

**Hindu American Foundation**  
910 17th St. NW, Suite 315  
Washington, DC 20006

[www.hinduamerican.org](http://www.hinduamerican.org)



The Honorable Aisha Wahab  
1021 O Street, Suite 6530  
Sacramento, CA 95814  
Phone: (916) 651-4410

Subject: SB-403 – OPPOSE

Dear State Senator Wahab:

The Hindu American Foundation, a 501(c)3 educational and advocacy non-profit organization, strongly **opposes SB-403**.

There are an estimated 3.2 million Hindu Americans of Indian origin across the nation, with some 528,000 living here in the state of California. California is also home to over 120 Hindu temples, religious centers and cultural centers.

Despite this numerical presence and the many contributions of the community, Indian and Hindu Americans comprise less than 1.5% of the state's population and face significant negative stereotypes and misconceptions about their national origin, ethnicity, ancestry and religion, making them targets for hate crimes, discrimination, harassment and bullying.

We oppose SB-403 because both its legislative intent and impact will result in an unconstitutional denial of equal protection and due process to South Asians (the vast majority of whom are of Indian origin) and other vulnerable ethnic communities. SB-403 unfairly maligns, targets and racially profiles select communities on the basis of their national origin, ethnicity and ancestry for disparate treatment, thereby violating the very laws it seeks to amend, the Unruh Civil Rights Act. It further violates Title VII of the Civil Rights Act of 1964 and the US and California State Constitutions.

We share the admirable goals of standing up for civil rights and eliminating all forms of prejudice and discrimination, including based on caste. So the question is not whether we should deal with any allegations of caste discrimination, but how. As such, if and when incidents of caste discrimination occur, they should be brought to light, thoroughly investigated and rectified under existing law in its current form.

### **Discriminatory intent of SB-403**

SB-403's discriminatory intent is twofold -- first, in its attempt to legislate false and negative claims about only specific minority communities on the basis of their national origin, ethnicity and ancestry; and second, in its creation of a category that then applies to only those people.

Not only does the language of SB-403 malign and negatively implicate all people of South Asian descent as engaging in a peculiar form of discrimination in the absence of any verifiable



evidence, it similarly implicates people of South American, Japanese and African descent of the same.

The language of the bill also assigns or institutionalizes a presumptive status of “oppressed” to all those who identify as or are perceived to be Dalit and Adivasi. HAF’s constituents come from all ethnic, ancestral and social backgrounds, including Dalit, Bahujan and Adivasi backgrounds who do not appreciate nor want the state labeling them or assigning such an inaccurate, debasing and disempowering status. Additionally, this language also unfairly assigns or institutionalizes a presumptive status of “oppressor” to all South Asians who do not identify as or are not perceived as Dalit or Adivasi, thereby raising additional constitutional concerns of SB-403 presuming or attributing guilt or wrongdoing solely on the basis of one’s actual or perceived ethnic or ancestral background.

Lastly, the addition of “caste” is a striking departure from the well-established principle of facially neutral policies that apply broadly and generally to all people regardless of background. Especially where existing, facially neutral categories such as national origin, ethnicity and ancestry already bar discrimination on the basis of characteristics such as birthplace, culture, descent or linguistic characteristics, the addition of “caste” is not only redundant, but appears intentionally punitive and discriminatory towards only people of primarily South Asian descent, but also those of South American, Japanese and African descent.

The variety of indigenous social identities lumped together under the term “caste,” is no different than factors related to national origin, ethnicity or ancestry in that “caste” can entail birthplace, culture, descent or linguistic characteristics. And similar to how other intra-ethnic or intra-racial dynamics are addressed under broad, existing categories, caste too can be covered by national origin and national origin adjacent categories, thus averting the need for a specific category that unfairly and unconstitutionally singles out and targets only certain ethnic or racial communities with facially discriminatory policies that presume or attribute guilt or wrongdoing.

### **Discriminatory Implementation**

SB-403 defines caste as “a system of social stratification where each position is characterized by hereditary status, endogamy, social barriers and social exclusion.” Whether on its own, or in the context of the claim that “Caste discrimination is present across South Asia and the South Asian diaspora,” SB-403 raises significant questions about accuracy, vagueness, due process and discriminatory implementation.

Caste is a complicated concept that has no universally accepted definition nor uniformly held understanding of it. What is uniformly held is its misconflation with South Asians broadly and Hindus specifically. In fact, this reductive stereotype about Indians (South Asians) and Hindus continues to be perpetuated through the California public education system, where the state mandates it as one of only five line items required to be taught about India and Hinduism.



Under Indian law, caste is a legal fiction and administrative designation in spite of no coherent or reliable definition of caste. Either one is a member of a “caste” or community that is designated by the Government of India as eligible for certain protections under the law and affirmative action programs or one is not.

Absent a historical or current basis to regulate caste in the United States and the lack of an agreed upon legal, academic or sociological definition, will administrators and the state be asked to rely on India’s laws related to caste and impose foreign law on those working or residing in California? Or will administrators simply treat people of South Asian origin as presumptively guilty because SB-403 states as much? Will only South Asians be forced to answer intrusive questions about or be judged for who they are married to because the state has defined caste as relating to “endogamy”? Or perhaps, for expediency, will South Asians, unlike members of every other racial or ethnic group, be required by the state or policy administrators to identify as “oppressed” or “oppressor”?

These questions illustrate how facially discriminatory legislation that institutionalizes false and negative presumptions about people on the basis of their membership in a protected class, necessarily will entail their disparate treatment through discriminatory implementation.

### **No reliable data on caste**

Though often presented as a growing problem in the United States, the only authoritative survey on the social realities faced by Indian Americans that examined the issue of caste identities and caste discrimination was reported by the Carnegie Endowment for International Peace in 2021, finding that while discrimination on the basis of gender, religion, color and national origin is reported as quite common, allegations of discrimination on the basis of caste is exceedingly rare.

