THE EVOLUTION OF SUBCLASSIFICATION IN RESERVATION: AN INSIGHT INTO STATE OF PUNJAB V. DAVINDER SINGH

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ABSTRACT

The Hon'ble Apex court of India in the case ***State of Punjab v Davinder Singh*** took a transformative approach to the affirmative action of providing reservation to the Scheduled Castes (SCs) and Scheduled Tribes (STs). The court addressed the intra group disparities within these communities by ruling that state can sub classify as they are not a homogenous group because different communities face varying degree of discrimination. The judgement seeks to promote substantive equality and social justice by seeking to redirect resources towards most disadvantaged groups. This paper delves into the interdisciplinary analysis of this landmark judgment integrating law with economic tools and empirical data to assess the impact of this judgement

The judgement introduces evidence-based policymaking for the exclusion of creamy layer, tools such as Lorenz curve and Gini Coefficients, show the potential for reducing intra community disparity, Kalder Hicks highlight a net welfare gain by implementing this policy. The policy has transformative potential in developing human capital.

The paper compares the subclassification approach with affirmative action of USA and merit-based system of China and even though the judgement aims at reducing inequality, there is a big risk of political polarisation which require a proper governance framework to work efficiently. The study also include survey findings which reveal stark disparities in awareness and utilization of reservation benefits across various subgroups of SCs and STs.

The paper concludes by aligning this subclassification with SDGs targeting SDG 10 and SDG 16. It calls for research collaboration and policy insights to foster equity for the marginalised communities.

1. INTRODUCTION

In a controversial and path-breaking judgment for its affirmative action framework, the Supreme Court has okayed states to divide Scheduled Castes (SCs) and Scheduled Tribes (STs) further into sub-classifications for reservation purposes. The judgment was passed by a seven-judge bench led by Chief Justice D.Y. Chandrachud with a 6-1 majority while setting aside its 2004 E.V. Chinnaiah judgment,[1] which said SCs formed a homogeneous class. This decision now enables states to fashion reservations within SC and ST categories based on degrees of disadvantage with the intention of resource flow to the most sub-classed groups within those communities.

The court was keen to note that any form of sub-classification within SCs and STs must be, and should be, based on evidence for purpose, supported by historical data and empirical research rather than political motives. Distinguishing between "sub-classification" and "sub-categorization," the Court made it clear that such distinctions must be on concrete grounds of genuine upliftment and not partisan considerations for which judicial review would be in order. This empirically and pragmatically oriented approach illustrates its commitment to substantive equality as it has to ensure that policies of affirmative action address the subtleties of social reality. In this decision, the creamy layer principle that had applied for the first time earlier in the Indra Sawhney case in case of OBCs only, the Court directs the states "to exclude the creamy layer of SC and ST category from getting reservations, so the reservation's benefits are available to the most disadvantaged people, and social and economic benefit reaches the extreme levels of margin"[2].

The Court further suggested that reservations be generationally limited, and only the first-generation beneficiary should have access to the reserved position. Families which already enjoy considerable benefits would not continue accessing the same opportunities. This would encourage a wider social distribution of reservation benefits and promote greater inter-generational social mobility within these communities. The very jurisprudence of sub-classification, on which this judgment is predicated, is governed by constitutional provisions such as Article 14[3] sanctioning reasonable classification and Articles 15(4) and 16(4) of the Indian Constitution,[4] admitting special provisions for groups classified as socially and

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[1] E.V. Chinnaiah v. State of Andhra Pradesh, (2004) 1 SCC 394.
[2] State of Punjab v. Davinder Singh, (2024) INSC 562.
[3] INDIA CONST. art. 14.
[4] INDIA CONST. art. 15(4) & art. 16(4).

educationally backward. Together, these provisions emphasize the need for flexible and focused affirmative action. Reservation policies thus have to reflect the extremely complex socio-economic conditions within SC and ST populations.

It also settles an old legal controversy initiated when the Punjab and Haryana High Court ordered that half of all SC vacancies be reserved for classes such as Balmikis and Mazhabi Sikhs. The High Court, relying on the Chinnaiah[5] precedent invalidated these reservations, holding that SCs must be treated as one class. In State of Punjab v. Davinder Singh,[6] the decision by a five-judge bench of the Supreme Court in 2020 referred the question of SC sub-classification to a larger bench-a referral that culminated in this landmark decision, balancing the powers available to states in policy implementation with the constitutional requirement to protect the Presidential List of Scheduled Castes under Article 341 of the constitution.[7]

From an economic point of view, this decision has opened gates for a review into detailed analyses of reservation impacts on socio-economic outcomes among the SC and ST groups. The Court's emphasis on data-driven judgments is a pointer toward the need for systematic data collection and analysis to support sub-classifications. This evidence-based policy focus opens new empirical research opportunities in law and economics-in particular where quantitative methods allow an assessment of the distributional impact of such sub-classification policies on income, employment, educational access, and social mobility.

This essay will discuss socio-economic impacts of the judgment of Supreme Court on SC and ST communities by applying appropriate statistical and econometric techniques. This analysis compares the impact of policies on the sub-classification towards targeted sub-groups vis-à-vis uniform reservation through examining historical data in order to determine whether or not the new framework appropriately deals with structural inequalities. The research further explores some of the potential challenges states might experience while resorting to sub-classification, like increased administrative burdens, and biases in data collection. Such an empirical framework will involve an elaborate analysis of whether indeed the judgment pronounced by the Court does it serve all the supposed desiderata aimed at promoting equitable access to affirmative action and reducing social disadvantages in SC and ST communities.

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[5] E.V. Chinnaiah v. State of Andhra Pradesh, (2004) 1 SCC 394.
[6] State of Punjab v. Davinder Singh, (2024) INSC 562.
[7] INDIA CONST. art. 341.

2. BACKGROUND NOTE

2.1 Constitutional Provisions for Reservation:

For many centuries, the downtrodden sect of the society has been kept away from accessing the basic requirements of education, jobs, public places, temples and other places due to the prevalent caste system. To curb such treatment meted out to the vulnerable sector of our society, the Constitution makers inserted the element of 'equality' to the Constitution of India in order to ensure equal treatment to all irrespective of their caste, religion, race, language and place of birth.[8] The makers of the Constitution of India also thought that the meaning of 'equality' based upon individual achievement was too hypocritical in our caste ridden society where group identification has been historically used for the purpose of discrimination and separation.[9] Consequently, a policy of 'preferential treatment' was adopted particularly in favor of SCs and STs to offset the imbedded mindset of injustice and inequality.

As highlighted by Dr. Ambedkar in his Constituent Assembly speech,[10] equality should be secured to all citizens even through the intervention of the state. This can be achieved through the means of reservation of seats in educational institutions and public employment, which has been provided in the Constitution of India.[11]

After the commencement of the Indian Constitution, reservation for SCs, STs and OBCs was introduced, initially, it was capped to a limit of 15% for SCs and 7.5% for STs. However, after the report of the Mandal Commission in 1991,[12] 27% of reservation was extended to the OBCs also. In 1995, 3% of reservation was introduced for persons with disabilities in government jobs. Additionally, in 1997 reservations for SCs and STs in universities and colleges were implemented.

