

[Transcript] The Daily / An Unexpected Battle Over Banning Caste Discrimination

From The New York Times, I'm Michael Balbaro.

This is A Daily.

Today.

California is about to become the first state in the country to outlaw discrimination based on a person's cast.

My colleague, Amy Chin, unwise so many now believe a prejudice that originated other side of the globe now requires legal protection in the U.S. and why so many are equally convinced that it's a bad idea that will backfire.

It's

Monday, September 25th.

Amy, I wonder if you can tell us about this piece of legislation which was recently passed by California's democratically controlled legislature and now sits on the desk of its Democratic Governor, Gavin Newsom.

So the bill is called the Senate Bill 403

or SB 403 for short and essentially

it will make cast discrimination illegal in California and that means everywhere from housing to employment, discrimination based on cast will not be allowed.

It will become a protected characteristic just like sex, gender, sexual orientation. People will not be able to discriminate on that basis. So just define this

word, cast. I think we all have a little bit of a sense of what it means but would benefit from hearing you explain it. So the cast system is one of the oldest systems of social stratification and it began in India thousands of years ago. It has its roots in Hinduism and essentially it's a rigid social hierarchy that people are born into and the system really governed everything about people's lives from who they married to the job that they did and at a very basic level you have at the top of this hierarchy the Brahmins who historically were priests. They had access to education and were considered the purist.

Then you have the warrior cast, the merchant cast, the laborer cast and at the very bottom you had what were known as the quote-unquote untouchables who prefer to call themselves Dalits and they were considered to be so impure that they were outcasts and they were relegated to doing jobs that were also seen as impure like street sweeping or toilet cleaning and they couldn't even drink from the same well water as other casts.

Over time the system spread throughout South Asia and spread to other religious communities like to Christians and Sikhs and the caste hierarchy was also reinforced under British colonial rule.

Then in the mid 20th century caste discrimination was outlawed

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in countries like India and Nepal but of course we know that just because you banned something on paper doesn't mean it actually is gone in practice and so caste is still a very strong marker of identity in many places and you can see it in the privileges that people have and their social circles and the kinds of opportunities that they have access to and this is really still present across South Asia. Much in the way I imagine that when racial prejudice in the US is outlawed it nevertheless keeps happening just because it's banned in law doesn't mean it doesn't persist. Right and some people have drawn that parallel. The journalist Isabel Wilkerson wrote a best selling book called Caste in which she compared the caste system in India to the way that race operates in America. The idea that you can be born into a certain hierarchy and that it can be extremely difficult to escape your circumstances. So the fact Amy that there's a bill in California about caste discrimination now suggests that lawmakers there believe that this is not just something that remains a problem overseas in South Asia but it has somehow been imported into the United States. That's right. They've been hearing from their constituents in California that this is becoming a bigger and bigger problem in the diaspora and that in order to protect residents of California they need to have a bill specifically focusing on caste discrimination in order to prevent this type of discrimination from happening in the future. But why right now? I mean you just referred to a diaspora people from South Asia have been coming to California for demonstrations. Why this moment for this bill to resolve this problem? So it really has to do with patterns of immigration. After a big immigration act in 1965 was passed in the United States we saw a huge migration of people from Asia including India to the United States and a lot of those people that came over were people who were skilled workers. They had degrees and were able to get jobs in the tech industry and the medical industry in the United States and a lot of these people in India who were able to have the resources to get these types of degrees were from the upper caste. And so for a long time caste discrimination didn't really exist or at least people didn't think it really existed because everyone was from the same caste. But that's changed over time as the composition of the people who are coming from India has also changed in large part that has to do with certain changes that are happening in India itself. The country has put in place a system of essentially affirmative action where there are quotas now for people from lower

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castes to go to universities to occupy government positions and we are now starting to see the effects of those affirmative action policies where you had a lot of people who were from lower caste going to these universities and now they suddenly have the degrees to get those skilled worker visas to come to the US.

