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## Thoughts about Recent Education Reform in India: Is there a Tendency towards Privatisation in Elementary Education?

### Abstract

*The debate in India about the Right to Education Bill 2005 is an example for the basic question in education reform: Is education to be provided by the state or by private actors? With this bill the Government of India (Gol) suggests its programme to implement the “right to education”, which has become the 86<sup>th</sup> amendment to the constitution in 2002. It guarantees free and compulsory education for all children in the age of 6-14. There is a rapid increase in private initiative in order to fill insufficient government provision of quality education. But is the state enforcing privatisation of education? The debate about the Right to Education Bill shows an ambivalent attitude of the Gol towards private schools: They are seen as a means to achieve Education for All through a reservation policy for children from low socio-economic strata on the one hand and tries to control them more in order to decrease the number of unrecognised schools. Critics of the current education policy accuse the Gol of a lack of strength to create a common school system, in their view the only way to make the constitutional right a reality. On this backdrop the article discusses statements in favour and against an increasing role of private actors in education and concludes that the noble idea of a right to education as amended to the constitution can not be fulfilled if the state does not take its primary responsibility for the provision of quality education to every child serious.*

### Zusammenfassung

*Die Debatte in Indien anlässlich der “Right to Education Bill 2005” ist ein Beispiel für eine Auseinandersetzung über eine grundlegende Frage der Bildungsreform: Ist es der Staat oder sind es private Akteure die für Bildung verantwortlich sind? Die neue Gesetzesvorlage skizziert das Programm zur Umsetzung des Rechts auf Bildung. Dieses Recht wurde 2002 in die Verfassung aufgenommen und garantiert jedem Kind im Alter von 6-14 Jahren frei zugängliche Bildung unter einer allgemeinen Schulpflicht. Gleichzeitig wächst die Zahl der privaten Schulen immer weiter, vor allem dort wo der Staat keine qualitativ hochwertige Bildung anbietet. Heißt das, dass der Staat sich in die Richtung einer Privatisierung der Bildung bewegt?*

*Die Debatte zeigt, dass der indische Staat eine ambivalente Haltung gegenüber den privaten Schulen einnimmt: Auf der einen Seite werden sie als ein Weg gesehen „Education For All“ zu erreichen. Das zeigt die angedachte Regelung der Reservierung von Plätzen in Privatschulen für Kinder aus ärmeren Familien. Auf der anderen Seite sieht der Entwurf eine stärkere Kontrolle über die privaten Träger vor, um die Zahl der Privatschulen, die ohne staatliche Anerkennung arbeiten, zu verringern. KritikerInnen dieser Pläne der Regierung fordern die Einführung eines allgemeinen Schulsystems zur Überwindung der Stratifikation, die durch die verschiedenen Schulen verstärkt wird. Vor diesem Hintergrund zeigt der Artikel das Für und Wider einer Aktivität von Privatschulen auf und kommt zu dem Schluss, dass die noble Idee eines „Rechts auf Bildung“ nur umgesetzt werden kann, wenn der Staat seine eigentliche Verantwortung für Bildung ernst nimmt.*

## Introduction

In 2002 the president of India approved the 86th amendment to the constitution, which guarantees free and compulsory education for all children in the age of 6-14. On the background of urgent problems in the education system, there are doubts whether the state now moves in the direction of fair and equitable access to education for children from all socio-economic strata. The trend towards an increasing number of private schools shows that parents escape from the low quality public system. But this exit strategy of parents is likely to enforce the social inequalities in the Indian society and weakens the relationship of accountability between the state and its citizens.

This essay looks at the trajectories of the Indian education policy as it is being negotiated under the Right to Education Bill 2005. On the background of the debate between state-led versus market-led education delivery, this essay asks what effects the bill might have on the role of private schools. Is the state taking its constitutional responsibility for elementary education serious? Does it want to control private schools stronger? Is it trying to expand enrolment through private schools? After presenting an outline of the arguments on state and market-led education reform the essay suggests possible effects of the current draft bill on private schools. After showing that there are trajectories in the bill that point to a move towards market-led delivery the essay concludes with some thoughts on this direction of the Indian education reform.