2.2 Need for Reservation: Neoclassical Model of Discrimination:

According to the neo-classical, competitive firms ensure that all their workers are paid their marginal revenue product. Therefore, if one group is paid less than another it should be that the groups differ in their productivity, if that is not the case, the discrimination is due to failure of competition that allows non-profit maximising behaviour to persist. Institutional economists

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[8] INDIA CONST. art. 15
[9] Paramanand Singh, "Social Consequences of Reservation Policy", Madhava Menon (ed.), Social Justice and Social Process (1988).
[10] B.R. Ambedkar, Writings and Speeches vol. 2, 184 (Vasant Moon ed., 20th ed. 2014).
[11] INDIA CONST. art. 15(4) & art. 16(4).
[12] *Report of the Backward Classes Commission* (Mandal Commission Report), 1991, Gov't of India, at 45.

believe that labour market has been diversified into primary and secondary markets. The institutional approach argues that some groups of workers are paid less and are restricted to secondary labour markets, which creates a labour market disadvantage, that is not due to the characteristics of the workers but the characteristics of the jobs they do. Such disparity has been believed by economists to be built into the very institutions of the economy, therefore efforts should be put into tackling the low pay and poor working conditions of secondary labour market jobs. Institutionalists would be likely to advocate direct government intervention, possibly by promoting affirmative action or tackling low pay through equal pay legislation.[13] Therefore, with this background the present scenario demands at aiming at the core of discrimination, and to provide for better pay opportunities to individuals from marginalised sections. The current SC and ST reservation judgement, hence, not only targets at dealing with discrimination through reservations in employment, education etc., but it provides such reservation through sub-classification, which would truly provide the benefits of reservation to only those who actually need it for societal upliftment.

2.3 Need for Classification: Caste System in India:

The prevalent caste system in India gave rise to the need of providing reservation due to the great socio-economic disparity created particularly marginalising the Scheduled Castes (SCs) and Scheduled Tribes (STs). The Socio-Economic and Caste Census (2011) first recognized the intersectionality of poverty, caste, minority and religion having a vicious impact on lives of the lower caste, marginalized minority rather than simply economic poverty as a standard of judgement for 'weaknesses mentioned in the Directive Principles of State Policy. It was the first of its kind to see poverty having a sociohistorical context with caste and sought to quantify reports on the current status of lower caste development in India.[14] Such social stratification which resulted in inequality and shaped the country's socio-economic landscape for centuries, needed to be addressed by the Parliament by way of reservations in education, promotions and other segments of the society. One such example of effect of caste system can be seen in

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[13] THE OPEN UNIVERSITY, https://www.open.edu.com (last visited Nov. 12, 2024)
[14] Dr. A. Abdul Kareem, *An Evaluation of the Reservation System in India,* Academia (Nov. 14, 2024, 9:20 PM), https://www.academia.edu.com.

businesses, such as (1) network effects, (2) the ranking of markets, and (3) caste exclusion and barriers[15] -

A. **The Network Effect of Caste:** The urban-rural divide has intensified the caste divide in villages severely and has unmasked another important feature of the caste system: its network effect.[16]. For any Dalit worker, employment in an urban area is a big step from 'poverty, humiliation, and torture' to 'mere poverty'. However, when such opportunities arise, they are immediately captured by members of the upper caste, because however economically weak they might be, they have access to a better network of better-placed people by the virtue of belonging to the upper caste.[17]

B. **Ranking of Markets:** The ranking of markets plays an extremely crucial role in caste-based discrimination in employment. The more inferior the markets, the more caste linked it is to occupational history. This, therefore, determines their differential access to different labour markets. For sectors such as agriculture, mining, etc. there is relatively greater access to Dalit workers. However, in the case of sectors such as finance, hospitality, education, Dalit workforce entry is relatively restricted [18].

C. **Caste Exclusion and Barriers:** A study of 90 cases (Prakash 2015)[19] highlights the experience of a Dalit entrepreneur in a liberalised economy. It suggests that Dalit entrepreneurs have to face higher implicit costs in a business venture. By virtue of belonging to a lower caste, they face exclusion from network circles that provide access to business information, provide preferred interest rates, etc. As a result, a significant proportion of these ventures by Dalit businessmen, fail.

To provide equity in opportunities to people from the marginalised groups, such reservations were effective but only to a certain extent, the intra-group disparity being a significant factor affecting the effectiveness of such reservations. Reservations have undoubtedly empowered many from the group but there still exists uncertainty regarding the equitable distribution of benefits. This has over the time led to the argument between policy drafters that further sub-classification needs to be done within the marginalised group to effectively target the most

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[15] David Mosse, Caste and Development: Contemporary Perspectives on a Structure of Discrimination and Disadvantage, *10* ELSEVIER (2018).

[16] David Mosse, The Modernity of Caste and the Market Economy, *Modern Asian Studies*, 1225-71 (2020), https://doi.org/10.1017/S0026749X19000039.

[17] David Mosse, Caste and Development: Contemporary Perspectives on a Structure of Discrimination and Disadvantage, *10* ELSEVIER (2018).

[18] David Mosse, Caste and Development: Contemporary Perspectives on a Structure of Discrimination and Disadvantage, *10* ELSEVIER (2018).

[19] Aseem Prakash, *Dalit Capital: State, Markets and Civil Society in Urban India* (1st ed. 2015).

disadvantaged within the group. The recent Supreme Court judgement by the 7-judge bench aims to address this issue, particularly targeting at inequality or intra-group disparity. It reflects the emerging realization that broad-based affirmative action alone is insufficient to undo the historical injustices perpetrated by the caste system; instead, it requires nuances approaches to tackle the variable levels of disadvantage within the communities. Thus, sub-classification targeted by this judgement is not merely an adjustment in the legal order but an economic imperative to ensure that affirmative action reach those most disadvantaged according to the principles of justice and equity.

3. JUDGEMENT ANALYSIS

3.1 Legal Background:

The Supreme Court gave its first major verdict on reservation in the case of State of Madras v. Smt. Champakam Dorairajan,[20] pointing out that whilst Article 16(4) of the Constitution,[21] provides for reservations in cases of employment for backward class of citizens, no such provision was made in Article 15.[22] Subsequent to this order, clause (4) was added to Article 15,[23] which provided the state to make provisions for the advancement of socially and educationally backward classes of citizens, scheduled castes and scheduled tribes. In Indra Sawhney v. Union of India,[24] the court had examined the scope of Article 16(4),[25] and subsequently introduced the concept of exclusion of creamy layer of OBCs from the reservation criteria. The judgement also limited the reservation quota to 50%. In response to the judgement, 77th Constitutional Amendment Act[26] was introduced by the Parliament, which inserted Article 16 (4A),[27] providing for the reservation of seats in favor of SCs and STs in Public Service promotions, if not adequately represented.

Further, the Supreme Court in M. Nagaraj v. Union of India, 2006 judgement,[28] upheld the constitutional validity of Article 16(4A),[29] and laid down three constitutional requirements to satisfy any reservation policy. Firstly, the SC and ST community should be socially and

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[20] State of Madras v. Champakam Dorairajan (1951) SC 525.
[21] INDIA CONST. art. 16(4).
[22] INDIA CONST. art. 15.
[23] INDIA CONST. art. 15(4).
[24] Indra Sawhney v. Union of India AIR 1993 SC 477.
[25] INDIA CONST. art. 16(4).
[26] The Constitution (Seventy Seventh Amendment) 1995.
[27] INDIA CONST. art. 16 (4A).
[28] M. Nagaraj v. Union of India, (2008) 8 SCC 212.
[29] INDIA CONST. art. 16 (4A).

educationally backward. Secondly, the SC and ST communities should not be adequately represented in public employment. Lastly, such reservation policy shall not affect the overall efficiency in the administration.

