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# REVISITING THE EQUALITY CODE: A CRITICAL STUDY OF THE 103rd CONSTITUTIONAL AMENDMENT AND EWS RESERVATION IN INDIA

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**ABSTRACT**

*The Constitution of India has a transformative vision through Articles 14, 15 and 16 which are collectively known to be equality code. This is to address the inequality and injustice that happened in history and to redress the entrenched structural disadvantage. Equality code was an affirmative action to repair the damages caused to historically oppressed people. This paper critically examines one of the aspects of this equality code and that too a recent one where there was a change in the criteria for reservations that was provided, the EWS quota. The 103rd Amendment of the Constitution introduced Article 15 (6) and 16 (6), that provided 10% reservation for the Economically Weaker Sections based solely on the economic criteria, but the issue arose when there was an explicit exclusion of Schedule Castes, Tribes and Other Backward Classes from its scope. This paper is to analyse the Janhit Abhiyan v. Union of India, which upheld the amendment along with historic judgements that dealt with reservations and to view these judgements from the view of transformative justice.*

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**KEYWORDS**: Equality code, Affirmative Action, Economically Weaker Sections, Transformative Justice

**INTRODUCTION**:

The principle of equality forms the cornerstone of the Indian Constitution, embodied in Articles 14, 15, and 16, which together constitute the equality code. Reservation in India has historically been justified as a means of ensuring substantive equality and social justice by addressing caste-based disadvantage and historical oppression. However, the 103rd Constitutional Amendment Act, 2019 introduced a paradigm shift by providing 10% reservation in public employment and educational institutions for Economically Weaker Sections (EWS) of society, based solely on economic criteria.[2]

This amendment, for the first time, made economic disadvantage an independent ground for affirmative action, while simultaneously excluding Scheduled Castes, Scheduled Tribes, and Other Backward Classes from its ambit. This exclusion sparked intense constitutional debates, raising questions about whether the amendment violates the basic structure doctrine, particularly the guarantee of equality.

The SC in Janhit Abhiyan v. Union of India (2022)[3], by a 3:2 majority, upheld the constitutional validity of the amendment, holding that economic criteria can be a legitimate basis for reservation and that exclusion of socially disadvantaged groups is not discriminatory. However, the dissenting opinions warned that this creates a new form of inequality and undermines the historical vision of affirmative action in India.[4]

[2] The Constitution (One Hundred and Third Amendment) Act, 2019, No. 103 of 2019, India Code (2019).
[3] Janhit Abhiyan v. Union of India, (2022) INSC 799.
[4] Srishti Dixit, "Reservation of Economically Weaker Sections Under the Constitution 103rd Amendment Act, 2019" (2022) 8(5) Journal of Legal Studies and Research 266.

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Against this backdrop, the present research seeks to critically examine whether EWS reservation aligns with the equality code of the Constitution, or whether it amounts to a dilution of the principles of substantive equality, social justice, and affirmative action.[5]

***Statement Of Problem:***

The real link between Article 16(4) and the EWS quota lies in how the State had to bypass 16(4). Since courts had repeatedly held that economic criteria alone cannot justify reservation under 16(4), the 103rd Amendment introduced Article 16(6) for EWS. This shows the problematic nature of 16(4), it is both the foundation of reservation law and also a barrier that Parliament had to sidestep. My paper will study whether this parallel track of 16(6) dilutes the equality code or represents a legitimate evolution of affirmative action by diving deeply into the intricacies of the case Janhit Abhiyan and also to understand the case the chapter before it will clearly illustrate the reasons behind why reservation was brought in, and

***Research Objectives:***

- To examine the constitutional validity of the 103rd Constitutional Amendment Act, 2019, in light of the equality code under Articles 14, 15, and 16 with particular emphasis on the 50% ceiling principle established in Indra Sawhney v. Union of India (1992).
- To analyse whether the exclusion of SCs, STs, and OBCs from the ambit of EWS reservation amounts to reverse discrimination, thereby undermining substantive equality and the doctrine of non-discrimination.
- To assess whether the minority opinion in Janhit Abhiyan v. Union of India (2022)[6] provides a more realistic constitutional interpretation of the risks posed

[5] Mohit Baranwal, Aradhya Agarwal, and Shreya Sharma, "Reservation in India: A Critical Analysis of EWS Reservation with Reference to India, USA and South Africa" (2023) Indian Journal of Law and Legal Research.
[6] Janhit Abhiyan v. Union of India, (2022) INSC 799.

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by breaching the 50% cap, especially in relation to the future trajectory of affirmative action.

***Research Questions:***

- Did the introduction of the EWS quota under the 103rd Amendment violate the equality code by permitting reservations beyond the 50% ceiling set in Indra Sawhney?
- Is the categorical exclusion of SCs, STs, and OBCs from EWS benefits aligning with the principles of reasonable classification **and** substantive equality, or does it establish a reverse discrimination?
- Between the majority and minority opinions in Janhit Abhiyan (2022), which offers a more constitutional sound approach to reconciling economic justice, social justice, and the integrity of the 50% ceiling doctrine**?**

***Research Methodology:***

This research has a doctrinal approach; it is largely based on the examinations of constitutional provisions, case laws and academic commentary to establish the validity of the 103-amendment concerning the introduction of reservations for EWS. The study aims to focus on other sources by engaging with academic journal, law reviews and policy reports to assess whether EWS reservations advance the goals of affirmative action.

