
MERIT BEYOND MARKS: REIMAGINING EXCELLENCE UNDER THE INDIAN CONSTITUTION

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ABSTRACT

The concept of merit has acquired a central position in both public and constitutional discourse. It has been extensively debated, particularly in the context of education. Merit is often considered a fundamental criterion for securing admission to educational institutions and accessing public resources. However, the concept remains complex and is nowhere defined in the fundamental law of the land. It is often understood in terms of the marks secured by a candidate in a competitive examination. This approach is problematic as it tends to stigmatise marginalised students who secure admission through affirmative action policies. Those who secure higher marks are often labelled as more meritorious, while those with comparatively lower marks are considered less meritorious. The social context in which these marks are obtained has often been overlooked. This paper does not disregard the significance of a candidate's performance in an examination; rather, it argues that competitive examination scores cannot be the sole indicator of an individual's merit. Merit is a holistic phenomenon, shaped by multiple factors that collectively contribute to the excellence of a candidate.

The Indian Constitution acknowledges the unequal and hierarchical character of Indian society and, therefore, provides a robust framework for developing an egalitarian society by ensuring equal opportunities to all, irrespective of an individual's social background. Articles 14, 15, and 16, along with the Directive Principles of State Policy, lay down principles that are crucial for addressing historical injustices suffered by marginalised communities. Over the years, the Supreme Court has interpreted merit in light of historical injustice, unequal opportunities, and the constitutional objective of achieving substantive equality. This paper examines how the discourse on merit has evolved over time and how its dimensions have expanded. Merit is no longer viewed merely through the lens of a candidate's academic scores; rather, it is increasingly understood in a broader and more inclusive manner, taking into consideration the socio-cultural background of the candidate.

The researcher adopts a doctrinal methodology to arrive at the conclusions. Through an analysis of judicial pronouncements, books, articles, and other academic literature, this paper explores how the idea of excellence can be reimagined beyond academic marks and understood in accordance with the

constitutional vision of a fair and just society.

Keywords: Merit, Excellence, Social Justice, Equal Opportunities, Affirmative Action.

1. INTRODUCTION

*"We must make our political democracy a social democracy as well. Political democracy cannot last unless there lies at the base of it - social democracy. What does social democracy mean? It means a way of life which recognizes liberty, equality and fraternity as the principles of life."*¹

- DR. B.R AMBEDKAR, Constituent Assembly Debates, 25 November 1949

The idea of 'merit' has been frequently invoked in debates pertaining to education, employment, and public policy in India. It is often considered a fundamental factor in securing admission to educational institutions and in matters of recruitment. The popular understanding of this idea is generally associated with securing higher scores in competitive examinations and being academically sound. The social and cultural factors that shape an individual are often ignored while evaluating merit. It is a matter of fact that an individual's potential and character are shaped by the circumstances in which they are born and raised. Therefore, the social and cultural context is essential to be taken into account while assessing the overall excellence of an individual.

Individuals enter educational institutions with distinct socio-cultural backgrounds. They are not on an identical footing in terms of financial conditions, language, social networks, private coaching, access to quality education, and other resources. These factors play a significant role in determining their educational performance. Therefore, if merit is interpreted solely in terms of the marks scored by a candidate in an examination, it may overlook the prevailing differences and unequal conditions under which individuals compete. There is another serious limitation of this marks-based understanding: it has the potential to stigmatise marginalised students who are beneficiaries of affirmative action policies. Candidates who secure comparatively lower marks and gain admission through such policies may be labelled as less meritorious, while candidates with higher scores may be perceived as more meritorious. Such an approach creates a division among students based on examination scores, which can never

¹ Constituent Assembly Debates, vol. 5, at 979 (Lok Sabha Secretariat).

be the sole indicator of an individual's potential or excellence.

The question of merit remains undefined in the Constitution. However, the Constitution provides a concrete framework through various provisions, including Articles 14, 15, and 16, along with the Directive Principles of State Policy, with the objective of building a society rooted in equality and fairness. Its aim is to ensure equal opportunities for all, irrespective of an individual's social position, and to facilitate the inclusion and advancement of marginalised communities through affirmative action in admissions and recruitment. The structural disparities prevailing in Indian society have been acknowledged by the Constitution, and various provisions have consequently been incorporated to address and eliminate such disparities.

This paper examines whether academic performance, *per se*, adequately reflects merit and argues for a holistic understanding of excellence. It further enquires into the theoretical foundations of merit, its constitutional dimensions, and its interpretation by the judiciary. The researcher has adopted a doctrinal methodology for conducting this research. The paper ultimately seeks to establish that the marks scored by a candidate in an examination may serve as an indicator of individual achievement, but can never be the sole factor for determining an individual's potential and excellence. The socio-cultural context of candidates, along with the broader constitutional objective of building an egalitarian society, must also be taken into account while evaluating excellence.