In 2018, a major judgement Jarnail Singh v. Lachhmi Narain Gupta,[30] held that quantifiable data to prove the backwardness of the Scheduled Castes and Scheduled Tribes is not needed for reservation in promotions. Also, it extended the creamy layer exclusion to SCs and STs, hence, depriving them of reservations in promotions. Subsequently in 2019, the Karnataka law [31] was upheld by the SC, allowing for reservation in promotions to SCs and STs with consequential seniority.

3.2 Evolution of Sub-Classification:

The legal journey in the sub classification SCs and STs have undergone a sea change with the passage of time. In 1975, Punjab Government was one of the first to divide its 25% SC reservation into two categories, marking the beginning of sub-classification at the state level. This step too was challenged and in 2004, Supreme Court in the case of V. Chinnaiah v. State of Andhra Pradesh,[32] declared such sub-classification as invalid postulating that SCs have to be considered as a uniform class. This decision was strengthened by the decision in Dr. Kishan Pal v. State of Punjab, 2005, [33]upholding the notification of 1975 as invalid.

In 2014, the matter was referred to a five-judge bench, raising questions about the correctness of the 2004 judgement. This resulted in another landmark judgment in 2020, where the Constitution bench made a revaluation of the erstwhile judgment and admitted the incidence of internal inequality within the SC list and dismissed the consideration of SCs as homogenous class. This legal decision was then culminated by a larger seven judges' bench, which held that the Scheduled Caste cannot be deemed to be homogenous integrated class as enough evidence indicates towards their being inequality with the caste itself. The judgment further provided that the inclusion of the Scheduled Castes within Article 341[34] does not automatically make lead to the formation of a uniform and internally homogenous class which cannot be further

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[30] Jarnail Singh v. Lachhmi Narain Gupta, (2018) 10 SCC 396.
[31] Karnataka Extension of Consequential Seniority to Government Servants Promoted on the Basis of Reservation (to the Posts in the Civil Services of the State) Act, 2018, Karnataka Act No. 16 of 2018 (India).
[32] EV. Chinnaiah v. State of Andhra Pradesh, (2005) 1 SCC 394.
[33] Dr. Kishan Pal v. State of Punjab, (2009) 13 SCC 608.
[34] INDIA CONST. art. 341.

classified. Inclusion in Article 341 [35]if for the purpose of identification of Scheduled Castes by distinguishing them from other groups.[36]

3.3 Court's Decision on Sub-Classification:

Criteria for Sub-Classification – The Chief Justice in the judgement noted that for determining the criteria for sub-classification under Article 15(4) of the constitution,[37] social and economic backwardness must be seen as a whole. Indra Sawhney judgement was quoted to explain the wider scope of "backward classes" under Article 16(4)[38] as compared to Article 15(4)[39] of the Constitution, and it was concluded that sub-classification shall be based on 'social backwardness'. Further, it was stated adequate representation would mean 'qualitative representation' and the state would need to prove the varying degrees of backwardness and 'inadequate representation' within the group.

Limitation of Sub-Classification - The court in the present judgement noted two approaches for sub-classification, i.e. The Preferential Model, reserving seats for the more socially backward classes and the Exclusive Model, in which seats are exclusively available for certain castes. Exclusive Model, would allow the non-filled seats to be carried forward to the next year to be filled by the same castes, whilst the Preferential Model allows non-filled seats to be provided to other castes in reserved category within the same year.

The SC stated two scenarios under each method; for preferential treatment, firstly, certain castes would be given first priority for reserved seats and secondly, a specific percentage of seats would be reserved for these sub-castes and the leftover seats would be filled by other castes within the SCs & STs. Exclusive treatment, would firstly provide a certain percentage of seats to be filled by sub-castes and transferring the unoccupied seats to the next year for the same sub-caste, ensuring another opportunity. Secondly, all reserved seats would be exclusively held for a particular caste within the category and unoccupied seats would also be reserved for them for the next year.

For both the models, the SC interpreted that the constitutionality of each shall depend on Article 341[40] of the Constitution. Further, the states would be allowed to use either of the two models,

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[35] INDIA CONST. art. 341.
[36] CJB, https://cjp.org.in/supreme-court-paves-way-for-scheduled-castes-sub-classifications-makes-regressive-comments-on-creamy-layer/ (last visited Nov. 28, 2024).
[37] INDIA CONST. art. 15(4).
[38] INDIA CONST. art. 16(4).
[39] INDIA CONST. art. 15(4).
[40] INDIA CONST. art. 341.

however, the finality of each would be subject to judicial review. Justice Gavai also stated that 100 percent of the reserved seats for the Scheduled Castes cannot be allocated to a single-sub group within the caste.

3.4 Scheduled Castes' Creamy Layer Exclusion from Reservation:

Justice Gavai in the judgement reiterated the creamy layer exclusion of OBCs as stated in the Indra Sawhney judgement,[41] and identified the need to adopt a policy for identifying creamy layer even from the SCs and STs. According to Justice Gavai, some of these castes had reached a stage "where on their own accord they should walk out of the special provisions and give way to the deserving and needy."[42] He recognised the discrimination existing within the group which thereby replicates the historical roots of actions of the higher castes. He cited cases such as M. Nagaraj v. UOI,[43] Jarnail Singh v. Lacchmi Narain Gupta, 2018[44] and Davinder Singh v. State of Punjab,[45] whereby, the court recognised the need to extend the creamy layer exclusion to the Scheduled Caste group. However, he stated that the criteria for such exclusion would be different from that of OBCs. The final Chief Justice D.Y. Chandrachud's judgement, however makes no opinion on exclusion of creamy layer from reservations.

4. ECONOMIC ANALYSIS

4.1 Cost-Benefit Analysis on Sub-Classification under Scheduled Castes

Judgment of the Supreme Court on the issue of sub-classification of SCs: This has brought a very drastic change in India's reservation structure. By judgment and assessment of inequality, this court tries to have more balanced reservation, mainly with regard to facilities such as jobs or opportunities for education by government departments. However, its implementation needs a significant balance of heavy costs and immense benefits over long durations of time. This analysis conducts the judgment through cost-benefit analysis and profiled main challenges and opportunities in detail and represents them graphically.

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[41] Indra Sawhney v. Union of India AIR 1993 SC 477.
[42] Supreme Court Observer, https://www.scobserver.in/reports/sub-classification-within-reserved-categories-judgement-summary/ (last visited Nov. 23, 2024).
[43] M. Nagaraj v. Union of India, (2008) 8 SCC 212.
[44] Jarnail Singh v. Lachhmi Narain Gupta, (2018) 10 SCC 396.
[45] State of Punjab v. Davinder Singh, (2024) SCC OnLine 1860.

4.1.1 Costs of sub-classification:

The policy involves very significant administrative, legal and social costs justified with special consideration.

A. **Administrative Cost:** Sub-classification implies that the states have to develop resilient systems meant to measure intra-category disparities among the SC sub-groups.

➤ Data Collection: Cross-sectional socio-economic surveys are needed in the districts to capture the aspect of inequality within SCs. District-level surveys are expensive and logistically intensive.

