

The Role of Constituent Assembly Debates in Shaping and Interpreting India's Living Constitution with Special Focus on Affirmative Action

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Abstract

The Constituent Assembly Debates (CADs) offer invaluable insight into how the Indian Constitution took shape and how the farsightedness of framers of our Constitution still contributes to it being described as a “living document.” Held between 1946 and 1949, the deliberations of the Assembly provided textual expression to the Constitution as well as spoke the normative basis of Indian democracy. One of the most deeply deliberated questions by the Assembly was how to give real meaning to equality in a society scared by centuries of exclusion based on caste, religion and sex.

Personalities like Dr. B.R. Ambedkar, K.M. Munshi and H.C. Mookerjee repeatedly contented that promise of liberty and equality conferred by the Constitution would remain hollow if the disadvantaged groups were not given support in a targeted manner. The deliberations resulted in the provisions of Article 15(4), 15(5), 16(4) and 46, that now define India's affirmative action. This was also an attempt towards balancing equality with the need for social justice.

Although not legally enforceable, courts consistently turn to CADs to resolve uncertainty, identify the intent of the framers, and bestow legitimacy upon constitutional innovations. From Champakam Dorairajan (1951), the first case to test reservations, to Indra Sawhney (1992), M. Nagaraj (2006), and the recent Janhit Abhiyan case (2022), the courts have drawn upon the framers' debates to interpret what equality and representation mean in practice. CADs still remain relevant for the values underpinning the constitutional choices.

This paper argues that the debates with respect to affirmative action are testament to the Constitution's distinctive ability to evolve with time while not

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losing sight of its initial commitments. Affirmative action was not seen as a retreat from equality but the very engine that would propel the ideal of equality in a deeply unequal society. Hence the CADs continue to shape contemporary struggles over inclusion by offering not strict original intent but by keeping alive the deliberative ethos of the Constitution.

I. Introduction

One of the most significant pillars of the Indian Constitution to address the marginalisation and systemic inequalities faced by Scheduled Castes, Scheduled Tribes and Other Backward Classes, is the affirmative action. The design and operation of affirmative action policies in India have not been simply reactionary or accidental responses. They were firmly entrenched in the elaborate and passionate debates in the Constituent Assembly. Such debates have emerged to be significant not only in comprehending the constitutional guarantees, but also to courts and scholars who are charged with the responsibility of unravelling the changing definition of equality and justice in a pluralistic society.²

The framers envisaged, as manifested through CADs, equality not merely as formal sameness, but as an aspiration for substantive justice, an attempt to right the disabilities of centuries in the social, educational, and economic spheres.³ The Assembly faced not only the colonial legacy of exclusion and caste-based discrimination but also a post-independence imperative of nation-building, unity, and fraternity. Dr. B.R. Ambedkar, the chief draftsman of the Constitution, assisted by stalwarts of the Assembly like K.M. Munshi,⁴ and Jawaharlal Nehru,⁵ laid the foundation for a social order which would make corrective measures essential instruments of democracy. This was best reflected in the constitutional

² Constituent Assembly Debate on Right to Equality & Prohibition of Discrimination: <https://www.scobserver.in/journal/equality-among-equals-five-must-reads-on-the-necessity-of-affirmative-action/>

³ Constituent Assembly Debates, Official Report, Vol I (9–23 December 1946) Lok Sabha Secretariat, New Delhi (reprint 2014).

⁴ K M Munshi, 'Intervention on the Definition of Backward Classes' Constituent Assembly Debates, Vol VII (1948).

⁵ Jawaharlal Nehru, 'Speech on the Objectives Resolution' Constituent Assembly Debates, Vol I (13 Dec. 1946).

provisions of Articles 15(4), 15(5), 16(4), and 46, as well as the Directive Principles of State Policy, which ensured that the Constitution was not a static document but a living testament to transformative justice.

This article systematically explores the role of Constituent Assembly Debates in shaping and interpreting affirmative action provisions in India's living Constitution. It relies on a qualitative methodology, the study of primary sources, CAD transcripts, constitutional texts, etc. and Supreme Court decisions. Adding to those, secondary literature such as, books, journal articles and academic commentaries, to offer as a learning tool to students, researchers and scholars. The research questions that will be dealt in this study are: (i) What are the conceptualizations that CADs have towards equality and affirmative action? (ii) In what ways have Indian courts used CADs in the landmark cases to understand the affirmative action provisions? (iii) How do the debates continue to inform the living character of the Indian Constitution?