## State-led and Market-led Education Policy

In the debate on education policy not only in India there are two main positions: A statist position, which sees the state as central in education (Astin 1992; Subrahmanian 2003), and a liberal position that sees the market as the central institution (Coleman 1992; Tooley and Dixon 2003).

According to the Indian constitution, education is the responsibility of the state. There are many reasons, why the state is held responsible for education: as a common institution it can create equity and unity through education, education is important for the economic growth of a country and education has positive externalities (Mehrotra, Panchamukhi et al. 2005). In a statist position, education follows a “larger social purpose” and as a public good has to be provided by the state (Chubb and Moe 1997:365). Therefore education is financed through the redistribution of taxes. Looking back in history, Prussia was the first state to develop a public education system in the 19<sup>th</sup> Century following the idea that education unifies a nation-state through the creation of a common citizenship (Tomasevski 2003). The state is held accountable for the quality of education through its democratic relationships with its citizens. In India the Kothari Commission in Education suggested such a common school system in the 1960s to improve the quality of education in post-colonial India (Yasmeen, Chatterjee et al. 2004). A common school system ensures sustainable provision of the same set of schools for all children everywhere in the country.

In opposition to this argumentation there is the position that the state with its bureaucracy is inefficient and wastes resources (Chubb and Moe 1997; Tooley and Dixon 2003). Therefore education is of better quality if private actors have the freedom to provide it in a free market. The main difference to a public system is that a private system is not financed through tax revenue that is redistributed by the state, but through the payment of fees. This favours parents with high income, because they can afford better quality education. Such a selective system changes the perception of education from a public good to a private good. Since many different private actors can offer educational services, the system is likely to be fragmented. In seeing education as a good, there is a business relationship between the schools, which are the entrepreneurs and the parents and pupils, which are the consumers. Private schools have to please their customers because they are their source of income. This leads to a much more homogenous constituency in private schools than in public schools (Chubb and Moe 1997).

The decisive factor is choice in education, which qua theory leads to improved quality. Since customers have an “exit option”, which is the freedom to change schools, the schools have the incentive to perform well (Chubb and Moe 1997). The advantage of a system of autonomous schools is that there is less bureaucracy and inefficiency through regulation. Schools can also release their employees quickly, which

increases their motivation to perform well. There is research that suggests that students in private schools perform better than pupils in public schools (Chubb and Moe 1997; Tooley and Dixon 2003).

## The Situation of Education in India

*“The widening gap between the learning opportunities available to the haves and have-nots is creating a kind of apartheid in education. The most deprived are rural, poor and socially disadvantaged communities, which are increasingly marginalised and excluded from enjoying the exceptional economic resurgence taking place today”* (Dr. Shiva Kumar, UNICEF consultant quoted by (Yasmeen, Chatterjee et al. 2004)).

Kumar shows enormous inequalities in the Indian school-system. Although there have been major improvements in terms of enrolment, 32 Mio. children remain out of school, that is one third of the world's children without schooling (Mehrotra, Panchamukhi et al. 2005). The majority of them are girls and children from Scheduled Caste / Scheduled Tribe background. In addition to that at least 100 000 habitations in the countries don't have access to a school.

There are three different types of schools in India: government schools and private aided schools (Kingdon 2005), private recognized and private unrecognised schools.

In the federal system, education is mainly the responsibilities of the states, but the central government has growing power in education policy. In terms of financing, the central government has only a small share of the costs and the main burden lies on the states (Mehrotra, Panchamukhi et al. 2005). Elementary education refers to 5 years primary plus 3 years upper primary schooling.

Research shows the poor quality of public schools in many areas (PROBE 1999; Tooley and Dixon 2003; Kingdon 2005). A reaction to that can be seen in the growing number of private schools. They are also a sign for the concern of parents for the quality of education. In his research in Hyderabad Tooley and Dixon found out that 61% of students in the research area attended a private secondary school, while official figures are much lower (Tooley and Dixon 2003). This shows the widespread existence of private unrecognised schools that are not included in government statistics (Kingdon 2005). Private schools are divers, ranging from highly exclusive and expensive ones to mainly unrecognised basic equipped private schools in urban slums. The situation is even more complex if the many partnerships between public schools, NGOs and private schools are considered (Nair 2005).

