

## REVISITING THE SOCIAL JUSTICE ANALYZING THE CONTEMPORARY CHALLENGES OF INCLUSION FOR SCHEDULE CASTS IN INDIA

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### 1- INTRODUCTION

Caste remains one of the most enduring structures of inequality in Indian society, shaping access to resources, dignity, and power in ways that law has struggled to fully dismantle. Unlike other forms of social disadvantage, caste operates through a system of graded hierarchy, where inequality is normalised, inherited, and reproduced across generations. As B.R. Ambedkar famously argued, caste is not merely a division of labour but a division of labourers, sustained through social norms, institutional practices, and economic arrangements.<sup>1</sup> This makes caste not just a social problem but a constitutional problem one that directly challenges the promises of equality, dignity, and social justice embedded in the Indian Constitution.<sup>2</sup>

The constitutional response to caste-based exclusion has evolved over time. In the immediate post-independence period, equality was largely understood in formal terms, focusing on non-discrimination and uniform treatment. Though this was symbolic in significance, this was not effective for dealing with the structural imbalance of caste-based oppression.<sup>3</sup> When formal equality was not able to recognize historical deprivation, symbolic subordination, or structural inequality, the Scheduled Castes remained marginalized despite the absence of any discriminatory practice, as seen in the case of explicit banishment of discriminatory practices, and this led to the concept of substantive equality, which was formally articulated in the case of *State of Kerala vs. N.M. Thomas*.<sup>4</sup> In recent constitutional discourse, the notion of transformative constitutionalism has widened the domain of social justice even further. Transformative constitutionalism holds that the Constitution should be regarded not only as a neutral framework of rights but also as an instrument of restructuring unjust social relations.<sup>5</sup> Transformative constitutionalism requires institutions and governments to eradicate unjustified hierarchical structures rather than just preventing discrimination. The same obligation has been further strengthened by the judicial emphasis on dignity as an intrinsic constitutional value under Article 21.<sup>6</sup> This changing conceptual landscape bears particular significance for Scheduled Castes, whose marginalisation is sustained through everyday

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<sup>1</sup>B.R. Ambedkar, *Annihilation of Caste* 36–39 (Navayana Publ'g 2014).

<sup>2</sup>INDIA CONST. arts. 14, 21.

<sup>3</sup>Marc Galanter, *Competing Equalities: Law and the Backward Classes in India*, 27 J. Asian Stud. 593, 601–05 (1968).

<sup>4</sup>*State of Kerala v. N.M. Thomas*, (1976) 2 SCC 310, 334–36 (India).

<sup>5</sup>Upendra Baxi, *The Transformative Constitution: A Radical Biography in Nine Acts*, 1–4 (Hart Publ'g 2013).

<sup>6</sup>*Maneka Gandhi v. Union of India*, (1978) 1 SCC 248, 281–84 (India).

institutional practices in education, labour markets, governance, and increasingly, digital systems.

Revisiting social justice for Scheduled Castes thus becomes relevant because exclusion itself has changed its form and nature. Economic liberalization, privatisation of public services, shrinkage in public-sector employment, and rise of digital capitalism have transformed the landscape of inequality.<sup>7</sup> Discrimination today is less likely to be overt and functions more through institutional norms, the market mechanism, and algorithmic decision-making. Hiring practices, educational evaluations, welfare delivery mechanisms, and digital platforms often reproduce caste disadvantage under the garb of neutrality and merit.<sup>8</sup> Exclusion has become subtle, indirect, and technologically mediated, where traditional legal tools devised to address visible discrimination appear increasingly inadequate.

These factors make it urgent that India's constitutional, legislative, and judicial frameworks be reviewed as suitably positioned to meet newer manifestations of caste exclusion. Even as the Constitution lays down a sound normative premise for social justice, the continuing realities of socio-economic marginalization, caste violence, institutional under-representation, and digital exclusion raise very fundamental questions about the efficacy of the mechanisms that exist.<sup>9</sup> This paper views caste less as a legacy of history and more as an ongoing constitutional problem—one that demands fresh legal imagination and institutional accountability.

## **OBJECTIVES AND PURPOSE OF THE ARTICLE**

The primary objective of this article is to critically examine the contemporary challenges to the inclusion of Scheduled Castes in India through a constitutional and legal lens.

Specifically, the article seeks to:

1. Imagine exploring how caste isn't just a social quirk but a built-in system of unfairness in society. We'll use ideas from social justice thinkers, equality principles, and Ambedkar's vision of social democracy to break it down and understand its real impact.
2. Picture the journey of the equality doctrine in India's Constitution—from basic, surface-level fairness to deeper, life-changing approaches. We'll look at how this shift plays out for Scheduled Castes, showing what it means for their rights and opportunities in practice.
3. We'll focus on current challenges that keep Scheduled Castes on the sidelines, like economic struggles, blocked access to education, job biases, caste-driven violence, and even issues within institutions that make true belonging feel out of reach.
4. Let's assess the judiciary's role in tackling both traditional and evolving caste-based discrimination, viewing it through the lenses of equality and human dignity to see what's working and what needs fixing.
5. We'll list out solid, Constitution-backed actions that could really boost inclusivity and justice for Scheduled Castes in India, making sure they're realistic and impactful.

This article takes a thoughtful, critical stance on how we view social justice in India—not as something we've already achieved, but as a living promise in our Constitution that needs

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<sup>7</sup>Maneka Gandhi v. Union of India, (1978) 1 SCC 248, 281–84 (India).

