



CASTE VS. CLASS: RETHINKING THE ARCHITECTURE OF RESERVATION POLICY

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ABSTRACT

The architecture of India's reservation policy has long been shaped by the tension between caste and class as competing indicators of disadvantage. Originally envisioned by the framers of the Constitution as a corrective for centuries of caste-based discrimination, affirmative action has evolved through constitutional amendments, judicial interpretations, and legislative interventions. Landmark cases from *Champakam Dorairajan* and *Indra Sawhney* to *Janhit Abhiyan* have continually redefined the contours of reservations, balancing formal equality under Article 14 with substantive justice under Articles 15 and 16. The implementation of the Mandal Commission recommendations institutionalized caste as the primary axis of affirmative action, while the 103rd Amendment and the Supreme Court's subsequent validation of the Economically Weaker Sections (EWS) quota marked a significant shift toward class-based reservations. This study critically examines whether caste remains the most legitimate basis for affirmative action in contemporary India or whether a class-sensitive framework is more normatively defensible and constitutionally sustainable. It explores the jurisprudential underpinnings of reservation, the persistence of caste as a systemic discriminator, and the normative debates surrounding economic criteria. By engaging with comparative models from the United States, South Africa, and Brazil, the study highlights both the limitations of transplanting foreign frameworks and the potential for hybrid, intersectional approaches tailored to India's unique socio-political context. The study argues for a reimagined reservation architecture that integrates caste, class, gender, and regional disadvantage into an intersectional, data-driven framework subject to periodic review. Such a model, grounded in constitutional morality and transformative justice, would move beyond the binary of caste versus class and ensure that affirmative action functions as an instrument of social empowerment rather than a tool of competitive populism.

Keywords: *Reservation Policy, Affirmative Action, Caste and Class, Substantive Equality, Constitutional Morality, Intersectionality, Transformative Justice.*

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I. Introduction: The Reservation Conundrum

The Indian affirmative action, popularly known as the "reservation policy", is a constitutional measure which aims to achieve substantive equality by offering equal chance in education, employment and representation in the public sector to historically marginalized communities. It can be traced back to the pre-Independence movements as well as post-Indian Union constitutional obligations. There had been certain provisions for the backward communities previously during the British colonial period (communal representation in the Government of India Acts of 1909 and 1935). However, primarily these were through individual efforts and would not meet this new kind of demand by people on their behalf.¹ The Chinese were pioneers when they introduced some rudimentary and ad hoc measures, which were further institutionalized in India as a result.

The Constitution's framers, especially Dr. B.R. Ambedkar, aptly considered caste-based reservations as a tool for rectifying decades of Dalit and other backward group miseries caused by discrimination and social boycott.² To return one layer up to the Court's observation that legally privileged classes need not only be Scheduled Castes and Scheduled Tribes, but also a socially and educationally backward class by adding Articles 15(4) and 16(4), thereby moving a step further from formal equality towards the goal of substantive justice.³ Gradually, the constitutional edifice of reservations grew by an extended hand of the judiciary, including judicial interpretation, legislative enactments and administrative mechanisms.

However, affirmative action has morphed in character and scale. One of the most significant legal challenges in Indian constitutional history arose out of this when, in 1990, the Mandal Commission recommendations (for 27% reservation in central government jobs for Other Backward Classes, OBCs) were implemented.⁴ Thanks for the insight into the fourth point. The Supreme Court in "*Indra Sawhney v. Union of India*" accepted the constitutional validity of OBC reservations but also stressed on exclusion of "creamy layer" from backward classes, and distinguished between social backwardness and mere economic deprivation.⁵ This ruling established the doctrinal basis for an enduring debate between caste and class as indices of backwardness.

¹ *Government of India Act, 1909* (Morley-Minto Reforms); *Government of India Act, 1935*.

² B.R. Ambedkar, *Annihilation of Caste* (1936).

³ The Constitution of India, arts. 15(4), 16(4).

⁴ Mandal Commission Report, "Report of the Backward Classes Commission" (1980).

⁵ *Indra Sawhney v. Union of India*, (1992) Supp (3) SCC 217.

However, the controversy acquired fresh legs two years ago, much more vigorously with the 103rd Constitutional Amendment that brought in a 10% quota for Economically Weaker Sections (EWS) in higher education and government jobs.⁶ Unlike prior reservations, the EWS quota was economic based one and not on any basis of SC/ST/OBC categories. In *Janhit Abhiyan v. Union of India*, the constitutional validity of this amendment was challenged before the Supreme Court and the majority 3:2 held that it formed a class by itself, thus justified affirmative action.⁷ However, the dissenting opinions voiced fears that the economic reservation may violate the basic structure doctrine by excluding historically oppressed groups from gaining benefits.⁸

We have changed from caste-as-norm to caste-as-bane, which in turn needs a set of policy fixes that foregrounds a class-based affirmative action grid with some elements hived off for specific castes, or to use the *lingo du jour*, an intersectionality model? This research study critically investigates this question by examining the philosophical rationales, doctrinal evolutions and social facts that legitimized reservation policy in India.

