

**UNDERSTANDING THE POLITICS OF RESERVATION
IN PRIVATE SECTOR IN INDIA**

*Dissertation submitted to Jawaharlal Nehru University
in partial fulfillment of the requirements for the
award of the degree of*

MASTER OF PHILOSOPHY

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Under the Supervision of

Prof. Rakesh Gupta



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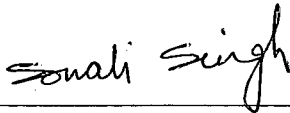
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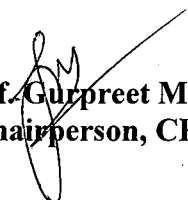
I declare that the dissertation entitled “Understanding the Politics of Reservation in Private Sector in India” submitted by me in the partial fulfillment for the award of the degree of Master of Philosophy of Jawaharlal Nehru University is my own work. The dissertation has not been submitted for any other degree of this University or any other university.




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CERTIFICATE

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For

Maa and Papa

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I take full responsibility for all the omissions and errors in this work.

30th July 2007

Sonali Singh

ABBREVIATIONS

ASSOCHAMS: Associated Chambers of Commerce

CII: Confederation of Indian Industries

CSR: Corporate Social Responsibility

FERA: Foreign Exchange and Regulation Act

LPG: Liberalization, Privatization, Globalization

FICCI: Federation of Indian Chambers of Commerce and Industries

MRTP: Monopolies and Restrictive Trade Practices

NHRC: National Human Rights Commission

SC: Scheduled Caste

ST: Scheduled Tribes

WTO: World Trade Organization

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Introduction

The issue of reservation has vexed Indian politics since the introduction of the Constitution in a new way. This was different from caste based representation to provincial and central legislatures during the British period. Reservations were favoured for the Scheduled Caste (SC) and Scheduled Tribe (ST) under the Constitution owing to the backwardness of Dalits since millennia. Initially given the Congress system of governance, reservations were for a specific period but the period kept getting extended.

This offended the higher castes and the most violent form of protest against reservation in educational institutions the '*Navnirman Samiti Andolan*' took place in Gujarat, which led to total revolution in Bihar under Jai Prakash Narayan. The decline of the 'Congress Raj' marked the ascendance of a new social compact in which middle castes & now OBCs dominated. Congress also lost its Dalit and Muslim vote banks, with the rise of BJP and the Samajwadi Party and the demolition of Babri Masjid in Uttar Pradesh.

The Janata party period was an interregnum in which caste revolution began to play a vital role. It however marked a turning point in Bihar politics for it introduced the 'Karpoori Thakur' formula of reservations.

In the V.P.Singh government period 'Mandalization' and 'communalization' gave a new term to Indian politics. The politics of 'Mandalization' raised the issue of caste based theory of justice without much theoretical discourse preceding it unlike the issue of reservation of seats for women in the legislatures being debated currently. Briefly the issue of reservation related prominently with structures of the state- legislatures and educational institutions. As far as Dalits go 'Mandalization' raised the issue in the context of recruitment into government jobs.

Given the processes of liberalization, privatization and globalization (LPG), new issues have emerged in Indian politics and the older issues have assumed new forms. The new issues are related to foreign and Indian capital relationship, sovereignty over natural resources and patents, nuclear power in general and

ecology. Among the old issues that have assumed new forms, reservation is a case of acquiring new emphasis and dimension. The issue of reservations went beyond legislatures and educational institutions to recruitment of public servants to grass root democracy.

During Rajiv Gandhi's time the issue of reservations of Dalits and women combined for the first time in relation to 'Panchayati Raj' institutions in a new way. Hitherto they were unrepresented issues. This is symbolised by the 73rd and the 74th amendments to the Constitution, even though the issue of women reservation for the legislatures is still hanging fire.

The issue of reservation of jobs in the public sector and in the government structures developed a dimension of Foucault, who had pointed to the expansion of the political sphere to the cultural issues. For him reason was not abstract but was constituted. In that sense the discourse on modernity led to the sphere of punishment and psychiatry as well as to how men understood it in terms of their own perceptions of constituted reason. The perception of the reality by the individual is part of his basic concept of genealogy. Reservations as constituted are perceived to be ladders of social mobility and of social justice. The issue of reservation is not anymore confined to the state structures but also to the private sector resonating in a peculiar way, Gandhi's idea of 'trusteeship' and Nehruvian idea of controlling the private property by having mixed economy. The Indian Constitution had adopted the Nehruvian model of development and 'developmental state', for implementing the strategy of economic growth with social justice. Today that very state is demanding from the private sector, which is interested only in economic growth, to consider the possibilities of following recruitment policies to include the downtrodden SC/ST on the basis of seeking justice for them while struggling to implement reservations in state sector in consonance with Constitutional provisions of quotas for reservations.

By proposing to put reservation in the basket of Corporate Social Responsibility (CSR) or affirmative action measures, the Government is trying to convey the

message that Corporations should refrain themselves from putting the proposal under too much of scrutiny. By appealing to the conscience of the business world, the ruling elite have attempted to shield reservations from slipping into a terrain where the issue could be evaluated only from economic gains and not from the perspective of social justice. It is felt that if the private sector starts taking a cost benefit analysis on purely materialistic grounds then they would never agree to such welfarist proposal. So reservation issues have to be looked from a more ethical and normative position in order to get out of the 'reservation is retrogressive' mindset. Here a discussion of what constitutes justice would be involved. It is an ambiguous concept ever since Plato to Rawls talked of it. Is the idea of justice based on equality or inequality? That debate is not yet conclusively settled on the issue of distribution of social goods. Should equity be the guiding principle or should organization and efficiency be at the heart of the distribution? Should natural differentials be allowed to transform themselves into social inequality as part of a social comprehension of the less meritorious? If not, then how to determine the rationale of natural differentials? This has a direct bearing on the deprived since it is the social structures that have denied to them equality of opportunity. In any case in the modern machine age's discipline and compulsions, the arguments against reservations in the private sector will weaken if not vanish.

Scholars today feel that in the last 60 years that the reservations have been into practice the rationale of claiming or extending them has changed significantly. The earlier foundation of social inclusion of the marginalized has given way to concerns of due representation and social transformation with respect to new groups. Many new groups have come into picture seeking reservation for the upliftment their conditions. These groups might not have faced caste based discrimination but they have some equally important constraining factors to fight against in order to come at par with the mainstream population. In the changed socio-economic environment caste as the basis of determining backwardness has come under a question mark and in its place income or economic factors are fast emerging as popular alternatives. The efficacy of reservation policy in bringing development and socio-economic transformation has also come under scrutiny.

According to many critics, structural changes facilitated by land reforms, minimum wages to the agricultural laborer, and better human development measures could prove to be much more effective than merely banking upon reservations. It is also acknowledged that the active political participation by the marginalized section has played a vital role in social transformation than reservations themselves.

Moreover in an increasingly liberalized economy the scope of mandatory quotas for the private sector seems a hard task to accomplish. In a system which has given freedom of enterprise and private property, imposing quotas would mean violation of basic legal and economic principles. Thus, for fulfilling the values of social justice enshrined in the constitution new ideas and perspectives would be required. In a democratic country like India any scheme of social justice and public welfare will also have to win public support failing which chances of backlash and socio-political instability may increase manifold. As we are preparing to extend reservations to new groups and new sectors caution needs to be taken to avoid the creation of newer categories of disadvantaged people. It would be necessary to keep in mind that the benefits of such preferential policies reach the really deserving people and not remain confined to the elites among the marginalized sections. Intra group inequalities are as unjustified as inter group inequalities and so they also will have to be addressed. All these issues will have to be carefully taken into consideration before any law is passed concerning any further extension of reservation.

With a range of arguments at its disposal the issue is far from being conclusively settled. Various sections of the civil society are debating this and a consensus is still evading policy makers both in legislatures as well as in the private sector. In this context my dissertation is examining the pros and cons of the reservation in private sector for the purpose of recruitment.

The first chapter deals with historical understanding the importance of reservation policy as a measure for equality, social justice and economic well being in the Indian context. In a country marked by deep rooted caste divide instances of caste based discrimination could be seen at all the levels of society, economy and polity.

The discrimination based on caste was so serious in the Indian society that the leadership of the newly independent India found it imperative to take measures which could help the hitherto excluded and discriminated sections of the society come at par with the mainstream. Reservations were adopted in line with affirmative action policies functional in many parts of the world which has similar problems. Seats were reserved in government and public sector to help them improve their economic condition, in the educational institutions to improve their personality and skills, and legislatures to bring them into the forefronts of power and decision making.

But the need to adopt reservations even after having anti discriminatory laws and caste as the basis for adopting reservation is still debated , which is being looked into in the first chapter. The chapter will also trace the history of reservation policy in India and will raise the need for extending reservation into the private sector.

The second chapter is an examination of the views and literature present on the subject of extending reservation in the private sector. A substantial portion of the civil society is supporting the proposal by the government regarding reservation in private sector. Today there is a change in the economic structure of the country where the state is being fast replaced by the private sector from various areas of economic operation. The age of globalization has reduced the state to peripheries which has also impacted upon the chances of getting jobs for the marginalised section in the fiercely competitive market. The chapter also looks at the need for reservations in the private sector at this juncture.

Contrary to the claims of the private sector for being neutral towards caste issues while recruiting people the chapter will present the works of scholars like Suhkhdeo Thorat, and T.S. Papola, who have studied the discriminatory nature of the private sector recruitment policy. The issue of caste as a basis of reservations, 'merit' as the deciding criteria for jobs, the present system of recruitment processes in the public sector have all been debated under various sections in the chapter. A fair part of the chapter covers the debate in the Parliament and the last section tries to understand the politics of reservation by analysing the strategy of three of the

most important parties in India- the Congress, the BJP, the BSP on the important issue of reservations in the private sector.

The third chapter tries to understand the reasons of the corporate or private sector protest against the issue of private sector reservation. The chapter has introduced the private sector's arguments on the reservation policy into the ongoing debate. The private sector has opposed the proposal saying it to be detrimental for the future of a booming economy.

Their perspective has been analysed by looking at the historical development of private sector in India and the negative impact various state policies played in constraining their capacity to develop into a robust sector. They have argued that the present state of efficiency and well being which is being used as a pretext for extending reservation in the private sector is a product of their long standing struggle against the regulatory policies levied on the private sector the Nehruvian socialist state.

It is argued that the present proposal is inline with the 'self defeating' regulatory policies of the state in the pre reform period and thus has to be opposed on the grounds of maintaining the competitive edge of the private sector in the globalized market, which in turn comes from the freedom to choose the best person suited for jobs in the private sector. The chapter also discusses the seriousness of their argument regarding 'merit' being the sole basis for making recruitments in the private sector. The last section is devoted to the proposed remedy suggested by the private sector to uplift the marginalised section of the population. They have agreed to undertake affirmative actions which range from imparting free education, vocational training to giving conditional preferences in jobs. The measures proposed by three of the most premier chambers of commerce of the country- FICCI, CII, ASSOCHAMS has been discussed at length along with the reasons for doing so.

The fourth and the last chapter introduces the notion of Corporate Social Responsibility (CSR) in the context of ongoing demand by the political class for

the inclusion of reservation as one of the many socially responsible measures undertaken by the private sector. This has been done with the hope of finding an amicable solution to the ongoing problem of reservations.

An effort has been made to understand the present definitions of CSR and the inherent limitation of the concept to consider caste based discrimination as a social malady and a big cause of poverty and social tensions in the Indian context. Corporate social responsibility is silent on the reservation issue. Why has nobody come forward to incorporate reservations in the list of socially responsible behavior is a question raised through the chapter?

Arguments are built for the inclusion of reservation in the CSR based on the need of the private sector to consider caste based discrimination in the labour market as one of the many reasons leading to the problem of unemployment in India. Due to unequal distribution of resources and opportunities of jobs, a part of the Indian population has been restricted from enjoying the benefits of globalization process. They are not able to get into the new kinds of jobs created in the liberalised economy, one due to their inherent limitations regarding educational qualification and two due to the caste based discrimination prevalent even in the private sector. This has led to poverty and unrest. It has been argued that along with the problems of ecology and labour rights the private sector has to look at structural dimensions of poverty in India. They have to adapt themselves to the different set of problems present in the developing nations like India which requires an approach that has to be focussed both developmental as well as social issues like equality and social justice to all.

The chapter is an attempt to find a way out of the reservation debate with the help of CSR.

Methodology

As per the requirements for MPhil, my dissertation is based on secondary resources, published and unpublished papers and internet sources.

Chapter - I

Rationale of Reservation Policy

For thousand of years, one of the most glaring practices of inequality in India has been the oppression and denial of rights to certain groups of people on the basis of caste. This chapter is an attempt to look at reservation as a tool for getting social justice and equality in the Indian society, which has been organized on hierarchic principles of caste. We have attempted to understand reservations as they are envisaged in the Constitution of India - as a Constitutional measure for bringing the 'depressed' section of population at par with the mainstream.

What was the need to adopt reservation even after having anti-discriminatory laws? Why was caste chosen as a base for giving reservations? These questions will be taken up in the chapter concluding with a brief mention of the ongoing demand for reservation for SCs/STs in private sector jobs. Through this chapter, we shall briefly trace the significant events in the history of reservation policy in India. Reservation, which was adopted as a form of preferential policy post-independence has acquired distinct characteristics of its own and has worked on a logic, that has been studied in this chapter, based on writings of Myron Weiner.

Introduction

'The sociological model of a stable society and orderly society calls for a population that is relatively homogenous in its taste, interests and habits and shares a widespread consensus on basic values and goals. Such condition can best be achieved when the population is relatively homogenous in religious, racial, ethnic, caste and national origin. The more heterogeneous the population of the society is in these regards, the more likely it is that they will disagree on interest, standards, goals, and values and conflict and disorder will ensue'.¹

India remains a highly stratified and fragmented society in this aspect thanks to its diversity and multiculturalism. In fact over the years caste and religion has proved to be two of the most sensitive and volatile categories dividing people both horizontally and vertically. Due to the presence of diversity, categories like majority and minority are found at both inter caste and intra caste levels comprised of various ethnic groups. More often than not India has found itself placed at the receiving end of social tensions caused by ethnic conflicts. As a result minorities live in a state of fear and dissatisfaction constantly discriminated and denied full opportunities of growth by the majority. Discrimination is most pervasive when the question pertains to caste.

The Global Experience

Experiences of inequality and discrimination have never known boundaries in this world. The struggle for equality is the most fundamental struggle waged by man since times immemorial.

With the growing consciousness among the victims about their discriminated status, states are forced to consider affirmative action policies as a solution to the growing unrest in the society. In many countries ethnic clashes have given rise to unstable political conditions and on many occasion ethnic conflicts have proved to be much more disruptive than class conflicts. In order to keep enjoying the legitimacy to rule, democratic governments have found themselves looking for means that can provide a level playing field to the discriminated populations. In their quest to find a solution most of the developing and the developed nations have affirmed of preferential policies as the most suitable means of bringing social justice and harmony.

In Northern Ireland 'sectarianism', in America 'race', in Malaysia 'control by outsiders' and in India caste, communalism and regionalism have led to discrimination of the people. The categories of discrimination could be different for different countries but the implications of discrimination are same for all.

Cutting across nations, majority has always restricted minorities from taking control of power and resources and thus in turn has restricted them from leading a life of dignity.

In order to create a better society many countries like USA, India, Malaysia, and Sri-Lanka have already opted for preferential or affirmative action policies and many like South Africa and Namibia are in the process of formulating similar ones. These policies are specially formulated to give justice to those who had faced systemic discrimination from the ages. In the US it is called the policy of positive discrimination or affirmative action, in Malaysia it is called policy of 'Bhumiputra' preference and in India it is called the reservation policy.

The need for affirmative action like policies finds a mention in the International Convention on the Elimination of All Forms of Racial Discrimination. Article 1 and Article 2 of the Convention quite explicitly mention the need for special measures for the advancement of discriminated racial groups.

Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination declares "special measures for the sole purpose of securing individual requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights of fundamental freedoms shall not be deemed racial discrimination, provided, however that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objective for which they were taken had been achieved."²

Article 2 of the Convention declares: "State parties shall when the circumstance so warrant, take in the social, economic, cultural, and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belong to them for the purpose of guaranteeing them

the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objective for which they were taken have been achieved”.

Thus, it is evident that the need for affirmative actions does not just mean special provision but is deeply connected to the issue of human rights of the concerned group.

Why Reservations in India?

The Constitution of India is committed to bring equality and social justice to its citizens. Soon after independence the prevailing social conditions in India needed an active and developmental state which had to take pro active measures to remove the social divide created between people on the basis of hierarchical caste system.

“Caste system in India is believed to be 3000 years old. The ancient Hindu society divide the population initially into four (that later grew into five) mutually exclusive, exhaustive, hereditary, endogamous, and occupationally specific *Varna* (translated into English as caste). These were the **Brahmins** (priest, teachers), *Kshatriyas* (warriors, royalty) *Vaisyas* (moneylenders, traders) and the *Shudras* (menial jobs) and the *Ati- Shudra* (the untouchables, doing the lowest of the menial jobs). Caste affiliation dictated all aspects of person’s existence. The *Varna* hierarchy was relatively straight forward, with the first three tiers clearly considered superior to the last two”³.

Thus, people’s occupation in a caste is pre determined and mobility is strictly restricted within castes. Those who occupy the high position in this hierarchy are the privileged lots who have exercised their control over all the major areas of life, be it social, political or economic. These privileged few who constitute the upper castes have also restricted the lower caste people from accessing power and resources. The lower castes have been reduced to do menial jobs and serve the

upper caste. Malady of caste has been so deeply ingrained in the system that soon after independence it was feared that a large chunk of India's population might never enjoy the basic democratic freedom envisaged in the constitution.

Dr Ambedkar in this context observed that political democracy could not be successful without social and economic democracy. Injustices perpetuated by the caste system were deep and wide and had been continuing from centuries. It was thus realized that merely giving rights and safeguards in the form of fundamental rights were not enough to safeguard the interests of disadvantaged sections. The Government of the day had to take some measures which were to go beyond non discrimination towards equalizing results with respect to various groups. It is in this background that India's preferential policy of reservation has to be understood.

Preferential policy refers to -“laws, regulations, administrative rules, courts orders, and other public interventions to provide certain public and private goods such as admission to schools and colleges, jobs, promotions, business loans and rights to buy and sell land on the basis of membership in a particular ethnic group” .⁴

History of Reservations in India

Reservations has a long history in India starting as early as in 1874 when the princely state of Mysore introduced selective reservation in government jobs reserving 20% posts for Brahmins in the category lower and middle level posts in the police department. The remaining 80% was kept for non-Brahmins, Muslims, and Indian Christians. It is considered to be the first cognizant attempt to break the Brahmin monopoly in the state public services.

The Government of India Act 1909, pioneered reservations in elected bodies. Under this act for the first time certain privileges were given to Muslims. In the old Karnataka the policy of reserving seats in the educational institutions and in government jobs was put in action for the first time. In this regard, the Maharaja of Mysore in the year 1918 had set up a backward caste committee called Leslie C.

Miller committee to find ways for giving adequate representation to non Brahmins in the public services.

The year 1918 remains a significant year in the history of reservation policy in India. In this year, the Montague-Chelmsford report recognized the claims of Sikhs to have a separate representation. During the same time another committee called the Franchise Committee (1918-19) came with the recommendation for nomination of the members of depressed classes (SC) to each provincial assembly. In the following year 1919, the Government of India Act was passed by the British Government. This act is significant in the sense that in this the first statute was passed to provide representation in the legislative bodies of depressed classes, Muslims, Sikhs, Indian Christians, Anglo Indians, aborigines (tribes).

The Government of India Act, 1935 further consolidated the policy of representation in the elective bodies. When the Communal Award of Ramsay MacDonald came in 1932 creating separate communal electorate for the depressed classes, Sikhs, and Muslims, Gandhi undertook a fast unto death against its attempt to separate the depressed classes (Harijans) from the mainstream Hindus. The famous Gandhi Ambedkar Poona Pact of 1932 reserved seats for the depressed classes in the provincial and central legislatures.

Reservation in the Public Service

Reservations in the public sector dates back to the British rule. The idea came with the devolution of power in the twenties. Public recruitment was started on the principle of merit following the recommendations of the Macaulay Report. In the year 1854, the Macaulay Committee said: 'hitherto the admission, (to the Indian civil service) has been given by favor. They are henceforward to be gained superiority in an intellectual competition'. The committee opined that the intellectual test was also the best moral test- "early superiority in science and

literature generally indicates the existence of some qualities which are securities against vice- industry, self-denial, a taste for pleasure not sensual, a laudable desire of honorable distinction, a still more laudable desire to obtain the approbation of friends and relations. In 1950, the government of India formally announced its policy on the recruitment of SC&ST in the public bureaucracy.

