

Encouraging Affirmative Action in the Private Sector in India



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NEW DELHI
3-6-2016

Who needs affirmative action?



- The bottom three – Dalits, Tribals and Muslims
- 39.4% of Indian population, absolute terms = 493 million
- 100 million more than entire US!

	Dalits	Tribals	Muslims	All India Average
Literacy rate	64.6	63.5	67.6	74
Malnutrition among Women (BMI<18.5)	41.2	46.6	35.2	33
Underweight Children	47.9	54.5	41.8	39.1
Pucca Housing	38.3	57.9	63.8	66.1
No toilet facility	65	69.1	35.8	49.2
Electricity for domestic use	61.2	66.4	75.2	75
IMR	66.4	62.1	52.4	50
U5MR	88.1	95.7	70	74.3
Total Fertility Rate	2.92	3.12	3.09	2.6
Child Immunization	39.7	5.4	36.3	43.5

Disproportionately poor as well



2011-12	Dalits	Tribals	Muslims	All India Average
Rural % of poor	33.8	44.8	28.1	25.7
Urban % of poor	21.8	27.3	22.9	13.7

Alright, so What Is To Be Done (1901)?



- Various governmental strategies tried out so far – scholarships, subsidised loans, etc with limited success
- Controversial measure of reservations or quotas in public education and employment
- Mad scramble to get on board
- Rising demand to extend it to private sector
- Private sector response: No way!
- The Political Dilemma and problem at hand

How did they deal with it?



- Malaysia, South Africa, Canada and the US
- Largely theoretical debates

- **Malaysia**
- Malaysian strategy: Use political power to enforce massive redistribution at national level
- New Economic Policy 1970: 30% total share capital should be ours (Bhumiputras)!
- Quotas in company ownership and education
- Preferential public procurement
- State takeovers to promote Bhumiputra ownership
- Fiscal incentives
- Result: Increase in total share capital from 2.4% to 19%

How did they deal with it?



- **Canada**
- Targets: Women, PwD, indigenous people, visible minorities
- Remove entry barriers
- “Voluntary” programs for inclusion in public sector – flop
- *Legislative action necessary*
- Employment Equity Act, 1995
- Every employer with more than 100 employees has to prepare ‘employment equity plans’ in consultation with employees, particularly designated groups, which will remove entry barriers
- Federal Contractors’ Program / Public procurement
- Monitoring: Canadian Human Rights Commission

How did they deal with it?



- **South Africa**
- Same strategy as Canada
- No targeted groups but prohibits discrimination including on HIV grounds
- Employment Act, 1998
- Covers issues such as recruitment, wages, promotion, transfer, etc
- Monitoring – Commission for Employment Equity
- 1998 whites- 11% of the population, occupied 89% of management positions
- Result, 18 years later: White management declined almost 20%, and was at 68.9% in 2015. African representation rose to 14.3% in the same year

How did they deal with it?



- **USA**
- Civil Rights Act 1964 which prohibits discrimination
- Recent laws prohibiting discrimination on basis of age, disability, genetics (!) and military service
- Executive orders – public procurement, Equal Opportunity Commission and Office of Federal Contract Compliance for monitoring
- Data hard to come by but larger cultural impact undeniable

Summary of strategies



- ✓ Legislation prohibiting discrimination and mandating employment equity/equal opportunity planning
- ✓ Setting up/strengthening institutions for enforcement
- ✓ Public procurement
- ~~✓ Large scale redistribution (Malaysia) :- (~~

A possible Indian solution



- **Legislation**
- Equal Opportunity Act
- Targeted like Canada – Dalits, Tribals and Muslims
- Preparation of equal opportunity plans compulsory in consultation with employees and DTMs
- Steps that can be taken to facilitate inclusion and mobility
- Eg – Placements in colleges with high population of DTMs
- Stating in job placements that DTMs encouraged to apply
- Job ads in Urdu newspapers
- Skill training to encourage upward mobility

A possible Indian solution



- **Enforcement**
- Equal Opportunity Committee (EOC) *under* Human Rights Commission for enforcement
- Penalise discriminatory behavior
- No annual equal opportunity plan submission but on complaint of non compliance employer can be penalised
- Statutory status of RTI documents

A possible Indian solution



- **Dispute resolution**
- EOC to have powers of civil court, empowered to resolve disputes through mediation and conciliation
- If fails, then escalated to adjudication through Human Rights Commissions
- Provide judicial assistance to judiciary – *amicus curae*

A possible Indian solution



- **Training and capacity building**
- **Research and advocacy**
- **Business administration education reform**
- **Public procurement**
 - Positive discrimination towards firms wholly owned/substantial representation of DTMs or which have complied well with Equal Opportunity norms
 - Penalty clause for cartels
- **Fiscal incentives**
 - Stamp duty, land conversion charges, loans, taxes

Thank You!