The study differentiates the kind of approach, doctrinal or analytical, methodologically adopted in writing it. It scrutinizes constitutional clauses, judicial decisions, reports of the Law Commission and amendments to statutes for tracking the contours and underpinnings of reservation policy. Meanwhile, it looks at comparative international models to question whether the Indian model of caste is still the best way forward for social equality in India. Its structure consists of the following six sections: after this Introduction, Part II deals with the history of reservations vis-à-vis the constitutional and jurisprudential framework; Part III studies caste as a principle of affirmative action; Part IV addresses economic criteria for reservations; Part V examines paradigms from other jurisdictions; and finally, in part VI we suggest some reform-oriented recommendations aimed at working out a more just and constitutionally-compliant architecture for reservations.

II. Constitutional Foundations and Evolving Jurisprudence

The principles of equality enshrined in the Indian Constitution are not based on a narrow and formalist idea of sameness but are rather embedded within a more nuanced understanding. This is reflected in the very text of the provision, which balances a form of formal equality under Article

⁶ The Constitution (One Hundred and Third Amendment) Act, 2019.

⁷ *Janhit Abhiyan v. Union of India*, (2022) 10 SCC 1.

⁸ *Ibid.* (per Bhat, J., dissenting).

14 with affirmative measures conflated into Articles 15 and 16. Articles 15(4), 15(5), 15(6) and Article 16 (4) are basic pillars of reservation providing power to the State for making special provisions in favour of weaker sections or disadvantaged groups. These clauses indicate a repudiation of an entirely formalistic conception of equality and declare that the commitment to substantive equality and social justice is a part of the constitution.

This provision was inserted through the First Constitutional Amendment in 1951 after a Supreme Court judgment *State of Madras v. Champakam Dorairajan*, which ruled that caste-based reservations in educational institutions were unconstitutional as they violated Article 15(1), which guarantees non-discrimination on religion, race, caste, sex or place of birth.⁹ The judgment directed the Parliament to amend the Constitution to enable the State to make "special provisions" for the advancement of socially and educationally backward classes (SEBCs), besides SCs and STs.

Through the 93rd Amendment in 2005, Article 15(5) was inserted that allows the State to make special provisions for backward classes of citizens in private educational institutions (except minority-run, backed by Articles 29 and 30) and thereby bring private education institutions within the canvas of affirmative action.¹⁰

New category Economically Weaker Sections (EWS) Article 15(6), put in by the 103rd Amendment in 2019. The clause puts the State at liberty to make a special provision for the socially and educationally backward classes of citizen among SCs, STs and SEBC in admissions within 10% reservations which may include private unaided institutions but not minority institution based on economic condition 15(6).¹¹

This is in pursuance of Article 16(4), which is an enabling provision that permits the State to make reservations in public employment for any backward class of citizens if, in the opinion of the State, they are not adequately represented in the services under it.¹² This position was further defined by the Supreme Court in *Indra Sawhney v Union of India*, where it observed that "backwardness" under Article 16(4) is proximately linked to social and educational backwardness as opposed to just economic disadvantage.¹³

⁹ (1951) SCR 525.

¹⁰ The Constitution (Ninety-Third Amendment) Act, 2005.

¹¹ The Constitution (One Hundred and Third Amendment) Act, 2019.

¹² The Constitution of India, art. 16(4).

¹³ *Supra* note 5.

In a nuanced reading of the Constitution, this provides a clear jurisprudential direction in which reservations have been read and interpreted by the courts. Champakam Dorairajan interpreted Article 15 narrowly and adopted a formal equality approach. The Parliament reacted by passing the First Amendment to affirm caste-based affirmative action.¹⁴

The Court in *M.R. Balaji v. State of Mysore*, struck down a 68% reservation and held that Identification of backward classes ought to be made on more screener social as well as educational criteria; caste alone cannot be the criterion for the identification of the Backward classes, as caste is nothing but a primary indicator of SEBCs.¹⁵ The ruling argued that caste may be considered, but only as one among other criteria for the identification of backwardness. This was the first of the court's cautionary statements regarding policies focusing too heavily on castes.

The cautious approach changed with the Indra Sawhney case, a nine-judge bench upheld the constitutional validity of OBC reservations as recommended by the Mandal Commission. What the Court had held was that caste, being a structural sociological and social indicator of inequality deeply embedded in Indian society, could be reliable evidence of backwardness.¹⁶ The Court, however, established two principles: the 'creamy layer' exclusion for OBCs and the 50% cap on total reservations (subject to exceptional circumstances).¹⁷

The Supreme Court in *Ashoka Kumar Thakur v. Union of India* finally upheld the legitimacy of reservation for OBCs under Art 15(5). However, it held that to be identified as backward on a caste basis was not invalid. However, a mere determination based on economic criteria cannot be a ground to define backward classes.¹⁸ The judgment also reiterated that affirmative measures must be compliant with the basic structure of the Constitution.

The last to decide upon this new order of things, or rather, the constitutionality of the 103rd Amendment and EWS quota came in *Janhit Abhiyan v. Union of India* this time by a five-judge bench with a 3:2 majority held it constitutional. The Court therefore inter alia held that economic criteria could form a valid basis for affirmative action, and the non-inclusion of SCs/STs/OBCs within the EWS category did not violate the basic structure.¹⁹ The Judges concurred on their order

¹⁴ *Supra* note 9.

¹⁵ *M.R. Balaji v. State of Mysore*, AIR 1963 SC 649.

¹⁶ *Supra* note 13.

¹⁷ *Id.* at 843–845.

¹⁸ (2008) 6 SCC 1.