2. UNDERSTANDING MERIT

Merit is generally understood as the potential or ability of an individual that makes them deserving of a particular position or opportunity. In educational affairs, it is often interpreted in light of the marks secured by a candidate in a competitive examination. It is generally assumed that those who secure higher marks should receive better opportunities in comparison to those who obtain lower marks. This understanding is rooted in the idea of meritocracy, according to which an individual should be placed in a professional or educational position on the basis of their ability or performance rather than social factors such as birth, status, and inherited privilege.

The idea of meritocracy seems fair, *prima facie*, since it establishes objective and uniform standards for individuals competing for an opportunity. For example, in a competitive

examination, candidates are required to adhere to identical rules and regulations and are provided with a common platform to demonstrate their performance. However, it is worth mentioning that a common platform does not mean that candidates compete from identical socio-cultural backgrounds. Their distinct socio-cultural circumstances and differences substantially influence their ability to perform in a competitive examination. Individuals from economically sound backgrounds, with greater family support and access to private coaching, may have advantages over those who come from economically disadvantaged families. Therefore, an examination score may reflect academic performance, but it remains silent about the circumstances and conditions under which a candidate achieves that performance.

Michael J. Sandel in his seminal book *"The Tyranny of Merit – What's Become of the Common Good?"* observed that "we do not deserve to be rewarded, or held back, based on factors beyond our control."² He also draws attention towards contribution of parents, teachers and social environments in shaping achievements of an individual. Essence of this discussion is that what we describe individual merit, is, in fact, influenced by multiple factors among which some are beyond an individual's control.³ Michael Young, in *"The Rise of the Meritocracy"* has also critically examined the consequences of organising society around the idea of merit.⁴

Another important issue that cannot be sidelined while discussing the idea of merit is caste prejudice. Examiners may be biased against certain candidates because of their social position and may award them fewer marks, thereby affecting their assessment of merit even where the candidates have performed equally well. This tendency has been pointed out by the noted human rights lawyer and author Bojja Tharakam in his book *'In Quest of Equality: Indian Constitution Since Independence'*. He writes – "It is unfortunate that merit in this country is measured by marks obtained in a particular examination. It is in everybody's knowledge as to how marks are awarded to students and how prejudices in the name of caste work in this country."⁵

The beneficiaries of affirmative action policies may also face the stigma associated with the conventional understanding of merit, as they are often perceived as having secured lower marks

² Michael J. Sandel, *The Tyranny of Merit: What's Become of the Common Good?* 24 (Penguin Books 2020).

³ Ibid.

⁴ Michael Young, *The Rise of the Meritocracy, 1870–2033: An Essay on Education and Equality* (Penguin Books 1961).

⁵ Bojja Tharakam, *In Quest of Equality: Indian Constitution since Independence* (The Shared Mirror Publ'g House 2019).

while still gaining admission. Such an understanding is based on assumptions and stereotypes rather than on empirical and scientific evidence. Every individual possesses distinct abilities and potential. This uniqueness and diversity should be recognised and valued. Prof. Prabhat Patnaik, one of India's foremost public intellectuals, writes- "*Affirmative action is designed to overcome hurdles to entry. But in a condition where talent has disparate scope across individuals and groups to manifest itself, any picking solely on the basis of revealed talent itself constitutes a hurdle to entry.*"⁶

From the above theoretical discussion, it is evident that the idea of merit is closely intertwined with the concept of equality of opportunity. Formal equality requires individuals to be treated in accordance with identical norms, whereas substantive equality recognises the need to treat differently situated individuals differently where necessary to achieve genuine equality.

John Rawls's idea of fair equality of opportunity emphasises that individuals with similar abilities should have similar prospects irrespective of their social background.⁷ Similarly, Amartya Sen's capability approach focuses on the actual opportunities available to individuals rather than merely their formal access to them.

It is evident from the above discussion that individual potential and achievement undoubtedly play a pivotal role in assessing the excellence of an individual, but these factors cannot be divorced from the social circumstances in which they develop. An examination score may reflect an individual's academic performance, but it remains silent on the unequal opportunities that shape that performance. Thus, a constructive understanding of merit must consider both individual achievement and the social conditions that influence it. This broader understanding provides the basis for examining merit within the constitutional framework of equality and social justice.

