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RETHINKING SOCIAL JUSTICE: CONSTITUTIONAL BASIS AND JUDICIAL PERSPECTIVES ON RESERVATION FOR BACKWARD CLASSES IN INDIA

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Abstract

The Indian Constitution seeks to harmonize personal liberty and collective equality, offering a foundational approach to remedying persistent social inequities through reservation policies³. Dr. B.R. Ambedkar's vision shaped this system, which commits the State to actively challenge caste-based hierarchies and foster genuine substantive equality⁴. Social justice, as envisaged by the framers, transcends distributive fairness, serving as a transformative constitutional value aimed at restructuring entrenched social relations⁵. For the framers, social justice was not limited to fair distribution; rather, it was a transformative, constitutional principle designed to reshape deep-rooted societal structures

This paper revisits the philosophical and constitutional foundations of India's reservation policy, tracing its judicial evolution and contemporary challenges, with a focus on Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs)⁶. It examines judicial discourse from *State of Madras v. Champakam Dorairajan*⁷ to *Indra Sawhney v. Union of India*,⁸ illustrating how the Supreme Court has sought to balance equality with administrative efficiency. While reservation remains a vital instrument of social inclusion, its long-term legitimacy relies on periodic reassessment and adherence to constitutional morality⁹.

Keywords: Affirmative Action; Social Justice; Protective Discrimination; Equality Jurisprudence; Constitutional Morality; Judicial Review; Constitutional Amendments.

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³ *B.R. Ambedkar, Constituent Assembly Debates, Vol. VII (1948)*.

⁴ *Granville Austin, The Indian Constitution: Cornerstone of a Nation, p 85–90 (Oxford Univ. Press, 1966)*.

⁵ *See generally Marc Galanter, Competing Equalities: Law and the Backward Classes in India (Oxford Univ. Press, 1984)*.

⁶ *State of Madras v. Champakam Dorairajan, AIR 1951 SC 226*.

⁷ *Indra Sawhney v. Union of India, 1992 Supp (3) SCC 217*.

⁸ *Gautam Bhatia, The Transformative Constitution: A Radical Biography in Nine Acts, p 134–39 (HarperCollins, 2019)*.

⁹ *Article 14–16*.

1. Introduction

Equality is the normative cornerstone of Indian Constitution, prominently reflected in the Preamble and guaranteed through Articles 14, 15, and 16¹⁰. Dr. B.R. Ambedkar's vision of equality extended beyond mere formal uniformity, aiming to dismantle the deeply entrenched caste hierarchies and inherited social privileges¹¹. Within this philosophical framework, the policy of reservation emerged as a constitutional instrument to achieve what Justice V.R. Krishna Iyer later termed "justice in motion"¹².

The doctrine of protective discrimination, codified constitutionally through Articles 15(4) and 16(4) via the First Amendment, arose in direct response to the Supreme Court decision in *State of Madras v. Champakam Dorairajan* (1951), which had invalidated communal quotas¹³. These amendments reaffirmed the State's duty to adopt special measures for the advancement of socially and educationally backward classes¹⁴. As Granville Austin observed, the Constitution sought to transform India "political democracy into social democracy," harmonizing liberty with equality¹⁵.

Nevertheless, the implementation of reservation has generated tensions between merit and representation, and between individual rights and collective justice¹⁶. The Supreme Court jurisprudence—from *M.R. Balaji v. State of Mysore*¹⁷ to *Indra Sawhney v. Union of India*¹⁸—demonstrates its ongoing effort to reconcile equality of opportunity with social justice¹⁹. Upendra Baxi aptly observes that the judiciary functions as both a "court of law and a court of policy," continually redefining justice within a hierarchically stratified society²⁰.

The legitimacy of the reservation policy extends beyond mere compensation; it rests on the principle of reparative justice, addressing historical inequities to ensure marginalized communities can meaningfully participate in education, employment, and governance²¹.

¹⁰ B.R. Ambedkar, *Annihilation of Caste*, (1936).

