



INDIAN JOURNAL OF
LEGAL REVIEW

VOLUME 6 AND ISSUE 1 OF 2026

INSTITUTE OF LEGAL EDUCATION



INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 6 and Issue 1 of 2026 (Access Full Issue on – <https://ijlr.iledu.in/volume-6-and-issue-1-of-2026/>)

Publisher

Prasanna S,

Chairman of Institute of Legal Education

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 73059 14348 – info@iledu.in / Chairman@iledu.in



© Institute of Legal Education

Copyright Disclaimer: All rights are reserve with Institute of Legal Education. No part of the material published on this website (Articles or Research Papers including those published in this journal) may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For more details refer <https://ijlr.iledu.in/terms-and-condition/>

RECONCEPTUALIZING SOCIAL JUSTICE AND AFFIRMATIVE ACTION IN INDIA: A CONSTITUTIONAL AND JURISPRUDENTIAL ANALYSIS

AUTHOR – DR MONALISA CHANDRA, ASSISTANT PROFESSOR (RESEARCH) UCRD,, CHANDIGARH UNIVERSITY.
ORCID ID: [HTTPS://ORCID.ORG/0000-0002-3838-4471](https://orcid.org/0000-0002-3838-4471)

BEST CITATION – DR MONALISA CHANDRA, RECONCEPTUALIZING SOCIAL JUSTICE AND AFFIRMATIVE ACTION IN INDIA: A CONSTITUTIONAL AND JURISPRUDENTIAL ANALYSIS, INDIAN JOURNAL OF LEGAL REVIEW (IJLR), 6 (1) OF 2026, PG. 834-864, APIS – 3920 – 0001 & ISSN – 2583-2344. DOI – <https://doi.org/10.65393/JVGO7730>

ABSTRACT

Ancient social hierarchies and inequalities in India have perpetuated social stratification and unequal resource access. The Indian social divide based on class, caste, creed, race, and gender has led philosophers to propose achieving social justice and equality. Indian philosophers have advocated affirmative action for marginalised groups, as reflected in Articles 14, 15, 16, and 335 of the Indian Constitution. These provisions aim to ensure equal protection and representation for all individuals. The implementation of reservation policies in education, employment, and administration has impacted socio-economic mobility. Although society has transformed since these policies were implemented, implementation challenges persist. Debates about efficiency and merit often oppose affirmative actions. Affirmative action exists in countries like the USA and South Africa to counter discrimination, yet India faces backlash when advocates promote equal representation. To address these issues, reforms are necessary to enhance reservation policies. This study examines social justice through affirmative action and addresses misconceptions about reservations in India. By exploring historical context, constitutional provisions, and implementation challenges, this study contributes to understanding affirmative action's role in promoting social justice.

Keywords: Affirmative action, Constitution, Social Justice, Reservation

1. CONCEPT OF SOCIAL JUSTICE

"In general, social justice can be defined as an equitable and humane allocation of the benefits of economic development."

United Nations¹⁸⁴⁸

"The belief that all people should have equal access to social, political, and economic opportunities is known as social justice. The goal of social workers is to provide opportunity and access to all people, especially those who are most in need."

National Association of Social Workers¹⁸⁴⁹

"Economic justice is a subset of social justice. Social fairness is the ideal that directs us when establishing the structured interpersonal relationships that we refer to as institutions. Conversely, when social institutions are arranged fairly, we have access to what is best for each person on an individual basis and in our relationships with others. In addition, social justice places a personal obligation on each of us to collaborate with others to create and continuously improve our institutions as a means of promoting social and personal

¹⁸⁴⁸ United Nations, *World Day of Social Justice*, UNITED NATIONS, <https://www.un.org/en/observances/social-justice-day> (last visited Jul. 16, 2025).

¹⁸⁴⁹ *Social Justice*, <https://www.socialworkers.org/Advocacy/Social-Justice> (last visited Jul. 16, 2025).

advancement.” Centre for Economic and Social Justice¹⁸⁵⁰

Historical Evolution of Social Justice Theories

During the revolution in the 19th century in India, the stark disparity between the affluent and impoverished segments of the society prompted initiatives to foster more equitable communities and mitigate the exploitation of the marginalised groups. These endeavours laid the foundation for the concept of social justice, which can be traced to the Industrial Revolution of the 19th Century, when stark economic disparities between the upper class of society catalysed initiatives to foster more equitable communities and mitigate the exploitation of the marginalised groups. Initially, the primary emphasis of social justice was the allocation of capital, property, and wealth, a focus necessitated by the pervasive economic hardship and inequality engendered by the European social class system. In contemporary discourse, the purview of social justice has expanded to encompass the advancement of human rights and the amelioration of conditions for the marginalised and the underprivileged groups that have historically experienced societal prejudice. These groups face discrimination on various grounds, including sex, age, economic status, ethnicity, background, social standing, and religious affiliation. Social justice initiatives frequently advocate for wealth redistribution to disadvantaged groups through income support, employment opportunities, and educational assistance. Although social justice has gained prominence in contemporary society owing to the efforts of activists and campaigners, the practical implementation of social justice policies often falls to administrators from government, non-profit, foundation, or bureaucratic agencies. The formulation of public policies addressing social justice issues is largely the purview of these institutions, with political variables significantly influencing the extent to which social justice considerations are

incorporated into government and administrative policies. Social justice initiatives can manifest through a diverse array of governmental programs, including wealth and income redistribution, government subsidies, and protected status in the workplace. In some instances, the sanctioning of discrimination against privileged groups through historical purges and penalties can be done. Such initiatives are particularly prevalent in socialist and communist nations, where they are often integrated into economic policies. In democratic countries, social justice platforms are frequently associated with leftist political parties and movements. The pursuit of social justice remains a complex and multifaceted endeavour, requiring ongoing dialogue, policy refinement, and societal commitment to address persistent inequalities and promote a more equitable distribution of resources and opportunities.¹⁸⁵¹

Ambedkar’s view

“The spirit of the Constitution is always the spirit of the age; it is a vehicle of life, not just a legal text.”

~Dr. BR Ambedkar

The philosophy, policy, and values of the Constitution of India embody Ambedkar’s pursuit of social justice. According to Dr. Ambedkar, social justice can be administered in a free social structure in which each person is valued as an end in and of themselves¹⁸⁵². He valiantly fought to create a society¹⁸⁵³ founded on democratic principles, i.e., quality, liberty, and brotherhood. He supported the promotion of political and socioeconomic equality as both goals and practical policies. Dr. Ambedkar made significant contributions to the Indian Constitution by introducing pertinent clauses

¹⁸⁵¹ Milestone Education Review, Year 14, No 01 & 02 October 2023 | PDF, SCRIBD (May 19, 2024), <https://www.scribd.com/document/675021526/Milestone-Education-Review-Year-14-No-01-02-October-2023>.

¹⁸⁵² Kinjal Asmi, BR Ambedkar on Social Justice, 2 (2022).
¹⁸⁵³ February_2016_1454155198__78.Pdf, [https://www.worldwidejournals.com/international-journal-of-scientific-research-\(IJSR\)/recent_issues_pdf/2016/February/February_2016_1454155198__78.pdf](https://www.worldwidejournals.com/international-journal-of-scientific-research-(IJSR)/recent_issues_pdf/2016/February/February_2016_1454155198__78.pdf) (last visited Jul. 16, 2025).

¹⁸⁵⁰ Home, CEPR (May 15, 2025), <https://cepr.net/>.

that established a legal foundation for advancing the oppressed segments of Indian society. Fundamental Rights are a set of provisions found in the Constitution that work to combat discrimination and advance social justice. Article 14 ensures equal rights and protection of the law. Article 15 of the Constitution of India forbids any kind of discrimination based on a person's race, religion, caste, sex, or place of birth. According to Article 17, untouchability was thus established. The Directive Principles of State Policy intend to ensure social justice¹⁸⁵⁴. Dr. Ambedkar provided a stirring preamble guaranteeing social justice, economic, political, liberty, equality, and brotherhood¹⁸⁵⁵. Article 330, which reserves seats and representation for SC and ST in the Lok Sabha, is another article aimed at improving the downtrodden sections. Reservation of seats for SC and ST in the state legislature according to Article 332¹⁸⁵⁶.

Article 334: Seats of all government bodies are reserved. The establishment of a social order based on equality is merely a pipe dream. The Indian Constitution has been in effect for 67 years, but social justice remains an unresolved issue, and socioeconomic equality remains a pipe dream. The welfare and advancement of weaker segments of Indian society were important to Ambedkar. Through constitutional reforms, he campaigned for their welfare and created a path to progress for the downtrodden. He pushed the government to pass laws ensuring social justice for the poorer parts of society to fight for their liberation, always keeping in mind that the law was the most effective vehicle for transforming society. The development of the individual and his personality is society's goal and objective. Based on Varna, which splits Hindu society into four orders—the Brahmins, *Kshatriyas*, *Vaishyas*, and *Shudras*—Dr. Ambedkar discovered that Hindu civilisation does not acknowledge the person as the centre of social order.

¹⁸⁵⁴ Kinjal Asmi, *BR Ambedkar on Social Justice*, 2 (2022).

¹⁸⁵⁵ Milestone Education Review, Year 14, No 01 & 02 October 2023 | PDF, *supra* note 4.

¹⁸⁵⁶ Asmi, *supra* note 5.

The first two classes are known as “*dvijas*” or twice-born because their male members were permitted to use the sacred thread at the *Upanayan* Vedic sanctuary, something that the *Shudras* were not permitted to do. Dr. Ambedkar consistently advocated for creating a society founded on the values of equality, liberty, and brotherhood¹⁸⁵⁷. In the trinity, these ideas should not be viewed as distinct. It is impossible to separate equality from liberty or vice versa. Ambedkar supported the establishment of socioeconomic and political equality as a real policy and not merely as a catchphrase¹⁸⁵⁸.

1. Using social upliftment as a means of establishing social justice, he did the following: Ambedkar decided to start an aggressive campaign against untouchability in 1927. He initiated campaigns to distribute and make public drinking water available to the community. In Mahad, he spearheaded a Satyagraha to defend the untouchable community's right to use major water tanks for water extraction.
2. Dr. Ambedkar fought to provide admission for untouchables to Hindu temples. He initiated the Kalaram Temple movement in 1930. The movement promotes self-respect and human dignity without resorting to violence¹⁸⁵⁹.
3. He served as a representative of the downtrodden classes' complaints in parliament, improved their economic circumstances, and promoted education among them between 1918 and 1928. In his work “The Annihilation of Caste”, Ambedkar harshly attacked the caste structure and the leaders of the

¹⁸⁵⁷ aironline.in, *Social Justice: A Dream or Reality?*, AIRONLINE.IN, <https://www.aironline.in/legal-articles/Social Justice : A Dream or Reality?> (last visited Jul. 16, 2025).

¹⁸⁵⁸ Manisha Sharan, Awareness and Impact of Reservation on Different Groups of the Indian Society (Feb. 10, 2024), <https://papers.ssrn.com/abstract=4759454>.

¹⁸⁵⁹ Milestone-Education-Review-Year-15-No.-01-02-October2024.Pdf, <https://drambekar125.wordpress.com/wp-content/uploads/2024/10/milestone-education-review-year-15-no.-01-02-october2024.pdf> (last visited Jul. 18, 2025).

Hindu orthodox religion. He aspired to the social, economic, and political advancement of Dalits by dismantling the Hindu caste system.

Dr. Ambedkar made significant contributions to the Indian Constitution by introducing pertinent clauses that established a legal foundation for the advancement of oppressed segments of Indian society. The following is a list of some Constitutional clauses that support social justice and work to eliminate discrimination: A stirring Preamble guaranteeing social, economic, and political justice as well as liberty, equality, and brotherhood was given by Dr. Ambedkar¹⁸⁶⁰.

Fundamental Rights: Part III of the Indian Constitution gives citizens of the State the fundamental rights that Ambedkar championed. While Article 14 guarantees equal protection and equality before the law, Article 15 forbids discrimination based on a person's race, religion, caste, sex, or place of birth. According to Article 17, untouchability was to be abolished. Certain Fundamental Rights are actionable against persons because they pertain to the important right that forbids discrimination based on religion, ethnicity, caste, sex, or place of birth, among other factors. Dr. Ambedkar's draft constitution guaranteed and protected a number of individuals' civil liberties, such as the right to practice one's religion, the elimination of untouchability, and the outlawing of all types of discrimination¹⁸⁶¹. To ensure social fairness, the Directive Principles of State Policy were created¹⁸⁶². The purpose of Article 39(a) is to provide free legal aid to underprivileged groups in society. Article 330, which reserves seats and representation for SC and ST in the Lok Sabha, is one of the other articles aimed at improving the lot of the downtrodden sections. SC and ST seat reservations in the State Legislative Assembly

under Article 332. Reservation of seats in all government bodies under Article 334.

Mahatma Gandhi

Mohandas Karamchand Gandhi's life was filled with experimentation with the truth. After arriving in South Africa and India, he dedicated the majority of his life to pursuing justice. Gandhi adhered to the tenet of "high thinking, simple living." He was confident that everyone's wants could be met, but not greed's. As a result, one should aim to live with the fewest resources possible and set aside material aspirations. He practised what he taught and preached what he did. He always held Truth, Love, and Non-violence in the highest regard, and his concepts of Satyagraha, Sarvodaya, Ahimsa, etc., frequently reflected this. Gandhi considered that the only conduct that was just and did not injure either party to the conflict was that which was contrary to the prevalent idea and literature of the West¹⁸⁶³. His justice was intended for all of humanity, not just for himself, a person, a community, or his fellow citizens. His conception of justice was challenged by the South African apartheid system, the British government's crimes against non-white people, the higher caste Hindus' exploitation and cruel treatment of the so-called untouchables, the gap between Muslims and Hindus, the appalling status of women in all societies, consumerism, and so on. He contends that the entire goal of obtaining justice is lost if even one person's rights are violated. As a result, he supported the idea of "Unto the Last", which states that everyone is content if the weakest person in the line—the one at the end of the line—can be satisfied.

