

**GUIDANCE NOTE**  
**Designed to help you complete the public**  
**‘Caste in Great Britain and Equality Law’ Consultation questionnaire**

**Deadline 18 September 2017**

**Why you need to complete this Government questionnaire**

Caste-based discrimination does exist here in the UK acknowledged by both Parliament and the Government. It should be outlawed. The Government consultation gives you the opportunity to send a clear message that it should be against the law to discriminate against people because of their caste. Please complete the questionnaire found here <http://bit.ly/2o5gqsx>.

The National Institute of Economic and Social Research (NIESR) published a study<sup>1</sup> in 2010 indicating that there is evidence of caste-based discrimination and harassment in the UK. This was followed by a further substantial government-funded research by the Equality and Human Rights Commission (EHRC)<sup>2</sup>, which also established the undeniable presence of caste-based discrimination in the UK and evidenced the public demand to outlaw it. At the international level, the UN Committee for the Elimination of Racial Discrimination has recognised caste-based discrimination as a form of racial discrimination and has called for the immediate implementation of legislation to outlaw caste discrimination in the UK in 2011 and again in 2016.

**Please ensure you at least complete the 4 mandatory questions as follows:**  
**Q5: Strongly Disagree**  
**Q12a: Strongly Agree**  
**Q12b: Strongly Disagree**  
**Q16: Option 2**

**Caste and caste law in the UK**

There are estimated to be nearly 4.5 million South Asians<sup>3</sup> and other communities living in the UK and many of them belong to a caste or have a caste identity attributed to them. For many people, caste is a form of association and group belonging which is very positive. For others, however, there are negative consequences of being associated with a particular caste and they face discrimination and harassment because of it.

In 2010 Parliament gave the Government permission to outlaw caste discrimination in the Equality Act 2010 by making caste an aspect of race, but it has not done so. In 2013, the Enterprise and Regulatory Reform Act 2013 converted the permission to include caste in the Equality Act 2010 into a ‘duty’<sup>4</sup> to do so. However, to date the Government has not complied with this ‘duty’ imposed by Parliament. Consequently, the Equality Act 2010 still does not expressly prohibit discrimination on grounds of caste.

Despite the ‘duty’, evidence-based studies supporting legislation prohibiting caste discrimination, and calls to outlaw caste discrimination at the international level, the UK Government has succumbed to misleading lobbying. Some oppose such legislation on the erroneous basis that caste-based discrimination does not exist in this country or that it is declining and will disappear. This misleading campaigning has led the UK Government to delay and backtrack on years of work to implement the legislation against caste-based discrimination. It is therefore vital that you make the right choice of adding caste to the Equality Act 2010 in responding to this consultation before 18 September 2017.

**Using this guidance note**

Human rights campaigners, academics, and those affected by caste discrimination all agree that the most effective way to outlaw caste-based discrimination is to add caste to the Equality Act 2010. This guidance has been prepared to ensure everyone understands this point. Please read it before responding to each question in the consultation questionnaire (found here <http://bit.ly/2o5gqsx>) in your own words. If you only do one thing, please make sure you complete QUESTION 16 - OPTION 2 to add caste to the Equality Act – and that you do so before September 18th!

<sup>1</sup> <http://www.niesr.ac.uk/sites/default/files/publications/caste-discrimination.pdf>

<sup>2</sup> <https://www.equalityhumanrights.com/sites/default/files/research-report-91-caste-in-britain-socio-legal-review.pdf> and <https://www.equalityhumanrights.com/sites/default/files/research-report-92-caste-in-britain-experts-seminar-and-stakeholders-workshop.pdf>

<sup>3</sup> 2011 census: 4,232,661 South Asians living in England, Wales, and Northern Ireland. 2001 census: 71,317 South Asians living in the Scotland.