And so the people who are coming over from India to the United States are actually much more diverse and in California we've really seen that shift happen because a lot of these people are coming to work in IT jobs specifically in Silicon Valley which is why we're seeing so much of this issue being debated in California now.

Hmm.

So suddenly a much more diverse group of South Asians are in a place like California and I'm going to guess that that creates a greater opportunity for potential conflict once they arrive. Right. And the caste issue really burst into public consciousness in 2020 when California brought a lawsuit against Cisco which is a pretty well known tech company and in the lawsuit an employee who is from a Dullet background accused two of his bosses who are from upper caste backgrounds of discriminating against him in his job on the basis of caste. He said that they had given him less pay, that they had denied certain opportunities to him in the workplace and the state on his behalf was suing Cisco. And this really led to a huge conversation in California I think in a way that we hadn't seen before and this was taking place at around the same time as the death of George Floyd had sparked the Black Lives Matter movement and suddenly people were able to describe their experiences with caste discrimination using vocabulary that was understandable to people who understood it in the context of race. Terms like systemic discrimination and oppressed communities. These were all concepts that now the public was much more familiar with. Fascinating. So the conversation going on in the US in the wake of George Floyd's death, this wrenching conversation about race, oppression, systemic racism, that is giving people from South Asia a framework for thinking about the discrimination that they believe they are experiencing here in the US that's been imported from South Asia. That's right. And it's around this time that people started to feel more comfortable talking about their experiences with caste discrimination. I mean we heard stories about people experiencing wage theft at the hands of their uppercast bosses. There were people talking about social exclusion that they weren't being allowed to eat from the same cups and plates as Brahmin employers. I spoke with one doctor in California who said that when other doctors in her city had found out that

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she was from a lower caste they stopped referring patients to her practice. And one person that I spoke to really stood out to me. His name was Bheem Narayan Bishwakarma. Hello. Hi Bheem, how are you? He's 44. He works at a convenience store in El Cerrito, California and he's from Nepal originally. And he told me that he had experienced caste based discrimination growing up in Nepal. While growing as a child I was not that much affected, especially when it comes to entering friends' houses. When he would hang out with his friends, his friends' parents would let him go into their homes because he was from a lower caste. And I used to feel like, oh, I felt insulted, discriminated. So of course one of the reasons to come to the US is caste based discrimination. And he eventually moved to California and he got a job. And at one point a few years ago he was looking for a room in a shared house and he found a great one. And on August 18, 2021, I visited the house. He spoke with the landlord who was also from Nepal. The landlord sought his contentment to welcome me as a tenant. The landlord was really excited for him to move in as a single guy. So presumably he would be, you know, quiet and not too much of a disturbance. Everything was finalized. The landlord requested me the deposit to his account. So he gives the landlord his deposit and everything seemed like it was fine. But then six hours later he gets a call from the landlord and the landlord says, sorry, I can't rent this room to you anymore. And that was talking to me as I had a smooth and pleasant conversation with him and everything was finalized that day. Then I asked him what happened and why he flipped over his words. Beam said he was asking questions, you know, why? And the landlord was giving all kinds of reasons. He said he needs a room for family members who visit. And Beam was just very confused. And then all of a sudden, I suddenly remember the scene where we exchanged our numbers and I sang my name. He remembers that when he had given the deposit to the landlord, he had given him his full name. And his last name is Bishwakarma, which in Nepal is associated with a lower caste. And then Beam started to confront his landlord. I mean, I told him that I know why you are denying. I know the reason why you are denying the room to me. But even before Beam himself said the word caste. Then he said, no, no, no, no, no, don't think that way. Don't, don't think that way. It's not your caste. It's not your caste. See, I didn't even say a single word about my caste.

