



# “Social Inclusivity And The Quest For Other Backward Classes Reservation In The Private Sector”

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## ABSTRACT

The debate over reservations for Other Backward Classes (OBCs) in India has predominantly centered on the public sector and educational institutions. However, as the private sector increasingly becomes a significant employer, questions about extending affirmative action to this domain have emerged. To undo the historical injustices faced by Backward Classes, reservation in private sector is advocated as a means. The labour scenario of Backward Classes in India provides a strong ground for implementation of reservation in private sector. This paper examines the rationale, challenges and implications of implementing OBC reservations in the private sector, focusing on promoting social inclusivity. By reviewing existing policies, legal frameworks and socio-economic dynamics, the paper advocates for a balanced approach to fostering inclusivity while preserving economic competitiveness. The resistance offered by the private sector is superficial and is premised on so many false arguments. This paper also tries to debunk such false myths of private sector and also discusses the modes of implementing other instruments of affirmative action to achieve social inclusivity

**Key words:** Backward classes, social legitimization, reservation in private sector.

## 1. Introduction

The concept of social inclusivity in India stems from historical injustices and socio-economic disparities among various communities. Affirmative action through reservations for Scheduled Castes (SCs), Scheduled Tribes (STs) and OBCs has been a cornerstone of India's social justice policy. However, the private sector, a growing domain of employment opportunities, remains outside the ambit of such affirmative action policies. This paper explores the necessity, feasibility and potential framework for implementing OBC reservations in the private sector.

## 2. Background and Rationale

### 2.1 Historical Context of Affirmative Action:

Post-independence India recognized the need for affirmative action to address caste-based discrimination and socio-economic backwardness. The Mandal Commission report (1980) highlighted the underrepresentation of OBCs in education and employment, leading to the reservation policy in government services and public institutions.

### 2.2 Shift to the Private Sector

According to Dr Bhimrao Ambedkar “Caste system is not merely division of labour. It is also a division of labourers. Civilised society undoubtedly needs division of labour. But in no civilized society is division of labour accompanied by this unnatural division of labourers into water-tight compartments”.

Discrimination and social exclusion based on caste is an historic incidence unique to India. With liberalization in the 1990s, India witnessed rapid privatization, reducing the share of public sector employment. This shift created a vacuum in affirmative action policies, as the private sector does not have

statutory obligations to ensure representation for marginalized communities. Persistence of caste discrimination specifically in the labour market in employment and daily wage rate, in both the public and private sectors, is something which social scientists have now begun to recognize. Few studies have provided convincing empirical evidence on discrimination in wages in the private labour market (Madheswaran 2010; Thorat and Attewell 2007). However, these studies mainly focus on discrimination in wage rate and ignore the estimation of employment discrimination. An equally ignored aspect is the impact of discrimination in employment and wage rate on income and poverty of discriminated groups.

Several political parties like Bahujan Samaj Party have supported the cause of introducing reservation in private sector in line with their political ideology and also with the motive of gaining permanent vote base for their party. Despite the topic of reservation being an appeasement policy, United Progressive Alliance government had setup a Group of Ministers to deliberate on this policy issue. In response to a letter from the then convener of a GoM set up by UPA government to introduce reservation in private sector, Shri Ratan Tata, the then chief of the Tata conglomerate, responded positively stating, "Tata Group certainly understands the social responsibility that all industries should carry to bring social justice to SC/ST and other minority or underprivileged sections of our community. We would be happy to support your initiative." Private sector showed mixed responses with most of them raising hue and cry about their autonomy, efficiency, competitiveness in the global market and the cost of hiring compromised un-meritorious candidates.

Recently, Government of Karnataka with held the execution of a draft bill which had proposed 50% reservation in managerial positions and 70% in non-managerial category for local candidates in private firms and establishments. Similarly Maharashtra government had to withdraw its policy of providing reservation in private sector for marginalized communities.

