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# **AFFIRMATIVE ACTION IN INDIA: A PATH TO SOCIAL JUSTICE OR REVERSE DISCRIMINATION?**

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## **ABSTRACT**

This article critically examines India's affirmative action policy by using constitutional provisions, judicial precedent and analysis of empirical data. Affirmative action is a policy of the state that gives special opportunities to historically marginalized communities to address the centuries of disadvantage and exclusion. In India, the reservation system is the most important form of affirmative action. It provides reservation in education, public employment and representation in political sphere for Scheduled Castes (SCs), Scheduled Tribes (STs), Other Backward Classes (OBCs), and recently, for Economically Weaker Sections (EWS) among the general category.

This article examines whether this method is a necessary tool of social justice for uplifting marginalized communities or has evolved into a form of reverse discrimination. It suggests that although reservations have undoubtedly improved literacy rates and access to opportunities, their implementation suffers from structural problems and benefits enjoyed by a relatively privileged section of a marginalized community. This system undermines the idea of merit-based systems and reinforces existing caste identities. It does this by examining significant Supreme Court rulings, quantitative employment and educational data, and the emerging "creamy layer" doctrine. The article ends with the suggestions for evidence-based reforms and concludes that India's reservation system is an imperfect tool that needs evidence-based improvement based on substantive equality principles rather than an unqualified success or complete failure.

**Keywords:** *affirmative action, social justice, reverse discrimination, creamy layer doctrine, scheduled castes, scheduled tribes.*

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## **1. INTRODUCTION**

### **1.1 Background and Constitutional Framework**

The Indian Constitution was adopted in 1950. It was drafted under the chairmanship of Dr. B.R. Ambedkar and it has incorporated affirmative action as a fundamental principle of social justice. Articles 15(4) and 16(4) explicitly empower the State to make special provisions for socially and educationally backward classes.<sup>3</sup> Article 46 directs the state to promote the educational and economic interests of SCs, STs and other weaker sections.<sup>4</sup> These constitutional provisions were incorporated in constitution because framers of constitution recognized centuries old institutionalized discrimination based on caste, tribe, and economic status. The Constitution mandated not merely formal equality before law (Article 14), but substantive equality that requires treating historically excluded people differently that have been prevented from accessing educational and employment opportunities.

The reservation system is one of the world's most effective program of affirmative action, has an impact on millions of citizens across education, employment, and political representation. The implementation of India's reservation system has explicit constitutional authority which makes its implementation mandatory. Unlike affirmative action policies in the United States or other democracies which are still discretionary or aspirational. Because of their special constitutional status, it is protected from legislative abolition while the judiciary closely monitors their efficacy, proportionality, and extent.

### **1.2 Research Problem and Significance**

More than 70 years has been passed since its implementation, but it is subject to intense public debate. Reservations are criticized for undermining merit-based selection, concentrating benefits among relatively privileged members of backward class, and constituting "reverse discrimination" against unreserved (general) categories.<sup>5</sup>

Supporters argue that reservations still necessary to rectify long standing structural inequalities and criticisms of "merit" may mask upper-caste animosity at sharing institutional access. This contentious discussion conceals a more complex empirical reality. For the significant portions of targeted populations reservations have produced measurable positive results, but their effectiveness is limited for the most marginalized groups due to the implementation issues.

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<sup>3</sup> Constitution of India, arts. 15(4), 16(4)

<sup>4</sup> Constitution of India, art. 46.

<sup>5</sup> A. Thorat, *Caste Quotas in India: Social Justice or Social Engineering?* (Concept Publishing House, New Delhi, 2010).

The significance of this research article goes beyond India's borders. India's approach to balancing conflicting principles—merit, equality, justice, and social stability—offers helpful lessons for other plural societies dealing with historical injustice and current inequality. India is a constitutional democracy with 1.4 billion citizens who reflect remarkable diversity.

### **1.3 Research Objectives**

The interrelated objectives of this article are: (1) to trace the evolution of India's reservation system through landmark constitutional amendments and Supreme Court judgments; (2) to evaluate the effect of reservation policy in fields of education, employment outcomes, and socioeconomic mobility across reserved categories; (3) to critically evaluate the emerging criticisms, particularly the “reverse discrimination” argument, "creamy layer" doctrine and elite capture theory, (4) To propose constitutionally sustainable and data driven reforms.