¹⁹ *Supra* note 7.

that the sector not be reserved for the economically weaker section of society. However, the dissenting judges opined that leaving historically marginalized communities out of economic reservations goes against substantive equality and the conceptions of social justice upheld by the Constitution.²⁰

In deciding all of these cases, the courts have struggled with the line that separates caste as an immobile birth-based form of subordination and class as a relatively fluid, socio-economic indicator of disadvantage. Whereas caste provides a better conception as a proxy for longstanding systemic discrimination, class struggles capture contemporary economic deprivation but do not have the historical permanence and external social categories that warrant action in group terms.²¹

Over the last few years, Indian Courts have been speaking more and more of constitutional morality and transformative constitutionalism as tools for interpretation. Such doctrines teach one to read the Constitution not as a dead legal text, but as a living conception of freedom that pursues the destruction of oppressive social hierarchies and the extension of real equality.²² Here, then, we can see that affirmative action is not in derogation of equality but the realization and triumph of it; what justification there ever was for such preferences lies here—not in ghettos or black-barred beaches—but only in a refusal to be content with dogged equality, as transcendent aspirations are transformed into realistic actualizations formerly invisible.

III. Caste as a Basis of Reservation: Rationale, Critique, and Persistence

In India, inequality is most systematically institutionalized with caste, where hierarchies of birth, occupation and ritual purity are not only economic but non-economic. Caste, as Dr. B.R. Ambedkar, the chief architect of the Indian Constitution, pointed out, is a "graded inequality" and smothers both individual mobility and collective upliftment.²³ Annihilation of Caste, as cited by Ambedkar, showed that the caste system was not only a division of labor but also a division of laborers and promotion of indignity as economic profiled has primarily been dependent on

²⁰ *Id.* at 338.

²¹ Galanter, Marc, "Who Are the 'Other Backward Classes'? An Introduction to a Constitutional Puzzle," 13(43/44) *Economic and Political Weekly* 1812-1828 (1978).

²² *Navej Singh Johar v. Union of India*, (2018) 10 SCC 1.

²³ B.R. Ambedkar, *The Problem of the Rupee: Its Origin and Its Solution* 77 (P.S. Lokhande ed., Thacker & Co. 1923).

religious and social sanction determining one's place in society based on birth standings rather than merit or capability.²⁴

Caste-based reservation is legally defensible because the Constitution itself acknowledges caste as a social and educational backwardness. The rationale behind the explicit inclusion of Articles 15(4) and 16(4) is that these provisions clearly sanction the state to make special provisions for Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs), given their historical exclusion from education, employment, and public life.²⁵ Judicial pronouncements have often clarified the status of caste as a legitimate and needed indicator for backwardness (for example, on class-driven lack of access and dignity), *Indra Sawhney v. Union of India*.²⁶

From the sociological point of view, caste remains a key discriminator in terms of disadvantage. Studies have shown that even in terms of accessing fundamental needs like housing, healthcare and banking, people belonging to SC and ST communities face high levels of discrimination beyond educational institutions or workplaces.²⁷ The persistence of caste-based discrimination in rural areas as well as urban and semi-urban areas reinforces the need for special affirmative action measures for these communities.²⁸

However, of course, caste-based reservations have also faced criticism. Intra-group inequality is one of the most significant issues. The *Indra Sawhney* judgment had created a provision known as the "creamy layer", which seeks to exclude the relatively privileged sections of OBCs from the benefits of reservation, leaving only those who are most backward.²⁹ Although the doctrine has been invoked for OBCs, courtrooms have been unwilling to expand the rule to include SCs and STs because of the lack of similarity in their social backwardness. Critics, however, argue that due to the absence of internal differentiation within SC/ST categories, this has enabled a few large sub-castes to capture most benefits, leaving even more marginalized groups like Dalit women or Adivasis in remote regions mainly untouched.³⁰

²⁴ B.R. Ambedkar, *Annihilation of Caste* (1936) (abridged version published by Navayana, 2014).

²⁵ The Constitution of India, arts. 15(4), 16(4).

²⁶ *Supra* note 13 at 796–799.

²⁷ Thorat, Sukhadeo & Paul Attewell, "The Legacy of Social Exclusion: A Correspondence Study of Job Discrimination in India," 42(41) *Economic and Political Weekly* 4141 (2007).

²⁸ Satish Deshpande, *Contemporary India: A Sociological View* 67–72 (Penguin Books, 2003).

²⁹ *Supra* note 13 at 843.

³⁰ *Supra* note 21.

The next critique is of the perpetuation of caste identities. On the other hand, some scholars contend that in the long run it acts to perpetuate caste consciousness by routinizing group identities and provisioning for immediate material exigencies, but at the expense of cutting loose entire communities from a wide range of desirable social outcomes.³¹ Critics from liberal and conservative schools argue that using caste as a form of positive discrimination or affirmative action, while well-intentioned, may worsen the longstanding problem by further politicizing caste. However, this criticism misses out on the systemic caste operations of Indian society, where public discourse can be replete with denials of caste. In contrast, caste dynamics may largely govern the private sphere and institutions.³²

Castes noticeable politically also led to misgivings of reservation being diluted as an instrument for social justice. Instead of working for the social status of suspected caste sufferers, electoral politics has helped many times in creating more vote banks through quotas or fake promises of expansion (quicker) electoral victories. The explosive growth of Marathas, Patels, Jats and even dominant communities like OBC status for parity could serve as an example of how caste-mobilization can transform into a device of competitive populism.³³