***Review of Literature:***

1. **Vidhu Verma, *Taking the EWS Quota Seriously: Is It Fair and Just?* 53(1) Indian J. Soc.Work 33 (2023).**

   this article scrutinizes the conceptual foundations of the EWS quota and rejects the suggestion that economic disadvantage can supplant caste-based historical discrimination as a rationale for affirmative action. In her opinion, this change may undermine the notion of substantive equality since affirmative action was

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conceived to address structural social hierarchies amongst disadvantaged groups rather than simply address economic hardship.

2. **Ashwini Deshpande,** ***how (Not) to Reform India's Affirmative Action Policies for Its Economically Weaker Segments*****, ResearchGate (2022).**

   Deshpande claims that the EWS quota oversimplifies disadvantage by treating it in terms of income limits only. The makes a case for affirmative action that recognizes intersecting dimensions such as caste, education, and social exclusion. Ignoring these dimensions, the EWS model at best maintains inequalities and at worst replicates disadvantage.

3. **Dhanya C.S. & N. Balu,** ***EWS Reservation with Special Reference to Medical Admissions in India: An Analysis*****, ResearchGate (2023).**

   This paper explores the use of ewes quota in relation to entry to medical colleges. They discuss a few issues with ews implementation with regard to inaccurate income verification, and ways in which privileged families exploit loopholes. The authors advocate for the idea that EWS quota will not reach the intended beneficiaries if structural barriers surrounding implementation are not improved.

4. **Editorial,** ***Does EWS Reservation Redraft the Principles of Social Justice?*** **58(8) Econ. & Pol. Wkly. 12 (2023).**

   The writer of this commentary argues that the ews reservation is a radical rewriting of the social justice framework in India. The focus on economic disadvantage appears to undermine a constitutional obligation to remedy caste-based disadvantages. The author warns that risks of such radical change would reduce affirmative action to a political bargaining chip rather than a mechanism for justice.

5. **S.K. Das,** ***Reservation in India: Social Justice or Political Agenda?*** **12(2) Rev. Res. J. Mgmt. 55(2022).**

   Das examines the political economy surrounding the growth of reservations, EWS included. He claims that reform of that nature is mainly driven by political calculations and not a genuine constitutional vision. The article offers EWS as a

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politically pragmatic reform, and suggests that it may delegitimize affirmative action over time.

6. **Rohit De & Pratiksha Baxi,** ***Affirmative Action in India: A Critical Legal Appraisal of Reservation Policy and Its Efficacy in Realizing Social Justice*****, ResearchGate (2021).**

   This article reviews the history of reservation law and considers if the ways in which it has been used to obtain social justice have succeeded. The authors contend that adding EWS quotas without eliminating the structural inequalities may work against the constitutional goal of affirmative action. The authors argue that reforms need to be evidence-based and must elevate caste-disadvantage as well as economically disadvantaged.

## HISTORY OF WHY AND HOW RESERVATION CAME IN: THE LEGISLATIVE INTENT:

The Indian Constitution has a vision of equality which is multi-dimensional as hence it seeks not just formal equality before the law under article 14, but also substantive equality through other Articles 15 and 16, that empowers a State to take affirmative measures to fix the historical damages and disadvantages faced by certain communities. [7]

Articles 15 (4) and 16 (4), which were inserted by the First Amendment Act, 1951[8] enabled special provisions for socially and educationally backward classes (SEBCs), Scheduled Castes (SCs) and Scheduled Tribe (STs).[9] The reason behind giving reservation was not just to offset economic deprivation but also to redress the deep-rooted structural discrimination arising from caste hierarchies that is prevailing for so many years.[10]

[7] Art. 14, The Constitution of India, 1950.
[8] Arts. 15(4) and 16(4), The Constitution of India, 1950.
[9] Manu George and Jayadevan S. Nair, "Constitutional Scrutiny of the 103rd Amendment: Examining EWS Reservation and the Basic Structure Doctrine" (2025) 54(4) Questions de Physiotherapies 7399.
[10] Satya Narayan Misra, "Economically Backward Reservation: A Paradigm Shift in Public Policy" (2022) 18(1) Pari Kalpana: KIIT Journal of Management 5.

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The constitutional vision of equality has evolved from a mere declaration of identical treatment to a more nuanced recognition of India's deeply entrenched social stratification. The shift was enforced judicially through M.R. Balaji v. State of Mysore[11] in the year 1963, where the SC examined the State's power to identify socially and educationally backward classes as per article 15 (4). The Court has held that caste could be one of the relevant factors to take into consideration while determining the backwardness but it is not the sole reason.

