

Diversity in the workforce: why it is good for business

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Summary:

This study argues that a greater socio-economic diversity in the workforce at all levels of employment, by which we mean greater representation or inclusion of groups which have been traditionally marginalized, such as Dalits, and under-represented in organized employment, will not only have extremely positive repercussions for society as a whole, but more importantly, would make good business sense.

Evidence across all states in India and in different sectors indicates that access to productive employment and decent jobs remains confined to a few sections of the workforce. Labour is divided by caste, religion, region, all of which overlap with class and gender with some castes and religious groups practically absent in the top echelons of the private corporate sector.

Section II of the study contains a brief discussion of which groups are marginalized, excluded, under-represented and why. Section III demonstrates how dealing with exclusion and adopting a non-discriminatory policy is not only possible for the private sector, it is mandated by international convention. Section IV discusses how this problem is similar to the situation in racially divided advanced countries, such as the USA, UK, and other European countries and the measures taken in these societies to redress under-representation. Section V discusses the implications of the previous section for India and the specific steps which the private sector has adopted and additional steps it can adopt.

The Appendix contains the code of conduct to promote affirmative action adopted in 2011 by the Federation of Indian Chamber of Commerce and the All India Organisation of Employees.

1. INTRODUCTION

The Indian economy saw robust growth for nearly two decades since 1991, although there has been a distinct slowdown over the last couple of years. The private sector is a major contributor to this growth story, as GDP in the private sector has risen at the rate of over 10 percent per annum in the decade of 2000s, compared to the public sector, which grew at 6 percent. While the public sector remains a bigger employer in terms of absolute numbers, the share of employment in the private sector has been growing steadily. Increasing privatization of the Indian economy has been one of the pivots of the economic reform process of the last two decades. It is thus clear that patterns of production and employment in the private sector are already shaping the economy in decisive ways and will continue to do so in the foreseeable future.

While the economy has grown rapidly and some segments of the Indian population are globally connected, enjoy comparable lifestyles with the global elites, firmly belong to the 21st century and represent “India Shining”, there are substantial sections of the population and economy which are noticeably poorer and are organized around social and economic practices which are old, obsolete, and inefficient. The view that in India one can find several centuries – from the 19th to the 21st – intermingling with each other is indeed true, as the swanky metropolitan parts of Mumbai appear to have virtually nothing in common with a small village in the rural hinterlands of Chhattisgarh.

Yet, the seemingly diverse parts of the economy are connected, deeply and intimately, through labour flows and an intricate division of labour. India is a labour abundant country and its huge reservoir of labour force can be an enormous strength of the economy, if it is productively employed. Expansion of productive employment to larger sections of the working population is not only good for its own sake, in the sense that it would provide livelihoods to millions of Indians, but is also desirable because it would expand the domestic market for goods and services, so that the private sector can expand its business further.

However, evidence across all states in India and in different sectors indicates that access to productive employment and decent jobs remains confined to a few sections of the workforce, while the rest eke out a living in survival-level activities in the informal economy. We are not only referring to the rural-urban divide, which is stark and obvious, but also to the fact that the lines of division between those who are “included” in good jobs and those who are “excluded” run deep even in the urban areas. These lines are divisions of caste, religion, region, all of which overlap with class and gender, such that even within the small section of the labour force which is productively employed in decent jobs, some groups are better represented than others, some groups are placed higher than others, while some castes and religious groups are practically absent in the top echelons of the private corporate sector.

This document argues that a *greater socio-economic diversity in the workforce at all levels of employment*, by which we mean greater representation or inclusion of groups which have been traditionally marginalized and under-represented in organized employment, *will not only have extremely positive repercussions for society as a whole, but more importantly, would make good business sense.*

The rest of the document is organized as follows. Section II contains a brief discussion of which groups are marginalized, excluded, under-represented and why. Section III demonstrates how dealing with exclusion and adopting a non-discriminatory policy is not only possible for the private sector, it is mandated by international convention. Section IV discusses how this problem is similar to the situation in racially divided advanced countries, such as the USA, UK, and other European countries and the measures taken in these societies to redress under-representation. Section V discusses the implications of the previous section for India and the specific steps which the private sector has adopted and additional steps it can adopt. The Appendix contains the code of conduct to promote affirmative action adopted in 2011 by the Federation of Indian Chamber of Commerce and the All India Organisation of Employees.

II. THE PROBLEM OF EXCLUSION AND WHY WE SHOULD CARE

Usha Martin's annual report for 2010-11 states that "businesses in the 21st century are moving from being single bottom line oriented (profits) to double or triple bottom line oriented" (with an added focus on the impact of their operations on society and the environment)". The importance given to Corporate Social Responsibility (CSR) initiatives reflects this recognition and changing focus of business¹. The motivation for CSR could range from concerns of social inclusion to simply philanthropy or a combination of the two, but whatever the motivation, the fact is that CSR is not an aberration, confined to some "do-gooders", but seems to have become a major and systemic plank in the aims and programmes of leading companies.

CSR is compulsory in India since 2013.² CSR initiatives in India have taken two major forms: education of the under-privileged either through special schools or other programmes to support school-going children, and support to poor women, through home-based work or micro-finance. Given that both spheres would enhance participation in productive work, these

¹In India, even a casual glance at annual reports over the last decade of companies such as HSBC, Usha Martin, Tata group of companies, Mahindra & Mahindra, Godrej Industries, Ballarpur Industries, Kinetic Engineering, Crompton Greaves, Godrej & Boyce, Wartsila, NDPL, Forbes Marshall and several others reveals that CSR initiatives are becoming increasingly important.