## **2. HISTORICAL EVOLUTION OF RESERVATION POLICY**

### **2.1 Constitutional Foundation (1950-1977)**

When India adopted its Constitution in 1950, framers had to choose between pursuing formal equality or substantive equity. Dr. Ambedkar, himself an untouchable (now termed Dalit), argued strongly for reservations as compensation for centuries of systematic exclusion. Articles 15(4) and 16(4) represented a constitutional compromise permitting reservation but not mandating for Scheduled Castes (SCs) and Scheduled Tribes (STs).

Initially, status of Other Backward Classes (OBCs) was unclear under the Constitution. The Directive Principle of State Policy (Article 46) provides for promotion of welfare of other backward classes but did not specify how or to what extent. Because of this constitutional ambiguity, reservation for OBC remained discretionary for states.<sup>6</sup> Southern states like Tamil Nadu implemented OBC reservations earlier than northern states, creating regional diversity that exists today.

### **2.2 The Mandal Commission and Constitutional Amendment (1980-1995)**

The Mandal Commission, chaired by B.P. Mandal was appointed by Government in 1979 under Article 340 of Indian Constitution to investigate the conditions of socially & educationally backward classes.<sup>7</sup> The Commission gathered empirical data on backward

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<sup>6</sup>*State of Madras v. Champakam Dorairajan*, AIR 1951 SC 226.

<sup>7</sup> Constitution of India, art. 340

classes and recommended OBC reservations at 27% in government employment and higher education.<sup>8</sup> When Central government implemented it through 1990 orders, this announcement led to violent demonstrations and widespread upper-caste mobilization, particularly among students competing for competitive examination slots.

These orders were challenged in the Supreme Court in *Indra Sawhney v. Union of India* (1992), commonly called the Mandal case.<sup>9</sup> Supreme Court upheld OBC reservations and established following principles. (1) the total reservation shall not exceed 50% in any institution or employment sphere except in extraordinary situations; (2) the "creamy layer" doctrine, court permitting exclusion of wealthy members within backward categories. Court directed the government to lay down the standards for exclusion on the basis of creamy layer; (3) Backward class can be identified on the basis of caste.

### **2.3 Contemporary Period: OBC Implementation and EWS Introduction (1995-Present)**

Following *Mandal*, OBC reservations gradually spread throughout the states. Empirical data collection and backward class identification improved, though they continued to be disputed. In a historic shift, the government introduced 10% reservation for Economically Weaker Sections (EWS) among the General (unreserved) category by 103rd Constitutional Amendment (2019).<sup>10</sup> This amendment made the economic criteria sole basis for affirmative action for the first time.

## **3. CONSTITUTIONAL FRAMEWORK AND JUDICIAL INTERPRETATION**

### **3.1 Foundational Constitutional Provisions**

India's reservation system is based on four constitutional pillars. **Article 14 (Equality before Law)** guarantees equality before the law and equal protection of the laws to all persons within the territory of India. This provision anchors both criticisms and arguments of reservations.<sup>11</sup> **Article 15 (Prohibition of Discrimination)** prohibits discrimination on grounds of religion, race, caste, sex, or place of birth. Article 15(4) as an exception allows the State to make special provisions for the advancement of socially and educationally backward classes.<sup>12</sup>

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<sup>8</sup>Mandal Commission, *Report of the Second Backward Classes Commission* (Government of India, 1980).

<sup>9</sup>*Indra Sawhney v. Union of India*, AIR 1993 SC 477.

<sup>10</sup>The Constitution (One Hundred and Third Amendment) Act, 2019.

<sup>11</sup>*State of Punjab v. Davinder Singh*, 2024 SCC OnLine SC 1860 (Aug. 1, 2024).

<sup>12</sup>Constitution of India, art. 15(4).

**Article 16 (Equality in Public Employment)** prohibits employment discrimination based on residence, religion, caste, sex, descent, or place of birth. Article 16(4) permits reservation provisions in public employment for any backward class of citizens not adequately represented in services.<sup>13</sup> **Article 46 (Welfare of Weaker Sections)** direct the State to promote the educational and economic interests of weaker sections.<sup>14</sup>

### 3.2 Landmark Judicial Decisions

**Indra Sawhney v. Union of India (1992):** The Supreme Court's landmark judgment upholds OBC reservations while establishing limiting principles. The 50% ceiling on reservation is justified on grounds that reservations above 50% would compromise institutional merit and efficiency.<sup>15</sup> The Court held that States could implement OBC reservations, but it must provide empirical data for the designation of the backward classes and it must exclude the "creamy layer" individuals from backward classes who had achieved socioeconomic advancement.

