Page: 2342-2378 *URL: www.lijdlr.com*

LAWFOYER INTERNATIONAL JOURNAL OF DOCTRINAL LEGAL RESEARCH

ISSN: 2583-7753

LawFoyer International Journal of Doctrinal Legal Research

[ISSN: 2583-7753]

Volume 4 | Issue 2

2026

DOI: https://doi.org/10.70183/lijdlr.2026.v04.242

BEYOND PERMANENT RESERVATION: DESIGNING A GLOBAL EXIT POLICY (SUNSET CLAUSE) FOR AFFIRMATIVE ACTION

Rani Devangan[1]

I. ABSTRACT

Affirmative action policies were originally conceived as temporary remedial measures to redress historical discrimination, structural exclusion, and entrenched social inequalities. Nevertheless, in several jurisdictions these measures have gradually evolved into long-term or indefinite arrangements without clearly defined termination mechanisms or systematic performance review. This article examines the constitutional and policy implications of the absence of structured exit mechanisms and argues for the incorporation of evidence-based sunset clauses within affirmative action frameworks. The study adopts a doctrinal and comparative legal research methodology, analysing constitutional provisions, judicial decisions, statutory frameworks, and international human rights instruments alongside policy experiences in India, the United States, South Africa, Malaysia, and Brazil. The comparative analysis demonstrates that India has largely institutionalised affirmative action without meaningful exit standards; the United States has relied primarily on judicial intervention rather than legislative review; South Africa employs periodic monitoring but lacks measurable termination criteria; Malaysia illustrates the political entrenchment of preferential policies beyond their intended duration; while Brazil provides a comparatively stronger model through legislatively mandated periodic review of quota policies. Drawing upon these comparative experiences, the article identifies common structural deficiencies, including institutional inertia, elite capture, accountability deficits, and constitutional tensions arising from perpetual affirmative action regimes. It proposes a Global Exit Policy Framework founded upon measurable equality indicators, independent periodic review,

[1] Ph.D. Scholar (Law) at Kalinga University, Kotni, Atal Nagar-Nava Raipur, Chhattisgarh (India). Email:ranidevangan0@gmail.com

 (ISSN: 2583-7753)

proportionality, phased withdrawal, and transitional safeguards to ensure that affirmative action remains genuinely remedial rather than permanent. The article concludes that well-designed sunset clauses strengthen, rather than weaken, substantive equality by preserving the constitutional legitimacy, accountability, and evidence-based character of affirmative action within democratic legal systems.

II. KEYWORDS

Affirmative Action, Sunset Clause, Exit Policy, Constitutional Design, and Compensatory Discrimination.

III. INTRODUCTION

Creative discrimination measures (Affirmative Action), including reservation benefits, quotas, admission preferences, and diversification mandates, are one of the most debated and controversial areas of modern constitutional and human rights law. These were conceived as emergency measures to address systematic discrimination and historical backwardness. Behind this was a perception that if historical injustices were resolved in a meaningful way, special considerations would be ended and equal opportunities would be given to all. But the fact is that in most countries this assurance was not implemented in practice.

The continuation of the reservation system, even after the circumstances on the basis of which they were justified have changed to a great extent, raises deep questions about constitutional propriety, democratic accountability and policy effectiveness. In the context of India, a reservation that was originally thought of as a transitional measure for only ten years has not only been in existence for more than seven decades, but has been continuously and expanded rather than balanced to gradually eliminate it. This situation illustrates how the short-term goals of social reform have now become part of the long-term political and policy framework.[2] Affirmative action within higher education in the

[2] Granville Austin, The Indian Constitution: Cornerstone of a Nation (Oxford University Press 1966) 38-51

US, that is, 'affirmative action', endured despite decades of legal battles, but ultimately the Supreme Court's landmark decision in 2023 in the case 'Students for Fair Admissions vs. Harvard' reined in its use. One of the main arguments behind this major change was that universities had never completely failed to fix a credible timeframe or clear end point for the end of this policy[3]. The Bumiputra preferential policies that were implemented in Malaysia under the 'New Economic Policy' of the year 1971 were initially formulated as a limited program of only twenty years. However, in reality these policies continued decades after the end of their set deadlines and dragged on far beyond their original goals.[4]

Reveals a fundamental structural shortcoming existing in the framework of laws involving positive discrimination (affirmative action). In fact, these laws often lack 'sunset clauses', exit standards, and phased-out systems. For your information, let us tell you that 'sunset clause' is a provision of law which automatically terminates that law or program after a certain time or creates a situation of mandatory review of it, unless it is actively reviewed again. Should not be renewed. This shortcoming shows that the scope for future review and improvement in formulating policies is often overlooked[5]. Such a provision in the context of Affirmative Action would act like a bulwark, mandating it to be proven periodically on the basis of solid evidence to continue the policy. Its main objective is to ensure that this policy is limited to its original form of reform and reparation and does not take the form of a permanent right or privilege over time. Put simply, this rule creates a system where reservations or special concessions remain in effect only as long as their real need is proved, making them always corrective in nature.

This review article thoroughly examines its normative underpinnings, comparative models, design challenges and practical proposals for formulating a global

[3] Students for Fair Admissions, Inc. v. President and Fellows of Harvard College, 600 U.S. 181 (2023).
[4] Lee Hwok Aun, 'Affirmative Action in Malaysia and South Africa: Contrasting Structures, Continuing Dilemmas' (2016) 54(5) Journal of Asian and African Studies 615.
[5] Jacob Gersen, 'Temporary Legislation' (2007) 74(1) University of Chicago Law Review 247.

exit policy framework (Exit Policy Framework) for Affirmative Action. Its second part surveys the theoretical underpinnings that consider affirmative action inherently temporary, while the third part presents a comparative analysis of the 'sunset clauses' (termination provisions) applicable in select jurisdictions. A fourth part of the article identifies structural problems arising from the absence of an exit mechanism, followed by a fifth part proposing an ideal global exit policy framework. Finally, the sixth part resolves possible arguments and oppositions and the seventh part presents conclusions.

A. Research Objectives

The present study seeks to achieve the following objectives:

1. To examine the constitutional and theoretical foundations supporting the temporary character of affirmative action policies.
2. To comparatively analyse the legal frameworks governing affirmative action and exit mechanisms in India, the United States, South Africa, Malaysia, and Brazil.
3. To identify the constitutional, institutional, and policy challenges arising from the absence of structured sunset clauses in affirmative action regimes.
4. To evaluate comparative international practices concerning periodic review and termination of affirmative action measures.
5. To propose a model Global Exit Policy Framework incorporating measurable benchmarks, periodic review, proportionality, and phased withdrawal while preserving the remedial objective of affirmative action.

B. Research Questions

This article is guided by the following research questions:

1. Is affirmative action constitutionally intended to operate as a temporary remedial measure or as a permanent policy instrument?

2. How have different jurisdictions addressed the absence or presence of sunset clauses and exit mechanisms within affirmative action frameworks?
3. What constitutional and institutional consequences arise when affirmative action policies continue indefinitely without periodic review?
4. What principles should govern the design of an internationally applicable exit policy framework that remains consistent with constitutional equality and international human rights standards?

C. Research Methodology

This study adopts a doctrinal and comparative legal research methodology. The doctrinal component analyses constitutional provisions, statutory frameworks, judicial decisions, international human rights instruments, and academic literature relating to affirmative action and equality jurisprudence. The comparative methodology evaluates the legal experiences of India, the United States, South Africa, Malaysia, and Brazil to identify similarities, divergences, and best practices concerning sunset clauses and exit mechanisms. The analysis is qualitative in nature and employs constitutional interpretation, comparative legal reasoning, and policy evaluation to formulate a normative Global Exit Policy Framework for affirmative action.

