

Policy brief *Do Public Private Partnerships promote or hinder the Right to Education?*

Introduction

According to the World Bank “The main rationale for developing public-private partnerships (PPPs) in education is to maximize the potential for expanding equitable access to schooling and for improving education outcomes, especially for marginalized groups”. (Patrinos, Barrera-Osorio, and Guáqueta, 2009:9) Proponents of PPP in education adduce the following main arguments: cost efficiency, choice increase, parents’ accountability through choice, wider availability of options, lowering the burden on the State, quality improvements through competition. Opponents argue that PPP lead to discrimination, segregation, greater socioeconomic inequality, lack of social cohesion, and that such a choice only benefits those groups with a higher socio economic background, whereas it fails those most in needed.

This brief looks at the role of PPP in education from a human rights perspective, whereby the private and public sectors have distinct (although admittedly compatible) responsibilities. Using the 4-A approach to the right to education (availability, accessibility, acceptability and adaptability) it analyses the consequences of using PPP for education delivery (focusing on quality, accountability and discrimination issues) and advocates for a clearer rights-based approach to the issue.

Human Rights and the Right to Education

If we look at education only as a public service, we might be guided by utilitarian principles of efficiency, choice, higher quality; which would favour the majority whilst neglecting some groups. When education is considered as a human right, we have a main duty-bearer (the

State) and right –holders (children); thus, neglecting certain groups would constitute a violation of the right to education.

One of the most important principles in human rights law is the principle of non discrimination. In education the right to non-discrimination means that all education must be accessible and of good quality to all, “irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status” (Art. 2 of CRC).

Governments hold the primary responsibility ensuring the full realization of the right to education for all. The government’s obligations to right to education can be defined using the 4-A framework:

4-A framework

- **Availability** – that education is free (ICESCR Art. 13 (2)(a), CRC Art. 28 (1)(a)) and government-funded and that there is adequate infrastructure and trained teachers able to support education delivery.
- **Accessibility** – that the system is non-discriminatory and physically and economically accessible to all, and that positive steps are taken to include the most marginalised.
- **Acceptability** – that the content of education is relevant, non-discriminatory and culturally appropriate, and of quality; that the school itself is safe and teachers are professional.
- **Adaptability** – that education can evolve with the changing needs of society and contribute to challenging inequalities, such as gender discrimination, and that it can be adapted locally to suit specific contexts. It will mean schools that are more inclusive, and assurance that education does not reinforce extant societal patterns that discriminate against certain groups.

Teachers are both duty bearers and rights holders. The centrality of teachers to education means that in their training, selection and composition should reflect the 4As, in particular the principle of non-discrimination, acceptability and adaptability.

“The right to education, like all human rights, imposes three types or levels of obligations on States parties: the obligations to respect, protect and fulfil. In turn, the obligation to fulfil incorporates both an obligation to facilitate and an obligation to provide”. (§46 ICESCR G.C 13). And it continues: “it is clear that article 13 regards States as having principal responsibility for the direct provision of education in most circumstances” (§48 ICESCR G.C 13).

Some other specific legal obligations include: to ensure that curricula, for all levels of the educational system, are directed to strengthen the respect of human rights and fundamental freedoms. As well as “fulfil (facilitate) the

Pros and cons of PPP

acceptability of education by taking positive measures to ensure that education is culturally appropriate for minorities and indigenous peoples, and of good quality for all; fulfil (provide) the adaptability of education by designing and providing resources for curricula which reflect the contemporary needs of students in a changing world; and fulfil (provide) the availability of education by actively developing a system of schools, including building classrooms, delivering programmes, providing teaching materials, training teachers and paying them domestically competitive salaries”. (§50 ICESCR G.C 13).

Thus, the question of whether Public Private Partnership (PPP) are more efficient, offers a wider choice and raises the quality of education must also take into consideration whether it respects, protects and fulfils the right to education, where the principle of non-discrimination in central.

Arguments pro PPP in education	Arguments against PPP in education
Efficiency, cost efficiency	<ul style="list-style-type: none"> - they often make use of previous infrastructure, so no efficient if we take these expenses into account; - For profit: they don't reinvest the profit made into better quality or availability. Middle man/ contractors get the money; - accountability costs: lawyers, consultants, bankers; - rights: enforceability of rights, accountability and law suits are expensive and time consuming; - teachers, unemployment, deprived schools: when looking at the bigger picture it is not cost-efficient, but the opposite. - better outcomes for the same money(better value): <ul style="list-style-type: none"> - not enough evidence; - leads to discrimination (special needs education, etc); - outcomes related to social capital (children's socio economic background) and homogeneity , rather than education quality.

