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Attorneys for Plaintiff, DFEH
(Fee Exempt, Gov. Code, § 6103)

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA**

CALIFORNIA DEPARTMENT OF FAIR
EMPLOYMENT AND HOUSING, an agency of
the State of California,

Plaintiff,

vs.

CISCO SYSTEMS, INC., a California
Corporation; SUNDAR IYER, an individual;
RAMANA KOMPELLA, an individual,

Defendants.

Case No.: 20CV372366

**PLAINTIFF CALIFORNIA DEPARTMENT
OF FAIR EMPLOYMENT AND HOUSING'S
REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF DFEH'S MOTION TO
PROCEED USING A FICTITIOUS NAME**

Date: TBD
Time: TBD
Department: TBD
Judge: TBD

1 Plaintiff California Department of Fair Employment and Housing (“DFEH”) requests the Court,
2 under Evidence Code sections 452, subdivision (h), and 453, to take judicial notice of the following
3 documents:

- 4 1. The report by U.S. Department of State, Bureau of Democracy, Human Rights and Labor,
5 *2019 Country Reports on Human Rights Practices: India* (March 11, 2020)
6 <[https://www.state.gov/wp-content/uploads/2020/03/INDIA-2019-HUMAN-RIGHTS-](https://www.state.gov/wp-content/uploads/2020/03/INDIA-2019-HUMAN-RIGHTS-REPORT.pdf)
7 [REPORT.pdf](https://www.state.gov/wp-content/uploads/2020/03/INDIA-2019-HUMAN-RIGHTS-REPORT.pdf)> (as of Oct. 22, 2020). Relevant excerpts are attached as **Exhibit 1**.
- 8 2. The article by Hillary Mayell, *India's "Untouchables" Face Violence, Discrimination*,
9 National Geographic (June 2, 2003)¹
10 <[https://www.nationalgeographic.com/news/2003/6/indias-untouchables-face-violence-](https://www.nationalgeographic.com/news/2003/6/indias-untouchables-face-violence-discrimination/#close)
11 [discrimination/#close](https://www.nationalgeographic.com/news/2003/6/indias-untouchables-face-violence-discrimination/#close)> (as of Oct. 22, 2020). It is attached as **Exhibit 2**.
- 12 3. The article by Jeffrey Gettleman and Suhasini Raj, *Tell Everyone We Scalped You! How*
13 *Caste Still Rules in India*, New York Times (Nov. 17, 2018)
14 <[https://www.nytimes.com/2018/11/17/world/asia/tell-everyone-we-scalped-you-how-caste-](https://www.nytimes.com/2018/11/17/world/asia/tell-everyone-we-scalped-you-how-caste-still-rules-in-india.html)
15 [still-rules-in-india.html](https://www.nytimes.com/2018/11/17/world/asia/tell-everyone-we-scalped-you-how-caste-still-rules-in-india.html)> (as of Oct. 22, 2020). It is attached as **Exhibit 3**.
- 16 4. The article by Udhav Naig, *81 Cases of Violence Against Dalits Reported During Lockdown:*
17 *CPI(M)*, The Hindu (July 14, 2020) <[https://www.thehindu.com/news/national/tamil-](https://www.thehindu.com/news/national/tamil-nadu/81-cases-of-violence-against-dalits-reported-during-lockdown-cpim/article32072865.ece)
18 [nadu/81-cases-of-violence-against-dalits-reported-during-lockdown-](https://www.thehindu.com/news/national/tamil-nadu/81-cases-of-violence-against-dalits-reported-during-lockdown-cpim/article32072865.ece)
19 [cpim/article32072865.ece](https://www.thehindu.com/news/national/tamil-nadu/81-cases-of-violence-against-dalits-reported-during-lockdown-cpim/article32072865.ece)> (as of Oct. 25, 2020). It is attached as **Exhibit 4**.
- 20 5. The article entitled, *Crimes Against Dalits Increased by 6 Percent Between 2009 and 2018:*
21 *Report*, The Hindu (Sept. 11, 2020) <[https://www.thehindu.com/news/national/report-flags-](https://www.thehindu.com/news/national/report-flags-increase-in-crimes-against-dalits/article32584803.ece)
22 [increase-in-crimes-against-dalits/article32584803.ece](https://www.thehindu.com/news/national/report-flags-increase-in-crimes-against-dalits/article32584803.ece)> (as of Oct. 25, 2020). It is attached as
23 **Exhibit 5**.
- 24 6. The article entitled, *Cisco Accused of Job Discrimination Based on Indian Employee's Caste*,
25 Technology News (July 1, 2020) <[https://gadgets.ndtv.com/telecom/news/cisco-accused-of-](https://gadgets.ndtv.com/telecom/news/cisco-accused-of-job-discrimination-based-on-indian-employees-caste-2254961)
26 [job-discrimination-based-on-indian-employees-caste-2254961](https://gadgets.ndtv.com/telecom/news/cisco-accused-of-job-discrimination-based-on-indian-employees-caste-2254961)> (as of Oct. 20, 2020). It is
27 attached as **Exhibit 6**.

28

¹ Pursuant to Evidence Code, section 645.1, this and the articles that follow are self-authenticating.

- 1 7. The article entitled, *Cisco Impeached for Job Discrimination Against Dalit Employee in the*
2 *US*, India Today, Technology News (July 1, 2020)
3 <[https://www.indiatoday.in/technology/news/story/cisco-impeached-for-job-discrimination-](https://www.indiatoday.in/technology/news/story/cisco-impeached-for-job-discrimination-against-dalit-employee-in-the-us-1695809-2020-07-01)
4 [against-dalit-employee-in-the-us-1695809-2020-07-01](https://www.indiatoday.in/technology/news/story/cisco-impeached-for-job-discrimination-against-dalit-employee-in-the-us-1695809-2020-07-01)> (as of Oct. 20, 2020). It is attached
5 as **Exhibit 7**.
- 6 8. The article by Geetika Mantri, *Caste is Part of the Silicon Valley Ecosystem*, The Minute
7 News (July 6, 2020) <[https://www.thenewsminute.com/article/caste-part-silicon-valley-](https://www.thenewsminute.com/article/caste-part-silicon-valley-ecosystem-equality-labs-director-cisco-case-128061)
8 [ecosystem-equality-labs-director-cisco-case-128061](https://www.thenewsminute.com/article/caste-part-silicon-valley-ecosystem-equality-labs-director-cisco-case-128061)> (as of Oct. 20, 2020). It is attached as
9 **Exhibit 8**.
- 10 9. The article by Anahita Mukherji, *The Cisco Case Could Expose Rampant Prejudice Against*
11 *Dalits in Silicon Valley*, The Wire (July 8, 2020) <[https://thewire.in/caste/cisco-caste-](https://thewire.in/caste/cisco-caste-discrimination-silicon-valley-dalit-prejudice)
12 [discrimination-silicon-valley-dalit-prejudice](https://thewire.in/caste/cisco-caste-discrimination-silicon-valley-dalit-prejudice)> (as of Oct. 20, 2020). It is attached as **Exhibit**
13 **9**.
- 14 10. The article by Amrita Dutta, *Getting America to Recognise Caste: Previous Efforts, Renewed*
15 *Push*, Explained News, The Indian Express (July 8, 2020)
16 <[https://indianexpress.com/article/explained/getting-america-to-recognise-caste-previous-](https://indianexpress.com/article/explained/getting-america-to-recognise-caste-previous-efforts-renewed-push-6495101/)
17 [efforts-renewed-push-6495101/](https://indianexpress.com/article/explained/getting-america-to-recognise-caste-previous-efforts-renewed-push-6495101/)> (as of Oct. 20, 2020). It is attached as **Exhibit 10**.
- 18 11. The article by Sreya Sarkar, *Cisco, Caste Discrimination and the Endurance of Denial in*
19 *Overseas Indians*, The Wire (July 15, 2020) <[https://thewire.in/caste/cisco-caste-](https://thewire.in/caste/cisco-caste-discrimination-usa)
20 [discrimination-usa](https://thewire.in/caste/cisco-caste-discrimination-usa)> (as of Oct. 20, 2020). It is attached as **Exhibit 11**.
- 21 12. The article by Subhash Gatade, *Cisco Case Shows Indians Still Take Caste Where They Go*,
22 Kashmir Times (July 17, 2020) <www.kashmirtimes.com/newsdet.aspx?q=103829> (as of
23 Oct. 20, 2020). It is attached as **Exhibit 12**.
- 24 13. The article by Saranya Chakrapani, *When Fight Against Casteism Moves to the US*, Times of
25 India (Aug. 27, 2020) <[https://timesofindia.indiatimes.com/india/when-fight-against-](https://timesofindia.indiatimes.com/india/when-fight-against-casteism-moves-to-the-us/articleshow/77757814.cms)
26 [casteism-moves-to-the-us/articleshow/77757814.cms](https://timesofindia.indiatimes.com/india/when-fight-against-casteism-moves-to-the-us/articleshow/77757814.cms)> (as of Oct. 30, 2020). It is attached as
27 **Exhibit 13**.
- 28

- 1 14. The article by Ridhi Shetty, *Is Justice Accessible to a Dalit Employee in Private Workplaces*
2 *in India?* The Leaflet (Oct. 7, 2020) <[https://www.theleaflet.in/is-justice-accessible-to-a-](https://www.theleaflet.in/is-justice-accessible-to-a-dalit-employee-in-private-workplaces-in-india/#)
3 [dalit-employee-in-private-workplaces-in-india/#](https://www.theleaflet.in/is-justice-accessible-to-a-dalit-employee-in-private-workplaces-in-india/#)> (as of Oct. 20, 2020). It is attached as
4 **Exhibit 14.**
- 5 15. The article entitled, *Sustaining the Myth of Merit: How Technical Knowledge Became the*
6 *Preserve of a ‘Meritorious’ Upper-Caste Elite*, Himal Southasian (Oct. 20, 2020)
7 <<https://www.himalmag.com/sustaining-the-myth-of-merit-2020/>> (as of Oct. 20, 2020). It is
8 attached as **Exhibit 15.**
- 9 16. The article entitled, *California Dept Dismisses Employee Harassment Case Against Cisco*,
10 Times of India (Oct. 20, 2020) <[https://timesofindia.indiatimes.com/business/india-](https://timesofindia.indiatimes.com/business/india-business/california-dept-dismisses-employee-harassment-case-against-cisco/articleshowprint/78760768.cms)
11 [business/california-dept-dismisses-employee-harassment-case-against-](https://timesofindia.indiatimes.com/business/india-business/california-dept-dismisses-employee-harassment-case-against-cisco/articleshowprint/78760768.cms)
12 [cisco/articleshowprint/78760768.cms](https://timesofindia.indiatimes.com/business/india-business/california-dept-dismisses-employee-harassment-case-against-cisco/articleshowprint/78760768.cms)> (as of Oct. 20, 2020). It is attached as Exhibit 16.
- 13 17. The article by Anupama Rao, *Cisco Caste Discrimination Case Busts the Myth of the South*
14 *Asian Diaspora as a Model Minority: It exposes upper-caste anxieties about the introduction*
15 *of the caste question in the West*, Scroll.In (July 7, 2020)
16 <[https://scroll.in/article/966635/cisco-caste-discrimination-case-busts-the-myth-of-the-south-](https://scroll.in/article/966635/cisco-caste-discrimination-case-busts-the-myth-of-the-south-asian-diaspora-as-a-model-minority)
17 [asian-diaspora-as-a-model-minority](https://scroll.in/article/966635/cisco-caste-discrimination-case-busts-the-myth-of-the-south-asian-diaspora-as-a-model-minority)> (as of Oct. 26, 2020). It is attached as **Exhibit 17.**
- 18 18. The book chapter by Laurence Simon, B.R. Ambedkar: The Quest for Justice (forthcoming)
19 pp. 15-44, *Searching for a Theology of Liberation in India*. It is attached as Exhibit 1 to the
20 Declaration of Laurence Simon in Support of Plaintiff Department of Fair Employment and
21 Housing’s Motion to Proceed Using a Fictitious Name (“Simon Declaration”).
- 22 19. The article by G. Jeffrey MacDonald, *Brandeis University Stands by Caste-Bias Ban Despite*
23 *Pushback from Hindu Activists*, Religion News Service (Oct. 19, 2020)
24 <[https://religionnews.com/2020/10/19/brandeis-university-stands-by-caste-discrimination-](https://religionnews.com/2020/10/19/brandeis-university-stands-by-caste-discrimination-ban-despite-criticism-from-hindu-activists/)
25 [ban-despite-criticism-from-hindu-activists/](https://religionnews.com/2020/10/19/brandeis-university-stands-by-caste-discrimination-ban-despite-criticism-from-hindu-activists/)> (as of Oct. 25, 2020). It is attached as Exhibit 2
26 to the Simon Declaration.
- 27 20. The report by Maari Zwick-Maitreyi et al., Equality Labs, *Caste in the United States: A*
28 *Survey of Caste Among South Asian Americans* (2018)

1 <https://static1.squarespace.com/static/58347d04bebafeb1e66df84c/t/5d9b4f9afbaef569c0a5c132/1570459664518/Caste_report_2018.pdf> (as of Oct. 26, 2020).

2
3 It is attached as Exhibit 1 to the Declaration of Thenmozhi Soundararajan in Support of
4 Plaintiff Department of Fair Employment and Housing's Motion to Proceed Using a
5 Fictitious Name ("Soundararajan Declaration").

6 21. The article by Kavitha Muralidharan, *Silence Shrouds the Murder of a 13-Year-Old Dalit*
7 *Girl in Tamil Nadu*, The Wire (Oct. 30, 2018) < [https://thewire.in/caste/tamil-nadu-dalit-girl-](https://thewire.in/caste/tamil-nadu-dalit-girl-beheaded)
8 [beheaded](https://thewire.in/caste/tamil-nadu-dalit-girl-beheaded)> (as of Oct. 26, 2020). It is attached as Exhibit 4 to the Soundararajan Declaration.

9 22. The article entitled, *California's Lawsuit Against Cisco Uniquely Endangers Hindus and*
10 *Indians*, Hindu American Foundation (Aug. 13, 2020)
11 <[https://www.hinduamerican.org/blog/california-cisco-lawsuit-uniquely-endangers-hindus-](https://www.hinduamerican.org/blog/california-cisco-lawsuit-uniquely-endangers-hindus-indians/)
12 [indians/](https://www.hinduamerican.org/blog/california-cisco-lawsuit-uniquely-endangers-hindus-indians/)> (as of Oct. 22, 2020.). It is attached as Exhibit 1 to the Declaration of Siri
13 Thanasombat in Support of Plaintiff Department of Fair Employment and Housing's Motion
14 to Proceed Using a Fictitious Name ("Thanasombat Declaration").

15 23. The article by Amartya Sen, *As India Drifts Into Autocracy, Nonviolent Protest is the Most*
16 *Powerful Resistance*, The Guardian (Oct. 26, 2020)
17 <[https://www.theguardian.com/commentisfree/2020/oct/26/india-autocracy-nonviolent-](https://www.theguardian.com/commentisfree/2020/oct/26/india-autocracy-nonviolent-protest-resistance)
18 [protest-resistance](https://www.theguardian.com/commentisfree/2020/oct/26/india-autocracy-nonviolent-protest-resistance)> (as of Oct. 27, 2020)). It is attached as Exhibit 2 to the Thanasombat
19 Declaration.

20 24. The article by Nitasha Tiku entitled, *India's Engineers Have Thrived in Silicon Valley. So*
21 *Has Its Caste System*, Washington Post (Oct. 27, 2020)
22 <<https://www.washingtonpost.com/technology/2020/10/27/indian-caste-bias-silicon-valley/>>
23 (as of Oct. 27, 2020). This article and the full statement on caste bias linked to therein are
24 attached as Exhibit 3 to the Thanasombat Declaration.

25 DATED: November 2, 2020

CALIFORNIA DEPARTMENT OF FAIR
EMPLOYMENT AND HOUSING

27
28 

SIRI THANASOMBAT
Attorneys for Plaintiff DFEH

EXHIBIT 1

INDIA 2019 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

India is a multiparty, federal, parliamentary democracy with a bicameral legislature. The president, elected by an electoral college composed of the state assemblies and parliament, is the head of state, and the prime minister is the head of government. Under the constitution, the country's 28 states and nine union territories have a high degree of autonomy and have primary responsibility for law and order. Electors chose President Ram Nath Kovind in 2017 to serve a five-year term, and Narendra Modi became prime minister for the second time following the victory of the National Democratic Alliance coalition led by the Bharatiya Janata Party (BJP) in the 2019 general election. Observers considered the parliamentary elections, which included more than 600 million voters, to be free and fair, although with isolated instances of violence.

The states and union territories have primary responsibility for maintaining law and order, with policy oversight from the central government. Police are under state jurisdiction. The Ministry of Home Affairs (MHA) controls most paramilitary forces, the internal intelligence bureaus and national law enforcement agencies, and provides training for senior officials from state police forces. Civilian authorities maintained effective control over the security forces.

Significant human rights issues included: unlawful and arbitrary killings, including extrajudicial killings perpetrated by police; torture by prison officials; arbitrary arrest and detention by government authorities; harsh and life-threatening prison conditions; political prisoners in certain states; restrictions on freedom of expression and the press, including violence, threats of violence, or unjustified arrests or prosecutions against journalists, use of criminal libel laws to prosecute social media speech, censorship, and site blocking; overly restrictive rules on nongovernmental organizations (NGOs); frequent reports of widespread corruption at all levels of government; violence and discrimination targeting minorities based on religious affiliation or social status; and forced and compulsory child labor, including bonded labor.

Despite government efforts to address abuses, a lack of accountability for official misconduct persisted at all levels of government, contributing to widespread impunity. Investigations and prosecutions of individual cases took place, but lax enforcement, a shortage of trained police officers, and an overburdened and under-resourced court system contributed to a small number of convictions.

Separatist insurgents and terrorists in Jammu and Kashmir, the Northeast, and Maoist-affected areas committed serious abuses, including killings and torture of armed forces personnel, police, government officials, and civilians, and recruited and used child soldiers.

On August 5, the government announced major changes to the constitutional status of Jammu and Kashmir, converting the state into two separate union territories. In the ensuing security crackdown, authorities detained thousands of residents, including local political leaders; shut down mobile and internet services; and imposed restrictions on movement. As of December the government had taken steps to restore normalcy, including partial restoration of telephone and mobile services, but had not yet announced a timeline for local assembly elections.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were reports that the government or its agents committed arbitrary or unlawful killings, including extrajudicial killings of suspected criminals and insurgents.

On February 6, then minister of state for home affairs Hansraj Gangaram Ahir presented in the upper house of parliament data from the National Human Rights Commission (NHRC), noting that 22 alleged “fake encounters” with police occurred between January 2018 and January 20, 2019. Ahir stated that 17 of these alleged encounters occurred in the state of Uttar Pradesh. An “encounter death” is a term used to describe any encounter between the security or police forces and alleged criminals or insurgents that results in a death. The NHRC reported a similar number of cases in 2017-2018. Until January 20, the NHRC recommended 14.5 million rupees (\$203,000) as monetary compensation for 15 “fake encounter” cases. On January 19, four UN human rights experts expressed concern about allegations of at least 59 extrajudicial killings by police in Uttar Pradesh since 2017. The experts sent “detailed information” to the government on 15 of the cases, most deaths involving individuals from Muslim communities.

The South Asian Terrorism Portal, run by the nonprofit Institute for Conflict Management, reported the deaths of 110 civilians, 12 security force members, and 272 terrorists or insurgents throughout the country as of September 16.

In many states the NHRC made unannounced visits to monitor state prisons, including training workshops and seminars for officials, but NHRC jurisdiction does not extend to military detention centers. An NHRC special rapporteur visited state prisons to verify that authorities provided medical care to all inmates. The rapporteur visited prisons on a regular basis throughout the year but did not release a report to the public or the press.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, but both occurred during the year. Police also used special security laws to postpone judicial reviews of arrests. Pretrial detention was arbitrary and lengthy, sometimes exceeding the duration of the sentence given to those convicted.

According to human rights NGOs, some police used torture, mistreatment, and arbitrary detention to obtain forced or false confessions. In some cases police reportedly held suspects without registering their arrests and denied detainees sufficient food and water.

On August 5, the government abrogated a special constitutional provision for Jammu and Kashmir that had provided a degree of autonomy to the state and shut or severely hindered internet and communication services. Authorities used a public safety law to detain local politicians without trial. The government gradually relaxed restrictions in some areas. The government detained between 3,200 and 4,000 persons after August 5, and while most detainees were released in the following months, a few hundred remained in detention as of December. Those released were made to sign bonds agreeing not to engage in any political activity. Beginning August 5, the government also imposed a shutdown of landline and mobile phones. Media accounts noted landlines were restored in early September while postpaid mobile telephones were restored in October. Local authorities in Jammu and Kashmir stated text messaging would be restored on January 1, 2020. Prepaid mobile telephones and internet access remained limited.

Arrest Procedures and Treatment of Detainees

In cases other than those involving security risks, terrorism, insurgency, or cases arising in Jammu and Kashmir, police may detain an individual without charge for up to 30 days, although an arrested person must be brought before a judge within 24 hours of arrest. Lengthy arbitrary detention remained a significant problem due to overburdened and under-resourced court systems and a lack of legal safeguards.

Arrestment of detainees must occur within 24 hours unless authorities hold the suspect under a preventive detention law. The law allows police to summon individuals for questioning, but it does not grant police prearrest investigative detention authority. There were incidents in which authorities allegedly detained suspects beyond legal limits. By law authorities must allow family members access to detainees, but this was not always observed.

Other than in Jammu and Kashmir, the National Security Act allows police to detain persons considered security risks without charge or trial for as long as one year. The law allows family members and lawyers to visit national security detainees and requires authorities to inform a detainee of the grounds for detention within five days, or 10 to 15 days in exceptional circumstances. Nonetheless, rights activists noted provisions allowing detainees to meet family or lawyers were not followed in practice, especially in the states of Odisha, Manipur, Andhra Pradesh, and Maharashtra.

The Public Safety Act (PSA), which applies only in Jammu and Kashmir, permits authorities to detain persons without charge or judicial review for up to two years without visitation from family members. Authorities in Jammu and Kashmir allowed detainees access to a lawyer during interrogation; in some instances authorities allegedly denied detainees access to lawyers as well as medical attention. In July 2018 the Jammu and Kashmir government amended the PSA to remove the prohibition on detaining permanent residents of Jammu and Kashmir outside its borders. Between August 5 and 30, authorities used this amendment to detain approximately 285 individuals in Uttar Pradesh.

Authorities must promptly inform persons detained on criminal charges of the charges against them and of their right to legal counsel. By law a magistrate may authorize the detention of an accused person for a period of no more than 90 days prior to filing charges. Under standard criminal procedure, authorities must release the accused on bail after 90 days if charges are not filed. NCRB data from 2015 showed most individuals awaiting trial spent more than three months in jail before they could secure bail, and nearly 65 percent spent between three months and five years before being released on bail.

The law also permits authorities to hold a detainee in judicial custody without charge for up to 180 days (including the 30 days in police custody). The Unlawful Activities Prevention Act (UAPA), which gives authorities the ability to detain persons without charge in cases related to insurgency or terrorism for up to 180

days, makes no bail provisions for foreign nationals and allows courts to deny bail in the case of detained citizens. The UAPA presumes the accused to be guilty if the prosecution can produce evidence of the possession of arms or explosives or the presence of fingerprints at a crime scene, regardless of whether authorities demonstrate criminal intent. State governments also reportedly held persons without bail for extended periods before filing formal charges under the UAPA.

On March 23, the MHA declared the Jammu and Kashmir Liberation Front (JKLF), led by Mohammed Yasin Malik, an unlawful organization for five years under the UAPA. An MHA statement accused Malik and the JKLF of participating in the “genocide” of Kashmiri Hindu Pandits in 1989 as well as the murder of Indian Air Force personnel, kidnappings, and funding terrorism.