This article engages in-depth with major case law, namely *Indra Sawhney* (1992)⁶, *M. Nagaraj*⁷, *Janhit Abhiyan*⁸, and analyses why the debates on CADs matter, for they form not only a historical anchor but also a dynamic interpretive tool that continues to guide constitutional morality and judicial creativity in the pursuit of social justice.

A. Scope and Limitation

The article focuses on evaluating the influence of the Constituent Assembly Debates in interpreting the constitutional provisions with special focus on affirmative action in India, particularly Article 14,⁹ Article 15,¹⁰ Article 16,¹¹ and Article 46.¹² The study further analyses the landmark cases to trace the contribution of CADs toward interpretation.

⁶ *Indra Sawhney v. Union of India and Ors.* AIR 1993 SC 477, (INDIA).

⁷ *M. Nagaraj & Ors. vs. Union of India & Ors.* (2006) 8 SCC 212, (INDIA).

⁸ *Janhit Abhiyan v. Union of India* (2022) 10 SCC 1, (INDIA).

⁹ INDIA CONST., 1950, art. 14.

¹⁰ INDIA CONST., 1950, art. 15.

¹¹ INDIA CONST., 1950, art. 16.

¹² INDIA CONST., 1950, art. 46.

The study is limited to Constitutional context of India only and does not undertake a comparative international approach. Due to the doctrinal nature of the study, it does not entail fieldwork, interviews or quantitative data. Moreover, the study does not address every debate in the Assembly but focuses on their contribution to the affirmative action and its interpretation in constitutional scenario.

B. Methodology

The study utilises a qualitative doctrinal methodology and examines the sources like Constituent Assembly Debates, Constitutional provisions and the Supreme Court judgments in interpreting the affirmative action. The cases are have been examined through doctrinal analysis of key cases to understand how CADs are invoked and interpreted by judiciary. The research adopts a thematic organization, aligning legal provisions and case law with the debates in the Assembly to reveal interpretive trends and ongoing judicial reliance on foundational deliberations.

II. Historical Context: The Constituent Assembly and the Idea of Equality

The Indian Constituent Assembly, however, began its task at a time when colonial rule had been dismantled and there was an imperative need to build a national identity with explicit foundations of democracy, justice, and unity. Indian society was deeply divided along socio-economic lines; notably, all-pervasive and institutionalized caste hierarchies and centuries of exclusion of Dalits, Adivasis, and other marginalized groups were prominent. The framers' challenge was not only to eradicate the inequalities imposed from outside but also to eliminate the fissures within that threatened harmony and societal advancement.¹³

In colonial administration, limited forms of representation were provided for minorities and backward classes, but these measures often reinforced, rather than alleviated, hierarchical structures. Debates on equality in the Assembly thus reflected both the richness of indigenous movements of reform inspired by personalities like Jyotirao Phule and Periyar, and the lived experience of social activists like Dr. B.R. Ambedkar, who insisted that the Constitution should not

¹³ GRANVILLE AUSTIN, *THE INDIAN CONSTITUTION: CORNERSTONE OF A NATION* (Clarendon Press 1966).

be confined to formal equality. Ambedkar advocated that in order to establish a true democracy, laws need to be accompanied with substantive policies so as to uplift the downtrodden.¹⁴ He deemed social exclusion and untouchability as shameful and emphasised on corrective justice with reference to freedom and equality so that they become a reality for every Indian.

The assembly was differently opiniated, both ideologically and philosophically. Thinkers like K.M. Munshi and Alladi Krishnaswami Ayyar firmly warned against giving special treatment, fearing that it would destabilise national unity and meritocracy and believed that equal laws were enough for justice, vouching for universal rights.¹⁵ Meanwhile Ambedkar and his supporters argued that the scars of the past and the wrongdoings cannot be undone by just neutral and equal laws. They convinced the House, and subsequently, the Assembly reached the agreement that the State should actively work to break down the barriers and help those who were left out of education, employment and representation.¹⁶

The Preamble of the Constitution combines the ideas of formal and substantive equality as social, economic, and political justice; Freedom of thought, speech, belief, faith, and worship; Equality of status and opportunity; and Brotherhood, so as to make sure that everyone feels respected. These ideas were enshrined in Article 15,¹⁷ Article 16¹⁸, and Article 17,¹⁹ which prohibit discrimination as well as aimed to end the practice of untouchability, to protect the oppressed.