3. MERIT UNDER THE INDIAN CONSTITUTION

The definition of merit is not expressly provided in the Constitution. However, it offers a constitutional framework rooted in the ideas of equality, justice, dignity, and equal opportunity, in light of which the concept of merit can be interpreted. The Constitution acknowledges the

⁶ Prabhat Patnaik, Affirmative Action and the "Efficiency Argument", in *Equalizing Access: Affirmative Action in Higher Education in India, United States, and South Africa* 89, 89–99 (Z. Hasan & M. Nussbaum eds., Oxford Univ. Press 2012).

⁷ John Rawls, *A Theory of Justice* (rev. ed., Harvard Univ. Press 1999).

fact that Indian society is unequal and that structural disparities exist within it. Individuals participate in a race with distinct socio-economic backgrounds and, therefore, the Constitution seeks to create conditions for achieving substantive equality.

Through Article 14, the Constitution guarantees equality before the law and equal protection of the laws. Here, the notion of equality does not mean providing identical treatment in every situation, but rather treating differently those who are situated differently. This principle is important for achieving substantive equality and is particularly relevant to the concept of merit, since candidates competing for the same opportunity may differ in terms of access to education, resources, and other forms of support. Therefore, if examination scores are treated as the fundamental yardstick of merit, it may overlook or dilute the underlying inequalities.

Articles 15 and 16 further strengthen this constitutional approach towards establishing an egalitarian society. While Article 15 prohibits discrimination on specified grounds, it also permits the State to make special provisions for socially and educationally backward classes and other disadvantaged groups. Similarly, Article 16 guarantees equality of opportunity in public employment while permitting constitutionally recognised affirmative measures. These provisions show that the fundamental law of the land does not understand equality of opportunity merely as applying the same standards to everyone. It also recognises the need to address historical and structural disparities that act as hurdles for certain communities in enjoying genuine equality of opportunity.

The Directive Principles of State Policy provide further support to this constitutional vision. Article 38 directs the State to promote a social order based on social, economic, and political justice, while Article 46 requires the State to promote the educational and economic interests of weaker sections, particularly the Scheduled Castes and Scheduled Tribes. These provisions reflect the broader objectives of the Constitution-makers to reduce structural inequalities and develop fairer conditions for individual growth.

Thus, the idea of merit cannot be separated from the constitutional commitment to substantive equality. Individual ability and achievement remain crucial, but they must be understood and interpreted in light of the opportunities and circumstances in which they develop. Affirmative action and reservation, therefore, need not be viewed as contrary to merit; rather, they can be understood as constitutional means of creating more equitable conditions in which individual potential can be recognised.

4. JUDICIAL UNDERSTANDING OF MERIT

The idea of merit has evolved significantly through the constitutional jurisprudence developed by the Supreme Court. The Court has gradually started interpreting the idea of excellence beyond a formal understanding of equality, and the importance of substantive equality has also been acknowledged. This transition from a conventional to a progressive understanding is relevant to the relationship between merit and affirmative action.

In *State of Kerala v. N.M. Thomas*⁸, the Supreme Court recognised that differently situated individuals may be given different treatment for the purpose of achieving substantive equality. This approach is crucial to the idea of merit, since candidates competing for the same opportunity may not have had equal access to education, resources, and other opportunities. Thus, applying the same standards may not always result in genuine equality of opportunity.

In *Indra Sawhney v. Union of India*⁹, the Court examined the relationship between affirmative action and equality of opportunity. It reaffirmed that affirmative action is not contrary to merit or constitutional principles. The judgment remains significant in understanding reservation as a mechanism for addressing historical disadvantages.

In *Ashoka Kumar Thakur v. Union of India*¹⁰, the Supreme Court upheld reservations for Other Backward Classes in Central educational institutions. The decision affirmed the constitutional legitimacy of affirmative action in education and recognised the importance of addressing social and educational backwardness in achieving genuine equality of opportunity.

The notion of merit was extensively discussed by the Supreme Court in *Neil Aurelio Nunes v. Union of India*¹¹, where the Court upheld the constitutional validity of the 27% reservation for Other Backward Classes in the All-India Quota seats in State-run medical institutions. Justice D.Y. Chandrachud, while upholding the reservation, observed:

"...scores in an exam are not the sole determinant of excellence or capability. Even if for the sake of argument, it is assumed that scores do reflect excellence, it is not the only value that is considered as a social good. We must look at the distributive consequences of merit.

⁸ *State of Kerala v. N.M. Thomas*, AIR 1976 SC 490.

⁹ *Indra Sawhney v. Union of India*, AIR 1993 SC 477.

¹⁰ *Ashoka Kumar Thakur v. Union of India*, (2008) 6 SCC 1.

¹¹ *Neil Aurelio Nunes v. Union of India*, 2022 SCC OnLine SC 75.

