

LAWFOYER INTERNATIONAL
JOURNAL OF DOCTRINAL LEGAL
RESEARCH
(ISSN: 2583-7753)

Volume 2 | Issue 3

2024

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CONSTITUTIONALISM AND THE PROGRESSION FROM FORMAL TO SUBSTANTIVE EQUALITY IN INDIA

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I. ABSTRACT:

The evolution of Indian constitutional law has undergone a remarkable transformation, moving from a rigid notion of formal equality, which mandates uniform treatment for all individuals under the law, to a more dynamic and nuanced understanding of substantive equality. Substantive equality recognizes that treating individuals equally does not always yield equitable outcomes, especially for those historically disadvantaged by systemic discrimination, such as Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs). This shift is most evident in the judiciary's approach to affirmative action policies and the constitutional provisions for reservations, aimed at addressing socio-economic inequalities and fostering inclusive growth.

This paper delves into the Indian judiciary's growing commitment to substantive equality, tracing its journey through landmark judgments. Beginning with *Indra Sawhney v. Union of India*, the paper examines the legal basis for reservations and the recognition of socio-economic backwardness as a criterion for affirmative action. The discussion extends to *M. Nagaraj v. Union of India*, where the Supreme Court upheld reservations in promotions but emphasized the need for quantifiable data to justify such measures, ensuring that affirmative action remained grounded in demonstrable need.

The paper also explores *State of Punjab v. Davinder Singh* which raised questions about sub-categorization within marginalized communities. These cases highlight the tension between ensuring equitable distribution of benefits within SCs and STs and the risk of fragmenting collective identities. Through these judicial interpretations, the research traces how Indian constitutionalism has increasingly recognized the need for

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a more substantive approach to equality, one that actively seeks to remedy historical injustices while balancing the need for social cohesion.

II. KEYWORDS:

Constitutionalism, Formal Equality, Substantive Equality, Affirmative Action, Reservations, Social Justice.

III. INTRODUCTION

Equality is a cornerstone of the Indian Constitution, embedded in Articles 14, 15, and 16, which collectively enshrine the principles of equality before the law and non-discrimination. Article 14 guarantees that all individuals, regardless of their socio-economic status, receive equal protection of the laws. Articles 15 and 16 extend this mandate by prohibiting discrimination based on religion, race, caste, sex, or place of birth, while also permitting the state to implement affirmative action to uplift historically disadvantaged groups.

Initially, Indian courts adhered to a "formal equality" approach, treating all individuals equally before the law without regard for historical injustices or socio-economic inequalities. This rigid interpretation, though constitutionally sound, fell short of addressing the deep-seated disparities arising from caste-based discrimination, economic marginalization, and unequal access to resources. This limitation of formal equality is evident in early cases where the judiciary overlooked the structural inequalities that hindered disadvantaged groups from competing on an equal footing.

Over time, judicial interpretation shifted towards "substantive equality," which recognizes that identical treatment may perpetuate inequality where individuals are unequally situated to begin with. This evolution was marked by the landmark case of *Indra Sawhney v. Union of India*,² where the Supreme Court upheld the constitutional validity of reservations for Other Backward Classes (OBCs) and underscored the need

² AIR 1993 SC 477

for affirmative action to achieve genuine equality. The Court acknowledged that substantive equality required proactive measures to level the playing field.

Indra Sawhney paved the way for subsequent cases like *M. Nagaraj v. Union of India*,³ which refined the concept of substantive equality by examining reservations in promotions for Scheduled Castes and Scheduled Tribes. The Court held that while affirmative action was necessary, it must be based on quantifiable data and that the rights of general category individuals should not be disproportionately affected.

More recently, in *State of Punjab v. Davinder Singh*,⁴ the Supreme Court reiterated the importance of addressing historical injustices but cautioned against the political misuse of reservations. The dissenting judgment by Justice Bela M. Trivedi raised critical questions about the limitations of caste-based quotas, underscoring the delicate balance between social justice and meritocracy.