The Constitution of India

The Constitution of India is a carefully drafted document which balances two conflicting notions of preferential policies and equality of opportunity. Articles 15 and 16 of the constitution reiterate India's commitment towards the right to equal opportunity to all its citizens. In context of this, Article 15 says- "the state shall not discriminate against any citizen on grounds of religion, race, caste, sex, descent, place of birth".⁵

Article 16-states that no citizen shall on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them be ineligible for or discriminate against in state employment"... further Article 16(2) states that no citizen "shall on the grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them be ineligible for or discriminated against in state employment."⁶

These are the standard liberal position that gives primacy to the individual rights.

However, aware of the need to safeguard the interest of the depressed sections of population, the Constitution went on to make provision for preferential policies in their favor.

"The justification for this arrangement not being in opposition to the principle of equal opportunity is that

- a) Reservations seek to ensure a level playing field and
- b) They only seek to compensate those who have suffered harm due to past practices of the society as a whole. Affirmative actions including positive

discrimination enter into the picture here as measures seeking to ensure that no one has a head start in the race.”⁷

Working on its welfare principles of providing social justice to the hitherto discriminated group the state went on to amend the Constitution to include the enabling laws. This is evident from the amendments made under the two articles (Art 15 & Art 16) which enable the state to formulate such policies which may be necessary for the wellbeing of these communities.

Article 15(4), an amendment adopted in 1951, modifies article 15 with a clause that states: “nothing in this article Shall prevent the state from making any special provisions for the advancement of socially and educationally backward classes of citizen or for SCs, STs”⁸.

Similarly Article 16(4): “nothing in this article shall prevent the state from making any provisions for the reservation of appointments or posts in favor of any backward class of citizens.

Further Article 46, placed in the list of the directive principles of state policy, commits the state to ‘promote with special care the education and economic interests of the weaker sections of the people, and in particular of the SCs and STs and their protection ‘from social injustice and all forms of exploitation’.⁹

Article-335- states- “the claims of the members of the SC and ST in the legislative body shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connections with the affairs of the union or the state”.¹⁰

Article 330 and article 332 provides reservation of seats in the Lok Sabha and state assemblies.

These are standard group right positions adopted in the Constitution.

Proportions of Reservation

SCs and STs

Both Scheduled Castes (SCs) and Scheduled Tribes (STs) are given the benefits of reservation in the field of public employment, the reason being their integration into the mainstream. On the one hand where SCs had borne the burnt of untouchability for centuries and needed state's intervention through reservations, the STs too had been living in isolation from the national mainstream and needed state's help to establish their emotional integration with the rest of the Indian society. According to the constitutional provision in proportion to their population, a quota of 15% and 7.5% was fixed for SC and ST respectively in public and government sector.

The Other Backward Classes (OBCs)

'Since 1994, a new and quite large channel has been added to the reservation system for SC & ST. People identified as belonging to 'Backward Classes' (BC) or the 'Other Backward Classes' (OBCs) are the new beneficiaries'¹¹.

'In the 1970s and 1980s, the backward caste movement gained momentum in India and many castes like Yadavs, Kurmis, Koiris, Vokkaligas, emerged as important political forces. Arguing that their lot was even worse than that of the SC/ST for they constitute 52% of the population while they accounted for only 4.69% of the central government jobs, they launched political agitation in the name of the OBCs 'Other Backward Classes'. The Janta party which came in 1977 represented many of these forces. It was against this background that the second backward classes commission was set up in 1978 under the chairmanship of B.P. Mandal. This commission though wanted to recommend 52% reservations for the OBCs in direct proportion to their population but had to remain contented with the figure of 27% as this was in accordance with the guidelines set by the supreme court which restricted all reservation below 50%'¹².

The need to opt for special provisions like preferential policies is regularly contested or remains prone to contestation, in a country like India which has laws against discrimination and that has granted its citizen formal equality.

Prakash Louise has quoted Devanesan Nesiah's arguments in favor of preferential policies who says, "Laws against untouchability, segregation and discrimination are essential, but they can not possibly eliminate the impact of prejudice, or compensate for group disabilities caused by environmental or historical circumstances, or otherwise ensure the achievement of equal opportunity as between individuals. The structural obstacle to mobility may be most formidable where there has been a long history of prejudice, discrimination and exclusion sanctioned by law or religion as in the case of blacks and natives Americans in the USA, Dalits and tribal in India, and women everywhere. Even, if the legal and ideological basis of discrimination and exclusion can be overcome, prejudice and psychological conditioning may continue to hinder progress for a long period."¹³

According to Pratap B. Mehta non discrimination has a narrow connotation to itself. It seems a more passive principle of social justice that refrain people from discriminating against each other. On the other hand affirmative action, seeks to move beyond a narrow conception of non-discrimination towards equalising results with respect to various groups.'¹⁴

In a country of composite culture and emerging nationhood like India which is composed of diametrically opposite groups a segment required equality of opportunities. This was inline with the Constitution on the one hand and liberal democratic theory with the other. The ILO Declaration on Fundamental Principles and Rights at Work, adopted in 1998, reiterates in the following words the need to ensure equality of opportunity to those in special needs: "whereas, in seeking to maintain the link between social progress and economic growth, the guarantee of fundamental principles and rights at work is of particular significance at that it enables the persons concerned , to claim freely, and on the basis of equality of

opportunity, their fair share of the wealth which they have helped to generate , and to achieve fully their human potential.”¹⁵

Thus, reservations are designed as a tool to equalize opportunities for the disadvantaged population since in a caste ridden society the dominant castes tend to restrict the subordinate castes from gaining access to education, employment or other resources. Since the lower castes have to face the hostile members of the upper caste occupying every rung of the social hierarchy they are prevented from moving upward by the dominant groups (castes). The situation becomes very different if we replace caste by class. The very category of class is a product of equality of opportunity in a competitive market economy. Due to this factor results are uneven but legitimate. If someone loses in a race it is considered to be a result of his/her inability to win the race and not the state's failure to give equal opportunity to all. If the outcome is stratified by caste, it is alleged that the result may have been fixed i.e. some groups were discriminated against while others were favored.

In order to ensure that people enjoyed their legal formal right it is essential to have social equality. This in turn can happen only when all the members are placed equally in the claim over economic resources. In a society marked by high disparity of income and wealth economic opportunities can not be equally availed off. The organization of economy needs careful planning so that monopolistic hold over resources and power is demolished. Along with this the state also has to ensure reasonable representation of that segment of society, which has been kept out of power from centuries, in its power generating structures.

Reservation remains one such attempt in India to bring the lowest caste people, which constitute the lowest strata of population too, at par with the general population. More than just preferential treatment reservation is an attempt to re-arrange material resources and human forces. It aims at reorganizing both relations of production and human forces. Under this scheme of development retarded

regions and deprived populations are granted special treatment. Reservation is only a part of the total plan of a social transformation. It is a temporary arrangement that has been put into practice till the power generating structures are accessible to all the segments of India.

In this context Ishwari Prasad says, “The essence of the policy of reservation in government jobs lies in the fact that in a caste ridden society the control over bureaucratic structures by only some caste creates distorted authority in society. The access to and control over government institutions and jobs give effective powers over the economic resources, political authority and ultimately over the well being and life chances of those who are out of power. The monopoly of access over government jobs by the upper castes can perpetuate in future only by the denial of access to these jobs to lower castes which is realizable in a caste biased society. Unless the authority generating jobs are distributed over the entire social landscape even a beginning will remain obstructed for achieving equality of citizens”¹⁶.

It has become clear with the above discourse on reservations that sound economic conditions remain a prerequisite for social progress. It is with this aim in mind that quotas were fixed for the disadvantaged groups in the public sector. Though their success in achieving the set objective remain a matter of debate which shall be taken up in the next two chapter, for the time being it can be safely concluded that quotas have been a success in creating a middle class out of the deprived and disadvantaged section of people. Our public sphere is a testimony for the success of reservation policy where members of the disadvantaged group can be found interacting with the mainstream on much bigger proportions compared to what they did before independence.

The following table shows the percentage of SC representation in various government and public sector units. Compared to their negligible percentage of 1% at the time of independence in Group A category today their representation has significantly risen to nearly 15 %.12-13 %

	Group A In percentage	Group B In percentage	Group C In percentage	Group D In percentage
Central Ministries/Departments	11.29	12.68	15.78	16.7(excluding Safai Karamcharis)
PSU	10.35	11.05	18.93	22.51(excluding Safai Karamcharis)
Public Sector Banks and Financial Institutions	12.51	14.80	24.46	15.97(excluding Safai Karamcharis)
Public Sector Insurance Companies	15.38	12.40	17.24	31.35(including Safai Karamcharis)
Railways	14.32	15.79	14.77	15.77(excluding Safai Karamcharis)

As per information available from the Sixth Report of the National Commission for Scheduled Castes and Scheduled Tribes (1999-2000 and 2000-01)¹⁷

Extending Reservations to the Private Sector

After the structural reforms of 1991, Indian economic policies are marked by LPG. Neo liberal policies have brought strong influence and the old socialist vision of welfare of discriminated and disadvantaged group is on the wane. A direct consequence of the changed policies is fast replacement of governmental controls from many significant areas of operation in the economy by the private companies. As the public sector is being disinvested, a fear of losing jobs has creped among the depressed sections of population that till now have been the beneficiary of the preferential policies in government jobs. The process of converting public sector into private ones has given a blow to the chances of Dalits and tribal getting job opportunities.

According to the Economic Survey of India 2006-07, 'the annual reduction in public sector employment was a higher 0.8% due to government stated policy of

getting out of a large number of sectors and its reluctance to fill up vacancies created due to retirement. In the year 2004-05 the rate of unemployment went up to 3.1%, with employment decreasing to 54.2% in the farm sector. The survey also acknowledges that fact that private sector was the only job creator during the decade 1994-2004, with an annual rise of 0.61%.'¹⁸

According to another report prepared by 'the working group on the empowering of the schedules castes, over 1,13,450 job opportunities were lost by the SCs in the central government during 1992-1997'.¹⁹

The figures are disturbing for Dalits and tribal who till now have used the government and public sector jobs to gain ascendancy, surviving in the market that has discriminated against them on the basis of caste. In the present scenario it becomes but natural for these sections to raise concerns and demand reservations in private sector where jobs are available.

Working of Reservation: An Analysis

Over the last 60 years that reservations have been in practice they have given rise to some consequences which have become the defining features of the Indian preferential policies. More than a means of attaining social justice reservation has acquired a potential to be used as a political weapon for serving self interest among various groups in India. It has influenced subsequent policy debates, political responses and new policy choices.

One of the eminent political scientists, Myron Weiner, in the book edited by Ashutosh Warshney *The Indian Paradox: Essays in Indian politics*, has studied the Indian policy of reservation in details and has come up with the analysis of how it has worked in the country.

Weiner says that there is felt an increasing pressure on the state to extend the benefits of preferential policies to backward castes and autonomous population



which was initially intended only for the scheduled caste and the schedules tribes. New groups are demanding their inclusion into the list of backward castes on the one level and minorities like Muslims, family and children of immigrants on the other side.

As the Indian Constitution leaves the exact nature of reservation to be decided by the legislatures, the issue has turned into a political affair. "What preferences and for whom are political matters, resolved not in the political arena with struggle in the streets, at the polls, within the government bureaucracy and in the state legislature. Concessions granted to one group become basis for demands by another." ²⁰

Weiner says that because of its very nature being constitutionally and politically open for negotiations, the demand for preferences has become a device for political mobilization. Politicians mobilize people around the demand for getting their group included into the list of beneficiaries. Perhaps no other issue unites people to the extent demand for reservation does in India. This has been particularly successful in the case of the backward classes -as a number of castes diverse in their income, occupation; culture, size etc have come to unite on the issue of reservations.

Weiner notes that the policy of giving preferential treatment to some have led to backlashes among groups. The upper caste has come out in strong opposition against reservations. Many feel that these policies are enjoyed by only those who are well off among the backward classes or the 'creamy layer'.

A most recent example of backlash was the violent protest shown by the Meena community (SC) against the demands of the Gujjars to be included into the list of SC in Rajasthan. Thus the fear of opposition rises both from the upper caste as well as from those who fear their benefits of reservations might be shared if new groups

are included in the list of disadvantaged people.

In order to arrest the ethnic conflict and backlashes the governments in India have created supernumerary positions, both in education and employment. Under this overall seats are increased so that new groups can be accommodated. In the recent times in wake of demands for extending 27% reservation for the OBCs in higher education, the government has proposed to increase the overall seats in these institutions so that any conflict can be avoided.

Sometimes reservation becomes a bottleneck for institutions while hiring people of particular skills. Their need to hire people of particular skills at times comes in conflict with the requirement to comply to the rules of reservation which requires appointments and promotion to be made from a particular ethnic group. To combat this handicap institutions in India have taken course to ways which Weiner calls as 'institutional opposition.' He says-"Institutions may fight for exclusion of certain categories from the system of reservation or resist the allocation of a particular position to a less qualified member of scheduled caste, tribe or backward caste"²¹. Along side their fight they have also taken supernumerary routes making more appointments than needed to accommodate reserved category. Though people get accommodated through these measures a sense of bitterness develops between those holding reserved positions and others. Former feel that they have been just accommodated without actual responsibilities whereas the latter remain dissatisfied as they get responsibility minus proper rank and salary.

Unfortunately conflicts within ethnic groups have come to the fore on the question of whether reservations have been allocated fairly. In India the ethnic categories to which reservation have been given are themselves composed of sub-categories. If benefits are acquired by one predominant group demands are raised to subdivide reservations or even 'dropping one or more groups from the list'. Moreover the advanced sections of the targeted community also resist any attempt of the state to take away their privileges. Many a times these group provide the much needed

leadership to the community in their struggle for seeking reservations.

As membership of an ethnic group is helpful in gaining access to education, employment, or promotion people develop strong sense of identity with the group. The preferential policies have given rise to new form of 'social markings'. Caste which was considered to be an impediment has now become a readymade tool for gaining mobility. Individual identity is deeply connected with the caste identity. The status of a caste in the caste hierarchy determines the social status of an individual. No matter how advanced an individual becomes in terms of education, employment or income, he is always looked down upon if his caste falls low in this hierarchy.

One of important characteristic of any preferential policies is their temporary nature. By this one means preferential policies are proposed to be used till a period group gains advancement and confidence to be included in the mainstream. Once this is achieved for a community, that community is expected to make way for the more deserving ethnic community and once all the communities are brought to this level termination of the preferential policies becomes the logical conclusion. But in case of India the politics of termination may prove to be a really volatile issue. None of the political parties have ever supported any such demand considering its implications on the vote bank politics. Over the years reservations have helped politician mobilized people around issues concerning caste and religion. They are such powerful weapon in the caste ridden society that no one wants to loose them. Politicians in India have come to realized the fact that advantages could come only from the continuation of the reservations and not from their termination

Conclusion

In today's India reservation is considered as a contradiction. It is contradiction in a free and democratic country which has given liberty and equality in almost absolute terms to its citizens. Reservation required the state to give preferences to the disadvantaged and discriminated groups in public education, and employment. Reservation is a means of putting restraint on the free will of government official who could discriminate between people on the basis of caste while recruiting them. Designed under affirmative action reservations were temporarily implemented till social transformation is reached.

However no one can see an end to caste system and reservations in the near future and moreover demands are being made for extending them to the private sector too. Now, It is highly debated in the country whether reservation is because of caste or caste is because reservation.

In a globalized free market economy, conceptualizing private sector reservation is a major contradiction. Implementing them in the private sector remain problematic both at legal and practical ends. Emotions are high on both sides where pertinent and matching arguments are available both in favor and against the proposal.

The next chapter will start the debate analyzing the arguments given in support and in opposition to the proposed private sector reservation policy.

For those who hold a grand vision of a casteless India the proposition means putting the dream temporarily on hold.

Endnotes

¹ Melvin Tumin and Walter Plotch, *Pluralism in a Democratic Society*, Praeger Publishers, New York, 1977.

² Human Rights: A Compilation of International Instruments, United Nations, New York, 1988, p.58 cited in Prakash Louis, 'Affirmative Action in the Private Sector: Need for a National Debate' in Sukhdeo Thorat, Aryama, Prashant Negi (eds),

Reservation and Private Sector: Quest for Equality, Rawat Publication, New Delhi, 2005.

³ Ashwini Deshpande, 'Does Caste Still Define Disparity? A Look at Inequality in Kerala, India', *The American Economic Review*, Vol. 90, No. 2, May, 2000, p. 322

⁴ Myron Weiner, 'The Political Consequences of Preferential Policies: A Comparative Perspective', *Comparative Politics*, Vol. 16.1, October, 1983, p-35.

⁵ Ibid, p-42.

⁶ Ibid, p-42.

⁷ Gurpreet, Mahajan, *Seminar*, No-549, May 2005, p-14.

⁸ Myron Weiner, 'The Political Consequences of Preferential Policies: A Comparative Perspective', *Comparative Politics*, Vol. 16.1, October, 1983, p-42.

⁹ SR. Maheshwari, 'Reservation Policy in India: Theory & Practice', *Journal of Public Administration*, Vol-43, No-3, July-Sep 1997, p-665.

¹⁰ Ibid, p-665.

¹¹ Ibid, p-670.

¹² Partha. S. Gosh, 'Positive Discrimination in India: A Political Analysis', *Ethnic Studies Report*, Vol. 15, No. 2, July 1997, p-148.

¹³ Prakash Louis, 'Affirmative Action in the Private Sector: Need for a National Debate' in Sukhdeo Thorat, Aryama, Prashant Negi (eds), *Reservation and Private Sector: Quest for Equality*, Rawat Publication, New Delhi, 2005, p-150.

¹⁴ Pratap, B. Mehta, 'Affirmation Without Reason' in Sukhdeo Thorat, Aryama, Prashant Negi (eds), *Reservation and Private Sector: Quest for Equality*, Rawat Publication, New Delhi, 2005, p-214.

¹⁵ ILO Declaration on Fundamental Principles and Rights at Work, 86th session, Geneva, June, 1998.
website: www.ilo.org/declaration

¹⁶ Ishwari Prasad, '*Reservation: Action for Social Equality*', Criterion publication, New Delhi, 1986.

¹⁷ Website-www.ambedkar.org
url-<http://www.ambedkar.org/NHRCReport/7.pdf>

¹⁸ The Economic Survey of India 2006-07.
Website-www.finmin.nic.in

¹⁹ 10th Five Year Plan. Planning Commission. Government of India, New Delhi, 2001.P-201, cited in, Prakash Louis, 'Affirmative Action in the Private Sector: Need for a National Debate' in SukhdeoThorat, Aryama, Prashant Negi (eds), *Reservation and Private Sector: Quest for Equality*, Rawat Publication, New Delhi,2005.

²⁰ Myron Weiner, 'The Political Consequences of Preferential Policies: A Comparative Perspective', *Comparative Politics*, Vol.16.1,October,1983, p-46.

²¹ Ibid,p-47.

Chapter-II

Issues of Private Sector Reservation Policy-I

There is a proposal by the present Indian Government to extend the policy of reservation for the Scheduled Castes and the Scheduled Tribes (SCs/STs) in the private sector jobs. This has given rise to passionate debates among the supporters and the opponents of the reservation policy. Every body from the politicians, to Dalit intellectuals, from upper caste elite to policy makers and industry owners have jumped into the fray vehemently supporting their point of view often substantiated by empirical data.

Within a short span of time there has emerged a huge literature on the subject. This chapter examines the merits of the proposal extending reservations for SCs and STs in the private sector jobs in India. This has been divided into different sections based on various arguments given in opposition to the proposal followed by their critique and arguments in support of the proposed policy. The latter part of the chapter is based on the debate in the Parliament on the subject. The last section tries to look at the politics of reservation focusing on the stands taken by three important national parties - the Congress, the BJP, and the BSP.