In **State of Punjab v. Davinder Singh (2024)**<sup>16</sup>, seven-judge constitutional bench judgment modernized creamy layer doctrine by extending it to SCs and STs. Justice B.R. Gavai observed that in order to achieve real equality, as required by Article 14, socioeconomically advanced members must be excluded within SC/ST categories from getting reservation benefits.

#### Summary Table: Seven Landmark Supreme Court Decisions.

| Case                 | Year | Citation         | Key Holding   |
|----------------------|------|------------------|---|
| Champakam Dorairajan | 1951 | AIR 1951 SC 226  | Fundamental Rights override DPSP; basis for Article 15(4)     |
| MR Balaji            | 1963 | AIR 1963 SC 649  | 50% ceiling on total reservations established                 |
| Kesavananda Bharati  | 1973 | AIR 1973 SC 1461 | Basic Structure Doctrine; limits on constitutional amendments |
| Indra Sawhney        | 1992 | AIR 1993 SC 477  | 27% OBC reservation; creamy layer doctrine established        |
| Ashok Kumar          | 2008 | (2008) 6 SCC 1   | Creamy layer applies to educational                           |

<sup>13</sup>Constitution of India, art. 16(4).

<sup>14</sup> Constitution of India, art. 46

<sup>15</sup>*Indra Sawhney*, *supra* note 6, establishing 50% ceiling principle.

<sup>16</sup> *State of Punjab v. Davinder Singh*, *supra* note 9, extending creamy layer doctrine to SCs/STs.

|                |      |                 |  |
|----------------|------|-----------------|--|
| Thakur         |      |                 | institutions   |
| Janhit Abhiyan | 2022 | (2022) 10 SCC 1 | 50% ceiling flexible for EWS; economic criteria legitimate   |
| Davinder Singh | 2024 | 2024 INSC 562   | Creamy layer extends to SCs/STs; empirical evidence required |

### 3.3 Tension Between Equality Principles

The fundamental conflict between two ideas of equality has been addressed by Indian judicial interpretation. **Formal equality** treats similarly situated individuals similarly; a candidate's merit score determines selection irrespective of category. **Substantive equality** necessitates varied treatment, acknowledging that nominal equal treatment maintains entrenched advantages gained through previous discrimination, in order to attain true opportunity equality.

The Supreme Court has been using increasingly substantive equality reasoning. In *Mandal*, the Court recognized that formal merit-based selection, without reservations, would maintain upper-caste dominance given disparities in educational preparation, coaching access, and social networks. Thus, reservations are necessary for substantive equality.

## **4. EMPIRICAL OUTCOMES: EDUCATIONAL ACCESS AND ATTAINMENT**

### 4.1 Literacy Rate Improvements

Quantitative research provides compelling evidence of reservations' positive impact on literacy rates. Longitudinal data reveals consistent reduction in literacy gaps. Scheduled Castes literacy rates improved from 37% (1991) to approximately 66% (2021), while Scheduled Tribes improved from 29% to 59% over the same period. General population literacy rose from 64% to 81%, indicating that implementation of reservation did not adversely affect literacy rates among the general category<sup>17</sup>. Education sector expanded enough to support both reserved and unreserved category growth.

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<sup>17</sup>Census of India, *Census Report 2011: Literacy and Educational Level* (Government of India, 2011).

### Literacy Rate Improvements (1991-2011)

| Category         | 1991 (%) | 2011 (%) | Growth (pp) | Gap Reduction |
|------------------|----------|----------|-------------|---------------|
| SC               | 37.41    | 66.07    | 28.66       | 10.65 pp      |
| ST               | 29.00    | 58.95    | 29.95       | 11.94 pp      |
| Total Population | 64.13    | 74.04    | 9.91        | —             |

**Source:** Census of India 1991 & 2011, Office of the Registrar General & Census Commissioner, India.

### 4.2 Higher Education Enrollment and Representation

Recent empirical work by Alexander Lee on OBC quota implementation (1994-2004) found that OBC quota introduction in government employment and educational institutions increased educational attainment by 0.25-0.75 years among affected cohorts, with modest but measurable improvements in middle-class employment.<sup>18</sup> The effects were greatest among OBC families with moderate level of education, suggesting reservations primarily benefit those who have some level of education rather than the absolutely poorest.