<sup>4</sup> The ‘Duty’ is discussed further in section 1.7 to 1.9 on page 7:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/609641/170419 - Caste condoc - Final.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/609641/170419_-_Caste_condoc_-_Final.pdf)

**The list of full questions and our guidance notes - *text in italics can be used as suggested answers***

<b>Page 1 Questions</b>		<b>Our guidance</b>
<b>1. What is your name? (Text)</b>		
<b>2. What is your email address? (Text)</b>		The advantage of entering your email is that you can come back to complete your questionnaire at a later point using a link sent to your inbox after you hit 'Save and come back later'.
<b>3. What is your organisation? (Text)</b>		Leave blank if responding as an individual, this is completely acceptable.
<b>4. Would you like us to keep your responses confidential? (Yes/No)</b>		You can ask to keep your responses confidential and give no reasons. 4. Yes.
<b>4a. Reason for confidentiality. (Text)</b>		4a. I do not have to share my reasons.
<b>Page 2 Questions</b>		<b>Our guidance</b>
<b>CASTE DISCRIMINATION SHOULD NOT BE LEFT TO DEVELOPING CASE LAW</b>		
<b>5. Protection against discrimination on grounds of ethnic origin to be developed through case law (Select option)</b>		Select: "Strongly Disagree"
<b>6. Please explain the reasons to answer 5 (Max 100 own words)</b>		<i>"There is no guarantee that case law will develop in the desired direction, or at all, to fully protect individuals who are affected by caste discrimination. I believe that caste-based discrimination should be explicitly added to the Equality Act, as this is much more effective at guarding against caste-based discrimination, instead of leaving protection to an uncertain future through any development of case law. Caste must be clearly added to the legislation to ensure everyone is aware that caste-based discrimination is wrong."</i>
<b>7. Which types of caste discrimination, if any, do you think would not be covered by the concept of ethnic origin in case law? Please clearly list the features of caste which you think are not covered by ethnic origins and explain why you think this. (Max 100 own words)</b>		<i>"Dalits (identity spanning different castes), and other castes have multiple and varying ethnic identities including different languages, religions and cultures. Discrimination occurs within and between ethnic groups and religions. Lawyers' understanding of 'ethnic origins' is not necessarily the same as what non-lawyers mean and understand by it. For example in UK equality law Sikhs are considered an ethnic group but Muslims, Christians, Jains and Hindus are not. It's therefore better to simply insert caste into the Equality Act rather than relying on judicial interpretation of the ethnic origins sub-category and on case law to extend the Equality Act to caste."</i>
<b>8. What are the benefits (e.g. social and economic) of using case-law to implement a legal ban on caste discrimination? (Max 100 own words)</b>		<i>"We know of none."</i>
<b>9. What are the disadvantages (e.g. social and economic) of using case-law to implement a legal ban on caste discrimination? (Max 100 own words)</b>		<i>"There is no guarantee that case law will develop to recognise that caste is covered by existing law and that discrimination on the grounds of caste is unlawful. This uncertainty makes bringing a claim expensive, stressful and uncertain. These burdens are likely to be reduced if caste is simply inserted into the Equality Act 2010."</i>
<b>Page 3 Questions</b>		<b>Our guidance</b>
<b>CASTE DISCRIMINATION SHOULD BE IN LEGISLATION (✓)</b>		
<b>10. What are the benefits (e.g. social &amp; economic) of inserting caste into the Equality Act 2010 as a specific aspect of race? (Max 100 own words)</b>		<i>"Inserting caste into the Equality Act 2010 will inform people of the existence of caste-based discrimination and clearly state that it is wrong. It will helpfully highlight caste as a distinct type of identity or status across different religions, classes, and ethnic groups. It will act as a deterrent and enable more efficient handling of those cases that do reach courts and tribunals. I believe adding caste into the Equality Act will help reduce caste-based discrimination."</i>
<b>11. What are disadvantages (e.g. social and economic) of inserting caste into the Equality Act 2010 as a specific aspect of race? (Max 100 own words)</b>		<i>"We know of none. It will not hinder culture, tradition, religious rituals or caste associations because of exceptions that apply to the Equality Act. It will not interfere with religious freedom which is protected by the Human Rights Act."</i>