In this case the court also observed that the concept of backwardness should not just be confined to economic or caste-based classifications. The judgement also highlighted that the object of 15 (4) was to dismantle the caste divisions and not to perpetuate them because the historically excluded communities needed access to equal opportunities. The recognition of equality comes with so much sensitivity because India is a country where caste has operated as a powerful determinant of privilege and deprivation. [12]

To build further upon the reasoning, the SC in the case of State of Kerala v. N. M. Thomas (1976),[13] clarified that the constitutional relationship between Articles 14,15,16. The Court set aside the earlier view that reservations or special provision were exceptions to the principle of equality, instead, the court asserted that Articles 15 (4) and 16 (4) are not exception to Article 14, but rather they are logical extensions. This case determined these articles as mechanisms to actualize substantive equality.[14]

Justice Mathew's made an influential opinion where he emphasized that true equality cannot be achieved if the unequals are treated equally: rather it demanded the state to recognize and remedy structural disparities.[15] The judgement also redefined affirmative action as an instrument of justice rather than a deviation from

[11] M.R. Balaji v. State of Mysore, AIR 1963 SC 649.
[12] *Ibid.*
[13] State of Kerala v. N.M. Thomas, AIR 1976 SC 490.
[14] R.M.L. Nair, "Are Reservations Fundamental?" (2022) 14 RMLNLU Law Journal 12.
[15] State of Kerala v. N.M. Thomas, (1976) 2 SCC 310.

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equality, affirming that the Constitution stays committed not in formal parity but in the transformation of real people's lives in the prevailing social realities. [16]

These changes indicate a shift from a limited procedural understanding of equality to a broader transformative view. Positive discrimination was deemed to be a constitutional imperative to address structural inequity faced by disadvantaged groups in the social order. These judicial understandings of equality are aligned with the main objective of the drafters of Article 15 (4) and Article 16 (4): allowing the State the position to move beyond neutrality and take steps to promote a fair and just.[17]

The Indian Constitution's envisions equality in a multi-dimensional way, not only providing for a formal and legal equality before the law under Article 14, but also a substantive equality through articles 15 and 16 enabling the state to take affirmative action to address historical disadvantages. Article 15 (4) and article 16 (4) were inserted by the 1st amendment act, 1951 to recognize special provisions for socially and educationally backward, scheduled castes and scheduled tribes. The idea was never to just assuage deprivation because of lack of economic status, but to remedy inequities that lie at the heart of structural discrimination of producing a caste-based hierarchy.

in M.R. Balaji v. State of Mysore (1963)[18] determined that caste can be one, but not the only factor for identifying backwardness, and that affirmative action should reflect the social realities rather than merely be determined on the basis of finances. Later in the state of Kerala v. N.M. Thomas in 1976 the Court concluded that articles 15 and 16 are not exceptions to article 14, but extensions of article 14 and are also aimed at furthering real equality other than mechanical similarity. [19]

[16] Upendra Baxi, "Equality, Justice and Reverse Discrimination," 22(1) J.I.L.I. 137 (1980).
[17] Ashwini Deshpande & Rajesh Ramachandran, "Caste Disparities and Affirmative Action in India" (2024) 40(3) Oxford Review of Economic Policy 630.
[18] M.R. Balaji v. State of Mysore, AIR 1963 SC 649: (1963) 1 SCR 439.
[19] State of Kerala v. N.M. Thomas, AIR 1976 SC 490: (1976) 2 SCC 310.

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The framework for reservation policy, therefore, historically rested on social and educational disadvantage, with economic deprivation being considered only an ancillary factor. It is against this normative background that the 103rd Constitutional Amendment Act, 2019 introduced a new dimension reservation based exclusively on economic criteria.

However, the constitutional journey toward substantive equality did not end with the recognition of caste-based disadvantage. The jurisprudence on affirmative action continued to evolve as India's social and economic landscape diversified. With rising aspirations among non-reserved sections and the persistence of economic inequality across caste lines, a new debate emerged, whether poverty alone could justify affirmative measures under the equality code.[20]

This tension together in the 103 constitutional amendment Act, 2019 [21]which introduced 10% reservation for ews in education and public employment, extend the logic of Article 15(4) and 16(4) into a purely economic dimension.[2223]The amendment marked a decisive shift from the traditional understanding of backwardness rooted in social and educational disadvantage toward one grounded in income and material deprivation. still this shift also reignited fundamental constitutional questions: does economically being weak, divorced from caste and structural discrimination, warrant special treatment under the equality framework? And more importantly, does such an expansion remain faithful to the substantive vision of equality envisaged by articles 14, 15, and 16, as interpreted in Balaji and N.M. Thomas?

The 103rd Constitutional Amendment represents an evolution in India's approach to affirmative action, marking a shift from caste-based to economic criteria for determining backwardness. While its goal, aligns with the pursuit of equality and

[20] M. A. Altamash Imam, "Reservation Policy and Social Justice in India: A Constitutional Perspective" (2024) 9(2) Research Review International Journal of Multidisciplinary 144–151.
[21] The Constitution (One Hundred and Third Amendment) Act, 2019, No. 103 of 2019, India Code (2019).
[22] Constitution of India, art. 15(4) (as inserted by the Constitution (First Amendment) Act, 1951).
[23] Constitution of India, art. 16(4) (as inserted by the Constitution (First Amendment) Act, 1951).

