

# Long Tradition, Moderate Distribution and Growing Importance: Private Schools in Germany as ‘Change Agents’ of School Choice

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## 1 Introduction<sup>1</sup>

In Germany today every tenth school in compulsory education is a private institution, where about 9% of all children and youth between 6 and 18 years are enrolled. During the last two decades, more and more private schools have been established all over Germany. Especially in major cities like Berlin, Frankfurt or Hamburg and in the Eastern German Länder, private schools have undergone a kind of a ‘boom’. From primary to secondary, private schools with various pedagogical and religious orientations and particular philosophies have been founded. More and more parents are attracted by those alternatives to state schooling. The reasons for this seem to be a mixture of several motives e.g. a growing interest in

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<sup>1</sup>Rita Nikolai was financially supported as a Heisenberg-Fellow from the German Research Foundation (grant no. NI1371/4-1).

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special or alternative pedagogical orientations, social diversity reasons or habitual distinction that influences socio-cultural segregation (Koinzer and Mayer 2015).

With this (new) diversity in the German school landscape questions of school choice arise driven by the private school expansion. School choice does exist in public and private secondary school levels. But other than in public primary schools, where school choice exists only in a very limited number in some German Länder, school choice at private primary schools is a basic instrument for composing the pupil body and socio-economic milieu that can extend into secondary education. Along with the school improvement argument, school choice—as studies form abroad show—results in pupils' segregation that could intensify social segregation tendencies, which are on the one hand inherent the German structured (secondary) school system. On the other hand, additional social segregation 'introduced' by school choice can intensify that problem, especially in major cities with high levels of relative poverty and urban ethnic segregation.

This article combines these two perspectives and questions whether and how private schools and the expanding demand for them influence the governance and legislative basis of schooling in Germany. By applying concepts of historical institutionalism (Pierson 2004; Mahoney 2000), this article contributes to an understanding of the processes and the role of parents as change agents that led to the expansion of private schools in Germany. Firstly, we give a short insight into the history of private schooling in Germany while focusing on the development of private schools during the last 200 years, and deliver a short insight into the strong path dependencies of the German private school legal regulations. Secondly, we describe the national school law regulations and the regional variations. Here we get further into the regional characteristics and the regional divers of distribution of private schools in the German Länder. Thirdly, we emphasize the current state of private schools, and some school quality and achievement matters as well. We will devise some preliminary conclusions about the expansion of private schools during the last 20 years, arguing that this is an effect of introducing (more) school choice options and a changed school governance regime that can affect the whole school landscape in terms of social segregation und educational inequality.

Adopting a neo-institutionalist perspective, we will—first and foremost—examine the sources of inertia and the drivers of the private school expansion since around the year 2000. The causal narratives the article constructs are guided by theoretical concepts derived from institutional theory, allowing us to generate and assess hypotheses about the key causal mechanisms underpinning and driving change. The concept of path dependency (Mahoney 2000; Pierson 2004) stresses the lasting stability of institutions and describes it as a historical legacy caused

by trend-setting decisions at critical junctures. Institutional configurations have a lasting effect over long periods of time since actors tend to hold on to institutions. However, the path dependencies concept allows for an identification of the drivers of change that may alter these general conditions and may thus effect a (more or less) pronounced destabilisation of the established institutional order. The new institutionalism perspectives give an understanding of change agents as actors, who have the power to alter the trajectory of institutional development (Mahoney and Thelen 2010).

## 2 History of Private Schools

Private schools in Germany have a long tradition and have been assured by state authorities for more than 200 years—a strong path dependency of the German private school legal regulations.

“To found a private school is free to anyone who demonstrates his ability for this business, and submit his plan, both in respect of teaching as of education, for approval”, as article 3 of the Prussian constitution of 1794 (*Allgemeines Landrecht für die preußischen Staaten*) expressed it (printed in Demel and Puschner 1995, pp. 217–225). This 18th century legal status offered and protected the opportunity to anyone to found a private school, and this lasts until today in Germany and forms a stable political setting for private schools. Under the basic and central regulation that the state is responsible for the supervision of schools and universities, the right to found schools was given to other institutions beside the state and the sovereignty, and secured other actors—especially the churches or religious fraternities—to continue in or install schooling and teaching in their own institutions. But in rural regions and smaller towns with public schools e.g. municipality schools, the establishment of private schools was forbidden or a special permit was required (article 6, *ibid.*, see below).

The 1848 constitution of the Prussian state and the constitution of the first German republic in 1919 confirmed the right to found private schools along these lines, but reemphasised that the state is first and foremost responsible for educating the German youth and conducting schools (*Verfassungsurkunde für den Preußischen Staat*, Art. VI, § 154, Hildebrandt 1977, p. 22), *Verfassung des Deutschen Reichs*, Art. 147). Finally, the Weimar Constitution (*Weimarer Reichsverfassung*) of 1919 (Huber 1992, pp. 151–179), established the wording that is still in action under the German Basic Law Art. 7:

Private schools that serve as alternatives to state schools shall require the approval of the state and shall be subject to the laws of the Länder. Such approval shall be given when private schools are not inferior to the state schools in terms of their educational aims, their facilities, or the professional training of their teaching staff, and when segregation of pupils according to the means of their parents will not be encouraged thereby. Approval shall be withheld if the economic and legal position of the teaching staff is not adequately assured (Art. 7 (4), Basic Law 2016).