The Background of the Demand

India like many other countries of the world adopted the policy of affirmative action to undo the historic injustice done to a section of its population called the SCs/STs who were oppressed by the hierarchal power structures of caste since times immemorial. These were the groups which had been pushed to the margins due to caste based discrimination and were living in inhuman condition marked by untouchability and social exclusion. Gandhi focused on this problem in his Constructive Programme in the 1920s, while Ambedkar raised it in the Round Table Conference attended by the former. Soon after independence the Constitution makers realized the need to uplift the condition of these groups and

also to bring them into the mainstream. Time bound reservations were adopted as a means of giving relief and confidence to the depressed classes. Under this arrangement seats were reserved for the depressed castes in public and government sector jobs, and educational institutions. The need to reserve seats came with the realization that without mandatory regulation to recruit these sections no one was likely to give them jobs due to caste prejudices. Seats were also reserved in the state and central legislatures to facilitate their proper representation and entry into the decision making process. Thus it was a kind of social engineering adopted by the Indian state to give social justice and foster equality and fraternity among the masses.

Baring few problems reservations in public sector were working fine. In fact they were helpful in creating a middle class out of this marginalized section which as a result of reservation become much more visible in the mainstream public sphere. Due to reservations the economic and educational condition of the SC/ST government employees improved remarkably. But the fate of those who remained out of the protective net of the government remained dismal. Even today they have to face severe constrained in their day to day life.

According to 'the 2005 Annual Report of the National Crime Records Bureau (NCRB) under the Union Ministry of Home Affairs, a crime against SC communities is committed every 20 minutes in the country. It records that 26,127 cases of atrocities against sc communities have been recorded last year. In 2004 the recorded numbers of crimes against Dalits were 26,887. The 2005 report states that there were 291 cases under the protection of Civil Rights Act and 8,497 cases under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act'¹.

Studies have shown that Dalits's access to cultivable land, whether through ownership or otherwise, has come down substantially between 1961 and 1991. The NHRC Report said: "the increase in the percentage of agricultural laborers shows that many SC who owned land earlier (and some may have cultivated land as

tenants) have lost them- a single most depressing indicator of their worsening economic situation which directly mirrors their vulnerability.”²

The NHRC Report states : “ despite distribution of the ceiling surplus and other land, the percentage of landless household among SCs has increased 12.63% in 1982 to 13-34% in 1992”. Studies made in Andhra Pradesh and Karnataka clearly bring out the incidence of discrimination in occupation, employment, wages, land and other economic spheres. Evidence from Orissa also corroborates discrimination in the matters of land and labor market. The NHRC Report also states: “the poor implementation of land reforms, particularly in states where Scheduled Caste constitutes a large percentage of population, has deprived them of access to this asset to improve their economic position and reduce their vulnerability”³.

‘With the growth of Dalit awareness and resistance to discriminations and assertion of rights, atrocities have emerged as the new instrument of oppression of Dalits who remain vulnerable as a major segment of agricultural wage laborer but a minority in the population. The common juxtaposition of a local caste of agricultural wage laborers (SC) with a landowning dominant caste provides an explosive situation, ignitable by any spark’.⁴

Even after so many years of independence the socio economic conditions of Dalits and tribal remain disturbing. Most of the SCs have very small proportion of cultivable land and most of the STs are getting dispossessed from their land, reduced to being a minority in their home lands.

The already messy condition of these sections has got worse after the economic reforms of 1991. The state in accordance with the new economic policies has started withdrawing itself from many areas of market operations. Many of the public sector undertakings are either privatized or their assets are being disinvested. The government sector is reduced to less than half a dozen from being 18 at the time of independence. The policies of LPG followed by the Government have made the weaker section vulnerable to market forces. This has badly impacted

upon their chances of getting jobs in the public sector as there are very few industries left under the public sector and most of them have stopped new recruitments. The disadvantaged sections which till now was a beneficiary of the preferential policies of the Government has suddenly found the shelter missing from their head.

This has led to strong demands for the extension of the reservation policies in the private sector that as a result of liberalization has gained immense strength. In fact according to the Economic Survey of 2006-07, it is the only job creator in the country in the last one decade⁵.

Need For Private Sector Reservations

More than the loss of jobs in the public sector what has led many to support the extension of reservations in private sector jobs for the SC/ST is the discrimination practiced towards them even in the private sector. Had the discrimination not been prevalent in the private sector, the state would not have brought reservations into public sector at the first instance and also the present demand might not have been so serious. In other countries where affirmative action is practiced both the public and the private sector together share the mantle. Studies have contradicted the claims of transparency and impartiality of the private sector. They also show the negative impact the discriminatory policies have on the efficiency of the economy of any country. Discriminations in the labor market also bring with them many socio-political consequences. Sukhdeo Thorat with the help of works done by Nancy Birdshall and Sabot in the field of labor market discrimination in the private sector has come up with many insightful observations in his essay 'Why Reservation in Private Sector is Necessary'?⁶

He writes that the mainstream economic theories show that market discrimination has multiple consequences. 'It hampers economic growth creates income inequalities, leads to inter-group conflicts by denying equal opportunity to discriminated groups. They suggest that economic discrimination will slow down

growth by reducing efficiency due to sub optimal allocation of labor among firms and economy, by reducing job commitment and efforts of workers who perceive themselves to be victims of discrimination and , by reducing the magnitude of investment in human capital by discriminated groups, returns on this investment'⁷. Discrimination involves denial of access to material and educational resources to some specific groups which leads to inequality and worsening life conditions for them.

The caste system in India is characterized by fixed and compulsory occupation with associated fixed economic rights. The caste system does not allow the people of one caste to take the occupation of another. This rigidity restricts the movement of labor and capital across caste groups, resulting into imperfect market situation. 'Due to these restrictions on mobility of the labour, capital and other factors do not move from the economic activities of low returns to the activities of higher returns to labour and capital. Consequently, the economy would operate at a lower level of returns than in a perfectly competitive market situation. In its ultimate outcome, the economic efficiency of the caste economy would certainly be lower than the one posited in the model of perfectly competitive market. The unequal and hierarchical assignment of occupation and property rights among castes implies that although every caste, except those at the top of the caste order, suffer to various degrees from an unequal division of social and economic rights , the former untouchables, who are located at the bottom of the caste hierarchy, suffers most as they face 'exclusion and discrimination' from access to all economic rights, including right to property, except manual labour or services to the castes above them'⁸.

Due to immobility regarding occupations some people are forced to remain in a particular occupation and some accept voluntary unemployment failing to get into their prescribed occupation.

Thorat uses Ambedkar's point of view to say that due to low social status acquired by some people by doing the work assigned to their caste their commitment toward the work they do get effected.

The reasons discussed above have given enough grounds for the supporters to justify reservations in the private sector. They have also prepared themselves to fight the private sector on any of the potential arguments they might put forth in order to reject the proposal.

The major areas of debate regarding reservation in the private sector are discussed under the following headings.

Defending Caste Criteria

The use of caste for formulating and continuing affirmative action policy like reservation has come under severe criticism from both social scientists and industrial class. Those who are reluctant to use caste as a basis for giving reservation have opposed the caste criteria for its conception. 'They are of the view that the process of modernization, urbanization, globalization and industrial development has weakened the traditional rigid caste system. The caste system with its hierarchy and exclusion principles has disintegrated. At most it prevails only in the form of a collective politico-social psyche. Moreover the benefits of the caste based reservation have been enjoyed by the economically and educationally well off elites among the marginalized caste. Another important criticism which has found lots of supporters is the communal nature of the criteria. Caste is considered as going against the secular ethos of the constitution'⁹. Making caste the basis of reservation has intensified caste affiliations and has fanned the fire of caste hatred. It also nullifies the chances of phasing out reservations as caste can never be destroyed.

'Thus, a more secular basis is required to help the backward and needy and that can only be based on economic criteria. Income is the obvious choice for the group of people opposing caste based reservations for it fits the requirements of being secular and rational in character and having inbuilt mechanism for the dissolution of reservation in the due course of time.

The good thing about the income criteria is that it is socially neutral. Any person who has a low family income can qualify for reservations irrespective of his/her caste, creed and religion. The scheme will be self abolishing with people automatically getting out of it upon a rise in their income'¹⁰.

This point of view is countered by a significant section of intelligentsia and policy makers. They argue that the economic criteria are 'flawed in missing the very important fact of caste being the 'axis of exploitation'. The rationale behind reservation is that 'among other things the caste or racial identity of a person contributes to their deprivation or oppression...the solution to poverty is an economy that can lift people out of poverty, not reservation'.¹¹ The economic criteria assume backwardness to be an economic status independent of history and tradition. It fails to understand that the backwardness among SCs/STs is a result of the historic discrimination faced by these people which restricted them from attaining education and material resources. It fails to understand the fact that people are poor not because of lack of material resources but because of their caste, because of who they are.¹² The chances of getting success in raising one's conditions are never the same for a poor Brahmin and a poor cobbler in the caste ridden Indian society. The Constitution makers understood this fact and designed affirmative action policies not only to remove discrimination against these people but also for equalising results with respect to them.

Writing in this respect, Marc Galanter says,

"The use of caste groups to identify the beneficiaries of compensatory discrimination has been blamed for perpetuating the caste system, accentuating caste consciousness, injecting caste into politics, and generally impeding the development of a secular society in which communal affiliations are ignored in public life. The indictment should be regarded with some skepticism. Caste ties and caste based political mobilization are not exclusive to the backward classes. The political life within these groups is not necessarily more intensely communal in orientation; nor are the caste politics of greatest political impact found among these groups. Communal considerations are not confined to settings that are subject

to compensatory discrimination policies but flourish even where they are eschewed. Although it has to some extent legitimized and encouraged caste politics, it is not clear that the use of caste to designate beneficiaries had played a predominant role in the marriage of caste and politics. Surely, it is greatly overshadowed by the franchise itself with the invitation to mobilize support by appeal to existing loyalties. But the avowed and official recognition of caste in compensatory discrimination policy combines with the over-estimation of its effects to provide a convenient target for those offended and dismayed by the continuing reliance of caste in Indian life”¹³.

Defending the caste criteria of reservations sociologist Dipankar Gupta writes, “Reservation should not be construed as an anti poverty programme, as a stand in for poverty eradication interventions. At first sight, reservation may look like an anti poverty measure. This is because the target community is usually very poor. There is a strong statistical correlation between being a member of a particular caste, tribe, or religious community, and being poor. For this reason the cultural mark of ascription serves the purpose well for it is a ready reckoner in determining who are to be the beneficiaries of reservations”¹⁴.

Studies conducted by Ashwini Deshpande¹⁵ and Lance Brennan et.all¹⁶, have shown a positive relation between the caste hierarchy and relative well being of individuals. Deshpande using data from the National Sample Survey of 1994, has shown in her study that caste differentiation remains a potent element of inequality in Kerala, a state which is regarded as one of the most egalitarian and developed(human resource) in India.

Similarly Lance Brennan’s study of four Indian states of Andhra Pradesh, Bihar, Tamil Nadu and Uttar Pradesh, for the period of ‘the last half of the 20th century has established that the traditional correspondence of the socio- religious hierarchy of caste with the gradation of well- being remains broadly unbroken, though no longer absolute.... Since the early 1950s reservation policies, developed in many cases as the result of political agitation by the backward castes themselves, have made a difference to some families. Reservation has made it possible for few

among the lower castes to prosper, to become educated, and to begin to make the most of their caste numbers to take part in the increasingly complex political arena¹⁷

Attacking Recruitment Policy

In response to the proposition the corporate sector has shown its fear concerning the freedom to recruit people. Rejecting regulatory reservations, the corporate sector wants the labor market to function unhindered governed by the logic of market. Merit should be the deciding factor and not caste, the best suitable should be recruited, is what the corporate sector is arguing for. It has vouched for the efficiency and transparency of the market system and does not want unnecessary interference in the operations of market.

In ideal conditions this position would requires that all the potential candidates must have access to information about job opportunities and equal access to channels and processes of hiring in order to be hired. Similarly the employer must be interested in hiring the best and must refrain from any discriminatory practices.

But many studies have shown that the Indian private sector has practiced discrimination on the basis of caste, community, religion etc. The private sector has always acted on its prejudices and shown bias for some.

Labor market studies conducted by T.S. Papola¹⁸, show that the labor market in Indian private industry has been historically characterized by exclusionary and discriminatory practices. The findings point out some of the trends in the labor markets which tell that, first labor markets have never been freely competitive. Second they have been segmented by institutions and practices created by the employers. Third, hiring on bases of other than merit, such as caste, community, language and regional affiliation has been a common phenomenon. And fourth,

these practices have been justified on the grounds of 'efficiency'¹⁹

Lack of transparency and informal channels of recruitment used by the private sector, are two of the issues which have generated lots of critical literature in the discipline. The present system of recruitment followed in most of the industries is deeply problematic. It is far from being open and transparent. Open advertisements for posts in private companies is very hard to find and even if they appear they are not very regular. Most of the time candidates are chosen through informal channels like network recommendations. If a person lacks network connection then chances of his selection become very restricted. On the other hand if a person has good network connection then his chances of getting recruited increase manifold.²⁰

For example a study of factory workers by Richard Lambert during 1959 as quoted in T.S. Papola "found that 72% of the workers used "informal" channels for securing jobs. Two third of the workers already knew someone, a relative, or a friend, in the factory where they were first hired and in 85% cases these friends and relatives helped them in securing job..... 80 % of the workers perceived influence, to be either most important (50%) or very important in securing a job".²¹

Many software and management companies recruit new employees by asking existing employees to recommend new ones. So they contact people in their networks.

This has a severe impact on the job prospects of the candidates from the disadvantaged sections as most of them happen to be first generation educated persons in their family and may lack network connections. Since they suffer from historic exclusion they are advantaged at this front. Some ongoing studies by sociologists show that this leads to concentration of people of similar background, in terms of gender, caste and community within companies.²²

'The practice' adopted in the local labor market for factories in Poona resulted in

significant over-representation of the higher castes (Brahmins and Marathas) in the workforce; these castes together made up for 50 per cent of the workers, as against 35 per cent of the city population. In Coimbatore, among the upper caste (Brahmin) workers 49 per cent were in 'protected' jobs, who, as influential and trusted insiders could also influence hiring decisions in enterprises. A proportion of those holding such jobs was 23 per cent among backward, and 30 per cent among Scheduled Castes'²³.

The private sector has a history of being selective and reluctant in employing people from the open market. During the British period there evolved the 'jobber' system which recruited a local person in order to supervise or discipline the workers. This system was marked by discrimination as the discretion was used by the jobber to either to recruit or remove any worker at will. After independence this gave way to the institution of 'Labor Contractors' which proved to be equally discriminatory in then sense that the labor contractors recruited workers only through known source'²⁴.

The Indian private sector has been involved in selectively using caste, language, religion to serve its own interest. 'Between, 1960-1990, especially during the pro-socialist environment of 1970s when labor became militant some of the business family stated hiring workers from their own communities, thinking them to be less hostile and more pliable. During Indira Gandhi's 'license raj' caste loyalties were used to keep secrets of the companies. Thus, Most of the industries trusted people coming through reliable channels than open market or employment exchanges'²⁵.

The practice of hiring from network connections has badly undermined the relevance of Employment Exchanges in India. These are the channels which make information on job vacancies available to candidates. 'During the early years of its operation, National Employment Scheme seems to have played important roles in recruitment and placement of workers. During 1949-53 between 50-85 per cent

vacancies notified by the employers were filled by the registration of employment exchanges. This figure went down to 65 per cent during 1953-60 and stayed at 60 per cent during 1960- 68. During 1980's the ratio was steady at 55 per cent.

In comparison to the public sector the private sector did not use them significantly to hire people .Those who got employed through employment exchanges formed 2.2 per cent in Pune (1957), 1.87 per cent in Ahmedabad (1971-72), 1.5 per cent in Mumbai (1975-76), and 10.6 per cent in Coimbatore (1986-87)²⁶.

Questioning Merit?

The supporters of reservation policy question the notion of 'merit' contemplated by the private sector. They question as to how the private sector can bring the issue of merit when their own practices are not in conformity with the principle. The whole issue of lack of transparency in hiring process is brought into the debate to justify the point. The pro reservationists agree that most of the private industrial houses in India follow the principle of inheritance and not merit while transferring the management of their companies to new people. They rely on their own sons, daughters, brothers, grandsons, nephews and not on some brilliant manager, while transferring the control of the industry. 'This is not found in most of the countries of Europe or America, where the founding families have little control over the running of the companies. In a recent famous case, the families of Hewlett and Packard opposed the merger of Compaq and HP, but the shareholders and the CEO went ahead with it. In most of the companies in the US it is the shareholders, who decide the CEO, and other functionaries through the board of directors, not one's father, or sometimes mother as in India.'²⁷

Equally questionable is the definition or constituents of 'merit'. The ability to score high marks or speak good English or present oneself in a particular manner are narrow and elitist conception of merit. There is no fixed definition of merit in

the market and this has helped the private sector to manipulate it in its favor on various occasions.

It is argued that merit is context specific and not homogenized category. It is a product of socio-cultural environment a person lives in. If a person comes from illiterate family, without the culture of learning or reading, then chances are that he/she would not do well due to the inherent limitations²⁸. It is argued that 'merit, whether in terms of specific ability, academic record, talent, or skills- all constitute what sociologist such Bourdieu refers to as cultural capital. While some are acquired in educational institutes, part of these and how well we learn them, depends on our social backgrounds'²⁹.

According to the Mandal Commission 'merit' in an elitist society is a mix of native endowments and environment privileges. It is up to a civilized society to ensure that when 'unequals' are made to run a common race, they are provided with appropriate privileges.³⁰

The above definition of merit can not be applied to the case of marginalized sections like the SCs/STs since they had been historically denied the means of learning. They had been forbidden to read, write or even listen to scriptures. Their so called lack of ability is a result of unequal conditions resulting from their restriction from the learning process. The access to opportunities and entitlements is severely constrained due to the ascribed status they have carried. In today's competitive environment the ability to do well require several pre requisites like quality education, good health condition, favorable socio cultural environment etc which are very hard to fulfill for the poor and disadvantaged community. Taking view of this fact one of the most progressive judges of India, Justice Chinappa Reddy has said:

"What is merit? It is not the child of the SC, ST, OBC who have been brought up in an atmosphere of penury, illiteracy, and anti culture, who are looked down upon by tradition and society, who have no book, no radio, no TV, to listen and watch, no private tuition, no one to help them with their home work, and no one to advice

them because their parents themselves are illiterate and ignorant, and who have to trudge to nearest local boards schools or colleges, has this child not got merit, if he with all his disadvantages, is able to secure the qualifying marks of 40 % or 50% of the total at a competitive examination, whereas the children of upper classes who receive all the advantages, go to the sacred heart convent coached for the examination may secure 70, 80, or even 90% of marks. Surely a child who has been able to jump over so many obstacles may be expected to do better and better as he moves along in life”³¹

The private sector’s proposal to open up educational and training institutes for the SC/ST reinforce the fact that these disadvantaged and discriminated social groups are devoid of meritorious candidates. This is not correct and legitimizes a particular view of ‘merit’ as the correct one. In their obsession for merit the private sector has failed to realize that the initial development of arguments for merit was the focus of liberal assault on heredity and nepotism. The private sector is found wanting in its attitude to come out of the age old feudal mentality of seeing merit as an outcome of hereditary factors. There has been no scientific proof to show that merit is only hereditary and can not be inculcated through external environment. On the contrary studies have shown that external factors go a long way in making a meritorious candidate³².

‘It is also argued that the meritorious upper caste has been dominant in India for centuries, controlling every sector of the country be it society, politics, culture, or economy. Still India is a poor and developing country struggling with evils like poverty, illiteracy, corruption, under development etc. Should then one blame the upper caste for all the problems of the Indian society?’

One of the sad realities of India is that there are already schemes of reservation operating in society that favors those who are more privileged. In the family property is reserved for the sons and not the daughters, owing to patriarchal norms.

No one questions the merit of the person getting it or the reason for denying it to the other.

In the field of education reservation is found for NRIs and for those who have the ability to pay. There are so many educational institutes in the country where candidates having good marks are denied admission because they can not afford to pay. These institutes take those who might not have the required or good percentage but could pay large sums of money. No one objects to the arbitrary nature of these reservations.

In every state of India seats up to 85 per cent in the government-run educational institutions and offices are reserved for the native population. All these reservations go unnoticed in our society as they are useful for the upper class and upper caste people.

It is argued that 'if the logic of meritorious deserving the reward is so pious to the private sector then why has it not raised the question of land going to the actual cultivator? Why agriculture is still not considered being an important skill and the agricultural worker is seen in a low esteem'?³³

Also no one questions the efficiency of the professional working in the southern states of India where the percent of seats reserved is much more than that earmarked for the public sector. Most of these states had adopted reservation much before the national policy on affirmative action was adopted. In fact the southern states remain among the most developed and efficient states in the country.

