



# From Quotas To Equity: Rethinking Reservation As A Barrier In India's Education System.

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## Abstract

India's reservation policy, rooted in colonial-era practices and constitutional commitments to social justice, has expanded through legislative and judicial milestones to address historic exclusion. Yet in higher education, quota-based admissions are increasingly criticized for distorting merit allocation, incentivizing category competition, and failing to target present-day deprivation. This paper argues that reservation in admissions now functions as an obstacle to optimal educational outcomes and social mobility. We propose a shift from category-based admission quotas to robust need-based fee concessions and support services, while retaining narrowly tailored safeguards against discrimination. The analysis traces India's reservation history and jurisprudence, evaluates recent developments (EWS, Maratha case), and compares international approaches (United States, Brazil, Malaysia, South Africa, Sri Lanka). We outline a policy blueprint that preserves equality of opportunity through means-tested financing, academic bridges, and anti-bias enforcement rather than blanket quotas.

**Keywords:** Reservation; affirmative action; higher education; EWS; Indra Sawhney; Students for Fair Admissions; fee concession; merit; equity; India; comparative policy.

## 1. Introduction

Reservation in India began as a corrective to entrenched social hierarchies, later constitutionalized to advance substantive equality. Over seven decades, admissions quotas have grown in scope and complexity, culminating in the 10% EWS reservation (103rd Constitutional Amendment, 2019) upheld in 2022. While the moral imperative to remedy disadvantage remains compelling, the central question today is instrumental: do admission quotas still deliver equity efficiently and fairly—or have they become a structural obstacle to educational excellence and social mobility?

This paper advances three claims. First, history explains why reservation emerged but not why the same instrument must persist unchanged. Second, evidence from law and comparative policy shows feasible alternatives that target disadvantage without displacing merit. Third, India should pivot to need-based fee concessions and academic support as the principal tool in higher education, while limiting quotas to narrowly tailored, time-bound contexts.

## 2. A Brief History of Reservation in India

### 2.1 Pre-Constitutional roots

Affirmative preferences predate Independence. The Madras Presidency's "communal G.O." of 1921 introduced percentage-based allocations across communities in public services; by 1927, fixed shares included non-Brahmin Hindus, Brahmins, Muslims, Christians, Anglo-Indians, and Scheduled Castes.

The 1932 Poona Pact between B.R. Ambedkar and M.K. Gandhi replaced proposed separate electorates for Depressed Classes with reserved seats in joint electorates—expanding representation while avoiding political segmentation.

### 2.2 Constitutional design

The Constitution embedded affirmative action as exceptions within equality guarantees. Articles 15(4) and 15(5) permit special provisions (including in private unaided institutions for 15(5)) for socially and educationally backward classes (SEBCs) and SC/ST; Article 16(4) enables reservation in public employment; 16(4A) & 16(4B) relate to promotions and carry-forward of vacancies. Article 46 (DPSP) urges promotion of educational and economic interests of weaker sections.

### 2.3 Key jurisprudence

M.R. Balaji (1963) indicated that caste cannot be the sole criterion and suggested a general 50% cap. Later, Indra Sawhney (1992) upheld OBC reservation (27%), affirmed the 50% ceiling (save extraordinary situations), and refined backwardness tests and "creamy layer" exclusion for OBCs.

M. Nagaraj (2006) conditioned SC/ST promotions on quantifiable data, applying "creamy layer" logic (later partly revisited), emphasizing evidence for backwardness and inadequate representation.  
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Jaishri Laxmanrao Patil v. Chief Minister (Maratha case, 2021) struck down Maharashtra's SEBC quota for breaching the 50% ceiling and clarified the 102nd Amendment's effect on identification powers.

Janhit Abhiyan (EWS, 2022) upheld the 103rd Amendment, validating 10% reservation solely on economic criteria (excluding SC/ST/OBC from EWS eligibility), signaling a shift toward economic-need targeting.