### **2.3 Need for Social Inclusivity:**

As our society moves towards greater inclusivity, diversity and justice, breaking the traditional linkage between caste and occupation becomes even more crucial. The private sector plays a pivotal role in shaping the socio-economic landscape. Ensuring diversity and representation within this sector is critical for creating an equitable society, reducing income disparities, and fostering innovation through diverse perspectives.

## **3. Existing Legal and Policy Frameworks**

### **3.1 Constitutional Provisions:**

Mindful of these challenges our constitution devoted four of its five articles on the Right to Equality to the caste issue. The Constitution makes provision under Article 15 and 16(4) for reservation in education and employment for socially and educationally backward people. . Article 46 emphasizes the promotion of educational and economic interests of weaker sections.

Indian Constitution has grey areas regarding reservation. It does not specifically mention whether the reservation can be provided for either the private or public sector. It only requires the government to make reservation under Article 15, 16 (4), 330 and 332 of our Indian Constitution. Along with these constitutional provisions India has passed laws prohibiting caste-based discrimination. And to ensure justice in the world of work several laws have been passed derived from the provisions of Directive Principles. For instance, reservation in higher education and Higher Educational Institutes (HEIs) like IIT and IIM, Right to Education, MGNREGA etc. We need to revitalize reservations by extending it across the private sector, including across all public services being provided by private agencies including education and health services.

### **3.2 Precedents in Corporate Social Responsibility (CSR):**

The Companies Act, 2013, mandates CSR initiatives that can align with inclusivity goals. However, CSR efforts are voluntary and do not directly address employment disparities.

### **3.3 International Examples:**

Countries like United States, Canada, South Africa and Malaysia have implemented affirmative action in private employment to address racial and ethnic inequalities, offering insights into potential frameworks for India.

## **4. Quest for reservation to the Backward Classes in Private Sector:**

In 2012, as per the National sample survey on Employment of the 856lakh total non-farm regular salaried employees (which exclude farmers and non-farm producer/business and casual labourers), about 70% (or 600lakh) were employed in the private sector, whereas only the remaining 30% (256lakh) were employed in the government sector. And even among these 256lakh government employees, about 40% were on contract basis (temporary) and hence not covered by reservation policies. Thus, only about 154lakh or 60% of the government employees - those permanently employed - were covered under reservation. This figure accounts for only about 18% of the total non-farm regulated salaried employees, including those in the private and government sectors, with the balance 82% remaining outside the purview of reservation. As per the 66<sup>th</sup> NSS

survey the population of Other Backward Classes is estimated to be 41.7 % as compared to 28.6% population of SC-ST community. A reservation of 27% for OBCs as compared to 22.5% for SC-ST makes the representation disproportionate. This makes a strong case for extending reservation for OBCs in private sector as well as increasing the quota to adequately represent them in government sector.

Within government sector if we consider Social group-wise share in public sector jobs as per 66<sup>th</sup> round of NSS data on Employment in all India level, Table mentioned below shows that the SC-ST percentages with access to public sector jobs are consistently higher than those for OBCs, across both blue and white collar jobs. The difference in the relative picture between SC-STs and OBCs reflects the longer operation of SC-ST quotas. The table also reveals that there are gaps between castes groups even within the public sector, but a much higher proportion of SC-STs owe their access to white-collar jobs in the public sector to reservation provided to them.

<b>Social Group</b>	<b>66<sup>th</sup> round NSS data on public sector jobs-Share of Public Sector Jobs</b>	<b>66<sup>th</sup> round NSS data on public sector jobs-Share of blue-collared Public Sector Jobs</b>	<b>66<sup>th</sup> round NSS data on public sector jobs-Share of white-collared Public Sector Jobs</b>
<b>SC/ST</b>	<b>4.76</b>	<b>6.98</b>	<b>16.48</b>
<b>OBC</b>	<b>3.85</b>	<b>5.76</b>	<b>9.2</b>
<b>Others</b>	<b>5.44</b>	<b>6.9</b>	<b>9.02</b>

