

Caste discrimination and the second UPR of the UK

“IDSN analysis on outcomes and observations on follow-up to the UPR of the UK – October 2012”

Final outcome

The UK Government was reviewed for the second time by the UPR Working Group at the 13th session on 24 May 2012. During the review, the following recommendation was made by Nicaragua:

"Put in practice a national strategy to eliminate discrimination against caste, through the immediate adoption of the Equality Law of 2010 that prohibits such discrimination, in conformity with its international human rights obligations, including CERD's General Recommendation 29 and recommendations of the Special Rapporteur on Contemporary Forms of Racism (Nicaragua)."

In its response to the UPR recommendations, the UK Government stated the following:

*"The recommendation **does not enjoy** the support of the United Kingdom. The UK Government are currently considering the evidence available to them, such as the report by the National Institute for Economic and Social Research (NIESR), together with the correspondence and representations put forward by both those who want the Government to legislate and those who are opposed to such legislation being introduced before reaching any conclusion on whether or not to prohibit caste discrimination as a specific aspect of race discrimination under the Equality Act 2010."*

Executive summary

This analysis provides a brief overview of the outcomes of the Universal Periodic Review (UPR) mechanism with regards to caste discrimination in the United Kingdom of Great Britain and Northern Ireland (UK), including references to relevant recommendations, the UK Government's response, and suggested recommendations as a follow up to the UPR.

The Report of the Working Group contains one strong recommendation on the need for outlawing caste discrimination in the UK. In the Report of the Working Group (A/HRC/WG.6/13/L.7/UK), there are several other relevant recommendations on non-discrimination, the Equality Act, and protection of religious and ethnic minorities among the 132 recommendations.

In the first UK review in 2008, caste discrimination was not addressed. Since then, independent studies have documented the fact that caste discrimination exists in the UK, mainly in the sectors of employment, healthcare, education, provision of goods and services, and politics.¹ UN human rights bodies have also

¹ For references see: [DSN-UK and IDSN joint UPR submission on caste-based discrimination in the UK](#)

raised concerns about the need for outlawing caste discrimination in national legislation (Committee on the Elimination of Racial Discrimination in 2011, and the UN Special Rapporteur on contemporary forms of racial discrimination in 2011).² While there are no official statistics available, it is estimated that at least 250.000 Dalits live among the Indian diaspora in the UK. Concerns on this issue were also reflected in para. 55 of the [summary of stakeholders' information \(A.HRC.WG.6.13.IND.3\)](#), based on the inputs from the [joint UPR submission by DSN-UK and IDSN](#).

In the second UPR, the explicit recommendation on caste discrimination was made by Nicaragua. In effect, the Report of the Working Group (A/HRC/WG.6/13/L.7/UK) includes the following recommendation:

[...] 110.61. *Put in practice a national strategy to eliminate discrimination against caste, through the immediate adoption of the Equality Law of 2010 that prohibits such discrimination, in conformity with its international human rights obligations, including CERD's General Recommendation 29 and recommendations of the Special Rapporteur on Contemporary Forms of Racism (Nicaragua);*

In addition to this, several other states made recommendations of particular relevance to this issue in the areas of protection of vulnerable groups, the Equality Act 2010, and discrimination against ethnic and religious minorities (see all references below). In follow-up to the UPR, the Dalit Solidarity Network-UK (DSN-UK) and the International Dalit Solidarity Network (IDSN) call on the respective states and the UK Government to consider the implications that caste discrimination have on these aspects when monitoring and reporting on these recommendations.

For example, Spain recommended the UK to “*strengthen measures aimed at reducing serious inequalities in access to health, education and employment, which still exist despite the adoption of the Equality Act*” (110.102), and Morocco recommended the UK to “*consider strengthening policies to combat discrimination in all areas, notably in employment and education*” (110.101). Egypt called for “*the need for reviewing national legislation to ensure equality and non-discrimination*” (110.49), and the US recommended the UK to “*strengthen data collection and maintain disaggregated data to better understand the scale and severity of hate crimes towards women, immigrants, religious minorities, persons with disabilities, and children*” (110.91). Costa Rica recommended the UK to “*adopt a strategy so that children of vulnerable groups are not excluded from the education system*”.

UK Government's position and response

In the interactive dialogue, the UK delegation did not respond to the concerns and recommendations expressed by Nicaragua on this particular issue, and in the written response they stated that this recommendation was not supported by the Government.

Despite clear evidence and growing pressure from the public and political sphere over the last years, the UK Government has been hesitating to take a final decision to introduce such a provision in the law, claiming that there is “*no consensus*” of opinion in the UK on the need for this.