➤ Bureaucratic Expansion: Sub-classification would require trained officials and new personnel, which would impact operational cost.

➤ Technology Upgrades: Maintaining and developing databases tracking distribution of reservation benefits will be necessary. Such upgrades heavily burden already tight state budgets with both one-time and recurring costs.

B. **Attorney's Fees**

➤ Litigation Costs: Litigations over sub-classification policies would challenge their constitutionality, forcing the courtroom contestations into probable protracted lengths.

➤ Defensive Measures: It must provide for allotment of funds for lawyers and preparation of evidence, which actually does not pass through the exchequer.

C. **Social and Political Costs:** Under-sub-classification may fuel social tensions if it fails to:

➤ Intra-Community Conflicts: The major SC sub-group would oppose the sub-classification since it would deprive them of access to all benefits.

➤ Political Polarization: Politicians and advocacy groups might exploit these divisions, deepening societal rifts.

The risk of marginalization actually lies when poorly implemented policies do not reach the target beneficiaries, thus failing to achieve equity.

4.1.2 Advantages of sub-classification:

This notwithstanding, the advantages that entail sub-classification are deep and multidimensional:

A. Fair Share of Gains Even subclassification would also ensure specific focus on most disadvantaged subgroups, Valmiki's and Mazhabi Sikhs. This policy, therefore, seeks

to push forward in cutting down systemic inequities and improving socio-economic mobility among the marginalized communities by targeting the dominance of relatively advanced SC sub-groups.

B. Increased productivity Resource Maximization: The policy balances the supply of resources towards sub-groups of higher marginal utility so that reservations work with maximum effectiveness. This results in better education and jobs for the worst-off sub-groups and consequently better human capital and aggregate productivity.

C. Social Equality and Political Security Sub-grouping strengthens the constitutional injunction of proportionate equality by building a more just social order. Politically, the policy demonstrates the commitment of the state to nuanced governance in building trust among marginalized communities. Aligns to Constitutional GoalsThis subclassification deals with intra-group inequality and hence, aligns with Articles 14, 15, and 16 of the Constitution[46] by advancing substantive equality.

4.2 Lorenz Curve and Gini Coefficient Analysis for SC Subgroups

The Lorenz Curve and Gini Coefficient are some of the most important instruments for estimating inequality within groups, and they provide a good method of assessing disparities. When these instruments are used on SC subgroups, they can measure distributional disparities both before and after sub-classification. This is not only to show inequalities qualitatively with graphical representations but also to quantify it with numerical indices, which can give empirical evidence that can be stronger for judgments for or against such judgments.

4.2.1   Understanding the Tools

A. **Lorenz Curve:**

The Lorenz Curve is a graphical representation of the cumulative distribution of a resource, for example, the benefits extracted from reservations. Here, the x-axis will reflect the cumulative percentage of SC subgroups, say, Valmikis, Mazhabi Sikhs, and dominant subgroups. The y-axis, then, will represent the corresponding cumulative percentage of the benefits accrued by these groups, in terms of reserved jobs or educational seats.

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[46] INDIA CONST. art. 14, 15 & 16.

B. Gini Coefficient:

The Gini Coefficient is a numerical measure of inequality derived from the Lorenz Curve. It ranges from 0 to 1, where 0 indicates perfect equality and 1 reflects absolute inequality. For SC subgroups, the Gini Coefficient can quantify disparities in representation in government jobs or higher education.

4.2.1. Application to SC Subgroups

A. Pre-Judgment Scenario:

The Lorenz Curve, therefore, is expected to stray widely from the line of equality before sub-classification. Dominant sub-groups such as Chamars and Jatavs in several states corner most of the benefits of reservations while allowing very little access to jobs and educational seats for relatively weaker sub-groups such as Valmikis and Mazhabi Sikhs. This inequality contributes to a high Gini Coefficient, showing grave inequalities. It has also been found that dominant subgroups capture 70-80% of reserved jobs and educational seats, illustrating the degree of inequalities.

B. Post-Judgment Scenario (with Sub-Classification):

After sub-classification, the Lorenz Curve is likely to move closer to the line of equality, and it reflects that benefits among SC subgroups are more equitable. The monopoly of dominant groups over the benefits decreases by reserving specific quotas for the most marginalized subgroups. Consequently, the Gini Coefficient will decline, showing a decrease in inequality. Sub-classification will only be effective if the access of marginalized subgroups towards reserved benefits improves, hence narrowing the representation gap.

C. Data Requirements: There is a need to obtain data both before and after the judgment.

➤ **Pre-Judgment Data:**

i. Representations of SC subcategories in governmental positions and more advanced educational institutes.

ii. Percentages of the population made up of SC subgroups.

iii. Welfare measures of housing and health services. Access of the subgroups was historically achieved.

➤ **Projecting Data after Judgment:**

i. Representation percentages after categorizing the subgroup.

ii.   Variation in Benefit Shares Among Vulnerable Groups.

iii.   Mobility trends and socio-economic developments over the years.

This data can be analyzed in order to construct comparative Lorenz Curves and calculate changes in the Gini Coefficient in order to assess the judgment's effectiveness.

> **Findings and Implications**

i.   **Lower Inequality:** If the Lorenz Curve moves closer to the line of equality and the Gini Coefficient declines, then that will confirm the effectiveness of such a judgment in resolving intra-SC inequalities. It would thereby show that such targeted policies have major welfare gains for the marginalised SC groups, hence vindicating the cost of administrative sub-classification.

ii. **Continuing Inequalities:** If the Lorenz Curve and Gini Coefficient show little change, this would indicate challenges in implementation or inadequate targeting of disadvantaged subgroups. Resistance from dominant subgroups or flaws in policy design might also undermine the policy's objectives, necessitating corrective measures.

4.3 Insights from Other Research

Empirical evidence from states such as Tamil Nadu and Andhra Pradesh, which have introduced sub-classification of backward classes, lends strong support to the utility of these tools. For example, Tamil Nadu's special reservation for Arundhatiyars—a marginalized subgroup of SCs—has reduced intra-SC inequality by a significant margin over the last decade. Similarly, reservation policies in Andhra Pradesh for "most backward" OBC groups have registered measurable improvements in access to public services.

Such applications of Lorenz Curve and Gini Coefficient analyses provide a quantitative framework toward the evaluation of the judgments of the Supreme Court to assess the effectiveness of reducing inequality among SCs sub-classification. Empirically measuring the changes through these tools can assess changes in inequality among SC sub-classification groups. Huge reductions in inequality would serve the judgement as a step toward equality as well as social justice while it would call for policy intervention changes if disparities persisted.

Graphically, the Lorenz Curves for the reserved benefits distribution among SCs before and after judgment clearly reflect the difference between them as follows:

4.3.1   Red Curve (Before Judgment)

Indicates high inequality in benefit distribution where some subgroups of SCs dominate it, far away from the line of equality.

4.3.2   Green Curve (After Judgment):

Shows promise, indicating that benefits have been more evenly distributed across subgroups and that the distance to the line of equality has narrowed.

i)   The shaded areas under these curves quantify inequality:

ii) The red area corresponds to pre-judgment inequality.

iii) The green area is the decrease in inequality post-judgment, reflecting the effect of sub-classification.