The answers to these questions may disturb the status quo within the society but they remain none the less very crucial for the futures of social equality and social justice in India.

Looking Beyond Reservations

The debate has also raised some of pertinent but uneasy questions for the

supporters of the reservation policy. Though they may not have opposed the proposal, many in the academic arena, have raised their doubts regarding the efficacy of the reservation policy in the private sector. They have also emphasized the need to look beyond the reservation in order to find more effective solution. But some of them have given the credit to reservation for ameliorating the conditions of the disadvantaged section. According to figures quoted by sociologist Dipankar Gupta, 'today there are much larger number of Dalits in Grade I services than what was the case after independence. At the time of independence there percentage was about 1 per cent which has increased to 12 per cent. It is expected to come to the required 17 per cent very soon. Their percentage keeps on increasing as one climb down the ladder. At the grade IV level they are over-represented'³⁴.

But at the same time the issue of backlogs in the grade 1 and grade 2 not being filled has come to occupy a substantial portion of the debate. Similarly the issue of creamy layer among SC/ST is raised by many who feel that the benefits of reservation policy has not percolated down due to creamy layer formed by the better off among these groups who have failed to give way. As the concept of creamy layer is not be applicable to SC/ST due to the constraint of untouchability that which can affect even the better off among the SC/ST a need to look for a better policy design is emphasized.

Professor Gurpreet Mahajan states, 'At the theoretical level we have rarely considered the possibility of using anti-discrimination laws to pursue the ideal of equal opportunity. Likewise we have not given sufficient attention to the role of affirmative action, other than reservations. Reservations in turn have remained de-linked from other policies involving redistribution of material goods, and the role that distribution of non-material goods can play in promoting social justice has remained neglected'³⁵.

Likewise many have raised the need for structural changes to improve the economic condition of the neglected people.

The role of the Dalit leadership in the country has come under severe criticism from many quarters for ignoring the more important issue of structural changes. They are blamed for using reservation for selfish vote bank politics. The Dalit leadership seems more interested in the question of identity and politics of reservation than taking up issue of land reforms, minimum wages for the landless workers, education and health facilities.

It is a common feeling among intellectuals many of whom are Dalits like Vivek Kumar³⁶ and Chandrabhan Prasad³⁷ that more than by giving reservation the government can help the Dalits and the tribals by making them entrepreneurs. For this they want the government and the private sector to give preferences to these groups while distributing licenses for contracts or dealership. Both the governments as well as the private sector can buy goods from these sections; they can introduce supply dealership diversity in their business in favor of Dalits. Till now the private sector is silent on its role in giving credit to these groups. They have placed the burden on the public sector financial institutions. It is high time that they include this into the ambit of their social responsibility.

The Political Debate

This section is based on the debate held on the subject in Lok Sabha on 9th July 2004, and on the views of few Parliamentarians expressed in the media.

The Indian Government has shown its interest in bringing a legislation extending the scope of reservation in the private sector. The Common Minimum Programme of the UPA government expressed its desire to initiate a national dialogue on the issue of extension of reservation policy in the private sector job. The significance of the issue can be judged from its mention during the Presidential speech delivered in the Parliament.

The President of India addressing the inaugural session of the 14th Lok Sabha said these following lines:

“The Government is sensitive to the issue of affirmative action including reservations in the private sector and it is committed to faster socio-economic and educational development of the Scheduled Castes and the Scheduled Tribes. My Government will initiate a dialogue with political parties, industry and other bodies on how best the private sector can fulfill the aspirations of Scheduled Castes and Scheduled Tribes”.

But it is surprising to note that there has not been much done after that. There is hardly any substantive debate except on few occasions in the Lok Sabha. The issue has been raised from time to time, though there is still not frequently mentioned in the day to day proceedings. The following section is based on the discussion held in the Parliament where a number of Member of Parliaments expressed their support for the proposal.

The Indian political class excluding a few exception aside has been unanimous in its demand for reservation for SC/ST in the private sector jobs.

Across parties the dominant argument given in favour of this proposal is the deteriorating condition of jobs in the public sector where till now there is reservation for the downtrodden, historically discriminated sections of population. The blame is put on the policy of liberalization, privatization and globalization (LPG) which has led to the exit of the state from many areas of operation. In the period after independence there were 18 sectors which were kept under the public sector all having the provision of reservation. But after the 1991 structural reforms and liberalization of economy, these areas have come down to four. The state has started privatization its undertakings. Also due to disinvestments and downsizing in government undertakings, there is major reduction in the public sector jobs. New recruitments in the government or public sector like public sector banks, railways etc have either been stopped or are very insignificant. In the past 10 years the employment situation has worsened in the country. According to figures placed during the debate in the house, Employment in the public sector in the country in 1999 was 194 lakhs. But this figure came down to 188 in the year 2002. Similarly in the private sector in the year 1999, the figure was 86.98 lakhs which came down

to 84 lakhs in the year 2002.

Quoted from the speech of MP Ajay Kumar –

“As per the report of the National Sample Survey Organisation, the rate of growth of employment declined from 2.7 per cent per annum in 1993-94 to 1.07 per cent per annum in 1994-2000. According to the Report, the number of unemployed increased from 20 million in 1993-94 to 27 millions in 1999-2000 and also the incidence of unemployment increased from 5.99 per cent in 1993-94 to 7.32 per cent in 1999-2000. At the end of 1996, there were over 36 million persons registered on the employment exchange of India. The number increased to 94 million by the year 2002. The rate of employment generation in the organised sector has declined from 2.4 per cent during 1971-81 periods to 1.6 per cent per year during the 1981-91 periods and to 0.8 per cent during the 1991-95...”

Those who are worst hit by this loss of jobs are the SC and ST people. As they were prone to be discriminated against in jobs recruitments, reservations helped them get securing place in the job market. But the current situation of recession of the state has aggravated their situation.

In many areas of the country SCs/STs have to migrate to the cities in search of jobs for they are discriminated by their employers on the issue of minimum wages. There is a growing disillusion and resentment among the youth in the country due to the non function of Employment Exchanges owing to lack of jobs. Some of them in the North-Eastern states have taken to violence and anti social activities in the absence of employment opportunities. The need for private sector reservation arises because the discrimination against these people is explicit at every level. The backward caste candidates do not get admission in private professional institutes due to both caste and financial reasons. Also they are unable to start their own business.

It is felt in the political class that India is a welfare state and it is the duty of the government to provide special opportunities to the disadvantaged people to come up to the mainstream. It is felt that reservation should be looked at as a corrective

measure and not as a 'facility' given to the SC/ST, by its critics. It should be used as a means to encourage these people to participate in governance, to experience power.

Agriculture is an important part of the economic system providing about 60 per cent of the total employment in the country. More than 70 per cent of the people depend on this sector. Agriculture sector suffered heavily during this period owing to the LPG policies. The employment in the agricultural sector dropped to 57% in 1999-2000 from 60% in 1993-94. reduced import tariffs on agricultural products, which was in accordance with the WTO conditions had a very bad impact on agriculture. This coupled by frequent droughts and floods have reduced agricultural activities resulting in the loss of work for millions of agricultural laborers. These people need to be given means of livelihood by providing jobs in private sector for there is reduction in employment opportunities in the public sector. Since the private sector is considered as a significant agent of development and a creator of jobs the onus lies on this sector to uplift the conditions of the disadvantaged people.

The political class has strong reservations against the stand taken by the private sector against reservations. Most of the members think that there should not be anything private about the private sector so long as it remains under India bound by Indian laws. It is growing feeling that since the private sector takes substantial grants, concessions, subsidies etc form the Government they can not shy away from the greater social responsibility adopted by the state. In most of the industrial projects the government financial institutions like the Industrial Development Bank of India give credits to the industries. By simply putting 5-10 % of their capital the private sector can not consider itself to be private owner of the industries. As per Mahatma Gandhi's saying they should act as the trustees of the public wealth. If they can not provide livelihood to the 85% of the toiling masses

they have no right to exist.

The political class is also critical of the views of FICCI, CII and other similar organizations that have emphasised on the need for the education of the disadvantaged sections before their candidates can be considered for recruitments in the private sector. The logic behind this view has been compare with the logic of Apartheid which denied independence to people on the basis of so called 'inferior culture' and civilization and lack of western education. If their arguments for prior training and education of the SC/ST are accepted it would mean waiting for centuries to get employment. According to a majority of them these view are proofs of their selfish commercial interest guided by profit motives. The whole 'merit' argument is flawed and reflects the feudal mindset of the upper caste and class industrialists.

There is a strong demand to bring legislation in the Parliament concerning the issue. Suggestion has been placed to make a Reservation Act which should cover all public and private sector. The Indian Government issues a number of licenses to the private sector to open up new factories, schools, universities, hospitals, commercial complexes etc. Whenever licences are issued for starting a private enterprise or a private firm, there must be a condition preceded that they will observe rules of reservation in the matter of employment. This should cover every level. The Supreme Court should also put reasonable restrictions on the fundamental rights of the private sector in the greater interest of the society.

It is also noteworthy that many of the members have demanded the proposed Reservation Act to be put into the Ninth Schedule of the Constitution to restrict it from any unfavourable judicial scrutiny.

The issue of backlog in public sector undertakings in filling the quotas is another important aspect of the demand. One of the disturbing facts is the deliberate attempt made by the officials in command not to fill the quotas regarding SC/ST. in some areas untouchability can still be found to be practices hampering the chances of SC to get jobs. There are various instances of discrimination practiced

in textile and dairy product business.

Also in some of the regions of the country SC are given reservation on the basis of 7.5% though they consist of 20- 25% of the population. In the case of ST credit is not generally given against their land on various pretexts. This is also a reason to bring a more stringent legislation³⁸.

The Politics of Reservation

The debate in the Parliament seems to have covered all the arguments given in favor of extending reservation in the private sector. The surprising fact is that there is hardly a party which has opposed the proposition. The BJP which is known to have contradictory views on the subject of reservation has also accepted it after initial resistance thanks to the fear of loss of votes belonging to the disadvantaged sections. The reason for a change in the ideology of BJP can be attributed to the emergence of coalition politics and emerging consciousness among the Dalits about their politically important role. Since the marginalized sections constitute the majority their vote can decide the fate of any party in the changed political scenario. In the coalition era no party can win an election by relying on the votes of a particular caste or class of people. The BJP which till now had an upper caste and class bias can no longer afford to ignore the issues of the disadvantaged sections for fears of being sidelines. With the growing political consciousness the disadvantaged groups are also able to assert themselves in a manner which has led to their acceptance into the mainstream politics.

“The Congress party has special reasons for getting into caste politics, which have little to do with morality or justice. The party came up as an umbrella organization claiming to represent all sections of the population during the independence movement. That was a useful strategy to prevent the British Raj from using tactics of divide and rule. And when India gained independence, the umbrella approach helped the congress co-opt any group which seemed to gain popularity. The party claimed to speak for SCs, STs, OBCs, Muslims and everybody else. It co-opted

and rewarded Dalits like Jagjivan Ram, tribal like Jaipal Singh, Muslims like Fakhruddin Ali Ahmed. For some decades this tactic undercut attempts by caste groups to become politically strong.

But this game ended in the 1990s, when identity politics finally overcame the congress' umbrella approach. The BSP gained critical mass and took away the Dalit vote. The OBC votes were progressively garnered by OBC leaders like Mulayam Singh Yadav, Laloo Yadav, Nitish Kumar etc. Muslim voted tactically, opting for choosing Mulayam and Laloo in north India. Parties based on religion (the BJP, Shiv Sena) and region (Telgu Desam, BJD, AGP, ADAIMK, Akali Dal) became stronger in 1990s. So the Congress, which claimed to represent everybody, was in the danger of representing nobody"³⁹.

Parties like BSP which pay its allegiance to the cause of Dalits has supported the proposal for its obvious reasons but has failed to question the persistence of caste based and systemic discrimination against Dalits. In fact it has started allying itself with Brahmins whose monopolistic and discriminatory practices since the historic times have led to the exploitation of the Dalits. The BSP's very formation was aimed at fighting the upper caste monopolies and injustices, in which Brahmins were considered as the prime targets. This dramatic change can be attributed to the need of the political parties to get the support of all the sections in the age of coalition's politics.

Thus reservation has become a holy cow that nobody wants to touch. It has become an effective weapon for the politicians to fetch votes by promising its extension to newer areas and to new categories of people.

Conclusion

Reservation in the private sector is a genuine demand which can be justified on the basis of discrimination practiced against the SCs and STs discriminated in the private sector. Due to the loss of jobs in public sector and their simultaneous creation in the private sector the need to extend reservation in the private sector has gained ground.

The private sector in India has a history of discriminatory hiring policies based on caste, community, linguistic and religious grounds. The present system of recruitment through informal channels, network connections does not support their claim of neutrality regarding caste and professional behavior. The merit argument lack coherence and is very narrow in conception which ignores the historic exclusion of SC/ST from the knowledge acquiring processes.

This demand has got huge support especially from political parties which use reservations to gain vote of the disadvantaged section in the age of changing caste loyalties and coalition politics. The issue of reservation has acquired bigger dimension than merely serving the purpose of providing social justice and equality to the discriminated people.

Endnotes

- ¹ S. Vishwanath & Venkitesh Ramakrishnan, 'At a Crossroad', *Frontline*, 29 December, 2006, p-4.
- ² Ibid, p-8.
- ³ Ibid, p-8.
- ⁴ P.S. Krishnan, 'The Story of Deprivation', *Frontline*, 29 December, 2006, p-29
- ⁵ Economic Survey of India 2006-07, Ministry of Finance. website-www.finmin.nic.in.
- ⁶ Thorat, S., 'Why Reservation in Private Sector is Necessary'? *Seminar*, No-549, May, 2005, p-31.
- ⁷ Ibid.
- ⁸ Ibid.
- ⁹ D. L. Seth, 'The Grate Debate', in Haroobhai Mehta, and Hansmukh Patel (eds.), *Dynamics of Reservation Policy*, Patriot Publication, New Delhi, 1985.
- ¹⁰ Ishwari Prasad, *Reservation: Action for Social Equality*, Criterion publication, New Delhi, 1986.
- ¹¹ Pratap B Mehta, 'Affirmation Without Reservation' in Thorat, Aryama, Prashant Negi (eds.), *Reservation and Private Sector: Quest for Equality*, Rawat Publication, New Delhi, 2005, p-214.
- ¹² D. L. Seth, 'The Grate Debate', in Haroobhai Mehta, and Hansmukh Patel (eds.), *Dynamics of Reservation Policy*, Patriot Publication, New Delhi, 1985, p-133.
- ¹³ Haroobhai Mehta, and Hansmukh Patel, 'A Note on the Opinions of the Supreme Court in Karnataka Case', in Haroobhai Mehta, and Hansmukh Patel (eds.), *Dynamics of Reservation Policy*, Patriot Publication, New Delhi, 1985, pp-

168-69.

¹⁴ Dipankar, Gupta, *Seminar*, No-549, May 2005, p-23.

¹⁵ Ashwini Deshpande, 'Does Caste Still Define Disparity? A Look at Inequalities in Kerala, India,' *The American Economic Review*, Vol. 90, No. 2, May, 2000.

¹⁶ Lance Brennan, et. all, 'Caste, Inequality and Nation State: The Impact of Reservation Policies in India, c. 1950- 2000', *South Asia: Journal of South Asian Studies*, Vol 29, No.1, April, 2006.

¹⁷ *Ibid*, p-161.

¹⁸ Papola, T., 'Social Exclusion and Discrimination in Hiring Practices: The Case Study of Private Industry' in Thorat, Aryama, Prashant Negi(eds.), *Reservation and the Private Sector: Quest for Equal Opportunity and Growth*, Rawat Publication, New Delhi, 2005.

¹⁹ *Ibid*, p-102.

²⁰ Dipankar Gupta, *Seminar*, No-549, May 2005, p-24.

²¹ Papola, T., 'Social Exclusion and Discrimination in Hiring Practices: The Case Study of Private Industry' in Thorat, Aryama, Prashant Negi(eds.), *Reservation and the Private Sector: Quest for Equal Opportunity and Growth*, Rawat Publication, New Delhi 2005, p-103-4.

²² Parthasarthy, 'Reservation : Towards a Larger Perspective' in Thorat, Aryama, Prashant Negi (eds.), *Reservation and Private Sector: Quest for Equality*, Rawat Publication, New Delhi, 2005, p-196.

²³ Papola, T., 'Social Exclusion and Discrimination in Hiring Practices: The Case Study of Private Industry' in Sukhdeo Thorat, Aryama, Prashant Negi(eds.), *Reservation and the Private Sector: Quest for Equal Opportunity and Growth*, Rawat Publication, New Delhi 2005, p-107.

²⁴ *Ibid*, p-104.

²⁵ Gurcharan Das, *India Unbound*, Viking , New Delhi, 2000, p-155.

²⁶ Papola, T., 'Social Exclusion and Discrimination in Hiring Practices: The Case Study of Private Industry' in Sukhdeo Thorat, Aryama, Prashant Negi(eds.), *Reservation and the Private Sector: Quest for Equal Opportunity and Growth*, Rawat Publication, New Delhi 2005, p-106.

²⁷ D.Parthasarthy, 'Reservation : Towards a Larger Perspective' in Thorat, Aryama, Prashant Negi (eds.), *Reservation and Private Sector: Quest for Equality*, Rawat Publication, New Delhi, 2005, p-195.

²⁸ *ibid*,p-200.

²⁹ *ibid*,p-200.

³⁰ Haroobhai Mehta, and Hansmukh Patel (eds.), *Dynamics of Reservation Policy*, Patriot Publication, New Delhi, 1985.

³¹ D.Parthasarthy, 'Reservation : Towards a Larger Perspective' in Thorat, Aryama, Prashant Negi (eds.), *Reservation and Private Sector: Quest for Equality*, Rawat Publication, New Delhi, 2005, p-199.

³² Prashant Negi, 'All Snakes , No Ladder: Affirmative Action in Private Sector' in Thorat, Aryama, Prashant Negi (eds.), *Reservation and Private Sector: Quest for Equality*, Rawat Publication, New Delhi, 2005, pp-178-9,

³³ D.Parthasarthy, 'Reservation : Towards a Larger Perspective' in Thorat, Aryama, Prashant Negi (eds.), *Reservation and Private Sector: Quest for Equality*, Rawat Publication, New Delhi, 2005, p-197.

³⁴ Dipankar Gupta, 'Limits of Reservation', *Seminar*, No-549, May, 2005, pp-23-24.

³⁵ Gurpreet Mahajan, 'The Problem', *Seminar (Redressing Disadvantages)*, No-549, May, 2005.

³⁶ Vivek Kumar, 'Understanding the Politics of Reservation: A Perspective from Below,' Vol-40, No-9, *Economic and Political Weekly*, 26 Feb- 4 Mar, 2005, pp-803-05.

³⁷ Chandrabhan Prasad, 'Myths About Private Sector Reservation' in Thorat, Aryama, Prashant Negi (eds.), *Reservation and Private Sector: Quest for Equality*, Rawat Publication, New Delhi, 2005, pp-168-9.

³⁸ Web site- www.parliamentofindia.nic.in
url-
http://164.100.24.209/newls/debtext_nls.asp?slno=598&ser=private^sector&smode=t

³⁹ Swaminathan Anklesaria Aiyar, 'Diversity Doesn't Mean Reservation', in Thorat, Aryama, Prashant Negi, (eds.), *Reservation and Private Sector: Quest for Equality*, Rawat Publication, New Delhi, 2005, p-374.

Chapter - III

Issues of Private Sector Reservation Policy-II

This chapter deals with the anti reservation stand taken by private sector in India. It is an attempt to understand the issue from the perspective of the private sector. Why at-all there is a protest by the private sector on such a crucial issue of social justice and equality of opportunity? What are the reasons given by the private sector to justify their stand against extending reservation in the private sector jobs?

To find answers to these questions we have tried looking through a perspective which has focused on the historical development of the corporate sector over the past 60 years, analyzing their arguments based on the constraints faced by this class and the inadequacy of the reservations to deliver social goods like justice, equality and dignity to the most deprived sections of India- SCs/STs. Critical of the reservation policy, the private sector finds reservations unable to provide a shared vision of egalitarian democracy, inculcating respect for all as a matter of right and just distribution of resources.

We take up the case of the private sector in the quest for their share of social justice which is to secure the right to do business on their own terms which they believe would not go against the larger interest of the society.

