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Research report 92

**Caste in Britain:
Experts' Seminar and Stakeholders' Workshop**

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Dr Meena Dhanda (University of Wolverhampton)
Professor David Mosse (SOAS, University of London)

Executive summary

Background and methodology

In April 2013, the Enterprise and Regulatory Reform Act was enacted. Section 97 of the Act requires government to introduce a statutory prohibition of caste discrimination into British equality law by making caste an aspect of the protected characteristic of race in the Equality Act 2010. In the context of this direction, the Equality and Human Rights Commission (EHRC) contracted a team of academics drawn from different research institutions to carry out an independent study on caste in Britain.

Alongside a detailed review of socio-legal research on this issue (Dhanda et al, 2014a), the project involved two events: an experts' seminar and a stakeholders' workshop reported on here (Dhanda et al, 2014b). The experts' seminar was aimed at experts on caste and discrimination from law and the social sciences, while the workshop brought together stakeholder groups including representatives from community and faith organisations, employers and service providers.

The aims of both events were:

- to bring together interdisciplinary expertise and a range of stakeholder views on caste, and discrimination on the basis of caste, in the UK;
- to explore views on UK and international law in relation to caste; and
- to identify concerns and find common ground in relation to the implementation of the amended equalities law when it includes caste as an aspect of race.

Both events addressed three specific questions: how caste should be defined in the Equality Act 2010; what Exceptions and Exclusions for caste should be placed in the Equality Act 2010; and how caste should be related to the Public Sector Equality Duty.

Key findings

The nature of caste in the UK

Among expert researchers at the seminar, caste was viewed as a complex and changeable institution, the significance of which varies across different regional and diaspora communities, generations and spheres of life. In the UK, caste is positively a form of association and social capital among communities of South Asian origin,

but negatively a form of social separation, distinction and ranking, that excludes certain groups historically regarded as 'untouchable'. Caste involves endogamy (marriage within the group) and inherited status, and as a form of social identification is distinct from class, race, and various forms of ethnicity. While linked to classifications of ancient India (*varna*), the distinctiveness of caste does not reside in a connection to Hinduism or to any other religion. Caste manifests across religions, although the relationship between caste and religion is clouded because in the British public realm, religion has become a way of talking about caste.

Experts pointed out at the seminar that caste is not necessarily declining, or confined to an older generation. Young people may experience exclusion from religious or community spaces on the grounds of their cross-caste marriage, as well as discrimination in relation to work or public services. Research shows that caste is also manifest within new youth culture including music and social media; however, compared with an older generation recalling social humiliation experienced in South Asia, younger people manifest a confidence and assertiveness in the face of caste sleights.

Stakeholder views on caste as expressed at the workshop divided sharply. On the one hand, 'Dalit groups' (Ambedkarite, Buddhist, Ravidassia, rationalist and anti-caste associations) regard caste as quite distinct from class, and as hereditary, hierarchical and originating in Hindu scripture and tradition, now transmitted elsewhere. On the other hand, representatives of Hindu organisations, regard caste in origin as a matter of inherited occupation, but in the UK today, as having merged with other kinds of socio-economic difference and certainly not linked to Hinduism. Sikh groups are equally firm that caste has no relation to Sikh faith.

Discrimination on the grounds of caste in the UK

Expert researchers attested to the fact that caste discrimination exists in the UK, whether as bullying in schools, ostracism following inter-caste marriage, in worship, employment and business, and in the rental market (of housing or hired venues). For legal purposes, it is necessary to separate caste practice in the public and the private domain or in family relationships, although from a sociological perspective there is no such clear separation. Much is understood about the nature of caste discrimination and its effects, but there are serious methodological challenges in attempting to quantify its extent.

In the stakeholders' workshop, Dalit groups emphasised the pervasiveness of unequal treatment, harassment, verbal abuse or discrimination in the UK. They described a variety of cases in the fields of education, employment, the provision of

goods and services and access to temples, as well as in the private sphere of family and marriage. They consider legislation for protection and redress as necessary. In contrast, representatives of Hindu organisations reported no knowledge of such caste discrimination, and consider this is unlikely and unprovable. They argue that legal change is unnecessary (either because they claim there is no evidence of caste discrimination, or because available equalities legislation sufficiently covers such cases). Among Sikh groups, there is acknowledgement of the problem of caste, but differences as to whether this should best be addressed through education or legislation.

The view of the employers and service providers who attended the stakeholders' workshop was that caste discrimination could be addressed through amendment to the Equality Act 2010.

The definition of caste for the purposes of Equality Act 2010

The experts' seminar explored the UK and international context of legislation on caste. A key conclusion emerging from the discussion at both events was that the best known jurisdiction, India, does not provide a useful model, because it lacks a definition of caste and is based on a Schedule to the constitution which lists named castes (known as 'Scheduled Castes' or SCs), a mechanism which is inappropriate in the UK context.

Expert opinion, as expressed at the seminar, is that there are dangers in adopting too precise, or too broad a legal definition of caste, but that there is value in using a minimum definition of caste in terms of (1) endogamy, (2) inherited status, and (3) social stratification. The focus of the law is on discrimination (not caste per se) and here issues of evidence will be prominent. The legal definition of caste would mostly be developed through case law in which the determination of identity and its relevance to behaviour would be subject to legal interpretation. Several of the issues involved in proving discrimination on the basis of caste might not be different from proving discrimination on the basis of other protected characteristics.

Exceptions and exclusions for caste in the Equality Act 2010

Experts debated the application to caste of the existing exceptions and exclusions in the Equality Act 2010, especially in relation to 'race' and 'religion' as protected characteristics. It was argued that as an aspect of race, caste would have fewer exceptions than religion. It was debated whether exceptions on the basis of religion (e.g., occupational requirement in relation to priests) might be used to conceal caste prejudice, and who would decide whether 'religion' or 'caste' applies.

The implementation of law

Expert opinion was that legislation against caste discrimination is a significant measure. The number of cases each year is not likely to be large, but as stakeholder groups also stressed, the law has an important educative and social reform impact in the public and private realms. It was recognised that protection from discrimination applied to *all* castes, and that the law's application was thus 'symmetrical'. 'Casteism' is also seen as a global form of discrimination against which the UK is developing protection, applicable for example to UK companies recruiting internationally.

Considering the relationship between 'caste' and 'religion' as protected characteristics, experts anticipated complications in the implementation of the law, and that lawyers would need to be aware of various pretexts for caste discrimination, which might be either direct or indirect.

Experts and stakeholders considered that victims of discrimination might face certain obstacles in gaining legal redress: a reluctance to register complaints that would reveal previously hidden identities; a fear of reprisals; community pressure against raising the 'caste issue'; and a difficulty in finding lawyers able or willing to take up their cases. For many experts, these issues suggested a need for training and education, but were not seen as very different from other discrimination causes (e.g., on the basis of sexual orientation).

Experts and stakeholder groups emphasised the importance of education, training and sensitisation on the issue of caste discrimination and the law - for potential victims, lawyers, public and private sector employers (schools, police, charities), and the wider community. Education should also correct the misperception that caste legislation is an attack on a particular faith group.

The central concern that emerged among experts and stakeholders alike was that, in order to meet the Public Sector Equality Duty (PSED), public bodies and organisations would start collecting data on caste in order, as they saw it, to fulfil their PSED obligations, thereby introducing 'caste consciousness'. The common view was that this has to be avoided, and that careful thought is needed on how any local authority would conduct consultation for 'caste equity'. Some stakeholder groups emphasised that the need to extend the PSED and related compliance monitoring should be proportionate to the issue and would not be relevant in all regions/organisations. For other stakeholder groups, the equality duty was proactive and national.

The present-day context of public sector resource constraints was in the mind of several stakeholders. While some argued for targeted government support (akin to the Racial Equality Councils), others advocated using e-learning and community education or a system of referral to target interventions to areas with likely higher incidences of caste discrimination.

The impact of legislation on caste

Many experts and stakeholder groups saw the legislation against caste discrimination as having an overwhelmingly positive protective, preventative and educative effect, as well as empowering those who today feel discriminated and silenced. It was argued that anti-discrimination legislation would reduce the taboo surrounding caste, reduce discrimination and help bridge-building for community cohesion within Asian communities.

However, other experts and stakeholder groups raised concerns that legislation might institutionalise caste in the UK, or introduce a consciousness of caste that would be damaging, especially to young people who, they claimed, have no idea about caste. This was a particular concern of Hindu organisations, who were fearful of new prejudice against themselves emerging as a result of legislation and a public discourse on caste as a ‘Hindu problem’, thereby undermining years of successful community integration in British society.

Another concern which was expressed was that legislation on caste risks creating a ‘litigation culture’ burdening the courts with vexatious caste discrimination cases, or, that family disputes around marriage, inter-sect rivalry, or disputes over the control of temples would fuel spurious caste cases. Some feared new suspicions and rifts between different caste groups.

It was argued at the experts’ seminar that monitoring the impact of anti-caste discrimination law will present a challenge. Quantitative surveys present serious methodological challenges. Experts argued for developing a coherent body of robust and credible qualitative research regarding experience and case studies as a basis for further research to underpin monitoring.

While Hindu groups expressed concern about over-rapid legislative change, Dalit stakeholders were frustrated at the slow speed at which the law is being put into effect, given their view about the compelling evidence of caste discrimination in the UK.

In relation to the idea of time-bound review, it was noted by experts that it would be unusual for a non-discrimination clause to be treated as a temporary measure.

Conclusion

These experts' and stakeholders' workshops brought together a detailed expertise and a wide variety of stakeholder opinions. The dialogue between different viewpoints significantly enhanced knowledge and mutual understanding among the different participants, as well as honing understanding of caste in Britain in ways that will serve the needs of developing legislation. On the legislation itself, while differences of view remain, the experts' and stakeholders' events produced a shared understanding that the point of legislation is not to criminalise or remove caste (and certainly not to characterise particular communities negatively) but to challenge the discrimination associated with it. The events demonstrated the power of face-to-face dialogue in building knowledge for change on a controversial issue.

1. Introduction

In September 2013, the Equality and Human Rights Commission (EHRC) contracted a team of academics drawn from different research institutions to carry out an independent study on caste in Britain in the context of the legislative direction to include caste as an aspect of race for the purposes of the Equality Act 2010. The study involved a detailed review of the law and caste, together with two separate invitation-only events, an experts' seminar and a stakeholders' workshop, to debate issues of caste in Britain, and the implications of new legislation on caste discrimination.

This report (Dhanda et al, 2014b) covers the two events; it should be read in conjunction with the report of the review of socio-legal research (Dhanda et al, 2014a).

1.1 Aims of the events

Both the experts' seminar and the stakeholders' workshop had similar overall objectives, which were to:

- ensure that the inclusion of caste in the Equality Act 2010 is done in the best way possible;
- bring together interdisciplinary expertise and stakeholder views on caste and discrimination on the basis of caste in the UK;
- engage with a range of views on the meaning of caste and caste discrimination in everyday life in Britain (and its relation to race and religion or belief), and to provide a platform for communication of different opinions in order to facilitate a common understanding;
- explain and solicit views on caste in relation to UK law and international law; and
- identify issues of relevance for the implementation of the amended legislation in the different settings of the workplace, education, the provision of goods and services and associations.

Both events aimed to solicit knowledge, experience and opinions on the complicated and contentious issue of caste that should be taken into account, while at the same

time identifying areas where more information is required. The events sought to examine three key questions:

- How should caste be defined in the Equality Act 2010?
- What exceptions and exclusions for caste should be placed in the Equality Act 2010?
- How should caste be related to the Public Sector Equality Duty?

It was also made clear to participants that the purpose of these events was *not* to debate the case for or against amendment of the equality legislation further. Nor did these events form part of any public consultation by the Government on the issue of legislative change. Finally, the events did not seek to establish the extent of caste discrimination in the UK.

1.2 Methodology

Experts' seminar

The experts' seminar, which was held at SOAS (School of Oriental and African Studies), University of London, on 19 October 2013, was designed to bring together social scientists and legal experts to solicit views on caste discrimination and the law, and to discuss preliminary findings of the parallel review of socio-legal research (Dhanda et al, 2014a).

