

Legal and Constitutional Dimensions of Caste-Based Affirmative Measures in India

Deeksha

Student

Amity University, Noida, Uttar Pradesh

The Indian Constitution, adopted in 1950, represents a significant attempt to address the issues of caste-based discrimination and social inequality. The drafters of the Constitution were deeply influenced by the social injustices arising from the caste system and recognized the need for affirmative action to uplift historically marginalized communities. The Constitution, particularly in its early articles, includes several provisions aimed at guaranteeing equality and promoting social justice, primarily through Article 15, Article 16, Article 17, and Article 46, which provide a strong legal framework for the abolition of caste-based discrimination and the promotion of affirmative action policies.

1. Article 15 and 16 (Equality and Reservations)

Article 15 and Article 16 are fundamental provisions of the Indian Constitution that lay down the framework for equality and provide a legal basis for affirmative action measures, such as reservations for underprivileged communities.

Article 15 prohibits discrimination by the State on the grounds of religion, race, caste, sex, or place of birth. Specifically, Article 15(1) prohibits discrimination against any citizen on the grounds listed, thereby ensuring that individuals are treated equally regardless of their caste background. However, the provision allows for certain exceptions that enable the State to take measures in favor of Scheduled Castes (SCs), Scheduled Tribes (STs), and other socially and educationally backward classes, which are considered a form of positive discrimination or affirmative action.¹

Article 15(4) provides the specific legal basis for reservation policies in educational institutions, allowing the State to make special provisions for the advancement of these communities. This provision has been the constitutional foundation for the introduction of reservation quotas in educational institutions and

¹ Constitution of India, Article 15.

government employment, which are aimed at reducing the social and educational disadvantages faced by the backward classes.

Similarly, Article 16 ensures equality of opportunity in public employment. Article 16(1) guarantees that there shall be no discrimination in the employment of any citizen based on caste, sex, or religion. However, Article 16(4) provides an important exception by allowing the State to make provisions for the reservation of posts in favor of backward classes, including SCs, STs, and OBCs, in government services. This provision allows the government to create job reservations to address the historical injustices and social backwardness faced by these groups.

The reservation system has played a critical role in providing a level playing field for historically marginalized communities in educational and employment spheres. However, the system has been the subject of intense debate, particularly regarding its impact on meritocracy and social cohesion.

2. Article 17 (Abolition of Untouchability)

Article 17 of the Indian Constitution is one of the most significant provisions relating to caste-based discrimination. It explicitly abolishes untouchability and prohibits its practice in any form. Article 17 states:

"Untouchability is abolished and its practice in any form is forbidden."

This provision was aimed at addressing the discriminatory practices against the Dalit communities, who were historically subjected to untouchability. The untouchables, or those belonging to the lowest castes, were barred from entering temples, drawing water from public wells, or interacting with individuals from higher castes. These practices were institutionalized and embedded in social customs. The enactment of Article 17 was a landmark moment in India's history, signaling the end of legalized discrimination based on caste.

In addition to the abolition of untouchability, the Protection of Civil Rights Act, 1955, was enacted to penalize the practice of untouchability and to further enforce the provisions of Article 17. Under this law, offenses like preventing Dalits from entering temples, restricting their access to public spaces, or denying them access to basic services, such as water and education, were made punishable by law.²

² Constitution of India, Article 17.

While Article 17 made untouchability a punishable offense, its implementation has faced challenges, particularly in rural areas, where caste-based discrimination continues to persist in practice. Despite the legal framework, the social practice of untouchability continues to affect Dalits and other marginalized communities, highlighting the need for further social and legal reforms.

3. Article 46 and the Directive Principles

Article 46 is part of the Directive Principles of State Policy (DPSPs) and holds a significant place in the Constitution's approach to caste-based social reform. The DPSPs, as outlined in Part IV of the Constitution, are not justiciable but serve as guidelines to the State in formulating laws and policies. Article 46 specifically directs the State to promote the educational and economic interests of the Scheduled Castes, Scheduled Tribes, and Other Backward Classes (OBCs). The article states:

"The State shall promote, with special care, the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes."

The primary objective of Article 46 is to safeguard the rights of the marginalized communities by ensuring that they have access to education and economic resources that can uplift them from their historically disadvantaged position. This provision underscores the State's responsibility to take proactive steps to address systemic inequalities and ensure that the marginalized communities are not left behind in the process of national development.