² The Ministry of Corporate Affairs notified Section 135 and Schedule VII of the Companies Act as well as the provisions of the Companies (Corporate Social Responsibility Policy) Rules, 2014, which came into effect from 1 April 2014.

measures are extremely significant. However, there are other spheres where CSR could be directed, with even greater benefits.

Caste discrimination and exclusion

One of the schisms dividing Indian society, which remains deep and persistent despite monumental changes in economic structure in several spheres, is the line dividing castes which still bear the stigma of untouchability and the so-called “upper castes”³. The hierarchical nature of the caste system might have weakened in some areas and for some individuals, but for those at the bottom of the hierarchy, for members of castes traditionally associated with the most menial and low-ranking occupations (such as manual scavenging, working with dead animals, e.g. leather-workers and so forth), the ex-untouchables or the Dalits, the restrictions on social and economic mobility imposed by the caste system remain strongly in place. Untouchability has been legally abolished since 1950 and is liable for criminal prosecution, but covert and overt acts of untouchability continue, even in urban India, where caste status is relatively less easy to identify.

Dalits continue to suffer from a “stigmatized ethnic identity” due to their untouchable past and remained mired in corresponding social ‘backwardness’. There is sufficient evidence that amply demonstrates the various aspects of stigmatization, exclusion, rejection and violence that Dalits continue to face in contemporary India. In rural India, despite the decline of the traditional subsistence economy, caste continues to make its strong presence felt in many different dimensions. Shah et al (2006) documented untouchability in rural India based on the results of an extensive survey carried out over 2001-2002 of 565 villages across 11 states. They find that untouchability is not only present all over rural India, but it has “survived by adapting to new socio-economic realities and taking on new and insidious forms”. Navsarjan (2010) is the latest comprehensive study of untouchability in 1589 villages in Gujarat. It documents 98 types of untouchability practices directed towards Dalits by non-Dalits. These include the well-known forms, such as preventing Dalits from entering temples, but also include a mind-boggling variety of other practices such as Dalits not being allowed to enter the kitchen, even when they are employed as domestic help; or not being allowed to buy or rent houses in non-Dalit residential areas; or public goods such as street lights of municipal taps would not be allocated to parts of the village where Dalits live; or Dalits being required to puff their pipes or cigarettes away from the direction of non-Dalits, so that the latter do not get “defiled” by the smoke; non-Dalit midwives will not offer their services for assisting pregnant Dalit women; the sarpanch (elected head of the village council) is supposed to be the chair of the village council, however, when he or she is a Dalit, they will sit on the floor while upper castes sit on benches or chairs. Sharma (2012), in a comprehensive empirical analysis of violence against Dalits over the period 2001-

³ When using the term “upper castes”, one can also read “dominant” or “privileged” castes

2009, finds that violence (murder, arson, destruction of property, rape, assault, bodily harm and so forth) against Dalits increases when expenditure gaps, used as proxy between Dalits and upper castes decrease. This could be due to upper castes feeling threatened, or a reaction to a perceived unsettling of a natural social hierarchy, where Dalits are expected to remain at the bottom of the socio-economic ladder.

While on the one hand, the Indian constitution recognized the severity of caste-based discrimination towards the ex-untouchable castes and introduced remedial measures in the form of caste based affirmative action, thanks to its chief architect, Dr. B. R. Ambedkar, it also upheld the ideal of a casteless, secular society in which caste distinctions were supposed to be irrelevant in social and economic interactions. Accordingly, other than determining whether an individual qualified for affirmative action, the caste status of all other citizens was legally redundant. Since there is no affirmative action in the private sector and caste affiliation is not a legal category, there is very little hard data on the kinds of jobs that Dalits do in the private sector and to what extent Dalits are represented in the higher ends of the occupational spectrum.

However, national level macro data sets indicate that Dalits are overwhelmingly represented in the lower ends of the occupational distribution. This is true for all those who report to have jobs. Thus, if we look at the average wages of Dalits and non-Dalits, we find a persistent wage gap and this gap remains even controlling for education, occupation and industry. That is to say, there is a wage gap even when we compare Dalits and non-Dalits with similar average education levels. Data also tell us that Dalits form the overwhelming proportion of those who are below the poverty line, outside the pale of organized employment. Overall, then, there is no doubt that Dalits are either completely excluded from decent jobs or are included on unfavourable terms. Some of this is explained by the fact that the exclusion of Dalits starts much earlier – since childhood, they are excluded from decent education and on average, have poorer health outcomes due to greater incidence of poverty, malnutrition and uneven access to health services. Thus, while most Dalits do not possess the minimum qualifications that are needed for decent jobs in the organized sector, it is important to keep in mind that several do.

There is another kind of evidence outside the national level data sets. This is about labour market discrimination. Discrimination in rural areas is very well documented and its causes are relatively easy to understand, since in villages, traditional caste-based jobs are still relatively more prevalent, caste status of individuals is easy to identify and the spread of the modern, formal economy (which would have jobs not related to caste status) is relatively narrow.

