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RESERVATION AND THE RIGHT TO EQUALITY: A CONSTITUTIONAL DILEMMA

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ABSTRACT

Alright, so here's the deal: The Indian Constitution swears up and down that everyone gets equal treatment—yeah, that's Articles 14 to 18 for you. But then, in the same breath, it's like, "Oh, by the way, we're gonna give some folks a leg up because they've been left behind socially or educationally." Confused yet? „Cause honestly, that's where the mess starts. How can you say you're treating everyone the same while handing out special passes to some? This paper dives into that mess. We'll poke at the big court cases—remember *Indra Sawhney v. Union of India*? And the more recent EWS reservation drama? Judges have bent over backward trying to figure out what "equality" even means. The big question—are reservations actually leveling the playing field, or are they just making things more lopsided? In the end, the paper argues we have to walk a tightrope: help the folks falling behind, sure, but don't turn reservations into a forever free ride. Justice—not a permanent crutch.

Keywords: Article 14, EWS (Economically Weaker Section), *Indra Sawhney* case, Indian Constitution

INTRODUCTION

So, here's the lowdown: Part III of the Indian Constitution rolls out the red carpet for every citizen, no matter your caste, race, hometown, religion, or gender. We call these Fundamental Rights, and Dr. B.R. Ambedkar—yeah, that guy—said they're the heart and soul of the whole document. Why? „Cause they keep the government from trampling all over your freedom and dignity. The big ideas in the Preamble—justice, liberty, equality, fraternity, selfrespect—these rights are supposed to make them real for everyone, not just the lucky few. If you want real democracy, you can't be picking favorites. The folks who wrote the Constitution weren't stupid. They saw all the old poison—untouchability, casteism, discrimination—festering in different corners of the country, and they figured the only way to fix it was to flatten the playing field. The government can't just shrug and look the other way; it's supposed to guarantee "parity before the law" (fancy way of saying everyone gets the same shot). That's the

so-called "Rule of Law"—the spine of any real democracy, if you ask me.

Here's how the Constitution slices up the right to equality: ☑ Everyone's equal before the law (Article 14)

- No discrimination—religion, caste, race, sex, birthplace, whatever (Article 15)
- Fair shot at public jobs (Article 16)
- Untouchability? Outlawed. Hard stop. (Article 17)

Alright, let's loosen this up a bit and make it sound like an actual person wrote it, not a robot stuck in legalese mode.

Abolition of Titles (Article 18)

Okay, so here's the deal: Article 14 is like the big umbrella—everyone gets covered, no matter who you are. But Articles 15, 16, 17, and 18? Yeah, they're more like those tiny umbrellas you get in cocktails—meant for specific situations.

A. Right to Equality – Article 14

Article 14 basically says, “Hey, the state can’t play favorites. Everyone’s gotta get equal treatment under the law if you’re in India.” Simple, right? If you’re chilling in India, you get the same legal rights as everyone else.

But, hold up, there are two parts to this thing:

- Equality before the law
- Equal protection of the laws

They sound kinda the same, but they’re not twins—more like cousins. The first, “equality before the law,” is all philosophical and fancy. It means everyone answers to the same laws; no VIP passes, no “do you know who my dad is?” nonsense. Nobody’s above the game.

Now, “equal protection of the laws” is a little different. That’s more about making sure if two people are in the same boat, they get treated the same way—whether it’s about rights, benefits, or even penalties. So, if you and your neighbor are caught doing the same thing, you should both get the same kind of treatment from the law. Fair’s fair.

This equal protection thing? It covers both the rules themselves (substantive) and how they’re actually used (procedural). And, just to toss in some legal street cred: the E.P. Royappa v State of Tamil Nadu case is a big one for Article 14. The court said Article 14 is a core part of the Constitution—like, you can’t box it in with some rigid, old-school definition. It’s gotta be interpreted broadly, including things like whether a law is reasonable or just straight-up random.

So yeah, Article 14 is basically the Constitution’s way of saying, “Don’t mess with equality. We’re watching.”

Alright, let’s shake off the textbook dust and talk real for a sec.