- **Table No.1.**

Jurisprudential Perspectives on the Constitutional Nature and Philosophy of Reservations

Jurist	**Nature of Reservation**
Dr. Ambedkar	Real Equality
Grenville Austin	Compensatory Discrimination
M.P. Jain	Exception to Equality
Seervai	Social Justice

V.N. Shukla	Social Barrier Reduction
Justice Bhagwati	Unequals & Equals
John Rawls	Benefits of Least Advantage

IV. THEORETICAL FOUNDATIONS: THE TRANSITIONAL CHARACTER OF AFFIRMATIVE ACTION

A. The Remedial Rationale and Its Temporal Boundary

The most forceful and sound theoretical basis in support of affirmative action (affirmative action) is the remedial or compensatory argument. This ideology emphasizes that it is essential to give preference to some sections of the society to remove the historical injustice done to them and their current ill effects. Put simply, this priority treatment given to specific groups is a vehicle for correcting the mistakes of the past and balancing today's inequalities arising from them[6]. This argument is fundamentally bound by a time limit it is based on the preconception that a mistake can be identified, its correction measures are fixed accordingly, and as soon as that damage is completely healed, the remedial process should be terminated. should be done. The U.S. Supreme Court had accepted the same ideological premise in the case of Regents of the University of California vs. Baake (1978), when Justice Powell took the view that caste-based admissions policies should be confined within a certain time frame.[7]

In the case of Gruter vs. Bollinger (2003) the court had clearly noted, while sharing its view, that the relevance of caste-based or affirmative action admission procedures should be limited to the next twenty-five years. The Court believed that there would come a time in the future when equality in society would reach such a level that there would be no need to take into account race or caste for admission to educational institutions, and it

[6] Michel Rosenfeld, Affirmative Action and Justice: A Philosophical and Constitutional Inquiry (Yale University Press 1991) 19–44.
[7] Regents of the University of California v. Bakke, 438 U.S. 265 (1978).

would take two and a half decades for this change. A deadline of[8] the determination of time limits within the scope of international human rights laws is perfectly clear. Article 1 (4) of the International Convention on the Elimination of Racial Discrimination (ICERD) allows for special measures only for the sole purpose of the advancement of certain specific racial or ethnic groups. However, this condition also essentially applies that these steps should not be a basis for maintaining different rights for different groups. Most importantly, it is considered inappropriate in law to continue as soon as the objectives for which these measures were applied have been achieved. This ensures that policies of positive discrimination act only as a temporary solution and not as a permanent arrangement.[9] It is clear under international law that stopping this activity is not just a suggestion or an option, but it is a mandatory and binding standard. In the eyes of law, this is such a legal limit which is mandatory to follow and there is no scope left for any kind of laxity or laxity in it.

Similarly, article 4 (1) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) makes it clear that such temporary special measures should be abolished at the time when the set goals of equality of opportunity and treatment have been fully achieved. This provision ensures that these corrective steps are not permanent but only effective until balance and real equality are established in the society[10]. The Committee on the Elimination of Discrimination against Women, in its general suggestion No. 25', has placed particular emphasis on the fact that provisions of this kind must necessarily have a temporary form. The Committee has made clear that

[8] Grutter v. Bollinger, 539 U.S. 306, 343 (2003).
[9] International Convention on the Elimination of All Forms of Racial Discrimination, opened for signature 7 March 1966, 660 UNTS 195 (entered into force 4 January 1969) art 1(4).
[10] Convention on the Elimination of All Forms of Discrimination Against Women, opened for signature 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981) art 4(1).

these immediate measures should not be seen in conjunction with sustainable structural reforms aimed at bringing about long-term change in society.[11]

B. Structural-Justice Rationale and the Problem of Perpetuity

A second theoretical argument in favour of reservation or affirmative action emphasizes its structural and forward-looking nature. This approach is not limited to correcting old mistakes, but rather puts at the centre the deep inequality that exists in the present society. It believes that positive intervention is very important to completely eliminate the serial methods of exclusion and discrimination that persist in the society even today.[12] This argument is a little hard to tie into the time frame because even after formal discrimination has ended structural inequality can sustain itself through educational reduction, social capital gap and generational poverty. However, this does not at all mean that structural reforms must be permanent. On the contrary, the structural logic demands that these measures be precisely modelled on measurable indicators and that these reforms should be abolished as soon as these indicators reach an acceptable level of equality.

Political philosopher John Rawls's 'difference theory' (differences printlike) offers a very practical and influential framework, developing a deep understanding of social justice. The main argument of this theory is that economic or social inequalities in society can be considered acceptable only if they ensure maximum benefits for the people of the most backward and deprived sections of the society. In simple terms, if a system is benefiting the rich, it is morally justifiable only if its direct or indirect benefits reach even those who are at the bottom of the notch.[13] According to this argument, affirmative action (positive discrimination) is justified as long as it contributes meaningfully to the upliftment of the

[11] Committee on the Elimination of Discrimination Against Women, General Recommendation No. 25 on Temporary Special Measures, UN Doc A/59/38 (2004).
[12] Owen Fiss, 'Groups and the Equal Protection Clause' (1976) 5(2) Philosophy & Public Affairs 107
[13] John Rawls, A Theory of Justice (revised edn, Harvard University Press 1999) 53–57.

lowest and deprived section of the society. As soon as this system deviates from its main objective, as an example, when its primary benefit is limited only to those 'creamy layers' or influential people who are nominally backward then its Rawlsian basis of justice is completely eliminated. goes. This problem, underlined by the Supreme Court of India in the landmark judgment of 'Indra Sawhney vs. Union of India' (1992), makes clear that policies like reservation not only require a time limit (sunset provisions) but also within reserved categories. It is mandatory to have clear classification to identify the real needy.[14]

C. Constitutional Equality Norms and Strict Scrutiny

Viewed from a constitutional point of view, affirmative action is considered a kind of departure from the general principles of formal equality. judicial systems which carry out a close and thorough review of race or caste-based classifications such as India, USA, South Africa and Canada there such a change can only be justified if it is formulated in an extremely precise manner for an essential government interest. Simultaneously, it is necessary to ensure that the burden of this procedure does not fall unduly on groups which are not receiving the benefit of these special provisions.[15]

The imperative of narrow tailoring (narrow tailoring) naturally calls for a time limit or 'temporal limit'. This simply means that if a measure or policy continues indefinitely even after the achievement of its stated objective, it cannot in any case be considered 'narrowly tailored' or precisely formulated. The principles of effective governance and justice make it clear that the existence of any particular provision is justified only as long as the need for it persists; stretching the goal once it has been met eliminates both its relevance and accuracy.[16]

---

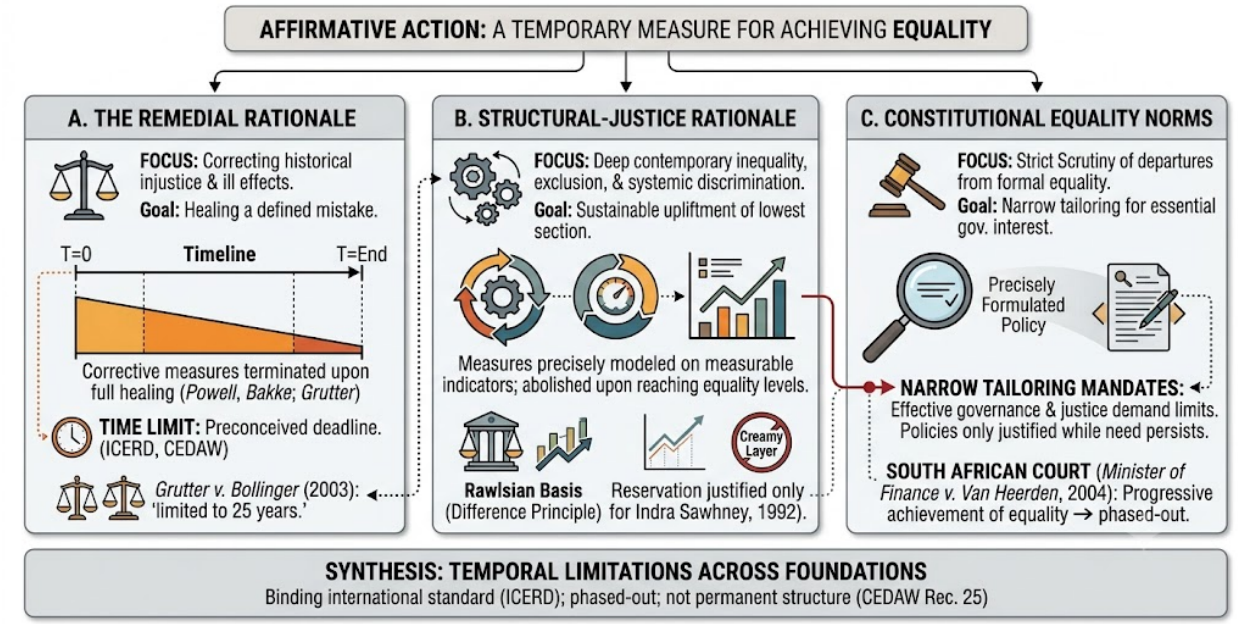
[14] Indra Sawhney v. Union of India, AIR 1993 SC 477 (Indian Supreme Court).
[15] T. Alexander Aleinikoff, 'A Case for Race-Consciousness' (1991) 91(5) Columbia Law Review 1060.
[16] Adarand Constructors, Inc. v. Pena, 515 U.S. 200 (1995).

