
RESERVATION AND IDEA OF EQUALITY: TIME FOR CONSTITUTIONAL REEVALUATION

Saksham Goyal, University School of Law and Legal Studies (USLLS), New Delhi

ABSTRACT

This essay re-evaluates India's long-standing Reservation policy, arguing that the time has come for a constitutional re-evaluation to balance the original mandate of substantive equality with contemporary challenges. This essay reevaluates by highlighting the shift in modern challenges, including economic disparities that are beyond caste, and increased demands from non-reserved communities. Ultimately, this paper proposes a multi-dimensional approach to refining the policy. This approach expands the criteria for affirmative action beyond caste to include factors such as economic condition, educational backwardness, and regional backwardness. By upholding constitutional values and balancing meritocracy, social needs, and evolving needs.

1. INTRODUCTION

“Reservations should be confined to a minority of seats; otherwise, they will be harmful to the interests of the country.”

— Dr. B.R. Ambedkar, *Constituent Assembly Debates, 1948*

In these Prophetic words, Dr. B.R. Ambedkar previously envisaged the problem that India would face if there wasn't a timely revisiting of the reservation policy that was implemented in the circumstances of India in its early stages of post-Independence, Dr. B.R. Ambedkar wisely argued that the scope or target group of the reservation should not be broader rather there should be more specific target groups. He firmly believed that reservations are necessary to rectify historical injustices, but they should not dominate society or create a new form of inequality.

The original framework now faces the modern challenges of economic disparities that cut across the caste lines, an increase in the claim of reservation by various non-reserved communities that actually require the reservation, and an imbalance of Social Justice and Meritocracy. Furthermore, there has

been a demand for a reservation provision friendly to the disadvantaged that arises from regional backwardness and economic divides.

This essay reflects on revisiting or re-evaluation of the reservation policy, which was drafted 75 years ago, by upholding the constitutional values rather than the eradication of affirmative action, which will entail the balancing of meritocracy and social justice that includes educational, regional, and economic factors. This is the only way to strengthen equality, empower the marginalized, and uphold the constitutional values.

2. CONSTITUTIONAL FOUNDATION AND ITS LEGAL EVOLUTION

2.1 THE FRAMER'S VISION: MANDATE FOR SUBSTANTIVE EQUALITY

The drafting of the constitution was not an easy task; rather, it took three years to draft the world's largest constitution by the members of the provincial assembly, who were indirectly elected by the members of the provincial assemblies that existed during the British Raj. It was the product of the debates that stretched for years between the constitution drafter. Among all the debates, the debate on reservation policy was the most prominent one.

Our framers of the Constitution concluded the Constitution of India with the provisions of substantive equality while accommodating the provisions of formal equality. Formal Equality revolves around the idea of treating everyone the same, without considering existing social and historical injustice, whereas the concept of Substantive Equality revolves around the idea of treating unequals unequally to achieve real equality. Though India's Constitution has provisions of both formal and substantive equality but the core equality framework is based on substantive equality¹.

Basing the core equality framework on substantive equality went through various manholes of heated arguments amongst the drafters wherein the primary argument championed by Dr. B.R. Ambedkar was that formal equality will perpetuate the existing the inequality and rectify it there is need for targeted or focused reservation whereas the critics like Lokanath Misra, strongly opposed the reservation policy and favored for meritocracy as according to him reservation would perpetuate the existing the inequalities. However, there was finally the conciliation where Ambedkar gave up the demand for separate electorates as decided in the Poona Pact (1932)² in exchange for substantive equality, and the wording of Article 16 (4) was the ultimate compromise, wherein the reservation was not granted as a

¹ Ayushi Dubey, 'The Debate on Reservation in the Constituent Assembly' (iPleaders, 10 June 2019) <https://blog.ipleaders.in/the-debate-on-reservation-in-the-constituent-assembly>

² 'The Poona Pact, 1932' (Constitution of India Project) <https://www.constitutionofindia.net/historical-constitutions/the-poona-pact-1932/>

universal right but was limited to the backward class, and the duration of the policy was set up for one decade or 10 years as per Article 334 of the Constitution of India

The 10-year sunset clause was set up for political reservation³ rather than reservations in jobs and education (Article 15 (4) and 16 (4)). However, this shows the spirit and the vision of the policy that it would make support provided unnecessary within a decade, as the communities would find their own legs to stand upon⁴.