<sup>8</sup>Maneka Gandhi v. Union of India, (1978) 1 SCC 248, 281–84 (India).

<sup>9</sup>Maneka Gandhi v. Union of India, (1978) 1 SCC 248, 281–84 (India).

constant nurturing. By weaving in the ever-changing world of economics, technology, and society, it argues that truly including Scheduled Caste communities isn't a one-and-done deal. Instead, it calls for ongoing vigilance from our courts, stronger institutions, and a deep commitment to the Constitution's goal of real, transformative change for everyone.<sup>10</sup>

## 2- THEORETICAL AND CONCEPTUAL FOUNDATIONS

### I. Competing Paradigms of Social Justice

In making sense of a marginalization discourse in relation to the Scheduled Castes, it is important to initiate an inquiry with theoretical discourses which have influenced post-liberalism in making sense of social justice discourses in a globalized setting.<sup>11</sup> The discourse initiated by Rawls is premised on 'justice as fairness,' with a focus on an equal basic structure of liberties and an equal chance for all in society. Secondly, social and economic inequalities are only justifiable when they in some way benefit the least advantaged in a caste-ridden society.

Equally important in this regard is the Capability Approach offered by Amartya Sen and Martha Nussbaum, which focuses not on formal rights but actual freedoms left to people to have a life with dignity.<sup>12</sup> Sen's critique of institution-only rights highlights how institutionally poor performance in increasing capabilities continues to deprive marginalized people.<sup>13</sup>

This is further honed in contemporary scholarship on substantive equality, especially the works of Sandra Fredman and Tarunabh Khaitan. For substantive equality, it is necessary that structural barriers be dismantled, institutions transformed, and stigma, stereotyping, and material disadvantage be addressed-not merely assured of formal non-discrimination..

### II. Applying Social Justice Theories to Scheduled Castes

Caste-based exclusion cannot be addressed through formal equality alone. The systemic nature of caste oppression manifesting in segregated labour markets, unequal access to education, discrimination in public and private spheres, and everyday humiliation demands a group-differentiated rights model. Constitutional provisions such as Articles 15(4) and 16(4) reflect this recognition by enabling targeted measures for groups historically denied equal opportunity.<sup>14</sup>

Distinguishing formal non-discrimination from structural transformation is essential. While formal equality prohibits overt discriminatory practices, transformative equality aims to restructure entrenched patterns of power such as segregated housing, unequal schooling, market-based discrimination, and digital or algorithmic forms of exclusion. Judicial decisions such as *Workmen of Meenakshi Mills v. Meenakshi Mills Ltd.*<sup>15</sup> and *Consumer Education & Research Centre v. Union of India*<sup>16</sup> reveal how the Indian constitutional framework

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<sup>10</sup>Upendra Baxi, *Social Justice, Human Rights and Governance: The Indian Experience*, 9–12 (Oxford Univ. Press 2019).

<sup>11</sup>John Rawls, *A Theory of Justice* (1971), as referenced in ESCWA, *Social Justice: Concepts, Principles, Tools and Challenges*.

<sup>12</sup>John Rawls, *A Theory of Justice* (1971), as referenced in ESCWA, *Social Justice: Concepts, Principles, Tools and Challenges*.

<sup>13</sup>Ibid.

<sup>14</sup>INDIA CONST. arts and 16(4),

<sup>15</sup>*Workmen of Meenakshi Mills Ltd. v. Meenakshi Mills Ltd.*, [1992] 3 SCR 33.

<sup>16</sup>*Consumer Education & Research Centre v. Union of India*, (1995) 3 SCC 42

increasingly embraces substantive and social-justice-oriented reasoning while adjudicating on inequality.

The contemporary challenges faced by SCs particularly in employment, digital access, health, and political participation underscore the need for a transformative approach that goes beyond remedying past discrimination to restructuring institutions that reproduce structural disadvantage.

### III. Conceptual Vocabulary for Analysing Caste Marginalisation

A precise conceptual vocabulary strengthens the analytical framework. Structural exclusion captures the systemic barriers produced by institutional and social norms, including those embedded in administrative and market structures. Market-based discrimination highlights how caste shapes economic outcomes even without formal prohibitions, and is evident in labour segmentation, wage disparities, and unequal access to capital and credit<sup>17</sup>.

As governance and public services increasingly rely on data-driven technologies, algorithmic justice becomes essential to address biases embedded in digital systems. International conceptualisations of social justice emphasise the relationship between fairness, equity, rights, and participation<sup>18</sup> each of which shapes how SC citizens engage with state institutions and digital infrastructures.

Intersectionality particularly the interplay of caste, gender, class, and region reveals how Dalit women bear compounded vulnerabilities shaped by patriarchal norms and caste-based stigma. The social reproduction of caste explains how endogamy, occupational inheritance, cultural norms, and spatial segregation sustain caste hierarchies, echoing Ambedkar's critique of caste as a system of "graded inequality".<sup>19</sup>

The concepts of stigma and humiliation, deeply rooted in sociological and constitutional literature, are central to understanding the everyday harms experienced by SCs. Supreme Court jurisprudence increasingly recognises the need to safeguard dignity, as seen in *Balbir Kaur v. Steel Authority of India*<sup>20</sup>, which affirms social justice as a constitutional commitment.

Finally, dominance and resistance allow an understanding of both structures of oppression and the counter-movements led by marginalised communities ranging from social protests to legal mobilisation and political assertion.