The Constitution of South Africa, which specifically allows for arrangements such as positive measures and reservations to promote de facto equality under its section 9, has been closely examined from time to time by the Constitutional Court. The court has made it clear in its various judgments that such corrective steps should always be proportionate and cannot be arbitrary in nature. Simultaneously, the judiciary also believes that as the goal of equality in society is progressively achieved, it will be necessary to phase out these special measures gradually so as to establish a fully egalitarian system.[17]

In the case of Minister of Finance vs. Van Heerden (2004) the court made it clear that the main objective of corrective measures should be to achieve real and substantive equality, not just formal equality. The Court emphasized that while taking such steps, the constitutional rights of other citizens should not be violated without any solid basis or excessively. This decision set the standard that these efforts at equality should be monitored continuously and that, as they approach the set target, these measures should be gradually withdrawn so that balance is maintained.[18]

[17] Constitution of the Republic of South Africa, 1996, s 9(2).
[18] Minister of Finance v. Van Heerden 2004 (6) SA 121 (CC) (South Africa).

Fig. 1: Theoretical Framework: The Inherently Transitional Character of Affirmative Action



V. COMPARATIVE ANALYSIS: SUNSET CLAUSES AND EXIT MECHANISMS ACROSS JURISDICTIONS

A. India: The Paradox of Permanent Temporariness

India's conservation system is known as one of the largest and most complex positive measures in the world. Under this system, certain seats are reserved for Scheduled Castes (SC), Scheduled Tribes (ST) and other Backward Classes (OBCs) in government jobs, various educational institutions and legislatures. This far-reaching structure has been built in the Indian Constitution mainly with the aim of eliminating historical deprivation and establishing social equality.[19] The system of reservation of seats in legislatures which was made under Articles 330 and 332 of the Indian Constitution initially stipulated a time limit (sunset clause) of only ten years. However, considering the need of the hour and social circumstances, this period has been continuously extended through various

[19] Marc Galanter, Competing Equalities: Law and the Backward Classes in India (University of California Press 1984) 7–25.

constitutional amendments, as a result of which this provision is still in force today.[20] The most special thing about the provisions on reservation in education and services (Articles 15 (4), 15 (5) and 16 (4)) is that no fixed time limit has been fixed for these in the Constitution. To put it simply, there is no mention of any final date clearly as to how long the reservation arrangements offered under these articles will be kept in force.

The Mandal Commission Report (1980) had suggested reservation for Other Backward Classes (OBC) based on criteria of social and educational backwardness, although no explicit mention was made in this whole system of any procedure for reviewing or withdrawing it in the future[21]. In the Indra Sawhney case, the Supreme Court gave its approval to the upper limit of fifty per cent on reservation and mandated the exclusion of the 'creamy layer' from Other Backward Class (OBC) benefits, reflecting a kind of partial rationalization process.; However, the court refrained from setting any fixed expiry deadline for this.[22]

Subsequent constitutional amendments including the 77th, 81st, 82nd, and 85th Amendment Acts further strengthened the constitutional framework governing reservation in promotions and related matters. Subsequent reform proposals, including the Constitution (One Hundred and Seventeenth Amendment) Bill, 2012,[23] which sought to amend Article 16(4A), were not enacted and ultimately lapsed**.** Nevertheless, the enacted constitutional framework continued to expand reservation jurisprudence without incorporating any concrete exit trigger or measurable criteria for the phased

[20] Constitution (Seventy-Ninth Amendment) Act, 1999 (India); Constitution (One Hundred and Fourth Amendment) Act, 2020 (India).
[21] Government of India, Report of the Backward Classes Commission (Mandal Commission) (1980) vol I, ch 12.
[22] Indra Sawhney v. Union of India (n 13) paras 742–750.
[23] The Constitution (One Hundred and Seventeenth Amendment) Bill, 2012 (Bill No. 111 of 2012) (India) (lapsed without enactment).

withdrawal of such measures, thereby permitting their continuation without a defined expiry mechanism.[24]

Scholars have labelled this situation as 'permanent instability', in which a system emerges where policies temporarily formulated in the early stages remain in place for generations. Instead of these policies being removed, they are constantly maintained based on political and economic equations. Ironically, the continuation of these policies rests only on political interests and the strengthening of the power structure, rather than being based on any real need or concrete evidence[25]. Judicial review has currently become the main means of accountability, but when it comes to the evidence-based 'sunset framework', courts do not appear to be institutionally competent to make the nuanced empirical assessments required for it. In fact, court structure is better for legal interpretations, but analysing the nuanced data and ground reality of a law's effectiveness goes beyond their functional limits.

B. United States: Judicial Compulsion as Surrogate Sunset

The United States has never officially adopted a statutory sunset clause for affirmative action in higher education. The closest example is Justice O'Connor's statement in Grutter v. Bollinger, in which she expressed the expectation that, within twenty-five years, the use of racial preferences would no longer be necessary. Her statement is widely regarded as an informal temporal benchmark rather than a legally binding sunset provision[26]. This expectation of the judiciary was not linked to any mandatory obligation; there was no legal imperative for universities to phase out these programmes. The result was that even after two decades, there was no concrete change in the nature of caste-based admission programs. This same situation eventually led the Supreme Court to pronounce its

[24] Constitution (Seventy-Seventh Amendment) Act, 1995 (India); Constitution (Eighty-Fifth Amendment) Act, 2001 (India).
[25] Niraja Gopal Jayal, Representing India: Ethnic Diversity and the Governance of Public Institutions (Palgrave Macmillan 2006) 88.
[26] Grutter v. Bollinger (n 7) 343.

landmark decision in 2023 in the case of Students for Fair Admissions vs. President and Fellows of Harvard College. The court clearly held that the admissions procedures of Harvard and the University of North Carolina violate the 'Equal Protection Clause'.[27]

This decision of the court can be seen as an 'exogenous sunset' i.e. an end imposed by external interference. In fact, when political and institutional systems failed to create an endogenous exit mechanism within themselves, the judiciary had to intervene and dismantle it. However, Justice Sotomayor clarified in his dissent that this decision prematurely stops the policies that are needed even today in view of the racial inequality prevalent in the society[28]. This decision of the court can be seen as an 'exogenous sunset' i.e. an end imposed by external interference. In fact, when political and institutional systems failed to create an endogenous exit mechanism within themselves, the judiciary had to intervene and dismantle it. However, Justice Sotomayor clarified in his dissent that this decision prematurely stops the policies that are needed even today in view of the racial inequality prevalent in the society.

C. South Africa: Progressive Realisation and Review

South Africa's Employment Equity Act 1998' and the 'Broad-Based Black Economic Empowerment Act 2003' have included provisions involving review and reporting that largely approach a 'sunset framework' (termination framework), but fail to achieve that standard in its entirety. Practically speaking, these laws emphasize the need for continued monitoring and accountability, indicating that these policies are subject to periodic evaluation rather than permanent, even if they formally lack a fixed expiration date[29]. As per the prevailing rules, it is mandatory for employers to submit detailed reports on maintaining equality in employment every year, based on which the

[27] Students for Fair Admissions (n 2) 221–230.
[28] ibid 290–350 (Sotomayor J, dissenting).
[29] Employment Equity Act 55 of 1998 (South Africa); Broad-Based Black Economic Empowerment Act 53 of 2003 (South Africa).