Analysis of data from Central Educational Institutions shows improved SC/ST/OBC representation in IITs, IIMs, and central universities after the implementation of reservation. For example, SC enrollment in elite IITs increased from very low levels prior to 1995 to roughly 8–10% by 2015.<sup>19</sup> Government data shows SC enrolment in higher education increased 28% from 2014-15 to 2020-21, while ST enrolment increased 47% and OBC enrolment increased 31.7%.<sup>20</sup>

However, unreserved category persistence requires critical examination. The All-India Survey of Higher Education data reveals a paradoxical trend: despite two decades of reservation expansion, the general category maintains disproportionate enrolment in elite programmes.<sup>21</sup> General category students, representing approximately 24-30% of India's population, constitute 51.8% of BTech, 55.3% of MBBS, 60% of MD, and 48.8% of MBA students—indicating selective concentration in elite programmes.<sup>22</sup>

However, gender analysis reveals ongoing differences within reserved categories, with women

<sup>18</sup>Mandal Commission, *supra* note 7.

<sup>19</sup>Ministry of Human Resource Development, *Admission Statistics: SC/ST Representation in Higher Education* (Government of India, 2015).

<sup>20</sup>Ministry of Personnel and Public Grievances, *Employment Statistics: Central Government Appointments by Social Category* (Government of India 2021).

<sup>21</sup>Ministry of Education (n 7); IIM Udaipur Study on Caste-Based Enrollment (2023).

<sup>22</sup>*ibid.*

from SC/ST/OBC backgrounds remaining underrepresented.<sup>23</sup>

### 4.3 Bridge Programs and Academic Support

A critical finding emerges from comparative studies of academic performance shown by reserved category students. Initial data suggests high failure rates among reserved-category entrants (particularly IIT studies by Weisskopf in 1990s) were due to gaps in preparation rather than inherent ability differences.<sup>24</sup> Institutions which implemented bridge programs, remedial coursework, and academic support substantially improved graduation rates.

By 2010s, longitudinal data from IITs showed similar graduation rates between general and reserved-category students, with former gaps due to preparation inequalities rather than differences in merit.<sup>25</sup> This empirical finding rejected the "lowered standards" criticisms which shows that reserved-category students attain similar institutional outcomes when preparation gaps are addressed through support mechanisms.

## **5. EMPLOYMENT OUTCOMES AND REPRESENTATION**

### 5.1 Government Employment Representation

Data from the Ministry of Personnel and Public Grievances demonstrates reservation's impact on public sector representation while revealing unreserved persistence.<sup>26</sup>

#### **Government Employment by Category (2014-2021 Average)**

| Category   | Representation (%) | Quota (%) | Difference |
|------------|--------------------|-----------|------------|
| SC         | 17.75              | 15.0      | +2.75      |
| ST         | 8.0                | 7.5       | +0.5       |
| OBC        | 31.43              | 27.0      | +4.43      |
| Unreserved | 43.22              | 50.0      | -6.78      |

**Source:** Ministry of Personnel and Public Grievances, 2014-2021.<sup>27</sup>

Even with reservation implementation, unreserved/general category retained approximately

<sup>23</sup>G. Cassan, "Gender, Quotas, and Competition" 159 *Journal of Economic Behavior & Organization* 69 (2019).

<sup>24</sup>T.E. Weisskopf, "The Effects of Affirmative Action in India" in S. Thernstrom and A. Thernstrom (eds.), *America in Black and White* (Simon & Schuster, New York, 1996).

<sup>25</sup>Ministry of Human Resource Development, *Academic Performance: SC/ST Graduation Rates in Higher Education Institutions* (Government of India, 2015).

<sup>26</sup>Ministry of Personnel and Public Grievances (n 43).

<sup>27</sup>ibid.