Gandhi always believed that *satyagraha* was the weapon of the powerful, not the weak. He therefore took it very personally when someone referred to his movement as passive resistance. *Agraha* means "continually clinging to it", while *Satya* means truth. Thus, the term "*satyagraha*"

¹⁸⁶⁰ *Contemporary Research on Social Democracy | Request PDF*, https://www.researchgate.net/publication/234838405_Contemporary_Research_on_Social_Democracy (last visited Jul. 18, 2025).

¹⁸⁶¹ [milestone-education-review-year-15-no.-01-02-october2024.pdf](#), *supra* note 12.

¹⁸⁶² *Contemporary Research on Social Democracy | Request PDF*, *supra* note 13.

¹⁸⁶³ *The Collected Works of Mahatma Gandhi - Writings - Archives - GandhiServe*, <https://www.gandhiserve.net/about-mahatma-gandhi/collected-works-of-mahatma-gandhi/> (last visited Jul. 17, 2025).

refers to the unwavering adherence to the truth, which Gandhi exemplified through his actions. In addition, he emphasised the importance of spirit and maintained an unwavering faith in God. He once said, “I can tell you this: I am surer of His existence than of the fact that you and I are sitting in the room,” in the *Harijan* on 14 May 1938¹⁸⁶⁴. I may then affirm that even though I might survive without water and air, I cannot survive without God. Even if you remove my eyes, it will not be enough to kill me. Even if you cut off my nose, it will not kill me. But destroy my faith in God, and I will perish. Gandhi believed that any sort of injustice, including violence, perpetrated on someone by anyone will eventually have an impact on everyone, including the one who committed the injustice. Since all life is one, an individual’s activities have only a surface-level effect on the collective spirit of life. Only when everyone was free to follow their religion, have faith, and worship as they chose, could *swaraj* and justice be achieved. According to him, a perfect state can only be built if everyone knows their roles and fulfils them accordingly. Justice and truth are attained through due process and respect for one’s duty.

Thus, the ideal society for people to live in was the *Sarvodaya* society, a self-regulating social unit that sought to foster social peace among the people. Since God created all people equally, everyone should be treated equally to maintain a just and true society. From his perspective, *ahimsa* was a globally applicable philosophy that everyone, anywhere in the world, could practice, regardless of age or gender. Nothing tangible or outside of oneself is needed to exercise it, other than a sincere goal and pure intention. Since it was a concept that anyone could live by, communities, societies, countries, and all of humanity ought to embrace it. *Ahimsa*’s route was a tightrope walk that required a lot of effort to be fully practised in its true sense. Gandhi stated as follows: “Every

evil thought, undue haste, lying, hatred, and wishing harm to anyone hurt the principle of *Ahimsa*¹⁸⁶⁵”.

Gandhi’s philosophy of *Satya* and *Ahimsa*, which went hand in hand and could not be separated from one another, is closely tied to his conception of social justice. If *ahimsa* is a method, then justice is the accomplishment of truth itself. People would achieve their goals, and they would undoubtedly be just in nature if they used only pure means to achieve them. Gandhi would frequently cite Newman’s words. For me, one step is sufficient, which implies that one should only take one sincere and correct step to reach their objectives. Even while the quick and easy route of evil may seem appealing, the path of love, nonviolence, and truth will always take a person to their true goals of justice in the end. Although Gandhi is no longer with us, his concepts—love, truth, and non-violence—remain timeless and continue to guide humanity. Gandhi’s opinions on social justice, like his views on any other topic, changed over the course of his life because they were grounded in real-world experience rather than in any prevailing conventional theory. Therefore, any attempt to sketch his opinions on the matter will always be incomplete, given his immense knowledge. Nonetheless, Gandhi’s comparison of thieves in *Satyagraha* may help one grasp the essence of his philosophy of social justice¹⁸⁶⁶. Gandhi believed that social justice was an end in and of itself, not something to be used as a means to a goal. An end encompassing equally important methods, *MIME* is grounded in the idea that we should see other creatures as ourselves, albeit in a different shape.

That alone—which benefits neither side in the conflict—makes the conduct justified. As critics have pointed out, Gandhi’s concept of justice may not hold up in formal legal proceedings,

¹⁸⁶⁴ *Harijan*, Volume 06 : *Mahatma Gandhi : Free Download, Borrow, and Streaming : Internet Archive*, <https://archive.org/details/HindSwaraj.Harijan.vol6> (last visited Jul. 17, 2025).

¹⁸⁶⁵ *Navjivan and Young India | Gandhi Autobiography or The Story of My Experiments with Truth*, <https://www.mkgandhi.org/autobio/chap158.php> (last visited Jul. 17, 2025).

¹⁸⁶⁶ *Indian Critiques Of Gandhi [PDF] [12hkgm4vr28o]*, <https://vdoc.pub/documents/indian-critiques-of-gandhi-12hkgm4vr28o> (last visited Jul. 18, 2025).

but one can always be certain that, if his kind of justice is applied, if not triumph, at least healing occurs. Gandhi felt that, very much in the context of Indian (Hindu) thought and culture, the practice of social justice aimed at a utopia—a religious ideal¹⁸⁶⁷. He refers to it as ramarajya, which means “Reign of Rama” or “Kingdom of Rama”, a place where justice will rule as it did under the fabled King Rama. Rama had to go through a great deal to create righteousness, including losing his kingdom, being banished to the forest, and facing many other hardships. Eventually, he triumphed over all demonic forces and established a just government for everyone. (However, a lot of people today disagree with Rama’s interpretation of justice, particularly in regards to how he treats women, his wife in particular.) Gandhi’s advaitic religion sees Rama as the Absolute Truth, expressed in human words, which is the only thing that can be the fullness of justice, not the mythical Rama of Ayodhya. The Christian utopia¹⁸⁶⁸ that Jesus described as the Kingdom of God is similar to this viewpoint. Today, it is known as the reign of God, and according to St. Paul, it is justice, peace, and joy in the Holy Spirit¹⁸⁶⁹. Even while Gandhi did not see social justice as the ultimate goal of justice praxis, he did not deprive us of a secular version of this vision if it is stated more in religious-idealistic terms. He uses Sarvodaya, a rich Indian phrase for the advancement of everyone or, more accurately, the well-being of all. This phrase should not be confused with the idea of the greater common good, which has evolved into a more exploitative one¹⁸⁷⁰, particularly in developing countries like India, where people are routinely forced to leave their homes and are denied access to natural resources that they have traditionally used¹⁸⁷¹. For instance, it is believed that almost 50 million individuals have

been relocated in the name of the country’s greater good without receiving proper compensation or rehabilitation, and the majority of them are already marginalised members of society. Gandhi claimed that the achievement of such a goal was contingent and conditional on accomplishing the preliminary goal of —the advancement of the least, the last, and the lost—because he had observed the fatality lurking in the emergence of nation-states. The much-maligned book *Unto This Last* by John Ruskin¹⁸⁷², which is based on the biblical tale of the eleventh-hour worker receiving an equal wage, served as a model for his social economics. More broadly, this view of social justice calls for the development of the least developed to guarantee the welfare of all. Gandhi tried to put these concepts into practice with his experiments at the Phoenix Settlement. However, in his later endeavours, he went above and beyond this aim to ensure that everyone who was oppressed or subjugated¹⁸⁷³—especially marginalised populations and women—were elevated¹⁸⁷⁴.

Ethical Theories and Philosophical Perspectives

John Stuart Mill:

According to J. S. Mill in chapter V of his seminal work on utilitarianism, justice is the term for a set of moral obligations that, when taken as a whole, rank higher on the social utility scale than any other. According to Mill, there are five aspects of justice as we use the term:

1. “It is deemed just to respect the ‘legal rights’ of others; it is deemed unjust to violate them.”
2. It is just to respect someone’s “moral right” to do something, and it is unjust to violate that right.

¹⁸⁶⁷ Milestone Education Review, Year 14, No 01 & 02 October 2023 | PDF, *supra* note 4.

¹⁸⁶⁸ milestone-education-review-year-15-no.-01-02-october2024.pdf, *supra* note 12.

¹⁸⁶⁹ *Greatercommongood.Pdf*, <https://web.cecs.pdx.edu/~sheard/course/Design&Society/Readings/Narmada/greatercommongood.pdf> (last visited Jul. 17, 2025).

¹⁸⁷⁰ *Id.*

¹⁸⁷¹ ARUNDHATI ROY, *THE COST OF LIVING* (1999).

¹⁸⁷² “*Unto This Last*”: *Four Essays on the First Principles of Political Economy* - John Ruskin - Google Books, https://books.google.co.in/books/about/Unto_this_Last.html?id=p1U6AQAAAJ&redir_esc=y (last visited Jul. 17, 2025).

¹⁸⁷³ milestone-education-review-year-15-no.-01-02-october2024.pdf, *supra* note 12.

¹⁸⁷⁴ Shalu Chib & Palvi Thakur, *GANDHI’S IDEA OF SOCIAL JUSTICE*, 9 INT. J. RES. 223 (2022), <https://ijrjournal.com/index.php/ijr/article/view/495>.

3. Giving someone what “he deserves” is seen as right; refusing to give it to them is seen as unfair. It is considered unfair to “break faith” with someone, but it is just to maintain faith with others.
4. In certain situations, it is considered unjust “to be partial” in one’s judgments and just to be impartial¹⁸⁷⁵.
5. All of these are frequently associated with justice and appear to reflect valid facets of justice. J. S. Mill notes that justice always extends beyond general right and wrong to encompass what each person might assert as his or her moral right from us as he or she searches for his or her common denominator for these diverse aspects of justice. Therefore, our sense of justice supports the common good in society.

Kantian Ethics:

Compared to Hume, Kant gives the “is-ought” problem more weight. The topic of how these obligations come about is important because fairness is a moral and political virtue that aids in establishing both a decent character and proper action. According to Kant, the justification for doing what is morally correct has nothing to do with the favourable outcomes. It is simply the morally correct thing to do. Given that there is no way to logically infer prescriptive “ought” claims from a set of factually descriptive “is” claims, Kant would reject the empirical approach to justice (as taken by Hobbes and Hume) and adopt a rationalistic perspective that views justice as an absolute value that should never be compromised, regardless of the situation or likely outcomes. Kant develops his theory of justice in the *Metaphysical Elements of Justice*, which is the first section of the *Metaphysics of Morals*. According to Kant, justice is inherently linked to the duties we may legitimately be obliged to perform. Saying that we owe others

justice implies that they have rights against us and that we should uphold those rights for our duties to be related to those rights.

Marxism

The idea of social justice was also discussed by socialist intellectuals. Karl Marx, the pioneering scientific socialist, believed that social justice could only exist in a world devoid of states and classes. The emancipation kingdom would have to be founded on the tenet that “from each according to his ability, to each according to his need.” Marx stated that “the free development of each is the precondition of the free development of all,” to put it another way¹⁸⁷⁶. Only the productive-orientation theory of justice makes this feasible. Engels stated that “one science alone, the science of political economy, which deals with the material facts of production and exchange, decides social justice or injustice¹⁸⁷⁷.” The norm of what is just and morally correct is ingrained in the current economic structure. Subsequently, PostMarxian scholars (Theodor Adorno, Max Horkheimer, Herbert Marcuse, George Lukas, and Gramsci) provided the revisionist version of this society by humanising capitalism to guarantee justice for all. Marcuse’s theory of “Possessive Individualism” led him to criticise market-based civilisation. In “One-Dimensional Man”, he argued that sophisticated industrial society was authoritarian in nature rather than democratic and tolerant. Marcuse understood liberty as breaking free from the cosy confines of an affluent society—not by retreating into an aesthetic inner world, but rather by rediscovering the true demands and satisfactions of humanity. In an attempt to diminish human personality, he criticises both socialism and wealthy cultures while emphasising the importance of progress, uniqueness and freedom. He proposed his ideas for building an equitable society.

¹⁸⁷⁵ *Mill.Pdf*,
<https://www.sweetstudy.com/sites/default/files/qx/17/03/07/03/mill.pdf>
(last visited Jul. 17, 2025).

¹⁸⁷⁶ PATHS IN UTOPIA (2021), <https://theanarchistlibrary.org/library/martin-buber-paths-in-utopia-en>.

¹⁸⁷⁷ *Socialism: Utopian and Scientific*, in THE TWO NARRATIVES OF POLITICAL ECONOMY 447 (1 ed. 2010), <https://onlinelibrary.wiley.com/doi/10.1002/9781118011690.ch25>.

Although Laski did not explicitly address social justice, his ideology of liberty and equality was predicated on providing equal opportunities for all. The permissible rights of any corporate body cannot be ascertained by means of a proxy. He issues another warning, saying that “man will eventually refuse to suffer in silence if the state continues to be divided into rich and poor.” The revolution surpasses the change in the state’s equilibrium¹⁸⁷⁸.

Rawlsian Justice

John Rawls, one of the greatest political philosophers in America, talks about this ideal. Rawls gained widespread recognition in 1958 after his groundbreaking paper, *Justice as Fairness*,¹⁸⁷⁹ was published. Even though it was not his first work, Rawls’s advocacy of a Kantian interpretation of the social contract theory brought it back to life after Hume’s critique and its denigration by utilitarians and pragmatists. As a result, one of the most significant books on justice, *A Theory of Justice*, was substantially expanded and released in 1971. Rawls’ theory—which he refers to as “Justice as Fairness”—assumes a Kantian understanding of people as “free and equal”, morally independent, and rational agents who are not always egoists. He requests that you see people in what he refers to as the “Original Position” or a hypothetical “Initial Situation”. What Rawls refers to as “the veil of ignorance”, a tool meant to reduce the impact of selfish bias in attempting to establish what would be just, starkly characterises this. According to Rawls, in a “purely hypothetical” scenario like this, we would logically embrace two fundamental justice principles for our community: The following are two guiding principles:

“First: Every individual shall have an equal right to the greatest degree of fundamental liberty that is compatible with the same liberty enjoyed by others¹⁸⁷⁹.