So, Article 15—yeah, that’s the one in the Indian Constitution that basically tells the government, “Hey, don’t be a jerk to folks just because of their caste, religion, gender, race, or even where

they popped out of the womb.” Simple, right? Well, if only it was that easy in practice. India’s got this wild history of discrimination—seriously, just pick any century between the 11th and the 21st and you’ll find some flavor of bigotry. The British weren’t exactly handing out friendship bracelets, and don’t even get me started on the notorious caste system from the “Manu Smriti.” Oh, and let’s not gloss over the Mughal era either. Basically, there’s a reason Article 15 exists.

The word “discrimination” here? It’s not just some vague idea—it’s stuff like untouchability, which, yeah, is as bad as it sounds. Dalits and other so-called

“lower castes” were straight-up blocked from public places—shops, hotels, temples, you name it. Article 15 is supposed to put a stop to all that garbage and give everyone a fair shot, no matter what box society wants to shove them into.

But—plot twist—there are a few exceptions. First up: special treatment for women and kids. Think reserved seats for women in local elections or free schooling for the little ones. Next, the government can do a little extra for groups who’ve had it rough—Scheduled Castes, Scheduled Tribes, the whole gang. Stuff like seat reservations or discounts in public schools. And the third exception? More help for the educational and social boost of the folks who’ve been kicked to the curb for ages, even in private schools, whether or not the government chips in.

Alright, now, let’s talk Article 16. This one’s all about jobs in the government—the OG job portal, if you will. Article 16(1) spells it out: everyone gets a fair shake at public sector gigs. No secret handshakes or hidden doors. Just straight-up equal opportunity. Or at least, that’s the dream.

So yeah, that’s the gist. The Constitution basically stands up and says, “Knock it off with the discrimination already.” About time, right?

Alright, so here's the deal. This whole "equality clause" thing? It basically says you can't get shut out of a government job just because of where you're from, your religion, your gender, or whatever else people like to judge you on. If it's a gig under the state, everyone's supposed to get a fair shot. Doesn't mean the state can't set some basic requirements—like, you can't apply to be a rocket scientist if you've never seen a rocket—but those rules have to apply across the board.

There's this part—Article 16(2), if you wanna get legal about it—that straightup bans discrimination for public jobs based on stuff like your faith, your caste, your birthplace, or any of those usual suspects. And don't get it twisted: This is talking about government jobs, not those corporate office gigs where your boss's cousin always gets promoted.

Now, there's a catch. Parliament's got the power to say, "Hey, if you want this state job, maybe you gotta live in the state first." Makes sense in a way—nobody wants a bunch of out-of-towners running the show if they don't know what's up locally.

And then, Article 16(4) comes in with the reservations thing. The government can reserve seats for folks who've been pushed down or left behind. But it's up to the state to figure out who counts as "backward," which—let's be real—can get messy.

Switching gears: Article 17 is basically the Constitution looking untouchability dead in the eye and saying "Not on my watch." Any kind of untouchability—banning people from places, treating them like second-class citizens, all that garbage—is illegal. If you try it, you're breaking the law. Simple as that. This whole thing comes from the ancient social system where some people got labeled as "untouchables," and Article 17 is here to kick that outdated nonsense to the curb.

literature by members of "higher caste". This results in segregation and persecution of such people from members of higher caste. The

inclusion of this article in the constitution demonstrates the priority given by the constituent assembly to the abolition of this heinous activity. Article 17 is indeed a key requirement in terms of "Equality before the law" (Article 14). It ensures social equality and human selfrespect, the two rights that have been denied to a large section of Indian society for centuries. The Supreme Court ruled in "People's Union for Democratic Rights v Union of India"¹⁸ that anytime a basic right enshrined in "Articles 17, 23, or 24"¹⁹ was by an individual, the state has a legal responsibility to intervene and ensure that the fundamental rights of such person should be respected. The fact that the aggrieved individual might guard or pursue his infringed fundamental rights does not permit the state from its legal duties. E. RIGHT TO EQUALITY- ARTICLE 18 Article 18 under the constitution states that the "state is prohibited from conferring any titles on Indian nationals or accepting titles given by a foreign state". A "title" is anything that is attached to one's name as an addition. Titles or titular glories should not be created in a democracy. This will be counterproductive to the development of social parity.

