

A BRIEF CONTRIBUTION TO THE ANALYSIS OF PRIVATIZATION OF EDUCATION IN BRAZIL AND ITS IMPACTS ON THE RIGHT TO EDUCATION¹

Introduction

This paper aims to contribute to the discussions regarding the impacts privatization process brings to the accomplishment of the right to education, taking the Brazilian reality as a reference. Our goal is mainly to express a number of concerns from civil society in Brazil and to provide information to the Special Rapporteur on the Right to Education, who is producing its annual report on this specific topic.

Initially, we draw up a brief characterization of the education provision in Brazil, in order to define the situation of educational services and the presence of private sector in the coverage of basic (early years, elementary and secondary education) and higher education schools. Next, we point out the main areas of privatization of education in Brazil. At the end, we list, from the analysis of the national context and researches conducted on this topic, the main tension points between the increasing privatization process and the enjoyment of the human right to education, with reference to the contents of this right in the terms it was established in the General Comment 13.²

With this brief contribution, we hope to raise issues that should be considered by the Special Rapporteur's recommendations and spread out through other organizations engaged on the protection of the right to education. It is indispensable to demand from the Governments the establishment of limits to the privatization of education, either by the carrying out of its obligations to directly provide this right or by imposing normative limits to the role of the market in the education field, through the so-called "exo-privatization" (explicit privatization of public education) or for the "endo-privatization" (promoting competitive or market behavior within public education systems).

A brief characterization

There are 50,545,050 students in Brazil enrolled in basic education, from which 42,222,831 (83.5%) are in public institutions and 8,322,219 (16.5%) in private institutions. The municipalities are responsible for the major portion of the enrollments in public institutions – 45.9% –, against 37% and 0.5% of the States and the Federal Union respectively. Only in elementary school (6-14 years old), there are 29,702,498 students enrolled, from which 4,270,932 (14.4%) are in private schools (School Census, 2012).

It was expected that the growing involvement of the state in providing compulsory education would reduce the market share of private education. However, as it will be discussed further below, the sales of

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² The right to education (Twenty-first session, 1999), U.N. Doc. E/C.12/1999/10 (1999), reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 70 (2003). The General Comments are documents adopted by the UN Committee on Economic, Social and Cultural Rights. The General Comment 13th mentioned can be found in Spanish at: <<http://www1.umn.edu/humanrts/gencomm/econ.htm>>.

standardized educational systems to public schools – especially the ones provided by municipalities – are becoming an important front of privatization in Brazil, developing a competitive market for the ones who dispute the provision of such services to municipalities. Under this scenario, the abrupt and poorly planned decentralization of basic education in the last two decades, particularly in early childhood education and elementary education, was not accompanied by equivalent financial and technical support. Therefore, this situation made the precariousness of many local governments explicit, stimulating the development of a promising market for private consultancies in teaching and management fields, besides the standardization of education.

The weakness of educational efforts also gives rise to forms of “endo-privatization”, such as public-private partnerships that lead to the proliferation of private logic in public education and the emerging of corporate actors in the management of educational policy at the expense of mechanisms for democratic participation.

The Constitutional Amendment #59, in 2009, expanded the range of compulsory school attendance years, which now covers the population from 4 to 17 years old. According to the Population Census of 2010, more than 3.8 million children and adolescents in this age group are out of school in Brazil, and the school exclusion reflects the socioeconomic inequalities of the country: among the excluded, the predominant groups are blacks, indigenous and quilombolas (people who descend from fugitive African slaves and live in traditional communities), from low-income families, those who live in rural areas and whose parents or guardians have low education, in addition to those with disabilities. Other 14.6 million children and adolescents who are currently enrolled are likely to abandon school, for being in a situation of school delay, a major cause of school dropout. For the ones from 0 to 3 years old, a period corresponding to the nursery, a non-mandatory phase in the Brazilian system, income is the main determinant of access. While only 21.9% of children from 2 to 3 years old in the poorest quintile of the population are attending day care centers, 63% of the children in the richest quintile have this opportunity guaranteed.

Therefore, the expansion of state action in basic education restricted the actions of private institutions, profit or non-profit schools, while at the same time – by the conditions in which this process took place –, also opened space for sales of school systems and services to municipalities. Meanwhile, on the steps where the public offer is still very low, especially in nurseries – but also in pre-school education and non-inclusive education for people with disabilities – models of low cost schools have proliferated to serve the lower classes, frequently relying on the transfer of public funds. There is, in these cases, an increase in provision by private entities, partly with grants from the government, through so-called “conveniamentos” (kind of a public-private partnership). In 2011, 27.2% of private pre-school enrollments were subsidized by the government, even though a great deal does not quite qualify as nonprofit institutions.

In this context, the gradual expansion since 2005, of the overall amount invested in education in relation to Gross Domestic Product (GDP), together with the recently adopted goal of achieving an expenditure on education equivalent to 10% of GDP in 2024 (Plano Nacional de Educação 2014 – 2024 Law – National Plan of Education), does not mean that such resources will be transferred solely or mainly to the public sector. In order to fulfill this objective, this legal act, allows the inclusion of public subsidies to access private higher and vocational education institutions, as well as agreement contracts with private institutions for the provision of early childhood education and education for people with disabilities.