Second: Social and economic disparities must be set up in a way that makes them (a) logically expected to be advantageous to all parties involved and (b) associated with jobs and positions that are accessible to everyone.”

According to him, the fundamental social virtue of justice is the assumption of equality, even concerning socioeconomic goods, and the requirement of equal basic liberties for all persons. The second principle of justice outlines the “serial or lexical order” in which socioeconomic disparities may be justified. The first principle of justice demands maximum equality of rights and duties for all members of He makes a point of highlighting how these principles forbid the utilitarian defence of some people’s disadvantages due to the higher benefits of others, as doing so would be irrational to someone working in ignorance. According to Rawls, justice is the political or legal equivalent of the ethical idea of fairness. Justice is concerned with the political and authoritative, whereas fairness—the free and consensual process by which agreement on what is considered fair is reached—is the criterion of its ethical foundation. Thus, an establishment is considered just if it passes the impartiality requirement and is duly constituted by authority¹⁸⁸⁰.

Amartya Sen criticised Rawls’ theory of justice for being overly fixated on characterising just institutions. Sen argues that “justice” has more to do with how people conduct their lives than with the institutions that surround them. A better lens for justice is offered by two ideas from early Indian jurisprudence: *niti*, or stringent organisational and behavioural principles of justice, and *nayaya*, or the bigger picture of how such rules affect everyday lives. Fully, just social arrangements need not be identified for a theory of justice to inform the rational selection of institutions, policies, and strategies. The passage “In the little world in which children have their existence, there is nothing so finely perceived and finely felt, as injustice” is used by

¹⁸⁷⁸ Peter Lamb, *Harold Laski’s International Functionalism: A Socialist Challenge to Federalism*, 41 INT. HIST. REV. 581 (2019), <https://doi.org/10.1080/07075332.2018.1425892>.

¹⁸⁷⁹ Fabienne Peter, *Rawlsian Justice*, (2009), <https://philpapers.org/rec/PETRJ>.

¹⁸⁸⁰ D J Bentley, *John Rawls: A Theory of Justice*.

him as an example from Charles Dickens' book "Great Expectations"¹⁸⁸¹.

Key Theorists and Their Impact on Social Justice Theory

John Rawls

In his seminal essay "Equality of What?" In the Tanner Lectures on Human Values in 1979, Amartya Sen criticised Rawlsian ideas and marked the beginning of his critical engagement with Rawls's theory of justice. Sen's work, *The Idea of Justice*, marks a substantial divergence from Rawls's ideas of an ideal just society, even though Sen supported Rawls's theory during the 1980s and the 1990s. Sen feels uneasy with Rawls's methodology because of his dependence on the impartiality device, in addition to his emphasis on building "perfect institutions". Sen contends that Rawls' theory misguides the needs of justice and supports a different strategy that departs significantly from the modern contract tradition that Rawls embodies. Despite this critical posture, it is crucial to remember that Rawls and Sen have significant points of agreement, and Sen's book *The Idea of Justice* is explicitly dedicated to Rawls.

The goal of Rawls' 1971 *A Theory of Justice*, which was revised in 1999, was to develop a theory that "constitutes the most appropriate moral basis for a democratic society and best approximates our considered judgments of justice"¹⁸⁸². By concentrating on the ideal principles of justice, he elevated conventional social contract theory to a higher level of abstraction. The foundation of Rawls's theory is twofold: first, institutions must guarantee "equal basic liberties" to all citizens, with these liberties being compatible with one another; second, socioeconomic inequality can only be tolerated if it helps the "worst-off" members of society, who are defined by their deprivation of wealth and income rather than their happiness, as in

utilitarianism. This idea does not aim to achieve socialist equality by levelling socioeconomic disparity. In addition, Rawls's "opportunity principle" stipulates that all citizens must be able to apply for and be appointed to public offices under reasonable circumstances, guaranteeing equitable opportunities. In Rawls' view, fair equality of opportunity is a prerequisite for the socioeconomic structure that permits inequality. His main goal is to pinpoint the perfect institutions and frameworks that are universally applicable and enable constitutional democracies to uphold justice.

Scholars were divided between lovers and detractors of Rawls's work, which attracted a great deal of critical attention. His most prominent critic, Robert Nozick, is renowned for having said that "political philosophers now must either work within Rawls's theory or explain why not." Following this split, other critical works were published, such as *Anarchy, State, and Utopia* (1974) by Robert Nozick, *Liberalism and the Limits of Justice* (1983) by Michael Sandel, and *Spheres of Justice* (1983) by Michael Walzer. In *Justice, Gender, and the Family* (1989), Susan Moller Okin offered a feminist critique; in *Retrieving Justice and Equality* (2008), G. A. Cohen produced a more comprehensive critique. Sen's *The Idea of Justice*, which draws on Nozick's challenge to "explain why not" Rawls, contributes to this conversation. Sen's interaction with Rawls, which takes up approximately 150 pages of his book, offers a critical evaluation and suggests a substitute for Rawlsian justice. Some of Sen's early criticisms of Rawls can be found in *Collective Choice and Social Welfare* (1970) and "Equality of What?" (1979).

Amartya Sen:

The work, which the author properly refers to as his "most ambitious", must also be understood as the apex of Amartya Sen's decades-long intellectual engagement with the problems of poverty, deprivation, hunger, inequality and exclusive development. Since the Great Bengal Famine (1943), which he was moved to

¹⁸⁸¹ AMARTYA SEN, *THE IDEA OF JUSTICE* (2010), <https://www.penguin.co.uk/books/56627/the-idea-of-justice-by-amartya-sen/9780141037851>.

¹⁸⁸² Leonard Choptiany, *A Critique of John Rawls's Principles of Justice*, 83 *ETHICS* 146 (1973), <https://www.jstor.org/stable/2380099>.

witnessed as a child, Amartya Sen has been deeply involved in issues related to the rightly reasoned diagnosis of injustice. Sen contends that some people perish not because of a lack of food but because they are not legally entitled to the available food. Sen establishes that famines are basically “economic disasters” rather than “shortages” of food. There is a connection between people and food; hence, this is a political rights issue. Famines are mostly caused by serious legal violations that violate people’s right to food security and entitlements, which are suppressed in non-democratic countries. Famines, therefore, do not arise in democratic political regimes that are typified by a free press and discussion-based governance, as governments are obligated to end deprivation through the equitable distribution of available resources¹⁸⁸³. This is amply demonstrated by Sen’s 1943 study of the Bengal famine and by additional case studies of Ethiopia, Bangladesh, and the Sahel in his seminal work *Poverty and Famine: An Essay on Entitlements and Deprivation* (1981). Sen showed that political dispensation is the only thing that can prevent famines, the ubiquity of starvation, and poverty, and that these grave circumstances cannot wait. In times of calamity, a democracy with a free press and a strong civil society may be extremely helpful in ensuring that people’s rights are upheld. As far as democracy grants individuals the ability to request financial incentives, aid, and rehabilitation during natural disasters, it is vital for justice. Compared to other systems, democracies are more receptive to public demand.

Martha Nussbaum

Building on Amartya Sen’s seminal work, Martha Nussbaum developed the capacities approach, which has made a tremendous contribution to social justice theory. By focusing on what humans can truly accomplish and turn out to be, rather than simply how resources are

allotted, this method emphasises the freedoms human beings ought to pursue. Dignified lifestyles call for 10 centre talents, in step with Nussbaum: life, bodily integrity, bodily health, realistic choice, and control over one’s environment. These capacities offer a thorough framework for evaluating social justice, emphasising the importance of creating situations that permit human beings to live lives they feel. In addition, Nussbaum criticises conventional theories of justice for their restrained interest in fabric sources, contending that a correct evaluation of social justice must consider humans’ actual capacity to make use of those resources. Her paintings address national and international inequalities and promote global justice. It has impacted some areas, including public policy, human rights, and development economics. By making use of her all-encompassing and pragmatic technique, Nussbaum offers a sophisticated perspective on what it takes to have an honest and enjoyable life¹⁸⁸⁴.

Discussion on theories of justice (e.g., distributive, procedural, and retributive justice)

Distributive justice

The prevalent hypothetical system for distributive justice is still the value hypothesis. Adams suggested that individuals assess their social associations by contrasting their contributions to yield proportions with those of others¹⁸⁸⁵. Concerning hierarchical settings, the most conceivable and relevant situation is one in which labourers survey the outcomes they obtain because of administrative decisions¹⁸⁸⁶. In various social circumstances, accomplices can evaluate their commitments to the relationship and assume they are getting sufficient benefit from their speculation.

¹⁸⁸⁴ MARTHA C. NUSSBAUM, *CREATING CAPABILITIES: THE HUMAN DEVELOPMENT APPROACH* (2011), <https://www.jstor.org/stable/j.ctt2jbt31>.

¹⁸⁸⁵ J. Stacy Adams, *Inequity In Social Exchange*, 2 267 (Leonard Berkowitz ed., 1965),

<https://www.sciencedirect.com/science/article/pii/S0065260108601082>.

¹⁸⁸⁶ Guillermina Jasso, *On the Justice of Earnings: A New Specification of the Justice Evaluation Function*, 83 AM. J. SOCIOL. 1398 (1978), <https://www.journals.uchicago.edu/doi/10.1086/226706>.

¹⁸⁸³ *Poverty and Famines: An Essay on Entitlement and Deprivation* | Oxford Academic, <https://academic.oup.com/book/32827> (last visited Jul. 17, 2025).

Different standards, such as equity (everybody gets a similar sum, no matter what some other distinctive qualities) and need (designation to the most poor, paying little mind of work execution), were subsequently proposed by Deutsch (1975)¹⁸⁸⁷. Diverse examinations have also inspected different measures, such as ranking (see Fischer, 2008 for a survey)¹⁸⁸⁸. In the wake of dissecting the group of exploration, Leung (1997) presumed that value is preferred in professional workplaces¹⁸⁸⁹. Fischer and Smith's (2003) more careful review and meta-examination of 25 exploratory examinations, nonetheless, cast uncertainty on this past finding¹⁸⁹⁰. The meta-examination showed steady and critical diverse differences in value over equity, estimated as the general appropriations of grades, focuses, or cash in lab settings. The level of disparity in various social orders was deliberately connected to these distinctions. In examples starting from nations with inconsistent dissemination of force and pay, value was used more frequently. Fischer et al. (2007) stretched out this work to associations by estimating perspectives on hierarchical distributions in examples from the US, UK, Germany, Brazil, East and West Germany, and New Zealand by review approaches. They found that the expanded utilisation of value was connected to higher Dominance values (values accentuating accomplishment and showing achievement; Schwartz, 1994) at the public level. These two aspects feature how individuals are separated by their status and capacity. Each of the centres in this rundown has utilised an occasion centre. Fischer and Maplesden (2006) provided an overview of the proportions of distributive justice (frequently conceptualised

as tapping value, with work exertion as a pertinent contribution) among representatives (consequently barring trial studies and student tests) in an alternate meta-examination of review catching a substance perspective. The levels of distributive justice corresponded with the proportions of cooperation and power distance when 30,528 workers from 29 nations were approached to report their degrees of distributive justice. Subsequently, whether attention is focused on events or substance discernments, the discoveries across these assorted examinations are very predictable. In conditions that put areas of strength for an emphasis on ordered progression, controlling others, and having a place with affectionate, moderate gatherings, value turns out to be more normal.

Procedural justice

The possibility of equity in the cycles used to determine clashes and designate assets is referred to as procedural justice. One aspect of procedural justice is discussing legal disputes and the organisation of them. This idea of procedural justice is associated with fair treatment (US), crucial justice (Canada), procedural reasonableness (Australia), and normal justice (other customary regulations). This manuscript contains numerous issues. When a method is utilised to resolve a question or relegate prizes or commitments, the idea of procedural justice can likewise be applied to untouchable circumstances; kindly add to its improvement or address these issues on the Learn More Talk e nations. Humanistic issues, social brain research, and authoritative brain science all touch on the extra aspects of procedural justice¹⁸⁹¹. Practically identical to distributive justice (decency in the designation of freedoms or assets) and retributive justice (reasonableness in the discipline of bad behaviours), procedural justice is concerned with the balance and transparency of the cycles that lead to choices. Hearing all sides

¹⁸⁸⁷ *Equity, Equality, and Need: What Determines Which Value Will Be Used as the Basis of Distributive Justice?* - Deutsch - 1975 - *Journal of Social Issues* - Wiley Online Library, <https://spssi.onlinelibrary.wiley.com/doi/abs/10.1111/j.1540-4560.1975.tb01000.x> (last visited Jul. 17, 2025).

¹⁸⁸⁸ *Reward Allocation and Culture* - Ronald Fischer, Peter B. Smith, 2003, <https://journals.sagepub.com/doi/10.1177/0022022103034003001> (last visited Jul. 17, 2025).

¹⁸⁸⁹ Leung, K., & Stephan, W. G. (2001). *Social Justice from a Cultural Perspective*. In D. Matsumoto (Ed.), *The Handbook of Culture and Psychology* (Pp. 375-410). Oxford University Press. - References - Scientific Research Publishing, <https://www.scirp.org/reference/referencespapers?referenceid=3234663> (last visited Jul. 17, 2025).

¹⁸⁹⁰ *Reward Allocation and Culture* - Ronald Fischer, Peter B. Smith, 2003, *supra* note 41.