The Assembly showed strong belief in values of brotherhood and dignity for each other, and found them crucial for social unity and rebuilding the nation and social unity.²⁰ Brotherhood meant having fair representation in the government,

¹⁴ B R Ambedkar, 'Speech on Draft Article 10' Constituent Assembly Debates, Vol VII (Nov. 30, 1948).

¹⁵ DURGA DAS BASU, INTRODUCTION TO THE CONSTITUTION OF INDIA (24th edn, LexisNexis 2019).

¹⁶ Constituent Assembly Debates, Official Report, Vol V (14–30 August 1947) Lok Sabha Secretariat, New Delhi (reprint 2014).

¹⁷ INDIA CONST., 1950, art. 15.

¹⁸ INDIA CONST., 1950, art. 16.

¹⁹ INDIA CONST., 1950, art. 17.

²⁰ GRANVILLE AUSTIN, WORKING A DEMOCRATIC CONSTITUTION: A HISTORY OF THE INDIAN EXPERIENCE (Oxford University Press 1999).

education and employment fields even to those who were left out on account of any discrimination. Dignity denoted recognising and accepting past wrongs and including the people through affirmative action, in present.²¹ The assembly finally adopted the instrument of corrective justice to meet national moral and constitutional duties.

III. Framing Affirmative Action in the Constitution

The journey from philosophical commitment to legal codification of affirmative action was one of robust debates and compromises between different sects within the Constituent Assembly. Early on the framers were faced with the challenge of assigning meaning to the word “backwardness” and what legal architecture would frame special measures for underprivileged groups.²² The fundamental philosophy that was pursued was to promote those who had been excluded due to caste, tribe, and social status and not just prohibit discrimination.

Dr. B.R. Ambedkar advocated the introduction of reservations for Scheduled Castes (SCs), Scheduled Tribes (STs), and “socially and educationally backward classes.”²³ During debates in the Assembly, Ambedkar stated that the reservation accorded should not be for all minorities.²⁴ However, only for those with documented disadvantages, and he maintained that such corrective provisions must be considered temporary measures to rectify the defects in the system. “Reservations must be a means to an end, not an end in themselves,” he said, later echoed in the drafting of Articles 15(4),²⁵ 15(5),²⁶ and 16(4).²⁷

²¹ MARC GALANTER, *COMPETING EQUALITIES: LAW AND THE BACKWARD CLASSES IN INDIA* (University of California Press 1984).

²² ABHINAV CHANDRACHUD, *THESE SEATS ARE RESERVED: CASTE, QUOTAS AND THE CONSTITUTION OF INDIA* (Penguin Viking 2023).

²³ Constituent Assembly Debates, Official Report, Vol IX (30 July–18 September 1949) Lok Sabha Secretariat, New Delhi (reprint 2014).

²⁴ Vasant Moon (ed), *Dr Babasaheb Ambedkar: Writings and Speeches*, Vol 13 (Dr Ambedkar Foundation 2014).

²⁵ INDIA CONST. 1950, art. 15(4).

²⁶ INDIA CONST. 1950, art. 15(5).

²⁷ INDIA CONST. . 1950, art. 16(4).

A. Relevant constitutional provisions:

- o Article 14,²⁸ of the Constitution stipulates that the State shall not deny to any person equality before the law or the equal protection of laws within the territory of India. Article 15(1) states that the State should not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them. Article 15(4),²⁹ stipulates that nothing in Article 15 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes³⁰
- o Article 15(4)³¹ was added by the First Amendment in 1951, following the Supreme Court's decision to strike down communal quotas in *Champakam Dorairajan*³². The new provision conferred an express power on the State to make special provisions for the advancement of "any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes." The debates reflect an informed appreciation: while formal equality (Article 14 and the old Article 15) banned discrimination, affirmative action was essential to compensate for past deprivation and guarantee absolute equality of opportunity in education and life.³³
- o Article 16 deals with equality of opportunity in matters of public employment. Clause (1) of Article 16 guarantees equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. Clause (2) stipulates that no citizen shall be

²⁸ INDIA CONST. 1950, art. 14.

²⁹ INDIA CONST. 1950, art. 15(4).

³⁰ Article 15 (4) "Nothing in this article or in clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

³¹ Parliamentary Debates, 3rd session, pt. 2t vol. 12 at 9.

³² AIR 1951 SC 226.