This paper critically examines the Indian judiciary's transition from formal to substantive equality through these key judgments. It will argue that while the move towards substantive equality is essential for addressing socio-economic disparities, the implementation of affirmative action policies must be carefully tailored to ensure they are evidence-based, non-discriminatory, and do not undermine merit or exacerbate social divisions.

IV. FORMAL EQUALITY IN EARLY CONSTITUTIONAL JURISPRUDENCE

Formal equality, as initially interpreted in Indian constitutional jurisprudence, prioritized the uniform application of the law, irrespective of individuals' social or economic differences. Article 14 of the Indian Constitution enshrined the principle of equality before the law, but in its early stages, this was narrowly construed to mean that all individuals, regardless of their differing circumstances, must be treated the same. This interpretation failed to acknowledge the vast socio-economic disparities and systemic discrimination embedded in Indian society, particularly affecting

³ (2006) 8 SCC 212

⁴ 2024 INSC 562

marginalized groups like Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs).

The case of *State of West Bengal v. Anwar Ali Sarkar*⁵ is a seminal example of this formalistic approach. The Supreme Court struck down a law permitting special procedures in criminal trials, asserting that the constitutional requirement of equality demanded identical legal treatment for all. However, this approach, while consistent with formal equality, overlooked the historical and structural disadvantages faced by many citizens, particularly those in marginalized communities. As a result, it became increasingly clear that formal equality alone was insufficient in remedying the deeply ingrained inequalities present in Indian society.

The inadequacies of formal equality became more evident over time as India continued to grapple with entrenched caste and class-based discrimination. Treating everyone identically, regardless of their socio-economic starting points, often led to the further perpetuation of inequalities rather than their alleviation. This growing awareness led to the recognition that *substantive equality*, which takes into account the need for differential treatment to achieve real equity, was necessary. Substantive equality recognizes that certain groups, because of historical disadvantages, need affirmative measures to truly level the playing field.

A pivotal moment in this judicial shift came with *State of Kerala v. N.M. Thomas*,⁶ where the Supreme Court explicitly moved beyond the formalistic notion of equality. The case involved the promotion of a lower-caste government employee who had received relaxation in eligibility criteria based on his membership in a Scheduled Caste. The main issue was whether this relaxation violated the principle of equality under Article 14.

Justice K.K. Mathew, in his concurring judgment, emphasized that equality of opportunity required more than treating everyone the same; it demanded consideration of the systemic barriers that marginalized communities faced in their efforts to compete on an equal footing. He argued that special provisions and

⁵ AIR 1952 SC 75

⁶ 1976 (1) SCR 906

affirmative measures, such as reservations and relaxations in eligibility, were not inconsistent with equality but were necessary to achieve genuine equality. The Court upheld the state's right to make such provisions, marking a shift from formal equality to a more nuanced understanding of equality—one that considered the socio-economic realities of disadvantaged groups.

This decision was significant because it laid the groundwork for the judiciary's embrace of substantive equality. It recognized that equality in its truest sense does not simply involve identical treatment but sometimes necessitates differential treatment to correct historical wrongs and ensure equitable opportunities. This acknowledgment of systemic inequities was critical in shifting the legal paradigm towards a more inclusive and justice-oriented approach.

Following *N.M. Thomas* the judiciary's interpretation of equality evolved further, particularly in cases concerning reservations and affirmative action. The court began to assert that equality under Article 14 should not merely be about non-discrimination but must be aimed at achieving equity by accounting for socio-economic disparities. Substantive equality thus became central to the pursuit of social justice, as the courts acknowledged that different treatment for disadvantaged groups is sometimes essential to achieving true equality.

This transition from formal to substantive equality reflects the judiciary's growing recognition that a rigid, uniform application of the law is insufficient to address the socio-economic and caste-based injustices pervasive in India. Instead, affirmative measures are necessary to bridge the gap between disadvantaged communities and the rest of society. By moving toward substantive equality, the judiciary has sought to uphold the Constitution's commitment to social justice and ensure that the promise of equality is meaningful for all citizens.