For private elementary schools the German Basic Law specifies special regulations, and that the foundation of that type of school shall be an exception only (see Chap. 3).

Notably since the 18th century—and lasting through to the present—private and state schools live an ‘irritable rivalry’ and interpretational sovereignty of schooling, where the state authorities are trying to regulate the uninhibited expansion of (any kind of) private schools by confirming their foundation at once. In mid-18th century Prussia a public school master complained, that the “Winkelschulen” (schools in hidden corners of towns), a derogatory term for private schools of a very poor quality that were founded and operated by individuals and restricted or forbidden by the 1794 law, pose a disadvantage for public schools. “One selfish people” would establish such schools at their home without permission, and as a result public schools die (Neugebauer 1985, p. 582). These “Winkelschulen” were schools without any governmental supervision and can be characterised as “private schools without state supervision”. As a matter of fact, at the end of the 18th century in many Prussian towns this type of private school, with very different teaching quality, exceeded the amount of public schools, as shown in the following table for some selected towns in Prussia (see Table 1).

**Table 1** Spread of public and private schools in some towns of Prussia in 18th century

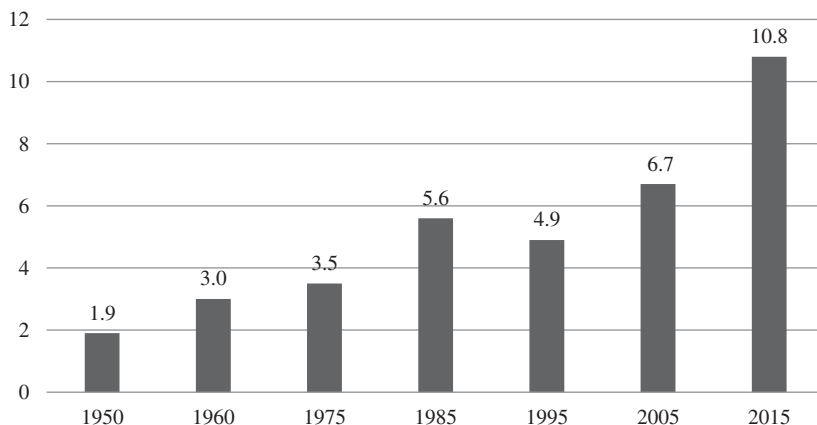
Year	Town	Public Schools (e.g. Municipality Schools) <sup>a</sup>	Private Schools without state supervision (“Winkelschulen”)
1713	Frankfurt/Oder (Brandenburg)	3	About 30
1743	Barth (Pomerania)	1	3
1764	Bütow (Pomerania)	1	7
1782	Wriezen (Brandenburg)	2	7
1788	Memel (East Prussia)	4	8
1790	Königsberg (East Prussia)	17	More than 100

Source Sample according to Neugebauer (1985, p. 592, 594–595)

<sup>a</sup>A few denominational schools are included, but these schools were subjected to state supervision

But throughout the 19th century the number of private schools decreased in Prussia not least because of new regulations, restrictive approval and the expansion of the public school system. In 1828 more than half of all male primary pupils in Berlin went to a private school. Twenty years later only 24% attended a private institution and in 1900 almost all male primary pupils visited a public school (Müller 1977, p. 346 f.).

In secondary education, and even through the Nazi era with its strong ideological and curricular change, private schools (especially denominational schools) remained or had to close late during war time. After World War II in East Germany private schools were not permitted, but they were in West Germany, and denominational schools continue to represent the majority of private schools in Germany until the present day. Today almost every second private school in Germany is a denominational school. Almost two-thirds of all pupils attending a private school visit a school that is sponsored by the catholic and protestant churches, Christian fraternities and trusts or initiatives of Christian parents—including schools for mentally and physically handicapped children too (Koinzer 2015, p. 109). But other private school types (e.g. Waldorf or Montessori schools) have flourished in Western Germany on a low level as well (see Fig. 1).



**Fig. 1** Share of private compulsory schools in Germany, 1950–2015 in percent (until 1990 West Germany only). *Source* Köhler and Lundgreen (2014), Statistisches Bundesamt (2016b)

### 3 National School Law Regulations, Regional Variations and Sponsorship of Private Schools

Following reunification in 1990, the Basic Law of the German Federal Republic was extended to the Eastern German Länder, with the entire school system being under the supervision of each of the 16 Länder. Before the unification, as just mentioned, private schools were not allowed in the German Democratic Republic (Koinzer and Mayer 2015, p. 31) and with the German Constitution extended to the Eastern German Länder in 1990, the introduction of private schools was allowed too.

