

Working Paper

Revitalizing Education in India

The Role and Challenges of Private Sector Participation

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Abstract: India's education system continues to face persistent challenges in access and quality. We examine the role and constraints of private sector participation by combining historical, legal, and judicial analysis with primary research in the form of stakeholder interviews. We review India's ideological and constitutional precedents to trace how national ideals have shaped an unfriendly policy climate for private providers. We then analyze key regulations and court judgements, supplemented with interviews of parents, school administrators, and ed-tech founders to assess ground-level realities. We find that while private schools serve nearly half of students in India and are perceived by parents as superior to government schools across infrastructure, accountability, and outcomes, though they remain restricted by fee caps, nonprofit mandates, and administrative compliance burdens. Our results suggest that regulatory and ideological barriers constrain private initiatives to innovate, invest, and develop and run private institutions. We argue for reforms emphasizing streamlined approvals, outcome-based policy, and public-private partnerships to unlock the private sector's potential while balancing equity in access.

Keywords: Private education, regulation, Right to Education, policy reform, India, public-private partnerships

Introduction

Virtually every metric of prosperity can be traced back to education. Health, economic growth, and happiness indicators all strongly correlate with educational outcomes. From a public policy standpoint, it is of the utmost importance that the status quo of Indian education be repeatedly scrutinized. India has also been moving towards a unilateral liberalization of the economy through Free Trade Agreements, privatization of state-owned enterprises, and simplification of the tax structure, amongst others. However, the education sector has remained a stark outlier, burdened by an overbearing public sector, stringent regulations, and a business-unfriendly environment that stifles educational access, hinders quality, and deters investment and innovation.

This study intends to provide policy analysis and recommendations to improve the efficacy of the Indian private education system. The study is made up of 3 main parts. The first part of the study conducts literature review to evaluate the place of the private sector in India, both ideologically and legislatively, through historical and cultural precedence, policy, and court cases. Then, the study carries out an analysis of education in the private sector to evaluate the magnitude of benefits provided by private sector, as well as the severity of its current strife. This will be supplemented by stakeholder interviews across public and private spheres. Lastly, a review of established and proposed solutions, synthesized with findings on the status quo of private education in India, will culminate in a formulation of policy recommendations.

Design: This study follows a mixed-method research design. Firstly, it reviews the private education system in context of India's cultural and ideological precedence to determine the driving frame of thought behind India's policy with respect to privatization. A literature review of India's foundational documents, court cases, and current policy will be coupled with research on the merits and challenges of the private sector. Secondly, the study conducted primary research by means of interviews and surveys with different stakeholders, specifically targeting parents, schoolteachers and school administration, and ed-tech founders to better

characterize individual experiences and understandings of the education sector. Lastly, after corroborating previously proposed solutions with the accumulated knowledge, recommendations for both public and private actors are provided.

Hypothesis: The Indian education system's inefficiencies, especially in access and quality, are in part the result of regulatory and ideological barriers that restrict effective private sector participation. India's ideological and cultural foundations place a strong emphasis on socialism and nonprofit ideals in education. These values, while rooted in noble intentions, have contributed to a policy climate that is unfriendly to private sector participation, reflected in restrictive laws and upheld through judicial precedent. I hypothesize that the private sector has significant latent potential to expand access and improve quality in Indian education, especially for underserved communities. However, this potential is currently constrained by regulatory barriers, nonprofit mandates, and legal structures that disincentivize investment and innovation. These constraints will be examined through both secondary literature and primary stakeholder interviews. The findings will inform policy recommendations aimed at creating an enabling regulatory environment; one that permits sustainable, for-profit models while maintaining necessary public oversight.

Originality/value: Though there may be prior research on how the private sector can work to address inefficiencies in the Indian education system, little has been made in the way of understanding the psyche that has led to the developments of the system propagating this inefficiency. Through research based on historical and identity factors, one can better correct the very means of thinking about reforming educational policy. Additionally, through the wide range of planned primary sources such as interviews of many different stakeholders, I'll be able to compile a repository of testimonies on the situation that exposing the ground-level reality, which can effectively inform policy recommendations provided from a different angle.

Implications and Considerations: This paper will serve as a crucial guide for educational policy changemakers understand the ideological, policy, and cultural context leading to the status quo of the education system. The

data collected in the primary research survey will work as a valuable repository to best understand educational sector actors' concerns.

Roots of Indian Education Policy

Principles and Values Guiding Education in Ancient India

The Indian view on education is a mix of decentralized autonomy and government-led provision. Historically, Indian education has been dominated by the gurukul system: an arrangement where individual schools, or gurukuls, were run by gurus who taught students matters of religion, spirituality, the arts, sciences, and practical skills (Dharampal, 1983). These institutions operated independently, free from any governmental control, and formed the primary mode of education in ancient India.

This system makes education a proto-private sector activity, in the sense that the kingdom had relatively low levels of oversight into the gurukuls' operations, and curricula were decided at a school level. Additionally, as tuition, students would have to pay in labor, by maintaining the gurukul and providing a gurudakshina, a gift, at the end of their tutelage (albeit often ceremonial in nature) (Chandwani, 2019).

The gurukul system was considered to have great merit, spawning greats such as Chanakya, Aryabhatta, Brahmagupta, and the like, all of whom have moved the needle in their respective fields (Singh, 2022). Additionally, gurukuls were considered the primary basis of building character in the form of applied knowledge (a sentiment echoed in the contemporary discussion around values-based education). A strong focus was laid on matters of spirituality and morals combined with traditional education (Joshi). Although the role of spirituality in modern, secular Indian education is a separate matter, what can be said is that the education system of gurukuls has been historically correlated with high levels of educational outcomes.

However, it must be noted that gurukuls have in the past received high levels of patronage from the state due to their limited profit-making capabilities. Though this

system flourished for quite some time, it quickly fell out of favor following the Islamic invasions in the 13th century (Singh, 2022). Without the ability to operate by themselves, these revered learning centers were left unable to function.