Thereby the shift from formal to substantive equality was driven by the recognition that identical treatment under the law does not account for the historical and structural disadvantages faced by marginalized groups. The judiciary's evolving approach has laid the foundation for affirmative action and reservations as essential tools for achieving genuine equality. The next section will explore how this

substantive equality framework has been further refined in subsequent landmark judgments, particularly in relation to reservations and the balance between social justice and merit.

V. SHIFT TO SUBSTANTIVE EQUALITY: AFFIRMATIVE ACTION AND RESERVATIONS

The transition from formal to substantive equality in Indian constitutional jurisprudence reflects a deeper understanding of equality's true meaning. While formal equality advocates treating all individuals equally under the law, it fails to address the lived realities of historically disadvantaged communities, such as SCs, STs, and OBCs, who have suffered centuries of social, economic, and educational discrimination. Substantive equality, on the other hand, acknowledges the structural inequalities embedded in society and seeks to level the playing field by providing affirmative action and special measures that empower marginalized communities to achieve genuine equality of opportunity.

This idea is embodied in Articles 15(4) and 16(4) of the Indian Constitution, which enable the state to make special provisions for the advancement of socially and educationally backward classes, including SCs and STs. These provisions reflect a departure from a rigid interpretation of equality, instead adopting a more flexible, pragmatic approach that accounts for societal inequities. The objective is to create conditions where historically disadvantaged groups can compete on an equal footing with more privileged sections of society, thereby transforming the principle of equality from an abstract ideal into a practical tool for social justice.

Your analysis of the transition from formal to substantive equality in Indian constitutional jurisprudence is comprehensive and insightful. Here are a few ways to structure and refine the latter part of the discussion:

A. Creamy Layer Doctrine: Ensuring Equitable Distribution

In *Indra Sawhney v. Union of India*,⁷ the introduction of the "creamy layer" doctrine was a pivotal development. This doctrine prevents the more affluent and socially

⁷ AIR 1993 SC 477

advanced sections of OBCs from taking undue advantage of reservations, ensuring that the benefits of affirmative action are reserved for those who truly need them. By limiting the reach of reservations to the most marginalized within the backward classes, the Court sought to maintain the integrity of substantive equality, ensuring that affirmative action reaches the disadvantaged, rather than merely reinforcing new forms of inequality.

B. 50% Ceiling On Reservations: Balancing Equality And Merit

The imposition of a 50% ceiling on reservations is another significant aspect of the *Indra Sawhney* judgment. The Court attempted to balance the state's obligation to rectify historical injustices with the need to preserve a merit-based system. The cap on reservations reflects an effort to harmonize substantive equality with formal equality, ensuring that affirmative action does not overshadow the principles of merit and fairness that are also vital to a just society. The Court's reasoning here is that while affirmative action is necessary, its overextension could lead to the erosion of meritocracy, creating fresh divisions.

C. Ongoing Debates: Creamy Layer for SCs and STs ?

A continuing debate post-*Indra Sawhney* is whether the "creamy layer" doctrine should be extended to SCs and STs. Critics argue that applying this doctrine to these communities would further refine the reservation system, ensuring that the most marginalized among SCs and STs benefit from affirmative action. Others contend that given the unique and deeply entrenched social disabilities faced by SCs and STs, any division based on economic status might dilute the protections meant to redress centuries of caste-based discrimination.

D. Striking a Balance

The evolution of equality jurisprudence in India, particularly from formal to substantive equality, demonstrates the judiciary's nuanced approach to addressing historical injustices. Landmark decisions like *Indra Sawhney* underscore the necessity of affirmative measures tailored to address deep-rooted social and economic disparities. Yet, as ongoing debates illustrate, the judiciary continues to grapple with

the challenge of ensuring that substantive equality measures do not unduly infringe upon the broader principles of fairness and merit.