¹⁸⁹¹ *Action Science: Argyris, Chris, 1923-: Free Download, Borrow, and Streaming: Internet Archive*, <https://archive.org/details/actionscience00argyrich> (last visited Jul. 17, 2025).

before arriving at a choice is one move that would be viewed as proper for an interaction to be depicted as procedurally fair¹⁸⁹². Numerous hypotheses of procedural justice hold that fair systems lead to impartial results, even in circumstances where the necessities of distributive or helpful justice are not met¹⁸⁹³. This has been hypothesised as the consequence of the better type of relational experiences that are often present in the procedural justice process, which has a more prominent effect on the feeling of decency during the pursuit of struggles.

Procedural justice concerns correspondence and decency as it relates to results. It passes the degree to which singular figures' choices about how to circulate results have been made impartially. Fair practices are utilised to impart the significance of staff members as individuals within the gathering. Breaking down procedural justice involves focusing on the conventional techniques utilised in the creation of choices. Under hierarchical justice, procedural justice assumes a critical role in correspondence and the working environment by providing a fair methodology, giving representatives a voice in navigation, treating them reasonably, and improving their contribution to the examination cycle. In addition, studies led by Tom R. Tyler and partners found that it is sometimes adequate to give displeased individuals a voice, whether or not that voice is instrumental – that is, one that impacts the dynamic interaction – or non-instrumental – that is, one that does not matter to the dynamic cycle^{1894,1895}. The meaning of the relational parts of procedural justice is demonstrated by the connection between the capacity and right to a voice and

the feelings of regard and value¹⁸⁹⁶. Worker fulfilment and regard will increase subsequently, which can support work tasks and relevant execution, making it crucial in the workplace. Workers' fulfilment increases when their points of view are heard, since the methodology places a high emphasis on relational and social connections. Folger and Greenberg have proposed this idea. Another pivotal element that has a major impact on the statement of representative misery is procedural justice. It has a decent connection with the expanded conflict among directors. Working environment decency is expanded when procedural justice is applied to the workplace. "Leventhal's rules" – consistency, bias concealment, accuracy, right capacity, representativeness, and morals – are the six rules that govern procedural justice. With regards to procedural decency in the work environment and in correspondence, guidelines should be applied similarly to all gatherings, be consistent with moral and ethical norms, and apply to all gatherings similarly.

Retributive justice

Retributive justice is the subjectively just punishment of people or organisations that break laws, regulations, or social standards and are therefore thought to have committed an offence, transgression, or wrongdoing (we use these terms interchangeably)¹⁸⁹⁷. Any negative consequence (cost, loss, or suffering, which might be material or symbolic) placed on an offender as a result of their misbehaviour can be broadly interpreted as punishment¹⁸⁹⁸. However, these responses—which would be better referred to as compensatory justice—are not imposed costs or losses that serve to redistribute outcomes, such as requiring a thief

¹⁸⁹² Chris Argyris, *Organizational Learning and Management Information Systems*, 2 ACCOUNT. ORGAN. SOC. 113 (1977), <https://www.sciencedirect.com/science/article/pii/0361368277900289>.

¹⁸⁹³ Tom R. Tyler, Kenneth A. Rasinski & Nancy Spodick, *Influence of Voice on Satisfaction with Leaders: Exploring the Meaning of Process Control*, 48 J. PERS. SOC. PSYCHOL. 72 (1985).

¹⁸⁹⁴ Tom Tyler, Peter Degoey & Heather Smith, *Understanding Why the Justice of Group Procedures Matters: A Test of the Psychological Dynamics of the Group-Value Model*, 70 J. PERS. SOC. PSYCHOL. 913 (1996).

¹⁸⁹⁵ E. Allan Lind & Tom R. Tyler, *Two Models of Procedural Justice*, in THE SOCIAL PSYCHOLOGY OF PROCEDURAL JUSTICE 221 (E. Allan Lind & Tom R. Tyler eds., 1988), https://doi.org/10.1007/978-1-4899-2115-4_10.

¹⁸⁹⁶ Tyler, Tom, and Peter Degoey. "Collective Restraint in Social Dilemmas: Procedural Justice and Social Identification Effects on Support for Authorities." *Journal of Personality and Social Psychology*, vol. 69, no. 3, 1995, pp. 482–497. doi:10.1037/0022-3514.69.3.482

¹⁸⁹⁷ *Vdoc.Pub/Documents/Handbook-of-Social-Justice-Theory-and-Research-3rdnaavie170*, <https://vdoc.pub/documents/handbook-of-social-justice-theory-and-research-3rdnaavie170> (last visited Jul. 18, 2025).

¹⁸⁹⁸ Tom Hawker, *Punishment T. Brooks. Abingdon: Routledge (2012) 282pp. £26.09pb ISBN 978-0-415-43182-8*, 55 HOWARD J. CRIME JUSTICE 365 (2016), https://onlinelibrary.wiley.com/doi/abs/10.1111/hojjo.3_12175.

to restore the stolen goods¹⁸⁹⁹. Retributive justice, on the other hand, requires that the wrongdoing itself be addressed (regardless of the distributive injustice it has generated). The transgression is irreversible and necessitates further response¹⁹⁰⁰. Since psychology deals with subjective experiences, it is important to note that although the distinction between compensatory and retributive justice is theoretically valid, offenders¹⁹⁰¹ may perceive enforced compensation as punitive (also known as “compensatory retaliation”¹⁹⁰². The fact that punishment is meted out to the offender by another party—either the victim in retaliation or a third party with the authority to do so—is another crucial component of our definition of retributive justice (McKee & Feather, 2008; note that we do not discuss the distinction between victim revenge and third-party retribution in the present chapter)¹⁹⁰³. Although self-inflicted punishment may be a means for offenders to seek restitution and restore justice, we do not view it as a form of retributive justice¹⁹⁰⁴. Self-punitiveness, while not always successful, appears to be a (unilateral) step toward consensus-based restorative justice, given its admission of guilt and wrongdoing¹⁹⁰⁵. The penalty must be administered for our conception of retributive justice to be realised. However, not every unfavourable consequence that is placed on an individual or group qualifies as punishment in this sense. Instead, the decision must be made in reaction to an alleged transgression. This indicates that punishment is not used to encourage or condition particular behaviours. Of course, the

lines separating the two conceptions of punishment blur when the behaviour that a conditioner wants to modify is deemed not just undesirable but also immoral. Consequentialism, one of the punishment philosophies we will cover later, seeks to mould behaviour in a manner akin to the conditioning processes in learning paradigms. Most importantly, however, it is a reaction to wrongdoing and may seek to prevent it.

Principles of Social Justice

Equality, equity, and fairness

Although both terms refer to the distribution of social goods and privileges within a community, equity and equality have different connotations in discussions of social justice¹⁹⁰⁶. In this regard, equality means giving everybody equal access to opportunities without regard to past or present injustices that may have put someone in a position where they cannot take advantage of those possibilities. On the other hand, equity aims to compensate for the imbalance existing in a social structure by providing the means to bring about equal results¹⁹⁰⁷.

Most critics of social justice argue that the concept tolerates equality, but its proponents argue that the issue of equality is necessary for the assurance of a just society. According to Paula Braveman, a University of California researcher at San Francisco, in matters concerning medicine, social justice is equated to “health equity”. She goes on to suggest that “[no one is denied the possibility to be healthy] because they belong to a group that has historically been economically/socially disadvantaged” is the aim of social justice in healthcare¹⁹⁰⁸.

¹⁸⁹⁹ John M. Darley & Thane S. Pittman, *The Psychology of Compensatory and Retributive Justice*, 7 PERSONAL. SOC. PSYCHOL. REV. 324 (2003).

¹⁹⁰⁰ *Peace Movements Worldwide [3 Volumes]* 9780313364792, 9780313364785 - DOKUMEN.PUB, <https://dokumen.pub/peace-movements-worldwide-3-volumes-9780313364792-9780313364785.html> (last visited Jul. 18, 2025).

¹⁹⁰¹ vdoc.pub/documents/handbook-of-social-justice-theory-and-research-3rdnvanvie170, *supra* note 50.

¹⁹⁰² RUSSELL CROPANZANO & MAUREEN L. AMBROSE, *THE OXFORD HANDBOOK OF JUSTICE IN THE WORKPLACE* (2015).

¹⁹⁰³ vdoc.pub/documents/handbook-of-social-justice-theory-and-research-3rdnvanvie170, *supra* note 50.

¹⁹⁰⁴ Rob M. A. Nelissen & Marcel Zeelenberg, *When Guilt Evokes Self-Punishment: Evidence for the Existence of a Dobby Effect*, 9 EMOTION 118 (2009).

¹⁹⁰⁵ (PDF) *The Psychological Immune Response in the Face of Transgressions: Pseudo Self-Forgiveness and Threat to Belonging*, https://www.researchgate.net/publication/256752603_The_psychological_immune_response_in_the_face_of_transgressions_Pseudo_self-forgiveness_and_threat_to_belonging (last visited Jul. 17, 2025).

¹⁹⁰⁶ D.T. Mollenkamp, *Social Justice Meaning and Main Principles Explained*, Investopedia (Apr. 22, 2024), <https://www.investopedia.com/terms/s/social-justice.asp> (last visited June. 15, 2025).

¹⁹⁰⁷ Milken Inst. Sch. of Pub. Health, George Washington Univ., *Equity vs. Equality: What's the Difference?*, <https://www.publichealth.gwu.edu/what-equity-vs-equality> (last visited June. 15, 2025).

¹⁹⁰⁸ Paula Braveman, *What Are Health Disparities and Health Equity? We Need To Be Clear*, 129 Pub. Health Rep. 5, 5–8 (Jan.–Feb. 2014).

The role of individual rights versus the collective good.

A core conflict in social justice theories is the relative importance of individual rights versus common rights. Individual rights are strongly based on maintaining one's independence and self-determination and ensuring that no one is obstructed from pursuing their individual goals. It is rooted in liberal democratic values that attach a high cost to individual liberties, private property, and autonomy. On the other hand, the common good favours the hobbies and welfare of the community as a whole and always appeals to humans to sacrifice for the betterment of society. It can be discovered that this approach manifests itself in the ideology of communitarianism and utilitarianism, arguing that the objective of any policy must be to increase the social cohesiveness or common happiness. Balancing these factors calls for tough decisions on both ethical and policy fronts. Public health endeavours, such as vaccination requirements, provide an example of such a balancing act by restricting personal liberties to protect public health. Similarly, revolutionary taxation and welfare projects are also aimed at improving social justice with the help of the redistribution of resources in such a way as to strike a balance between personal asset rights on the one hand and the common good on the other. Ultimately, achieving a proper balance between these two contradictory demands of building a society that safeguards individual liberty while promoting the welfare of all its members is essential to achieve social justice.

2. HISTORICAL EVOLUTION OF RESERVATION POLICIES

"A nation, institution, caste, creed, class, or any other combination that restricts a person's ability to think and act freely, even if that freedom does not harm others, is wicked and has to be abolished".

Swami Vivekanand

Reservation is a tactic used to rectify historical prejudice against smaller and weaker groups through improvements in funding and education. Reservation is defined as "An effort to advance equal opportunities in government and educational institutions" and is frequently implemented to guarantee that underrepresented groups participate in all community programs. To remedy the current injustice, reservations are justified by compensating the ruling class of a culture for past exploitation, oppression, or discrimination. "Affirmative action" refers to the practice of treating socially disadvantaged people better to promote social fairness. The main objective of reservations is to promote social equality. Social situations in which everyone in a firm or isolated group has the same status and there is a certain amount of respect are referred to as social equality. Equal rights under the law, including those related to safety, voting, assembly, expression, and property rights, are referred to as social equality. However, access to social security, healthcare, and education is also included. Equal opportunities and duties are also covered, which have an impact on society at large. Social equality denotes the social aspect of equality rather than monetary or economic equality. In India, reservations refer to procedures whereby members of the Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backwards Castes (OBCs) hold a specific percentage of positions (vacancies) in public institutions. A reservation is a type of quota-based affirmative action in which a certain percentage of positions are set aside for socially and academically disadvantaged groups.

Experts have presented various perspectives on this issue. The Encyclopaedia Americana defines a reserve as "A supply for future use or something separated for a specific purpose"¹⁹⁰⁹

The accounting definition of a reserve is "indicating an asset deduction (a contra asset account), an assigned portion of retained

¹⁹⁰⁹ The Encyclopaedia Americana (Int'l ed., Grolier Inc. 1995).

profits, and a responsibility whose precise sum is unspecified.”

According to India’s public administrative lexicon, a reservation policy is determined by the preferences of the country’s “backward” citizens. It is meant to be a purposefully designed social engineering tool that can be predicated on accretive criteria such as gender, race, or even location¹⁹¹⁰. Some developed and developing nations have implemented such preferred tactics. In the US, it’s known as “beneficial or affirmative action.” This is referred to as “Bhumiputra preferences” in Malaysia. India’s reservation policy is based on caste. Scheduled Castes, which include *Dalits* and *Harijans*, are regarded as the lowest of the four *varnas* in the hierarchical caste structure.

Reserving space for “marginalised groups” is simply one important way to advance equality. Understanding the true meaning of equality is essential. The Indian government must guarantee that marginalised groups receive equitable treatment in this regard. Nonetheless, conservative thought patterns restrict how these regulations are put into practice in the community.