The availability of public resources to the private sector, in this context, is fueling the educational market in Brazil, helping to generate conglomerates with the participation of international corporations and shares on the stock exchange. These economic actors have been colonizing Brazilian educational field, replacing the paradigm of educational human rights by market logic, based on cost-benefit and on the view of students as commodities.

In Brazil, there is a growing process of commodification of education. In this context, school enrollments are effectively seen as goods, to the extent that they are recorded as commodities in the educational market. As underlined by researchers Romualdo Oliveira (USP), Denise Moretti (USP), Lisete Arelaro (USP), Teise Garcia (USP-Ribeirão Preto) and Theresa Adrião (Unicamp), national and international private groups working in the educational market trade in the stock market or in private equity funds taking the number of

public enrollments, directly or indirectly assisted, as a reference for market value. The formation of oligopolies in this sector, with the entry of large international groups, is also growing.

Along with this process comes the proliferation of a reductionist view of educational quality related to the “endo-privatization” process, as noted in the Report of the Special Rapporteur on the Right to Education: Normative Action for Quality Education.³ By reducing “quality” to the performance measurement through large scale standardized tests applied to students is setting a framework that presupposes a current crisis in the Brazilian public education system or its supposed inability to provide quality public education, opening up space for privatizing initiatives within public systems.

Main aspects of privatization of education in Brazil

- **Commodification and oligopolization of higher education**, through the formation of educational funds on the Stock Exchange or private equity funds, which rely on the input from major international companies (Pearson, for example). This process has reduced the diversity of provision in higher education, eliminating traditional private institutions and impoverishing the working conditions of teachers and students. Many institutions, in order to achieve relevance according to the logic of the market, reduce their investments in research and academic extension, dismiss teachers with higher qualification and redirect their services to more profitable modalities, such as distance education⁴

This scenario affects directly the fulfillment of the right to basic education, since private institutions are responsible for about 58% of total undergraduate enrollment and teacher training, mostly in evening courses, and for 51% of the vacancies offered in distance education, in institutions that do not carry out research or extension activities (Higher Education Census 2010). Such conditions discourage the theoretical and practical training, internships for teaching and broader cultural formation, required for a good performance for those who teach in basic education.

- **Sale of standardized private education systems to public basic education**, mainly to municipalities. Also in this field there are activities of business conglomerates through investment funds that compete in the market.⁵

Regarding these systems and the impact of this process in enjoyment of education right, Ação Educativa has been carrying out a research with support from Privatization of Education Research Initiative - Peri,⁶ in partnership with the Grupo de Estudos e Pesquisas em Política Educacional (Greppe) [Group of Studies and Research on Educational Policy], gathering researchers from São Paulo University (USP), Universidade Estadual de Campinas (Unicamp) and Universidade Estadual Paulista “Júlio de Mesquita Filho” (Unesp). In the next section, we enumerate the major risks that this process of allowing education to be considered as a market service and commodity offers to the human right to education. They still do not reflect final results of ongoing research, but present strong insights and hypotheses for the work.

³ The document *Report of the Special Rapporteur on the right to education: Normative Action for Quality Education* (A/HRC/20/21) may also be found in Spanish at: <<http://bit.ly/SNJZO5>>.

⁴ Brazil has a little more than 7 million students enrolled in graduation courses, in 2,416 institutions, whereas 304 are public and 2,112 are private. From 1980 to 2012, the number of private institutions has increased 57.6%, rising from 682 to 1,075. (Higher Education Census, 2012). It's important to underline that among almost 24 million Brazilian youngsters, aged from 18 to 24 years old, only 13% are enrolled in higher education courses, that means that the 7 million mentioned at the beginning of this note are people from other age groups e not only the ones expected to be on higher education.

⁵ The standardized private education systems sold to public schools are characterized by providing handouts, for use as teaching material in the classroom, as well as a set of services that may involve technical-administrative management tools and teachers training and / advising and assessment of learning.

⁶ More information on the website: <www.periglobal.org>.

Impacts of privatization on the accomplishment of the right to education in Brazil through the dissemination of standardized private education systems to public schools

Violations against Availability and Accessibility of education

- The increasing use of public funds in the acquisition of standardized systems and the possibility of private profit on the sale of such services *reduces the state's capacity of providing new vacancies in the public system*, due to the reduction of public resources available for the creation of opportunities, especially in non-mandatory stages and those where the coverage is low, at the expenses of the populations' rights.⁷

- Tax exemptions (indirect financing) and the direct transfer of resources to the private sector, including the possibility of accounting these expenditures for purposes of calculating the investment in relation to GDP, *weaken the state's capacity of directly implementing and maintaining the provision of quality public education.*

⁷ There is, in Brazil, a federal programme for school books distribution for free after a strict process of quality evaluation. By adopting private systems, the municipalities give up receiving those books, generating an additional expenditure.