As already discussed, the right to establish private schools is guaranteed by the Basic Law (Art. 7 (4), Basic Law 2016), but detailed regulations are provided by the school law regulations of the Länder. Either there are specific private school acts (e.g. Hamburg or Thuringia) or the regulations on private schools are part of the general school acts (e.g. Berlin or Brandenburg) (KMK 2015). The school laws of the Länder distinguish between two types of private schools: substitute or alternative schools (*Ersatzschule*), and supplementary schools (*Ergänzungsschulen*) (e.g. § 120 and 125 of the school law in Brandenburg). Substitute schools correspond to existing state-run schools (e.g. primary school, Gymnasium) and serve to fulfil compulsory school attendance requirements. Supplementary schools offer programmes and certificates which have no counterpart in the public school system, and they are established almost exclusively in the vocational education sector. In contrast to substitute schools, there is no need for supplementary schools to be approved, but they are notifiable to school authorities. Around 11% of schools at the primary and secondary level are substitute schools (StBa 2016b). This type of private schools belongs to the group of “government-dependent private schools”, as all of these schools receive more than 50 per cent of their financing from the state.

The division of the German private school landscape into substitute and supplementary schools has consequences for the licensing procedure and the financing of schools. Substitute schools must be approved by the ministries for education in the Länder. The Länder authorities have to ensure that the substitute schools are—as mentioned above—not inferior to public schools in regard to educational aims, staff qualifications and the facilities of class rooms. Substitute schools are not obliged to follow the curricula of the Länder. However, substitute schools have to adhere to the constitutional values and the educational objectives of the different school forms: the regulations for examinations and promotions of public schools must also be complied with by substitute schools. Teachers’ employment terms and conditions must be similar to those in public schools (Eurydice 2015).

Another prerequisite for the state approval is that substitute schools should not promote the discrimination of pupils according to the means of their parents (Article 7, Section 4, Basic Law 2016). The consequence is that private schools are not allowed to demand a high and cost-covered school fee (Avenarius 2011, p. 11). There are however, no common standards for what amount of school fee is allowed as a maximum. The federal constitutional court judged in 2005 that a school fee of 120 EUR per month is acceptable (Avenarius 2011, p. 32). As the jurisdiction refers to the amount of the school fee only, but not to the pupil composition, Wrase and Helbig (2016) discuss this as an unconstitutional practice of the school administration.

As aforementioned, there are specific requirements for the approval of private primary schools. The Basic Law states in Article 7, Section 5, that “a private elementary school shall be approved only if the educational authority finds that it serves a special pedagogical interest or if, on the application of parents or guardians, it is to be established as a denominational or interdenominational school or as a school based on a particular philosophy and no state elementary school of that type exists in the municipality.” (Basic Law 2016). This means that the state authorities have to examine whether or not there exists a special pedagogic interest, and whether the private primary schools jeopardise the existence of other public primary schools.

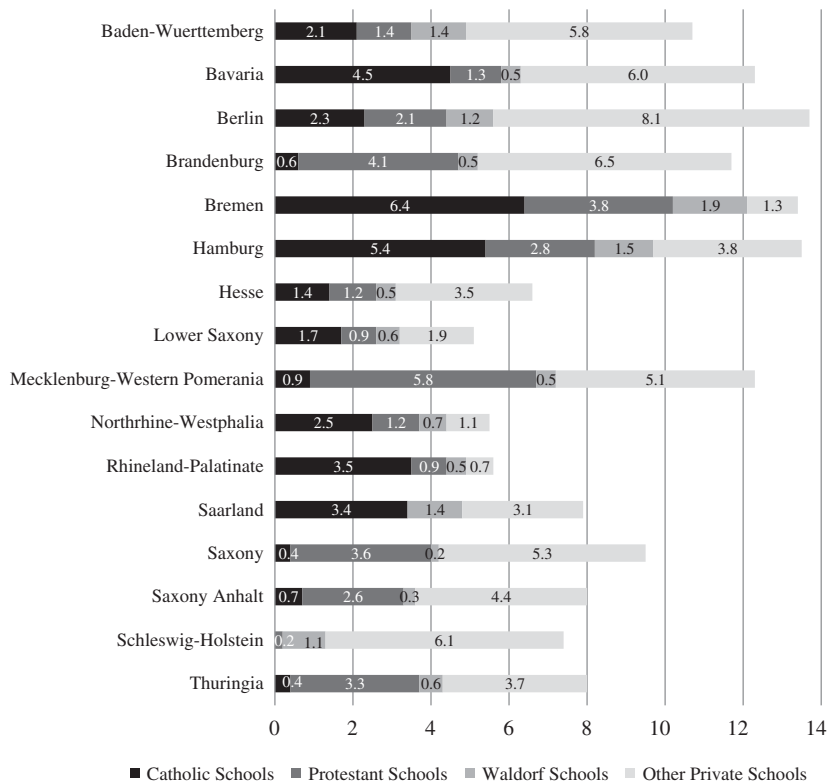
In sum, there are three leading principles that have been secured in their status as fundamental basic rights (*Grundrechte*) within the federal constitution of Germany. Firstly, anyone has the right to found private schools as an alternative (*Ersatz*) to public schools. When we speak in the following of private schools, we refer to substitute or alternative schools (*Ersatzschulen*) only. The will of parents and the acknowledgement of pedagogical diversity and religious convictions in particular shall be taken into consideration by the state and the *Länder* as well as the municipalities. Therefore, not only shall the state act as a provider of school education, but many other actors in the civil society from parental initiatives, churches, associations to enterprises shall do so too. Secondly, the teachers’ qualification in private schools and the payment of teachers has to be similar to that at state schools. The quality of teaching and of graduation shall be safeguarded as well as the economic and legal position of the teaching staff. Thirdly, the segregation of pupils according to the means of their parents shall be prevented (*Sonderungsverbot*). Private schools can raise fees but their amount is limited. The state and the *Länder* however finance approved private schools (*Ersatzschulen*) mainly according to the size of the pupil body. Approved substitute schools receive public subsidies from the *Länder*. As the state has to guarantee private schools, the state is obliged to do so (Füssel and Leschinsky 2008, p. 198). The amount of

