



Special Congressional Briefing on Fighting Caste-based Employment Discrimination, Labor Exploitation, and Injustice in the USA

August 24, 2022

Washington, D.C., Civil rights leaders, and legal experts urged Congress and government agencies to interpret Title 7 of the Civil Rights Act of 1964 to encompass caste discrimination. Legal experts clarified by giving an example of Case law that caste is protected under the Equality Act. Speakers said, “it is time to push the federal agencies to provide more protection and apply anti-discrimination laws, including Title 7 and Section 1981, to protect against caste-based discrimination in areas of employment. Legal experts appealed to individuals who have experienced caste-based discrimination in the workplace to file these complaints so that federal, state, and local agencies can investigate them.

Rick Gold, ICDR’s Chair and facilitator of the Special Congressional Briefing, introduced speakers and highlighted the importance of the briefing by recalling House Resolution 158, which introduced by Congresswoman Eleanor Holmes Norton. The Resolution stated the House of Representatives condemns the practice of discriminatory treatment of Dalits. Mr. Gold said, in the U.S., most South Asians continue to believe in the caste system. Those of higher caste consciously or unconsciously discriminate based on caste. This discrimination is practiced mainly in the workplace and other locations where South Asians interact. These practices are inconsistent with Constitutional rights, laws, and regulations. American jurisprudence needs to adapt to the potential for increases in caste discrimination, and our presenters touch on areas of caste discrimination that require particular attention. Mr. Gold said, ICDR, and civil rights allies, submitted policy memos and provided legal arguments to the EEOC and Civil Rights division of the Department of Justice to recognize and enforce caste as a protected category under Title 7 of the Civil Rights Act. He said, ICDR engaging policymakers and public to recognize and enforce ‘caste’ as a protected category under Title VII of the Civil Rights Act.

In the briefing, Dr. **Kevin Brown**, a civil rights advocate and law professor, argued that Title 7 recognizing caste as a protected category in the area of employment by presenting a solid legal argument suggesting discrimination based on untouchability is included under the protective Title 7 traits of religion, national origin, and race. Prof. Brown argued that the Su-



preme Court noted that an earlier version of Section 703 included ancestry, which is considered synonymous with national origin. Origin also defines an individual's physical, cultural, or linguistic characteristics. Dalits could be viewed as a national origin group based on physical and linguistic characteristics that differentiate them from other South Asian groups. Dalits as a cultural group can be considered a national origin based on their ancestry. Prof. Brown analogizes the treatment of African-Americans to the caste system by reference to Justice Harlan's dissent in *Plessy v. Ferguson*, where he stated, "our Constitution is color blind." Many believed that the treatment of Black people was like the caste in India, which led to the creation of the Federal anti-discrimination laws. Therefore, it is logical to assume the Federal government saw caste discrimination as a form of race discrimination.

Patrick Paterson, Esq., a Civil Rights Attorney and Former Senior Counsel to Chair of EEOC, argued that it is time to interpret Title 7 of the Civil Rights Act of 1964 to encompass caste discrimination by the Federal and State law enforcement agencies. Employment discrimination against a person because of cultural characteristics often linked to race or ethnicity, such as a person's name, cultural dress, grooming practices, or manner of speech against something that could be used to argue that caste could be covered by Title 7. Some developments are beginning to happen in state courts and agencies that suggest that might be possible, such as in *California Department of Fair Employment and Housing v. Cisco Systems*. This case resulted from an allegation that Cisco upper caste managers of Indian descent had discriminated against Dalit employees of Indian descent because of their caste. The DFEH alleged race, color, national origin, religion, and ancestry discrimination, so it covered the categories of discrimination, harassment, and retaliation in violation of the California Fair Employment and Housing Act. This case has not yet reached the point at which any Court must determine whether caste-based discrimination is prohibited by California law. Still, the Cisco case is a step toward finding that at least one States law prohibits caste-based discrimination. It is essential for individuals who have experienced caste-based discrimination in the workplace to file these complaints so that federal, state, and local agencies can investigate them. That's the only way the law will develop to provide protection directly against such discrimination procedures.

Sunita Viswanath, Co-Founder and Executive Director at Hindus and Hindus for Human Rights, Women for Afghan Women; Sadhana: Coalition of Progressive, provided insight view in the workplace injustice and labor exploitation at places of worship. Hindus for Human rights partnered with ICDR to investigate this caste-based labor exploitation phenomenon at houses of worship. The investigation uncovered troubling dynamics that allowed labor



exploitation to occur. Most places of worship investigated did not engage in transparent recruitment processes, and many of the exploited workers were from marginalized groups within Indian Society, suggesting that the undisclosed nature of the recruitment process provides an ongoing opportunity for exploitation. Workers were often unaware that they were being recruited on false promises. There's a need for increased transparency to prevent the exploitation of vulnerable individuals and groups. Based on these findings, Viswanath mentioned several policy recommendations for federal government agencies:

1. Engage Civil Society organizations to understand signs of workplace exploitation and the loopholes that enable exploitation during the recruitment of workers
2. Integrate awareness of caste discrimination and other forms of exploitation during immigration application reviews and on-site inspection.
3. Conduct periodic inspections of places of worship to ensure that relevant integration labor and health and safety laws are being followed; and
4. Create and mandate caste sensitivity training for government workers to improve their understanding of power dynamics.

Law Prof. TED SHAW, Director of the University of North Carolina Center for Civil Rights, highlighted the problematic issue of immigration justice and understands how this applies to the Dalits, a large portion of immigrants from Asia in the United States. Prof. Shaw said, the amount of people originating from India as immigrants to the United States has grown extraordinarily. That presence raises issues about the standing of people from India since there is harassment against Indians here in the United States. This discrimination is not something that gets enough attention, and it is time to push the federal agencies to provide more protection and apply anti-discrimination laws, including Title 7 and Section 1981, to protect against discrimination in areas of employment. The U.S. Department of Justice's Civil Rights Division should pay particular attention to discrimination against Dalits, and people from Southeast Asia in general, particularly in this time and era when discrimination based on race as a general matter has seen a resurgence. Questions of race and national origin resonate with people from Southeast Asia, especially the Dalits.

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