Together, these theoretical and conceptual foundations create a robust framework for analysing the contemporary challenges of inclusion and substantive equality for Scheduled Castes in India.

## 3- HISTORICAL TRAJECTORY OF CASTE EXCLUSION AND REFORM

### I. Evolution of Caste Hierarchy

The historical evolution of caste exclusion in India reveals a long continuum of graded inequality. In its earliest forms, caste operated through notions of ritual purity, which demarcated communities through strict social distance and religious sanction. Over time, this hierarchical order translated into fixed occupational roles, generating hereditary forms of

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<sup>17</sup>Rajat Prakash, *Concept of Social Justice*, analysis of caste-linked economic disparities

<sup>18</sup>ESCWA, *Contemporary Conceptions of Social Justice* (2013).

<sup>19</sup>Rajat Prakash, B.R. Ambedkar's critique of caste, described in *Concept of Social Justice*

<sup>20</sup>*Balbir Kaur v. Steel Authority of India*, (2000) 6 SCC 493.

labour stratification that denied mobility to those labelled “untouchable.”<sup>21</sup> By the late colonial period, caste had hardened into what scholars describe as a system of structural violence an entrenched arrangement where social stigma, economic deprivation, and political marginality combined to shape the daily lives of Scheduled Castes.<sup>22</sup> This transition from ritual exclusion to structural domination laid the foundation for the modern debates on equality and affirmative action.

## II. Colonial Legal Codification

Colonial rule intensified caste exclusion by subjecting it to bureaucratic classification. The census operations of 1871 onward attempted to catalogue caste into a rigid hierarchy, transforming fluid identities into legally recognised categories.<sup>23</sup> The British administration classified certain communities as “Depressed Classes,” linking social status to administrative policy and paving the way for early forms of political representation. The Government of India Acts introduced limited forms of communal representation, but the decisive turning point came with the Communal Award of 1932, which granted separate electorates to the Depressed Classes.<sup>24</sup> Ambedkar supported the measure as essential to political empowerment, whereas Gandhi opposed it, culminating in the Poona Pact.<sup>25</sup> The Pact replaced separate electorates with reserved seats, embodying a compromise that shaped the future architecture of reservations in independent India.

## III. Nationalist and Subaltern Mobilisations

Parallel to these constitutional developments were wide-ranging anti-caste movements that challenged Brahmanical dominance. Ambedkar’s leadership marked a radical critique of caste as a system of social and economic enslavement, insisting that political safeguards were indispensable for dismantling historical subordination.<sup>26</sup> Gandhi, by contrast, approached caste reform through moral persuasion and uplift, emphasising the need to address social prejudice rather than transform political structures. Regional and subaltern movements from the Adi-Dravida mobilisation in the south to the Adi-Hindu assertion in the north provided further momentum by demanding access to public spaces, education, and dignified labour. These struggles created the moral and historical justification for reservations, demonstrating that affirmative action is grounded not in charity but in the logic of historical redress.<sup>27</sup>

## IV. Constituent Assembly Debates

The Constituent Assembly inherited this complex historical legacy. Ambedkar repeatedly warned that political democracy would remain fragile unless accompanied by “constitutional morality,” a commitment to restraining social power and preventing domination.<sup>28</sup> The Assembly debates on Articles 15(4), 16(4), and 46 reveal a clear understanding that formal equality could not dismantle entrenched hierarchies. Members acknowledged that Scheduled

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<sup>21</sup>Marc Galanter, *The Long Half-Life of Reservations: A Cautionary Tale*, 32 Indian L.J. 201, 204–06 (2014).

<sup>22</sup>National Human Rights Commission, *Report on Atrocities Against Scheduled Castes and Scheduled Tribes* 3–4 (2012).

<sup>23</sup>Marc Galanter, *The Long Half-Life of Reservations: A Cautionary Tale*, 32 Indian L.J. 201, 210–12 (2014).

<sup>24</sup>Id. at 214–16.

<sup>25</sup>Id. at 217–19.

<sup>26</sup>B.R. Ambedkar, *Annihilation of Caste*, reprinted in 7 J. Dalit Stud. 55, 63–65 (2011).

<sup>27</sup>Gail Omvedt, *Dalits and the Democratic Revolution*, 14 Soc. Change Rev. 98, 102–04 (2009).

<sup>28</sup>*Social Justice in India: Historical and Constitutional Perspectives*, 12 Indian Const. Hist. Rev. 45, 50–53 (2015).

Castes suffered from historical disadvantage, social stigma, and exclusion from public goods, and therefore required political, educational, and service-related safeguards.<sup>29</sup> These constitutional provisions were designed not merely as compensatory tools but as transformative instruments aimed at restructuring the hierarchical social order. The persistence of caste-based violence, discrimination in labour markets, and educational exclusion underscores the enduring relevance of these safeguards and the need for sustained institutional reform.<sup>30</sup>

#### **4- CONSTITUTIONAL, LEGISLATIVE PROVISIONS**

The Constitution provides the primary normative framework for combating caste exclusion. Articles 14, 15, 16 and 17 articulate the core commitments to equality, non-discrimination, equal opportunity, and the abolition of untouchability; these provisions are reinforced by Part XVI safeguards that permit targeted measures for Scheduled Castes and Scheduled Tribes. Equally important are the Directive Principles which, while non-justiciable, inform the interpretive posture of courts and legislatures toward structural remedial measures designed to give effect to social justice and substantive equality.<sup>31</sup>

