APPEAL NO. 24-1488

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ABHIJIT BAGAL,

Plaintiff-Appellant,

(Pro Se)

v.

KSHAMA SAWANT, in her official and individual capacities as Councilmember, District 3, of the Seattle City Council;

LISA HERBOLD, in her official and individual capacities as Councilmember, District 1, of the Seattle City Council; and

BRUCE HARRELL, in his official and individual capacities as the Mayor of the City of Seattle,

Defendants-Appellees.

On Appeal from the United States District Court
Western District of Washington at Seattle
Case No. 2:23-CV-00721-RAJ, Hon. Richard A. Jones

APPELLANT'S OPENING BRIEF

ABHIJIT BAGAL
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Plaintiff-Appellant (Pro Se)

Stop Weaponization of caste to Single Out, Target, & Racially Profile Hindu Americans.

CORPORATE DISCLOSURE STATEMENT

As a natural person, Abhijit Bagal has no parent corporation and no stockholders.

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INTRODUCTION

On February 21, 2023, Seattle City Council ("SCC") discussed and voted to approve caste-related Council Bill (CB) 120511. The Bill was introduced by Councilmember Kshama Sawant ("Sawant") and sponsored by Councilmember Lisa Herbold. Mayor Bruce Harrell signed CB 120511, as Ordinance 126767 ("Ordinance"), on February 23, 2023.

SCC purposefully did this to target South Asians in Seattle, specifically Hindu Americans, as made clear by Sawant, both before and after the Bill became Ordinance. **This was done despite a lack of caste discrimination data in Seattle, as acknowledged by SCC itself in its internal memo dated February 16, 2023.**

Instead, SCC manipulated caste data from a discredited and fraudulent 2018 survey conducted by Equality Labs ("EQL"). EQL, a for-profit company founded by Thenmozhi Soundararajan ("Soundararajan"), has a well-documented history of anti-Hindu hate speech, demonizing Hindu festivals like Holi, degrading Hindu scriptures, calling to demolish Hinduism, and committing fraud by manipulating data. This unscientific survey was denied judicial notice on February 11, 2021, by the Superior Court of California, Santa Clara.

Sawant and Soundararajan have collaborated and conspired in the past on February 4, 2020, in another anti-Hindu Seattle City Resolution, the FIRST by a U.S. Government legislature, denouncing Citizenship Amendment Act ("CAA") enacted by Government of India.

SCC deliberately chose the word "caste," used several Hindu terms, and traced the origins of caste to Hinduism in India. SCC purposefully did this to target Hindus and improperly define their religion.

The Ordinance created constitutional violations of Plaintiff's Free Exercise, Establishment Clause, and Due Process rights. SCC conspired with other state actors and private citizens to deprive Plaintiff's civil rights under 42 U.S.C § 1983 and 1985 - Conspiracy to interfere with Plaintiff's civil rights and violate Plaintiff's Free Association rights.

The First Amendment prohibits Government entities from taking positions on religious doctrine, which SCC did by using caste and other archetypal Hindu terms in the Ordinance. The mere fact SCC took a position on religious doctrine requires reversal.

The District Court rejected Plaintiff's attempt to remedy these constitutional violations by dismissing his complaint without leave to amend calling it "futile." Its decisions contradict controlling law, ignore

record evidence, and require reversal. Holding otherwise will enable the Government to define religious doctrine unilaterally and silence religious beliefs.

JURISDICTIONAL STATEMENT

The District Court had jurisdiction over Plaintiff's federal Claims under 42 U.S.C. § 1983, 42 U.S.C. § 1985, 28 U.S.C. § 1331, and 28 U.S.C. § 1343. The District Court dismissed Plaintiff's Claims on March 8, 2024. 1-ER-6 -13.[1] Final judgment was entered on March 11, 2024. 1-ER-4.

Plaintiff appealed on March 11, 2024. 1-ER-2; *see also* Fed. R. App. P. 3(c), 4(a)(1)(A). Since Plaintiff's appeal from final judgment, this Court has jurisdiction under 28 U.S.C. § 1291.

[1] The Excerpts of Record ("ER") filed with Plaintiff's opening brief contains, Plaintiff's Complaint, Defendant's Motion To Dismiss, and Plaintiff's Opposition with Exhibits.

ISSUES PRESENTED

I. WHETHER THE DISTRICT COURT ERRED IN DISMISSING PLAINTIFF'S CLAIMS FOR LACK OF STANDING?

II. WHETHER THE ORDINANCE VIOLATES THE FIRST AND FOURTEENTH AMENDMENTS?

III. WHETHER THE DISTRICT COURT ERRED BY OVERLOOKING SCC'S ILLICT MOTIVE, DISCRIMINATORY ANIMUS, AND CONSPIRACY TO DEPRIVE PLAINTIFF'S CIVIL RIGHTS?

STATEMENT OF THE CASE

On February 21, 2023, after a public hearing, SCC passed the Ordinance. 5-ER-326-328. To enforce it, a Full-Time Employee ("FTE") position was created, $100,000 in one-time funding, and $185,000 in ongoing funding was allocated. 3-ER-186.

This was done despite lack of data about scope and scale of caste-oppressed populations in Seattle, as acknowledged by SCC Analyst Asha Venkataraman ("Venkataraman"), in her internal memo[2] dated February 16, 2023, to Councilmembers. 3-ER-184-185.

[2] Memo dated 02/16/2023, from Asha Venkataraman, Analyst, SCC, to Councilmembers: "*difficult to find sources of quantitative, disaggregated data about the scope and scale of caste-oppressed populations in Seattle. …there is no existing systematic data collection at the local level*"

Instead, the Ordinance manipulated data from a discredited and fraudulent 2018 EQL survey by Soundararajan known for anti-Hindu hate speech. The anti-Hindu bias of Soundararajan was known to Sawant as early as February 4, 2020. 4-ER-240-270, 314; 5-ER-342-348.

This survey declared consumption of vegetarian food as a marker for targeting Hindu Americans. According to this survey, vegetarianism is inherently linked to caste mandated by Hinduism. 2-ER-31, 38; 4-ER-250.

The EQL survey was denied judicial notice by Judge Hon. Drew C. Takaichi of Superior Court of California, Santa Clara, on February 11, 2021. 5-ER-357; 6-ER-438.

On June 9, 2021, the EQL survey was deemed unscientific and its results were questioned and contradicted by a scientific caste survey by Carnegie Endowment for International Peace, Johns Hopkins University, and University of Pennsylvania. 5-ER-343-344.

EQL, a for-profit company, conducts fee-based caste competency training, leading to a Conflict of Interest; the same for-profit entity, whose survey is cited as primary evidence of "rampant" caste discrimination in U.S., is at the same time lobbying SCC and stands to

profit by providing caste competency training to SCC. 2-ER-55-59; 3-ER-66; 5-ER-342-346.

In the official letter from EQL to SCC dated February 17, 2023, making false unsubstantiated Claims of "rampant" caste discrimination and lobbying council members to vote YES, Soundararajan divulged details of her prior caste activism starting in 2015. She boasted of her achievement - the first congressional briefing on caste discrimination with Representative Pramila Jayapal, D-WA, ("Jayapal") held on May 22, 2019. 2-ER-60.

SCC's internal memo dated February 16, 2023, acknowledged Jayapal had sponsored the first Congressional briefing on caste discrimination in Washington D.C. 3-ER-185.

On February 17, 2023, **before the public hearing**, Sawant sent a letter to Jayapal soliciting her support for the Ordinance. 4-ER-245. Sawant's letter to Jayapal referred to the EQL survey to justify the Ordinance. In the letter, Sawant labeled the Coalition of Hindu Americans of North America (CoHNA), a grassroots advocacy organization representing Hindu Americans as "right-wing fundamentalists." 3-ER-90. Sawant also blamed emigrating South Asians

for bringing "caste oppression" to U.S. Plaintiff is a member of CoHNA and a Hindu American of South Asian descent who emigrated to U.S. and studied at Seattle University. 3-ER-89; 5-ER-332-335.

After the Bill's passage, Sawant gloated that Seattle once again, after three years, became the FIRST Governmental legislature in U.S. to pass the Ordinance. Sawant also reminded the public about her earlier historical anti-Hindu resolution against India's CAA in February 2020, also a FIRST in U.S. 3-ER-98; 4-ER-246.

It is no coincidence SCC scored two historic firsts in U.S., by creating two anti-Hindu Bills, led by the same set of collaborators and co-conspirators – Sawant, Soundararajan, and Jayapal.

Plaintiff, as a member of CoHNA, sent his concerns and objections regarding the Ordinance to SCC before the public hearing, using an email template generated by CoHNA. 2-ER-32, 54-55; 3-ER-85-88; 4-ER-244.

Until December 2022, Plaintiff made monetary donations to CoHNA to support their activities and actively attended their webinars. However, after SCC passed the Ordinance, branding CoHNA as "right-wing fundamentalists" Plaintiff stopped participating in CoHNA events.

Soundararajan, after succeeding in her lobbying efforts, congratulated co-conspirator Sawant: "Equality Labs is proud to join Councilmember Kshama Sawant and Seattle citizens in this historic Ordinance to add caste as a protected category to its non-discrimination policy." 3-ER-67, 89-90.

Sawant made it amply clear people of South Asian origin, specifically Hindu Americans, were being targeted by the Ordinance when she stated in her speech on January 24, 2023, (**before the public hearing**) while introducing the Bill, "With over a **167,000 people of South Asian origin living in Washington, largely concentrated in the Greater Seattle area**, the region must address caste discrimination and not allow it to remain invisible and unaddressed." 4-ER-243, 274.

Indeed, Sawant has a long history of targeting Hindu Americans as evidenced by her earlier anti-Hindu resolution. On February 4, 2020, Sawant passed another SCC resolution, the first by a Government legislature in U.S., denouncing CAA enacted by Government of India. CAA would have provided amnesty and fast-track citizenship to refugees in India fleeing religious persecution in Afghanistan, Bangladesh, and

Pakistan. Sawant falsely compared CAA to Nuremberg laws of Nazi Germany. 2-ER-34; 4-ER-246.

Sawant at that time, was joined by co-conspirator Soundarajan on February 4, 2020, stating "These **genocidal** projects happen in the shadows and this resolution highlights the significance of **Seattle City Council** Standing up for **South Asian** minorities, **Muslims**, and **caste** oppressed communities." 4-ER-246.

The U.S. and other democratic countries have fast-tracked similar citizenship laws based on ethnicity and religion like the Cuban Adjustment Act (also called CAA), enacted in 1966, and **The Lautenberg Amendment**.

The Ordinance, initially drafted by Venkataraman, made recurrent references to **Hinduism**, **India**, and **South Asia** using **archetypal Hindu terms** like **"varna."** 4-ER-269-270, 298.

Venkataraman's memo described caste as a religiously sanctioned social structure of Hinduism and targeted South Asians in an even starker manner. 2-ER-184.

The Ordinance included **endogamy** in defining caste, which means a spouse's background could be evidence of caste discrimination.

Consequently, while personal information about anyone else's spouse would be irrelevant in a work-related discrimination investigation, if one is a Hindu American, it could be. Thus, unlike race and ethnicity, caste is not a neutral category, making the Ordinance Unconstitutional. 2-ER-35; 5-ER-330.

On February 20, 2023, both Sawant and Soundararajan were quoted together in a Seattle Times newspaper article "*How India's caste system manifests in Seattle-area workplaces and beyond*" confirming Indian immigrants to Seattle were the real target of this Ordinance. 3-ER-192-193.

Sawant further attacked Hindu Americans and CoHNA in her official Frequently Asked Questions list, dated March 2, 2023. 2-ER-34; 3-ER-90, 160, 174-180.

Sawant referenced the caste Policy at California State University (CSU) and the alleged caste discrimination at Cisco Systems, both currently under litigation in California and have been listed under statement of related cases. 3-ER-66-67, 175, 178, 180; 4-ER-272.

Sawant continued to lobby and push for proposed California caste legislation SB-403, sponsored by Soundararajan. Sawant declared her

intent to visit California on June 25, 2023, to build a "powerful movement." 3-ER-200, 206, 213.

SCC was already biased against Hindu Americans which they displayed in public, hence Hindu Americans stood no chance of getting a fair hearing from SCC. Sawant's hostile attacks on CoHNA caused injury to Plaintiff, depriving Plaintiff of an opportunity to participate as an equal in a public hearing conducted by SCC. 2-ER-33, 85-88; 4-ER-227, 244-245, 250, 252.