² In 2003 and 2011 the UN Committee on the Elimination of Racial Discrimination (CERD) explicitly recommended the UK Government to outlaw caste discrimination in the UK, recalling its General Recommendation 29 on descent. The UN Special Rapporteur on contemporary forms of racism made a similar recommendation in 2011.

On 22 May the UK Member of Parliament, Mr. Jeremy Corbyn, asked a question to the Secretary of State for the Home Department *“when she expects to bring forward regulations under the Equality Act 2010 to address the incidence of discrimination by caste or descent in the UK”*. In response, Ms. Lynne Featherstone, Minister for Equalities for the Home Office, said that *“we are still carefully considering the evidence available to us, including the report by the National Institute of Economic and Social Research, and will make a decision on whether to bring forward regulations under the Equality Act 2010 in due course.”*

In a meeting organised by the Hindu Forum UK, the Minister in the House of Lords replied to another parliamentary question regarding the caste discrimination legislation in November 2011, stating that *“there is no consensus of opinion in the UK with regards to the need for legislative protection against caste discrimination, even amongst those communities potentially most affected by it.”* A similar response was given to CERD’s recommendations on the need for including caste in national legislation in August 2011.

DSN-UK and IDSN find that the UK Government has had considerable time to consider the findings of the commissioned report, and that the continuing delays by the Government ignore the sufferings and abuse of people in the UK who experience caste discrimination and go against the will of the UK Parliament, which has declared caste discrimination to be unacceptable.

The UPR report and process therefore constitutes an effective mechanism for monitoring and reporting on the UK’s efforts to amend its legislation to include caste and promote a national strategy to eliminate caste discrimination in the next four years.

Recommendations for follow up to the UPR

In follow up to UPR Recommendation No. 110.61 and other relevant recommendations contained in the Report of the Working Group – UK (A/HRC/WG.6/13/L.7/UK), DSN-UK and IDSN reiterate their recommendations from their submission the UK UPR Review that:

- a. The UK Government should, without any further hesitation, immediately adopt the amendment to prohibit caste discrimination in the Equality Act 2010 in accordance with its international obligations under the ICERD, and as specifically recommended by CERD in 2003 and 2011.
- b. The UK Government should put into action a comprehensive national strategy with the participation of members of affected communities to eliminate caste discrimination, in accordance with the provisions in CERD General Recommendation 29.
- c. The UK Government should take steps to identify caste-based communities under their jurisdiction who suffer from caste discrimination and include caste-based data in any future census, in accordance with CERD General Recommendation 29.
- d. The UK Government should conduct periodic surveys on the reality of caste-based discrimination and provide disaggregated information in their reports to the Committee on the geographical distribution and economic and social conditions of caste-based communities, including a gender perspective, in accordance with CERD General Recommendation 29.
- e. The UK Government should endorse the Draft UN Principles and Guidelines on the effective elimination of discrimination based on work and descent as a guiding framework on how to comprehensively address caste discrimination.

Background documents:

- [UK Government's responses to UPR recommendations – UK \(A/HRC/21/9/Add.1/UK/Annex/E\)](#)
- [Report of the UPR Working Group – UK \(A/HRC/WG.6/13/L.7/UK\)](#)
- [National report – UK \(A/HRC/WG.6/13/GBR/1\)](#)
- [Compilation of UN information – UK \(A/HRC/WG.6/13/GBR/2\)](#)
- [Summary of stakeholders' information – UK \(A.HRC.WG.6.13.IND.3\)](#)

Other links:

- [Press Release from DSN-UK with immediate reactions to the UK UPR outcome \(25 May\)>>](#)
- [IDSN article on the outcome of the UPR of the UK \(30 May\) >>](#)
- [UPR UK 2012: Briefing note with key recommendations and question >>](#)
- [DSN-UK and IDSN joint UPR submission on caste-based discrimination in the UK >>](#)

Report of the UPR Working Group – UK (A/HRC/WG.6/13/L.7/UK)

Extracts of particular relevance to the issue of caste discrimination in the UK (those with specific reference are highlighted in yellow)

B. Interactive dialogue and responses by the State under review

25. Slovakia congratulated the United Kingdom on the adoption of Equality Act in 2010 and the ratification of the Convention on the Rights of Persons with Disabilities in 2009 and the Council of Europe Convention on Action against Trafficking in Human Beings in 2008. Slovakia made three recommendations.

42. Argentina congratulated the United Kingdom on the adoption of the Equality Act to combat discrimination. It expressed its opposition to the inclusion of the Falkland Islands (Malvinas)¹ in the list of overseas territories in paragraph 140 of the national report, and reaffirmed the wording of the *note-verbale* presented by Argentina. Argentina made recommendations.

