

# RESERVATION FOR ECONOMICALLY WEAKER SECTION CHILDREN IN UNAIDED-PRIVATE SCHOOLS: POLICY AND PRACTICE

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**ABSTRACT:** *The paper examines the assertion of reservation of seats to economically weaker section (EWS) children in unaided-private schools at state level in consequence of an agreement between a land granting authority and unaided private educational institutions. It involved considerable amount of negotiation and initiative of several stakeholders such as non-governmental organization (NGO), judiciary, and government with the private educational institutions to secure reservation. The author, as a special invitee to the state level committee which was appointed to look into modalities of EWS reservation, has recorded the deliberations which highlight the view points of the representatives of private schools and NGO. Further, interviews with the few parents of EWS children provide information on some of the ground realities. With the inclusion of 25 per cent reservation for EWS children under Right to Education Act 2009 at national level, the issues raised by the stakeholders at state level carry significance in implementation. It is concluded that in addition to effective measures for implementation of reservation for EWS children, it is necessary to improve the functioning of government schools to check excessive exodus of children to unaided-private schools.*

**KEY WORDS:** *Unaided private schools, economically weaker section, elementary education, equity in education, and social inclusion.*

## INTRODUCTION

April 1, 2010 was a historic day in Indian education as it provided for implementation of Right to Education (RTE) Act. The RTE enables free and compulsory education as a fundamental right of every child in the 6-14 age brackets and earmarks 25 per cent of seats in private schools for children from the economically weaker sections (*Times of India*, 1/4/2010). It provides a platform to reach the unreached with specific provisions for disadvantaged groups such as child laborers, migrant children, children with special needs, or those who have a “disadvantage owing to social, cultural, economical, geographical, linguistic, gender or such other factor” (*Times of India*, 1/4/2010).

It is all the more important in the world, wherein the role of education is considered to be “the reproduction or amplification of inequality, exclusion, and social polarization” (Davies, 2005:359). If educational equity (Raffo, 2011) is to be improved in poor urban contexts, educational policy will need to explore

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notions of educational identity and agency in relation to the broad issues of scope, redistribution, recognition, and power. The RTE enactment took long time after the pronouncement of Supreme Court Judgment in historic “*Unnikrishnan Case in 1993*”, wherein it was held that right to education is a fundamental right that flows from the right to life in article 21 of the Constitution (Alston & Bhuta, 2005).

The implementation of reservation for EWS (Economically Weaker Section) children at state level was not an easy task. As the nation and more importantly stakeholders watch for its implementation at national level in letter and spirit, an analysis is made about how the realization of agreement to provide reservation for EWS children were conceived and debated by the two contending groups, i.e. the representatives of private schools and Social Jurist, a Non-Governmental Organization (NGO) representing the EWS in the meetings of the state level committee constituted to look into the manner and modalities of admission of children of EWS.

In this entire exercise several stakeholders were involved such as a non-governmental organization seeking social justice and intervention of the court for implementation of contractual obligation, the court directing the government to adopt appropriate strategies for implementation and different methods devised by some of the independent private schools to protect their own interests. All this explains how the various stakeholders perceived contractual obligation between state and private institutions. Further, interviews with few parents of the EWS children provide information on some of the ground realities. The flip side of the story is that some of the strategies adopted by some private unaided schools widen the class-divisions, and the social biases of the families lead to gender disparities.

### **THE STRUCTURE AND EXTENT OF SCHOOL EDUCATION AND IMPORTANCE OF SOCIAL INCLUSION**

Education in India is under concurrent list of the constitution, wherein the centre and state governments have legislative power. The structure of schooling consists of primary (five years), upper primary (three years, both levels together known as elementary level with eight years of schooling), secondary (two years), and senior secondary (two years). School education is under the control of different managements, which may be broadly classified as (1) Government, (2) Aided, and (3) Unaided School Sectors. In Government, schools students do not pay any fee, or pay only a nominal amount; in Aided schools (which receive part funds from government), the students pay fee depending on the extent of aid received; and in unaided schools in Delhi State, the students pay the full tuition fee and other expenses of the school.

As per the District Information System for Education data (Mehta, 2011), there are 4,946 recognized schools of which 2,733 are under government and 2,213 are under private management. There are in all 16,840,425 students studying in grade I-V and 9,820,164 students studying grade VI-VIII during the year 2009-2010. The student enrollment in unaided private schools is to the extent of 35.66 per cent in grades I-V and 29.66 per cent in grades VI-VIII for the same period.

A democratic and welfare state has an obligation for socio-economic development of its citizens, in no uncertain terms. The responsibility towards “Education of its Future Citizens” is an offshoot of this. During the last half-century (ILO, 2004:46), as more and more Western colonies gained their independence, the issue of access to education came to be central to the overall protect of planned socio-economic development, modernization, and democratization of Third World nations. Inclusive education is considered a progressive, democratic, and humanistic reform all over. The aim of “inclusion” is now at the heart of both education and social policy. In the field of education inclusion involves a process of reform and restructuring of the school as a whole, with the aim of ensuring that all pupils can have access to the whole range of educational and social opportunities offered by the school (Mittler, 2000).

The policy of “Social Inclusion” is not only supported by a welfare state, but academia also. Several studies have been conducted on social inequalities over a period of time (Young, 1971; Bowles & Gintis, 1976; Bourdieu & Passeron, 1977; and Lauder, Brown & Halsey, 2009). Growing up in poverty impacts upon children’s educational and future job prospects, and health and behaviour outcomes (Gregg, Harkness & Machin, 1999; and Ermisch, Francesconi & Pevalin, 2001). Further, social inclusion is all the more important in the context of gradual decline in the social mobility of working-class children compared to their middle-class counterparts (ONS, 2005). One area of education, where there is a pronounced movement to alleviate social class injustices, is widening access and participation (Reay, 2006:291).