The real puzzle is why, if at all, urban labour markets might discriminate. Profit maximizing and efficiency conscious employers should not care about the social identity of the worker, as long the worker is qualified (as Narayana Murthy's statement below illustrates). However, data show

persistent gaps between Dalits and upper castes in wages/salaries and occupational attainment, even after education and skill have been controlled for. This has led to studies which have tried to uncover the presence of discrimination in contemporary urban labour markets. A recent experimental study found that when sets of *exactly identical resumes*, which differed only in the names of the applicants (one with an identifiable Hindu upper caste name, another with an identifiable Muslim name and a third with an identifiable Hindu Dalit name) were sent to private sector firms in Delhi, the call-backs to upper castes (showing only the intention to hire, not actual hires) were significantly higher than those received by Dalits or Muslims. Another such study was done for firms in Chennai, which tested for the effects of caste *and* gender, and found that Dalit women got the lowest call-backs.

Other studies (Deshpande and Newman, 2007 and Jodhka and Newman, 2007) have tried to identify the exact pathways through which discrimination in urban labour markets manifests itself. As a result of discrimination, similarly qualified Dalits and upper castes get placed at very different levels of the occupational spectrum. Sometimes, this takes the form of “wage discrimination” (i.e. people paid differently for very similar jobs by changing the formal definition of the job), but most often this takes the form of “job discrimination” (Dalits and upper castes in very different segments of the occupational spectrum; Dalits being predominantly placed in lower paying, less prestigious jobs). This could be because of explicit discrimination, or due to insufficient recognition of caste-based disparities is that even when adequately qualified Dalits are looking for jobs, they might not get placed at jobs which reward their skills adequately. Studies have found that private sector hiring managers firmly believe in jobs being allocated on the basis of individual merit, except that their views about how merit is distributed overlaps very strongly with the existing stereotypes around caste, religious, gender and regional cleavages (Deshpande, 2011).

Thus, hiring managers need to be more sensitive to traditional (societal) patterns of exclusion and consciously make an attempt *not* to fall prey dominant social stereotypes, which penalize people due to their birth into stigmatizing jobs, even if they might be individually qualified. The definition and scope of CSR needs to be broadened to include measures to counteract the natural tendencies towards exclusion of certain groups. The last section of this document discusses what these specific measures might be.

III. HOW CAN DISCRIMINATION IN EMPLOYMENT BE TACKLED?

Discrimination in employment is a fundamental issue of International Labour Standards. International Labour Organization’s (ILO) 1958 Convention (No. 111) specifically targets discrimination in employment and occupation:

<http://www.ilo.org/ilolex/english/convdisp1.html>

India ratified this convention in 1960 which prohibits discrimination on several grounds, one of them being social origin which equals caste. The Convention also mentions that special measures to promote employment of specific disadvantaged groups can be adopted and should not be seen as discrimination. Principle 6 of the [UN Global Compact](#) is also on the elimination of discrimination in respect of employment and occupation. The [Global Sullivan Principles](#) promote a corporate social framework of human rights, social justice and economic opportunity worldwide. At the national level and preceding the 2013 CSR legislation, India has the [Corporate Social Responsibility Voluntary Guidelines 2009](#) formulated by the Ministry of Corporate Affairs -- Section 3 in it covers discrimination on any grounds in recruitment and during employment.

It is clear that the issue of discrimination at the work place such that some groups remain excluded from organized employment is a global problem and that international fora have developed an extensive set of principles which could be followed by institutions (including companies) in order to combat discrimination. These have been adapted specifically to the Indian context. For instance, to address caste discrimination in employment and the workplace, the International Dalit Solidarity Network (IDSN) has developed the **Ambedkar (Employment) Principles**. They have also developed a tool, the Dalit Discrimination Check to identify such discrimination and take measures to eliminate it. These tools can be found also at the ETI website (discussed below): <http://www.ethicaltrade.org/eti-base-code/discrimination>. Additionally, the ASSOCHAM Code of Conduct for Inclusiveness of SC & ST in Private Sector Employment, the CII Code of Conduct for Affirmative Action, and the FICCI Code of Conduct on Affirmative Action are voluntary guidelines developed by Associated Chambers of Commerce and Industry in India (ASSOCHAM), Confederation of Indian Industry (CII), and Federation of Indian Chambers of Commerce and Industry (FICCI) respectively (see Appendix).

In 2011, the UN adopted the “Guiding Principles on Business and Human Rights” as a part of the UN’s ‘Protect, Respect and Remedy’ Framework. These principles are grounded in the recognition of states’ existing obligations to respect, protect and fulfill human rights and fundamental freedoms and the “role of business enterprises as specialized organs of society performing specialized functions”. These Guiding Principles are expected to apply to all States and to all business enterprises, both transnational and others, regardless of their size, sector, location, ownership and structure. The UN advocates that these principles should pay *“...particular attention to the rights and needs of, as well as the challenges faced by, individuals from groups or populations that may be at heightened risk of becoming vulnerable or marginalized...”* (emphasis added). The section on corporate responsibility to respect human rights states clearly that

- business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.
- the responsibility of business enterprises to respect human rights refers to internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the 1998 ILO Declaration on Fundamental Principles and Rights at Work.

Most importantly, the principles state that “business enterprises...seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, *even if they have not contributed to those impacts*. (emphasis added)

Operationally, this means the following:

1. That business enterprises should express their commitment to meet this responsibility through a statement of policy that:

- (a) Is approved at the most senior level of the business enterprise;
- (b) Is informed by relevant internal and/or external expertise;
- (c) Stipulates the enterprise’s human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services;
- (d) Is publicly available and communicated internally and externally to all personnel, business partners and other relevant parties;
- (e) Is reflected in operational policies and procedures necessary to embed it throughout the business enterprise.