## Education Reform

The latest plans for education reform are outlined in the Right to Education Bill 2005 (Gol 2005). The right to education was already enshrined as a Directive Principle (Article 45) of the Constitution of India of 1950 (Jha 2004). But since then the success towards universal elementary education was little. 52 years later, in 2002, the 86th amendment to the Constitution was passed, reinforcing that

*“every child who has attained the age of 6 years shall have the right to participate in full time elementary education and to complete it.”*

(Right to Education Draft Bill 2005, Preamble).

Three major factors contributed to the passing of the amendment: Firstly, the Jomtien Conference on Education in 1990 and its follow up in Dhakar in 2000 brought attention to the issue of universalizing primary education. Secondly, under the umbrella of the National Alliance for the Fundamental Right to Education (NAFRE) civil society played an important role in bringing public attention to the case of the right to education (Tomasevski 2003). And thirdly in 1993 the judgement of the Supreme Court in Unnikrishnan vs. State of Andhra Pradesh declared that the fundamental right to education has been made available to all children up to the age of 14, including children in the age group of 0-6, thus making available to them early childhood care and pre-school education (Mehendale 2005). The transition of the

amendment into state law is still under way. The current draft bill of 2005 is highly controversial and it seems to take more time until there will be the possibility to make a case against the state under this law.

The debate about the bill shows connections to the debate on state-led and market-led education reform outlined above. The NGO network NAFRE for example favours a stronger position of the state (Yasmeen, Chatterjee et al. 2004), whereas the Centre for the Civil Society argues for a retreat of the state and its bureaucracy (CCS 2004). Going back to the growing number of private schools it is interesting to look at the trajectories of the suggested state policy on how to deal with them.

### **What Effects might the Right to Education Bill have on Private Schools?**

The objective of the Bill is to make sure that every child between the age of 6 and 14 years has the right to elementary education that is free, compulsory, of equitable quality, and available in the neighbourhood. This should be provided through a combination of government schools, aided schools (private schools subsidised by the government) and unaided (private) schools. The bill makes two major points that influence the role of private schools:

1. Private schools will be more controlled by the state
2. Private schools have to reserve 25% of their seats to children from poor backgrounds (Gol 2005).

What effect might these reforms have on the situation of education?

### **Enforced Control over Private Schools**

The enforced control of private schools is likely to decrease the number of un-registered schools and therefore aims at improving the unity of quality amongst private schools. Current conditions for registration include for example teacher training, a playground and toilets and the prohibition to make profits other than reinvestment in the school (Tooley and Dixon 2003). The bill foresees that all private schools have to be certified by a “*competent authority*” (Gol 2005), which means that unrecognized schools shall be closed. Research suggests that the number of unrecognized schools is constantly growing (Govinda 2003; Tooley and Dixon 2003; Kingdon 2005). Most of them belong to the increasing number of “private schools for the poor”. These basic facility schools operate in informal and sometimes dangerous conditions as “*teaching shops*” (Jha 2005). They are seen as a sign for the initiative to self-help in places of low quality public education delivery (Tooley and Dixon 2003). These schools are attended by children in slums and poor areas. In contrary to free education offered in public schools, parents are paying for these schools. According to research done by Tooley et al. they are willing to do so since they value the higher quality of education there than in government schools (Tooley and Dixon 2003). It is difficult for many of these basic facility schools to achieve the conditions of recognition. The suggested enforced control in registration sounds reasonable looking at poor safety conditions. Being unregistered also causes problems for the schools especially for children in secondary school because officially they can't write state exams. The question is, whether it would be a problem, if their number would decrease. There is much debate about the contribution of these schools to overcome the problems in the education sector. Tooley argues that they are better than public schools because they deliver better quality education than government schools. Therefore parents choose them as the better alternative in the hope to invest in a better future of their children to escape the vicious circle of poor quality state education, drop-out and bad prospects for future work. However, a problem that Tooley revealed in his study is bribery. He found out that most of the private schools got their recognition through the payment of bribes. That means that even if there was the intention to close down these mushrooming “private schools for the poor” with the aim to increase safety and better regulation, this is not likely to happen through this reform (Tooley and Dixon 2003).