Enrolling children from poorer communities along with financially better of students, allows the former access to quality education and sensitizes wealthier students, thus facilitating greater social integration. Also due to the facilities available in private schools and the kind of academic inputs received in comparison to government-run schools, parents and children of poorer strata dream of gaining an opportunity to participate in that kind of educational process. This is evident from the study conducted by Institute of Social Studies Trust (cited in Mallica, 2005), wherein the students from EWS quota observed that the private schools are good for: studies, teachers’ involvement, homework, toilets, drinking water, and science laboratory etc. This is not only true for developing countries like India but also of a country like USA (United States of America), where parents choose private schools for their academic and curricula emphases (Kraushaar, 1972; and Erickson, 1986).

### **RESERVATION FOR THE DOWNTRODDEN**

In India, social inclusion means bringing Scheduled Castes (SCs), Scheduled Tribes (STs), minorities and Other Backward Castes (OBCs) of population<sup>1</sup> into the fold of “education”, who are otherwise deprived of educational opportunity, historically.

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<sup>1</sup>Scheduled Castes are those “*castes, races or tribes or parts of or groups within castes, races or tribes*” that are notified under Article 341 of the Constitution. Scheduled Tribes are “*tribes or tribal communities or parts of or groups within castes, races or tribes*” that are notified under Article 342 of the Constitution. For detailed information on SCs and STs, see Sreekanth Yagnamurthy (2009).

These sections of population have been given protection through Constitutional Guarantees,<sup>2</sup> after the country attained independence and became a republic. The Central and State Governments also have schemes for the advancement of Economically Weaker Sections (EWS) of population apart from the above-mentioned categories. With the enactment of Right to Education Act 2009, it has become mandatory for all the private unaided schools to provide education to weaker section children. This is in contrast to the Kothari Commission's (1964-1966) recommendations which excluded the independent (private) schools and unrecognized schools from the purview of the common school system that included only government, local authority, and aided private schools.

Further, it becomes imperative for the private institutions to fulfill the responsibility when they have promised the government that in return for the land received at subsidized rates, they would accommodate EWS children in schools. The demand for land is so overwhelming in dense pockets of urban living, where schools can cater to large number of affordable clientele, who vie for good schools. Land is a very precious input in a very populous country like India and particularly in urban areas (Prasad, Mathur & Chattarjee, 2007:17).

The land man ratio in India declined from 0.92 hectares in 1951 to 0.33 in the year 2000. The projections for 2051 are 0.22 hectares. New Delhi is not only the capital of the country, but being a fast growing urban hub has all the demand for education. About 49 per cent of the total population of New Delhi lives in slum areas and unauthorized colonies and only 25 per cent population lives in planned development areas (MCD, 2012). The poor in urban areas are vulnerable to health risks as a consequence of living in a degraded environment, inaccessibility to health care, irregular employment, widespread illiteracy, and lack of negotiating capacity to demand better services (UHRC, 2007). According to J. Brandsma (2001), in deprived urban areas there are few opportunities and many problems that affect education, housing, and health.

In the above context, the private sector participation in addition to the government's initiatives was inevitable and the government facilitated this through several initiatives. The private sector participation could involve variety of interests, one of the prominent is profits. It has been observed by Sreekanth Yagnamurthy (2009:235) that "the public schools (privately managed) are established with profit as primary motive and as a result they are set up in areas where it is viable for them to run profitably". The District Information System for Education for the year 2009-2010 indicate that the percentage of unaided private schools to the total number of schools is below 10 per cent in states / Union Territories (UTs) such as Arunachal Pradesh, Dadra and Nagar Haveli, Jharkhand, Lakshadweep, Orissa, and Tripura, which are either underdeveloped or remotely located, and it is more than 30 per cent in Chandigarh, Delhi, and Puducherry, which are largely urban areas (cited in Mehta, 2011).

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<sup>2</sup>Constitutional Guarantees are special provisions made for removal of discrimination against SCs, STs, and OBCs through "*Fundamental Rights and Directive Principles of State Policy*".

In facilitating the private participation, the Committee on Urban Land Policy in 1965 recommended for safeguarding the interests of the poor and underprivileged sections of urban society. Further, it specifically mentioned that the “overall objective of price policy should be to help the poorer sections of the society and to encourage uses which are in the larger interests of the community like those for schools and playgrounds” (TCPO, 1965:51). The Master Plan of Delhi (1961-1981) based on the principles of integrated development, in turn, became the model for town master plans all over India that determined the contracts signed by the schools in Delhi (Juneja, 2005). In line with this policy and “policy of inclusion” of a democratic and welfare state and to provide an opportunity to the under-privileged on par with other socio-economically well-off sections of the population, the Delhi Development Authority, a government agency of the state of Delhi having right of allotment of land, has distributed land to 361 schools (unaided private educational institutions).

The Delhi Development Authority (Disposal of Developed Nazul Land) Rules in 1981 provide for allotment of lands to educational institutions i.e. schools, colleges, and universities at concessional rates. Rule 20 stipulates that allotment of land at concessional rates may be made to a society which is registered under the Societies Registration Act, 1860, is of a non profit making character and is sponsored or recommended by a Department of the Delhi Government or a Ministry of the Central Government. Such allotment of land to educational institutions is made subject to certain mandatory terms and conditions. The primary purpose of such allotment of land at concessional rates is to serve a public purpose of facilitating establishment of or extending educational facilities particularly for the weaker sections of society.