2. In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.

IV. INTERNATIONAL PARALLES FROM RICHER COUNTRIES: DIVERSITY MATTERS

The picture of caste discrimination in India resonates very strongly with racial divisions in labour markets of countries such as USA, UK, France, Australia, Malaysia, South Africa and Brazil, to

name a few. All these countries are richer than India, indicating that the problem of under-representation of groups is not confined to poorer countries in the world. In varying degrees, these countries have recognized the gravity of the problem and have taken a variety of active steps to redress this labour market imbalance. The important point to recognize is that in all these countries, *the private sector is very much a part of the solution.*

While approaches to the problem of under-representation vary – USA has preferential policies or equal opportunity employment; Malaysia has 30 percent Malay ownership (not employment) in business and so on – there is increasing recognition of the need to respect and honor the underlying diversity in society. A simple and compelling argument in favour of diversity is that individuals from diverse groups are raised differently, have very different life experiences and bring many different skills to the table. The way they would approach a given problem and their attitudes would vary considerably -- something that is well documented in the context of gender. It is now widely recognized that men and women bring different kinds of resources to the organization either because they might have different skills or different attitudes towards problem solving --- the corresponding increase in the pool of resources contributes positively to overall productivity. Diversity in the workforce at all levels not only serves the purpose of social justice, but can also be a vehicle of increasing productivity.

There are additional benefits to pro-actively having a more diverse workforce. A recent study in the USA found that companies that engage multicultural communities can reap huge rewards when it comes to consumer purchasing and brand loyalty, according to new data from Yankelovich Monitor Multicultural Study 2010. The study finds that Latino and Black consumers rate the importance of a company's presence in the community through corporate social responsibility and cause-related marketing programs as more significant in their buying decisions than do non-Latino whites.

A concept that is increasingly catching up in the private sector in the USA is that of "*diversity recruitment*". This refers to the management practice of ensuring that a company recruits a qualified pool of candidates from traditionally underrepresented groups, including women, Blacks, Latinos, Asians, American Indians, people with disabilities and lesbian, gay, bisexual and transgender people. Best practices in successfully acclimating these employees, as well as fully developing their talent, require full use of employee-resource groups, which are company sponsored groups focusing on traditionally underrepresented groups that augment business goals, including recruitment, retention and talent development.

If the corporate sector in the USA is thinking along these lines, it certainly makes a strong case for India. Several of the top 50 companies in USA in 2011 from the point of view of diversity also operate in India. If they are actively pursuing diversity recruitment in the USA, they are not novices to the idea of diversity. Several of these are top companies in their respective fields and

have appeared in the top 50 diversity list for several years. *If diversity was detrimental to business, these companies would have abandoned the policy long back.* Thus a very strong case can be made to extending the same policy to their operations to India, which would imply including a greater share of Dalits, Muslims and women.

Another initiative which is worth noting is the Ethical Trade Initiative (ETI), which is an alliance of companies, trade unions and voluntary organisations in several European countries. Ethical trade means that retailers, brands and their suppliers take responsibility for improving the working conditions of the people who make the products they sell. Companies with a commitment to ethical trade adopt a code of labour practice that they expect all their suppliers to work towards. The ETI seeks to address a wide set of issues related to workers' rights that includes in its ambit discrimination, but go beyond it (<http://www.ethicaltrade.org/eti-base-code>). The ETI addresses caste-based discrimination in several guidelines.

V. INCLUSIVE GROWTH AND THE PRIVATE SECTOR IN INDIA

It is clear that the corporate sector in the USA is active on the issue of diversity and holds important lessons for India. Speaking on the occasion of 60th anniversary of India's Independence, August 15, 2007, the Prime Minister of India said "the world today wants India to do well. The world community wishes us well. Our external situation is benign and favourable. **Our challenges are at home.**" One of the most urgent "challenges at home" is to make sure that large sections of the population are not left out of the growth story, because if they are, the consequent rise in inequalities will generate large-scale resentment and social unrest, which is not only detrimental to the stability of the country but is not conducive to peaceful conduct of business.

A core document which articulated this official position was the Government's 11th Five Year Plan for 2007-2012 and this same approach continues in the 12th Plan document which re-emphasizes inclusive growth. This includes **broadening the skilled human resource base for increased productive work** as well as encouragement to entrepreneurship and expansion among small and medium enterprises.

Unlike earlier five-year plans, the 11th Plan set measurable targets for both economic and social performance objectives to promote socially-inclusive growth. **Thus, it formally recognized that growth is not an end in itself - but a means to place human wellbeing of the largest group of citizens at the centre of development strategies.**

The government sought the partnership of the private sector in bridging this divide between those who are naturally included in the growth process and those who get left out. This was a

departure from the past and clearly reflected the increasing importance of the private sector, which we referred to in the beginning of this document. Speaking at a Confederation of Indian Industries (CII) annual general meeting in 2007, the Prime Minister noted that while it was the Government's job to provide socially and regionally inclusive economic growth, Indian industry must also rise to the challenge and play its part. He reminded delegates that "if those who are better off do not act in a more socially responsible manner, our growth process may be at risk, our polity may become anarchic and our society may get further divided. **We cannot afford these luxuries.**"

It was widely recognized that caste-based discrimination, directed at Dalits, was one of the key factors responsible for exclusion, though not the only one. Given that India already has caste-based affirmative action programme in the public sector, an easy way forward seemed to be to extend the same programme also to the private sector. The government mooted the idea of affirmative action in the private sector, which generated a great deal of controversy.

