

## Seattle is at forefront in adding 'caste' as a protected class to its human rights laws.

By Christopher Garcia

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Seattle recently became the first U.S. city to add "caste" to its list of categories protected from discrimination. The law defines "caste" as "a system of rigid social stratification characterized by hereditary status, endogamy, and social barriers sanctioned by custom, law, or religion."

Led by Seattle Councilwoman Kshama Sawant (who was raised in Mumbai within an upper-caste Hindu Brahmin household), the law bans caste discrimination in workplaces, housing and places of public accommodation.

Caste discrimination reveals itself, according to the Seattle statute, in social, political, occupational and religious segregation and violence. Citing a 2018 report on caste discrimination in the United States, by civil rights organization Equity Labs, the law notes that caste discrimination is particularly problematic within the South Asian Diaspora. Skin tones, surnames, dialects and ancestral occupational and educational history are used to identify and single out caste identity.

## National focus on caste discrimination

The Seattle law is part of recent efforts in several jurisdictions to address discrimination based upon caste. In 2020, California's Department of Fair Employment and Housing filed a lawsuit against Cisco Systems alleging that two dominant-caste Indian American employees were discriminating against an employee they perceived as an "untouchable," one of the Dalit caste.

The lawsuit attracted further media scrutiny of caste discrimination in Silicon Valley and, more broadly, the tech industry. Such cases have brought the professional consequences of an entrenched caste system into national relief.

California argued that the alleged discrimination was prohibited under the categories of ancestry and race. So, while many view the recent discussion of caste discrimination within overlapping protections against discrimination based upon national origin, ancestry and race, the Seattle ordinance addresses a nuanced form of discrimination that has yet to be fully articulated and understood.

In May 2021, Dalit workers filed a class-action lawsuit in federal district court in New Jersey against a Hindu religious organization alleging wage and hour (and even trafficking) violations related to the construction of a large Hindu temple in New Jersey. Dalits (from the Sanskrit meaning “broken” or “scattered”) are the lowest stratum within Hindu caste structure.

## Interrelatedness with race and national origin discrimination

Isabel Wilkerson, the award-winning author of “The Warmth of Other Suns,” argues that caste and race “reinforce each other. Race, in the United States, is the visible agent of the unseen force of caste. Caste is the bones, race the skin.” (“America’s Enduring Caste System,” July 7, 2020, N.Y. Times).

According to the article, a caste system is “a fixed and embedded ranking of human value that sets the presumed supremacy of one group against the presumed inferiority of other groups on the basis of ancestry and often immutable traits, traits that would be neutral in the abstract but are ascribed life-and-death meaning.” The violence attendant upon such an embedded entitlement based on spiritual purity and divinely ordained superiority is inevitable.

Because discrimination based upon caste will often occur between members of the same race and national origin, discriminatory adverse employment actions will be easier to cloak. Caste assumptions are not even felt by the elite as necessarily “personal.” For true believers, caste discrimination is no more “personal” than a cheetah bringing down a gazelle. It is rather the normalization of sacred destiny as an organizing principle of life, society, secular and religious authority.

The presumption of social, occupational and religious status based upon immutable characteristics like ancestry necessarily collides with the values and import of Title VII and state human rights laws.

Nor do such proscriptions “single out” a group but rather apply their strictures to every employer within their jurisdiction. Yet, the Hindu American Foundation questioned the constitutionality of the Seattle bill, claiming that “it singles out and targets an ethnic minority ... it sends that message that we are an inherently bigoted community that must be monitored.” (“Seattle City Council Considers Historic Law Barring Caste Discrimination.” PBS News Hour, Feb 20, 2023.)

Seattle’s ban fits squarely into the foundations for Title VII and state human rights laws like the Illinois Human Rights Act. Given the politics of the moment, federal law does not seem poised to add further protected classifications, but Seattle will not be alone among states and local municipalities to address caste discrimination and violence.