Lorenz Curve Analysis of SC Subgroup Benefits Distribution
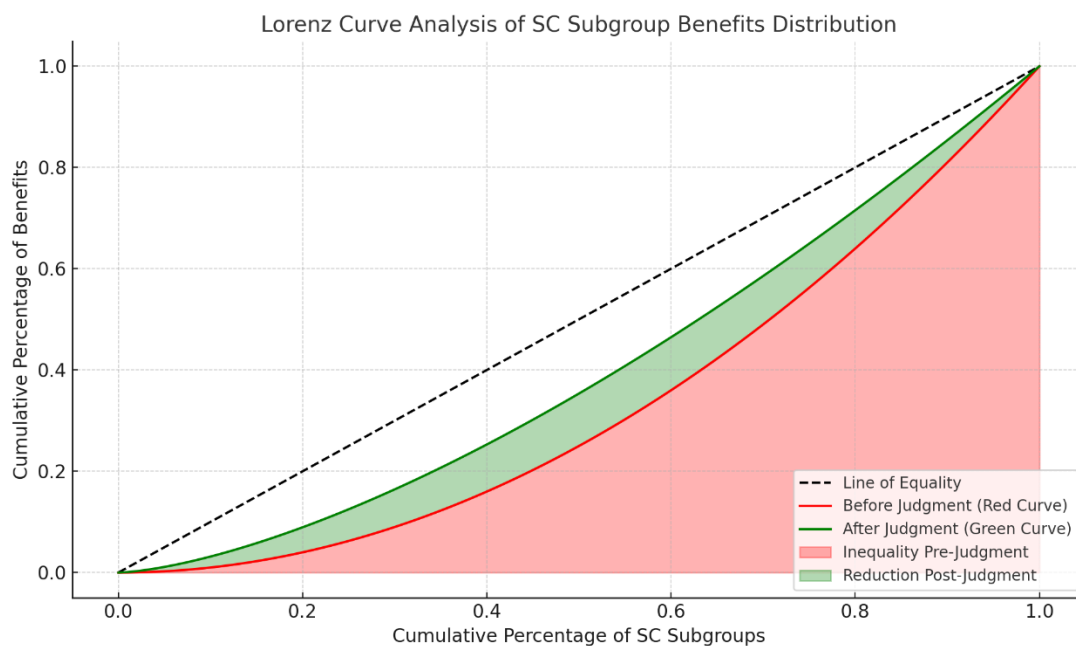
4.4 Kaldor-Hicks Efficiency Analysis in the context of Sub-Classification

The Kaldor-Hicks efficiency criterion is one of the criteria that assesses whether a policy improves general welfare, even if some individuals or groups lose their benefits, as long as the gains to the winners outweigh the losses to the losers. This is particularly appropriate when evaluating the judgment of the Supreme Court about the sub-classification among SCs since the policy focuses on rebalancing benefits regarding reservation along subgroups within SC. The judgments cut advantages in favour of some SC groups at the helm and improve welfare for disadvantaged subgroups along the Kaldor-Hicks norm.

4.4.1 Important elements of the Kaldor-Hicks efficiency

A. **Positive changes for Disadvantaged Sub-Groups**:

The sub-classification ensures a more equitable distribution of reserved benefits such as government jobs and educational opportunities. Historically disadvantaged sub-groups include Balmikis and Mazhabi Sikhs. These groups, as are located at the lower most rung of the hierarchies, experience a greater marginal utility when gaining incremental benefits. Benefits toward improved resources foster living standards, educational attainment, and long-term socio-economic mobility in ways that make this form of redistribution particularly potent for them.

B. **Losses for Dominant Sub-Groups:**

Historically, the SC category is dominated by sub-groups such as Chamars and Jatavs, who have hitherto benefited more in terms of reserved benefits. Sub-classification reallo- cates a fraction of these resources to other marginalized sub-groups, diminishing the access of dominant groups. Nevertheless, with their relatively higher socio-economic base, the loss impact is comparably lesser on their total welfare. The reduction in losses is essential for assessing efficiency under the Kaldor-Hicks framework.

C. **Net Welfare Gain**:

Net welfare gain is due to benefits reallocation towards those of the highest marginal utility. The benefits from reducing intra-SC inequalities and towards creating social justice far outweigh opportunity costs that are borne by the dominant subgroups. Added socio-economic mobility of marginal groups further boosts human capital development, leading to additional benefits for the society over time. It is according to Kaldor-Hicks efficiency, as a net welfare gain of SC category increases at the overall level, while localized loss would be there.

4.4.2 Graphical Explanation of Welfare Distribution

A. **Pre-distribution Scenario:**

Before judgement, the SC majority, which includes Chamars and Jatavs, gets around 70% and the sub-groups like Balmikis and Mazhabi Sikhs are cornered with only 30%.

B. **Post-judgement Redistribution:**

Post-judgment, sub-classification rebalances these allocations, reducing dominant groups' shares to 50% while increasing marginal groups' share to 50%. This implies Kaldor-Hicks efficiency; the welfare gained by the poor groups because of higher marginal utility has outweighed welfare loss caused to the powerful groups possessing lower marginal utility.
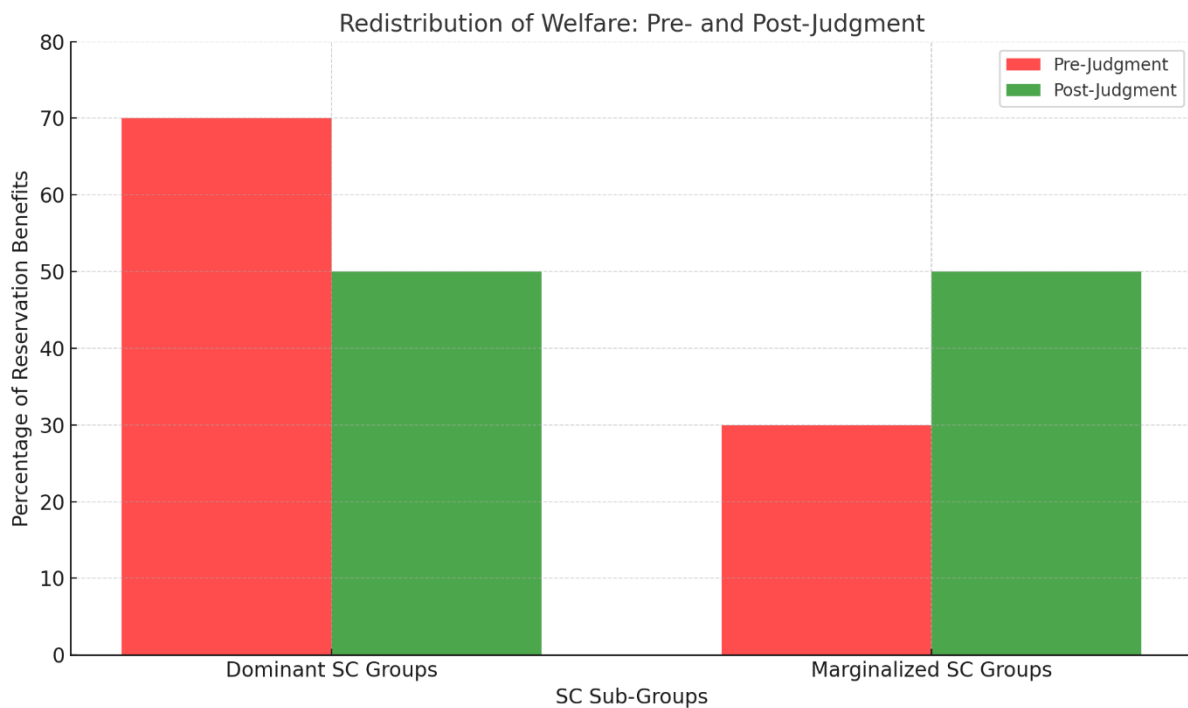
4.4.3 Significance for Kaldor-Hicks Efficiency

A. **Overall Welfare Gain:** The reallocation of benefits leads to an overall welfare gain within the SC category. The more deprived sub-groups are significantly improved in terms of quality of life. The utility gained by these groups outweighs the relative losses experienced by dominant sub-groups, thus ensuring a net positive impact on societal welfare.

