

'Bring down the beast of caste discrimination'

Navi Pillay, Human Rights Commissioner

I thank the Anti-Caste Discrimination Alliance (ACDA) for organizing this important meeting [at the House of Lords, London on 6 November 2013] and for inviting me to address you on caste-based discrimination. I shall consider recent international measures to come to grips with the scale and depth of the phenomenon, and also address the bold advances in the United Kingdom.

Backdrop

It is estimated that caste-based and other, related forms of discrimination spell a life of humiliation, exclusion and poverty for about one-quarter of a billion women, men and children worldwide. Caste-based discrimination is of immediate concern to my Office, because it is destructive of all we stand for.

It denies women, men and children their most fundamental entitlements. It strips them of their very dignity. It tramples economic, social, cultural, civil and political rights, and still does so with impunity in too many parts of the world.

The problem is not restricted to one region or one religious community. Caste prejudice is prevalent in South Asia, but taints society across East and South-East Asia, as well, and in Africa and the Middle East. Caste-based ignorance, hatred, fear and suffering, a fact of life for hundreds of thousands of people, also affects the lives of people in the United Kingdom, in other countries and in diaspora and migrant communities around the world today.

Advances at international level

None of these sobering facts are new to most of you here today. I simply raise them as a backdrop against which to measure our joint progress, and the work that remains to be done. And I must say that our progress has been substantial. You will have heard the recent calls for growing attention to caste-based discrimination at the international level, ranging from the UN Secretary-General's Guidance Note on Racial Discrimination and Minorities, adopted in March of this year, to the resolution on caste-based discrimination adopted by the European Parliament just last month. You will have been heartened, as I have been, that the global consultation on the post-2015 development agenda has acknowledged caste-based discrimination as a source of inequality.

Legal standards TBs

You will also know that international human rights treaties already provide broad legal standards in the existing framework of international law. These standards do not refer explicitly to caste as such, but jurisprudence, for many years now, has held that existing treaty norms cover caste-based discrimination, as well. That signifies that States have a legal obligation under international law to address it.

The interpretation, application and refinement of these legal standards have led steadily to the promising signs we are now witness to. And though slow and painstaking, the methodical workings of the international human rights mechanism have helped propel caste-based discrimination into UK legislation this year.

CERD

A major player in this process has been the United Nations Committee on the Elimination of Racial Discrimination, the Treaty Body known as 'CERD' that tends to the International Convention on the

Elimination of all Forms of Racial Discrimination. This Committee, the CERD, is responsible for interpretation, observance and guidance on the Convention, now ratified by 176 States.

In 2002, CERD's General Recommendation No. 29 concluded that discrimination based on descent pertained to caste-based discrimination, and was thereby also prohibited by the Convention. And a year later, in 2003, CERD, while welcoming the strides taken in the United Kingdom to combat discrimination, called for the inclusion of a specific prohibition of discrimination on the basis of caste in UK legislation.

Growing calls for combating caste discrimination have surfaced in other country reviews, and also through other Treaty Bodies, the Universal Periodic Review and the Special Rapporteurs-all of them vital moving parts of the international human rights system. One of the latest examples was the public call in May this year by seven UN mandate-holders for endorsement by world Governments of the UN Draft Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent.

In September 2011, at CERD's 79th formal session in Geneva, advocates of the Anti-Caste Discrimination Alliance were on hand to witness the Committee's recommendation to the UK Government to invoke Section 9 (5)(a) of the 2010 Equality Act, so as to make caste an aspect of race, prohibit it and provide remedies to victims.

And this year, following very strong views expressed on this matter here in the House of Lords, a new legislative provision contained in the Enterprise and Regulatory Reform Act now provides that the Government must bring caste-based discrimination within the scope of the Equality Act.

This was 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.

Like so many others, I warmly welcomed this news. It sends a strong message, both domestically and to the world, that caste-based discrimination must be banished from our societies. And I have been heartened by how, throughout this ten-year task, State authorities, civil society and international human rights mechanisms have drawn growing strength from each other. Empowered civil advocacy and receptive government-this is how human rights should work, addressing deeply-rooted social ills through consensual, decisive action in legislation, policy-making and enforcement.

Here in the UK, caste-based rioting and manual scavenging are distant to you. But more subtle manifestations of the caste system still lurk. A Government-commissioned study here found evidence of caste discrimination and harassment in Britain at the work-place and in the provision of services. The study also found evidence of caste discrimination and harassment in schools, voluntary organizations, places of worship and in public behaviour, all with potentially severe psychological and material consequences for the victims.

This and other reports show that caste prejudice has survived migration and continues to affect work, education and social life in diaspora communities, often suddenly confronting many who for years felt caste was no longer an issue in their lives.