Department of Employment and Labor makes public the progress of the transformation process of various sectors. However, a major limitation within this legal framework is that it does not specify any specific or measurable boundaries. That is, there is currently no clear direction as to exactly what stage such mandatory positive measures will be lifted or their requirements will be re-examined.[30]

A strong basis for incorporating 'sunset logic' into South African equality law may be drawn from the Constitutional Court's equality jurisprudence. In South African Police Service v Solidarity obo Barnard (2014), the majority judgment, delivered by Moseneke ACJ, upheld the South African Police Service's employment equity decision as a constitutionally valid remedial measure under section 9(2) of the Constitution. At the same time, several concurring judgments developed additional analytical perspectives, emphasising that the implementation of affirmative action should remain consistent with constitutional values such as dignity, fairness, and proportionality, while recognising the interests of persons outside the designated beneficiary groups. Read together, these judgments illustrate that although affirmative action enjoys constitutional legitimacy, its implementation remains subject to continuing constitutional scrutiny and principled justification, thereby supporting the broader case for periodic review mechanisms[31]. This balance of the principle of proportion, if applied with consistency, will inevitably call for concrete proofs of the present need. In fact, a formal sunset mechanism (due termination process) is designed for this purpose, so that it can submit these proofs from time to time and ensure the relevance of the system.

D. Malaysia: Entrenchment Without Review

The foundation of Malaysia's 'Bumiputra' policies was laid mainly during the 'New Economic Policy' (NEP) that lasted between 1971 and 1990, which was also continuously

[30] Department of Employment and Labour, Employment Equity Report 2021-2022 (Republic of South Africa 2022) 14–18.
[31] South African Police Service v Solidarity obo Barnard [2014] ZACC 23; 2014 (6) SA 123 (CC) (Constitutional Court of South Africa).

pursued in subsequent development plans. These policies were apparently formulated as a special twenty-year redistribution programme, originally aimed at strongly increasing the active participation of the Malay community and their share in economic activities and trading areas[32]. Although the stipulated time period of the NEP (NEP) had technically expired in 1990, despite this the main priority provisions applicable in areas such as corporate equity, public procurement, academic admissions and housing were incorporated as they were in the National Development Policy (1991-2000) and subsequent frameworks without any in-depth review. In simple words, instead of eliminating the influence of the old system, it continued to be carried forward by making it a part of new policies.[33]

The Malaysian experience illustrates very well how affirmative action deepens its roots in political economy. Once a specific community begins to benefit from these policies, strong institutional and electoral interests arise within them to continue to provide these facilities. On the other hand, governing coalitions also become completely dependent on these preferential policies to maintain their political mobilization and mass base, making their removal virtually impossible[34]. Academic analysis of inter-ethnic income inequality in Malaysia seems to indicate that while considerable significant progress was made in the New Economic Policy (NEP) round, these policies were continued in many areas after their real need had ceased. The result was that it not only affected economic efficiency, but also encouraged mutual dissatisfaction and grievances between different communities.[35] A clear and transparent review system, based on sound economic criteria, could have provided an opportunity to make periodic precise and measured improvements to the entire mechanism, rather than continuing it without thought.

---

[32] Government of Malaysia, Outline Perspective Plan 1971-1990 (National Printing Department 1971) 1–12.
[33] Hwok Aun (n 3) 618–622.
[34] Donald Horowitz, Ethnic Groups in Conflict (2nd edn, University of California Press 2000) 677–684.
[35] Ragayah Haji Mat Zin, 'Income Distribution in Malaysia' in Hal Hill, Tham Siew Yean and Ragayah Haji Mat Zin (eds), Malaysia's Development Challenges (Routledge 2012) 116.

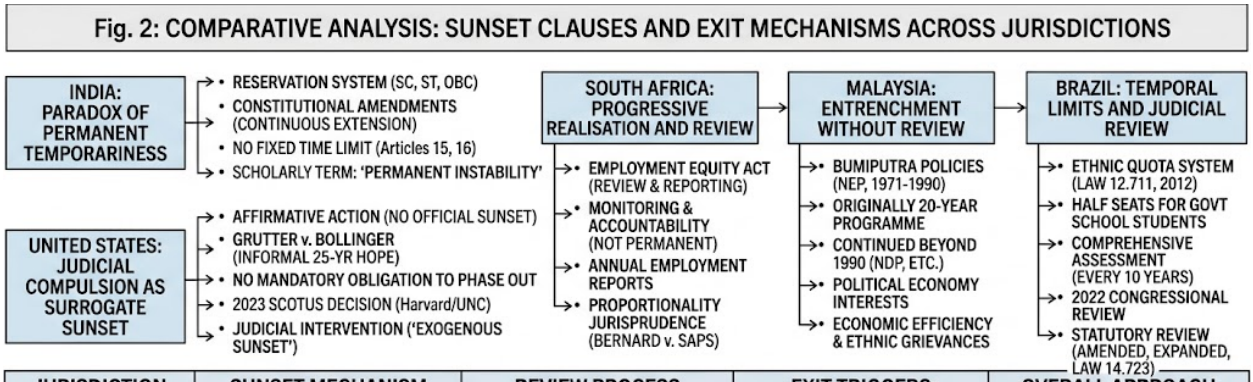
E. Brazil: Temporal Limits and Judicial Review

Brazil implemented the Ethnic Quota System (racial quota systems) in public universities through Law No. 12.711 of 2012, under which half of the seats in federal universities were reserved exclusively for students from government schools. Within this arrangement, provision for sub-quotas for black, mixed-origin (Brown) and indigenous communities was also included. It is noteworthy that in section 7 of this law it was clearly inscribed that the Federal Government shall make a comprehensive assessment of its results every ten years, so that possibilities for amending or improving it may be considered as necessary[36].This statutory review system, despite its simplicity, offers a far more theoretical and streamlined approach than the indefinite continuity prevalent in those other jurisdictions. While procedures are drawn up in many places without any clear timeline, this mechanism provides a limited but solid framework that prioritizes accountability and clarity.

In the year 2023, the Brazilian Congress reviewed Law No. 12.711 and enacted Law No. 14.723, which expanded and refined Brazil's federal quota system following the statutory review mechanism provided under the original legislation. This legislative development demonstrates that the review process functioned as intended by facilitating evidence-based reconsideration and reform of the quota regime, rather than allowing it to continue indefinitely without parliamentary reassessment. To take.[37] Brazil's current model, despite all its shortcomings and inconsistencies, offers a clear example to the world that adding a 'sunset clause' to laws related to affirmative action is not only politically possible, but also practical. This framework helps us understand that such implicit closure provisions do not at all mean that these schemes will be terminated prematurely

[36] Lei No. 12.711/2012 (Brazil) art 7.
[37] Lei No. 14.723/2023 (Brazil).

or suddenly due to any political malice, but rather lead to a systematic and accountable policy making. Can be a positive step.



JURISDICTION	SUNSET MECHANISM	REVIEW PROCESS	EXIT TRIGGERS	OVERALL APPROACH
INDIA	• No clear mechanism	• Continuously extended by amendments	• No concrete exit triggers	• Paradox of Permanent Temporariness
UNITED STATES	• AFFERMATIVE ACTION • GRUTTER v. BOLLINGER (INFORMAL 25-YR HOPE)	• MONITORING & ACCOUNTABILITY (NOT PERMANENT)	• Originally 20-YEAR Programme	• ORIGINALLY Permanent Programme
SOUTH AFRICA	• No Fixed time Limit (Articles 15, 16)	• Annual Employment Reports	• Continued Beyond 1990 (NDP, ETC.)	• Continued Beyond 1990 (NDP/, ETC.)
MALAYSIA	• Bumiputra Policies (Harvard/UNC)	• Prcoportionality Jurisprudence	• Political Economy Interests	• Economic Efficiency & Ethnic Grievances
BRAZIL	• Clear mechanism (every 10 years)	• Congressional review (2022)	• Statutory review system	• Temporal Limits and Judicial Review

- **TABLE NO. 2.**

Comparative Analysis of Affirmative Action in India and Brazil

FEATURE	**INDIA**	**BRAZIL**
Mainstay	Reservation is primarily based on caste categories such as SC, ST and OBC.	Based on race and class, benefits are given to Black and mixed-race groups and students from public schools.
Social Background	Aims to reform the long standing caste-based social structure.	Seeks to reduce inequalities arising from

		slavery and gap between rich and poor.
Education Quota	Seats are allocated by caste: SC (15%), ST (7.5%),OBC (27%), totalling 49.5% reservation.	50% of seats are reserved for students educated in public schools.
Verification	Requires an official caste certificate issued by the government.	Involves self-declaration followed by verification through a Hetero-identification committee.
Income Limit	Applies the "creamy layer" income limit with in the OBC category.	Includes sub-division with in quotas based on income criteria.