One notable feature of these gurukuls was their exclusionary nature. This system of education was accessible solely to upper-caste Hindu Brahmin males. Women, lower castes, and other marginalized groups were not able to take part in gurukuls' learning. Because these institutions operated independently and without external accountability, there were no mechanisms to correct or challenge this exclusion. This outcome, where access to education was limited by social hierarchy, underscores the need for some level of oversight to ensure equal opportunity for all citizens.

Ideology: The Role of Government in the Sector

Understandably, India's historical precedence of values strongly informed the nation's driving ideology, enshrined in the Constitution. These have been manifested through the core tenets of socialism, egalitarianism, and secularism.

India is first a sovereign, then socialist, secular democratic republic (Constitution of India, Preamble). The republic's power is bounded and filled in by fundamental rights and Directive Principles of State Policy (DPSPs). Fundamental Rights in the Indian Constitution are the core set of individual freedoms guaranteed to every citizen, designed to protect personal liberty from state overreach and anchor democracy in individual dignity. The counterbalance comes through the Directive Principles of State Policy, where the state has provision to ensure livelihood, economic opportunity, and sufficient pay ("Profile - Directive Principles of State Policy - Know India: National Portal

of India”). In practice, the Directive Principles grant the government broad flexibility to shape economic and social policy across sectors, so long as these actions do not violate Fundamental Rights (Constitution of India, Part IV), a balance emphasized by *Minerva Mills v. Union of India*. While legislative power is still distributed between the Union and the States under Article 246, the Directive Principles effectively authorize expansive state intervention within those bounds, enabling the government to intervene across sectors in pursuit of social welfare and economic justice. Article 45 of the Constitution affirms this mandate as follows: “The State shall endeavor to provide free and compulsory education for all children until they complete the age of 14 years.” Because education is on the concurrent list in Article 246, both Union and State governments have played a role in shaping public sector dominance in the funding, regulating, and management of education institutions nationwide. Among the most consequential laws reflecting this mandate is the Right to Education Act (RTE), a central law passed in 2009 where a school reservation of 25% seats to disadvantaged sections of society is mandated (*THE RIGHT of CHILDREN to FREE and COMPULSORY EDUCATION ACT, 2009 Clarification on Provisions*), as an example. This provision reflects the policy view widely held by government publications and court rulings that education is a common good, and the state must ensure its equitable provision.

The principle of egalitarianism seeks to ensure equal

access to educational opportunities for all segments of society, particularly marginalized and disadvantaged groups. This has been achieved through Article 15 of the Constitution grounded in state policy interventions. Closely related Gandhian ideals of Sarvodaya, or universal upliftment, have influenced key perceptions of the role of government, pushing for “inclusive education” through accessibility and equity (Patankar). The commitment to equality often translated into a suspicion of differentiation in education. Policies were designed to prevent distinctions between institutions, allowing for uniformity in fees, curricula, and admissions processes. State governments have reflected this philosophy in policy, such as Maharashtra’s Educational Institutions Fee Regulation Act, 2011, which mandates that private schools adhere to state-set tuition structures (“Maharashtra Educational Institutions (Regulation of Fee) Act, 2011”).

Third is secularism, or rather, the creation of certain minority privileges. Under Article 30(1) of the Constitution, “all minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.” This constitutional protection reflects a semi-decentralized approach, allowing religious and linguistic minorities to design and operate institutions that meet their specific cultural or pedagogical needs. However, this remains a narrow exception rather than a broad framework for educational pluralism.

Established Policy Framework

Given the challenges posed by the pandemic, urban areas with robust digital infrastructures were better positioned to transition to virtual instruction. Rural India, which houses over 60% of the population in India (World Bank, 2021), faced significant barriers due to limited resources.

While the government does not formally take a position on whether private education is desirable or undesirable, its stance can be inferred through the regulatory and legislative environment. In India’s case, with a few notable exceptions, this environment has tended to impose significant constraints on private education. The

following section analyzes key laws to better understand the broader policy landscape shaping the role of private actors in the education sector.

From a macro perspective, private schools struggle to operate due to ambiguous regulatory frameworks and restrictive compliance mandates. Oftentimes, regulation is simply not present for entire segments of the education sector on a state level, such as early childhood education. For example, regulation covering the opening of preschools is only provided in 4 states (AP, JH, J&K, and TN), with the rest of the states providing no regulation (Mehendale, 2020). In the absence of preschool-

specific guidelines, unrelated or loosely connected laws are often informally applied, leading to inconsistent enforcement, legal uncertainty, and low institutional trust among providers. Overregulation, such as caps on school fees, limits on surplus use, and rigid admission cycles, disincentivizes new school entry and expansion, especially in underserved areas where private schools could otherwise fill the access gap

Before even attempting to set up a school, the private sector often faces major regulatory hurdles. Prior to its establishment, a prospective school must obtain an Essentiality Certificate (EC) from the Department of Education. The purpose is to reduce the “redundancy” of schools; the DoE has the final say on whether an educational institution deserves to exist. First of all, the organization of a school is delayed by various paperwork and approvals for obtaining the EC. Moreover, this effectively places the state in control of market entry, determining whether new schools are ‘necessary’ rather than allowing supply and demand to guide growth. Yet it is the private sector that is often better positioned to identify gaps in local demand and respond with innovative models. Furthermore, this intense screening procedure is limiting the proliferation of schools and options to parents, reducing competition in the marketplace and once again, benefitting the wealthiest of school endowments. When more schools are able to operate, competition increases, incentivizing institutions to improve quality to attract students, while also exerting downward pressure on tuition fees.