Plaintiff's recent research reveals that Sawant, Soundararajan, and Jayapal have a much longer history, going back to 2015 of conspiring and collaborating to target Hindu Americans. Details of this are documented in the Addendum and Plaintiff requests this Court to take notice of these past links as they are connected to the recent conspiracy between Sawant, Soundararajan, and Jayapal regarding the Ordinance.

On March 16, 2015, Jayapal announced her endorsement for Sawant for the Capitol Hill-centered District 3 Councilmember position. **See Addendum A.3.**

On May 22, 2019, Soundararajan and Jayapal, using EQL's fraudulent "web-based self-reported" survey held the first congressional

briefing on caste discrimination in Jayapal's office in Washington DC. **See Addendum A.4.**

On December 23, 2019, Jayapal, in an op-ed in The Washington Post made false and defamatory statements about India's CAA. **See Addendum A.5.**

In February 2020, Hindu Americans in Seattle encountered a hostile section of the American polity co-led by Sawant and Jayapal to bring a resolution in SCC against CAA. **See Addendums A.6., A.7., and A,8.**

A few days after Plaintiff's Complaint was filed, on May 23, 2023, Sawant announced another public hearing on discrimination based on **caste and Muslim** identity, showing biased assumptions. Sawant used vituperative language against Hindu Americans and **attacked CoHNA branding it "right-wing organization**." Plaintiff is a member of CoHNA hence this is a direct attack on Plaintiff. In contrast, Sawant praised "**Muslim** activists" as her collaborators in passing the Ordinance highlighting **hostile treatment given by SCC to Hindus vis-à-vis favorable treatment given to Muslims**. 2-ER-47-52; 3-ER-218; 4-ER-244.

Sawant acknowledged collaborating with the same set of anti-Hindu co-conspirators from 2020: "In December 2020, many of the **Seattle-area activists** who fought to win our **caste discrimination ban also joined my office in winning a City Council resolution."** 3-ER-221.

SUMMARY OF THE ARGUMENT

The District Court committed several errors warranting reversal. First, the District Court dismissed Plaintiff's Claims for lack of Standing without leave to amend calling it "futile." 1- ER-12 - 13.

Second, the District Court improperly dismissed Plaintiff's assertion with supporting evidence the Ordinance was Unconstitutional and targeted Hindu Americans. 1-ER-9-10.

Third, Plaintiff asserted in his Opposition to Motion To Dismiss the discriminatory animus and illicit motive of SCC and conspiracy to deprive Plaintiff's civil rights to freedom of association, which the District Court overlooked. Accepting those allegations as true, as the law requires, the District Court's dismissal cannot be sustained. Had the District Court allowed the Claims to proceed (as it should have), Plaintiff would have proved the Ordinance is unconstitutionally vague, not facially neutral, driven by discriminatory animus with an illicit

motive by state actors and private citizens collaborating and conspiring to deprive Plaintiff's civil rights to freedom of association. 1-ER-12.

ARGUMENT

I. THE DISTRICT COURT ERRED IN DISMISSING PLAINTIFF'S CLAIMS FOR LACK OF STANDING.

The District Court, in its decision to deny Standing to Plaintiff, ruled: "But abstract stigmatic injuries are insufficient to confer Standing under the Fourteenth Amendment. *See Allen v. Wright*, 468 U.S. 737, 755 (1984); *see also* ***Kumar v. Koester***, No. 2:22-cv-0755-RGK-MAA, 2023 WL 4781492, at *3 (C.D. Cal. 2023) (**Hindu university professors lacked Standing …**). The injury of stigma confers Standing "only to those persons who are personally denied equal treatment [by the challenged discriminatory conduct]." *Heckler v. Mathews*, 465 U.S. 728, 739–40 (1984)." 1-ER-12.

1. Plaintiff has suffered an ipso facto, personal stigmatic injury which is a concrete injury-in-fact.

Despite Supreme Court's decision in *Allen*, stigmatic harm has never been disregarded as a rationale for Standing. In *Allen* itself, the Court acknowledged stigmatic harm could justify Standing for Plaintiffs

who directly faced unequal treatment. After *Allen*, the Court has referenced stigmatic harm, expressly or indirectly, as a basis for Standing in cases concerning electoral Districting and the Establishment Clause.

According to established Standing doctrine of the Supreme Court, a Plaintiff has Standing only if s(he) experienced a tangible "injury in fact" directly linked to the defendant's actions and is likely to be remedied by a favorable decision. *Vt. Agency of Natural Res. v. United States ex rel. Stevens, 529 U.S. 765, 771 (2000).* The injury must be concrete, not abstract, and actual or imminent, not conjectural or hypothetical.

The Court has not defined a "concrete injury" but has categorized some as concrete and others as abstract. One cannot see or touch representational harms in *United States v. Hays 515 U.S. 737, 744–45 (1995).,* loss of opportunity in *Ne. Fla. Chapter of the Associated Gen. Contractors of Am. v. City of Jacksonville, 508 U.S. 656, 664–66 (1993),* or increased competition in *Ass'n of Data Processing Serv. Orgs. v. Camp, 397 U.S. 150, 152 (1970).* Aside from physical injury and financial loss, very few harms recognized by the Court can be directly observed or felt.

While many Plaintiffs cite economic harm, Standing can also be established based on non-economic harm.[3] For example, the Court has recognized injuries to aesthetic interests, such as enjoying a specific forest or park, are adequate grounds for Standing. Instances include cases where interference with recreational use of a river was deemed sufficient for Standing, or where the inability to utilize or appreciate natural resources or animal species constituted a recognizable injury. The Supreme Court has stated in the past that "non-economic injury" is cognizable; the Court has shown a willingness to recognize injury to aesthetic and conservational interests, a "spiritual stake in First Amendment values," the "inability to compete on an equal footing," and stigma or indignity as bases of Article III injury. This confirms the Supreme Court has not precluded the recognition of psychological harm as injury-in-fact.[4]

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[3] Friends of the Earth, Inc. v. Laidlaw Envtl. Servs., Inc., 528 U.S. 167, 173–74 (2000) (recreational use of a river is sufficient for Standing); Lujan v. Defenders of Wildlife, 504 U.S. 555, 562–63 (1992) (inability to use or enjoy animal species is a cognizable injury); U.S. v. Students Challenging Regulatory Agency Procedures, 412 U.S. 669, 686–87 (1973) (recognizing the inability to use natural resources as an injury).

[4] Valley Forge, 454 U.S. at 486; Ass'n of Data Processing Serv. Orgs., Inc. v. Camp (ADAPSO), 397 U.S. 150, 154 (1970); Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc., 528 U.S. 167, 183 (2000); ADAPSO, 397

In *Allen*, the Court recognized stigma as one of the most serious consequences of discriminatory Government action. Additionally, the Court has utilized the existence of stigmatic harm to identify equal protection violations in cases such as *Brown v. Board of Education, 347 U.S. 483 (1954)* and *Strauder v. West Virginia, 100 U.S. 303 (1880).* Moreover, in *Lawrence v. Texas, 539 U.S. 558 (2003)*, Justice Kennedy emphasized stigma resulting from the Texas sodomy law was not trivial, while Justice O'Connor stated it subjected gays to a lifelong penalty and stigma. Consequently, *Allen* cannot hinge on the assertion stigmatic harm is purely imaginary.

By "concrete," the Court indicates harm must be specific to the Plaintiff, not general, or widely shared. There are two issues with this interpretation. First, *FEC v. Akins, 524 U.S. 11 (1998),* clarified Standing won't be denied to Plaintiffs solely because the injuries they suffer are widespread. The Court held where harm is concrete, even if widely shared, the injury-in-fact requirement is fulfilled. Second, even if "concrete" means personal or particularized, stigmatic harm would meet this criterion. The Court typically defines generalized injuries as those

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U.S. at 154; ADAPSO, 397 U.S. at 154; Ne. Fla. Chapter of Associated Gen. Contractors v. City of Jacksonville, 508 U.S. 656, 666 (1993).

common to all members of society, such as when the Government fails to adhere to the law. However, stigmatic harm isn't experienced universally; it's felt solely by members of the stigmatized group. Even within a stigmatized group, the experience varies from person to person. Just as all individuals denied the right to vote suffer a specific injury, so do all individuals who experience stigma encounter harm that is specific and personal to them.

In furthering the previous interpretation, legal precedent supports this definition. The Court has frequently asserted a mere "interest in a problem" does not meet the threshold for Standing, a principle typically understood to exclude purely ideological Plaintiffs. Consequently, it is reasonable to withhold Standing from Plaintiffs who are merely seeking to "vindicate...value interests."

However, this characterization doesn't apply to Plaintiffs who allege stigmatic harm. Such Plaintiffs **may** ideologically oppose the Government action that stigmatizes them, **but** their injury doesn't stem from this ideological disagreement. Instead, they're harmed because the Government's action effectively brands them with a mark of disgrace, leading to discrimination, prejudice, threats to self-esteem, and

susceptibility to stereotype threats and self-fulfilling prophecies. These injuries persist regardless of whether they disagree with the Government's action or whether their ideological interests might be upheld by a favorable decision.

In various cases of equal protection, electoral Districting[5], and the Establishment Clause[6], the Court has cited stigmatic harm as grounds for Standing. Moreover, in its ruling in *Lawrence* the Court utilized stigmatic harm to address an issue that was not crucial to the case's resolution.

In *Lawrence*, two individuals contested their conviction under a Texas statute that banned sodomy among same-sex partners while permitting it among opposite-sex partners. While the Court had the option to nullify the law based on equal protection principles, it instead invalidated it on grounds of substantive due process, thereby reversing its ruling from seventeen years prior in *Bowers v. Hardwick, 478 U.S. 186 (1986).* Justifying this stance, the Court argued the law fostered

[5] Shaw v. Hunt, 517 U.S. 899, 901 (1996); Bush v. Vera, 517 U.S. 952, 957 (1996); Miller v. Johnson, 515 U.S. 900, 909 (1995); United States v. Hays, 515 U.S. 737, 739 (1995); Shaw v.Reno, 509 U.S. 630, 633–34 (1993).

[6] Zelman v. Simmons-Harris, 536 U.S. 639, 648 (2002); Mueller v. Allen, 463 U.S. 388, 392 (1983); Flast v. Cohen, 392 U.S. 83, 85 (1968); Everson v. Bd. of Educ., 330 U.S. 1, 1 (1947).

discrimination against gays both publicly and privately. *Lawrence, 539 U.S. at 575*. Additionally, the Court noted even if the law was not enforceable in its current form, a decision solely based on equal protection might not eliminate the stigma attached to it, as Texas could still criminalize sodomy among all couples. Hence, the Court determined it was imperative to address the due process matter and reconsider *Bowers*, stating, "Its retention as precedent diminishes the dignity of gay individuals."

The Court determined the defendants faced two distinct harms. Firstly, they endured a conviction and were subjected to a corresponding fine. Secondly, they bore the stigma inflicted by the Texas law on individuals identifying as gay or lesbian. While a ruling based on equal protection would address the first harm, only a decision rooted in due process could address the second. Driven by the obligation to eradicate this stigmatic harm, the Court nullified the law as a violation of due process. Thus *Lawrence* relied on stigmatic harm to justify a decision that was not necessary to resolve the case confirming stigmatic harm is a judicially cognizable injury.

The initial domain where stigmatic harm remains pertinent was pinpointed by the Court in *Allen* itself. Refuting Plaintiff's Standing assertion, the Court in *Allen* remarked stigmatic harm provides grounds for Standing solely to individuals who are directly deprived of equitable treatment by the contested discriminatory actions. The Court didn't elaborate on this assertion but referenced its ruling several months earlier in *Heckler v. Mathews 465 U.S. 728 (1984).* to clarify its stance.

The Court has also utilized stigmatic harm as grounds for Standing in cases concerning electoral Districting. In the 1990s, white Plaintiffs contested redistricting schemes that established election Districts with majority-minority demographics. *Shaw v. Reno, 509 U.S. at 630.*

In numerous Establishment Clause cases, the Plaintiff contends their tax funds are unlawfully utilized to endorse a religious establishment. The harm asserted in these instances is the financial loss incurred by the Plaintiff due to constitutionally impermissible actions. However, in many cases involving religious displays, the contested actions either entail minimal or no financial cost, making it challenging to perceive the Plaintiff's injury as the deprivation of their tax dollars.[7]

[7] County of Allegheny v. ACLU, 492 U.S. 573, 593–94 (1989) (endorsing

Academics like Professor Cass Sunstein contend the foundational injury-in-fact prerequisite within the Supreme Court's Standing doctrine lacks coherence - such an inquiry void of legal principles is impossible—it's essentially a metaphysical concept. 3-ER-129.

