classes are for young people who are unmanageable in the traditional classroom setting, and who are sent for about two months to special smaller-size classes, where the students can try to learn how to adapt to the school environment. Schools are free to determine whether to provide such classes, but every step of the process that a school should follow, should it decide to provide these classes, is prescribed from above. Schools are told how to enroll students in these classes and how to send them back. It is all predefined. Another example of this type of regulation in France is "*itineraires de découverte*" (an attempt towards a more "American" way of schooling). Two hours a week are allocated to a pedagogical project involving two subjects. For example, some seventh grade students work on the ecological problems facing African forests with their French teacher in order to understand the importance of African forests by studying African tales; and the students work with their geography teacher in order learn about the ecological threats to the forest. In situations like these, a general framework of studies is provided, but teachers have discretion to come up with how to implement the framework at the classroom level. Teachers are also told to use the above mentioned pedagogical evaluations in the third and sixth grades in order to decide what remedial actions to implement for students. The procedure for doing this is prescribed for teachers, but the interpretation of the results is left to the teacher's discretion.

The United States uses regulation by process. Most of the time, it appears at the district level, which makes it less visible than regulation by results, which is most often seen at the state level. For instance, in some districts, "behavioral classes" are the equivalent of the French *classes relais*. The most visible forms of regulation by process in the United States are "school designs" (e.g., "Success for All" schools, Comer schools, etc.).<sup>87</sup> These designs lay out precise definitions of

---

86. Ministère de l'Éducation, *Relance de l'Éducation Prioritaire: Élaboration, Pilotage et Accompagnement des Contrats de Réseaux d'Éducation Prioritaire* (1999), at <http://www.education.gouv.fr/bo/1999/4/SCOE9803349C.htm> (last visited Feb. 9, 2005).

87. The most widely used of these designs are presented and assessed in Rebecca Herman et al., *An Educator's Guide to Schoolwide Reform* (1999), available at [http://www.aasa.org/issues\\_and\\_insights/district\\_organization/Reform/index.htm](http://www.aasa.org/issues_and_insights/district_organization/Reform/index.htm) (last visited Feb. 9, 2005).



how the school should function, but it is up to the individual school to determine whether it should implement them.

Regulation by process also may be seen when schools deal with Title I funds. In order to receive Title I aid, schools must satisfy criteria laid out by the federal government. This is a significant difference between France and the United States. In France, these “approved programs” are not linked to resources. Because of this, the United States ends up with programs that favor the creation of “Christmas tree” schools, with lots of heterogeneous programs; whereas in France, according to the reports from the *Inspecteurs Généraux*, it results more in abstract and vague statements from schools.<sup>88</sup>

I do not know the history of regulation by process in the United States. But in France, regulation by process appeared with the weakening of the Republican model. The organization that best suited this model consisted of strong centralization and regulation through rules and compliance with those rules, which included assessment by the inspectors. This model was challenged when it became clear that it did not assure social equality of opportunity.<sup>89</sup> This occurred when a French survey found serious social inequalities with regard to access to higher education.<sup>90</sup> The discourse then centered on “adaptation” and began to gain some strength. Finally, the administration increased school autonomy. It did so very slowly and cautiously because the Republican model still loomed large. In short, it can be said that the increased autonomy of schools in France was accomplished not by eliminating regulations, as the United States did with charter schools, but by replacing (and sometimes supplementing): some of the substantive rules with procedural rules; some detailed prescriptions with general frameworks of action; and obligations with options or opportunities.

In France, replacing traditional, detailed prescriptions with regulation by process was successful in a few cases, but according to numerous inspection reports, was never entirely satisfactory.<sup>91</sup> The end result found teachers with greater independence—and isolation. The educational system eventually gave up on using this ancient form of regulation, which detailed a nationwide curric-

88. INSPECTION GÉNÉRALE DE L'ÉDUCATION NATIONALE, *L'AUTONOMIE DE L'ÉTABLISSEMENT PUBLIC LOCAL D'ENSEIGNEMENT EN QUESTION* [School-Based Management Challenged] (2001).

89. JEAN-LOUIS DEROUET, *ÉCOLE ET JUSTICE: DE L'ÉGALITÉ DES CHANCES AUX COMPROMIS LOCAUX* (1992).

90. Alain Girard & Henri Bastide, *La Stratification Sociale et la Démocratisation de l'Enseignement* [Social Stratification and Equality of Opportunity], 18 *POPULATION* 435, 435–472 (1963).

91. *E.g.*, INSPECTION GÉNÉRALE DE L'ÉDUCATION NATIONALE (IGAEN), *supra* note 84.

ulum, used inspections, and provided little autonomy for the schools. But it did not replace it with a new one.

### III. THE LEGACY OF TRADITION

In my view, some aspects of the new forms of regulation in the United States, for example the requirements of accountability, are in line with the traditional model of U.S. education, which is strongly influenced by Dewey's Progressive Education, while some other aspects are not.

Along these lines is the idea that everybody can learn, and that therefore the burden rests on the shoulders of the institution. After all, Dewey himself held older forms of schooling responsible for the bad schooling of his time.<sup>92</sup> In keeping with the Deweyan concept is the idea that the skills schools teach have to be useful in the real world. Also, that the form the school system takes is not set once and for all, but that experimentation with new forms of schooling is part of the permanent process of adapting school to the real world and the needs of the child. Even prescriptive standards in the United States can, to some extent, be reconciled with the Deweyan concept.