Early Beginnings

Hindu society is divided into four *varnas*. The Brahmins, or priests, are at the top of the leadership hierarchy, followed by the Kshatriyas, or warriors. The *Vaisyas* belong to the lower class and are farmers. At the bottom is the class known as *Shudras*, who are responsible for assisting with other important social events. Finally, this system does not consider the untouchables. Consequently, the untouchables have been referred to as *varna* (no class). One of the next characteristics indicating a place in the Hindu social hierarchy is *jati* or standing. *Jatis* are typically characterised by their professions. They are more distinct and frequently region-unambiguous than the vast *varna* structure that runs the length of India and is further divided into subcastes and

substandings. Similar circumstances exist among the untouchables. According to Andre Beteille, position is a loosely defined grouping of people characterised by endogamy, acquired support, and a unique way of living that largely combines the enthusiasm of a particular occupation with the commonality of an essentially unquestionable custom status within a different-levelled framework¹⁹¹¹. *Jatis* are mostly found in three *varnas*: *Vaisya*, *Kshatriya*, and *Brahmin*. These *varnas* are always capable of being Hindus, unlike the *sudra*, who were viewed as generally untouchable by the others. These *varnas* are also permitted to participate in Hindu religious activities. Despite well-defined boundaries, legal protections, and the 1989 SC and ST Act, the extent and stigma associated with untouchables persist today, particularly in the Indian Republic. The seemingly limitless records of graded misuse in Western media likely contribute to this perception. Thomas Sowell, a 1978 recipient, was a US business analyst. In one of her plays, she had an inaccessible adult woman’s eyes that made it difficult to distinguish the water from the upper-level well¹⁹¹². Later models combine Punjabi and Dalit students from a school in Rajasthan, who were physically assaulted for stealing water from a pitcher used by a student from a higher caste. After visiting a Hindu sanctuary, Dalits were killed by wealthy Hindu Rajput youths¹⁹¹³. According to the newest circulated reports, the “National Commission for Scheduled Castes and Scheduled Tribes” of the Government of India communicates that, even after 50 Years of Independence, untouchability was not abolished as given in Article 17 of the Constitution, and events are continually being accounted for¹⁹¹⁴. In 1997, there were 157 instances of tribes being enlisted and one case of untouchables being enlisted. The “Scheduled Castes and Scheduled Tribes (Prevention of

¹⁹¹⁰ Shriram Maheshwari, A Dictionary of Public Administration (Orient Longman Pvt. Ltd. 1971).

¹⁹¹¹ André Beteille, Caste, Class and Power: Changing Patterns of Stratification in a Tanjore Village 46 (Oxford Univ. Press 1996).

¹⁹¹² Thomas Sowell, Preferential Policies: An International Perspective 92 (William Morrow & Co. Inc. 1990).

¹⁹¹³ Manpreet Singh, Justice Delayed for Dalits, 44 Christianity Today 34 (Nov. 13, 2000).

¹⁹¹⁴ Nat’l Comm’n for Scheduled Castes & Scheduled Tribes, Fourth Report: 1996–97 and 1997–98 232 (New Delhi 1998).

Atrocities) Act, 1989” tracks transgressions against mentally ill individuals and imposes strict rules for accountable assemblies. In any case, this performance has had a subtle effect on curbing abuse. A comparable Act from 2000 resulted in the reporting of 996 state cases and 254 Mysore cases. Human rights non-governmental organisations have confirmed that savagery is increasing. A few lives are claimed by ruthless standing ruthlessness each year; this was most strikingly expressed in the states of Bihar, Rajasthan, Madhya Pradesh, Tamil Nadu, and Telangana¹⁹¹⁵.

In addition to determining financial and social employment, certain widely held beliefs are also a part of the station. For example, Brahmins are commonly acknowledged to possess keen noses, sensitive cleanliness, dynamically sophisticated features, and strong Aryan heritage. A few untouchables and *Sudras* have attempted to advance in the leadership hierarchy by adopting the “*sanskritization*” tactic, which involves adhering to the customs of those in higher positions. Some attempt to distance themselves from the system by converting to Buddhism or Christianity. The apparent Dalit lawgiver as well as genuine teacher, Bhimrao Ramji Ambedkar (1891-1956), World Health Organisation, recognised the standing structure demolition as vital for Indian *Dalits*’ independence, and converted to Buddhism close to an astonishing finish. When your time, key numbers, though just a touch smidgen of Indian *Dalits*, have sought after his point of view; in November 2001, an outsized scope of untouchables looked into an extremely widespread change to Buddhism in the city¹⁹¹⁶. Initiatives that existed pre-Independence dispense with Untouchability, Christian evangelists’ diode pack in accepting explanation for the Scheduled classifications seeking to transmit welfare to them. Continuously, either charged or defamed

insightfully by the priests’ example, Hindu reformers rose to the occasion. One of these dissidents was Jyotiba Phule, who saw the damage resulting from Maharashtra’s isolation in 1860¹⁹¹⁷. Several strategies have been proposed to resolve India’s untouchability and caste system. It shows how some Dalits and people from lower castes sought advancement through Sanskritization, while others—including well-known people like Bhimrao Ramji Ambedkar—turned to Buddhism as a way out, resulting in notable conversions in 2001. Before independence, princely governments in Britain and India, together with reformers like Jyotiba Phule, worked to improve the lives of Scheduled Castes by implementing social and educational initiatives. Encouraged by these developments, Ambedkar went overseas to further his studies. Acts such as the 1936 Sanctuary Entry Proclamation and the 1943 Bombay Harizan Temple Entry Act, which advanced the elimination of social disabilities and encouraged greater social integration, also played a significant role in politics¹⁹¹⁸. The Government of India Act of 1919 was established by Britain during World War I, when it was preoccupied with Europe. The legislation was drafted by Montagu and Lord Chelmsford. Despite some compromises, this act ensured the continuation of British rule while attempting to increase Indian participation in the administration. The Act dismissed requests for special representation made by non-Brahmins, Indian Christians, Europeans, Anglo-Indians, and Sikhs, although it did introduce provisions such as the partial representation of Sikhs. Concerns over Brahmin supremacy, which were stoked by Indian and British opponents who saw Brahmins as a danger to British reforms and the advancement of lower castes, impacted the Act’s provisions. The Act also required the creation of a statutory commission within ten years to examine the government’s

¹⁹¹⁵U.S. Dep’t of State, Country Reports on Human Rights Practices (Gov’t Printing Off. 2002), <https://www.state.gov/reports/2002-country-reports-on-human-rights-practices/> (last visited June 8, 2025).

¹⁹¹⁶ Churches Back Buddhist Conversion of Dalits, *Christian Century*, Dec. 5, 2001, at 13.

¹⁹¹⁷ V.A. Pai Panandiker ed., *The Politics of Backwardness: Reservation Policy in India 94* (Konark Publishers Pvt. Ltd. 1997).

¹⁹¹⁸ C.K. Dharmaraj, *Bhimrao Ramji Ambedkar: A Study in Social Change* (Academic Press 2000)

operations¹⁹¹⁹. The Simon Commission, which included Clement Attlee and was chaired by John Simon, was established by the British government in 1927 to examine the amendments made to the 1919 Government of India Act. Indian leaders, such as Gandhi and the Congress Party, fiercely opposed the all-white panel and denied its validity. The Commission visited India and relied on comments from several Indian government agencies and other sources for its conclusions. It condemned the lack of progress in cultivating tolerance but acknowledged the need to safeguard minorities and address the concerns of Scheduled Classes. The Simon Commission opposed separate electorates, claiming that they would further divide, but supported greater political representation for the Scheduled Classes. Rather than fostering more societal divisions, it suggested setting aside seats in legislative councils for Scheduled Classes to increase their political clout. To gradually incorporate Scheduled Classes into the larger political structure, these actions were meant to be temporary measures. To consider and incorporate the Simon Commission's proposals into a new Indian constitution, a Round Table Conference was held in London in 1931. Gandhi and Ambedkar were among the important Indian delegates; however, the Indian National Congress, which purported to speak for the Indian people, was not there. A subcommittee chaired by Prime Minister Ramsay MacDonald addressed minority treatment throughout the summit. While Gandhi opposed separate electorates, particularly for the Scheduled Classes, and argued in favour of a cohesive strategy for minority representation, Ambedkar and Srinivasan supported separate electorates and adult suffrage. Gandhi's position on distinct electorates influenced the result of this argument, which ultimately resulted in an impasse. Even after Ambedkar and Gandhi continued to try to negotiate, the impasse lingered at the next Round Table Conference,

which was held eight months later. The conversations were made more difficult by Gandhi's adamant rejection of separate electorates for the Scheduled Classes and his political scheming to win over Muslims¹⁹²⁰. Ultimately, the inability to find a solution for minority representation prompted Ramsay MacDonald to issue the Communal Award in 1932, an attempt at a compromise that addressed some of these issues¹⁹²¹.

Prime Minister Ramsay MacDonald announced the Communal Award on 16 August 1932, establishing distinct electorates and allocating seats for minorities, including 78 seats set aside for Scheduled Classes. By enabling Scheduled Classes to cast ballots in both general and separate electorates, this award essentially gave them two votes. After being jailed in Yeravada for his resistance work, Gandhi fiercely opposed the award, accusing it of weakening Hinduism and jeopardising the cohesion of Hindu society. The small number of seats set aside for Scheduled Classes was also challenged by Ambedkar and other prominent figures. The Poona Pact, which was signed on 24 September 1932 in response to Gandhi's hunger strike and general dissatisfaction, revised the Award by creating a single general electorate for most areas and giving Scheduled Classes 148 seats in the Central Legislature to ensure their fair representation and involvement in public affairs. Ambedkar is credited with winning a major battle against Gandhi and the Congress with the Poona Pact of 1932, which resulted in the Scheduled Classes having more representation in Indian legislatures. Ambedkar obtained more reserved seats for the Scheduled Classes than the previous Communal Award, notwithstanding his initial compromise on separate electorates. Gandhi, who was incarcerated at the time, contended that independent electorates would be detrimental

¹⁹¹⁹M.N. Patel, *Legislative Reforms for Social Justice in India* (Sage Publ'ns 2005)

¹⁹²⁰ Ronald Fischer & Peter B. Smith, *Reward Allocation and Culture: A Meta-Analysis*, 34 *J. Cross-Cultural Psychol.* 251 (2003).

¹⁹²¹ *Republic of Caste: Thinking Equality in the Time of Neoliberal Hindutva* 8189059866, 9788189059866 - EBIN.PUB, <https://ebin.pub/republic-of-caste-thinking-equality-in-the-time-of-neoliberal-hindutva-8189059866-9788189059866.html> (last visited Jul. 18, 2025).

to Hindu unity. To ensure fairer representation, the Poona Pact created a single general electorate with seats set aside for the SCs. The political battle between Hindu castes and the Scheduled Classes grew more intense as a result of this accord. With the backing of industrialists, Gandhi founded the Harijan Sevak Sangh in an attempt to battle untouchability; however, his strategy was more concerned with eliminating untouchability within the Hindu framework than with overthrowing the caste system itself. In contrast, Ambedkar favoured more drastic adjustments and legislative measures to deal with caste prejudice and untouchability.

To give princely states more autonomy and incorporate them into the national framework, the Government of India Act of 1935¹⁹²², which was passed into law in 1937, contained provisions for reserving seats for Scheduled Classes. The Scheduled Classes were acknowledged and made official by this Act, which also listed them on a schedule for official purposes. Ambedkar was a major force behind the All-India Scheduled Castes Conference in Nagpur in 1942, when he promoted administrative reservations, constitutional changes, and funding for education. As a member of the Viceroy's Council and a supporter of the war effort, Ambedkar successfully pushed for considerable gains in reservations for Scheduled Castes despite the Congress Party's focus during the war on the Quit India movement. By 1943, the adoption of service reservations and educational support was a result of his efforts. The reasons for these pre-independence changes have been discussed; some contend that British and Indian officials were motivated by political and strategic concerns, while others think that sincere compassion was a factor. Political analysts such as Suma Chitnis argue that the Congress Party's concern for the Scheduled Castes was not entirely selfless but rather a

result of political considerations to keep the party united and oppose the Muslim League.

Lord Louis Mountbatten, the final Viceroy to supervise the handover of power to a free Indian government, arrived in India in March 1947. The Constituent Assembly, which initially had 389 members, was eventually reduced to 324 members, representing different areas and princely republics. Minorities and Scheduled Castes (SCs) have little power in the Assembly, although important individuals like Dr. B.R. Ambedkar had a significant impact on Indian society. Ambedkar led the committee that drafted the new Constitution, championing the rights of the Scheduled Castes after being appointed by Prime Minister Jawaharlal Nehru. An Advisory Committee was formed by the Assembly to promote shared electorates and set aside seats for minorities, based on population. When India became a republic on 26 January 1950, its Constitution forbade caste-based discrimination and gave Scheduled Tribes (STs) and SCs preference in the workforce and educational institutions. Reservations were initially temporary but were extended through revisions, and mechanisms were provided for their review, even in the face of political support. The goal of the Constitution was to correct historical wrongs while giving states latitude in how they implemented their reservation laws.

Legislative and Policy Developments

The ideal of social justice is relevant within the contemporary framework of law and policy: it deals with the honest and just distribution of resources, opportunities, and privileges in society. Social justice aims to rectify structural and historical injustices that have disadvantaged some groups. This principle underlines several legislative and regulatory efforts aimed at promoting equality and ensuring adequate opportunities for disadvantaged persons to benefit from opportunities that might otherwise remain elusive. Reservation policies form a very important part of achieving such goals, which

¹⁹²² milestone-education-review-year-15-no.-01-02-october2024.pdf, *supra* note 12.

involve giving a certain quota or other preferential treatment to underrepresented or historically impoverished enterprises. These reservations aim to promote their involvement and representation in areas such as education, employment, and political institutions. Reservations are implemented through legislative measures and coverage improvements to alleviate socioeconomic imbalances and promote inclusion.

In the educational sector, for example, many countries have implemented quotas for underrepresented groups in public academic institutions to ensure access to quality education. The reserve system is again applied in the job sector to increase the representation of disadvantaged groups in government jobs and public sector enterprises. It eliminates the barriers that have traditionally prevented these organisations from benefiting from professional and financial opportunities. Adopted alongside political reservations, those specifically for women or minority groups in their legislative bodies are included to ensure adequate representation and influence in governance.