¹¹ *State of Kerala v. N.M. Thomas*, (1976) 2 SCC 310, per Krishna Iyer J.

¹² *State of Madras v. Champakam Dorairajan*, AIR 1951 SC 226.

¹³ Article 15(4), Article 16(4).

¹⁴ Granville Austin, *supra* note 2, at 114.

¹⁵ Madhav Khosla, *The Indian Constitution*, p 66–69 (Oxford Univ. Press, 2012).

¹⁶ *M.R. Balaji v. State of Mysore*, AIR 1963 SC 649.

¹⁷ *Indra Sawhney v. Union of India*, 1992 Supp (3) SCC 217.

¹⁸ *Ibid.*

¹⁹ Upendra Baxi, *The Indian Supreme Court and Politics*, pp204 (Eastern Book Co., 1980).

²⁰ Amartya Sen, *The Idea of Justice*, p 153–58 (Harvard Univ. Press, 2009).

²¹ See *Janhit Abhiyan v. Union of India*, (2022) 10 SCC 1.

Contemporary debates surrounding the “creamy layer,” the 50% ceiling, and the 103rd Constitutional Amendment introducing reservation for Economically Weaker Sections (EWS) have reignited critical examination of the constitutional philosophy behind affirmative action²². The Supreme Court decision in *Janhit Abhiyan v. Union of India* (2022)²³ reaffirmed the evolving meaning of equality, emphasizing that social justice remains integral to constitutional morality. Accordingly, this paper undertakes a comprehensive examination of the philosophical, constitutional, and judicial underpinnings of India’s reservation framework, arguing that, when guided by empirical evidence and constitutional morality, reservation continues to serve as an indispensable instrument of transformative justice in a pluralistic democracy²⁴.

2. Methodology

This study adopts a doctrinal-cum-analytical methodology, integrating primary and secondary legal sources to investigate the jurisprudence surrounding reservations in Indian constitutional framework. Primary materials include constitutional provisions—particularly Articles 14, 15, 16, and 46—as well as the Constituent Assembly Debates, which offer insight into the framers’ intentions regarding equality and affirmative action. Landmark Supreme Court judgments—including *State of Madras v. Champakam Dorairajan*, *M.R. Balaji v. State of Mysore*, *Indra Sawhney v. Union of India*, and *M. Nagaraj v. Union of India*—serve as foundational references for interpreting the evolving scope of reservation²⁵.

Secondary sources consist of scholarly monographs and commentaries by eminent constitutional jurists such as H.M. Seervai, D.D. Basu, M.P. Jain, V.N. Shukla, B. Shiva Rao, and Subhash C. Kashyap, whose works have profoundly shaped interpretations of Indian constitutional law²⁶.

The study employs a hermeneutic approach to judicial reasoning, focusing on how courts reconcile equality with measures of compensatory discrimination²⁷. A comparative perspective situates India’s reservation policy within global affirmative-action frameworks,

²²*Ibid.*

²³*Gautam Bhatia, supra note 7, at 152. Id.*

²⁴*Ibid.*

²⁵*State of Madras v. Champakam Dorairajan*, AIR 1951 SC 226; *M.R. Balaji v. State of Mysore*, AIR 1963 SC 649; *Indra Sawhney v. Union of India*, AIR 1993 SC 477; *M. Nagaraj v. Union of India*, (2006) 8 SCC 212.

²⁶H.M. Seervai, *Constitutional Law of India* (4th ed., Universal Law Publishing, p 2009) 3052–3070; D.D. Basu, *Introduction to the Constitution of India* (25th ed., LexisNexis 2021), p 136–142; M.P. Jain, *Indian Constitutional Law* (8th ed., LexisNexis 2018), p 1023.

²⁷V.N. Shukla, *Constitution of India* (13th ed., Eastern Book Company 2020), p 42–47.

including those in the United States, South Africa, and Malaysia, highlighting India's unique moral-constitutional approach to distributive justice²⁸. Empirical data from official commissions and reports—such as the Kaka Saheb Kalelkar Commission (1955), the Mandal Commission (1980), and the Sachar Committee (2006)—are analysed to trace the policy's legislative and administrative processes²⁹. The study pursues three primary objectives: To delineate the philosophical and constitutional foundations of reservation; To analyse judicial doctrines defining its permissible limits; and, To assess its socio-legal impact on achieving substantive equality within Indian democracy.