On August 2, the parliament passed the Unlawful Activities (Prevention) Amendment Bill, 2019. The amendment allows the government to designate individuals as terrorists and provides new authorities to the National Investigation Agency to investigate cases relating to narcotics, terrorism, and trafficking in persons.

On August 8, the Bombay High Court granted temporary bail to Sudha Bharadwaj, permitting her to attend post-funeral rites for her deceased father. Bharadwaj is one of the five human rights activists that Maharashtra police arrested in 2018 in connection with an alleged plot to overthrow the government and assassinate the prime minister. All five asserted wrongful arrest and detention and further claimed that the arrests were intended to muzzle voices of dissent, as all five were active in protesting arrests of other human rights defenders.

Arbitrary Arrest: The law prohibits arbitrary arrest or detention, but in some cases, police reportedly continued to arrest citizens arbitrarily. There were reports of police detaining individuals for custodial interrogation without identifying themselves or providing arrest warrants.

Pretrial Detention: NCRB data reported 308,718 prisoners were awaiting trial at the end of 2017, comprising 68.5 percent of the country’s prison population. In 2017 Amnesty International released a report on pretrial detention, which noted that shortages of police escorts, vehicles, and drivers caused delays in bringing prisoners to trial. According to the Amnesty report, the pretrial population is composed of a disproportionate number of Muslims, Dalits, and Adivasis, who made up 53 percent of prisoners awaiting trial. Media reported the high numbers of pretrial detainees contributed to prison overcrowding. Based on 2018 data from

the National Legal Services Authority, media sources estimated prisons were at 115 percent capacity nationally and at 227 percent capacity in Delhi.

The government continued efforts to reduce lengthy detentions and alleviate prison overcrowding by using “fast track” courts, which specified trial deadlines, provided directions for case management, and encouraged the use of bail. Some NGOs criticized these courts for failing to uphold due process and requiring detainees unable to afford bail to remain in detention.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence, but the judicial system was plagued by delays, capacity challenges, and corruption.

The judicial system remained seriously overburdened and lacked modern case management systems, often delaying or denying justice. According to Department of Justice statistics released in January, there were 414 judicial vacancies out of 1,079 judicial positions on the country’s 24 high courts.

Trial Procedures

The law provides for the right to a fair and public trial, except in proceedings that involve official secrets or state security. Defendants enjoy the presumption of innocence, except as described under UAPA conditions, and may choose their counsel. The constitution specifies the state should provide free legal counsel to defendants who cannot afford it to ensure that opportunities for securing justice are not denied to any citizen, but circumstances often limited access to competent counsel. An overburdened justice system resulted in lengthy delays in court cases, with disposition sometimes taking more than a decade.

There were reported cases in which police denied suspects the right to meet with legal counsel as well as cases in which police unlawfully monitored suspects’ conversations and violated their confidentiality rights.

While defendants have the right to confront accusers and present their own witnesses and evidence, defendants sometimes did not exercise this right due to lack of proper legal representation. Defendants have the right not to testify or confess guilt. Courts must announce sentences publicly, and there are effective channels for appeal at most levels of the judicial system.

Internally displaced person (IDP) camps continued to operate in Chhattisgarh for tribal persons displaced during the 2005 fighting between Maoists and the subsequently disbanded state-sponsored militia Salwa Judum.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The constitution provides for freedom of expression, but it does not explicitly mention freedom of the press. The government generally respected this right, although there were several instances in which the government or actors considered close to the government allegedly pressured or harassed media outlets critical of the government, including through online trolling. There were also reports of extremists perpetrating acts of killing, violence, and intimidation against journalists critical of the government.

Freedom of Expression: Individuals routinely criticized the government publicly and privately. According to HRW, however, sedition and criminal defamation laws were used to prosecute citizens who criticized government officials or opposed state policies. In certain cases, local authorities arrested individuals under laws against hate speech for expressions of political views. Freedom House, in its most recent report, asserted that freedom of expression was weakening in the country and noted the government's silence regarding direct attacks on free speech. The report stated authorities have used security, defamation, and hate speech laws, as well as contempt-of-court charges, to curb critical voices in media outlets. In some instances the government reportedly withheld public-sector advertising from media outlets that criticized the government, causing some outlets to practice self-censorship.

On January 8, a trial court in Bengaluru ordered the closure of a sedition case filed against Amnesty India after a Hindu nationalist student group, Akhil Bharatiya Vidyarthi Parishad (ABVP), protested Amnesty's "Broken Families" event for Kashmiri families. The event invited Kashmiri families to narrate personal stories of strife in the Kashmir Valley, which the ABVP claimed was anti-Indian.

On January 10, Assam's prominent academic Hiren Gohain, activist Akhil Gogoi, and journalist Manjit Mahanta were arrested in Guwahati and charged with sedition for their comments during a protest against the Citizenship (Amendment) Bill. On January 11, Gohan and Gogoi were awarded interim bail, and Mahanta

was awarded absolute bail. On February 15, Gohan and Gogoi were given absolute bail. Gogoi was later arrested on December 10 while protesting the enacted Citizenship (Amendment) Act; his case was referred to the National Investigation Agency for sedition, criminal conspiracy, unlawful association, and assertions prejudicial to national integration.

On March 10, filmmakers, artists, musicians, and intellectuals joined a protest in Kolkata against the “unofficial ban” on the Bengali feature film *Bhabishyater Bhoot* (Spirits of the Future), a political satire by director Anik Datta. Media reported that two days after the film’s release on February 15, most cinema halls in West Bengal refused to screen the film, citing unofficial pressure from authorities. The government’s film certification board had already cleared the film. Following an April 11 Supreme Court order, the West Bengal government paid a fine of two million rupees (\$30,000) to the film’s producer.

On April 28, police in Andhra Pradesh’s Vijayawada prevented film director Ram Gopal Varma from addressing a press conference in the city to promote his movie, *Lakshmi’s NTR*, which portrays the life of former state chief minister N.T. Rama Rao. Varma alleged that police acted under pressure from the ruling Telugu Desam Party, which opposed the movie’s release during national elections. Police claimed that Varma was not allowed to address a press conference as prohibitory orders were in force during the conduct of the elections.

In late April, BJP Party workers in Assam allegedly attacked journalists in the Nalbari, Tinsukia, and Jorhat Districts when the journalists were covering the national elections. On May 6, Trinamool Congress Party workers in West Bengal allegedly attacked journalists covering elections in several locations.

On July 21, Tamil Nadu police arrested a 24-year-old man in Nagapattinam District for consuming beef soup in a Facebook posting. Police filed charges against him for disturbing peace and communal harmony. Four others were arrested on July 11 for allegedly attacking the accused but were later granted bail.

On July 28, two men shot and killed Pradeep Mandal, a journalist with Hindi daily *Dainik Jagran* in Bihar’s Madhubani town. Media outlets reported that he was targeted for exposing bootleggers’ syndicates in the state. Bihar has imposed a prohibition on the sale and consumption of liquor.

Press and Media, Including Online Media: Independent media were active and generally expressed a wide variety of views. The law prohibits content that could

harm religious sentiments or provoke enmity among groups, and authorities invoked these provisions to restrict print media, broadcast media, and publication or distribution of books.

According to several journalists, press freedom declined during the year. There were several reports from journalists and NGOs that government officials, both at the local and national levels, were involved in silencing or intimidating critical media outlets through physical harassment and attacks, pressuring owners, targeting sponsors, encouraging frivolous lawsuits, and, in some areas, blocking communication services, such as mobile telephones and the internet, and constraining freedom of movement. Several journalists reported that the heavy deployment of security forces, accompanied by a communication blockade in Jammu and Kashmir from early August, severely hampered the freedom of the press in Jammu and Kashmir. Anuradha Bhasin, executive editor of the Srinagar-based newspaper the *Kashmir Times*, filed a petition in the Supreme Court in August stating that journalists were not allowed to move freely in Jammu and Kashmir. The petition also claimed the intimidation of journalists by the government and security forces. On September 1, authorities stopped another Kashmiri journalist, Gowhar Geelani, from flying to Germany to participate in a program organized by the German broadcaster Deutsche Welle.

The 2019 *World Press Freedom Index* identified physical attacks on journalists and “coordinated hate campaigns waged on social networks” as major areas of concern. Harassment and violence against journalists were particularly acute for non-English language journalists, those in rural areas, and female journalists. Journalists working in “sensitive” areas, including Jammu and Kashmir, continued to face barriers to free reporting through communications and movement restrictions, and local affiliates reported increased fears of violence. Attacks on journalists by supporters of Hindu nationalist groups increased prior to the May national elections, according to the report. Reports of self-censorship due to fear of official or public reprisal were common, including the use of Section 124a of the penal code, which includes sedition punishable by life imprisonment.

The Editors Guild of India claimed the government limited press freedom by exerting political pressure and blocking television transmissions. The guild separately called for authorities to restore communications in Jammu and Kashmir, where a prolonged communications shutdown limited media freedom.

On July 12, Hyderabad police arrested journalist Revathi Pogadadanda, reportedly in connection with a six-month-old case registered under the Scheduled Castes and

Scheduled Tribes (Prevention of Atrocities) Act. Police allegedly did not produce an arrest warrant at the time of arrest and released her on bail a week later. Pogadadanda alleged her arrest was part of the government's vindictive action against her mentor and senior journalist Ravi Prakash, who had published two interviews online accusing the Telangana chief minister, Kalvakuntla Chandrashekhar Rao, and a prominent industrialist, P.V. Krishna Reddy, of corruption in a multimillion dollar public transport scam. On October 5, Prakash was arrested on allegations of corporate fraud. The Committee to Protect Journalists denounced both arrests.

The government maintained a monopoly on AM radio stations, limiting broadcasting to the state-owned All India Radio, and restricted FM radio licenses for entertainment and educational content. Widely distributed private satellite television provided competition for Doordarshan, the government-owned television network. There were some accusations of political interference in the state-owned broadcasters. State governments banned the import or sale of some books due to material that government censors deemed could be inflammatory or provoke communal or religious tensions.

Violence and Harassment: There were numerous instances of journalists and members of media organizations being threatened or killed in response to their reporting. Police rarely identified suspects involved in the killing of journalists. According to the *2019 World Press Freedom Index*, at least six journalists were killed in connection with their work in 2018.

On April 8, the Manipur High Court ordered the release of television journalist Kishore Chandra Wangkhem. Police arrested Wangkhem in November 2018 under the National Security Act for criticizing the BJP and Prime Minister Narendra Modi in his social media posts.

On May 26, the Bengaluru police filed a "first information report"--a report prepared by police upon first receipt of information of a possible crime--against Vishweshwar Bhat, editor of Kannada daily *Vishwavani*, for allegedly publishing derogatory remarks against K. Nikhil, son of then Karnataka chief minister H.D. Kumaraswamy. Police did not make any arrests.

On May 29, six unidentified persons grievously injured journalist Pratap Patra in Balasore District of Odisha. Patra alleged he was attacked after publishing an investigative article on May 8 against a local sand miner, who had been illegally quarrying sand. The article led authorities to levy a fine of 1.6 million rupees

(\$23,000) on the sand-mining company. Police arrested three individuals on June 2.

On June 8, Uttar Pradesh police arrested and filed criminal charges against a freelance journalist for allegedly posting a video of a woman claiming to be in a relationship with state chief minister Yogi Adityanath. On June 11, the Supreme Court ordered the release of the journalist and chastised the Uttar Pradesh government for the arrest.

Online and mobile harassment was especially prevalent, and incidents of internet “trolling,” or making deliberately offensive or provocative online posts with the aim of upsetting someone, continued to rise. Journalists were threatened online with violence and, in the case of female journalists, rape.

Censorship or Content Restrictions: Citizens generally enjoyed freedom of speech, but the government continued to censor and restrict content based on broad public- and national-interest provisions under Article 19 of the constitution.

A right to information response by the Ministry of Electronics and Information Technology in 2017 revealed that at least 20,030 websites were blocked at that time. The government proposed rules in February that would give it broad latitude to demand content removal from social media sites, which civil society organizations felt could be used to stifle free speech.

Libel/Slander Laws: Individuals continued to be charged with posting offensive or derogatory material on social media.

Several individuals in Telangana were either arrested or disciplined during the year for making or posting critical comments through videos and social media platforms about Chief Minister K. Chandrashekhara Rao and other leaders of the ruling Telangana Rashtra Samithi Party. On April 24, Telangana police arrested Thagaram Naveen for producing and sharing a derogatory video about Rao. On April 30, Hyderabad police arrested Chirpa Naresh for posting abusive comments and sharing morphed images of Rao and then member of parliament K. Kavitha.

On May 25, police arrested tribal rights activist and academic Jeetrai Hansda for a Facebook post defending his community’s right to eat beef. Hansda was arrested in response to a complaint filed in 2017 by the Hindu nationalist students’ organization ABVP under charges that he violated sections of the Indian Penal

issue summonses and compel testimony, produce documentation, and requisition public records. The NHRC also recommends appropriate remedies for abuses in the form of compensation to the victims or their families.

The NHRC has neither the authority to enforce the implementation of its recommendations nor the power to address allegations against military and paramilitary personnel. Human rights groups claimed these limitations hampered the work of the NHRC. Some human rights NGOs criticized the NHRC's budgetary dependence on the government and its policy of not investigating abuses that are older than one year. Some claimed the NHRC did not register all complaints, dismissed cases arbitrarily, did not investigate cases thoroughly, rerouted complaints back to the alleged violator, and did not adequately protect complainants.

Of 28 states, 24 have human rights commissions, which operated independently under the auspices of the NHRC. In six states, the position of chairperson remained vacant. Some human rights groups alleged local politics influenced state committees, which were less likely to offer fair judgments than the NHRC. In the course of its nationwide evaluation of state human rights committees, the Human Rights Law Network (HRLN) observed most state committees had few or no minority, civil society, or female representatives. The HRLN claimed the committees were ineffective and at times hostile toward victims, hampered by political appointments, understaffed, and underfunded.

The Jammu and Kashmir commission does not have the authority to investigate alleged human rights violations committed by members of paramilitary security forces. The NHRC has jurisdiction over all human rights violations, except in certain cases involving the army. The NHRC has authority to investigate cases of human rights violations committed by the MHA and paramilitary forces operating under the Armed Forces Special Powers Act (AFSPA) in the northeast states and in Jammu and Kashmir. According to the 2018 OHCHR *Report on the Human Rights Situation in Kashmir*, there has been no prosecution of armed forces personnel in the nearly 28 years that the AFSPA has been in force in Jammu and Kashmir.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: The law criminalizes rape in most cases, although marital rape is not illegal when the woman is older than 15. Official statistics pointed to rape as one of the country's fastest-growing crimes, prompted at least in part by the increasing willingness of victims to report rapes, although observers believed the number of rapes remained vastly underreported. According to one study, based on the government's National Family Health Survey, an estimated 99 percent of rape cases went unreported.

Law enforcement and legal recourse for rape victims were inadequate, and the judicial system was overtaxed and unable to address the problem effectively. Police sometimes worked to reconcile rape victims and their attackers; in some cases they encouraged female rape victims to marry their attackers. The NGO International Center for Research on Women noted that low conviction rates in rape cases was one of the main reasons sexual violence continued unabated. The NGO Lawyers Collective noted the length of trials, lack of victim support, and inadequate protection of witnesses and victims remained major concerns. Doctors continued to carry out an invasive "two-finger test" to speculate on sexual history, despite the Supreme Court's ruling that the test violated a victim's right to privacy.

Incidents of rape continued to be a persistent problem, including gang rape, rape of minors, and rape by government officials. On July 12, the NHRC notified the government of Haryana of the alleged rape of a student by her teacher in Haryana's Panipat District. The teacher threatened the girl to keep quiet after she became pregnant. Police were conducting an investigation.

In August 2018 parliament passed the Criminal Law (Amendment) Bill to increase the minimum mandatory punishments for rape from seven years' to 10 years' imprisonment. The minimum sentence for the rape of a girl younger than 16 increased from 10 years' to between 20 years' and life imprisonment; the minimum sentence of gang rape of a girl younger than 12 was punishable by either life imprisonment or the death penalty. On February 19, the MHA launched the Investigation Tracking System for Sexual Offences, an online analytic tool for states and union territories to monitor and track time-bound investigations in sexual assault cases in accordance with Criminal Law (Amendment) Act 2018.

Incidents of gang rape of minors remained prevalent. On June 9, six individuals, including four police officials, were convicted for a 2018 gang rape and murder of a girl in Jammu and Kashmir. Another accused was a minor and is to be tried in a juvenile court.

On November 28, the burned body of a woman was found in Shadnagar, a town in Telangana State. The woman, a 27-year-old veterinary student, had been approached by a group of men in Hyderabad when her motorbike had a flat tire. The men agreed to assist her and lured her to a secluded spot where they gang-raped and killed her. Her body was subsequently wrapped in a blanket, doused with kerosene, and set ablaze in an underpass. Four men were arrested on November 28. Nationwide protests erupted in response to the incident, calling for an end to violence against women, and in some cases, protesters asked for the accused to be handed over to them. On December 6, all four of the accused were shot and killed by police as they purportedly tried to flee during a crime scene reconstruction.

Women in conflict areas, such as in Jammu and Kashmir, the Northeast, Jharkhand, and Chhattisgarh, as well as vulnerable Dalit or tribal women, were often victims of rape or threats of rape. National crime statistics indicated Dalit women were disproportionately victimized compared with other caste affiliations. After the abrogation of Article 370 canceled the region's autonomy, removing provisions that blocked non-Kashmiris from owning land, Uttar Pradesh BJP Legislative Assembly member Vikram Saini was quoted as saying, "Muslim Party workers should rejoice in the new provisions. They can now marry the white-skinned women of Kashmir." Media reports related instances of soldiers threatening Kashmiri families with taking away their daughters for marriage.

Domestic violence continued to be a problem. The latest available NCRB data estimated the conviction rate for crimes against women was 23 percent. Acid attacks against women continued to cause death and permanent disfigurement. In February 2018 the Delhi government announced it would cover 100 percent of the medical expenses for victims of acid attacks in all private hospitals within the National Capital Territory of Delhi. In May 2018 the Supreme Court approved assistance for victims of acid attacks under the Compensation Scheme for Women Victims, Survivors of Sexual Assault, and Other Crimes 2018. The scheme outlined a maximum assistance of 800,000 rupees (\$11,500) for injuries from acid attacks.

The government made efforts to address the safety of women. In August 2018 the minister of state for women and child development told the lower house of parliament the government allocated 29 billion rupees (\$410 million) toward enhancing women's safety in eight cities, including New Delhi, Mumbai, and Chennai. Projects included increased surveillance technology, capacity building, and awareness campaigns. In August the Tamil Nadu government began the

“Amma Patrol,” a dedicated 40-vehicle unit to provide rapid response to prevent violence against women and girls. The state cofunds the program with the Ministry of Women and Child Development and the MHA.

On June 28, the minister for women and child development, Smriti Irani, told the lower house of parliament that 462 one-stop crisis centers for women were set up during the previous three years, including 291 since 2018. More than 220,000 women sought support from the centers. The centers provide medical, legal, counseling, and shelter services for women facing violence. In September 2018 the government launched an online National Database on Sexual Offenders. The registry included accused and convicted sexual offenders. Only police and legal authorities had access to data.

On April 23, the Supreme Court directed the Gujarat government to pay five million rupees (\$70,400) compensation to Bilkis Bano, a rape survivor of the Gujarat 2002 riots. During the communal riots, a pregnant Bano was gang-raped, and 14 members of her family, including her two-year old daughter and mother, were killed. After the court trial, the 12 persons accused were convicted and sentenced to life imprisonment. On September 30, the Supreme Court gave the Gujarat government two weeks to pay Bano, besides providing her a job and government accommodation. The court passed the order after it was apprised by Bano’s legal counsel that the amount had not been paid to her, despite the court’s April order.

The Muslim Women (Protection of Rights on Marriage) Bill 2019 banned the practice of “triple *talaq*” or instant divorce effective August 1. Some women seeking relief under this law experienced domestic violence. For example, on August 19, a 22-year-old woman in Shravasti District of Uttar Pradesh was burned alive by her husband and in-laws for approaching police after the man gave the woman “triple *talaq*.” Criminal charges were filed against the family on August 22.

Female Genital Mutilation/Cutting (FGM/C): No national law addresses the practice of FGM/C. According to human rights groups and media reports, between 70 and 90 percent of Dawoodi Bohras, a population of approximately one million concentrated in the states of Maharashtra, Gujarat, Rajasthan, and Delhi, practiced FGM/C.

In July 2018 the Supreme Court heard a public interest case seeking to ban the practice of FGM/C. The government, represented by Attorney General K. K.

Venugopal, told the court that it supports the petitioners' plea that the practice be punishable under the provisions of the Indian Penal Code and the Protection of Children from Sexual Offenses Act. Days after a September 2018 meeting between the prime minister and the spiritual head of the Dawoodi Bohra community, who supports the practice of FGM/C, the government reportedly reversed its position, and the attorney general stated the matter should be referred to a five-member panel of the Supreme Court to decide on the issue of religious rights and freedom.

Other Harmful Traditional Practices: The law forbids the acceptance of marriage dowry, but many families continued to offer and accept dowries, and dowry disputes remained a serious problem. NCRB data showed that authorities arrested 20,545 persons for dowry deaths in 2016. Most states employed dowry prohibition officers. A 2010 Supreme Court ruling makes it mandatory for all trial courts to charge defendants in dowry-death cases with murder.

“Sumangali schemes” affected an estimated 120,000 young women. This labor scheme, named after the Tamil word for “happily married woman,” is a form of bonded labor in which young women or girls work to earn money for a dowry to be able to marry. The promised lump-sum compensation is normally withheld until the end of a contractual agreement to work three to five years of employment and sometimes goes partially or entirely unpaid. While in bonded labor, employers reportedly subjected women to serious workplace abuses, including severe restrictions on freedom of movement and communication, sexual abuse, sexual exploitation, and sex trafficking.

So-called honor killings remained a problem, especially in Punjab, Uttar Pradesh, and Haryana; they were usually attributable to the victim's marrying against his or her family's wishes. In March 2018 the Supreme Court ordered state governments to identify districts, subdivisions, and villages that witnessed incidents of honor killings to take remedial, preventive, and punitive measures to stop these crimes. In addition, the Supreme Court ruled that state governments must create special cells in all districts for individuals to report harassment and threats to couples of intercaste marriage.

On August 27, a court issued Kerala's first-ever conviction in an honor-killing case and sentenced 10 individuals to “double imprisonment” for the killing of a 24-year-old Dalit, Christian Kevin Joseph. The man had eloped with a woman from another caste and married her despite her family's rejection of the relationship. The woman's brother was among those convicted, while her father was among four

others acquitted for lack of evidence. In its ruling the court noted the continuing prevalence of caste prejudice in Indian society.

There were reports women and girls in the *devadasi* system of symbolic marriages to Hindu deities (a form of so-called “ritual prostitution”) were victims of rape or sexual abuse at the hands of priests and temple patrons, including sex trafficking. NGOs suggested families exploited some girls from lower castes in sex trafficking in temples to mitigate household financial burdens and the prospect of marriage dowries. Some states have laws to curb sex trafficking and sexual abuse of women and girls in temple service. Enforcement of these laws remained lax, and the problem was widespread. Some observers estimated more than 450,000 women and girls were exploited in temple-related prostitution.

On August 20, the Andhra Pradesh High Court acting chief justice, C. Praveen Kumar, expressed concern over the poor implementation of the Andhra Pradesh Devadasi (Prohibition of Dedication) Act, 1988, noting that there were no convictions in the state under the act. In Telangana, about 2,000 women remained bound under the *Jogini* system, as the devadasi system is known in the state.