## Reservation Policy in Private Schools

The reservation policy foresees that private schools have to give 25% of their seats to children from deprived backgrounds. The underlying idea seems to be to promote equal access for children from all socio-economic backgrounds in a fragmented school system of different actors. The idea is that in order to ensure equitable access, private schools can't select their students themselves, but government officials manage the process (Gol 2005, Art. 14 (1)). What might be the effects of this reform? Firstly, there is likely to be an increase in government spending on bureaucracy because selection and access have to be managed (CCS 2004). Secondly, on a general level, introducing choice in education is likely to support either an increasing number of private schools or an increase in their selectivity (Astin 1992). In this case, the government manages the selection; hence, this reform is likely to result in an increasing number of private schools. Since, again theoretically, all children have access to private schools under this reform, parents will be eager to put their children there due to the lower quality of most government schools. Apart from the fact that this opens the opportunity for bribery in the selection process, the reform might be an increasing number of private schools. Not only will the targeted parents try to enrol their children in the "good" private schools, but also the children that are currently enrolled there demand further schooling. In economic theory, increasing demand leads to increasing supply. According to this theory the bill provides the incentive to open private schools because of an increasing demand.

This shows that likely effects of the bill on private schools might be an increase in bureaucracy in order to control them and a possible incentive for their spread due to the reservation policy. This means that the future trajectory of education policy is to promote an increasing number of private recognized schools.

## The Debate on the Future Trajectories of the Bill

### Liberalizing the Education Market as a Solution?

Critics from the liberal side like the Centre for Civil Society emphasize that further state regulation on private schools is a waste of resources on bureaucracy rather than productive activities by the government (CCS 2004). This is certainly true. Both measures show an increase in state bureaucracy in the education sector, which means increased management of recognition procedures in the first act and in the second act the organisation of the enrolment procedures to private schools. It is debatable whether the Indian states have the capacity to deal with these immense bureaucratic tasks, if even now there are not enough officials to deal with recognition issues (Tooley and Dixon 2003). Tooley revealed common practices of bribery to get the recognition for private schools. This provokes questions about the effectiveness of enforced control, because recognitions can just be bought. In the liberal argument this bureaucracy is the main problem of accountability in the state education system.

There are even more limits to the forces of a "free market" in education. The biggest part of public spending in education is on teacher salaries (Mehrotra, Panchamukhi et al. 2005). Tooley argues that teachers, being civil servants and getting secure salary, have little incentive to improve the quality in the schools (Tooley and Dixon 2003). In a hardly motivating environment of big classes and bad facilities, absenteeism is a common phenomenon. Through strong teacher unions, which protect teachers of any attempt to make them more accountable to local bodies it is difficult to implement policies to control their performance (Kingdon 2005). The effects are a vicious circle of degradation of quality in public education.

Therefore the liberal argument favours private schools. They are less bureaucratic and parents can actively demand good quality education because they pay fees. This creates a relationship of accountability to the manager and therefore to the teachers. The bureaucracy of decision-making is smaller since the teachers are directly employed by the managers and can be released without long procedures as in state schools. But if accountability is the key point, as this argumentation suggests, why is there no chance to improve it in the government system?

Lobbyists for state-led reform, such as the umbrella organization NAFRE, advocate for equality in the education system, criticize the suggested policies for strengthening the fragmentation in education

rather than supporting the idea of a common school system. In their view only such a system has the potential to overcome the *“canalisation of children into private, government aided and government schools on the basis of parental ability to pay and social status”* (Hukku, quoted in Yasmeen, Chatterjee et al, no page). They see the general problem in the destroyed relationship of accountability between the state and its citizens because of private schools. Since parents have the exit option of private schooling, the public schools are left to the weaker sections of society (Yasmeen, Chatterjee et al. 2004). This leads to a vicious circle of degradation of quality and increase in private schooling, because the more influential parents don't advocate for improvements in the government schools the less change is likely to happen.

In the debate about how to overcome the situation, the liberal argument exemplified by Tooley sees private schools as the solution and the statist argument as laid out by NAFRE sees them at the core of the problem. In the statist argumentation, the emergence of “private schools for the poor” only emphasizes the need to improve the schools provided by the government and they will continue to spread until there is a better alternative. If poor families spend a high proportion of their income on education, it is not necessarily because they are willing to do so, but because they see education as a necessity and as a possibility for the next generation to break the vicious circle of poverty.

