

Seattle Enacts First-of-Its-Kind Law Protecting Individuals Against Discrimination Based on Caste

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The Seattle City Council passed a first-of-its-kind ordinance prohibiting discrimination based on caste in employment, housing, and public accommodation. Seattle's mayor approved the ordinance on February 23, 2023, and the ordinance will take effect March 25, 2023, 30 days from the mayor's approval.

The preamble to Seattle's ordinance states:

caste is a system of rigid social stratification characterized by hereditary status, endogamy, and social barriers sanctioned by custom, law, or religion ... and caste discrimination is based on birth and descent and occurs in the form of social segregation, physical and psychological abuse, and violence.

The measure amends Seattle's anti-discrimination ordinance to include "caste" as a protected classification under the city's law. The ordinance equates caste with other protected classifications such as race and gender.

Under the ordinance, Seattle businesses are prohibited from discriminating based on caste with respect to hiring, tenure, promotion, workplace conditions, or wages. The ordinance also bans discrimination based on caste in places of public accommodation or housing.

Until Seattle's passage of the ordinance, no state, local, or federal anti-discrimination statute prohibited explicitly discrimination on the basis of caste. Plaintiffs and claimants asserting caste discrimination claims instead have invoked existing legal prohibitions on national origin, ancestry, religion, or race discrimination. Advocates for the prohibition of caste discrimination have been urging the Equal Employment Opportunity Commission and courts to add caste discrimination as a protected characteristic under federal law.

Consider the case brought by a California tech employee alleging his employer paid him less and otherwise marginalized him because of his caste. The employee is a Dalit Indian. Dalits formerly were referred to as "untouchables" in India and other South Asian countries. The employee alleged his managers, also Indian, but not Dalit, subjected him to discriminatory treatment based on his caste. The California Department of Fair Employment and Housing (DFEH) sued the employer, alleging ancestry and race discrimination in violation of California's Fair Employment and Housing Act. The California court will weigh in on whether the California discrimination law prohibits caste discrimination. The Seattle ordinance provides an explicit cause of action for such cases.

Despite there being no explicit legal prohibition on caste discrimination, some employers nonetheless have amended their anti-discrimination policies to prohibit explicitly caste discrimination. Whether others will follow (without legislative direction)

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remains to be seen.

Opposition to Seattle Ordinance

City Council Member Sara Nelson was the sole vote against the ordinance. She took the position that the ordinance could generate more anti-Hindu discrimination and dissuade employers from hiring South Asians. Other opponents of the ordinance at the public City Council meeting argued that the ordinance targeted Hindus in particular.

Takeaway

Seattle employers should review their anti-discrimination and harassment policies and training to determine if they need to update them to include caste. In addition, employers should be mindful of how discrimination based on caste may impact the workplace.

Please contact a Jackson Lewis attorney with any questions.

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