Affirmative action jurisprudence in India has transformed through a series of landmark decisions that balance constitutional values against administrative efficiency and the principle of merit. The early decision in *State of Madras v. Champakam Dorairajan* compelled the First Amendment and the insertion of Article 15(4) to validate protective discrimination; subsequent rulings such as *N.M. Thomas* and *Indra Sawhney* elaborated tests for justified reservation, interrogating the relationship between merit and remedial justice.<sup>32</sup> The jurisprudential debates crystallised around several recurring tensions whether affirmative action compromises administrative efficiency, whether a “creamy layer” doctrine is applicable to Scheduled Castes, how to treat internal sub-classifications within SCs, and whether a judicially imposed 50% cap on reservations is constitutionally mandated. The Supreme Court’s post-*Indra* decisions (including *M. Nagaraj* and the later *Jarnail Singh* trilogy) show a jurisprudence attempting to reconcile empirical evidence of backwardness with constitutional constraints while leaving considerable discretion to the political branches.<sup>33</sup>

Legislatively, the state has enacted an architecture intended to operationalise constitutional promises. The Protection of Civil Rights Act, 1955 (formerly the Untouchability Offences Act) criminalises certain practices associated with untouchability, while the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 provides a specialised penal regime to address the most egregious forms of caste-based violence.<sup>34</sup> Reservation policies have been embedded across sectors public employment, legislative representation, and educational institutions and complemented by financial mechanisms aimed at Special

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<sup>29</sup>Id. at 54–56.

<sup>30</sup>National Human Rights Commission, *Report on Atrocities Against Scheduled Castes and Scheduled Tribes* 7-9(2012).

<sup>31</sup>Rajat Prakash, *Concept of Social Justice*, 1 Indian Const. Stud. Rev. 12 (2013).

<sup>32</sup>*State of Madras v. Champakam Dorairajan*, A.I.R. 1951 S.C. 226; *N.M. Thomas v. State of Kerala*, A.I.R. 1976 S.C. 490; *Indra Sawhney v. Union of India*, (1992) 3 S.C.C. 217. See Marc Galanter, *Competing Equalities: Law and the Backward Classes in India*, 1 Soc. L. & Pol’y J. 34 (1984).

<sup>33</sup>*M. Nagaraj v. Union of India*, (2006) 8 S.C.C. 212; *Jarnail Singh v. State of Punjab*, (2018) 9 S.C.C. 1

<sup>34</sup>Protection of Civil Rights Act, 1955; The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989; see Himabindu M., *Social Justice and Caste Inequality: A Review of the Constitutional Provisions*, *Quest J. Hum. & Soc. Sci.* 117 (2017).

Component Plans (SCPs) and Tribal Sub-Plans (TSPs) to channel development resources to marginalised communities. Nevertheless, gaps between statutory design and resource allocation persist, undermining the transformative potential of such measures.<sup>35</sup>

Enforcement institutions were created to bridge law and lived reality, notably the National Commission for Scheduled Castes (NCSC), special courts under the PoA Act, and designated administrative cells in educational and employment bodies. Yet implementation vulnerabilities are persistent: investigative inertia, low conviction rates, procedural dilatory tactics, and bureaucratic resistance frequently neutralise statutory protections. Empirical reviews and human-rights reports emphasise that legal remedies alone cannot substitute for proactive state capacity investigation, protection, witness-support, and institutional reform are essential to translate constitutional guarantees into meaningful relief.<sup>36</sup>

In sum, India's constitutional, legislative, and judicial architecture provides a robust scaffold for remedial action against caste exclusion. The challenge remains one of translation: converting normative commitments and statutory text into sustained institutional practice that dismantles structural barriers rather than merely offering formal protections.

## 5- ROLE OF THE JUDICIARY IN REVISITING SOCIAL JUSTICE AND CONTEMPORARY CHALLENGES OF INCLUSION FOR SCHEDULED CASTES IN INDIA

The Indian judiciary has occupied a central and enduring role in shaping the constitutional meaning of social justice, particularly in relation to the historical and continuing exclusion of Scheduled Castes. Social justice under the Indian Constitution is not conceived as a static moral ideal but as a dynamic constitutional obligation that requires active judicial engagement. The Supreme Court has consistently recognised that caste-based exclusion is not merely a social aberration but a structural injustice embedded in India's socio-economic fabric. Consequently, judicial interpretation has often sought to move beyond formal equality to address the lived realities of caste oppression through substantive constitutional remedies. This approach situates the judiciary as a constitutional sentinel tasked with safeguarding dignity, equality, and participatory inclusion of Scheduled Castes within public life.<sup>37</sup>

The judiciary's interpretation of the equality code under Articles 14, 15, and 16 has been foundational in confronting caste discrimination. Early constitutional jurisprudence acknowledged that identical treatment in an unequal society perpetuates injustice. In *State of Kerala v. N.M. Thomas*, the Supreme Court explicitly rejected the notion of equality as mere uniformity and affirmed that differential treatment aimed at uplifting Scheduled Castes is constitutionally permissible and, in fact, necessary to achieve real equality.<sup>38</sup> This understanding was reinforced in *E.P. Royappa v. State of Tamil Nadu*, where the Court conceptualised equality as antithetical to arbitrariness, thereby enabling judicial scrutiny certain state actions that prima facie disadvantage the marginalised castes..<sup>39</sup>With these

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<sup>35</sup>Report of the National Commission for Scheduled Castes, Annual Review (various years); see Laboni Bag, *From Phule to the Present: Historicizing Caste Oppression*, J. South Asian Stud. 45 (2019).