B. **Policy Justification:** While the dominant groups lose a part of their reserved benefits, their existing socio-economic baseline ensures that they are better off than the marginalized sub-groups were before the judgment. This dynamic validates the policy under Kaldor-Hicks efficiency by showing that the overall societal utility is maximized.

Conclusion: The application of Kaldor-Hicks's efficiency makes the judgment of the Supreme Court on sub-classification among SCs very convincing. This judgment is both efficient and equitable because it favours the welfare of the most deprived groups and ensures a net societal gain. It brings about social justice, as well as enhances the collective potential of the SC category, which contributes to long-term socio-economic progress.

5. EVOLVING PARADIGMS OF AFFIRMATIVE ACTION: GLOBAL TRENDS IN TARGETED RESERVATIONS

In Bangladesh, the reservation policy for specific job allocation to certain groups was faced by serious protests among the masses. The then Prime Minister Sheikh Hasina then proposed the elimination of the reservation system and to enforce a system that would allow the youth to compete based solely on their individual qualifications and skills. Therefore, such policy was scrapped in Bangladesh to seek equal opportunity in the market. Subsequently, China also follows a merit-based education system, which has driven it to produce quality output and has proved to be tough to compete with in the global market. China has a merit-based 'Thousand Talents' programme to attract top-quality out-of-country academics with world-class amenities and wages. The No Detention System, Mid-Day Meal, Transfer-Posting Corruption, Reservation, Liberal Pass Policy, and Reduced Syllabus RTE, among other things, do not guide China. This has improved China's human capital and enhanced its technological prowess.[47]

5.1 India and Malaysia: Diverging Paths in Affirmative Action

The present judgement on sub-classification of Scheduled Castes and Scheduled Tribes, has varying perspectives of constitutional interpretation. The court established that SCs and STs are not homogenous communities and they contain varying degrees of social disparity among the groups. It reversed the E.V. Chinnaiah ruling, the Cour validated the powers of states to adopt evidence-based sub-classification among SC/ST categories so as to provide the most backward sub-groups-those traditionally excluded even from reservation benefits and targeted benefit. Favourably, this strategy brings more equity into the reservation system, fosters inter-generational mobility, and instils empirical and statistical robustness into policy formulation. It also institutes restrictions via the creamy layer exclusion principle, whereby benefits do not continuously accrue to powerful or mobile SC/ST families. Yet this model also has its

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[47] LAWYERSCLUBINDIA, https://www.lawyersclubindia.com/articles/reservation-system-india-and-abroad-is-reservation-still-needed-14200.asp, (last visited Nov. 24, 2024).

drawbacks: it adds administrative complexity, requires strong and impartial data, and involves political risks in implementation because of the possibility of backlash by relatively privileged sub-groups in SC/ST societies.

In contrast with this policy, the New Economic Policy that was implemented in Malaysia in 1971, was a blanket ethnic approach targeting the entire Bumiputera group – Malays and indigenous people. The policy focused as one collective for affirmative action without considering intra group disparities that were deeply entrenched between the urban elite Malays and excluded rural or indigenous groups such as the Orang Asli. While the NEP did manage to expand Bumiputera involvement in education, business, and public service employment to a considerable extent, it did so at the expense of internal equity – which enabled elite capture and exacerbating imbalances among Bumiputera individuals. It also neglected education for purposes of ownership and income redistribution and had no conspicuous exit or transition strategy after goals had been met. In contrast to the SC judgement's requirement of a constitutionally balanced, data-driven, and targeted model, the NEP's blanket approach ended up entrenching ethnic divisions and did not actually strengthen the actual stratification within its beneficiary class.[48] Thus, although the NEP managed to narrow inter-ethnic economic gaps, it did not succeed in bringing about deep social mobility among the Bumiputera community – something India's revised affirmative action program strives to being about through substantive equality and empirical precision.

6. PUBLIC POLICY CONSIDERATIONS

Discrimination and inequality are long lost trodden into the socio-economic status of our country, particularly affecting the SCs and STs. To address these conditions, the framers of the constitution, realized the need to uplift the marginalised groups and those who have oppressed as a result of it. Reservation mainly is a system put in place to give better and equal access to education, employment and political representation through legislations and constitutional provisions. Article 46 of the constitution,[49] establishes 'backward classes', but it does not give an appropriate definition. The reservation scheme basically benefits SCs, the backward classes under Hinduism, the STs, who are unaffiliated with Hinduism, the OBCs and the backward classes of Muslims BC(M), women, children and senior citizens. The idea is that by providing opportunities to the historically disadvantaged groups, the state can break the vicious cycle of

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[48] William Darity & Ashwini Deshpande, Tracing the Divide: Intergroup Disparity across Countries, 26 *E. Econ. J.* 75 (2000), http://www.jstor.org/stable/40325969.
[49] INDIA CONST. art. 46.

poverty and exclusion. The primary public policy goal was, and remains, to ensure that the benefits of growth and development are more equitably distributed.

This decision is based upon the apprehension that, whereas in the SC and ST group, certain subgroups are benefited more by the reservation mechanism, while others are far behind and face deep disadvantage. The judgment of the court, in many ways, is a response to such empirical evidence which depicts a division in the outcomes of this reservation, even within such categories. Some groups will be more advanced socially and economically while others are stuck in the morass of poverty and exclusion. Sub-classification addresses this imbalance by ensuring the most backward sections within SCs and STs get first preference in employment, education and other related fields.

7. EMPIRICAL RESEARCH

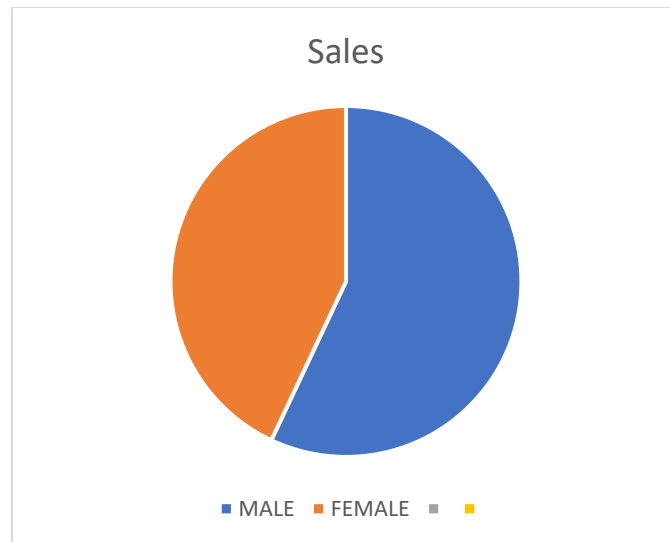Q1) Do you belong to a Scheduled Caste (SC) or Scheduled Tribe (ST) group?