Private schools in India often operate in informal or low-cost settings, especially in underserved areas where public school infrastructure is lacking. Yet regulation applies a one-size-fits-all approach to both these schools and elite institutions, applying rigid norms regardless of local context. This structural gap between regulation and on-ground realities has created disproportionate impact to low-income families. The 2009 Right to Education (RTE) Act attempts to fill this gap by standardizing quality and access requirements across the system. Its provisions govern states’ role in administering education. It also outlines directives regarding the quality and infrastructure of instruction (“School Education | Government of India, Ministry of Education”). However, it is relatively rigid as it ignores

the ground realities of private schools in India. Many of these schools are set up in a makeshift or informal manner to provide functional literacy and education. The domineering consequence of failing to adhere to the RTE’s standards results in the closure of schools (Gupte, 2015). Where access to education is already an issue, closing schools only furthers the educational gap between the rich and poor in India. This leads students to cram into local government schools, the majority of which are not RTE compliant (Gupte). Non RTE-compliant schools serve a large portion of the young population, and merely providing punitive measures without adequate procedure to assist schools in reaching those standards is predatory. The most notable aspect of the RTE Act, is its mandatory 25% reservation for “weaker sections of society” in private school admissions. Although for a noble cause, the means of recuperation are proving disadvantageous to private schools. The amount of tuition fees reimbursed to private schools by the government is calculated based on the scale for state government tuition fees, which typically have far lower per-student costs due to subsidized infrastructure and fixed salary structures (Gupte). Private institutions often spend more per student on facilities, market-rate salaries, and materials, frequently exceeding the reimbursement costs and forcing private schools to absorb the loss when fulfilling RTE obligations.

Certain states have taken an even more interventionist approach to managing the Indian private school system. For instance, the Delhi’s School Education Act of 1973 has extended the government’s jurisdiction over fees, profits, and control of the institution. In line with this, the tuition fees for each individual school is filed and approved by the Director of Education of the state. Moreover, private schools are not permitted to use their profits for anything other than providing educational services, even if they are not supported or aided by the government. Further, if the government feels that the school is not meeting standards set by the state, it can expropriate the school and take over its operations for a temporary period (Delhi School Education Act of 1973). These constraints extend beyond tuition caps. Even private schools that receive no government aid are legally required to reinvest all profits back into the institution, with no flexibility for investors or owners to allocate returns elsewhere. This discourages philanthropic

and commercial investment alike, as it removes any potential for financial return, reducing entrepreneurial and funding feasibility. Long-term, rigid reinvestment of profits will stifle domestic cash inflow, innovation, expansion, and FDI.

Despite widespread regulatory constraints, certain exceptions within the legal framework allow limited autonomy for private actors. Based on the Constitutional principle of protecting the interests of minorities, the GoI has established the National Commission for Minority Educational Institutions. Religious and linguistic minorities are empowered through a fundamental right under Article 30(1) of the Constitution to establish and administer educational institutions tailored to their needs (“About Us | National Commission for Minority Educational Institutions | India”). These institutions benefit from procedural advantages, such as exemption from state takeover provisions in certain jurisdiction, faster or more lenient approval timelines, and reduced interference in fee structure and curriculum changes. For example, Delhi’s School Education Act of 1973’s clause concerning the ability to take over private school ownership does not apply to minority institutions (Delhi School Education Act of 1973). The Government of India has provided ample room for minorities to provide specialized and effective education; however, it is yet to recognize similar needs indiscriminately across the nation.

Key Court Judgements

The private sector has moved to challenge various problematic provisions and state-level laws in the Supreme Court, which has reiterated its stance on private education.

Minerva Mills v. Union of India: The Minerva Mills case is a landmark Supreme Court judgment concerning the role of Fundamental Rights (meaning freedoms) versus the state’s Directive Principles of State Policies (DPSPs), particularly those promoting equitable distribution of resources (Articles 39(b) and (c)) in the context of the textile industry. The case arose when Minerva Mills Ltd. challenged the 42nd Constitutional Amendment and the Textile Undertakings (Nationalisation) Act, which allowed the government to take over private mills. The government argued these actions were valid

under DPSPs, asserting the primacy of state welfare objectives over individual rights, and attempted to curb the Supreme Court’s power of judicial review. The Supreme Court ruled that Fundamental Rights and Directive Principles are of equal importance, and must be harmonized in order to have a just government. Furthermore, the court delimited the extent to which the government could amend the Constitution, placing certain “essential elements” as out-of-bounds, thus reaffirming the doctrine of “basic structure” established in *Kesavananda Bharati v. State of Kerala*. Among these elements was the principle of Fundamental Rights. The court emphasized how these rights should not be superseded and a balance between individual freedom and state interests must be struck. The precedent set by this case serves as a constitutional counterweight to state overreach, reminding that welfare-oriented regulation, even in the name of public good, may not come at the expense of core liberties such as institutional autonomy.

Unni Krishnan v. State of Andhra Pradesh: This case was a challenge to *Mohini Jain v. State of Karnataka*, which was regarding the role of capitation fees (payments for admission fees) and the obstruction it created to the right to university education. Though focused on education, the case raised a broader constitutional tension akin to *Minerva Mills* between individual rights and state-directed policy goals. In this instance, the petitioner argued that education is considered a commercial venture protected under Article 19 of the Constitution. The court ruled that the right to education is akin to the right to life under Article 21, and as such, the government has an obligation to ensure adequate education. Additionally, it simultaneously ruled that education is not a commercial activity, and imposed strict restrictions on how private institutions could operate, specifically regarding capitation fees and admissions. The Supreme Court had interpreted individual fundamental rights as a guarantee fulfilled by the state, thus, ironically, placing the State’s Directive Principles before freedoms as its “guardian.” However, the Court held that while the State is obligated to provide free and compulsory education up to the age of 14, any educational provision beyond that age is dependent on the State’s financial capacity, and thus not enforceable as a fundamental right.