While we can argue all day long on the nuances, the fact of the matter is that hardcore evidence validates ongoing caste-based affirmative action. Gross Enrollment Ratio (GER) for SCs and STs, according to All India Survey on Higher Education (AISHE 2020-21), continues to lag sharply below the national average.³⁴ Even for public employment, the latest Annual Report of the Department of Personnel and Training (2021-22) finds that SCs had only 17.49% of group C and 13.4 % of group A posts in the central government vis-à-vis their constitutionally stipulated share.³⁵ The National Commission for Backward Classes has also pointed out several times that economic development by itself is insufficient to entirely eradicate societal exclusion, which can be experienced even at higher levels of income.³⁶

³¹ Nandini Sundar, "Caste as an Impediment to Citizenship," 601 *Seminar* 23 (2009).

³² Gopal Guru, "Caste and the Secular Self," 30(11-12) *Social Scientist* 3 (2002).

³³ Christophe Jaffrelot, *India's Silent Revolution: The Rise of the Lower Castes in North India* 335–40 (Permanent Black, 2003).

³⁴ Ministry of Education, "AISHE Report 2020–21" (2022), available at: <https://www.education.gov.in> (last visited on October 12, 2025).

³⁵ Department of Personnel and Training, "Annual Report 2021–22", available at: <https://dopt.gov.in> (last visited on October 12, 2025).

³⁶ National Commission for Backward Classes, "Annual Report 2020–21", available at: <https://ncbc.nic.in> (last visited on October 12, 2025).

Earlier auditors of NITI Aayog and from some independent agencies had also pointed towards very poor implementation of different development schemes among SCs/STs, including important sectors like education, health, sanitation and rural employment.³⁷ The above findings indicate the importance of caste-sensitive policies targeted to that particular social group beyond mere economic measures.

Therefore, although the caste-based reservation policy can be critiqued on a sound basis, its constitutional, sociological and empirical structure is solid. Instead of junking caste as the fulcrum for affirmative action, what needs to be done is to make further progress on policy architecture to ensure equitable distribution across castes, remove the excesses of politicization and improve accountability. This includes improvements in data collection, sub-categorization within SC/ST/OBCs and monitoring of outcomes regularly.

IV. The Rise of Economic Criteria: The EWS Paradigm

The year 2019 started with the indoctrination of a new era in history when the 103rd Constitutional Amendment Act, 2019 was enacted, introducing landmark provisions within the affirmative action jurisprudence of India. Moreover, for the very first time, the constitution acknowledged economic backwardness as an independent category of reservation in education and public employment by including Articles 15(6) and 16(6). In these, some of the most important provisions are that they have enabled the State to provide up to 10% reservation for Economically Weaker Sections (EWS) of citizens who may not belong to these SCs/STs/OBCs.³⁸ Exclusion of these historically oppressed communities from the purview of the EWS quota has contested important legal and normative arguments.

A five-judge bench of the Supreme Court delivered a 3:2 split to affirm the constitutionality of the 103rd Amendment in *Janhit Abhiyan v. Union of India*.³⁹ The majority judgment had found that class has become a legitimate ground for the basis of affirmative action, and such categorization does not violate the basic structure of the Constitution. The majority judgment authored by Justice Maheshwari reasoned that poverty can translate into "opportunity" hoops and the state is

³⁷ NITI Aayog, "SDG India Index & Dashboard 2020–21" (2021), *available at*: <https://www.niti.gov.in/sdg-india-index-dashboard> (last visited on October 12, 2025).

³⁸ The Constitution (One Hundred and Third Amendment) Act, 2019.

³⁹ *Supra* note 7.

constitutionally enabled to identify new forms of disadvantage in an evolving socio-economic context.⁴⁰

From a jurisprudential perspective, this constituted a break from the established secular judicial understanding that reservations under Articles 15(4) and 16(4) must be designed to remedy longstanding systemic and structural inequities, which are by definition rooted in caste-based discrimination. The Court in *Indra Sawhney v. Union of India* categorically held that the economic criteria alone could not form the basis of backwardness under Article 16(4), and if such similar clauses would violate Article 19(1)(g), the same being a reason for reconsideration under, however, any reconsideration should be made with caution was an open question left by us to answer.⁴¹ Given the implications of this shift, we must ask tough questions regarding what is being prescribed and whether economic disadvantage requires a compensatory justice akin to what caste-based discrimination might warrant under the Constitution.

This category effectively rules SCs, STs and OBCs out as they are considered to be already provided with reservations. There are criticisms that such omitting breaches the doctrine of substantive equality, as economically poor people situated alike suffering from inequities belonging to different caste groups are made differently positioned.⁴² More categorically, it ignores what root cause analysis is in caste discrimination, which the latter overlaps with poverty; over-representation of specific communities who have been historically oppressed will be disproportionately economically excluded.⁴³

As a matter of norm, the EWS quota has in turn raised the poverty versus discrimination rationale for affirmative action, as opposed to having many proponents being more normatively. Extremely unpleasant though severe poverty may be, it is typically a temporary condition and one that can, in most cases, be relieved via welfare payments or other income support. Even the wealthiest people might face a stigma, exclusion from society or limited access to opportunities due to their caste; thereby, class-based discrimination is not exactly systemic and rooted in society lasting to

⁴⁰ *Id.* at 198–201.