One notable example of such regulations in India is the reservation system. According to the Indian Constitution, there are reservations for Scheduled Castes, Scheduled Tribes, and Other Backwards Classes in educational institutions, government positions, and legislative bodies¹⁹²³. These policies aim to counter historical injustices and support the socioeconomic development of these enterprises. Reservations at better schooling facilities, such as universities, are intended to increase college student enrolment from certain communities and provide them with opportunities to access higher education and improve their socioeconomic status. Reservations in legislative bodies are intended to ensure that the voices of these populations are represented during decision-making procedures.

The adoption of reservation rules is usually accompanied by arguments and stressful conditions. Critics believe that such regulations can prolong divisions within society, generate a sense of reverse discrimination, and undermine meritocracy. They argue that reservations can end up placing excess emphasis on quotas in lieu of addressing the real reasons for inequality relating to socioeconomic gaps or insufficient obtainment of the right of entry to outstanding education. However, proponents argue that reservations are an important measure for rectifying age-old societal imbalances and creating a level playing field. They say that if such measures had not been taken, the benefits accruing from development and progress would generally be confined to some rich companies, thereby perpetuating structural inequality.

Key milestones and changes in reservation policies over time

These reservation laws underwent sea changes over time and continued to change according to shifting social needs and ideas of equity and fairness. The milestones that occur in this policy development process are important in shedding light on how these policies work for justice and the repair of historical wrongs, alongside their adjustment in new, challenging circumstances.

Early Foundations and Constitutional Provisions

The cornerstone of reservation rules in India changed with the implementation of the Government of India Act, 1935, which offered reserved seats for particular groups in legislative bodies¹⁹²⁴. However, the most significant milestone occurred with the adoption of the Indian Constitution on 26 January 1950.

¹⁹²³ Dr Manoj Kumar Haldar, *Rethinking Marginalized Women's Rights in Post-Independent India: Studies in Law, Society and Policy*, 10 (2024).

¹⁹²⁴ Government of India, Government of India Act, 1935, <https://www.indiacode.nic.in/handle/123456789/2037> (last visited June 15, 2025).

Key constitutional clauses linked to reservations include:

Article 15:

Prohibits discrimination based on religion, race, caste, sex, or location of origin. It permits the country to make specific arrangements for SCs and STs in education.

Article 16:

Provides for equality of opportunity in public employment and permits the nation to make particular arrangements for SCs, STs, and OBCs in appointments to public offices. Expansion of Reservation Policies

Reservation for Other Backward Classes was a real big-ticket expansion of reservation regimes in the 1980s. This growth was largely due to the Mandal Commission Report, set up in 1979, which identified socially and educationally backward groups and suggested ways for their advancement¹⁹²⁵. The recommendations of this document were implemented in 1990, primarily to:

- Reservation for OBCs:
- Similar to the existing reservations for SCs and STs, the implementation provided OBCs with a 27% reservation in government positions and educational institutions. This pass was entirely based on the ideas outlined in Articles 15 and 16 of the Constitution.

Judicial Interventions and Amendments

The Indian Supreme Court has significantly influenced the reservation laws by issuing several important rulings. Important examples include

- Union of India v. Indira Sawhney (1992):
- Although the Mandal Commission's recommendations for OBC reservations were upheld by the Supreme Court, a 50% cap was placed on the total number

of reservations to prevent quotas from completely overshadowing benefit-based norms. This case is crucial for understanding how merit and affirmative action are balanced¹⁹²⁶.

Additional Court Cases:

Several rulings have applied reservation requirements in a sophisticated manner, including the number of reservations and the standards for backwardness.

Reservations for Economically Weaker Sections (EWS)

The introduction of reservations for the General class's Economically Weaker Sections (EWS) is a notable recent enhancement in the reservation system. The 103rd Amendment to the Constitution Act of 2019 was introduced¹⁹²⁷:

Article 15(6):

Provides EWS individuals who do not fall under the SC, ST, or OBC categories with a 10% reservation in academic establishments.

Article 16(6):

This provision addresses financial inequity and promotes inclusion for those facing socio-financial issues by allocating 10% of authority posts to those who meet the EWS. Changes in Reservation Policies in Other Sectors

Reservation laws have also been enacted in a number of other areas, such as private sector employment and political representation.

Political Reservations:

To guarantee their representation in legislative strategies, Articles 330 and 332 allocate reserved seats for SCs and STs in the Lok Sabha and State Legislative Assemblies, respectively.

¹⁹²⁵Government of India, Mandal Commission Report (1980), https://www.india.gov.in/sites/default/files/Mandal_Commission_Report.pdf (last visited June 15, 2025)

¹⁹²⁶ Union of India v. Indira Sawhney, AIR 1993 SC 477, <https://indiankanoon.org/doc/799124/> (last visited June 15, 2025)

¹⁹²⁷ Government of India, Government of India Act, 1935, <https://www.indiacode.nic.in/handle/123456789/2037> (last visited June 15, 2025).

Private Sector Reservations:

There have been discussions about expanding reservations to include employment and education in private zones, but this remains a sensitive issue with varying implementation among states.

Analysis of major legal and political decisions influencing these policies:

Leading prison and political decisions have significantly aided the development and application of reservation policies. These choices highlight the ongoing struggle for stability in social justice and equality, focusing on benefit-based standards and wider sociopolitical issues.

A. Legal Decisions

1. Vineet Narain v. Union of India (1997):

Although unrelated to reservation laws, this case significantly impacted promoting accountability and openness in government, which, in turn, impacted how reservations are managed. The Supreme Court's ruling in this case emphasised the need for strong systems to prevent corruption and guarantee the truthful application of laws, including reservations. This case demonstrates the significance of administrative accountability in implementing affirmative action policies, ensuring that benefits are distributed to the intended recipients without corruption or abuse¹⁹²⁸.

2. Ashoka Kumar Thakur v. Union of India (2008):

This case, which addressed the legitimacy of the 27% reservation for OBCs in important authorities' institutions and educational institutions, similarly muted the usefulness of reservation law. The Supreme Court maintained the reservations while reiterating the necessity of routinely reviewing and assessing the standards used to determine backwardness. The ruling emphasised that reserves should be applied with careful

consideration of social and financial indicators. It further stated that reservations should not be static but should change as socio-monetary situations change¹⁹²⁹.

3. Jannail Singh v. Lachhmi Narain Gupta (2018):

This case brought up the subject of reservations for SC and ST promotions within the government zone once more. The Supreme Court maintained the state's right to give reservations for promotions, but emphasised that these policies must now be grounded in verifiable facts rather than just antiquated notions of backwardness. This decision ensured that regulations remained strong and applicable by reiterating the requirement for actual data to support the maintenance of reservations in promotions¹⁹³⁰.

B. Political Decisions:

1. Adopting the 1990 Mandal Commission Recommendations:

The political decision in 1990 to implement the Mandal Commission's recommendations for OBC reservations signalled the beginning of widespread expansion of affirmative action laws in India. Prime Minister Vishwanath Pratap Singh's decision to reserve 27% of positions in government and educational institutions for OBCs has emerged as a brilliant political manoeuvre to alleviate socioeconomic inequality. Significant political rivalry and protests arose in response to this decision, indicating enduring conflicts surrounding reservation regulations. The political ramifications of this choice highlight the difficult circumstances surrounding the imposition of social justice policies in a diverse and hierarchical society.

2. Introduction of EWS Reservations in 2019:

A significant change in reservation coverage was brought about by the 103rd Constitutional Amendment Act of 2019, which added a 10% reservation for Economically Weaker Sections

¹⁹²⁸ Vineet Narain v. Union of India, AIR 1998 SC 889, <https://indiankanoon.org/doc/1890140/> (last visited June 15, 2025).

¹⁹²⁹ Ashoka Kumar Thakur v. Union of India, AIR 2008 SC 3121, <https://indiankanoon.org/doc/1194732/> (last visited June 15, 2025)

¹⁹³⁰ Jannail Singh v. Lachhmi Narain Gupta, (2018) 10 SCC 639, <https://indiankanoon.org/doc/183882662/> (last visited June 15, 2025)

(EWS) of the General class. This political decision was made to address financial imbalances that extend beyond the conventional SC, ST, and OBC classifications. The amendment indicates an attempt to broaden the scope of affirmative action and was a response to the growing demand for reservations based entirely on economic factors. However, the implementation of EWS reservations has generated controversy due to disagreements about how it would affect the existing reservation frameworks and how well it would function to alleviate socio-financial disparities.

3. Political reservations for Scheduled Castes (SCs) and Scheduled Tribes (STs)¹⁹³¹:

As required by Articles 330 and 332 of the Indian Constitution, reserving seats for these groups in legislative bodies has been a crucial political decision intended to ensure their representation and involvement in governance. These clauses were regularly examined and amended, mostly in response to changes in sociopolitical conditions and demographic data. Determining the boundaries of constituencies and allocating reserved seats are crucial political decisions that maintain fair representation and consider the changing demographics of various areas¹⁹³².

Case Studies

India

Reservation regulations are a vital component of India's affirmative action system, carefully crafted to mitigate the socio-economic disadvantages that underprivileged people endure. The Indian Constitution of 1950 established a reservation system by requiring affirmative action for Scheduled Castes (SCs) and Scheduled Tribes (STs) under Articles 15 and 16. The first clause aimed to give these historically underprivileged and discriminated-against groups better access to education and

employment opportunities. The Mandal Commission's recommendations from 1990, which recognised the Other Backward Classes (OBCs) as a group in need of special assistance because of their socioeconomic disadvantages, significantly broadened the scope of reservations. To improve OBCs' participation and prospects in the public sectors, the panel advocated a 27% quota for them in central government positions and educational institutions. This policy was implemented. Another significant change occurred in 2019 with the 103rd Constitutional Amendment Act, which added a 10% reservation for Economically Weaker Sections (EWS) of the General category. This amendment expanded the reservation structure beyond the traditional SC, ST, and OBC categories to alleviate economic imbalances across all populations.

United States

Executive Order 12812, issued in 1961, mandated that government contractors use affirmative action to ensure equitable employment opportunities¹⁹³³. This led to the development of affirmative action rules in the United States. This was demonstrated by the Civil Rights Act of 1964, which established a criminal basis for affirmative action and outlawed discrimination in various settings, including employment and public accommodations¹⁹³⁴. These laws have been refined and tested over time by significant Supreme Court rulings.

Regents of the **University of California v. Bakke (1978)** is a case of great merit that maintained the use of race as one factor among many in university admissions but rejected the imposition of rigid, racial quotas¹⁹³⁵. This choice attempted to balance concerns about equity and meritocracy with the necessity of variety.

¹⁹³¹ Sandeep Hegade & Yogini Andalgavkarkulkarni, *The Paradox of Solidarity in Higher Education: Caste, Gender, and the Affirmative Action Conundrum*, 117 INT. J. EDUC. DEV. 103324 (2025), <https://www.sciencedirect.com/science/article/pii/S0738059325001221>.

¹⁹³² D. Bandyopadhyay, *Scheduled Castes and Scheduled Tribes: Their Role in the Indian Political System* (SAGE Publ'ns 2007).

¹⁹³³ *Beyond Racism: Race and Inequality in Brazil, South Africa, and the United States* 9781588261564, DOKUMEN.PUB, <https://dokumen.pub/beyond-racism-race-and-inequality-in-brazil-south-africa-and-the-united-states-9781588261564.html> (last visited Jul. 18, 2025).

¹⁹³⁴ Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241, <https://www.govtrack.us/congress/bills/88/hr/7152/text> (last visited June 15, 2025).

¹⁹³⁵ *Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265 (1978), <https://supreme.justia.com/cases/federal/us/438/265/> (last visited June 15, 2025).

Affirmative motion policies have been subtly addressed in subsequent instances, including **Fisher v. University of Texas (2016)**, highlighting the necessity for these guidelines to be specifically designed and frequently evaluated to ensure their efficacy and constitutionality¹⁹³⁶.

Impact and outcomes in these case studies

India:

Several facets of Indian society have been significantly impacted by the country's reservation policies. Reservations have significantly improved the representation of SCs, STs, and OBCs in higher-education institutions. This has led to an increase in the number of scholars and given many members of historically marginalised groups the chance to further their education and raise their socioeconomic standing¹⁹³⁷. However, whether these rules improve academic performance is debatable. Opponents contend that despite a spike in enrollment, reservations can no longer consistently guarantee the best education or readiness for underprivileged college students. Reservations in the workforce have improved the representation of Other Backwards Classes (OBCs), Scheduled Castes (SCs), and Scheduled Tribes (STs) in government positions, resulting in a more diverse workforce. However, questions remain regarding the impact of reservations on meritocracy and administrative effectiveness. New dynamics have emerged as a result of the Economically Weaker Sections (EWS) reservation, including discussions about how to strike a balance between the financial guidelines and the current affirmative action classifications¹⁹³⁸.

Political reservations for SCs and STs guarantee their representation in legislative bodies, encouraging increased political engagement and community empowerment. Reservations for OBCs and EWS have been controversially

extended, and discussions on how to strike a balance between advantage-based selection and affirmative action continue to influence public opinion.

United States

Affirmative action laws have expanded access to higher education and specialised sectors in the United States. These regulations have improved the representation of women and minorities in higher education and in several professions. For example, since affirmative action was implemented, there has been a phenomenal increase in the proportion of Black and Hispanic students attending better educational institutions compared to White students¹⁹³⁹. Despite these advancements, complaints and criminal demands have been placed on affirmative action in the United States. Opponents contend that these laws may not adequately address the root causes of inequality and may even encourage discrimination against certain groups. Supreme Court rulings have highlighted the need for affirmative action regulations to be carefully crafted and examined to ensure they are effective and comply with the Constitution. The delicate balance between maintaining equity in selection processes and boosting range is replicated in ongoing prison and political disputes¹⁹⁴⁰. In conclusion, affirmative action laws in both India and the United States have advanced inclusion and addressed historical injustices; however, they are still hotly contested and constantly being improved upon, reflecting the dynamic character of social justice and equality.

