



Necessity of reservation in the private sector- A critical study.

Moumita Sengupta

Assistant Professor in Political Science

Government General Degree College, Kharagpur II

Empowerment is an idea that has taken a hold over the minds of increasing number of persons in the last few decades. It is considered by many politicians and intellectuals alike to be the only effective answer to oppression, exploitation and injustice and other maladies with which our societies is beset. It contains certain exciting possibilities.

Beteille calls India a 'notoriously hierarchical' society. There Are substantial inequality of every kind existing, the most deep rooted being that of caste and gender. And there is an inherent contradiction between this hierarchical social order and the democratic political system.

Universal adult franchise has come up in this context as a revolutionary step. But it wont be able to serve the purpose unless there is a radical social transformation in terms of empowerment. Groups at the bottom of the stratification order have either won or have been granted rights of equal citizenship. Now a days modern institutions and legal codes outlaw the more violent or oppressive forms of social exclusion. But it should not be made to think that discrimination is a thing of the past. Certain groups are still dis proportionately poor. Despite the legal safeguards, the reasons are often attributed to the groups low levels of education or to their concentration in economically backward sectors.

Even in modern sectors of society hence there remains a powerful ongoing force that explains the persistence of inequality.

The focus of this paper will therefore be on the issue of discrimination in the private sector. It will take up aspects like how and why discrimination persists? Whether there is the need of anti discriminatory measures and whether reservation is the only way out?

Since independence, the government has sought to elevate the persistent inequalities by instituting affirmative action in political representation, in higher education and in government and public sector employment. Following are some of the constitutional provisions considered as first steps in affirmative action in India:



1. No person can be discriminated against in matters of public employment on the ground of race, religion and caste.(Art 16(2))
2. No discrimination in state educational institutions (Art 16(2))
3. No discrimination in state aid to educational institutions on the grounds of race, religion and caste (Art 30(2)) and many more.

Despite these efforts and many other, the educational level of SCs continues to lag behind that of the general population and the overwhelming majority of the SCs , STs and OBC population is still found in less skilled and lower paying jobs.

Using data from national sample survey, S Madheswaran and Paul Attwell have found out that the SC/ST workers are discriminated against both in the public and private sectors. In terms of endowment and discrimination, the SC/STs appear to have made no significant change over time, especially in the private sector. The government policy of protective legislation seems to be partly effective. Overtime the discrimination coefficient has decreased slightly in the public sector, whereas the discrimination coefficient has not changed significantly in the private sector. Discrimination still arises in the public sector because the reservation quota for lower caste applicants is close to full in the less skilled jobs but it's far from filled in the higher category A and B jobs We are higher caste predominate. These findings have important implications for the public private device and for affirmative action in India.

This observation makes it clear that there exists certain form of discrimination in the private labour market in India. Sukhdev Thorat and P. Attwell in a paper Focusing on relationship between caste and labour market in today's urban India discusses the sociological attributes of stratification and employment opportunity. They say that people who hold privileged position believe that people similar to themselves would be effective in similar role or jobs. This in turn leads to what Kanter refers to as 'homosocial reproduction'. They concluded by saying that social favouritism in hiring is not a matter of unfair individuals, but rather the consequence of widespread in Group out group dynamics. Favouritism only receipts when bureaucratic practices limit the discretion of those who hire. This whole theory cannot negate the fact that discrimination exist in private sector. Let us see why at all they exist.

The first reason is that reservation as an anti discriminatory policy has not found favour with the private sector. Private sector has been excluded from the purview of such policies. In US, It was only after military and massive civil rights movement of the 1950s and 1960s that the government began to take up the issue and started affirmative action. And when it did so, it simply did not include government employment, but also comprehensive program of promoting and legislating employment incorporate sector and adding minority businesses and professions.

Secondly and assumed negative impact of reservation or affirmative action policies on competitiveness and productive efficiency is mentioned as a primary reason. Again the private



sector claims that its recruitment policies are fair and therefore anti discrimination measures are unwarranted.

