

## GUEST ESSAY

# Why Is Caste Inequality Still Legal in America?

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Caste is not well understood in the United States, even though it plays a significant role in the lives of Americans of South Asian descent. Two recent lawsuits make caste among the South Asian diaspora much more visible. They show that oppressed castes in the United States are doubly disadvantaged — by caste and race. Making caste a protected category under federal law will allow for the recognition of this double disadvantage.

Caste is a descent-based structure of inequality. In South Asia, caste privilege has worked through the control of land, labor, education, media, white-collar professions and political institutions. While power and status are more fluid in the intermediate rungs of the caste hierarchy, Dalits, the group once known as “untouchables” who occupy its lowest rung, have experienced far less social and economic mobility. To this day, they are stigmatized as inferior and polluting, and typically segregated into hazardous, low-status forms of labor.

The Indian government has many laws to combat caste prejudice and inequality. But attempts to provide oppressed castes with protection and redress — through affirmative action, for example — are met with fierce opposition from privileged castes. The past 20 years have also witnessed the rise of Dalit political movements and the emergence of a nascent middle class that has benefited from affirmative action. However, oppressed

castes' claims to dignity, well-being and rights are still routinely met with social ostracism, economic boycotts or physical violence.

Caste continues to operate in America, among the South Asian diaspora, but in a very different legal and economic context. Immigrants from India and other South Asian countries began arriving in large numbers after restrictive immigration policies based on rigid racial hierarchies were changed starting in the second half of the 20th century. These reforms provided opportunities mostly for privileged castes, like our own families, who have used their historical advantages to become an affluent and professionally successful racial minority in the United States.

Oppressed castes are a minority within this minority, and they continue to be subject to forms of caste discrimination and exploitation, as the two lawsuits make clear. Together, these cases show how caste operates within America's racially stratified work force to create largely hidden, yet pernicious patterns of discrimination and exploitation. In both, the litigants are members of the oppressed caste Dalits.

One case is a discrimination suit filed in June 2020 against the technology conglomerate Cisco Systems Inc. and two supervisors by the California Department of Fair Employment and Housing on behalf of a Dalit engineer. According to the lawsuit, Cisco failed to adequately address caste discrimination by two privileged-caste supervisors. The Dalit engineer alleges that one of the supervisors "outed" him as a beneficiary of Indian affirmative action. The lawsuit says that when he complained to the human resources department, both supervisors retaliated by denying him opportunities for advancement.

The plaintiff and one of the supervisors are graduates of the Indian Institutes of Technology, a set of elite public technical universities. When the Indian government extended caste-based affirmative action to these colleges in 1973 and 2006, students admitted through the quotas were met with fierce opposition and stigmatized as unworthy of an elite education. The fear of exposure has forced many Dalit students in India to pass as non-Dalits.

The Cisco case appears to shed light on the same patterns of caste discrimination in the U.S. tech sector. By allegedly "outing" the Dalit engineer, the supervisor marked his caste and, in effect, deemed him unworthy of his position at Cisco. The company has denied the allegations and said that its investigation found no grounds to support claims of caste discrimination or retaliation.

The other case shows how stark differences of caste power and status may be carried over from South Asia to America, a situation that can lead to labor exploitation. In May

2021, lawyers representing a group of Dalit workers filed a lawsuit against the Hindu sect known as BAPS (Bochasanwasi Akshar Purushottam Swaminarayan Sanstha) and related parties. The workers allege that they were brought to the United States on visas designated for religious workers to help build a temple in New Jersey. They claim that they were forced to work for more than 87 hours a week for \$450 a month, or less than \$2 an hour. Furthermore, they said they were not allowed to leave the temple property unaccompanied, were constantly monitored and were threatened with pay cuts, arrest and expulsion to India if they spoke to outsiders. BAPS has denied the allegations.

If the charges are proved to be true, BAPS will have weaponized the American visa system to violate U.S. labor and immigration law and engage in caste exploitation. But the situation is different in South Asia than it is in the United States. In South Asia, there is legal recourse for oppressed-caste rights. In the United States, however, there is little recourse. The lack of explicit legal protection for caste creates the conditions of impunity for caste exploitation.

Making caste a protected category is a critical step toward addressing the problem of caste in America. To protect oppressed castes in the United States, we have to be willing to insist that civil rights extend to communities whose oppression is still hidden.

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