



CASTE-BASED DISCRIMINATION IN THE UNITED KINGDOM OF GREAT BRITAINⁱ

13th Session of the Universal Periodic Review of the Human Rights Council – UK

(24 May 2012)

EXECUTIVE SUMMARY

UK Government's position: Since the first Universal Periodic Review (UPR) of the UK in April 2008, an increasing number of reports and cases have demonstrated that caste discrimination exists and needs to be outlawed in the country. 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.ⁱⁱ Despite clear evidence and growing pressure from the public and political sphere over the last years, the Government has however hesitated to take a final decision to introduce such a provision in the law, claiming that there is “no consensus” on the need for this (as per March 2012).

Caste discrimination in the UK: Several studies, including government-commissioned research from 2010ⁱⁱⁱ, have found that caste discrimination manifests itself in different forms in the UK. Dalits face discrimination in the sectors of employment, healthcare, education, provision of goods and services and politics, and in access to Hindu temples.^{iv} While individuals of Dalit origin and their descendants no longer pursue the culture-specific menial (‘polluting’) occupations traditionally associated with their caste status, the ‘untouchability mindset’ persists in the form of direct and indirect discrimination in the UK. It has been estimated that at least 250,000 Dalits live in the UK, but the exact number is unknown. The absence of data points to the need for introducing detailed research by the government and disaggregated data in any future census.

National legal process: In 2005 the Labour Government announced a two-stage overhaul of the UK’s equality framework, leading to a new Single Equality Act. In 2010 the Government responded to the pressure by Dalit organisations in the UK to investigate the problem further, and decided in the House of Lords to amend section 9(5)(a) in the Equality Act 2010 “so as to provide for caste to be an aspect of race”. The decision allowed the introduction of secondary legislation by order of a Minister, if there was evidence of caste discrimination in the UK. The Government therefore commissioned independent research in March 2010 to assess the existence the caste-based discrimination; a study which concluded that the current provisions in the Equality Act 2010 would not sufficiently cover caste discrimination and harassment as effectively as caste-specific provisions would.

Historic test case: In a recent court case, an Indian couple, who belong to different caste groups, became the first in Britain to claim ‘caste’ discrimination, saying they were forced from their jobs following their marriage.^{vi} In the first hearing the judge ruled that the case was admissible, despite the complaints from the employer that there was no provision in the law to bring a case on the grounds of caste. On March 21st 2012 the tribunal case will begin its second hearing, which is expected to take ten days. Unless caste discrimination is outlawed in the UK, many thousands of people in the UK will continue to have no recourse to justice.

QUESTIONS

- What concrete steps does the Government plan to take to invoke section 9(5)(a) of the Equality Act 2010 to provide for “caste to be an aspect of race” in order to provide remedies to victims of this form of discrimination as recommended by CERD? ^v
- Does the UK Government plan to adopt any special measures in favour of caste-based groups and communities in order to ensure their enjoyment of human rights and fundamental freedoms in

accordance with CERD General Recommendation 29 on descent and CERD General Recommendation 32 on special measures?

- How does the UK Government intend to use, follow up, and disseminate information on the findings and conclusions of the Government-commissioned study?
- How does the UK Government intend to ensure a regular and meaningful dialogue with stakeholders in the future?

RECOMMENDATIONS

The UK Government has had considerable time to consider the findings of the government-commissioned report and to give a 'reasonable and proportionate' response to the evidence that caste-based discrimination exist in the UK. 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. More specifically, DSN-UK and IDSN therefore recommend the following:

1. The UK Government should, without any further hesitation, immediately adopt the amendment in the Equality Act 2010 to prohibit caste discrimination in accordance with its international human rights obligations, including the general measures contained in CERD General Recommendation 29, as recommended by CERD and the UN Special Rapporteur on contemporary forms of racism.^{vi}
2. To implement Accepted Recommendation No. 23 from the first UPR (A/HRC/8/25), the UK Government should take measures to address socio-economic inequalities and discrimination based on caste by taking steps to prevent, prohibit and eliminate caste-based discriminatory practices and act against dissemination of ideas of superiority and inferiority on the basis of caste in fulfillment of its obligations under the ICESCR, as recognized in CESCR General Comment No. 20.
3. 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.
4. The UK Government should take steps to identify caste-based communities under their jurisdiction who suffer from caste discrimination, and should include caste-based data in any future census in accordance with CERD General Recommendation 29.
5. 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.
6. The UK Government should endorse and make use of the provisions in 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.^{vii}

i This briefing note is based on the submission "Caste-based discrimination in the UK" by the Dalit Solidarity Network UK and the International Dalit Solidarity Network (November 2011)

ii Annual report to the Human Rights Council in June 2011, para. 68 (A/HRC/17/40)

iii "Caste discrimination and harassment in Great Britain" by Hilary Metcalf and Heather Rolfe, National Institute of Economic and Social Research, p. 65 published December 2010

iv Savio Lourdu Mahimaidass & Dr Nidhi Sadana, No Escape: Caste Discrimination in the UK, Dalit Solidarity Network UK Report. Dalit Solidarity Network UK, London, 2006, pp.1-24.

v CERD Concluding Observations 2003 (CERD/C/63/CO/11 para. 25), and CERD Concluding Observations 2011 (CERD/C/GBR/18-19, para. 30).

vi CERD Concluding Observations 2003 (CERD/C/63/CO/11 para. 25), and CERD Concluding Observations 2011 (CERD/C/GBR/18-19, para. 30).

vii The draft UN Principles and Guidelines is an outcome of a Sub-Commission study on discrimination based on work and descent, the UN terminology for caste-based discrimination. They were published by the Human Rights Council in May 2009 (A/HRC/11/CRP.3). Although still a draft, DSN-UK and IDSN recommend that governments endorse them as a guiding framework to comprehensively eliminate discrimination based on work and descent.