## 3. Purpose and Performance: Why Reservation Came—and Why Recalibration Is Due

### 3.1 Original rationale

Reservation sought to (a) ensure descriptive representation of historically excluded groups; (b) counter cumulative disadvantages in access to schooling, coaching, and social capital; and (c) serve as a temporary scaffolding toward equality. The Poona Pact logic and the Constitution's architecture reflect these aims.

### 3.2 Current challenges in higher education

Mis-targeting & heterogeneity within categories. Broad caste categories house significant internal variation; creamy-layer filters for OBCs attempt correction but do not cover all categories symmetrically, and measurement is administratively blunt.

Ceiling constraints and competition for seats. The 50% cap creates a zero-sum contest across groups and States, as seen in the Maratha verdict.

Admissions vs. affordability. Gaining a seat does not guarantee completion; fees, living costs, and academic preparedness remain binding constraints, which quotas alone do not solve.

Perverse incentives. Category-based admissions can unintentionally encourage category competition/litigation instead of investments in school-level quality, bridge courses, or affordability.

Legitimacy & merit concerns. Persistent debates over “merit” and fairness may delegitimize beneficiaries and institutions—an obstacle to social cohesion and academic standards.

Thesis of this paper: In contemporary higher education, quota-based admissions are no longer the most precise or fair tool to reach today’s disadvantaged learners. A pivot to need-based fee concessions and academic support can better equalize opportunity without displacing meritocratic seat allocation.

## **4. Comparative Perspectives**

### **4.1 United States**

In *Students for Fair Admissions v. Harvard/UNC* (2023), the U.S. Supreme Court ended race-conscious admissions under the Equal Protection Clause, pushing universities toward race-neutral alternatives (e.g., socioeconomic factors, top-x% plans, targeted outreach). Ongoing policy debates target legacy preferences, which skew opportunity.

### **4.2 Brazil**

Brazil’s *Lei de Cotas* (2012) mandates quotas in federal universities based on public-school attendance, family income, and race/ethnicity, calibrated to state demographics; the framework has been periodically reviewed and updated. Research notes democratization gains alongside implementation challenges and review cycles.

### **4.3 Malaysia**

Malaysia employs explicit Bumiputera quotas in higher education admissions, producing significant composition effects (e.g., ~82% Bumiputera in public universities, per 2024 reporting). Critics argue quotas depress competition and incentivize parallel private pathways.

### **4.4 South Africa**

Post-apartheid policy emphasizes employment equity and broad-based empowerment more than fixed higher-education quotas at the national level; recent amendments introduce sectoral targets in employment and compliance incentives/sanctions, illustrating an equity regime not centered on admission quotas.

### **4.5 Sri Lanka**

Historic standardisation and district quotas in university admissions were used to alter admission patterns across ethnic and geographic lines—policies widely debated for fairness and conflict externalities.

Takeaway: Democracies facing diversity and inequality mix tools—some quota-heavy (Brazil, Malaysia), others quota-light with need-based levers (post-SFFA U.S.) or labour-market equity focus (South Africa). India can decouple access (by merit) from affordability and success (by need-based finance/support).

## **5. Legal and Policy Turning Points in India**

Indra Sawhney (1992): constitutionalized the 50% ceiling (ordinary rule) and “creamy layer” exclusion for OBCs; rejected reservations in promotions at that time.

M. Nagaraj (2006) and later Jarnail Singh (2018, not cited above) refined promotion reservations with quantifiable data and creamy layer logic.

Maratha Reservation (2021): ceiling reaffirmed; States' identification powers affected by 102nd Amendment.

EWS (103rd Amendment) upheld (2022): validates economic-criteria reservation (10%), marking a policy recognition that economic deprivation is a critical axis of disadvantage.

These milestones reveal both judicial caution (caps, evidence, anti-excess) and policy evolution (economic-need targeting), creating constitutional space to re-instrument equity.

## **6. Policy Proposal: Replace Admission Quotas with Need-Based Fee Concessions (and Success Supports)**

### **6.1 Principle**

Allocate seats by open merit; allocate money and supports by need.