**Table-1: Social group-wise share in public sector jobs as per 66<sup>th</sup> round of NSS data on Employment in all India level**

#### **Distribution of employed persons based on different categories of employment:**

<b>Approach</b>	<b>Self employed</b>	<b>Wage/ Salary Earners</b>	<b>Contract Worker</b>	<b>Casual Labour</b>
<b>UPS</b>	49.2	18.0	3.8	28.9

**Table 2: Distribution of employed persons among different categories of employment based on UPS approach (R+U)**

The Sixth Annual Employment and Unemployment survey conducted by Government of India results show that majority of the persons i.e. 49.2 per cent of the employed persons were reported to be self-employed followed by 28.9 percent as casual labour, 18 percent as wage/salary earners and remaining 3.8 percent as contract workers based on Usual Principal Status approach.

In addition NSS survey points out that there is a shift away from agriculture towards the secondary and tertiary sectors due to changes in the structural economy of India. It also reveals that the occupational disparities, especially in relation to white-collared prestigious jobs have sharpened over the time period (from 1920s to 2010) analyzed. This clearly indicates that affirmative action to increase the salaried class and white-collared base is very much a need of the hour.

#### **5. Labour Force, Workforce Participation Rate and Unemployment Rate**

As per the Sixth Annual Employment and Unemployment survey conducted by Government of India at National level, the Labour Force Participation Rate for Scheduled Tribe category was the highest about 56.6 per cent followed by 53.3 per cent under the Scheduled Caste category, 51.6 per cent for Other Backward Classes category and 47.7 per cent for others category under the Usual Principal Status approach.

<b>Social Group</b>	<b>LFPR (Rural+Urban)</b>
<b>SC</b>	53.3
<b>ST</b>	56.6
<b>OBC</b>	51.6
<b>Others</b>	47.7

**Table 3: Labour Force Participation Rate for persons aged 15 years & above according to Usual Principal Status Approach (ps) All India (in percent)**

As per the Sixth Annual Employment and Unemployment survey conducted by Government of India at National level, **Worker Population Rate** (Working Population Rate is the persons employed per thousand persons) at the All India level, WPR was the highest under Scheduled Tribe category with about 53.7 per cent followed by 50.6 per cent under the Scheduled Caste category, 48.7 per cent for Other Backward Classes category and 45.1 per cent for Others category based on Usual Principal Status Approach.

Social Group	WPR (Rural+Urban)
SC	50.6
ST	53.7
OBC	48.7
Others	45.1

**Table 4: Working Population Rate for persons aged 15 years & above according to Usual Principal Status Approach (ps) All India (in percent)**

Social Group	Unemployment Rate(Rural+Urban)
SC	5.2
ST	5.2
OBC	5.5
Others	5.5

**Table 5: Unemployment Rate for persons aged 15 years & above according to Usual Principal Status Approach**

Based on the Usual Principal Status approach, the unemployment rate at the All India level was 5.5 percent each for Other Backward Classes category and Others category. In case of Scheduled Caste and Schedule Tribe category, the unemployment rate was estimated to be 5.2 per cent each.

The Labour Force Participation and Workforce Participation rate of OBC falls below SC-ST category and the Unemployment Rate too remains higher than the SC-ST category. From all these survey data we can infer that OBC status falls somewhere in between SC-ST and Others community.

Thus, Indian labour market requires certain anti-discrimination measure. But does anti-discrimination provisions entail reservation is a matter that ought to be open for discussion rather than something that is presumed.

## 6. Social legitimization of the labour market:

Druckheim proposed two kinds of division of labour. India is transcending from the traditional method of division of labour based on caste towards the capitalist model of division of labour. If we analyze labour market through the lens of Riggs' Prismatic-Sala model the co-existence of both the models of division of labour in India is a reality. A complete transition from traditional model to capitalist model requires a true representation of the Backward classes in private sector thereby making an inclusive wealth generation and economic prosperity possible. Confining the reservation only to public sector would create an "island" like structure which would deprive the 90 percent job opportunities which the private sector offers.