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The landlord said, oh, no, no, it's not because of your caste. Even though Beam hadn't mentioned caste at all. That kind of tell. Yeah, exactly. To Beam, it became obvious that actually it was because of his caste. When that incident happened to me, I was kind of, oh my goodness, I thought I left it back in Nepal. But again, it came to the US. Again, it's happening with the people. I felt like, you know, I was like shattered. That incident shattered my self dignity, self respect. I felt like humiliated. So definitely that incident has hurt me from within actually. He said he just was in such shock because he had never expected to experience any of this kind of caste based discrimination in the United States. I mean, it's one of the reasons why he left Nepal. Right. So suddenly he's finding that this vestige of his former life that he was very happy to leave behind has actually followed him to California and reared its head in a pretty ugly way, according to him. That's right. So what's the response to this growing awareness of caste discrimination as people like Beam are telling the stories he told you? So people start to say that there need to be more protections made explicit for people who are experiencing caste based discrimination. So we start to see universities incorporate caste based discrimination into their anti-discrimination statutes. Companies follow suit. Earlier this year, we saw Seattle become the first U.S. city to ban caste based discrimination. And then in February this year, California State Senator Aisha Wahab, who represents a large constituency of South Asians, introduced a bill to add caste based discrimination to the state's anti-discrimination statutes. So what ends up happening to this bill? Well, you might think that an anti-discrimination bill would not be very controversial in a place like California, which is generally a pretty progressive state, but it actually ends up meeting with a lot of resistance. And it sets off this huge, incredibly intense battle. So Amy, why does this bill arouse resistance? Who ends up being most opposed to it? So the people who have been most vocal in their opposition to this bill have been people within the South Asian diaspora in the United States. So they have been very, very active in going to local city council meetings, to the state capital, to protest against the bill, and they have been really angry. We strongly oppose SB 403. When there is not a single case of caste in American history, why are you making law? No to SB 403. They lay out a few arguments. We have never witnessed any existence of caste sentiments, let alone discrimination among the

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vibrant community members. They say that caste based discrimination doesn't really exist in the United States. We know discrimination is covered by existing laws. Or maybe it happens here or there, but it's really not that big of a problem and certainly not big enough to justify a bill. They also say that a lot of people came here from South Asia to America in order to start a new life and leave behind these ancient systems of caste. I have no knowledge of my own caste and I don't see the point in introducing it as a bill. And by passing this law, that it will only bring caste back into the conversation in a way that will impose an identity on them that they don't actively practice. We are looking to heal and I don't understand how the introduction of a caste system would help in healing. I just want to make sure I understand it. Some of the people opposed to this law are basically saying it will force caste on them in a way that caste doesn't exist for them. It will make it more important in their lives than they want it to be, which is pretty fascinating. Right. As soon as you use the word caste, you ask 1000 Californian, they will say caste word is linked to Hinduism. And one of the arguments that you hear the most is that this law banning caste discrimination will actually lead to more discrimination. This is purely injustice for Indian-Americans and particularly Hindus. Particularly against Hindus. My kids went to school here, right down the street. I have lived in the city for 25 years. I've never felt more discriminated in this country than right now. Hmm. What's the thinking there? Well, the people who make this argument say that because caste, due to the average American it's associated with Indians and Hindus in particular. So that this law will actually end up targeting a very specific group of people. So unlike broad categories like gender or race or sexual orientation, which affect many different people, this bill actually only really affects a small subset of people and that it will make Hindus in particular, especially vulnerable to accusations of discrimination. So Amy, when, for example, Hindus opposed to this bill speak out against it and make the argument you just made, what specific situations are they worried about? Well, I spoke to one professor who is Hindu and teaches at a university in California and he said that, for example, he serves on his university's tenure committee and that committee really decides whether or not a person should be granted tenure and it's oftentimes a very contentious decision. And he said that he's nervous now that because of this bill he will have a target on his back. If he participates in a decision not to grant someone tenure that that person could potentially go back to him and accuse him