Analysing this further it is to be seen how much affirmative action in the form of reservation is adversely affecting competitiveness and productive efficiency. New classical theories are you that for efficient and optimum or economic outcome in any economy, the prevalence of a perfectly competitive market situation is necessary. Market discriminations induce imperfection in labour and generate less than optimum economic outcomes and thus hamper economic growth. In India the basis of reservation policies caste. Economic theories recognise the caste systems basic feature of ascribing occupation for each caste implies exclusion of one caste from taking occupation of the other. Exclusion and discrimination in occupation and labour employment are thus internal to the system and necessary of its economics. Even if there is access to employment in another caste occupation but there is unequal treatment in terms of wage payment and conditions of work. Amartya Sen called it ‘unfavourable’ inclusion.

Other reason that Ambekar has drawn our attention to is that social and individual efficiencies Required that the capacities of an individual be developed to the point of competency to choose on caste system there is no individual choice and very few get job satisfaction and hence provoked to aversion, I'll will and desire to malingering it is also argued that relaxations in qualifications for appointment may supposedly hampered the productivity of firms. The fallacy of the argument lies in the fact that recruitment in public sector under reservation in India and else where is based on the required qualification and that the norms of appointment and those of qualification are not relaxed. The corporate sector also argues against the anti discrimination policy on the grounds that it follows fair methods of employment but on the contrary, there is considerable evidence to show that the private sector follows recruitment methods that are exclusionary and discriminatory in nature. Papola observed that historically the various modes and methods practiced by the private sector involved exclusion and discrimination throughout the period of modern industrial development. There was the jobber system initially replaced by labour contract officer in 1970s which was equally exclusionary. National employment service was a little less exclusionary but its use has declined overtime.

New liberal theories also predict that in a highly competitive labour market, discrimination will prove to be a transitory phenomenon. But it might not be the case. Firstly, Perfect competitive market may not lead to equality. Secondly all markets are not highly competitive. For example, in India most of the private industry operates under monopolistic and oligopoly market situation, which provide for ample scope and power for discrimination in hiring. Therefore, in any case affirmative action is inevitable for social welfare.

now let us discuss a wider questionnaire has been posted by Neera Chandoke- What is reservation for? is reservation meant only for securing material assets?



studies reveal that though Dalits have managed to secure a place in the public domain, matters are much more complicated when it comes to the private domain of personal interaction, which continues to be governed by social prejudice. So, there is doubt whether Dalits come into their own as agents Who possesses equal standing in society.

There is a problem in the way reservation has been conceptualised in India, as compensation for the victims of history. Today's generation wonders how long it has to pay for the sins of its ancestors. this attitude can hardly lead to the extension of respect to the beneficiary of reservation. Also, compensation does not mean that the sources of the society have to be equalised. Again, social justice has largely been substituted or restricted by reservation. It has become a safe option for the political elites who then don't have to go for deep rooted changes. This view has been strongly refuted on the ground that reservation is a vital device that enables them to retrieve the opportunities denied. They were denied on the basis of caste so it is natural that they will be reclaimed on the basis of caste disabilities.

But can Cast be the appropriate indicator of deprivation in society? in India not only caste is used as virtually the sole criteria in public policy oriented towards positive discrimination but categories like OBCs and SCs are treated as essentially homogeneous groups. It is simply assumed that almost the entire population of each category suffers from a uniformly high degree of deprivation.

Protagonist of caste politics please that the problem of heterogeneity can be tackled if the OBCs and SC arranged according to the degree of backwardness and split into subgroups such as more backward and most backward and sub quotas are created. But the problem with caste politics is identity is that it pushes the economic problem facing the poor away from the centre stage. It also prevents the poor from belonging to high middle and low caste from uniting on class lines. Thus, the use of caste in public arena effectively keeps the deprived masses divided and politically weak. Here another important concept of creamy layer needs to be discussed.

It is argued generally by scholars, commissions andpoliticians alike that 'creamy layer' should be excluded from the privileges of the positive discrimination policies. The argument is that they are economically well off and have come a long in societal status. More than one generation has taken advantage of policies formed for SC and STs and OBCs and now they don't need any such support system to survive. Moreover,they take up the seats in educational institutions and job market of those dalits who are in real need of them. But giving a deep insight into the issue we would realise that for the social upliftment of SCs, STs and OBCsas a group, they need a leader within themselves to lead them and creamy layer does just that. It provides leadership to the masses to come up the social ladder.

There is also a debate regarding OBCs as to whether they should be the beneficiaries of reservation in the same manner as the SCs &STs or not? The issue arises due to two reasons.