Thus to acquire social legitimization of labour market it becomes an important social goal that India's growth story shouldn't be devoid of representatives from Backward classes. The occupational structure of the economy should be truly reflective of inclusiveness and not the caste system as it used to be.

Liberalization has added to the woes of Backward classes. Historical discrimination has deprived the Backward classes from getting education and upskilling themselves for the labour market requirements. Until recently even the IIMs and IITs, the so called premier higher education institutes of India didn't provide reservation for the Backward classes which further made the employability of Backward classes difficult. With Government sector employment scenario almost reaching stagnation, the social mobility opportunity keeps shrinking, the only avenue for growth opportunity remains in ever expanding private sector.

Government of India has mandated "Corporate Social Responsibility" for Private entities to give away a certain ratio of their revenue earnings for social cause. Profit driven, business oriented companies are complying with CSR. It would cause no harm in extending the social responsibility into the realm of social justice by hiring people from certain castes without compromising on merit. Several companies have already initiated women-centric initiatives to draw them back to employment after pregnancy. Likewise an initiative on a voluntary basis to recruit certain proportion of Backward Classes would be a welcome move by the society. Moreover the CSR funds can also be utilized to sponsor the skill development programmes of the target group.

**7. Role of caste in inequality of opportunity and its cost:** Several studies have shown that the opportunity to get recruited is higher for others category as compared to Backward Classes, the wage gap and the opportunity cost of losing an employment opportunity is forcing them into a life of underprivileged, poverty ridden life.

## 8. Challenges in Implementing OBC Reservations in the Private Sector:

### 8.1 Resistance from Industry Stakeholders:

The greatest fear of private sector in providing reservation is that Industry will be forced to hire un-meritorious students. The definition of "merit" is abstract and context specific. The impact of affirmative policy on merit can be viewed from two major perspectives. Firstly the very design of the affirmative policy and then comes the availability of talent pool within the targeted group. India is experiencing jobless growth



today. With increased literacy rate and a plethora of skill development programmes by both industry and government we can easily claim that there is enough talent pool in the targeted group. In fact we are witnessing flight of talent to countries like USA, Canada and Germany for lack of opportunities in India. Coming back to the question of defining what constitutes merit, unlike Government sector which defines merit based on scores of competitive exams, the metrics for private sector adds other dimensions like soft skills, emotional intelligence and leadership qualities apart from technical expertise required for a specific post. Moreover the industry requirement of merit is very fluid and dynamic which keeps changing with the changes in technology and business requirements. For high end technology driven industries its better off to have a board with representatives from both the ends to decide upon the metrics of merit. Any criteria of defining merit shouldn't be unitarily imposed by the government upon industry. Man is a "satisficing" decision maker rather than being completely rational and logically driven said Herbert Simon. Therefore the entire recruitment process cannot be devoid of personal values and choices of the recruiter which often falsifies the exaggerated claim of fair and transparent merit based recruitment process of the industry. Industry should completely own the onus of implementing such consensus based merit derived from representatives of both the sectors in a transparent and accountable way without giving room for any foul and cry in the recruitment process. If Industry decides to not give up its prerogative power of defining merit then it should bear the complete onus of cost of externalities arising out of their narrow recruiting process. Thus debunking the unwarranted apprehensions of private sector in providing reservation should involve consensus based recruitment process.

### **8.2 Potential Economic Impacts:**

Private sector often floats up rhetorical and projects exaggerated claims that affirmative action necessarily hampers economic growth. Denial of equal opportunities in the labour market leads to economic discrimination as well as a dire impact on the income and poverty of the group facing discrimination. Countries like Malaysia, USA, Canada and South Africa have implemented reservation/affirmative action or anti-discrimination laws in private sector and their economy as well as labour markets have been thriving and are a successful model to replicate world-wide.