the subsidy depends on the school budget of the single Länder and varies from 60–100% of the cost per pupil (*Pro-Kopf-Satz*) paid to all schools. Private schools also receive financial support for facilities and maintenance of the school buildings (KMK 2016). The Länder start to subsidise an approved substitute school only after a waiting period, which usually lasts three years.

Differences in the private school landscape also arise from sponsorship, which differs also between the Länder. A broad distinction in sponsorship can be drawn between denominational schools (catholic and protestant), Waldorf schools and other sponsorships. More than 40% of all private schools in Germany are denominational schools, whereby the majority of these schools are maintained by the Catholic Church. Catholic private schools are to be found in Rhineland-Palatinate, Saarland, Bavaria, Hamburg and Bremen. Protestant private schools are strongly represented in the Eastern Länder. Around 8% of private schools in Germany are Waldorf schools, which are numerous in Saarland, Baden-Wuerttemberg and the city states (Berlin, Hamburg, Bremen). The other half of private schools have other sponsorships, but the data allow no further systematisation. Other sponsorships are foundations, companies, associations or individuals and range from small schools founded by a parent's initiative in a village or town to bilingual or international schools and schools following a special philosophy like Montessori (see Fig. 2). Most of the private schools in Germany are non-profit schools, as most of the Länder do not allow for-profit private schools (except Berlin) (Kühne and Kann 2012, p. 260).

There are huge differences in the share of pupils attending private schools between the Länder too, with strong differences between the Western and Eastern part of Germany at the primary school level. In the school year 2015/2016 around 8% of pupils in the Eastern Länder (including Berlin) attended a private primary school, compared to 5% in the Western Länder. The share of pupils in private primary schools is also comparatively high in major cities, respectively in the city states of Germany (Berlin: 8%, Bremen: 9% and Hamburg: 12%). At the lower secondary level high shares of private school pupils are found in the Western as well as in Eastern Länder with Bavaria, Berlin and Brandenburg with the highest share (StBa 2016a, b). Table 2 shows the share of pupils in private primary and lower secondary schools, and in special schools too. It illustrates that for the last school form private schools have a great importance (Autorengruppe Bildungsberichterstattung 2016, p. 73). The highest share can be found in Baden-Wuerttemberg, Bavaria and Thuringia. Most of the private special schools are denominational schools, which are led by the idea of charitable welfare for pupils with special educational needs. In Länder with a stronger influence by the church on school affairs, like in Bavaria, this engagement seems to be questioned in the





**Fig. 2** Share of private schools regarding provider and Länder in percent. *Source* Autorengruppe Bildungsberichterstattung (2010, p. 67)

face of implementing the UN Convention on the Rights of Persons with Disabilities and the integration of pupils with special educational needs in the regular school forms (Blanck et al. 2013, p. 284).

#### 4 Private Schools in Germany as ‘Change Agents’ of School Choice and Institutional Change

After Germany’s Unification in 1990 private schools expanded first and foremost in the Eastern Länder and major cities (Koinzer and Leschinsky 2009; Koinzer and Mayer 2015). In 2004 in Berlin and the Eastern Länder only 64 thousand

**Table 2** Share of pupils in private primary and lower secondary schools and special schools in the school year 2015/2016 and in the Länder in percent

	Share of pupils in private primary schools	Share of pupils in private lower secondary levels <sup>a</sup>	Share of pupils in private special schools
Baden-Wuerttemberg	5.0	9.7	32.3
Bavaria	4.3	12.8	46.3
Berlin	8.3	12.0	8.4
Brandenburg	8.3	12.3	13.5
Bremen	8.6	11.2	19.8
Hamburg	11.5	10.3	12.4
Hesse	2.9	9.4	17.3
Mecklenburg-Western Pomerania	11.0	11.3	9.3
Lower Saxony	1.6	8.2	18.7
Northrhine-Westphalia	2.1	11.2	12.9
Rhineland-Palatinate	2.6	10.6	18.8
Saarland	3.7	10.9	9.3
Saxony	7.7	11.4	6.7
Saxony-Anhalt	7.6	10.1	4.9
Schleswig-Holstein	4.7	4.7	9.7
Thuringia	5.9	8.6	32.0
Germany	4.5	10.5	22.1

Source Statistisches Bundesamt (2016a, b), own calculations

<sup>a</sup>This category includes also the lower secondary level at the *Gymnasium*

pupils attended a private school (4% of all pupils). Ten years later about 135 thousand were enrolled in a school not provided by the state (9.5%). The growth of private primary schools is remarkable in the light of the fact that they shall be approved—according to the German basic law—only if the educational authority determines a special pedagogical or religious interest and no state elementary school of that type exists in the municipality. While in 2004 only 18 thousand pupils attended a private primary school (4.2%) in 2014 more than 37 thousand did so in the Eastern Länder and Berlin (7.4%) (Autorengruppe Bildungsberichterstattung 2016, b1-1Aweb, b1-6web).