<sup>36</sup>National Human Rights Commission, *Report on Atrocities Against Scheduled Castes and Scheduled Tribes* 3–8 (2007); see also Human Rights Watch, *Caste Discrimination Against Dalits in India* (2007).

<sup>37</sup>*Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225 (India).

<sup>38</sup>*State of Kerala v. N.M. Thomas*, (1976) 2 SCC 310 (India).

<sup>39</sup>*E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3 (India).

judgments, the judiciary prepared the foundation for the recognition of caste as constitutionally significant social distinction, as opposed to the social identity that is neutral.

One of the major roles played by the judiciary has to do with the enforcement of Article 17, which declares the abolition of “untouchability in all its forms.” The judiciary has used this provision liberally to ensure that the modern forms of “untouchability” are covered by the provision. The Supreme Court, in the case of *People's Union for Democratic Rights vs. Union of India*, declared that fundamental rights guaranteed by Article 17 are not only to be enforced against the state, but against anyone, thus acknowledging that “untouchability” affects society at large.<sup>40</sup> This was further clarified in *State of Karnataka vs. Appa Balu Ingale*, where the Court disapproved of a social order that segregated Scheduled Communities into “separate” zones, thus holding that such activities undermine the very basis of “Constitutional morality” and “human dignity” being protected by the Indian Constitution.<sup>41</sup>

Judicial intervention has been particularly crucial in addressing caste-based violence through the interpretation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The Court has repeatedly acknowledged that atrocities against Scheduled Castes are not ordinary criminal offences but expressions of entrenched social dominance. In *Subhash Kashinath Mahajan v. State of Maharashtra*, judicial dilution of procedural safeguards initially drew criticism for undermining the protective intent of the Act.<sup>42</sup> However, this approach was recalibrated in *Prathvi Raj Chauhan v. Union of India*, where the Supreme Court reaffirmed the constitutionality of stringent provisions and recognised the necessity of heightened protection in view of systemic caste vulnerability.<sup>43</sup> The evolving jurisprudence reflects judicial sensitivity to the balance between individual liberty and collective social justice, while increasingly acknowledging the structural context of caste violence.

Reservation jurisprudence represents another critical site of judicial engagement with social justice for Scheduled Castes. In *Indra Sawhney v. Union of India*, the Supreme Court upheld reservations as an essential instrument for achieving substantive equality, while simultaneously introducing doctrinal constraints such as the fifty percent ceiling.<sup>44</sup> Subsequent decisions, particularly *M. Nagaraj v. Union of India*, imposed additional conditions on reservation in promotion, requiring states to demonstrate backwardness and inadequacy of representation.<sup>45</sup> This approach was criticised for judicial over-formalism and insufficient recognition of historical caste disadvantage. The Court partially corrected this trajectory in *Jarnail Singh v. Lachhmi Narain Gupta*, where it removed the requirement of proving backwardness of Scheduled Castes, acknowledging that caste-based disadvantage is constitutionally presumed.<sup>46</sup> These decisions reveal the judiciary’s ongoing struggle to reconcile equality of opportunity with the constitutional mandate of social justice.

The judiciary has also expanded access to justice for Scheduled Castes through the evolution of Public Interest Litigation. By relaxing procedural barriers such as *locus standi*, the courts

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<sup>40</sup>*People’s Union for Democratic Rights v. Union of India*, (1982) 3 SCC 235 (India).

<sup>41</sup> *ibid*

<sup>42</sup>*Subhash Kashinath Mahajan v. State of Maharashtra*, (2018) 6 SCC 454 (India).

<sup>43</sup>*Prathvi Raj Chauhan v. Union of India*, (2020) 4 SCC 727 (India).

<sup>44</sup>*Indra Sawhney v. Union of India*, 1992 Supp (3) SCC 217 (India).

<sup>45</sup>*M. Nagaraj v. Union of India*, (2006) 8 SCC 212 (India).

<sup>46</sup>*Jarnail Singh v. Lachhmi Narain Gupta*, (2018) 10 SCC 396 (India).

have enabled collective claims addressing systemic exclusion, bonded labour, custodial violence, and denial of basic amenities..In the case of S.P. Gupta vs. Union of India, the concept of PIL, which is designed as a part of the Indian Constitution to empower those voices which are drowned in poverty and marginalized, has been described in the philosophy of PIL.<sup>47</sup> For the Scheduled Castes, PIL has become an effective approach to resist the administrative callousness of the state and make the nation responsible towards them through Constitutions 38 and 46.

Over the past two decades, the judiciary has increasingly situated the discourse on social justice on the constitutional notion of dignity under Article 21. Although the said judgments are neither specifically caste-focused in intention, the judicial assessments on Maneka Gandhi vs. Union of India, Francis Coralie Mullin vs. Administrator, Union Territory of Delhi, and Navtej Singh Johar vs. Union of India have broadened the scope of dignity and included freedom from humiliation, stigma, and ostracization.<sup>48</sup> The judicial system's approach has a profound, if indirect, impact on the lives of Scheduled Castes (SCs), stemming from a deep-seated recognition of discrimination that strips away human dignity and relegates people to a lower rung in society. By framing discrimination not just as inequality but as an affront to basic human worth, courts have breathed life into constitutional protections, effectively challenging both overt and subtle forms of caste-based bias.