No federal law addresses accusations of witchcraft; however, authorities may use other legal provisions as an alternative for a victim accused of witchcraft. Most reports stated villagers and local councils usually banned those accused of witchcraft from the village. Bihar, Odisha, Chhattisgarh, Rajasthan, Assam, and Jharkhand have laws criminalizing persons who accuse others of witchcraft. In 2018 a total of 73 cases of witchcraft, including 18 deaths, were reported from Odisha.

On March 17, Adarmani Hansda, a tribal woman from Ishwarpur village in West Bengal, was killed and four others injured after a village court accused them of practicing witchcraft. According to media reports, Hansda allegedly used “black magic” to cause several individuals to become ill in the village. Police rescued the four other women and admitted them to the hospital.

Sexual Harassment: Sexual harassment remained a serious problem. Authorities required all state departments and institutions with more than 50 employees to operate committees to prevent and address sexual harassment, often referred to as “eve teasing.” By law sexual harassment includes one or more unwelcome acts or behavior, such as physical contact, a request for sexual favors, making sexually suggestive remarks, or showing pornography. Employers who fail to establish complaint committees face fines of up to 50,000 rupees (\$700).

Coercion in Population Control: There were reports of coerced and involuntary sterilization. The government has promoted female sterilization as a form of family planning for decades and, as a result, it made up 86 percent of contraceptive use in the country. Some women, especially poor and lower-caste women, reportedly were pressured by their husbands and families to have tubal ligations or hysterectomies. The government provided monetary compensation for the wage loss, transportation costs, drugs and dressing, and follow-up visits to women accepting contraceptive methods, including voluntary sterilization. There were no formal restrictions on access to other forms of family planning; however, despite recent efforts to expand the range of contraceptive choices, voluntary sterilization remained the preferred method due to the costs and limited availability of alternative contraceptive choices.

Policies penalizing families with more than two children remained in place in seven states, but some authorities did not enforce them. There were reports that these policies created pressure on women with more than two children to use contraception, including permanent methods such as sterilization, or even termination of subsequent pregnancies. Certain states maintained government reservations for government jobs and subsidies for adults with no more than two children and reduced subsidies and access to health care for those who have more than two. According to the NGO Lawyers Collective, such policies often induced families to carry out sex selection for the second birth to assure they have at least one son without sacrificing future eligibility for political office.

To counter sex selection, almost all states introduced “girl child promotion” schemes to promote the education and well-being of girls, some of which required a certificate of sterilization for the parents to collect benefits.

Discrimination: The law prohibits discrimination in the workplace and requires equal pay for equal work, but employers reportedly often paid women less than men for the same job, discriminated against women in employment and credit applications, and promoted women less frequently than men.

Many tribal land systems, including in Bihar, deny tribal women the right to own land. Other laws or customs relating to the ownership of assets and land accord women little control over land use, retention, or sale.

Gender-biased Sex Selection: According to the most recent census (2011), the national average male-female sex ratio at birth was 106 to 100. On June 27,

Minister for Women and Child Development Smriti Irani informed the upper house of parliament that reports from the Health Management Information System of the Ministry of Health and Family Welfare revealed the male/female sex ratio at birth improved from 108.3 to 100 to 107.4 to 100. The law prohibits prenatal sex selection, but authorities rarely enforced it. In March 2018 the government announced the expansion of the Beti Bachao Beti Padhao (Save the Daughter, Educate the Daughter) project in all 640 districts across the country. The Ministry of Finance, also in 2018, issued a report that indicated 63 million women were statistically “missing” due to sex-selective abortions. The government launched the program in 2015 to prevent gender-biased sex selection, promote female education, and ensure the survival and protection of girls. Government data revealed sex ratio at birth showed improving trends in 104 out of 161 districts between 2015 and 2017. In January media outlets quoted government figures declared in parliament by Minister of State for Women and Child Development Virendra Kumar to report that more than 56 percent of funds for the program were utilized in media and advertisement-related activities, and less than 25 percent were distributed to states and districts for program implementation. The reports alleged the government failed to release more than 19 percent of the funds.

According to media reports, the taboo and fear of giving birth to a girl child drove some women toward sex-selective abortion or attempts to sell the baby. Dowry, while illegal, carried a steep cost, sometimes bankrupting families. Women and girl children were ostracized in some tribal communities.

In July the Uttarakhand government ordered a probe after media reports highlighted that not a single girl child was born among 65 children in 16 villages in the last six months. Authorities suspected that health facilities were conducting illegal sex determination tests and abortions.

Children

Birth Registration: The law establishes state government procedures for birth registration. UNICEF estimated authorities registered 58 percent of national births each year. Children lacking citizenship or registration may not be able to access public services, enroll in school, or obtain identification documents later in life.

Education: The constitution provides free education for all children from ages six to 14, with a compulsory education age up through age 15, but the government did not always comply with this requirement. The World Economic Forum’s 2018 *Gender Gap Report* revealed that enrollment rates for both male and female

of employment during 2017-2018, 105 persons secured employment in 2018-2019. According to state government officials, a coordinator has been appointed at different levels of administration in each district to work toward increasing the participation of persons with disabilities and other vulnerable groups in the MGNREGA program.

National/Racial/Ethnic Minorities

The constitution prohibits caste discrimination. The registration of castes and tribes continued for the purpose of affirmative action programs, as the federal and state governments continued to implement programs for members of lower-caste groups to provide better-quality housing, quotas in schools, government jobs, and access to subsidized foods. Data published in the UN's 2019 *Multidimensional Poverty Index* showed a "positive trend" between 2006 and 2016 that lifted 271 million people out of poverty. Previous reports showed Muslims, members of the Scheduled Tribes, and Dalits experienced the greatest reduction in poverty. Discrimination based on caste, however, remained prevalent, particularly in rural areas. Critics claimed many of the programs to assist the lower castes suffered from poor implementation, corruption, or both.

The term *Dalit*, derived from Sanskrit for "oppressed" or "crushed," refers to members of what society regarded as the lowest of the Scheduled Castes (SC). According to the 2011 census, SC members constituted 17 percent of the population (approximately 200 million persons).

Although the law protects Dalits, there were numerous reports of violence and significant discrimination in access to services, such as health care and education, access to justice, freedom of movement, access to institutions such as temples, and marriage. Many Dalits were malnourished. Most bonded laborers were Dalits, and those who asserted their rights were often victims of attacks, especially in rural areas. As agricultural laborers for higher-caste landowners, Dalits reportedly often worked without monetary remuneration. Reports from the UN Committee on the Elimination of Racial Discrimination described systematic abuse of Dalits, including extrajudicial killings and sexual violence against Dalit women. Crimes committed against Dalits reportedly often went unpunished, either because authorities failed to prosecute perpetrators or because victims did not report crimes due to fear of retaliation.

Dalit rights activists in Telangana decried the role that village development committees (VDCs) played in the state. Activists alleged that upper-caste

individuals--who controlled most VDCs, which acted as parallel institutions to democratically elected village councils--often resorted to social boycott of Dalits who questioned decisions taken by the VDCs. According to a February 25 news report, Dalits of a village in Nizamabad District faced social boycott for 62 days on the orders of a VDC dominated by upper-caste individuals. The VDC ordered the boycott following a dispute over construction of a library on a piece of land given to the Dalits.

A study conducted by researchers at the University of California, Berkeley, found home-based garment workers consisted almost entirely of women and girls from historically oppressed ethnic communities and earned approximately 10 rupees (\$0.15) per hour. Titled *Tainted Garments: The Exploitation of Women and Girls in India's Home-based Garment Sector*, the study found about 99.3 percent of the workers were Muslims or belonged to Scheduled Castes and received no medical care when injured at work. The research was based on interactions with 1,452 home-based garment workers in parts of northern and southern India from October 2017 to April 2018.

NGOs reported Dalit students were sometimes denied admission to certain schools because of their caste, required to present caste certification prior to admission, barred from morning prayers, asked to sit in the back of the class, or forced to clean school toilets while being denied access to the same facilities. There were also reports teachers refused to correct the homework of Dalit children, refused to provide midday meals to Dalit children, and asked Dalit children to sit separately from children of upper-caste families.

Manual scavenging--the removal of animal or human waste by Dalits--continued despite its legal prohibition. HRW reported that children of manual scavengers faced discrimination, humiliation, and segregation at village schools. Their occupation often exposed manual scavengers to infections that affected their skin, eyes, respiratory, and gastrointestinal systems. Health practitioners suggested children exposed to such bacteria were often unable to maintain a healthy body weight and suffered from stunted growth.

On June 14, seven persons, including four sanitation workers, died of asphyxiation while cleaning a septic tank in a hotel in Dabhoi town of Vadodara District in Gujarat. Police arrested the hotel owner on charges of murder and violation of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act. The Gujarat government announced financial assistance for the families of the victims.

Indigenous People

The constitution provides for the social, economic, and political rights of disadvantaged groups of indigenous persons. The law provides special status for indigenous individuals, but authorities often denied them their rights.

In most of the northeastern states, where indigenous groups constituted the majority of the states' populations, the law provides for tribal rights, although some local authorities disregarded these provisions. The law prohibits any nontribal person, including citizens from other states, from crossing a government-established inner boundary without a valid permit. No one may remove rubber, wax, ivory, or other forest products from protected areas without authorization. Tribal authorities must also approve the sale of land to nontribal persons.

On February 13, the Supreme Court ordered the eviction of forest dwellers in 21 states. Media reported more than 1.3 million land claims, each potentially representing a household, had been rejected. Experts estimated that the legal order could result in more than eight million tribal people leaving forest areas that their ancestors have inhabited for centuries. The Supreme Court later stayed the eviction order until November 26 and ordered the 21 states to file affidavits with details on how they had processed claims.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

In September 2018 the Supreme Court decriminalized same-sex relations in a unanimous verdict. Activists welcomed the verdict but stated it was too early to determine how the verdict would translate into social acceptance, including safe and equal opportunities at workspaces and educational institutions.

Lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons faced physical attacks, rape, and blackmail. LGBTI groups reported they faced widespread societal discrimination and violence, particularly in rural areas. Activists reported that transgender persons continued to face difficulty obtaining medical treatment. Some police committed crimes against LGBTI persons and used the threat of arrest to coerce victims not to report the incidents. With the aid of NGOs, several states offered education and sensitivity training to police.

On August 28, the Tamil Nadu state government issued an order banning sex-reassignment surgeries on intersex infants and children, except under life-threatening circumstances. The order follows a ruling from the Madras High Court in April, in which the court observed that a parent's consent could not be considered the consent of the child. The April ruling acknowledged a World Health Organization report, which referred to sex-reassignment surgery of intersex individuals as "intersex genital mutilation." As part of the court direction, Tamil Nadu's director of medical education has to constitute a four-member committee to assess individual cases before determining whether reassignment surgery falls under the life-threatening circumstances exception.

Three transgender candidates contested the elections to the Odisha state legislature in April. Although none of them won, activists stated their presence was a step forward in the political empowerment of the transgender community after the 2014 Supreme Court verdict recognized the transgender community.

HIV and AIDS Social Stigma

The number of new HIV cases decreased by 57 percent over the past decade. According to official government records, there were 191,493 newly diagnosed cases in 2017. The epidemic persisted among the most vulnerable and high-risk populations that include female sex workers, men who have sex with men, transgender persons, and persons who inject drugs. UNAIDS 2018 data indicated that new HIV infections were declining among sex workers and men who have sex with men, although stigma related to key populations continued to limit their access to HIV testing and treatment. The data showed 79 percent of individuals were aware of their HIV status and that 71 percent living with HIV were on HIV treatment.

The National AIDS Control Program prioritized HIV prevention, care, and treatment interventions for high-risk groups and advocated for the rights of persons living with HIV. Antiretroviral drug stock outages in a few states led to treatment interruption. The National AIDS Control Organization worked actively with NGOs to train women's HIV/AIDS self-help groups. Police engaged in programs to strengthen their role in protecting communities vulnerable to human rights violations and HIV.

In September 2018 the Ministry of Health announced the creation of rules to implement the HIV and AIDS (Prevention and Control) Bill, 2017 in response to a public interest litigation filed with the Delhi High Court. The bill was designed to

prevent discrimination in health care, employment, education, housing, economic participation, and political representation for those with HIV and AIDS.

Other Societal Violence or Discrimination

Societal violence based on religion and caste and by religiously associated groups continued to be a serious concern. Muslims and lower-caste Dalit groups continued to be the most vulnerable. MHA data for 2016-2017 showed that 703 incidents of communal (religious) violence occurred in which 86 persons were killed and 2,321 injured. According to the NHRC, there were 672 cases of discrimination and victimization against Scheduled Castes and 79 cases against minorities in 2018-2019.

On June 18, a mob attacked 24-year-old Tabrez Ansari in Jharkhand for allegedly stealing a motorcycle. The police rescued Ansari from the mob, but he died of his injuries in the hospital. The police arrested 11 persons and suspended two police officials, but police dropped murder charges against the accused, contending that Ansari had died of cardiac arrest due to stress. In September, after allegations of attempted tampering of the case, police reversed their request and submitted supplementary charges in September, seeking punishment for the accused.

On July 17, the Madhya Pradesh state assembly passed the Anti-Cow Slaughter Amendment Act of 2019 that includes imprisonment of six months to three years and a fine of 25,000-50,000 rupees (\$350-\$700) for those convicted of committing violence in the name of cow protection. The amended law allows cattle transportation from Madhya Pradesh to other states with special permission, a reversal from earlier provisions.

Media outlets reported more than 20 instances of mob lynching of individuals believed to be child abductors. On August 27, two brothers taking their nephew to a doctor were attacked by a mob in Sambhal, Uttar Pradesh, on the suspicion of being child abductors. One of the men died in the attack. Police arrested five persons who led the attack.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right to form and join unions and to bargain collectively, although there is no legal obligation for employers to recognize a union or engage

in collective bargaining. In the state of Sikkim, trade union registration was subject to prior permission from the state government. The law limits the organizing rights of federal and state government employees.

The law provides for the right to strike but places restrictions on this right for some workers. For instance, in export processing zones (EPZs), a 45-day notice is required because of the EPZs' designation as a "public utility." The law also allows the government to ban strikes in government-owned enterprises and requires arbitration in specified "essential industries." Definitions of essential industries vary from state to state. The law prohibits antiunion discrimination and retribution for involvement in legal strikes and provides for reinstatement of employees fired for union activity. In October, 48,000 workers of the Telangana State Road Transport Corporation (TSRTC) went on strike. The unions were demanding that the TSRTC be merged with the state government, so workers were able to obtain full benefits. After almost 45 days, the transport workers returned to work with no resolutions reached between labor unions and the state government of Telangana State.

Enforcement of the law varied from state to state and from sector to sector. Enforcement was generally better in the larger, organized-sector industries. Authorities generally prosecuted and punished individuals responsible for intimidation or suppression of legitimate trade union activities in the industrial sector. Civil judicial procedures addressed abuses because the Trade Union Act does not specify penalties for such abuses. Specialized labor courts adjudicate labor disputes, but there were long delays and a backlog of unresolved cases.

Employers generally respected freedom of association and the right to organize and bargain collectively in the formal industrial sector but not in the larger, informal economy. Most union members worked in the formal sector, and trade unions represented a small number of agricultural and informal-sector workers. Membership-based organizations, such as the Self-Employed Women's Association, successfully organized informal-sector workers and helped them to gain higher payment for their work or products.

An estimated 80 percent of unionized workers were affiliated with one of the five major trade union federations. Unions were independent of the government, but four of the five major federations were associated with major political parties.

State and local authorities occasionally used their power to declare strikes illegal and force adjudication. Labor groups reported that some employers continued to

refuse to recognize established unions, and some, instead, established “workers’ committees” and employer-controlled unions to prevent independent unions from organizing. EPZs often employed workers on temporary contracts. Additionally, employee-only restrictions on entry to the EPZs limited union organizers’ access.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, but forced labor, including bonded labor for both adults and children (see section 7.c.), remained widespread.

Enforcement and compensation for victims is the responsibility of state and local governments and varied in effectiveness. The government generally did not effectively enforce laws related to bonded labor or labor-trafficking laws, such as the Bonded Labor System (Abolition) Act. On August 27, the Madras High Court found a rice mill owner guilty of holding six workers, including three women, under bondage in his mill, and the court sentenced the owner to a three-year prison term. The workers were each awarded compensation of 50,000 rupees (\$700). When inspectors referred violations for prosecution, court backlogs, inadequate preparation, and a lack of prioritization of the cases by prosecuting authorities sometimes resulted in acquittals. In addition, when authorities did report violations, they sometimes reported them to civil courts to assess fines and did not refer them to police for criminal investigation of labor trafficking.

Penalties under law varied based on the type of forced labor and included fines and prison terms; not all were sufficiently stringent. For example, bonded labor was specifically criminalized under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, which prescribes sufficiently stringent penalties, and the Bonded Labor System (Abolition) Act, which prescribes penalties that were not sufficiently stringent.

The Ministry of Labor and Employment reported the federally funded, state-run Centrally Sponsored Scheme assisted in the release of 2,289 bonded laborers during the period from April through December 2018. Many NGOs reported delays of more than one year in obtaining release certificates for rescued bonded laborers. Such certificates were required to certify that employers had held them in bondage and entitled them to compensation under the law. The NGOs also reported that in some instances, they failed to obtain release certificates for bonded laborers at all. The distribution of initial rehabilitation funds was uneven across states. The majority of bonded labor victim compensation cases remained tied to a

criminal conviction of bonded labor. As authorities often registered bonded labor cases as civil salary violations in lieu of bonded labor, convictions of the traffickers and full compensation for victims remained rare.

Estimates of the number of bonded laborers varied widely. Media reports estimated the number at 18 million workers in debt bondage. Most bonded labor occurred in agriculture. Nonagricultural sectors with a high incidence of bonded labor were stone quarries, brick kilns, rice mills, construction, embroidery factories, and *beedi* (hand-rolled cigarettes) production.

Bonded labor continued to be a concern in many states.

On August 19, police and civil officials in Kolar District of Karnataka rescued 10 tribal workers, including two girls and a boy, from a construction site. Nine of the 10 rescued persons belonged to two families and had worked as bonded laborers for three years. State officials stated that the workers were denied wages to account for a loan of 60,000 rupees (\$845) each that they took from labor agents. In Tamil Nadu release certificates were not handed to bonded labor from Odisha, who were rescued from Tiruvallur District in 2018. This deprived them of interim compensation and rehabilitation.

Bonded laborers from Odisha were rescued from brick kilns in Andhra Pradesh and Karnataka during the year. In March, 96 workers were rescued in Koppal and Yadgir Districts of Karnataka, while 40 workers, including nine children, were rescued in Krishna District of Andhra Pradesh in April.

Scheduled Caste and Scheduled Tribe members lived and worked under traditional arrangements of servitude in many areas of the country. Although the central government had long abolished forced labor servitude, these social groups remained impoverished and vulnerable to forced exploitation, especially in Arunachal Pradesh.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

All of the worst forms of child labor were prohibited. The law prohibits employment of children younger than 14. The law also prohibits the employment of children between the ages of 14 and 18 in hazardous work. Children are

prohibited from using flammable substances, explosives, or other hazardous material, as defined by the law. In 2017 the Ministry of Labor and Employment added 16 industries and 59 processes to the list of hazardous industries where employment of children younger than 18 is prohibited, and where children younger than 14 are prohibited from helping, including family enterprises. Despite evidence that children work in unsafe and unhealthy environments for long periods of time in spinning mills, garment production, carpet making, and domestic work, not all children younger than 18 are prohibited from working in occupations related to these sectors. The law, however, permits employment of children in family-owned enterprises involving nonhazardous activities after school hours. Nevertheless, child labor remained widespread.

Law enforcement agencies took actions to combat child labor. State governments enforced labor laws and employed labor inspectors, while the Ministry of Labor and Employment provided oversight and coordination. Nonetheless, gaps existed within the operations of the state government labor inspectorate that might have hindered adequate labor law enforcement. Violations remained common. The law establishes penalties that are insufficient to deter violations, and authorities sporadically enforced them. The fines collected are deposited in a welfare fund for formerly employed children.

The Ministry of Labor and Employment coordinated its efforts with states to raise awareness about child labor by funding various outreach events, such as plays and community activities.

The majority of child labor occurred in agriculture and the informal economy, in particular in stone quarries, in the rolling of cigarettes, and in informal food service establishments. Commercial sexual exploitation of children occurred (see section 6, Children).

In July, Telangana police rescued 67 children younger than 14, all hailing from Bihar, from bangle-making factories in Hyderabad. Six persons were arrested. The children were locked in a tiny room and lived in inhuman conditions, besides being made to work for nearly 17 hours a day. The children were given “release certificates” recognizing them as bonded laborers, which qualified them to receive 25,000 rupees (\$350) as interim relief and 300,000 rupees (\$4,200) as compensation. The children were sent back to Bihar in August.

During Operation Smile in July, Telangana police and other government officials rescued 3,470 children from bonded labor and begging schemes. Police fined 431

employers 1.87 million rupees (\$26,300) and registered cases against seven employers. It was unclear if police filed any trafficking or bonded labor charges.

In August the International Labor Organization commenced a three-year project in partnership with the Telangana government covering the entire cotton supply chain from farm to factory, to identify the presence of child labor, bonded labor, and gender discrimination.

In Telangana, local groups cited flaws in the implementation of a bridge-school program meant for rescued child laborers under the government's National Child Labor Project, noting that the state has no way of knowing if rescued child laborers have dropped out of school and returned to work. State government officials agreed that, following the 2016 amendments to the Child Labor (Prohibition and Regulation) Act, 1986, state surveys no longer identified the number of children working in family enterprises, bonded labor, and nonhazardous work environments.

Forced child labor, including bonded labor, also remained a serious problem. Employers engaged children in forced or indentured labor as domestic servants and beggars, as well as in quarrying, brick kilns, rice mills, silk-thread production, and textile embroidery.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings> and the Department of Labor's *List of Goods Produced by Child Labor or Forced Labor* at <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>.

d. Discrimination with Respect to Employment and Occupation

Provisions in the constitution and various laws and regulations prohibit discrimination based on race, sex, gender, disability, language, sexual orientation, gender identity, or social status with respect to employment and occupation. A separate law prohibits discrimination against individuals suffering from HIV/AIDS. The law does not prohibit discrimination against individuals with communicable diseases or based on color, religion, political opinion, national origin, or citizenship.

The government effectively enforced the law and regulations within the formal sector. Penalties were not sufficient to deter violations. The law and regulations, however, do not protect those working within the informal sector (industries and

establishments that do not fall under the purview of the Factories Act), who made up an estimated 90 percent of the workforce.

Discrimination occurred in the informal sector with respect to Dalits, indigenous persons, and persons with disabilities. Gender discrimination with respect to wages was prevalent. Foreign migrant workers were largely undocumented and typically did not enjoy the legal protections available to workers who are nationals of the country.

e. Acceptable Conditions of Work

Federal law sets safety and health standards, but state government laws set minimum wages, hours of work, and additional state-specific safety and health standards. The daily minimum wage varied but was more than the official estimate of poverty-level income. State governments set a separate minimum wage for agricultural workers. Laws on wages, hours, and occupational health and safety do not apply to the large informal sector. On December 9, a building fire in New Delhi killed 43 persons. The building did not have appropriate fire licenses and was illegally operating as a factory.

The law mandates a maximum eight-hour workday and 48-hour workweek as well as safe working conditions, which include provisions for restrooms, cafeterias, medical facilities, and ventilation. The law mandates a minimum rest period of 30 minutes after every four hours of work and premium pay for overtime, but it does not mandate paid holidays. The law prohibits compulsory overtime, but it does not limit the amount of overtime a worker can perform. Occupational safety and health standards set by the government were generally up to date and covered the main industries in the country.

State governments are responsible for enforcing minimum wages, hours of work, and safety and health standards. The number of inspectors generally was insufficient to enforce labor law. State governments often did not effectively enforce the minimum wage law for agricultural workers. Enforcement of safety and health standards was poor, especially in the informal sector, but also in some formal-sector industries. Penalties for violation of occupational safety and health standards were not sufficient to deter violations.