Dewey, in *Experience and Education*, insists that teachers must have freedom to decide on the pedagogy they implement; but it is not clear that he would oppose a mandated set of skills that every child must acquire. I do not pretend to be an expert on Dewey's thought processes, but if I may be allowed to cautiously speculate, I believe that he would see problems of accountability in (1) the existence of low quality tests, (which do not measure the true ability of children to use relevant skills in real situations, but instead measure immediate skills without regard to the influence of the process of schooling on "the desire to go on learning"),<sup>93</sup> and (2), the risk of fossilization of the tests. A public debate concerning which skills have to be possessed by whom, thereby increasing the democratization of the process of test making—which may include some possibility of opting out—is essential.

Other (more minor) aspects of the legacy of the traditional model in the United States include: the localism of the system that sometimes results in conflicts between opposite requirements (for instance, when some poorly performing schools are given resources to implement remedial programs which are at

---

92. See DEWEY, *supra* note 36, at 17–18.

93. Dewey, *supra* note 26, at 48.

odds with the requirements of the local accountability system) or discrete test results (for instance when schools meet the state requirements but fail to meet NCLB requirements). Localism also contains a tension between the trend to create alternative types of schools (e.g., magnet schools), and policies which try to enhance the quality of mainstream schools.

The legacy of tradition in France is much more at odds with the new model of schooling. Its “once and for all” nature requires reformers to present their ideas as necessary for technical reasons: if newcomers have been enrolled (e.g., because of the requirements of *mondialisation*), teaching would have to “adapt” to the presence of these newcomers. The reforms are presented as an adaptation to a sad new situation: because of world economic competition, we must, unhappily, teach our students longer and we must adapt our methods and forms of teaching to this new situation. No politician seems to be able, as Bill Clinton was in the United States, to present these evolutions as good news and as opportunities. The “*itinéraires de découverte*,” for instance, are presented as a tool to increase weak students’ interest in school, and not as something that provides more useful, complex, and intelligent skills than the traditional subject approach.<sup>94</sup> As a result, these reformers and their reforms are accused of lowering the standards for everyone.

Of course, the idea that schooling has to “remove” children from the world and their superstitions places the burden squarely on the students’ shoulders, which means that when children fail, it is because they did not try hard enough. Or the families are to blame. But schools remain blameless. For the same reason, school choice in France does exist as freedom to *provide* schooling. The Catholic Church is engaged in strong and successful lobbying to share with the state the

---

94. The Ministry of Education’s website presents the *Itinéraires de Découverte* as follows:

Le collège unique, qui accueille tous les élèves . . . au sein d’une seule et même structure, a vu le profil général de son public se modifier: celui-ci se caractérise par une hétérogénéité des motivations et des niveaux plus grande que par le passé. Progressivement, se sont donc mises en place des pédagogies appropriées à ces situations nouvelles. . . . C’est dans cette recherche de pratiques différentes que trouvent place les itinéraires de découverte (IDD).

[The middle school, which now welcomes all students . . . in a single place, experimented a change in the nature of its enrollment: motivations and skills are more heterogeneous than before [twenty years ago]. Therefore, pedagogical methods appeared which were appropriate to this new situation. . . . The *Itinéraires de Découverte* belong to this search for different practices.] MINISTÈRE DE L’ÉDUCATION NATIONALE, *ITINÉRAIRES DE DÉCOUVERTE* (2002).

right to teach young souls. But it does not exist as freedom to select one kind of education over another, much less to choose a more effective school. That is why, in France, one may choose, at almost no cost, between a private and a public school, but not between two public schools.<sup>95</sup> That is also why parents are not really listened to in French schools. Albert Hirschman observed long ago that loyalty in institutions could be created by providing customers either with “exit” (the freedom to opt out) or “voice” (complaints will be heard and taken in account).<sup>96</sup> Inside the public educational sector, French parents have neither “exit” nor “voice.”

### CONCLUSION

Although there are many controversies in the United States concerning current educational reforms, a comparison with the French tradition of education shows that the distance between Dewey’s Progressive Education and some of the current reforms is not that great. At least some of the aspects of Progressive Education (e.g., the “organic connection between education and personal experience,”<sup>97</sup> the “principle of continuity of the educative experience,”<sup>98</sup> the importance for students to master and use scientific approaches to problems, the need to consider the “powers and purposes of those taught,”<sup>99</sup> and the effects of favoring “hands-on” or problem solving approaches to learning<sup>100</sup>) correspond to the modern model of education. They are more compatible with the accountability reforms than most opponents of these reforms think, and also more so than some proponents of accountability think (at least provided the tests grasp higher-order skills, which some of them do already).<sup>101</sup> While it is likely that some people in the United States would like to use the “back to basics” and accountability trends to return to more Puritan forms of education, they would very

---

95. Meuret, *supra* note 11.

96. See ALBERT O. HIRSCHMAN, *EXIT, VOICE AND LOYALTY: RESPONSES TO DECLINE IN FIRMS, ORGANIZATIONS, AND STATES* (1970).

97. DEWEY, *supra* note 36, at 25.

98. *Id.* at 74.

99. *Id.* at 45.

100. *See id.*

101. For example, the test which is used for accountability in Florida (the Florida Comprehensive Assessment Test or FCAT) includes short answer questions and longer, essay questions, both of which ask the student to answer the question in his own words.

soon discover that these forms are more at odds with accountability of teachers than Progressive Education, as the France's Republican model shows.

In contrast, the French educational system probably has to undergo a Copernician revolution in order to adapt to a world where education is a good that is both useful and desired, where parents and students have a say in how schools operate, and where the educational system is accountable. This is not because the French system is unable to evolve. At the system level, it was able to supplement the general track with a rather successful vocational and technical track. At the classroom level, most teachers engage in interactive teaching with their students and welcome their active participation in class far more than they did thirty years ago. But all possible modifications that could be made without directly challenging the Republican model have been made, and the more recent attempts to change the system have failed because of the traditional model's persistent might.