Yet, for all its strides toward inclusivity, the judiciary faces real hurdles in fully uplifting SCs. Backlogs of unresolved cases clog the courts, conviction rates for caste-related atrocities remain disappointingly low, reservations policies are applied inconsistently, and there's little enforcement in the private sector—all of which undermine the system's ability to deliver true justice.. Further, overemphasizing equal treatment in some domains has tended to undermine caste inequality's structural basis. These shortcomings highlight the tension between judicial activism and restraint, and raise critical questions about the extent to which courts have fully internalised caste as a continuing constitutional challenge rather than a historical anomaly.<sup>49</sup>

However, a critical role in this social formation project continues to be played by the judiciary in the constitutional project. The judicial discourse in this matter indexes a dynamic commitment to a transformative constitutionalism, where a critical focus of this discourse is using the constitutional text in transforming unequal social relations. Although a role in uprooting casteism is not possible for them alone, a role in creating constitutional awareness, in making people accountable, and in authenticating claims in relation to the Scheduled Castes continues to be critical to them in this sense.

## **6-CONTEMPORARY CHALLENGES TO INCLUSION OF SCHEDULED CASTES IN INDIA**

### **1. Persistent Socio-Economic Marginalisation**

Although "historical marginalisation of SCs, where socio-economic disadvantage is delineated," remains in Scheduled Castes despite constitutional protection and various interventionist policies, "landlessness can be seen as a central 'structural characteristic of Dalit marginalisation,' particularly in Rural India, where 'access to productive resources is inextricably bound up with caste and social dominance'". Studies have indicated in research literature "wage discrimination persists in urban labor markets," where "Schedule Caste

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<sup>47</sup>S.P. Gupta v. Union of India, 1981 Supp SCC 87 (India).

<sup>48</sup> ibid

<sup>49</sup>Ashoka Kumar Thakur v. Union of India, (2008) 6 SCC 1 (India).

workers are overrepresented in informal, perilous, and poor-paying jobs".<sup>50</sup> Urbanisation in this context "has neither abrogated nor upended caste occupational differentials but decoupled them and repackaged them in different forms such as 'sanitation work,' 'manual scavenging,' and 'platform service work'; this can be termed as "invisible labor," a "silent mode of caste action" impacting constitutional mandates on "equality and dignity guaranteed under Articles 14 and 21".<sup>51</sup>

## 2. Educational Barriers and Academic Exclusion

Educational institutions, often projected as sites of mobility and emancipation, have frequently reproduced caste-based exclusion. At the school level, Scheduled Caste students continue to encounter segregation, teacher bias, and discriminatory disciplinary practices, contributing to higher dropout rates<sup>52</sup>. In higher education, exclusion assumes more insidious forms hostile institutional cultures, social isolation, and the delegitimisation of students admitted through affirmative action. Legal and academic discourse surrounding caste-linked student suicides has revealed how "meritocracy" often functions as a caste-blind ideology that conceals inherited privilege. The judiciary has increasingly acknowledged that academic neutrality cannot justify systemic indifference to caste-based discrimination.<sup>53</sup>

## 3. Labour Market Discrimination and Neoliberal Exclusion

The neoliberal restructuring of the Indian economy has intensified exclusionary pressures on Scheduled Castes. The steady contraction of public-sector employment has significantly reduced the domain within which constitutionally mandated reservations operate. Concurrently, the private sector has consistently resisted affirmative action, invoking market efficiency and merit<sup>54</sup>. Corporate hiring processes remain largely opaque, allowing caste bias to operate informally and beyond regulatory scrutiny. Judicial reluctance to extend affirmative action obligations to private employment has reinforced what scholars identify as the "paradox of merit," wherein market neutrality legitimises caste privilege while disavowing responsibility for social justice.<sup>55</sup>

## 4. Caste Violence and Social Backlash

Caste-based violence remains a critical impediment to substantive inclusion. Atrocities against Scheduled Castes frequently arise in contexts involving land ownership, political participation, inter-caste relationships, and sexual autonomy. Such violence functions not merely as criminal conduct but as a mechanism of social control aimed at disciplining Dalit assertion<sup>56</sup>. While the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 provides a robust legal framework, its implementation is weakened by police apathy,

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<sup>50</sup>Marc Galanter, *Competing Equalities: Law and the Backward Classes in India*, 27 J. Asian Stud. 593, 601–03 (1968).

<sup>51</sup>Marc Galanter, *Competing Equalities: Law and the Backward Classes in India*, 27 J. Asian Stud. 593, 601–03 (1968).

<sup>52</sup>Sukhadeo Thorat & Katherine Newman, *Blocked by Caste: Economic Discrimination in Modern India* 112–18 (Oxford Univ. Press 2010).

<sup>53</sup>Anupama Rao, *The Caste Question: Dalits and the Politics of Modern India* 214–19 (Univ. of Cal. Press 2009).

<sup>54</sup>State of Karnataka v. Appa Balu Ingale, (1995) 2 SCC 273, 281–83 (India).

<sup>55</sup>Ashoka Kumar Thakur v. Union of India, (2008) 6 SCC 1, 87–92 (India).