2. Review of Literature

The scholarly discourse on reservation within Indian constitutional law is extensive, reflecting the tension between formal equality and substantive justice. Early constitutional scholars, such as H.M. Seervai, regarded reservation as a “necessary corrective to inherited inequality,” while cautioning that excessive politicization could undermine the moral balance envisioned by the Constitution³⁰. In contrast, D.D. Basu emphasized that reservation is integral to a substantive understanding of equality under Article 14, highlighting the framers' vision of equality as an ethical, rather than purely arithmetic, principle.³¹ Granville Austin described the Indian Constitution as “a social revolution in legal form,” wherein affirmative action bridges the gap between liberty and fraternity³². M.P. Jain observed that judicial review is not merely a constraint on governance but a constructive tool aligning administrative efficiency with social justice.³³ Similarly, Subhash C. Kashyap noted that reservation derives legitimacy not only from Directive Principles but also from the egalitarian ethos enshrined in the Preamble, describing it as a “constitutional instrument of moral reconstruction”³⁴.

Expanding this moral framework, Upendra Baxi advanced the theory of transformative constitutionalism, portraying reservation as an “ethics of governance” that institutionalizes dignity and participation rather than mere redistribution³⁵.

²⁸Sandra Fredman, *Discrimination Law* (OUP 2011), p 229–233; Catharine A. MacKinnon, *Are Women Human?* (Harvard University Press 2006), p117–121.

²⁹*Report of the Backward Classes Commission (Kaka Saheb Kalelkar Commission Report, 1955); Mandal Commission Report (Government of India, 1980); Sachar Committee Report (2006).*

³⁰H.M. Seervai, *Constitutional Law of India* (4th ed., Universal Law Publishing 2009) p 3071–3075

³¹D.D. Basu, *Shorter Constitution of India* (16th ed., LexisNexis 2011), p 183–186.

³²Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (OUP 1966), p 50–52.

³³M.P. Jain, *Indian Constitutional Law* (8th ed., LexisNexis 2018), p 1054–1062.

³⁴Subhash C. Kashyap, *Our Constitution* (NBT 2015), p 214–218

³⁵Upendra Baxi, *The Indian Supreme Court and Politics* (EBC 1980), p133–137.

Justice V.R. Krishna Iyer also framed protective discrimination as an ethical necessity within a socialist democracy³⁶. Conversely, scholars such as B.L. Hansaria and S.P. Sathe raised concerns about “over-inclusion” and the “creamy layer,” advocating for periodic review to maintain constitutional equilibrium³⁷.

Sociologists like Rajni Kothari and André Béteille have demonstrated how affirmative action transformed caste from a system of exclusion into one of negotiated political participation³⁸. Gail Omvedt interpreted reservation as the legal embodiment of Ambedkar’s emancipatory vision, translating law into a tool for social liberation³⁹. Economist Amartya Sen, through his capability approach, argued that equality should be realized by expanding substantive opportunities rather than relying solely on formal non-discrimination⁴⁰.

Comparative scholars, including Marc Galanter, note that India’s compensatory discrimination model is unique, addressing caste, class, and community collectively, unlike the narrower racial paradigms observed elsewhere⁴¹. While acknowledging its imperfections, scholars generally agree that reservation remains central to India’s constitutional commitment to social justice. Its legitimacy, however, depends on empirical evidence, periodic reassessment, and adherence to constitutional morality⁴².

3. Background of the Study

The development of reservation in India is closely linked to colonial administrative policies, anti-caste reform movements, and the social reform initiatives of the freedom struggle. The British colonial government introduced communal representation under the Government of India Acts of 1909 and 1919, laying the foundation for group-based entitlements⁴³.