VI. STRUCTURAL PATHOLOGIES OF PERMANENT AFFIRMATIVE ACTION

A. Mission Creep and Categorical Expansion

In the absence of sunset provisions, affirmative action programs often grow unchecked, falling victim to legislative expansion. When there is no fixed time limit for these policies, increases in categories, increases in quotas and addition of new beneficiary groups become a normal process, often ignoring strong evidence of backwardness. The reservation granted to Economically Weaker Sections (EWS) through the 103rd Constitutional Amendment Act of 2019 in India, vindicated in the case 'Janhit Abhiyan vs Union of India (2022)', is the perfect example of this trend. It shows that when reservations are taken as normal as a permanent tool of distributive justice rather than a temporary corrective measure, those groups that have not historically been

disadvantaged also tend to take advantage of this mechanism.[38] Mission creep often comes across as a growing bureaucracy within those monitoring and implementing agencies, where institutional interests tend to give greater priority to continuing a programme consistently rather than to impartial and rigorous evaluation of it. In simple words, these departments keep dragging projects instead of eliminating them to maintain their usefulness and survival.

B. Intra-Category Inequality and Elite Capture

Long-standing reservations or programmes of affirmative action often show a tendency towards elitist occupation' (elite capture), where the real benefits of these policies are reduced to the well-to-do and influential section of the same group rather than reaching the most needy in the target community In the process it is the upper echelons of the community who frequently absorb the bulk of these facilities, with the result that members who are at the lowest rungs socially and economically are still left out of the mainstream and deprived of the benefits of development. This situation tarnishes the very purpose for which these corrective measures were implemented.[39]

Researchers like Satish Deshpande and Yogendra Yadav have described a special situation in detail in the context of reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes in India. This study shows that the objective of equality which was envisaged is not being fully successful in the present system. Indeed, it is a fundamental structural failure that requires a 'sunset mechanism' or time bound limit to be rectified. If this mechanism is precisely formulated on the basis of the welfare of the most deprived and backward members of each group, it will not only ensure correct distribution of resources but will also prove helpful in removing the inconsistencies of

[38] Janhit Abhiyan v. Union of India (2022) SCC OnLine SC 1540.
[39] Satish Deshpande and Yogendra Yadav, 'Redesigning Affirmative Action: Castes and Benefits in Higher Education' (2006) 41(24) Economic and Political Weekly 2419.

social justice[40]. Without any substantive review or accountability, the process of Elite Capture begins to make itself more robust. The situation becomes that those influential people, who are initially only profit-makers, gradually accumulate so much social capital and influence that they are able to maintain their control over resources and special rights for generations. This becomes a cycle where their special access to resources is not only protected, but also deepens over time.

C. Constitutional Tension and Backlash

Indefinite affirmative action programs (affirmative action programs) increase constitutional tensions with norms of formal equality. This results in periodic legal challenges, which not only give rise to uncertainty and the enormous cost of litigation, but also ultimately lead to the curtailment of such programmes through external intervention. This type of abrupt termination is much more disorganized and complex than any systematic legislative sunset.[41] Growing political opposition against affirmative action which is now increasingly seen in India after the US and Europe is mainly the result of the perception that these policies are now based on permanent racial or caste rights rather than timely reforms. Have taken form.

There is a feeling among a large section of the society that the programs which were implemented for a certain period to correct historical injustice have now become just a political right, due to which their basic objective is becoming blurred is[42] The role of the sunset clause (Sunset Framework) can be quite important in terms of policies. If formulated very systematically, it reconnects a policy with its basic remedial logic, that is, 'remedial rational'. This simply means that it makes clear that the rules are there only as long as improvements are needed. When the regime shows that it is fully committed

[40] ibid 2423–2426.
[41] Christopher Edley Jr., Not All Black and White: Affirmative Action, Race, and American Values (Hill and Wang 1996) 194–211.
[42] R. Richard Banks, 'The Benign-Invidious Asymmetry in Equal Protection Analysis' (2002) 44 Hastings Constitutional Law Quarterly 733.

to ensuring equal treatment for all in the future (Equality of Treaty), this reduces the sense of insecurity that prevails in society. As a result, such time-bound plans, instead of increasing policy opposition or backlash, may actually help in reducing it and increasing social acceptance.

D. Measurement Deficit and Evidence Blindness

The most serious structural drawback of permanent reservation (permanent effective action) is perhaps that it has ceased to have anything to do with actual statistics or empirical evaluation. In the absence of review systems, there does not appear to be any institutional compulsion or pressure that could check whether this policy is achieving its set goals. The situation is that neither the actual progress of the target groups is being measured nor consideration is being given to whether any other better option or medium could prove more effective than the present system.[43]

If we consider the arguments of economist Glenn Laurie as the basis, the present situation is a clear example of 'symbolic politics'. Instead of seriously judging affirmative action like reservation as a policy solution here, political alliances are using it only as a signal and a weapon of identity politics. In simple words, it has become just a means of connecting communities and demonstrating its ideology, the policy assessment of which at the grassroots level is almost negligible.[44] The provision of a sunset clause in policies involving reservation or positive discrimination (affirmative action) may give rise to a new culture of accountability in governance. When the continuity of a policy is linked to periodic reviews of concrete evidence and data, the governance apparatus becomes more conscious of the consequences rather than merely sticking the line. This mandatory

[43] William Julius Wilson, 'Race-Neutral Programs and the Democratic Coalition' (1990) 65(2) The American Prospect 74.
[44] Glenn C. Loury, The Anatomy of Racial Inequality (Harvard University Press 2002) 112–118.

review ensures that policies do not lose their relevance and that their benefits actually reach those who need it most.

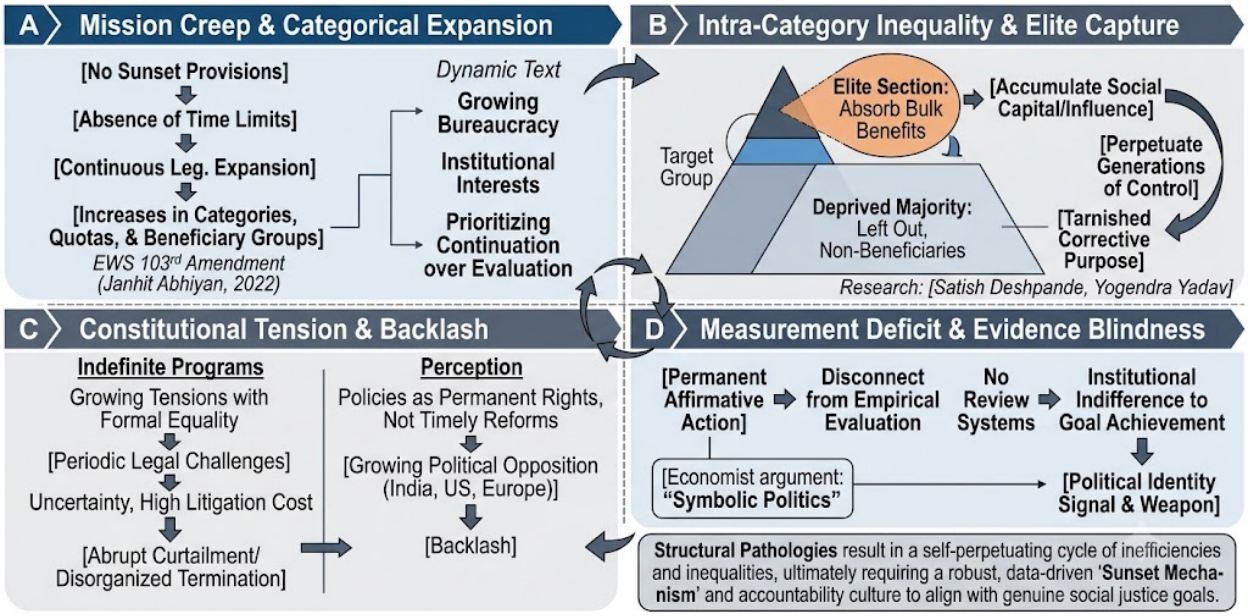


Fig. 3. Structural Pathologies of Permanent Affirmative Action

VII. TOWARD A GLOBAL EXIT POLICY FRAMEWORK: DESIGNING THE SUNSET CLAUSE

A. Core Principles

A global exit policy framework for affirmative action (affirmative action) should rest primarily on four pillars. First, the principle of proportionality ensures that these special measures are only as detailed as those mandated to achieve the goal of equality. Next, comes the principle of measurability, which demands that policy objectives be defined with such precision as to make possible an empirical or data-based assessment of their progress. The third important aspect is periodicity, whereby policies must have regular mandatory reviews within a given time frame. Finally, the principle of staggered withdrawal proposes that these policies should be gradually phased back rather than abruptly scrapped as the targets set are met.[45]