We need to note that unlike Aristotle's 'distributive theory of justice', John, Locke had suggested limits to property. One of these was common utilization of fruits of nature which were God's gift. With the argument of money economy he circumvented the limitation by saying that the new economy produces enough for all. Bentham believed in the 'happiness of all', J.S. Mill believed in the equality of opportunities. Adam Smith in his 'Wealth of Nations' believed in the idea of justice. This line of argument gets subverted by the actual operation of the system they visualized. In this context we need to look at the corporate sector's arguments which appear to run contrary to the Nehruvian idea of economic growth with social justice and Gandhi's idea of 'trusteeship' in India.

The Corporate Protest

In a free and democratic society like ours protest occupies an important place for the reason that it gives outward manifestation to the inner conflicts seated within people, either against the state or against other social actors, policies or institutions.

In India we witness maximum protest coming from the marginalized, oppressed, poor, and minorities in their day to day fight for ensuring those privileges which are enjoyed by the well to do majority. Such protests easily find their supporters and sympathizers among people at large due to the 'disadvantaged' status of protester.

Interestingly, corporate protest does not find the same kind of support and legitimacy from the general public as enjoyed by the former, because it is considered to be the protest of that class which is able, strong, self sufficient and selfish profit seekers. Their success becomes a big impediment in their way to find recognition, legitimacy and importance about the issue they protest against. The question of social justice which is normally attached to the notion of preferential policies like reservation, makes one averse to take side with the private sector for fear of being labeled as discriminators, and insensitive towards the needs of a large chunk of Indian population who have been facing discrimination on the basis of caste and who are currently demanding reservations in the private sector jobs.

This chapter looks at the other angle of the debate concerning reservation in private sector i.e. the angle of a protesting private sector. Their point of view is elaborated under three sections. This has been done in the first section by taking a historical view of their own struggle against overarching controls imposed by the state to reach the present stage of confidence and well being. The present state of industrial well-being which is used as a rationale to extend reservation in the private sector is a result of private sector's long struggle against the state that till now had shown a clear bias against them, preferring the public sector instead. This chapter presents the views of corporate class supported by the views of some of the prominent

economist in stating the fact that the present proposal of reserving seats for the disadvantaged castes namely the SCs/STs in the private sector jobs is inline with the previous 'self defeating' policies of excessive state control, regulations, licensing, political interferences, lack of autonomy, rigid labor laws, import substitution etc. It is well recognized that these policies were responsible for the pitiable conditions of the private sector in the past.

The second section would discuss their case for the accepting 'merit' as the sole basis of recruitments in jobs. The fear of revival of controls and state's interference into the working of economy on the very crucial question of recruitments in the companies in the times of liberalization and globalization characterized by excessive competition is the central point of this section.

The third section, will deal with the proposed remedy suggested by the private sector in order to uplift the conditions of the disadvantaged sections. The private sector has acknowledged the need for taking special steps to improve the condition of these people and has suggested taking voluntary affirmative action policies consisting of several progressive measures in the place of mandatory reservation. The section will try to understand the nature of affirmative action proposed and the reasons for doing so.

The Uninspiring History

The history of development of the private sector in India is a long history of struggle waged by the private sector to come out of the clutches of an all pervasive 'control' state. It is a history of step motherly treatment meted out to the private sector thanks to a socialist vision that saw the role of public sector as crucial for the development and growth of the country. The industrial policy adopted by India after independence bears the mark of Nehruvian socialism which considered the state as the facilitator and regulator of resources in a country made poor by the

foreign rule of nearly 200 year.

'India adopted planning in a mixed economy framework to achieve economic growth and other desired goals. The development strategy that the country chalked out assigned the public sector an important role in economic management. It became more pronounced following the adoption of the Nehru-Mahalanobis heavy industry oriented planning strategy in the second five year plan (1956-61) as an operational follow up of Parliament's commitment to a socialist pattern of society in 1954. The industrial policy of 1956, which followed this commitment but preceded the second plan, envisaged a catalytic role for the public sector in economic transformation.

The role of public sector in the fifties was considered necessary to overcome various market failure- such as the existence of natural monopolies, externalities in production and consumption, equity consideration for providing merit and social goods and imperfection in markets for information and knowledge.'¹

The then prime minister Jawaharlal Nehru's socialist ideologies had assumed that any equalitarian measure had to be devoid of profit making attitude so central to capitalist pattern of development. The vision of development had great expectations from the public sector, while the private sector was never considered seriously in the socialist scheme of development of the country. It was merely required to supplement the public sector. Decades after decade industrial policies of the successive governments on the one hand kept regulating the private sector in order to stop it from making profit or monopolizing resources and on the other hand kept strengthening the poorly performing public sector. It was the period during the mid-fifties when most of the policies concerning state regulations of the private sector, import substitution, sacrosanct role of the public sector got implemented.²

The industrial policy during the initial years had strong socialist characteristics. It conferred upon the state the power to regulate the functioning of private industries

rather than trusting the market forces. It was typical of 'the state knows best' attitude which led to formulation of those policies which gave unlimited power to the state to decide who should do what.

Among some of the most regulatory measures taken to undermine the growth of the private sector was 'the system of industrial licensing for private industries, introduced by the Industries (Development and Regulation) Act, 1951. The ambit of this Act extended to a comprehensive set of about 38 'scheduled' industries... within these, in order to set up a new unit, expand capacity by more than 25 per cent of existing levels, or manufacture a new product, an entrepreneur would have to apply for a licence from a Licensing Committee set up by the Act... for those units seeking to import capital goods, a separate clearance was required'³

As stated by Dilip Mookherjee, this Act also gave power to the government to control the private sector by monitoring the activities of the companies regarding, quality of product, pricing, output etc. if a firm failed to conform to the set standards, the government could take action against it. Through this Act the government also kept a check on prices and distribution of goods by the firms.⁴

The development plan followed in the first five year plan had investment in heavy industries marked under public sector. Since these industries were capital intensive and had less chances of employing many people, the 1956 Industry Policy Resolution that came with the second five year plan, gave special emphasis on cottage, village and small scale industries.

'Emphasis on small scales of production for private sector meant that economies of scale could not be fruitfully exploited...there was no awareness of the notion that the monopoly power of large firms could be disciplined by the threat of entry by new competitors.

The bias against large private firms was to be accentuated in subsequent years. In 1967 the government decided to reserve the production of several items

exclusively for small scale sector. A small firm was defined by investment in plant and machinery not exceeding Rs 20 lakhs. Between 1967 and 1977, about 180 items were reserved; the list expanded to 500 by 1977, and over 800 by 1980.⁵

During the regime of Indira Gandhi, the already strong regulations got extended into stringent laws of state control over the private sector. Some of these which had a long lasting impact on the working of the private sector were:

MRTP- came into effect in 1970. This regulated the expansion of large industrial houses with gross assets exceeding Rs 20 crores or of 'dominant' firms with assets over Rs 1 crore. Such firms would have to seek special approval for expanding capacity by more than 25 per cent of their existing levels.

FERA- adopted in 1973 during the same regime, this Act regulated dealings in foreign exchanges, as well as foreign investment. Under this foreign equity holding had to be diluted to a maximum of 40 per cent. Purchase of technology was also tightly regulated, with government showing reluctance to grant permit to purchase of technology already acquired by one to other firms, thus encouraging monopoly power to the former.⁶

These were compounded by measures like nationalization of banks, insurances, and coal industry limiting the scope of private sector to enter these fields. Nationalization also opened these sectors to unnecessary bureaucratic and political interferences. Banks had to give loans to the affiliates of political parties than to genuine seekers. The day to day functional autonomy was severely affected with the effect that the 'profit of the nationalized banks dropped to 1.1 % of the working funds and their established expenses rose to 2% of the working funds. The non performing assets rose to 20% of credit outstanding'⁷.

The policy of import substitution which was undertaken to make the country's self

reliance worsened the condition of private sector for it shielded the Indian companies from competition outside. In fact the policy shielded the inefficiencies of the private sector. Export was not encouraged and things were produced only for home consumption. The situation was further worsened by the provision of high import tariffs. As mentioned by Jagdish Bhagwati India's share in the world market of export reached a low of 0.41 per cent by 1981, after continuous fall from 2.4 per cent in 1948.⁸

One of the most uneconomical phenomena occurring during the time was industrial sickness. This was caused by the non exit of unprofitable private firms from the market. This in turn was the result of government's policies of safeguarding the employment of the already employed; by taking over sick firms and making them run even while they made losses for fear of labour retrenchment. Moreover, the government did not even try to bring any structural changes to enable them to make profit. The burden of these faulty policies was borne by public sector; institutions like banks were badly hit as they had to lend credit to the sick firms.⁹

The Myth of Public Sector Efficiency

Public sector occupied a place of prestige in the whole economic planning. It was expected to generate profit as envisaged in the Industrial Policy Resolution of 1956. But this was not to be so. In fact the public sector soon came to be considered as a burden owing to its loss making tendencies. Year after year many official committees examined the working of the public sector to find out the reasons for its poor show.

P.N Dhar gives an account of their performance, "on the basis of latest data available, the net profit on capital employed in 221 industrial and commercial public enterprises in the central sector works out at the rate of a mere 3.8 per cent for 1987-8, slightly above the 3.4 per cent for the previous year. And if the profits earned by the public sector oil companies are excluded, the net profit is wiped out or becomes negative. This meagre result is the end product of a period of good

performance since 1981-2, which was preceded by four consecutive years of net losses'.¹⁰

According to economist Pranab Bardhan the public sector had failed to generate a surplus for investment. The growth decelerated as a result of a deceleration in public investment. Various policies like bailing out of unsuccessful private companies at public expense, public financial institutions using resources to take over 'sick' firms, increase in the share of non-development expenditure in the government's budget and massive burden of loss making public sector units like the state electricity boards, state road transport corporation took a toll, contributing to a situation where the government started using resources that might otherwise have gone to public investment.¹¹

Both Pranab Bardhan and Jagdish Bhagwati blamed the government policies which increased the areas under public sector for the dismal performance of the economy. Bhagwati writes in the context, 'The two Industrial Policy Resolutions of 1948 and 1956 shifted a number of industries to the exclusive domain of the public sector. Industries related to defense, atomic energy, iron and steel, heavy machinery, coal, railways and airlines, telecommunication and the generation of electricity all came under the public sector. These industries provided the bulk of the infrastructure and their inefficiency led to inefficiency in the private sector which was depended on them for resources, and raw materials'.¹²

Bardhan and Bhagwati find equal support from other eminent economists like Sukhamoy Chakravarty, T.N. Srinivasan, and Isher Judge Ahluwalia on the issues of mismanagement of the public sector and decline of infrastructure investment.

Isher Judge Ahluwalia is very critical of poor capital/output ratio of the public sector. She considers any more investment in the public sector to be unnecessary due to its failure to bring profits. This she proposed fearing the possibility of public sector investment crowding out much efficient private sector.¹³

Impact of 'Licence Raj' On the Private Sector

The development of capital during the years of Nehruvian socialist vision and strict 'License Raj' tells a story of disillusion of the capitalist class in India.

During the Nehru and Indira Gandhi's regime the sacrosanct notion of socialism as the only means of providing a more equitable distribution of wealth ran high. 'Capitalism was seen as something worsening income distribution. Competition was seen as something wasteful and 'in egalitarian in outcome', destructive of ideal social order. Nehru denounced industrialists for their belief in the profit motive. '... It was widely believed by the socialists that equality between individuals or groups could best be brought by the state intervention. It was a function of the state to protect people from social discrimination and firms against the competition of the marketplace.'¹⁴

The framers of the policies had some grand vision of equitable growth and development of the society which was to be brought under the guidance of the state which knew best what was to be produced, who should produce, how much should be produced and what should be the price of the products.

The control system in India was considered a necessity for the proper development of the economy and society. It was adopted envisaging few goals which were to prevent the concentration of economic power, to ensure regional balance in development by selectively giving license and the protection of small scale sector against the competition of large scale sector.

Bhagwati writes, 'Few outside India can appreciate in full measure the extent and nature of India's controls until recently. The Indian planners and bureaucrats sought to regulate both domestic entry and import competition, to eliminate product diversification beyond what was licensed, to penalize unauthorized expansion of capacity, to allocate and prevent the reallocation of imported inputs, and indeed to define and delineate virtually all aspects of investment and

production through a maze of Kafkaesque controls. This all encompassing bureaucratic intrusiveness and omnipotence has no rational in economic or social logic....' ¹⁵

The license system epitomised all the controls put by the Indian state on private players. It was a strict system of regulation designed to distribute licence to private companies in a manner that would curb monopolies, regional imbalance in development and equitable distribution of limited resources.

In the middle of all the action was the state bureaucracy which was entrusted the task to distribute licenses. The discretion to decide who should be given a license led to arbitrary decision making benefiting those who could pay perks in return. This was the period which marked the advent of corruption in India for now onwards it was easy for big and influential businessmen to get a license by paying a bureaucrat. The working of the licensing system had some of the most disastrous impacts. 'One of the most significant of these was that it represented barriers to entry of new firms, and was sometimes used strategically by established business houses to pre-empt capacity or reject the application of new entrant. The criteria used to judge the worthiness of an application, such as location or degree of capital – intensity of the investment, and the effects on the overall scale of production, militated against the setting up of efficient units, or those oriented towards the satisfaction of consumer needs. The use of discretion in the system gave scope to various forms of influence-seeking behaviour among private applicants.' ¹⁶

The period 1966- 80, characterised by bureaucratization, nationalization of banks, insurance, and coal industry and strict authoritarian controls on the private sector was marked by reducing industrial growth. '...industrial growth as a result plunged from 7.7 per cent a year between 1951 and 1964 to 4 per cent between 1960 and 1980'. ¹⁷

The myth of public sector performance started shattering as public sector failed to bring returns on the investments made into them. After the enactment of MRTP,

many private companies were debarred from expanding their business. Both TATA and Birla became victims of the MRTP Act when permission was denied to them for business expansion. Birla was forced to move out of India in the East Asia to look for better avenues. When FERA got enacted multinational companies like IBM and Coca Cola left the country as they could not convince themselves for complying with the reduced 40 per cent equity share limit fixed for foreign companies doing business in partnership with Indian firms.¹⁸

The politician bureaucrat nexus played its own role in undermining the growth of the economy by selling licenses to wealthy businessmen thus bringing corruption into the system. Those who had political connections flourished and those who did not have them just perished.

The reforms of 1991 were not a natural choice of our economic policy makers who were forced to reform the economy owing to pressures from international agencies like World Bank and IMF. The balance of payment crisis caused due to the inability of the country to pay back its debts on time is a proof of India's lack of capital resources. There can be many reasons for the failure to generate capital but the primary cause was failure of both the public as well as the private sector. The former failed due to too much of expectations and the latter failed due to too less of it. The flourishing economy riding on a successful private sector stands witness to the fact that liberalization was badly needed for the economy to do well. The ill conceived, authoritarian state controls had done more harm than doing good to the country. It also makes one appreciate the importance of constraint free environment for the sound economic development of the country. Though the role of state can never be belittled in establishing a just and fair society by putting appropriate controls on the social actors, too much of controls may raise doubts on the rational of the state itself.

Defending 'Merit'

India is emerging as one of the most powerful nations in the 21st century, thanks to its excellent economic growth. In the age of globalization India has secured a firm place in terms of attracting foreign investment and foreign companies for doing business. Indian companies have reached a stage of unprecedented ability to compete with the best companies of the world. Some of the Indian companies have taken over the ownership of foreign firms through takeovers, mergers, or by simply buying them. In the field of information technology India has put behind some of the most advanced nations of the world.

India is placed in a remarkably different position from that it had held during the pre reform days. The economic reforms have helped the industries reach this stage of competence via two ways. Firstly the liberalization policy removed the Draconian state controls and let market forces take over. Measures were taken to give autonomy to the private sector, attract foreign capital, and increase exports by liberalizing trade and tariff rules and facilitating globalization.

Secondly opening up education for private players have improved the standard of education in the country. As India marches ahead on the path of economic growth, there is a massive demand for world class managers, doctors, engineers; soft professional, skilled workers etc. Privatization of education has enabled private players to fulfil the sudden demand for skilled people by establishing private educational and training institutions.

Private sector is gaining from strength to strength and in the past one decade has left the state way behind in providing jobs to the people. The recruitment in private sector jobs generally takes place through selection of candidates based on their qualifications and performance in the personal interview. 'Merit' has come to be accepted as the basis of recruitment in the private sector. By merit private sector means besides very good academic or technical qualifications, a suitable aptitude to perform in a globalized competitive market economy. 'Marks and articulation

are not the only necessary criteria as required in the public sector jobs. Special skills, for the job, a capacity to work hard, an ability to work in teams are all required'.¹⁹

Unlike in the public sector where standard rules and guidelines are defined pertaining to every level for recruitment, the private sector may change the requirements for a particular post depending on the need of the hour which is determined by the competition in the market. As the requirements of the job change so does the 'merit' required to accomplish it. The already employed are either given new training or are asked to change job. Thus private sector follows flexibility while defining merit. But the issues of reservation in private sector has raised fears of rigidity and set standards coming into play while recruiting people. The private sector fears that recruiting people on the basis of anything other than merit would spell disaster for the flourishing economy.

Justifying their reason for anxiety Pratap Bhanu Mehta states that the corporate sector fears are well founded concerning merit. 'Standard signals like education qualifications are not adequate signalling devices for merit. The corporate sector rightly has to rely on more intangible qualities that can not be measured on an objective scale easily. For this it has to exercise discretion. But in the case of external scrutiny there is more of standardization of the concept of merit. Any discretion exercised will be susceptible to charges of bias or arbitrariness. The industry's real fear is not that there might not be talent available, but its right to define the concept of merit appropriate to its functioning will be taken away from it'.²⁰ If they are to bear the cost of any misjudgement out of defining merit, they must also have the freedom to choose their employees.

Recruitments in private sector are different from public sector in the sense that people are likely to lose their jobs if they fail to perform. Positions are strictly performance based, and failure to meet targets leads to loss of jobs. The private companies may retrench people if they no longer require their skills. With a pool of

qualified and skilled people available this sector has adopted the practice of hire and fire. The uncertainty makes people work more efficiently in order to keep being employed in the sector.

The proposed scheme of extending reservations for the SCs/STs in private sector jobs carries dangerous implication for the freedom to hire and fire that is responsible for the excellent efficiency shown by the private sector in India. The proposed policy is in line with the various state regulations put on the industry that had reduced the private sector to state of insignificance. This policy too seems like regulation on the recruitment process.

The freedom which is presently enjoyed by the private sector has come after long demands made by the market and policy makers. Writing in this context Supriya RoyChowdhary says 'As economic liberalization began to take shape in India, the clamor for market oriented exit policy- enabling employers to hire and fire freely- and for a freer use of contract labor has been heard repeatedly. This demand has emerged not only from the business houses but also from policy makers impatient with what they perceive to be obsolete labor laws in a marketization / globalization context. The need for a new exit policy, which would allow for hiring and firing to be predominantly determined by the market, is widely acknowledged'²¹.

It is also argued by policy makers and economists that along with the freedom to make contract with workers, the Indian economy also needs reforms of labor laws which are still unfavorable for the private sector. In order to avoid getting caught in stringent labor laws the private sector has started making contract appointments for specific duration of time and not till the age of retirement. If reservations are implemented in the form they are done in the public sector then that would be contrary to market principles and might impose heavy costs. It is very likely that 'if the existing policy of promotion in the public sector is imposed on the private sector Indian industry will fail to attract skilled and talented manpower which will

adversely affect its competitive edge'.²²

As Pratap Bhanu Mehta has put it, 'The Indian industry is not entirely unfounded in its fear of yet another dose of state regulations. Indian industry has barely begun to emancipate itself from overbearing, costly and counterproductive regulations in so many areas. I suspect, it is a general fear of added layers of regulations rather than an opposition to reservation per se that is driving the response of much of the corporate sector....The bar of state interference in the private enterprise or the ability to make contracts freely has been self defeating low.'²³

Affirmative Action?