Sunstein and others propose Standing should be contingent upon whether relevant substantive law provides Plaintiff with a cause of action. This perspective echoes the Standing approach prevailing before the Supreme Court's 1970 ruling in *Data Processing*. Sunstein and others assert *Data Processing* was a misstep that significantly veered Standing doctrine off course. They argue the Court erred in abandoning the legal interest test, as determining whether the Plaintiff possesses a legally enforceable right is the only coherent method to ascertain if the Plaintiff's Claim merits consideration in Court. 3-ER-130-131.

When the law categorizes Hindu Americans as inherent caste discriminators, it encourages others to discriminate against them. In *Strauder*, the Court observed that excluding African Americans from juries fueled racial prejudice. Similarly, in *Lawrence*, the Court elucidated

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Justice O'Connor's concurrence from Lynch); Alberto B. Lopez, Equal Access and the Public Forum: Pinette's Imbalance of Free Speech and Establishment, 55 BAYLOR L. REV. 167, 188–89 (2003) (stating the Court adopted O'Connor's test five years after Lynch).

the Texas sodomy law served as an open invitation to discriminate against gays in both public and private domains. By labeling Hindu Americans as habitual caste discriminators requiring policing law, the law prevents them from disproving associated stereotypes or alleviating prejudices held against them.

Finally, in *Spokeo Inc. v. Robins, 136 S. Ct. 1540, 1549 (2016).*, the Supreme Court confirmed: "intangible injuries can nevertheless be concrete" and cognizable as Article III injury-in-fact.

Combined with SCC's attributing caste to Hinduism, Sawant's belligerent public statements about "offensive" victory, naming of CoHNA as a target, and collaboration with powerful politicians like Jayapal, Plaintiff's fear he would be a target is genuine, and his cancellation of travel arrangements to attend a Seattle University alumni event and his foregoing of religious practices is a concrete injury. 5-ER-334, 342-344; 6-ER-382-403.

SCC's primary source, the EQL survey, asserts while most Americans who are vegetarian tend to do so for health reasons, Hindu Americans are vegetarian as it is required by caste and Hindu religious

mandates. Plaintiff is a vegetarian and is afraid his dietary preference will be misconstrued as caste discrimination. 2-ER-38.

SCC's other major source, the Cisco Systems lawsuit, collapsed in December 2022, when the California Civil Rights Department (CRD), after being threatened with a motion to sanction, was forced to **dismiss with prejudice** all allegations of caste discrimination against the two individual defendants, both Indian American engineers at Cisco Systems. 5-ER-348; 6-ER-446-448.

The first Indian American Engineer at Cisco Systems was forcefully assigned a "Hindu Brahmin Oppressor" caste by CRD based on his last name even though this person is an atheist, a publicly available fact that was known to CRD. 5-ER-351; 6-ER-419.

The second Indian American Engineer at Cisco Systems was charged with caste discrimination simply because he was merely following his supervisor's order to request a status report from his employee. The supervisor was a White American of European descent, so CRD gave him a free pass reasoning White Americans are incapable of caste discrimination while targeting the Indian American Engineer simply because of his South Asian descent. 6-ER-426.

After enduring three-plus years of nightmare of unending investigations, brutal online witch hunt, and presumption of guilt in the media after CRD ruined their reputations and lives, these two Indian American engineers have been finally vindicated. 6-ER-419-421.

The Cisco Systems lawsuit served as a cautionary tale for Plaintiff making him anxious and forcing him to worry about the legal morass awaiting him in Seattle if he were to attend the alumni event. 5-ER-356.

Additionally, Plaintiff's spouse is an ex-employee of Cisco Systems and has a different last name than Plaintiff and this particular last name belongs to the "Hindu Brahmin Oppressor" caste "hit list," making it a "double whammy" for Plaintiff. 5-ER-341.

Hence, Plaintiff has undergone significant trauma, being compelled to shoulder unwarranted guilt and endure silent toll on his reputation. Personal and social ramifications have been and continue to be profound for Plaintiff.

Plaintiff faces daily challenging decisions within his social circles, grappling with what to say, do, eat, or abstain from.

Because of Plaintiff's immigrant Hindu South Asian heritage, derogatory inquiries regarding his ethnicity and religious customs have become increasingly prevalent.

Plaintiff has refrained from engaging in social interactions with numerous colleagues out of apprehension regarding potential experiences of discrimination or being associated with such actions.

Individuals have frequently condescended to Plaintiff with moral indignation, often coercing him to denounce the Hindu caste system to absolve Plaintiff of perceived ignorance.

Asserting opposition to a hypothetical caste discrimination system has become the sole means by which Plaintiff is deemed worthy to express an opinion, and it serves as an ongoing effort to affirm Plaintiff's innocence.

This barrage of comments and attitudes has eroded Plaintiff's reputation and, indirectly, his sense of self-worth.

SCC, EQL, and The Washington Post went so far as to publish anonymous letters lacking credible evidence to assert: "**working with Indian managers is a living hell**." This has hindered Plaintiff's career

and future job prospects and left a permanent damaging scar on his life. 2-ER-61. 5-ER-365-366.

Dismissal for lack of subject matter jurisdiction is reviewed de novo. *Lujan v. Hughes Aircraft Co.*, 243 F.3d 1181, 1186 (9th Cir. 2001). The District Court's underlying factual findings regarding subject matter jurisdiction are reviewed for clear error. *Rattlesnake Coalition v. U.S. Env't Prot. Agency*, 509 F.3d 1095, 1100 (9th Cir. 2007). This Court also reviews "de novo a District Court's determination of a party's Standing bring suit." Applying those standards here, the District Court erred in dismissing Plaintiff's Claims due to lack of Standing.

2. Plaintiff has suffered and still suffers, the constitutionally recognized harm of self-censorship.

An Article III case or controversy includes "(1) an injury-in-fact, (2) causation, and (3) a likelihood a favorable decision will redress Plaintiff's injury." *Cal. Pro-Life Council, Inc. v. Getman*, 328 F.3d 1088, 1093 (9th Cir. 2003). To show injury in fact, "[c]ourts have long recognized '[o]ne does not have to await the consummation of threatened injury to obtain preventive relief.'" *Id.* at 1094 (second alteration in original) (quoting *Ariz. Right to Life Pol. Action Comm. v. Bayless*, 320 F.3d 1002, 1006 (9th Cir. 2003)). "First Amendment

challenges," like those asserted by Plaintiffs here, "'present unique Standing considerations' such that 'the inquiry tilts dramatically toward finding of Standing.'" *Libertarian Party of L.A. Cnty. v. Bowen*, 709 F.3d 867, 870 (9th Cir. 2013) (quoting *Bayless*, 320 F.3d at 1006). This "is so because, as the Supreme Court has recognized, a chilling of the exercise of First Amendment rights is, itself, a constitutionally sufficient injury."

This Court accepts "the constitutionally recognized injury of self-censorship" as a sufficient basis for Standing in cases involving First Amendment rights. *Getman*, 328 F.3d at 1095; *see also Virginia v. Am. Booksellers Ass'n*, 484 U.S. 383, 393 (1988) (recognizing self- censorship is "a harm that can be realized even without an actual prosecution"). In *Getman*, the Ninth Circuit held a nonprofit had Standing to assert a pre-enforcement facial challenge to a law on the grounds the law's definition of "independent expenditure" was unconstitutionally vague. *Getman*, 328 F.3d at 1095. This Court determined the nonprofit group "suffered the constitutionally sufficient injury of self-censorship" because it decided against making expenditures, fearing it might fall within the regulatory ambit of the law, even though (like Plaintiff here) the nonprofit did not understand what conduct was prohibited by the

law given its vagueness and undefined terms. *Id.* at 1093, 1095.

Ten years after deciding *Getman*, this Court reiterated in *Bowen* when a law "risks chilling the exercise of First Amendment rights, the Supreme Court has dispensed with rigid Standing requirements and recognized 'self-censorship' as a harm that can be realized even without an actual prosecution." *Bowen*, 709 F.3d at 870 (quoting *Hum. Life of Wash. Inc. v. Brumsickle*, 624 F.3d 990, 1000 (9th Cir. 2010)). This Court explained a "Plaintiff has refrained from engaging in expressive activity for fear of prosecution under the challenged statute, such self-censorship is a constitutionally sufficient injury as long as it is based on an actual and well-founded fear the challenged statute will be enforced." *Id.*; *see also Index Newspapers LLC v. U.S. Marshals Serv.*, 977 F.3d 817, 826 (9th Cir. 2020) (explaining a "chilling of First Amendment rights can constitute a cognizable injury, so long as the chilling effect is not 'based on a fear of future injury that itself [is] too speculative to confer Standing.'") (alteration in original) (quoting *Munns v. Kerry*, 782 F.3d 402, 410 (9th Cir. 2015))).

Plaintiff presented to the District Court significant evidence he intended, but declined, to engage in constitutionally protected conduct

due to the Ordinance. Plaintiff declined to participate in Hindu festivals like Holi because SCC considers participating in Holi as "celebrating the burning of a Dalit woman by upper caste men." 5-ER-344-345, 363. Plaintiff has stopped wearing Mauli (a sacred red thread) on his wrist since it's a Hindu religious marker. 5-ER-342. Plaintiff *no longer* discusses his religious beliefs in public because of the Ordinance which is self-censorship recognized as constitutionally sufficient in *Getman*.

Plaintiff should not have to bear Hobson's choice of refraining from core protected speech and religious activities or "risking costly [administrative] proceedings." *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 168 (2014); *see Kennedy v. Bremerton School Dist.*, 597 U.S. at 523 (2022) ("Where the Free Exercise clause protects religious exercises, whether communicative or not, the Free Speech Clause provides overlapping protection for expressive religious activities."). That is true regardless of whether the injury is actual or imminent. 4-ER-306. Indeed, *Bowen* makes clear a well-founded fear the Ordinance will be enforced ***in any manner*** is sufficient to confer Standing. *Bowen*, 709 F.3d at 870.

SCC has not indicated the Ordinance will not be enforced, instead, it has allocated a budget of $185,000 making enforcement threats material enough. 3-ER-186. The "Constitution and the best of our traditions counsel mutual respect and tolerance, ***not censorship and suppression***, for religious and nonreligious views alike." *Kennedy*, 597 U.S. at 514. By dismissing Plaintiff's Claims, the District Court forced Plaintiff's First Amendment rights to yield to the Ordinance simply because SCC deliberately used the term caste to target Hindu Americans. This tension between Plaintiff's Due Process rights, on the one hand, and his First Amendment rights, on the other, is a stark departure from the spirit of the First Amendment. *See id.* at 523 (discussing perceived tension between the Free Exercise and Establishment Clauses).

The Supreme Court further recognized this constitutionally prohibitive self-censorship in *Driehaus*, where the Court held advocacy organizations possessed Standing to assert a pre-enforcement facial challenge to a statute criminalizing false statements made about candidates during political campaigns. *Driehaus*, 573 U.S. at 167-68. The Court explained because the organizations intended to engage in

future conduct concerning "political speech, it [wa]s certainly 'affected with a constitutional interest.'" *Id.* at 162 (quoting *Babbit v. United Farm Workers Nat'l Union*, 442 U.S. 289, 298 (2014)).

Plaintiff wants to exercise his constitutional rights to celebrate Hindu festivals like Holi, wear Mauli, participate in CoHNA events, travel to Seattle to participate in his alma mater's alumni events, be able to choose whether he eats a vegetarian meal or not, and discuss issues related to his faith but declines to do so because it is unclear whether his actions will be considered casteist and in violation of the Ordinance. Those self-imposed limitations create the same constitutional harms identified in *Getman, Bowen*, and *Driehaus*—where this Court and the Supreme Court found Standing to exist—and yet, the District Court here concluded otherwise.

3. Plaintiff has demonstrated a well-founded fear the Ordinance will be enforced against him.

For self-censorship to qualify as a constitutionally sufficient harm for Standing, Plaintiffs "must have 'an actual and well-founded fear the law will be enforced against [them]." *Getman*, 328 F.3d at 1095 (quoting *Booksellers*, 484 U.S. at 393); *see also Bowen*, 709 F.3d at 870. This Court recognized, "in the context of pre-enforcement challenges to

laws on First Amendment grounds, a Plaintiff 'need only demonstrate a threat of potential enforcement will cause him to self-censor.'" *Tingley v. Ferguson*, 47 F.4th 1055, 1068 (9th Cir. 2022) (quoting *Protectmarriage.com-Yes on 8 v. Bowen*, 752 F.3d 827, 839 (9th Cir. 2014)). This Court also held a state's "failure to *disavow* enforcement" weighs in favor of Standing.