³³ Constituent Assembly Debates, Official Report, Vol VII (4 Nov. 1948–8 Jan. 1949) Lok Sabha Secretariat, New Delhi (reprint 2014).

discriminated in or be ineligible for any employment or office under the State on the grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them. Clause (4) of the provision states that nothing in Article 16 shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens, which in the opinion of the State, is not adequately represented in the services under the State.³⁴ The wording represented a hard-won compromise. Several members, like Jaipal Singh,³⁵ and T.T. Krishnamachari, urged broad inclusion.³⁶ Nevertheless, ultimately, Ambedkar had his way in constraining reservations to social and educational backwardness, not to religious minorities per se. The underlying thrust was thus to synthesize equality of opportunity with realistic awareness of unequal starting points.

- o Article 46,³⁷ included among the Directive Principles of State Policy, required the State to "promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes." This Article represented the extensive social justice mandate that provides the basis for the technical operation of affirmative action. In Assembly discussions, it was considered the ethical framework for affirmative action.

³⁴ Article 16 (4) "Nothing in this article shall prevent the State from making any provision for reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State is not adequately represented in the services under the State."

³⁵ Jaipal Singh, 'Speech on the Status of Adivasis' Constituent Assembly Debates, Vol. I (19 Dec. 1946).

³⁶ UDIT BHATIA (ed), THE INDIAN CONSTITUENT ASSEMBLY: DELIBERATIONS ON DEMOCRACY (Routledge 2018).

³⁷ 46. Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.-The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

- o Article 366(2)³⁸ of the Constitution defines the term ‘Scheduled Castes’ to mean such castes, tribes or parts of or groups within such castes, races or tribes as are deemed under Article 341 to be Scheduled Castes for the purposes of the Constitution. Article 341(1) grants the President the power to notify the castes, races or tribes (or parts of or groups within castes, races or tribes) which shall be deemed to be Scheduled Castes for a State or a Union Territory for the purposes of the Constitution. The President has been empowered to issue the notification with respect to a State in consultation with the Governor of the State. Article 341(2) stipulates that Parliament may by law include or exclude any caste, race, or tribe (or part of or group within any caste, race, or tribe) from the list of Scheduled Castes specified in the notification and that a notification issued under clause (1) shall not be varied by any subsequent notification.

Some of these criticisms were prompted by the members: constant division, loss of administrative efficiency, and group identification entrenchment. These received guarantees that the reservations were to be merely temporary expedients; a principle which is exemplified in sunset clauses and in a hope of periodic evaluation to check performance.³⁹

The final text, as was adopted, struck a balance between merit and justice as well as formal and substantive equality. The drafting of the provisions regarding affirmative action reflects the high sophistication level of the framers on both the necessity and pitfalls of corrective state action. Reservations were not seen as mere special privileges but rather dynamic instruments for realizing the “social revolution” that had been visualized by the Constitution.

IV. Judicial Interpretation: Constituent Assembly Debates as A Living Source

Since the adoption of the Indian Constitution, the Supreme Court has been critical in influencing the lines of affirmative action, often with the resort to the Constituent Assembly Debates as a tool of interpretation. In the early days, the

³⁸ INDIA CONST. 1950, art. 336(2).

³⁹ ROHIT DE, *A PEOPLE’S CONSTITUTION: THE EVERYDAY LIFE OF LAW IN THE INDIAN REPUBLIC*, (Princeton University Press 2018).

judicial attitude towards constitutional interpretation was inclined toward a literal approach, and in *A.K. Gopalan v. State of Madras*, it was exactly what the Court that did. The court was more or less textual, with its aversion to the use of CADs as an element of interpretation, rejecting CADs as a part of its framework unlike the American spirit of the Constitution. A more meaningful and useful method has now arisen, in which the peculiar nature and evolving requirements of Indian are appreciated by the courts.

The turning point was arrived at in the leading cases such as *Golak Nath v. State of Punjab* and *Kesavananda Bharati v. State of Kerela*, when the Supreme Court started applying the original intentions of the Constitution, to know what the framers intended. Debates were not only, historical artefacts but contemporary tools to be used in deciphering constitutional form. Their relevance was best highlighted when, applications appeared oblivious or some kind of weighing required to be done among values like social justice, equality, and good governance. Even the basic structure doctrine" depended much on the reference to the CADs, for its normative origins. Even the so-called "basic structure doctrine" relied heavily upon reference to the CADs.