### **A Common School System as the Solution?**

Already 40 years ago the Kothari Commission on Education (1964-1968) recommended to establish a Common School System, which would provide the same set of schools to children everywhere. Such a system would improve the quality of government schools because all parents would advocate together for better quality since there is no escape to private schools. The result would be an integrated society because children from different socio-economic backgrounds would mingle from the beginning onwards (India Together Legislative 2005). NAFRE started an initiative to lobby for this concept of a Common School System in the discussions about the Right to Education Bill (Yasmeen, Chatterjee et al. 2004). But here again the negative impact of private schools as a refuge from making the state responsible for delivering education becomes evident. Parents that have their children in private schools are not likely to fight for a stronger position of the state. But families from lower socio-economic strata often don't have the possibilities to lobby for their interests since they are lacking time and resources to do so.

Another argument against the increasing emphasis on private schools as a solution rather than an increased investment in a common school system is about quality. The state has certain minimum conditions for recognition. In a scenario of increasing numbers of private schools that provide education to the lower socio-economic strata of society through the reservation policy, there is no guarantee that this would lead to equitable quality of the schools. There is a divide in quality education between rural and urban areas (Mehrotra, Panchamukhi et al. 2005). It seems unlikely that market forces to its homogenisation. Rather in contrary: In rural areas choice is a myth thinking about the vast distances between some villages and bigger towns. It is not likely for elite private schools to suddenly open branches in remote villages. Therefore children in rural areas still will only have access to less equipped schools and the 25% reservation quota might not change anything for them.

### **A Tendency towards Privatisation in Education?**

Hitherto this essay suggests, that there is a tendency towards strengthening their position of private schools through the current trajectories of education reform. Can this be seen as a part of the general tendency towards privatisation in social services in India?

Apart from the two reforms that have been discussed so far, the bill shows further “privatisation” in its very sense. If it is transformed into law, parents can be made responsible if they don't send their children to school (Madhavan and Manghani 2005). This lays the full responsibility of schooling in the hands of the parents. But there is no safeguard as to what quality the state has to deliver. One example how the state can meet its target to offer education (but not necessarily good quality) are para-teachers. They might be employed to fill the gaps in teaching personnel especially in rural areas. They are less qualified

than proper teachers and hired on contract basis for education schemes such as Sarva Shiksha Abihyan (SSA), the government programme for universal elementary education (Jha 2005). As long as there is the opportunity of education, be it poorly managed and with no outcome for the children, parents have to send their children and otherwise will be punished (Jha 2004).

Privatisation occurs if the state does not spend the adequate resources in order to provide social services. This is the case in education. Increasing informalisation through “teaching shops”, para-teachers and education schemes like Sarva Shiksha Abihyan (SSA) shows that the government spends too little on education. The Kothari Commission in the 1960s recommended to spend 6% of India’s GDP for education. At the moment it spends only 2.87% (Jha 2005). But what are the reasons for this lack of finance? Jha argues that these developments fit in the wider framework of neo-liberal ideology in macroeconomic policy of the United Progressive Alliance. This shift towards neo-liberal paradigms is visible for example in the growing power of the ministry of finance over public sector policy. Furthermore there are increasing fiscal constraints on public budgets through the Fiscal Responsibility and Budget Management Act (FRBM) of 2004, which limits government expenditure in order to eliminate its revenue deficit by 2009. Although distancing itself from neo-liberal policies of IMF and World Bank *“the ‘entrenchment’ becomes more than manifest when the key government positions are handled by the ex-personnel of BWIs (Bretton Woods Institutions)”* (Jha 2005: 3678). The question in confrontation with shrinking budgets is one of priorities, where military expenditure is increasing in contrast to a stagnation in education expenditure (Jha 2005). On an international level there are also interests in increasing the privatisation of education through the General Agreement on Trade and Services (GATS) of the WTO. Education entrepreneurs might see increasing markets for offering their services in the developing world, which is supported by GATS (Devidal 2004). These arguments show that there is a tendency in the bill towards privatisation of education, which is further strengthened through external factors such as a lack of finance and international trends in social policy making.