However, the recent bestowment of labels such as "Bharath Ratna", "Padma Vibhushan", "Padma Shree", and so on (established in 1954) is claimed to be permissible under Article 18²⁰ because they just reflect the State's appreciation of good efforts by people in diverse spheres of activity. Fundamental rights are not guaranteed by Article 18, but rather they limit executive and legislative power.²¹ "Article 18(1)²²" repeals all designations. It states that the "state is forbidden from bestowing titles on anyone, whether a citizen or a non-citizen". Clause (2)²³ forbids an Indian citizen from receiving any title from a foreign state. Clause (3)²⁴ prohibits an individual who is not a citizen of India but holds any profit or any office of trust under the 18 People's Union for Democratic Rights v Union of India (1982), AIR 1473

¹⁹ Constitution of India, 1950, art.17, art.23, and art.24 ²⁰ Constitution of India, 1950, art.18 ²¹

Shristi Suman (n 16) 22 Constitution of India, 1950, art.

18(1) 23 Constitution of India, 1950, art. 18(2) 24 Constitution of India, 1950, art.18(3)

state from taking any title from any foreign state without the President's assent. Clause (4)²⁵ states that "no individual, citizen or non-citizen, holding any profit or trust post shall accept any present, emolument, or office of any kind from or under any foreign state without the President's assent". Clause (3) and clause (4) have been introduced to ensure that an alien citizen remains faithful to the state, i.e., does not disrupt the confidence placed in him. WHAT IS A RESERVATION SYSTEM? Reservation is an assenting action system in India that gives traditionally underprivileged groups involved in education, employment, and politics. According to the Indian

Constitution, permission is granted to the Union Government, States, and Union Territories of India to designate reserved quotas or seats for "socially and educationally backward individuals" in exams, job opportunities, and so on.

Reservation is primarily granted to four groups, shortened as "SC, ST, OBC, and EWS". Initially, reservations were available solely to SC and ST societies. Following the adoption of the "Mandal Commission report" in 1987, it was extended to include OBCs. In 2019, reservations for the "Economically Weaker Section" (EWS) in the general category were expanded. The first category is Scheduled Castes. They were seen to be at the lowermost or below the caste structure in South Asia, even below the "Shudra varna". Agricultural labour, manual scavenging, laundry, day-to-day wage works, fishing, and so on were the hereditary professions of this society. They were exposed to the practices of untouchability that included a variety of social boundaries ranging from not touching other castes, not using a similar water supply, or living in the same place. The goal of providing them with reservations is not merely to provide jobs but to empower them and ensure their

contribution to the state's policymaking process.²⁶ The Scheduled Tribes are the next group. "Indications of primitive features, peculiar culture, geographical isolation, shyness of contact with the community at large, and backwardness" were considered to be the characteristics of this section once. The majority of these people are "Adivasis" and indigenous occupants, while the rest are nomadic tribes that were designated ²⁵

Constitution of India, 1950, art.18(4) ²⁶ Alex Andrews George, 'Reservation in India – Explained in Layman's Terms' (Clear IAS, 3 February 2020)

Okay, so back in the British Raj days, a bunch of communities got slapped with the label "criminal tribes." Not exactly a great start. These groups? Super diverse. Some scraped by with tiny farms and some outside connections, while others stuck to the forests and kept up the whole hunter-gatherer gig.

The British, predictably, didn't treat them too kindly—lots of exploitation, land grabbing, you name it.

Then you've got the OBCs—Other Backward Classes. They're the third big chunk of society in this whole reservation saga. Originally, they weren't even on the radar for reservations. But then Morarji Desai rolled in and the Mandal Commission started poking around, figuring out which groups were lagging behind. And get this: based on the 1931 census (yeah, ancient history), they claimed over half the country—52%, to be exact—fell into the "backward" category, mostly based on stuff like money, jobs, or just old-school social standing.

Most OBCs trace back to the "Shudra varna," which means they had it rough both in terms of cash and social status. Not exactly the ruling class, huh? The law—Articles 15(4) and 16(4), if you like the legalese—actually allows for these reservations.

Here's where it gets messy: the central government keeps this massive list of OBCs—like, 5,000+ castes and subcastes. But each

state? They get to make their own list for local reservations. So, what counts as “backward” in one place might not fly somewhere else. Oh, and just to make things extra confusing, some of these OBC castes are actually pretty powerful in their areas. Even though they’re officially “low status,” they’re the ones running the show and keeping the caste hierarchy alive. Gotta love Indian bureaucracy, right?