In total, 49 people were invited to attend the experts' seminar, besides the members of the project team. These were social scientists with published work on caste from a variety of subject disciplines, including Anthropology, Cultural Studies, Development Studies, Economics, Gender Theory, History, Human Geography, Religious Studies, Sociology, Philosophy and Psychology, as well as lawyers with expertise in discrimination, equalities and human rights law (including some practicing lawyers).¹

The seminar was attended by 19 participants, in addition to the nine members of the project team and three observers from the EHRC (see Appendix 9). In all, participants came from 13 separate academic institutions, including one institution each in Denmark and Switzerland. Of the 11 lawyers invited, one practising and one academic lawyer attended alongside two lawyers on the project team. The expertise

¹ The two invitation letters sent to experts are outlined in Appendix 1 and 2 and their registration form is outlined in Appendix 5.

of those present spanned the following areas: British discrimination law, caste discrimination, caste and economic development, caste identity, caste and gender, caste in secondary education, caste violence, comparative equality law, cultural politics, Dalit Christians, Dalits in India and Bangladesh, Dalit social activism, diaspora studies, dignity, gift-giving, globalisation, the Gujrati community, international human rights law, labour relations, migration studies, the Punjabi diaspora, the politics of shame, religious conversion, religious education, sects amongst Sikhs, social movements, social stigmatisation, sociology of caste, South Asian diaspora and voluntary and public sector organisations.

All those invited were offered the opportunity to provide a written statement in the form of answers to 'Key questions for experts' (see Appendix 7), as well as to provide advice and references to further research. In total, 16 written statements were received before or after the event; of these, seven were submitted by those who were unable to attend the event in person.

Stakeholders' workshop

The stakeholders' workshop, which was held at the University of Westminster on 9 November 2013, was designed to bring together community stakeholder groups with differing views about caste in the UK and the legislation on caste discrimination, and also representatives of local authorities, service providers, colleges/universities and others who might be affected by this legislation.

Five factors influenced the selection of stakeholder organisations for invitation to the event. First, we aimed to maintain a balance between community organisations which had supported, or campaigned for, the inclusion of 'caste' in the Equality Act 2010 and those which had expressed opposition to, or reservations about, the inclusion of caste in the legislation. Second, we invited those organisations which had established a presence in the public debates in the run up to the legislation. Third, we sought to include other community organisations which had a stake due to their established work in the community. Fourth, we invited equality and diversity officers from local authorities and service providers. Finally, we were governed by the size of the venue and the available budget for the event.

We recognised that the issue of caste and legislation in the UK is controversial, and therefore that the process of participant selection and invitation had to be transparent, fair, and ensure a balance of viewpoints. This involved an extended and carefully handled pre-event process. We invited organisations not individuals, and where particular individuals showed interest, we asked them to suggest the organisation they would represent, and offered to include the organisation if space

allowed at a later stage.² Early responses from some stakeholders suggested further organisations for inclusion. In some cases, invitations were missed because the inboxes of publically available email addresses to which they were sent had not been attended to. The team leader followed up email invitations with personal phone calls and where necessary procured personal email addresses to send the relevant documentation a second time. A small number of organisations who sent unsolicited registrations were declined on the basis that they were beyond the remit of our definition of stakeholders or that they might skew the balance.

All those invited were offered the opportunity to provide a written statement in the form of answers to 'Key questions for stakeholders' (see Appendix 8). Those who registered by set deadlines and submitted written statements before the event were offered a travel bursary up to a maximum of £50.

In total, 60 organisations accepted the invitation, and the event itself was attended by 43 participants, from 43 organisations (excluding the project team and two observers from the EHRC) (see Appendix 10). Of the expected 60, 12 were unable to join for unavoidable personal reasons and sent their apologies. Regrettably, five organisations, of which four had initially registered and one had sent a written statement, chose to withdraw from the event the day before it took place; the one withdrawn written statement was not displayed and is not used in the report.

Structure of the events

The experts' seminar and stakeholders' workshop were structured to maximise opportunity for informed discussion, the airing of different perspectives (whether grounded in subject disciplines, social position or professional roles), and the identification of common concerns so as to facilitate forward movement of the process of legislation development. Each event involved a mixture of presentations drawing attention to the existing social science and legal knowledge on caste in the UK (based on the socio-legal research review), plenary discussions, and focused task groups addressing key themes and reporting back. In addition, at the workshop, the written statements that had been submitted by various invited organisations were displayed (in a separate room) and all participants given the opportunity to record their responses on post-it notes.

The following sections of the report deal with each event in turn. Chapter 2 reviews the content of the presentation, discussion and task groups at the experts' seminar. It then summarises the views from the experts' written statements before drawing

² The two invitation letters sent to stakeholders are outlined in Appendix 3 and 4 and their registration form is outlined in Appendix 6.

conclusions. Chapter 3 provides a similar presentation of the outcomes of the stakeholders' workshop, including a summary of the written post-it note commentary on organisations' written statements. The aim of both events was to capture salient points and variations in viewpoint, highlighting the significance for the development of legislation on caste discrimination in the UK.

2. Experts' seminar

2.1 Presentations

Overview of research on caste in the U.K

The first presentation by Dr Meena Dhanda examined both research on the manifestation of caste in Britain and research on caste done by researchers in the UK. She showed that caste had been examined by Indologists examining ancient texts (Lipner, 1994; Flood, 1996); by historians of the pre-colonial and colonial periods (Bayly, 1999); by religious educationists, as an aspect of socialisation (Nesbitt, 1990, 2009); and by social anthropologists focusing on the post-colonial transformations of caste in the UK (Bhachu, 1985; Ballard, 1994). Caste has been studied in respect of religious sects in the UK (Takhar, 2005, 2011), within 'faith guides' (Nesbitt, 2005; Warriar, 2006), and within particular communities (Juergensmeyer, 1982; Hardtmann, 2009; Dhanda, 2009). In addition, sociologists and political economists have studied caste in the context of globalisation (Thandi, 2010; Qureshi et al, 2012; Taylor and Singh, 2013). Other research has examined conversion related to caste (Dhanda et al, 2009); caste-related stigma (Jaspal, 2011; Jadhav, 2012); the experience of prejudice (Dhanda, 2009, 2012, forthcoming); caste-based sexual harassment at the workplace (Wilson, 2006); caste and migration (Dhanda, 2013); and Dalit cultural politics and activism (Gellner, 2009; Rafanell and Gorringer, 2010; Mosse, 2012; Steur, 2012.). In relation to law, Waughray (2009) is the first legal journal article on caste in British law and Keane (2007) is the first book on caste in international law (see Dhanda et al, 2014a for further references).

Dhanda also summarised the various reports published on caste discrimination in the UK or claims about the lack of it, beyond the oft-cited National Institute of Economic and Social Research (NIESR) report (Metcalf and Rolfe, 2010), including those by the Dalit Solidarity Network UK (2006), the Hindu Council UK (Sharma, 2008), the Anti Caste Discrimination Alliance (Green and Whittle, 2009), and the *British Sikh Report 2013* (British Sikh Report Team, 2013).

Dhanda also referred to research amongst young South Asians (Nesbitt, 1997); on bullying and name-calling (Ghuman, 2011; Dhanda, 2009); and on generational differences in attitudes to caste (Dhanda, forthcoming). She also noted that new social media has made reverberations of caste-related 'news' more acute than ever before, referring to the criticism of caste by the BBC Asian Network DJ, Bobby Friction, in 2012.

Dhanda concluded by noting the ambiguity of caste in the British context, where religion has become a way of talking about caste. Within the British public realm,

caste discrimination is not always self-evident; it is often masked. But, manifestations of caste in Britain are not disconnected from the interplay of caste dynamics in South Asia. She also suggested that the connection between defining caste legally and responding sensitively to inter-caste dynamics, including why some 'upper' castes persistently deny the existence of caste prejudice, needs to be explored further. Finally, she observed that the law is limited in some ways since a lot of the grief that people face is beyond the purview of the law as it is in the 'private' realm. Therefore, in combating casteism, the legally constructed rigid categories of the 'private' and the 'personal' also need to be challenged by similar arguments as those launched against sexism and racism, which effect the operation of the law.

In discussion, it was noted that in relation to caste because of migration in and out of Britain, people are affected by both what is happening 'there' (i.e. in South Asia) and 'here' and that the situation in the UK is not any less complex than it is in South Asia. It was suggested that to understand why there is denial of casteism by the 'upper castes', we have to understand caste as a 'regime of truth'; it is productive of a form of solidarity. Some experts said that the research team should also look at the Pakistani Muslim community and at the notion of *biradari*. It was pointed out that the implications of the legislation which may make people of non-Asian background more aware of caste in their interaction with British Asians have to be borne in mind.

One expert reiterated that the public/private divide is crucial from a legal intervention point of view. Some of the sites of caste discrimination (endogamy and religious worship particularly) are outside the framework of the Equality Act 2010 – therefore the framework needs to be expanded in order more fully to include caste.

One expert commented that there is a striking difference in the way in which caste operates in the Gujarati community, where it has a much more corporate nature, compared to the Punjabi community. Caste is something that you choose to identify with; there are formal caste associations that represent particular *jati* groups – 'a bit like selling a brand'. He commented that there is a direct link between caste, caste associations, and the broader Hindu agenda.

In response, Dhandu argued that the reason why caste has become the focus of discussion in research on the Sikh community is due to the community's own preoccupation with the question of casteism. There exists a split consciousness amongst the Sikhs with regards to caste. Whilst there is no doctrinal support for casteism, there is growing acknowledgment in the community of its continuing existence in practice. This makes the removal of casteism a matter of concern for Sikhs, but Sikh organisations are divided as to how this should be achieved – by a

legislative or an educational route. In contrast with the Hindu Gujarati or Punjabi Muslim communities where the solidarity conferring role of caste is pointed out by some experts, some researchers argue that the Sikh community views caste pride or solidarity seeking, negatively, as a failing, and against the values of Sikhism (Singh and Dhanda, forthcoming).

Principles for a legal definition of caste

The second presentation by Dr Annapurna Waughray and Dr David Keane focused on the law, noting at the outset that the research had been commissioned following the statutory requirement that caste be made an aspect of race under the Equality Act 2010. They outlined the legal aspects of caste discrimination, which has had a complex history in the domestic and international spheres, examined the legislative history of caste within the Equality Act 2010, and asked the experts to consider the issues that arise from the legal direction that caste be made an aspect of race. Key issues included: how that is to be achieved, the need to draw up a definition of caste for the purposes of the legislation, and the necessity to consider any exceptions to the legislation that might be desirable or essential from a practical point of view.

Waughray and Keane outlined the international context to provide the background for the discussion. They argued that the interpretation of caste as a form of descent-based discrimination by the UN Committee on the Elimination of Racial Discrimination (CERD) was a key aspect. They also noted the importance of the legal orders of other States, notably India, but also in States outside South Asia, for example in Mauritius and Burkina Faso, as well as in case law. The international legal approach to defining caste has been to identify the salient or defining features of descent-based communities suffering from discrimination on the basis of caste and analogous systems of inherited status, an approach set out in detail by CERD in 2002. The experts were asked to consider the relevance of international examples for the current project, as well as how the exceptions under the Equality Act 2010 operate, and the potential for caste organisations successfully to invoke these.

The experts responded with a range of suggestions, although none provided any outstanding source for a legal definition, and some agreed that defining caste is a difficult task. Several experts pointed to the importance of distinguishing caste from 'casteism', asking whether, for legal purposes, it is possible to define casteism (e.g., as an ideology of *varna* ranking justifying discrimination) without having to define caste, or risking the stigmatisation of caste identification *per se*. In the case of caste, it was pointed out, the language of protected characteristics (nouns such as race, gender, caste) presents difficulties, and would anyway be different from the actions (verbs) that would be the focus of interpretations in the courts. Another expert

concern was to avoid the dangers of, on the one hand, too narrow a definition of caste, which might overly restrict the application of the law, and, on the other hand, too broad a definition that would over-extend the scope of the legislation and risk merging caste with broad social inequalities such as class. On the first point, it was suggested that some difficulties associated with very narrow, detailed and complicated definitions of protected characteristics were exemplified in the case of disability. On the second point, it was suggested that use of the word 'caste' pre-empts the over-broadening of the concept given that, it would be quite difficult for a tribunal in the UK to move from caste to social class. On the issue of how caste is to be implemented in the legislation, there was some further discussion as to the meaning and differences between 'caste' and 'descent' and the relevance of this for Britain. It was concluded that the problematic legal questions generated by the inclusion of caste in the Equality Act 2010 needed to be referred to the task groups.