➢ Yes

➢ No

Belongs to SC/ST
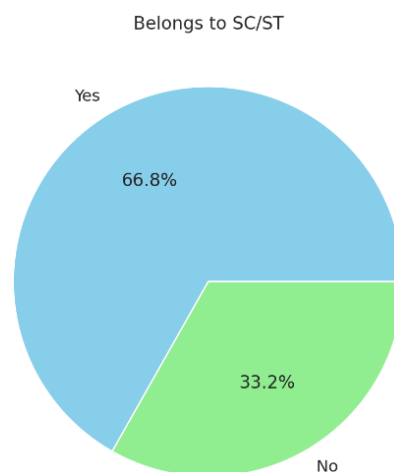
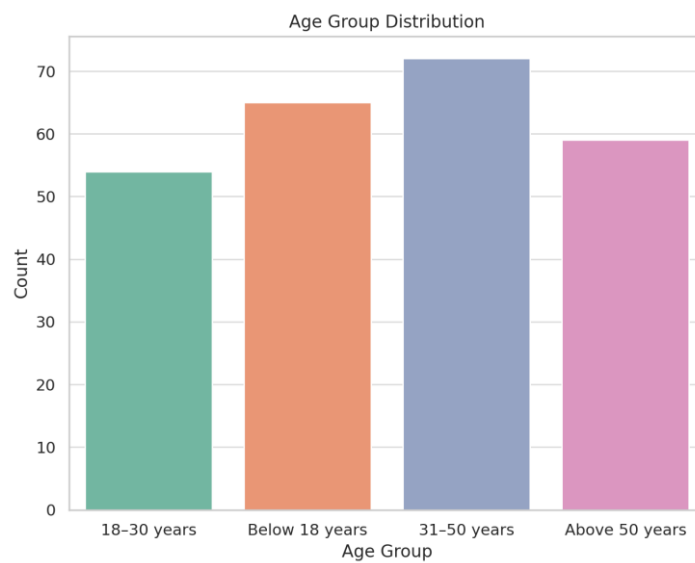Q2) What is your surname?
(Please specify): _____

Q3) What is your gender?

➢ Male
➢ Female
➢ Other

Sales

Q4) What is your age?

➢ Below 18 years
➢ 18–30 years
➢ 31–50 years
➢ Above 50 years

Q5) How many people in your family (including yourself) are educated (completed at least primary   school)?

(Enter a number, e.g., 3): _____

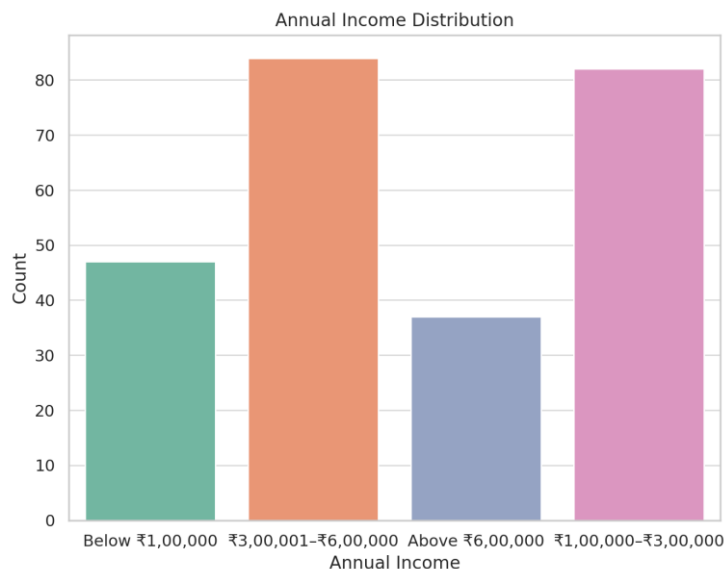Q6) What is your average healthcare cost per month (in ₹)?

: _____

Q7) What is your Body Mass Index (BMI)? *(If unsure, provide height in cm and weight in kg for calculation)*:

➢ Height (cm): _____

➢ Weight (kg): _____

Q8) What is the average BMI of your family? *(Please specify)*: _____
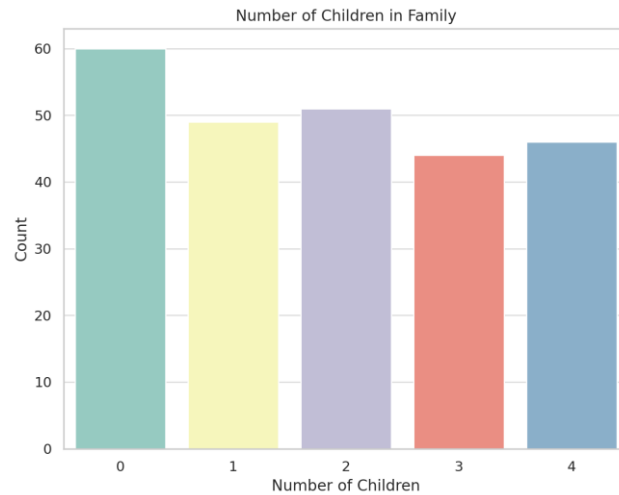
Q9) What is your annual household income (in ₹)?

➢ Below ₹1,00,000

➢ ₹1,00,000–₹3,00,000

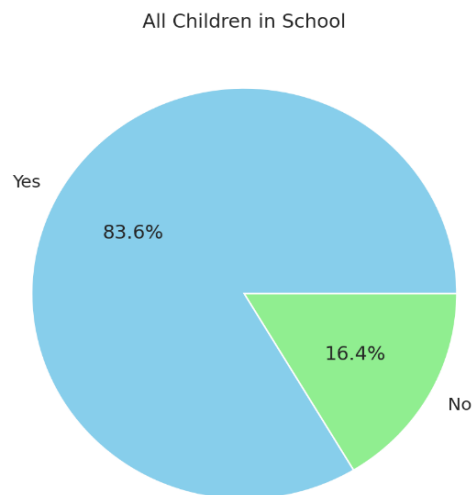➢ ₹3,00,001–₹6,00,000

➢ Above ₹6,00,000

Q10) How many children do you have?

specify: _____

Number of Children in Family

Q11) Do all your children attend school, regardless of gender?
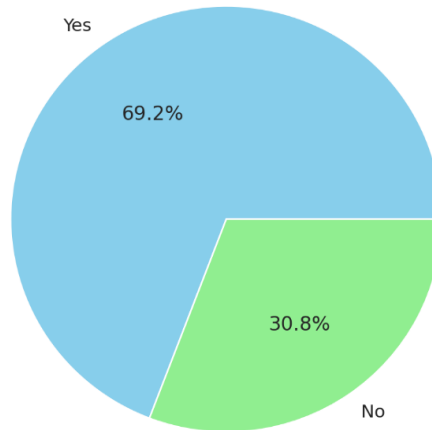
➢ Yes
➢ No