A. *Indra Sawhney v. Union of India*⁴⁰

The case developed its arguments regarding a limitation on reservations and the importance of caste as a factor, through the analysis of statements of Ambedkar and other drafting committee members. The judgment invited CADs to justify why equality must consider historic exclusion and not sit-of-the-nose disadvantage here and now, and why merit and justice must be weighed. Thus, this nine-judge bench marked a crucial evolution in judicial philosophy concerning affirmative action.

Addressing the validity of the Mandal Commission's recommendations for 27% reservation for Other Backward Classes (OBCs), the Supreme Court undertook a granular study of CADs to justify its ruling. The judgment highlighted the Assembly's intention to provide substantive equality, the permissible use of caste as an indicator of social and educational backwardness, and the need for "adequate representation" rather than proportional representation. CADs also informed the imposition of the 50% ceiling on reservations, thus balancing the

⁴⁰ AIR 1993 SC 477

constitutional objectives of social justice with meritocracy and administrative efficiency.

B. M. Nagaraj v. Union of India⁴¹

In this case, the Supreme Court was called upon to consider the validity of extending reservations to promotions-both under Articles 16(4A) and 16(4B). The judgment essentially re-iterated the constitutional boundaries of reservations, namely, that these are to be informed by quantifiable data to ensure that the reservations do not override the basic structure of the Constitution.⁴² CADs played an important role here: the Court referred to the debates in the Assembly to reiterate the need for periodic review and empirical justification, as also the basic principle that affirmative action ought not to be converted into an open-ended entitlement.

C. Jarnail Singh v. Lachmi Narain Gupta

In the case of Jarnail Singh v Lachmi Narain Gupta⁴³ a five-judge Bench of the Supreme Court unanimously held that the judgment delivered in Nagaraj in 2006, relating to reservations in promotions for SC/ST persons, does not need reconsideration by a larger seven-judge Bench. The Bench also modified the Nagaraj judgement and struck the demonstration of further backwardness criterion from Nagaraj. The Hon'ble Supreme Court introduced the principle of creamy layer exclusion. It held that creamy layer exclusion extends to SC/STs and, hence the State cannot grant reservations in promotion to SC/ST individuals who belong to the creamy layer of their community.

The Court held that exclusion of creamy layer is a principle of equality and that failing to apply this exclusion would violate right to equality in two ways. Firstly, it held that doing so treats equals differently, namely the general classes and the forward among Backward Classes (SC/ST). Secondly, that doing so it would treat unequals the same, namely backward classes and the forward among backward classes. Thus, the Court the exclusion of creamy layer is to safeguard the right to equality.

⁴¹ *Ibid.*

⁴² M Nagaraj v Union of India (Controlling Factors Doctrine) (2006) 8 SCC 212.

⁴³ Jarnail Singh v. Lachhmi Narain Gupta, (2018) 10 SCC 396

D. Janhit Abhiyan v. Union of India⁴⁴

The case traced the origins of economic reservation in the CADs by underlining the constitutive imagination of the framers on substantive equality. The majority opinion and dissents relied on the CAD to explain whether the concept of affirmative action had its original focus only on social groups or was capable of accommodation of other disadvantaged groups.

The verdict of the Supreme Court validated 10% reservations for EWS after the 103rd Amendment and was also based on an incisive analysis of CADs. The judgment accepted that though the framers' original intention narrowly focused on caste-based social and educational backwardness, yet the Constitution as a living document can be adapted for new kinds of backwardness, such as economic criteria.⁴⁵ The Assembly's insistence on substantive equality acted as a "moral compass," guiding reinterpretation without straying into ways that violate the foundational ethical precepts.

E. State of Punjab v. Davinder Singh⁴⁶

The Supreme Court in its ruling in this case held that the state governments can create sub-classifications within the Scheduled Castes (SCs) and Scheduled Tribes (STs) so as to ensure equitable distribution of benefits of the reservation. This verdict overrules the judgment in *E.V. Chinnaiah v. State of Andhra Pradesh*⁴⁷, which had previously barred such sub-classifications. The main issue for contention was whether the sub-classifications within the SCs/STs for reservation violates Articles 14, 15 and 16, of the Constitution.

The Court in this judgment empowered the states to recalibrate their reservation policies by targeting the most marginalised segments from within the SCs/STs and provide reservation benefits accordingly. The Court while examining the case in the light of CADs, also held that the power to sub-classify flows from Article 15(4) and 16(4) of the Constitution thereby enabling the socially and educationally backward classes from within notified SCs/STs. It also held that

⁴⁴ *Ibid.*

⁴⁵ Dhruva Gandhi, *Janhit Abhiyan: Where Does It Lead Us?* (2023) 19(1) SOCIO-LEGAL REVIEW 75.