Dr. B.R. Ambedkar has a long-term vision of the reservation policy, which is not limited to jobs but ensures the participation of each section of the society, especially those who are historically disadvantaged, to participate in the decision-making process and in this way constitutional maker dreamt of the reservation policy make the every section of the society into mainstream which renders the policy flexible and at defaults requires a revisit considering the current circumstances. The ultimate goal was to create an egalitarian society wherein all citizens had a genuinely equal starting point⁵.

2.2 THE CONSTITUTION TEXT: ENABLING AFFIRMATIVE ACTION

The Constitutional text enabling affirmative action was not created at once, but was observed to be a continuous process, considering the circumstances. The original Constitution included Article 16 (4)⁶, which provides that the state can enact legislation for reservation of posts in the government sector or jobs in favor of the backward class of citizens, which the state considers to have not been adequately represented in the services of the state. It promoted social fairness and inclusivity by acknowledging the necessity of affirmative action in order to resolve historical and social disadvantages that these groups have endured for so long.

Parallel to it, there was no provision for the reservation of seats for educationally backward classes, but after Judicial Intervention, Parliament passed the Constitution (First Amendment) Act, 1951⁷, which inserted clause 4 under Article 15⁸, thus enabling the state and explicitly giving it the power to make special provisions for the backward class in educational institutions. This clause overrides by mentioning “Nothing in this article or in clause (2) of Article 29⁹ shall prevent the State from making

³ Rajesh Chavda, ““Abolish reservations after 10 years”: The illusion of merit and what B.R. Ambedkar never said’ Scroll <https://scroll.in/article/1061196/abolish-reservations-after-10-years-the-illusion-of-merit-and-what-br-ambedkar-never-said> (25 December 2023)

⁴ B. R. Ambedkar, *Constituent Assembly Debates*, Vol 2 (1948).

⁵ B. R. Ambedkar, *Annihilation of Caste* (Navayana 2014) 67–78.

⁶ Art 16(4), Constitution of India.

⁷ The Constitution (First Amendment) Act 1951.

⁸ Constitution of India 1950, art 15(4).

⁹ Constitution of India 1950, art 29(2).

any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes”

The addition of clause 4 under Article 15 was the result of the landmark case State of Madras vs Champakam Dorairajan (AIR 1951 SC 226)¹⁰ in which the Supreme Court struck down the caste-based reservation in educational institutions, reinforcing the supremacy of fundamental rights (Article 15(1)) over the directive principles of state policy (Article 46). There was a violation of Article 29(2), which makes provisions for admission in educational institutions on an equal basis, and also states that they weren't given the authority under Article 15 to make the special provisions of reservation in educational institutions in the original constitution, and pursuant to it, Parliament added Article 15(4).

2.3 THE INDRA SAWHNEY DOCTRINE: BALANCING EQUALITY AND EQUITY

The legal evolution culminated in the landmark case of *Indra Sawhney v. Union of India*¹¹, where the 9 Judge bench ruled in favor of 27% reservation for other backward classes (OBC) but laid down several conditions to balance the policy but the Supreme Court introduced the concept of Creamy Layer where the Supreme Court's obiter dicta remained that Quota benefit should go to weakest of weakest and not be snatched away by members of the class are in the “top creamy layer”. Indeed, this was the court's balancing act where it intended to preserve the importance of meritocracy by putting down the cap of segregation and benefits are enjoyed by only those who actually deserve the benefit to be enjoyed to rectify their historical and social disadvantages. The Supreme Court led to further legal evolution by its ruling that Article 16(4) is not an exception to the right to equality under Article 16(1); rather, it is a “facet of equality” itself. The Supreme Court of India imposed a 50% ceiling on reservations in India, which reinforced the fundamental right to equality of opportunity by striking a balance between meritocracy and social justice.