However, several companies and important industry leaders responded to the urgency of the problem and showed awareness of caste discrimination. Here is a sample of these voices:

Ratan Tata: The (former) chairman of the Tata Group spoke of his readiness to back the Government's initiative to improve Dalit lives and other underprivileged social groups through affirmative action in the private sector. The former Union Social Justice and Empowerment Minister and Speaker of the Lower House (Lok Sabha), Meira Kumar, described this as a "historic breakthrough".

Venugopal Dhoot: Chairman of Videocon, believes that one needs a change of mindset, not legislation. He noted industrialists must understand the difficulty of the marginalized classes: "They have been exploited for 5,000 years and must be given their due." Explaining Videocon's practice, he added that they have a policy of 20 percent reservation for Dalits (and tribals) in the workers' category, a completely voluntary move.

Narayan Murthy: Chairman of the Board and Chief Mentor of Infosys Technologies Limited affirmed that the private sector has an important role to play in the social and economic uplift of the Dalits. However, before formulating any policy, he noted that the compulsions of industry should be taken into account. Infosys employs a number of Dalit workers, but Murthy says: "I am not concerned about the caste of an employee as long he/she commands merit."

Sunil Bharti Mittal: Chairman and Managing Director of the Bharti group has said that industry needs to strengthen the Government's hands and do something as otherwise the Government will resort to legislation.

Collective industry voice: a number of India's leading names from manufacturing and service industry signed a commitment to implement in letter and spirit a programme of affirmative action to empower persons who are socially and economically vulnerable. They promised to offer scholarships, establish company-run private schools, partner with Government schools, and formulate vocational training and other development programs. The implementation was to be done through credible voluntary groups. Among the signatories of this statement were: Anu Aga (Thermax group of companies); Rahul Bajaj (Bajaj group); Kumaramangalam Birla (Aditya Birla group); Naushad Forbes (Forbes Marshall India); Jamshyd N. Godrej (Godrej and Boyce Manufacturing Company Ltd); F.T. Khorakiwala (Switz group); H.F. Khorakiwala (Wockhardt Ltd); Suresh Krishna (TVS Group); Keshub Mahindra (Mahindra and Mahindra); A.C. Muthiah (First Leasing Company of India); B. Muthuraman (Tata Steel); N.R. Murthy (Infosys); Deepak Parekh (HDFC Bank); Azim Premji (Wipro); S. Ramadorai (Tata Consultancy Services); Gurpreet Singh (Continental Devices); and Gautam Thapar (Crompton Greaves), Tarun Das and Sunil Kant Munjal, former chairmen of the Confederation of Indian Industry (CII), A.S. Ganguly, former chairman of Hindustan Lever, and Rafiq Zakaria, academician.

Concrete Action

These voices have been followed by concrete action. The Tata's, the \$71 billion, 350,000 people group has undertaken an elaborate caste profiling of its workforce across all its major companies since December 2009. They ask their workforce to fill their caste information if they think it fit to do so. They found that over 99% of their employees volunteered their caste information without difficulty. The group then used the information from the existing employees to correct caste imbalances across its plants, by hiring, training, and integrating Dalits into its companies. It has put in place a policy of positive discrimination, which gives a deliberate bias towards Dalits in the recruitment process. This means that everything else being equal in terms of merit and so forth, they would select candidates from SC/ST communities. This is the first instance of a formal recognition of caste imbalances in corporate India.

<http://business.outlookindia.com/print.aspx?articleid=2672&editionid=73&catid=1&subcatid=386>).

This prompted the CII to constitute a panel on affirmative action under J. J. Irani, a director at Tata Sons. The CII senior director Indrani Kar believes that "industry is stepping in to create capabilities through scholarships, coaching programmes and funding entrepreneurs" (http://idsn.org/fileadmin/user_folder/pdf/New_files/CSR/Tatas_lead_India_Inc_in_hiring_SC-STs_-_Economic_Times.pdf)⁴. This report also quotes Dr. Irani: "Noel Tata, the MD of Trent, is

⁴ SC-ST: Scheduled Castes and Scheduled Tribes refer to Dalits and indigenous peoples as defined by the Constitution of India

convinced that once candidates from Dalit and tribal communities are trained, their performance is far better than others... they show more commitment and don't migrate easily. Over 50% of the hiring in Trent is from the SC/ST communities."

Data for the private sector

When the discussion on affirmative action in the private sector started, one of the main questions which arose at the time was "how do we know that Dalits are under-represented in the private sector, or more generally, what their actual representation is?" Since data on caste membership of employees is related only to the needs of the existing affirmative action programme, there is no information on caste membership in sectors where there is no affirmative action. In March 2007, the Department of Industrial Policy and Promotion wrote to India's three main industrial organizations requesting data on fresh Dalit recruitments made. Apart from CII, the letter was sent to the FICCI, which represents about 443 chambers, associations and member bodies and ASSOCHAM, with 300 regional chambers covering 250,000 members from every segment of business since 1920.