3. THE IMPACT OF RESERVATION POLICIES ON SOCIAL JUSTICE

Reservation laws, intended to rectify historical injustices and promote social fairness, have significantly improved marginalised communities' access to political representation,

¹⁹³⁶ Fisher v. Univ. of Tex. at Austin, 579 U.S. 365 (2016), <https://supreme.justia.com/cases/federal/us/579/13-765/> (last visited June 15, 2025)

¹⁹³⁷ Hegade and Andalgavkarkulkarni, *supra* note 84.

¹⁹³⁸ V.K. Borooah, A. Dubey & S. Iyer, The Effectiveness of Jobs Reservation: Caste, Religion and Economic Status in India, 38 Dev. & Change 423 (2007), <https://doi.org/10.1111/j.1467-7660.2007.00418.x>.

¹⁹³⁹ N.V. Benokraitis & J.R. Feagin, Affirmative Action: Reverse Discrimination or Equity?, in *Affirmative Action and Equal Opportunity: Action, Inaction, Reaction* 193, 193–218 (2019), <https://doi.org/10.4324/9780429047442-7>.

¹⁹⁴⁰ S.M. Cahn, *The Affirmative Action Debate* (Routledge 2013).

work opportunities, and education. These regulations have advanced the socioeconomic standing of Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs) in foreign places, such as India, making it easier for them to be included in better educational programs and government employment. In a similar vein, affirmative action has expanded more rapidly in US educational institutions and specialised fields. However, there is disagreement over how well these rules achieve social fairness. While reservations have created opportunities, critics contend that they occasionally spark discussions about meritocracy and anti-discrimination issues. The ongoing effort is to stabilise the affirmative action movement with the principles of justice and equality, ensuring that these laws not only provide short-term gains but also long-term social harmony and parity¹⁹⁴¹.

Positive Outcomes

Success stories emerging from reservation policies reflect broad improvements in social justice across a range of domains. Reservation regulations, for instance, have enabled members of underprivileged communities in India to overcome obstacles and rise to prominence in fields that were previously controlled by more privileged organisations. The ascent of professionals and executives from Scheduled Castes (SCs) and Scheduled Tribes (STs) in industries such as engineering, healthcare, and training, where they have significantly impacted their areas, is a prime example. The expanded representation of these people in the public and private spheres has contributed to the promotion of variety and the overcoming of stereotypes. Reserved seats for women and marginalised groups in political arenas have resulted in more inclusive administration, leading to policies and programmes that better address the needs of various communities. Additionally, higher living standards and increased social mobility are the

results of these firms' financial empowerment. These stories of satisfaction show how reservation policies can open doors for marginalised groups to achieve economic and social advancement while promoting social justice and harmony¹⁹⁴². Reservation rules have resulted in a significant increase in the access of historically underrepresented firms to political representation, employment opportunities, and education. Affirmative action has significantly increased the educational and career prospects of underrepresented college students by granting them entrance to esteemed universities. For instance, the implementation of reserved seats for Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs) in Indian universities and colleges¹⁹⁴³ has boosted enrolment rates and academic attainment, fostering a more diverse academic community. Comparable hiring restrictions for public sector positions have increased the proportion of members of these groups working in government and other public sectors, helping to address historical disparities in employment. Politically, reserved rules have increased the representation of marginalised businesses in local governments and legislative bodies. For instance, in India, reserved seats and quotas for Scheduled Castes and Tribes have improved the representation of these groups in the political process, leading to more inclusive policymaking and advocacy for their specific needs. Overall, these measures have increased social fairness by providing formerly underprivileged groups opportunities to advance in the political, economic, and educational arenas¹⁹⁴⁴.

Challenges and Criticisms

Criticisms of reservation policies frequently centre on concerns about maintaining socioeconomic divides, opposing discrimination, and inefficient coverage. Critics contend that instead of promoting a common

¹⁹⁴² Hegade and Andalgavkarkulkarni, *supra* note 84.

¹⁹⁴³ Halder, *supra* note 76.

¹⁹⁴⁴ K. Kalsi, Reservation, Rage and Resentment: In Light of the Politics of De-Reservation, Contemp. Voice of Dalit (preprint 2024), <https://doi.org/10.1177/2455328x241249245>.

¹⁹⁴¹ S. Khan, Reservation Policy: Social Justice (Ph.D. dissertation, Aligarh Muslim Univ. 2000) (on file with Aligarh Muslim Univ.).

approach to equality, these rules can deepen societal divisions by highlighting identity-based differences. Instead of encouraging integration and common goals, this may result in a sense of fragmentation across organisations. Contrary discrimination is another major criticism¹⁹⁴⁵. It occurs when people from more affluent backgrounds feel unfairly excluded from measures intended to support marginalised groups, which inevitably breeds resentment and undermines social solidarity. Concerns also exist regarding policy inefficiencies, such as the potential for reservations to be implemented in the absence of sufficient support networks, which may result in beneficiaries no longer fully utilising the opportunities presented. This inefficiency can also occur in tokenism, in which meeting quotas does not result in real empowerment or better socioeconomic circumstances for women. To address these critiques, a sophisticated approach that strikes a balance between affirmative action and more general initiatives for equitable progress is required. This approach should also ensure that reservation policies are adhered to by promoting meritocracy, integration, and systemic reform¹⁹⁴⁶.

4. CASE STUDIES HIGHLIGHTING ISSUES AND SHORTCOMINGS

Numerous case studies highlight the problems and drawbacks of reservation regulations, exposing several challenging circumstances.

India's Reservations for Education: The impact of reservations in Indian higher-education institutions is one outstanding example. Reservations have made it easier for Scheduled Castes (SCs) and Scheduled Tribes (STs) to obtain resources; however, problems with insufficient infrastructure and support services have made reservations less effective. For example, because of persistent academic discrepancies at advanced levels, students from underprivileged groups often enter those

institutions with lower preparation levels. They thus deal with extremely challenging academic environments, which raises dropout rates and degrades the effectiveness of instruction. This demonstrates a gap between the rationale behind the policy and practical results, whereby reservations have benefits that cannot be fully achieved without additional support measures¹⁹⁴⁷.

Reservations for Employment in Public Sector Jobs: In the Indian public sector, reservations have sparked discussions about the quality of appointments. For instance, there have been instances where hiring reserved class members solely based on quotas rather than merit has resulted in problems with reduced activity, overall performance¹⁹⁴⁸. Those from non-reserved classes have occasionally felt disadvantaged regardless of their qualifications, leading them to believe in reverse discrimination. A few reserved class candidates who land steady jobs may also be undereducated and have insufficient support, which can affect the efficiency of routine tasks and the overall performance of the company.

Economic Disparities within Reserved Categories: The most economically disadvantaged members of SCs, STs, and Other Backward Classes (OBCs) are supposed to benefit from reservations. However, advantages have occasionally gone disproportionately to members of these groups' better-off portions. For instance, in many states, wealthier households belonging to protected categories were able to take advantage of work and education reservations, displacing those who were more in need of them. This has prompted calls for more focused policies that address financial inequities within groups and ensure that the most marginalised people receive the benefits intended for them.

¹⁹⁴⁵ Kristen A. Carpenter & Angela R. Riley, *Privatizing the Reservation?*, 71 *Stan. L. Rev.* 791 (2019).

¹⁹⁴⁶ David Mosse, *Caste and Development: Contemporary Perspectives on a Structure of Discrimination and Advantage*, 110 *World Dev.* 422 (2018).

¹⁹⁴⁷ G. Yoganandham, M.A.A. Kareem, M.E.M.I. Khan & M.G. Elanchezian, *An Evaluation of the Reservation System in India*, 11 *Int'l J. All Educ. & Sci. Methods* 218 (2023).

¹⁹⁴⁸ Mashkoor Ahmad, *Effect of Reservation Policy on Employment of Scheduled Castes and Scheduled Tribes in Public Sector*, in *Mapping Identity-Induced Marginalisation in India: Inclusion and Access in the Land of Unequal Opportunities* 155, 155–76 (Springer Nature Singapore 2022).

Political Representation: Extended political engagement from these groups has resulted from reservations in political representation, including seats set aside for SCs and STs in legislative bodies. Nevertheless, this has not consistently resulted in lobbying or policy changes that address the particular needs of the most marginalised or impoverished individuals within such organisations. Political leaders chosen through reserved seats occasionally find it difficult to strike a compromise between the interests of their constituents and more general political and developmental objectives, which limits their influence on the general socioeconomic conditions of the marginalised communities they represent¹⁹⁴⁹.

Quota and Affirmative Action Strategies on Social Justice and Inclusion

Examining the effects of various quotas and affirmative action strategies on social justice and inclusion is necessary when comparing distinct reservation systems and their efficacy. This is an extensive analysis of several well-known reservation systems and their success.

Quota-Based Systems (India)

In India, the reservation device allots a predetermined proportion of seats for Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs) in educational institutions¹⁹⁵⁰ and government positions. This system seeks to right historical wrongs and provide opportunities for marginalised organisations. However, this system is not entirely effective. On the one hand, it has made it easier for many members of these communities to receive training and work, which has increased their presence in a variety of sectors. However, critiques include the maintenance of identities based solely on caste, possible inefficiencies, and inadequate support systems in schools that result in high dropout rates among college students from restricted

classes. Additionally, the advantages are occasionally distributed unevenly across the reserved groups, with richer members of those organisations usually benefiting more from the system than others who are more in need¹⁹⁵¹.

Affirmative Action (United States)

The purpose of the affirmative action rule in the United States is to increase the chances of historically oppressed groups, such as women and racial minorities, through channels such as employment and college admissions procedures. The workplace and postsecondary education now have more diverse student bodies because of these regulations. Research shows that affirmative action has contributed to the growth of the gaming industry by giving underrepresented businesses opportunities, which has expedited racial and gender diversity in a wide range of professional fields. However, the fairness and effectiveness of these regulations are still being debated. Some contend that they could result in reverse discrimination and that they will not address the underlying reasons for inequality, such as socioeconomic hazards¹⁹⁵².

Proportional Representation (South Africa):

To address racial disparities, South Africa has implemented affirmative action policies, including employment fairness and black financial development initiatives. The gadget specialises in guaranteeing that a portion of process roles and company opportunities are set aside for South African Blacks, Coloured South Africans, and Indians. The growing involvement of previously marginalised groups in the financial system and government has proven successful with this method. Demanding circumstances, on the other hand, involve claims of machine abuse and corruption made by individuals and businesses that are not disadvantaged. Furthermore, the fact that these

¹⁹⁴⁹ Stéphanie Tawa Lama-Rewal, Electoral Reservations, Political Representation and Social Change in India (Manohar 2005).

¹⁹⁵⁰ Halдар, *supra* note 76.

¹⁹⁵¹ S. Philip et al., Descriptive Analysis of Inclusion in Quota-Based Employment for Persons with Mental Health Conditions in India, 9 J. Psychosoc. Rehabil. & Mental Health 367 (2022), <https://doi.org/10.1007/s40737-022-00273-9>.

¹⁹⁵² D. Sabbagh, Affirmative Action: The U.S. Experience in Comparative Perspective, 140 Daedalus 109 (2011), https://doi.org/10.1162/daed_a_00081.

restrictions can benefit a small, economically advantaged elite within the targeted enterprises raises questions about how effective they are in tackling larger socio-financial imbalances¹⁹⁵³.

Indigenous Rights-Based Systems (Canada)

Reservation policies for Indigenous peoples in Canada include specific programs and efforts aimed at promoting growth in the arts, economy, and culture of Indigenous peoples. For Indigenous communities, these methods have resulted in improved financial stability and increased access to education. For instance, targeted corporate offers and scholarship programs have created more options. Unfortunately, systemic issues, such as underfunded educational institutions and inadequate network development guidance, undermine the efficacy of these systems. Concerns exist regarding the effectiveness of these actions in addressing the intricate and persistent effects of colonisation¹⁹⁵⁴.

Quota Systems in Europe:

Quota systems have been implemented in several European nations to enhance the representation of women in business and politics. For instance, gender quotas have been introduced in Norway for corporate forums, significantly increasing the representation of women in boardrooms. These quotas have proven effective in promoting gender parity in management positions. The impact on more general issues of gender parity and the professional advancement of women in all spheres and levels of society, however, continues to be a topic of debate¹⁹⁵⁵.

Affirmative action and reservation systems from around the world provide insights into successful and challenging circumstances that may inform the development and application of

policies. A thorough analysis of various global approaches was presented.

United States (Affirmative Action in Education and Employment)

Affirmative action policies in the US seek to increase women's and minorities' access to higher education and the workforce. Affirmative action has been used, for instance, by colleges like Harvard and the University of California to promote diversity among their student bodies. This has resulted in greater racial and ethnic diversity in higher education and professional domains, creating a more inclusive environment. However, the strategy has come under fire for what is believed to be reverse discrimination and for failing to address the underlying socioeconomic disparities regularly. Affirmative action is still being debated, with continuous criminal challenges and public opinion influencing the law.

South Africa (Black Economic Empowerment and Employment Equity)

After apartheid, to address racial inequities, South Africa presented Employment Equity policies and Black Economic Empowerment (BEE). BEE comprises policies, including employment equity, aimed at raising Black staff representation and Black South African company ownership targets. These rules have made great progress in integrating once underprivileged companies into the financial system and government. However, challenges include claims of corruption and awareness of benefits among a few elites inside the target corporations, as well as discussions on the efficacy of policies in reducing ingrained socioeconomic inequalities¹⁹⁵⁶.

India (Reservation in Education and Employment)

The reservation system in India allots quotas for Scheduled Castes (SCs), Scheduled Tribes

¹⁹⁵³ E.P.J. Kleynhans & M.C. Kruger, Effect of Black Economic Empowerment on Profit and Competitiveness of Firms in South Africa, 14 Acta Commer. 1 (2014), <https://doi.org/10.4102/ac.v14i1.200>

¹⁹⁵⁴ I. Keay & C. Metcalf, Recognizing Indigenous Rights in Canada: Property Rights and Natural Resource Values, 47 Can. Pub. Pol'y 18 (2021), <https://doi.org/10.3138/cpp.2020-017>

¹⁹⁵⁵ Contemporary Research on Social Democracy | Request PDF, *supra* note 13.