Fear-based Standing permits fear of future or present harm to constitute injury-in-fact. It is an exception carved out of—or another way of fulfilling—the requirement cognizable injury-in-fact be actual or imminent as well as concrete and particularized. This doctrine allows fear of harm to lead to cognizable injury-in-fact for Article III Standing. The doctrine, developed in three distinct lines of cases, encompasses three ways of cognizing fear as injury-in-fact: (1) as chilling effect injury; (2) as fear of the enforcement of a statute or regulation before it is enforced; and (3) as fear of anticipated, future harm. More broadly, however, the doctrine potentially may be implicated whenever Plaintiffs challenge as yet unrealized future harm. *Lujan v. Defenders of Wildlife, 504 U.S. 555, 560 (1992)* ("[T]he Plaintiff must have suffered an 'injury in fact'—an invasion of a legally protected interest which is (a) concrete and

particularized and (b) actual or imminent, not conjectural or hypothetical." (citations and internal quotation marks omitted)).

Since 2000 and the Supreme Court's decision in *Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.*, 528 U.S. 167, 184 (2000) (discussing reasonable fear as a basis for Standing) Courts have expressed a willingness to grant Standing to fear-based Claims. *Me. People's Alliance v. Mallinckrodt, Inc., 471 F.3d 277, 285 (1st Cir. 2006)* (finding injury-in-fact sufficient for Standing in "increased risk" which "rendered reasonable the actions of the Plaintiffs' members in abstaining from their desired enjoyment of the Penobscot"); *Cent. Delta Water Agency v. United States, 306 F.3d 938, 950 (9th Cir. 2002)* (finding injury-in-fact on the basis of "a credible threat of harm" to environmental interests); *Friends of the Earth, Inc. v. Gaston Copper Recycling Corp., 204 F.3d 149, 161 (4th Cir. 2000)* (finding injury-in-fact sufficient for Standing in a Plaintiff's member's "reasonable fear and concern about the effects of Gaston Copper's discharge, supported by objective evidence," fear and concern which "directly affect his recreational and economic interests").

One Court has found fear to be independently cognizable as injury-in-fact. *Denny v. Deutsche Bank AG, 443 F.3d 253, 264 (2d Cir. 2006)* ("An

injury in fact may simply be the fear or anxiety of future harm."). Even since 2010, the Second Circuit has followed a more permissive approach to fear-based Standing. *Amnesty Int'l USA v. Clapper, 638 F.3d 118, 122 (2d Cir. 2011)* ("Because Standing may be based on a reasonable fear of future injury and costs incurred to avoid that injury, and Plaintiffs have established they have a reasonable fear of injury and have incurred costs to avoid it, we agree they have Standing.")

A physical exposure requirement for Standing based on stigmatic harms contradicts Supreme Court precedent on Establishment Clause Standing. Rather than hinging on physical exposure, the Court's precedents suggest Standing depends on the Plaintiff's relationship to the community impacted by the alleged Establishment Clause violation. Under this view, Plaintiffs who Claim violations of the Establishment Clause denigrate them within their own community have asserted a cognizable injury. The Fourth and Ninth Circuits have held there is no physical contact requirement for stigmatic harms to be cognizable.

In addition to contradicting Supreme Court precedent, it is wrong to condition stigmatic harm Standing on physical exposure to a challenged Establishment Clause violation. As demonstrated in *Barber v. Bryant 860*

F3d 345, 351–53, 358 (5th Cir 2017), a physical contact requirement prevents Plaintiffs from challenging explicitly religious statutes and policies that stigmatize non-adherents as second-class citizens. This outcome directly contradicts the Courts' long-standing practice of allowing Plaintiffs to challenge religious statutes and prayers for inflicting the very same harm. Inoculating religious laws and policies that may violate the Establishment Clause from judicial review is particularly troubling in light of restrictions on taxpayer Standing in Establishment Clause cases.

The Fourth and Ninth Circuits have dismissed the notion that Standing based on stigmatic harms necessitates physical contact. Their support for Standing based solely on stigmatic harm derives from interpretations of the Court's Establishment Clause rulings and its implicit decisions. Existing Supreme Court precedents explicitly acknowledge Standing based on purely stigmatic harm for Establishment Clause Plaintiffs who are part of the affected community.

In the Fourth Circuit case *Int'l Refugee Assistance Project, Inc. v. Trump, 857 F.3d 554 (4th Cir. 2017)*, a Muslim Plaintiff contested ex-President Donald J. Trump's travel ban, asserting a theory of Standing based solely on stigmatic harm. The Plaintiff argued the ban's "state-

sanctioned message condemning his religion" made him feel excluded and marginalized within his community. The Court not only ruled this injury was sufficient to establish Standing but also explicitly affirmed the recognition of purely stigmatic harms. It stated "feelings of marginalization and exclusion are cognizable forms of injury" in the context of the Establishment Clause.

Similarly, in *Catholic League v. City of San Francisco, 624 F.3d 1043 (9th Cir. 2010)*, the Ninth Circuit upheld Standing based solely on stigmatic harm for Catholic Plaintiffs contesting a municipal resolution condemning the Catholic Church's views on homosexuality. The Plaintiffs, residing in the municipality, Claimed injury from the resolution's implication that "they are outsiders, not full members of the political community." The Ninth Circuit justified its Standing ruling by referencing the Supreme Court's numerous rulings on the merits in Establishment Clause cases involving stigmatic harms—described by the Ninth Circuit as the harms stemming from "exclusion or denigration on a religious basis within the political community."

The Supreme Court's precedent not only offers a more robust rationale for Standing based solely on stigmatic harm but also presents a

more reasonable principle for restraining judicial authority within its constitutional boundaries.

Two Supreme Court cases address the justiciability of stigmatic harms caused by Establishment Clause violations: *School District of Abington Township, Pennsylvania v Schempp, 374 U.S. 203 (1963)*, and *Valley Forge Christian College v Americans United for Separation of Church and State, Inc.*, *454 U.S. 464 (1982).*

Schempp confirms stigmatic harms are cognizable in the absence of physical contact. In this light, *Schempp* and *Valley Forge* suggest the closeness of the Plaintiff's relationship to the community affected by the religious message, rather than physical exposure to the message, confers Standing for stigmatic harms in Establishment Clause cases.

In *Schempp*, the Court held a Plaintiff alleging purely stigmatic harms had Standing to sue under the Establishment Clause. Two decades later, in *Valley Forge*, the Court rearticulated its holding in *Schempp*, affirming the cognizability of the *Schempp* Plaintiffs' stigmatic injuries.

Schempp thus demonstrates the requirement that Plaintiffs alleging stigmatic harms be "directly affected" by the challenged Establishment Clause violation has nothing to do with physical contact. Rather than

limiting stigmatic harm Standing to Establishment Clause violations that are accompanied by physical exposure to the challenged violation, *Schempp* is more sensibly read as suggesting stigmatic harms confer Standing on Plaintiffs who belong to the community impacted by the challenged violation. Indeed, in the aftermath of *Valley Forge*, many lower Courts recognized a Plaintiff's relationship to the community perpetrating the alleged Establishment Clause violation is critically important to the Standing determination under *Schempp*.

The Court's discussion of Standing in *Schempp* thus implies purely stigmatic harms suffered by Plaintiffs who belong to the community impacted by the challenged Establishment Clause violation are judicially cognizable.

Twenty years after *Schempp*, in *Valley Forge*, the Court reaffirmed and elaborated on the rationale underlying its conclusion that *Schempp* Plaintiffs had Standing. In denying Standing to the *Valley Forge* Plaintiffs, the Court explained the critical difference between uncognizable mere offense injury alleged in *Valley Forge* and cognizable injury in *Schempp*. The Court stated the injury suffered by *Schempp* Plaintiffs consisted of being "subjected to unwelcome religious exercises or

[ ] forced to assume special burdens to avoid them." Here, the Court identified two injuries that can confer Standing: being forced to endure a religious exercise and being forced to "assume special burdens" to avoid one. Critically, the "special burden[ ]" that William Murray was "forced to assume" to avoid the Bible-reading program was entirely stigmatic: his "good citizenship" was called into question and his views were cast as "alien and suspect." *Valley Forge's* gloss on the injury recognized in *Schempp* thus reinforces that purely stigmatic harm can (and did) confer Standing in the Establishment Clause context.

The *Valley Forge* Court's characterization of *Schempp* also points to the importance of ensuring Plaintiffs alleging stigmatic harms belong to the community impacted by the challenged religious message. In *Valley Forge*, the Court emphasized *Schempp* Plaintiffs had Standing to challenge Bible-reading policies because they were "children who attended the schools in question, and their parents." As in *Schempp*, this explanation highlights the importance of considering Plaintiff's relationship to impacted community—here, their status as students or parents at the schools implementing the challenged policies—in determining which Plaintiffs are sufficiently "directly affected" to have

cognizable injuries.

Some lower Courts seem unaware of Supreme Court precedent supporting Standing for Plaintiffs alleging purely stigmatic harms, while other lower Courts have assumed a physical contact requirement for Plaintiffs alleging purely stigmatic harms that directly contradicts the Court's jurisprudence.

Schempp and *Valley Forge* imply that while mere offense at the Government's violation of the Establishment Clause is uncognizable, stigmatic harms caused by Government's overtly religious actions or statements are justiciable for Plaintiffs belonging to the same community the challenged action or statement applies. In the Equal Protection context, the Court has expressly held "discrimination itself, by . . . stigmatizing members of the disfavored group as 'innately inferior' and therefore as less worthy participants in the political community, can cause serious non-economic injuries." *Heckler v Mathews*, 465 U.S. 728, 739 (1984).

Recognizing stigmatic harm Standing in the Establishment Clause context is consistent with the Court's Standing doctrine as applied to other constitutional provisions. Hence, the Court's requirement a

Plaintiff alleging stigmatic harm from race discrimination must have been "personally" discriminated against does not bar purely stigmatic harms from conferring Standing in Establishment Clause cases.[8]

In *Bayless*, this Court held a political action committee faced a credible threat following enactment of a statute requiring notice to candidates before distributing political literature. *Bayless*, 320 F.3d at 1006. The committee wanted to disseminate literature without noticing political candidates but instead delayed avoiding the possible penalty. This Court found those actions to be "self-censorship" and determined it was reasonable for the committee to delay its actions given Arizona never suggested the legislation would not be enforced.

Plaintiff faces the same risks as in *Bayless* since SCC has allocated a budget of $185,000 and an FTE to enforce the Ordinance. *See also Cal. Trucking Ass'n v. Bonta*, 996 F.3d 644, 653 (9th Cir. 2021) (recognizing

[8] The argument that Standing requirements that apply in the Equal Protection context necessarily apply to the Establishment Clause context has been put forth in several student Notes. See, for example, Spencer, Note, 34 Harv J L & Pub Pol at 1088 (cited in note 27); Note, Nontaxpayer Standing, Religious Favoritism, and the Distribution of Government Benefits: The Outer Bounds of the Endorsement Test, 123 Harv L Rev 1999, 2013–19 (2010); Daniel J. Austin, Comment, How to Reconcile the Establishment Clause and Standing Doctrine in Religious Display Cases with a New Coercion Test, 83 Miss L J 605, 613 (2014). It is perhaps telling that this argument is seldom raised in Articles or judicial opinions.

the state's refusal to disavow enforcement of a challenged law during litigation "is strong evidence" Plaintiffs face "a credible threat" of enforcement). Sawant has declared on multiple occasions the Ordinance is intended for the "167,000 people from South Asia living in Washington." 3-ER-65.

Despite that evidence, the District Court held Plaintiff failed to demonstrate a well-founded fear of enforcement, citing several reasons for its decision—none of which are relevant and all of which ignore critical facts ***and*** the law. These findings ignore the applicable law and facts of this case.

If anything, that the Ordinance Claims to prevent discrimination—but now includes a term at odds with Religious freedom—renders the Ordinance contradictory and therefore vague. Thus, the lack of previous discrimination allegations or enforcement is irrelevant. *Tingley*, 147 F.4th at 1069 ("The history of enforcement carries little weight when the challenged law is relatively new . . . .") (internal quotations omitted)). Finally, it is immaterial when SCC enforces the Ordinance, any constitutional violation, no matter how minor, warrants scrutiny.

