



House of Lords

20 July 2015

national
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society

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Prime Minister, First Lord of the Treasury and Minister for the Civil Service
Prime Minister's office
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Dear Prime Minister

Caste anti-discrimination laws

We are writing to make the case for the urgent enactment of legislation outlawing caste discrimination.

You will doubtless receive, following this week's debate on caste in the Lords (starting at [Col 572](#) of the official record¹), representations expressing frustration at the continued unwillingness of the Governments under your leadership to respect and implement Parliament's twice-expressed intention to legislate against caste discrimination.

We draw to your attention as Prime Minister that this failure to legislate is in breach of the UK's treaty obligations, running contrary to a recommendation of the UN Human Rights Council, who HMG has come perilously close to having misled. The failure also flies in the face of a specific request from a UN High Commissioner for Human Rights. Leaving this to case law makes it beyond the reach of victims, most of whom are, by the nature of caste, impecunious.

The UNHRC's latest Universal Periodic Review (UPR) of the UK, included recommendation 110.61² (2012) that the Government "develop a national strategy to eliminate caste discrimination, including the immediate adoption of the clause in the Equality Act ... *in accordance with its international human rights obligations*". [Emphasis added.]

HMG not doing does indeed constitute a failure to fulfil our treaty obligations, for the reasons set out in the attached [legal opinion](#)³ which we have previously shown to Ministers⁴.

¹ <http://www.publications.parliament.uk/pa/ld201516/ldhansrd/text/150715-0001.htm#15071539000391>

² <http://www.secularism.org.uk/uploads/united-nations-upr-recommendation-on-caste.pdf>

³ <http://www.secularism.org.uk/uploads/nss-advice-caste-discrimination.pdf>

⁴ The opinion has been shared with Baroness Warsi, in her capacity of Minister of State for Faith and Communities, to Helen Grant MP, as Parliamentary Under-Secretary of State and to Maria Miller MP in her capacity of Minister for Women and Equalities.

Employment, equality, diversity and discrimination law specialist Michael Rubenstein finds the opinion “convincing”, and stated: “there seems no convincing justification for the Government not to agree to bring the prohibition on caste discrimination into force.”⁵

The Government has come little short of misleading the UN. In August last year, it told the UNHRC as part of a mid-term report⁶ that “the UK Government intends to introduce legislation to make caste discrimination unlawful, as a specific aspect of race discrimination under s.9(5) Equality Act 2010⁷. A public consultation process on the detail of the prospective legislation is expected later in 2014⁸. Almost a year later, there seem no plans for either, or even the prospect of any.

In a keynote speech in London on 6 November 2013, Ms. Navi Pillay, UN High Commissioner for Human Rights told the Anti Caste Discrimination Alliance (ACDA) that “the impact of caste on diaspora communities [is] much more insidious and persistent, frequently carrying over several generations”. She has assumed that the “Enterprise and Regulatory Reform Act now provides that the [UK] Government must bring caste-based discrimination within the scope of the Equality Act.” She hailed this as “a victory for campaigners and their many years of tireless work for justice, and it was historic, making the United Kingdom the first country in Europe — and the first outside South Asia — that will stipulate explicitly in law that caste-based discrimination is banned.”

We hope we are not the only ones to be embarrassed by HMG’s failure to live up to, so far, its undertakings to the UN, or Ms Pillay’s trust in the Government’s good faith to conform to Parliament’s twice-expressed will.

In concluding this week’s debate, Lady Williams of Trafford controversially assured the House that “case law provides *potential* protection for someone wishing to claim caste discrimination”. [Emphasis added]. Lord Lester asked in the debate at Col 574, “how [leaving the outlawing of caste discrimination to case law] is compatible with legal certainty, given that the only way one could do it through case law would be by going to the Supreme Court, at a cost of many hundreds of thousands of pounds, when Parliament has decided that it should be done by us by statute?” He received no substantive answer from the Minister.

The Begrajs, a couple both alleging caste employment discrimination, have already tried the case law route, spending sums vastly beyond their means. They failed and are now broken by the traumatic experience, and are deeply in debt. We are ashamed that they have been failed by both the Justice system and, so far, the legislature. Indeed, that legislation was pending but not enacted contributed to their failure.

Navi Pillay, too, is adamant that specific legislation is the only solution, as she made clear in her speech: “...when non-discrimination legislation might cover, *de jure*, certain acts of caste-based discrimination, an explicit reference to such discrimination in legislation is needed. It not only clarifies the legal situation and ensures comprehensive coverage of the offense; it also heightens the attention paid to it by law enforcement, other authorities and by the public at large.”

The Government is keen enough to berate other member states for failure to follow their treaty obligations. By not doing so itself it sets a poor example that undermines the UK’s own

⁵ <http://blog.rubensteinpublishing.com/caste-case-collapses-2/#more-590>

⁶ http://lib.ohchr.org/HRBodies/UPR/Documents/Session13/GB/UKMidTermReport_Aug2014.doc (See Recommendation 110.61 - Update (July2014))

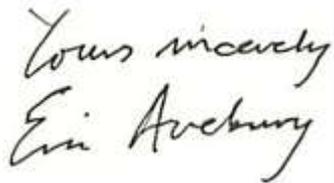
⁷ <http://www.legislation.gov.uk/ukpga/2010/15/section/9>

⁸ <https://www.gov.uk/government/publications/caste-discrimination-legislation-timetable>

reputation, and all the more so when this failure to protect the weak and vulnerable results from HMG caving into the pressure from the oppressors.

We were horrified that Bob Blackman MP, Chair of the [APPG Hindu group](#), who wishes to [repeal the enabling legislation](#) asserted in the Commons in support of his opposition to this legislation that the Government-commissioned [NIESR report "found no evidence of \[caste\] being a problem"](#). Even the one-page report summary states: "The study identified evidence suggesting caste discrimination and harassment of the type covered by the Equality Act 2010 in relation to: work (bullying, recruitment, promotion, task allocation); provision of services; and education (pupil on pupil bullying)."

We urge you to conform to our treaty obligations and enact caste legislation protection by the end of the year. The victims deserve no less.

A handwritten signature in cursive script that reads "Yours sincerely Eric Avebury".

Eric Avebury

A handwritten signature in cursive script that reads "Keith Porteous Wood".

Keith Porteous Wood, Executive Director