In 2006, the Supreme Court of India upheld the validity of Article 16(4) in *M. Nagaraj Vs Union of India*¹² wherein the Supreme Court ruled that SC & ST should be socially and educationally backward, and for no adequate representation for SC and ST in public employment, which in turn showcases that there is a greater need for re-evaluation of the reservation policy by the legislators, as the Supreme Court is making the changes by its ruling. Further, Several state governments enacted the law in consequence of the 77th Amendment¹³ of the Constitution, e.g., Karnataka Extension of Consequential Seniority to Government Servants Promoted based on Reservation (to the posts in Civil Services of the

¹⁰ State of Madras v Champakam Dorairajan AIR 1951 SC 226.

¹¹ *Indra Sawhney v Union of India* (1992) Supp (3) SCC 217.

¹² *M Nagaraj v Union of India* (2006) 8 SCC 212.

¹³ The Constitution (Seventy-Seventh Amendment) Act 1995.

State), 2018¹⁴, was enacted by the State of Karnataka, and the Supreme Court upheld its validity in 2019 in B K Pavitra v Union of India.¹⁵

It is also pertinent to mention here that the apex court has also said that there is no fundamental right which inheres in an individual to claim reservation in promotions, in the recent judgment of Mukesh Kumar V State of Uttarakhand¹⁶ which was pronounced in February 2020.

3. THE CASE FOR RE-EVALUATION: ECONOMIC DISPARITIES & THE EWS SHIFT

Indira Sawhney Doctrine, balancing, was limited as it allowed reservations to OBCs based on caste, but had no answer for the significant economic disparity problem among the unreserved class, which was responsible for the creation of the large gap for the economically poor community, who weren't able to claim the benefit of affirmative action for which it was meant. So, it became very clear after the Indra Sawhney Doctrine that there was a requirement of revisiting and re-evaluation of the reservation policy after more than five decades since its implementation.

There was the first revolutionary re-evaluation of the reservation policy under the Hon'ble Prime Minister Narendra Modi by passing the Constitution (103rd Amendment) Act, 2019¹⁷, wherein there was the amendment of Article 15 and addition of clause 6, which enabled the Government to reserve 10% of seats for admission in educational institutions, and amending Article 15 by addition of clause 6 to reserve 10% of seats for all the posts for EWS, further validating the SR Sinha commission report¹⁸.

There was further legal validation of the reservation for EWS by the Hon'ble Supreme Court in Janhit Abhiyan v. Union of India (2022), where the Court upheld the reservation¹⁹, thus enabling the Government to reserve seats and putting a legal stamp on broadening the framework of affirmative action, which was further strengthened, wherein on May 9th, 2023, CJI D.Y. Chandrachud led a 5-Judge Constitution Bench and dismissed the petition, stating there were no grounds to review the Judgement of the Janhit Abhiyan Case²⁰.

¹⁴ Karnataka Extension of Consequential Seniority to Government Servants Promoted on the Basis of Reservation (to the posts in the Civil Services of the State) Act 2018.

¹⁵ B K Pavitra v Union of India (2019) 16 SCC 129.

¹⁶ Mukesh Kumar v State of Uttarakhand (2020) 10 SCC 442.

¹⁷ The Constitution (One Hundred and Third Amendment) Act 2019.

¹⁸ S R Sinha Commission, *Report of the S. R. Sinha Commission on Reservation 2010* (Government of India 2010) <https://www.scobserver.in/wp-content/uploads/2021/10/Sinha-Commission-Report-2010-Neil-Aurelio-Nunes-v-Union-of-India-AIQ-Medical-Reservation-for-OBC-and-EWS.pdf> accessed 15 November 2025.

¹⁹ Janhit Abhiyan v Union of India (2022) 10 SCC 1.