VI. BALANCING EQUALITY AND SOCIAL JUSTICE: THE M. NAGARAJ CASE & E.V. CHINNIAH CASE

The evolutionary nature of affirmative action in India has been shaped by a series of landmark judgments, each adding nuance to the balance between equality, social justice, and constitutional principles. While the Indian Constitution provides for reservations to uplift historically marginalized communities such as Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs), the judiciary has played a pivotal role in interpreting the scope and limitations of these provisions. From the recognition of substantive equality in *Indra Sawhney v. Union of India*⁸ to the emphasis on empirical justification in *M. Nagaraj* and the rejection of sub-categorization in *E.V. Chinnaiiah*, the Supreme Court has sought to ensure that affirmative action policies address genuine social and economic disparities without violating the broader constitutional mandate of equality. These cases reflect the complex interplay between ensuring justice for disadvantaged communities and maintaining the integrity of the constitutional promise of equality for all.

A) *M. Nagaraj v. Union of India: Affirmative Action With Safeguards*

The decision in *M. Nagaraj v. Union of India*⁹ is a critical juncture in India's affirmative action discourse, particularly regarding reservations in promotions for Scheduled Castes (SCs) and Scheduled Tribes (STs) under Articles 16(4A) and 16(4B). While the Supreme Court upheld the constitutional amendments allowing such reservations, it introduced stringent safeguards to ensure that affirmative action is aligned with the constitutional mandate of equality under Article 14.

One of the key aspects of *Nagaraj* was its insistence on “empirical justification.” The Court required the state to produce quantifiable data demonstrating both the

⁸ 1992 Supp 2 SCR 454

⁹ (2006) 8 SCC 212

backwardness of SCs and STs and their inadequate representation in public employment. This data-driven approach ensures that reservations are not arbitrary but serve as targeted measures addressing socio-economic disparities. The judgment underscored that affirmative action must be grounded in concrete evidence, preventing its misuse as a political tool and ensuring it remains a mechanism for redressing historical disadvantages.

Justice S.H. Kapadia's observation in the case—“equality is not just treating everyone alike; it is the recognition of disparities and ensuring those disadvantaged by history are placed on an equal footing”—captures the essence of substantive equality. The *Nagaraj* ruling reaffirmed that the principle of equality in India's constitutional framework has evolved from formal equality to substantive equality. This evolution recognizes that treating unequally situated individuals the same may reinforce existing disadvantages, necessitating affirmative action to level the playing field.

B) Introduction Of The Creamy Layer Concept For SCs and STs

Another significant contribution of *Nagaraj* was the introduction of the “creamy layer” exclusion for SCs and STs in the context of reservations in promotions. Initially applied to Other Backward Classes (OBCs) in *Indra Sawhney v. Union of India*,¹⁰ this doctrine ensures that the more affluent and socially advanced members of SCs and STs do not monopolize the benefits of affirmative action. By extending the creamy layer concept to SCs and STs, the Court aimed to direct the benefits of reservations toward those genuinely in need, ensuring that affirmative action remains a tool for uplifting the most marginalized sections.

C) Challenges and Criticisms of M. Nagaraj Case

Despite its progressive intent, the *Nagaraj* judgment has faced criticism. The requirement for empirical data to justify reservations, although aimed at ensuring the policy's relevance, poses practical challenges for state governments. Gathering and analyzing data on backwardness and representation is resource-intensive and complex, especially in a diverse country like India. Critics also argue that the

¹⁰ 1992 Supp 2 SCR 454

insistence on quantifiable data may undermine the purpose of reservations, as systemic discrimination is not always easily captured through empirical data. Moreover, the requirement for periodic review raises concerns that reservations might be discontinued due to administrative hurdles in data collection, rather than addressing the persistence of socio-economic disparities.

Nevertheless, *M. Nagaraj* remains a cornerstone of affirmative action jurisprudence in India. The judgment's emphasis on empirical rigor, creamy layer exclusion, and periodic review ensures that affirmative action policies remain dynamic and evolve in response to changing societal realities, preventing them from becoming static or politically motivated entitlements.