[45] Samuel Bagenstos, 'The Structural Turn and the Limits of Antidiscrimination Law' (2006) 94(1) California Law Review 1

B. Design Elements of a Model Sunset Clause

First, every affirmative action framework should incorporate a clearly drafted statutory sunset clause that establishes predetermined review periods and links the continuation of the policy to demonstrable constitutional objectives. The principle of proportionality requires that remedial measures remain no broader or longer than necessary to achieve substantive equality, thereby preventing temporary measures from becoming permanent institutional arrangements.[46]

Second, to assess the success of the policy, it is important to set some concrete and measurable standards that can clearly indicate whether the set targets have been met or not. These standards should not be limited to formal participation in education and jobs, but should be quite broad in scope. It should also cover the deeper aspects of social and economic equity that actually make a difference, such as economic recovery (intergenerational mobility) from one generation to the next, equitable distribution of wealth, and easier access for all to health services as well as better housing Only when we look at these multi-dimensional indicators will the true impact of the policy be properly assessed.[47]

Third, to ensure transparency and accountability in the implementation of the policy, a mandatory review period should be fixed, for which five to seven years would be most appropriate. The formation of an independent commission is essential to this process, with the active participation of statistical experts and constitutional lawyers, as well as representatives of civil society and affected communities. This Commission will evaluate in depth the progress made so far on the basis of the standards set. Finally, the report and

[46] Harry Holzer and David Neumark, 'Assessing Affirmative Action' (2000) 38(3) Journal of Economic Literature 483.
[47] Raj Chetty and others, 'Race and Economic Opportunity in the United States: An Intergenerational Perspective' (2020) 135(2) Quarterly Journal of Economics 711.

conclusions drawn up by the Commission will have to be presented to the legislature, where on the basis of the evidence and facts obtained, the House will have to put its clear seal on the renewal of this policy or the necessary reforms to it.

Fourth, When the benchmarks of equality have been largely achieved, there must be a rebuttable presumption (rebuttable presumption) of gradually abolishing the policy. Thereafter, the burden of continuing the policy should rest on those proponents who, on the evidence, prove why this policy is still necessary. This change in default position plays an effective role in preventing any policy from continuing indefinitely due to political inertia.[48]

Fifth, A system of gradual withdrawal may be adopted in which the scope of reservations or special benefits is gradually reduced in conjunction with the achievement of the goals. As an example, as the representation of a community or group began to reach the prescribed standard threshold, a slight reduction of one or two points could be made in the percentage of reservations in each review cycle. This approach ensures a balanced and continuous process of adjustment, rather than the abrupt total abolition of reservations at a given end date (cliff-edge fermentation), thereby maintaining stability in society.[49]

Sixth, these provisions for transitional aid replace the preferential treatment directly granted (preferential treetment) by now placing a strong emphasis on structural investment in areas such as education, healthcare, infrastructure and social capital. This strategy is geared towards communities where reservations or affirmative action are being gradually phased out. Its main objective is to ensure that the withdrawal of preferential benefits does not throw back the progress made so far. In fact, this system

[48] Kathleen Sullivan, 'Sins of Discrimination: Last Term's Affirmative Action Cases' (1986) 100 Harvard Law Review 78.
[49] Ian Ayres and Frederick Vars, 'When Does Private Discrimination Justify Public Affirmative Action?' (1998) 98(7) Columbia Law Review 1577.

acts as a strong protective shield until the deep and fundamental inequalities present in the society are completely eradicated.[50]

C. Institutional Architecture

A well-integrated institutional architecture is essential for the successful implementation of a global exit policy. At the national level, it is necessary to form an independent statutory commission on the model of India's National Commission for Backward Classes or South Africa's Commission for Employment Equity. This commission should be given specific powers to assess progress based on specific criteria and make recommendations on the continuation, refinement or phased abolition of any particular system. Most importantly, this commission should be structured in such a way that it is free from the influence of political vested interests, who generally want to make a system last. To maintain its transparency and impartiality, the recruitment process of the members must be based on all-party parliamentary consent and their tenure must be fixed and unrecruited.[51]

In the international context, the treaty-monitoring bodies established under ICERD, CEDAW, and the International Covenant on Economic, Social and Cultural Rights (ICESCR) should develop more specific reporting guidelines requiring States to document the duration, review mechanisms, and phased withdrawal plans applicable to affirmative action measures. In addition, the concluding observations issued by the Committee on the Elimination of Racial Discrimination (CERD) may be used to

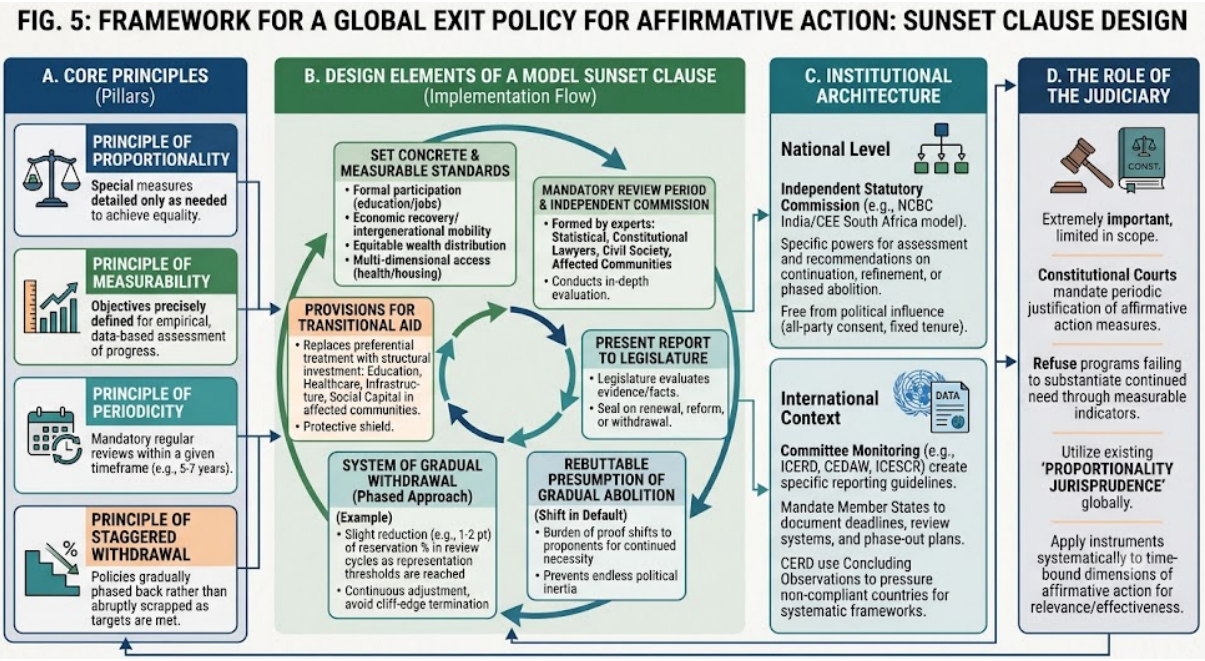
[50] William A. Darity Jr. and others, 'Stratification Economics: The Role of Intergroup Inequality' (2005) 31(2) Journal of Economics and Finance 144.
[51] Carol Swain, The New White Nationalism in America: Its Challenge to Integration (Cambridge University Press 2002) 11–22.

encourage States that lack structured exit mechanisms to adopt evidence-based review frameworks as part of their international human rights obligations.[52]

D. The Role of the Judiciary

The role of courts is extremely important in the governance of exit policy as well as limited in scope. Constitutional courts should mandate that every measure of affirmative action (affirmative action) be periodically justified. They must refuse to pursue programmes whose proponents fail to substantiate their continued need through measurable indicators. What is worth noting is that the theoretical tools needed to implement this approach are already present in the 'proportionality jurisprudence' (Proportionality Jurisprudence) of constitutional courts around the world. All that is needed now is for these instruments to be systematically applied to the time-bound dimensions of affirmative action so that their relevance and effectiveness are maintained.