The study reveals four important findings related to caste in America:

1. Half of Indian Americans surveyed reported facing alleged discrimination. The basis of alleged discrimination reported was color (30%), gender (18%), religion (18%) and national origin (1%).
2. Only 5% of those surveyed reported encountering alleged discrimination on the basis of caste, with almost half of those respondents reporting the perpetrator of the alleged discrimination being of non-Indian origin, indicating that caste may have been conflated with some other factor or basis.
3. A majority of Hindu respondents (53%) do not identify with any caste group at all.
4. Within the group that does identify with a caste, there is a significantly lower number of U.S.-born Hindu Indian Americans who identify with a caste group (34%) versus those that are foreign-born (53%), which may indicate that caste identification becomes increasingly less relevant with every generation.



It is also important to note that both statistically and anecdotally, caste becomes less and less salient to the identities of subsequent generations of Indian and Hindu Americans and through inter-community, inter-linguistic, inter-ethnic and inter-racial marriage. Nonetheless, even if caste discrimination occurs rarely, it should be adjudicated and remedied under existing laws prohibiting ethnicity or ancestry-based discrimination.

If there is any intention to rely on a survey by the for-profit, activist organization called Equality Labs, please note that it relies on unreliable “snowball sampling” methodology leading to serious flaws, including manipulated and falsified data, selection and confirmation bias, amongst other fatal errors that render its finding wholly unreliable. The errors in this survey have been pointed out by the Carnegie Endowment Report referenced above. Moreover, there is a potential conflict of interest in that this same organization also stands to profit from the caste policies it is lobbying for through its fee-based “caste competency” DEI trainings.

Equality Labs was formed to advocate for California textbooks to specifically require California school textbooks to falsely state that caste discrimination is inherent to and mandated by the Hindu religion. In line with this activism, Equality Labs and its supporters also frequently demonize common Indian and Hindu cultural and religious practices, such as vegetarianism, celebration of holidays like Diwali and Holi, or even simply worshiping at a Hindu temple as casteist practices.

As such, any reliance on the report’s findings or Equality Labs trainings raises questions about insufficient reliability and generalizability of the quantitative data being relied upon to advocate for and justify caste policies; and may imply intentional misrepresentation and defrauding of the public by a private entity intending to harm certain segments of the South Asian community.

### **Only one legal case on the issue of caste-discrimination in the US**

To date, there is only one case involving an allegation of caste-based discrimination in the US and that case remains pending. There has been no ruling yet on whether any form of caste-based discrimination or harassment did in fact occur.

The State of California’s Department of Fair Employment and Housing sued Cisco Systems in June 2020, accusing the company of engaging in unlawful employment practices over a claim by an Indian-origin employee that two managers, also of Indian origin, allegedly discriminated against him on the basis of his assumed caste. The case was initially filed in federal court, but has since been re-filed in state court. Cisco Systems is promising a vigorous defense, rejecting the claim of discrimination. That said, the California Civil Rights Department filed its case under the current law as it exists, and did not need the amendment being proposed with SB-403 to move forward with its, admittedly unproven allegations.



Please also see this [timeline and key links](#) where important facts are highlighted from court filings and other publicly available information, which may be indicative of state incompetence at best, and prosecutorial abuse, at worst.

## Conclusion

The state of California last passed a law similarly targeting particular communities on the basis of national origin or ethnicity nearly a century ago, with the California Alien Land Laws of 1920, which sought to dispossess "aliens ineligible for citizenship" of agricultural land and long-term leases, impacting Japanese, Chinese, Korean and Indian immigrant farmers throughout the state. These discriminatory laws passed by xenophobic Californians preceded the U.S. Constitution's 14th Amendment, which conferred to all people the rights to due process and equal protection under the law.

Today, it would be inconceivable that California would consider such blatantly discriminatory laws as in the past due to the state's commitment to progressive policies that prioritize diversity and inclusion. SB-403 stands out as a striking, historic departure from the California Assembly's commitment to progressive policies that protect and celebrate the state's pluralistic ethos.

For the reasons detailed herein, we strongly **oppose SB-403**.

Should you have any questions, we can be reached at [legal@hinduamerican.org](mailto:legal@hinduamerican.org).

Best,

Suhag A. Shukla, Esq.  
Executive Director

Samir Kalra, Esq.  
Managing Director

Nikhil Joshi, Esq.  
Cofounder | Board Certified as a specialist in Labor and Employment Law

## Additional Resources

### Why Caste Policies are Unconstitutional

- [Memorandum on Caste as a Protected Category is Unconstitutional](#)

### Challenges to Unlawful Caste Policies

- [California Caste-Bias Case Misrepresents Hinduism, Suit Says](#)
- [Professors at California State University take legal action against school's unconstitutional caste policy](#)
- [Brown University Discriminates Against South Asians - WSJ](#)

### Data on Caste and Caste Discrimination in the US



- [Social Realities of Indian Americans: Results From the 2020 Indian American Attitudes Survey](#)
- [Yes, Saying Caste is Linked to Hinduism Leads to Bullying of Hindu Students](#)

#### **No Reliable Definition of Caste**

- [Census in Colonial India and the Birth of Caste](#). Samarendra, Padmanabh. Economic and Political Weekly, xlvi:33, August 13, 2011, pp. 51-58
- [Caste Confusion and Census Enumeration in Colonial India, 1871–1921](#). Walby, Kevin & Haan, Michael. (2012). Histoire sociale/Social history. 45. 301-318. 10.1353/his.2012.0026. Retrieved from researchgate.net
- [The Caste Conundrum: No universal definition - Hindu American Foundation](#)