Violations of wage, overtime, and occupational safety and health standards were common in the informal sector. Small, low-technology factories frequently exposed workers to hazardous working conditions. Undocumented foreign

workers did not receive basic occupational health and safety protections. In many instances workers could not remove themselves from situations that endangered health or safety without jeopardizing their employment.

On April 10, a total of 10 female workers employed under the National Rural Employment Guarantee Act program in the Narayanpet District of Telangana died in a landslide. Civil society activists cited unsafe work conditions as leading to the fatal accident, noting that the workers were resting in the shade of a mud mound, which collapsed and killed them. The Telangana government announced that cash compensation, housing, employment, and education would be provided to the immediate family members of the deceased.

At least 50 individuals died cleaning sewers in the first six months of the year, according to data collated by the National Commission for *Safai Karamcharis* (manual waste workers). The data covered 15 states, and it cited 620 such cases from 1993 to June 2019, with 144 deaths in Tamil Nadu, 131 in Gujarat, and 75 in Karnataka.

On April 28, two persons died of asphyxiation while cleaning a contaminated well in Bengaluru. The police arrested three individuals for “culpable homicide” under the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013.

EXHIBIT 2

ARTICLE

India's "Untouchables" Face Violence, Discrimination

More than 160 million people in India are considered "Untouchable"—people tainted by their birth into a caste system that deems them impure, less than human.

BY HILLARY MAYELL

PUBLISHED JUNE 2, 2003

More than 160 million people in India are considered "Untouchable"—people tainted by their birth into a caste system that deems them impure, less than human.

Human rights abuses against these people, known as Dalits, are legion. A random sampling of headlines in mainstream Indian newspapers tells their story: "Dalit boy beaten to death for plucking flowers"; "Dalit tortured by cops for three days"; "Dalit 'witch' paraded naked in Bihar"; "Dalit killed in lock-up at Kurnool"; "7 Dalits burnt alive in caste clash"; "5 Dalits lynched in Haryana"; "Dalit woman gang-raped, paraded naked"; "Police egged on mob to lynch Dalits".

"Dalits are not allowed to drink from the same wells, attend the same temples, wear shoes in the presence of an upper caste, or drink from the same cups in tea stalls," said Smita Narula, a senior researcher with Human Rights Watch, and author of *Broken People: Caste Violence Against India's "Untouchables."* Human Rights Watch is a worldwide activist organization based in New York.

India's Untouchables are relegated to the lowest jobs, and live in constant fear of being publicly humiliated, paraded naked, beaten, and raped with impunity by upper-caste Hindus seeking to keep them in their place. Merely walking through an upper-caste neighborhood is a life-threatening offense.

Nearly 90 percent of all the poor Indians and 95 percent of all the illiterate Indians are Dalits, according to figures presented at the International Dalit Conference that took place May 16 to 18 in Vancouver, Canada.

Crime Against Dalits

Statistics compiled by India's National Crime Records Bureau indicate that in the year 2000, the last year for which figures are available, 25,455 crimes were committed against Dalits. Every hour two Dalits are assaulted; every day three Dalit women are raped, two Dalits are murdered, and two Dalit homes are torched.

No one believes these numbers are anywhere close to the reality of crimes committed against Dalits. Because the police, village councils, and government officials often support the caste system, which is based on the religious teachings of Hinduism, many crimes go unreported due to fear of reprisal, intimidation by police, inability to pay bribes demanded by police, or simply the knowledge that the police will do nothing.

"There have been large-scale abuses by the police, acting in collusion with upper castes, including raids, beatings in custody, failure to charge offenders or investigate reported crimes," said Narula.

That same year, 68,160 complaints were filed against the police for activities ranging from murder, torture, and collusion in acts of atrocity, to refusal to file a complaint. Sixty two percent of the cases were dismissed as unsubstantiated; 26 police officers were convicted in court.

Despite the fact that untouchability was officially banned when India adopted its constitution in 1950, discrimination against Dalits remained so pervasive that in 1989 the government passed legislation known as The Prevention of Atrocities Act. The act specifically made it illegal to parade people naked through the streets, force them to eat feces, take away their land, foul their water, interfere with their right to vote, and burn down their homes.

Since then, the violence has escalated, largely as a result of the emergence of a grassroots human rights movement among Dalits to demand their rights and resist the dictates of untouchability, said Narula.

Lack of Enforcement, Not Laws

Enforcement of laws designed to protect Dalits is lax if not non-existent in many regions of India. The practice of untouchability is strongest in rural areas, where 80 percent of the country's population resides. There, the underlying religious principles of Hinduism dominate.

Hindus believe a person is born into one of four castes based on karma and "purity"—how he or she lived their past lives. Those born as Brahmans are priests and teachers; Kshatriyas are rulers and soldiers; Vaisyas are merchants and traders; and Sudras are laborers. Within the four castes, there are thousands of sub-castes, defined by profession, region, dialect, and other factors.

Untouchables are literally outcastes; a fifth group that is so unworthy it doesn't fall within the caste system.

Although based on religious principles practiced for some 1,500 years, the system persists today for economic as much as religious reasons.

Because they are considered impure from birth, Untouchables perform jobs that are traditionally considered "unclean" or exceedingly menial, and for very little pay. One million Dalits work as manual scavengers, cleaning latrines and sewers by hand and clearing away dead animals. Millions more are agricultural workers trapped in an inescapable cycle of extreme poverty, illiteracy, and oppression.

Although illegal, 40 million people in India, most of them Dalits, are bonded workers, many working to pay off debts that were incurred generations ago, according to a report by Human Rights Watch published in 1999. These people, 15 million of whom are children, work under slave-like conditions hauling rocks, or working in fields or factories for less than U.S. \$1 day.

Crimes Against Women

Dalit women are particularly hard hit. They are frequently raped or beaten as a means of reprisal against male relatives who are thought to have committed some act worthy of upper-caste vengeance. They are also subject to arrest if they have male relatives hiding from the authorities.

A case reported in 1999 illustrates the toxic mix of gender and caste.

A 42-year-old Dalit woman was gang-raped and then burnt alive after she, her husband, and two sons had been held in captivity and tortured for eight days. Her crime? Another son had eloped with the daughter of the higher-caste family doing the torturing. The local police knew the Dalit family was being held, but did nothing because of the higher-caste family's local influence.

There is very little recourse available to victims.

A report released by Amnesty International in 2001 found an "extremely high" number of sexual assaults on Dalit women, frequently perpetrated by landlords, upper-caste villagers, and police officers. The study estimates that only about 5 percent of attacks are registered, and that police officers dismissed at least 30 percent of rape complaints as false.

The study also found that the police routinely demand bribes, intimidate witnesses, cover up evidence, and beat up the women's husbands. Little or nothing is done to prevent attacks on rape victims by gangs of upper-caste villagers seeking to prevent a case from being pursued. Sometimes the policemen even join in, the study suggests. Rape victims have also been murdered. Such crimes often go unpunished.

Thousands of pre-teen Dalit girls are forced into prostitution under cover of a religious practice known as *devadasis*, which means "female servant of god." The girls are dedicated or "married" to a deity or a temple. Once dedicated, they are unable to marry, forced to have sex with upper-caste community members, and eventually sold to an urban brothel.

Resistance and Progress

Within India, grassroots efforts to change are emerging, despite retaliation and intimidation by local officials and upper-caste villagers. In some states, caste conflict has escalated to caste warfare, and militia-like vigilante groups have conducted raids on villages, burning homes, raping, and massacring the people. These raids are sometimes conducted with the tacit approval of the police.

In the province Bihar, local Dalits are retaliating, committing atrocities also. Non-aligned Dalits are frequently caught in the middle, victims of both groups.

"There is a growing grassroots movement of activists, trade unions, and other NGOs that are organizing to democratically and peacefully demand their rights, higher wages, and more equitable land distribution," said Narula. "There has been progress in terms of building a human rights movement within India, and in drawing international attention to the issue."

In August 2002, the UN Committee for the Elimination of Racial Discrimination (UN CERD) approved a resolution condemning caste or descent-based discrimination.

"But at the national level, very little is being done to implement or enforce the laws," said Narula.

EXHIBIT 3

'Tell Everyone We Scalped You!' How Caste Still Rules in India

By Jeffrey Gettleman and Suhasini Raj

Nov. 17, 2018

THATI, India — When Sardar Singh Jatav set out walking on a muggy night in early September to talk with the men who employed his son, he found them already waiting for him in the road. But they were not in the mood for discussion.

The higher-caste men greeted Mr. Sardar with a punch to the face. Then they broke his arm. Then they pinned him down. Mr. Sardar shrieked for help. Nobody came.

One higher-caste man stuffed a rag in his mouth. Another gleefully pulled out a razor. He grabbed Mr. Sardar's scalp and began to lift and cut, lift and cut, carving off nearly every inch of skin.

"Take that!" Mr. Sardar remembers them saying. "Tell everyone we scalped you!"

Mr. Sardar is a Dalit, a class of Indians who are not just considered lower caste, but technically outcaste — what used to be called untouchable. Bound at the bottom of India's Hindu society for centuries, the Dalit population, now estimated at more than 300 million, has been abused for as long as anyone can remember.

And now, according to crime statistics, the violence against them is rising.

This might seem surprising against the new narrative India is writing. So much has changed. Millions of people have been lifted out of poverty. The Indian economy is now one of the world's biggest. Everywhere in the country, there are new roads, new airports, new infrastructure.

But in many places, especially in poorer rural areas, caste infrastructure is still the one that counts. And those who rebel against it, like Mr. Sardar, are often greeted with unchecked brutality.



A dirt road near the village of Thati where Mr. Singh was attacked by upper-caste Hindus. Atul Loke for The New York Times

It is violence intended to send a message, pain inflicted to maintain India's old social order. The crimes are happening across the country and Dalits are not simply killed: They are humiliated, tortured, disfigured, destroyed.

"We have a mental illness," said Avatthi Ramaiah, a sociology professor in Mumbai.

“You may talk about India being a world power, a global power, sending satellites into space,” he said. “But the outside world has an image of India they don’t know. As long as Hinduism is strong, caste will be strong, and as long as there is caste, there will be lower caste,” he added.

”The lower castes don’t have the critical numbers to counterattack,” he said. And the result has been violence that he described as “intimate, sadistic and cruel.”

In late October, a 14-year-old Dalit girl was beheaded by an upper-caste man whose wife said he hated the girl specifically because of her caste. A Dalit scavenger was tied up and fatally whipped outside a factory in May, in a beating captured on video and broadcast across India. In March, a Dalit man was killed by higher-caste men for riding a horse (traditionally, Dalits aren’t supposed to do that).

“Such incidents would not have happened in my childhood,” said Chandra Bhan Prasad, a well-known political commentator (and a Dalit). “In my childhood, a Dalit would not ride a horse. Before 1990, most Dalits worked for someone. Now they are paying a price for their freedom.”

For decades, India has struggled to de-weaponize caste. When the Constitution was being written in the late 1940s, intellectuals knew caste was a sore spot that needed to be urgently addressed. They included specific protections for Dalits, who make up about 15 to 20 percent of India’s 1.3 billion people.

Affirmative action programs, though they have generated deep resentments among upper castes, have helped some Dalits escape poverty. Today there are Dalit poets, doctors, civil service officers, engineers, and even a Dalit president, though it is mostly a ceremonial post.



Dalit women in the village of Thati. Atul Loke for The New York Times

But 95 percent of Indians still marry within their caste, experts say. And recent studies show income and education levels correlate very closely with caste. Even controlling for education, Dalits still fall behind, indicating that caste discrimination is alive and well in the workplace.

Scholars argue that the current political environment has increased the vilification of the other — whether that be along caste, creed or gender lines. According to national crime statistics, the number of caste-based crimes has increased 25 percent since 2010, reaching nearly 41,000 cases in 2016, the last year on record.

Many analysts blame the ruling party, the Bharatiya Janata Party, whose Hindu supremacist roots have emboldened supporters to lash out at minorities, often in the name of Hinduism. One example is the rash of people beaten up or killed for slaughtering cows. The animals are revered in Hinduism and the vast majority of the victims of the cow vigilante

squads are Muslims or Dalits.

Experts say this violence is committed to sow terror. They liken it to the many well-publicized horrors inflicted on women here, intended to dehumanize and put people in their place.

Another factor may be that Dalits like Mr. Sardar are speaking out more, demanding what is theirs.

What ignited the confrontation that night in September was Mr. Sardar's insistence that the higher-caste landlords pay his son about \$80 in back wages that he was owed for working in their rice paddies.

"All I asked for was what I was due," said Mr. Sardar, who has a large, rounded forehead, a square jaw and a strong handshake, even while lying on his back in a hospital bed.

His village, Thati, is about 200 miles south of India's capital, New Delhi. It is home to about 300 families, squeezed together in little brick houses that on a recent day wore a fine coat of dust. Women scrubbed pots with handfuls of mud, and older men lay shirtless on rope cots.



A higher-caste Gujjar man (left) arguing with Dalits near the temple where Dalits are not allowed to sit. Atul Loke for The New York Times

In traditional Indian society, castes designated occupations. The untouchables were the ones who did the dirty work, such as skinning animals or cleaning toilets. Today the caste-occupation relationship has broken down a bit; in Thati just about all the families, whatever their caste, are involved in farming.

But Thati still observes an old social order that the arrival of electricity, cellphones and more opportunity for the lower castes has not dismantled.

The Gujjars are hardly at the top of the overall caste ladder, far below the Brahmins, who are considered the highest. In some places, Gujjars complain that they themselves are discriminated against because of their caste. But in Thati, they are the most powerful and own most of the land. Gujjars live in bigger homes, and many have tractors and small cars. Most Dalits don't even have bicycles.

Dalits must show Gujjars respect. They are not supposed to look Gujjars in the eye or touch their food or water cups — Gujjars would consider it polluted. The two castes have separate water taps, like in the Jim Crow American south.

All of this is illegal.

India's Constitution specifically prohibits the practice of "untouchability," though recent surveys show many Indians still do it, even in cities.

At the edge of Thati village stands a sacred peepal tree. Beneath its nubby branches lies a small Hindu temple. Dalits are not allowed to sit at this temple, but any Gujjar, including a child, can. This is how it goes for many Dalits, their life circumscribed by what they are not allowed to do.

When one young Dalit man said he was willing to break the taboo, another quickly grabbed his arm and said: “Don’t! If you do, there will be a fight tomorrow.”



Dalits from Thati gathering near the temple where they are not allowed to sit. Atul Loke for The New York Times

While this was happening, a Gujjar farmer happened to walk by. Seeing three journalists talking to the Dalit men, he couldn’t resist joining the discussion. He insisted that Thati was a happy place and that Dalits and Gujjars lived “like brothers.”

”Brothers?” one Dalit man shot back. “Brothers don’t scalp each other!”

Police officers have arrested several Gujjar men accused in the attack on Mr. Sardar, who is around 55 years old — he’s not exactly sure of his age. But the authorities say that caste played “no role” and that the crime was precipitated by a personal dispute between Mr. Sardar and a landlord.

That claim made Mr. Sardar laugh — a dry, bitter laugh. He shook his bandaged head, still recovering from a painful skin graft from his thigh. It’s a common complaint: that the police (who are usually from higher castes) always side against the Dalits.

One police commander tried to claim that the assailants hadn’t intended to scalp Mr. Sardar but that part of his scalp had simply fallen off when they hit him in the head with a stick. Two doctors who treated Mr. Sardar at a government hospital disagreed. They said just about all the skin on the top of his head had been forcibly removed with a sharp instrument, leaving his skull undamaged but much of the bone exposed.

Mr. Sardar said that while he was being scalped, the Gujjars taunted him for wearing a turban, something that Dalits are not supposed to do. He remembers the men saying: “We’re going to take away your crown.”

Now, he said, he is going to bear a horrible scar that will remind him, for the rest of his life, what the higher caste men did to him.

“I wish I were a different caste,” he sighed.

A version of this article appears in print on Nov. 18, 2018, Section A, Page 8 of the New York edition with the headline: Caste Is Still Enforced in a Changing India, With Fists and Blades

EXHIBIT 4

81 cases of violence against Dalits reported during lockdown: CPI(M)

Udhav Naig

CHENNAI, JULY 14, 2020 02:35 IST

‘Vigilance panels should be formed at State & district levels’

There have been 81 cases of caste-related atrocities against Dalits during the lockdown in Tamil Nadu, resulting in 22 murders, eight attacks on Dalit neighbourhoods and violence against 134 people, according to a report by the Untouchability Eradication Front of the CPI(M).

The report was released by former Madras High Court judge S. Hari Paranthaman on Monday. Speaking to *The Hindu* about the report, K. Samuel Raaj, general secretary, Untouchability Eradication Front, said the State must acknowledge the crimes as caste atrocities and not as law and order issues.

“The front has office-bearers in every district, right down to the taluks. We document these atrocities and help victims take legal recourse. Over the last 11 years, people have started reaching out to us,” he said.

Demanding immediate action, he said vigilance and monitoring committees should be set up at the State and district levels. “The Chief Minister should head the State-level committee and the Collectors should lead the district-level ones,” he said.

“When caste clashes were on the rise in southern districts in the 1990s, a commission headed by retired Madras High Court judge Mohan identified unemployment as the main reason. People in villages are without work and this frustration is being taken out on Dalits,” Mr. Raaj said.

He criticised the mainstream parties for not coming out strongly against caste-based atrocities due to the fear of losing support of a particular community.

EXHIBIT 5

Crimes against Dalits increased by 6 percent between 2009 and 2018: report

SPECIAL CORRESPONDENT

NEW DELHI: , SEPTEMBER 11, 2020 23:30 IST

Gaps found in implementation of SC and ST (Prevention of Atrocities) Act



Crimes against Dalits increased by 6% from 2009 to 2018 with over 3.91 lakh atrocities being reported, at the same time gaps in implementation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 and the 1995 rules framed under it remained, according to a report released on Friday.

The report, titled 'Quest for Justice', by the National Dalit Movement for Justice (NDMJ) - National Campaign for Dalit Human Rights, assessed the implementation of the Act as well as the data of crimes against SC and ST people as recorded by the National Crime Records Bureau from 2009 till 2018.

The report said the crime rate against those belonging to Scheduled Tribes recorded a decrease of around 1.6%, with a total of 72,367 crimes being recorded in 2009-2018. The report also flagged the rise in violence against Dalit and Adivasi women.

"Dalit women often bear the brunt of violence in the hand of dominant caste; violence as grave as physical violence, sexual violence and witch branding. In the COVID 19 pandemic also Dalit women witnessed various forms of atrocities....In the last five years, out of a total 2,05,146 registered crimes against Scheduled Castes under the PoA (Prevention of Atrocities) Act, a total of 41,867 cases (20.40%) were related to violence against Scheduled Caste women," the report said.

The report also highlighted the challenges faced by victims when it came to getting an FIR filed, followed by a large number of pending cases over the years.

"On average 88.5% of cases under PoA Act remain pending trial during 2009 to 2018," it said.

Releasing the report, former Chief Justice of India K. G. Balakrishnan said there were a large number of cases pending in every court and with the criminal justice system as it is today, “it is difficult to have a very bright picture of the implementation”. He said the Act had a “social mission” and that education would be key to changing social conditions.

Dr. V. A. Ramesh Nathan, general secretary of the NDMJ, said the report was an answer to those people calling for repealing the Act, alleging misuse of its provisions.

Speaking to *The Hindu* after the virtual launch, he said the State had failed to protect the Dalit and Adivasi communities, despite the legal mechanism being in place. “It looks like the State lacks political will and is taking the side of the perpetrators,” he said.

EXHIBIT 6

Cisco Accused of Job Discrimination Based on Indian Employee's Caste

US employment law does not specifically bar caste-based discrimination.

By Reuters | Updated: 1 July 2020 10:05 IST

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US employment law does not specifically bar caste-based discrimination

HIGHLIGHTS

Cisco's workforce includes thousands of Indian immigrants

Cisco spokeswoman said Cisco followed its process to investigate concerns

The unnamed employee reported to human resources in November 2016

California regulators sued Cisco Systems on Tuesday, accusing it of discriminating against an Indian-American employee and allowing him to be harassed by two managers because he was from a lower Indian caste than them.

US employment law does not specifically bar caste-based discrimination, but California's Department of Fair Employment and Housing contends in the lawsuit that the Hindu faith's lingering caste system is based on protected classes such as religion.

The lawsuit, filed in federal court in San Jose, does not name the alleged victim. It states he has been a principal engineer at [Cisco's](#) San Jose headquarters since October 2015 and that he was born at the bottom of caste hierarchy as a Dalit, once called "untouchables."

[Pinterest Policy Officials Leave Company, Alleging Racial Discrimination](#)

Like other large Silicon Valley employers, Cisco's workforce includes thousands of Indian immigrants, most of whom were born Brahmins or other high castes.

Former Cisco engineering managers Sundar Iyer and Ramana Kompella also are defendants in the lawsuit, which accuses them of harassment for internally enforcing the caste hierarchy.

Cisco spokeswoman Robyn Blum said the network gear maker followed its process to investigate employee concerns in this case and would "vigorously defend itself" against the lawsuit.

YouTube Hit With Discrimination Suit by Black Video Artists

"Cisco is committed to an inclusive workplace for all," she said. "We were fully in compliance with all laws as well as our own policies."

Iyer and Kompella did not immediately respond to requests for comment. It was not immediately known if the two have retained attorneys.

The civil rights group Equality Labs in a 2018 report cited in the lawsuit found that 67 percent of Dalits surveyed felt treated unfairly at their US workplaces.

At Cisco, the unnamed employee reported Iyer to human resources in November 2016 for outing him as a Dalit to colleagues. Iyer allegedly retaliated, but Cisco determined caste discrimination was not illegal and issues continued through 2018, the lawsuit states.

Cisco reassigned and isolated the employee, rejected a raise and opportunities that would have led to one and denied two promotions, according to the lawsuit.

Hindus traditionally grouped people into four major castes based on ancestry, and Dalits in India still struggle with access to education and jobs 65 years after India banned caste-based discrimination.

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EXHIBIT 7

Cisco impeached for job discrimination against Dalit employee in the US

California regulators sued Cisco Systems Inc (CSCO.O) accusing it of discriminating against an Indian-American employee. Find out more.

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India Today Tech
New Delhi July 1, 2020 UPDATED: July 1, 2020 13:00 IST



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HIGHLIGHTS

U.S. employment law does not specifically bar caste-based discrimination.

But California regulators sued tech company Cisco over job discrimination.

Two of Cisco's managers were found harassing an Indian-American employee.

On Tuesday, California regulators sued Cisco Systems Inc (CSCO.O) accusing it of discriminating against an Indian-American employee. The employee was harassed by two managers because he was from a lower Indian caste than them, as reported by Reuters.

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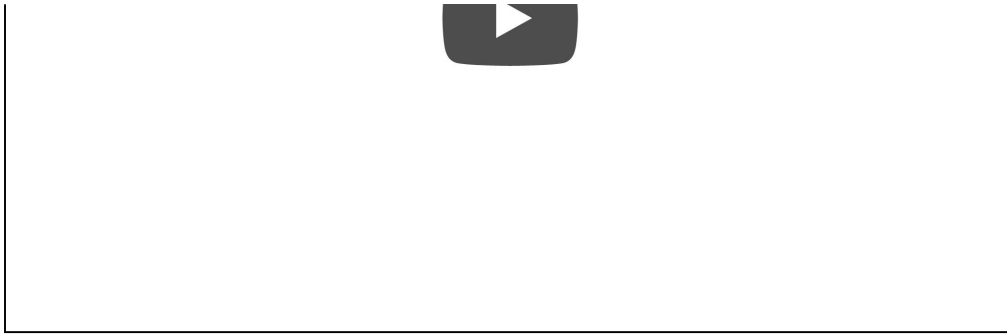
Hindus traditionally grouped people into four major castes based on ancestry, and Dalits in India still struggle with access to education and jobs 65 years after India banned caste-based discrimination.

