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Q3(b)

Affirmative Action Policies draw as much strong criticism as strong support. Analyze this statement in the context of equality

UPSC Civil Services Mains 2023 · PSIR GS 1 · 15 marks · Equality

Equality: Social, political and economic; relationship between equality and freedom; Affirmative action.

Core demand of the question

- Affirmative Action Policies draw as much strong criticism as strong support. Analyze this statement in the context of equality. (15 marks)

Revision summary

Affirmative action is a classification for historic disadvantage, authorised in India by **Articles 15(4), 15(5), and 16(4)**.

Support reads equality as equal protection and as **Ambedkar's** social democracy.

Criticism reads equality as identical individual treatment and points to merit, capture, and frozen identities.

Indra Sawhney, Nagaraj, and the EWS amendment show the courts and Parliament working inside that split.

A complete analysis of equality must hold both the case for correction and the case for review.

Introduction

Affirmative action is a set of public measures that allocate seats, jobs, or resources to groups defined by historic disadvantage. In the context of equality, support treats those measures as a means to equal citizenship. Criticism treats them as a departure from equal treatment of individuals.

Body

Equality that supports the policy

- Formal equality under **Article 14** is equality before the law and equal protection. Equal protection has been read to allow reasonable classification.
- **Articles 15(4), 15(5), and 16(4)** expressly authorise special provisions for backward classes in education and public employment.
- **Ambedkar** argued that political democracy fails if social and economic inequality is left untouched; reservation was a time-bound instrument of that argument.
- **John Rawls's** fair equality of opportunity and difference principle support correcting unearned disadvantage, though **Rawls's** unit is the individual in a well-ordered society, not a caste as such.
- **Indra Sawhney v. Union of India (1992)** upheld OBC reservation, imposed a 50 per cent ceiling as a general rule, and excluded the creamy layer from OBC lists, which is equality as both group repair and individual fairness inside the group.

Equality that criticises the policy

- Critics say equality means colour-blind or caste-blind treatment of persons, in the spirit of a strict reading of **Mill's** individuality and of equal protection without group ranks.
- Reverse discrimination, stagnation of merit, and capture by the better-off inside a listed class are the main charges.
- **M. Nagaraj v. Union of India (2006)** required the state to show backwardness, inadequacy of representation, and administrative efficiency before Scheduled Caste and Scheduled Tribe promotion quotas, a judicial attempt to keep equality of opportunity in service.
- The Constitution (One Hundred and Third Amendment) Act, 2019, and **Janhit Abhiyan v. Union of India (2022)** added an economically weaker section quota, which supporters call another equality tool and critics call a further departure from a single open competition.
- Communitarian writers such as **Walzer** can support group shares in some spheres and still worry that a caste census of every office freezes identities that justice should loosen.

Analysis

- The clash is between equality as identical treatment and equality as equal results or equal starting points.
- Support is strongest where exclusion was legal and social, as with **Article 17** and untouchability, and where data show under-representation.
- Criticism is strongest where the policy has no review, no creamy-layer principle, and no companion work on schooling quality.
- A consistent equality argument keeps affirmative action, reviews lists, and protects open competition as a remaining sphere, rather than treating any one reading of equality as the whole.

Flow diagram

Equality -> Formal equal treatment
 Equality -> Substantive equal protection
 Substantive equal protection -> Affirmative action
 Formal equal treatment -> Criticism: merit and reverse discrimination
 Affirmative action -> Indra Sawhney creamy layer

Conclusion

Affirmative action is criticised and supported because equality itself is split between identical treatment and corrective equal protection. **Ambedkar**, **Rawls**, and **Articles 15 and 16** support correction. Individual-merit criticism and creamy-layer doctrine name the costs. The analysis is of that split, not of a single slogan of equality.

Facts & figures

Articles 15(4) and 16(4)

Enable special provisions and reservation in education and public employment for backward classes.

Indra Sawhney (1992)

Upheld OBC reservation, stated a general 50 per cent ceiling, and required exclusion of the creamy layer.

M. Nagaraj (2006)

Set conditions of backwardness, inadequacy, and efficiency for SC/ST promotion reservation.

103rd Amendment, 2019

Inserted **Articles 15(6) and 16(6)** for economically weaker sections; upheld in **Janhit Abhiyan (2022)**.

Article 17

Abolition of untouchability, the civil-status background of Scheduled Caste measures.

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