⁴¹ *Supra* note 13 at 843–845.

⁴² *Gaurav Jain v. Union of India*, (1997) 3 SCC 636; see also Tarunabh Khaitan, “EWS Reservations and the Constitutional Commitment to Equality,” *India Forum* (2020).

⁴³ Deshpande, Satish, “Exclusive Inequalities: Merit, Caste and Discrimination in Indian Higher Education,” 41(24) *Economic and Political Weekly* 2438-2444 (2006).

any significant extent.⁴⁴ These comparisons, in turn, can flatten social hierarchies by reducing the complexity of caste-based exclusion to a simple matter of an economic condition.⁴⁵

Moreover, the dissenting opinions in *Janhit Abhiyan* mirror these concerns. Justice Ravindra Bhat, writing for the bench also comprising Chief Justice U.U. Lalit said two things: EWS reservations can never be another "creamy layer" exclusion of SCs/STs/OBCs based on the exclusive criterion of economic criteria, as it would violate basic structure, equality and social justice.⁴⁶ In the dissent, it was underlined that. In contrast, on one hand, the State might be entitled to design policies favoring economically poor classes; however, in creating a new exclusionary hierarchy, as such is self-defeating in terms of the object sought to be achieved by way of affirmative action in a sense. They have further argued that the promotion of educational and economic interests of weaker sections, in particular SCs and STs, is a mandate under Article 46 of the Directive Principles (albeit without an exclusionary intent).⁴⁷

Many of these judicial concerns have been echoed by civil society critiques. Economists argue that the EWS quota is a regressive step from distributive justice and has relegated reservation to being an affirmative action policy rather than a caste-gender complementary measure.⁴⁸ However, others warn that it could result in a "reservation inflation", where unguided expansion of quotas combined with the absence of structural reform disincentivizes the system and creates social fissures.⁴⁹

Despite being a result of affirmative action internationally, a type of affirmative action model based on economic criteria has had its successes and failures. While race-conscious admissions policies in the United States have been grounded in a history of using such measures to combat previous racial segregation, recent jurisprudence has seen increased challenges to their use. Students for *Fair Admissions v. Harvard* (2023) US Supreme Court stated that race-based admissions in public and private colleges were over and should be replaced with income diversity systems by both

⁴⁴ Galanter, Marc, "Why Law's Changing Relationship to Caste in India Matters," *Stanford Law Review Online* 89–91 (2014).

⁴⁵ Nandini Sundar, "The Myth of Economic Caste Neutrality," 717 *Seminar* 33-37 (2019).

⁴⁶ *Supra* note 7 at 333–339.

⁴⁷ The Constitution of India, art. 46.

⁴⁸ Balakrishnan, P., "EWS Quota: Retreating from the Constitutional Vision," 54(6) *Economic and Political Weekly*, 16–18 (2019).

⁴⁹ Thorat, Sukhadeo, "EWS Quota and Social Justice: More Questions Than Answers," *The Hindu*, Jan. 2019.

school types.⁵⁰ However, opponents counter that income-based proxies do not adequately represent the experience of racial or ethnic discrimination.⁵¹

Similarly, in Brazil, it combines race and class by reserving places for African-Brazilians, Indigenous persons, and public schools' low-income students, acknowledging disadvantage as an intersectionality.⁵² The model of hybrid solutions provides lessons for India about how we can create multi-dimensional, context-sensitive frameworks for affirmative action in place.

To sum up, the 103rd Amendment represents a major constitutional leaning forward, but it is also a disputed and doubtful move. It is not, I suggest in the book, that defining economic disadvantage as a legitimate ground for special treatment is suspect per se; rather, it is the mode of its implementation, specifically the exclusion of historically oppressed groups, that poses serious both constitutional and moral imperatives. In the case of a democracy guided toward transformative justice, any reservation policy must operate as an antidote not only to poverty but also to historical injustice. In an all-encompassing policy framework, aiming towards the future requires an effort towards intersectionality, recognizing the truth of general disadvantage in Indian society.

V. Comparative Perspectives: Global Models of Affirmative Action

The idea of affirmative action as a tool to address systemic inequality and exclusion is nothing new and is not unique to India. Nations such as the US, South Africa, and Brazil have approved a number of approaches for developing social justice by way of targeted incorporation, particularly in education, along with the time when we are children. Such comparative analysis is critical to inform the design, limitations and impact of affirmative action as well as to highlight the dangers in transplanting foreign models without accounting for Indian constitutional and socio-cultural realities.

United States: Race-Conscious Admissions and the Divergent Path of Strict Scrutiny

For decades, the US has struggled with its history of racial inequality, particularly when it comes to the treatment of African Americans. In the United States, affirmative action has primarily taken the form of race-conscious admissions policies in higher education. In *Grutter v. Bollinger*, the US

⁵⁰ *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181 (2023).

⁵¹ Crenshaw, Kimberlé, "Demarginalizing the Intersection of Race and Class," *University of Chicago Legal Forum* 139–167 (1989).

⁵² Htun, Mala, *Inclusion Without Representation in Latin America: Gender Quotas and Ethnic Reservations* 98–112 (Cambridge University Press, 2016).