In line with this, an undertaking from the private unaided schools is taken for providing 25 per cent of the seats for EWS (Economically Weaker Sections). As outlined earlier, land is prohibitively costly in urban areas for purchase and it was an easy option for the private educational institutions to sign an agreement to obtain land at subsidized rates. Though the government allotted land, it took no action for its implementation till a non-governmental organization, “Social Jurist” (<http://www.socialjurist.com/content.php?ar=14>, 2/5/2012), approached the High Court (Highest Judicial Body of the Delhi State) through filing Public Interest Litigation (PIL). PIL, then, has become a powerful instrument in the hands of those seeking justice as outlined below:

A radical departure from the traditional rule of locus standi has facilitated a considerable volume of public interest litigation which has in many cases enabled citizens and NGOs to agitate issues of public importance before the Supreme Court without the impediments of procedural formalism and legalism (cited in Shingvi, 2005:76).

The PIL (High Court) filed by Social Jurist against the government of the National Capital Territory of Delhi, the municipal Corporation of Delhi, and the Union of India submitted to the High Court that:

None of these schools has complied with the aforementioned condition of land allotment and the authorities are totally insensitive and apathetic towards the rights of poor as they have not taken any action against such erring schools. It is submitted that impugned actions/inactions of the respondents are adversely affecting the fundamental rights to education of the children of the poor which are guaranteed to them under Article 21, 38, 39 (c) and (f), 41, 45, 46, 51 (b) and (f) read with Delhi School Education Act in 1973, Universal Declaration of Human Rights in 1948, and UN Convention on Rights of the Child in 1989 (PIL, 2002).

In response to the PIL hearing, the High Court ordered (dated 20<sup>th</sup> January 2004) to the government for taking up necessary action to implement 25 per cent reservation to children of EWS of population in the schools, which have received land and 20 per cent in those private schools which have not received land. Consequently, the state government of Delhi issued orders (No.PS/DE/2004/10496 – 11595 dated 27<sup>th</sup> April 2004) to the schools in 2004. Even after issue of the orders for reservation for EWS children, the implementation was inadequate, half-hearted, and varied due to lack of clarity and lackluster response of government agencies.

While some schools immediately initiated action through providing fees concession, many others thought it prudent to wait till the matters became apparent. It required no less a judicial body than that of the Supreme Court of the country to intervene. The Supreme Court viewed, in the case of modern school *versus* government of India and others, that “education had been turned into a commercial commodity by schools [...] and directed schools to follow all the conditions laid down by the Government while granting any form of aid” (EII, 2004). The Public Accounts Committee of Parliament of India has also observed that the “objective of allotment of land at concessional rates to educational societies for spreading quality education to the under privileged children was not achieved due to failure of Delhi Development Authority and Government of Delhi to implement it in right earnest” (CAG, 2005).

This further necessitated the initiative of proactive social jurist to approach court, resulting in the demand for setting up an Independent Committee, which the state government did by constituting a state level committee (No.394 dated 2<sup>nd</sup> March 2006) with the mandate to “look into the manner and modalities of admission of children of economically weaker sections of society under the free-ship quota, including looking into aspects of financial support of students being admitted under free ship quota by the government by way of text books, uniform, etc.” The author was a special invitee to all the meetings of the committee which represented diametrically opposite views as it consisted of a member each from social activists and unaided recognized schools. The other members, representing government institutions, were moderating discussions with no hard stakes to claim in support of any of the two interest groups.

## METHODS

The author was motivated to study the present issue of EWS (Economically Weaker Sections) scheme when he was asked to be a special invitee to the expert committee

constituted by the state government and record the minutes of the discussion. In fact, it was a formidable task to listen to two contrasting standpoints placed by the stakeholders, record them, and get their final approval on what transpired in documents. However, the author stuck to the verbatim of the discussions. When the minutes of the discussions were placed before the members of the committee, the members authenticated them. This record is placed in the following sub-section under divergent views of stakeholders.

The recommendations of the expert committee led to the policy formulation at state level. But the author was of the view that it is not only important to have policies framed but to implement them effectively. Effective implementation can be perceived not merely listening to stakeholder's perspectives, as recorded below under the divergent views, but also understanding the ground realities of the field. For this, it was felt necessary to conduct a small qualitative sample study to understand the implementation at state level. Accordingly, the schools were classified as follows:

**Table 1:**  
Schools Granted Land by Government

S.No.	Name of the Region in Delhi	Number of Schools
1	Central, North, North West A	49
2	East and North East	71
3	North West B	84
4	South, South West A, and South West B	118
5	West A and West B	72
Total		394

Out of the 394 schools (DOE, Department of Education) which have been allotted land by government, 1 school each from the above mentioned five regions was selected on random basis. This provided a geographical representation of the schools in the City-State of Delhi. Though it does not provide for a sample size which is sufficient enough to make generalizations, which is not the purpose of the present study, it only provides a glimpse of how the conceptual issues are handled in field. Twenty parents of EWS children who were studying in the five different private schools were selected on random basis from the list of schools, as follows.