In short, given (1) SCC's exclusive usage of Hindu terms; (2) its position the Ordinance is intended for South Asians, (3) multiple memos, letters, surveys, articles, and research documents ("Artifacts") linking caste to Plaintiff's religion; and (4) Collaboration and conspiracy between Sawant, Soundararajan, Jayapal, and others calling for action in response to an oppressive Hindu caste system, Plaintiff has a more than reasonable fear of SCC enforcing the Ordinance.

Indeed, it is an active Ordinance of SCC with enforcement provisions contained therein with an FTE and a separate budget of $185,000. Accordingly, Plaintiff has Standing to assert a pre-enforcement challenge to the Ordinance because it causes him to self-censor, and he fears enforcement; he should ***not*** be forced to wait until the Ordinance is enforced to mount an as-applied challenge when the requirements of a facial challenge are satisfied.

As this Court recently recognized, "facial vagueness challenges are appropriate if the statute clearly implicates free speech rights." *Tuscon v. City of Seattle*, 91 F.4th 1318, 1329 (9th Cir. 2024) (quoting *Cal. Teachers Ass'n v. State Bd. of Educ.*, 271 F.3d 1141, 1149 (9th Cir. 2001)).

The same applies to religious freedom rights found in the First Amendment. *See Kennedy*, 597 U.S. at 523-24 ("[T]he Free Speech Clause provides overlapping protection for expressive religious activities. That the First Amendment doubly protects religious speech is no accident. It is a natural outgrowth of the framers' distrust of Government attempts to regulate religion and suppress dissent.") (citations omitted)). Where, as here, "First Amendment freedoms are at stake, Courts apply the vagueness analysis more strictly, requiring statutes [here, the Ordinance,] to provide a greater degree of specificity and clarity than would be necessary under ordinary due process principles." *Tuscon*, 91 F.4th at 1329 (quoting *Cal. Teachers Ass'n*, 271 F.3d at 1150).

In *Tuscon*, this Court reversed the dismissal of a facial challenge because the District Court "failed to employ" the requisite analysis required by the facial vagueness doctrine. *Id.* at 1330.

The Court explained that instead of focusing on whether the Ordinance is not vague, the District Court speculated about possible vagueness in hypothetical situations that were not before it.

Although *Tuscon* involved a review of the District Court's analysis of a vagueness Claim on merits, the same improper analysis exists here

concerning Plaintiff's Standing.

Instead of focusing on harm of self-censorship that Plaintiff ***did*** suffer (and is suffering), the District Court erroneously validated SCC's Ordinance. 1-ER-8-9.

The District Court's analysis ignores Plaintiff's harm of self-censorship and warrants reversal.

4. The District Court wrongly concluded the Ordinance is facially neutral.

Under *Driehaus*, a Plaintiff asserting a pre-enforcement facial challenge must show: (1) he intends to engage in conduct that implicates his constitutional rights; (2) his intended future conduct is arguably proscribed by the challenged provision; and (3) he faces a credible threat of prosecution. *Arizona v. Yellen*, 34 F.4th 841, 849 (9th Cir. 2022) (quoting *Driehaus*, 573 U.S. at 159).

The District Court determined Plaintiff is not burdened in any manner from practicing his faith. But the District Court's conclusion only underscores Plaintiff's vagueness Claim. The mere fact Plaintiff's religious practice *should be* protected by the Ordinance does not mean it

is not curtailed by the Ordinance's inclusion of the term caste.[9] After all, SCC relied on *Merriam-Webster's* dictionary and other Artifacts targeting Hinduism. There is no way to determine under the Ordinance whether Plaintiff's religious practices or dietary preferences would be considered casteist by SCC. Consequently, there is no way the District Court could have found Plaintiff is unaffected by the Ordinance now that it includes caste. Hence, Plaintiff must engage in self-censorship until the Ordinance's boundaries have been determined. That is all Plaintiffs must show under *Driehaus*'s second factor, yet the District Court concluded otherwise.

The District Court held Plaintiff failed to demonstrate a well-founded fear of enforcement for several reasons: (1) Plaintiff's religious freedom is not affected by the Ordinance; (2) SCC has maintained an Ordinance against discrimination based on race or ethnicity; (3) Plaintiff

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[9] Because the Ordinance doesn't explain what constitutes caste discrimination, Plaintiff cannot determine what is a casteist *versus* a religious practice under the Ordinance. *See Tuscon*, 91 F.4th at 1329 ("The terms of a law cannot require 'wholly subjective judgments without statutory definitions, narrowing context, or settled legal meanings.'" (cleaned up)). Here, there are several definitions of caste (including *Merriam-Webster's*), which combined with the "narrowing context" of the Artifacts, emphasize the clash between the Plaintiff's religion and allegations of caste discrimination.

has not yet faced any allegation of discrimination. The District Court's conclusions are erroneous for several reasons.

First, as mentioned above, the mere fact the Ordinance is to prevent caste discrimination does not mean Plaintiff's Hindu practices are now not curtailed by the Ordinance's inclusion of the undefined term caste. Plaintiff's fear is more than well-founded given the plain language of the Ordinance, coupled with the Artifacts, and prior legislative history describing caste as a structure of oppression in Hindu society. The Ordinance confirms SCC, with its collaborators and co-conspirators, believe Hinduism contains an oppressive and discriminatory caste system. Because these Artifacts are the ***only*** record evidence of what SCC considered before adding caste to the Ordinance, that is the ***only*** evidence the District Court should have considered. Instead, the District Court flipped the burden on Plaintiff to prove an injury-in-fact. This too was in error.

Second, the fact there is no history of enforcement "carries little weight when the challenged law is relatively new." *Tingley*, 47 F.4th at 1069 (cleaned up). So, unless the District Court itself is assuming caste is part of Hinduism or Plaintiff's race or ethnicity (which presents

constitutional concerns), it is entirely irrelevant whether Plaintiff has faced any discrimination or enforcement in the past. Moreover, the mere fact SCC prohibits discrimination based on race or ethnicity has little to do with whether the term caste is unconstitutionally vague. Nor does it make it any less likely Plaintiff will be perceived as engaging in caste discrimination by SCC for participating in Hindu practices.

Finally, SCC has an active Ordinance with an FTE and a budget of $185,000, with consequences for violation, that SCC has ***never*** disavowed. Further, the mere fact the Ordinance has not been enforced yet does not justify its chilling effect on protected speech and expression. *See Cramp v. Bd. of Pub. Instruction of Orange Cnty.*, 368 U.S. 278, 287 (1961) ("The vice of unconstitutional vagueness is further aggravated where, as here, the statute in question . . . inhibit[s] the exercise of individual freedoms affirmatively protected by the Constitution"); *Gammoh v. City of La Habra*, 395 F.3d 1114, 1119 (9th Cir. 2005) ("A greater degree of specificity and clarity is required when First Amendment rights are at stake"). ***Any*** enforcement of the Ordinance impacting Plaintiff's constitutional rights is sufficient to meet the test for Standing. *See, e.g.*, *Bowen*, 709 F.3d at 870.

The law does not require Plaintiff to wait until an allegation of caste discrimination occurs and hopes SCC does not enforce its Ordinance at the expense of his First Amendment rights. Therefore, the District Court's judgment should be reversed and Plaintiff permitted to litigate his Claims.

II. INCLUDING "CASTE" IN SCC'S ORDINANCE VIOLATES THE FIRST AND FOURTEENTH AMENDMENTS.

Plaintiff asserts this Ordinance violates the Establishment Clause by adopting an official position that caste is part of Hinduism. Indeed, the ***only*** evidence in the record as to why SCC included the term caste in its Ordinance was Sawant's invidious intent to target South Asians using Artifacts that attributed the origins of caste to Hinduism. By adopting that position under the guise of facial neutrality, SCC violated the Establishment Clause.

This Court reviews a District Court's factual findings on documentary evidence under the clearly erroneous standard. *Mondaca-Vega v. Lynch*, 808 F.3d 413, 426 (9th Cir. 2015) (en banc). When the key evidence presented at trial consists primarily of documents and testimony, the appellate Court's review of the District Court's findings

for clear error may be particularly "extensive." *Easley v. Cromartie*, 532 U.S. 234, 243 (2001); *Miller v. Thane Int'l Inc.*, 519 F.3d 879, 888 (9th Cir. 2008). As part of extensive review, this Court will reverse factual findings when it has "definite and firm conviction a mistake has been committed." *Lentini v. California Ctr. for the Arts, Escondido*, 370 F.3d 837, 888 (9th Cir. 2004) (quoting *Easley*, 532 U.S. at 242). The District Court's legal conclusions are reviewed *de novo*. *Bertelsen v. Harris*, 537 F.3d 1047, 1056 (9th Cir. 2008).

The First Amendment *requires* Government "proceed in a manner neutral toward and tolerant" of citizens' "religious beliefs." *Masterpiece Cakeshop Ltd. v. Colo. C.R. Comm'n*, 584 U.S. 617, 638 (2018). The Establishment Clause requires "neutrality between religion and religion, and between religion and nonreligion.'" *Johnson v. Poway Unified Sch. Dist.*, 658 F.3d 954, 971 (9th Cir. 2011) (quoting *McCreary County v. ACLU of Ky.*, 545 U.S. 844, 860 (2005)).

The Supreme Court clarified in *Kennedy* "the Establishment Clause must be interpreted by 'reference to historical practices and understandings.'" *Kennedy*, 597 U.S. at 535 (quoting *Town of Greece v. Galloway*, 572 U.S. 565, 576 (2014)). Specifically, "the line Courts and

governments must draw between the permissible and the impermissible has to accord with history and faithfully reflect the understanding of the Founding Fathers." *Id.* at 535-36 (cleaned up).

The history of the Establishment Clause confirms the First Amendment "requires the state to be a neutral in its relations with groups of religious believers and non-believers; it does not require the state to be their adversary. State Power is no more to be used so as to handicap religions, than it is to favor them." *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203, 218 (1963) (quoting *Everson v. Bd. of Ed. of Ewing Twp.*, 330 U.S. 1, 18 (1947)); *see also Everson*, 330 U.S. at 16 (recognizing a law may not, among other things, permit the Government from "openly or secretly[] participat[ing] in the affairs of any religious organizations or groups and vice versa"). Nor may the Government become "embroiled, however innocently, in the destructive religious conflicts of which the history of even this country records some dark pages." *Schempp*, 374 U.S. at 219 (quoting *McCollum v. Bd. of Ed. of Sch. Dist. No. 71*, 333 U.S. 203, 228 (1948) (Frankfurter, J., concurring)). In particular, "Courts should refrain from trolling through a person's or institution's religious beliefs."

Mitchell v. Helms, 530 U.S. 793, 828 (2000) (plurality opinion).

Anytime the Government starts "[d]eciding" doctrinal questions, it "risk[s] judicial entanglement in religious issues." *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 140 S. Ct. 2049, 2069 (2020). As James Madison concluded, the idea that a Government official "is a competent Judge of Religious truth" is "an arrogant pretension" that has been "falsified." Memorial and Remonstrance Against Religious Assessments, in *Selected Writings of James Madison* 21, 24 (R. Ketcham ed. 2006); *see also Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Mem'l Presbyterian Church*,393 U.S. 440, 449 (1969) (prohibiting the Government from weighing in on "underlying controversies over religious doctrine").

These principles are especially profound in this setting, where the Supreme Court "has given the [First] Amendment a 'broad interpretation in the light of its history and the evils it was designed forever to suppress.'" *Schempp*, 347 U.S. at 220 (majority opinion) (quoting *McGowan v. Maryland*, 366 U.S. 420, 442 (1961)); *see also generally id.* at 238-81 (Brennan, J., concurring).

It is also well settled under the First Amendment that Government may not take an official position on religious doctrine (*i.e.*, by asserting either directly or indirectly that caste originated from Hinduism and that Hinduism contains an oppressive caste system) without running afoul of the Establishment Clause. In *Commack Self-Service Kosher Meats, Inc. v. Weiss*, 294 F.3d 415 (2d Cir. 2002), the Second Circuit considered whether defining the term "kosher" to mean "prepared in accordance with orthodox Hebrew religious requirements" violated the Establishment Clause in the context of New York statutes addressing fraud in the kosher food industry. *Id.* at 421.