⁴⁶ *State of Punjab v. Davinder Singh*, (2025) 1 SCC 1, (India)

⁴⁷ (2005) 1 SCC 394, (India).

neither the text nor the intent of the Article 341,⁴⁸ bars the sub-classification and instead the recognition of internal inequality within SCs furthers the principle of equality rather than violating it. Further, the judgment tied the interpretation of the Constitution to the socio-economic reality and emphasised on the dynamic and living nature of the Constitutional provisions, and how it must adapt to serve substantive equality and justice.

CADs have thus become outcome-determinative in landmark cases, sometimes resolving interpretive ambiguity, sometimes serving as a "constitutional compass" for evolving social realities. Importantly, courts now use the speeches of the Drafting Committee (especially Ambedkar), official reports, and resolutions rather than the views of individual members, favouring collective intent over subjective

The dynamic use of CADs by the judiciary, striking a balance between fidelity to the original intention and responsiveness to contemporary needs, itself signals the Constitution's ability both to adapt and endure. Through these cases, affirmative action provisions have been clarified, recalibrated, and sustained as mechanisms of social justice; the interplay of history, doctrine, and lived experience in India's constitutional law best exemplifies this.

V. The Living Constitution and the Future of Affirmative Action

A. The Living Constitution and the Future of Affirmative Action

The Indian Constitution is called a living document, a system of governance that has, over time, adapted to transforming social, political, and economic realities, but retains the basic values set by its framers. This living quality becomes even more obvious, in the realm of affirmative action, in which the further dependence on CADs contributes to the preservation and re-establishment of the equilibrium between social justice, merit and efficiency.⁴⁹ The legal diaspora has been comprised by the articles 15 and 16 of the Indian Constitution.

⁴⁸INDIA CONST., 1950, art. 341.

⁴⁹ Constituent Assembly Debates, Official Report, Vol X (6–17 October 1949) Lok Sabha Secretariat, New Delhi (reprint 2014).

B. Evolution Across Eras

Affirmative action in India began as an action to address inheritance of colonialism and deeply rooted inequalities, where the early structures favoured political representation to the minorities and the most excluded. The umbrella was soon broadened: clarifications to the constitution, amendments, etc. Like the First Amendment, undertook to have assembly debates translated into enforceable policy on SCs, STs, and “backward classes”. Women and linguistic minorities have gradually been accommodated in state and judicial actions. Lately, even, economically less empowered groups have been brought under the purview, signifying the dynamic character of affirmative action.

C. Judicial and Legislative Responses

Since independence, the courts have walked a very cumbersome path by applying CADs to interpret different articles and amendments through landmark cases like *Indra Sawhney*, *M. Nagaraj*, *Janhit Abhiyan* in addition to legislative act such as the 77th, 81st and 103rd Amendment. In places where policies may be reviewed periodically, quantification of data through data collection to consider changes in the reservation ceilings, is a sign that the judiciary has taken due cognizance. Proclamations such as *Indra Sawhney* therefore not only set down legal doctrines, such as the so-called creamy layer and the 50% cap, but also deliver the benefit, targeted to the marginalized. On the same note, the legislature has reacted by updating and implementing expansion of policies as new versions of disadvantage and exclusion become entrenched; this in itself is an interaction of a dynamic judicial doctrine and political will.

D. Living Quality, Policy Adaptation, and Social Progress

It is the genius of the living Constitution that it gives way to competing claims like merit/justice, formal/substantive equality and tradition/transformation. The policies of affirmative action have been evolving and recalculating over the decades, in agreement with judicial criticism and new social needs. Introduction of the creamy layer, limitation of reservation in promotions, and new constitutional amendment ushering in EWS reservations, reflect a dynamic but precautionary attitude. In fact, every adjustment is constituted by not merely a practical reaction but a long-term belief in the values of the Assembly.

CADs reflect an enduring salience on two levels: first, they help anchor current and future reforms in the ethical vision and consensus of India's founders; second, they allow flexibility for courts and lawmakers to address contemporary injustices and evolving notions of disadvantage. The living Constitution animates ongoing dialogue between past aspirations and present realities, affirming that the quest for equality is never finished, but always urgent and always open to reasoned reform.