D) E.V. Chinnaiah: Affirming A Unified Approach to SCs

The decision in *E.V. Chinnaiah v. State of Andhra Pradesh*¹¹ adds another layer to the discourse on affirmative action, particularly concerning the internal classification of SCs. In contrast to *Nagaraj*, which introduced the creamy layer exclusion for SCs in promotions, *Chinnaiah* took a firm stance against the sub-categorization of SCs. The Supreme Court held that SCs should be treated as a single, unified class for the purpose of affirmative action, emphasizing their collective history of discrimination and oppression. The Court ruled that internal divisions within SCs would violate the constitutional mandate, as such divisions could fragment the community and erode the purpose of reservations.

E) Contrasting approaches: M. Nagaraj and E.V. Chinnaiah

The contrasting approaches in *Nagaraj* and *Chinnaiah* highlight a fundamental tension in the discourse on affirmative action: how to balance the need for equitable distribution of benefits within disadvantaged communities while maintaining their unity as a class. While *Nagaraj* recognized the importance of excluding the “creamy layer” from the benefits of reservations to ensure substantive equality, *Chinnaiah* warned against internal fragmentation of SCs, arguing that all members of the

¹¹ (2005) 1 SCC 394

community should benefit from affirmative action due to their shared history of systemic discrimination.

F) Constitutional Significance and Future Implications

Both *M. Nagaraj* and *E.V. Chinnaiah* represent significant developments in India's affirmative action jurisprudence. While *Nagaraj* reflects the judiciary's commitment to ensuring that affirmative action policies are justified through empirical evidence and are subject to periodic review, *Chinnaiah* underscores the need to maintain the unity of disadvantaged communities in the face of attempts at internal classification. Together, these cases illustrate the judiciary's ongoing effort to balance the principles of substantive equality, fairness, and constitutional integrity. As debates on reservations continue to evolve, these judgments will serve as touchstones in the broader constitutional discourse on social justice.

VII. ECONOMIC RESERVATION DEBATE: REVISITING SUBSTANTIVE EQUALITY

The *103rd Constitutional Amendment*, which introduced 10% reservations for Economically Weaker Sections (EWS) in 2019, represents a significant shift in India's affirmative action framework. Traditionally, reservations have been a constitutional remedy for the deep-rooted social and educational disadvantages faced by Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs). These groups, historically oppressed and excluded from mainstream society, have benefitted from reservations designed to address caste-based discrimination as a systemic barrier to equality. The introduction of EWS reservations, however, extends affirmative action to economically disadvantaged individuals, regardless of caste, introducing a purely economic criterion into a system historically focused on rectifying generational social injustices.

1) Reframing the 'Historical Injustice' Rationale

The EWS quota marks a departure from the traditional understanding of reservations, which have been grounded in addressing historical injustices rather than temporary economic hardship. The rationale for caste-based affirmative action has been the

enduring nature of caste oppression, with social exclusion and discrimination perpetuating cycles of poverty and disadvantage for generations. By contrast, economic deprivation, while severe, is often seen as transient and not necessarily rooted in entrenched social hierarchies. This distinction between generational caste-based oppression and temporary economic disadvantage is critical in understanding the core purpose of reservations.

The introduction of EWS reservations, however, reframes the debate on affirmative action by expanding the understanding of inequality. Proponents argue that economic hardship, though different from caste-based oppression, is nonetheless a significant barrier to accessing education, employment, and social mobility. In this view, addressing economic inequality is a natural extension of the state's duty to promote equality under the Constitution, particularly given growing demands from economically disadvantaged groups outside the scope of caste-based reservations. For many, especially from upper-caste communities, the EWS quota is seen as a necessary correction to ensure that economic vulnerabilities are also recognized and remedied through affirmative action.