Although Article 46 is part of the non-justiciable Directive Principles, its significance lies in the fact that it has guided numerous government initiatives aimed at the welfare of backward communities. The provisions for affirmative action in education, the reservation system in jobs, and the creation of various welfare schemes can be traced back to the vision embedded in Article 46.³

Moreover, this article has also been used to justify policies that focus on improving the quality of life for Dalits and Adivasis, including scholarships, subsidies, and the establishment of educational institutions specifically catering to these groups. These efforts are essential for breaking the cycle of poverty and backwardness that has been perpetuated by the caste system.

³ D. R. Nagaraj, *Caste and Politics: Ambedkar, Gandhi, and the Making of Modern India* (Oxford University Press 2007).

The Constitution of India offers a robust framework for the protection of the rights of the socially disadvantaged communities, including those who have been historically subjected to caste-based discrimination. Articles 15, 16, 17, and 46 lay the foundation for addressing caste inequality by promoting affirmative action, the abolition of untouchability, and safeguarding the educational and economic interests of the marginalized groups. While the legal provisions are progressive, the challenge remains in effectively implementing these provisions and eliminating caste-based discrimination from society. Despite these efforts, caste continues to influence social structures and continues to require vigilant legal, social, and policy measures to achieve true equality.

Role of the Constituent Assembly in Social Justice

The Constituent Assembly of India, which convened in 1946, played a pivotal role in shaping the legal and political framework of the newly independent nation. Its members, who were tasked with drafting the Indian Constitution, were conscious of the deeply entrenched caste-based discrimination and social inequalities that existed in the country. The Constituent Assembly recognized that the new Constitution had to address these issues by providing legal protections for marginalized communities, especially Scheduled Castes (SCs), Scheduled Tribes (STs), and other socially disadvantaged groups.

The Assembly was aware of the historical injustices faced by these communities and sought to create a legal framework that would not only guarantee their rights but also provide mechanisms to uplift them. The emphasis on social justice was a central theme in the drafting of the Constitution, and several provisions were included to eradicate caste-based discrimination and promote the social, economic, and political empowerment of marginalized communities. These provisions, designed to foster equality and justice, remain a cornerstone of India's democratic framework today.

1. Establishment of Equal Rights and Abolition of Discrimination

The Constituent Assembly made it clear that the Indian Constitution would be rooted in the principles of equality and justice for all citizens, irrespective of their caste, religion, or gender. One of the primary objectives of the Assembly was to ensure that social justice became a fundamental right. To this end, Article 14, which guarantees equality before the law and equal protection of the law, was included. This was a critical provision, as it set the tone for the legal framework that would ensure that every citizen, irrespective of caste or social status, would have equal rights under the law.

Moreover, Article 17, which abolished untouchability, was one of the Constituent Assembly's landmark decisions. This provision was meant to ensure that no one could be discriminated against based on their

caste, particularly the Dalits, who were historically subjected to the indignity of untouchability. The Assembly's foresight in incorporating such provisions helped lay the foundation for the social and political integration of historically marginalized communities.

2. Inclusion of Affirmative Action Policies

The Constituent Assembly was also instrumental in introducing affirmative action policies to counteract the historical disadvantages faced by lower castes and tribal communities. The Assembly recognized that formal equality alone would not be sufficient to eliminate the social and economic disparities that existed due to the caste system. As a result, provisions for reservations in education and employment were included in the Constitution.

The introduction of Article 15(4), which allows the state to make special provisions for the advancement of backward classes, and Article 16(4), which permits reservations in public employment, was a direct outcome of the Assembly's commitment to social justice. These provisions were meant to create opportunities for the Scheduled Castes, Scheduled Tribes, and Other Backward Classes (OBCs) by providing them with opportunities for education and employment that they had previously been denied.

Furthermore, the Constituent Assembly recognized the need for special representation of these groups in the Legislature and other institutions of governance. As a result, Article 334 was introduced, ensuring that a certain number of seats in the Parliament and State Legislatures were reserved for the SCs and STs, enabling their participation in the democratic process.

3. The Role of Dr. B. R. Ambedkar and Other Leaders

One of the most significant contributors to the Constituent Assembly's vision of social justice was Dr. B. R. Ambedkar, who is regarded as the Father of the Indian Constitution. Dr. Ambedkar, a Dalit himself, was deeply committed to securing the rights of the marginalized communities, particularly the Dalits and Adivasis. He strongly advocated for the inclusion of provisions in the Constitution that would protect these groups from caste-based discrimination and ensure their social, economic, and political upliftment.

Dr. Ambedkar's efforts were instrumental in securing the inclusion of affirmative action policies, such as reservations and special protections, within the constitutional framework. He also played a key role in the drafting of Article 17, which abolished untouchability, and Article 46, which mandates the promotion of the educational and economic interests of the Scheduled Castes and Scheduled Tribes.