**Table 2:**  
Number of Students Selected in Schools

S.No.	Name of the Region in Delhi	Total Number of Students	Number of Students Selected
1	Central, North, North West A	10	3
2	East and North East	8	3
3	North West B	12	4
4	South, South West A, and South West B	22	5
5	West A and West B	20	5

The parents though engaged in different occupations, belonged to Below Poverty Line (BPL) families and hence socio-economically not a very heterogeneous group in terms of income, standard of living, and social status. Admissions in these schools is difficult even to the fees paying children and it is done through various modes such as interview of parents/wards, lottery, or merit in the previous academic examination etc.

The identity of the schools and the interviewed parents is not disclosed as per the request of the interviewed parents. It has been observed that there were discrepancies between the official rules and regulations and the adopted practices. Being aware of the rules and regulations, which prescribe a set of procedures, due to competition that prevails in schools with good academic quality parents' compromise by accepting to unwritten norms such as paying fees even under EWS reservation, when they actually are prohibited to do so. Reporting the names of the schools or the parents under these circumstances may have adverse effect on the continuation of their children's education in those schools, as some of the parents viewed. For this reason, pseudonyms are used while referring to parents and names of schools are not disclosed. The parents were interviewed through semi-structured interview technique.

**Table 3:**  
Parents' Perception about the EWS Scheme

S.No.	Observation	Number of Responses
1	Private schools are better than government schools	20
2	The admission in private schools is difficult under EWS	16
3	Need to spend money on various items apart from tuition fees	19
4	Schools charge tuition/building fees etc, without receipts	8
5	Children show interest in attending school	17
6	There is marked improvement in English language learning	18
7	There is improvement in learning as a whole	13
8	There is improvement in the behavior/attitude of the child towards family members after admission in the school	14
9	Children studying in afternoon session (separate schooling for EWS)	13
10	Teachers are different for afternoon session (not those who teach regular classes)	6
11	Students performing better shifted to combined session (common schooling)	3
12	Male children studying in the schools	17
13	Wish to continue further education (beyond grade VIII in private schools)	15

Table 3 above provides a summary of qualitative information in terms of number of responses. The interviews were held between October 2010 to February 2011. They were held in open outside the school premises lasting between 45-90 minutes with each parent. The researcher had to visit the schools several times in order to interview the parents as all the selected were not available at any single point of



time and they were not interested in sharing information before others. One parent from serial number 1, two from serial number 4 of table 2 refused for interview and they were replaced by random selection of the remaining students' parents.

Further, the national newspaper reports on the plight of EWS scheme were also an important source of information to authenticate and triangulate the recorded observations of parents. Claims made are not necessarily representative of the unaided school population in Delhi, nor may they translate directly to other parts of the Country, where it is implemented under RTE (Right to Education) Act. However, given the insufficiency of research in this area, it is possible on the basis of such a study to initiate debate or draw attention to issues that have previously been neglected; hence, the thrust of this paper towards identifying challenges rather than making firm recommendations for policy or practice. A follow-up confirmatory study of this exploratory study needs to be undertaken to get a larger picture of the EWS reservation.

### **DIVERGENT VIEWS OF THE STAKEHOLDERS AND REACHING CONSENSUS**

A consensus is likely when the people are inclined to make compromises in addition to projecting their demands. But it can hardly be achieved when one is upholding the altruistic cause of social justice, equity, and inclusion (representative of non-governmental organization), the other for the protection of institutional autonomy, private property, and democratic rights (representative of unaided private schools). These are vented out very clearly in the arguments of the above mentioned two groups.

The arguments of unaided private schools were: (1) that they had no option but to sign on the dotted line as dictated by Delhi Development Authority, as it has large control over allotment of land; (2) it has not enforced the stipulation for more than 30 years; (3) that emotional, psychological, economic, social, and academic aspects differ and children of economically weaker sections lack home support for this; (4) there are many types of schools established with different objectives and run by police, armed forces, religious, linguistic groups providing nominal/subsidized rates to children coming from such special groups having low levels of income; (5) that they are already providing concession to staff wards, brothers/sisters of students, and children of financially hard pressed parents; (6) that also number of concessions to different categories are being offered such as free education to single girl child, for example in Central Reserve Police Public School, reservation of seats for children of SC [Scheduled Caste], ST [Scheduled Tribe], and OBC [Other Backward Classes] children, even to those who obtain more than 50 per cent marks and have attendance of more than 80 per cent in the previous year as stipulated by the Department of Education, Delhi Government for reimbursement, to the extent of 46 per cent of school seats and other contingent cases; (7) the capacity of school being limited how to accommodate children of weaker section; (8) how to meet shortfall in revenue; (9) the quality of stationery

and books is different and unique for each school; (10) the uniform in each school is different and there is huge cost variation between government school uniform and unaided school uniform; (11) who would pay for the mid-day meal of children; (12) what about the scholarships etc. being given by the government; (13) how to make up the for lack of support to the children at home; (14) counseling, training of parents; (15) there may be negative fallout due to peer group differences; (16) language and cultural barriers; (17) that who will pay for transportation; (18) what about schools which are already catering to the children of lower middle class; (19) how to ensure that the students belonging to EWS only take benefit; (20) the government must exempt property tax, electricity, water bill etc/the committee should restrict itself only to the extent of court directions and should not deal with those private unaided schools, which did not receive land; and (21) that they need more representation in the committee itself.