TIMELINE OF SOCIAL RESERVATION IN INDIA

Alright, let’s give this a human spin:

India’s obsession with caste—it’s ancient history, literally—but the real shakeup started way back in 1933. Ramsay Macdonald, the British PM (yep, a Brit, not even an Indian), decided to toss in the “Communal Award.” Basically, he tried splitting up electorates for all sorts of groups: Europeans, Anglo-Indians, Indian Christians, Muslims, Sikhs, Dalits. It was like, “Hey, everyone gets a separate table at the political lunchroom.”

But then you had Gandhi and Ambedkar—two giants—sitting down and hashing out the Poona Pact in 1932. Wild times. Instead of separate electorates for Dalits, they settled on just giving Hindus one big chunk with some seats reserved for the downtrodden. Fast forward to 1947, the Brits pack up, India splits into two (hello, Pakistan), and loads of Muslims head over the border. Hinduism suddenly becomes the star of the show in India.

So, when the constitution was being written, everyone realized, “Wow, caste discrimination is still a nightmare.” They made sure to bake in reservations for the most disadvantaged—mainly SCs and STs at first, and only for ten years (ha, as if that would be enough). Surprise, surprise, those ten years got stretched out like a never-ending Netflix show, thanks to a bunch of amendments.

Then came the Mandal Commission—yeah, the one everyone argues about in college debates. Suddenly, OBCs get invited to the reservation party in 1991. By 2007, there’s this whole “All India Quota Seats” thing: 15% for SCs, 7.5% for STs. Not

to be outdone, the government drops the 103rd Constitutional Amendment in 2019, and now the EWS (that’s Economically Weaker Sections for the uninitiated) get their own 10% slice of the pie under Articles 15(6) and 16(6). That’s stacked right on top of the existing 50% for SC/ST/OBC.

And it didn’t stop there—July 2021, the government’s like, “You know what? Let’s bump it up.” So they throw in a 27% reservation for OBCs and 10% for EWS in the All India Quota for medical/dental courses. Starting from the 2021–22 academic year, it’s a whole new ball game for everyone looking to get into med school. Talk about reservation musical chairs.

NEEDED FOR AFFIRMATIVE ACTION IN INDIA

Alright, let’s cut the sugar-coating and talk straight. People from so-called “lower” castes—yeah, the ones who got stuck with the short end of the stick for centuries—barely got a shot at education, jobs, or even having a say in how things run. Reservation policies? They’re basically a way to toss a lifeline to folks who society straight-up ignored or stomped on for ages.

I mean, for real, most people from those backgrounds couldn’t even dream about stepping foot in a school or landing a half-decent job back in the day. It wasn’t just tough luck; it was straight-up blocked by the powers-that-be. You know, the “inferior classes,” as the old-school folks put it, were kept down on purpose in a million sneaky ways.

Now, some people love to brag, “Oh, come on, it’s the 21st century! Nobody cares about caste anymore!” Sure, and I’m the Tooth Fairy. Discrimination’s still alive and kicking. Just peek at manual scavenging—yep, still happening. Or check the healthcare and food distribution mess: a survey showed over 65% of Dalits got the door slammed in their face at hospitals and ration shops. Authorities? Some of them treat SCs and STs like they don’t even belong there.

Want numbers? Here’s a gut punch: a 2014 survey by Dalit Adhikar Abhiyan (with a little backup from ActionAid) found that nearly 9 out

of 10 state schools in Madhya Pradesh picked on Dalit kids. In 79% of those schools, Dalit students weren't allowed to eat mid-day meals with everyone else. In over a third, they had to sit apart at lunch. In more than a quarter, they even had to eat off plates marked just for them. Seriously, what century is this?

So, does reservation fix all this? Not really. Honestly, reservations weren't designed to wipe out caste-based nastiness—that's on the so-called "upper" castes to sort out (good luck waiting for that). What reservations *do* is try to patch up some of the damage from centuries of abuse, and make sure bigots can't totally shut out people who deserve a fair shot. Is it perfect? Nope. But it's a hell of a lot better than pretending the problem's gone.