Modern School v. Union of India & Ors: In this case, The Modern School of New Delhi contested the Delhi School

Act of 1973, as it authorised the Director of Education to regulate private school fees. The Supreme Court ruled in favor of the legislation, emphasizing the importance of capping tuition fees even for unaided private schools. Thus, it ruled that private schools must commit profits back towards the institution and are not able to divert funds towards any form of personal gain. While intended to ensure affordability and accountability, this restriction limits financial autonomy and private investment.

The Proprietary High School Trust, Ahmedabad v. State of Gujarat: In this case, the students and three governing trusts (boards) of private schools in Ahmedabad came together to challenge the State Education Department-issued government circular of a 20% reservation in XIth standard for students from other schools. Schools argued that this provision violated their fundamental right under Article 19(1)(g), the right to practice any profession or carry on any occupation, an implied freedom to manage and to administer their institutions. The Gujarat High Court upheld the ruling, echoing the sentiment of similar cases that regulation of admissions by the State is permissible as long as it promotes the

public good and aligns with the directive principles of State policy. Implicitly, the opinion suggests that the state is obligated to promote education and ensure access, thus providing them with relatively free reign to materialize this as they wish.

Case Analysis: The case of *Minerva Mills v. Union of India* set the precedent that Fundamental Rights cannot be ignored, and they are equally important in playing a role for the betterment of society. However, these listed cases stand in contradiction to the principle of the *Minerva Mills* ruling, that Fundamental Rights and Directive Principles of State Policy must be held in equilibrium, and neither can override the other. While education has been increasingly treated as a basic human entitlement, the judicial trend has favored an expansive interpretation of the Right to Education, permitting the state to actively regulate or restrict private education in the name of public good. Rather than facilitating access, the Court has usually permitted the state to enforce access through operational mandates and fee restrictions, placing strain on the freedoms enshrined in Article 19(1)(g).

The Status Quo

Economics

On paper, India's private education space appears to be a burgeoning space capturing much of the total education sector. Compared to most other countries, both developed and developing, the percentage of Indian youth studying in private schools is significantly higher, at nearly 50%. Additionally, the majority of these private schools operate to cater to lower-income students, with fees under INR 1000 per month (Kabra, 2021). This reality contradicts the widespread perception that private schools in India primarily cater to the elite or upper-middle class. In fact, a large proportion of these schools operate on an explicit low-fee model to serve. Furthermore many of these institutions are in fact unrecognized, meaning that they are not affiliated with any major board of education (ex. CBSE, CIE, ICSE, IB, etc.). This lack of recognition often stems from their inability to meet rigid infrastructural norms, despite successfully delivering functional education to underserved populations. A statistic puts the percentage

of students studying in such unrecognized schools at nearly 26% in Punjab (Garg), despite being considered one of the richest states in the union.

Additionally, the landscape of supplementary education in India is rapidly expanding. Nearly 20% of students in grades 6 through 8 rely on private tutoring to support their academic progress (Berry), highlighting widespread demand beyond the classroom. This appetite for additional instruction has also fueled India's ed-tech boom, with companies like Byju's, Vedantu, and Unacademy stepping in to address perceived gaps in the traditional education system.

Merits of the Private Sector

The private sector has played a vital role in expanding both access to and the quality of education in India. The high proportion of families choosing private schooling (and private tutoring) reflects the perceived value and effectiveness of these institutions. This widespread

reliance displays the private sector's ability to address critical gaps in the broader educational system.

Granted that the public and private sector should work together synergistically, it's clear that, by design, public education has certain weaknesses that could be covered by private actors. Numerous studies have shown that government schools operate at a higher per-student cost than private schools, despite often achieving poorer learning outcomes. Private schools are well-placed to optimize resources, adjust staffing based on performance, and reinvest in facilities. One of the main reasons for this disparity is the significant share of public school budgets being allocated towards hiring needs. Over 70% of the public school budget goes toward teacher and administrator salaries, leaving little room for development of school facilities, learning resources, and student experiences (Kabra, 2021). These salary levels are often locked in due to political pressures and labor protections, making it difficult for the government to reallocate funds even when efficiency demands it. In contrast, private schools' ability to operate flexibly, without the constraints of rigid bureaucratic structures or politically influenced pay scales, allows them to maintain greater efficiency. This touches on a deeper issue in public education: while the government plays a strong regulatory role in private schooling, it often struggles with enforcement and accountability within its own system. Education is an inherently decentralized process, with learning happening across more than a million locations, requiring localized oversight. In practice, a lack of ground-level performance metrics and fragmented accountability mechanisms means lapses rarely result in consequences, especially in government systems. For example, in a survey carried out, the percent of public schools that acted on teacher absenteeism by dismissal hovered around 1/3000, while for private schools, it was around 35/600 (Kabra, 2021). Private institutions naturally find success in these areas, as they operate on a decentralized and inherently high-functioning model.

Private schools have empirically proven to be capable of filling the accessibility gap in education, especially when it comes to developing nations' least attended-to regions. In Andhra Pradesh, the government's school voucher scheme (allowing for school choice across types of educational institutions) has reduced state expenses

on students, while simultaneously increasing outcomes across subjects. The trend of India's private sector participation in education is not unique; the percentage of students in developing countries enrolled in private schools has doubled since 1990 (Lusk-Stover). This reflects a broader global shift towards private education as a response to public system shortcomings.

The Private Sector's Struggles

While the private education sector may appear thriving at a glance, the truth is it continues to operate in spite of restrictive and outdated policy frameworks. Much of the sector's potential remains untapped. Broadly, educational policy can be divided into two categories: input-focused regulations, such as infrastructure norms, teacher salaries and qualifications, and administrative procedures, and output-oriented goals, such as student outcomes and assessment standards. The private sector (as well as the public sector) struggle with the balancing these policies, as their larger focus is on operational regulation, neglecting real educational outcomes.