2.2 Task groups

Three separate task groups took place focusing, respectively on: (A) how to conceptualise caste for legal purposes; (B) evidence on new manifestations of caste in the UK; and (C) matters related to the implementation of law on caste discrimination. A final session solicited views from experts on the issues related to the measuring and monitoring of caste discrimination in Britain. Where consensus or agreement is reported in any group, it is on the basis of general or majority assent to propositions as the endpoint of discussion or to points made on the way.

A. Conceptualising caste

Convened by Professor David Mosse and Dr Annapurna Waughray, this task group considered two questions: what is 'caste' and how can it be defined within the context of contemporary Britain; and how caste is related to 'identity', 'race' and religion in Britain. The group provided an opportunity to air different views while identifying where a consensus could be reached on the conceptualisation of caste. Various suggestions were made about how caste might minimally be understood for the purposes of legislation. Dr Hugo Gorringer reported on the Task Group discussion to the plenary.

The group concluded that caste is a complex form of identification and not amenable to a stable definition. It was recognised that there would be dangers in attempting too precise a legal definition, although moving away from 'caste' to 'descent', risked stretching the definition towards 'class'. There was agreement that the law applies symmetrically (i.e. it is not just about discrimination against Dalits) and it cannot specify any named castes.

Accepting that as far as the legislation is concerned 'caste' is a characteristic upon the basis of which discrimination occurs or is alleged to occur, there was some consensus that at a minimum caste can be conceived in terms of: (1) social stratification; (2) inherited status; and (3) endogamy. Such a minimum definition would allow for further definition through case law. It was suggested that the definition should be worded in such a way that it does not exclude certain manifestations that are not mentioned (i.e. using a form of words such as 'caste manifests as...').

The point was made that caste in the UK is different from that in South Asia (or elsewhere), but is also subject to influences from real-time cultural exchanges with the sub-continent. Furthermore, the significance of caste varies between generations, but its hierarchical aspects have not disappeared. However, the traditional (sub-continental) association of caste with occupation has all but disappeared, so that occupation would not be a key feature of a definition of caste in contemporary Britain. It was also noted that given the international nature of business and labour markets, casteism is today a global form of discrimination, against which the UK is developing legislation that will create obligations for British companies.

Participants varied in their emphasis, but the group recognised the need to distinguish between, on the one hand, *discrimination* on the basis of caste, and, on the other, caste as a form of social capital (as 'solidarity', 'belonging', 'self-esteem', 'collective interest', 'corporate identity', 'kinship', 'mutual cooperation', 'an Indian based way of organising' etc.). The distinction between caste in its public manifestation and caste in the private or domestic sphere which falls outside of the field of legal action was also noted. It was acknowledged that significant differences existed in practices related to caste among diaspora communities with different backgrounds (e.g., Gujarati Hindu, Punjabi Sikh, Christian and Muslim), but that in all communities religious or ideological values reject forms of identification that have the consequence of excluding or stigmatising others.

The question of whether this debate was focussed on *varna* or *jati* was raised, the former being understood as a social hierarchy. One response was that in terms of legislation, we were concerned neither with *varna* nor with *jati per se*, since the legislation is not about social belonging but about the exclusionary consequences of certain types of behaviour.

The group also noted that the overlapping of caste and religious identities will make implementation of the new legislation complex, since the defence of restrictions (for example in relation to temple functions, marriages services etc.) allowed on the basis

of religion, may be challenged by those claiming that exclusion is actually on the basis of caste (as an aspect of race). Two perspectives were expressed: one, that religion would be used to conceal or justify caste prejudice; the other that (legal) claims of caste discrimination would be used to fuel what was essentially rivalry between religious sects or the politics of control over temples. The danger that the implementation of legislation on caste might encourage caste identification or produce caste as a kind of ethnic identity ('ethnicising caste') was also raised.

It was pointed out that, in practice, in legal cases dealing with alleged discrimination, the quality of *evidence* - from witnesses or documentary evidence - was likely to be as important as definitions. It was further noted that the law not only consists of litigation; the educative value of legislation and its capacity to bring issues into the open for resolution is equally significant. This point was also a response to the abovementioned view that new legislation could increase salience of caste in the UK. Most people in the group appeared to consider that this danger is offset by the positive value of legislation and the responsibility to protect against discrimination.

By the end of the discussion, there was a consensus: (a) that a sufficiently open rather than a prescriptive definition was needed (for reasons arising from the different points noted above); (b) that all reference to religion should be avoided; and (c) that no communities should be specified or singled out. It was pointed out that the approach to definitions of protected characteristics in British law is not consistent, and one suggestion was whether any definition of caste is needed at all.

B. New manifestations of caste

This task group was convened by Dr Meena Dhanda and Dr David Keane and Professor David Gellner reported to the plenary session. The group considered two main questions: whether there are new manifestations of caste in Britain impacted by, for instance, youth culture, social media and globalisation; and what are the forms of caste discrimination, if any, in Britain.

The discussion began with the suggestion shared by two experts that caste discrimination is perhaps confined to older migrants and that the present generation of British-born South Asians may be free from any association with caste. The opposite view was also suggested, namely that caste is reproduced by younger generations through caste-coloured popular culture. It was also noted that a comparison with work on the reproduction of caste identity in Europe might be useful to consider.

There was discussion on the new development of restrictions in mainstream Sikh Gurudwaras imposed by the community on young people wanting to use these premises to marry out of caste. The case of a Swindon Gurdwara was mentioned in which a cross-caste marriage was stopped by local Sikh youths, but there was disagreement about whether or not this case illustrates resistance to inter-caste marriages. It was suggested by two experts that the rule that only persons with Sikh surnames - 'Singh' (for men) or 'Kaur' (for women) - are allowed to marry in the Gurudwara is not linked to caste but is equally applicable to all Sikhs. In response, it was noted that Punjabi Dalits in the UK tend not to have Singh or Kaur as their surnames, and in some cases have been asked to change their name to 'Singh' or 'Kaur' in order to use a Gurudwara as a marriage venue. This case was linked to the question of the fair use of premises and to claims of discrimination that might arise from access being denied.

One expert referred to an example from his research in which a young woman was excluded from membership of an association because she married out of caste. It was suggested that, depending upon the details, such a case might count as gender discrimination.

It was suggested by one participant that cases of insubordination due to reversals in caste hierarchy, where a person who considers herself 'upper caste' refuses to take orders from a manager she takes to be 'lower caste', are liable to be dealt with by disciplinary procedures.

One expert asked if an assumption was being made that caste discrimination only happens within South Asian communities. It was suggested that non-South Asian associates of South Asians may pick up casteist language and repeat it without intent to humiliate. There was discussion about whether caste-abusive language will be covered under the proposed legislation and it was suggested that the particular legislation that covers hate speech, 'incitement to racial hatred', could cover such cases. In this context, other cases (e.g. of a music producer being harassed by abusive casteist language online) were also discussed.

It was also pointed out in this group, as in the first group, that anti-caste discrimination legislation would protect people of all castes, not just the so-called 'lower castes'. Any definition of caste in the law would have to be broad enough to capture a range of cases, across different religious communities and national groups. However, a line would have to be drawn somewhere, as one participant pointed out, so as not to overextend the legislation, for example to a Scottish clan. The group

ended with the observation that there will be grey areas as there are for existing protected characteristics.

C. Legal definition and implementation of caste

This task group was held in plenary (combining two earlier separated groups on legal definitions and law implementation). The principal issues discussed were: the relationship between caste and religion as protected characteristics in the context of equality law; the application to caste of the existing exemptions and exclusions in the Equality Act 2010; the application to caste of the Public Sector Equality Duty (PSED) in section 149 of the Equality Act 2010; the obstacles to tackling caste discrimination; and the so-called 'sunset clause.'

On caste and religion as protected characteristics, it was pointed out that race and religion as grounds of discrimination classically 'overlap' as illustrated in the *JFS* case (briefly discussed in Dhanda et al, 2014a) where the claimant had no grounds under religion and so brought his claim under race. However, under the Equality Act 2010, not all protected characteristics are protected equally; race, for example, is protected to a greater extent than religion. It was noted that lawyers needed to be aware of pretexts for caste discrimination and to be aware when indirect caste discrimination might be taking place. For example, policies, criteria or preferences relating to dietary observations or food preferences might exclude certain castes (the example of food or diet could equally be indicative of indirect religious discrimination depending on the circumstances). It was pointed out that most cases on religious discrimination have concerned indirect rather than direct discrimination.

Many issues were raised concerning exemptions and exclusions. There is currently a debate about exemptions and exclusions generally, and conflicting views as to whether the current exclusions are too wide or too narrow; this is the case with exemptions relating to religion or belief and there may be parallels in terms of caste.

One expert asked how exemptions and exclusions would work where 'lower' castes are defined as a religious group and are discriminated against on grounds of caste: would caste discrimination provisions therefore not apply? The question then arose of who decides what questions are covered by 'religion'; for example, who decides whether caste-based restrictions on entry to temples or to the priesthood are permitted under existing exemptions and exclusions. A reference was made to some Hindu temples in India which insist on having Brahmin priests as a religious requirement. In response, it was noted that if a religious organisation refused to employ priests of certain castes, this would be contrary to the prohibition of discrimination on grounds of race when caste is made an aspect of race. Churches

and temples can impose a genuine occupational requirement that a priest must be of the religion in question, but religions are not exempt from the prohibition of race discrimination in the Equality Act 2010 (although they are exempt from the prohibition on sex or sexual orientation discrimination).

It was noted that priests in Britain are increasingly drawn from all castes, citing the example of temples employing non-Brahmin priests. Another participant then posed the problem of a temple insisting on employing a priest of a particular caste, arguing that it is a doctrinal requirement, and refusing to employ a priest of another caste. If the matter goes to court, the judge would be required to decide whether the doctrines of the religion impose requirements as to the caste of the priest. Another expert questioned whether we should be legislating in this way for minority religions, but the point was made that we do already legislate.

On the PSED, one legal expert emphasised its purpose of fostering good relations between communities. The duty to have regard to the need to tackle prejudice and promote understanding, and to eliminate harassment, was seen as particularly useful in relation to caste. However, it was noted that the PSED is currently under government review and its future is unclear. A participant pointed out that in relation to caste and the PSED, the central concern that has emerged is whether public bodies and organisations will start collecting data on caste in order, as they see it, to fulfil their PSED obligations, thereby exacerbating or even introducing 'caste consciousness' in Britain.

One participant pointed out that the collection of such data is often related to policies on diversity and that there is no suggestion that caste will be part of diversity policies. Another pointed out that there is often pressure on bodies to collect data to show that they are fulfilling their PSED obligations (even though collection of such data is not mandatory), however, in practice race and ethnicity monitoring is disliked by many people as intrusive and monitoring forms are not completed, and this may prove to be the case for caste also. It is also important to avoid burdening public bodies unnecessarily or to have them collect data which invade privacy.

There seemed to be a consensus that the collection of statistics and the monitoring of caste identity should be avoided. It was pointed out that the Office for National Statistics has been reluctant to extend the census categories beyond basic ethnic categorisation due to cost, therefore, it was unlikely to want to include caste in the census. It was also pointed out that equality duties were different in England, Wales and Scotland.

Certain obstacles to tackling caste discrimination were pointed out. Dalit victims might be reluctant to report caste discrimination if in so doing they had to declare their own identity in caste terms (especially to 'higher caste' managers) which they may prefer not to do. It was noted that this is similar for sexual orientation discrimination and that, as in that case, training and education is required for employers, the judiciary and other actors to attune them to caste discrimination, alongside legislation itself.

On the 'sunset clause', it was noted that the clause permits, but does not mandate, a review of the caste provision, and that it is unusual for a non-discrimination clause to be treated as a temporary measure.

2.3 Concluding plenary

Measuring/monitoring caste discrimination in Britain: reasons, issues, and methods

The final session (moderated by Dr Steve lafrati) focused on issues related to the measuring and monitoring of caste discrimination in the UK. The experts argued that caste discrimination is both an objective fact that can be measured independently, and a subjective experience for many people in terms of their understanding of discrimination and perceptions of discrimination and harassment. Mindful of this duality, it is important to have a similar duality in terms of methodology.