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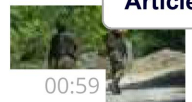
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EXHIBIT 8

Caste is part of the Silicon Valley ecosystem: Equality Labs director on Cisco case

"Dominant castes who pride themselves as being only of merit have just converted their caste capital into positions of power throughout the Silicon Valley," says Thenmozhi Soundarajan.



PHOTO BY DENNISM2/FLICKR

NEWS CASTE MONDAY, JULY 06, 2020 - 17:59

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Last week, a landmark lawsuit against a major IT firm in the US made news – the state of California’s Department Fair Employment and Housing (DFEH) had sued Cisco and its former managers for allegedly discriminating against a Dalit Indian-American employee on the basis of his caste. In the lawsuit, a 2018 report by Equality Labs was quoted. ‘Caste in the United States’ was based on a survey done in 2016 by the organisation, which had 1,500 respondents. The lawsuit against Cisco noted that according to the report, 67% Dalits surveyed felt discriminated against at the workplace in the US.

“South Asians bring caste wherever they go,” says Thenmozhi Soundarajan, Executive Director of Equality Labs. And [according](#) to the Census Bureau’s 2018 American Community Survey, 26.5 lakh Indians resided in the US as of 2018. And this is a growing population – between 2010 and 2017, the number of Indian-origin people in America [grew](#) by 38%. Given this context, caste finds its way into making the workplace unequitable for Dalit persons even in the US.

In an interview to TNM, Thenmozhi spoke about the significance and implications of the Cisco lawsuit, how caste works in the United States and more.

‘A landmark case’

Thenmozhi states that the lawsuit against Cisco is a landmark case because it is the first civil rights case in the US where a governmental entity is suing an American company for failing to protect caste oppressed employees and creating a hostile workplace. “It has ramifications not just in California but also for all American companies who do business with Indian employees and will impact their practices in their localised offices in India. So, it can have impact on firms like Facebook, Google, Twitter, Microsoft etc.”

She also criticised the Indian government for failing to prevent caste discrimination and atrocities – not for the lack of legal frameworks, but the structural obstruction of dominant caste networks to implementing the rule of law.

“It is a lack of political will that creates the crisis of caste apartheid. This case in California shows this because an American civil rights team in the largest state of the United States impartially reviewed the discrimination of the Dalit complainant and found that it amply met the parameters for failure to protect Dalit employees. It is a shame on India that an American state could do what the Indian government has failed to do for 40 years since ratifying Ambedkar’s constitution,” Thenmozhi says.

While the Cisco case has brought caste-based discrimination in the US and in India diaspora to the fore, it is the tip of the iceberg, says Thenmozhi. “This case will create a legal precedent that will open the door for other such cases [to be revealed] across the country. You see similar casteist networks in other fields that have Indian workers [...]”

‘Tech isn’t a caste-neutral space’

When the Trump government recently suspended approving of H1-B work visas till the end of 2020, Google CEO Sundar Pichai was among the prominent persons who criticised the move and said that immigration was a major contributor to the US’s economic success. It is also known that a significant portion of Indians who migrate to the US work in the tech and IT sectors. Tech also becomes an area where caste plays a major role in determining opportunities and dynamics.

According to Thenmozhi, caste is a major part of ecosystem of Silicon Valley. “Because of the heavy recruitment from IITs, dominant castes who pride themselves as being only of merit have just converted their caste capital into positions of power throughout the valley. Because of the system of internal referrals many managers recruit within their caste and their family and friends network. Cisco is one of those companies where the caste networks are very tight knit and intimidating to break through,” she says.

And it’s not always explicit either. Thenmozhi explains that a lot of “soft networking” happens at caste functions, so Dalits get passed over or intimidated for work by default of not belonging to Savarna spaces. “It also creates hostile workplaces where Dalits often face invasive questions that attempt to socially locate their caste positionality. That is why many Dalits hide their caste identity,” she adds.

The Equality Labs survey on caste had found that one in two Dalit respondents and one in four Shudra respondents lived in fear of their caste being outed. This, as opposed to only 1% of the Brahmins in the survey who feared their case being outed. It also found that one in four Dalit experienced physical assault, two out of three faced workplace discrimination and one in three felt discriminated against in education.

It doesn’t help that the caste system is not easy to explain to American Human Resource officials, points out Thenmozhi, which makes accessing justice for caste discrimination in American workplaces difficult for those who do speak up.

Apart from workplaces, Thenmozhi points out that another way caste continues in the Silicon Valley is that many of the families of tech workers traffic Dalit and Adivasi domestic workers into the country. "They often are undocumented and paid slave wages like the labour exploitation in India. A few of these workers flee these homes and tell horrific stories of abuse, and many agencies that work around domestic violence and traffic deal with these cases," she notes.

Read: [When caste follows you overseas: Ostracism, discrimination among South Asians in US](#)

'Need to go beyond whisper networks'

Thenmozhi reveals that apart from being cited in the Cisco lawsuit, the Equality Labs report has also been used in general by American Human Rights Commissions, immigration courts, domestic violence agencies, and Congress to better understand caste discrimination and bias in American institutions.

In fact, a day before the 2019 Lok Sabha election results, a historic Congressional [hearing](#) took place at the office of representative Pramila Jayapal in Washington DC. It had representatives from major progressive parties and groups, community leaders from 15 American states, along with Equality Labs in partnership with South Asian Americans Leading Together (SAALT) and API Chaya, an organisation that empowers gender-based violence and trafficking survivors by mobilising immigrant communities end exploitation. This briefing was an outcome of Caste in the United States survey by Equality Labs, and was the first time caste-based discrimination in America was acknowledged and discussed in the congressional staff.

However, Thenmozhi adds that their report is a "call to action" for more research in this area.

"We are already getting inundated with caste cases, so it is really powerful to see our communities come forward," Thenmozhi says. Many have shared with Equality Labs their experiences of caste discrimination anecdotally, in places where there are many South Asians.

"But we need to go beyond the whisper networks and come out and document the networks of dominant caste Hindus that have created discriminatory and hostile workplaces, education institutions, and places of worship," she asserts.

Thenmozhi also counters the argument that anti-caste rhetoric is an attack on Hinduism. Maintaining that caste is a human rights issue, she argues, "While caste has its origins in Hindu scripture, we find it in other institutions and religions too. We need to stop this red herring argument that deflects from the urgent Dalit communities who are fighting structural discrimination caste atrocity, and exploitation."

What can companies do to alleviate caste discrimination?

According to the Equality Labs report, apart from 67% Dalits, 12% Shudras surveyed also reported experiencing workplace discrimination. Thenmozhi says that the following can be done to address caste discrimination and make workplaces safer and inclusive for caste oppressed communities.

- Add caste as a protected category to all HR policies and employee training manuals with regards to companies' discrimination policies.
- Have HR teams and employees undergo caste competency trainings so they can better understand the needs of caste oppressed employees and they know the signs of caste discrimination.
- Have a zero-tolerance policy for caste hostility in the workplace. This includes bullying, intimidation, favouritism, and more.
- Create diversity funds to support more caste diverse workplaces with scholarships, training, and coaching for caste oppressed employees so they can thrive and advance in their workplaces.

(With inputs from Haripriya Suresh)

EXHIBIT 9

The Cisco Case Could Expose Rampant Prejudice Against Dalits in Silicon Valley

Networks of upper caste professionals work in tandem to keep out those they see as inferior.



A logo of Cisco Systems. Photo: Flickr/Nate McBean CC BY NC ND 2.0



Anahita Mukherji



CASTE TECH WORLD 08/JUL/2020

San Francisco: Over 20 years ago, a student at the Indian Institute of Technology, Bombay figured that a classmate was a Dalit. The discovery was made when the student didn't see the boy's name on the general merit list, and so figured that he had been admitted to the prestigious institution via reservations, India's affirmative action programme.

Decades later, when both men made it to the Silicon Valley headquarters of the tech multinational Cisco, the "upper" caste staffer carried the knowledge of the other man's "lower" caste with him and even passed on the information to colleagues at work. Last week, Sundar Iyer, the man who "outed" the other man's caste, found himself at the centre of a civil rights lawsuit filed by the California government, which accused Iyer, his colleague Ramana Kompella and Cisco itself of unlawful employment practices.

While the lawsuit is the culmination of years of investigations, it couldn't have come at a more significant time. While caste discrimination has never been a major public issue in the US, the lawsuit comes at a moment when the country is confronting racial discrimination, giving the Cisco case a sharper edge.

A number of Dalits in US tech companies point to the irony of their casteist colleagues supporting Black Lives Matter while continuing to suppress Indians from so-called lower castes.

While caste discrimination among Indians in US workplaces is not new, tech companies largely ignored the practise, primarily because, in strictly legal terms, it is not unlawful.

Also Read: US Ambedkarite Groups Extend Support to Cisco Employee Who Allegedly Faced Caste Discrimination

A Dalit person contracted with an American multinational told *The Wire* that his offer letter talked of not allowing for discrimination on the basis of race or religion, but made no mention of caste. When he broached the subject with human resources (HR), he was told that the offer letter was for all geographies and that caste was not a global issue. Ironically, he says that even Indian MNCs in the US issue offer letters mentioning race and not caste.

California's lawsuit will now make it hard for companies to ignore caste as a discriminatory practice. While the US has no specific law against the Indian caste system, the California Department of Fair Employment and Housing filed the lawsuit against Cisco using a section of America's historic Civil Rights Act. The Act is an outcome of the movement led by African Americans in the 1960s to end oppression and segregation.

The lawsuit accuses Cisco of violating Title VII of the Civil Rights Act, which makes it unlawful to discriminate on the basis of religion, ancestry, national origin/ethnicity and race/colour. The company is also charged with violating California's Fair Employment and Housing Act. The lawsuit calls Cisco's actions willful, malicious, fraudulent, and oppressive.

More than 90% of Indian immigrants to the US are from the upper castes, says the lawsuit, adding that the complainant, John Doe (a pseudonym widely used in American litigation) was the only Dalit in a team of upper caste Indians.

When contacted, Cisco spokesperson Robyn Blum sent *The Wire* an official statement, which says, "Cisco is committed to an inclusive workplace for all. We have robust processes to report and investigate concerns raised by employees which were followed in this case dating back to 2016, and have determined we were fully in compliance with all laws as well as our own policies. Cisco will vigorously defend itself against the allegations made in this complaint."

Meanwhile, the lawsuit against Cisco paints a picture of an anything-but-robust system to deal with caste.



The Cisco logo is seen at their booth at the Mobile World Congress in Barcelona, Spain, February 26, 2018. Photo: REUTERS/Sergio Perez/File Photo

The case against Cisco

In October 2016, two colleagues informed John Doe, a principal engineer at Cisco, that his supervisor, Sundar Iyer, had told them that he (Doe) was from the “Scheduled Castes” and had made it to the Indian Institute of Technology via affirmative action. “Iyer was aware of Doe’s caste because they attended IIT at the same time,” said the case.

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The suit says that, when confronted by Doe, Iyer denied having disclosed his caste.

In November 2016, Doe contacted Cisco's HR over the matter. Within a week of doing so, Iyer reportedly informed Doe he was taking away Doe's role as lead on two technologies. Iyer also removed team members from a third technology that Doe was working on and reduced his role to that of an independent contributor and he was isolated from his colleagues, the lawsuit says. In December 2016, Doe filed a written complaint with HR on the matter.

He also complained that Iyer had made discriminatory comments about a Muslim job applicant.

According to the suit, Cisco employee relations manager Brenda Davies's investigation notes on the case showed evidence of caste-based discrimination, and yet she closed the case on the grounds that caste discrimination was not unlawful. The lawsuit says that her investigation notes even have Iyer admitting to outing his colleague's caste by saying he was not on the "main list" at IIT.

The case says that Doe, who was further isolated and repeatedly harassed at work, called for a re-investigation. HR official Tara Powell reopened the investigation in April 2017. In a damning indictment of Cisco, California government investigations show that, despite employees telling Powell that Doe was being treated unfairly though he was technically competent, that Iyer was trying to push Doe out of the company, and that witnesses feared retaliation from Iyer if they spoke out against him, Powell closed the investigation on

grounds that she could not substantiate any caste-based discrimination against Doe.

In February 2018, when Kompella became the interim head of engineering for Cisco's team after Iyer stepped down, the lawsuit said he continued to "discriminate, harass, and retaliate against Doe by...giving him assignments that were impossible to complete under the circumstances."

"Cisco's training was deficient in that it did not adequately train managerial employees on workplace discrimination, harassment, and retaliation, nor did the company prevent, deter, remedy, or monitor casteism in its workforce," says the lawsuit.

Also Read: [A Historic Congressional Hearing on Caste in the US](#)

A 2018 report on caste in the US by Equality Labs, an Ambedkarite South Asian organisation, found that 67% of Dalits reported being treated unfairly at their workplaces. The report was cited in the lawsuit against Cisco. "The Cisco case is the tip of the iceberg. It is not an isolated case of harassment by an employer, but the symptom of a much deeper malaise," Thenmozhi Soundararajan, Dalit rights activist and executive director of Equality Labs told *The Wire*.

The detailed harassment documented in the lawsuit gives a clue why more people do not complain of caste discrimination.

The lawsuit reminded Raj, a former Cisco employee, of all the instances of casteism that he faced but did not document over the last 20 years at tech companies in American, because he never thought caste discrimination would be taken seriously. Raj is not his real name. Like most Dalit engineers that *The Wire* spoke to, he wishes to remain anonymous.

In the interest of career growth, he largely avoided working with Indians. “I did have one Indian-American boss, but since he did not grow up in India, he was very liberal and I had no problems with him,” says Raj.

Mohan, another Dalit techie, never experienced caste-based discrimination at work over the past 16 years in the US. This is because he never had an Indian boss. Those who did have Indian bosses found that revealing their views on caste could adversely impact their career, and sometimes even cost them their jobs.

Samir was once unable to hold back from expressing his views on caste at work. “At the time, I was a top performer at work. One day, a client mentioned the Indian caste system in a meeting. My upper caste boss tried to defend the caste system, saying it was actually good for India. I couldn’t control myself, and blurted out that while he may be upper caste, for us lower castes, the caste system was a curse.”

Samir says his appraisal was impacted by the revelation of his caste, his rating in the company slipped and he was transferred out of the US, to the company’s Indian office. “In a matter of minutes, everyone at work got to know my caste,” he says.

Many Dalits said that once a person's caste was made public, the word spread rapidly through close-knit upper caste networks.

Samir, who went to the same IIT as Sunder Iyer and John Doe, said that he was ragged the moment he stepped into the hostel on account of his caste. The discrimination he faced in US tech companies was like a throwback to his college days.



Many Dalit students in IITs say they have faced caste-based discrimination.

Photo: iitkgp.ac.in

Soundararajan of Equality Labs repeatedly points out that caste discrimination isn't about isolated instances of an employee and manager. "Dalit employees are dealing with upper caste networks that operate across companies and share information with each other. So Dalits fear not only retribution from one person or company, but from an entire network that cuts across companies, severely affecting career prospects. These networks form a virtual noose around Dalits, throttling their potential to rise in their careers," she says.

Vijay, (not his real name), an upper caste techie who is anti-caste, has first-hand knowledge of exclusionary upper caste networks. "Many of these closed upper caste groups were formed in Indian colleges, and remained so even after moving to the US. I used to be in a college WhatsApp group that was a sanitised savarna echo chamber," he adds.

Vijay, who formerly worked with Microsoft, recalls being on an email discussion forum for Indians, which, in 2006, suddenly went from bashing reservations to bashing lower caste people, who, they claimed, don't send their children to school. He says the forum even talked of eugenics, claiming upper caste people were genetically superior at intellectual work while lower castes were good at physical work.

He says a Dalit co-worker complained to the company HR, which shut down the forum. Eventually, even when it reopened, it was always supervised by the Microsoft HR department, he says.

How Dalits are 'vetted' for work

It's little wonder, then, that many Dalits do not want to reveal their caste at work. But, of course, this does not prevent the upper castes from trying to find out. While some last names immediately give away a person's caste, many don't. So Dalits find themselves being constantly probed to reveal their caste.

One common way Indians is to figure a person's caste out is by inviting them for Hindu religious worship sessions, such as the *satyanarayan katha*, at a temple. Raj declined such an invitation from a Brahmin colleague. "At the time he did not know my caste," says Raj. He says the Brahmin then patted

him on the back in a seemingly casual gesture, but one that he felt was actually meant to check whether he was wearing a *janeu*, a ‘sacred thread’ worn by the *dwija* castes. “Once he figured my caste out, he immediately stopped socialising with me. Dinner invitations stopped too.”

Mohit was used to questions about his caste being posed in India. His last name, which ends in “kar” does not immediately give away caste. In India, he was often asked whether he was a “kar” as in Tendulkar (a Brahmin) or “kar” as in [Dr B.R.] Ambedkar.

In the US, questions can be less direct. Four years ago, at a corporate lunch in New York, soon after receiving a high position at an MNC, Mohit was munching on chicken tandoori when an upper caste senior executive expressed surprise that he was not vegetarian. Vegetarianism, long associated with upper caste purity, is often used to figure a person’s caste out. Over time, Mohit has learned how best to answer such questions. “I said that I would eat anything that moved, but my parents were vegetarian.” In other words, he was suggesting that he was born into a Brahmin family. While this is untrue – he is a Dalit and his parents are not vegetarians – it’s a lie he repeats for the sake of his career.

“After grappling with an oppressive caste system, it can be traumatic for Dalits to be surrounded by assertive upper castes, particularly when alone in a foreign country. While the caste system is prevalent in India, at least you have your family to support you there,” says Raj.



Many upper caste Indians in Silicon Valley make it a point to identify the other person's caste. Photo: Wikimedia Commons/Ben Loomis CC BY 2.0

Maya Kamble (an alias she uses for communication), a tech employee on the US east coast, declined an invitation from a colleague to attend a Hindu religious worship session, saying she was Buddhist. Her colleague said nobody in India was ever born Buddhist, implying that Buddhists in India were largely lower caste Hindus converts. “My colleague was wrong about her assumption. I was born Buddhist. Both my parents converted to Buddhism before I was born,” she says.

This wasn't the only time Kamble was reminded by her colleagues that she belonged to a caste once considered “untouchable”. One day at work, she found her manager struggling with a technical problem. “When I offered to help, my manager, who is upper caste, said I was jinxed, and should not touch the project as I was ill-fated.”

Shailaja Paik, associate professor of History at the University of Cincinnati, likens the modern-day expression of the centuries-old Indian caste system, to the mutation of a virus. At a time when the world is reeling from the coronavirus pandemic, she feels the caste system is an even more dangerous malaise – “a shape-shifting virus that travels across continents and mutates over time.”

Also Read: [An Invisible Virus Highlights the Virulence of an Age-Old Visible Virus](#)

Paik, who has extensively researched the oppression of Dalits, talks of the transnationalisation of caste, as Indians carry the baggage of caste across oceans, with dominant oppressor castes trying to recreate structures of power and privilege.

“Caste distinctions are deployed by Brahmins to frame their own merit and put down Dalits like John Doe as people who do not make it to the ‘main list’ at IIT and are from the ‘scheduled castes’, highlighting and emphasising that they (Brahmins) are inherently intelligent and superior while Dalits have less intellectual capacity,” says Paik, adding that the Cisco case in California is a direct replica of the caste hierarchies and inequalities prevalent at the IITs.

“When a Dalit like John Doe navigates the system, makes it to the IITs and even manages to get into Silicon Valley’s tech companies, he is still mocked for being someone who does not make it to the “main list”, and continues to be seen as inferior, just like his caste has historically been viewed. No matter what a Dalit does, it’s never enough,” says Paik.

Ashok, a former Cisco employee who grew up in the slums of India and made it to the same department at IIT as John Doe and Sundar Iyer, talks of just how rare it is for Dalits like himself to rise up the hierarchy and do well in life. Ashok wears a watch with Ambedkar on it. However, he does steer clear of conversations on caste with his superiors at work.

Anil Wagde, who also grew up in an Indian slum, recalls the time, in 2004, that he and other Dalits in Silicon Valley put up posters at Indian shops announcing celebrations for Ambedkar’s birth anniversary. “I refused to put my name on the poster for fear that people I worked with would get to know my caste, and would then respect me less,” he said. His fear came from the discrimination he had faced as a student in India. “The way roll calls were structured while taking

attendance in college immediately gave away a person's caste," he said.



A portrait of Ambedkar. Credit: PTI/Files

The financial cost of caste discrimination

Dalits talk of the opportunity cost of not being part of upper caste networks.

“Many companies fill vacant positions with internal referrals. Upper caste Indians have the first-mover advantage and misuse the system of internal referrals to fill posts with people from their caste. In addition to excluding Dalits, this system also excludes Blacks and other minorities,” says Raj. Dalits are often afraid to speak of harassment because of company peer review systems for appraisals and promotions.

While there is an abundance of anecdotal evidence on caste in the US, anti-caste organisations are increasingly aware of the need for more data on the subject. This was particularly evident in 2015, when Hindu groups in California lobbied for the **removal of caste from California textbooks**.

Dalit activists were locked in battle with Hindu groups at the time. “When we shared our stories with the California textbook board, officials told us that they believed our stories, but that we needed more than anecdotes of discrimination to prove our case,” says Soundararajan. This is what inspired Equality Labs to conduct its 2018 study on caste in the US. “We were able to map the anecdotal evidence to the data,” she says. The Equality Labs report was cited in the Cisco lawsuit and was used throughout the US to help American Human Rights commissions, immigration courts, domestic violence agencies, and Congress to understand caste discrimination.

The case is significant and will be landmark one to establish what the American legal system thinks counts as discrimination. It is being watched closely by Indian

Americans in the tech business and could potentially have wide repercussions, at the very least making companies more aware of how they should modify HR practices to include such behaviour as a discriminatory.

Anahita Mukherji is a US-based journalist.

EXHIBIT 10

Getting America to recognise caste: previous efforts, renewed push

For close to two decades now, attempts have been ongoing at various levels to get institutions overseas to recognise the peculiar challenge of caste, a system of inequality and oppression that is unique to the subcontinent and is recognised by the Constitution of India.



Written by **Amrita Dutta** | New Delhi | Updated: July 8, 2020 5:09:53 pm



The 1965 Immigration and Nationality Act, itself a result of the civil rights campaign in the US, overturned restrictions of race and colour. (Reuters)

Last month, the California Department of Fair Employment and Housing **filed a lawsuit against Cisco Systems**, accusing the tech multinational company of allowing caste discrimination against a Dalit Indian-origin employee at its San Jose headquarters. “It is unacceptable for workplace

conditions and opportunities to be determined by a hereditary social status determined by birth. Employers must be prepared to prevent, remedy, and deter unlawful conduct against workers because of caste,” the director of the department said.

So, does American law recognise caste? No.

But could this case change that?

The federal Civil Rights Law 1964, under which the lawsuit was filed against Cisco and two “upper-caste” Indian managers, bars discrimination only on the basis of race, colour, religion, sex and national origin. In choosing to litigate, the California government is pushing to expand the ambit of discrimination to include caste.

“It is the first civil rights case in the United States where a governmental entity is suing an American company for failing to protect caste-oppressed employees, leading to a hostile workplace,” said Thenmozhi Soundararajan of Equality Labs, an advocacy group for the “caste-oppressed” in California.

For close to two decades now, attempts have been ongoing at various levels to get institutions overseas to recognise the peculiar challenge of caste, a system of inequality and oppression that is unique to the subcontinent and is recognised by the Constitution of India. In 2018, several Hindu organisations forced the British government to backtrack on recognising caste as a structure of discrimination. The case against Cisco, amid the momentum of #BlackLivesMatter, which has spotlighted all kinds of discrimination, is extremely significant.

The first immigrants

Caste has been mentioned in an American courtroom earlier.