RESERVATION AND EQUALITY

Alright, let's just cut through the legal jargon for a second. Reservation in India? Yeah, it's a hot potato. Legal brains love to argue about it, but for most regular folks, it just looks like some random government move that messes with the whole idea of "equality." Feels like it's breaking the very rule it claims to protect, right?

But here's the thing—reservation isn't just about the law; politics gets all tangled up in it too. Article 14 in the Indian Constitution? People call it the "soul" of the whole thing, and for good reason. I mean, if you don't have equality, can you even call yourself a republic? The whole point of having a state is so people can feel safe and, well, not get shafted by the system.

Fun fact: our Constitution nabbed the idea of equality from the French Revolution.

Vive la Preamble, or whatever. Article 14 is basically trying to level the playing field. It's about making sure people who aren't starting at the same point don't get left in the dust. If you treat everyone the same when their situations are totally different, you're actually just making things worse.

So yeah, real "impartiality" doesn't exist until everyone's got the same shot. That's pretty much how reservation—or affirmative action, if

you wanna get fancy—came about. It's there to give folks who've been pushed down a fighting chance to catch up.

Look, the Supreme Court's had some big moments on this: cases like *D.V. Bakshi v Union of India* and *Air India v Nargesh Mirza* basically smacked down discrimination and set new standards for what equality should look like. And hey, it's not just an Indian thing—America's been doing their own version for Black folks, and other countries have their own spins on it too. It's not perfect, but it's helped close the gap in a lot of places.

But let's be honest, India's been free for 75 years, and we're still not there yet. If we're still talking about inequality, something's clearly off with our schools and job markets. The reservation system was supposed to fix the mess left by the caste system, but the whole thing got twisted over time—originally, caste was just about jobs, but then it spiraled into all sorts of ugly stuff: untouchability, social walls, you name it.

Discrimination—whether it's about caste, religion, gender, whatever—is just gross. And yeah, even though we call ourselves the world's biggest democracy, reservation still stirs up big debates because it hits so many nerves: economic, social, political. It's messy, but honestly, what in India isn't?

CONCLUSION

Alright, let's get real about reservations in India. It all started because, let's face it, some communities got the short end of the stick for ages—treated badly, left behind, all that. So, the reservation system was supposed to level the playing field a bit. Without it, "merit" is just a word rich folks and high-caste people throw around while ignoring the actual imbalance. In a place as complicated as India, honestly, reservations by caste were probably bound to happen. How else do you even try to close those massive gaps between the so-called "higher" and "lower" castes?

But here's the thing: reservations, while a decent patch for social and educational backwardness,

are not some magic fix for all our problems. They're more like a bandaid, not a cure. Look at it with a clear head—reservations weren't a bad idea at heart, but the way we use them? Eh, bit of a mess. Instead of wiping out caste lines, sometimes they've just drawn new ones. It's always the same story: only the top layer of the backward classes really climbs up. The poorest folks, the ones who should be getting a boost, still get left in the dust

And don't even get me started on what it's done to the sense of unity or that fire to work hard. The whole "reserved for religion" thing? Yeah, that's a disaster. It's like nobody actually cares about the people struggling at the bottom—they just want to score political points. Politicians are basically addicted to using reservations for votes, not for real change. But scrapping reservations altogether? Nope, that's not the answer either. We want everyone to grow, right? The real fix is to stop making it all about caste and start focusing on who actually needs help. It shouldn't be a free pass just because you tick a box on some old list.

We gotta point out the genuinely needy, the folks who are actually pushed down, and give them real support—education, jobs, money, you name it. Then, when someone's got real skill and puts in the effort, reward them, don't just hand them opportunities because of their background. The country needs its best People up front, not just the ones who got lucky with government categories.

It's honestly painful watching talented people lose out because of this system, while nothing much has changed for the people who really need help. Feels like we've wasted our energy. Instead of actually lifting up the underprivileged, reservation sometimes just feels like payback for old wounds. Time to yank the system out of the hands of those political vultures and actually use it to support the truly underprivileged—not just anyone with the right surname. Do that, and maybe we'll actually see some real progress in society, the economy,

and education for those who've been stuck at the bottom for way too long.