A decisive moment came with the Poona Pact of 1932, negotiated between Mahatma Gandhi and Dr. B.R. Ambedkar, which replaced separate electorates with reserved representation⁴⁴.

³⁶V.R. Krishna Iyer, *Social Justice and the Hand of Law* (BR Publishing 1984), p 62–68.

³⁷B.L. Hansaria, *Right to Equality and Protective Discrimination* (EBC 2010), p 95–102; S.P. Sathe, *Judicial Activism in India* (OUP 2002), p164–168.

³⁸Rajni Kothari, *Caste in Indian Politics* (Orient Black Swan 2010), p 120–125; André Béteille, *Caste, Class and Power* (OUP 2003), p 142–147.

³⁹Gail Omvedt, *Dalits and the Democratic Revolution* (Sage 1994), p 88–90.

⁴⁰Amartya Sen, *Development as Freedom* (OUP 1999) 54–57; *The Idea of Justice* (Allen Lane 2009), p 81–83.

⁴¹Marc Galanter, *Competing Equalities: Law and the Backward Classes in India* (OUP 1984) p,21–27.

⁴²Rajeev Bhargava, *The Promise of India’s Secular Democracy* (OUP 2010), p 90–94; Gautam Bhatia, *Transformative Constitutionalism* (OUP 2016), p 100–105.

⁴³*Government of India Act 1909 (Morley-Minto Reforms) and Government of India Act 1919 (Montagu-Chelmsford Reforms)*.

⁴⁴*The Poona Pact (1932) between Mahatma Gandhi and Dr. B.R. Ambedkar*, reprinted in B.R. Ambedkar, *Writings and Speeches*, Vol. 1 (Dr. Ambedkar Foundation 2014), p 59–61.

This compromise balanced political unity with social emancipation, setting the stage for post-independence affirmative action

In the Constituent Assembly, Dr.B.R.Ambedkar argued that political democracy would be hollow without social democracy, asserting that “liberty, equality, and fraternity are not separate ideals but parts of one integrated doctrine”⁴⁵.

Consequently, a triadic conception of equality—formal, substantive, and distributive—was embedded across Articles 14–18. Following the Supreme Court’s restrictive interpretation in *State of Madras v. Champakam Dorairajan* (1951), the First Amendment (1951) introduced Article 15(4), authorizing special provisions for socially and educationally backward classes⁴⁶. This amendment reaffirmed the State’s moral obligation to redress structural inequalities.

Post-independence, backward-class policies were shaped by successive commissions. The Kaka Saheb Kalelkar Commission (1953) represented the first systematic attempt to classify Other Backward Classes (OBCs), though its recommendations lacked comprehensive empirical support⁴⁷. The Mandal Commission (1979), chaired by B.P. Mandal, employed a nuanced socio-economic framework incorporating caste, occupation, and education, recommending 27% reservation for OBCs in public employment⁴⁸. Its implementation in 1990 institutionalized caste as a criterion for affirmative governance⁴⁹.

The constitutional framework for inclusion was further strengthened by the National Commission for Backward Classes (NCBC) under the NCBC Act, 1993, providing for continuous review of backward-class classifications⁵⁰.

Judicial interpretation refined this framework: in *M.R. Balaji v. State of Mysore* (1963), the Supreme Court introduced the 50% ceiling principle and emphasized that caste alone could not define backwardness⁵¹. The landmark *Indra Sawhney v. Union of India* (1992) decision

⁴⁵ *Constituent Assembly Debates, Vol. XI (25 November 1949) 979–980 (Speech by Dr. B.R. Ambedkar).*

⁴⁶ *State of Madras v. Champakam Dorairajan, AIR 1951 SC 226; The Constitution (First Amendment) Act, 1951, inserting Article 15(4).*

⁴⁷ *Report of the Backward Classes Commission (Kaka Saheb Kalelkar Commission, Government of India, 1955), p 23–27.*

⁴⁸ *Mandal Commission Report (Government of India, 1980), Vol. I, Chapter 3, at 47–52.*

⁴⁹ *Christophe Jaffrelot, India’s Silent Revolution: The Rise of the Lower Castes in North India (Permanent Black 2003), p 212–215.*

⁵⁰ *National Commission for Backward Classes Act 1993 (No. 27 of 1993).*

⁵¹ *M.R. Balaji v. State of Mysore, AIR 1963 SC 649.*

reaffirmed the 50% ceiling and introduced the “creamy layer” doctrine, excluding economically advanced individuals from backward-class benefits⁵².

