CASTE DISCRIMINATION

Exclusion of Dalit converts from Scheduled Caste status revives constitutional dilemma

Can the law deny protection against caste-based discrimination simply because an individual has changed religion?

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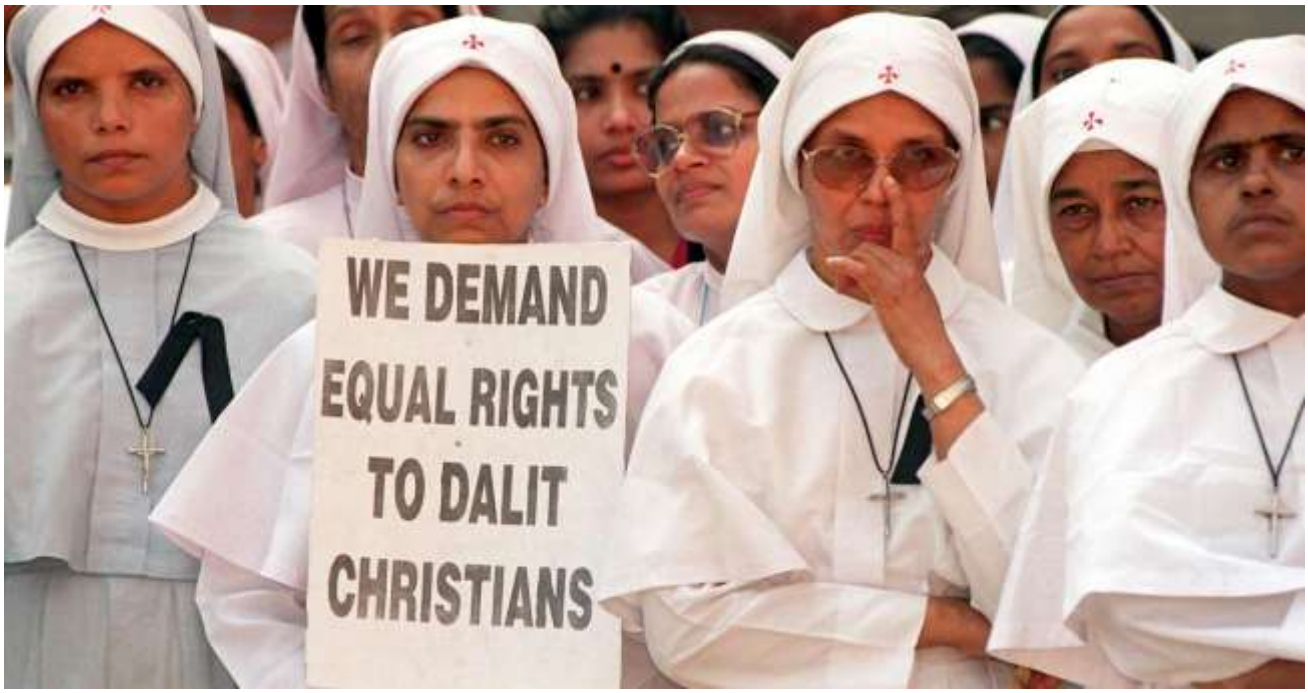

In this photograph from October 1998, Roman Catholic nuns protest in support of reservations for Dalit Christians, in New Delhi. | AFP

When the Supreme Court in March reiterated that the exclusion of Dalit converts from Scheduled Caste status is “absolute and admits no exception”, it does more than settle a doctrinal question.

It revives a foundational constitutional dilemma: can the law deny protection against caste-based discrimination simply because an individual has changed religion? More critically, does caste itself disappear upon conversion, or does the law merely choose not to see it? This tension between constitutional text and social reality lies at the heart of the debate on SC status for converts to Islam and Christianity.

The legal position rests on Clause 3 of the Constitution (Scheduled Castes) Order, 1950. Originally limited to Hindus, and later extended to Sikhs and Buddhists, the Order continues to exclude Muslims and Christians. The

Supreme Court has consistently read this provision strictly: SC status is a matter of legal recognition, not lived identity.

A Dalit who converts to Christianity or Islam immediately loses access to reservations, scholarships, and protections under the SC/ST (Prevention of Atrocities) Act, 1989. The Court has clarified that this bar is categorical – possessing an SC certificate is irrelevant if the individual no longer professes a qualifying religion.

This formal clarity sits uneasily with empirical reality. NCRB data shows that tens of thousands of atrocities against Scheduled Castes are registered each year, with pendency rates exceeding 85 percent. Caste-based violence remains a structural feature of Indian society.

Sociological studies further demonstrate that caste does not vanish upon conversion. Millions of Dalit Christians and Dalit Muslims continue to face social segregation, occupational immobility, and endogamy mirroring caste hierarchies within Hindu society. Yet they remain largely invisible in state policy. The result is a paradox: the law recognises caste within certain religions but denies its existence when it crosses religious boundaries.