Recent Supreme Court cases reflect the Constituent Assembly Debates in a number of important ways, drawing directly upon framers' intentions, methodologies, and ethical concerns while interpreting the affirmative action provisions:

E. Emphasis on Substantive and Corrective Equality

Both *Jarnail Singh* 2025,⁵⁰ and *BK Pavitra II* 2019,⁵¹ echoed CADs for insisting that positive discrimination should be temporary and subject to review. The related requirements of quantifiable data to identify the "creamy layer" and an ongoing empirical evaluation of representation mirrored the Assembly's caution against the perpetuation of group privileges indefinitely. The Courts invoke CADs to strengthen the view that justice is a process and not an entitlement, that it requires empirical evidence, flexibility and sunset clauses.

F. Living Constitution: Dialogue Between Past and Present

The Courts use CADs to reinforce the perception that justice is a process and not an entitlement, it must have empirical findings, flexibility and sunset clauses. The rulings are indicative of the CADs not being historical documents as such but rather as living instruments, where the Courts rummage about seeking principles to guide them, which even now are of use, in the event of new questions and struggles, such as intersectional disadvantage, economic deprivation. CADs are regarded, by the Judiciary, as constitutional guide which makes it possible to adapt and train capricious judicial innovation.

⁵⁰ AIR 2018 SC 4729.

⁵¹ AIR 2019 SC 2723.

G. Justice Gavai and the Sub-Quota Watershed

The most significant recent development is the Supreme Court's landmark ruling in *State of Punjab v. Davinder Singh*, delivered by a seven-judge Constitution Bench on 1 August 2024, with a 6:1 majority.⁵² The Court overruled its 2004 decision in *E.V. Chinnaiah v. State of Andhra Pradesh*,⁵³ which had treated Scheduled Castes as a homogeneous group incapable of sub-classification.⁵⁴ The majority, authored by then-CJI D.Y. Chandrachud, held that states possess the constitutional competence under Articles 15 and 16 to sub-classify within a reserved category, specifically within Scheduled Caste reservations to give preferential treatment to the most backward sub-groups, provided such classification is supported by quantifiable empirical data demonstrating inadequate representation.⁵⁵

Justice B.R. Gavai's concurring opinion went further on two fronts. First, he invoked Ambedkar's own writings, specifically referencing *What Gandhi and Congress Have Done to Untouchables*, Chapter VII, to ground the creamy layer argument in Ambedkarite thought itself.⁵⁶ Second, he strongly asserted that the creamy layer principle must apply to SCs and STs as well, albeit with criteria different from those applicable to OBCs, given the distinct nature of caste-based

⁵² *State of Punjab v. Davinder Singh*, 2024 INSC 562 (1 August 2024), (India)

⁵³ *E V Chinnaiah v State of Andhra Pradesh* (2005) 1 SCC 394, (India).

⁵⁴ Legal Bites, "Landmark Supreme Court Verdict on SC/ST Quota," <https://www.legalbites.in/landmark-judgements/landmark-supreme-court-verdict-on-scst-quota-sub-categorization-allowed-state-of-punjab-vs-davinder-singh-2024-1054507>

⁵⁵ Supreme Court Observer, *Validity of Sub-Classification Within Reserved Categories*, <https://www.scobserver.in/cases/punjab-davinder-singh-validity-of-sub-classification-within-reserved-categories-case-background/>

⁵⁶ Verdictum, "State Must Evolve Policy to Identify Creamy Layer," <https://www.verdictum.in/court-updates/supreme-court/2024-insc-562-state-of-punjab-v-davinder-singh-creamy-layer-scheduled-caste-tribe-1546270> (citing Justice Gavai's reference to Ambedkar's *What Gandhi and Congress Have Done to Untouchables*, Ch. VII).

discrimination.⁵⁷ This position was endorsed by Justices Vikram Nath, Pankaj Mithal, and Satish Chandra Sharma, establishing the applicability of creamy layer to SC/ST reservations by a 4:3 majority, though the issue was not directly before the Court and therefore reads as *obiter dicta*.¹⁷

The importance of this decision cannot be overstated. It operationalises Ambedkar's foundational concern with remarkable constitutional fidelity: if the purpose of reservation is to remedy deep-seated disadvantage, then treating all members of a heterogeneous backward category as equally disadvantaged is itself a form of constitutional distortion. Sub-classification is not a dilution of reservation; it is its refinement.