Caste does not have the same level of monitoring and data collection as other protected characteristics under the Equality Act 2010, such as gender, ethnicity and disability. Currently, there are no reliable baseline data on the extent of caste discrimination, which may be important when assessing the effectiveness of the legislation. It was noted however that other areas of discrimination, such as race and age, have been monitored successfully in terms of legal cases and their outcomes.

It was suggested that this is a difficult area to research as it is a sensitive topic for many people and entails some degree of stigma. Additionally, the concepts of discrimination and harassment are different, and it is important that people understand these terms. Simple survey instruments would be bedevilled with problems of misunderstood or over-extended terms and categories. As such, a survey might not be the ideal first step, a better start being a qualitative approach through targeting communities in particular geographies.

The case study evidence provided in the NIESR report on caste (Metcalf and Rolfe, 2010) was noted, although it was recognised that the majority of the incidents reported in that study would not lead to court cases under the Equality Act 2010. In addition to the NIESR report, experts mentioned the significant amount of other

research from various academic disciplines concerning the existence of caste discrimination. It was noted that some studies have found many cases of caste discrimination, but others have found far fewer cases whilst still showing some evidence of it. Consequently, it is important to develop a coherent body of robust and credible qualitative research regarding experiences and case studies as a basis for further research to underpin the monitoring of baseline data.

2.4 Experts' written statements

Experts were invited to send written statements in response to twelve questions (see Appendix 7).

In this section we summarise the key views and opinions expressed in the written statements, presented under three broad headings concerning opinions on:

- manifestations of caste in Britain, including forms of discrimination;
- conceptualising and defining caste sociologically and legally; and
- issues concerning the operation and implementation of caste legislation.

Manifestations of caste including forms of discrimination

In relation to discrimination, two approaches can be identified. On the one hand, it was pointed out that in the absence of legislation, caste discrimination may not come to light; furthermore, some prominent explanations of caste in Britain (such as that by the Hindu Council UK) present caste as a largely harmonious and interdependent system in a way which can silence the voice of its discontents. Caste harassment was described as 'wide-ranging', from bullying in schools to the banning of inter-caste marriage accompanied by social ostracism of those who defy the inter-marriage ban, and in some cases by violence (Roger Ballard). A number of experts identified the existence of caste discrimination in employment (prejudice by those familiar with caste distinctions against 'lower caste' job applicants), in professional and business activities, in the context of worship, and in the housing market in the avoidance of renting to persons known to be of 'lower caste' origin (Luisa Steur, Mary Searle-Chatterjee). The adverse impact of caste discrimination on children of so-called 'low caste' in areas of substantial South Asian communities was noted by several experts, and the importance of the role of schools in combating discrimination was emphasised. It was noted that caste-related bullying is a serious issue in a number of state and private schools. One suggestion as a starting point to get schools to think about how to address the issue would be to teach about B.R.

Ambedkar in the national curriculum alongside existing figures like Gandhi and Martin Luther King (Kalpana Willson).

On the other hand, one expert questioned how lawyers would deal with situations where a conflict arises between freedom of faith and religion, and the kinds of discrimination banned in law such as discrimination in employment, for example where those in charge of a temple deem persons of specific castes or sub-castes to be the only individuals appropriate for a paid or honorary position as a priest, trustee or committee member (Susan Bayly).

Regarding manifestations of caste, there did not seem to be a sense among the experts that caste is declining; rather, caste was seen as important as a source of identity for many groups, with new manifestations of caste emerging. Thus several experts referred to social media and social networking sites being used innovatively to create and re-create caste group identities which are important and positive ('cultural caste') (Rusi Jaspal). In a different way, transnational marriages resulting from migration and the dynamics they entail are also a manifestation of caste (Hugo Gorringe). On the psychological aspects of caste, particularly caste and self-esteem, it was suggested that the younger generations of so-called 'low caste' do not have a sense of low esteem related to caste; but it is not clear whether the younger generation of so-called 'upper castes' have any less sense of superiority about their caste background. However, it was suggested that the increasing self-confidence of so-called 'low castes' is bound eventually to have an impact on changing views, behaviour and practices of the so-called 'upper castes' (Pritam Singh).

Conceptualising and defining caste

Most experts who commented explained that caste is unstable, dynamic and changeable; it is perhaps (as Susan Bayly put it) not a single phenomenon at all. Nor is caste ethically appraised in an unambiguous way. On the one hand, caste is positively valued as a form of identity, solidarity and social networking that provides individual and collective belonging and self-esteem (Susan Bayly, Rusi Jaspal). On the other hand, the psychologically empowering effects of self-esteem, social difference and distinction, of 'in-group' membership, also involve a distancing or inferiorising of 'lower' castes (Eleanor Nesbitt) in ways that may humiliate, disempower and undermine the sense of self-effectiveness of 'out-group' others (Rusi Jaspal). Caste is thus relational and hence can take new forms in the UK (Hugo Gorringe).

Caste is a 'notional category' that is not obviously visible. It is constituted through varied kinds of everyday social interactions and exclusions, including joking, that

appear in the UK (Hugo Gorringe). In the Indian sub-continent, caste inequality is strongly implicated in power and economic inequalities and exploitation amidst economic growth in ways that come to be visible as unemployment, low education, poor health and other consequences of unequal opportunity faced by lower castes (Karin Kapadia, Steve Taylor). We do not have expert opinion specifically on the intersection of caste and class in the UK, although attention is drawn to the intersection of caste and gender in the instance of sexual harassment of Dalit women (Kalpana Wilson) and domestic violence (Roger Ballard).

Endogamy (marriage within caste) ensures that caste identities persist (Eleanor Nesbitt), but the practice of endogamy itself only arises because of the attitudes, aspirations and sense of self that give value to caste as a means of association, social networking and belonging (Vimal Patel). These attitudes are often taken for granted, and mostly go unnoticed (Hugo Gorringe). Even where caste seems more about identity than rank, these dispositions are informed by hierarchical values (Hugo Gorringe). Classically such values are manifest in ideas of *varna* and purity/impurity, although these may not inform present-day social attitudes (Gavin Flood, Pritam Singh). The effect is that caste can appear in the UK as a system of socially ascribed difference (ascribed to oneself or to others) (Steve Taylor) even though divorced from the occupations, sharp power inequalities and violence of the Indian sub-continent. Experts nonetheless note that caste solidarities and separations are influenced by political tensions on the sub-continent (e.g., the relevance of Punjab politics [Eleanor Nesbitt], or Hindu supremacist ideology [Kalpana Wilson]).

In the British context, religious groups (Hindu, Sikh, Christian, Muslim) are divided by caste (Roger Ballard), although in some cases (e.g., Valmiki, Ravidassia, some Gujarati *samajis* [associations]), caste and religion overlap (Mary Searle-Chatterjee, Vimal Patel). Indirectly this is also the case, for example, with Buddhist or Christian Punjabis who are mostly of 'Dalit' caste heritage (Eleanor Nesbitt)]. Moreover, some religious institutions (temples, gurudwaras) implicitly presume caste qualification for priesthood or committee membership (e.g., an unstated expectation that serving priests or religious institution leaders would be of a certain caste). While religious precepts mostly strongly reject caste distinctions, these might easily be overlooked for example in the pursuit of an 'honourable' marriage.

Finally, as regards a legal definition, two external legal experts warned of the 'legal danger' of clubbing together caste with ethnic origin, whilst acknowledging similarities to ethnicity.

Operation and implementation of caste legislation

Diverse views were expressed on the operation of caste as a concept in equality law. Respondents who expressed support for legislation, as well as one lawyer who described their organisation's position on legislation as neutral, suggested that protection against caste discrimination should function like protection against any other form of discrimination. However, it was also noted that since caste discrimination works in insidious and often hidden ways, education about its form and manifestations was essential, including concerning situations where discrimination is on grounds of both caste and another protected characteristic such as gender (intersectional or dual discrimination). As one respondent explained, in legal terms caste is no different and would be no different to other forms of discrimination already covered by equality legislation, but public understanding may lag behind. In this regard, the need for judicial training and education was referred to by several respondents (e.g. Steve lafrati), and all respondents felt that existing levels of expertise would be an issue if lawyers and others do not know how to access pertinent expertise.

Conversely, some respondents took the view that caste is too diverse and complex a phenomenon to be captured by British discrimination law; and even if it could be, the likely result is the reification of caste, or the 'casteification' of law and public debate in this country. At the very least caste is a 'difficult concept to operate with', especially given that it can also be translated as 'community'. One respondent felt that caste cases would generate 'enormous difficulties' and another that it would be a mistake to attempt to define 'caste' preferring the term 'casteism' instead (Mary Searle-Chatterjee).

Most respondents anticipated only a small number of cases although others felt there would be many cases. Some considered the number of cases was irrelevant, as 'even one case of discrimination is too many'. The educative role of legislation - sending out a clear message of disapproval - was referred to. One non-legal academic expert thought caste would fall under existing legislation. Most respondents anticipated that cases involving claims of caste discrimination would be reported, initiated and proceed much as cases involving claims of other types of discrimination, and that such cases would be no more or no less sensitive than those involving other types of discrimination. Diverse views were expressed as to how judges might engage with caste as a ground of discrimination, 'with difficulty' being one response. Several respondents identified training as crucial.

In terms of proving allegations of caste discrimination, one respondent felt that even a small number of cases would present an 'intractable problem' due to the very

different views held by academics about the nature of caste (Susan Bayly). The 'invisibility' of caste and the lack of obvious 'caste markers' was mentioned as a potential difficulty given that courts might consider the parties to originate from the same community. Courts would look for discrimination which attributes or infers particular characteristics, behaviour or labour to individuals on the basis of their heritage, parentage or name/group affiliation. The significance and difficulty of establishing caste identity was raised especially, according to one respondent, given its fluid and changing nature. There may be a discrepancy between a person's subjective and ascribed caste identities, as in the case of a woman who takes on her husband's caste identity on marriage but continues to face discrimination on the basis of her own caste origins. Other respondents felt it would be no more difficult to prove caste discrimination than other forms of discrimination.

In terms of defences to claims of caste discrimination, it was suggested that some perpetrators may raise their own 'low caste' origins in defence in order to deflect allegations of caste discrimination; other defendants may argue that they lacked discriminatory intent, or that they were acting on traditional or religious lines rather than 'against' someone.

A large number of obstacles for victims wishing to rely on the law were mentioned. These included a lack of confidence; a lack of English language skills; a lack of awareness of the law; a lack of knowledge on how to access legal representation; and a lack of funds to bring a case. In addition, it might be difficult to get a lawyer to understand the issues; there may be resistance to the notion of caste inequality among South Asian legal representatives, while non-Asian lawyers may not understand; and there may be few lawyers from the 'low castes'. Socio-psychological obstacles were also identified, including fear of reprisals or a backlash (including violence) from other caste groups within the South Asian community; fear of stigmatisation and 'outing' where caste identity had previously been hidden; pressure from the family not to pursue a claim; perceived community stigma in raising the issue at all ('washing dirty linen in public'); social pressures within the community to resolve within the community and not go to court; and internalisation of caste system-related norms leading to an inability to recognise caste-based discrimination. There could also be difficulty in securing evidence to prove subtle forms of discrimination or in establishing discrimination. It was also noted that some of the more painful forms of caste discrimination, e.g. ostracism for entering into a mixed-caste marriage, are beyond the remit of the law. Several respondents raised the similarities between the problems faced in reporting, claiming and proving sexual orientation discrimination and caste discrimination. On the other hand, legal experts stated that caste should not give rise to any difficulties not faced by other characteristics.

Several respondents mentioned the value of the application of the PSED to caste. Since public bodies must work to tackle discrimination on the basis of caste, this would become embedded and caste discrimination would be treated as seriously as other forms of discrimination. The danger would be if there is felt to be a need for the collection of caste data and statistics to implement the duty.

In relation to the exceptions to the Equality Act 2010, it was suggested that, as an aspect of race, caste would follow the exceptions pertaining to race. Alternatively, the religion or belief exceptions might apply, for example where it is argued that for reasons of religion a person of a particular caste is required for a particular duty. The complication of the religion-caste overlap, such as where Dalit castes have established religions (Hugo Gorringe) was raised; it was questioned whether caste discrimination would be exempted if presented as 'religious'. The point was made that it is one thing to organise social life - particularly marriage - within caste boundaries, but another if caste becomes a criterion for employability rather than ability; the former would be lawful, the latter not.