On the other hand, the arguments put forward by the Social Jurist, a non-governmental organization working for the child's rights, education for empowering the society are: (1) that the recommendations of the committee should not be made for implementation in not only the schools which were given land but also others which accounted for nearly 2,000 schools; (2) everything should be given free under the free ship quota for EWS children and not just tuition fee; (3) though the responsibility of education is that of government's still private unaided schools should function as extended arms in pursuit of this; (4) the private unaided schools, registered as society/trust/non-profit company for non-commercial social purposes and are supposed to run on no profit and no loss basis seldom practice it; (5) the private unaided schools income is generated not only through tuition fee but also building fund and other donations etc; (6) even the tuition fee which needs to be increased when need arises but the private unaided schools are arbitrarily making changes and accumulating huge amounts, to meet the capital expenditure, they maintain huge surpluses and as a result of this poor children cannot enter into this schools; (7) that the 25 per cent quota must not confine to initial levels of schooling, but across all levels; and (8) when distance is not a criteria for admission of other children, it should not be kept for EWS children as for many schools EWS children will not be available within the vicinity.

The above arguments indicate as to how contrasting were the views of the two groups. The representative of private unaided schools questioned the very premise of implementation, when it was not done for the last so many years. Even if implemented, it involves psychological, social, and economic problems to the school management and the students, the representative viewed. The representative of NGO (Non-Governmental Organization), on the other hand, pleaded for providing all facilities to the EWS (Economically Weaker Sections) students and admitting them across all stages of education.

In the light of this, it was an uphill task for the two groups to reach consensus without one or the other compromising more. But in such a situation the arbitrator's interest, ability to handle the issue, the convictions, views, and biases that he or

she holds do matter in resolving the issues. At the same time, one cannot ignore the interests of one group, favouring the other, as this would ultimately make one to withdraw, which would derail the process. Alternatively, if one of the parties is not satisfied with the negotiations, it may further lead to litigation in courts or dilute the implementation process. In this particular case, however, the nominees of government forming a majority, and their ability to persuade both the groups led to a broad consensus after a detailed whipping of the issues.

Further, the presence of government nominees as arbitrators in a democratic state, committed to the welfare of the people would not take any stand that would cause heartburn to the large population belonging to the downtrodden and underprivileged sections, as this would have larger political impact. As a consequence of this, the inclination was largely on the expected lines of protecting the objective of equity, then promotion of individual/institutional freedom, both of which are essential constituents of a democratic welfare state. This is fairly evident from the recommendations of the committee itself (<http://aserf.org.in/kkc.htm>, 2/5/2012). In fact, the whole exercise of discussion and debates to arrive at a feasible solution though appear to be formulating procedures for “contractual obligations”, they were in fact dealing with the larger and more fundamental issue of equity *versus* autonomy, which is beyond the scope of this paper.

The competing demands of the groups were brought to a consensual agreement with at most difficulty. It was recommended by the committee (<http://aserf.org.in/kkc.htm>, 2/5/2012) that in line with the conceptual soundness of inclusive schooling, the policy to provide a freeship quota be applied to all private schools and not merely which received concessional land. It was also recommended that the beneficiaries of the freeship quota cannot be pooled together in a separate section or afternoon shift. Further, it was suggested that for children of socio-economically weaker backgrounds to feel at home in private schools, it is necessary that they form a substantial proportion or “critical mass” in the class they join.

For this, it stipulated 25 per cent or one fourth of a class in school should be reserved for EWS children. Any lower proportion would jeopardize the long-term goal of the policy which is to strengthen social cohesion, the committee viewed. Without any segregation each class must constitute 25 per cent or more to have critical mass, so that the children of EWS do not feel alienated. The Committee also recommended that the freeship quota system should begin at the entry level, covering nursery/kindergarten and Class I in the first year of operation and gradually covering higher classes. This, it suggested because the new policy must not be seen in terms of a mechanical insertion of a certain proportion of the poor into private school classrooms. These recommendations formed the basis for implementation of the reservation for EWS children in the state of Delhi after submitting the same to the High Court of Delhi.

Concurrently, the Union Government incorporating the same in the “Right to Education (RTE) Act 2009”, which was passed by both houses of parliament and made effective from April 1, 2010 provided a great fillip to the 25 percent reservation

for EWS children at national level. Interestingly, the Chairperson of the state level committee was also the member of the national level committee which drafted the Right to Education Bill, 2005 ([http://planipolis.iiep.unesco.org/upload/India/India\\_RighttoEducationBill2005.pdf](http://planipolis.iiep.unesco.org/upload/India/India_RighttoEducationBill2005.pdf), 2/5/2012). The Member Secretary<sup>3</sup> of the Committee of Central Advisory Board of Education on “Free and Compulsory Education Bill and other issues related to elementary education”, which drafted the RTE 2005 has viewed that the 25 percent reservation for EWS in unaided private schools of Delhi, which received land was also duly examined by the committee.

The policy of reservation for economically weaker section children in private schools till the enactment of RTE was non-existent in any of the state in India. Though some private schools such as Loreto Day School (Jessop, 1998) provided admission to the children belonging to weaker sections in different parts of the Country as a matter of philanthropy, there was no state policy anywhere which provided a statutory provision for reservation of seats for economically weaker sections children.

The implementation of reservation for EWS children through RTE (<http://www.indg.in/primary-education/policiesandschemes/free%20and%20compulsory.pdf>, 2/5/2012) which started at state level with the agreement between unaided private schools and the DDA (Delhi Development Authority) under Delhi Development Rules, 1981 in schools which received land to all unaided private schools at national level is a significant achievement for the people fighting for the rights of economically weaker sections, as it is no more confined to only a state, seeking for justice through the intervention of Courts, but a fundamental right. The clause 12 (1) (c) of the RTE Act states that the schools shall admit in class I, to the extent of at least twenty-five per cent of the strength of that class, children belonging to weaker section and disadvantaged group in the neighborhood and provide free and compulsory education till its completion. It also provided that where a school imparts pre-school education, the provisions shall apply to admission to such pre-school education.