Accordingly, how we assess merit should also encapsulate if it mitigates or entrenches inequalities."¹²

The Court further observed:

"An examination can only reflect the current competence of an individual but not the gamut of their potential, capabilities or excellence, which are also shaped by lived experiences, subsequent training and individual character."¹³

These observations clearly challenge the marks-centric understanding of merit and support a contextual and broader understanding of excellence.

It is evident from the judicial understanding that excellence cannot be reduced to examination scores alone. Academic performance is important and must be taken into account, but it should be understood alongside gaps in opportunities, social circumstances, and the constitutional vision of substantive equality. The jurisprudence developed by the Supreme Court therefore provides a foundation for moving beyond a marks-oriented understanding towards a broader conception of excellence.

5. REIMAGINING EXCELLENCE BEYOND MARKS

It is evident from the preceding discussion that academic scores play a pivotal role in assessing the excellence of a candidate, but treating them as the sole measure of merit is misleading. An examination score reflects the performance of an individual at a particular point in time, but it is usually silent about the socio-cultural milieu in which that individual has developed. It cannot comprehensively capture the potential, effort, and understanding of a candidate, and therefore, a broader understanding of excellence is imperative.

There are several factors, such as the quality of education, access to private coaching, language, family support, and social environment, that deeply influence the performance of an individual. In an unequal society like ours, these resources and opportunities are not equally accessible to all. Therefore, evaluating all candidates using the same yardstick may overlook the prevailing unequal conditions under which they compete. Candidates who achieve a particular score or position despite limited resources and opportunities may demonstrate qualities that cannot be

¹² Ibid.

¹³ Ibid.

fully reflected through marks alone.

This does not mean that academic performance and examination scores should be rejected. Examination scores are certainly relevant, as they provide a rational measure of academic performance. However, true excellence can be assessed more meaningfully when the social and cultural circumstances in which an individual's achievement takes place are also taken into account.

Affirmative action should also be viewed from a positive perspective. It does not undermine merit; rather, it seeks to address historical injustices faced by marginalised sections of society by enabling them to access opportunities through affirmative measures. Moreover, affirmative action can contribute to the overall efficiency of institutions by promoting diversity, which can have a positive impact on institutional functioning and outcomes.

A constitutional conception of excellence, therefore, should not be concerned only with those who already have an advantage due to favourable circumstances. It should also address the situation of those who continue to face structural barriers. The fundamental aim should not be to abandon merit, but to develop a fair, reasonable, and inclusive framework for assessing it. The key question is not whether merit should matter, but whether the academic scores of an individual can portray a true and comprehensive picture of merit. Reimagining excellence in accordance with the constitutional commitment to an egalitarian society is, therefore, the need of the hour.

6. CONCLUSION

The debate on excellence requires us to move beyond the traditional logic that is concerned primarily with the academic performance of an individual in an examination. The fundamental concern is how merit should be evaluated in a society marked by structural disparities. Examination scores may be an indicator of an individual's academic performance, but they cannot capture the complete picture of their potential, ability, struggle, and excellence.

The constitutional approach requires merit to be understood alongside the principles of equality and social justice. As Ajantha Subramanian demonstrates in *The Caste of Merit*¹⁴, the idea of merit in Indian educational institutions cannot be completely divorced from caste and social

¹⁴ Ajantha Subramanian, *The Caste of Merit: Engineering Education in India* (Harvard Univ. Press 2019).

privilege. The jurisprudence of the Supreme Court, particularly in *Neil Aurelio Nunes v. Union of India*¹⁵, further strengthens this understanding by recognising that the performance of a candidate in an examination cannot be the sole determinant of excellence or capability. Moreover, this highlights the need for a fundamental shift in the societal perspective regarding merit and reservation. Further, a cumulative merit score can be developed by taking into consideration various factors such as background, caste, gender, and access to resources. This would help in assessing how social disparities affect the performance of an individual. This mechanism of assessing cumulative merit should be developed through detailed discussions and deliberations among members of the intellectual community and policymakers, with due consideration to the experiences and challenges faced by socially disadvantaged sections of society.

Therefore, reimagining excellence beyond marks does not dilute or abandon merit. It means acknowledging that merit is shaped by socio-cultural factors that are not identical for everyone. A constitutional understanding of merit must account for both individual performance and the socio-cultural milieu in which such performance develops. Such an approach is *sine qua non* for making the idea of merit and excellence more inclusive, meaningful, and consistent with the constitutional commitment to a society rooted in the principles of equality, liberty, and fraternity.

¹⁵ *Neil Aurelio Nunes v. Union of India*, 2022 SCC OnLine SC 75.