Subsequent constitutional amendments—the 77th, 81st, 82nd, and 85th—extended reservation to promotions and backlog vacancies, examined under the basic structure doctrine in *M. Nagaraj v. Union of India* (2006)⁵³. More recently, the 103rd Constitutional Amendment (2019) introduced 10% reservation for Economically Weaker Sections (EWS), prompting debates on whether economic criteria alone can fulfill the constitutional goal of substantive equality⁵⁴.

Beyond employment and education, reservation also extends to political representation and local governance through Articles 330–334 and the 73rd and 74th Constitutional Amendments, institutionalizing grassroots-level social inclusion⁵⁵. As D.D. Basu noted, “the Indian Constitution is not a frozen legal instrument but a charter of continuing social revolution”⁵⁶.

The history of reservation thus embodies both a moral covenant and pragmatic policy, merging Ambedkar’s vision of constitutional morality with Nehru’s egalitarian aspirations. Its legitimacy depends on the Constitution functioning as a tool of moral reconstruction, ensuring justice is transformative, not merely compensatory⁵⁷.

4. Discussion and Analytical Framework

The philosophical foundation of India’s reservation policy is grounded in the Constitution’s transformative vision; wherein formal equality is subordinated to substantive equality to dismantle entrenched social hierarchies⁵⁸. In the Constituent Assembly, Dr. B.R. Ambedkar emphasized that liberty, equality, and fraternity constitute “a trinity of values” that must operate together to sustain democratic life⁵⁹. Within this framework, affirmative action was designed not as benevolence but as constitutional restitution, aimed at restoring moral balance in a society fractured by caste-based subjugation⁶⁰.

⁵²*Indra Sawhney v. Union of India*, AIR 1993 SC 477.

⁵³*M. Nagaraj v. Union of India*, (2006) 8 SCC 212.

⁵⁴*Janhit Abhiyan v. Union of India*, (2022) 10 SCC 1 (EWS judgment).

⁵⁵*The Constitution (Seventy-Third Amendment) Act 1992; The Constitution (Seventy-Fourth Amendment) Act 1992*.

⁵⁶D.D. Basu, *Introduction to the Constitution of India* (25th ed., LexisNexis 2021), p 182.

⁵⁷Upendra Baxi, *The Future of Human Rights* (OUP 2002), p 276–280.

⁵⁸Upendra Baxi, *The Indian Supreme Court and Politics* (EBC 1980), p 145–147.

⁵⁹*Constituent Assembly Debates*, Vol. XI (25 November 1949) 979–980 (Speech by Dr. B.R. Ambedkar).

⁶⁰B.R. Ambedkar, *Annihilation of Caste* (1936, Ambedkar Foundation), p 53–54.

The judiciary, acting as the guardian of constitutional morality, has continually shaped the application of equality. In *State of Kerala v. N.M. Thomas*,⁶¹ the Supreme Court held that equality does not require identical treatment; rather, it mandates differential treatment for those situated unequally, thereby legitimizing protective discrimination. Justice Mathew, in his concurring opinion, noted that “equality is antithetical to uniformity; it thrives in diversity,”⁶² signalling a shift from formalistic equality toward substantive justice, aligning judicial interpretation with Ambedkar’s vision of transformative constitutionalism⁶³.

Subsequent rulings refined this principle. In *M.R. Balaji v. State of Mysore*, the Court reinforced the 50% ceiling on reservations, emphasizing that caste alone cannot define backwardness⁶⁴. The landmark *Indra Sawhney v. Union of India* decision validated the constitutionality of reservation while introducing the “creamy layer” doctrine, ensuring affirmative action remains corrective rather than hereditary⁶⁵. These judgments underscore the judiciary’s dual role as both interpreter and moral custodian of constitutional equality⁶⁶.