- Standardized private school systems normally *do not provide additional technical and educational assistance to schools and to the poorest families*; recent researches show that, in the case of the pedagogical support to the school staff, when it is done, it shows poor quality and even disagreement with Brazilian laws and educational parameters.

- Standardized private school systems *do not have a specific strategy of work for groups historically discriminated in education* – disability, special educational needs, ethnic or linguistic diversity and populations of different cultural traditions – violate, in this sense, the right to non-discrimination.

Violations against Acceptability of education

- *The idea of quality conveyed in the adoption of standardized systems is self-referred and supported by advertising strategies*, usually based on brand advertising in some elite private school belonging to the company and promising to promote the improvement of the performance of the Municipality with regards to standardized tests of scale applied by state to the students.

- *There is no consultation with the school community (school boards, municipal boards of education or other organs) before the adoption of standardized private education systems*, which are commonly unilaterally imposed to the schools; there is also scarce feedback to schools and education managers regarding adoption of private systems.

- The commodification and oligopolization in the provision of higher education have been impacting severely the policy for training teachers for basic public education, as an increasing number of new graduates in low-cost and low-quality academic institutions are financially encouraged by the state.

Violations against Adaptability of education

- *The adoption of standardized private school systems dramatically reduces the space for curriculum adaptation and pedagogical autonomy of schools and teachers*, since all classes, activities and contents are standardized.

- Standardized private systems, thus, tend to subordinate schools, teachers and students to the standardization and weakening of their capacity as active and creative players of the process of enjoyment the right to education.

- Standardized private school systems *do not enable reformulations or questions by teachers, students and school communities*; in this sense, they oppose to the democratic management of education.

- There are no guarantees that *indigenous communities, quilombolas communities, the rural population and other traditional peoples, as well as students with disabilities or special educational needs* have respected their rights to adapted education, nor they can choose to adopt (or not) standardized private education systems.

Brief Conclusions and Recommendations

An element not addressed directly on the researches, despite its prominence, is the relationship between privatization of basic education through the sales of private standardized educational systems to municipalities and electoral corruption. One could say that as private companies are usually hired for a unilateral decision by the mayors, without consulting the school or even the bodies of educational administration communities, this decision may be linked to the processes of private funding for electoral campaigns.

As public transparency is extremely fragile, either in electoral funding or in decision-making processes that lead to the adoption of private education systems, this is surely a political factor that must be faced by civil society.

The colonization of education by market logic, as well as the adoption of standardized systems of education, directly interferes with the organization of school work, concretely expressing itself as pedagogical practices of low quality, contradicting the enjoyment of the right to education in its broad sense, as stated in the international parameters of protection and defended by Ação Educativa and BCRE.

In terms of recommendations to Governments, to draw towards the fulfillment of their legal obligations and the scope of work of the Special Rapporteur on the Right to Education, we advise the following:

1 – That Governments adopt normative parameters in order to ban or drastically limit private profit in education, especially in basic public education.

2 – That Governments strengthen the capacity of democratic management of schools and public school systems, such as the relative autonomy of schools and teachers, including by the transference of resources to the development of specific projects and projects adapted to their reality, as well as continued teacher and principals training .

3 – That Governments undertake the obligation to train basic education teachers , prioritizing the supply of places in public institutions of excellence and setting high quality standards and strict control over teacher training courses offered by the private sector [in this sense, we reaffirm the importance of the specific recommendation (88, 'd') already mentioned in the Report of Normative Action for Quality Education (A/HRC/20/21, see footnote 4) about the centrality of teacher education for the enjoyment of the human right to education].

4 - That Governments assume the obligation to support and stimulate the production of open educational resources for professionals in public education, as part of a policy of valuation of teacher work and structuring teaching careers, as an alternative to the processes of standardization, privatization and decontextualization in production of teaching materials.

5 – That Governments and multilateral organizations review their legal frameworks and evaluation policies by considering the effect of adopting what the Special Rapporteur on the Right to Education called “holistic conceptual framework of quality education”, which includes a minimum level of student acquisition of knowledge, values, skills and competencies; adequate school infrastructure, facilities and environment; a well-qualified teaching force; a school that is open to the participation of all, particularly students, their parents and the community, ensuring adequate funding to public schools so that they can implement this enhanced quality perspective and that the evaluation policies contemplate participatory processes of self-evaluation of school communities.

In addition to these recommendations to States, we respectfully ask the Special Rapporteur on the Right to Education and the other organs of the United Nations:

- 1 – That they declare (in the case of the Special Rapporteur, in the specific report on the topic currently under development) that the adoption of standardized private systems in public schools is a frontal violation of the human right to education, specifically the rights to the adaptability of education and participation in the definition of pedagogical processes and the development and democratic implementation of educational policies.
- 2 – That they declare the need for States to review their policy on transparency, in order to demand that private companies in the educational field, profitable or non-profitable, provide information regarding the contracts with the public sector;
- 3 – To stimulate and disseminate, at national and international levels, the debate on the impact of privatization to the enjoyment of the human right to education and the need to establish normative limits to the market logic in school education, promoting, among other possibilities, thematic discussion under the auspices of the Human Rights Council and under the United Nations human rights treaty bodies – in particular the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child.

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