The Second Circuit determined the challenged laws violated the Establishment Clause because they required the state to adopt an official position on a key point of religious doctrine—that is, what it means to be kosher. *Id.* at 427. The Court explained "to assert that a food article does not conform to kosher requirements, New York must take an official position as to what are the kosher requirements," which "impermissibly 'weigh[s] the significance and the meaning of disputed religious doctrine.'" *Id.* (alteration in original) (quoting *Presbyterian Church*, 393 U.S. at 452 (Harlan, J., concurring)). The Court held the

challenged laws departed from "the core rationale underlying the Establishment Clause, which is preventing a fusion of governmental and religious functions." *Id.* at 428 (cleaned up).

Here, SCC took an official position as to what being Hindu means by including caste in the Ordinance based on its views that caste originated from Hinduism and Hinduism contains an oppressive caste system. Thus, in attempting to prevent alleged caste discrimination, SCC took the position that caste, originating from Hinduism, is an oppressive Hindu belief and discriminatory practice. *Commack* affirms this is expressly prohibited by the Establishment Clause. *See also Kelly v. Warden, Calipatria State Prison*, 2018 WL 3805929, at *3 (S.D. Cal. Aug. 10, 2018) (recognizing that the Court may not determine what is or is not part of religion) (citing *Commack*, 294 F.3d at 426-28)).

The District Court disagreed, and in doing so, committed several errors by dismissing Plaintiff's Claims.

First, the District Court erred in determining the Ordinance does not express anti-Hindu sentiments. 1-ER-11-12. The numerous Artifacts used by SCC pronounce caste as a system of systemic oppression and discrimination— which originated from Hinduism. 3-ER-548, 553, 558,

559. It is immaterial some of these Artifacts also associate caste with South Asia, other countries, and other religions; the constitutional sting is no less simply because the Ordinance states caste discrimination exists elsewhere. The fact the Ordinance specifically mentions the origin of caste as a Hindu construct from India, currently being practiced by Hindu Americans —only emphasizes the anti-Hindu sentiment of SCC.

Second, the District Court erred in finding the Ordinance does not take a position that caste is part of Hinduism. As discussed above, the decision to include caste in the Ordinance was prompted by the assertion caste is a structure of oppression in Hinduism which the Hindu American diaspora from India has brought with them to Seattle. The Supreme Court established the "question of governmental neutrality is not concluded by the observation [a policy] on its face makes no discrimination between religions, for the Establishment Clause forbids subtle departures from neutrality . . . as well as obvious abuses." *Gillette v. United States*, 401 U.S. 437, 451 (1971) (citing *Walz v. Tax Commission*, 397 U.S. 664, 696 (1970) (Harlan, J., Concurring)). Nearly twenty years later the Supreme Court cautioned that a law does not *per se* comply with the Establishment Clause merely because it appears

facially neutral, explaining "the Establishment Clause[] extends beyond facial discrimination." 508 U.S. at 534. *See Church of Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 534 (1993).*

In *Lukumi* a Santeria church brought a First Amendment action after the City of Hialeah banned ritual animal slaughter through a series of enactments. *Id.* at 526-28. For example, Resolution 87-66 "noted the 'concern' expressed by residents of the city 'that certain religions may propose to engage in practices which are inconsistent with public morals, peace or safety,' and declared that '[t]he City reiterates its commitment to a prohibition against any and all acts of any and all religious groups which are inconsistent with public morals, peace or safety.'" *Id.* at 526 (alteration in original).

The city also approved an emergency Ordinance that incorporated Florida's animal cruelty laws. *Id.* After the attorney general determined that Florida law did not prohibit animal sacrifice, the city enacted a new resolution, which "noted its residents' 'great concern regarding the possibility of public ritualistic animal sacrifices' and the state-law prohibition." *Id.* at 527. The resolution further declared a city policy "to oppose the ritual sacrifices of animals" in the city and indicated "any

person or organization practicing animal sacrifice 'will be prosecuted.'" *Id.* The city thereafter adopted three additional Ordinances specifically addressing religious animal sacrifice. *Id.* at 527. None mentioned Santeria. *Id.* at 527-28.

In evaluating whether the city's actions violated the First Amendment, the Supreme Court (unlike the District Court here) focused on the underlying purpose of the city's actions and examined the record to conclude the Ordinances targeted the Santeria religion. *Id.* at 534-35. The Court reached its decision ***even though the Ordinances did not mention Santeria***, explaining while "use of the words 'sacrifice' and 'ritual' does not compel a finding of improper targeting of the Santeria religion, the choice of these words is support for our conclusion." *Id.* at 534. The Supreme Court also noted Resolution 87-66 recited the concerns of city residents over certain religious practices. *Id.* at 535. Accordingly, the Court concluded "[n]o one suggests, and on this record it cannot be maintained, that city officials had in mind a religion other than Santeria."

The same is true here. Given the Ordinance's references to Hinduism—including Artifacts highlighting the explicit connection

between caste and Hinduism—and Sawant's declaration to target Hindu Americans in Seattle, SCC cannot suggest, and on this record, it cannot be maintained, that SCC had in mind a religion (or anything else) other than Hinduism. *Lukumi*, 508 U.S. at 535. Just like the city's choice to use "sacrifice" and "ritual" in *Lukumi* suggested the city's intent to target Santeria, SCC's choice to use the term "caste" coupled with archetypal Hindu words like "varna" also suggests its intent to target Hinduism. SCC could have used a generic term like "inherited social class or status" instead of caste to remove any connection to the Hindu religion. It did not, and in addition to caste, it used archetypal Hindu terms in its Ordinance, and that failure is telling.

The District Court ignored evidence of record showing the Ordinance was focused on Hindu religion. That is the only evidence in this case of what the SCC considered when approving the addition of caste to the Ordinance. It is immaterial that other religions are mentioned in passing while making Hinduism the root cause of giving birth to an Oppressive caste system in India mandated by religious sanctions. ***Merriam-Webster,*** **which SCC refers to, does not mention any religions other than Hinduism. The first and**

primary definition of caste in *Merriam*-Webster is the one linked to Hinduism. 2-ER-35; 3-ER-183, 187. If SCC truly believed caste discrimination was previously covered by the prohibition on ethnic, racial, or ancestral discrimination, then it did not need to use the word caste. The only reason to add caste was to target and define the contours of the Hindu religion.

The Artifacts expressly connect Hinduism with caste, just as the resolutions in *Lukumi* targeted Santeria. In fact, the resolutions in *Lukumi* were far less obvious about targeting Santeria than the Artifacts here are about targeting Hinduism. *See Lukumi*, 508 U.S. at 526-27. But despite the arguably neutral language in the *Lukumi* resolutions, the Supreme Court held the city targeted the Santeria religion. *Id.* at 535. Here, the District Court erred by reaching the opposite result despite far more overt evidence.

The District Court also applied the same faulty Establishment Clause standard the Supreme Court reversed in *Kennedy*. In *Kennedy*, the District Court "began with the premise that the Establishment Clause is offended whenever a 'reasonable observer' could conclude the Government has 'endorse[d]' religion." *Kennedy*, 597 U.S.

at 533 (alteration in original). Applying that premise, the District Court granted summary judgment to the defendant school District in a First Amendment action brought by a high school coach after he was suspended for kneeling in prayer after football games. *Id.* at 519-21. The District Court reasoned the coach's suspension was essential to avoid an Establishment Clause violation because reasonable viewers could view the coach's action as an endorsement of religion. *Id.* at 521.

The District Court here applied the same now-overturned endorsement test by concluding the Ordinance does not target Hinduism. 1- ER-13. *Kennedy* makes clear the endorsement approach "'invited chaos' in lower Courts, led to 'differing results' in materially identical cases, and created a 'minefield' for legislators." 597 U.S. at 534 (quoting *Capitol Square Rev. & Advisory Bd. v. Pinette*, 515 U.S. 753, 768 n.3 (1995) (plurality opinion)). But despite that warning, the District Court held the Ordinance does not take the position that caste is a Hindu construct despite ***significant*** evidence to the contrary. Such a misapplication of the law warrants reversal under *Kennedy* and underscores the Supreme Court's concerns about "differing results" in Establishment Clause cases.

The District Court's conclusion is problematic for several reasons. First, Plaintiff provided the example of Professor Kevin Brown ("Brown") an expert on caste, who wrote an official letter on February 11, 2023, to SCC supporting the Ordinance. Brown is of the view caste is a 3000-year-old hierarchical system of the Indian subcontinent consisting of four groups Brown refers to as "**caste Hindu**" with Dalits being the fifth group. Brown is also of the opinion the Rigveda, one of the most sacred Hindu scriptures sanctions the caste system. 2-ER-60; 5-ER-352-354.

Plaintiff provided a second example of an editorial by Professor Ajantha Subramanian ("Subramanian") SCC used to justify the Ordinance. Subramanian is the author of "The caste of Merit: Engineering Education in India," in which she maps White American elitism to the upper castes of India to develop her conceptual framework that upper-caste Brahmins of India move to Silicon Valley and conspire against the lower castes in the U.S. which results in rampant caste discrimination. 2-ER-59; 4-ER-270; 5-ER-346.

Coincidentally, Subramanian is also the expert in the CSU caste lawsuit currently under litigation in this Court (*23-4363, Kumar, et al.*

v. Koester, et al.) where she stated in her deposition that caste is "not derived from Hinduism, but yes, it is often associated with Hinduism." She also noted while caste has a Western European origin, it is synonymous with the Hindu term "jati" which means "born or brought into existence" in Sanskrit, the language of Hindu scriptures, and refers to an expansive hierarchical classification in South Asia based on descent. **See Addendum A.9.**

Plaintiff introduced significant evidence to the District Court SCC used to describe caste as an oppressive structure of Hinduism. 2-ER-38,47-61; 3-ER-65-101. Plaintiff also introduced the *Merriam-Webster Dictionary* definition of caste used by SCC, which reinforces the conclusion SCC intended to target Hinduism. 3-ER-183. SCC, in its Artifacts, admitted it consulted *Merriam-Webster's Dictionary* to define caste. In the context of the evidence in this case—and the absence of any explanation by SCC—it is abundantly clear SCC intended to target Hinduism based on caste having its origins in Hinduism and being closely associated with Hinduism and South Asian Societies. But despite all of that, the District Court held Plaintiff offered no evidence.

Because that evidence (the ***only*** record evidence on this issue) makes clear SCC targeted Hinduism—just like the local Government targeted Santeria in *Lukumi*—the District Court's judgment should be reversed.

After SCC enacted the Ordinance, Plaintiff, **despite getting a personal invitation from the Dean of Seattle University to attend an in-person alumni event, had to cancel his Airline tickets and other travel arrangements to Seattle**, stopped participating in CoHNA events, stopped celebrating Hindu festivals like Holi, and stopped wearing Mauli. Yet the District Court dismissed Plaintiff's Claims. That was wrong in two respects. First, the District Court failed to recognize the Ordinance stopped Plaintiff from openly practicing his religion, wearing Mauli, and observing religious festivals like Holi —a prototypical Free Exercise violation. Second, the District Court never addressed Plaintiff's allegations the Ordinance impermissibly defined religious doctrine. Accepting those allegations as true—as the Court must, Plaintiff stated a viable Claim. 6-ER-392-395.

This Court reviews "de novo a District Court's grant of a motion for judgment on the pleadings." *Harris v. County of Orange*, 682 F.3d

1126, 1131 (9th Cir. 2012). In doing so it "accept[s] all material allegations in the complaint as true and construe[s] them in the light most favorable to [the non-moving party]." *Fairbanks N. Star Borough v. U.S. Army Corps of Eng'rs*, 543 F.3d 586 n.1, 589 (9th Cir. 2008) (third alteration in original) (quoting *Turner v. Cook*, 362 F.3d 1219, 1225 (9th Cir. 2004)).

1. Plaintiff alleged SCC adopted the Ordinance to target his religion, in violation of the Free Exercise Clause.

"[A] law targeting religious beliefs" is "never permissible." *Lukumi*, 508 U.S. at 533. Nor can the law's "object" be "to infringe upon or restrict practices because of their religious motivation." *Id.* In short, "the Government may not act in a manner 'hostile to . . . religious beliefs.'" *Fellowship of Christian Athletes v. San Jose Unified Sch. Dist. Bd. of Educ.*, 82 F.4th 664, 686 (9th Cir. 2023) (alteration in original) (quoting *Masterpiece Cakeshop*, 584 U.S. at 638). "[E]ven 'subtle departures from neutrality'" are unconstitutional. *Id.* (quoting *Masterpiece Cakeshop*, 584 U.S. at 639).