The expansion of private schools may be attributed to a variety of factors: On the one hand, in view of low birth rates, private schools replace costly public schools in rural areas. In contrast to public schools, private schools are not bound to a certain class size and (ironically) the state advanced the implementation of private initiatives because state schools were bound to a minimum class size—a practice that some Länder have since changed. In many rural areas in Eastern Germany, some public schools could not meet the class size requirements and were closed. For example, in Brandenburg, between 1990 and 2003, 149 public primary schools were closed due to declining birth rates (PNN 2012); in response, parents linked up with e.g. church authorities to reopen some of these school sites as private schools (Die Zeit 2013). In Brandenburg the percentage of pupils attending private schools increased from 0–11% (primary: 8%, secondary: 12%) between 1992 and 2015 (MBS 2016). In Mecklenburg-Western Pomerania—as a similar sparsely populated area—there are already 14 municipalities that offer only private primary schools (Autorengruppe Bildungsberichterstattung 2016, p. 76). Due to the closure of various public school sites, private schools have a growing importance in rural areas for the school infrastructure, and the maintenance of locally accessible school facilities is a challenge for municipalities (Kann 2017). Faced with declining tax revenues and increasing indebtedness, private schools offer municipalities cost savings for school maintenance in rural areas and even in small villages. Because municipalities are not obliged to pay the costs of materials, building maintenance and the personnel costs for non-teaching staff (e.g. caretaker, cleaning staff) for private schools.

On the other hand, the expansion of private schools may also be explained by governance reforms which strengthened parental school choice. After the so-called ‘PISA shock’ of 2001, which revealed that the performance of pupils in Germany was below the OECD average, the Länder started numerous reforms such as the expansion of quality assurance, the extension of all-day services, and improvements in the methodological and diagnostic skills of teachers (Niemann 2015). A paradigmatic shift towards output-oriented education governance occurred, and the idea of more accountability was introduced into the German school debate. This was especially focused upon the instruments of school inspections and the strengthening of parental choice was an explicit policy goal. In some Länder such as Berlin and Hamburg, the results of school inspections are published for every single school on the homepage of the school administration. However, the possibility for school choice between public schools exists only to a limited extent. At the primary school level, in most of the Länder parents are bound to school districts and the assigned public school (Riedel et al. 2010). At the secondary level, parents could choose the Gymnasium as a school form for

their children in half of the Länder, in the other half of the Länder the teachers decide on the basis of achievement if the Gymnasium is suitable for the children after primary school (Arnold et al. 2010; Helbig and Nikolai 2015). As the school choice between public schools is limited, the school choice between public and private schools is having an increasingly significant impact. While especially in the German primary public sector school choice is more or less non-existent, private primary schools offer the opportunity to choose the school and social environment that suites the child and the family best. The expansion of private schools in the city states and other major cities e.g. Frankfurt (Hantschick 2015) or Schwerin (Kann 2017) complements the choice of schools. Especially in major cities, the pupil body of private schools comes more from socio-economically advantaged families in contrast to the pupil body at public schools (Helbig and Nikolai 2016; Autorengruppe Bildungsbericht-erstattung 2016, p. 7).

But private schools in Germany are not only chosen by families from advantaged socio-economic backgrounds. The Basic Law, which prohibits private schools to choose students according to parental income and thus foster social segregation (*Sonderungsverbot*), does not allow high school fees for these private schools who receive state subsidies—as already mentioned above. Therefore, parents from lower socio-economic backgrounds could also send their children to private schools, and there is a whole set of school choice motives for why parents choose a private school for their children. School quality factors e.g. pedagogical orientation, school climate, teaching styles, classroom sizes, the school's whole atmosphere are important. The decision for a private school is not that much lead by high academic outcomes of the single school. Rather parents care that their children (and themselves) do 'feel good' at the school, and questions of children's safety are crucial too (Koinzer and Gruehn 2013, pp. 28–34; see also the article by Habeck et al. in that volume). Moreover, private schools in Germany also have—according to Bourdieu (2001)—additional functions in avoiding failing the requirements of public schools (Anusiewicz-Baer 2017), they are places of distinction especially in urban areas with high rates of migrant population (Roeder 1979, p. 18) and, as abovementioned, are major actors in the sector of special needs education.