The sector's struggles are best characterized by the overbearing amount of legislation that regulate the establishment and maintenance of these institutions. To the extent that, if one attempts to open a private school in Delhi, it would take more than 100 documents and 150+ steps through the Department of Education (Kabra, 2021), leading to exorbitant administrative fees before even commencing operations. This significantly deters investors from opening private schools and limits their profitability from the onset. Furthermore, schools are often subjected to odd regulations that hinder their development; for example, in Haryana, each classroom needs to have a veranda, while Uttar Pradesh mandates all private schools to paint their walls white every two years. Additionally, certain states enforce a minimum salary for private school teachers (Central Square Foundation). While this may seem to be a step in the favor of private practice, it co-exists with various caps on fee hikes, leading to private schools struggling to pay teachers fairly because of capped profits on tuition. However, private school teachers are still paid nearly 65% lower than their government counterparts (Radhika, 2024), indicating a lapse in the legal system.

Interestingly, many of the private sector's struggles

come from distortions in how school choice plays out in India. School choice refers to families having the freedom to select among various educational institutions; in practice, this freedom is undermined by misinformation and perception gaps. English-medium instruction is perceived as one of the strongest indicators of quality education. As a result, many schools brand themselves as “English-medium schools” in spite of using a regional language as their means of instruction. This mismatch misleads parents and concentrates demand in low-cost private schools that may not consistently deliver superior academic outcomes. Furthermore, superficial cues, such as language, discipline, dress code, or perceived prestige have led parents to choose poorer quality private education over superior public and private education alike (Ideas for India). These misconceived judgments are at the heart of the “outputs issue,” where there is limited regulatory infrastructure governing the standards and learning outcomes. Parents often lack statistics or results on school performance and the quality of education. In an ideal system, the best schools would be rewarded with higher attendance and enrollment; in this instance, the information gap forces families to draw from imperfect signals to decide which institutions would be the best for their child, distorting demand and weakening system-wide quality. This displays the urgent need for policy frameworks that emphasize outcomes such as learning levels, employability, and student progress, rather than inputs alone, enabling public and private actors to compete and improve on a level playing field.

A specific dimension of this overregulation is the mandate that educational institutions operate on a nonprofit basis, which imposes structural limits on their financial autonomy. According to Section 18 the RTE Act, unaided private schools must submit a self-declaration affirming their nonprofit status and compliance with infrastructure, curricular standards, and teacher qualification to qualify for recognition. Similarly, school boards such as CBSE and CISCE mandate that affiliated schools be operated by nonprofit entities such as societies, trusts, or Section 8 companies, with some states, such as Punjab, with its law “Punjab Regulation of Fee of Unaided Educational Institutions Act, 2016,” restricting profiteering by requiring detailed disclosures for fee hikes and prohibiting the diversion of funds for non-educational purposes (Singh & Sudhakar). These

provisions limit the scalability and sustainability of private educational institutions.

These regulatory barriers often leave schools struggling to remain legally compliant. They have to resort to kickbacks such as taking back salaries from teachers in cash, and levy donations for admissions to carry out their operations (Kabra, 2021). The strict regulatory environment, in fact, encourages involvement of negative actors and a normalization of unethical practices in the learning economy, as schools find it easier to bend rules than meet unattainable compliance burdens. Moreover, the current environment puts a vast majority of smaller “edupreneurs” at risk. Only the wealthiest, most well-funded private schools can afford to be accredited, get the necessary documentation, adhere to mandates, and maintain high standards of learning with their budget. Other institutions are faced with the choice of hanging from a shoestring budget, struggling to compete with their wealthy competitors, or skirting regulations.

Granted, the struggles of the private sector are not uniform. In certain instances, the sector struggles with insufficient regulation. Ed-tech brands, most notably Byju’s, are struggling under the weight of heavy public scrutiny for their actions not governed by policy. Byju’s has been widely criticized for its aggressive marketing strategies, which often involves pressuring parents into purchasing expensive educational packages. Reports indicate sales representatives using manipulative tactics, including misleading parents about their children’s academic performance, coercing them into loans without their explicit consent, and even making disparaging remarks to shame them into subscribing to their services (Banerji, 2022). The company has also been accused of disseminating misleading advertisements, with government bodies like India’s Consumer Affairs Ministry warning them against unfair trade practices and deceptive marketing strategies (Deccan Herald). These issues are exacerbated by a lack of strict government regulation within the edtech sector, allowing companies to operate without robust oversight. Further, Byju’s has faced increasing scrutiny over data privacy concerns, with reports suggesting that their sales representatives have access to extensive personal information about students and families, leading to questions about how user data is collected and utilized (Banerji, 2022). Financially, the company’s

struggles have also intensified, with Byju's auditor BDO Global resigning amidst allegations of opaque financial practices and insolvency proceedings (Kalra, 2024). These mounting issues highlight the broader risks associated with the privatization of education, where market-driven systems, if left unchecked, can lead to

exploitative practices that burden consumers rather than enhance educational outcomes. Negative press and poor business practices further push public opinion away from private sector which could be used to democratize access and achievement.

Primary Research - Stakeholder Interviews

Outline

Overview:

In order to capture various perspectives regarding the role of, challenges faced by, and need for private sector participation in education, various stakeholders were interviewed. Participants were drawn from 3 main groups viz., parents, schoolteachers and administrators, and ed-tech founders. Stakeholders were selected based on their involvement and influence in the school system.

Stakeholder Selection:

Parents, as the key decision-makers and purchasers of private education on behalf of their children, were surveyed to understand their expectations, challenges, and decision-making processes regarding private schooling. School administrators represent the operational level of private education. They provided insights into regulatory issues, funding, and input-output benchmarks. Ed-tech founders represent the purest form of private sector, interviewed for their innovative solutions to the education question and ability to identify access & quality gaps in education.

Methodology:

Interviews were semi-structured, allowing flexibility to probe deeper into specific topics while maintaining a continuous framework for comparison and analysis. Participants were recruited across backgrounds to ensure diversity within each group. Questions were tailored to the unique perspectives of each stakeholder group, but they broadly sought to address:

1. The current state of the Indian education system.
2. Challenges faced within their respective domains.
3. Views on the role of private sector involvement.
4. Recommendations for policy-based and systemic improvements.