In 1913, A K Mozumdar, an immigrant from Bengal to Washington, applied to become an American citizen. US citizenship at the time was determined by race, and given only to whites. Mozumdar argued that as a “high-caste Hindu” of “Aryan descent”, he shared racial origins with Caucasians. His application was accepted — and he became the first South Asian American to become a US citizen.

In 1923, a similar argument that claimed caste was a way to whiteness was put forward by Bhagat Singh Thind, a Sikh writer who had served in the United States Army during World War I, and who



Thind (Source: Wikimedia Commons)

argued that he was technically “white”, given his “pure Aryan blood”. In his petition, Thind argued that the high-caste Hindoo (a blanket term used then for all Indian immigrants) “regards the aboriginal Indian Mongoloid in the same manner as the American regards the negro, speaking from a matrimonial standpoint”.

Thind’s arguments were rejected in the US Supreme Court, which decided that he was not white, and hence not eligible for citizenship. A few months later, Mozumdar became the first Indian to lose his citizenship as a consequence of that judgment.

The 1965 Immigration and Nationality Act, itself a result of the civil rights campaign in the US, overturned restrictions of race and colour, and allowed a whole generation of Indian skilled labour (mostly upper-caste) to

take a shot at the American dream.

A steady flow of “lower-caste” Indians has also followed, as they accessed educational opportunities in technical institutions via reservations. One such example is of the REC Warangal-educated Sujatha Gidla, whose 2017 book ‘Ants Among Elephants: An Untouchable Family and the Making of Modern India’, was published in the US to great acclaim. Gidla believes that accounts such as hers make it harder to deny the reality of caste. In New York, she recalls facing discrimination from many Indians, the least humiliating of which was from a Brahmin cashier at a bank, “who wouldn’t accept money from my hands. She would demand that I place it on the counter.”

But Gidla is sceptical about an anti-caste movement taking root in the US. “Of Indian immigrants, 90 per cent are Brahmins and 1.5 per cent are Dalits. Indians in America are a minority, and Dalits among them are a minority. How can issues of such a tiny community make a big enough impact to be called a movement?”

Scholar-activist Suraj Yengde argues that a Dalit consciousness has been present in the US from the 1970s or 1980s, away from the bright lights of media activism. “People have resisted in private and in public in their own ways. Even hiding one’s caste is a way of fighting caste,” says Yengde, who

works with community-based Ambedkarite organisations in the US, some of which are close to 20 years old.

The California textbook debate

In some ways, it is not a surprise that the Cisco case has come up in California, where the last pitched battle on caste and history was fought about five years ago. In 2015, as part of a regular evaluation, the California board of education asked scholars to help it come up with a framework for history and social science textbooks.

What followed was a bitter contest over several aspects of Indian history, including caste, and the critique of caste embedded in religions such as Buddhism and Sikhism. The suggestions of the South Asian Histories for All Coalition (SAHFAC), a collective of scholars and historians, were met with opposition from the Hindu American Foundation and other Hindu groups, who objected to narratives that portrayed “Hindu civilisation” negatively, and warned they might lead to the bullying of Hindu children.

The SAHFAC objected to airbrushing contentious portions of Indian history relating to caste atrocities, the attempt to erase the word “Dalit” from history textbooks as demanded, and the attempt, allegedly, to portray Muslims as oppressors. “At the end of that difficult campaign, one of the directors of the board of education said to me directly, ‘The stories of Dalit families are compelling... but you have no data about caste in the United States’,” Thenmozhi Soundararajan said.

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In 2018, Equality Labs carried out a survey of South Asian-Americans on their experience of caste to fill that gap. It showed that 67 per cent of Dalits faced caste discrimination at the workplace, 40 per cent in schools, and 40 per cent at temples. That report was cited in the lawsuit filed against Cisco.

2001 UN Conference against Racism

“We are firmly of the view that the issue of caste is not an appropriate subject for discussion at this conference. We are here to ensure that states do not condone or encourage regressive social attitudes. We are not here to engage in social engineering within member states,” Omar Abdullah,

then India's Minister of State for External Affairs told the United Nations Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban, South Africa, in 2001.

In the lead-up to the conference, Dalit groups had demanded that the conference also take a stand against the "hidden apartheid" in India. Since the 1990s, these groups had had some success in lobbying international organisations on caste; the universal language and promise of human rights was used to broaden the framework in which to see the discrimination. Specifically, the definition of racial discrimination as "exclusion based on race, colour and descent" was used to acknowledge caste. In 1999, a report by Human Rights Watch, 'Broken People: Caste Violence against India's Untouchables', focussed international attention on the issue.

Editorial | Lawsuit against company for caste discrimination recognises malaise in diaspora. In India, too, equality is work in progress

For India, which claims diplomatic capital from [Mahatma Gandhi](#)'s stock in the US civil rights campaign, its anti-apartheid position and programme of affirmative action, the events at Durban were an embarrassment. It fought all attempts to bring caste to the table, and objected to a conflation of race and caste. "India's position has been consistently that caste should not be equated with race and it should not be raised in committees that deal with race. Caste is an issue that we have been trying to address through constitutional measures. We do not deny caste, but we believe that the issue of race should not get diluted by confusing it with other discriminations," said Dilip Sinha, a former Permanent Representative of India to the UN offices in Geneva.

However, N Paul Divakar, who was one of several Dalit activists at the Durban conference, argued: "Tackling caste needs much more than framing constitutional provisions and legislation. It was an attempt to raise a global consensus, to legitimise anti-caste ideologies... The GoI took the position: we don't need your interference. But it was not interference. The UN was pushing to collectively uphold the value that all humans, irrespective of caste, are equal, and some measures need to be taken for that."

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The road ahead

In Silicon Valley, California, the Cisco case is a potential gamechanger. “We believe this case will set a precedent. We have supported many Dalits who have come forward to complain about casteist discrimination. But the lack of having caste as an explicit category has meant that prosecutors have to shoehorn the issue of caste within protections of religion, race, and ancestry. This case will open the door for more such civil rights litigation,” Soundararajan said.

Yengde agreed: “The Cisco case can be monumental. Silicon Valley has a global footprint. Whatever is legislated there will have an impact on company workplaces in India and elsewhere too. The message will go out to thousands of workers.”

EXHIBIT 11

Cisco, Caste Discrimination and the Endurance of Denial in Overseas Indians

In the US, the model minority is celebrated for their hard work but what goes undetected is the deep-seated caste identities they hold on to reflexively.



Representative image. Photo: Natalia Medd/Flickr (CC BY 2.0)



Sreya Sarkar



CASTE 15/JUL/2020

Last month, the California Department of Fair Employment and Housing **filed a lawsuit against Cisco**, a multinational technology company, alleging that the company failed to prevent discrimination against a Dalit engineer in San Jose by two of his Indian-origin co-workers.

A few articles were published discussing the history and the law related to the case and then there was silence. In the backdrop of the Black Lives Matter protests, one would think that this kind of wrongful discrimination against an Indian in the US would enrage the Indian media, which is quick to condemn discrimination of any kind. But it hardly created a buzz.

The response from Indians – both in India and the US – to the Cisco case has been lukewarm, at best. An author of an **article on *The Wire*** started a thread on Twitter to inform people about the case, and Indian techies reacted sharply. They got defensive and claimed that IT companies are great levellers. They called the whole affair nonsense, labelling it either as ‘Left’ or ‘liberal’ propaganda. The complainant was shamed for acting like a ‘victim’.

This backlash illuminates a curious case of selective outrage and denial of caste-based discrimination in the US among NRI Indians. Yet, just because there is denial does not mean that the problem does not exist. If caste identity follows Indians across the ocean, it adds an extra layer of difficulty in fulfilling the American Dream. This dream is already hard to get to, given the ever-changing work visa and green card rules.

Also read: [The Cisco Case Could Expose Rampant Prejudice Against Dalits in Silicon Valley](#)

Last year, a series on “[Caste in America](#)” produced by the Pulitzer Center in partnership with WGBH News uncovered the multiple aspects of subtle caste discrimination on US university campuses and within social networks. Vague conspiracy theories like ‘non-Dalit students are not being able to prosper economically in India because the “lower castes” have monopolised the government’s welfare schemes’ fly around the campuses.

“Reservation” is an unpopular word, in India and abroad and is blamed for “reverse discrimination”. The covert anti-caste biases lurking on campuses are often missed by non-Indian students or teachers, who are not familiar with the caste hierarchy. [One of the articles](#) quotes Kevin Brown, a professor

at Indiana University's Maurer School of Law and an expert on caste, who talks about how caste falls in a legal blind spot in the US.

“The United States doesn't recognise the concept of caste, so it's not included in any of our laws that prohibit discrimination. We in the US just haven't had as much experience with problems within the Indian communities that moved to the United States. So our legal system hasn't caught up to that. Unfortunately then, there are very little protections for Dalits in the United States for the discrimination that they encounter here with caste Hindus.”

Though Indians represent the second-largest group of international students in the US, universities are just beginning to understand and address caste dynamics among its student population.

The same article mentions that Dalit activists are of the opinion that another venue where caste bias occurs is Hindu advocacy organisations like the Hindu American Foundation of Washington, DC. Suhag Shukla, the organisation's executive director is offended by this charge.

She said, “Where (there is) any sense of hierarchy and any sort of manifestation of caste that denies human dignity, HAF firmly believes in the annihilation of those types of practices, but where some sort of caste tradition might give people a sense of solidarity or a way of relating to one another is a force for good.”

She refers to the many groups that are operational for members of a particular caste. Those groups claim that they promote a sense of community and the preservation of culture.

A second **article** from the series mentions one such association, Nair Service Society of North America (NSSNA)

that has taken it upon itself to educate first generation Indian Americans about their culture and heritage. This association has its own matchmaking website and conducts “Mr Nair” and “Mrs Nair” contests at their conventions. At a youth seminar organised by the association, when caste comes up during the lecture Q&A session, muddled justifications were offered to answer the questions.



Photo: www.nssnorthtexas.org

The caste system is compared to the structure of a company — with manual labour at the bottom, management and sales in the middle and upper strata, and executives at the top. And then the discussion invariably steers towards reverse discrimination in Kerala, how that is a problem and why NSS should take active steps to bring justice there.

There are anecdotes like this and then there is a formal **report** that was published in 2018.

The first of its kind, the report is based on a survey carried out in 2016 by Equality Labs, a South Asian American human rights and technology start-up. Based on the response of more than 1,500 participants, it examined caste discrimination in

the South Asian immigrant community. It found that 25% of its respondents had faced verbal or physical abuse based on their caste. As many as 67% of the Dalits surveyed reported being treated unfairly in their workplace because of the same. Over 40% of the Dalit respondents have reportedly been rejected in a romantic partnership on the basis of caste.

Indian American organisations like HAF have criticised the survey's methods and findings. They, along with World Hindu Congress, have denied that Hindus are socially divided by caste in the US and claim that caste is no longer relevant.

Given how polarised the Indian diaspora is regarding the prevalence of caste discrimination in the US, it is not surprising that the recent Cisco case has received a tepid response.

The incident will be interpreted and dissected in several ways in the coming few months and perhaps forgotten in the long run but the general denial of caste discrimination in the US might continue. Denial is a long-favoured reaction for Indians when it comes to caste. Whether it is about the present or the past, irrespective of which part of India they originate from.

I encountered something similar when I approached a New Jersey-based magazine led by progressive Bengali expatriates to publish a book review. The book titled *Blood Island* authored by Delhi-based journalist Deep Halder is about the merciless state-sanctioned brutality unleashed on Marichjhapi island in Bengal's Sundarbans and its refugee inhabitants, most of whom belonged to a Dalit sub-caste in 1979.

The editors initially had a few questions about the authenticity and the enormity of the incident. They couldn't believe that more than 7,000 Dalits had been killed by a Left Front government that claimed to be loyal friends of the

marginalised during their regime. After emailing back and forth for a while they decided to include it in their upcoming edition, but early this year I received word from them that they were unable to include the review due to lack of space.

The magazine is professionally managed and has printed several of my fiction and nonfiction pieces earlier so this excuse seemed a bit flimsy. I withdrew the review thereafter and published it in another magazine but the incident left me with a bitter taste.

I asked myself, why did they refuse to publish it? Was it because the book discussed a heinous Dalit massacre deliberately left undocumented in Bengal? Or was it because Bengali expatriates will always have a soft corner for the Left Front, irrespective of what they did?

I did not find an honest answer but I could not brush off the uncomfortable vibe I had got from them either. Then I realised. They were in denial. Just the way today most Indians are about the Cisco case. Therefore, there is no outrage on social media, no show of solidarity, and no protest.

Isabel Wilkerson wrote in her recent **feature** for *New York Times Magazine*, “Modern-day caste protocols are often less about overt attacks or conscious hostility. They are like the wind, powerful enough to knock you down but invisible as

they go about their work.” This is an accurate depiction of how caste discrimination operates in US.

Literature on Indian diaspora living in America portrays the group as educated, highly skilled migrants in pursuit of their American Dream. The model minority is celebrated for their hard work and achievements but what goes undetected is the deep-seated caste identities they hold on to reflexively. They are conditioned to take to certain social institutions and mores without questioning them.

The goal of shedding all caste prejudices might still be a long way off in America and any other nation but the least the Cisco case can do is act as a catalyst to bring about an awareness of how perfectly modern and rational people are capable of slipping back to practicing a way of living they have worked hard to move away from when they came to a new continent to make a fresh start.

Sreya Sarkar is a public policy professional based out of Boston, who has previously worked as a poverty alleviation

specialist in US think tanks. At present, she writes non-fiction articles and op-eds for Indian policy blogs and magazines.

EXHIBIT 12

[Home \(index.aspx\)](#) / [Opinion \(news.aspx?q=Opinion\)](#)

CISCO CASE SHOWS INDIANS STILL TAKE CASTE WHERE THEY GO

By Subhash Gatade. Dated: 7/17/2020 1:09:44 AM

“Now the state of California is suing Cisco Systems, an American multinational company headquartered in San Jose, California, over caste discrimination. The complaint has come from an unnamed Dalit Indian-American employee who has alleged that two former managers of the tech company, Sundar Iyer and Ramana Kompella, isolated him and denied him a raise and two promotions.”

What happens to caste when Indians migrate to Western countries? Do their feelings of being born superior or inferior, their belief in the purity-pollution ethic, just melt away? The “model minority” has tried to avoid a conversation on this issue but it returns to haunt them time and again. Now the American state of California is at the centre of yet another caste controversy.

The last serious discussion around Indian-Americans and caste took place in 2015, when the California State Board of Education initiated a regular ten-year public review of the school curriculum framework. The conservative Hindu American Foundation (HAF) and the South Asian Histories for All Coalition (an interfaith, multi-racial, inter-caste coalition) clashed over HAF’s proposed interventions, which essentially sought to erase caste from the syllabus. The Coalition took the position that evidence and record of the injustices of caste and religious intolerance in South Asian must not be erased.

Petitions were signed and circulated, asking the state education board not to sanitise India’s history in the classrooms. Sit-ins, demonstrations and many other forms of protest were organised against the Hindu-nationalist view of Indian and South Asian history. Yet the significant role of caste was diluted and the erasure of Dalit, Muslim, Sikh and Christian histories was pushed through in textbooks.

The battle is not over yet. Thenmozhi Soundararajan, Abdullah Momin, Harjit Kaur and Anasuya Sengupta, members of South Asian Histories for All Coalition, recently wrote, “The current text of the Grade 7 textbook on World History states, ‘other Mughal rulers, most notably Akbar, encouraged and accelerated the blending of Hindu and Islamic beliefs....’ The HAF-led alliance would like this historical fact to be replaced with, ‘During this period, the Central and Southern parts of India saw the emergence of native empires that offered resistance to the hegemony and persecution of the Mughal rulers. Prominent among them was the Maratha empire established in 1618 CE by Shivaji Maharaj, which saw a resurgence of Hindu culture and traditions.’” The new textbooks portray the Muslims and Islam in particularly poor light, but the Buddhists, Dalits (former “untouchables”), Sikhs, and other South Asian communities hardly fare better.

Now the state of California is suing Cisco Systems, an American multinational company headquartered in San Jose, California, over caste discrimination. The complaint has come from an unnamed Dalit Indian-American employee who has alleged that two former managers of the tech company, Sundar Iyer and Ramana Kompella, isolated him and denied him a raise and two promotions. The company refused to consider the matter when the

aggrieved employee raised it, but the California Department of Fair Employment and Housing (DFEH) recognised the injustice and sued the company. The case is ongoing.

Justice in this case—if the charges are found true—would mean that the aggrieved employee is compensated and action is taken against the perpetrators. It would also mean that significant policy changes are made in the multinational company's anti-discrimination policies.

The Ambedkar International Centre (AIC), which supports social change initiatives and propagates Ambedkar's philosophy in the United States, has told the California DFEH that the Cisco case is only the tip of an iceberg of casteism that Indians in the US practise. They have urged California to get companies to include caste in its equal-opportunity policies.

The four million-strong Indian American community, of which only 1.5% are Dalit or belong to a backward class, have largely remained silent during this crisis. Members of elite castes who make it to the United States have reaped the benefits of American anti-discriminatory laws but push back against legal recognition of exclusion and discrimination within their community. Truth is, discrimination is integrated into the daily lives of the Indian diaspora and this needs to be unpacked.

Caste permeates the everyday life of the Indian diaspora in America and elsewhere in significant ways, but if caste is officially recognised, like race is, as a form of birth-based discrimination, the carefully-cultivated image of Indian Americans as a "model minority" will crack.

In his important book on the subject, "Desis Divided: The Political Lives of South Asian Americans", the political scientist Sangay K Mishra says that the Indian diasporic community "carries, and indeed replicates, caste consciousness and notions of purity and pollution that are linked to discriminatory practices". What else does the existence of caste associations like the Rajput Association of North America, Brahmin Samaj of North America and Leuva Patidar Samaj of USA indicate but the persistence and perpetuation of caste identities? These caste associations are brimming with members and fresh entrants join every year. They unashamedly organise large meetings with the "purpose of getting young people from the same caste together", Mishra says in his book.

An Equality Labs survey takes the debate further. In a sample of around 1,500 South Asian-origin people in the United States, it found that one in three Dalit students reported discrimination during their education while two out of three reported being treated unfairly at workplaces. "Dalits there face various types of caste discrimination in South Asian American institutions. This discrimination ranges from derogatory jokes and slurs to physical violence and sexual assault," the survey found.

There is increasing visibility of caste and its attendant discriminations in public life in the United States today. The first ever meeting of South Asian human rights organisations with representatives of the United States Congress was held last year. In it, lawmakers were told that elite-caste Hindus were practising discrimination on caste lines in education and at work in the United States.

Of course, caste prejudice is not limited to the American Indian or South Asian diaspora alone. British South Asians were the original hot spot of caste discrimination. A government-commissioned research conducted by the British government's Equality Office found evidence confirming discrimination and harassment among the five lakh strong Indian community. The caste discrimination was of the type covered by the Equality Act, 2010, that is, it prevailed among the Indian diaspora in relation to work, provision of services and education (for example, pupil-on-pupil bullying). And the study found evidence of discrimination beyond the purview of the

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- Train Enquiry (<http://www.enquiry.indianrail.gov.in/ntes/>)
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EDUCATION

anti-discrimination Act, for instance caste-linked harassment in voluntary work situations, demeaning behaviour and violence in other areas of life. When the British government wanted to tackle this issue, it generated a massive counter-reaction in the Indian community, which compelled the administration to postpone all ideas of reform for two years.

In May 1916, a young Ambedkar had read a paper titled "Castes In India: Their Mechanism, Genesis and Development" at a seminar at Colombia University. He prophesied in it: "The caste problem is a vast one, both theoretically and practically. Practically, it is an institution that portends tremendous consequences. It is a local problem, but one capable of much wider mischief, for as long as caste in India does exist, Hindus will hardly intermarry or have any social intercourse with outsiders; and if Hindus migrate to other regions on earth, Indian caste would become a world problem."

After the Cisco case, one hopes again that the Indian diaspora in the United States would get the message that discrimination leads to penalties and that regressive caste practices cannot be justified in the name of religion. But the evidence, despite the hope, is that the diaspora is largely in no mood for soul-searching.

What is needed is a massive churning among Indians in India. These days, Indians are intoxicated by the notion that they are, or will become, Vishwa Gurus (teachers to the world). While they wait for that great dawn, they refuse to prepare themselves for any change whatsoever. They are keeping on perpetuating notions of purity and pollution along caste lines and it seems that opportunities for reform and change, like the Cisco case presents, would die like a ripple in an ocean.

The author is an independent journalist.

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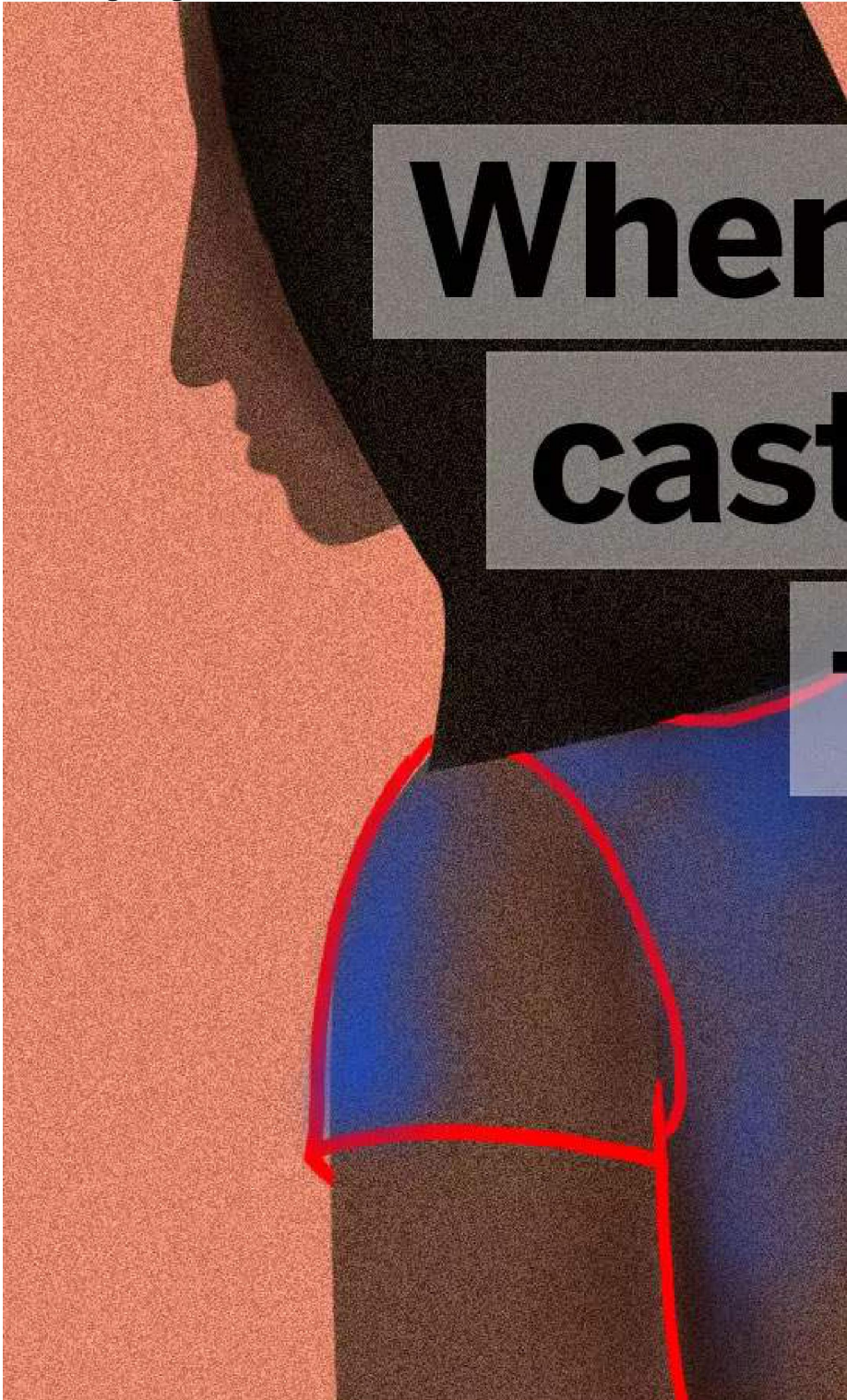
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WEATHER

EXHIBIT 13

Now Reading:

When fight against casteism moves to the US



Saranya Chakrapani TNN

Aug 27, 2020, 15:12 IST

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Indians from oppressed communities are being forced to live under a cloak in US to escape caste discrimination

What are some things that could remind you of home in a foreign land? A recipe from childhood? A familiar tune on the radio?