Persistent discrimination

The constitutional validity of Clause 3 has been pending before the Supreme Court since 2004. Meanwhile, multiple institutional exercises have pointed toward the need for reconsideration. The Ranganath Mishra Commission recommended making SC status religion-neutral, finding no empirical basis for exclusion. The Sachar Committee and subsequent studies reinforced this conclusion, documenting persistent discrimination among converts.

In 2022, the Union government constituted a Commission of Inquiry under former Chief Justice KG Balakrishnan to examine whether SC status should be extended to Dalit converts. However, the Commission has not submitted its report. Its deadline has been extended to April 2026, prolonging uncertainty for millions.

What is striking is not just policy delay but judicial silence. The Supreme Court's reaffirmation of the "absolute bar" does not engage with the pending constitutional challenge, the Balakrishnan Commission, or the Mishra Commission's findings. Nor does it revisit Soosai vs Union of India (1985),

where the Court acknowledged that resolving this issue requires contemporary socio-economic evidence.

Instead, in C Selvarani (2024), the Court characterised claims to SC status after conversion as a "fraud on the Constitution." Together, these developments suggest not just doctrinal continuity but a narrowing of legal space at a time when evidence points toward reconsideration.

The constitutional difficulty is clear. Articles 14, 15, and 16 permit affirmative action to remedy historical disadvantage. But if caste-based disadvantage persists irrespective of religion, excluding Dalit converts risks making the classification under-inclusive.

The question is not whether affirmative action can differentiate, but whether it can do so while ignoring social reality. A religion-based exclusion begins to resemble constitutional evasion rather than reasonable classification.

There is also a quieter constitutional cost. Article 25 guarantees the freedom to profess, practise, and propagate religion. Yet when conversion leads to the loss of legal protections and socio-economic safeguards, that freedom becomes conditional.

Law penalises conversion

The law does not prohibit conversion, but it penalises it. The price of changing religion is the forfeiture of constitutional benefits, even if the underlying disadvantage remains unchanged.

The Supreme Court's position has been consistent, if cautious. In Soosai vs Union of India (1985), it upheld the exclusion of Christian converts due to insufficient evidence of continued backwardness. In S Anbalagan vs B Devarajan (1984), it acknowledged that caste may persist after conversion but stopped short of extending benefits. In CM Arumugam vs S Rajgopal (1976), it recognised that caste identity can revive upon reconversion, implicitly admitting that caste is not erased by religious change.

In State of Kerala vs Chandramohanan (2004), it reaffirmed that SC status is governed strictly by the Presidential Order under Article 341. Even in KP Manu vs Chairman, Scrutiny Committee (2015), while allowing restoration

of caste status after reconversion, the Court maintained the rigid framework linking SC recognition to specified religions.

These decisions reveal a consistent judicial pattern: acknowledgment that caste may endure beyond religion, combined with reluctance to extend constitutional protection accordingly. The recent reaffirmation of the "absolute bar" reflects fidelity to statutory text but also institutional hesitation to engage with evolving social evidence.

The consequences are tangible. Dalit converts are excluded from protections under the SC/ST (Prevention of Atrocities) Act, 1989. In EV Chinnaiah vs State of Andhra Pradesh (2005), the Court emphasised the rigidity of SC classification under Article 341.

In Chandramohanan (2004), it reiterated that statutory protections cannot extend beyond those recognised under the 1950 Order. This creates a legal paradox: caste-based violence may persist, but victims are denied protection because the law no longer recognises their caste identity.

International human rights law offers a different approach. Instruments such as the ICCPR and CERD emphasise equality and prohibit discrimination based on descent, interpreted to include caste. These frameworks prioritise lived disadvantage rather than formal religious identity.

In the United States, affirmative action is anchored in race and historical disadvantage, not religion. South Africa's jurisprudence similarly prioritises substantive equality. India's religion-linked approach to caste recognition thus stands out as an exception.

The persistence of caste across religions presents a challenge that the current legal framework struggles to address. Delinking SC status from religion, as recommended by the Mishra Commission, would be one path forward. Alternatively, a parallel framework for Dalit converts could be devised. What is clear is that the status quo is increasingly difficult to justify – constitutionally, empirically, and morally.

The Supreme Court may be correct in its interpretation of the law as it stands. But the law itself appears increasingly misaligned with the realities it governs. An "absolute bar" offers doctrinal clarity, but at the cost of substantive justice.

If caste does not disappear upon conversion, the Constitution cannot afford to pretend that it does. The real question, then, is not whether the Court has interpreted the law correctly, but whether the law, in its present form, remains defensible.

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