Several companies and important individuals in the private sector responded favourably to this and agreed to collect information on the caste composition of their workforce. However, the results of this exercise are not publicly available. We report below the figures from a recent manpower survey conducted by the CII. This is not a census of all firms but a survey, so actual figures might vary from the ones reported. This survey finds that in 2010, for instance, on an average 24% of the employees of the surveyed firms in the Eastern Region (Bihar, Orissa, Chhattisgarh, West Bengal and Jharkhand) were SC-ST, with the proportion of SC-ST employees being the highest for blue collared workers. This proportion is higher than for the Northern (Delhi, Haryana, Punjab, Himachal Pradesh, Uttar Pradesh, Uttarakhand, Rajasthan, and Chandigarh) and the Southern (Karnataka, Andhra Pradesh, Kerala and Tamil Nadu). However, only **one percent** of the surveyed firms in the eastern region keep data on ethnic composition of the workforce. Of the remaining 94 percent, 93 percent feel there is no need to keep this data and 6% feel that it would be good to have the data. Proportions from other regions are similar. In the eastern region, according to this survey, presence of SC-ST in senior management of consultancy firms is 3 percent. Thus, even the limited data point to clear exclusion or under-representation of Dalits in the private sector. There is no reason to believe that more data would *reverse* this picture.

Supplier Diversity

In addition to being sensitized to the problem of under-representation at the time of hiring (by actively pursuing diversity enhancing policies and/or by equal opportunity employment

policies), companies can pay attention to supplier diversity. By encouraging supplies from Dalit or Muslim owned firms, the large organized private sector in India could give a huge boost to the micro, medium and small enterprises owned by marginalized groups. Indeed, this is also one of the planks used in the USA, for instance, where minority-owned businesses are not only given active financial incentives by the government, but larger firms are expected to source a part of their supplies from minority-owned businesses. Given that typically, Dalit owned micro enterprises employ greater proportion of Dalits (as compared to enterprises owned by non-Dalits), an active supplier diversity programme would also boost Dalit employment indirectly, by providing greater business to Dalit-owned firms.

Other focused interventions

Complementing these initiatives are other focused interventions, such as the attempt to eliminate bonded and/or child labour, which overlap significantly with caste discrimination, as the vast majority of bonded labourers are Dalits. Indeed, the traditional hierarchies of the caste system provide justification to keep Dalits in a state of bondage and perpetual state of poverty and economic dependency. The HRW report very correctly points out that “while education and poverty-reduction programs are extremely important, if the caste aspects of bonded labour are not addressed, these programmes will not change the actual power dynamics and economic relationships that perpetuate bonded labour in India” (p. 10).

(http://idsn.org/fileadmin/user_folder/pdf/New_files/Key_Issues/Bonded_Labour/Small_change-Child_labour_in_India_s_silk_industry__HRW.pdf)

Thus, the HRW report cited above suggests that “retailers and wholesalers should pressure suppliers not to use bonded child labor in the manufacture of their goods and to support a good faith program to phase children out of bondage, offering them financial assistance and access to formal education. Consumers in India and abroad making purchases from industries known to employ large numbers of children in bonded labor, such as the silk, carpet, beedi, silver, leather, and agricultural sectors, should require retailers to exert such pressure and to guarantee that they and their suppliers offer independent monitors full access to all facilities, including supplier facilities, to check on the incidence of bonded child labor and that corporations should incorporate a monitoring process for bonded child labor into their quality control” (p. 15).

Tribals, child labour and mining

The control over India’s mining resources is the one of the latest battlefields that has brought to the fore several of the social and economic fault lines and tensions inherent in the growth

process, as witnessed by the rise of the Maoist movement in the mineral-rich areas in central/eastern India. These also happen to be the Fifth Schedule Areas that are constitutionally demarcated for tribal populations. One set of issues relates to who has rights over these resources, and how the spoils from these are to be divided among all the stakeholders. Another set of issues is related to the rehabilitation of tribals displaced by mining activities. Both these issues are too complex and large to be discussed in a few sentences. Here we would like to highlight the fact that there are a large number of children working in mines, among the most hazardous and exploitative conditions, and most of these children are tribals. Working in the mines is considered to be one of the worst forms of child labour. In the formulation of policies against the use of child labour, this aspect must be taken into account.

<http://www.indianet.nl/pdf/ChildrenAndMiningIndia.pdf>

As the above reports on corporate initiatives and the code of conduct (see Appendix) illustrates, the private sector is already alert to the problem of discrimination and under-representation and is preparing to take giant steps forward. This document is to urge companies to pay special attention to the issues discussed here, so that India rapidly transforms into a vibrant, inclusive and dynamic economy, which capitalizes on the strength of its immense reservoir of labour and further unleashes and develops the vast and underutilized talent of human capital, which is lying dormant at the moment.

APPENDIX:

CODE OF CONDUCT

To Promote Affirmative Action in Private Sector in India

This Code of Conduct for 'Promotion of Affirmative Action in Private Sector in India' has been prepared by the All India Organization of Employers (AIOE) along with Federation of Indian Chambers of Commerce and Industry (FICCI).

This Code of Conduct is a guiding document and does not attract any penalty or other legal action, in case of non-compliance. All the steps taken by the industry to foster Affirmative Action are voluntary and self-regulatory. November 02, 2011.

Specific objectives of the code of conduct are to:

1. Set forth guidelines and principles for private sector to promote affirmative action measures in their operations.
2. Provide private sector with a framework for implementation, monitoring and review of affirmative action measures.
3. Offer exact definitions of the main terms used in the context of Affirmative Action in the country.

Part II of the code includes a list of general principles to promote affirmative action.