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inclusive development, it simultaneously challenges the original constitutional understanding of reservation as a tool for social and educational upliftment of historically disadvantaged communities.[24] The amendment's emphasis on economic disadvantage has redefined the conceptual core of Articles 15 and 16, expanding the scope of affirmative action to encompass new forms of vulnerability.

This change has sparked complex constitutional debates. The interplay between formal and substantive equality, the allowed limits of affirmative action under Article 14, and the balance between social justice and meritocracy have all been brought to the forefront. Comparative perspectives from other jurisdictions such as the United States, South Africa, and Brazil further reveal that economic-based affirmative action is a nuanced policy tool, requiring careful calibration to prevent historical reparative justice.

In this case, the constitutional validity of the 103rd Amendment was subjected to judicial scrutiny in Janhit Abhiyan v. Union of India (2022). SC's verdict addressed the questions of constitutional permissibility and demonstrated the ideological tensions between social welfare and equality jurisprudence in India. The upcoming chapter will explore the depth of judicial reasoning in Janhit Abhiyan regarding 103rd amendment at length, including reviews of reasoning from the majority and minority opinions and legal and the broader social implications of the landmark ruling.

## JUDICIAL INTERPRETATION AND SOCIO-LEGAL IMPLICATIONS OF JANHIT ABHIYAN:

The SC had made a decision in Janhit Abhiyan v. UOI in the year 2022[25] that embarked on a milestone in India's equality jurisprudence. This case upheld the Constitution, in the 103rd Amendment Act of 2019, which introduced Articles 15 (6)

[24] The Constitution (One Hundred and Third Amendment) Act, 2019, No. 103 of 2019, India Code (2019); Janhit Abhiyan v. Union of India, (2022) 14 SCR 1: AIR 2023 SC 37; Constitution of India, arts. 15(6), 16(6).
[25] Janhit Abhiyan v. Union of India, (2022) INSC 799.

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and 16 (6) to give 10% reservation in education and public employment for Economically Weaker Sections (EWS) among citizens who are not covered under the existing reservations for SCs, STs, and OBCs. This judgement was delivered by a 3:2 majority and revived a long-standing debate between formal and substantive equality and it compelled a re-examination of the limits and boundaries of affirmative action under the Constitution of India. [26]

This part of this project aims to dissect the judgement's judicial reasoning, interpretative methodologies and socio-legal consequences, situating Janhit Abhiyan within India's evolving landscape of distributive justice.

***The Issues before the Court:***

The petitioners had contended that the 103rd Amendment clearly violates the basic structure doctrine of the Constitution by:

1. Introducing an economic criterion as the role basis for reservation;
2. It excluded SCs, STs and OBCs, the historically disadvantages, from the EWS quota
3. It also breached the 50% ceiling on reservations that was laid down in the case of Indira Sawhney.

The amendment was clearly defended by the Union as a legitimate exercise of Parliament's constituent power, which emphasized that the quota for EWS has targeted the poverty-based disadvantage and not caste-based discrimination and thus it complemented rather than the claims that it contradicted the constitutional goal of equality. The contention required the Court to balance the principles of Article 14, Article 15 and Article 16, which is equality before law, non-discrimination and equal opportunity respectively, against the inherent flexibility present in the basic structure doctrine.

[26] The Constitution (One Hundred and Third Amendment) Act, 2019, No. 103 of 2019, India Code (2019); Janhit Abhiyan v. Union of India, (2022) 14 SCR 1: AIR 2023 SC 37; Constitution of India, arts. 15(6), 16(6).

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***What is the reasoning between the Majority Opinion: Expanding the Equality Paradigm:***

Justice Dinesh Maheshwari, wrote for the majority and held that the amendment neither destroyed nor altered the Constitution's basic structure. The Parliament's constituent power under Article 368, he reasoned included the capacity to introduce the new forms of affirmative actions provided they aim to achieve equality. The amendment, hence was just and extension and not an erosion of the egalitarian ethos.[27] The Court had reiterated the basic structure does not freeze social policy at a particular moment; rather it accommodated the dynamic conceptions of justice in light of evolving socio-economic realities.

The majority repeatedly and clearly emphasized that economic deprivation can be as debilitating as social or educational backwardness. By inserting Articles 15(6) and 16(6), Parliament merely recognized another dimension of disadvantage which is poverty and this they acted in within their constitutional limits. The court has clearly observed that Indra Sawhney never prohibited economic criteria per se, they only barred them from the sole determinant within existing backward class reservations. Hence, according to them it was fair to introduce a separate quota for the poor outside the backward classes and in their stand, it was not contradicting the precedent but it operated in a distinct normative domain.[28]

On the exclusion of SCs, STs and OBCs from the EWS category, the majority had a reasoning that since these groups enjoyed the constitutionally recognized reservations and their exclusion was rational and non-arbitrary. The aim was to expand the scope of reservation by including the unreserved poor and the intention was not to dilute the protections that was meant for the socially backward.

Justice J.B Pardiwala underscored that the 103rd amendment marked the new dawn of social justice, which extended the constitutional empathy beyond caste to include

[27] Janhit Abhiyan v. Union of India, (2022) 14 SCR 1: AIR 2023 SC 37 (per Dinesh Maheshwari, J.).
[28] Indra Sawhney v. Union of India, AIR 1993 SC 477: (1992) Supp (3) SCC 217.