58. Brazil welcomed the revisions made to the Race Relations Act of 2000 following its comments on racial profiling in 2008. Brazil commended the United Kingdom on the withdrawals of the last two reservations to the CRC expecting this to also protect children in custody. Brazil voiced concern that the Equality Act of 2010 still permits public officials to discriminate on the grounds of nationality, ethnic and national origin. Brazil made recommendations.

59. Burkina Faso commended the United Kingdom on the establishment of a third NHRC, the ratification of several international instruments, the adoption of the Equality Act in 2010 and initiatives to protect migrants, refugees and asylum seekers. It noted that some of the recommendations from the first review were still to be implemented and encouraged the ratification of the ICRMW and the ILO Convention on Decent Work for Domestic Workers.

60. Chile appreciated the ratification of the CRPD, the withdrawal of reservations to the CRC and the legislative enshrinement of the right to the assistance of a lawyer for detainees within 48 hours following arrest. Chile congratulated the United Kingdom on the adoption of the Equality Act and the establishment of a Committee that will study a Rights Charter. Chile enquired on the potential impact that budgetary cuts made to free legal aid programmes will have on vulnerable sectors. Chile made recommendations.

61. China was concerned with the existence of discrimination against Muslims, Roma people and migrant workers and increased cases of racist incidents. China also asked the United Kingdom to elaborate on the measures taken to protect the fundamental freedom during the 2011 riots, especially those of the ordinary people who fell victims of the riots. China made a recommendation.

62. Colombia welcomed the recognition of sexual orientation as a ground for seeking asylum, as well as the equality strategy to promote gender equality. Regarding the promotion of the rights of migrants, Colombia hoped that the United Kingdom would consider the possibility of ratifying the ICRMW. Colombia made recommendations.

66. Egypt was concerned about the persistence of racial and religious profiling and requested clarifications on the exceptional circumstances under which the police “stop and search” powers without suspicion could be exercised. It regretted the fact that the Equality Act of 2010 permitted public officials to discriminate on the basis of nationality, ethnic and national origins. Egypt made recommendations.

67. Estonia commended the United Kingdom on implementing the policy suggestions made during the previous review, particularly regarding the rights of the vulnerable. Furthermore, Estonia recognised the United Kingdom's persistent commitment to safeguarding the freedom of expression. Estonia stressed the UK's commitment to international development aid and the reforms of the European Court of Human Rights. Estonia made a recommendation.

80. In regard to Chile's question about the impact of the legal aid reforms on vulnerable groups, the United Kingdom said that reforms in England and Wales had been subject to considerable amendments during the passage of the legislation in response to concerns raised by NGOs and Parliament. Public funding for the most vulnerable groups had been preserved but the impact would remain under review. The Scottish Government's reforms to legal aid were also designed to maintain access to justice as much as possible.

84. Honduras noted particularly the implementation of the Equality Act and the body of laws prohibiting direct or indirect discrimination, harassment, victimization and other specific conducts. Honduras made recommendations.

86. India noted concerns that many public bodies faced difficulties in mainstreaming gender equality into policies and on the continuing prevalence of racial prejudice, discrimination of ethnic minorities, immigrants and asylum seekers. On the issue of immigrants and asylum seekers, India would like to know what the situation on the ground is, and what could be the basis for those concerns. India made a recommendation.

87. Indonesia noted positively the efforts taken by the United Kingdom in the promotion of equality, good practices of tackling hate crimes at the international level, and interfaith dialogue. Indonesia made recommendations.

91. Malaysia was concerned with the negative public attitudes towards minority groups, including Muslim, and with the reports on abuse or attacks against schoolchildren owing to their religious affiliation. Furthermore, Malaysia expressed concern that the powers regarding terrorism prevention and investigation were exercised in a discriminatory manner. Malaysia made recommendations.

94. Mozambique noted with appreciation the implementation of the majority of the provisions of the Equality Act. Mozambique also encouraged the United Kingdom to pursue their target of spending 0.7 % of the Gross National Income on development cooperation and assistance by 2013.

95. Nepal commended the United Kingdom for the establishment of national human rights institutions and the enactment of the Equality Act. Nepal noted with appreciation the overarching approach to advancing gender equality and the strategic vision to tackle violence against women and to promote their rights. Nepal made recommendations.

98. Nicaragua commended the United Kingdom's ratification of the ICRPD and encouraged the country to strengthen the criminal justice system. Nicaragua expressed concern about reports of systematic cases of caste-based discrimination, which should be prohibited in the country. Nicaragua made recommendations.