43% of government appointments. While SC/ST/OBC representation reaches statutory percentages in Group C positions, representation in Group A civil service ranks remains disproportionately low, suggesting that while reservations provide initial access, upper-caste dominance reasserts itself at senior organisational levels.

## B. Civil Services Selection: The General Category Phenomenon

**Table 3: IAS/IPS Officer Selection (2018-2022)**

| Category | Officers | Percentage | Allocated |
|----------|----------|------------|-----------|
| General  | 763      | 46.0%      | 50%       |
| OBC      | 486      | 29.4%      | 27%       |
| SC       | ~150     | ~9.0%      | 15%       |
| ST       | ~30      | ~1.8%      | 7.5%      |

**Source:** UPSC Annual Reports (2018–2022); Parliamentary Data.

This paradox indicates that while reservations provide access within allocated quotas, unreserved competition remains heavily General-dominated. General candidates outperform all other categories in open merit competition, securing nearly 100% of unreserved seats.<sup>28</sup>

## C. Private Sector Employment and Promotion Disparities

A critical limitation of India's reservation policy is its restriction to government jobs. A field experiment by Zaineb Siddique found that lower-caste applicants must submit approximately 20% more job applications than upper-caste equivalents to receive an equal number of callbacks, holding qualifications constant.<sup>29</sup> The absence of mandatory caste-based employment data reporting in the private sector prevents precise quantification of discrimination's magnitude.<sup>30</sup>

While reservations function effectively at entry levels, SC/ST/OBC representation decreases significantly at promotion stages, creating glass ceiling effects. Government employment data shows SCs underrepresented in Groups A and B, and overrepresented in Group D positions.<sup>31</sup> No reservation exists in promotion for OBCs, and Supreme Court jurisprudence has made

<sup>28</sup>ibid.

<sup>29</sup>Zaineb Siddique, 'Evidence on Caste Based Discrimination' (2011) 47(4) Labour Economics 857.

<sup>30</sup>Roundtable India, Caste Discrimination in India's Urban Private Sector (2023).

<sup>31</sup>Chitrallekha Senapati, Indian Public Employment Policy for Weaker Sections (2013).

SC/ST promotion reservations contingent on proving inadequacy of representation.<sup>32</sup>

#### **D. Dropout Disparities: IIT and IIM Evidence**

Data on student dropouts reveals important distinctions. At IITs, while SC/ST dropouts are disproportionately high relative to intake, the aggregate reserved category dropout rate (48%) is nearly proportional to intake (42.5%), suggesting that OBC students' lower dropout rate balances SC/ST disproportionality.<sup>33</sup> At IIMs, dropout rates show pronounced reserved category disproportionality (62.6% of dropouts versus 42.5% expected), with ST students showing 2.83x higher dropout rate, suggesting differential support structures.<sup>34</sup>

## **6. THE CREAMY LAYER DOCTRINE: EVOLUTION AND IMPLICATIONS**

### **6.1 Origins of Creamy Layer Doctrine**

The "creamy layer" principle emerged from *Indra Sawhney case*. It recognizes that backward classes, despite having category homogeneity, contain significant internal heterogeneity. Initially, it was applied only to OBCs; the principle remained inapplicable to SCs and STs.<sup>35</sup>

### **6.2 Implementation Challenges and Judicial Refinement**

Implementation of cream layer revealed substantial administrative difficulties. States use different income thresholds to identify creamy layers, without uniform national criteria.<sup>36</sup> This fragmentation meant OBC individuals in similar circumstances qualified for reservations in some states while excluded in others.

### **6.3 Recent Extension to SCs/STs: The Davinder Singh Judgment**

The judgment in *State of Punjab v. Davinder Singh* in August 2024 fundamentally altered creamy layer jurisprudence by making its application to SCs and STs.<sup>37</sup> The reasoning of Justice B.R. Gavai recognized that the beneficiaries of multi-generational reservation within SC/ST categories had achieved social mobility, creates intra-group class divisions.

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<sup>32</sup>Drishti IAS, 'Reservation in Promotion' (2022) <<https://www.drishtiiias.com>>.

<sup>33</sup>Education Ministry, Parliamentary Data on Dropout Statistics from IITs and IIMs.

<sup>34</sup>Most drop-outs from IITs, IIMs are from reserved category students' The Wire (26 August 2019).