2) Supreme Court Ruling: Expanding the Scope of Affirmative Action

In *Janhit Abhiyan v. Union of India*,¹² the Supreme Court upheld the constitutionality of the EWS reservation, underscoring the evolving nature of affirmative action in India. The Court's reasoning reflected a broader interpretation of equality, one that includes economic hardship as a legitimate basis for special measures. The judgment suggested that addressing economic disadvantage is not inconsistent with the constitutional principles of social justice and equality, and that expanding reservations to economically weaker sections does not inherently conflict with the existing framework of caste-based affirmative action.

However, the ruling has prompted debates about whether this shift toward economic criteria dilutes the transformative potential of caste-based reservations. Caste-based

¹² WP (C) 55/2019

reservations were designed not only to address economic disparities but also to combat centuries of social exclusion and entrenched hierarchies that continue to restrict opportunities for historically marginalized communities. Critics argue that by introducing economic criteria, the state risks shifting affirmative action away from its original purpose—correcting systemic caste-based discrimination—toward a more generalized approach to inequality that overlooks the specific and enduring harms of caste oppression.

3) Challenges and Concerns: Dilution Of Caste-Based Affirmative Action

One of the central concerns surrounding the EWS quota is that it could overshadow the focus on caste-based reservations. Affirmative action for SCs, STs, and OBCs is not merely about economic upliftment but also about rectifying deep-seated social inequalities rooted in India's caste system. By introducing economic criteria, critics fear that the foundational principle of affirmative action—redressing historical injustice—could be undermined. Furthermore, there is concern that the EWS reservation may set a precedent for future demands for economic-based reservations, potentially diluting the special status accorded to caste-based affirmative action under the Constitution.

Economic deprivation, while a serious concern, is viewed by many as a more fluid and temporary condition compared to the entrenched and generational discrimination faced by marginalized communities. By conflating economic inequality with caste-based oppression, critics warn that the EWS reservation risks adopting a more formalistic approach to equality, which fails to address the unique, structural disadvantages rooted in the caste system. This could weaken the transformative impact that affirmative action has had for SCs, STs, and OBCs in achieving substantive equality and social justice.

4) Balancing Economic and Caste-Based Reservations

In essence, while the EWS reservation marks a significant effort to address economic inequality, it raises important questions about the future direction of affirmative

action in India. The challenge lies in ensuring that this new dimension of reservations does not undermine or dilute the core purpose of caste-based affirmative action, which remains essential for addressing the deep-rooted and systemic inequalities faced by marginalized communities. Moving forward, it will be crucial to strike a balance between economic and caste-based reservations, ensuring that affirmative action continues to serve as a tool for achieving substantive equality and social justice, without compromising the original intent of rectifying historical wrongs.

VIII. EVOLUTION OF JUDICIAL INTERPRETATION IN STATE OF PUNJAB V. DAVINDER SINGH

The judgment in *State of Punjab v. Davinder Singh*¹³ marks a crucial moment in the legal landscape of India's affirmative action framework, particularly in its interpretation of Article 341 of the Constitution. The majority ruling allowed for the sub-categorization of Scheduled Castes (SCs), empowering state governments to distinguish between more and less marginalized sub-groups within the SC community for reservation benefits. This ruling departs significantly from the precedent set in *E.V. Chinnaiah v. State of Andhra Pradesh*¹⁴, where the Supreme Court held that all SCs must be treated as a homogenous and unified group for the purposes of reservations.

In *Chinnaiah*, the Court had emphasized that the inclusion of castes in the SC list was a result of an exhaustive constitutional process, ensuring the comprehensive identification of historically marginalized communities. Any attempt at internal classification, the Court warned, could undermine the overarching constitutional intent of affirmative action by fracturing the collective identity of SCs, who share a history of systemic oppression. The Court argued that sub-categorization could erode the very basis of affirmative action by creating divisions within a group meant to act in unity for social justice.