The private sector in India has also shown concern over the deplorable state of the discriminated people. It has expressed its readiness to work for their upliftment by taking affirmative action measures but not mandatory reservations. Though, the whole of private sector shares the concern for the disadvantaged population but is not ready to accept reservations as a solution. According to the private sector though caste could be a barrier to employment but a bigger barrier is lack of education and skills needed to fit into the modern technical jobs. Thus they have 'favored policies for educational, skill and entrepreneurship development with increased access to set up business and institutional infrastructures like educational institutions. They also suggest informal and voluntary preference in employment for SC/Sts, with or without, incentives, subject to merit'²⁴

The Federation of Indian Chambers of Commerce and Industry (FICCI) which is the representative body of 443 chambers, associations and member bodies have recently conducted a study to find out the state of primary education in India in order to emphasis its point on the importance of education. 'According to its findings- school dropout rates among the SCs and STs are as high as 76.63% and 82.96% respectively. Also 40 % of reserved category of seats among SCs and 60%

in STs remain vacant this figure reaches 81% and 95% respectively, in the vocational training category for graduate, technicians and apprentices. There is no government policy to check the huge dropout rate or to ensure fulfillment of the reserved seats in the vocational training institutes.

The FICCI is critical of the government's intention to 'quick fix' the problem for short term political gains. It points out that as much as 50% of the rural enterprises are owned by SC/ST/OBC and 37% of the urban enterprises are owned by them. A staggering total of 13.6 million enterprises are owned by SC/ST/OBCs, employing 37.5 million people. But this has not moved the government to make policies that could empower the 13.6 million entrepreneurs through soft loans and price preferences, as extra market instruments. But the government is only talking of reservations which can be applicable only in the organised private sector that employ a mere 9 million of our total work force'.²⁵

'The FICCI has come up with a three-pronged strategy as under: (a) definite medium- and long- term plan for educational and skill development through government and private partnership for SC/STs; (b) development of entrepreneurship with well-defined affirmative action policy for financial institutions to supply capital to vulnerable groups for setting up businesses and awarding government licenses and contracts to SC/STs and also giving preference to these people in government procurement; and (c) some representation of the disadvantaged communities in private sector employment on voluntary basis with substitutive incentives to the firms following the preference in the form of tax-breaks'.²⁶

FICCI has also proposed to revise the syllabus and up gradation of the Industrial Training Institutes (ITIs) by taking over the management of selected few of them.

Expressing the need for similar programs the Indian Chamber of Commerce and Industry (CII) with 1500 members, wants the basis for any such measures to be economic backwardness, irrespective of caste, creed, religion etc. the CII wants

more enterprising and self sustaining ventures to be encouraged. Improving the level of educational and imparting vocational training remain two priority areas for it.

‘The Associated Chamber of Commerce has favored American-type affirmative action policy in employment, education, housing and health sectors by “giving preference in employment to SC/Sts and backward communities, if other thing in merit is equal”. They suggest that preference is necessary for under-represented classes or minority communities, if all other things including merit are equal. It also suggested that mechanism could be evolved to seek redressal of grievances, in case of discrimination based on community, sex and caste’.²⁷

Recent Initiatives Taken In the Direction of Affirmative Action

The first initiative of taking affirmative action measure to uplift the discriminated people came from the IT major Infosys. The firm in partnership with the government successfully trained 100 SC students in the Indian Institute of Information Technology, Banglore. 79 out of the trained 100 students have already got jobs.²⁸

The CII in collaboration with the Entrepreneurship Development Institute has identified 200 candidates to be trained to as entrepreneurs in the year 2007.

About 500 CII member companies have signed a code of conduct mandating non-discriminatory hiring policies and priority to competent SC/ST candidates. The chamber has also appointed five ombudsmen to monitor progress made by member companies on affirmative action.

FICCCI is focussing on ensuring SC/ST candidates avail of the quota at the various industrial training institutes (ITIs).

ASSOCHAM has created the ASSOCHAM Foundation for Inclusive Growth of SC/STs to monitor its efforts in the field. The chamber says it has trained 1,000 people in the last six months in skills like carpentry, sewing and making footwear some of them have even started their own business²⁹.

Conclusion

The growing demand for reservation in private sector has come with the realization that the scope of reservations in the public sector is diminishing due to shrinking of public sector undertakings. As employment in the public sector remain stagnant for years now all the focus has been shifted to the booming private sector which coincidentally is currently the only job creator. With the private sector doing so well people are arguing for a case of extending job reservations for the disadvantaged populations like the SCs/STs in the sector. The private sector has retaliated by saying that it can not accept mandatory reservation for that would mean accepting the criteria of 'caste' rather than 'merit' for making recruitments in the private sector. The private sector is very critical of the quota mindset of the government and questions the efficacy of reservations implemented in the public sector for the past 60 years. Looking at the state of public sectors they question the logic of extending reservations in the private sector.

'The Indian private sector fear the loss of discretion in making recruiting people as mandatory caste quota are likely to reinforce the element of status against that of contract in public employment. Also in a changing economic environment, job specifications and job requirements change continuously and a person who appeared to be suitable for a particular position at a particular time may turn out to be unsuitable after few years, depending upon the requirement of the company'³⁰. They see the proposed scheme to be a potential regulation of the recruitment policy.

'It is well recognised that the command economy that prevailed until the 1980s had for some time been hamstrung by license and quotas of every kind. Much of the

success achieved by the Indian economy in the last fifteen years has been due to removal of the restraints under which it had operated in the past'³¹.

The private sector has come up with voluntary affirmative measures like facilitation education, arresting school dropout rates, improvement in the standard of industrial training institutes, creation of entrepreneurs, credit facilities to the poor, and preferences in recruitment of SC/ST conditioned to merit being same.

It is clear from the debate that the private sector too shares the concern of the social justice for the disadvantaged section but differs from the political class on the mode of remedy. Having knowledge of negative impacts of state regulation put on the private sector it is difficult to ignore the reasons for their protest. Their fear raises some pertinent questions which need to be debated and all the aspects of the proposed schemes need to be analysed before a final decision is arrived at. The policy makers should also take this opportunity to look at other equally important and related issues like quality of education imparted by the government schools, agrarian and labour law reforms. One must restrain oneself from getting carried away in the rhetoric of reservation and social justice. India has long borne the burnt of snail paced economic growth. The good thing about the debate is that it has forced the private sector in designing innovative solutions to improve the lot of the disadvantaged people.

Till a fair outcome is reached in the debate, let the industry do its bit through affirmative action.

Endnotes

¹ Atul Sharma, 'Performance of Public Enterprises in India', in Dilip Mookherjee (ed.), *Indian Industry: Policies and Performances*, OUP, New Delhi, 1998, p-289.

² Myron Weiner, 'The Political Economy of Industrial Growth' in A. Warshney (ed.), *The Indian Paradox: Essays in Indian Politics*, Sage, New Delhi, 1989, p-142.

³ Dilip Mookherjee, 'Introduction' in Dilip Mookherjee (ed.), *Indian Industry: Policies and Performances*, OUP, New Delhi, 1998, p-3.

⁴ Ibid, p-4.

⁵ Ibid, p-6.

⁶ Ibid, pp.8-9.

⁷ Gurcharan Das, *India Unbound*, Viking, New Delhi, 2000, p-177.

⁸ Jagdish Bhagwati, *India in Transition*, OUP, Oxford, 2002, pp-57,58.

⁹ P.N. Dhar, *Evolution of Economic Policy in India*, OUP, 2003, pp 131-133.

¹⁰ Ibid, p-124.

¹¹ Pranab Bardhan, *The Political Economy of Development in India*, OUP, Delhi, 1984.

¹² Jagdish Bhagwati, *India in Transition*, OUP, Oxford, 2002, p-63.

¹³ Myron Weiner, 'The Political Economy of Industrial Growth' in A. Warshney (ed.), *The Indian Paradox: Essays in Indian Politics*, Sage, New Delhi, 1989, pp-130,140.

¹⁴ Ibid, pp-145,146.

¹⁵ Jagdish Bhagwati, *India in Transition*, OUP, Oxford, Reprint 2002, p-50.

¹⁶ Dilip Mookherjee, 'Introduction' in Dilip Mookherjee(ed.), *Indian Industry :Policies and Performances*, OUP, New Delhi,1998, p-4.

¹⁷ Gurcharan Das, *India Unbound*, Viking, New Delhi, 2000, p-170.

¹⁸ Ibid.

¹⁹ G.Thimmiah, 'Implications of Reservation in the Private Sector', *EPW*, 19 Feb, 2005, p-749.

²⁰ Pratap. B. Mehta, 'Affirmation without Reason, in Sukhdeo Thorat, Aryama, Prashant Negi. (eds.), *Reservation and the Private Sector: Quest for Equal Opportunity and Growth*, Rawat Publication, New Delhi,2005, p-211.

²¹ Supriya RoyChowdhary, 'Labor and Economic reforms: Disjointed Critique' in Jos Mooij (ed.), *The Politics of Economic Reforms in India* ,Sage , New Delhi, 2005,p-265.

²² G.Thimmiah, 'Implications of Reservation in the Private Sector',*EPW*,19 Feb,

2005,p-749.

²³Pratap.B. Mehta, 'Affirmation without Reason, in Sukhdeo Thorat, Aryama, Prashant, Negi (eds.), *Reservation and the Private Sector: Quest for Equal Opportunity and Growth*, Rawat Publication, New Delhi, 2005, pp-209,210.

²⁴ Sukhdeo Thorat, Aryama, Prashant Negi, 'Debate on Reservation in Private Sector' in Sukhdeo Thorat, Aryama, Prashant Negi. (eds.), *Reservation and the Private Sector: Quest for Equal Opportunity and Growth*, Rawat Publication, New Delhi, 2005, p-39.

²⁵ Is affirmative action limited to quotas?

The Economic Times, May 2, 2006.

web site-www.ficci.com

url-http://www.ficci.com/news/viewnews1.asp?news_id=303

²⁶Sukhdeo Thorat, Aryama, Prashant Negi, 'Debate on Reservation in Private Sector' in Sukhdeo Thorat, Aryama, Prashant Negi (eds.), *Reservation and the Private Sector: Quest for Equal Opportunity and Growth*, Rawat Publication, New Delhi, 2005, p-39.

²⁷ Ibid,p-40.

²⁸ 'Meritocracy Model', *Hindustan Times* (editorial), 21 June 2007, New Delhi.

²⁹ 'India Inc Ready With Status Report on Affirmative Action'

Web site- www.economictimes.com

url-

http://economictimes.indiatimes.com/News/News_By_Industry/Services/India_In_c_ready_with_status_report_on_affirmative_action/articleshow/2179850.cms

³⁰ Andre Beteille, 'Matter of Right and Policy', *Seminar*, 549, May, 2005.

³¹ *ibid*, p-21.

Chapter - IV

Corporate Social Responsibility: The Way Ahead?

In the previous chapter we have looked into the debate on extending reservations in the private sector from various angles incorporating both pro and anti reservation positions. In this last chapter we are going to introduce the notion of Corporate Social Responsibility (CSR) for the first time in the context of the ongoing demand. It was important to discuss this concept since the government has been trying to bring reservation from the route of CSR.

What is CSR? What are the issues under it? At a time when debates on reservation are not making any headway into any effective solution with the battle equally poised between the pro and anti reservationists can CSR give a solution? These are some of the important questions which are dealt in the chapter. We have also tried to argue for a case of corporates providing reservations under CSR. Thus this chapter is an attempt to find a solution with CSR.

Corporate Social Responsibility

One of the most remarkable features of the age of globalization is the tremendous power acquired by corporates. Globalization refers to the heightened level of interconnectedness between markets, nation states and technology. The interconnectedness is established through the flow of trade, capital and people across the world. The whole phenomena is helped in its smooth running by infrastructure such as transport or banking system, trade rules, and English as lingua franca. The chief aspect of globalization is the capitalist global economy which is organized on the basis of market principles and production for profit. Economic activities remain at the heart of globalization as operations of global financial markets are resulting in a convergence in interest rates among the major economies. Central to the organization of this new global capitalist order the Transnational Corporations (TNCs) are other powerful forces which are working

side by side with financial operations in order to establish interconnectedness. They are instrumental in connecting local economies into global and regional production networks.¹

The UN Report (UNCTAD 1998 b)², as quoted in Held and MacGrew, show that in 1997 there were 53,000 MNCs worldwide 450000 foreign subsidiaries selling \$9.5 trillion of goods and services across the globe. They have reached such stage that MNCs now account for at least 20% of world's production and 70% of world trade. Spreading their operations to every sector of global economic activities right from raw material to finance to banking to manufacturing and marketing they are opening new avenues of strengthening the integration process.³

The Transnational corporations have gained immense wealth operating under the constraint free globalized world. Matching state in power and resources, they are setting terms of action. In most of the developing countries of the world including India corporations are fast replacing the state from many socio-economic spheres. Corporate have another advantage, which makes it all the more effective as compared to any government of the day and that is their ability to reach the masses. In present times with the recent process of economic developments that have been occurring in India and other developing countries, corporations have come to be perceived increasingly as the primary agents of development.

Given that corporations intervene in so many areas of social life, there is a growing realization in the world that they should be responsible towards it, and as they are a creation of the society they must serve it too.

As a result of globally competitive business practices, problems related to depleting environment, exploitation of labor, marginalized consumers, imbalanced regional growth, and displacement of native population and tensed social conditions have led to growing discontent against TNCs in different parts of the world.

Conscious of the growing hostility towards them, the corporate world is now showing its willingness to act in a responsible manner. Acknowledging the debt they owe towards the society and environment, the corporate world has decided to contribute back to the society. They have come up with the concept of CSR under which firms are to accept voluntary constraints upon themselves while doing business. CSR puts an obligation on the firms to evaluate their decision making processes in a way that could impact the external society in a positive manner, accomplishing social benefits with the traditional economic gains. Initiatives undertaken in CSR are purely voluntary and go beyond what is required by law guided by the logic that merely complying with the minimum requirements of the laws does not make a firm socially responsible, as this is what any good citizen would do as much.⁴

One of the important issues taken under CSR is the protection of the environment from degradation. With this effect corporates are much more forthcoming in giving labor its due and in designing benefits for their employees. It has come as a realization to them that the sustainability of business is going to depend heavily on how they conduct business. As a consequence, 'ethical way of doing business is coming out of the shadows of philanthropy and is becoming very much a part of business process.'⁵

Sociologist Dipankar Gupta writes, "CSR, at its best, is about the corporate sector reaching out from within the company to the society outside, in order to benefit both business and the social and physical environment from which it springs and within which it functions. CSR, thus synergies social and business interests and it is coupling that makes it different from philanthropy as we know it... an important part of the whole notion then becomes the ethics of doing business. It's about linking one's concerns with those of others. In reality business ethics begins by knowing the company one works for, understanding the diverse interest of its various stakeholders and then charting out programs that satisfy them".⁶

The Concept

The concept of CSR is not new. It is something, which was under evolution since long. “The ‘good citizen’ concept of the early 20th century includes, within its purview, concern for all those who directly involved with the corporations-employees, stockholders, customers, the local community, even the government.

According to the ‘social leader’ concept of CSR, a corporation would be deeply involved in attempting to solve social problems and would advocate any government intervention necessary to achieve ‘quality of life goals’. The ‘super-citizen-leader’ role merged the above two concepts and advocated a new spirit of volunteerism, a new public and private partnership and a new private sector initiative for solving social problems”.⁷

Today we can find 3 emerging perspectives on CSR:

First is a business perspective that recognizes the importance of ‘reputation capital’ for capturing and sustaining markets. Seen thus, CSR is basically a new business strategy to reduce investment risks and maximize profit by taking all the key stakeholders into confidence.

In a competitive market upper edge goes to those who show commitment and sensitivity towards the needs of the community. Investment in the society is expected to bring long term benefits in the form of better law and order and stability, factors which are most conducive for the successful business. Accomplishing range of social goods thus has potential benefits for the business.

The second, perspective is called ‘eco-social perspective’. This recognizes that social and environmental stability and sustainability are two important prerequisite for the sustainability of the market in the long run. This also recognizes the fact that increasing poverty can, lead to social and political instability. Such instabilities can be detrimental for business, which operates from a variety of socio-political and cultural backgrounds. The socio cultural norms are powerful determinants of behavior. Business has to move with the trends in the society. If

social responsibility is the emerging norm in the society business is inevitably guided by that. In reality profits are made within a particular set of social norms.

The third perspective is right-based perspective on CSR. This stresses that consumers, employees, affected communities and shareholders have a right to know about corporations and their business. It emphasizes on accountability, transparency, and social, and environmental investment as the key aspects of corporate social responsibility. It is believed that society gave business its charter to exist. If business fails to take care of the needs of the society, society is well within its rights to revoke the charter.⁸

The above perspectives mark an apparent ideological shift from the time the sole purpose of business was to maximize profits. CSR no longer means a compromise with the profitability of the firm and today in fact it is a key to the image building process. Roosevelt's 'New Deal' legislations and Keynesian 'Marginal Utility' theory talk of providing social goods to the society which were considered essential for the image building process of expanding the labor market and industrial well being.

As modern corporates exert considerable influence on the civil society, polity, and the economy of nations, they make excellent agents for carrying out schemes of social development too. It is argued by those who want greater role of CSR in solving social problems that with its pool of management skills, functional expertise and capital resources and inherent ability to increase productivity through innovative solution they are the most suitable agents for solving social problems.

Is CSR Selective in Its Approach?

In the present times when every corporation is showing CSR as an integral part of their business process, things are moving towards a better future for all of us. With the idea gaining currency the world over even smaller firms are jumping to join the CSR bandwagon. With so much of interest generated on the subject one is tempted

to gain a perspective on the 'most happening' phenomena in the corporate world. One way of doing this is to get an insight into the subject by understanding the mechanism behind the idea, its development, and reasons for its adoption, and purpose it serves. Things can be understood not only by examining what is being done by the corporate class under CSR but also by analyzing what is missing from the action. Equally important is to explore who and what are being overlooked, taken for granted or excluded.

Corporate responsibility has two approaches based on the nature of people it wants to care for. There are two types of people who are affected by the operations of corporations.

First, are the shareholders of the companies who are directly associated with their business. They are owners of the company by holding its shares. These people influence the affairs of the corporations directly and companies take care of their interests. The shareholder approach which is also called the Anglo -American model clearly focuses on its shareholder's well-being and maximization of profit for them. If at all they consider claims of stakeholders that are only because of pragmatic reasons.

The other group is that of the stakeholders. Those who are not directly part of the corporations by holding any position in the organizations or companies or possessing shares but get affected by their business operations directly or indirectly in many ways. Consumers, local community, state, environment etc consists of the stakeholders. The stake holder approach understands the importance of stakeholders for the sustainability of business and aims for their well being.

Thus there is a well marked distinction between the two categories. The division makes us raise a doubt as to whether corporations having a shareholder approach, which is so central to the Anglo- American model, has any responsibility apart from the development effects that may naturally follow as a product of their responsibilities to generate profit for shareholders. It makes us wonder as to whether the stakeholders occupy an important position that can influence the

decision making process of the corporates.⁹

CSR which is an integral part of the shareholder model claims to be working towards taking up the issues concerning stakeholders too. It boasts of doing ethical business that takes care of the local community and the environment. Firms are also working for benefits of their employees by undertaking various innovative solutions which are aimed at giving the employees remunerations and training to enhance their capacity further. Still, notice has been made of an alarming fact that is, in the policies of the corporate world only few and carefully chosen categories of problems are being taken up. The practice of choosing the target population is also disturbingly similar. The nature of obligations and to whom they are owned is carefully chosen. If one takes a closer view it is not difficult to find a particular set of problems and specific section of people being deliberately left out of the ambit of social responsibility measures.

Despite the fact that there are many socially significant issues towards which the corporate world is working interestingly some of the significant categories of problems are conspicuously missing from the list of priorities. And unfortunately this has become common for social responsibility issues taken by corporates in the developing countries.

It is argued that the Anglo American model of CSR which is being practiced in the developed western countries has evolved under particular set of conditions aiming to tackle specific problems related to environment, labor, consumer's right etc. These problems are characteristic of western industrial society that has reached an advanced stage of industrialization.

Very different from the developed western world are the problems of developing countries. Problems in the developing nations are not a by product of successful business operations but they are much more structural in nature. These are issues of poverty, discrimination, unemployment, unequal wages and underdevelopment. In the developing world business is required to take up issues which are not purely economic in nature. What is required of CSR in developing countries? The answer

lies in understanding the socio cultural set of such societies and acknowledging the fact that CSR need different broaden its scope to include some of their problems. Writing on the importance of understanding problems of developing society Blowfield and Frynas argue that in order to make CSR effective in different conditions the historical and ideational perspective needs to be introduced, it is essential not to reinforce norms about why and how to conduct CSR. This capacity is required for understanding CSR's impact especially when applied in societies that do not share the same cultural and societal norms, values and priorities that underpin CSR. Failing to do so it is but likely that CSR will acquire universalizing tendencies, in the process legitimizing and reproducing values and perspectives that are not in the interest of developing economies or the poor and marginalized.¹⁰

In developing countries like India it is found that some people are marginalized by CSR not because they do not have valid claims to be considered as stakeholders, but because they are either not acknowledged or are too difficult to manage. Most of the time such groups are victims of systemic discrimination. In that case it becomes imperative to find out if there is anything inherent within the current approaches to CSR that causes certain entities and aspects of justice and well being to be excluded in the first place?