Interviews were conducted virtually and transcribed verbatim. They were then analyzed to draw key themes from identified patterns. Responses were also anonymized.

Parents

Interviews with parents revealed a strong preference for private schooling due to concerns regarding infrastructure and teaching quality in public schools. Private schools are perceived to be superior in English-medium instruction, holistic and extracurricular engagements, and overall educational outcomes.

Findings:

- **Preference Drivers:** Many parents highlighted dissatisfaction with public schools' accountability and the limited opportunities they provided for holistic development.
- **Perception of Public Schooling:** Private schools were perceived as "the only serious choice" for students looking to find academic success. Only those who couldn't afford to pay for a private school would go to a public school.
- **Systemic Critiques:** As a whole, parents were unhappy with the exam-oriented approach of Indian education, which neglected critical thinking and real-world application. However, private schooling was seen to mitigate this to an extent as it led to further education beyond rote

learning.

Highlighted Quotes:

- “The condition of government schools is terrible: no infrastructure, poor environment, and a lack of accountability. Many are only in Marathi or Hindi medium, which limits future opportunities.”
- “Government schools were never an option for me or anyone I know who earns decently. Even lower-income families try to send their kids to private schools if they can.”
- “The curriculum is too rigid; it’s purely exams-based, not real learning or critical thinking.”

Schoolteachers/School Administrators

Interviews with schoolteachers and administrators provided a ground-level view of the public and private education system, highlighting challenges in teaching, regulation, and resources.

Findings:

- **Resource Constraints:** Government-funded schools face significant resource limitations, such as infrastructure and materials. On the other hand, private schools are better-resourced but struggle with dealing with or dodging compliance difficulties.
- **Teaching Autonomy:** Government school teachers experienced greater constraints due to a rigid curriculum. Private and international schools allow for more freedom in adapting curricula.
- **Regulatory Barriers:** Teachers and administrators pointed to draconian regulations for private schools, including fee caps, mandatory infrastructure standards, and teacher qualification norms, disproportionately impacting low-income private schools.
- **Climate of Development:** Private schools usually need to be considered nonprofits in order to operate, and the investment atmosphere is especially unfavorable for private institutions seeking to innovate or expand within the education sector

Highlighted Quotes:

- “Teachers in international schools are facilitators. We have the freedom to adapt our

teaching methods to suit the students, which is missing in traditional setups.”

- “Public schools don’t have localized oversight, and parents have no real say, unlike private schools where accountability is higher because parents are paying.”
- “Private schools are considered charitable organizations, which deters investment and discourages top talent from entering the sector.”

Ed-Tech Founders

Interviews with ed-tech founders display the potential of the innovative private sector in bridging educational gaps. Their insight provides key pointers for the gaps in the industry along with the role of establishment-agnostic private education for ensuring learning outcomes.

Findings:

- **Complementary Nature of Ed-tech and Private Sector:** Ed-tech founders stressed the complementary nature of the private and public sector in ensuring educational success. Ed-tech specifically functions as a supplementary feature to further advance learning.
- **Contradictory Stance of the Government:** The GoI has emphasized its importance placed on education; however, there is a general consensus that the centre is not doing enough to support the private sector.

Highlighted Quotes:

- “The government wants the school system to be strong and successful. If so, then they need to accept that strengthening of the private sector is also necessary.”
- “Legal frameworks need to be clearer for private education of any kind to prosper.”
- “Teaching is an inherently human process. We in the ed-tech industry are ready to work hand-in-hand with schools to provide digital solutions to aid that process.”

Results

The findings from interviews with parents, schoolteachers and administrators, and ed-tech

founders highlight key themes regarding the role, challenges, and potential of private sector participation in education. Systemic reforms are needed to maximize contributions of both public and private sectors in the education.

Notably, there is a strong alignment across stakeholder groups in perceptions of educational quality. Parents viewed private schools as the logical choice for children's education, citing superior infrastructure, English-medium instruction, and opportunities beyond for extracurricular and holistic development. There is a strong sense of aversion towards public schools, on the issues of accountability, teaching quality, and lack of extracurricular opportunities. Schoolteachers and administrators echoed these concerns, highlighting resource constraints and systemic issues in public

schools, while pointing out that private schools face heavy regulatory burdens and limited financial flexibility. Ed-tech founders positioned their solutions as complementary to both sectors, aiming to bridge learning gaps and support more consistent educational outcomes. Additionally, there was consensus around the overregulation of private educational institutions. Parents indirectly referenced this through their difficulty in finding private schools that matched their desired level of achievement and price point. School administrators pointed out policies like fee caps and nonprofit mandates as dampeners to developing profitable operations. And ed-tech founders as a whole felt to be in a sense of limbo from a lack of organized regulation on the space as a whole.

Policy Analysis

Current/In-Progress Solutions

National Education Policy (NEP)

India's most significant step towards educational reform has come through the National Education Policy (NEP) of 2020. The NEP 2020 represents a major reform effort, calling for greater institutional autonomy, streamlined accreditation, and public-private collaboration, though it stops at explicitly recognizing overregulation of private education (p. 31). Furthermore, it proposes a range of reforms under principles of equity, accountability, and equality, and introduces institutions like the Higher Education Commission of India (HECI), National Accreditation Council (NAC), and PARAKH for standardized assessments. However, the policy itself is a mixed bag, positioning itself as pro-private sector yet anti-profit-making, a juxtaposition in itself (p. 49).