For 39-year-old Maya Kamble*, the hours spent at the boardroom of her tech company in Silicon Valley invoked memories of her mother's quiet will, her father's boundless wisdom, and their collective ambition to create a life of their choice. Maya grew up in an oppressed caste family in Telangana, soaking in their revolutionary spirit against the country's infamous social order, and summoned up the same years later in the US, to stand up to her casteist supervisor, as he publicly shot down her ideas at meetings and called her 'manhoos' ('ill-fated' in Hindi).

For decades, oppressed caste members of the United States' nearly five million South Asian population, have lived with the knowledge that the American Dream – that great equalizer rooted in the country's Declaration of Independence – promising material prosperity and social security to anyone willing to toil – is but less than ideal for them. Keeping them pinned at the lowest rung of the same social hierarchy they worked so hard to flee, are many of their own dominant caste countrymen who seem to be carrying this self-assumed privilege across shores.

CASTE MATTERS IN THE US TOO

In 2016, an Equality Labs' survey of caste among South Asian Americans in the US revealed:

52% of members from oppressed castes feared being 'outed' about their backgrounds

41% of children from scheduled castes said they faced discrimination in schools

67% members from oppressed castes said they faced discrimination at the workplace

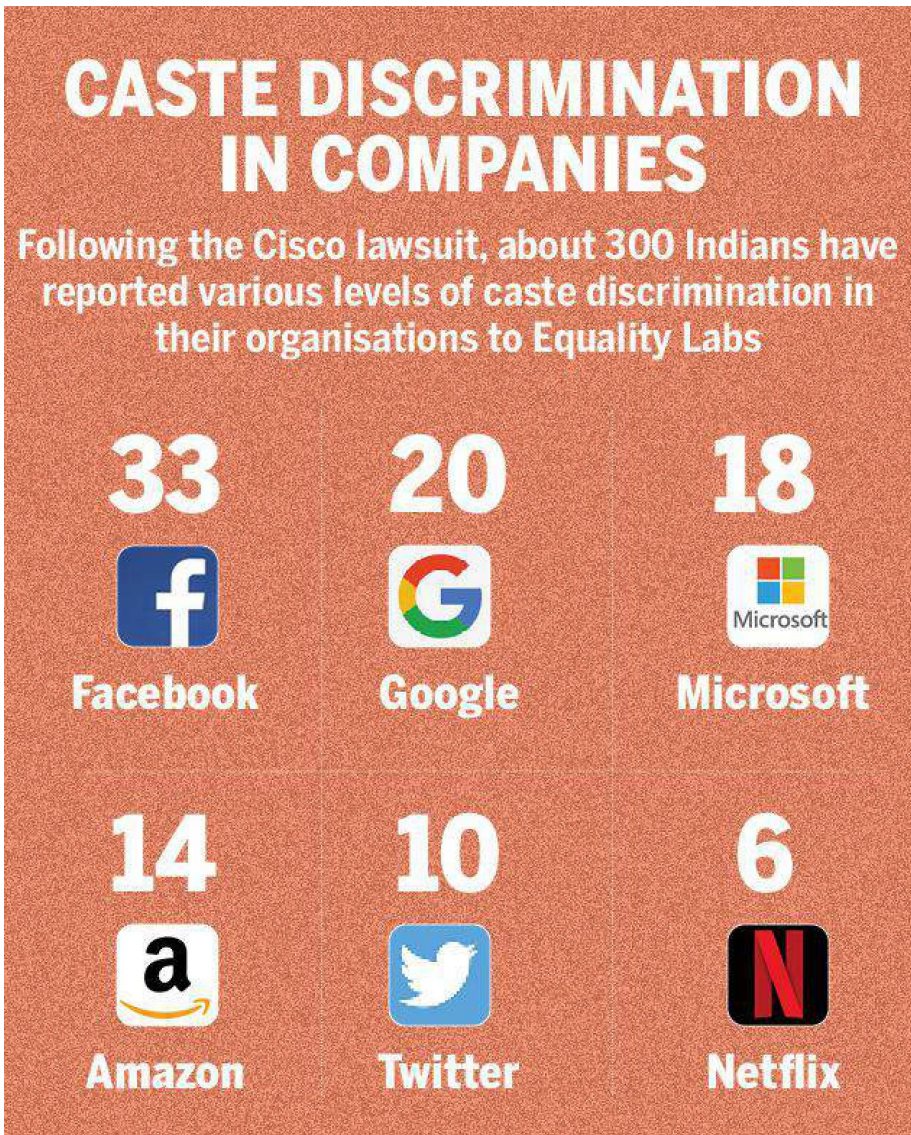
22% said they faced discrimination at local businesses

28% said they were denied leadership in places of worship

59% said they experienced casteist jokes and slurs

On June 30, the US state of California filed a lawsuit against tech giant, Cisco, for discriminating against an Indian engineer on grounds of his caste. The California Department of Fair Employment and Housing took up the case after the unnamed Indian engineer accused his dominant caste managers at the company's San Jose headquarters – Sundar Iyer and Ramana Kompella – for outing him as a 'Dalit' to his colleagues, and subsequently Cisco, for determining that caste discrimination was not unlawful, and refusing him a raise and opportunities. In the United States, where there is no legal recognition of caste, the case was filed under the federal Civil Rights Law 1964, that bars all discrimination on the basis of race, colour, religion, sex and national origin. It is also said to be the first civil rights case in the country to see a government authority suing a company over caste oppression.

Since it broke, Dalit civil rights group Equality Labs has received more than 300 complaints of caste-based discrimination in companies across the spectrum, including Facebook, Amazon, Netflix and Apple, and another, Ambedkar King Study Circle (AKSC), has received more than 60 testimonies from Indians facing prejudice at various walks of life. In addition, AKSC's solidarity statement to end the practice of caste in the US, has received 1,000 signatures, and reached the inboxes of 25 CEOs, including those of Cisco, Accenture, Walt Disney and Microsoft, according to one of its founders, Karthikeyan Shanmugam.



While the absurdity of a multi-billion dollar tech giant mired in a South Asian apartheid tradition, may have triggered the kind of global outrage we are witnessing now, the problem is far from recent in the United States. The first case in California involving caste in the workplace made news almost a decade ago in 2000, when Lakireddy Bali Reddy, an Indian landlord from Velvadam in Andhra Pradesh was convicted of luring young scheduled caste girls from his village to work with him in the city of Berkeley, where he sexually assaulted them. While Reddy exploited the caste privilege from his village to continue playing a feudal lord in the United States, the counts he was convicted for, were conspiring to commit immigration fraud, transportation of minors for illegal sexual activity and subscribing to a false tax return.

The H-1B work visa is provided by the company whose HR department may not be competent enough to relate to this kind of hegemony within the Indian community, while lacking a contextual understanding of its culture and caste competency
Thenmozhi Soundararajan, Executive director, Equality Labs

In 2005 and 2016, a series of debates raged between Hindu organisations and anti-caste, multi-faith groups over the removal of references to India's caste history from middle school textbooks in California. And through the years, groups like Equality Labs and AKSC, have been privy to thousands of testimonies of caste-based violations and social profiling faced by scheduled caste Indians who work hard to keep their backgrounds concealed inside workplaces and other institutions, for good reason.

In the Cisco case for example, the victim and the accused are believed to have studied at the same IIT in India, which is when he seemed to have learned of the former's caste background – a knowledge he carried all the way into the workplace much later.



Cisco, among the top 5 H-1B visa users in the US, is being sued for caste discrimination. The company has denied any discrimination took place

In their testimonies, victims cite the implicit caste curiosity they are often subject to by dominant caste colleagues and supervisors. "Among the most common routine is the 'pat on the back', to locate the sacred thread, or repeated questions over my 'family name' or native village, that could reveal my ethnic background," says Sam*, a mid-40s software engineer from Georgia and a first-hand victim of a retrograde HR policy. Sam got into trouble after he offered his "honest views" at a candid discussion of India's caste system, to the Americans in his team. "My manager was perpetuating the narrative that the varna system was aimed at functionality and not division. I jumped in to educate our audience on the flip-side," says Sam. In less than two months, he alleges he received a poor appraisal and a transfer back to India. "Thankfully, I had gotten another job in California by then, so I could move with my wife and kids," he says.

But Sam's case is an exception in a scenario where the slightest rebellion could risk one's chances of living in the United States altogether. "The H-1B work visa is provided by the company whose HR department may not be competent enough to relate to this kind of hegemony within the Indian community, while lacking a contextual understanding of its culture and caste competency," says Thenmozhi Soundararajan, executive director of Equality Labs, which has been pushing for caste to be included as a protected category alongside race, faith and sexual orientation in internal HR policies. In addition, they have also been conducting workshops on unlearning caste supremacy and done Congressional briefings on caste discrimination in the United States to highlight its impact in American spaces and institutions.

"American legislators are on board for a legal solution," she says. "Meanwhile in the workplace, there is a need for strong policies. Most of them are already trained in inclusion and diversity owing to the country's vibrant civil rights movement. Extending this commitment to caste is an important step towards creating a safe workplace for their Indian workforce, who constitute a significant chunk."



After Cisco case, Dalit rights group collects testimonies on caste privilege in the US

Illustration: Sajeew Kumarapuram

**(Names have been changed)*

EXHIBIT 14

Is justice accessible to a Dalit employee in private workplaces in India?



BY RIDHI SHETTY OCTOBER 7, 2020

Caste came as a shock to the international audience when the State of California filed a law suit on caste discrimination against CISCO systems. While California is trying to locate caste within the parameters of religion, one would assume that the Indian legal system is adequate to protect a Dalit against caste discrimination. RIDHI SHETTY unravels the hurdles posed for ascertaining a conviction for caste based discrimination in workplace in Indian laws.

In June, the State of California sued CISCO Systems on the grounds of caste-based discrimination. The **lawsuit** outlined harassment faced by an Indian American employee on the basis of his caste.

California has alleged that the technology giant failed to guarantee a workplace free from hostility and unlawful discrimination. However, since Title VII of the Civil Rights Act does not mention 'caste', the case before the California Court lies in interpreting to read caste into an already prohibited ground of 'religion'.

Efforts have been previously made in the **international fora to prohibit caste discrimination** by including it under the ambit of 'descent' or 'religion.'

This instance is indicative of the persistent problem of caste discrimination in employment. While the United States lacks a legal structure that prohibits caste discrimination explicitly, in India on the other hand, caste discrimination has been constitutionally prohibited.

So the question is, does India possess enough safeguards to hold a private employer accountable for caste-based discrimination at the workplace in a court of law?

Inadequacy of Existing Provisions

The Protection of Civil Rights Act 1955 [PCR Act] was enacted to punish preaching and practicing of 'Untouchability.' The PCR Act outlaws enforcing a "social disability" on the grounds of untouchability in the practice of any profession.

As noted by the Supreme Court in **the National Campaign on Dalit Human Rights versus Union of India**, the Act fails to specifically target indirect and direct acts of workplace caste discrimination, in addition to overall poor implementation.

Due to the inadequacy of the PCR Act, the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act [POA Act] was enacted in 1989. The Act enlarged the scope of criminal liability for actions not covered under the Indian Penal Code [IPC] and the PCR Act.

Though Section 4(z)(E) of the Act penalises obstruction of a member of the Scheduled Castes and Scheduled Tribes community from practicing any profession. However, the range of acts criminalised are 'severe' in nature.

While these provisions could be utilized to punish an individual, the larger culture and discriminatory structures underlying the working of the organization are neither addressed nor dismantled.

Discriminatory behaviour at the workplace, akin to the incidents described in the CISCO petition, are made up of microaggressions and specific non-observable moments which *prima facie* would not qualify as casteist. This would make it hard for incidents of caste-based employment discrimination to pass the criminal standard of 'atrocities' under the Act. Moreover, like the PCA Act, the POA Act has also not been **properly enforced**.

The laws are vague, non-specific, and fail to sufficiently engage with workplace discrimination.

Firstly, neither of the laws outline any procedure for complaints, inquiry, or the procedure after the punishment to be followed by the employee. Secondly, the provisions import criminalisation only on the individual(s) – with no focus on the role of the organization.

In his critique of anti-discrimination law, **Neil Gotanda** argues "*when laws focus only on bilateral employment relations, they exclude any understanding that race has institutional or structural dimensions beyond the formal racial classification.*"

Similarly, the extant provisions exclude any understanding that Caste can have institutional or structural dimensions. While these provisions could be utilized to punish an individual,

the larger culture and discriminatory structures underlying the working of the organization are neither addressed nor dismantled.

On these counts, it's safe to say that India lacks a legal framework to address caste-based discrimination in employment effectively.

***There is a Right to Equality at Work
guaranteed under the Constitution, and a
corresponding duty on the State not to
violate this right.***

Though India has certain laws prohibiting caste discrimination, these laws fail to recognize the various ways in which discrimination manifests in the workplace.

Duty of the State to protect the Right to Equality at the Workplace

The Constitution not only recognizes a right against discrimination but also obligates the State to eradicate caste discrimination through labour law.

Article 14 & 15(1) recognizes the right to non-discrimination based on caste, and Article 19(1)(g) recognizes the freedom to practice any profession.

There is a Right to Equality at Work guaranteed under the Constitution, and a corresponding duty on the State not to violate this right. Flowing from this duty of the State, legislation like the Equal Remuneration Act 1976 [ERA], the Rights of Persons with Disabilities 2016 [RPD Act], and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 [POSH Act] prohibit discrimination based on gender and disability at the workplace.

The purpose of labour law is to ensure that inviolable rights are safeguarded even in the private sphere. This is evident in the scheme of the POSH Act and the RPD Act.

The rights enumerated in Part III are *vertical* in nature, **enforceable only against the State and its instrumentalities**. Hence, a claim for violation of fundamental rights guaranteed under Article 14 and Article 15(1) cannot be brought against a private employer. However, the verticality of these provisions cannot be an impediment to prohibit non-discrimination.

Part III of the Constitution casts an obligation on the State to regulate private employers and prohibit discrimination in employment.

This was the principle underlying the Supreme Court's decision in *Vishaka & Ors v State of Rajasthan*. The Court declared the failure of the State in regulating both private and public workplaces is violative of the petitioner's fundamental rights under Article 14, 19, and 21.

By recognizing the lacunae in law, the Court issued the famous *Vishaka* guidelines – which later on led to the enactment of the POSH Act.

The purpose of labour law is to ensure that inviolable rights are safeguarded even in the private sphere. This is evident in the scheme of the POSH Act and the RPD Act.

Enacting another law is not an end-all solution for caste discrimination at work. Especially when organizations indulge in “discrimination laundering”

The Constitution asks the State to promote the educational and economic rights of Dalits and Adivasis (Article 46 and part XVI), as well as ensure just and humane conditions of work (Article 42).

Hence, there is a duty on the State to ensure that there is no discrimination on caste in any workspace. Shashi Tharoor's **Anti-Discrimination and Equality Bill 2016** and CLPR's **Equality Bill 2019** are examples of how a norm prohibiting caste discrimination in employment spaces can be framed.

Enacting another law is not an end-all solution for caste discrimination at work. Especially when organizations indulge in “**discrimination laundering**”– where they shape anti-discrimination laws to remove any pressure on themselves and keep discriminatory structures intact.

Nonetheless, it is a starting point in addressing a pressing social issue and an opportunity to fulfill the vision of anti-discrimination enshrined in the Constitution.

(Riddhi Shetty is a student at NALSAR University of Law. Views are personal.)

EXHIBIT 15

INDIA > SUSTAINING THE MYTH OF MERIT

Electrical engineering department at IIT Madras in 1967. Photo: Gauri Shankar Collection / The Heritage Centre, IIT Madras

INDIA | INTERVIEW

Sustaining the myth of merit

How technical knowledge became the preserve of a 'meritorious' upper-caste elite.

THE EDITORS | Oct 20, 2020

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*of a perceived lower-caste status. The case may help to recognise caste as new grounds for discrimination in the United States – a much needed intervention since Dalit Americans **routinely** face discrimination, including in the form of verbal and physical assault. While such developments demonstrate progress in recognising, if not addressing, caste-based discrimination, there is much work left to do. This includes unpacking how structures of caste privilege are sustained in Southasian institutions – including in establishments for higher education thought to be nurturing the region’s most gifted students.*

*In this interview we speak to Ajantha Subramanian, a Professor of Anthropology and South Asian Studies at Harvard University and the Chair of Harvard University’s Department of Anthropology. Her recent book *The Caste of Merit: Engineering Education in India* chronicles the rise of engineering education in India and tracks the relationship between meritocracy and democracy.*

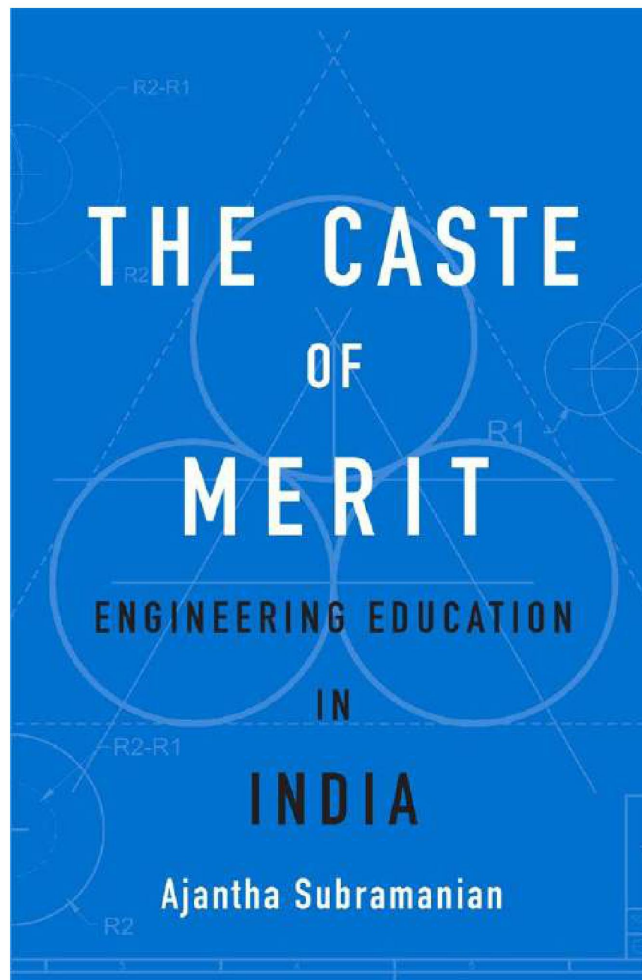
Subramanian talks to Himā Southasian about how caste privilege is sustained through engineering education, how it migrates to the diaspora, how technical knowledge became integral to state power and nationalism in India, and how mass coaching and reservations challenge caste hierarchies.

Himā Southasian: In *The Caste of Merit* you argue that merit is a form of caste property. Can you expand on what that means and describe how caste privilege became merit in India? How does the Indian Institute of Technology (IIT) and engineering education contribute to caste privilege?

Ajantha Subramanian: The book narrates the process by which castes who historically enjoyed privileged access to land, labour, education and professional employment were able to transform these forms of inherited capital into a claim to merit. While there were many mechanisms through which privileged castes refashioned themselves as meritocratic, modern subjects, I look at the role of

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the Indian context, this ideology of objectivity and social disembodiment obscures the role of caste stratification and caste distinction in shaping access to and experiences of engineering education. But I also look more closely at the role of three technologies of caste formation – affirmative action, mass examinations, and diasporic mobility – to show how each contributed to reinforcing the association between being upper caste and having merit.



'The Caste of Merit: Engineering Education in India' by Ajantha Subramanian.
Harvard University Press (2019)

AS: The IITs were part of a broader state commitment to technologically driven modernisation as the engine of national development. From the late 19th century, Indian critics leveraged arguments about 'underdevelopment' to point to the inadequacy and immorality of colonial rule. Part of the critique of colonial underdevelopment centred on technical education. Nationalists derided the colonial state for its meager investment in technical training and charged it with deliberately depriving Indians of the kinds of modern knowledge that would allow them to achieve economic and social progress. With the transition to Independence, nationalist ambitions were made material in the large-scale state investment in technical education. Although colonial India had a number of regional engineering colleges, the IITs were established as "institutions of national importance" that would form the uppermost tier of a stratified structure of postcolonial technical training. Funded at far higher levels than other colleges, the financial outlay was justified as the necessary cost for producing an elite cadre of nation-builders. So too was the social cost of exempting the IITs from caste-based affirmative action; equity, it was argued, would have to be sacrificed to excellence at this institutional tier.

HSA: What materials did you draw on when writing this book? What kind of methodology did you use to interpret the data?

AS: The book is a historical anthropology of caste in engineering education that relied on the use of various methodologies and sources. To understand the role of a colonial administrative sociology of caste in tracking groups into different tiers of technical training, I looked in regional and national state archives at the records of the Departments of Education and Public Works, and in the archives of colleges and schools in the southeast where technical training was first administered. To understand the colonial and postcolonial experience of upper castes inducted into professional engineering, I used the memoirs of Indians in the colonial engineering

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debates over the structure and goals of postcolonial education, and the reports of various inquiry commissions tasked with reviewing the state of technical education.

The upper-caste embrace of engineering is surprising because technical skill was previously associated with lower castes.

To get at administrative, curricular, and social changes in IIT Madras's over 60-year history, I gathered material from the college archives, did interviews with administrators, faculty, alumni and current students, sat in on classes, and attended campus functions. To understand the social impact of caste-based affirmative action, or reservations, I looked at the most important Supreme Court judgements on reservations, media coverage of anti-reservation protests, and social media debates on reservations. To get at how wider social aspirations underwrite the status of the IIT students, I had conversations with aspiring students and their parents during campus events open to the public. To understand the social impact of the expansion of exam coaching, I looked at media coverage and did interviews with students and graduates of different coaching centers. Finally, to get at the role of the diaspora, I did interviews with US-based IIT alumni, perused documents of IIT alumni associations, attended a pan-IIT alumni conference held at IIT Madras, and followed media coverage of the IIT diaspora.

HSA: *The Caste of Merit* challenges several assumptions about meritocracy in India, using the Indian Institute of Technology (IIT) as a window. How has the book been received by IIT graduates? What have you found to be the

INDIA > SUSTAINING THE MYTH OF MERIT

clearly interest in its arguments. At the same time, most of these invitations have been made by faculty and students who already have a critical perspective on the IITs, which suggests that the book is mainly circulating among sympathetic readers. Still, I am hopeful that others affiliated with the IITs will also read it. So far, I would say that the most surprising response has been from a reader who interpreted my advocacy for broader structural transformation aimed at addressing the stark economic inequalities of Indian society as an argument against caste-based affirmative action.

HSA: You note that the IIT is a feeder school of sorts and that many of its graduates seek opportunities in the United States. How did caste privilege migrate to the diaspora through engineering education? How has the response to your book been different among such diasporic groups?