### **8.3 Private sector's fear of state overregulation**

Indian Private sector is just opening up to matured phase of growth from its infant era. License-raj era has already crippled the growth story of Industries. Another layer of slew of regulations would be counter-productive. Though this fear of Industry is justified the stark reality of political/Government intervention in industry's business remains unaltered. Industry thus can on the positive note think of this opportunity as a quid pro quo to gain some bargain in labour laws by accommodating reservation in recruitment.

### **8.4 Inefficiency of Reservation Policy**

Reservation will do little to alleviate poverty in India. Eg: Landless agricultural labourers in India. Added to this the industry also fears that in the quest for reservation policy the government might end up in introducing consequential policies which might be self-defeating or ineffective. 66<sup>th</sup> round of NSS survey has described that reservation has significantly increased the percentage of literates and salaried employees in SC, ST and OBC community which has helped to reduce the poverty rate among these communities.

### **8.5 Definitional and Implementation Issues:**

Deciding upon the Ceiling and the target group has been a major roadblock in implementing the reservation policy. Mandal Commission recommended providing 27 percent reservation to Other Backward Communities which had an approximate population of 52 percent in 1990 decade. If the theory of "adequate representation in proportion to its population" is to be considered then the adequacy of reservation given to Other Backward Communities becomes inappropriate in comparison to the Scheduled Castes and Scheduled Tribes community. States like Tamil Nadu have exceeded the 50 percent benchmark set for reservation by the honorable Supreme court and even central government has expanded the quota of reservation by extending 10 percent quota to EWS category. With caste census on the anvil it's appropriate and timely to revisit the reservation quota given to Other Backward Classes community in Government employment and education. Giving 50% reservation in private sector would be a mockery of the term "Private". On an average 20-30 percent reservation would do a great job for the betterment of depressed classes(SC, ST and OBC) and the remaining 70 percent would throw open a great volume of employment opportunities for other meritorious candidates without doing any kind of injustice to them. Adequate representation of the target group based on numerical representation would not serve as a perfect measure of anti-discrimination. A more nuanced method to measure anti-discrimination needs to be evolved after all the quantitative representation does not ensure for the discontinuity of qualitative discrimination

### **8.6 Populist measure of politicians and endless expansion of reservation:**

Reservation policies inherently have social and temporal expansion dimension. There are ample evidences in Indian history wherein political class has misused reservation policy to garner a permanent vote bank among

the Backward classes population. Ever expanding ceiling, target group and timeline of reservation has made private sector to create hesitancy ab-initio to accept the reservation policy.

### **8.7 Economic criteria versus caste criteria for reservation:**

Industry giant like Narayan Murthy had proposed to consider economic criteria for providing reservation. Poverty is a measure of economic deprivation of a person which can happen due to several external causes. Whereas Caste or racial discrimination is social in nature and it persists irrespective of how rich or poor a person is. To undo the caste like structure in employment affirmative action based on caste is essential. To further establish equity among the target group an economic criteria of **creamy layer** can be added as a filter. Moreover, the Supreme Court, in the Mandal judgment, has ruled that the Constitution does not permit economic criterion as the basis for reservation. Even otherwise, if we use the economic basis for reservations in the private sector, the poor among the forward castes and better off among the SC/STs and OBCs will benefit from such a reservation policy because they are educationally equipped and hence are in a position to compete in the private sector. Therefore, it will be worse than not having any reservation at all.

### **9. Way forward**

Reservation and anti-discrimination policies are two sides of the same coin. They complement each other. Reservation is outcome oriented whereas anti-discrimination is process/method oriented. Apart from reservation, there is need to check the anti-discrimination process involved in the very recruitment and the working conditions of the private sector.

#### **9.1 Streamlining defective OBC caste list and unified reservation policy:**

Another burning issue in implementing reservation is non-uniformity of the castes included in OBC lists across the states. To bring in uniformity of the castes, Central government has to implement Mandal Commission's recommended caste list and also conduct a caste census to include or exclude arbitrary inclusion of castes in the central list of OBC. The government needs to exclusively define and revise the income criteria periodically and bring in uniformity in defining "creamy layer" concept which often has been abused and misused by many due to existing anomaly.