With the NEP serving most as a manifesto, its broad strokes include both statements of support and detraction from the private sector cause. As a first step, it outlines, where the regulatory system needs to be for education to flourish. It concedes that the school education system must focus more on educational outcomes, reduce constraints such as rigid curricula and resource shortages, and increase accountability in both the private and public schooling (pp. 31, 32). The policy statement

also takes strides towards explicitly recognizing the contribution of private and philanthropic schools, citing their contribution towards educational outcomes within the framework of educational policy (p. 7). However, the NEP then backtracks on itself on many of these talking points. It targets private school fees, targeting "profiteering" and the deemed grave impact of fee opacity on family economics (p. 49). However, it waves away much of the specifics concerning what constitutes profiteering and transparency in pricing structures. One can likely assume (based on past precedence) that profiteering constitutes any sort of monetary surplus through business activities. Additionally, the NEP claims that education in India must be a non-profit matter, standing in opposition to its commitment to help the private sector flourish and ignoring the motivations behind private investment (p.49).

On a policy level, the NEP creates provisions for State School Standards Authorities (SSSAs) in each state to provide decentralized regulation of school inputs and outputs. The policy outlines this to provide framework guidelines for states to allow ease of disseminating education (p. 32). This policy change would shift focus towards outputs from inputs, which is already managed by the Directorate of School Education. On a different front, the NEP extends the age of the Right to Education

(RTE) Act's reservation clause to children between the ages of 3 and 18 years old (p. 10), placing further burden on the private sector. Furthermore, to solve the gap in quality education in public schools, the NEP suggests adding more teachers to ease out the student-teacher ratio (p. 61), which would merely serve to further drive up costs and cut spending on other underserved areas of a holistic education.

One important feature of the NEP is its pivot from rote memorization to competency-based learning through continuous assessment (pp. 5, 10). While some argue this shift may crowd out time for extracurriculars, the policy in fact creates an opportunity to formally integrate sports, arts, and project-based work into the curriculum, as opposed to treating them as optional add-ons to an exam-focused model. This move towards skill-based education stands to support a more balanced, holistic approach to student development.

The PARAKH (Performance Assessment, Review, and Analysis of Knowledge for Holistic Development) initiative similarly outlines a national standard for assessment to improve comparability across boards (pp. 27, 32). However, it stops short of centralizing curriculum design, allowing schools to continue setting their own syllabi and internal assessments. In this way, PARAKH walks the line between coherence and flexibility, enabling standardization without stamping out school-level innovation, particularly important in a system that aims to foster public-private collaboration.

Yet taken as a whole, the NEP still reflects a tension between its aspirations and its underlying assumptions. It recognizes the need for reform and makes welcome gestures toward reducing overregulation and focusing on outcomes. But it simultaneously reinforces old constraints, particularly its anti-profit stance, that undermine the very private sector participation it seeks to enable. Without greater clarity on implementation and consistency in its policy logic, the NEP risks limiting its own impact.

Case Study: Maharashtra's Evolving Regulatory Framework

Maharashtra has been among the first states to provide an official framework to allow privately funded and operated schools to be established outside the nonprofit

trust model. In 2017, the state government passed an amendment changing the Maharashtra Self-Financed Schools Act of 2012, which governed the nature of regulations on the establishment and running of private schools (Chowdhury, 2017). In the original version, the Maharashtra government only allowed "registered trusts and societies," indicating that nonprofit organizations will only be able to set up schools in Maharashtra. However, a subtle change has been made to the Act to expand the organizations eligible to set up schools. Now, "any registered company," referring to the broader private sector, is able to set up unaided schools ("Maharashtra Self-Financed Schools (Establishment and Regulation) Act, 2012"). Though a small amendment, Maharashtra has taken a significant step towards allowing the private sector to take a hand in the school system, allowing private capital to be deployed to further education, while also increasing the system's transparency through a broader regulatory oversight of private companies. Nonetheless, the state is yet to give true private functioning to non-charitable actors; the Act still designates these ventures as benevolent, requiring organizations to reinvest profits and prohibiting dividend payouts. Unfortunately, though a step towards opening education up to the private sector, this structure would likely be even more unfavorable towards firms. Private schools operating as companies would have to deal with both the established compliance rigidity of a private entity with minimal scope for profit-making, making an investment in private education not worthwhile. At the moment, this could serve as a relatively frictionless avenue for companies to carry out education for altruistic motives without the need for a complex organizational structure.

Recent Court Case: *Aligarh Muslim University v. Union of India* (2024)

The recent December 2024 case of the Supreme Court's revisiting of the 1967 ruling of *Azeez Basha v. Union of India* established a new framework to determine if an educational institution qualifies for "minority institution status." In *Azeez Basha v. Union of India*, the Court deemed Aligarh Muslim University as a non-minority institution as it was established by the British government as opposed to by the Muslim community, thus barring it from special Constitutional provisions. The recent decision overturned the 1967 verdict, ruling

that a minority institution's eligibility is not dependent on its parliamentary standing, but rather its character. The Supreme Court put forward a 3-pronged framework for determining minority institutions: Genesis (who conceptualized the institution?), Purpose (is it for the benefit of a minority community?), and implementation (who provided the resources for the institution?). This framework aims to limit government interference in the running of minority institutions by protecting them from fee caps, hiring quotas, and curriculum mandates. This court decision will allow minority communities, including private actors operating under their aegis, to establish and expand educational institutions with greater operational freedom. However, these protections apply exclusively to minority-run institutions, leaving private schools unaffiliated with minority groups subject to the existing regulatory regime.

Development of Policy Recommendations

The findings from this study demonstrate that systemic inefficiencies in India's education sector, consisting of regulatory barriers, resource inequities, and lack of outcome-based oversight, are actively hindering the potential of the private sector in education. The following policy recommendations have been developed to address these challenges holistically.

Streamlining Regulatory Frameworks:

1. Replace the Essentiality Certificate with a market-based mechanism where schools can be established based on school demand metrics over bureaucratic approval.
2. Create a single-window clearance system (all department approvals are funneled into one universal platform) to launch a new school.
3. Distinguish regulatory norms by educational level (pre-primary, primary, secondary) and school scale. Licensing frameworks, in put requirements, and fee rates of schools should accommodate all types of institutions according to their level and scaled requirements.