AS: It is important to understand that caste operates as a filter: first, of which groups have access to education; second, of who can succeed in elite higher education; and third, of who can use higher education as a stepping stone to the US. The caste stratification of Indian society has ensured that the most well-regarded and competitive institutions of higher education, like the IITs, continue to be spaces of caste privilege and pathways to diasporic success. While there has been some shift in the social composition of such institutions because of reservations, these changes have yet to make a noticeable impact on the most elite institutions and on patterns of transnational migration. When reserved quotas have been implemented in elite public education or in public sector employment, a typical response by privileged castes has been to move to the private sector or abroad. The specific form of capital that they have – academic and professional credentials – has made for easy exit. Since this is a transferable form of capital, exit has also contributed to the further accumulation of capital. This is most dramatic in the case of IIT alumni who have used their caste capital to come to the US and accumulate even more capital in the US technology sector.

historical disadvantage but not of historical privilege.

The response to my book in the US has been shaped by its publication alongside the State of California's caste-discrimination case against the tech giant, Cisco. Since the individuals involved in the suit are all IIT alumni, I have been asked to speak at various forums about the role of caste at the IITs and in the US technology sector. My hope is that the Cisco case will make it easier to connect the dots between the operations of caste in India and the US. Even a cursory look at the pedigrees of Indian immigrant professionals reveals that the vast majority come from a handful of institutions in India, which also happen to be institutions whose student bodies are disproportionately upper caste and where caste discrimination is rampant. This makes the entry of caste into the American home and workplace not in the least bit surprising. The visibility and status of a select few Indian institutions and the Indian professional networks that play a role in American university admissions and corporate job hiring, guarantee that there is de facto caste discrimination at work. Despite this reality, the only educational institution in the US that has added caste to its non-discrimination policy is Brandeis University. The Cisco case has the potential to force the technology and academic sectors to recognise and prevent caste-based discrimination.

HSA: In *Caste of Merit* you write about how technical knowledge, previously the domain of lower-caste artisans, became a sign of upper-caste merit and education, how did that happen? How is India's pre-independence past linked to engineering's elevated status today?

INDIA > SUSTAINING THE MYTH OF MERIT

in the status of engineering during the colonial period. The rise of engineering rested on practices of distinction separating low from high, the manual from the conceptual, and artisanship from the professions. Moreover, the impact of colonialism in “racialising” caste was particularly significant for the upper-caste turn to the technical sciences. Earlier, changes in practice could lead to expulsion from the caste fold. The racialisation of caste under colonialism as a social form rooted in birth, heredity, and endogamy allowed for a new level of flexibility. As a result, even dramatic changes in practice, like the adoption of ritually prohibited occupations, came to be accommodated within the same caste category. Together, the distinctions that underwrote the rise of engineering and the association of caste with heredity, not practice, allowed upper castes ease of entry into a new profession. By the mid-20th century, artisanship and engineering were poles apart, with engineering perceived as a coveted, high status profession best suited to the high-born. In this sense, the value of engineering as a profession was intimately linked to its disassociation from the ‘tainted’ technical labour of lower castes.

HSA: You write that “Brahmins made up approximately 74 percent of engineering college students, despite being only 3 percent of the enumerated regional population.” How did the IIT become a Brahmin space and how did caste become racialised in India?

AS: Caste representation in the IITs varies across regions because histories of caste are regionally specific. In colonial Madras Presidency, Brahmins were overrepresented in higher education and the modern professions, which is why when the IITs were established in the postcolonial period, Tamil Brahmins were the most favourably positioned regional population to enter IIT Madras.

HSA: How does the reservation system, a mechanism of distributive justice, prop-up conceptions among upper-caste individuals that their merit is the result of talent, not history? Can you describe how regions with strong caste-

INDIA > SUSTAINING THE MYTH OF MERIT

but not of historical privilege. We see this in how groups are classified. While those who qualify for employment and educational quotas are included in the Reserved Category on the basis of their caste affiliation, those who do not qualify are simply classed under the General Category of ‘merit-based’ admissions. This absencing of caste from the General Category has profoundly shaped the debate around educational equality in India. The categorical distinction between the meritorious/casteless and the reserved/caste-based has allowed upper castes to argue that their merit is due entirely to their innate talent and hard work and that it is the system of reservations that produces inequality and undermines the modern republican ideal of equal citizenship.

Exam coaching and reservations were two phenomena that challenged the upper-caste dominance of elite education and the professions by expanding access to new social groups.

However, in regions with longer histories of lower caste rights politics, merit is understood as a product of privilege and not simply of innate ability. Tamil Nadu is a case in point. The region’s Non-Brahmin and Dravidian movements highlighted Brahmin privilege, making it less possible for Tamil Brahmins to claim merit on the basis of casteless, individual talent. Instead, they did so on the basis of caste belonging, an identitarian stance that was at odds with more universalistic conceptions of merit. As lower caste rights politics has expanded across India, such claims to merit on the basis of caste belonging have also become more widespread. In this sense, regions like Tamil Nadu are an important precedent for the proliferation of meritocracy as an upper caste identity politics.

INDIA > SUSTAINING THE MYTH OF MERIT

system:

AS: Exam coaching and reservations were two phenomena that challenged the upper-caste dominance of elite education and the professions by expanding access to new social groups. In response, upper castes have asserted their claim to merit through recourse to new languages of distinction and strategies of discrimination. Reservations have given rise to the distinction between the General and the Reserved and the stigmatisation of students who gain admission to institutions like the IITs through reserved quotas. Exam coaching has produced the distinction between the gifted and the coached, with those trained in the big coaching centres in Rajasthan and Andhra Pradesh seen as less conceptually skilled. It is important to recognise that these practices of distinction are not just symbolic claims. They are arguments about merit as upper-caste property that are leveraged in order to protect the conditions for capital accumulation from the pressures of distributive justice.

The rise of engineering rested on practices of distinction separating low from high, the manual from the conceptual, and artisanship from the professions.

HSA: You write that the IITs are predominantly male, and that as a result the IITs are an interesting place to study the relationships among upper-caste men and between upper- and lower-caste men. How do you think such relationships have shaped the meaning of masculinity?

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INDIVIDUALS WHOSE NATURAL TALENTS ARE NOTED BUT NOT PRODUCED BY THE IITS. THIS notion of upper castes as oriented towards the conceptual expresses a sense of collective identity and destiny. It also expresses a sense of distinction from lower castes who are thought to be more oriented towards manual skill and rote learning. These assumptions about caste difference play out in the everyday practices of stigmatisation that typecast lower-caste students as not of the same intellectual calibre, as not deserving the status of IITians, and as diluting the pedigree in a way that threatens its standing both nationally and globally. We see from these dynamics that masculinity is always constituted through other forms of hierarchical difference, with caste in this instance being integral to its formation.

EXHIBIT 16

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THE TIMES OF INDIA

California dept dismisses employee harassment case against Cisco

TNN | Oct 20, 2020, 09:13 AM IST



BENGALURU: California's department of fair employment and housing has voluntarily dismissed its lawsuit against Cisco Systems that alleged the latter failed to protect the rights of a scheduled caste (SC) Indian employee. "Such dismissal shall be without prejudice, with each side to bear its own costs and fees," said the California authority in a notice filed in a US court two days ago.

In July, the state agency sued Cisco alleging that the employee was discriminated against by his Indian bosses because of his caste.

The employee is not named. According to the court papers, the employee worked with a team of entirely Indian employees and he reported to supervisors - also defendants in the case - who were from higher castes.

The lawsuit had alleged that in 2016, the aggrieved employee's boss told colleagues that the employee was from the scheduled caste. When the employee confronted his boss about disclosing the caste, the boss is said to have denied the comment. The same year, the employee contacted Cisco's human resources and employee relations department to file a discrimination complaint against the boss. Six days after his first contact with Cisco's HR, the boss is alleged to have taken away the employee's role as lead on two technologies. The boss is then alleged to have promoted two of the employee's colleagues to head engineering roles, one of whom is another defendant.

Cisco's employee relations manager conducted the investigation into the December 2016 complaint. During the investigation, the aggrieved employee's boss admitted that he told colleagues that the employee was not on the "main list." Despite this, Cisco HR and employee relations department is said to have taken no further action.

The California authority had charged Cisco with discriminating against the employee "by subjecting him to disparate terms and conditions of employment based on his religion, ancestry, national origin/ethnicity, and race/colour." This has now been withdrawn.

EXHIBIT 17

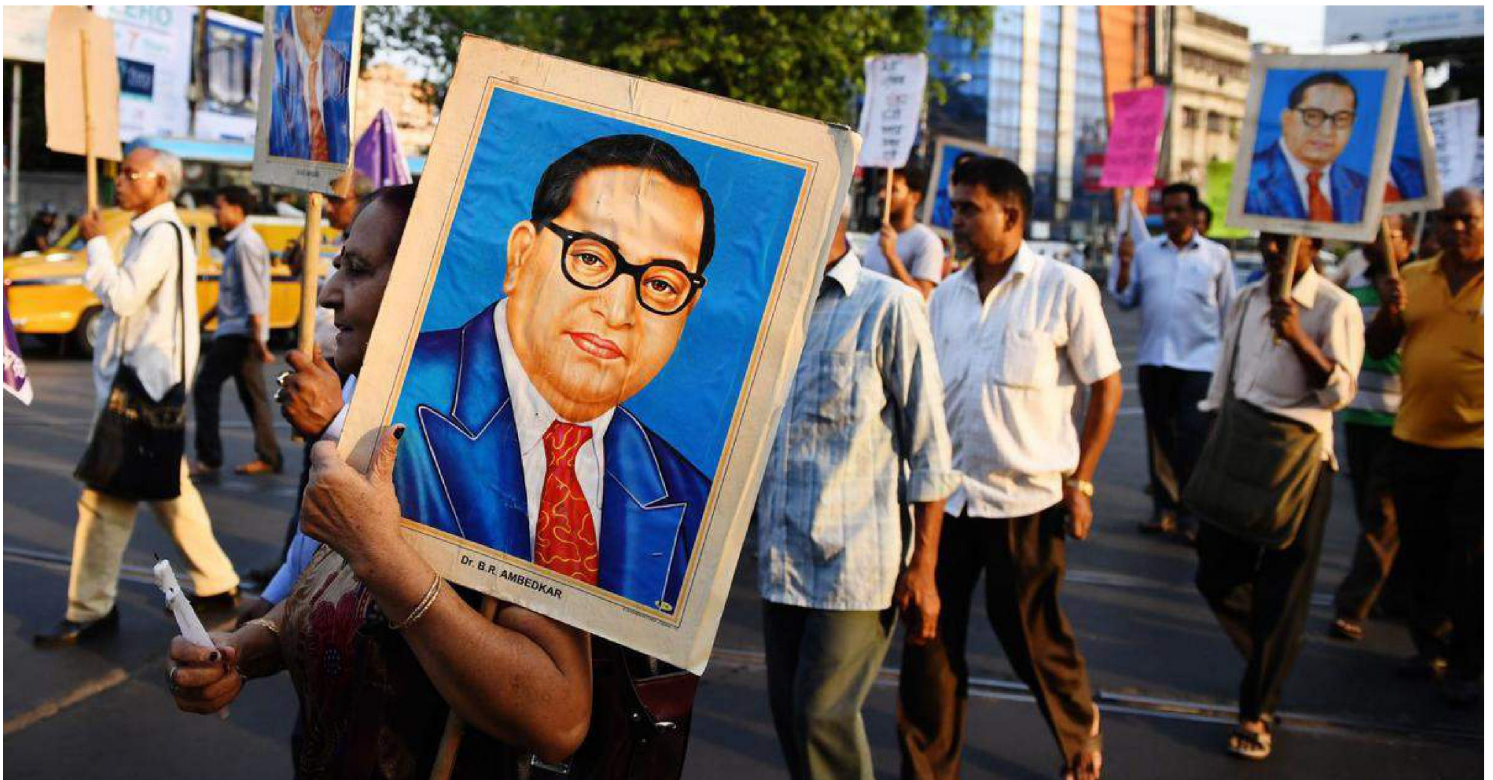
CASTE DISCRIMINATION

Cisco caste discrimination case busts the myth of the South Asian diaspora as a model minority

It exposes upper-caste anxieties about the introduction of the caste question in the West.

Anupama Rao

14 hours ago



A protest against a Supreme Court order diluting the Scheduled Castes and Scheduled Tribes Act in Kolkata on April 4, 2018. |

Dibyangshu Sarkar/AFP

In what is likely to be a precedent-setting case, California regulators filed a suit in the federal court on June 30 against Cisco Systems Inc, alleging that the company failed to prevent discrimination, harassment and retaliation against a Dalit engineer, anonymised as “John Doe” in the filing.

The Cisco case bears the burden of making anti-Dalit prejudice legible to American civil rights law as an extreme form of social disability attached to those formerly classified as “Untouchable.” Herein lies

its key legal significance. The suit implicitly compares two systems of descent-based discrimination – caste and race – and translates between them to find points of convergence or family resemblance.

The charge of caste discrimination also challenges the myth of the South Asian diaspora as a monolithic community and a model minority, the “other one percent”. The case makes caste internationally visible as the practice of social exclusion that is materially consequential. A little historical background will assist in the comparative work of discerning the consequences of untouchability in a context geared to findings about the very different category of race.

Two unequal systems

Reservations are a unique form of civil rights law that defines caste as a system of historical discrimination resulting in enduring group disadvantage, or social and economic “backwardness”. Until recently, reservations were organised around a commitment to “equality of outcome” and not merely “equality of opportunity”, as is the case in the United States.

Reservations in Southern and Western India date to the late colonial period, and predate the better-known system that followed passage of the Civil Rights Act of 1964 in the United States by nearly a century. Article 17 of the Indian Constitution separately abolishes untouchability and prescribes a system of compensatory discrimination for its victims and their descendants, including an unusual and robust set of criminal law provisions – such as the Prevention of Atrocities Act – that were instituted to protect these communities from violence by dominant upper-castes.

Constitutional commitments to social and economic advancement of Scheduled Castes and Scheduled Tribes are the governing template for extending reservations to other castes. What is more, Indian law courts have understood the commitment to remediation as absolute. So much so that interpretive leeway has turned on the question of eligibility, on defining the rightful beneficiaries of preferential treatment. In contrast, courts in the United States work through judicial scrutiny to balance equal protection – read “non-discrimination” – against commitments to affirmative action.

Ironically, affirmative action policies that are remedial in their conception are now criticised, whether in India or the United States, for introducing exception and inequality in the domain of liberal equality. It is true that there is a very wide gap between progressive legislation and equitable outcome in case law. However, this is not the reason why the state is actively rolling back civil rights legislation, both in India and in the United States. In the process and as a consequence, those who suffer the disability of caste or race are now viewed as the undeserving beneficiaries of affirmative action policy, while the true beneficiaries of inherited privilege redefine their privilege as “merit”.





The suit names Cisco Systems Inc and two employees, Sundar Iyer and Ramana Kompella. Credit: Pau Barrena / AFP

Let us take a brief look at the details of the suit with the foregoing in mind.

The federal suit filed by the California Department of Fair Employment and Housing follows on two inconclusive internal reviews conducted by Cisco. The complaint describes a hostile work environment that resulted in “John Doe” receiving less pay, fewer opportunities for advancement, and otherwise suffering inferior terms and conditions of employment.

The suit names Cisco and two employees, Sundar Iyer and Ramana Kompella, who served in a supervisory capacity over John Doe at varying times. Of eight charges in all, Cisco is charged with multiple counts of “Retaliation,” “Failure to Take All Reasonable Steps to Prevent Discrimination, Harrassment, and Retaliation,” and “Discrimination on the Basis of Religion, Ancestry, National Origin/Ethnicity, and Race/Color.” All three defendants are charged with “Harassment on the Basis of Religion, Ancestry, National Origin/Ethnicity, and Race/Color.”

The social circumstances leading up to the suit are equally revealing. John Doe is an IIT graduate, like the defendants. He worked on a team of entirely Indian, largely upper-caste employees. He was subject to a series of discriminatory incidents that escalated in severity starting with public exposure of his caste identity in late 2016 by Sundar Iyer. During Cisco’s first review, Iyer is alleged to have told John Doe’s colleagues that he was not from the “main list”, thus publicising Doe’s identity as someone who has derived the benefit of reservations. No action was taken, however, and the Office of Employee Relations is alleged to have noted that “caste discrimination was not unlawful.”

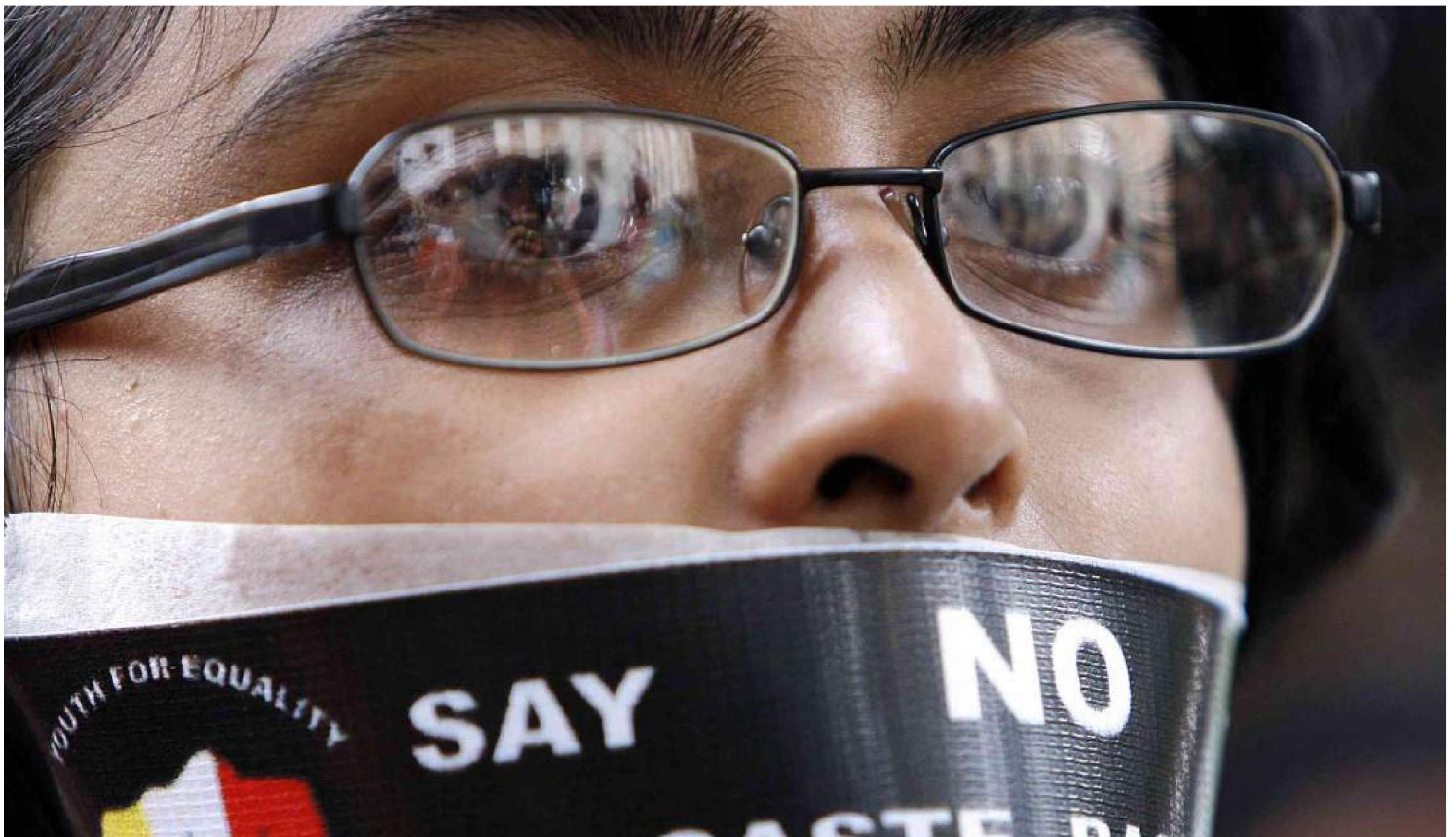
During the second review, witnesses testified that Iyer sidelined Doe from a project and questioned his competence. Doe was isolated from the group, rejected a raise, and denied the chance to apply for a position that would have entailed a raise and a promotion. However, Cisco's second review also found no grounds to support claims of caste-based and related discrimination, or evidence of retaliation against Doe.

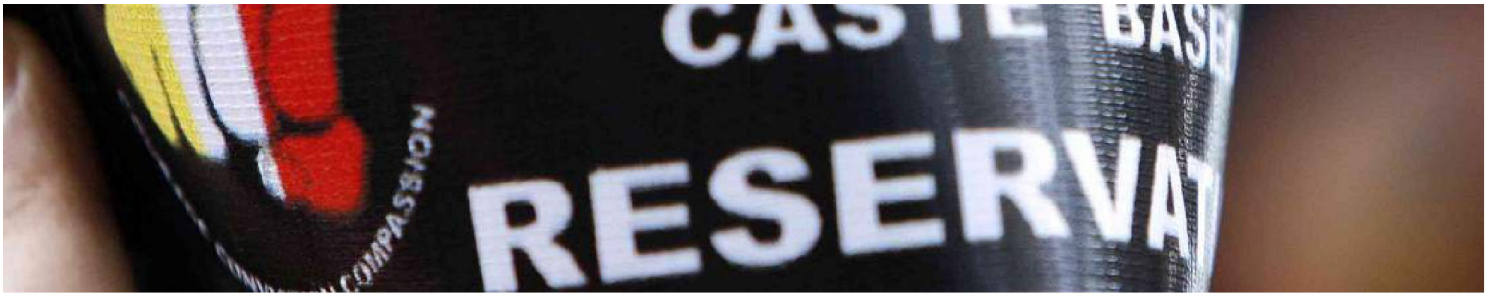
Inherited privilege

The case will now be decided in the court of law. However, it is worth noting that debates about caste privilege, anger against the “underserving” beneficiaries of reservation, and anxiety about the introduction of the caste question into the diaspora are rife within the upper caste discussions I am privy to. Why so?

The Cisco case addresses caste as inherited privilege, one that upper-castes carry with them and make use of to derive material benefit in the United States even as they deny that caste matters. Instead, John Doe is presented as suffering the burden of caste. The fact of his being a Dalit and thus, the beneficiary of affirmative action policy in India might confirm the view that his work is not up to par.

Though non-Indian coworkers might remain unaware, the caste name – and caste identity, more generally – continue to operate as secret knowledge that can be “outed” at will to stigmatise Dalit-Bahujans. Their social reverberations extend to membership in regional, and oftentimes caste-specific, cultural organisations, commitments to exclusivity in food and marriage, and most important of all, the denial of caste as an operative factor in contexts where merit is supposed to prevail.





There is a lot of anger against caste-based reservation among upper caste Indians. Credit: Deshkalyan Chowdhury/ AFP

By charging Cisco with responsibility for creating a hostile environment where a historically-discriminated minority is again excluded on the basis of religious identity – caste is here seen as an integral element of Hindu religion – national origin/ethnicity and race, the federal suit implicates a globally-renowned, private corporation, Cisco, with duty to equal protection and diversity.

In the United States, policies of affirmative action are related to but distinct from a commitment to multicultural diversity. Equal protection of diversity/difference, such as religious differences, must be distinguished from inequality that arises through historic relations of domination, subordination, and hierarchy. This case poses the question of how respect for Hindu religion might coexist with recognising socio-economic inequality justified in the name of religion.

Though far-reaching in conception and intent, reservations in India have been stymied by their focus on fast-vanishing public sector employment. They have steered clear of legislating equality in the private sector. The petition against Cisco provides a model, one that will need to be translated back to suit Indian conditions.

A senior Indian engineer in the United States whom I know, on reading the suit, remarked that it should be essential reading for every Human Relations department in this country, to alert them that there could be minorities within minorities, and that Indians are far from being a uniform or homogeneous group. Indians today constitute the highest earning and best-educated ethnic group, including Whites. Not surprisingly, they are overwhelmingly from well-educated and upper caste backgrounds. Despite their inherited privilege, they have fashioned an American success story for themselves, of struggling against the odds to achieve their status. This case suggests that a healthy dose of skepticism is required.

Anupama Rao teaches at Barnard College, Columbia University.