<sup>56</sup>*The Role of Judicial Activism in Advancing Social Justice in India: A Constitutional Analysis*, Indian J.L. & Legal Res., Vol. V, Issue II, 45–49 (2023).

procedural delays, and low conviction rates. Empirical data and judicial observations reveal a persistent gap between legal protection and social reality.<sup>57</sup>

### **5. Institutional and Bureaucratic Discrimination**

"The Scheduled Castes are grossly underrepresented in institutions of governance such as higher judiciary, higher education institutions, and senior civil service. The presence of dominant caste groups in their official networks continues to affect recruitment, selection, and informal selection mechanisms, leading to institution captivity. Even judicial identification of barriers to access to justice has not impacted institution composition reforms yet."<sup>58</sup>

### **6. Digital and Algorithmic Exclusion**

The question of digital divide affects the Scheduled Caste community quite heavily with regard to absence, illiteracy related to technology, and undeveloped infrastructure. The very recent literature refers to a construction of social biases in hiring algorithms, credit models for fintech, and work models for platforms with a social veneer of objectivity. The cyber world has turned into a place for speeches that are dependent on caste biases and cyber harassments. Because of the absence of proper state regulation, technology could turn into a new instrument of caste dominance as opposed to a place of inclusion.<sup>59</sup>

### **7. Political Representation: Symbolism Without Substantive Power**

Though political reservations exist to provide representation of Scheduled Castes in governance, political empowerment is not asserted. A decline in the importance of Dalit autonomous political mobilization, an increasing induction of Dalits into mainstream political parties, has led to an erosion of importance of political representation. At the grassroots level, elected representatives of Scheduled Castes in Panchayati Raj Institutions face issues of proxy governance, threats, social boycotts, and attacks.

### **8. Intersectional and Intra-Group Inequalities**

The challenge of true inclusion grows even more complex when we consider how different layers of identity intersect. For Dalit women, this means facing a toxic mix of sexual violence, harsh labor exploitation, and being deliberately erased from political narratives, piling on vulnerabilities that make their struggles uniquely intense. Meanwhile, LGBTQ+ individuals within Dalit communities—and those who practice minority religions—endure a double-edged isolation that blocks them from recognition and equal access in society. On top of that, widening gaps within the Scheduled Caste population itself have sparked calls for re-subclassification, ensuring reservation benefits reach those who need them most. Legal battles over this in India highlight the ongoing tug-of-war between upholding equality and delivering real justice for those on the margins.<sup>60</sup>

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<sup>57</sup>Law Comm'n of India, *Report No. 272: Implementation of the SC/ST (Prevention of Atrocities) Act, 1989*, 3.1–3.8 (2017).

<sup>58</sup>S.P. Gupta v. Union of India, 1981 Supp SCC 87, 219–23 (India).

<sup>59</sup>Wendy Hui Kyong Chun & Sarah Friedland, *Discriminating Data*, 11 *Kritika Kultura* 1, 9–13 (2015).

<sup>60</sup>E.V. Chinnaiah v. State of Andhra Pradesh, (2005) 1 SCC 394, 410–15 (India); State of Punjab v. Davinder Singh, (2020) 8 SCC 1, 32–38 (India).

## 7- SUGGESTIONS

### 1. Strengthening Economic Security and Livelihood Protection

A relevant strategy towards social inclusion ought to commence with ensuring economic security. Land redistribution and security of tenure ought to be given priority in the case of SCs, especially in rural settings where ownership of land remains inextricably bound up with social power. Employment policies in urban sectors ought to take into consideration caste concentrations in such sectors as sanitation, waste, and platform work, and ought to include these sectors into labor protection, minimum wage benefits, and social security provisions. The constitutional ideal of social dignity under articles 14 and 21 and indeed all other articles calls for making economic survival non-caste-dependent.<sup>61</sup>

### 2. Reforming Educational Institutions for Social Justice

"Inclusion in education demands structural change, not token access. Anti-discrimination cells in schools and institutions need to be given judicial efficacy and composition in non-corrupt officers. Teacher education programs need to incorporate compulsory orientation programs on caste and social diversity. Institutions need to have transparent redressal systems in place to check dropout numbers among SC students," Bogra advised. Judicial recognition of caste-based exclusion in educational spaces must be complemented by enforceable institutional responsibility rather than ad hoc interventions.<sup>2</sup>

### 3. Expanding Affirmative Action Beyond the Public Sector

The declining role of the public sector necessitates a rethinking of affirmative action policy. While constitutional reservations remain essential, the State must explore incentive-based frameworks encouraging private sector diversity, including tax benefits, disclosure requirements, and diversity audits. The rigid separation between public responsibility and private autonomy is increasingly incompatible with a constitutional order committed to substantive equality. Affirmative action should be viewed not as a burden but as a tool for democratic fairness in market economies.<sup>62</sup>

### 4. Ensuring Effective Implementation of Anti-Atrocity Laws

Legal remedies to protect people from caste violence need to go beyond mere presence in statute books and implementation. Special courts under SC/ST (Prevention of Atrocities) Act need to be appropriately staffed and monitored. Police officers and prosecutors need to be compulsorily trained in caste-sensitive investigation. Witnesses need to be given better protection against threats of intimidation and social boycott. The integrity of laws against atrocities will have to be proved in quick trials.<sup>63</sup>

### 5. Addressing Institutional Bias and Under-representation

Institutional representation should have some measure of deliberate remedial action towards representational disparity. There has to be public access to disaggregated data about caste representation in the judiciary, academia, and bureaucracy. Selection and promotion processes have to account for diversity, not in place of merit. Mentorship and capacity development initiatives for Scheduled Caste professionals can help overcome informal

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<sup>61</sup>Marc Galanter, *Competing Equalities: Law and the Backward Classes in India*, 27 *J. Asian Stud.* 593, 601–03 (1968).