Supreme Court permitted the University of Michigan Law School to narrowly tailor its consideration of race among other factors in admissions as a valid means for the pursuit of "diversity," a compelling state interest.⁵³ The Court stressed that these policies would have to be very specifically defined and very closely scrutinized, the most stringent court review allowed under United States of America case law.

Enter *Students for Fair Admissions v. Harvard* (2023) and a swift change of course: the Supreme Court, in effect, abolishing race-based admissions as violating the Equal Protection Clause of the Fourteenth Amendment.⁵⁴ The majority framed its holding as part of the effort to carry out the constitutional promise that racial distinctions shall not have significance anymore by originally presuming students would not endure on a "sea" of racial classifications even if designed in great part for remedial purposes.

For India, two key takeaways from the US experience the first set of judicial standards must balance institutional autonomy with constitutional safeguards for affirmative action. Another is that merit-based systems, if not aware of social context, can mask the extent to which structural inequalities make it easier for certain groups to feel at home or succeed, perpetuating the status quo. However, the US model continues to be firmly grounded in an individualistic and colorblind constitutional culture, unlike India's environmentally triggered equalization paradigm.

South Africa: Race, Gender and Redress for Historical Injustice

In South Africa, affirmative action is a more redistributionist and restorative approach, due to the legacy of apartheid in its journey towards constitutional democracy. Through the Employment Equity Act, 1998, proactive measures must be taken to ensure that apartheid-era representation (classified by race, gender and disability) is addressed in the public and private sectors.⁵⁵ Whereas the US does not take account of group-based disadvantage in interpreting its Constitution, and so places on employers "the burden [only] to ensure that all individuals have an equal opportunity to seek employment," nothing further, under South African law, it is relevant on constitutional grounds for legislative measures required to promote equitable representation.⁵⁶

⁵³ *Grutter v. Bollinger*, 539 US 306 (2003).

⁵⁴ *Supra* note 50.

⁵⁵ Employment Equity Act 55 of 1998.

⁵⁶ *South African Police Service v. Solidarity obo Barnard*, [2014] ZACC 23.

The Constitutional Court of South Africa has established such provisions in several landmark judgments. The Court held that enforcing remedial measures does not infringe the equality clause (Section 9 of the Constitution) if they are to promote substantive equality: As in *Minister of Finance v. Van Heerden 2004*.⁵⁷ The Court focused on transformation as the ultimate aim of South Africa's constitutional identity.

The constitutional ethos of transformative justice in the South African system is normatively resonant with India. Nonetheless, the recent end of legal apartheid in South Africa and the historical role of race as a constitutional factor make for an altogether different lens that cannot be carried over unproblematically to caste-based stratification in India.

Brazil: Intersectional Affirmative Action, Race Class together

A combination of class-based and race-based affirmative action in Brazil. Afterward, given the persistent disadvantage of Afro-Brazilians and Indigenous peoples within Brazil, the country enacted a quota system in public universities and government positions through laws such as Law No. 12.711/2012 (the “Quota Law”).⁵⁸ This law secures 50% of university seats for public school students, with a portion falling under low-income, Afro-Brazilian, and Indigenous quotas set according to regional demographics.

Brazil's system is of interest as it employs a form of self-identification and verification commissions to avoid abuse that those not in the intended group could not use this exception.⁵⁹ The Brazilian Supreme Federal Court declared the constitutionality of those acts (ADPF 186/DF), emphasizing that the combat against historical injustices is a moral and constitutional duty.⁶⁰

Brazil is a good case, with its intersectional design; it considers both income and group identity at the same time, which India could learn from. This might be more suitable in the Indian context, where castes and class often coalesce, but including economic criteria within a caste-sensitive framework could add to both equity as well as efficiency.

⁵⁷ 2004 (6) SA 121 (CC).

⁵⁸ Lei No. 12.711, de 29 de Agosto de 2012 (Braz.).

⁵⁹ Fryer, Roland G. & Loury, Glenn C., “Affirmative Action and Its Mythology,” 19(3) *Journal of Economic Perspectives* 147–162 (2005).

⁶⁰ *Arguição de Descumprimento de Preceito Fundamental (ADPF) 186/DF*, Supremo Tribunal Federal (Braz.), 2012.

Difficulties of Legal Transplantation and Contextual Constraints

Global models are valuable comparisons, but there is no one-size-fits-all solution to transpose affirmative action policies internationally. One, constitutional philosophies vary. India's Constitution plainly permits group-based classification (as opposed to the American focus on individualism and non-discrimination). The ascent of social hierarchies is originating and shaped differently; caste in India has religious-cultural roots like none other, not even American racial apartheid or colonial apartheid lived by South Africa.

Finally, standards of judicial review and enforcement differ. For example, India has not yet adopted something similar to strict scrutiny for analyzing affirmative action. Legal systems operate in different political economies: affirmative action in India is strongly associated with electoral politics. At the same time, courts and legislatures work within distinct institutional conditions and popular constitutional ideas of the US and Brazil.

Comparative models of affirmative action illustrate that while remedial justice remains a shared constitutional aspiration, its implementation must be contextually grounded. India's reservation system has unique normative and historical roots that foreign paradigms cannot replace. However, insights from Brazil's intersectional design, South Africa's transformative mandate, and even the US's judicial caution can inform a more refined, accountable, and future-facing framework. As India debates the contours of caste and class in reservation policy, global experiences serve not as templates, but as mirrors, helping reflect on domestic choices with greater clarity.