Balancing equality and efficiency have been central to affirmative action debates. H.M. Seervai argued that Articles 15(4) and 16(4) exemplify substantive equality,⁶⁷ whereas N.A. Palkhivala warned that excessive reservation could undermine meritocratic governance⁶⁸. Justice R. Subba Rao reconciled these perspectives, noting that administrative efficiency and social justice are complementary: a system excluding the majority cannot function morally or effectively⁶⁹.

In *Indra Sawhney*, the Court institutionalized this balance through the “creamy layer” principle, excluding economically advanced backward-class individuals from reservation benefits⁷⁰. This approach reflects Ambedkar’s view of affirmative action as a “ladder to ascend,” not a permanent entitlement—a notion later echoed by N.R. Madhava Menon, who described reservation as “a transient yet transformative instrument of justice”⁷¹. *M. Nagaraj v.*

⁶¹*State of Kerala v. N.M. Thomas*, (1976) 2 SCC 310.

⁶²*Ibid.*, per Mathew J., at 334.

⁶³Granville Austin, *Working a Democratic Constitution: A History of the Indian Experience* (OUP 2003) 224–226.

⁶⁴*M.R. Balaji v. State of Mysore*, AIR 1963 SC 649.

⁶⁵*Indra Sawhney v. Union of India*, AIR 1993 SC 477.

⁶⁶M.P. Jain, *Indian Constitutional Law* (8th ed., LexisNexis 2018), p 1073–1078.

⁶⁷H.M. Seervai, *Constitutional Law of India* (4th ed., Universal Law Publishing 2009) ,p 3125.

⁶⁸N.A. Palkhivala, *We, the People: India, the Largest Democracy* (UBS Publishers 1984),p 184–186.

⁶⁹T. Devadasan v. *Union of India*, AIR 1964 SC 179.

⁷⁰*Indra Sawhney v. Union of India*, AIR 1993 SC 477, para 861.

⁷¹N.R. Madhava Menon, *Turning Point in Legal Education* (LexisNexis 2008) ,p79.

Union of India further reinforced the requirement of empirical data to justify reservations in promotions, embedding accountability within equality jurisprudence⁷².

Scholars like Rajeev Bhargava and Gautam Bhatia argue that administrative efficiency must consider societal representation, as a truly efficient system reflects the diversity of the population it serves⁷³. In this sense, representation is not a constraint but a component of effective administration, reinforcing the participatory foundations of democracy.

Comparatively, India's reservation framework contrasts with affirmative-action policies abroad. In the United States, cases such as *Regents of the University of California v. Bakke* and *Grutter v. Bollinger* uphold race-conscious policies to promote diversity, focusing on educational and civic objectives rather than historical injustice⁷⁴. In contrast, India's model is grounded in social justice ethics, seeking to redress inherited structural inequalities rather than to promote diversity per se⁷⁵.

Similarly, South Africa's Constitution (1996), Section 9(2), explicitly allows measures protecting persons disadvantaged by unfair discrimination, reflecting a shared commitment to restorative justice⁷⁶. Comparative scholars, including Sandra Fredman and Catharine A. MacKinnon, note that while global affirmative-action regimes aim for inclusivity, India uniquely integrates social identity with distributive justice, producing one of the most philosophically ambitious frameworks worldwide⁷⁷. Nevertheless, critics such as Marc Galanter caution that compensatory discrimination, if institutionalized indefinitely, risks reproducing the inequalities it seeks to redress⁷⁸. In India, caste-based political mobilization has at times overshadowed constitutional objectives, underscoring the relevance of this concern. The comparative perspective highlights both the universal aspiration for remedial justice and the distinctive moral-constitutional framework of India⁷⁹.

Despite clear doctrinal principles, the implementation of reservation faces administrative inconsistencies and political inertia. Reports from the National Commissions for Scheduled

⁷² *M. Nagaraj v. Union of India*, (2006) 8 SCC 212, paras 101–104.