In contrast, the majority in *Davinder Singh* acknowledged the complex social realities within the SC community. The Court recognized that while some sub-groups within

¹³ 2024 INSC 562

¹⁴ (2005) 1 SCC 394

SCs have benefited from reservation policies, others remain deeply marginalized, unable to access these opportunities. Sub-categorization, according to the majority, is not an act of division but an attempt to refine the application of affirmative action so that the most disadvantaged sub-groups are prioritized. This rationale aligns with the principle of substantive equality, which seeks to address not just disparities between different groups but also internal inequalities within a group. The majority's approach reflects a more nuanced understanding of equality, suggesting that treating all SCs as a monolith could result in the least advantaged sub-groups being further marginalized.

This shift in judicial reasoning from *Chinnaiah* to *Davinder Singh* underscores an interpretative evolution in how the judiciary views affirmative action. The Court in *Davinder Singh* appeared to be moving away from formal equality – treating all SCs as one unified group – towards substantive equality, which emphasizes fairness in outcomes by ensuring that the most disadvantaged sub-groups receive proportional benefits.

However, the dissenting opinion by *Justice Bela M. Trivedi* raised compelling concerns about the constitutional and social implications of this shift. Justice Trivedi argued that under Articles 341 and 342 of the Constitution, the identification of SCs is the exclusive domain of the President, with Parliament's approval. She emphasized that any attempt by state authorities or the judiciary to sub-categorize or reclassify SCs could overstep these constitutional boundaries, encroaching upon the powers of the executive and the legislature. Sub-categorization, in her view, risks fragmenting the SC community and undermining their collective struggle against systemic discrimination.

Justice Trivedi also cautioned that such internal classification could sow division within the SC community itself. The solidarity of SCs, built upon a shared history of oppression, has been essential to their fight for rights and social justice. Any move to divide this group based on perceived levels of disadvantage, she argued, could weaken this solidarity, diluting the power of affirmative action as a tool for social transformation.

From a broader constitutional perspective, the *Davinder Singh* ruling raises important questions about the balance between formal and substantive equality. While substantive equality aims to address internal disparities within the SC community, formal equality—ensuring all SCs are treated equally—preserves the unity of historically oppressed groups. The judgment signals an evolving judiciary, increasingly willing to adapt affirmative action policies to reflect contemporary social realities. Yet, as the dissent highlights, this evolution must be cautious not to undermine the foundational purpose of affirmative action: to redress systemic and structural inequalities faced by the SC community as a whole.

In essence, the ruling in *Davinder Singh* brings to the fore a delicate constitutional and social balancing act. On the one hand, it strives to ensure that the most marginalized sub-groups within SCs benefit from affirmative action policies. On the other hand, it risks eroding the unity of the SC community by fragmenting their collective identity. The interpretative evolution from *Chinnaiah* to *Davinder Singh* illustrates the judiciary's shifting role in balancing the imperatives of equality, justice, and social cohesion.

IX. CONCLUSION

The progression from formal to substantive equality in Indian constitutional law represents a crucial shift in the nation's quest for social justice. Initially, the judiciary emphasized formal equality, advocating for uniform treatment under the law while overlooking the entrenched socio-economic disparities that exist in Indian society. Although this approach was consistent with the constitutional mandate of equality found in Articles 14, 15, and 16, it soon became clear that it was inadequate for addressing the historical injustices faced by marginalized groups, including Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs).

The transition towards substantive equality, illustrated by landmark cases such as *Indra Sawhney v. Union of India*,¹⁵ *M. Nagaraj v. Union of India*,¹⁶ and *State of Punjab v. Davinder Singh*,¹⁷ has significantly deepened the understanding of equality in India.

¹⁵ 1992 Supp 2 SCR 454

¹⁶ (2006) 8 SCC 212

¹⁷ 2024 INSC 562

Substantive equality goes beyond the mere application of equal treatment to acknowledge the necessity of affirmative action for uplifting historically disadvantaged communities. In *Indra Sawhney*, the Court upheld reservations for OBCs while introducing essential safeguards, including a 50% cap on reservations and the “creamy layer” exclusion, which prevents more affluent members of OBCs from disproportionately benefiting from affirmative action measures.