[52] Committee on the Elimination of Racial Discrimination, General Recommendation No. 32: The Meaning and Scope of Special Measures in the International Convention on the Elimination of All Forms of Racial Discrimination, UN Doc CERD/C/GC/32 (2009).



VIII. COUNTERARGUMENTS AND RESPONSES

A. The Incompleteness Objection

The strongest argument against the sunset clause (termination of policy after a certain time) for positive action (affirmative action) is that they pose a risk of premature termination of these policies even before structural equality is fully achieved. According to this view, history bears witness that the political majority often takes advantage of review provisions to try to eliminate policies that are still needed. Already marginalized communities suffer huge losses when this happens, which hampers their development and security in society. This is a real and serious concern, which should be included with full seriousness while formulating the policy framework so that there is no gap in the process of justice and equality.

Three main points can be made in favour of this proposal. Firstly, the model suggested here does not talk about forcibly imposing a moratorium on a fixed date; Instead, it creates a system where reservations or policies will be gradually removed when they meet solid standards (benchmarks) that have proven themselves. If these goals are not met, the policy will continue. Secondly, the responsibility of reviewing the entire process will lie directly with an independent commission rather than the legislature, so that

political pressure or majoritarianism does not affect it. Third and most importantly, there are risks to keeping reservations running permanently without any review. The example of America is in front of us, where the result of not making an exit plan or exit strategy in time was that in the end the judiciary had to intervene. Such a termination imposed by a court is much more disadvantageous and unjust than the gradual and orderly legislative process that we are proposing here.

B. The Measurement Impossibility Objection

A major argument given is that 'meaningful equality' in itself is such a complex and multidimensional concept that it cannot be contained in a mere circle of measurable scales or figures. Critics believe that setting such standards would oversimplify conditions, which would ultimately prove inadequate as a basis for abolishing reservations or reforms. There is a lot of merit in this objection, because it is often seen that the goal of representation in top universities or administrative services is achieved, but despite this, basic inequalities like wealth, health and social capital at the deeper levels of the society remain the same. Remain the same.

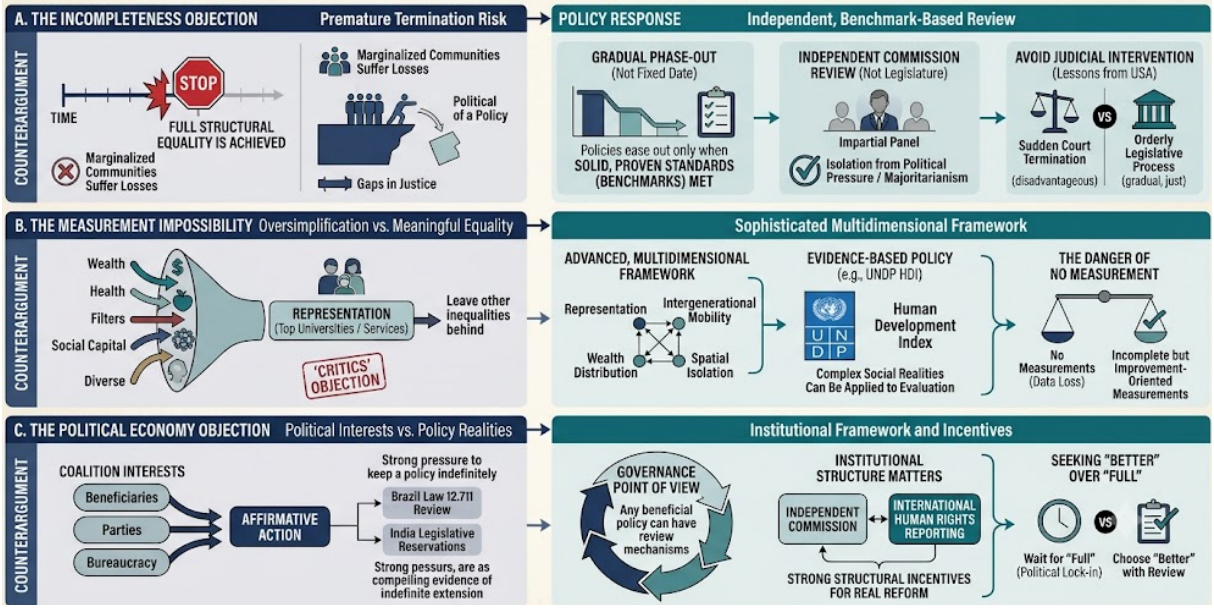
Measuring the complexity of equality is certainly a difficult task, but it is a strong argument not for abandoning benchmarks altogether, but for making them more advanced and sophisticated. It is challenging, but not impossible, to create a multidimensional framework encompassing various aspects such as representation, intergenerational mobility, distribution of wealth and spatial isolation. In this context the Human Development Index of the United Nations Development Programme (UNDP) is a fine example, proving that complex social realities can be effectively applied to policy evaluation, without being reconciled in any one simple scale. We currently have no sound standards, and it is much more damaging not to have measurements at all as an alternative to incomplete measurements, because without data the room for improvement is lost.

C. The Political Economy Objection

The third argument claims that sunset clauses (termination clauses) are not politically practical, because coalition interests maintaining affirmative action (affirmative action), such as beneficiary communities, political parties and administrative bureaucracies will strongly oppose any mechanism that threatens their existence. Be a threat to. The experience of the review provision of Law 12.711 in Brazil and the frequent extensions of legislative reservations in India is offered as compelling evidence that the sunset clause is often advanced indefinitely rather than actually being abolished.

This argument actually crosses its own limits because if we accept this argument, it will become impossible for any policy motivated by political and economic benefits to have review mechanisms (review mechanisms), which is not logical at all from the point of view of governance (governance). Not at all. In reality, the institutional structure of any framework matters most; Such as a review by an independent commission, which includes a preconception of 'phase-out' and which is linked to the obligations of international human rights reporting, it creates strong structural incentives for real reform that are often not found in purely domestic political processes. We must

FIG. 6: STRUCTURAL ANALYSIS OF COUNTERARGUMENTS AGAINST POSITIVE ACTION SUNSET CLAUSES AND CORRESPONDING POLICY RESPONSES



remember that in our quest for a 'full' system we must not sacrifice 'better' options.

IX. SUGGESTIONS AND RECOMMENDATIONS

1. Drawing upon the comparative analysis undertaken in this study, the following recommendations are proposed for the design of constitutionally sustainable affirmative action frameworks:
2. Every affirmative action programme should incorporate a statutory sunset clause requiring mandatory review at fixed intervals rather than permitting indefinite continuation.
3. Continuation of affirmative action should depend upon measurable equality indicators, including educational attainment, representation, socio-economic mobility, and access to public opportunities.
4. Independent statutory review commissions comprising constitutional experts, statisticians, policymakers, and civil society representatives should periodically evaluate the continuing necessity of affirmative action measures.
5. Any extension of affirmative action programmes should be supported by transparent empirical evidence and legislative approval based upon periodic review findings.
6. Withdrawal of affirmative action should occur gradually through phased implementation accompanied by transitional measures in education, healthcare, infrastructure, and economic empowerment to prevent reversal of achieved progress.
7. International human rights monitoring bodies should encourage States to incorporate structured review mechanisms and measurable exit frameworks within affirmative action policies to strengthen accountability and constitutional legitimacy.

X. CONCLUSION

Formulating policies of affirmative action (affirmative action) without an exit mechanism (exit mechanism) is not only a constitutional anomaly, it is also a major failure at the policy level. It transforms the instruments of correctional justice, which were originally

supposed to be temporary, into permanent structures. As a result of this, these policies oppose empirical evaluation, lead to 'elite capture' (elite capture) and create a reaction or dissatisfaction in society. Ultimately, these policies move toward an external end through court lawsuits rather than legislative backsliding. The endorsement of the sunset clause' (fixed expiry period) is based not on hostility to equality, but on the contrary spirit thereof: a commitment to genuine and concrete equality demands that measures designed to achieve it be judged on the evidence and logically eliminated when evidence is found.