There should not have been a question the Ordinance was targeted at, and hostile to, Hinduism. Under the applicable standard of review, Plaintiff had affirmatively pled it was. Those averments had to be

treated as true. *Fairbanks*, 543 F.3d at 589 n.1. Under the correct standard, Plaintiff asserted a cognizable Free Exercise violation due to religious hostility. *See Kennedy*, 597 U.S. at 525 n.1 ("A Plaintiff may also prove a free exercise violation by showing 'official expressions of hostility' to religion accompany laws or policies burdening religious exercise; in cases like that we have 'set aside' such policies without further inquiry") (quoting *Masterpiece*, 584 U.S. at 639)).

The District Court attempted to side-step those averments by holding Plaintiff had not suffered harm because the Ordinance did not cause an actual injury. But all Plaintiff had to allege was the Ordinance tended to coerce him into acting contrary to his religious beliefs or exert[ed] substantial pressure on him to modify his behavior. *See Jones v. Williams*, 791 F.3d 1023, 1031-32 (9th Cir. 2015) (quoting *Ohno v. Yasuma*, 723 F.3d 984, 1011 (9th Cir. 2013)).

As detailed above, Plaintiff has shown more than a mere tendency of coercion. The Ordinance forced Plaintiff to self-censor his behavior. Specifically, Plaintiff alleged the Ordinance's vagueness forced him to guess—at his own peril—what constitutes reportable conduct. Plaintiff also alleged the Ordinance neither describes what repercussions exist

for caste discrimination nor explains what caste discrimination is.

Not attending religious events is a "substantial burden" on religious exercise. *Greene v. Solano Cnty. Jail*, 513 F.3d 982, 988 (9th Cir. 2008). Only by ignoring Plaintiff's allegations concerning the Ordinance's vagueness could the District Court find that Plaintiff was not at risk of harm. Plaintiff has outlined above how the Ordinance's vagueness, coupled with its hostility toward Hinduism, caused him to refrain from exercising his religion. That necessarily satisfies the standard of a Free Exercise Claim. Consequently, the District Court erred in dismissing Plaintiff's Claims due to lack of Standing.

2. Plaintiff Alleged the Ordinance Attempted to Define Religious Doctrine, which Comprised Another, Separate Free Exercise Clause Violation.

The Supreme Court has recognized defining religious doctrine not only violates the Establishment Clause, it violates the Free Exercise clause also. Specifically, *Guadalupe* held that anytime the Government starts "[d]eciding" doctrinal questions, it "risk[s] judicial entanglement in religious issues." *Guadalupe*, 140 S. Ct. at 2069. Such "interference . . . ***obviously*** violate[s] the free exercise of religion."

As explained above, SCC relied on Artifacts asserting caste discrimination originated from and is a part of Hinduism. That was an

impermissible attempt to define Hindu doctrine by a Government entity. In his complaint, Plaintiff identified this Free Exercise violation. But the District Court never addressed this aspect of Plaintiff's Claims; an error requiring reversal.

III. THE DISTRICT COURT ERRED BY OVERLOOKING SCC'S ILLICT MOTIVE, DISCRIMINATORY ANIMUS, AND CONSPIRACY TO DEPRIVE PLAINTIFF'S CIVIL RIGHTS.

Facial non-neutrality is not the only way to invalidate a law. Even facially neutral laws are invalid if they have uneven, or disparate, effects along racial or ethnic lines, and are motivated by a desire to hurt or demean a particular racial or ethnic group.

An invidious and illicit motive is self-evident in SCC's Ordinance. The Ordinance is concededly merely declarative of law that already exists (e.g., a more neutral ban on all ancestry-based discrimination). The thinness of the clarification motive for the law's enactment opens the door to the possibility the Ordinance is intended to target and condemn particular communities with whom the word caste is deeply (and stereotypically) associated. The findings embodied in the text of the Ordinance specifying—in problematically underinclusive ways—where caste currently exists serve only to reinforce the likelihood of such a

motive. Indeed, an earlier version of the Bill (and legislative history is quite relevant to impermissible-motive inquiry) contained language that problematically singled out South Asian populations (perpetrators and victims) in an even starker way.

Plaintiff submitted a survey by CoHNA as evidence of deeply entrenched biases with the word caste – "most Americans associate caste with India (and therefore Hinduism) and believe there are only four castes; nine out of ten Americans had no idea how to tell someone's caste based on markers such as last name, skin color, educational level, hair texture, etc.; their understanding of caste is already shaped by the time they graduate high school; and, social media and online platforms play a very important role in shaping the understanding and 'experiences' of U.S.-based Millennials." 2-ER-53-55.

Any Ordinance, Policy, or law, using the word caste, will attract biases about the origins and nature of caste, which will result in racial profiling, targeting, and stereotyping of South Asians, especially people of Indian and Hindu origin, resulting in Government overreach. 2-ER-54.

1. Plaintiff has demonstrated, with ample evidence, the illicit motive and discriminatory animus of SCC.

Sawant has openly declared her discriminatory animus numerous times: "Protections specifically against caste-based discrimination are necessary because most often those who face it and those who perpetuate it are **both likely to be South Asians** … but of oppressed caste on the one hand and of dominant caste on the other. Winning our Ordinance in Seattle forced the city's law to acknowledge stark differences of caste power and status within the **South Asian American community** that carry over from … **South Asia**." 3-ER-178, 212.

Sawant stated the caste system was consciously and systematically developed by the ruling class in **South Asia for thousands of years**. 3-ER-175.

Sawant made no bones about her ban against caste discrimination as a "rare offensive victory" and a "model for how working people everywhere can fight the right-wing." 3-ER-220.

Sawant declared her intention of fighting to enforce the Ordinance after declaring "**with the emigration of hundreds of thousands of South Asian people to the United States, caste oppression has followed**." 3-ER-90, 219.

Sawant accused CoHNA and Plaintiff, of supporting "**horrific anti-Muslim**" laws and celebrating "2002 **killing of Muslims** in the Western Indian state of Gujarat" without producing an iota of evidence. 3-ER-177, 209.

Sawant further accused CoHNA, and Plaintiff, of "extremely right-wing agendas that have common ground with the reactionary regime in India of the Bharatiya Janata Party and Prime Minister Narendra Modi," without offering any proof whatsoever. 3-ER-89.

SCC ignored a letter from CoHNA dated February 14, 2023, highlighting accusations made by Sawant and did absolutely nothing to address CoHNA's and Plaintiff's concerns. 3-ER-85-88.

At the same time, Sawant praised **Muslim** activists as "some of the fiercest fighters for Seattle's caste discrimination ban." 3-ER-75.

Sawant went out of her way to arrange for a special confidential hearing for **Muslims only** (**but not Jews or Hindus**) at Seattle City Hall on September 21, 2023, to share their stories of discrimination. 2-ER-47; 3-ER-77.

Sawant made false Claims that Indian American "dominant-caste" managers at Cisco Systems were targeting employees because of their

caste background and denying them raises and promotions. 3-ER-175; 5-ER-346-349, 351-353.

Despite the overwhelming evidence showing SCC's illicit motive and discriminatory animus, the District Court disagreed. 1-ER-11.

2. SCC collaborated and conspired with state actors and private citizens to deprive Plaintiff's civil rights in violation of Plaintiff's Free Association rights.

Identities of Sawant's collaborators and co-conspirators confirm allegations of "rampant" caste discrimination are not independent events but have all been orchestrated by the same set of anti-Hindu collaborators and co-conspirators. 4-ER-241.

Sawant (state actor) and Soundararajan (private citizen) had a **meeting of the minds** as early as February 4, 2020, when they collaborated on the passage of an anti-Hindu SCC resolution condemning India's CAA. 3-ER-98. While celebrating its passage, Sawant and Soundararajan linked it to "**right-wing**", "**anti-Muslim**", and "**caste-oppressed**" communities. 3-ER-99.

On the **exact same date** of February 17, 2023, **before the public hearing**, there was an exchange of multiple letters between Sawant, Soundararajan, and Jayapal (state actor) regarding the Ordinance and

CAA. 2-ER-60; 3-ER-90. In the first letter to Sawant, Soundararajan boasted of her caste activism starting in 2015 and co-hosting with Jayapal, the first congressional briefing on caste discrimination in Washington D.C. on May 22, 2019. 2-ER-60. The second letter, from Sawant to Jayapal, was to solicit support for the caste Ordinance, quoting Soundararajan's survey as justification. 4-ER-245. **The second letter asserted CoHNA members, including Plaintiff, are "right-wing fundamentalists."** 3-ER-89-90. SCC's internal memo dated February 16, 2023, acknowledged Jayapal's previous role in recognizing caste discrimination by hosting the first congressional hearing with Soundararajan. 3-ER-185.

After the passage of the Ordinance, Sawant, and Soundararajan continued to collaborate and conspire to push similar caste legislation SB-403 in California. 3-ER-199.

Soundararajan was at the forefront of advocating and supporting SB-403's drafting. To support Soundararajan and SB-403, Sawant declared her intent to be in California on June 25, 2023, for an "extremely crucial victory, continuing the momentum set by Seattle's anti-caste movement." 3-ER-200.

Sawant admitted being part of a coalition of anti-caste organizations, called America Against caste Discrimination (AACD), which believes **caste-based discrimination is a systemic form of oppression with roots in the caste system in India**. 3-ER-205, 213.

SB-403 was vetoed on October 7, 2023, by California Governor Gavin Newsom who deemed it unnecessary since caste is already protected under existing categories in California. 1-ER-16. In Seattle too, caste discrimination is already covered under existing categories yet the District Court erroneously declared the Ordinance necessary. 1-ER-11.

There are safeguards in existing statutes and case laws to address caste discrimination in the U.S. In 2018, the British Government in the U.K. completed a community consultation on caste to conclude they should not implement anti-caste legislation because citizens would be better protected from discrimination through existing case law flexibility. The only explanation for SCC's push for an Ordinance to target Hindu Americans was SCC's discriminatory animus and illicit motive.

This is a grave error requiring reversal. If SCC's (supposedly) noble intent was to prohibit all forms of discrimination based on class or social status, which also includes caste discrimination, why did SCC not use a

generic term like "inherited class or social status"? It is facially neutral, includes not only caste but also any other advantages or disadvantages based on parentage or ancestry, and is equally applicable to all Americans irrespective of their ancestry, skin color, ethnicity, race, caste, creed, tribe, religion, and national origin. Instead, **SCC's deliberate usage of the term "caste" coupled with Hindu archetypal terms like "varna" was maliciously and purposefully intended to target and racially profile Hindu Americans.**

The enactment of this Ordinance marginalizing Hindu Americans and relegating them to second-class status, inflicts tangible harms that can range from economic setbacks to physical harm. However, the District Court incorrectly denied standing to Plaintiff, undermining Plaintiff's ability to seek recourse for harms recognized by the Supreme Court. Furthermore, by requiring physical exposure to stigmatic harm for standing, the District Court has hindered the enforcement of the Establishment Clause, which is equally binding. Therefore, this Court should affirm Plaintiff's Claims resulting from overtly religious Government actions by SCC.

CONCLUSION

This Court should reverse the District Court's dismissal of Plaintiff's Claims for lack of Standing and remand for further proceedings on all of those Claims as outlined in Plaintiff's Complaint and Opposition to Motion To Dismiss.

Dated: May 22, 2024

Respectfully submitted,

/s/ Abhijit Bagal
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STATEMENT OF RELATED CASES

Under this Court's Rule 28-2.6, Plaintiff-Appellant states following as related cases.

A. California State University (CSU)

1. *Kumar, et al. v. Koester, et al.*, 9th Circuit Appeals Case # 23-4363, United States Court of Appeals for the Ninth Circuit (2023)
2. *Kumar v. Koester*, No. 2:22-cv-0755-RGK-MAA, 2023 WL 4781492, at *3 (C.D. Cal. 2023)

B. Cisco Systems

1. *CRD v. Cisco Systems, Inc.* No. 5:20-cv-04374, (N.D. Cal.)
2. *CRD v. Cisco Systems, Inc.* (Cal. Sup. Crt Case No. 20-cv-372366)
3. *CRD v. Cisco Systems, Inc.* Cal. 6th App. Dist. Case No. H048910
4. *CRD v. Cisco Systems, Inc.* Cal. 6th App. Dist. Case No. H048962
5. *HAF v. CRD*, Cal. 6th App. Dist. Case No. H051973

CERTIFICATE OF SERVICE

I hereby certify that on May 22, 2024, I electronically filed the foregoing Opening Brief with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the ACMS system, which will accomplish service on counsel for all parties through the Court's electronic filing system.