⁷³ Rajeev Bhargava, *The Promise of India's Secular Democracy* (OUP 2010) 114–117; Gautam Bhatia, *Transformative Constitutionalism* (OUP 2016), paras 136–139.

⁷⁴ Amita Dhanda & Archana Parashar (eds.), *Decolonising the Indian Legal System* (Routledge 2021), paras 242–245.

⁷⁵ Sandra Fredman, *Discrimination Law* (OUP 2011), paras 231–234; Catharine A. MacKinnon, *Are Women Human?* Harvard University Press 2006), paras 118–120.

⁷⁶ Marc Galanter, *Competing Equalities: Law and the Backward Classes in India* (OUP 1984), paras 212–216.

⁷⁷ André Béteille, *Caste, Class and Power* (OUP 2003), paras 165–168.

⁷⁸ National Commission for Scheduled Castes and Scheduled Tribes, *Annual Reports* (1995–2019).

⁷⁹ P.P. Vijayan, *Reservation Policy and Judicial Activism* (Deep & Deep Publications 2008), paras 92–95; B.L. Hansaria, *Right to Equality and Protective Discrimination* (EBC 2010) 104–108.

Castes, Scheduled Tribes, and Backward Classes have repeatedly noted gaps between constitutional intent and bureaucratic execution⁸⁰. Scholars including P.P. Vijayan and B.L. Hansaria emphasize that the absence of accurate socio-economic data hampers rational classification of backward classes⁸¹. Although Indra Sawhney mandated decennial reviews of backward-class lists, political reluctance has hindered substantive re-evaluation⁸².

Furthermore, the intersection of caste and economic disadvantage complicates backwardness identification. Amartya Sen observes that poverty and social exclusion are “distinct but reinforcing forms of deprivation,” implying that economic indicators alone cannot fully capture multidimensional disadvantage⁸³.

The 103rd Constitutional Amendment (2019), introducing 10% reservation for Economically Weaker Sections (EWS), has reignited debates over whether economic criteria alone suffice to meet constitutional equality standards. In *Janhit Abhiyan v. Union of India*, the Supreme Court upheld the amendment, though dissenting opinions, notably by Justice S. Ravindra Bhat, warned of potential dilution of the moral foundation of affirmative action⁸⁴. This contemporary jurisprudence illustrates the persistent constitutional tension between redistributive justice and the identity-based essence of equality⁸⁵.

5. Conclusion

The constitutional evolution of reservation in India represents an enduring dialogue among justice, equality, and democratic governance. The framers of the Constitution envisioned affirmative action not as an exception to the principle of equality but as a deliberate mechanism to operationalize it—a moral and legal instrument reconciling liberty with fraternity⁸⁶. Dr. B.R. Ambedkar’s vision of a “social democracy,” premised on the principle that political equality must rest upon social equality, continues to serve as the guiding constitutional ethos⁸⁷. Accordingly, the reservation policy is not a deviation from constitutional ideals but the very means through which they acquire moral legitimacy⁸⁸.

⁸⁰ *Indra Sawhney v. Union of India*, AIR 1993 SC 477, para 861(7).

⁸¹ *Amartya Sen, Development as Freedom* (OUP 1999), paras 56–59.

⁸² *Janhit Abhiyan v. Union of India*, (2022) 10 SCC 1.

⁸³ *Upendra Baxi, The Future of Human Rights* (OUP 2002) 276–278.

⁸⁴ *Regents of the University of California v. Bakke*, 438 U.S. 265 (1978); *Grutter v. Bollinger*, 539 U.S. 306 (2003).

⁸⁵ *Constitution of the Republic of South Africa*, 1996, s 9(2).

⁸⁶ *Granville Austin, The Indian Constitution: Cornerstone of a Nation* (OUP 1966), paras 75–78.

⁸⁷ *Constituent Assembly Debates*, Vol. XI (25 November 1949) 979–980 (Speech by Dr. B.R. Ambedkar).