First the historical positioning within Indian society is thought to be different. Second, including them extends the scope of reservation to impossibly high proportion.

A recent verdict of the Supreme Court maintains that OBCs will be given 27% reservation in the educational institutions. Very importantly it has excluded the “creamy layer” out of the reservation quota. Also all the reservations for the OBCs will be restricted till graduation level. The court explained that completion of graduation gives ample scope to the candidate to compete with any other general category student. It has also marked the class of OBCs who would form the creamy layer. But it also added that this situation will need to review every 3 years to see if any modification is necessary.

So the reservation in general is based on caste lines and the beneficiary of most policies is the creamy layer. Let us see how all these arguments featured in the private sector discourse. The proposition that Indian labour market requires some kind of anti discrimination measure is well taken now. But it does not imply that anti discrimination policies will manifest itself only through reservation.

It is true that India is an agrarian society and the magnitude of transformation required for the improvement of the well being of dalits is immense. To make them active participants is a slow process. On top of that the sense of equality and participation they have achieved through the political process only heightens the acute consciousness of being deprived in other ways. As Mehta has noted that most Dalits feel that they have much to lose by liberalisation. Indian industry on the other side fears another dose of regulation. What the private sector can do is to make the recruitment process more transparent. Then its merit-based arguments will carry more weight. But how genuine is their fear? Does complying with reservation means dilution of merit? It would really depend on the design of the policy and what the available pool of talent are within that target group.

Another issue is who gets to decide what is the merit? the corporate sector is believed to rely on more intangibly measured qualities as well, that really can't be measured on objective scale. So, the employers feared that conception of merit will be imposed upon them from outside to determine whether or not they are discriminatory.

The difficulty is that while conceptually reservation and anti discrimination policies are two different things, in practice they are clubbed into one. Anti discrimination legislations have a tendency of pushing towards defacto reservation.

Mehta proposes many other instruments than reservation to bring about desirable outcomes. First, to create Dalit entrepreneurs avoiding of government license would be good to start with. Another instrument is granting of contracts or even ambitiously giving meaningful tax breaks to employers who meet targets in employment pattern incentives are better than the dead hand of over regulation and we leave industry with great room for choice.



When the government is providing safeguards to private sectors to promote their business, creating better situations for the encouragement of business and trade foreign investors are investing in private sector via purchasing their share, this is possible because of the policies of the government. Private sectors use public money via public financial institutions. Even they don't give reservation to SCs, STs and OBCs in the private sector. Upliftment of the weaker section is a stated objective of our country and 'reservation in private sector' is part of social responsibility of government as well as the private sector. If private sector is not fulfilling their responsibility, then government should make such provisions by legislating measures.

India is a plural society with diverse culture. There are inter and intra caste differences. Public sector through their affirmative action plans try to reflect this heterogeneity. Private sector should also try to reflect this diversity into its work culture.

ILO Declaration on fundamental principles and rights at work adopted in 1998 reiterates the need to ensure equality of opportunity to those in special needs. It is of special significance in that it enables the person concerned to claim freely and on the basis of equality of opportunity their fair share of the wealth they have helped to generate and to achieve fully their human potential.

The issue of reservation in private sectors has found international visibility during the world conference against racism held in Durban in 2000. A strong contingent of Dalit activist and intellectuals' human rights activists from India raised this issue there.

The election manifestos of both Congress and BJP promised to initiate the process of providing affirmative action in private sector. The UPA government was so serious about it and thus this demand found place in their common minimum program.

In conclusion it is appropriate to state that reservation being such a debatable issue should be seen from a wider perspective. reservation not only benefits the direct beneficiary but also the whole of society. When a section of society gets sacked power with other sections the competition remains healthy stop also the criteria of providing reservation should be modified. Not only social but economic background need to be taken into account. An important concept of cultural capital can be made functional here. Mohanty has defined it as the ability to use knowledge to both understand the world around us as well articulate a world view that defines our identity. This is an important reason why children of economically poor background do well educationally. So those high on cultural capital should be given economic benefits not in the form of quota's in short bringing equitable justice in such diversity stratified societies and artists and time-consuming task all sections of society have to work together to achieve it and reservation will remain one of the most useful instruments in this regard.



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