<p>Choice, Parental choice, demand argument</p>	<ul style="list-style-type: none"> - choice is limited by: - accessibility both physical (distance to school, transport, etc); - school's selection criteria (entry exams, religious denomination, boys/girls, hidden criteria); - economic (user fees, transport, hidden costs); - information (better educated/ wealthier parents have better info. and make the most of PPP); - human rights (segregation (eg. Roma in Slovakia), discrimination, education standards, acceptability (curriculum, methods (eg. physical punishment))); - disruption (children can't change school so easily, impact on performance, etc);
<p>Availability – Creation of more schools is needed</p>	<ul style="list-style-type: none"> - private companies don't make high risks investment unless profitable(rural communities, special needs education, deprived areas, etc); - government must provide infrastructure and PPP harvest the profits; - government limited power in PPP decision making; - PPP only manages profitable schools and looks for cheaper efficient regardless of children's, teachers' and parents' rights; - sustainability: state can make long term investments, PPP short term.
<p>Lowering State burden</p>	<ul style="list-style-type: none"> - accountability issues are costly and time consuming, more burden; - accessibility: state has to invest in infrastructure, PPP don't take high risk unless profitable; - ensuring Human Rights standards is more difficult (teacher training, curriculum, outcomes, etc); - need for strong State and governance to hold PPP accountable
<p>Quality improvement by competition</p>	<ul style="list-style-type: none"> - It may lead to discrimination: - only acceptance of high rate of return students; - parents choice contrary to human Rights (search for homogeneity); - deprived schools fare even worse, (ghettos); - low socioeconomic background children fare worse; - social cohesion suffers as a result; - no clear evidence of higher quality when all factors (socioeconomic background, etc) taken into account; - Higher teacher salaries and lower PTR increase quality more than using PPPs, money should be spent on improving conditions rather than contractors.
<p>Accountability (Parent accountability through choice)</p>	<ul style="list-style-type: none"> - Parents can exert accountability without PPPs through PTAs; - need for a strong State to hold PPPs accountable; - State's obligation, not parent's obligations; - Parents might not be able / want to hold school accountable: time, education, language, orphans, etc.; - Parents are not specialists: HR issues (discrimination, best interest of the child, acceptability, adaptability) Education standards; - choice is limited.

Conclusions and recommendations:

- PPP if they are to be implemented well and regulated effectively are expensive. For instance the costs of setting up a monitoring system for a voucher scheme may outweigh the benefits derived from the scheme itself. (Gauri, Varun and Ayesha Vawda. 2003) Means-testing to target the most marginalised children requires government investment.
- Voucher systems to function effectively rely on there being high quality public and private schools already available. In many developing countries, these education providers simply do not exist, particularly in rural areas. Private providers are not interested in investing in rural or remote areas where costs are high and profits low.
- Governments may have to provide major financial incentives to attract private education providers. Governments may also try to attract private companies to the sector through tax incentives. Policy-makers need to ask whether the revenue foregone is worth the investment it will attract. (Kessler, Tim and Nancy Alexander. 2004).
- Transportation costs will need to be covered if students are to have a real choice of schools beyond those in their neighbourhoods. These costs are substantial in rural and remote areas where few schools are available. (Belfield and Levin, 2002). If a voucher system is to work for the poorest groups then these transport costs cannot be shifted to households.
- The type of accountability resulting from parents' leaving low quality schools is not as easy as defenders of free education market portray. Children cannot change school so easily, these disruptions have an impact on children's wellbeing and performance Felner, Primavera and Cauce, 1981)
- "Ministries of education may adopt a supervisory rather than a direct managerial role" (Belfield and Levin, 2002:43). However, if the State is not the first providers of structures (teaching qualifications, school infrastructure,

teaching methodology, etc) then State supervision could only offer remedial measures, taken after PPP have not complied with standards. Children would be the ones at risks, the victims, and remedial measures would come too late.

- There needs to be a strong State to hold PPPs accountable. State needs to hold PPP schools accountable for quality education and national and international human rights law standards. Accountability issues are costly and time consuming; there would be a greater need for watchdog organization to ensure the PPP schools' compliance with the standards.
- Parents can exert accountability without PPPs, through different schemes such as Parent Teachers Associations, PTAs; which provide a better alternative than the choice and exit system of accountability allowed by vouchers.
- There is no compelling evidence that vouchers system have resulted in higher quality. (Belfield and Levin, 2002:43).
- Shopping around for schools is costly, difficult and time consuming. "Parents may prefer to be told which school to send their children to, rather than having to evaluate that and other schools for themselves". (Belfield and Levin, 2002:45).
- In reality choice is constraint by many factors: Physical accessibility: distance to school, transport infrastructure, etc. School's selection criteria: entry exams, religious denomination, boys/girls, hidden criteria (such as not accepting children from lower socioeconomic backgrounds nor racial, caste, linguistic minorities or children with special needs); Economic obstacles: user fees, transport costs, uniforms, school material, hidden costs (parents' contributions, extra costs, etc); Information gap: better educated and wealthier parents have better information and can make the most of PPP and voucher system;

- Although parents have the right to choose what education is best for their children, this right has limits, “some choices are socially, culturally, or politically unacceptable” (Belfield and Levin, 2002:37).
- “Private schools might to be eager to offer education to all”. Religious schools would discriminate against children from other religions, etc. This will mean that parents are free to choose only in theory, in the practice it will be up to the school to choose what families it wants to attract. PPP would be less willing to cater for families with less economic and special needs students.
- Some schools would seek to attract families by de facto discriminating against children from lower socioeconomic backgrounds, minorities or children with special needs. Research shows that “where given more choices over their schools – families prefer to opt for enrolment in schools that are of the same racial group as their own” (Belfield and Levin, 2002:47). This would lead to segregation, stratification, lack of social cohesion and ultimately discrimination.
- Evidence suggests that schools, particularly when competition is fostered, discriminate against children with special education need, which can only be avoided through public intervention. (Whitty and Power, 2000)
- PPP would foster inequality, by gathering only those students whose rate of return will be high, in order to assure the funding. In many countries girls, children with disabilities, poor and marginalised groups would be discriminated against violating the most important principle of international human rights law.
- Voucher systems would increase inequality. Wealthier parents benefit more from PPP since they receive government subsidy for education they were willing pay privately. Vouchers do not often cover costs such as transport and successful PPP schools are often located in rich urban areas. Poor families and those living in rural areas would suffer most since they would not be able to profit from the theoretical choice that vouchers offer.

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