Part I

1. PREAMBLE:

Discrimination on the basis of Caste, Religion, Race, Gender, Ethnicity or Social Origin has remained existent in all ages of Indian history. It has not only marred the social fabric of the country for centuries, but also deprived those living at the bottom of the caste pyramid (Schedule Caste and Schedule Tribe) from enjoying the fruits of development. This was only after the constitution came into force in 1950 that all forms of discrimination were outlawed and every citizen was promised the right of equal opportunities to grow. A whole series of legislative reforms and enactment of special policies and schemes also made a significant contribution in this direction. The policy of promoting Affirmative Action in government sector—in the form of reservation in education institutions and employment—remarkably catalyzed the process of mainstreaming ST/SC groups. Since the share of government jobs in total employment is very small, the need was felt to extend Affirmative Action policy to Private sector as well. This is exactly what led All India Organization of Employers (AIOE) and Federation of Indian Chambers of Commerce and Industry (FICCI) into drafting this code of conduct. AIOE—the apex body of employers in the country—and FICCI—the largest, oldest and apex business organization in India—through this code of conduct express their solidarity with the government mission of making India an inclusive and sustainable global economy representing all segments of its population. The aim of the Code is to create an enabling environment for promotion of Affirmative Action in private sector. This Code offers guidelines to employers on how to promote welfare and empowerment of socially discriminated groups—Schedule Caste (SC) and Schedule Tribe (ST). CODE OF CONDUCT FOR PROMOTION OF AFFIRMATIVE ACTION IN PRIVATE SECTOR is a self-commitment and is inspired from the national legislation and international conventions ratified by the Union of India. Corporate entities that fully accept the principles of the Code are encouraged to adopt it and promote it further.

2. PHILOSOPHY:

With a proud history of struggle to protect the interests of industry and the employers, AIOE and FICCI see Affirmative Action as an opportunity to compensate past discriminations against identified groups and address the question of their present economic deprivation (without hampering the industry's competitiveness to compete with global market). AIOE and FICCI believe that:

Fruits of development did not reach the historically discriminated sections of the society. They lived in deprivation, and could not access the opportunities to realize their full potential. Their misery was written by centuries old systematic social discrimination.

Discriminated groups in India have suffered societal discrimination in multiple economic spheres. Therefore, it is necessary that adopted remedies against past and present discrimination should cover multiple economic spheres and not just the labor market. Social discrimination is not merely an equity issue, but also involves economic cost to the nation. The country needs to build upon a cohesive and integrated society to foster inclusive development, reduce income disparities between groups, ensure sustainable economic growth, and to remain competitive in global market.

Benefits of existing Affirmative Action measures taken by the state have largely been limited to so-called 'creamy layer'; therefore, they do not constitute the 'Primary Target group' of industry's interventions to promote Affirmative Action.

Within the above framework, private sector commits to take concrete steps for capacity building and ensuring greater inclusiveness of SC/ST in the industry.

However, private sector believes that for Indian industry, to retain its competitiveness in global market, merit should be the key criteria in identifying suitable candidates. The corporate world is sensitive enough to understand that the country's growth will be incomplete if it is not inclusive; and responsive enough to take a series of measures to ensure discriminated sections' access to opportunities for growth.

3. OBJECTIVES OF THE CODE:

Through this code of conduct, the industry affirms the recognition that its competitiveness is interlinked with the well-being of all sections of the society, and also expresses its commitment to supplement the government and the civil society efforts to ameliorate the conditions of historically discriminated sections of the society, by unleashing their potential and enhancing their access to opportunities for development. The code aims to strive towards creating a more sustainable global economy through inclusion of identified groups in the process of nation building. Specific objectives of this code of conduct are to:

4. Set forth guidelines and principles for private sector to promote affirmative action measures in their operations.
5. Provide private sector with a framework for implementation, monitoring and review of affirmative action measures.
6. Offer exact definitions of the main terms used in the context of Affirmative Action in the country.

4. SCOPE OF THE CODE

The code shall be applicable to all private sector business enterprises, irrespective of their geographical location, size and nature of business, who find the code promoting welfare and

empowerment of historically discriminated groups—without hampering their growth and competitiveness. **It is important to mention that this code of conduct is a guiding document and does not attract any penalty or other legal actions in case of noncompliance by those who have adopted it. However, it is prime responsibility of those who have adopted the code, to remain stuck to its philosophy and Affirmative Action measures suggested.**

5. DEFINITIONS:

1. **Affirmative Action:** Affirmative Action refers to programs and policies designed to remedy past discrimination against identified groups, and to create systems and procedures to prevent future discriminations, commonly based on population percentages of minority groups, their social status, color, race, sex and creed, through active measures to ensure equal opportunities in the areas of employment, education and business, from which the identified groups have been historically discriminated.

2. **Private Sector:** The part of the economy that is not state controlled, and is run by individuals and companies for profit. The private sector encompasses all for-profit businesses that are not owned or operated by the government. Companies and corporations that are government run are part of what is known as the public sector, while charities and other nonprofit organizations are part of the voluntary sector.

3. **State:** The word 'State' has the same meaning as defined in Article 12 of the Constitution. 'State' means, the Central Government, State Governments, Parliament, State Legislatures, and all local e.g. Panchayat, Port Trust etc.) or other authorities within the territory of India or under the control of the Government of India.

4. **Historically discriminated groups/ identified groups:** Historically discriminated groups/ identified groups, in the context of this document, must be referred as Scheduled Caste (SC) and Scheduled Tribe (ST).