The 'boom' of private schools, and the parents' concerns in school choice matters, can be explained therefore more from that point of view than from the point of academic efficiencies and outcomes. Facing school choice motives, the academic performance of private schools plays a minor role as a school choice motive. As measured by the obtained degrees there is no difference in the educational achievement between pupils from private and public schools (Autorengruppe Bildungsberichterstattung 2016, p. 7). Results by Weiß (2013) also show,

that when controlling for social background, there is no performance advantage of private schools compared to public schools. The expansion of the German private school sector during the last 20 years exemplifies that parents have embraced school choice, and therefore private schools played a crucial role in introducing the new instrument in governing the whole school system. Accordingly, one can understand private schools as change agents of school choice and of institutional change in school systems. In the political context, change agents have myriad veto possibilities and the capacity to mobilise resources and to assemble coalitions with other actors. In rural areas, private schools have succeeded in building a powerful coalition of interests in maintaining former public school sites as private schools. As we described already for Brandenburg, parents and private school providers formed a powerful coalition. When the left government coalition announced in 2011 that the subsidies for private schools will be redistributed, parents and private schools organised a several-day protest camp in front of the parliament building (PNN 2011). Although this protest was not successful, similar resistance against saving suggestions can be found in other Eastern Länder such as Mecklenburg-Western Pomerania, Saxony or Thuringia. And in these Länder the governments have withdrawn the cost saving plans after massive demonstrations or even after constitutional decisions (SZ 2015; SVZ 2014).

Although school choice is not a traditional governance instrument in the German school system, we have shown that parents in urban spaces adopt the new possibility of choosing schools. In consequence, school choice—as an accepted instrument to govern single schools' development *and* individual family educational aspiration—moderates the 200 year relationship between public and private compulsory education in Germany. It does not 'break' with the traditional norm that schooling in Germany is public and that the state is the prime provider of consistent school education, which other providers have the right to complement by founding their own schools. With a continuing expansion of private schools, that relationship seems to be shifting. Moreover, the private school sector can be seen as a testing and proving field of school choice, which shows that it works and (some) politicians and parents 'adore' it. A (new) coalition of private schools and (middle class) parents thus became an agent of institutional change.

## 5 Conclusion

In Germany private schools are booming both in rural and urban areas. The clientele of private schools meanwhile forms an important electorate for the Länder parliaments and even at the local level for local politicians. The expansion of private

schools reflects the growing private interest for conveniently located school sites, a high school quality and parents' educational aspirations, as well rising parental needs for social distinction (Schütz and Idel 2013, p. 298). The private school's expansion does not lead to a displacement of public schools, but to a readjustment of the school system. The institutional development is characterised by layering (Streeck and Thelen 2005), as the expansion of private schools gradually changes the status and structure of the school system. As a formerly almost exclusively public school system, the German school system at the beginning of the 21st century has formed an increasingly hybridised landscape of public and private schools, in which private schools have different functions. In sparsely populated regions, private schools make it possible to offer locally located schooling, whereas in urban areas private schools fulfil the parents' need for school choice.

The expansion of private schools has intended and non-intended consequences for the German school system. The state in Germany is transferring more of the delivery of school services to non-state actors too, compared to what the state already traditionally does in the field of e.g. pre-primary or vocational education. This has, as we have shown, a long legal and school practical history in Germany. But during that history the state had become the first and foremost provider of school education, especially in primary education, not in the least to secure a consistent school education for all German youth. Adapting the concept of an "ensuring state" by Schuppert (2004), one could conclude: instead of carrying out school education—a (strong) position that the state achieved during many decades of the last century—it guarantees now the provision of educational service by others too. And that last share is expanding. In regard to increasing indebtedness, private schools offer the possibilities for cost-savings for the state.

Contrary to the assumptions in the new public management debate, the increased competition between (private and public) schools alone does not lead to an improved school quality. As a non-intended consequence, one can assume that the private school expansion in Germany causes further increasing segregation, which is a challenge in urban areas and major towns. In sparsely populated rural areas and small villages, segregation as a problem does not arise as long as only one school site exists. It remains an open research question how the German state will respond to segregation in regard to private school expansion and future school choice policies.

