

# Opinion | UGC's Latest Caste Rules: When The Cure Worsens A Disease

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The malaise of casteism took the lives of Rohith Vemula and Payal Tadvi. Their parents have pleaded with the Supreme Court of India to treat this malaise on campuses. If they needed medical advice on the inefficacy of an existing treatment for a physical malaise, then the physician may have mistakenly recommended something less effective to them. This is the case with the University Grants Commission's (UGC) response to the parents of Rohith Vemula and Payal Tadvi by proposing the 2025 draft regulations on equity. The draft tapers down the existing regulations of 2012 as it narrows the definition of caste-based discrimination, adopting a non-intersectional approach, and dispensing with commonly recurring situations of discrimination and the effects thereof.

## What Even Is Discrimination?

The 2025 regulations define discrimination as “unfair, differential, or biased treatment or any such act against any stakeholder on the grounds only of religion, race, caste, sex, place of birth, or any of them”. The isolated definition of caste-based discrimination as

“only against the members of the scheduled castes and scheduled tribes” excludes the broader ways in which it operates.

For example, a dairy caste Gujar student may be denied entry into a sponsorships and accounts-keeping committee on the assumption of being unreliable and unworthy of trust. In contrast, a trader caste Vaish student may be preferred on the assumption that Vaish people are good with money. A priestly caste Brahmin student may be placed in a supervisory role on the assumption that Brahmins are morally upright and trustworthy. As much as this is caste-based discrimination, it would not be addressed in the 2025 draft regulations despite Gujar being a protected legal category of Backward Classes.

### **A 'Non-Intersectional' Approach**

The 2025 draft wording “on the grounds only of” has served as the rationale for non-intersectional interpretations. In 1981, the Supreme Court of India ruled that the alleged discrimination against air hostesses was not “on grounds only of” sex because of other factors that also constituted the category of air hostesses. This court ruling has established a non-intersectional approach to reading the given categories—of religion, race, caste, sex, place of birth—in Article 15 of the Constitution.

“Or” places a mutual exclusivity in the given categories. It can be caste or sex, it cannot be both. The 2012 regulations facilitate the possibility of intersectional reading by replacing *or* with *and*: “based on caste, creed, religion, language, ethnicity, gender and disabilities.” The prospects of the words “or any of them” in the 2025 draft could be interpreted as the intersectional operation of given categories. It's a distant possibility contingent on the courts making this kind of interpretation. Until then, women and LGBT queer students in the SC and the ST categories will struggle to prove that the discrimination against them is on grounds only of caste, because it could well be because of their gender identity and sexual orientation *along* with caste.

### **Common Situations Of Discrimination**

Discrimination can be better understood in the context of its commonly recurring situations. In addition to naming the specificity of students in the SC and the ST categories, the third clause of the 2012 regulation lists eight situations of discrimination

that operate squarely within the framework of admissions. Other sub-clauses further list 17 situations that operate more broadly “on the basis of caste, creed, religion, language, ethnicity, gender and disability”. Doing away with all these situations in the 2025 draft regulations shows that the contexts integral to applying anti-discrimination frameworks have been missed.

'Effect versus intention' is another classic matter related to non-discrimination. Intent is famously obscure, because it occurs in the minds of perpetrators, while the effects of discrimination are more clearly discernible. The respective caste compositions of the priestly and the janitorial functions are the discernible effects of discrimination. Unconscious bias, such as the association of courage and strength with the warrior caste *Kshatriya*, often works in the favour of students from this caste group when it comes to, say, assigning leadership roles in sports committees; they may be preferred over students from SC and ST categories because of their perceived 'weakness'.

These caste-based decisions may not be consciously intended, yet the effects are discernible in caste-based stereotypes reproduced in contemporary scenarios on campuses. Mindful of this, the 2012 regulations define discrimination as “the purpose or effect”. The 2025 draft regulations, on the other hand, appear to have missed this significance of *effect* altogether.

### **Implement, Don't Overhaul**

The narrower definition of the 2025 draft could be understood in a longer trajectory of anti-caste legislation in India. The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Section 3 conceives of only persons in the SC and the ST categories as protected groups. The Protection of Civil Rights Act of 1955 defined civil rights as “accruing to a person by reason of the abolition of ‘untouchability’ by Article 17 of the Constitution”. This caste particularity of the law is not ideal, but it can be justified in the light of disproportionately higher violence and discrimination against persons from the SC and the ST categories.

The non-intersectional approach and the dispensing of commonly recurring situations of discrimination and their effects are wholly unjustifiable in the 2025 draft. The existing

2012 regulations must be implemented more diligently rather than being replaced with something less effective.

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