This article made a concrete proposal of a global exit policy framework (Global Exit Policy Framework), composed of a combination of measurable baseline standards, multidimensional equity benchmarks and periodic independent reviews. This framework not only emphasizes pre-defined exit assumptions and gradual withdrawal mechanisms, but also incorporates necessary assistance provisions during the transition period, paving a theoretical 'middle way' between premature plan termination and its persistence indefinitely. It requires a profound measure of legislative courage and institutional creativity to deliver, so that affirmative action (affirmative action) is not seen as a pariah political compromise that is beyond scrutiny, but is accepted as a policy tool subject to the general rules of evidence-based governance.

International human rights law already emphasizes the need for 'sunset thinking'. Global agreements such as ICERD and CEDAW explicitly recognize that these special provisions or reservations must be abolished as soon as de facto equality is established in society. The main challenge currently facing national legislatures and international entities are to transform this legal requirement into an effective practical framework, which can withstand the political pressures that make reservations permanent. The truth is that a permanent reservation without any exit (exit strategy) does not bring stability, but it gradually erodes the institutional legitimacy and effectiveness that lies at its core. Ultimately, this damages the very equality goal that Affirmative Action was introduced to achieve.

XI. REFERENCES

A. Cases

1. India

- *Indra Sawhney v Union of India* AIR 1993 SC 477.
- *Janhit Abhiyan v Union of India* 2022 SCC OnLine SC 1540.

2. United States

- *Adarand Constructors, Inc. v Peña* 515 U.S. 200 (1995).
- *Grutter v Bollinger* 539 U.S. 306 (2003).
- *Regents of the University of California v Bakke* 438 U.S. 265 (1978).
- *Students for Fair Admissions, Inc. v President and Fellows of Harvard College* 600 U.S. 181 (2023).

3. South Africa

- *Minister of Finance v Van Heerden* 2004 (6) SA 121 (CC).
- *South African Police Service v Solidarity obo Barnard* [2014] ZACC 23; 2014 (6) SA 123 (CC).

B. Constitutions and Constitutional Amendments

1. Constitution of India.
2. Constitution (Seventy-Seventh Amendment) Act, 1995 (India).
3. Constitution (Seventy-Ninth Amendment) Act, 1999 (India).
4. Constitution (Eighty-First Amendment) Act, 2000 (India).
5. Constitution (Eighty-Second Amendment) Act, 2000 (India).
6. Constitution (Eighty-Fifth Amendment) Act, 2001 (India).
7. Constitution (One Hundred and Fourth Amendment) Act, 2020 (India).

8. Constitution (One Hundred and Seventeenth Amendment) Bill, 2012 (India) (lapsed).

9. Constitution of the Republic of South Africa, 1996.

C. Statutes

1. Brazil

- Lei No. 12.711/2012.
- Lei No. 14.723/2023.

2. South Africa

- Broad-Based Black Economic Empowerment Act 53 of 2003.
- Employment Equity Act 55 of 1998.

D. International Treaties and International Instruments

1. Convention on the Elimination of All Forms of Discrimination against Women, opened for signature 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981).

2. International Convention on the Elimination of All Forms of Racial Discrimination, opened for signature 7 March 1966, 660 UNTS 195 (entered into force 4 January 1969).

E. United Nations Documents

1. Committee on the Elimination of Discrimination against Women, *General Recommendation No. 25 on Temporary Special Measures*, UN Doc A/59/38 (2004).

2. Committee on the Elimination of Racial Discrimination, *General Recommendation No. 32: The Meaning and Scope of Special Measures in the International Convention on the Elimination of All Forms of Racial Discrimination*, UN Doc CERD/C/GC/32 (2009).

F. Government Reports and Official Publications

1. Department of Employment and Labour (Republic of South Africa), *Employment Equity Report 2021–2022* (2022).
2. Government of India, *Report of the Backward Classes Commission (Mandal Commission)* vol I (1980).
3. Government of Malaysia, *Outline Perspective Plan 1971–1990* (National Printing Department 1971).

G. Books

1. Alexy R, *A Theory of Constitutional Rights* (Oxford University Press 2014).
2. Austin G, *The Indian Constitution: Cornerstone of a Nation* (Oxford University Press 1966).
3. Bagenstos S, *The Structural Turn and the Limits of Antidiscrimination Law* (California Law Review 2006).
4. Brownlie I, *Principles of Public International Law* (Oxford University Press 2016).
5. Choudhry S, *Constitutional Design for Divided Societies* (Oxford University Press 2019).
6. Darity WA Jr and others, *Stratification Economics: The Role of Intergroup Inequality* (2005).
7. Dworkin R, *Taking Rights Seriously* (Harvard University Press 2013).
8. Finnis J, *Natural Law and Natural Rights* (Oxford University Press 2011).
9. Friedman LM, *Law and Society* (Oxford University Press 2019).
10. Galanter M, *Competing Equalities: Law and the Backward Classes in India* (University of California Press 1984).
11. Hart HLA, *The Concept of Law* (Oxford University Press 2012).
12. Horowitz DL, *Ethnic Groups in Conflict* (2nd edn, University of California Press 2000).

13. Kelsen H, *Pure Theory of Law* (University of California Press 2012).

14. Loury GC, *The Anatomy of Racial Inequality* (Harvard University Press 2002).

15. Rawls J, *A Theory of Justice* (revised edn, Harvard University Press 1999).

16. Rosenfeld M, *Affirmative Action and Justice: A Philosophical and Constitutional Inquiry* (Yale University Press 1991).

17. Sen A, *The Idea of Justice* (Harvard University Press 2015).

18. Swain C, *The New White Nationalism in America: Its Challenge to Integration* (Cambridge University Press 2002).

19. Tushnet M, *Advanced Introduction to Comparative Constitutional Law* (Edward Elgar 2020).

H. Journal Articles

1. Aleinikoff TA, 'A Case for Race-Consciousness' (1991) 91(5) *Columbia Law Review* 1060.

2. Ayres I and Vars F, 'When Does Private Discrimination Justify Public Affirmative Action?' (1998) 98(7) *Columbia Law Review* 1577.

3. Banks RR, 'The Benign-Invidious Asymmetry in Equal Protection Analysis' (2002) 44 *Hastings Constitutional Law Quarterly* 733.

4. Chetty R and others, 'Race and Economic Opportunity in the United States: An Intergenerational Perspective' (2020) 135(2) *Quarterly Journal of Economics* 711.

5. Deshpande S and Yadav Y, 'Redesigning Affirmative Action: Castes and Benefits in Higher Education' (2006) 41(24) *Economic and Political Weekly* 2419.

6. Edley C Jr, 'Not All Black and White: Affirmative Action, Race, and American Values' (1996).

7. Fiss O, 'Groups and the Equal Protection Clause' (1976) 5(2) *Philosophy & Public Affairs* 107.

8. Gersen J, 'Temporary Legislation' (2007) 74(1) *University of Chicago Law Review* 247.

9. Holzer H and Neumark D, 'Assessing Affirmative Action' (2000) 38(3) *Journal of Economic Literature* 483.

10. Hwok Aun L, 'Affirmative Action in Malaysia and South Africa: Contrasting Structures, Continuing Dilemmas' (2016) 54(5) *Journal of Asian and African Studies* 615.

11. Mat Zin RH, 'Income Distribution in Malaysia' in Hal Hill, Tham Siew Yean and Ragayah Haji Mat Zin (eds), *Malaysia's Development Challenges* (Routledge 2012).

12. Sullivan K, 'Sins of Discrimination: Last Term's Affirmative Action Cases' (1986) 100 *Harvard Law Review* 78.

13. Wilson WJ, 'Race-Neutral Programs and the Democratic Coalition' (1990) 65(2) *The American Prospect* 74.

I. Book Chapters

1. Mat Zin RH, 'Income Distribution in Malaysia' in Hal Hill, Tham Siew Yean and Ragayah Haji Mat Zin (eds), *Malaysia's Development Challenges* (Routledge 2012).