5. **Scheduled Caste and Scheduled Tribe:** Communities, notified as Scheduled Castes and Scheduled Tribes as per provisions contained in Clause 1 of Articles 341 and 342 of the Constitution respectively.

Part II

6. GENERAL PRINCIPLES TO PROMOTE AFFIRMATIVE ACTION- GENERAL GUIDANCE:

Having agreed to take appropriate actions to protect historically discriminated groups from further discrimination; to create opportunities for their all-round development; and to build their capacities to exploit these opportunities and join the mainstream of development, private sector enterprises commit to undertake self-regulatory measures in the areas of: **Clause 1:**

Educational Development:

- Private sector enterprises should invest in education of historically discriminated groups of society, by either opening or adopting schools/ colleges/ educational institutions in clusters with higher representation of these groups.
- They should run skill development programs for historically discriminated groups in their area of expertise.
- They should lend their technical/ professional experts and infrastructure for training of historically discriminated groups, and commit to absorb the successful candidates.
- They should offer scholarships in fields related to their trades to students/ youth from historically discriminated groups, to be able to acquire higher skills/ expertise, and commit to absorb these youth upon successful completion of scholarship.
- They should recognize the efforts of civil society, and should partner with them to improve the level of primary education and vocational skills in ST/SC dominated areas.
- They should also invest in capacity building of teachers, providing better library and IT facilities.
- They should setup vocational training providing institutions in ST/SC dominated areas to enhance their employability.

Clause 2: Employability promotion:

- They should also provide, if available, infrastructure to vocational training providing institutions/ civil societies, located in the areas of high concentration of historically discriminated groups, to provide students/ trainees with better training and exposure facilities.
- They should encourage innovation in vocational training providing institutions/ civil societies either through financial assistance, providing subject matter experts or through replicating successful models.
- They should create a platform to have direct interface with students/trainees of vocational training institutions/ civil societies, located in the areas of high concentration of historically discriminated groups, to orient them on market demands, bridge the skill gap, and to better prepare them to get employment.

- They should lobby and advocate for policy level changes to fare the employment prospects of students/trainees from historically discriminated groups.

Clause 3: Employment:

- They should provide equal opportunities to all qualified applicants for employment without regard to their race, caste, religion, color, ancestry, marital status, gender, sexual orientation, age, nationality, ethnic origin or disability.
- They should have a fair employment policy (in public domain) that makes recruitment process just and transparent.
- They should neither practice nor abet any form of discrimination or bias against applicants from historically disadvantaged groups.
- They should be transparent in recruitment process through advertisements in suitable local and national newspapers and (or) information on website, to encourage applications from candidates of historically discriminated groups.
- They should ensure that among equally qualified individuals, preference is given to candidates from historically discriminated groups.
- They should also make an effort to create jobs, either by opening any unit or by other means, in areas with heavy concentration of historically discriminated groups.
- They should ensure representation of candidates from historically discriminated groups at all levels of the employment (if they meet the criteria advertised)

Claus 4: On job personality development:

- Recruiting candidates from historically discriminated groups is not all that is needed to bring them in the mainstream of development; private sector enterprises should also give them equal opportunities to remain competitive and grow.
- They should organize special capacity building workshops/ trainings/ seminars/ exposures etc. for employees from historically discriminated groups to enhance their competitiveness.
- They should create a conducive environment to foster the feeling of competition among employees from historically discriminated groups.

Claus 5: Partnership:

- They should not partner with businesses on any grounds other than normal. In case of equal business offers, preference should be given to the partner belonging to historically discriminated groups.
- While supporting the endeavors of civil societies, they should give preference to those working on the issues of historically discriminated groups.

Clause 6: Human resource policies:

- Their Human Resource policies should promote diversity and equality at workplace. Such policies should be flexible for the benefit of employees belonging to historically discriminated groups, and be open to adopt international best practices.
- They should treat all employees with dignity and create a work environment that is free of all forms of harassment, whether physical, verbal or psychological. Employee policies and practices should be administered in a manner consistent with applicable laws and other provisions of this Code.
- They should extend to members of historically discriminated groups, all the benefits being extended to other employees, including family benefits, travel allowances, housing etc.
- They should have appropriate mechanisms in place for addressing grievances.
- They should reject business alliances with partners practicing or promoting discrimination in any form.

7. IMPLEMENTATION AND MONITORING:

Effective implementation of prescribed measures and its monitoring is a must to respect the principles of the code. For this purpose, private sector enterprises should:

- Setup a committee to look after implementation of Affirmative Action measures and its compliance with the principles set out in the code of conduct.
- They should maintain transparency by publishing the steps taken to promote Affirmative Action, in their annual report and (or) on their website.
- The committee should meet at certain intervals to review the enterprise's commitments towards promotion of Affirmative Action, and to take important decisions.
- Private sector enterprises who have adopted the code should meet on annual basis to share their experiences and to review the progress made on Affirmative Actions.

8. PROMOTION OF THE CODE:

Promotion of the code is important to promote Affirmative Action in private sector enterprises. Following should be the methodology for this purpose:

- Publishing the code on the website
- Promotion in business meetings
- Free distribution to important/ interested stakeholders
- Organizing seminar/ conference

9. REVISION OF THE CODE:

The code should be revised, if needed, in the meeting of private sector enterprises who have adopted the code. Experience gained in the course of implementing Affirmative Action Measures and recommendations on the basis of earned experiences, should form the basis for any amendment in the code.

***** This article was drafted in 2013 and released in May 2015 *****