The State level committee had also recommended that the freeship quota system should begin at the entry level, covering nursery/kindergarten and class I in the first year of the operation of the new policy. Further, under RTE Act, a provision is also made for reimbursement of expenditure incurred by the school to the extent of per-child-expenditure incurred by the state, or the actual amount charged from the child, whichever is less if the particular school has not taken benefit of any subsidy by the government such as land, electricity etc. The state level committee was also of the view that in order to build confidence in private schools regarding the viability of the new policy, the government must ensure that expenditure made on school-related needs of the beneficiaries (on items such as transportation, food, school uniforms, textbooks etc) is either provided in advance or reimbursed expeditiously.

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<sup>3</sup>Personal communication with Prof. R. Govinda, Member Secretary, on 17<sup>th</sup> February 2012.

## **IMPLEMENTATION PROCESS: HOW PARENTS PERCEIVE**

As described in the methods, the interviews with the parents of beneficiary children of EWS (Economically Weaker Sections) scheme provided an opportunity to have firsthand experience of the implementation, to know about how the parents viewed the scheme, the difficulties that they faced, and how they looked at future of their children. It does neither provide any generalizations as to the implementation of the EWS scheme as a whole nor the interviewees represent a substantial population who benefited under the scheme. It only provides a glimpse how some of the beneficiaries feel about the scheme. The parents' perceptions/observations on various aspects related to EWS scheme are given in the table (see Appendix I) which provides a quantitative information of the 20 interviewed parents.

From the above observations of the parents, it is evident that the private schools are the preferred choice and other things remaining the same, one would prefer private school over government-run school. The National Sample Survey data (*Times of India, 28/5/2010*) shows that the proportion of students in private institutions (general education at all levels) rose from 28.2 per cent in 1995-1996 to 30.8 in 2007-2008; and in urban areas, the proportion of students in private schools has crossed 50 per cent at the primary, middle, secondary, and higher education levels. However, an admission in private schools and particularly good quality schools is difficult and that too for EWS children. Priya Ranjan has observed that:

[...] many schools refuse admission to students from EWS, citing "no vacancy" as the reason, some others claim to have already admitted the required number but are reluctant to prove it. Additionally, some schools have been very clever with the notices, announcing admissions to their institutions not in Hindi dailies, but in English ones, which most people from this section of society do not subscribe to. It is clear that private schools do not want to implement 25 per cent quota for the poor children wholeheartedly (Ranjan, 2010:281).

One of the important problems outlined by the parents, even before getting admission, is that it is very hard to obtain an income certificate from the authorities, which states that their annual income (parents) is "Below the Poverty Line" (BPL) to take benefit under the scheme. The students for admission in to unaided private schools need to submit this in the schools where they seek admission. The parents who are largely illiterate/semi-literate, unaware of the procedures and dependent on daily wages/petty businesses find it very hard to pursue the matter with the officials for issue of certificate. Often, due to *red-tapism* some of the parents had to slog for three months to get the certificate. The incident reported by a parent provides an understanding of the same.

Even if one joins in a private school under EWS quota, it is no guarantee that one would be able to continue in the school even for an academic session. As it is reported in the *Times of India* (20/7/2010) that a son of the postman who was studying in a private school was thrown out on the ground that his father's income during the year had exceeded the EWS income limit prescribed. What is perturbing is that the child was thrown out in the middle of the session. It required

the intervention of the State Education Minister for the child's continuation in the school for the academic session, on humanitarian grounds.

**Income Certificate: A Hurdle for Admission**

Mr. Hari Prasad, a parent, says that: "I use to take permission from my proprietor for leave to get income certificate from the Sub-Divisional Magistrate (SDM) and he got annoyed for asking him so many times. He thought I am using this as a pretext to skip work. Finally, my proprietor helped me with the connections he had with the officials, otherwise I would have never got the certificate. Before that, I had to wait in the long queue at SDM office and pay bribes to mediators as I had no relevant documents like residence proof etc".

**Figure 1**

Parents from economically weaker sections have also expressed their unawareness of good schools. Further, like for the general admissions to good schools, even under EWS quota the competition a child has to face is quite unbearable. Three of the interviewed parents observed that they tried year after year to get admission for the same class, even wasting precious academic years. As the competition would be less in junior classes and large numbers of seats are only available at entry level, parents preferred wasting academic years so that they could admit their wards in good schools. Due to huge competition among EWS children for few good schools, some schools have also started exploiting the parents of EWS and fees paying children by demanding fee without receipts etc. as noted above in the interviews with the parents. The schools are attempting to raise funds from the parents of other fee-paying students, which is an attempt to shift their responsibility.

Department of Education, Delhi (*Times of India*, 7/8/2010) has indicted a school for violating orders of Delhi High Court in providing education under EWS quota, by surreptitiously charging money from the students. Also the additional costs that parents need to incur, apart from the tuition fees which is waived off by the school is also a big burden to the parents. However, some of the schools have devised various ways to help the EWS children. While a school (Mallica, 2005) has provided 50 per cent discount on uniform and books, another has teachers who have collected old uniforms from students and given them to needy students, and third one has provided 25 per cent discount with money to be paid in installments. These are positive initiatives taken up by schools voluntarily and they need to be appreciated. Parents of EWS children have expressed their satisfaction about their children studying in private schools, which is another positive aspect of the reservation for EWS. This is also amply clear from the statement of Raja, a parent.