<sup>62</sup>The Role of Judicial Activism in Advancing Social Justice in India: A Constitutional Analysis, *Indian J.L. & Legal Res.*, Vol. V, Issue II, 45–49 (2023).

<sup>63</sup>Ashoka Kumar Thakur v. Union of India, (2008) 6 SCC 1, 87–92 (India).

exclusionary networks. Institutions of the Constitution have to reflect the social diversity they have to represent.<sup>64</sup>

## 6. Regulating Digital and Algorithmic Discrimination

Technology needs to be regulated on the foundation of the values enshrined in the Constitution. The State needs to identify technology exclusion as a matter of social justice and extend digital literacy and infrastructure to marginalized communities. Decision-making through algorithms for hiring, loans, and provision of welfare needs to be made transparent and guided by anti-discrimination standards. Online caste violence expressed through hate speech needs strict standards that ensure freedom of expression without losing sight of dignity and equality. Technology needs to flatten hierarchy in society.<sup>65</sup>

## 7. Deepening Political Participation and Grassroots Democracy

Political inclusiveness cannot remain limited to symbolic representation. The legal safeguarding process must improve to protect the representatives of Scheduled Castes in the Panchayati Raj institutions from intimidation, proxyism, and violence. Capacity-building activities must empower the SC representatives to work with the authority to make independent decisions. Political parties must encourage the development of self-governance rather than representation in power. Democracy cannot remain both inclusivist and substantial in character when the process of participation remains symbolic in nature.<sup>66</sup>

## 8. Adopting an Intersectional and Inclusive Policy Framework

Policies for Scheduled Castes must take into consideration the intersectional Vulnerabilities. The Sarvodha slot of dalit women must be protected from with respect to sexual violence and labor exploitation. The dalit LGBTQ+ community must be recognized in anti-discrimination policies. A dalit in a minority religion need not be left out of social protection schemes..<sup>67</sup>

## 9. Addressing Intra-Scheduled Caste Inequality Through Constitutional Means

The growing demand for sub-classification within Scheduled Castes highlights internal disparities that cannot be ignored. Any such measures must be based on empirical evidence and guided by constitutional principles of equality and fairness. Judicial reconsideration of sub-“classification has to be balanced between equalization of benefit allocation and constitutional unity of Scheduled Castes. Thoughtfully crafted differentiation can enhance, instead of impairing, social justice objectives.” Accordingly, discrimination should be eliminated among “Scheduled Castes,” while “classification has to aim at.”<sup>68</sup>

## CONCLUSION

Exclusion of Scheduled Castes in Indian Society in the context of casts is a continuous challenge to constitutionalism but not a closing chapter in social reform. While in this country, a deeply ingrained constitutional framework with progressive judicial precedents and a docket full of legislation in support of these are in place, this circumstance in reality

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<sup>64</sup>S.P. Gupta v. Union of India, 1981 Supp SCC 87, 219–23 (India).

<sup>65</sup>Wendy Hui Kyong Chun & Sarah Friedland, *Discriminating Data*, 11 *Kritika Kultura* 1, 9–13 (2015).

<sup>66</sup>Christophe Jaffrelot, *India's Silent Revolution: The Rise of the Lower Castes in North India* 341–46

<sup>67</sup>Anupama Rao, *The Caste Question: Dalits and the Politics of Modern India* 214–19 (Univ. of Cal. Press 2009).

<sup>68</sup>E.V. Chinnaiah v. State of Andhra Pradesh, (2005) 1 SCC 394, 410–15 (India); State of Punjab v. Davinder Singh, (2020) 8 SCC 1, 32–38 (India).

underlines a reality in relation to affected Scheduled Castes concerning socio-economic exclusion and denial of dignity.

The regimes of exclusion in the contemporary post-caste social order are no longer dependent on the direct channels of exclusion, and they are more complex in their workings. The regimes of the market, institutional culture, and information technology are increasingly mediating access to education, employment, social service provision, and politics. Though these regimes are benign to the extent that they are accorded equality and impartiality, they are so negatively when they reinforce pre-existing inequalities and mask caste inequalities at the same time. There is a corresponding need for a paradigm shift in the constitution to note the awareness of indirect and algorithmic discriminations.

In the list of significant functions of judicial intervention from the above point of view is the promotion of further plurality within equality and the promotion of dignity within equal significance through article 21 of the Indian Constitutional Order. In the matter of substantive equality from the above point of view, within this context and through this transition within judicial attitude and understanding, there has been a significant transition within the realms of constitutional thinking within this series of judicial decisions within Indian judicial history regarding the judicial initiative within this point of view, which is currently overshadowed through judicial ambivalence regarding the application of the principle of affirmative action within judicial initiative, judicial ineffectiveness within the application of anti-atrocity law. The fulfillment of social justice to the Scheduled Castes community shall not solely depend on cosmetic inclusion in a piecemeal manner. It requires an ongoing constitutional process aimed at restructuring institutions, regulating markets, and governing technology in line with the values of equality, dignity, and social democracy. Treating inclusion as a continuing constitutional responsibility rather than a completed project is essential to preserving the transformative promise of the Indian Constitution and ensuring that its ideals translate into lived equality.