⁸⁸ *Upendra Baxi, The Indian Supreme Court and Politics* (EBC 1980), paras 145.

Over the course of more than seven decades, judicial interpretation has transformed affirmative action from a static legal provision into a dynamic enterprise of constitutional governance. In *State of Kerala v. N.M. Thomas*, the Supreme Court first recognized that equality demands differential treatment for those who are unequally situated⁸⁹. This doctrinal trajectory culminated in *Indra Sawhney v. Union of India*, which institutionalized the “creamy layer” principle, reaffirmed the 50% reservation ceiling, and established the jurisprudential framework balancing social justice with administrative efficiency⁹⁰. These decisions have elevated equality from a textual norm to a living constitutional principle, enabling the State to rectify systemic imbalances while preserving institutional integrity⁹¹.

Nonetheless, persistent social stratification underscores the incomplete realization of substantive equality. Scholars such as Upendra Baxi and Rajeev Bhargava argue that the present challenge is not merely the extension of affirmative action but its transformative efficacy—creating social conditions under which reservation becomes unnecessary⁹². In this sense, reservation functions both as a temporary measure and as a moral pedagogy, cultivating a societal ethic of equality⁹³.

The 103rd Constitutional Amendment (2019), which provides 10% reservation for Economically Weaker Sections (EWS), constitutes a novel constitutional experiment. While it seeks to broaden access based on economic disadvantage, it simultaneously tests the outer limits of the equality clause⁹⁴. In *Janhit Abhiyan v. Union of India*, the Supreme Court upheld the amendment, but Justice S. Ravindra Bhat’s dissenting opinion raised profound questions regarding whether an economic-only criterion might erode the foundational ethos of social justice constitutionalism⁹⁵. The future effectiveness of Indian affirmative action will depend upon its capacity to preserve its transformative moral core while responding to evolving social realities.

Comparatively, India’s constitutional model remains distinctive in integrating identity-based justice with redistributive equity⁹⁶. While American and South African frameworks primarily prioritize diversity or remedial redress, India uniquely enshrines social justice as a

⁸⁹*State of Kerala v. N.M. Thomas*, (1976) 2 SCC 310.

⁹⁰*Indra Sawhney v. Union of India*, AIR 1993 SC 477, paras 859–861.

⁹¹M.P. Jain, *Indian Constitutional Law* (8th ed., LexisNexis 2018), paras 1073–1076.

⁹²Upendra Baxi, *The Future of Human Rights* (OUP 2002) 276–278; Rajeev Bhargava, *The Promise of India’s Secular Democracy* (OUP 2010), paras 114–116.

⁹³N.R. Madhava Menon, *Turning Point in Legal Education* (LexisNexis 2008), paras 79–80.

⁹⁴*The Constitution (One Hundred and Third Amendment) Act, 2019*.

⁹⁵*Janhit Abhiyan v. Union of India*, (2022) 10 SCC 1, per Bhat J., dissenting, at paras 140–145.

⁹⁶Sandra Fredman, *Discrimination Law* (OUP 2011), paras 232–234.

constitutional imperative rather than as discretionary policy⁹⁷. This moral dimension, deeply embedded in the Preamble's commitment to social, economic, and political justice, renders India's approach both distinctive and instructive for pluralist societies.

Ultimately, the jurisprudence of reservation exemplifies transformative constitutionalism in practice—a framework in which the Constitution functions as an instrument of social reform rather than merely a legal codex⁹⁸. The enduring challenge lies in sustaining the balance between compensatory justice and institutional efficacy, ensuring that affirmative action remains faithful to Ambedkar's vision of a society where equality is not only legislated but lived.⁹⁹

⁹⁷*Regents of the University of California v. Bakke*, 438 U.S. 265 (1978); *Constitution of the Republic of South Africa*, 1996, s 9(2).

⁹⁸Gautam Bhatia, *Transformative Constitutionalism* (OUP 2016), paras 135–138.

⁹⁹B.R. Ambedkar, *Annihilation of Caste* (1936, Ambedkar Foundation), paras 60–62.