## References

- Anusiewicz-Baer, S. (2017). *Die Jüdische Oberschule in Berlin. Identität und jüdische Schulbildung seit 1993*. transcript: Bielefeld.
- Arnold, K.-H., Richert, P., & Stubbe, T. C. (2010). Der Übergang von der Grundschule in die Sekundarstufe: Schullaufbahnpräferenzen von Lehrkräften und Eltern im Ländervergleich. In W. Bos, S. Hornberg, K.-H. Arnold, G. Faust, E.-M. Lankes, et al. (Eds.), *IGLU 2006—die Grundschule auf dem Prüfstand. Vertiefende Analysen zu Rahmenbedingungen schulischen Lernens* (pp. 13–32). Münster: Waxmann.
- Autorengruppe Bildungsberichterstattung. (2010). *Bildung in Deutschland 2010. Ein indikatorengestützter Bericht mit einer Analyse zu Perspektiven des Bildungswesens im demografischen Wandel*. Bielefeld: Bertelsmann.
- Autorengruppe Bildungsberichterstattung. (2016). *Bildung in Deutschland 2016. Ein indikatorengestützter Bericht mit einer Analyse zu Bildung und Migration*. Bielefeld: Bertelsmann.
- Avenarius, H. (2011). *Die Herausforderung des öffentlichen Schulwesens durch private Schulen*. Frankfurt: GEW.
- Basic Law. (2016). Basic Law for the Federal Republic of Germany in the revised version published in the Federal Law Gazette Part III, classification number 100-1, as last amended by the Act of 11 July 2012 (Federal Law Gazette I p. 1478). [https://www.gesetze-im-internet.de/englisch\\_gg/englisch\\_gg.html#p0040](https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html#p0040). Accessed 30 Sept 2016.
- Blanck, J. M., Edelstein, B., & Powell, J. J. W. (2013). Persistente schulische Segregation oder Wandel zur inklusiven Bildung? *Schweizerische Zeitschrift für Soziologie*, 39(2), 267–292.
- Bourdieu, P. (2001). *Wie die Kultur zum Bauern kommt. Über Bildung, Schule und Politik*. Hamburg: VSA.
- Demel, W., & Puschner, U. (Eds.). (1995). *Von der Französischen Revolution bis zum Wiener Kongreß: 1789–1815. Deutsche Geschichte in Quellen und Darstellung* (Vol. 6). Stuttgart: Reclam.
- Die Zeit. (2013, February 7). Vielfalt wird Luxus. <http://www.zeit.de/2013/07/Brandenburg-Privatschule-Finanzierung>. Accessed 6 March 2017.
- Eurydice. (2015). Germany. [https://webgate.ec.europa.eu/fpfis/mwikis/eurydice/index.php/Germany:Organisation\\_of\\_Private\\_Education](https://webgate.ec.europa.eu/fpfis/mwikis/eurydice/index.php/Germany:Organisation_of_Private_Education). Accessed 15 Oct 2016.
- Füssel, H.-P., & Leschinsky, A. (2008). Der institutionelle Rahmen des Bildungswesens. In K. S. Cortina, J. Baumert, A. Leschinsky, K. U. Mayer, & L. Trommer (Eds.), *Das Bildungswesen in der Bundesrepublik Deutschland* (pp. 131–203). Reinbek bei Hamburg: Rowohlt.
- Hantschick, M. (2015). *Privatschulen in Frankfurt a. M. Allgemein bildende Schulen in freier Trägerschaft und sonstiger Trägerschaft (ohne Förderschulen)*. Frankfurt a. M.: Stadt Frankfurt a. M., Dezernat für Bildung und Frauen.
- Helbig, M., & Nikolai, R. (2015). *Die Unvergleichbaren. Der Wandel der Schulsysteme in den deutschen Bundesländern seit 1949*. Bad Heilbrunn: Klinkhardt.
- Helbig, M., & Nikolai, R. (2016). Ansturm auf „gute“ Schulen? Die Auswirkungen der Veröffentlichung von Abiturnoten auf die Zusammensetzung von Schülerinnen und Schülern an Berliner Schulen [Unpublished Manuscript].

- Hildebrandt, H. (Ed.). (1977). *Die deutschen Verfassungen des 19. und 20. Jahrhunderts*. Paderborn: Ferdinand Schöningh.
- Huber, E. R. (1992). *Dokumente zur deutschen Verfassungsgeschichte: Vol. 4. Deutsche Verfassungsdokumente 1919–1933*. Stuttgart: Kohlhammer.
- Kann, C. (2017). *Schulschließungen und Umbau von Schulstandorten—Steuerungsansätze bei sinkenden Schülerzahlen und die Rolle der Privatschulen*. Wiesbaden: Springer VS.
- KMK, Kultusministerkonferenz. (2015). Schulgesetze der Länder in der Bundesrepublik Deutschland. <https://www.kmk.org/dokumentation-und-statistik/rechtsvorschriften-lehrplaene/uebersicht-schulgesetze.html>. Accessed 14 Oct 2016.
- KMK, Kultusministerkonferenz. (2016). Übersicht über die Finanzierung der Privatschulen in den Ländern der Bundesrepublik Deutschland. Zusammenstellung des Sekretariates der Kultusministerkonferenz (Beschluss der Kultusministerkonferenz vom 12.03.2004 i. d. F. vom 25.02.2016).
- Köhler, H., & Lundgreen, P. (2014). *Allgemein bildende Schulen in der Bundesrepublik Deutschland 1949–2010*. Göttingen: Vandenhoeck & Ruprecht.
- Koinzer, T. (2015). Die Frage des Propriums. Ansprüche und Herausforderungen christlich-konfessioneller Privatschulen als ‚gute Schulen‘ und Orte ‚gelebten Glaubens‘. In M. Kraul (Ed.), *Private Schulen* (pp. 107–121). Wiesbaden: Springer VS.
- Koinzer, T., & Gruehn, S. (2013). Allgemeinbildende Privatschulen in Deutschland im Spannungsfeld von pädagogischer Innovation und rechtlichen sowie wirtschaftlichen Bedingungen—wo „die pädagogischen Wünsche auf das wirtschaftlich Machbare treffen“. In A. Gürlevik, C. Palentien, & R. Heyer (Eds.), *Privatschulen versus staatliche Schulen* (pp. 21–38). Wiesbaden: Springer VS.
- Koinzer, T., & Leschinsky, A. (2009). Privatschulen in Deutschland. *Zeitschrift für Pädagogik*, 55(5), 669–685.
- Koinzer, T., & Mayer, T. (2015). Private Schulen—Entwicklung und empirische Befunde unter besonderer Berücksichtigung des Grundschulwesens. *Zeitschrift für Grundschulforschung*, 8(2), 28–41.
- Kühne, S., & Kann, C. (2012). Private (Grund)Schulen als blinder Fleck der öffentlichen Daseinsvorsorge? Regionale Analysen zu Entwicklungen in der deutschen Privatschullandschaft. *Die Deutsche Schule*, 104(3), 256–278.
- Mahoney, J. (2000). Path dependence in historical sociology. *Theory and Society*, 29(4), 507–548.
- Mahoney, J., & Thelen, K. (2010). A gradual theory of institutional change. In J. Mahoney & K. Thelen (Eds.), *Explaining institutional change: Ambiguity, agency, and power* (pp. 1–37). Cambridge: Cambridge University Press.
- MBJS, Ministerium für Bildung, Jugend und Sport. (2016). Schuldaten für das Schuljahr 2015/16. [http://www.mbjs.brandenburg.de/media\\_fast/bb2.a.5978.de/Mappe2\\_15\\_16.PDF](http://www.mbjs.brandenburg.de/media_fast/bb2.a.5978.de/Mappe2_15_16.PDF). Accessed 15 Oct 2016.
- Müller, D. K. (1977). *Sozialstruktur und Schulsystem. Aspekte zum Strukturwandel des Schulwesens im 19. Jahrhundert*. Göttingen: Vandenhoeck & Ruprecht.
- Neugebauer, W. (1985). *Absolutistischer Staat und Schulwirklichkeit in Brandenburg-Preussen*. Berlin: De Gruyter.
- Niemann, D. (2015). PISA in Deutschland: Effekte auf Politikgestaltung und -organisation. *DDS – Die Deutsche Schule*, 107(2), 141–157.