### **6.2 Instruments**

Means-tested fee waivers & stipends

Sliding-scale tuition remission (0–100%) based on household income/wealth proxies, with automatic data pulls from tax/benefit databases; living-expense stipends for the poorest.

Preserve limited, time-bound quotas only where narrowly tailored to remedy proven, continuing exclusion (e.g., specific disabilities, ultra-remote tribal blocks) with sunset and review clauses.

Preparatory and bridge programs

Foundation year, remedial courses, tutoring, and mentoring for first-generation students; mandatory learning support tracked to outcomes.

Targeted outreach and school-level investments

Seat allocation remains merit-based, but universities proactively recruit from under-resourced schools; government funds school-quality improvements to attack root causes.

Anti-discrimination enforcement

Strengthen campus-level grievance redress, bias training, and audit mechanisms; periodic audits akin to employment equity reviews (borrowing from South Africa's compliance model).

Review & accountability

Five-year independent evaluations comparing enrollment, persistence, graduation, and post-graduation outcomes across groups; public dashboards.



### 6.3 Why this works better

**Precision:** Directs resources to the financially constrained across all communities, minimizing leakage to creamy layers. (EWS logic validates economic screening.)

**Merit integrity:** Preserves competitive academic standards, improving institutional legitimacy.

**Completion focus:** Addresses affordability and academic readiness—the real barriers to finishing degrees.

**Social cohesion:** Reduces inter-group resentment driven by zero-sum seat quotas.

## 7. Anticipating and Addressing Counterarguments

“Caste-based exclusion persists; economic tests alone miss stigma and social capital gaps.”

Response: Retain narrowly tailored, evidence-based safeguards (e.g., targeted bridges, anti-discrimination enforcement, limited quotas where ongoing exclusion is proven), but make fee and support the default lever. This hybrid respects both historic injustice and current precision.

“Merit is itself socially constructed; exams reflect privilege.”

Response: Shift investments to equalize preparation (school quality, bridging, coaching support) rather than adjust outcomes ex post through broad quotas. This preserves standards while leveling the playing field earlier.

“Administrative capacity for means-testing is weak.”

Response: India now has Aadhaar-linked, tax-linked welfare targeting experience; EWS implementation and scholarship schemes provide prototypes. Independent audits and simple income-asset thresholds can reduce complexity.

“Quotas create middle-class role models and critical mass.”

Response: Role-model effects can be maintained via targeted outreach, mentorship, and scholarships that ensure presence without displacing merit in seats.

## 8. Application to India’s Legal Frame

The Constitution permits special provisions for advancement (Arts. 15(4), 15(5)) and reasonable classification under equality. A policy emphasizing fee concessions and supports satisfies the advancement objective without breaching the Indra Sawhney ceiling constraints, while EWS already constitutionalizes economic-need logic. Parliament and States can recalibrate subordinate legislation and institutional regulations to (i) phase down broad admission quotas (save narrowly tailored cases with periodic review), (ii) scale up means-tested financing, and (iii) codify bridge and support entitlements.

## 9. Comparative Lessons Summarized

**U.S. (post-2023):** When race-based admissions ended, the policy debate pivoted to socioeconomic preferences, outreach, top-percent plans, and eliminating legacy preferences—proposals consistent with a merit-plus-need framework.

**Brazil:** Quotas tied to public-school background + income + race with mandated reviews—evidence that multi-axis targeting and periodic reassessment are workable.

**Malaysia:** Long-running ethnic quotas illustrate risks of durable segmentation and legitimacy questions.

South Africa: Focus on labour-market equity and compliance suggests equity goals need not hinge on university admission quotas alone.

Sri Lanka: Ethnic/district quota experience warns of political polarization from quota engineering.

## 10. Conclusion

Reservation was indispensable to democratizing Indian higher education. But instruments must evolve. With the EWS amendment validating economic targeting and courts cautioning against quota overreach, India has the legal and administrative room to re-center equity on need-based fee concessions and success supports rather than broad admission quotas. Such a pivot better aligns with merit, reduces social friction, and directly tackles affordability and preparedness—the binding constraints of our time.

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