This has also happened in my family. As you might know, I grew up in South Africa. Though proudly South African, my parents, born in South Africa and of Indian origin, so disapproved of my sister's choice in marriage, believing him to be too low-caste, that they refused to attend their own daughter's wedding.

Some would argue that caste is largely a problem for the first-generation immigrants. They point, not without reason, to increasing inter-marriage and other helpful factors that gradually erode attachment to it. But others see the impact of caste on diaspora communities as much more insidious and persistent, frequently carrying over several generations.

Like all of you, my Office is looking forward to strong, swift implementation by the Government here of its new legal obligation to extend the reach of the United Kingdom's legislation on inequality to cover caste-based discrimination.

The challenge now is protection and enforcement, and here is the measure of that challenge: Caste-based discrimination leaves an insidious stain. It is a base act of whispering and hidden denigration. Once inside heads, it sticks there, stubborn and vindictive. It is hard to wipe out and, in this country, it is sometimes hard to see. Its victims, meanwhile, are claiming and exercising their rights to protection, to redress, and to a strong say in the search for long-term solutions, and this will continue.

This is a long-term challenge for the Government and people of the United Kingdom, but also an opportunity to make good on your joint quest for a more cohesive society. And I am sure that further afield, this legislation and its implementation will inspire similar work in other countries: the Convention on the Elimination of all Forms Racial Discrimination and the entire human rights normative framework are already in place to help guide us as we move forward.

My Office is also glad to see the Government's commitment to pursuing this work in methodical and comprehensive fashion, including through public consultations.

Public consultation and information have been central to our own successful advocacy at OHCHR. In the case of specific legislation to combat caste-based discrimination, I would point to our former office in Katmandu, which worked in close partnership with Dalit organizations, civil society representatives and authorities to facilitate Nepal's adoption of the Caste-based Discrimination and Untouchability Act in 2011. That landmark law not only provided new remedies for victims and improved their access to justice; it unleashed a wave of educational initiatives in schools, marketplaces and public squares to fight people's ignorance of caste-based discrimination.

A few years ago, Dalit activists told me of their campaign to end manual scavenging, the caste-determined cleaning of latrines by hand. They went around, smashing down the latrines. They handed me a brick from the latrine, as a symbol of release.

Their activism paid off. India has started seriously to address the matter at its root. I applaud the adoption by the Indian Parliament in September this year of a new law to eradicate manual scavenging, a dreadful practice that strips dignity from hundreds of thousands of Dalits, mostly women. The new law further strengthens the legislative framework already in place in India that prohibits untouchability and bonded labour.

And I am confident that India's advances will continue, reducing caste discrimination and harassment, facilitating its prosecution when it does occur, and providing an independent means of redress for victims, including access to tribunals and courts. This progress, too, will inspire similar efforts in other parts of the world.

Permit me a few words about law. The experience of my Office has been that even 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.

Few things can match law's deterrent effect. Nothing in modern British history has been more powerful against racial discrimination than your laws against it. In the same vein, as a lawyer and judge myself, I would predict that the work still facing this country to tackle caste-based discrimination will be greatly facilitated by your new basis in law, to ban it.

But a new law alone cannot be the silver bullet. We need more to bring down the beast of caste-based discrimination. Prohibition of untouchability in the Indian Constitution in 1950 did not eradicate it, and India's first attempts to outlaw manual scavenging had little impact on the practice. An indispensable complement to the law must be consequential practice.

Covering caste-based discrimination in your equality legislation by itself will not end the harassment, bullying, humiliation and exploitation. We must couple existing law with renewed political and social commitment to legal principles, and also methodically and efficiently engage the international and national working mechanisms to advance its implementation.

The judiciary has a key role to play in this respect, but so do other institutions, and so does the public at large. Limited awareness of caste-related dynamics blunts our sensitivity to discrimination and harassment when they occur. Let us push hard to raise more awareness, amongst the authorities and the people, of the catastrophic human impact of caste-based discrimination, especially on women and the young, and of the relief and benefits for all people of its prohibition.

Awareness-raising efforts must draw supporters from private and public sectors, too: our experience-and Britain's experience-show best results lie in formal, wide-ranging partnerships between governmental and civil society actors. In Britain's case, civil society, activists, trade unions and progressive employers have indeed played exemplary roles. I pay tribute, in particular, to the Dalit activists and human rights advocates who in international and national forums, with commitment and courage, have exposed the hideousness and prevalence of caste-based discrimination, and demanded a stop to it.

It is thanks to you that caste-based discrimination is gaining the attention and triggering the action it demands. Whether private or public, whether non-governmental, governmental or intergovernmental partners, we share the same struggle. Let us continue together to call for further progress and denounce caste-based discrimination, both at home and in multilateral and bilateral contexts on the international stage.

The Office of the United Nations High Commissioner for Human Rights remains committed to working with all of you.

Thank you.

Full text of speech taken from OHCHR website:
<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13973&LangID=E>