H. The Best Constitutional Stance

Taken together, the trajectory from the Constituent Assembly debates through *Indra Sawhney*, the EWS verdict, and *Davinder Singh*,⁵⁸ reveals a Supreme Court increasingly attentive to intra-group inequality. The sub-quota approach, combining the creamy layer exclusion for OBCs, a differentiated creamy layer framework for SCs/STs, and targeted preferential treatment for the most marginalised sub-groups represents the most constitutionally coherent and socially just resolution of the tension between group-based and individual-focused justice. It honours both the letter and the spirit of Articles 15(4) and 16(4), and it remains faithful to Ambedkar's insistence that reservations are a means, not an end, a bridge to substantive equality, not a mechanism for the consolidation of intra-community privilege.⁵⁹ The Supreme Court, in embracing sub-classification, has taken its most nuanced and progressive stance yet on India's most consequential constitutional question.

⁵⁷ Drishti Judiciary, *State of Punjab & Others v. Davinder Singh & Others* (2024), <https://www.drishtijudiciary.com/landmark-judgement/constitution-of-india/state-of-punjab-&-others-v-davinder-singh-&-others-2024>

⁵⁸ *State of Punjab v Davinder Singh* (Sub-classification Doctrine) 2024 INSC 562, (India).

⁵⁹ *Janhit Abhiyan v Union of India* (2022) 10 SCC 1; 2022 SCC OnLine SC 1540, (India).

VI. Conclusion

The role played by CADs in moulding and interpreting the living Constitution of India, especially with regards to affirmative action, continues to be foundational, dynamic and ongoing. It is evident from the original texts of Articles 15(4), 15(5), 16(4), and 46 to the contemporary Supreme Court ruling, that the ethical and philosophical sight of the framers continue to be guiding principles for the descending generations of policymakers, Judges, scholars and advocates.

Affirmative action in India is not merely a relic of postcolonial trade-off instead it is a mechanism that has been deeply considered and deliberated for redressing the entrenched social and economic inequalities. The CADs established very well that merely granting formal equality in law does not secure justice in society which is ingrained with caste, gender and class exclusions. Instead, it emphasised upon corrective measures, rooted in substantive equality, fraternity and dignity, to bring about a transformation in India's communities, institutions and democracy itself. The judicial reliance on CADs is the testament of their continuing relevance even in this time, with regard to affirmative action, especially when it is constantly a part of political agendas of the political parties. It conforms to the idea of affirmative action as a means of achieving real equality. CADs acts as a "moral compass" for judges and legislators to guarantee that the policies on affirmative action are ethically defensible, empirically justified and constitutionally principled.

The jurisprudential arc traced in this paper from the Constituent Assembly to *Davinder Singh*, reveals a Supreme Court that has, over time, grown truer to the foundational vision of the Constitution than its own earlier decisions. Dr. B.R. Ambedkar, addressing the Assembly on 30 November 1948, cautioned with characteristic precision: "Supposing, for instance, reservations were made for a community or a collection of communities, the total of which came to something like 70 per cent of the total posts under the State and only 30 per cent are retained as the unreserved. Could anybody say that the reservation of 30 per cent as open to general competition would be satisfactory from the point of view of giving effect to the first principle, namely, that there shall be equality of opportunity?"⁶⁰

60 Constituent Assembly Debates, Vol. 7, 30 November 1948 (debate on Article 16 / Article 10 of Draft Constitution). Available at: <https://www.constitutionofindia.net/debates/30-nov-1948/> and cited in Indra

This passage encapsulates Ambedkar's dual commitment: reservation as a corrective instrument, not an indefinite entitlement, and equality of opportunity as its inviolable counterpart.⁶¹ The Supreme Court, through *Indra Sawhney's* creamy layer doctrine, the EWS verdict's recognition of economic disadvantage, and finally *Davinder Singh's* embrace of sub-classification, has progressively brought Indian reservation law into alignment with this dual commitment. Sub-classification is not a retreat from the constitutional promise of social justice, it is its most honest expression. By ensuring that the most marginalised within an already marginalised group are reached first, the Court has done what the Constitution has always asked of it: to treat unequals unequally, with precision and purpose.

Sawhney v. Union of India, AIR 1993 SC 477, and in Supreme Court Observer analysis: <https://www.scobserver.in/journal/ambedkar-and-the-quantum-of-reservation/>
61 Constituent Assembly Debates, Official Report, Vol XI (14–26 Nov. 1949) Lok Sabha Secretariat, New Delhi (reprint 2014).