In fact, it is not only individual perception but also that of the government of Delhi, as it has planned to set up three senior secondary schools in the city on the lines of private schools (*Times of India*, 16/7/2009). But, it may be a cause of concern that a considerable number of the interviewed parents have reported that their children are studying in the afternoon session of the schools. The Delhi

*Abhibhavak Mahasangah*, an NGO (Non-Governmental Organization), has alleged that “some schools conduct classes for students admitted under EWS quota after 2.00 pm, when classes for others are over”. These afternoon sessions are conducted exclusively for EWS children, segregating them from other fee-paying children, though the policy was for having integrated classrooms. Some parents have reported that their children have been shifted to morning session where other fees paying children study, on the basis of their performance. However, a very few of them who are extremely well performing have this kind of opportunity and that too only in two of the five schools studied.

#### Why Private School is Better

Raja observed that in the private school, his children have improved considerably in terms of learning, socialization, and developing a more comprehensive perspective of life. He has opined that the performance of private schools is better than government schools and they are good at providing not only better teaching facilities but also giving them an opportunity to learn music, dance, and games etc for which his child could not have been exposed to, had he studied in government school, as they are either unavailable or if available, not accessible to students. Raja, the parent, has further observed that in parent-teacher interactions, the school administration also emphasizes to the parents that they need to maintain cleanliness and keep their children clean, not to take alcohol before children and not to quarrel before them etc. This in a way shows the wash-back effect of education of children on parents, wherein uneducated or semi-literate parents also get benefit of schooling of their children.

Figure 2

There are also problems related to other aspects which are sometimes beyond the preview of the schools. Pavan, a parent, had admitted his two daughters in the afternoon shift of the private school, where all children belonged to the EWS category. Pavan withdrew his two children from the school because one of his daughters was taken in the morning shift for her good academic performance and the other was continuing in the afternoon shift. He could not afford to pay the cost of transportation from school to residence, which had to be borne by him and for that he asked school administration to keep both of them in either morning shift or afternoon shift so that they would be together and he could make an arrangement of common public transport for them. However, as it was not safe for his daughters to return home in evening, as once the elder child was molested on the way back, he withdrew both of them from the private school and put them in the neighborhood government-run school. His male child, however, continues to study under the EWS in the private school.

The interviews with parents have revealed that a large number of male children are benefitting under the EWS reservation, while the number of girls is only three out of twenty, which is a very negligible number. Other 12 female children of the EWS children's parents interviewed were studying in state-run schools i.e. municipal corporation-run schools or Delhi government-run schools. A study of ISST (Institute of Social Studies Trust) has viewed that the preferential treatment

is given largely to boys in families struggling for the admission to private schools (cited in Mallica, 2005). The state level committee also recommended that “it will be highly appropriate to ensure that at least half the children who are admitted to private schools under the freeship quota are girls”.

The preference that male children get is due to age-old sociological reasons. The child Sex Ratio (females of age group 0-6 per 1,000 males of age group 0-6) though has marginally dipped in Delhi from 868 to 866, between 2001 to 2011, but is negatively skewed; and this is well below the national average of 927 to 914 for the same period (COI, 2011). As per the global trends, the normal child sex ratio should be above 950 (UNFPA, 2009). The child sex ratio reflects the imbalance between the girls and boys, indicating that the practice of sex selection have led to a drastic decline in the number of girls compared to number of boys. The practice of sex selection is prevalent even in regions which are prosperous and people are literate. Further, the literacy (as a percentage of total male/female population above 7 years of age) gap is also 10.10 per cent as per census, 2011. The cycle of disadvantage starts before birth and continues into old age (Kumar *et al.*, 2007). The problem is further aggravated when caste, class, and religious discrimination compound gender disadvantage.

The belief that the male children would take care of the old-aged parents is the reason for the preference of male children over females in every aspect of life, including education. During the interviews with the parents of EWS children and in informal discussion with a girl child, it was reported that the lunch provided to her is different from the one given to her brother. While the boy gets pizzas and other fast food, the girl gets the home made *roti* (Indian bread). The parent clarified that it was done so as to match with the requirement of the school where the children are studying, as the boy is studying in the private school and the girl in government school. Though the reason given by the parent appears rational in terms of peer group preference and school's social standing (as parents of economically well off children are more comfortable in providing the fast food, the parents of weaker section children are content with providing home-made food which is economical), it is a discriminatory practice within the same home, and that too among siblings.

Though there is no prescription from the school about what food to be given as lunch at school, the parent observed that a child will be more comfortable with the peers, when he follows similar life style. In the patriarchal and patrilineal society, the discrimination against girl child by the family acts as an impediment to choice of education as a democratic right. This particular discrimination against the girl child is at home then school. While schools are prepared to accept girl child, as it is not an issue for them whether the child is a boy or girl, it is some of the parents who are indulging in discriminatory practices. This is highly antithetical to the philosophy of the government which intends to provide equal opportunities to boys or girls of EWS category.



## CONCLUSION

The implementation of reservation for EWS (Economically Weaker Sections) has been a contentious issue ever since the issue came up in public domain through filing of Public Interest Litigation by Social Jurist, an NGO (Non-Governmental Organization) in 2002 (PIL, 2002). However, due to lack of awareness among the weaker sections, the EWS scheme could not be implemented till recently at state level. The support of NGOs, the judicial activism, and the governmental concern ultimately led to the framing of guidelines by the state level committee for implementation not only in schools which benefitted with the allocation of land at subsidized rates, but also other unaided institutions. With the enactment of Right to Education Act 2009, the welfare measure of the state government has turned into right.