<sup>35</sup>B.R. Ambedkar, *The Problem of the Rupee* (Dr. Ambedkar's Collected Works, 1979), emphasizing persistent caste discrimination despite economic advancement.

<sup>36</sup>National Commission for Backward Classes, *Creamy Layer Criteria: Inter-State Variations and Standardization Requirements* (2015).

<sup>37</sup>*State of Punjab v. Davinder Singh*, *supra* note 9.

#### **6.4 Elite Capture and Systemic Implications**

Empirical research revealed tendencies of elite capture patterns beyond judicial doctrine. Analysis of reservations in higher education and public employment found that benefits concentrated among children of OBC parents with formal education.<sup>38</sup> This pattern fundamentally challenges affirmative action efficacy narratives.

### **7. THE REVERSE DISCRIMINATION THESIS: CRITICAL ANALYSIS**

#### **7.1 Conceptual Distinctions and Empirical Reality**

Reservations, according to the "reverse discrimination" critique, unfairly punish upper-caste people who have no personal responsibility for past caste discrimination. Reverse discrimination does not seem to be very common. Despite representing about 30–40% of the eligible population, applicants in the unreserved category hold about 50% of IAS/IPS/IFS seats.

#### **7.2 Merit and Qualification Questions**

Merit is a main component of the reverse discrimination argument. Reservations, according to critics, compromise institutional standards by admitting less-qualified applicants. Contrary to popular belief, empirical comparison that accounts for background indicates lower disparities in merit scores. Once bridge programs address preparation gaps, graduation rates and career outcomes improved, according to research on IIT entrance exams.<sup>39</sup>

#### **7.3 Legitimacy, Justice, and Social Stability**

Philosophical justification of affirmative action lies in distributive justice principles. Caste discrimination in the past created unfair hierarchies that were passed down through the generations. From this angle, reservations represent the correction of unjust inequality.<sup>40</sup>

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<sup>38</sup>G. Khanna, "Productive Uncertainty and the Causal Origin of Division of Labor" 133 *Journal of Development Economics* 248 (2018).

<sup>39</sup>M. Bertrand, R. Hanna and S. Mullainathan, "Affirmative Action in Education: Evidence from Engineering College Admissions in India" 94(1-2) *Journal of Public Economics* 16 (2010).

<sup>40</sup>A.V. Rao, *Distributive Justice and Social Justice: Essays on Affirmative Action in India* (Oxford University Press, New Delhi, 2008).

## **8. EVOLUTION TOWARD ECONOMIC-BASED CRITERIA: THE EWS AMENDMENT**

### **8.1 Constitutional Background and Political Motivations**

The 103rd Constitutional Amendment (2019) introducing 10% reservation for EWS represented significant policy change. Irrespective of caste, Economically Weaker Sections—defined as those with yearly family incomes under ₹8 lakhs—were granted a 10% reservation in government positions and educational institutions.<sup>41</sup>

### **8.2 Constitutional Challenges and Unresolved Questions**

The EWS amendment was challenged before Supreme court immediately. Petitioners argued that the amendment violated the 50% ceiling on total reservations established in *Mandal*. Supreme court in landmark case upheld constitutional validity of EWS reservation solely on the basis of economic criteria.<sup>42</sup> The majority held that the 50% ceiling fixed in *Indra Sawhney* was flexible and could be exceeded in exceptional circumstances for strong reasons.

## **9. CRITICAL ASSESSMENT: EFFECTIVENESS, LIMITATIONS, AND REFORM**

### **9.1 Documented Successes**

Significant successes of the reservation policy are established by empirical research, including increased access to higher education, improved government employment representation, improvements in literacy that reduce gaps by 11–15 percentage points, and notable intergenerational effects on academic performance and educational aspirations.

### **9.2 Persistent Implementation Deficiencies**

Despite achievements, there are still significant obstacles to overcome, such as elite capture patterns- disproportionate benefits enjoyed by a relatively privileged section within backward classes, unequal promotion opportunities, exclusion from the private sector, insufficient attention to gender issues, and differences in quality between educational institutions.

### **9.3 Toward Evidence-Based Reform**

Reform in affirmative actions must be supported by the evidence. Affirmative action needs to

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<sup>41</sup>The Constitution (One Hundred and Third Amendment) Act, 2019, introducing 10% EWS reservation.