The Indian Context

Unlike the West, India has some totally different set of problems, which might not find a place in the standard western definitions CSR but nonetheless they are equally alarming. Along with sharing the global concerns over environment and labor rights India has its own set of problems regarding the role of business in bringing development and social justice.

With a substantial percentage of population living below poverty line, unable to afford the basic needs of life, the state is hard bound to look for every possible agency which could bring a positive change in the situation. Business is one of the few agencies which are being looked up to. Considering this fact social

responsibility of business assumes overriding importance if the goal is to maintain sustainability.

In India economic development remains one of the prime agents that are believed to bring relief and dignity to the poor and deprived. One of the major problems faced in the Indian society is lack of fair economic opportunity for disadvantaged and minorities (generally distinguished in terms of race, ethnicity, or, caste). “People are poor not only because of a shortage of material resources but because social, political, and economic structures have systemically denied them the right to access and control of resources they need for a life of dignity.”¹¹

In India caste based exclusion in the corporate sector remains an important issue to be looked upon. Deliberately or otherwise the corporate sector has shown its apathy in tackling the problem of poverty among the lowest caste and Dalits. It is a well-known fact that a majority of Indian poor belong to the SCs/STs, most of them living below poverty line. They face social segregation and discrimination on the basis of caste. Lacking education and job opportunities they also face discrimination in selection process carried out for job recruitments both in public and private sectors.

Fair and equal economic opportunities extended to everyone are supposed to bring social justice to the socially excluded groups which invariably suffer from poverty.

But in the Indian context what has come to the fore that CSR and development theories from the west restrain themselves from seeing poverty in the terms of failure of structures. Rather than understanding the systemic nature of the problem, poverty is present as a matter of function\dysfunction with the effect that no serious attempt is made to eradicate it.

'Cutting across this absence of a structural understanding is an inability or unwillingness to consider causality. Thus, for instance, poverty is presented as a regrettable fact rather than a consequence of any causal condition and event. The advantage of this is that it allows poverty to be presented to business as something undesirable and soluble on a par with, for instance, a manufacturing valve or a

quality control problem. However, it does nothing to encourage examination of the complexity of multi-layered, structurally rooted problems or role of business within them.¹²

Since we find the current approaches of CSR unwilling to consider the issues of poverty, unemployment resulting from unfair hiring practices by the business, and distribution of resources, at par with labor and environment issues, CSR is sometimes seen as an act to wash the sins of pollution or an attempt to give a face-lift, a better reputation to the company's public image. It is seen just another trendy name for good old philanthropic initiatives by companies. There is a need to move beyond such transitory illusions concerning CSR.

The Anglo-American model of corporate governance with its emphasis on economic development based on reforms strengthening shareholders rights becomes deeply problematic here. In conditions of limited resources, mass poverty and illiteracy, chances of instability rises. Conflicts may occur with groups trying to outdo each other's claims on available resources. The western model needs to be supplemented with its own set of policies, which could strengthen the sense of responsibility of the business class and security among the poor. The responsibility to promote development has to be accomplished through taking formal roles of governance like accountability, performance, policy making and strategy formation all of which must have to be made in confirmation with the needs of the society.¹³

Also 'A variety of concerns are needed to be taken into account with respect to business operations like capital-labor ratio (to generate more employment), setting appropriate wage rates (to stimulate consumption and growth, to allow workers to educate their children) establishing personnel policies (e.g. affirmative actions programs), to better incorporate marginalized groups (like women, indigenous people the motherly baled etc) incorporating research and development programs oriented towards development impact etc.'¹⁴

India has a tradition of scholars developing an eclectic approach to business ethics that integrate western philosophical approach and Vedic insights. Mahatma Gandhi

was ahead of his time when he suggested the industrialist to be the trustee of the wealth of the society. Gandhi laid supreme emphasis on the ethics of doing business, which to him meant avoiding exploitation and accumulation of wealth for selfish consumption.

Prof.S.K Chakravarty, who has been studying governance practices in India from Vedic perspective since 1983, is of the view that “individuals and organizations cannot just operate (either individually or collectively) in accord with the egoism of the market, but must act with a pure heart and a higher purpose (an understanding which is expressed in the ideal conception of the firm as a ‘business ashram’)”¹⁵

The Indian perspective which represents views of large number of scholars puts obligation on those who are responsible for corporate governance. The business class is required to fulfill their duties by bringing all round development and not merely the well being of the shareholders. It also puts developmental goals as one of the primary purpose for which corporates should function.

The same notion of ethics is being revoked in the present times when corporates are asked to give reservation to the socially discriminated and economically deprived sections of population namely-SC/ST. CSR has made a dramatic entry into the political discourse on the subject of extending reservations in the private sector. The present government led by the Congress party in support of all other political parties has asked the corporate world to look at the possibility of extending reservation in the private sector under corporate social responsibility.

The demand for reservations in the private sector is a demand for the extension of the already applied reservations in the public sector. It clearly indicates the recognition of the important place the private industry has come to occupy. The Indian state and the political class in general think that the private sector has reached a stage where it can and must take more social responsibility which is in line with the Gandhian idea of ‘trusteeship’. A similar line of approach is adopted in the constitution in the form of Article 31, which puts ‘reasonable’ restriction on

the right to property. The Constitution of India has not given supreme power to the fundamental rights and has made them subservient to the directive principle of the state policy which requires the state to take special measures to uplift the deprived section of population.

The demand marks a shift in the earlier perception that had considered the private sector to be dependent on state and unable to undertake such a huge responsibility. In the past, it was the public sector that was given this arduous role. Most of the public sector units were required to have very specific "social role". It is very obvious that the structural reforms which freed the private sector from constraints had played a big role in instilling a new vigour in the dying private sector. With a booming economy and commendable rate of growth the private sector in India has reached a stage of unprecedented strength. It is being felt in all quarters that now the mantle of reservation has to be donned by the private sector.

It is argued that those responsible for governance of the corporations have an obligation towards a whole range of stakeholders including vulnerable groups and the nation as a whole. This would entail responsibility to promote development not only as a condition for a license to conduct business, but as at least one of the social goals of the corporations.

The reaction of the corporate sector on the issue varies from firm rejection to conditional acceptance. Those who oppose the proposal defend their stand by taking a Friedmanian¹⁶ position. They are arguing that the best way corporates can show their commitment to responsibility is by maximizing profit staying within the law. The profit accumulated may in turn go to the people facilitated by the state which could be put to use in whichever manner they require.

The Indian private sector fears that forcing it to recruit candidates from the deprived section on criteria other than 'merit' will have dangerous repercussions. In the globalized world and heightened competition India might fall way behind on the scale of industrial efficiency and productivity. Moreover business lacks perception and skills needed to deal with socio cultural issues and if forced to do it

may end up miserably on both fronts- social justice and productivity. Taking up social issues is expected to add additional costs to doing business which will drive away foreign firms from India and would also make Indian goods costlier for the price conscious consumers. In short it will be a retrogressive step for the private sector. Due to these reasons business is not prepared to comply with the government on the proposal of extending reservations in the private sector.

Arguing a Case for CSR

With such a hostile attitude adopted by the private sector how can one build a case for CSR in extending reservation in the private sector?

Though the difficult task that it is we have none the less tried to build a case for CSR by arguing that by failing to understand the structural dimension of poverty, in this case caused by unavailability of equal economic opportunities to the lowest caste, a result of caste based discrimination, the corporate sector is falling for the standardized definitions of CSR suited only for the problems of the developed countries.

In the context of the discussion it is necessary to mention that that the private sector has agreed to take steps to improve the conditions of the discriminated caste by giving free education, health facilities and vocational training but not reservation. But what is problematic in their position is an unwillingness to accept caste as a causal factor for poverty. An unwillingness which fails to understand that people are poor not only because of lack of resources but because of their caste, because of who they are. By this we mean even though resources are available, some people are denied their rightful share simply because they belong to a specific (low) caste. In some cases private sector has selectively used higher caste yardstick for recruitments and breaking workers solidarity. As far as the SCs/STs are concerned, in a resource crunch situation the upper caste which is numerically in minority have exercise their control to restrict the low castes from accessing the resources. It can be argued that if the private sector fails to

understand the category of caste as a major determining factor shaping the social and economic conditions of people then it can be safely concluded that whatever responsibility this class is willing to take up to uplift the marginalized section of the population is bound to prove superficial in nature and effect.

We strongly feel that in terms of promoting development impact a stronger normative case could be made for the adoption of affirmative action policies in the private sector too. It would be an attempt to make the industries shed there continuing biased they have regarding the efficiency of lowest caste people.

The corporate class does not want a compromise on 'merit' and this is the reason for their opposition to the proposal on reservation. Now what is merit and how far it is a valid principle to oppose reservations has been debated at length in the previous chapters. One of the major weak points in the merit argument is that 'merit' lacks a clear definition. It has been defined and redefined to suit particular interest. For the present discussion it can only be said that if at all the lowest class lack merit as contemplated by the private sector then that too is a result of lack of means to acquire them owing to caste factors.

Studies on nature of recruitment process in the private sector have presented figures which go contrary to the claim of fairness, transparency and impartiality made by private sector¹⁷. Data on the caste composition of many industries in India reveal that there exists a bias in favor of the upper caste¹⁸. Top positions in almost all industries in India are occupied by members of the upper caste. As they occupy important positions at every stage of state machinery they continue practicing discrimination against the lower caste to the effect that caste based discrimination is experienced everywhere. In fact it has got embedded into the system.

Industry is required to think of reservations under affirmative action policies. Now the very conception of these affirmative action policies is a product of the social consciousness of members of society to help the disadvantaged. Wherever affirmative actions are conceived and implemented the need has been to show empathy to the disadvantaged, to provide relief measures to those who had to

suffer discrimination. Affirmative actions are means of social justice which owe their origin to the collective sense of responsibility shown by the state to undo past atrocities.

In countries like USA affirmative actions have won both legal and public support as a means of checking discriminations in fields of education and employment. It is also important to note that in USA it is not only the state or government which confirms to these policies but the private sector, business and corporate world have equally shared the responsibility of social upliftment. In fact the contribution made by the private sector has gone a long way in making affirmative action a successful policy all-round.

The whole point of quoting the American experience has another purpose to serve. It is to emphasize that in America the claims of blacks, native Indians and other minorities to have access to resources have got public legitimacy. The important role these sections play as citizens and consumer in the globalized economy is well understood and acknowledged. In other words they form an important part of the stakeholder population which could not and were not ignored by the corporate sector. Hence firms affirm to diversity principle by recruiting people from the disadvantaged sections.¹⁹

But this can not be said in the case of India. The claim of Dalits as stake holder in the society is not taken seriously. This could be due to many factors, lack of powerful agency being one of them. Their arguments lack seriousness due to an unconcerned Dalit leadership that has failed to take up issues of structural reforms concerning Dalits. In the post independence India successive governments have half heartedly taken up steps to improve the conditions of SCs/STs. The new emerging Dalit leadership has always talked of developmental funds and not of bringing structural changes like land reforms which would have helped millions of the disadvantaged people. Many times the government has been found wanting in filling the required quotas for the disadvantaged section. Thus like the Dalit leadership and the government, the measures propounded by the corporate sector also lack seriousness.

Whether corporate social responsibility can be used as a vehicle to take affirmative actions measures like reservation in India remains an issue which can be tackled only by the corporate world. Corporates will have to realize that with the political support reservation in private sector could turn out to be a potentially dangerous issue. In society when the disadvantaged groups like SCs (Dalits) and STs (tribals) have gained fair ascendancy in political field, their deprived economic and low social status becomes greatly felt. It is a sad fact that in India marginalized like Dalits, women and 'Adivasi' constantly has to fight against the state and the capitalist class for justice. The fact that some of them have gained their own place in democratic politics and are asserting their importance through influencing the policy making makes them all the more intolerant towards their economic backwardness.

Assimilating these groups then becomes dire necessity for the marginalization has given rise to social tensions. With a vast majority of people denied fair chances of entry into the market the legitimacy of the very institution becomes questionable.

Corporations especially the bigger ones have a larger role than just contributing in the field of growth and economy. They give a platform to people from different regions with different values and cultures to come together and work. While working together people get a chance to interact with the 'other' and in the process familiarize themselves with different perspectives, cultures, customs and problems faced by fellow workers. People get enriched by the social interaction and the organization gets enriched by creative ideas. Thus corporations act as mini communities fostering a close bond between their employees.

If they fail to show diversity in the employee population through fair recruitment processes the result will be dominance of a particular group in the organization. It is very likely that this dominant group will practice its ideology which in certain terms is likely to harm the interests of other groups. More than giving economic opportunity reservations would do a great job to assimilate marginalized sections

into the mainstream socially, something which was envisaged by the constitution makers in India when they provided reservation in the public sector.

The active presence of the hitherto marginalized section in every echelon of the corporate organization would enable them to gain confidence in themselves and in the democracy as well. It is also likely to provide them the much needed agency for change. Making them part of the wealth creating process remains one of the most important tasks for corporate social responsibility or for any development project.

Private sector in India should take up the issue of reservations as integral to the social responsibility measures and not as mandatory regulation. Unlike the west which is struggling with the problems of environment India is fighting hard to create an egalitarian society devoid of poverty and exploitation. The corporate sector will have to play its part in the project sooner or later in its own interest.

Conclusion

CSR works towards securing the triple bottom-line i.e. people, planet, and profit. The welfare of the first two is now given priority, which then is thought to take care of the profit and sustainability of the business for firms. Environment issues are gaining importance throughout the world due to alarming level of pollution, exhaustive use of natural resources, global warming, and massive protest led by the people who have lost their land and source of livelihood thanks to setting up of new industries.

Corporations are involved in large numbers in various developmental projects. But the kind of development which is happening today is not balanced due to a large population of people like SCs, STs, are being kept out owing to various reasons, caste discrimination being one of the major factor. The problem of unemployment gives rise to poverty which in turn leads to social and political unrest in the society. CSR in such a situation becomes all the more required from the corporates especially for the reason that they possess resources and have access among the masses. The corporate sector has to look at the possibilities of making these groups

a part of work force, consumer population, managers of the firms and including them into the decision making process. It is imperative that along with the state a booming corporate sector must also share the responsibility of providing social goods, justice and equal economic opportunities to those who are denied of it.

CSR will fall short of its intended goals of helping in development of society if it remains selective in choosing the areas of operation and target population. Till now it has concentrated itself on the matters of labor rights, environment protection, employee benefits etc but poverty alleviation and accepting reservations remains conspicuously absent from the CSR agenda.

Till now state has been showing its social responsibility by providing reservations to the disadvantaged in the public sector. But from now onwards the corporate sector has to think about its own responsibility towards such people, especially when it is as able, resourceful and considerate as any government of the day can be. CSR has to find a way for millions of jobless youth who are looking up to the corporate sector for their due.

Endnotes:

¹David Held and McGrew, Anthony, 'The Globalization Debate: An Introduction' in David Held and Anthony McGrew (eds.), *The Global Transformation Reader*, Polity Press, Cambridge, 2000.

² UNCTAD (1998b) Trade and Development Report 1998, Geneva: UN Conference on Trade and Development cited in Held, David and McGrew, Anthony, 'The Globalization Debate: An Introduction' in David Held and Anthony McGrew (eds.), *The Global Transformation Reader*, Polity Press, Cambridge, 2000,p-25.

³ Ibid.

⁴ Keith Davis, 'The Case for and Against Business Assumption of Social Responsibilities', *The Academy of Management Review*, Vol .16, No.2, June,1973, pp 312-322.

⁵ Pitabas Pradhan, S.P.Parida and Bani.P.Rath; 'Corporate Social Responsibility in the Globalize Business Environment: Community Relations at Nalco', *The Journal of Social Work*, Vol. 66, Issue.2, April,2005.

⁶ Dipankar Gupta, 'Corporate Responsibility' in C.V Baxi, Ajit Prasad (eds.), *Corporate Social Responsibility-Concepts and Cases: The Indian Experiences*, Excel Books, New Delhi, 2005, p-22,23.

⁷ Pradhan, Pitabas, S. P. Parida and Bani. P. Rath, 'Corporate Social Responsibility in the Globalize Business Environment: Community Relations at Nalco', *The Journal of Social Work*, Vol. 66, Issue.2, April,2005,p-212-213.

⁸ Davis, Keith, 'The Case for and Against Business Assumption of Social Responsibilities', *The Academy of Management Review*, Vol .16, No.2 June,1973, pp 312-322.

⁹ Darryl Reed, Sanjay Mukherjee (eds.), *Corporate Economic Reforms and Development*, OUP, New Delhi, 2004.

¹⁰ Michael Blowfield & J.G. Frynas, 'Setting New Agendas-Critical Perspective on Corporate Social Responsibility in the Developing World', *International Affairs*, No.3, May,2005.

¹¹ Shankar Venkateshwaran, 'The Role of Business in Society: Business –NGOs Partnership for Development' in Darryl Reed, Sanjay Mukherjee (eds.), *Corporate Economic Reforms and Development*, OUP, New Delhi, 2004, p-226.

¹²Michael Blowfield & J.G. Frynas, 'Setting New Agendas-Critical Perspective on Corporate Social Responsibility in the Developing World', *International Affairs*, No.3, May,2005,p-511

¹³ Darryl Reed, Sanjay Mukherjee (eds.), *Corporate Economic Reforms and Development*, OUP, New Delhi, 2004.

¹⁴ Ibid,p-257-58.

¹⁵ Ibid,p-256.

¹⁶ Quoted from –Keith Davis, 'The Case for and Against Business Assumption of Social Responsibilities', *The Academy of Management Review*, Vol .16, No.2, June, 1973, p 312-322.

"Milton Friedman in his book capitalism and freedom said that social responsibility is fundamentally a subservient doctrine in a free society.

...Milton Friedman, who follows the classical economic doctrine of a free market, argues against the idea of social responsibility. He contends that "few trends could

so thoroughly undermine the very foundations of our society other than to make as much money for their stockholders as possible".(p-312)

Milton Friedman—"in a free enterprise, private system, a corporate executive is an employee of the owners of the business. He has direct responsibility to his employers. That responsibility is to conduct the business in accordance with their desires, which generally will be to make as much money as possible while conforming to the basic rules of the society, both those embodied in law and those embodied in the ethical custom..."(p-318)

¹⁷ Quoted from –T.S. Papola, 'Social Exclusion and Discrimination in Hiring Practices: The Case Study of Private Industry' in Sukhdeo Thorat, Aryama, Prashant Negi (eds.), *Reservation and the Private Sector: Quest for Equal Opportunity and Growth*, Rawat Publication, New Delhi, 2005.

p-103, " Several methods have been used to hire workers in factories and enterprises, but most of them face into the category of "particularistic" means (Harris et al., 1990), implying that they are accessible only to a particular group of persons."

p-103, "A study of factory workers in Poona conducted by Richard Lambert during 1959 (Lambert, 1963), found that 72% of the workers used "informal" channels for securing jobs. Two third of the workers already knew someone, a relative, or a friend , in the factory where they were first hired and in 85% cases these friends and relatives helped them in securing job..... 80 % of the workers perceived influence, to be either most important (50%) or very important in securing a job".

¹⁸Quoted from – T.S. Papola, "Social Exclusion and Discrimination in Hiring Practices: The Case Study of Private Industry" in Sukhdeo Thorat, Aryama, Prashant Negi (eds.), *Reservation and the Private Sector: Quest for Equal Opportunity and Growth*, Rawat Publication, New Delhi, 2005.

P-107 "The practice' adopted in the local labor market for factories in Poona resulted in significant over-representation of the higher castes (Brahmins and Marathas) in the workforce; these castes together made up for 50% of the workers, as against 35% of the city population. In Coimbatore , among the upper caste (Brahmin) workers 49% were in 'protected' jobs, who, as influential and trusted insiders could also influence hiring decisions in enterprises. A proportion of those holding such jobs was 23 % among backward, and 30% among Scheduled Castes".