²⁰ Janhit Abhiyan v Union of India, Review Petition (C) No 58 of 2023, order dated 9 May 2023 (SC).

4. EXPANDING THE FRAMEWORK: A MULTI-DIMENSIONAL APPROACH

4.1 ECONOMIC CONDITION

The Janhit Abhiyan Case was a major step in the expansion of the framework, as by validating the EWS Quota Supreme Court constitutionally recognized that there are barriers out of the caste based that were historically disadvantaged, which the state must address, and thus, it opened the door for a more nuanced policy that is wider and takes into consideration beyond the single determinant.

4.2 EDUCATIONAL AND DIGITAL DIVIDES

The reservation's purpose is to rectify social and educational backwardness, and in this century, digital exclusion is educational backwardness²¹, which triggers for multidimensional approach due to a change in the current situation, as the lack of digital access creates a massive skills gap²². Reservation gives a candidate a seat at the table, but the digital divide hinders them from reaching the table, so there is a greater need for re-evaluation of the policy in the way it considers digitally unskilled and it even reinforces the cast divide as the report shows that only 4% of SC, ST and OBC students have access to computer in comparison to 21% in general category²³ and recently the Supreme Court recognized that without digital access, they are denied substantive equality, which violates the foundational articles for reservation of the Constitution in *Amar Jain v. Union of India*²⁴.

4.3 REGIONAL BACKWARDNESS

This disparity is not random; rather, it is deeply rooted in historical and geographical areas. The regional backwardness translates into a lack of opportunity, which necessitates the need for reservation of seats for students from backward regions²⁵ in top universities and government jobs. Therefore, a re-evaluation must broaden its criteria from caste based to regional backwardness.

5. CONCLUSION: REFINING ON UPHOLDING CONSTITUTIONAL VALUES

It concludes that the reservation policy, a foundational tool for justice, shall not be eradicated. The

²¹ Manash Pratim Gohain, 'Digital divide: Working computers in just 57% of India's schools, internet in 54%', *Times of India* (2 January 2025) <https://timesofindia.indiatimes.com/india/digital-divide-working-computers-in-just-57-of-indias-schools-internet-in-54/articleshow/116867829.cms> accessed 15 November 2025.

²² UPPCS Magazine, 'Has Digital Illiteracy and Lack of ICT Accessibility Hindered Rural Socio-Economic Development in India?' (*UPPCS Magazine*, n.d.) <https://uppcsmagazine.com/has-digital-illiteracy-and-lack-of-ict-accessibility-hindered-rural-socio-economic-development-in-india/> accessed 15 November 2025.

²³ Oxfam India, *India Inequality Report 2022: Digital Divide* (Oxfam India, December 2022).

²⁴ *Amar Jain v Union of India*, W.P.(C) No 49/2025, judgment delivered 30 April 2025 (SC).

²⁵ A Amarender Reddy & M C S Bantilan, 'Regional Disparities in Andhra Pradesh, India' (*2012 Local Economy* 28(1) 123–135, doi:10.1177/0269094212463791

policy must be refined for consideration of the modern and complex challenges of a “rapidly transforming India”.

This essay has argued that once the policy framework defined by caste-based boundaries of Indra Sawhney has begun its re-evaluation. The 103rd Amendment and its further constitution validation in the Janhit Abhiyan Case affirmed the economic disparity as the valid criteria for reservation, which proves to be a road clearer for revisiting the reservation policy and triggering a multi-dimensional approach.

Ultimately, revisiting and refining is the most effective road for achieving SDG 10²⁶ (Reduced Inequality). To strengthen equality and to assimilate every section into the mainstream, there is one door solution, which is to expand our definition of the marginalized. This essay is not limited to an article or something for writing, but it's a demand for re-evaluation of the reservation policy for expansion, for Viksit Bharat.

²⁶ United Nations, *Sustainable Development Goal 10: Reduce Inequality Within and Among Countries* (UN, 2015).