12. A) To what extent do you agree or disagree that the <b>PUBLIC SECTOR EQUALITY DUTY</b> provisions should apply to caste: (Select option)	"Strongly Agree"
12. B) To what extent do you agree or disagree that the <b>POSITIVE ACTION</b> provisions should apply to caste: (Select option)	"Strongly Disagree"
13. Explain your answers to Q12 A and B. [Number error on Gov. Form] <b>A- Public Sector Equality Duty (PSED):</b>  <b>B- Positive Action:</b>	<i>"This is a useful method to enhance equality as long as it does not require monitoring or auditing of caste identity. I believe the PSED is applied in the case of other protected characteristics where no monitoring is done, so it should be possible to do the same with caste."</i>  <i>"Positive Action may require monitoring of caste identity, which nobody wants. Therefore, I disagree with applying it to caste".</i>
<b>Page 4 Questions</b>	<b>Our guidance</b>
14. A) Data on costs and benefits to individuals of caste becoming an aspect of race in the Equality Act through a) A Specific change in the legislation (Text)	<i>"If I was discriminated against because of caste I would feel more protected if caste was mentioned in the Equality Act 2010. That is clearly a benefit to me. I have no data on costs. It is more straightforward (therefore cheaper) to bring a claim of caste discrimination if caste is included as a ground of discrimination in the Equality Act."</i>
14. B) Data on costs and benefits to individuals of caste becoming an aspect of race in the Equality Act through b) Through reliance on case-law following the judgment in <i>Tirkey v Chandhok</i> (Text)	<i>"From what I have learnt, the costs to individuals bringing complaints to a court is very high. If the case drags on, they may run out of money! The Begrajs<sup>5</sup> were an example. In <i>Tirkey v Chandok</i>, Ms Tirkey got help from an NGO, but no one can be sure there will be an NGO or charity ready to help out. I can only see costs in this route, no benefit to sufferers of discrimination."</i>
15. What else can the Government do to prevent caste discrimination? (Max 100 own words)	<i>"The UK Government must provide protection for all individuals facing all forms of discrimination and human rights abuses. At a minimum, it should ensure that caste is added to the Equality Act 2010. In doing so, greater confidence in the legal system would be instilled amongst the 4.5 million South Asians living in the UK and amongst other communities where caste discrimination may occur. Once caste is inserted into the Equality Act the UK Government should produce information on caste-based discrimination and share this widely across society, including employers, to help educate, identify it and prevent it from occurring."</i>
<b>Page 5 Questions</b>	<b>Our guidance</b>
<b>KEY SUMMARY QUESTIONS</b>	
16. Which is your preferred option to tackle caste discrimination? (Select option)	<b>✓ Option 2 – 'Using the duty to insert caste into the Equality Act 2010 as an aspect of race' ✓</b>
17. Why do you think this? Please explain your reasons (Max 100 own words)	<i>"Those affected by caste-based discrimination, human rights campaigners and academics agree that the most effective method we have for outlawing caste discrimination, within the confines of this consultation, is to add caste into the Equality Act 2010 as a specific aspect of race. Caste-based discrimination is similar to other forms of discrimination covered by the Equality Act and so should be identified in it. Putting caste into legislation enables all sections of society to be aware that caste-based discrimination exists and is wrong. With the use of the PSED it would help prevent caste-based discrimination in the UK from occurring."</i>

### Further information

This guidance note has been produced by seven leading UK organisations and leading academics involved in securing legal protection against caste-based discrimination. For further information, such as answers to frequently asked questions (FAQs), or to contact us, visit us at [www.casteintheuk.org](http://www.casteintheuk.org), email us at [info@casteintheuk.org](mailto:info@casteintheuk.org) and tweet us at @casteintheuk.

Finally, if you only have a limited amount of time, complete the 4 mandatory questions as follows: Q5: Strongly Disagree, Q12a: Strongly Agree, Q12b: Strongly Disagree and Q16: Option 2 - affirming your strong agreement to add caste to the Equality Act. The deadline is 18 September 2017.

<sup>5</sup> <https://www.theguardian.com/money/2013/feb/14/caste-discrimination-employment-tribunal-collapses>