VI. Reimagining the Reservation Architecture: Towards a Nuanced Framework

The Indian reservation policy, based on constitutional morality and social transformation, needs redefinition in order to deal with contemporary realities and system-internal distortions. The domination of the binary narrative between caste and class serves to obscure this messy terrain of multiple levels of oppression, where identities of caste, economic status, and gender, combined with regional backwardness, converge. The diversity model of affirmative action must transition away from wooden categorical analysis to a realpolitik data and constitutionally based framework that neither skirts nor respects constitutional boundaries.

An Intersectional, Multi-layered Reservation Matrix

Among the most important reform proposals of this kind is to move towards building a layered reservation matrix with respect to multiple dimensions of disadvantage—caste, class, gender and geographical. Existing programs stigmatize these various forms of identity, selecting the most preferred category over the other. Intersectionality allows for prioritising a woman from a rural, remote Dalit village over a less disempowered male beneficiary within the same caste. This would mean that reservations on the basis of caste are to be wended through income ceilings, gender quotas and regional development indices so that those most in need of affirmative action benefit from it.⁶¹

In doing so, it accords with the constitutional vision of substantive equality in India, as framed by Ambedkar, reminding us that formal or legal equality is meaningless without social and economic democracy.⁶² Intersectionality, a framework that has been developed by scholars like Kimberlé Crenshaw and acknowledges the interlocking or compounding effects of multiple identities in discrimination contexts and is being used more broadly in legal and policy discussions around the world.⁶³

Periodic Review and Sunset Clauses

However, another structural flaw of the present reservation policy is the absence of review mechanisms at regular intervals. The Constitution states that reservation of seats in legislatures for SCs and STs shall cease to have effect after 10 years from the commencement of the Constitution, i.e., January 26, 1950. However, this deadline was extended by a constitutional amendment on February 27, 1960, by another period of ten years.⁶⁴ In sharp contrast, reservations for employment and education do not have any sunset clause or a mandated review.

A Constitutional or Statutory review every ten years would ensure reservations remain reflective of changing socio-economic circumstances. Those reviews must be based on data, derived from the Socio-Economic and Caste Census (SECC), National Family Health Surveys (NFHS) and

⁶¹ Yadav, Yogendra, “A Progressive Framework for Reservation: Time for an Inclusive Index,” *The Hindu*, Jan. 2019.

⁶² *Supra* note 2.

⁶³ Crenshaw, Kimberlé, “Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color,” 43 *Stanford Law Review* 1241–1299 (1991).

⁶⁴ The Constitution of India, art.334 (originally set to expire in 1960, extended through amendments).

specific studies undertaken to measure educational and employment outcomes.⁶⁵ Rather than doing away with quotas, these reviews ought to be focused on the question of whether they have achieved their goal as effectively and widely targeted regionally, analysing regional disparities and making course corrections, if necessary.

Sub-Categorization Within Groups

One major distortion of India's reservation policy is the problem of intra-group inequality with respect to OBCs and SCs. The benefits of affirmative action also tend to be hijacked by dominant sub-castes and extremely marginalised communities such as the PVTGs, Mahadalits, or even non-dominant OBCs remain under-represented.⁶⁶

In *State of Punjab v. Davinder Singh*, the Supreme Court resurrected sub-categorization within SCs under Article 342A by allowing the state to effectuate a break-up for appropriate compartmentalization among sub-groups so as to ensure a fair playing field.⁶⁷ Firstly, the Justice Rohini Commission, which was appointed in 2017 to look into OBC sub-categorization, recommended the creation of four categories within the OBC quota to avoid dominant castes cornering benefits.⁶⁸ To improve the consistency and legitimacy of the reservation system, this reform is recommended.

Employment of Dynamic Socio-Economic Parameters

They also demand the inclusion of measures that are subjective, but quantifiable: earmarking reform. The SECC 2011 is data that even although still not fully published but gives a granular level of information on the income, occupation, housing, education and asset ownership. An index of deprivation, combining this data with caste and regional markers, allows for targeting based on evidence.⁶⁹

Using a composite deprivation score, for example, cumulative disadvantage can be used as an entry point to rank beneficiaries. It would have allowed the State to fix a percentage of seats or jobs for only those with the highest scores, without regard to their caste alone. These models

⁶⁵ Ministry of Rural Development, "Socio-Economic and Caste Census 2011", available at: <https://secc.gov.in> (last visited on October 15, 2025).

⁶⁶ Deshpande, Ashwini, *Affirmative Action in India* 98–102 (Oxford University Press, 2013).

⁶⁷ (2020) 8 SCC 1.

⁶⁸ Government of India, "Justice Rohini Commission Report (Summary)", (Ministry of Social Justice and Empowerment, 2023).

⁶⁹ *Supra* note 27.

informed by data would adjust reservations from a static, identity-based process to a dynamic, data-driven operation, one targeted at gauged equity.