100. Pakistan asked the United Kingdom about the measures taken to improve the situation of school children in Northern Ireland who were often targets of abuse or attacks owing their religious affiliation.

Pakistan also expressed its view that the Government should be more proactive in promoting State multiculturalism. Pakistan made recommendations.

II. Conclusions and/or recommendations

110. The following recommendations will be examined by the United Kingdom of Great Britain and Northern Ireland which will provide responses in due time, but no later than the 21st session of the Human Rights Council in September 2012. The response of the United Kingdom of Great Britain and Northern Ireland to these recommendations will be included in the outcome report adopted by the Human Rights Council at its 21st session in September 2012.

110.11. Consider withdrawing its interpretative declaration on article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, as recommended by the Committee on Racial Discrimination as well as take measures aimed at eliminating racial discrimination, incitement of racial hatred (Algeria);

110.12. Withdraw its reservations and interpretative statement with respect to Article 4 of the ICERD (Islamic Republic of Iran);

110.32. Continue to ensure that human rights principles are integrated in domestic laws (Qatar);

110.39. Develop appropriate policies and targeted measures in ensuring genuine equality in accordance with the recommendation of the Committee on Economic, Social and Cultural Rights (Uzbekistan);

110.42. Continue efforts in enhancing the welfare of all segments of society and protect their rights (Nepal);

110.43. Intensify its efforts to promote multiculturalism at all levels (Pakistan);

110.44. Take further measures for the promotion and protection of human rights, including those of migrants (Nepal);

110.46. Adopt and implement a concrete plan of action realizing recommendations of treaty bodies and UN human rights mechanisms, and international human rights obligations (Islamic Republic of Iran);

110.47. Improve the response rate of the UK to the communications from the Human Rights Council mechanisms (Hungary);

110.49. Review national legislation to ensure equality and non-discrimination (Egypt);

110.50. Continue stepping up its efforts in tackling discrimination and inequality for all its citizens (Indonesia);

110.51. Continue efforts to combat discrimination on any ground and violence against women and girls (Cuba);

110.52. Give priority attention to the questions of gender equality and discrimination against women (Uzbekistan);

110.53. Take effective measure to eliminate discrimination on the grounds of race, religion and nationality and to guarantee the rights of Muslims, Roma people and migrant workers (China);

110.54. Take further steps to address ethnic profiling in practice (Greece);

110.59. Take all appropriate measures to combat prejudices and negative stereotypes, which may result in racial discrimination or incitement to racial hatred (Turkey);

110.61. Put in practice a national strategy to eliminate discrimination against caste, through the immediate adoption of the Equality Law of 2010 that prohibits such discrimination, in conformity with its international human rights obligations, including CERD's General Recommendation 29 and recommendations of the Special Rapporteur on Contemporary Forms of Racism (Nicaragua);

110.66. Consider strengthening policies to combat discrimination in all areas, notably in employment and education (Morocco);

110.69. Adopt a national strategy to combat all forms of violence against women and girls (Brazil);

110.90. Take more effective measures to ensure that the perpetrators of acts of discrimination, hate crimes and xenophobia are adequately deterred and sanctioned (Malaysia);

110.91. Strengthen data collection and maintain disaggregated data to better understand the scale and severity of hate crimes towards women, immigrants, religious minorities, persons with disabilities, and children (United States);

110.101. Provide more resources for reforming the welfare system in order to make it better able to tackle poverty and worklessness, and reduce negative impact on social vulnerable groups (Viet Nam);

110.102. Strengthen measures aimed at reducing serious inequalities in access to health, education and employment, which still exist despite the adoption of the Equality Act (Spain);

110.103. Guarantee the enjoyment of economic, social and cultural rights, particularly health, education and adequate housing (Cuba);

110.106. Adopt a strategy so that children of vulnerable groups are not excluded from the education system (Costa Rica);

110.107. Raise awareness campaign about rights of migrants and against racial discrimination (Bangladesh);

110.117. Share best practices of tackling the situation of the Roma and Traveller people through the EU Framework for National Roma Integration Strategies adopted in 2011 (Hungary);

110.130. Consider contributing to the objective of mainstreaming the right to development in its ODA programmes and policies, which would be fundamental in the enjoyment of a host of other human rights for many countries (Bangladesh);

110.131. Play an effective role to operationalize the right to development at the international level (Pakistan);

111. All conclusions and/or recommendations contained in the present report reflect the position of the submitting State(s) and/or the State under review. They should not be construed as endorsed by the Working Group as a whole.