/s/ *Abhijit Bagal*
Abhijit Bagal

Plaintiff-Appellant (Pro Se)

APPEAL NO. 24-1488

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ABHIJIT BAGAL,

Plaintiff-Appellant,

(Pro Se)

v.

KSHAMA SAWANT, in her official and individual capacities as Councilmember, District 3, of the Seattle City Council;

LISA HERBOLD, in her official and individual capacities as Councilmember, District 1, of the Seattle City Council; and

BRUCE HARRELL, in his official and individual capacities as the Mayor of the City of Seattle,

Defendants-Appellees.

On Appeal from the United States District Court
Western District of Washington at Seattle
Case No. 2:23-CV-00721-RAJ, Hon. Richard A. Jones

ADDENDUM APPELLANT'S OPENING BRIEF

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Stop Weaponization of caste to Single Out, Target, & Racially Profile Hindu Americans.

ADDENDUM TABLE OF CONTENTS

A.3. Jayapal endorses Sawant for Seattle City Council District 3 Councilmember position

https://www.capitolhillseattle.com/2015/03/city-council-notes-jayapal-endorses-sawant-for-District-3-pre-k-implementation-plan-council-weighs-in-on-u-s-pacific-trade-deal/

City Council Notes | Jayapal endorses Sawant for District 3, Pre-K implementation plan, Council weighs in on U.S. Pacific trade deal

Here's a look at this week's Capitol Hill-centric highlights from the City Council's chambers:

- On Monday, **State Sen. Pramila Jayapal** announced her endorsement for City Council member **Kshama Sawant**, who's running for the Capitol Hill-centered **District 3** position this year. In a statement, Jayapal underscored Sawant's ability to work collaboratively as the three other District 3 candidates have dinged Sawant in various ways for being too adversarial:

— Jayapal celebrates on last November's Election Night (Image: Pramila for State Senate)

> *"I was proud to work with Kshama to fight for a $15 minimum wage. She combines a principled approach, a willingness to listen, and the ability to move critical legislation that affects our most vulnerable communities," Jayapal said.*

Jayapal is backing a measure in the senate to raise the statewide minimum wage to $12 an hour over four years. She represents the 37th District, which includes Central Area neighborhoods south of Madison St. down to Renton and overlaps with part of Council

A.4. U.S. Congressional Hearing on caste hosted by Jayapal, Soundararajan using Equality Labs Survey

https://thewire.in/caste/a-historic-congressional-hearing-on-caste-in-the-us

CASTE

A Historic Congressional Hearing on Caste in the US

Mariya Salim
27/May/2019 · 5 min read

The May 22 briefing pointed the congressmen and women to findings of a web-based self-reported survey of nearly 1,500 respondents.

A day before the Indian election results were announced, Equality Labs, in partnership with South Asian Americans Leading Together (SAALT), API Chaya and the office of representative Pramila Jayapal, held a congressional briefing on caste discrimination in the United States in Washington DC.

The May 22 briefing came about as a result of a caste survey that Equality Labs conducted in 2016-2017, where the organisation wanted to gather quantitative data on the existence of caste within the South Asian diaspora in the US. Mere anecdotal data was not enough for thorough advocacy around the issue, and a deeper understanding of how caste operates within the diaspora was needed.

The May 22 briefing pointed the congressmen and women to the findings of the web-based self-reported survey of nearly 1,500 respondents. The 47-question survey sought to find the extent to which caste plays a role in workplaces, educational institutional and religious spaces.

"We had representatives from all of the major progressives, including the briefing being hosted by Pramila Jayapal, US representative from Washington's 7th congressional district. We had community leaders from over 15 states present, who are also visiting their representatives after this briefing to share findings. The road of this journey begins with Dr B.R. Ambedkar and Mangu Ram Muggowalia. It is also powerful that this briefing was spearheaded by a Dalit feminist organisation, Equality Labs, in an interfaith and inter-caste partnership with SAALT (South Asian Americans Leading Together) and API Chaya from Pramila Jayapal's home district," said Thenmozhi Soundararajan, executive director of Equality Labs.

A.5 Jayapal spreads false, malicious rumors about India's CAA and badmouths India's Foreign Minister

https://www.washingtonpost.com/opinions/2019/12/23/indias-foreign-minister-refused-meet-me-i-wont-stop-speaking-out-human-rights/

The Washington Post
Democracy Dies in Darkness
This article was published more than 4 years ago

Opinion | India's foreign minister refused to meet me. I won't stop speaking out on human rights.

By Pramila Jayapal
December 23, 2019 at 8:58 p.m. EST

Unfortunately, in the weeks since we introduced our resolution on Kashmir, India has passed a new citizenship law that excludes Muslim migrants from its majority-Muslim neighbors from a new pathway to citizenship, an unprecedented break from India's secular constitution. Taken together with the National Register for Citizens — a citizenship survey piloted in the state of Assam that led to the exclusion of nearly 2 million people from the state's citizenship records — many fear this new citizenship law could be used to prevent Muslim migrants from becoming citizens and voting. And on Friday, the Indian government issued an advisory demanding that cable television stations in the country abstain from broadcasting any content that "promotes anti-national attitudes."

United States Congresswoman Pramila Jayapal on Tuesday wrote in *The Washington Post* that Indian Minister of External Affairs S Jaishankar's decision to pull out of a meeting with American legislators because of her invitation to the event was surprising. She also expressed concern about the Citizenship Amendment Act and the proposed nationwide National Register of Citizens.

A.6. Sawant and Jayapal target Hindu American community in Seattle by passing Anti-CAA resolution

https://economictimes.indiatimes.com/nri/nris-in-news/seattle-based-indian-community-counters-local-politicians-on-anti-caa-resolutions/articleshow/74096479.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

Seattle based Indian community counters local politicians on anti-CAA resolutions

By Dipanjan Roy Chaudhury, ET Bureau • Last Updated: Feb 12, 2020, 01:36:00 PM IST

The community members did not belong to any political group and was spontaneous in their moves, according to Atul Tankha, a former development professional from Seattle who was one of Indian Americans who garnered support against Jayapal and Sawant.

NEW DELHI: The Indian community in **Seattle** encountered section of the American polity led by **Pramila Jayapal** and **Kshama Sawant** and watered down a resolution in Seattle city council against **Citizenship Amendment Act** or **CAA** earlier this month.

While the council passed a resolution urging India's Parliament to repeal the Citizenship Amendment Act (CAA) and to stop the National Register of Citizens (**NRC**) with the 5-0 vote, intervention by the Indian community leaders watered down resolution and result the voted being passed by 5-0 instead of 9-0, ET has learnt.

Sawant who serves on the Seattle City Council was the brain behind the resolution. She is a member of Socialist Alternative. A former software engineer, she ran unsuccessfully for the Washington House of Representatives before winning her seat on the Seattle City Council. She was the first socialist to win a citywide election in Seattle since Anna Louise Strong was elected to the school board in 1916.

A.7. SIMILARITY OF American Lautenberg-Specter Amendment with India's CAA

American lawmakers should read the Lautenberg-Specter Amendment. **The Lautenberg-Specter Amendment has been extended with broad, bipartisan support every year since it was first passed into law in 1989.**

Senator Lautenberg created a legal presumption of refugee status, a fast-track, for certain religious minorities. Meaning that, unlike other classes of refuges, those coming under the purview of the Lautenberg Amendment did not have to prove they faced a well-founded fear of persecution.

The original amendment specified Jews and Evangelical Christians from former Soviet Union as well as members of Ukrainian Catholic and Ukrainian Orthodox churches. Over the years, the law, with the passage of the Specter Amendment in 2004, has been expanded to include Baha'i, Christians, and Jews from Iran. **(But No Muslims)**

In 1990, the Lautenberg Amendment established a reduced evidentiary burden for applications for refugee status from certain categories of people, including Jews and some Christian minorities from the former Soviet Union, as well as some individuals from Laos, Cambodia, and Vietnam.

In 2004, the Specter Amendment added certain Iranian religious minorities who face increasing discrimination, arrests, and imprisonment – Jews, Armenian and Assyrian Christians, Baha'is, Sabaean-Mandaeans, and Zoroastrians. **(But No Muslims).** Now, it is known as the Lautenberg-Specter Amendment. The 2004 Amendment had to be brought because the Lautenberg Amendment has to be extended every year by the U.S. Congress, and that has been done ever since 1989 through legislation each fiscal year by September with broad bipartisan support.

To put it differently, the Lautenberg-Specter Amendment liberalizes the process of obtaining refugee status in the United States by easing the burden of proof and permitting the fast-track processing of applicants from countries like Russia, Iran, Vietnam, Laos, and Cambodia.

India's CAA exactly reflects the same spirit. As has been noted before, it liberalizes the naturalization process of the persecuted minorities of Afghanistan, Pakistan, and Bangladesh and fast-tracks their application by a few years. Just like U.S.' Lautenberg Amendment, CAA provides a lifeline for persecuted minorities to escape gross human rights violations, restore their dignity, and to be able to practice their religion without fear of rape, conversion, or death. In Pakistan, each year, over 1000 minor girls from the Hindu, Christian, and Sikh communities are kidnapped, forcibly converted, and "married" off to their abductors, with support from religious clerics, police, and judicial authorities. In Afghanistan, the number of Sikhs and Hindus declined from 700,000 in the 1970s to less than 7000 in 2017. Today, they are all but gone. And, in Bangladesh, the Hindu population has declined from 22% in 1951 to around 8% in 2022. India's CAA provides fast-track citizenship to these persecuted religious minorities.

A.8. VALIDITY OF INDIAN CAA and MISCONCEPTIONS / FALSE RUMORS ABOUT INDIAN CAA

India's Constitution provides scope for enacting religious non-neutral laws provided such legislation has reasonable justification. The social reform laws are examples of this. The argument that the Indian Parliament cannot enact laws such as CAA, which exclude any religion, is fallacious because the Indian Constitution per se provides scope for the enactment of laws excluding religions. Article 25 guarantees religious freedom subject to health, public order, and morality.

A careful reading of Article 14 of the Indian Constitution, along with the precedents set over the last seven decades, suggests that the "reasonable classification" provision was made exactly for an act such as the CAA. It should be viewed from the lens of affirmative action — bestowing rights upon those who have historically been discriminated against.

Moreover, the omission of Muslims from the CAA does not equal exclusion or denial; rather, it is a matter of classification to speed up citizenship for the people from Hindu, Sikh, Jain, Buddhist, Parsi, and Christian communities. The classification is allowed for "equal protection of law" subject to reasonable justification.

CAA neither alters nor challenges the rights of any Indian citizen, irrespective of religion, caste, creed, sect, ethnicity, or race. The narrative that CAA threatens Muslim religious minorities in India is ignorance at best, and treacherous at worst.

Contrary to popular belief, the CAA does not discriminate against any religious group within India. Instead, it focuses on offering a fast-track route to citizenship for specific religious minorities from neighboring countries who have faced persecution based on their religion.

Any foreigner of any religion, **including Muslims, from any country, can continue to apply for Indian citizenship** if he/she is eligible to do so as per the existing provisions of Section 6 of the Indian Citizenship Act of 1955. The CAA does not change these provisions at all. It only enables migrants of six minority communities from three countries to apply for Indian citizenship if they meet the given criteria. CAA is not anti-Muslim from any angle and the misconceptions and apprehensions surrounding CAA are unfounded and motivated by discriminatory animus and selective targeting.

A.9. California State University's Expert Dr. Ajantha Subramanian's testimony regarding caste

Another of Defendant's experts—Dr. Ajantha Subramanian—admitted in her deposition that caste is "not derived from Hinduism, but yes, it is often associated with Hinduism." 2-ER-149. She also noted that while "caste" has a Western European origin, it is synonymous with the Hindu term "jati" which means birth in Hindi and refers to an expansive hierarchical classification in South Asia based on descent. 2-ER-142-43. Finally, CSU's Establishment Clause expert, Professor Frank Ravitch,

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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
- - - - - - - - - - - - - - - - x
SUNIL KUMAR, Ph.D, PRAVEEN SINHA, Ph.D.,
Plaintiff,
Case No.
2:22-CV-07550-RGK-MAA
-against-
DR. JOLENE KOESTER, in her official capacity
as Chancellor of California State University,

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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9th Cir. Case Number(s) 24-1488

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