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and encompass the economic deprivation. He warned that reservations must eventually sunset; by saying this he advocated a periodic review mechanism to ensure that affirmative action's remains transformative and not permanent. This opinion of his though was highly welcomed, it implicitly recognized the risk of perpetuating identity-based politics unless accompanied by institutional reform.[29]

***What is the reasoning behind the dissenting opinions of the minority: Preserving the Substantive Core of Equality:***

The minority had put forth their stand that excluding the SCs, STS and OBCs from the EWS category will surely violate the equality code by segregating citizens on the basis of social origin. Justice Bhat argued that poverty and caste are no mutually exclusive and to disqualify the already marginalized from economic benefits entrenches rather than remedies inequality. He stressed the Article 15 (4) and 16 (4) were specifically designed to redress systemic exclusion and not simply material deprivation. By isolating economic weaknesses from the social context, it produces it, the amendment dismantles the architecture of social justice. [30]

The dissent reaffirmed the 50 % limit as constitutional principle by mentioning Indra Sawhney that derived from Article 14's mandate of proportionality and as a warning that is breach can lead to violating and fracturing of equality. By permitting EWS reservation, the 50% ceiling is exceeded and he argued that the amendment undermines the structural balance between affirmative action and merit-based opportunity. They recognized that the historical discrimination, social stigma and exclusion and not merely economic status can create systemic barriers that cannot be dismantled through economic measure alone.[31] Thus, Justice Bhatt criticized that the majority's tendency to treat economic weakness as an isolated category that is

[29] Janhit Abhiyan v. Union of India, (2022) 14 SCR 1: AIR 2023 SC 37 (per J.B. Pardiwala, J., concurring).
[30] Janhit Abhiyan v. Union of India, (2022) 14 SCR 1: AIR 2023 SC 37 (per S. Ravindra Bhat, J., dissenting).
[31] Amishreya Gupta, "Caste Discrimination in India: A Historical Perspective" (2025) Indian Journal of Law and Governance 8.

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detached from India's historically entrenched caste-based hierarchies. In his point of view, this analytical separation dismantles the architecture of social justice and as a consequence it replaces the group based reparative measures with an individualistic notion of poverty was divorced from social context.[32]

Moving on Justice Bhat rejected the argument that EWS reservation has merely added to the existing affirmative measures and instead he characterized it to be a redistributive reconfiguration of equality itself, wherein our Constitution's original focus on redressing social backwardness was replaced with a framework that could essentially legitimize privilege under the guise of economic needs.[33] He warned that this could eventually pave the way for a reverse form of discrimination where all the historically advantaged groups become the primary beneficiaries of the affirmative action and not completely fulfil the needs of the so-called targeted poor.

The dissent is deeply anchored in the basic structure doctrine and it articulated in the Kesavanandha Bharati v. State of Kerala.[34] He reiterated that equality is not merely a constitutional value but part of Constitution's unalterable identity, forming its 'basic feature.' Parliament is empowered to amend Constitution but not to rewrite the equality code that was established by the makers of the Constitution. Thus, any amendment that dilutes the legislative intent behind the makers of the Constitution by trying to redefine the core of equality would be considered unconstitutional.[35]

In the light of this, the dissent also viewed the 103rd amendment as an alteration of the very concept of meaning of equality, not a mere policy innovation[36]. Bhat J also reasoned that the amendment clearly does not introduce any new criterion of backwardness and rather it inverts the very logic of affirmative action by confining

[32] Janhit Abhiyan v. Union of India, (2022) 14 SCR 1: AIR 2023 SC 37 (per S. Ravindra Bhat, J., dissenting).
[33] Ibid.
[34] Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1461: (1973) 4 SCC 225.
[35] Janhit Abhiyan v. Union of India, (2022) 14 SCR 1: AIR 2023 SC 37 (per S. Ravindra Bhat, J., dissenting).
[36] Dr Monika Jain, "EWS Reservation Case: Janhit Abhiyan vs Union of India" (2023) 2(2) Justice & Law Bulletin.

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economic benefits to those historically deemed socially forward. The creation of an EWS category essentially excludes SCS. STs and OBCs and this was therefore seen as constitutionally suspect as it attempts to institutionalize privilege through the language of poverty alleviation. [37]

The minority also emphasized that the makers of the Constitution never envisioned reservation to be an anti-poverty measure. Instead, it was intended as a corrective mechanism for the structural injustices embedded in the caste system. The attempt to transform reservations into an economic welfare instrument, the 103rd amendment, according to Justice Bhat, it blurs the line of distinction between social justice and distributive justice. [38]These blurring risks diluting the ultimate remedial purpose of the Article 15(4) and 16 (4) and thus results in the undermining of the moral foundation of affirmative action itself.

the dissenting opinion in this particular case stands as a defense of the constitution's evolving ethos. It takes equality not as formal or economic abstraction but as living principle of social justice which is deeply intertwined either India's harsh historical realities. By basing his reasoning in the logic of intersectionality, proportionality and the basic-structure doctrine, Justice Bhat has reaffirmed that the commitment to equality that the Constitution has cannot or can never be redefined to justify exclusion, even in the pursuit of welfare. [39]