Legislation against caste discrimination was seen as falling within the spirit of the Equality Act 2010, sending a message that certain behaviours and actions are unacceptable (Hugo Gorringe). Beneficial effects that were mentioned included reducing the taboo around the issue, reducing fear and pressurising people to change their behaviour. One respondent commented that '... [t]he long term effect of caste discrimination legislation would be similar in reducing caste discrimination to the effect of race discrimination legislation in reducing race discrimination. I must also add that the limits of the caste discrimination legislation in eradicating caste discrimination would also be similar to the limits of race discrimination legislation in eradicating race discrimination' (Pritam Singh). In particular it was acknowledged that the law is not concerned with how communities organise themselves in terms of social transaction, marriage and commensality; the key thing is equality legislation (Gavin Flood).

Some respondents mentioned the possible damaging effects of legislation as including the embitterment of relations between caste groups; some might regard their own groups as being unfairly singled out as perpetrators of discrimination, yet themselves suffer discrimination from other groups. This could create an air of suspicion and cause rifts between groups. Other damaging effects mentioned by the experts included allegations of discrimination by 'high caste' groups against the traditionally 'lower' caste groups not being taken seriously; further reification of caste group identities, the consequences of legislation being to reify and reinvent caste, ameliorating and protecting the reinforcement of caste boundaries rather than

eroding them; abuse of caste discrimination legislation by members of particular groups; and an increase in caste consciousness and the sense of caste differentiation amongst South Asians in the UK. It was pointed out that the politicisation of caste identity in the Indian context highlights this possibility. Certainly in the short term, the legislation might serve to politicise caste identities, according to one respondent, but the law would make it clear that casteism is unacceptable and that there are consequences for hateful behaviour towards people from other castes. In this sense the law would be akin to other equalities legislation. One expert pointed out that one outcome of caste legislation in India has been the emergence of a form of reverse casteism in which dominant castes have mobilised to argue that they are discriminated against by the law. Should caste legislation provoke such a backlash in the UK, there may well be a need to introduce the concept of 'caste hatred' into criminal statutes.

Finally, on the argument that caste legislation will entrench caste, one of the legal experts pointed out that this is similar to the French official refusal to recognise the existence of minorities. It does not mean that they do not exist, simply that they are not recognised. Failing to address caste discrimination will not make it go away. The point of legislation is not to remove caste but to challenge the discrimination associated with a particular social fact which is caste status.

2.5 Conclusion

The experts' seminar was the first of its kind to bring together expertise across disciplines. It gave legal experts input from a range of up-to-date social science studies on caste and caste discrimination; and gave social researchers the opportunity to reflect on caste in terms of legislative change, which will, in one way or another, influence the experience of caste in the UK.

The seminar can be seen as pointing to some broadly shared conclusions. First, caste in the UK is a complex and changing phenomenon with varying significance among South Asian and other diaspora communities in Britain, across generations and spheres of life. For the purposes of legislation and the perception of this legislation, it is relevant that the experts share a view (a) that caste is a distinct form of identity separable from class, race, ethnicity, language and others; (b) but that what makes caste distinct is not its association with any one cultural tradition. In particular caste identification is separate from religion and not a feature of any specific religious group (e.g., Hindus). Any narrow cultural definition of caste would be impossible and undesirable, but equally caste is a distinctive form of social differentiation.

Second, it is necessary to distinguish between caste as a pervasive form of identity, belonging, or social capital, and discrimination on the basis of caste, but significant evidence exists that certain groups in the UK experience caste as a hierarchical and exclusionary institution, not only in the private domain or family relationships, but also in areas of employment, education or service provision that fall under the ambit of equalities legislation.

Third, legislation against discrimination on the basis of caste is a significant measure, likely to have an educative effect as well as providing redress in cases of discrimination. It is thought that in all likelihood the number of cases may be relatively few and the education impact especially important.

Fourth, new legislation presents important challenges, especially (a) in the definition of caste as a 'protected characteristic', and (b) in the implementation of legislation on caste:

- **Definition of caste:** there are dangers in too narrow and too broad a definition. Research suggests the value of a minimum idea of caste in terms of: (1) social stratification; (2) inherited status; and (3) endogamy.
- **Implementation of the law:** issues requiring particular attention are: the interface of caste and religion in certain contexts; how to determine the exemptions and exclusions around caste as a protected characteristic; the potential obstacles where victims have to declare stigmatised identities in seeking justice; and determining or limiting the impact of the PSED in relation to caste.

Fifth, the seminar drew attention to certain implications of new legislation, in particular the need to attend to the potential of legislation to enhance the significance of caste in the UK. Legislative change should not (and need not) make reference to any particular identities either in cases of discrimination or in fulfilling requirements under the PSED.

Sixth, researchers and legal experts were able to discuss and analyse the nature of caste, caste discrimination and the importance of legislation and its implications, irrespective of an accurate quantification of the extent of caste discrimination in the UK. Given the subtle and partly disguised nature of caste discrimination, and the different views and assumptions about caste in the UK, it is unlikely that an accurate quantification of its extent would be possible in the short term. Qualitative and

participatory research however, has (had) a major role in shaping the legislation in terms of understanding the nature of caste and its effects.

3. Stakeholders' workshop

3.1 Presentations

Four presentations were given by the project team at the stakeholders' workshop.

Introduction, aims and objectives

In the introductory presentations, Meena Dhanda welcomed the participants, shared the list of delegates and replied to queries about the event. She assured participants that the workshop was being organised with a genuine spirit of openness and that no ready-made positions would be offered for agreement or disagreement. David Mosse established the need to keep the interactions among participants relevant and focused on the legislative proposals. The aim was for stakeholders to provide an input to how caste can be included in the Equality Act 2010; to discuss caste with respect to UK and international law; to identify issues that might arise in the implementation of the legislation; and to acknowledge the breadth of viewpoints around the legal question of caste discrimination and its future realisation in the courts. He emphasised that the purpose was **not** to discuss the extent of caste discrimination in Britain, or whether there should be caste discrimination legislation, and that the event was not an official public consultation by the government.

A participant expressed concern about absent organisations who had 'pulled out' to which the team responded by reminding participants that it was their choice which must be respected, but that the focus of the event should be on the views of those attending. This position was supported by another participant who said that if one wants to take part one ought to be present.

Research on caste in Britain

Meena Dhanda presented an overview of the literature on caste in Britain to date. It differed from her presentation to the experts' seminar (Section 2.1) by focusing on the particular concerns of the stakeholders. First, she listed contributions of British academics to our understanding of caste in terms such as *jati*, underlining that there is no one fixed definition of these terms. Second, citing the work of Bayly, she mentioned the pre-British consolidation of caste identities in the Indian sub-continent (e.g. of Rajputs and Jats). Third, turning to the study of religious socialisation, she suggested how school text-books had been found to be misleading representations of Indic religions, especially in relation to knowledge about caste. Fourth, she noted that studies on the setting up of caste-based Gurudwaras in Britain (Kalsi, 1992; Sato, 2012), show that there is experience of caste discrimination, even though they do not measure the extent of it. Fifth, she suggested that how transnational migration has impacted upon inter-caste relations has begun to be studied, but needs further

attention. In this respect, new work on Nepali Gurkhas was cited, which shows evidence of caste discrimination. Sixth, reports by stakeholder organisations were cited and contrasting findings with respect to the existence of caste discrimination noted. Seventh, the difference between Gujarati and Punjabi patterns of migration and its impact on caste-based organisations was noted. Eighth, the point was made that the relationships of exploitation of cheap labour existed within migrant communities, and that these are also mediated by caste. It was noted that whether caste in Britain is becoming more important or less important is an open question, requiring further research. Finally, some quotations from the written statements of experts were shared to make the points that caste is fluid, acquires new forms in new settings and that its intersection with gender is difficult to capture in the equalities legislation; also that caste discrimination may be difficult to track and that the inclusion of caste in law will effect moral sensibilities.

In the discussion that followed, an objection was made to the use of terms 'upper' and 'lower' caste as humiliating; concerns were raised about disclosure of caste which might lead to victimisation; it was suggested that the research should be broadened to include the Nigerian communities in South London with caste-like structures; and emphatically one participant remarked that the very 'patterns of resistance and complications that are being witnessed today in respect of caste' are similar to 'the 'white phobia' expressed as 'We don't need race discrimination in law. We don't commit race discrimination. What is race discrimination? It's a notion; it may happen a little but it doesn't happen that much.' One participant raised the issue of exceptions in the law and the need for a programme of education, in response to which another participant noted that the law itself can educate. One participant remarked that the younger generation do not understand caste differences, and that there is no need to highlight these. Further, one participant called the law a 'living instrument' which must offer protection to victims of discrimination. The session closed with brief responses to the comments made.

Principles for a legal definition of caste

Annapurna Waughray and David Keane presented the legal questions that arise from the legislative proposal to include caste as an aspect of race. They described the origins of the duty to make caste an aspect of race, and mooted how this could be achieved, via an interpretation of caste as a form of ethnic origins, or as a separate limb under race. They also set out India's legal approach to caste and invited stakeholders to comment on its relevance for the UK's treatment of caste discrimination. Waughray and Keane also outlined the international treatment of caste and invited stakeholders to comment on the relevance of international law and the treatment of caste discrimination in other jurisdictions. In discussion, it became

clear that stakeholders required clarification on the nature of exceptions and how they would apply to caste organisations and associations (see particular questions raised in the task group on definitions below).

3.2 Task groups

Three task groups were convened to address issues relating to legislation on caste discrimination, focused respectively on definitions, cases and implementation. The aim was to bring together diverse viewpoints represented by the range of groups and organisations attending the event, or who had contributed in advance via the submission of written statements. It was anticipated that official positions held by organisations might be questioned, or individual viewpoints changed in the groups, and that those with differing perspectives would engage with one other within the groups.

The organisers made it clear that the objective was to find shared understanding and common ground so as to contribute to the task of legislation development. In preparation for the task groups, participants had been asked to take into account the pre-posted written statements and to note: (a) those from which they had learnt something new; (b) common themes in definitions; (c) the most significant cases and the least relevant cases for the amended Equality Act 2010; (d) the cases that affected them most; and (e) concerns about implementation expressed in statements that they shared or disagreed with.

Two sessions were held for each group.

Definitions

This group facilitated by Annapurna Waughray and Professor Eleanor Nesbitt considered: how caste and caste discrimination should be defined in the Equality Act 2010; what should be included in the Explanatory Notes; and what exceptions should be noted.

In the first session, the relationship between caste and Hinduism was hotly discussed. A number of quite different positions emerged. One was that caste legislation per se stigmatises Hindus, equating Hinduism with prejudice ('which itself is prejudice'), as well as risking reintroducing caste to a younger generation of Hindus who know nothing about it at all. It was stated that hierarchy is not part of Hinduism and that the legislation should not equate the two.

Another position was that the religious aspects of caste were central to it and should not be ignored. A slightly more nuanced position argued that although caste is seen

as 'a Hindu problem', it is also a problem of every other religion and should be recognised as such. A third position was that an excessive amount of attention had been paid to the 'religious' aspects of caste and that a broader definition should be adopted which did not make explicit reference to any particular religion.

A participant asked how a court would classify his caste given that his parents were from different castes. It was explained that classifying a person's caste was not necessary to establishing whether or not that person had been subject to caste discrimination.

The group then undertook an exercise involving each person putting forward one word that they identified with caste that might go into the legal definition or into the Explanatory Notes. The words offered were: birth; class; descent; endogamy; guild; hereditary; hierarchy; inherited status; imposed social stratification; origin; prejudice; religious, social and cultural discrimination; social construct; social status; social ranking; and stereotype.

Overall, there appeared to be a consensus that an elastic definition that addresses caste, without offending any religious group, was the best. The point was made that it would be useful for public sector organisations for there to be a definition of caste in the Explanatory Notes if not in the statute itself.

Questions were raised concerning the exceptions that could be applied to caste, for example could a temple stipulate that a priest must be a Brahmin? Could a Valmiki temple refuse membership to non-Valmikis? The need for clarity between the legal position of associations versus the legal position of charities emerged.

The issue of community-specific public (government) funding was also raised, for example black youth clubs receiving statutory funding: would this be available for different caste groups? Could a person be excluded from a publicly-funded caste based organisation? How would the legislation affect public funding? One representative felt that caste organisations do good work in the community and should not be discriminated against by the law. Conversely, it was pointed out that 'many organisations which claim to be charities are in fact exclusive caste organisations and that this needs to be addressed'.