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of caste based discrimination. And he would be more open to accusations of discrimination than the rest of his colleagues because he is Hindu. So he really doesn't want to see this law passed because he feels like it will make his job really hard and he won't be able to participate in these types of activities that as a professor one is expected often to do. So a big argument being made here it sounds like is that in a litigious society a new law that creates a new category of discrimination and protection against it is not without some real world potential implications and costs. Right, these people say that they don't engage in caste discrimination but that in their every decisions everything from hiring and firing to who they bring on as tenants that this will introduce a new level of legal peril and fear and make them worry that they might be open to being sued when there's actually nothing going on. On the other hand I wonder if it feels like some of these arguments from opponents are actually being made in good faith and let me explain. I mean these arguments do make sense on their face right no one wants to be open to a lawsuit that they weren't open to before but this whole list of arguments by those opposed to the law feels familiar in the context of American history. I struggle to think of an anti-discrimination law that didn't arouse similar arguments from people who felt that the problem was being overstated. Right, it was sporadic it's not systematic or worried it opened them to lawsuits or targeted them as a source of discrimination. Surely there were men who didn't like when laws started to protect women against gender-based discrimination so is it possible that what's happening here is that? I do think that many opponents of the bill are making these arguments in good faith and that they really are worried about being targeted and that this law might be misused against them but the supporters of the bill say that in their view this concern is really outweighed by the stories people are sharing about what's happening and they suggest that just because some South Asians don't experience caste-based discrimination or don't see it in their own social circles doesn't mean that it's not happening or that it won't happen in the future. But of course one side is poised to win this debate Governor Newsom, a Democrat is expected to sign this bill into law members of his party passed it and the conflict that you have just laid out here suggests that enforcing it once it becomes law is going to be kind of tricky, right? Yes, it will definitely be a challenge. I mean once this becomes law and lawsuits are filed and we're going to start seeing American jurors who really don't have much experience or knowledge about the

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caste system which is this hugely complex thing that's very nuanced it's been around for thousands of years and intersects with cultures and religions that they're going to have to start adjudicating on this issue.

But this is also how our legal system works.

You pass a law and case law is built and precedents slowly are formed and I think that ultimately what people who support the bill would say is that the hope is we can create a place for people like Beam who have experienced this type of caste-based discrimination to be able to really feel comfortable coming forward and seeking justice and that ultimately they will have the protections that they were hoping to have when they came here in the first place.

Well Amy,

thank you very much. We appreciate it.

Thank you so much Michael.

We'll be right back.

Here's what else you need to know today.

On Sunday night after a 146 day strike that crippled Hollywood the union representing more than 11,000 TV and film writers said it had reached a tentative deal with entertainment companies that if approved would bring its members back to work. Exact details were unclear but the Times reports that the deal delivered much of what the writers had demanded including higher royalty payments for streaming content and guarantees that artificial intelligence won't encroach on writers credits and compensation.

And the US government is on track to shut down in less than a week unless House Speaker Kevin McCarthy can meet the demands of a small group of far right lawmakers who have called for deep cuts to annual spending. Because Republicans hold such a slim majority in the House and because House Democrats refused to support the Republican spending bills, the far right lawmakers have the power to cripple the entire federal government. They have already blocked several attempts to extend government funding by just a few months to avoid a shutdown. All we want to do is have responsible government. You can't keep spending \$7 trillion when you're only taking in \$7 trillion. That just doesn't work and it's completely dysfunctional. In an interview with CNN on Sunday, one of those far right Republicans representative Tim Birchett of Tennessee defended his approach. That's why folks like me, you know, we're sticking to our guns and all of a sudden we're the bad guys because we want to balance our budget. Without a compromise, the government will begin to shut down shortly

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after midnight on October 1st.

Today's episode was produced

by Asda Chaturvedi and Stella Tan, with help from

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Music

Music

That's it for the Daily. I'm Michael Babarro.

See you tomorrow.

Music