Other leaders of the Constituent Assembly, such as Jawaharlal Nehru and Sardar Patel, also supported the principles of social justice and equality. Nehru, as the first Prime Minister of India, was particularly committed to social and economic justice and supported the inclusion of Directive Principles of State Policy to guide the government in making policies aimed at uplifting marginalized communities.

4. Debate on Social Justice and Caste-Based Provisions

The debate within the Constituent Assembly regarding caste-based provisions and affirmative action was not without controversy. While most members of the Assembly recognized the need for affirmative action, there were differing opinions on the extent and form that such provisions should take. Some members, such as K. T. Shah, believed that caste-based reservations were divisive and should be avoided in favor of a more universal approach to equality. Others, such as Dr. Ambedkar and Jawaharlal Nehru, emphasized the need for reservations to address the deep-rooted social and economic inequalities caused by the caste system.

The Constituent Assembly ultimately reached a consensus on the inclusion of provisions that balanced formal equality with affirmative action, thus laying the groundwork for policies that would enable marginalized communities to overcome historical disadvantages and participate fully in the political, social, and economic life of the country.

The Constituent Assembly's role in shaping social justice in India was foundational in creating a legal and institutional framework to combat caste-based discrimination and promote equality. Through the adoption of provisions in the Indian Constitution, the Assembly not only sought to ensure equality for all citizens but also provided affirmative action policies to uplift marginalized communities. The vision of the Constituent Assembly, combined with the leadership of figures like Dr. B. R. Ambedkar, was crucial in laying the foundation for a more just and equitable society, although the struggle for full social justice continues in various forms today.

Judicial Interpretations and Landmark Judgments

The judiciary has played a crucial role in interpreting and shaping the scope of affirmative action and caste-based reservations under the Indian Constitution. Several landmark judgments have laid down the legal principles governing the implementation of reservations and examined the balance between equality and social justice. These rulings have not only clarified constitutional provisions but also influenced the policy and administrative framework concerning caste-based discrimination and affirmative action in India.

1. Indra Sawhney v. Union of India (1992)

The Indra Sawhney v. Union of India case, also known as the Mandal Commission case, is one of the most significant and landmark judgments concerning reservation policy in India. In this case, the Supreme Court dealt with the constitutional validity of the recommendations made by the Mandal Commission, which suggested the reservation of 27% of jobs in public sector employment for Other Backward Classes (OBCs).

The Supreme Court, while upholding the recommendations, introduced the concept of "creamy layer" within the OBCs. The Court held that backward classes are entitled to reservation, but this entitlement does not extend to the creamy layer—the economically and socially advanced sections of the OBCs. The creamy layer was to be excluded from the benefit of reservation.⁴

Key highlights of the judgment include:

Reservation in public employment was justified as a necessary means to uplift backward classes.

The Court also held that reservation in educational institutions could be implemented under Article 15(4).

Reservation quotas should not exceed 50% of total seats, except in exceptional circumstances, to avoid excessive exclusion of merit.

The Court's ruling affirmed the idea that social justice and affirmative action should not undermine merit, and there must be a balance between these two principles.

This judgment significantly shaped India's affirmative action policy by clarifying the extent and scope of caste-based reservations and providing guidelines for their implementation.

⁴ Indra Sawhney v. Union of India, (1992) 3 SCC 217.

2. M. Nagaraj v. Union of India (2006)

In *M. Nagaraj v. Union of India*, the Supreme Court revisited the issue of reservations in promotions for Scheduled Castes (SCs) and Scheduled Tribes (STs) in government services. The central issue in this case was whether the states could provide reservations in promotions to employees belonging to SCs and STs under Article 16(4A) of the Constitution, which provides for reservation in public employment.⁵

The Court upheld the constitutional validity of reservations in promotions but introduced the need for certain safeguards before such reservations could be implemented. These safeguards included:

The state government must provide quantifiable data showing that the SCs and STs were not adequately represented in public employment.

The state must also show that there is a need to provide such reservations to ensure equality of opportunity and fair representation for these communities.

The Supreme Court emphasized the need for adequate representation for SCs and STs while also recognizing the importance of merit in appointments and promotions.

In conclusion, the Nagaraj judgment affirmed the constitutional principle of providing reservations in promotions but emphasized the need for the state to justify the necessity of such reservations with appropriate data and evidence. It also recognized the reservation's role in ensuring equality and social justice for historically marginalized communities.