The Public Sector Equality Duty (PSED) was also discussed. It was argued that educational measures are needed but these must be sensitive. It was suggested that case studies of good practice could be shared between local authorities. The issue of intersectional discrimination was also raised.

In the second session, widely differing views were expressed about the content of a definition. One representative felt the definition should link caste specifically to South Asian history and culture - but making clear that it cuts across religions. Conversely, the view was expressed that caste should not be localised to or solely associated with South Asia. Another participant argued that caste is not only a Hindu phenomenon nor limited to South Asia, and that only caste discrimination is negative but not caste itself.

It was suggested that caste should be seen as 'a structural system of exclusion, domination and hierarchy' based on notions of superiority, arguing that caste discrimination is about power and that any definition needs to refer to this.

Concern was expressed that the legislation would be used to discriminate against the 'higher' castes and that symmetry should apply i.e. the definition should allow caste discrimination to be challenged 'both ways'.

The words offered by the group to capture their understanding of caste were: apartheid; cohesion; craft; exclusion; hereditary; identity; inferiority; involuntary; mindset; *not* hierarchy; perceived superiority; pollution; status; structural system of power relations; and subjugation.

There was a consensus at the end that caste in India and in Britain is multi-religious.

Cases of caste discrimination

This group facilitated by Meena Dhanda and David Keane sought examples of caste discrimination from the stakeholders and invited reflection on the extent to which these would, or would not conform with the requirements of the Equality Act 2010.

In the first session, a particularly detailed discussion centred on an example of a group of young men refused service by a taxi driver because of perceived caste differences. There was initially little agreement on the extent to which this example was typical of experience or practice across UK, although ultimately it was understood that the refusal of service on the ground of caste constituted actionable discrimination under the proposed legislation. The driver in question made statements pertaining to caste pride prior to a disagreement arising. He then refused to drive the group any further after the disclosure of caste was made. The point, at which unlawful discrimination occurred, was identified as not occurring in the expression of caste pride but from the moment the taxi driver refused service and asked the group to leave. This example underlined the precise nature of the operation of the Equality Act 2010.

In the second session, a case of an employee in a radio station who was subject to allegedly derogatory remarks and subsequent transfer to a job of lower rank following her complaint was discussed. Another case concerned the humiliating treatment of a female employee by her colleagues following the discovery of her caste. Some participants suggested that these cases might be covered under the existing aspect of ethnic origins in the equality legislation, whilst other participants disagreed with this interpretation. The facilitators shared information about existing case law and suggested that whether or not caste can be placed under ethnic origins had not yet been determined by the courts. It was suggested that it would provide clarity if caste were named as a separate aspect under race rather than be interpreted under the ground of ethnic origin.

It was pointed out by one participant that some of the cases discussed would fall under criminal law and not the legislation under present consideration. The question of the possibility of including caste as an aggravating factor under Offences against the Person Act 1861 was mentioned with the clarification that it was outside the remit of the present exercise.

The existence of 'vertical hierarchy' of caste and the fear of 'entrenching' it was discussed. One participant said that he had not lived his life according to any 'vertical hierarchy', but he accepted that others' experience might have been different and he accepted that there are 'people who have been abusing [vertical hierarchy], absolutely without a doubt'. It was noted that, as the legislation would apply symmetrically to all regardless of the caste hierarchy, there was no danger that it would be entrenched.

One participant raised the issue of community initiatives and grassroots level work to address caste discrimination. The educative role of legislation and its limitations were pointed out to emphasise other measures of addressing caste discrimination.

Some concerns were raised as to the potential creation of a litigation culture as a result of the legislation, although there were strong views that there were sufficient barriers to taking cases to prevent this. Overall, there was apparent division among stakeholders with one group clear that caste discrimination examples abound, and another more sceptical as to the relevance of the examples to the Equality Act 2010.

Nevertheless, consensus was reached on the appropriateness of legislation to address legally actionable instances of discrimination whether seen as sporadic or wide-scale, and the need to frame the legislation in the correct way to capture this.

Implementation of legislation

There was a general view expressed in both sessions that education, training and sensitisation on the issue of caste discrimination is necessary for effective implementation - for potential victims, for both the public and private sectors (including in terms of recruitment practices, and for workplace and service managers, charities, voluntary and community organisations, and religious organisations), and for the wider community. This might include the preparation of documents giving knowledge about the law, what is unacceptable behaviour, and practical courses of action that can be taken.

A programme of education, including equality and diversity training for both the public and private sectors, would help build consensus around the legislation and correct the misperception that it is an attack on one particular faith group. It was agreed that this will require the production of training literature, guidance notes and other resources for senior managers and a means to monitor dissemination and training. Some participants cited cases, for example, from education/schools and a county police force, illustrating the negative impact on victims of the current lack of awareness on the issue of caste discrimination, e.g. among managers or teachers. Some participants insisted on the importance of learning from victims, and importantly listening to victims.

Recognising the complexity of the issue of caste, and that many potentially harmful aspects fall outside of the provisions of the law (i.e. aspects that are 'normalised', 'internalised' or in the private sphere), it was pointed out that the law itself has limitations. However, it has a symbolic function not only as deterrent but positively in helping to raise the issue within Asian communities, especially among youth, with a view to bridge-building for community cohesion.

Opinions were expressed on what would constitute evidence in cases of caste discrimination, the potential complexities involved, including the intersections of caste/faith/race/gender, and the need to understand context (e.g. the variable significance of words or actions across different faith and regions of origin, including beyond South Asia). The need to understand the context of particular claims might mean that lawyers sought advice from 'expert witness' specialists. Lessons can be learned about evidence in this regard from the experience of other protected characteristics such as racial discrimination, and guidance can be offered from existing case study research (e.g., by that of the National Institute of Economic and Social Research (NIESR)).

Some participants pointed out that implementing the PSED in relation to caste would present real challenges. How, for example, would a local authority consult on caste equity in fulfilment of this duty in planning facilities (e.g., a leisure centre)? Is it proportionate to consider caste in relation to all (which?) public services or functions? What about outsourcing and procurement contracts, and the burden of compliance monitoring, which (some commented) might nonetheless be important in regard to the funding of certain groups funded for provision of community services who ought to have policies to deal with caste discrimination?

Questions were raised about how awareness raising on the issue of caste discrimination could be achieved without institutionalising caste in the UK, something all were keen to avoid, but some felt was a genuine risk. The purpose of the legislation (it was noted) is to preserve equality not caste identity. All the task group participants agreed that procedures that involved stating or recording caste identities should be avoided. On the question of the 'symmetry' of the law (the protection equally of 'upper' and 'lower' castes), different views were expressed but pointed to the conclusion that while caste is defined by social stratification, implementation of the law in the UK could not be by reference to any putative hierarchy of particular groups/identities. How to work within the constraint of the continuing reduction in public sector funding was a question raised in relation to both the education for the law, and the PSED.

Some participants argued strongly for community-based targeted government support (as with the Racial Equality Councils and their role in providing information and advice on equal opportunities, the Race Relations Act, equality issues and the educational role concerning race discrimination). Others noted that instead of waiting vainly for state support, use should be made of facilities for e-learning and community education to ensure dissemination of consistent information. Still others suggested that because the problem of caste discrimination was likely to be concentrated in particular geographical regions, or amongst employers having a large workforce of South Asian origin, scarce resources for education or to fulfil the PSED should be proportional and targeted. This could be achieved either on the basis of some cost-benefit analyses, or through a system of referral (evidence of a certain likely level of actionable complaints placing local authorities or employers under the duty). Others insisted that the duty is proactive, national and should not and could not be limited in this way.

3.3 Concluding plenary

The plenary session reported on the summaries of discussions in the three task groups. The comments in response to these included by a participant who noted that

as caste is going to be a part of the legislation, we have to think about what we are doing at the grassroots level as a community. There was also a vigorous discussion about whether or not the existence of matrimonial websites seeking caste-specific partners was against the spirit of the law; the consensus was that currently this matter was outside the remit of the equalities legislation. A third comment (in response to the discussion on the implementation of the legislation) was that it would be a good idea to target particular areas where there may be a high percentage of the Asian diaspora, rather than getting all public authorities to deal with the issue. One participant commented that we should also watch out for victims who may be double victims, for example, women who are being discriminated against because of their gender but also their caste. Another participant suggested that the use of good practice case studies to examine where community organisations have got it right in terms of overcoming caste barriers so that they have a much more inclusive community would be beneficial.

The session concluded with a summing up by Meena Dhanda. She thanked the participants for their generous offers of continuing the conversations begun in the workshop. The result that the organisers had wanted - of bridging differences and moving the conversation forward - had been achieved and in that respect the workshop had been a success.

3.4 Stakeholders' written statements

Participating stakeholder groups were invited to send written statements in response to six questions:

- What do you understand by 'caste'?
- What do you understand by 'caste discrimination'?
- What do you understand by 'harassment' in relation to caste?
- Have you directly or indirectly come across any instances of discrimination, harassment or victimisation related to the issue of caste in the UK? Please give examples if you can.
- In what way, if at all, do you think the proposed legislative change in the Equality Act 2010, making caste an aspect of race, is likely to affect you or your work?

- What is your organisation's view, if any, about the proposed change in the legislation in relation to caste?

Stakeholders were also invited to write any other comments they had on the issue of caste in connection with UK equalities legislation, and asked if they consented to the display of, and quotation from, their submissions. The statements were displayed during the workshop and participants were invited to read and to record their response using post-it notes.

In this section we summarise the key points of view and identify, in broad terms, the differences of opinion recorded in advance of the event and assess the extent to which the event achieved movement towards a common purpose.

The views in the 26 statements, including a few received after the event, are presented under three broad headings concerning opinions on: the understanding of caste; caste discrimination and harassment; and the impact of legislative change.

The understanding of caste:

It is possible to identify two different understandings of caste. The first group is represented by Ambedkarite, Buddhist and Ravidassia organisations, and rationalist and anti-caste groups.³ Here caste is understood as a hereditary social division (into *jatis*), originating from Hindu scripture and tradition, which established a hierarchy with Brahmins at the top and Sudras and the 'Aadi-Sudras (Untouchables)' at the bottom. According to this group, while Hindu in origin, caste persists among people in the Indian subcontinent who converted to non-Hindu religions (Islam, Buddhism, Christianity, Sikhism), and among those who migrated out of the region, including the South Asian diaspora in the UK. As a world-wide phenomenon, caste has lost its association with occupational specialisation but retains its rules of endogamy, social exclusion and discrimination. Caste is regarded as distinct from class which allows individual social mobility.

³ Ambedkar Mission Society, Bedford; Sri Guru Ravidass Sabha Bedford; Federation of Ambedkarite and Buddhist Organisations UK; Ambedkar Memorial Trust, London; Begumpura Foundation; Asian Rationalist Society (Britain); CasteWatchUK; Kesri Lehar (Coventry) & Sikh Community Action Network (Slough); The Panjabi Centre; British Organisation of People of Indian Origin; Voice of Dalit International; and South Asia Solidarity Group.

The second group is represented by Hindu organisations (including Hindu Lawyers').⁴ Here, the predominant understanding is of caste as a system of social classification. Views differ on whether or not this is associated with *varna* categories, and whether these in turn are a matter of birth and inherited status, rather than role, occupation/craft, or acquired attributes or merit (or *karma*). Commentators mostly recognise the idea of caste as inherited status, but insist that this is not part of Hinduism (or *varna*) which stresses the unity and equality of all as a fundamental principle. Some regard the equation of caste with Hinduism/*varna* as 'deplorable' and note with regret the references made to caste as a Hindu institution in the parliamentary debates. A common view is that, whatever the case in India, in the UK caste is associated with a diversity of characteristics (based on socio-economic position, kinship, occupation) and that it is difficult to separate out caste as a basis of difference. Moreover, caste is an issue of decreasing relevance in India and in the UK.

A Sikh organisation⁵ objects to any definition of caste that 'links the Sikh faith with the practice of ritual purity and [the] four *varna* system of caste,' and finds this 'incorrect' and 'deeply offensive.' Their strong preference is for encapsulation of caste within the broader category of 'descent.' Some others also argue that caste should not be defined narrowly as a South Asian phenomenon.