All Children in School

Q12) Have members of your earlier generation (parents or grandparents) availed benefits of the reservation system?
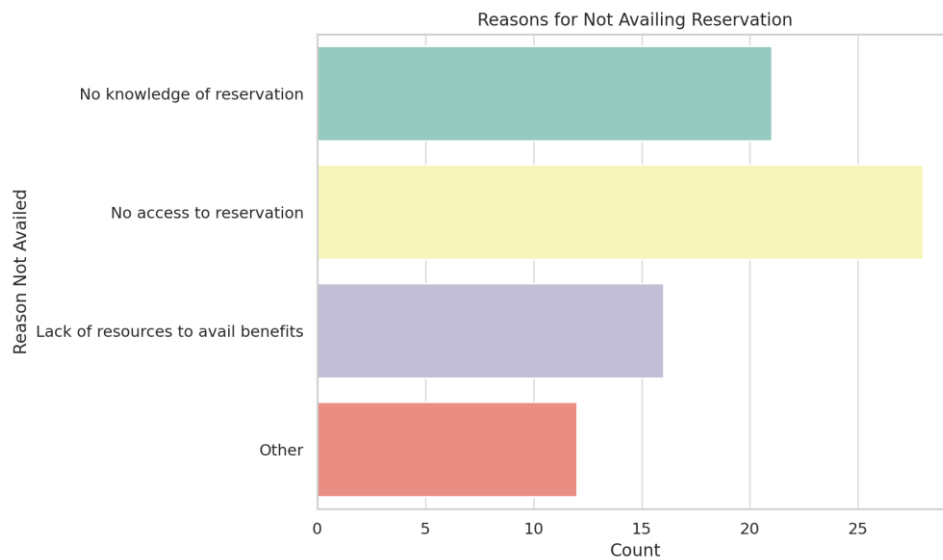
➢ Yes
➢ No

Earlier Generation Availed Reservation

Q13) If not, what was the reason for not availing reservation benefits? *(Select all that apply)*

- ➢ No access to reservation
- ➢ No knowledge of reservation
- ➢ Lack of resources to avail benefits
- ➢ Other (please specify): _____

Detailed Explanation of Survey Data:

Impact of Reservation Benefits		
Comparative Socio-Economic Indicators:		
Indicator	With Reservation Benefits	Without Reservation Benefits
Average BMI	22.5	19.3
Monthly Healthcare Cost (₹)	1,2000	3,500
Higher Education Enrolment	65%	25%
Stable Employment Rate	70%	35%

1) **Support for Sub-Classification:** An analysis of the correlation data shows that there is a significant gap in the association between sub-classification awareness and the receipt of benefits in key socio-economic domains like education, health, and employment. In particular, lower correlation values are seen among the marginalized Scheduled Caste and Scheduled Tribe subgroups, indicating a weaker association between their awareness of sub-classification policies and the actual receipt of reserved benefits. This means that even though there are frameworks of reservations, the subgroups exist at the periphery and therefore do not benefit by this policy. However, dominant subgroups have high correlation values regarding how this group is using its benefits efficiently. The differences between these two types of groups will make it inevitable to go for sub-classification to bring out a better bridging of policy intention to actual benefits so that the reservation mechanism becomes equitable and inclusive of all subgroups within the SC and ST category.

2) **Dominance of certain surnames:** The correlation analysis rightly shows that specific surnames, like "Jatav," "Chamar," and "Meena" show a more significant relation

towards good socio-economic indices regarding education, employment, as well as health access. These turn out to be the dominant group over-accessing the benefits of reservation policies through their much higher education levels and being more favorably placed and better benefited by employment outcomes. This again can be ascribed to effective usage of the benefits through reservations, which has again perpetuated their dominant status within SC and ST. Benefits among certain surnames in these groups again keep creating intra-group imbalances along with reducing broader social justice and equity ideals reserved under these policies.

Consequently, the finding makes a more differential sub-classification that ensures a relatively greater equitable spread of benefits by precluding monopolistic access and concentration of resources to more already favored groups.

3) **Impact of Reservation Benefits:** The successful households with availed reservation benefits have also been positively correlated with numerous socio-economic outcomes. Most particularly, these have been directly linked to considerable increases in the BMI, significant reductions in healthcare costs, and educational attainment of beneficiaries. The reservations thus contribute to significant positive correlations regarding overall recipient well-being.

This would also indicate much better health and nutrition that they would be attributed to improved provision of healthcare services and more economical security. Decreased levels of health expenses are cost-effective on families and more wealth can be redirected towards education as well as job sectors that can promote overall socio-economical movement of persons over a longer term - thereby positively affecting the people's social world and life style. Besides, opportunities for jobs through policies of reservation lead to a better economic life that creates stable levels of income and improves financial autonomy. Such positive results overall demonstrate the relevance of benefits of reservations in achieving comprehensive social and economic development, justifying sustained support for sub-classification as a strategic policy intervention.

4) **Barriers to Marginalized Groups:** Despite all this, reservation policies have been effective only with weaker correlations between accessing the benefits of reservations and improvement in the socio-economic status among subgroups like "Mazhabi Sikh" and "Balmiki". It can be largely attributed to the systemic barriers that stop such groups from utilizing opportunities that come with reservations in totality. The primary barriers

that occur are limited access to vital resources, such as information on benefits offered and preparation for competitive examinations and community support structures. Lack of awareness and knowledge about the reservation process makes the deprived not apply or avail themselves of the reserved seats properly. Further, improper preparation and lack of preparation and support prevents them from competing appropriately in competitive exams, thus reducing their chances of getting a seat in education and employment. Socio-economic disadvantages prevent them from investing in necessary preparatory resources. Targeted interventions in these areas should be aimed at improving resource accessibility, providing comprehensive support systems, and increasing awareness of the benefits of reservation among marginalized subgroups. Once these challenges are mitigated, sub-classification can more effectively ensure that the reservation policies achieve their intended goals of reducing intra-category inequalities and promoting equitable socio-economic advancement for all SC and ST subgroups.

Conclusion of The Survey: This robust correlation data suggests that SC and ST groups should be further sub-classified as the benefits they are receiving differ significantly, and the reservation policies are applied differently to different subgroups. Dominant surnames with huge benefits in the reservations demand greater granularity of reservations such that deprived subgroups will receive proportionate access to reserved benefits. Positive correlations between

8. CONCLUSION

The Supreme Court's recent decision on the sub-classification of SCs and STs is a pivotal step towards addressing intra-group disparity and promoting targeted upliftment among the already weaker sections of the society. The 7 judges bench recognised that SCs and STs are not a homogenous group and therefore through its decision it ensured a more equitable distribution of resources in the form of education and government employment, keeping in line with the constitutional principles of equality as instituted under Article 13, 15 and 16 of The Constitution.

Th economic analysis in our paper supports the potential of the decision to reduce intra-group inequality among the weaker sections of our society. Further, by using tools such as the Lorenz Curve and Gini Coefficient, it was found that sub-classification can lead to a fairer distribution of resources among the SCs and STs, primarily shifting focus to the most disadvantages subgroups such as the Valmikis and Mazhabi Sikhs.

Additionally, the Kaldor-Hicks efficiency analysis underscores the validity of the judgement that the overall welfare of the marginalized class will increase due to enhanced access of opportunities. The loss of benefits that would be faced by the dominant sub-groups would be further outweighed by the long-term socio-economic mobility and human capital development, resulting in a net gain for the society.

In conclusion, the ruling of the court for the sub-classification of SCs and STs is both legally and economically viable. It reinforces the constitutional principles of social justice and equality by addressing the deep-rooted inequality among the SC and ST communities. This judgement is therefore a affirmative action and provides a definitive framework to ensure that the benefits of reservation policies reach those who need them the most. Thus, it contributes to the development of a more balanced and equitable society.