



# General Assembly

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## Human Rights Council

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Agenda item 6

Universal Periodic Review

### **Written statement\* submitted by the Minority Rights Group, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 August 2012]

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\* This written statement is issued, unedited, in the language received from the submitting non-governmental organization.

## Follow up to the UPR: Caste-based discrimination in the UK\*\*

The United Kingdom of Great Britain and Northern Ireland (UK) was reviewed for the second time by the Universal Periodic Review (UPR) mechanism of the UN Human Rights Council on 24 May 2012. The Report of the Working Group (A/HRC/WG.6/13/L.7/UK) contains one strong recommendation on the need for outlawing caste discrimination in the UK. The recommendation, which was made by Nicaragua, reads as follows:

[...] 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 the explicit recommendation on caste discrimination, several other states made recommendations of particular relevance to this issue in the areas of non-discrimination, protection of vulnerable groups, and discrimination against ethnic and religious minorities among the total 132 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” (110.106).

### Evidence on caste discrimination in the UK

An increasing number of reports and cases have documented the fact that caste discrimination exists in the country and needs to be outlawed.<sup>1</sup> While individuals of Dalit origin and their descendants no longer pursue the ‘polluting’ occupations traditionally associated with their caste status, the ‘untouchability mindset’ persists in the form of direct and indirect discrimination in the UK. Studies have shown that Dalits in the UK face discrimination in the sectors of employment, healthcare, education, provision of goods and services and politics, and in access to Hindu temples.<sup>2</sup> While there are no official statistics available, it is estimated that at least 250.000 Dalits live among the Indian diaspora in the UK.

Since the first review of the UK in 2008, the Government has in fact commissioned a study, which was undertaken by the National Institute of Economic and Social Research (NIESR) in 2010, with the purpose to identify whether caste discrimination and harassment exists in relation to aspects covered by the UK Equality Act 2010, i.e. employment, education and

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\*\* NGOs without consultative status, also share the views expressed in this statement: Dalit Solidarity Network UK and International Dalit Solidarity Network.

<sup>1</sup> For further information, see UPR submission by DSN-UK and IDSN.

<sup>2</sup> 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.

the provision of goods and services.<sup>3</sup> The report concluded that evidence of caste discrimination and harassment of the type covered by the Act in relation to work (bullying, recruitment, promotion, task allocation); provision of services; and education (pupil on pupil bullying) exists.<sup>4</sup> The study also identified evidence suggesting caste discrimination and prejudice which may fall outside the Equality Act 2010 in relation to voluntary work, harassment, demeaning behaviour, and violence.

The UN Committee on the Elimination of Racial Discrimination (CERD) has twice recommended the UK Government to enact a prohibition against caste discrimination. In 2011, CERD specifically recommended the UK Government to outlaw caste discrimination in the UK, recalling its General Recommendation 29 on descent.<sup>5</sup> The UN Special Rapporteur on contemporary forms of racial discrimination took note of the existence of discrimination on the basis of work and descent in the UK diaspora communities in his thematic report at the 17th session of the Human Rights Council.<sup>6</sup>

### **UK Government's response**

Despite clear evidence and growing pressure from the Dalit community over the last years, the UK Government has hesitated to take a final decision on the need for introducing such a provision in the law, claiming that there is no consensus of opinion in the UK on this. The Government has not even responded to the findings of its own commissioned report, although it has had considerable time to do so.

In the interactive dialogue on 24 May, the UK delegation also did not respond to the concerns and recommendations expressed by Nicaragua on this particular issue. It is expected that a comprehensive response will be provided by the Government, when the report is considered at the 21<sup>st</sup> session of the Human Rights Council, and that it will be addressed in the UK's mid-term report and the next report in the third UPR cycle.

### **Recommendations for follow up to the UPR**

From the beginning of the UPR process, the UK Government has put a lot of emphasis on the UPR mechanism. The submitting parties of this statement will therefore make use of this mechanism as a vehicle for effective 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.

<sup>3</sup> The study entailed a literature review, discussions with organisations and experts with an interest in caste issues and interviews with 32 people who believed they had been subject to caste discrimination and harassment in work, education or the provision of goods and services.

<sup>4</sup> The study entailed a literature review, discussions with organisations and experts with an interest in caste issues and interviews with 32 people who believed they had been subject to caste discrimination and harassment in work, education or the provision of goods and services.

<sup>5</sup> In the Concluding Recommendations issued at CERD's 79th session (CERD/C/GCR/CO/18-20), the Committee recalled its previous concluding observations (CERD/C/63/CO/11 para. 25) and its General Recommendation 29 (2002) on descent, and recommended that the Minister responsible in the State party 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.

<sup>6</sup> In his annual report to the Human Rights Council in June 2011 (A/HRC/17/40), the UN Special Rapporteur on contemporary forms of racism identified amendment of the UK Equality Act 2010 as a "good practice", presupposing that this amendment would be enforced. He recommends governments to enact specific legislation to outlaw direct and indirect discrimination against affected groups in accordance with the general measures contained in CERD General Recommendation 29.

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), the UK Government is recommended to:

- Immediately adopt the amendment to prohibit caste discrimination in the Equality Act 2010, without any further hesitation, in accordance with its international obligations under the ICERD, and as specifically recommended by CERD in 2003 and 2011;
- 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, as recommended in its second UPR on 24 May 2012;
- 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;
- 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;
- 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, and support an initiative for a resolution on discrimination based on work and descent in the Human Rights Council as an affected country.

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