Advice and advocacy organisations and representatives from local authorities⁶ had a clear understanding of caste as a hierarchical structure with an emphasis placed on discrimination rather than identifying caste groups.

Caste discrimination and harassment

Views on the nature and extent of caste-based discrimination also varied.

The first group of opinions (from Ambedkarite, Buddhist and Ravidassia organisations, and rationalist and anti-caste groups) considered discrimination on the basis of caste to be the same as in relation to any other of the 'protected characteristics' of the Equality Act, 2010. Labelling individuals by denying them

⁴ Alliance of Hindu Organisations; Hindu Forum of Britain; Hindu Council UK (.net); Hindu Council UK (.org); National Council of Hindu Temples UK; Hindu Lawyers' Association; Nepalese Hindu Forum; and National Council of Hindu Priests UK.

⁵ Sikh Council UK.

⁶ British Pakistani Christian Association; Employers Network for Equality and Inclusion; Service provider - Anonymous; Sikh Feminist Research Institute - representative's own view; Head of Equality and Human Rights, London Borough of Hounslow; Equality and Diversity Officer, University of St Andrews.

employment opportunities, from receiving goods or services equally, or promotion at work because an individual was seen as 'low caste'/or of Dalit heritage, was viewed not only as psychologically damaging to an individual but, equally, as promoting social exclusion and segregation within communities. Responses to the question, 'What do you understand by 'harassment' in relation to caste?' identified this as the refusal on the basis of their perceived caste to respect people or to treat them differently. This might be in the form of refusing someone entry to a temple, bullying at school, victimisation at the workplace, or behaviour against them such as name calling and the use of offensive, insulting or hostile language, all forms of humiliation. Discrimination and harassment in this sense has been described as '21st century pollution' and a violation of the individual and community human rights of UK citizens. This set of opinions regarded discrimination, harassment and victimisation relating to caste as widespread, and cited instances ranging from work colleagues treating an individual as a 'second class citizen' when their caste identity had been revealed, to the refusal of a venue to take the booking for a marriage reception, bullying at school, or an elderly women not receiving appropriate health care from a 'higher caste' care worker. In one opinion, caste discrimination is manifest more generally in marriage choices, the non-contact and engagement with 'low' caste people and stereotyping in everyday conversations.

In sharp contrast, none of the second set of opinions (represented by Hindu organisations as grouped in note 2 above) recorded knowledge of any instances of discrimination or harassment related to caste, excepting the vilification of Brahmins. Most regarded negative treatment on the basis of caste (independent of other characteristics) as both unlikely and unprovable. The issue of caste discrimination (as a separate category) was regarded as 'not clear, distinct or capable of being isolated to capture a particular form of discrimination affecting a particular category of persons'. It is argued that anything like caste-motivated harassment is already covered by the law. The Hindu Lawyers' Association statement refers to its experience of caste as being restricted to the context of marriage (e.g., where a divorcing party alleges verbal abuse or bad treatment in connection with caste). Its view was that these were opportunistic 'after the event' complaints, and that because the marriage took place with the blessings of both families (even if only grudgingly given), caste was probably not an issue prior to the marriage. One organisation recorded the view that 'caste discrimination' is 'one of the most successful creations of the Christian supremacist evangelists', and the legislation is 'malicious'.

For service providers who offered statements, understanding what constitutes discrimination was seen as unproblematic as there already are definitions of 'direct' and 'indirect' discrimination in the Equality Act 2010, although it was commented that

there was need to define a minimum requirement for discrimination. It was stated that a key element of including caste in the Equality Act 2010 will be the impact on employment and the provision of services, particularly addressing the denial of employment opportunities and the over-representation of 'low-caste' groups in 'low paid menial subservient jobs'. In relation to public bodies, it is important to recognise the law's impact on the PSED and how this might be manifest through monitoring, especially in relation to the awarding of grants and sub-contracting in areas such as social care. For service providers, too, there is the additional understanding of discrimination in terms of verbal or physical harassment, affecting 'personal dignity' and creating an intimidating, hostile and degrading environment. This latter element complemented experiences recounted from other stakeholders.

The impact of legislative change:

The statements by Ambedkarite, Buddhist and Ravidassia organisations, and rationalist and anti-caste groups (see note 1 above) were strongly in favour of the change in the Equality Act 2010, making caste an aspect of race, stating this would act as a deterrent to discrimination. In doing so, it would also educate actual and potential perpetrators, as has been the case with other areas of discrimination that have already been legislated against, such as racism and sexism. At the community level, knowing there is a legal basis for complaint would empower people, giving them the confidence to report harm instead of suffering in silence. At a personal level, legislation gives individuals the confidence that if facing caste discrimination at work, employers will be able to recognise and deal with it and that, if required, there is legal redress. Change in the legislation was expected to make it easier to process cases through the courts and tribunals, to provide advice and support to employers in dealing with workplace incidents, and to challenge existing practices within certain religious groups.

There was however criticism by these same groups of the speed at which the UK government's equalities legislation was proceeding in relation to clause 9 (5) (a) of the Equality Act 2010. The government's proposed two-year timetable and continuing consultation process was seen as both unacceptable and influenced by the lobbying of some Hindu organisations. It was also suggested, in addition, that it ignored the compelling evidence already gathered that caste discrimination and prejudice was prevalent in UK society, for example, from the NIESR report (Metcalf and Rolfe, 2010).

The second set of opinions (represented by Hindu organisations) expressed concerns regarding the legislative change and the implications of including caste in equality law. These concerns were of four kinds. First, it was argued that legislation

will increase awareness, and thereby reinforce an institution that is dying out in the UK and about which third generation Asians in Britain have no idea. Raising the consciousness of caste would be especially damaging to young people. Second, the legislation raises the idea of caste as a 'Hindu problem' and 'tags' the Hindu community as having 'caste issues'. This negatively characterises Hindus in a way that threatens to undermine the achievement of particularly successful integration into British society, and of harmony within Asian communities. Third, legislation is unnecessary for two reasons: there is a lack of evidence of discrimination on the basis of caste today - the NIESR report drew on limited, sometimes historical, cases and the authors admitted that the evidence is inconclusive and existing equalities, race relations and human rights legislation suffices to cover any rare cases of caste discrimination. Finally, legislation on caste risks burdening the courts with vexatious caste discrimination claims, and, in the context of family law, creates tensions where none existed before (i.e., draws the issue of caste discrimination into family disagreements over proposed marriage as an 'unwarranted side-show').

Service providers (see note 3 above) primarily responded to the question of legislative change and the inclusion of caste in the Equality Act, in terms of the need for a campaign of policy awareness to provide employers with guidance on caste and caste discrimination to enhance awareness of the issues involved.

Post-it responses

The various views posted on the wall during the workshop attracted considerable 'post-it' note responses. Many comments simply agreed or disagreed. Some of the more common responses are summarised below.

In response to Ambedkarite, Buddhist and Ravidassia organisations, and rationalist and anti-caste groups' statements, the follow notes were posted:

- caste is not the key issue: 'the jobs that people have are a consequence of their economic and educational position' not their caste; caste is confused with class and distinctions that apply 'due to varied roles in society'; 'historically, we have and will move away from "caste"';
- the cases [of caste discrimination] mentioned would not be covered by law because personal or private matters;
- 'saddened to hear about these examples' [of caste discrimination];

- discussion of caste issue is 'exclusively focused on Hinduism' when there is 'substantial evidence related to Jatt Sikhs';
- education within the community is a preferred way to address the caste issue;
- 'there is a very real danger of institutionalising caste - just look at India where now caste pervades all parts of life and society'; and
- 'legislation will set in motion the dissolution of caste based discrimination'.

In response to Hindu organisations' statements, the following comments were posted:

- 'caste discrimination is deeply ingrained in social relations of South Asian communities. It deserves to be labelled specifically as a basis of discrimination' those who are not victims cannot or will not see this discrimination and its effects, and cannot express credible views on its absence or disappearance;
- caste is a matter of human rights not religion; anti-legislation Hindu organisations themselves make the human rights issue of caste into a 'Hindu problem';
- there is no evidence for the misleading suggestion that legislation on caste will institutionalise caste; it will serve its elimination; and
- 'if the higher castes don't practice caste discrimination then why are they afraid of legislation?'

3.4 Conclusion

The stakeholders' workshop was conducted with the aim of providing a platform for a 'pooling of ideas' from diametrically opposed perspectives. It was conducted in a spirit of openness, based on the principle of respecting difference and seeking common understanding for the most suitable definition of caste for the purpose of legislation. It created a non-threatening atmosphere within which victims of caste discrimination and their representatives, were brought face to face with those who deny that caste discrimination occurs, with a view to initiate a process of dialogue and mutual understanding. Finally, it set out to identify the obstacles that implementation of the legislation is likely to face.

The process of preparation for the workshop had been a difficult one. Fairness of procedure, transparency of the exercise and respect for the sensitivities of mutually opposed stakeholders were maintained amidst suspicion of bias and lack of trust. The result was evidently a positive one in that several stakeholders from both sides of divided opinion on the matter of caste in Britain, left the workshop with the feeling of having been heard and sent written feedback to state their satisfaction with the proceedings of the day.

The written statements sent before the event evoked strong and opposed responses, but as the day progressed especially after presentations had been heard and after engagement in the task groups, some common ground was established. Considerable agreement on several themes emerged, whilst some disagreements persisted.

It was agreed that caste is a complex and changing phenomenon, but undeniably an aspect of diaspora communities in contemporary Britain. Aspects of caste are benign but there is evidence of discrimination on the basis of caste of different kinds in a variety of settings which is not confined to first generation migrants. Disagreement persisted on the extent of discrimination, as well as on the relevance of the reported examples to the Equality Act 2010. However, it appeared to be the case that there was some movement towards an acceptance by participants as a whole that caste discrimination did occur in Britain, and that in targeted areas, it would merit local authority intervention in provision of education to victims, authorities and the wider public.

It was agreed that caste and religion intersect in complex ways and, in any definition of caste for the purpose of legislation, it ought not to be associated with any particular faith group. There was disagreement about whether caste should be linked solely to South Asian communities or extended beyond it. There was also disagreement evident in the stakeholders' written statements about whether caste should be seen as a merely classificatory system or a hierarchical one.

There was near unanimous agreement that disclosure of caste should be avoided in any process of monitoring generated by the implementation of the legislation. Stakeholders raised several questions about where exceptions might apply: e.g. in the selection of temple priests and in the continuation of caste-specific organisations. The stakeholders were reassured to learn that the equality legislation would apply symmetrically and it could not be used to target or protect people of any particular caste. It was largely agreed that the new legislation is not expected to produce large amounts of litigation, but it is expected to have an important educative effect.

4. Conclusion

The two events were unique in bringing together a range of stakeholder opinions and academic expertise across disciplines for a direct reflection on the legal aspects of the inclusion of caste in the Equality Act 2010. In turn, legal experts had input from social science studies on caste as well as an opportunity to listen to the views of stakeholders.

At both events, caste was acknowledged to be a complex and changing phenomenon with varying significance among South Asian and other diaspora communities in Britain, across generations and in different areas of life.

That caste, whilst being distinct, is not a feature of any specific religious group, but pervasive across cultural traditions was the consensus view amongst academics and it appeared to be widely accepted amongst stakeholder groups. It was generally agreed that such breadth of manifestation of caste would make a specific definition of caste impossible or undesirable. On the other hand, the question of how open a definition caste should have, met with disagreement, with some linking caste solely to South Asian communities and others arguing for an extension beyond these communities to other nationalities.

There was near unanimous agreement that disclosure of caste should be avoided in any process of monitoring generated by the implementation of the legislation. Questions about where exceptions might apply: e.g. in the selection of temple priests and in the continuation of caste-specific organisations, were raised by both experts and stakeholders.

It was largely agreed that the new legislation is not expected to produce large amounts of litigation, but it is expected to have an important educative effect. As in the view of most people, evidence of discrimination on the basis of caste exists, even though the spread and extent of such discrimination is contested, most experts considered it an appropriate measure to legislate against caste discrimination. Stakeholders disagreed about the usefulness of legislation in combating caste discrimination, with some clearly welcoming it as a long-awaited remedy for curtailing humiliating experiences of caste prejudice and others claiming that it would be redundant or counter-productive, by entrenching awareness of caste otherwise on the decline. Non-religious community groups and local authority functionaries were more concerned about the resourcing of, and the best methods for, implementation of the legislation.