¹⁹ Thomas, E. Weisskopf, 'Globalization and Affirmative Action', in Sukhdeo Thorat, Aryama, Prashant Negi (eds.), *Reservation and the Private Sector: Quest for Equal Opportunity and Growth*, Rawat Publication, New Delhi, 2005.

Conclusion

The need for socio-economic upliftment of the deprived sections in India was so pressing that affirmative action policy became a necessity in the process of building a just society in the post independent India. The democratic ethos of the Constitution placed obligations on the political leadership to look for measures to accommodate these marginalized sections into the mainstream. India adopted the policy of reservations as a compensatory measure against centuries of injustice inflicted upon the depressed sections by the upper castes. The roots of reservations go a long time back in the British period when seats were reserved for the deprived sections in government jobs. Under the Constitutional provisions seats were reserved for the SC & ST in public employment, legislatures and educational institutes in proportion to the ratio of their population. 15% seats for the SC and 7.5% for the ST were earmarked for quotas. The champions of the reservation policy see it as a necessary measure to give relief to the depressed people from the exploitative social structures of the society.

Reservation brought different impact on different spheres. In the social sphere the continuing reservation policy has resulted in the rise of a middle class comprised of SC/ST people. During the last 60 years, reservations as instrument of uplifting the downtrodden got a change in character and in the situations of acute scarcity for resources, it became a ready made political tool to be used any time by political elite to mobilize people around the issues of caste and community. It has been projected as the only possible and never failing way of securing what a section of society wanted from the government if it felt left out in the fast changing times and race for securing social goods and resources, social and economic securities. As a result new categories of groups have come forward to claim reservations citing their disadvantaged status on various grounds.

It also led to the formation of 'creamy layer' in these sections consisting of economically well off people from the lower strata who had enjoyed the fruits of reservation but failed to give up its benefits in favor of more deserving candidates.

In the field of politics the changing equation brought the decline of the 'Congress System' and many new parties formed on the basis of caste, religion and region, started emerging in the Indian politics, slowly but steadily eroding the vote banks of the former. With the arrival of the era of coalition politics mixed with an up coming urban middle class having substantial lower caste representation (a product of reservations), Dalits and other backward castes and classes started playing a greater role in the Indian politics. In the changed political equations, assertion of identity became possible for the previously marginalized groups and the leaders of these sections reached the ladders of success in Indian politics to the extent never experienced before.

In the field of economy reservation opened new vistas for the backward people who could never imagine themselves leaving the traditional menial works they were forced into since times immemorial. Thanks to reservation, now they got well-paid government jobs and a much needed dignity.

The issue of reservation took an ugly turn when massive and violent protest marked the country in a reaction to the recommendations made by the Mandal commission's earmarking 27% reservation for OBCs. The upper caste which till now had shown its patience toward reservation for the SCs/STs came out in full opposition to the proposal fearing loss of jobs to the backward classes in a resource crunch situation.

After the structural reforms of 1991, India's economic policies are characterized by LPG. In the liberalized economy the state soon started making way for the private players. Many of the public sectors enterprises were privatized and from many of them the state started withdrawing its stakes. Consequently jobs in the public sector either remained stagnant or started decreasing. This has prompted the leaders of the disadvantaged sections to demand reservations for Dalits and tribals in the private sector.

As a result of the reservation policy a middle class emerged out of the marginalized sections which became much more visible in the public sphere and confident in their approach towards life. Figures show that due to reservation the number of SC/ST in various classes of government and public sector jobs rose substantially as compared to that of just after independence. In fact in class IV services they overrepresented their fixed proportion.

But the sad fact among all these positive changes taking place was the persistence of caste based discrimination in all the walk of life. Despite the fact that reservation was aimed to bring peace meal social engineering, the situation marking the social interaction did not improve much. Caste continued to influence the social behaviors of different actors in society. Taking note of deep rooted prejudices the Supreme Court of India affirmed of promotions in the government jobs on the basis of caste for the SCs/STs. The court was of the view that if there will be no such provision it was very likely that a SC or a ST would never be promoted up in the ladder by the upper caste superiors, even if he/she gets entry into jobs.

With the emergence of a powerful private sector as a result of the liberalization policies the demand is being raised for bringing reservations for the SC/ST in the private sector jobs. It is argued that since jobs are shrinking in the public sector and instances of caste based discrimination are not alien to the private sector recruitment system there is a need to bring reservations in order to protect the interest of the Dalits and tribals.

The second chapter has looked at the arguments given in the favor of private sector reservation policy. Those who have supported the proposal validate their points by giving data on the number of SCs/STs employees recruited in various private sector companies over the past 6 decades. It has been found that the private sector's claim of maintaining neutrality on the basis of caste does not stand valid in many of the cases studied. The chapter has focused on the statistical work of T.S. Papola, and Sukhdeo Thorat in this regard. It has been found that in many cases the private sector has selectively used the category of upper caste to serve their

interests. Even in the globalized free market economy recruitments are made through informal channels and network recommendations. The SCs/STs have suffered a lot due to their inability to break into the inner circle of the 'networks' as many of them are the first generation educated people in their family. This has also put a question mark against their claims of maintaining transparency in the recruitment process. Another major point of debate- the dilution of 'merit', resulting from reservation, was equally countered by the scholars who question the definitions of merit adopted by the private sector. Merit as conceptualized by the private sector becomes problematic when a major section of the Indian population has been deliberately kept out of the learning and knowledge acquiring processes in the past. Even today due to substandard quality of education imparted by the public school and unaffordable costs of private education the marginalized sections are not able to acquire the 'merit' required for the private sector jobs. The caste basis of formulating reservation has been justified on the grounds that there is a strong correlation between deprivation and caste affiliations. Caste has played a vital role in restricting the SC/St from entering into the job market on equal terms with the upper caste. The income or wealth criteria are not a surest way of finding deprivation as they may wary with time and within a family.

The need for structural changes like land reforms, minimum wages and distributive measures other than reservation have also found a place in the debate. The leaders across all the parties in India have agreed on the fact that the new economic policies of LPG are responsible for loss of jobs to the SCs/STs in the public sector and so the private sector have to make efforts to improved their condition by giving them jobs.

The third chapter has presented the views of private sector and tried to reason out their opposition to the proposal. The private sector in India has been a victim of excessive state controls in the forms of regulations and licensing. The Nehruvian model of development had shown strong disdain towards any attempt of profit making by the private sector. The policies of import substitution followed by successive governments first under Nehru and later under Mrs Indira Gandhi did more harm than good to the competitive edge of the private industries. Regulatory

affirmative action measures to improve the condition of the disadvantaged groups. They have proposed to give education, and training to the SC/ST youth. They aim at creating more entrepreneurs out of the disadvantaged sections. The private sector is critical of the reservation policy in general and do not see it doing any good for the marginalized sections. What they think is that more than reservations these sections need help in the capacity building. They required better skills to suit the demands of the job market which can be best developed through education and training and not reservation.

As both the parties in the debate have pertinent question and none can be dismissed for the sake of other. Both have raised some genuine issues concerning the scope of reservations. In this background the fourth chapter has attempted to find a solution to the ongoing debate with the help of the emerging notion of CSR. The chapter has tried to understand CSR and its particular importance in the Indian context. The political class has invoked the notion of CSR of the private sector to deal with the reservation issue. They have opinioned that rather than looking at reservations as some form of mandatory regulations the private sector can take them up through their affirmative action policies. Working on the similar lines the chapter has tried to argue that CSR can prove to be a great tool for the upliftment of the lower sections of the society provided it agrees to consider caste based discrimination to be one of the major cause of unemployment and poverty in India. Till now CSR had focused on environment and labor issues which have a direct bearing on the sustainability of business. But in a developing country like India the private sector can not keep itself aloof of the worsening conditions of the people. For the social peace and stability they need to look at their own recruitment policies which had been influenced by caste factors. The chapter argues that the private sector can take up reservations under the CSR program by enlarging their definitions of social responsibility. As different societies have different problems the present approach of CSR needs to adopt itself to suit the problem of Indian society. What is required of the private sector is a will to find a way to accommodate the marginalized sections into the wealth creating process. That can be done by giving them the chance to enter into the job market on equal footing.

Once their condition is improved they can be potential consumers for the industrial goods and source of quality manpower. Though the debate is yet to be amicably settled a clear picture has emerged out of all the chaos. The recent initiative taken by the private sector in response to the call for showing a socially responsible behavior towards the weaker section of the society in the form of affirmative action is a step in the right direction.

But it is greatly felt that issue like structural changes, land reforms, minimum wages for the agricultural labor, strengthening elementary education; fair recruitment policies in the private sector etc need immediate attention. According to figures the number of jobs in the organized private sector is approximately 9 million. This figure is not very big to cause celebration for the supporters of reservation nor very mighty to give rise to pessimism in the opponents regarding the future of the growing Indian economy. What is required is an objective and unbiased analysis of the proposed policy in order to come to a conclusion which could suit both the deprived sections as well as the industries.

The purpose of any organization either social or political or economic is to improve the life chances of the people constituting it. If during the course of its operation one organ creates inequality among the members of the society the state has every right to interfere. Similarly other organs can check the authoritarian policies of the state in case they go against the well being of the common people. In developing countries like India the relative autonomy of the state with respect to other organs gets weakened due to the presence of over powering social structures. Caste has proved to be such a powerful social institution which has even placed limits on the state policies. Considerations of vote bank politics have influences successive government's approach towards issue of reservation in India. But in the age of fierce competition any policy concerning regulations will have to be carefully analyzed. Similarly in the free capitalist market economy conditions will have to be created for the survival of the poor and marginalized. Dealing with private sector reservation policy demands a similar cautious approach for it requires a balance between social commitment and market compulsion for a free and unregulated market.

Bibliography

Primary Sources

-Lok Sabha Debate, Dated- 9 July, 2004.

-The Economic Survey of India 2006-07.

-The Sixth Report of the National Commission for Scheduled Castes and Scheduled Tribes (1999-2000 and 2000-01).

Secondary Sources

Books:

Bagchi, A. (ed.), *Economy, Society and Polity*, Oxford University Press, Calcutta, 1988.

Bardhan, Pranab, *The Political Economy of Development in India*, Oxford University Press, Delhi, 1984.

Baxi, C. V., Prasad, Ajit (eds.), *Corporate Social Responsibility-Concepts and Cases: The Indian Experiences*, Excel Books, New Delhi, 2005.

Bhagwati, Jagdish, *India in Transition*, Oxford University Press, Oxford, 2002.

Das, Gurcharan, *India Unbound*, Viking, New Delhi, 2000.

Devanesan, Nesiah, *Discrimination with Reason? The Policy of Reservations in the United States, India and Malaysia*, Oxford University Press, Delhi, 1997.

Dhar, P. N., *Evolution of Economic Policy in India*, Oxford University Press, 2003.

Dumont, Louise, *Homo Hierarcchicus: The Caste System and Its Implications*, University of Chicago Press, Chicago, 1980.

Galanter, Marc, *Competing Equalities: Law and the Backward Classes in India*, Oxford University Press, Delhi, 1984.

Gauba, O. P., *An Introduction to Political Theory*, Macmillan, New Delhi, 2004.

Gupta, Dipankar (ed.), *Caste in Question: Identity or Hierarchy?*, Sage, New Delhi, 2004.

Gupta, Dipankar (ed.), *Social Stratification*, Oxford University Press, New Delhi, 2006.

Jaiswal, Suvira, *Caste: Origin, Function and Dimensions of Change*, Manohar, Delhi, 1998.

Jha, L. K., *Indian Economy*, Har-Anand Publication, New Delhi, 1994.

Held, David and McGrew, Anthony, *The Global Transformation Reader*, Polity Press, Cambridge, 2000.

Hooda, Sagar Preet, *Contesting Reservations, The Indian Experiment on Affirmative Action*, Rawat Publication, Jaipur, 2001.

Mahajan, Gurpreet, *The Multicultural Path*, Sage, New Delhi, 2002.

Mehta, Haroobhai and Patel Hansmukh, (eds.), *Dynamics of Reservation Policy*, Patriot Publication, New Delhi, 1985.

Mookherjee, Dilip. (ed.), *Indian Industry: Policies and Performances*, Oxford University Press, New Delhi, 1998.

Prasad, Anirudh, *Reservation Policy and Politics in India: A Means to an End*, Deep and Deep, New Delhi, 1991.

Prasad, Ishwari, *Reservation: Action for Social Equality*, Criterion Publication, New Delhi, 1986.

Reed, Darryl, Mukherjee, Sanjay (eds.), *Corporate Economic Reforms and Development*, Oxford University Press, New Delhi, 2004.

Mooij, Jos (ed.), *The Politics of Economic Reforms in India*, Sage, New Delhi, 2005.

Shah, Ghanshyam (ed.), *Dalit Identity and Politics*, Sage, New Delhi, 2001.

Shah, Vimal P., *Reservation: Policy & Programmes*, Rawat Publication, Delhi, 1986.

Sharma, K. L. (ed.), *Social Inequality in India: Profiles of Caste, Class, and Social Mobility*, Rawat Publication, New Delhi, 2001.

Swamy, S. Dalip, *The Political Economy of Industrialization*, Sage, New Delhi, 1994.

Thorat Sukhdeo, Aryama, Prashant Negi (eds.), *Reservation and Private Sector: Quest for Equality*, Rawat Publication, New Delhi, 2005.

Tumin, Melvin and Walter Plotch, *Pluralism in a Democratic Society*, Praeger Publishers, New York, 1977.

Warshney, A. (ed.), *The Indian Paradox: Essays in Indian Politics*, Sage, New Delhi, 1989.

Journals/Articles

Agrawal, U. G. "Reservation for Whom, Why, and How Much: Constitutional Provisions and Judicial Verdicts," *Indian Journal of Public Administration*, Vol. XLIX, No. 1, Jan-Mar, 2003.

Algappan, A. R., "Reservation in PSU, How Effective?" *Economic and Political Weekly*, Vol. 33, No. 15, 1-17 Apr, 1998.

Barma, Sukhvilas, "Reservation: Getting into a Vexed Question", *Mainstream*, 11-17 Aug, 2006.

Bennett, Juliette, "Multinational Corporations, Social Responsibility and Conflict", *Journal of International Affairs*, Vol.55, No.2, Spring, 2002.

Beteille, Andre, "Matter of Right and Policy", *Seminar*, 549, May, 2005.

Bhagyalakshmi, C., "Reservation: A Legal Way to Establish Casteless Society", *Third Concept*, Vol.14, No.163, Sep, 2000.

Bhambri, C. P., "Reservation and Casteism", *Economic and Political Weekly*, Vol.40, No.9, 26 Feb-4 Mar, 2005.

Blowfield, Michael & J.G. Frynas, "Setting New Agendas-Critical Perspective on Corporate Social Responsibility in the Developing World", *International Affairs*, No.3, May, 2005.

Blowfield, Michael, "Corporate Social Responsibility: Reinventing the Meaning of Development", *International Affairs*, No.3, May, 2005.

Brennan, Lance, et. al., "Caste, Inequality and Nation State: The Impact of Reservation Policies in India, c. 1950- 2000", *South Asia: Journal of South Asian Studies*, Vol. 29, No.1, Apr, 2006.

Chalam. K.S, "Caste Reservation and Equality of Opportunity in Education", *Economic and Political Weekly*, Vol.25, No. 41, 13 Oct, 1990.

Das, Bhagwan, "Moments in the History of Reservation", *Economic and Political Weekly*, Vol.35, No.43, 28 Oct, 2000.

Davis, Keith, "The case for and Against Business Assumption of Social Responsibilities", *The Academy of Management Review*, Vol .16, No.2, June, 1973.

Deshpande, Ashwini, "Does Caste Still Define Disparity? A Look at Inequalities in Kerala, India", *The American Economic Review*, Vol. 90, No. 2, May, 2000.

Godbole, Madhav, "Corporate Governance: Myth and Reality", *Economic and Political Weekly*, 27 July, 2002.

Gosh, Partha. S., "Positive Discrimination in India: A Political Analysis", *Ethnic Studies Report*, Vol:15, No.2, July, 1997.

Gupta, Dipankar, "Limits of Reservation", *Seminar*, 549, May, 2005.

Jenkins, Rhys, "Globalization, Corporate Social Responsibility and Poverty", *International Affairs*, No.3, May, 2005.

- Kapstein, Ethan B., "The Corporate Ethics Crusade", *Foreign Affairs*, Vol. 80, No.5, Sept/Oct, 2001.
- Kleim, Gerald ,D., "Corporate Social Responsibility :An Assessment of the Enlightened Self Interest Model", *The Academy of Management Review*, Vol.3, No.1, Jan, 1978.
- Kumar, Dharma, "The Affirmative Action Debate in India", *Asian Survey*, Vol. 32, No. 3, Mar, 1992.
- Kumar, Subodh, "Reservation: A Panacea of All Ills", *Mainstream*, Vol.44, No.18, 22 Apr, 2006.
- Kumar, Vivek, "Understanding the Politics of Reservation: A Perspective from Below", Vol.40, No.9, *Economic and Political Weekly*, 26 Feb- 4 Mar, 2005.
- Kundu, Amitabh, "Reservation, Anti reservation and Democracy", *Economic and Political Weekly*, Vol.25, No.45, 10 Nov, 1990.
- Mahajan, Gurpreet, "The Problem", *Seminar (Redressing Disadvantages)*, No.549, May, 2005.
- Maheshwari, S R., "Reservation Policy in India: Theory & Practice", *Journal of Public Administration*, Vol.43, No.3, July-Sep, 1997.
- Moon, Jeremy, "Social Responsibility of Business and New Governance", *Government and Opposition*, Vol.37, Winter, 2002.
- Natrajan, V.K., "Reservation: Seeking New Perspectives", *Economic and Political Weekly*, Vol.34, No.34-35, 21 Aug-3 Sept, 1999.
- Nesteruk, Jeffery, "Conception of Corporation and the Prospect of Sustainable Peace", *Vanderblit Journal of Transitional Law*, Vol. 35: 389, 2002.
- Neville, Peter, "Citizenship, Accountability & Community – The Limits of CSR Agenda", *International Affairs*, No.3, May, 2005.
- Pradhan, Pitabas, S. P. Parida and Bani. P. Rath, "Corporate Social Responsibility in the Globalize Business Environment: Community Relations at Nalco" *The Journal of Social Work*, Vol.66, Issue.2, Apr, 2005.
- Radhakrishnan, P., "Sensitising Officials on Dalits and Reservations", *Economic and Political Weekly*, Vol.37, No.7, 16-22 Feb,2000.
- Radhakrishnan, P., "Job Quotas in Private Sector", *Economic and Political Weekly*, Vol.39, No.40, 2-8 Oct, 2004.
- Rai, Ramakant, "Reservation as False Consciousness", *South Asia Politics*, Vol.4, No.3, July, 2005.

Ranjan, Sudhanshu, "Reservation for Minority Dalits", *Mainstream*, Vol.38, No.51, 9 Dec, 2000.

Singh, Indrajeet, "Reservation: A Transitional Phase", *Mainstream*, Vol.44, No.28, July, 2006.

Singh, Mahi Pal, "The Question of Reservation – A Reexamination", *Mainstream*, 16-22 June, 2006.

Swanson, Diane L., "Towards an Integrative Theory of Business and Society: A Research Strategy for Corporate Social Performance", *The Academy of Management Review*, Vol.24, No.3, July, 1999.

Thorat, S. K., "Reservation Policy for Private Sector", *Economic and Political Weekly*, Vol.39, No.25, 19-25 June, 2004.

Wartick, Steven L. Cochran, Philip.L., "The Evolution of the Corporate Social Performance Model", *The Academy of Management Review*, Vol.10, No.4, Oct, 1985.

Weisskopf, Thomas .E., "Is Positive Discrimination a Good Way to Aid Disadvantaged Ethnic Communities?" , *Economic and Political Weekly*, 25 Feb, 2006.

Newspaper/Magazine

Hohnen, Paul, "Corporate Social Responsibility: Bubble or Boom?" *World Today*, Mar, 2006.

Krishnan, P. S., "The Story of Deprivation", *Frontline*, 29 Dec, 2006.

Ramchandran, Sushma, "India Inc., Liberalization, and Social Responsibility", *The Hindu*, New Delhi, 25 Apr, 2006.

Vishwanath, S. & Ramakrishnan, Venkitesh, "At a Crossroad", *Frontline*, 29 Dec, 2006.

"Meritocracy Model", *The Hindustan Times* (editorial), New Delhi, 21 June, 2007.

Website

www.parliamentofindia.nic.in

www.finmin.nic.in

www.ambedkar.org

www.economicstimes.com