From the statist argumentation of education as a public good with its unifying capacity for social cohesion, an increasing privatisation in education involves certain dangers. Firstly, the attempt to increase the number of poor children in private schools does not bring back education as a key responsibility of the state. It also does not prevent the further fragmentation of education delivery and canalisation of children in schools according to their socio-economic background. Secondly, the understanding of education as a purchasable service is further promoted. Although the state subsidizes 25% of poorer children to attend private schools, this doesn’t prevent that it further loses its monopoly of delivering education, as it is its responsibility by the constitution. Thirdly, the fragmentation in education delivery has the potential to widen the gaps not only in socio-economic terms but also in ethnical terms. As the criticism of inefficient bureaucracy suggests, there are many loopholes where regulations can be circumvented through bribery (CCS 2004). Therefore there is the threat that in this weak control, religious schools gain influence. Especially in a multicultural society like India, this is a dangerous tendency.

According to the Universal Declaration of Human Rights

*“Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.”* (Art. 27, Universal Declaration of Human Rights)

As the human rights perspective shows, children have the right to education in protection from indoctrination. Indoctrination is at the core of private faith-based schools that promote their religious ideologies. One example is Rashtriya Swayamsevak Sangh (RSS), a Hindu nationalist umbrella organisation, which runs the Hindu Education Foundation. This foundation maintains 30 000 schools throughout India and is accused of indoctrination of tribal children in remote areas where it opens its schools. These schools are often the only chance for these children to attend school since there are not even government schools in these areas (Sundar 2004). Although the bill promotes increasing control over the con-



ditions for recognition, lack of state capacity and corruption are a danger to regulation of such religious schools.

Such dangers of increased fragmentation show the demand for a balanced power between state and private actors in education. In order to change the vicious circle of poor quality state schooling, drop out and increase in private schooling there is a need to improve the relationships of accountability between the state and its citizens (Subrahmanian 2002). This is only possible if parents can actively fight for a better quality in education. Since this is often not the case, there is a serious lack in the relationship of accountability between the state and its citizens. The very core of making the right to education a law as it is happening at the moment is to create such accountability. The right to education emphasizes the entitlement of citizens to quality education rather than an attitude of being beneficiaries of state action. But there is doubt about the practicability of the theoretical accountability once the bill has become state law. Would the ones that are deprived of education have the power and institutional support to claim their right to education?

## Conclusion

This essay looked at the impact of the Right to Education Bill 2005 on private schools in India on the background of the general debate on statist and liberal reforms in education. It seems that the suggested reforms strengthen the role of private schools rather than promote a common school system under state responsibility: The reservation policy is likely to increase the demand for private schooling and to use then as a means to provide education to children from lower socio-economic strata. Although the bill foresees stricter state controls on private schools, there is evidence that the state capacity is too weak, with corruption being a usual escape from state regulation.

The debate shows that the liberal position is right to accuse the state for inefficiency and mismanagement. The problem of the suggested reforms in the bill is, that the state increases its bureaucracy rather than its capacity to deliver quality education. However, private schooling does not seem to have the power to make a difference to the inequalities in access to education that are connected to gender, caste and socio-economic background because of the segregating characteristics of private schools.

The broader view on privatisation of public policy in India shows that the main problem is the lack in state financing for education. The result is low quality state schools and parents searching for alternatives in the private sector. But increasing private schooling under weak state control has the potential to create problems. The example of the strong influence of faith-based schools like the ones supported by RSS is certainly one of them. This does not mean that private schools should be abolished. But rather than seeing private schools as the solution, the rhetoric of the state's responsibility for education has to turn into urgent action in order to create social cohesion through public education. If state schools don't improve, private schools will continue to extract parts of the society from the state system and therefore undermine the relationship of accountability between the state and its citizens. As the high amounts of military spending show, education seems to have a weak position in government priorities. Furthermore in promoting tight public policy budgets, the shift towards neo-liberal paradigms contradicts the obvious need for higher government spending to a real right to education. The suggested reforms seem to contradict the idea of educational equality of access and opportunities. Therefore it seems unlikely that the new initiatives of the government, which lead to a stronger position of private schools, make the right to education a reality for the 32 Mio. children that are currently out of school in India.

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