***A Doctrinal Analysis: Reconciling Formal and Substantive Equality:***

The judgement of Janhit Abhiyan brings in sharp clarification or a relief for one of the most persistent dilemmas in Indian constitutional jurisprudence, the tension between formal equality and substantive equality. At the core of this issue lies the conflict about whether the Constitution's equality provisions are meant to guarantee

[37] Robin Prasad, "Analyzing Supreme Court on Reservation: Janhit Abhiyan vs Union of India" (2024) 7(3) International Journal of Law, Management & Humanities 2803.
[38] Shweta Kumari Das & Nikita Kumari Das, "Reservation in India: Social Justice or Political Agenda?" (2022) 7(10) Research Review International Journal of Multidisciplinary 167.
[39] *Ibid.*

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identical treatment to all individuals or to permit differential treatment designed to remedy entrenched disadvantage.

This difference and divergence tell that the Court continuously to grapple with the moral and philosophical content of equality. [40]What does equality mean? Does it mean non-discrimination, implying that the State must avoid distinctions? or discriminate positively in order to achieve social justice, which implies that State sometimes discriminate positively to equalize conditions? The case of Janhit Abhiyaan is situated at the crossroads which is testing whether the equality code can accommodate economic criteria without eroding its moral foundation in social emancipation.

There is a theoretical stance to this, the tension mirrors what the legal philosopher Ronald Dworkin called the difference between, treatment as equals and treatment equally. [41]The former recognized these differences in social position and then on seeked to achieve fairness by compensating for them, while the dissent embodies 'treatment as an equal, which has privileging outcomes that correct systemic bias.[42]

The constitutional scholars of India such as Upendra Baxi and Marc Galanter have always warned of the dangers which are inherent in a purely formal conception or understanding of equality. Baxi contends that when constitutional interpretation that abstracts equality from its social and economic context, it transforms a tool of liberation into an instrument of status quo. [43]He argued that the judiciary's rule was not to defend neutrality but to ensure that legal reasoning is responsive to India's realities of caste, poverty and power hierarchies. Galanter's seminal work,

[40] Formal and Substantive Equality by Mandar Govindrao Lat pate, International Journal of Law Management & Humanities, Vol 6, Issue 5 (2023), pp 1743-1750.
[41] Ronald Dworkin, "What is Equality? Part 1: Equality of Welfare" (1981) 10 Philosophy & Public Affairs 185, 185–86.
[42] *Ibid.*
[43] Upendra Baxi, "The Judiciary as a Resource for Indian Democracy" (2010) India Seminar 615

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Competing Equalities (1984), warns that privileging procedural fairness over a structural reform leads to what he calls 'the deactivation of social justice'. [44]

All these insights were clearly discussed and illustrated in Janhit Abhiyan. The majority's focus was on economic rationality while it is constitutionally defensible under Article 14's formal framework, there are risks of it decoupling equality from justice. Through validating a classification which benefits the historically privileged under the rhetoric of economic upliftment, the Court inadvertently legitimized the reversal of redistributive priorities. [45]These concerns reflect the dissent's warning that the amendment is most likely to inaugurate a new form of constitutional inequality, where the socially advanced gain the language of victimhood and the historically oppressed have become invisible.

On a deeper level, this case showcases what Gautham Bhatia describes as the 'dual structure' of Indian equality jurisprudence there is a continual tension between the transformative and the formalistic. [46]The transformative vision, manifesting in cases such as State of Kerala v. N.M. Thomas, (1976) 2 SCC 310 [47]and Indra Sawhney v. Union of India, 1992 Supp (3) SCC 217, aimed to realize the promise of equality in the Constitution by using it to reorganize society. The formalistic vision, however, makes a resurgence any time the Court favours abstract classifications and the legislative intent over lived social hierarchies. [48]The Janhit Abhiyan ruling shows that even after 70 years of independence, the doctrinal issue continues to swing like a pendulum.

To truly achieve both formal and substantive equality, courts will need to pursue a multi-layered approach to the law that utilizes the claim to legitimacy for new basis

[44] Marc Galanter, Law and Society in Modern India (Oxford University Press, 1989).
[45] Formal and Substantive Equality by Mandar Govindrao Lat pate, International Journal of Law Management & Humanities, Vol 6, Issue 5 (2023), pp 1743-1750.
[46] Gautam Bhatia, "Equality under the Indian Constitution" (2022) in Imagining Unequals, Imagining Equals (Ulrike Davy & Antje Fulcher eds) 231.
[47] State of Kerala v. N.M. Thomas, AIR 1976 SC 490: (1976) 2 SCC 310.
[48] Indra Sawhney v. Union of India, AIR 1993 SC 477: (1992) Supp (3) SCC 217.