Political Economy and Administrative Considerations

It is clear that addressing these failures involves some delicate political economy footwork. Reservation is the most politically virulent policy mantra, and any reform, especially where it concerns plotting communities against sub-categories or leaving open-ended sunsets in favour of politically influential communities, will spill out onto the streets. In addition, an exhaustive intersectional model would require extensive administrative capacity for comprehensive beneficiary profiling and could impinge on privacy and federalism concerns.⁷⁰

However, recent history being what it is with the advent of digital welfare schemes, Aadhaar-based DBT systems, and PM-JAY health coverage shows that India has the technological capability to run data-driven and more evolved forms of conditional/performance-based social security mechanisms. Political will, inter-governmental coordination and constitutional safeguards are required to make these structures fair, inclusive, and immune from manipulation.

Normative Foundations: Dignity, Distributive Justice, and Equality

The barometer that we must apply to any reimagination of reservations is the normative values embedded in the Constitution: dignity, substantive equality and distributive justice. To introduce this, the Supreme Court (in *Navtej Singh Johar v. Union of India*), when they decriminalized some parts of Section 377, observed that the Constitution is a "transformative document" and one that is intended to disrupt structural hierarchies, not prop them up.⁷¹

Reservations are not a charity or handout; they are an acknowledgment of existence and instruments high up in the hymn of sociopolitical empowerment. What that means is this: the next phase of reforms would not be aimed at dilution, but instead at deepening in such a way that affirmative action goes to the truly disadvantaged and recognizes diversity even as it enables mobility. The design of a system of reservations must not only capture who people are but also how they are positioned in social, economic, and institutional space.

⁷⁰ Singh, Pratap Bhanu, "Welfare and Surveillance: Balancing Technology and Rights," *India Forum* (2022).

⁷¹ *Supra* note 22 at 144.

Reform is not backing away from reservation; it is reimagining reservation for the 21st century. An intersectional, layered, and data-dependent reservation policy can harmonize the affirmative action regime of India with its constitutional mandate for social change. These are by design neither caste nor class-blind, but as we debate their utility in the Indian context, let us explore ways to integrate race and gender into a universalising vision of justice that is equitable, dynamic and all-encompassing.

VII. Conclusion: Beyond Caste vs. Class

For decades now, the quibble between caste-based and class-based reservations is typically dichotomized - one that favours historical social discrimination as opposed to the other that prefers contemporary economic deprivation. However, the Indian experience shows that caste and class are not binary categories but frequently work in tandem to create even more complex, intersectional forms of disadvantage. To do so, intersects with the affairs of Indian affirmative action with a blinkered view at best, and risks flattening complex realities and normative foundations of Indian affirmative action at worst.⁷²

Through its constitutional framework, especially Articles 15(4), 16(4) and increasing impetus over the past few years, the Constitution of India recognizes group-based disadvantage as a valid ground for government intervention in an individualistic policy architecture. Nonetheless, constitutional interpretation needs to be flexible and respond to changing socio-economic realities. While the verdict in the Janhit Abhiyan case has liberalized affirmative action by making economic criteria an acceptable ground for reservation, it also places a responsibility on the State to come up with mechanisms that are less exclusionary and more inclusive.⁷³

Instead, we need a more nuanced reservation policy that goes beyond rigid identities in favor of the context-sensitive, constitutionally grounded and empirically informed forms of affirmative action. It also involves realizing that disadvantage is enacted on multiple axes, caste, class, gender, geography, double and triple, etc., which the State not only has to redress but transform from a market-dominant industrial order to one of radically democratized well-being produced through

⁷² Deshpande, Satish, "Caste and Class in Contemporary India," 38(46) *Economic and Political Weekly* 4820-4824 (2003).

⁷³ *Supra* note 7 at 198-201.

public largesse and political radicalism. As the Supreme Court held in *Indra Sawhney*, the objective of reservation is not its continuation perpetually, but to end it.⁷⁴

A future-proof reservation architecture is hence a scaffold supported on three main elements: sound data, judicious review and an audit of policies, and participation in policy for a purpose. The first is that, as long as there are no real-time and disaggregated data on the socio-economic status of the population, it is very difficult to improve targeting because most public disciplines never know where the clients are. Several of them reported on the perennially delayed release of SECC data, the absence of any references to clear caste-specific educational and employment results, and alluded to a general lack of transparency in the approach that contributes to the accountability page.⁷⁵

On the other hand, this same judicial review process has to simultaneously serve as the ground rules for arbitrary expansions as well as unjust exclusions. In *Ashoka Kumar Thakur and Janhit Abhiyan*, the Court has done yeoman work in preserving the basic structure of equality while leaving some space for policy innovation.⁷⁶

Policy reform needs to be participatory by working in consultation with the marginalized, state governments and civil society. All green humanitarians and those in the company of every morally serious person is an enormous failure are certainly well aware that any affirmative action regime, no matter how legally defensible, can only survive politically, let alone ethically, if it is both accepted as legitimate and considered sustainable.

In this sense, affirmative action needs to be seen not just as a compensatory practice but as an instrument of constitutional change: one that can update the promises of dignity, equality and fraternity made at independence. Political democracy is meaningless without social and economic democracy, as Ambedkar had presciently cautioned.⁷⁷ The true test of India's reservation policy, then, is not in marrying caste with class but in driving through the social blockages that still prevent countless millions from realizing their full citizenship.

⁷⁴ *Supra* note 13 at 799.

⁷⁵ *Supra* note 65.

⁷⁶ *Ashoka Kumar Thakur v. Union of India*, (2008) 6 SCC 1; *Janhit Abhiyan*, (2022) 10 SCC 1.

⁷⁷ I *Constituent Assembly Debates*, 97.