3. Jarnail Singh v. Lachhmi Narain Gupta (2018)

In the *Jarnail Singh v. Lachhmi Narain Gupta* case, the Supreme Court addressed the issue of reservation in promotions for Scheduled Castes (SCs) and Scheduled Tribes (STs). The Court revisited its earlier decision in the *M. Nagaraj* case regarding the "creamy layer" concept and the need for the state to collect data to justify reservations in promotions.⁶

⁵ *M. Nagaraj v. Union of India*, (2006) 8 SCC 212.

⁶ *Jarnail Singh v. Lachhmi Narain Gupta*, (2018) 11 SCC 596.

The Supreme Court upheld the previous decision that reservation in promotions was constitutionally valid, but the Court also clarified certain aspects regarding the "creamy layer" and the need for data to justify such reservations:

The Court ruled that data on backwardness of SCs and STs in public employment is not required for the promotion of employees belonging to these categories.

The Court further clarified that once a person belongs to a Scheduled Caste or Scheduled Tribe, they are entitled to the reservation benefits in promotions, irrespective of their economic status, unless they fall under the creamy layer.

This decision came as a relief for SC and ST employees, as it ensured that reservations in promotions would not be contingent upon the collection of additional data.

The Jarnail Singh case reiterated the importance of affirmative action in ensuring representation and empowerment of historically disadvantaged communities, particularly in public sector employment, and laid down guidelines on the application of reservations in promotions without the need for fresh data collection.

Conclusion

The trilogy of landmark judgments delivered in the *Indra Sawhney*, *M. Nagaraj*, and *Jarnail Singh* cases stands as a monumental pillar in the evolving architecture of affirmative action jurisprudence in India. These cases are not merely judicial pronouncements; they are, in essence, constitutional milestones that have shaped and redefined the socio-legal discourse surrounding caste-based reservations and the larger quest for substantive equality in a stratified society. Through these landmark decisions, the Indian judiciary undertook a delicate and nuanced balancing act—one that sought to harmonize the imperatives of social justice with the foundational ideals of meritocracy, efficiency in administration, and the overarching principle of equality enshrined in the Constitution.

Each judgment, in its own right, functions as a compass guiding the state's affirmative action policies while simultaneously setting constitutional boundaries to prevent excessive or unjustified encroachments. In *Indra Sawhney v. Union of India* (1992), the Supreme Court laid down the foundational framework for reservations in public employment, introducing crucial principles such as the 50% ceiling limit, the exclusion of the creamy layer, and the prohibition of reservations in

promotions. This decision signaled a watershed moment in post-Mandal India, laying down a jurisprudential roadmap for balancing the ideals of equity and merit.

However, the judicial journey did not end there. The *M. Nagaraj v. Union of India* (2006) judgment revisited the issue of reservation in promotions, asserting that while such reservations could be constitutionally permissible, they must be preceded by quantifiable data demonstrating backwardness, inadequate representation, and the necessity to maintain administrative efficiency. This judgment thus infused a layer of rigorous constitutional scrutiny into the process, effectively tightening the criteria under which affirmative action could be extended to higher echelons of public employment.

In *Jarnail Singh v. Lachmi Narain Gupta* (2018), the Court took yet another decisive step by refining the interpretation of the *M. Nagaraj* decision. It notably struck down the requirement to collect data on backwardness for the Scheduled Castes and Scheduled Tribes, recognizing that their historical and systemic marginalization was self-evident and need not be proven repeatedly. At the same time, the Court upheld the creamy layer principle even within the SC/ST context, reinforcing its commitment to ensuring that the benefits of affirmative action reach the truly disadvantaged and are not monopolized by the more advanced sections within these groups.

Collectively, these judgments not only illuminate the constitutional principles that undergird the reservation policy in India but also reflect the judiciary's persistent efforts to calibrate state intervention in a manner that is both equitable and constitutionally sustainable. They represent an evolving dialectic between the judiciary and the legislature—a dialogue that continues to shape the contours of social justice in contemporary India. Beyond their legal implications, these decisions have left an indelible imprint on public policy, influencing legislative action, administrative practices, and political discourse on caste, representation, and social empowerment.

In summation, the significance of *Indra Sawhney*, *M. Nagaraj*, and *Jarnail Singh* transcends the realm of legal doctrine. They are emblematic of India's ongoing struggle to reconcile the moral and constitutional demands of social justice with the practical imperatives of governance and institutional merit. In doing so, these cases have not only enriched the constitutional jurisprudence of affirmative action but have also shaped the future trajectory of inclusive nation-building in India.

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