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of affirmative action, such as economic disadvantage. The new basis of affirmative action should not undermine the historical social premises of India's equality framework. A holistic doctrine would treat economic deprivation and social exclusion as overlapping realities, not simply competing categories. As such, Janhit Abhiyan represents not only a constitutional moment in terms of equality, but also a philosophical moment: it compels Indian equality doctrine to make decisions about its future, neutrality or transformation, classification or justice.[49]

***Socio-Legal implications:***

The ruling institutionalizes economic disadvantage as a constitutional criterion for affirmative action, thereby expanding the purpose of reservations to include disadvantaged groups beyond caste. While this pluralization has the potential to increase inclusivity, and work for the most disadvantaged, it risks de-linking or decimating the redistributive logic originally justified based on centuries of social subordination.

Empirical studies suggest, for example, those by Satish Deshpande (2023) and Jean Drèze (2024), indicate that upper-caste poor households, which will likely benefit most from this policy change, [50]are still mired in relationships and social networks that will at best not be available to the lower castes. [51]Thus, Janhit Abhiyan is likely to reallocate, rather than enlarge, support from the state. By setting aside the 50 percent cap, the Court has in effect deflated an established constitutional check on legislative populism.[52]

For instance, states like Madhya Pradesh, Maharashtra, and Rajasthan have already used Janhit Abhiyan to legitimize additional sub-quotas, pushing beyond the threshold. The socio-legal threat is in the transition of exception into norm, which

[49] Jordano Paiva Rogério, "The Principle of Equality in the Indian Constitutionalism" (2022) Indian Journal of Law and Legal Research (IJLLR).
[50] Jean Drèze, Social Inequality and Public Policy in India (Cambridge University Press, 2024).
[51] Satish Deshpande, The Grammar of Caste: Economic Discrimination in Contemporary India (Oxford University Press, 2023).
[52] Janhit Abhiyan v. Union of India, (2022) 14 SCR 1: AIR 2023 SC 37.

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may lead to competitive reservations. In the narrative of the amendment, "new poor," also refers to economically disadvantaged upper castes and alters the ideological grammar of inequality. [53]Its de-caste sizes poverty and, thus, potentially trickles away from structural factors linking caste and economy. Sociologists like Surinder S. Jodhka, argue that this "de-contextualization" may lay the foundations for removing caste-based issues and injustices from public discourse, and weakens substantive equality. [54]

Although the case was centred on caste and class, it is important to note the silence with regards to gendered poverty. Feminist legal scholars have noted that women, particularly from backward communities, experience multi-dimensional deprivation that income-only criteria will miss altogether. For this reason, the EWS framework may reproduce gender-neutral but gender- blind policy results.

***Comparative Constitutional Perspectives:***

- The United States Supreme Court in the case of Regents of the University of California v. Bakke, the U.S Supreme Court adopted a colour-blind approach to affirmative action, subjecting race-based classifications to strict scrutiny. [55]Janhit Abhiyan diverges sharply as the court prioritized socio-economic balancing over formal neutrality, which allowed the State a wider scope to engineer equality.
- The South African jurisprudence, especially the Minister of Finance v. Van Heerdan, upheld the remedial equality as a core constitutional value, demanding that affirmative measures advance the disadvantaged. [56]From this perspective, Janhit's case majority appears to be retrogressive in their

[53] Surinder S. Jodhaa, "Caste in Contemporary India: Concepts, Policies and Political Mobilisation" (2016) 50(3) Economic & Political Weekly 47.
[54] Surinder S. Jodhaa, Caste and Social Inequality in India (Routledge, 2019).
[55] Regents of the University of California v. Bakke, 438 U.S. 265 (1978).
[56] Minister of Finance v. Van Heerden, 2004 (6) SA 121 (CC) (South Africa).

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approach as it legitimizes the exclusion of historically oppressed groups from new benefits.

- The Brazil's quota policy combined racial and socio-economic criteria, which ensures that poverty-based reservation does not undercut racial justice.[57] Indian EWS reservations in contrast, reflects the parallelism without intersectionality, signalling a departure from global best practices in inclusive design.

***Theoretical reflections, post-judgement developments and scholarly responses:***

From a legal point of view, Janhit Abhiyan illustrates the plasticity of the basic-structure doctrine its ability to authorize both preservation and change. The majority had a view that equality as a balancing of competing claims; the dissent saw it as a substantive moral commitment that checked legislative options. this divide represents a wider dialectic between constitutional morality and parliamentary supremacy. As Granville Austin noted, the efficacy of the Indian Constitution has been rooted in "a social revolution without recourse to constitutional means."[58] The normative question remains if Janhit Abhiyan further or simply makes the mission harder.

In the post-event period, academics and policy observers of different ideological perspectives have offered contrasting evaluations: Proponents praise it as a long overdue recognition that poverty transcends caste, and the Constitution must accommodate new forms of disadvantage. Critics warn that it normalizes upper caste privilege and undermines the moral basis of the jurisprudence of social justice. Public policy thinks tanks, like NITI Aayog [59]and Centre for Policy Research, have suggested that it should result in data-driven exploration of whether the

[57] Gustavo Filgueiras & Luiza Bastos, "Affirmative Action in Brazil: Racial and Socioeconomic Quotas in Higher Education" (2020) 22(2) Brazilian Journal of Public Policy 45.
[58] Granville Austin, The Indian Constitution: Cornerstone of a Nation (New Delhi: Oxford University Press, 1966) 92.
[59] NITI Aayog, Report on Socio-Economic Criteria for EWS Reservation in India (New Delhi: NITI Aayog, 2021).