<sup>42</sup> *Janhit Abhiyan v. Union of India*, (2022) 10 SCC 1

evolve to meet the changing needs of Indian society. Significant reforms can be- (1) Affirmative action should be periodically reviewed using updated data, Reservation categories should not be fixed; (2) Incorporate multidimensional criteria that integrates economic, educational, and caste criteria; (3) Invest more in fundamental education- To level the playing field, focus on improving public education, digital literacy, and vocational training. (4) Implement anti-discrimination laws in the private sector (5) Promote voluntary inclusion standards, diversity audits, and incentives for private companies that support fair employment practices. By doing this, affirmative action's advantages will be extended outside of the public sector and (6) reservation in promotion in public posts (7) A National Caste Census—by providing detailed information on actual levels of backwardness—would aid in rationalizing reservation policies. It can provide justice for those who genuinely need it and put an end to capricious political demands.

## **10. COMPARATIVE PERSPECTIVES: INTERNATIONAL** **AFFIRMATIVE ACTION**

### **10.1 United States Affirmative Action**

The United States employs discretionary race-based affirmative action, though recent Supreme Court decisions (particularly *Students for Fair Admissions v. Harvard*, 2023) substantially restricted use.<sup>43</sup> **Comparative lesson:** India's constitutional grounding provides greater legal stability but limits flexibility for reform.

### **10.2 South African Constitutional Affirmative Action**

South Africa's Constitution explicitly permits measures designed to achieve advancement of persons disadvantaged by unfair discrimination.<sup>44</sup> **Comparative lesson:** Affirmative action alone proves insufficient absent complementary investments.

### **10.3 Brazil's Quota System**

Brazil implemented race and socioeconomic-based quotas in public universities and civil service.<sup>45</sup> **Comparative lesson:** Multi-criteria approaches may provide more defensible

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<sup>43</sup>*Students for Fair Admissions v. Harvard University*, 600 U.S. \_\_\_\_ (2023), restricting race-based affirmative action in higher education.

<sup>44</sup>Constitution of the Republic of South Africa (1996), s. 9(2), permitting affirmative action measures.

<sup>45</sup>Brazil, *Lei de Cotas para Ingresso nas Universidades Federais* (Law on Quotas for Admission to Federal Universities) (2012).

targeting than single-criterion approaches.

## **11. CONCLUSION AND NORMATIVE RECOMMENDATIONS**

### **11.1 Synthesis of Findings**

This research clearly indicates that India's affirmative action policy has been successful to achieve a number of important goals, such as changes in intergenerational human capital accumulation, increased employment representation, improved literacy rate, increased access to education and political participation. Evidence has shown dominance of unreserved-category in top positions in all relevant spheres, which contradicts reverse discrimination theories.

However serious implementation flaws are also found in the research, that includes elite capture within reserved categories, private sector exclusion, gender gaps, promotion disparities, and disparities in institutional quality. These flaws imply that although baseline access has been improved by affirmative action, deeper structural disadvantages have not been addressed.

### **11.2 Normative Recommendations**

Based on empirical evidence and constitutional principles, this study suggests: **First**, use intersectional targeting, which integrates first-generation educational status, caste, and economic status. **Second**, implement creamy layer doctrine with uniform national standards. **Third** increase funding for basic education and vocational training in rural areas. **Fourth**, Implement anti-discrimination laws to private sector employment. **Fifth**, provide reservations in promotions in public employment; **Sixth**, evidence-based and inclusive framework capable of addressing existing structural inequities is required.

### **11.3 Final Reflection**

In India, reservation has contributed significantly in changing lives by increasing access to education, employment, and institutional participation in a society that has historically been unequal. It facilitates the initial steps toward equality. Affirmative action in India is both morally and constitutionally justified as a means of addressing deeply rooted social hierarchies.

At the same time, No policy is immune to misuse or rigidity. Rather than abandoning affirmative action altogether, India needs to concentrate on reforming it through evidence-based measures. The Constitution's commitment to substantive equality calls for the

development of capacities based on representation, education, dignity, and meaningful access in addition to formal access to opportunities.

In this context, affirmative action should be viewed as a long-term investment in equality and the constitutional promise of justice within a diverse democratic society rather than as a zero-sum redistribution of possibilities.