Output-Based Benchmarking:

1. Develop an education quality index applicable to both public and private schools based on assessments, teacher qualifications,

infrastructure, etc..

2. Mandate annual disclosures by schools of annual income and standardized reports promulgating student learning

Public-Private Partnerships (PPPs):

1. Partner with ed-tech companies to offer free or low-cost digital tools, teacher training material, and data-driven learning solutions for government schools.
2. Pilot PPP schools where private providers manage operations, while the government supplies land, infrastructure, and subsidies. These pilots can test whether private managerial autonomy leads to improved school-level outcomes, accountability, and innovation in underserved areas.
3. Create incentives for low-cost private schools that open branches in underserved areas.

Encourage Innovation and Investment:

1. Incentivize private schools to voluntarily enroll more than RTE's 25% quota of students from Economically Weaker Sections (EWS), providing full or partial reimbursements proportionate to the number of students admitted.
2. Allow private schools to register as businesses and reinvest their profits to improve infrastructure, technology, and training.
3. Set up an "Education Innovation Fund" to support startups and private sector initiatives that bridge gaps in access, outcomes, or holistic education.

Reforms in Implementing National Education Policy (NEP):

1. Clarify profit-making guidelines to allow private investors to make returns while balancing affordability to households.
2. Guide SSSAs to focus on performance-based outcomes rather than prescriptive infrastructure mandates.
3. Link government subsidies or incentives to measurable improvements in student outcomes, particularly for schools targeting lower-income students.

Development of Litigation Recommendations

Legal recourse also has the potential to balance the relationship between Fundamental Right to carry on a profession (Article 19(1)(g)) and the Directive Principles that promote equitable access and regulation in education (such as Articles 38 and 39). These would be achieved through PIL (public interest litigation) cases, brought on the grounds of Article 19(1)(g), the freedom to carry out any profession, Article 14, equality before the law, and Article 21, right to education as part of the right to life. PILs of this nature would seek to reassess recent court rulings in light of the landmark *Minerva Mills v. Union of India* case, which reaffirms the inviolability of Fundamental Rights.

Unni Krishnan v. State of Andhra Pradesh: This case was based on Article 21's enumerated right that the right to life encompasses the right to education, which makes the government obligated to ensure adequate education. While the premise of the government ensuring access to anything deemed necessary to life is sound, future litigation could argue that ensuring access to education does not necessarily mean that the government needs to be the sole provider of education, which could be construed as overstepping the Directive Principles. Instead, the government should make efforts to facilitate access through the most effective means. One can also assert that private actors are equally capable of administering the right to education.

Modern School v. Union of India: The Modern School case challenged the Director of Education's ability to regulate private school fees. In this case, the Supreme Court shut down, reaffirmed full governmental jurisdiction over tuition caps and banned profit redistribution, even for unaided private schools. This could be construed as a violation of Article 19, as banning shareholder returns effectively removes education from the opportunity set of private professions. Additionally, though fee caps were well-intentioned as they sought to prevent predatory pricing, granting the state unchecked authority to set these fees risks undermining the autonomy of private institutions and distorting the parent-provider relationship. Future litigation could develop a more nuanced system that balances equity with private sector incentives.

Limitations of Study

Although this study provides a comprehensive overview of the education system, it has certain limitations in terms of its research and analysis. For one, the primary sample size is limited and qualitative in nature, which does not fully represent the vast socioeconomic variation across regions in India, which creates difficulty in judging the regulations and policies governing the private sector in education. The qualitative analysis of stakeholder interviews may also reflect some level of researcher bias. Additionally, given this paper's nature as a foundational document, the generalizations about the public and private sectors in education may not hold universally. The study is a capture of a snapshot in time rather than a longitudinal study focusing on change through various policy initiatives.

Future Research Directions

The author recommends certain directions where the research question could be taken further. A larger-scale survey could be carried across multiple states to validate regional disparities in private-sector education. Certain sections of this paper could be addressed more in-depth, namely the ed-tech sector, as policy frameworks for ed-tech have yet to be meaningfully explored to increase education quality and access. Another exciting avenue to explore would be to incorporate the study's suggestion of creating a longitudinal study tracking the NEP's real-world impact and private sector response over a 5-10 year span. For the most part, given this study's qualitative nature, economic modeling of cost-benefit analysis to quantify the fiscal trade-offs of deregulating private schools versus expanding public expenditure on schooling. Lastly, looking beyond India to explore private education models of other countries in a comparative case study format would be valuable.

Conclusion

India's education system stands at a critical juncture, where the public and private sectors' relationship will determine the future of educational access, quality, and innovation. The findings of this study outline both the potential of private sector participation and the systemic challenges that hinder its effective functioning. On one hand, private institutions have been proven to be able to fill gaps in access and efficiency, offering superior innovation and outcomes. However, the sector is still effectively handcuffed by regulation, policy, and ideological resistance to private education from cultural, historical, and constitutional precedents.

This can be alleviated through a balanced policy framework and litigation. Bureaucratic processes for private schools must be streamlined, public-private partnerships must be fostered, and accountability should be created without imposing excessive constraints on innovation. Litigation will lay the foundation to enact policy by reducing judicial pushback on refined legislation. Policymakers and the judicial system must recognize that the private sector is not merely an alternative to public education but a crucial partner in enhancing educational outcomes. Encouraging investment, adopting outcome-focused reforms, and refining the implementation of the National Education Policy (NEP) are crucial but first steps towards a better education system.

Ultimately, the path forward requires a shift of India's approach towards education. The country should value both equity and efficiency. By embracing a model that leverages the strengths of both public and private institutions, India can uphold its constitutional commitment to universal education while also equipping its progeny with the skills and knowledge necessary to thrive in India's future economy.

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