The widening of the scope for reservation of seats to the EWS children in unaided private schools is also an extension of social responsibility to the private sector, which was so far confined to the government and government aided institutions. However, all is not well with the implementation process as the stakeholders (the unaided private schools and parents of EWS children) perceive it an uphill task. The reports from some of the states of India, after the enactment of RTE (Right to Education), are indeed not very encouraging.

The society for unaided private schools (*Times of India*, 23/3/2010), Jaipur, Rajasthan, has challenged the constitutional validity of RTE Act in Supreme Court on the grounds that the government was trying to enforce reservation for EWS children and regulate affairs of private unaided and minority educational institutions in complete breach of an earlier 11-judge Bench verdict of the apex court. The Principal of Bethany High School, Bangalore, (*Times of India*, 30/7/2010) has issued a circular to the fees paying parents, with a caution that the school will have to accommodate 25 per cent students under EWS scheme and this will be detrimental to the psyche of the fees paying children. They cannot reject them, expel them or give them a transfer certificate even if they cause disciplinary problems in the school. As such once this act is enforced, another child could beat up their child, smoke on the campus, misbehave with a girl or a teacher, and the school will have to watch helplessly, he has observed.

On the other hand, there is dissatisfaction among parents also. It is viewed that the slum children are accepted by their peers in private schools. It is the teachers and principals who segregate and discriminate. Kumar, an interviewed parent, has observed that “Not one school is admitting poor students of their own volition and it’s only when there is pressure from parents and activists that they admit students”. There is no place for lessons in social responsibility in the classroom, despite number of rulings, orders, and bills pointing in that direction, he viewed.

Further, Education Department of Government Delhi was fined under Right to Information Act for its inability to give details of admissions given to EWS children by two well known schools of Delhi. Of the two schools, one school neither

submitted the desired information, nor provided admission to the children who had applied (*Times of India*, 20/7/2010). According to a list released by the government of Delhi in October 2008, as many as 191 schools have defaulted in admitting poor students, despite receiving land at concessional rates from government and as against expected intake of 180,000 only 15,000 were admitted in the year 2009 (*Times of India*, 28/5/2010).

The implementation of EWS scheme at state level, as described above, was not an easy task and it was amply evident from the arguments put forward by the two divergent groups as mentioned above, before the formulation of the policy itself at the state level. In a country with widespread diversity in terms of physical, social, and economic conditions, it would be much more complex an issue for implementation at national level. Also, it is not only necessary for the schools to admit students under EWS quota but also retain them. This requires the schools' positive attitude, parental interest, and government's regular monitoring.

This will offset what S. Lucas (2001) has called as "Effectively Maintained Inequality", wherein universalized education will decrease the quantitative inequality in attaining desired educational level, but class inequality is primarily expressed through qualitative differences between academically and socially stratified tracks. It is important to not only provide admission in the unaided private schools, but also provide them an opportunity to participate as suggested by R. Hattam *et al.* (2009) that it is about bringing the community into schools and about developing curricular and pedagogical relationships in the classroom that give voice, choice, and independence to young people.

The gender discrimination is a sociological issue which needs to be addressed through developing awareness through communication and mass media, active persuasion at local level with the involvement of local NGOs and government agencies. The centralization of admission and monitoring of private institutions and providing them with adequate resources in lieu of admission to EWS children is essential. Already, the Directorate of Education, Government of National Capital Territory of Delhi has initiated measures such as placing the list of schools providing admission under EWS, providing school information, and support to EWS parents etc, which are welcome measures.

However, parents increasing interest in private sector education, of those who can afford and who do not, needs a serious retrospection on the part of the government for identifying the reasons for such a migration and taking up appropriate remedial action. The identification and documentation of profiles of best practices adopted by all schools, both private and public is necessary to comprehensively improve the school system. Though it would be humanly impossible to address the varying dimensions of complexity that arise from the reservation for EWS children through a centralized mechanism, it is necessary to have regular coordination and cooperation meetings among representatives of government, unaided private schools, and parents of EWS children to implement the scheme as per the provisions of Right to Education Act, 2009. It may also be

pertinent to note that a decentralized regulatory mechanism exclusively overseeing the EWS scheme is necessary for successful its implementation.

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**Appendix I:**

Questionnaire for Parents' Perception about the EWS Scheme

<b>S.No.</b>	<b>Question</b>
1	How do you view the performance of private schools vis-à-vis government schools?
2	Whether the admission in private schools is easy or difficult under EWS?
3	Whether there is any other expenditure involved apart from tuition fees for your ward under EWS?
4	Whether you get receipts for the payments made in the school?
5	Whether your children show interest in attending school?
6	What is the performance in English language learning (such as reading, writing and speaking)?
7	What is the overall performance of your ward in terms of learning?
8	Do you find any changes in the behavior of your ward with the family members after he/she was admitted in the school?
9	Whether your child is studying with other fee paying students or separately in the afternoon?
10	If studying in afternoon session, whether the teachers are the same or different?
11	Whether better performance of your ward in the afternoon session leads to shifting to forenoon session to study along with fee paying students?
12	How many male/female wards of you are studying under EWS?
13	Whether you wish to provide unaided private schooling beyond class VIII, when there is no financial support from the government?