Reservation should not lead to monopolization of benefits only by the dominant and articulate castes among OBCs. Equity and equality needs to be balanced by introducing internal reservation within the quota.

#### **9.2 Cross-sectional sharing of work experience:**

Lateral entry into civil services was introduced by Government of India; many of the stalwarts of tech companies like Nandan Nilekeni have successfully handled government visionary projects like AADHAR. Many of the corporate board of directors have ex civil servants, ex-judicial members on board. Major tech support for government organizations like HRMS software in Government of Karnataka are being supported and developed by private tech companies. This illustrates that the flow of talent from corporate to government and vice-versa has enabled successful projects being delivered. Thus merit is context specific and it cannot be compartmentalized and used as a barrier for introducing reservations in Private sector recruitment process.

#### **9.3 Create a Backward classes entrepreneurial base**

There are other avenues to provide affirmative action apart from reservation. Central and State governments are investing heavily in education, skill development and training. Reservation is extended to Credit flows through various schemes and NGOs. Government can extend its role to create a Backward classes entrepreneurial base by allocating government permits /licenses on priority basis and funding the start-ups through venture capital. Government through non-government organizations is funding self employment programmes for Women belonging to SC and ST community through programmes like Aajeevika(National Rural Livelihood Mission). Introducing OBC community women to this scheme on priority basis would further accentuate the growth story of the community.

#### **9.4 Public-Private Partnerships (PPPs):**

Collaborative initiatives between the government and private sector can create platforms for dialogue and innovation in implementing inclusivity measures. Projects under Public-private partnership can accommodate Backward classes employees through labour contracts and even certain leverage can be given to the Backward classes bidders through sanctioning such PPP projects.

#### **9.5 Incentive-Based Model:**

Rather than imposing quotas, the government could provide tax benefits or other incentives to entrepreneurs and employers that voluntarily adopt inclusive hiring policy, minimizing legislative interference and undue regulations in reservation and other issues, establishing a better trade-off between Government, labor market and Industry could augur well for our Indian economy. Since the government provides free land, tax

exemption, credit from government-owned banks and many other infrastructure facilities to private industries, it is morally entitled to ask in return reservations for socially backward people.

### 9.6 Skill Development and Capacity Building:

Addressing the skill gap through targeted training programs for OBCs can prepare candidates for private-sector roles, reducing concerns about meritocracy. Other measures include granting community land to the landless labourers on contract basis, creating a dedicated fund in line with SCSP/TSP funds and earmarking such funds, proceeds from government PSU disinvestment /gains to empower the most vulnerable groups and creating an exclusive corpus as suggested by Dr. B.R Ambedkar for education and upskilling of the depressed classes prove to be effective instruments for uplifting them.

### 10. Conclusion:

With Government venturing into New Public Management to run its organizations like business discarding the concept of Woodrow Wilson's public-private divide, the distinction of public and private no more holds the ground. Private sector needs to be viewed in continuum as an extension of public sector. Majority of Private sector companies are hugely funded by public through equity or public offerings in the form of shares. Based on the capital accrued from public they earn their revenues and profit. Under such circumstances it becomes an obligation for them to ensure "social justice" and give back to the society through job opportunities. Ultimately Social legitimization of the labour market and the occupational structure of the economy should be reflective of an egalitarian and inclusive structure rather than the erstwhile caste based occupational structure. The quest for OBC reservations in the private sector represents a crucial step toward realizing the vision of an inclusive India. While challenges persist, a collaborative approach involving incentives, skill development, and public-private partnerships can pave the way for effective implementation and thereby ensuring reduced economic disparities, strengthening social cohesion and to enhance corporate reputation. Balancing social justice with economic pragmatism will be the key to ensure the success of this initiative.

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