- Pierson, P. (2004). *Politics in time: History, institutions, and social analysis*. Princeton: Princeton University Press.
- PNN, Potsdamer Neueste Nachrichten. (2011, October 18). Frieren für die freien Schulen. <http://www.pnn.de/brandenburg-berlin/587127/>. Accessed 13 Jan 2017.
- PNN, Potsdamer Neueste Nachrichten. (2012, August 2). Neue Welle von Schulschließungen droht. <http://www.pnn.de/brandenburg-berlin/668814/>. Accessed 13 Jan 2017.
- Riedel, A., Schneider, K., Schuchart, C., & Weishaupt, H. (2010). School choice in German primary schools: How binding are school districts? *Journal for educational research online*, 2(1), 94–120.
- Roeder, P. M. (1979). Einleitung. In D. Goldschmidt & P. M. Roeder (Eds.), *Alternative Schulen? Gestalt und Funktion nichtstaatlicher Schulen im Rahmen öffentlicher Bildungssysteme* (pp. 11–35). Stuttgart: Klett-Cotta.
- Schuppert, G. F. (2004). The ensuring state. In A. Giddens (Ed.), *The progressive manifesto: New ideas for the centre-left* (pp. 71–85). Cambridge: Polity.
- Schütz, A., & Idel, T.-S. (2013). Schule und das Verhältnis privater und öffentlicher Interessen—ein schultheoretischer Kommentar zu diesem Band. In A. Gürlevik, C. Palentien, & R. Heyer (Eds.), *Privatschulen versus staatliche Schulen* (pp. 297–308). Wiesbaden: Springer VS.
- StBa, Statistisches Bundesamt. (2016a). *Bildung und Kultur. Allgemeinbildende Schulen. Schuljahr 2015/2016, Fachserie 11*. Wiesbaden: Statistisches Bundesamt.
- StBa, Statistisches Bundesamt. (2016b). *Bildung und Kultur. Private Schulen. Fachserie 11, Reihe 1.1. Schuljahr 2015/2016*. Wiesbaden: Statistisches Bundesamt.
- Streeck, W., & Thelen, K. (2005). Introduction: Institutional change in advanced political economies. In W. Streeck & K. Thelen (Eds.), *Beyond continuity: Institutional change in advanced political economies* (pp. 1–39). Oxford: Oxford University Press.
- SVZ, Schweriner Volkszeitung. (2014, July 2). Schüler-Demo für freie Schulen. <http://www.svz.de/regionales/mecklenburg-vorpommern/schueler-demo-fuer-freie-schulen-id7034396.html>. Accessed 13 Jan 2017.
- SZ, Süddeutsche Zeitung. (2015, February 17). Unmut in der Uckermark. <http://www.sueddeutsche.de/bildung/privatschulen-in-brandenburg-unmut-in-der-uckermark-1.2347261>. Accessed 13 Jan 2017.
- Weiß, M. (2013). Schulleistungen an Privatschulen. Ergebnisse deutscher Vergleichsstudien. In A. Gürlevik, C. Palentien, & R. Heyer (Eds.), *Privatschulen versus staatliche Schulen* (pp. 227–234). Wiesbaden: Springer VS.
- Wrase, M., & Helbig, M. (2016). Das missachtete Verfassungsgebot—Wie das Sonderungsverbot nach Art. 7 II 3 GG unterlaufen wird. *Neue Zeitschrift für Verwaltungsrecht*, 35(11), 1591–1598.