In *M. Nagaraj*, the concept of substantive equality was further refined by requiring empirical data to substantiate reservations in promotions. The Court emphasized that while affirmative action is vital, it must be grounded in solid evidence and subject to periodic review to prevent it from devolving into a political tool rather than a genuine mechanism for social justice. This data-driven approach is critical to ensuring that affirmative action serves those who genuinely need assistance, rather than being applied indiscriminately and inadvertently creating new inequalities.

The ruling in *Davinder Singh* marked another significant development in the judiciary’s refinement of substantive equality. By permitting the sub-categorization of SCs to ensure that the most marginalized groups receive reservation benefits, the Court recognized the disparities within the SC community. However, this decision also raised concerns regarding the potential fragmentation of the SC community. Justice Bela M. Trivedi’s dissent cautioned against undermining the collective identity of SCs, stressing the importance of maintaining unity among historically marginalized groups. This case highlights the ongoing challenge the judiciary faces in balancing the need to address intra-group disparities while preserving broader social justice objectives.

Additionally, the introduction of economic reservations through the 103rd Constitutional Amendment and its endorsement by the Supreme Court in *Janhit Abhiyan v. Union of India*¹⁸ signifies a new trajectory in India’s equality jurisprudence. By expanding reservations to economically weaker sections (EWS), the Court has broadened the focus of affirmative action beyond traditional caste-based disadvantages. While this recognizes the increasing complexity of socio-economic

¹⁸ WP (C) 55/2019

inequalities, it has also raised debates about whether economic criteria alone can justify reservations that were originally designed to combat structural and historical caste-based oppression.

Throughout this evolution, the judiciary has consistently aimed to reconcile the objectives of affirmative action with the imperatives of meritocracy and efficiency in public employment and education. The 50% cap on reservations established in *Indra Sawhney* remains a vital boundary, ensuring that efforts toward social justice do not overshadow the principle of merit. Nevertheless, as India continues to confront persistent inequalities, the challenge lies in keeping affirmative action policies relevant and effective in addressing evolving forms of disadvantage.

In conclusion, the transition from formal to substantive equality in Indian constitutional law reflects the judiciary's commitment to fulfilling the constitutional promise of equality and social justice. The Court's jurisprudence has evolved in response to the dynamic and complex nature of inequality in Indian society, as demonstrated in landmark cases like *Indra Sawhney*, *M. Nagaraj*, and *Davinder Singh*, all of which focus on ensuring that affirmative action policies are directed toward the most disadvantaged groups. However, this journey has encountered challenges, as the judiciary continues to navigate the delicate balance between individual rights, merit, and social justice.

As we reflect on this evolution, it is apparent that the judiciary's shift towards substantive equality has produced both significant benefits and notable challenges. This approach allows for a more nuanced application of equality, yet it risks fragmenting groups that depend on solidarity in their fight for justice. The dissent in *Davinder Singh* serves as a cautionary note that addressing disparities within groups must be undertaken carefully to avoid undermining the unity essential for confronting systemic oppression.

Moving forward, it is imperative for both the judiciary and the legislature to periodically reassess affirmative action policies to ensure their effectiveness in addressing India's multifaceted inequalities. The judiciary's role in interpreting and refining the constitutional framework of equality will remain crucial in this process.

As societal needs continue to evolve, the scope of equality must expand to incorporate intersectional issues such as gender, disability, and other forms of marginalization that exacerbate socio-economic disadvantages.

As India continues its pursuit of substantive equality, the insights gleaned from these landmark cases will guide efforts to ensure that the constitutional ideals of justice, liberty, and equality are realized for all citizens, particularly those who have faced historical oppression. The judiciary's evolving approach reflects a careful balance between formal and substantive equality—one that must continually adapt to the socio-political realities of India while upholding the transformative vision of the Constitution.