¹⁹⁵⁶ (PDF) *An Assessment of Employment Equity and Broad Based Black Economic Empowerment Developments in South Africa*, RESEARCHGATE, https://www.researchgate.net/publication/235259299_An_assessment_of_employment_equity_and_Broad_Based_Black_Economic_Empowerment_developments_in_South_Africa (last visited Jul. 17, 2025).

(STs), and Other Backward Classes (OBCs) in educational institutions and government employment. For these organisations, this technology has appropriately expedited access to training and public sector jobs, leading to advanced illustration and socioeconomic mobility. However, issues such as insufficient support for students in reserved classes, financial inequality within the organisation, and critiques of merit-based selection have cast doubt on the device's overall efficacy and impartiality¹⁹⁵⁷.

Norway (Gender Quotas in Corporate Boards)

Norway has implemented strict gender quotas for corporate boards, mandating that women comprise at least 40% of board members¹⁹⁵⁸. This strategy has been commended for its role in promoting gender equality in management roles and has significantly increased the representation of women in boardrooms. The success of this method has inspired similar laws in several European nations. However, the challenge is ensuring that increased female representation translates into more extensive organisational changes and addresses gender disparity at various corporate and professional hierarchical levels.

Brazil (Quotas for Higher Education)

Brazil has implemented racial and socioeconomic quotas, affirmative action rules for improved training, and other measures to increase the number of Afro-Brazilian and occasional earner students enrolled in colleges¹⁹⁵⁹. These policies have effectively enhanced marginalised organisations' access to higher education, resulting in greater socioeconomic mobility. However, challenging circumstances include the suitability of preparatory programs to assist college

applicants from underprivileged backgrounds and ongoing discussions regarding the consistency of racial and socioeconomic standards in admissions.

Canada (Indigenous Rights and Economic Development)

Canada has developed policies to support Indigenous peoples through targeted packages and activities that enhance their access to cultural, economic, and educational opportunities. For example, Indigenous groups have greater opportunities with the First Nations University of Canada and various applications related to economic growth¹⁹⁶⁰. However, issues remain to be resolved, such as addressing the systematic and historical effects of colonisation and ensuring that laws are fairly applied to and benefit the most marginalised Indigenous people.

5. CONTEMPORARY ISSUES AND DEBATES

Concerns about the efficacy, equity, and impact of affirmative action and reservation policies persist in the problems and discussions surrounding these laws today. There are a few crucial conversation points.

Merit vs. Equality:

The consistency of merit and equality is an important point of contention. Opponents contend that reservation policies could potentially jeopardise benefit-based total selection, which would result in the appointment of less competent candidates. They argue that this could jeopardise overall performance in several disciplines as well as first-rate offers. However, proponents contend that advantages alone do not consider historical injustices and systemic risks. They contend that reservations are necessary to level the playing field and provide opportunities for historically excluded people. In the **Fisher v. In the University of Texas (2013)** case, for example, the argument was that meritocracy was compromised by the

¹⁹⁵⁷ Mehabubul Hassan Laskar, Rethinking Reservation in Higher Education in India (Feb. 1, 2010), <https://papers.ssrn.com/abstract=1597863>.

¹⁹⁵⁸ *Broadening of the Field of Corporate Boards and Legitimate Capitals: An Investigation into the Use of Gender Quotas in Corporate Boards in Norway* - Cathrine Seierstad, Abu Talli, Maryam Aldossari, Morten Huse, 2021, <https://journals.sagepub.com/doi/abs/10.1177/0950017019892835> (last visited Jul. 17, 2025).

¹⁹⁵⁹ Luisa Farah Schwartzman & Angela Randolph Paiva, *Not Just Racial Quotas: Affirmative Action in Brazilian Higher Education 10 Years Later*, 37 BR. J. SOCIOL. EDUC. 548 (2016).

¹⁹⁶⁰ *Recognizing Indigenous Rights in Canada: Property Rights and Natural Resource Values*, <https://ideas.repec.org/a/cpp/issued/v47y2021i1p18-55.html> (last visited Jul. 17, 2025).

inclusion of race in admissions. However, proponents contend that by addressing these systemic disadvantages, affirmative action helps create a more level playing field and that merit alone cannot account for historical imbalances¹⁹⁶¹.

Reverse Discrimination:

There is disagreement regarding the concept of opposite discrimination. Regardless of their qualifications, some non-reserved class members contend that reservation laws disadvantage them. Undoubtedly, this idea of unfairness undermines societal cohesiveness by fostering animosity and divisions. To solve this issue, affirmative action policies must be created and implemented in a way that reduces feelings of unfairness and encourages widespread support. Due to concerns about reverse discrimination raised by **Indra Sawhney v. In the Union of India (1992)**, the Supreme Court upheld the necessity of striking a balance between merit-based selection and reservation policies, emphasising the need to lessen perceived unfairness¹⁹⁶².

Policy Effectiveness:

There is a constant debate on the efficiency of reservation policies. Opponents contend that these regulations may help comparatively better-off employees of those corporations while frequently failing to reach the greatest number of marginalised persons within designated groups. For example, reservation benefits are allegedly being disproportionately used by wealthier members of the SC, ST, and OBC castes in India. Enhancing the impact of guidelines requires ensuring that they are well-targeted and backed by complementary initiatives, such as financial improvement and academic support. In South Africa, **Black Economic Empowerment (BEE)**. The goal of Black Economic Empowerment (BEE) initiatives in South Africa is to boost Black representation

in the corporate and governmental spheres. Critics counter that within the targeted populations, gains have disproportionately benefited a small, well-off, elite group. The efficacy of the BEE Act and its ensuing revisions in reaching the most disadvantaged groups has come under examination. Critics contend that the main beneficiaries within Black communities are wealthier individuals, prompting calls for more focused and efficient implementation¹⁹⁶³.

Social vs Economic Reservations:

There is a continuous discussion on whether reservation laws should take socioeconomic status into account or should be based largely on caste, race, or ethnicity. Some contend that socio-monetary norms could combat disadvantage and poverty more quickly, which would undoubtedly result in a fairer distribution of benefits. Some argue that reservations based on caste are essential for addressing particular historical injustices and systematic prejudice that cannot be fully understood through economic metrics. Seats at public institutions are set aside for low-income Indigenous and Afro-Brazilian students under the **Law of Social Quotas (2012)**. While some claim that racial quotas are necessary to address specific historical and systemic racial injustices, others counter that concentrating on socioeconomic status may be a more effective way to combat poverty and disadvantage in the long term. The conflict between resolving long-standing racial disparities and meeting immediate socioeconomic demands is reflected in this study's discussion¹⁹⁶⁴.

Legal and Constitutional Challenges:

Legal challenges to reservation laws, particularly those pertaining to their constitutionality and early conformance with equality criteria, are frequent. Legal disputes

¹⁹⁶¹ *Fisher v. University of Texas*, 570 U.S. 297 (2013), JUSTIA LAW, <https://supreme.justia.com/cases/federal/us/570/297/> (last visited Jul. 17, 2025).

¹⁹⁶² *Indra Sawhney Etc. Etc vs Union Of India And Others, Etc. Etc. on 16 November, 1992*, <https://indiankanoon.org/doc/1363234/> (last visited Jul. 17, 2025).

¹⁹⁶³ *Broad-Based Black Economic Empowerment Act 53 of 2003* | South African Government, <https://www.gov.za/documents/broad-based-black-economic-empowerment-act> (last visited Jul. 17, 2025).

¹⁹⁶⁴ *Brazil. Federal Law No. 12,711, August 29, 2012. - References - Scientific Research Publishing*, <https://scirp.org/reference/referencespapers?referenceid=3451282> (last visited Jul. 17, 2025).

have centred on whether affirmative action laws unjustly discriminate against people not covered by reservations in countries such as the United States and India. Certain criminal challenges can impact the design and execution of certain regulations, potentially resulting in changes or adjustments. For example, in the **Supreme Court decision Grutter v. Bollinger (2003)** maintained the University of Michigan Law School's practice of using race as a criterion for admission was maintained, highlighting the need for such policies to be narrowly limited to serve compelling interests in diversity. Concerns about justice and equal protection under the law are reflected in ongoing legal discussions that continue to influence the use and scope of affirmative action¹⁹⁶⁵.

6. CURRENT TRENDS AND POLICY ADJUSTMENTS

Recent changes in reservation policies and their justifications

Recent modifications to India's quota laws reflect a deliberate attempt to improve the efficacy of current reservations while broadening the scope of affirmative action in response to the demanding social, economic, and political conditions. A significant change that extended benefits to those who are economically disadvantaged within the stylish class was the implementation of a ten per cent reservation for Economically Weaker Sections (EWS) in January 2019. By increasing access to education and employment opportunities, this flow, which is distinct from caste-based reservations for Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs), aims to reduce financial imbalances and foster inclusive growth. To address socio-financial disparities that go beyond caste, the EWS reservation ensures that financial popularity is considered in affirmative action efforts.

The legislature added reservations in the 2019 103rd Constitutional Amendment Act. This amendment reserved 10% for economically disadvantaged people (EWS). It gives EWS preference in public jobs and the public and private education sectors. Before this change, the bookings were capped at 50%. SCs and STs received 22.5% of the seats (7.5% and 15%, respectively). Additionally, 27% of the seats were reserved for OBCs. Before the 103rd constitutional amendment, the total reservation was 49.5%, meeting the 50% cap for OBCs. The 103rd Constitutional Amendment Act, 2019, added 10% to the reservation. This results in a 60% reservation, violating the 50% reserve ceiling. In **Balaji v. State of Mysore**, the Supreme Court ruled that while it is impossible to predict the exact permissible percentage of reservation, it should be less than 50%. The extent of this reduction depends on the relevant circumstances of each case¹⁹⁶⁶.

In **Indra Sawhney v. In the Union of India**, the Supreme Court ruled that Article 16(4) power must be utilised fairly¹⁹⁶⁷. The reservation ceiling should not exceed 50%. In **Nagaraj v. In the Union of India**, the Supreme Court ruled that the 50% reservation ceiling is part of the Constitution and balances formal and substantive equality¹⁹⁶⁸. The Indian Supreme Court upheld a 50% ceiling on general reservations in government employment and educational institutions. This policy was implemented to stabilise affirmative action through advantage-based complete selection. This cap is designed to protect equity in aggressive tactics and spare you from excessive quotas that could jeopardise the best education and product. By maintaining this restriction, the Court hopes to remedy historical and socioeconomic disadvantages while preventing reverse discrimination and ensuring that reservations do not lead to unnecessary

¹⁹⁶⁵ *Grutter v. Bollinger* | 539 U.S. 306 (2003) | Justia U.S. Supreme Court Center, <https://supreme.justia.com/cases/federal/us/539/306/> (last visited Jul. 17, 2025).

¹⁹⁶⁶ *M. R. Balaji And Others vs State Of Mysore on 28 September, 1962*, <https://indiankanoon.org/doc/599701/> (last visited Jul. 17, 2025).

¹⁹⁶⁷ *Indra Sawhney Etc. Etc vs Union Of India And Others, Etc. Etc.* on 16 November, 1992, *supra* note 115.

¹⁹⁶⁸ *M.Nagaraj & Others vs Union Of India & Others on 19 October, 2006*, <https://indiankanoon.org/doc/102852/> (last visited Jul. 17, 2025).

divisions. To address intra-institutional inequities and improve the implementation of these regulations, recent changes have focused on enhancing the effectiveness of SCs, STs, and OBC reservations. To guarantee that the benefits of reservations reach those who are most in need, steps are being taken to increase support for the most disadvantaged individuals in such companies. These measures include focused jobs and educational programs. To address concerns regarding the abuse or ineffectiveness of reservation policies, better monitoring and support systems have been put in place to guarantee a more equitable distribution of advantages.

Furthermore, there have been talks of bringing affirmative action and reserves into the private sector and better training facilities—areas that are typically not covered by public reservations. Through scholarships and preparation applications, this investigation seeks to address underrepresentation and socio-financial inequities in these fields, as well as growth prospects for college students from reserved classes. Current changes in local government have increased reservations for girls, SCs, and STs in organisations such as panchayats and municipal agencies, encouraging greater political representation and engagement at the local level. These approaches aim to promote inclusive and representative governance by empowering underrepresented agencies and ensuring their participation in decision-making processes that impact their groups. These changes reflect India's commitment to resolving socioeconomic disparities while working to stabilise the norms of advantage and justice. The rationale behind these revisions is to augment prospects, optimise the efficacy of reservations, and guarantee that affirmative action serves a diverse range of underprivileged persons.

Conclusion

Reservation policies in India aim to address historical injustices and promote social justice for marginalised groups. While they have

increased representation and opportunities for Scheduled Castes, Scheduled Tribes, and Other Backward Classes in education, employment and politics, challenges remain in implementation and effectiveness. Critics argue reservations perpetuate divisions and compromise merit, while supporters view them as necessary for levelling the playing field. Recent policy adjustments like EWS quotas reflect attempts to balance competing concerns. Moving forward, a nuanced approach is needed – one that maintains affirmative action for the most disadvantaged while also addressing broader socioeconomic inequalities through targeted development programs and systemic reforms. Ongoing evaluation and refinement of reservation policies is crucial to achieve the goal of an equitable society.

Effective implementation and monitoring of reservation policies are essential to ensure they achieve their intended goals. This includes regular assessment of beneficiary outcomes, addressing issues of fraud or misuse, and adjusting quotas based on evolving socioeconomic data. Additionally, complementary measures such as improving access to quality education, skill development programs, and job creation initiatives can help address the root causes of inequality and enhance the overall impact of affirmative action policies.