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beneficiaries of the EWS quota are actually poor, indicating a distinct move away from normative constitutionalism to empirical constitutionalism.[60]

The Janhit Abhiyan verdict represents continuity and rupture: it is a continuity in the Court's reiteration of Parliament's ability to recalibrate affirmative action, and rupture in its reformulation of who the beneficiary of equality may be.[61] The court's ruling reflects the continued struggle of the Supreme Court to traverse the terrain between constitutional idealism and politically practicable realities.[62] This judicial ruling has expanded the language of equality by sanctioning economic-based reservations; however, also as a consequence, it has muddied the moral hierarchy of injustices that the constitution intended to remedy. The socio-legal ramifications of this new wording will emerge over the course of decades, as we come to learn whether or not India's constitutional promise of justice - social, economic, political - can simultaneously accommodate both redistribution and recognition without ending in contradiction.

**CONCLUSION:**

India's evolving sense of equality law has struggled with a persistent pull between two ideals of justice: the ideal of formal equality that is based on neutrality of treatment; and the ideal of substantive equality, which requires intervention to correct historical injustice. The 103rd constitutional amendment, and its judicial approval in Janhit Abhiyan v. Union of India (2022),[63] have again thrust this tension into the mainstream discourse, demanding a re-evaluation of the philosophical and constitutional boundaries of affirmative action.

The majority judgment in the recent decision is both a continuity and a rupture.it pushes the boundaries of affirmative action to include economic disadvantage,

[60] Centre for Policy Research (CPR), Evaluating the Economic Weaker Section (EWS) Reservation: Data and Policy Implications (New Delhi: CPR, 2022).
[61] Janhit Abhiyan v. Union of India, (2022) 14 SCR 1: AIR 2023 SC 37.
[62] Dipti, "'Janhit Abhiyan vs Union of India' Famously Known as 'EWS Reservation Case'" (2023) 61(2) Panjab University Law Review 186–193.
[63] Janhit Abhiyan v. Union of India, (2022) INSC 799.

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asserting that poverty (as a form of structural disadvantage) can chip away at opportunity just as much as social stigma. However, it also severs the normative basis of reservation from caste-based oppression, the axis on which India's social justice constitutionally and philosophically evolved. The majority's justification, while largely legal, relying on the Parliament's original authority, utilizing the rational classification test found in Article 14, threatens to erode the reparative nature of affirmative action as it reframes it through an economic lens and a more basic redistribution agenda.

as a response, the dissident opinion, written by Justice Ravindra Bhat, reaffirms the Constitution's transformative project. It highlights the dangers of depoliticizing social justice and affirms that any measure for equality must remain sensitive to India's entrenched hierarchies of caste, community, and gender.it reinforces the notion that affirmative action was never imagined as a poverty alleviation measure, but rather as a form of restorative justice for groups that were, and still are, structurally excluded.

The Janhit Abhiyan case is significant from a socio-legal perspective, because while the ruling constitutionally fortifies an economic criterion, it also has the potential to legitimize the exclusion of those who continue to suffer from systems of structural discrimination. In practice, there are empirical questions surrounding the implementation and even how the beneficiaries will be identified, and the prohibitive absence of an intersectionality criterion raises even more questions about whether the EWS quota will even reach those most in need. On a whole, the ruling is inherently progressive, but in effect privileges a constructed and homogenized concept of poverty, and in the process may shift the public narrative away from caste-based inequality, and perhaps even weaken the emancipatory thrust of the Constitution.

***Recommendations and Next Steps:***

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1. Data-Driven Affirmative Action: The State should make periodic socio-economic surveys a regular part of its practice, recognizing that the implementation of reservations for economic weaker sections cannot come from political considerations but must instead be data-driven.
2. Intersectional Framework: Economic disadvantage should not be treated as divorced from caste, gender, and other regional disadvantages. Future affirmative action measures should provide for the representation of multiply marginalized groups.
3. Periodic Review Mechanism: All reservation policies, including EWS, should have a periodic review in order to avoid perpetuation beyond usefulness for the reserved class, as suggested by Justice Pardiwala, and reviewed by an independent constitutional body.
4. Legislative Clarity required: Parliament should separately devise a legislative intent that affirms that positive action is meant to serve a social justice end, and not as just general poverty alleviation to avoid confusion under the constitution
5. Judicial Sensitivity: The Court should continue to reconcile the equality code to balance economic inclusion and transformative goals of the Constitution, while being sensitive to ensuring not to replace new forms of justice to remedy old injustices.
6. Public education and policy literacy: as a society we need broader civic education and public messaging in its intent and limits on reservation policy to avoid politicization and facilitate a collective understanding of equality as a national project.

Hence, the Janhit Abhiyan decision represents not an ending, but a new stage in India's constitutional journey. The challenge ahead will be to reconcile economic justice with social justice, ensuring that the State's compassion for the poor does not come at the expense of those historically excluded. True equality in India will only be

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achieved if the country does not simply trade one exclusionary axis with another axis of exclusion, but rather when it can weave the many dimensions of disadvantage into a comprehensive and living conception of justice.

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