The events helped to clarify the concerns of stakeholders about the operation of the Equality Act 2010 with respect to caste. The stakeholders' workshop removed certain misconceptions about the scope of the Equality Act 2010 and thereby allayed fears amongst previous opponents of the inclusion of caste in the legislation regarding any disruptive impact it might have on associations and organisations. On the other hand, some enthusiasts for the use of the law realised the limitations of equalities law in dealing with the variety of manifestations of casteism.

Given the subtle and partly disguised nature of caste discrimination, and the different views and assumptions about caste in the UK, it is unlikely that an accurate quantification of its extent will be possible in the short term. According to the experts, any attempt made to quantify caste discrimination, would however, benefit from being informed by qualitative research.

Both the events were conducted in the spirit of 'a pooling of ideas': hence the present lengthy report takes care not to limit the inclusion of the range of views expressed by experts and stakeholders. The evidently positive effect of the exchanges, especially at the stakeholders' workshop, was palpable from the change in the mood as the day progressed. In the spirit of openness, and by creating an environment for an unfettered, respectful and reflective exchange of views, both the events highlight the importance of face-to-face interaction.

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Appendices

1. Letter of invitation to experts
2. Second letter to experts with the programme
3. Letter of invitation to stakeholders
4. Second letter to stakeholders with the programme
5. Registration form - experts
6. Registration form - stakeholders
7. Key questions for experts
8. Key questions for stakeholders with consent form
9. List of invited experts
10. List of invited stakeholders' organisations

Appendix 1: Letter of invitation to experts

Dear (Name)

We would like to invite you to take part in a day-long seminar addressing the inclusion of Caste in the Equality Act 2010.

We have been commissioned by the Equality and Human Rights Commission to lead a research project on 'Caste in Britain', with a team of researchers from Manchester Metropolitan University, Middlesex University, School of Oriental and African Studies, Goldsmiths, University of London and University of Wolverhampton, with a view to reaching conclusions on:

- How should Caste be defined in the Equality Act 2010?
- What Exemptions & Exclusions for Caste should be placed in the Equality Act 2010?
- How should Caste be related to the Public Sector General Equality Duty?

The question of whether Caste should be included within the Equality Act 2010 is now a settled matter; section 97 of the Enterprise & Regulatory Reform Act 2013 requires the government to make caste 'an aspect of' the protected characteristic of Race in the Equality Act 2010. Our research is designed to ensure that the inclusion of caste in the Equality Act 2010 is done in the best way possible.

We want our work to be guided by the best available academic and legal understanding of the concept of caste and its manifestations in cases of discrimination.

We aim to bring together social scientists and legal experts with specialist knowledge of caste, anti-discrimination and equality law, and the workings of the Equality Act 2010, to help us reach our conclusions.

We therefore extend this invitation to you to join us in a day-long seminar on:

Date: 19 October 2013

Time: 9:30am – 5:30pm

Venue: School of Oriental and African Studies, University of London, Thornhaugh St, Russell Square, London WC1H 0XG.

We have limited funds for reimbursement of travel costs by standard class and will be able to offer reimbursements to those participants who are unable to secure travel funds from their own institution. There is no registration fee for the seminar and it would be our pleasure to offer you refreshments and lunch on the day.

Further information including the programme, key questions for the seminar and directions to the venue will be sent after you confirm your participation. Please complete the attached registration form and email your reply by 3 October, 2013 to me and Jessie Kate Mundy (xxxx@soas.ac.uk).

If we have not heard from you by 3 October, we may have to offer your place to others on our waiting list. Likewise, should you initially accept the invitation but are unable to attend, please let us know as soon as possible so that we can offer your place to someone else.

We do hope that you will be able to accept our invitation.

Yours sincerely,

Meena

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<http://www.wlv.ac.uk/default.aspx?page=36892>

Appendix 2: Second letter to experts with the programme

Dear colleagues,

Thank you for registering for the experts' seminar of the EHRC project 'Caste in Britain'. We've had a very positive response and look forward to a fruitful day of discussion.

The seminar will take place in the Main Building Room 116 (First Floor), School of Oriental and African Studies, Thornhaugh Street, Russell Square, London WC1H 0XG, from 9:30 to 17:30 on Saturday, 19th October, 2013.

Please see the attached programme for the day. For directions to the venue, please check:<http://www.soas.ac.uk/visitors/location/maps/#RussellSquareCampusMap>

Also attached is a set of 'key questions', which will be the focus of our discussions. To help us document views on the research topic, we request you to send us your comments on any of the listed questions, or provide us a brief statement guided by the questions, in advance of the seminar. We would be grateful if you allow us to share your views at the seminar and also to use your statements in our report. Please indicate clearly if you would like your replies to be kept confidential and only used anonymously in our report.

If you have any further queries, or if there has been a change in your plan to attend the event, please let us know by email. For emergency contact on the day, you may call Jessie Kate Mundy on xxxx.

We look forward to our collective deliberations on Saturday, 19th October 2013.

Yours sincerely,

Meena

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<http://www.wlv.ac.uk/default.aspx?page=36892>

EHRC Project on 'Caste in Britain'

Experts' Seminar

Venue: SOAS, Thornhaugh Street, Russell Square, SOAS Main Building Room 116

Timing: 9:30- 17:30

9:30: Arrival and Registration (with Tea/Coffee)

10:00: Welcome and Introduction (David Mosse)

- Background to the workshop
- The aims and objectives of the workshop

10:30: Background Presentation 1:

Research on caste in the UK (30 mins) (Meena Dhanda)
Discussion (20 mins)

11:20: Tea/Coffee Break

11.40: Background Presentation 2:

Principles for a legal definition of caste (30 mins)
(Annapurna Waughray, David Keane)
Discussion (20 mins)

12:30: Lunch

13.30: Task Groups in parallel sessions: Conceptualising caste in Britain

Task Group A: Conceptualising caste

- What is 'caste' and how can it be defined within the context of contemporary Britain?
- How is caste related to 'identity, 'race' and religion in Britain?

Task Group B: New manifestations of caste

- Are there new manifestations of caste in Britain, for instance, in relation to youth culture, impact of social media, globalisation?
- What are the forms of caste discrimination, if any, in Britain?

14:20: Comfort break

14:30: Reporting back

- Hugo Gorringer (Conceptualising caste in Britain)
- David Gellner (New manifestations of caste)

15:00: Task Groups in parallel sessions: Towards a legal definition of caste in the UK

Task Group C: Legal definition of caste

- What is an appropriate definition of 'caste' for implementing the legislation?
- How can 'caste discrimination' be defined in the UK?

- Should there be exemptions and exclusions in relation to caste in the legislation?
- Would proving caste discrimination be any different to proving other forms of discrimination, such as, on the grounds of ethnic origin?

Task Group D: Implementation of legislation

- What might be the obstacles, if any, to victims of caste discrimination accessing legal remedies?
- What might be the long-term effects of caste discrimination legislation, and are there any parallels with race?
- How is caste related to other aspects of law/law enforcement?

16:00: Tea/Coffee Break

16:20: Caste and the UK Equality Act: Reporting back

16:50: Open Discussion:

Measuring/monitoring caste discrimination in Britain: reasons, issues, and methods – (Moderator: Steve lafrati)

- What does it mean to measure/monitor the extent of caste discrimination in Britain?
- Is it necessary?
- Can it be done? What are the best methods?
- What problems are likely to occur in any such measurement?

17:20: Closing remarks

17:30: End

For directions to the venue, please check:

<http://www.soas.ac.uk/visitors/location/maps/#RussellSquareCampusMap>

Appendix 3: Letter of invitation to stakeholders

Dear Representative,

We would like to invite you to take part in a day-long workshop addressing the issue of the inclusion of Caste in the Equality Act 2010.

We have been commissioned by the Equality and Human Rights Commission to lead a research project on 'Caste in Britain', with a team of researchers from Manchester Metropolitan University, Middlesex University, SOAS, University of London, Goldsmiths, University of London and University of Wolverhampton, with a view to reaching conclusions on:

- How should Caste be defined in the Equality Act 2010
- What Exemptions & Exclusions relating to Caste, if any, should be included in the Equality Act 2010
- How Caste would operate in relation to the Public Sector Equality Duty.

The question of whether Caste should be included within the Equality Act 2010 is now a settled matter; section 97 of the Enterprise & Regulatory Reform Act 2013 (see attached) requires the government to make caste 'an aspect of' the protected characteristic of Race in the Equality Act 2010.

Our research is designed to ensure that the inclusion of caste in the Equality Act 2010 is done in the best way possible and to allow opportunity for open discussion of implementation issues. We are consulting with academics as well as with stakeholders in two separate workshops. By stakeholders we mean:

- community organisations who support or have campaigned for the inclusion of 'caste' in the legislation;
- community organisations who have expressed opposition to or reservations about the inclusion of 'caste' in the legislation;
- units within service providers (for example, local government, NHS, education, ACAS, Equality Challenge Unit, NCVO, Tribunal Service, employers, trade unions, advice services, amongst others) responsible for implementation of the amended Equality Act 2010.

We extend this invitation to you to join us in a day-long workshop for stakeholders on:

- Date: 9th November 2013
- Time: 9:30am – 5:30pm
- Venue: University of Westminster, 309 Regent Street, London W1B 2HW (020 7911 5000; Nearest Tube: Oxford Street).

The aims of the workshop will be:

- to engage with the range of opinions on the meaning of 'caste' and 'caste discrimination' in everyday life in Britain;
- to provide a platform for communication of different opinions in order to enable a common understanding of the terms - 'caste' and 'caste discrimination'; and
- to identify potential issues concerning the implementation of the amended legislation in different settings of the workplace, education, the provision of goods, services and associations.
- to discuss some of the key issues emerging out of a review on caste in Britain and at the academic event.

We will offer a limited number of travel subsidies to cover actual travel expense to a maximum of £50 per organization represented at the seminar, on a first-come-first-served basis, provided that:

- you register for the workshop by 25th October 2013;
- your travel claim is supported by receipts, which may be submitted at the meeting;
- your travel is by standard class train/bus travel and,
- you send a written statement with answers to key questions (attached) latest by 5th November, 2013.

Further information on the programme and directions to the venue, will be sent after you confirm your participation. Please complete the attached registration form and email it to me and Jessie Kate Mundy (xxxx@soas.ac.uk) by 25th October 2013.

If we have not heard from you by 25th October, we may have to offer your place at the workshop to others on our waiting list. Likewise, should you initially accept the invitation but are unable to attend, please let us know as soon as possible so that we can offer your place to someone else.

We do hope that you will be able to accept our invitation.

Yours sincerely,
Meena

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Course Leader Philosophy,
Joint Course Leader MRes Human Sciences,
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<http://www.wlv.ac.uk/default.aspx?page=36892>

Attachments:

1. Registration Form
2. Key questions for stakeholders
3. Section 97 of the ERR Act 2013

Appendix 4: Second letter to stakeholders with the programme

Dear Participants,

We are approaching the day of the Stakeholders' Workshop of our project on 9 November 2013 at the University of Westminster. Please see the attached agenda for the day.

We are very grateful to all those who have promptly contributed their written statements. This is a gentle reminder to all, but particularly to those who hope to get a travel subsidy, to please send us your written responses to the Key Questions attached to the original invitation as a matter of urgency in advance of the event.

We plan to display the written statements and, as the programme indicates, there will be time set aside to read and comment on them. The task groups in the afternoon will continue the process of reflection on the written statements and will be an opportunity to more fully participate in the pooling of ideas.

Almost all invitees have registered, but a tiny number of registrations, is still awaited. If your plans have changed and you are unable to come, please let us know.

Please arrive between 9:30 and 10 am; we hope to start the proceedings for the day promptly at 10 am.

For directions to the venue, please see : <http://www.westminster.ac.uk/business/facilities-and-services/venues-for-hire/conference-and-venues/309-regent-street/how-to-find-us> The tube station #Oxford Circus# is 4 minutes away.

If you feel the need for directions on the day, please call the reception desk of the University of Westminster at 020-79115108.

We look forward to welcoming you on 9th November 2013.

Yours sincerely,

Meena

PS. Due to the volume of emails I have had to deal with, I will not be able to reply to any further queries about the event. Please accept my apologies in advance. For any practical queries please contact Jessie Kate Mundy (xxxx@soas.ac.uk).

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EHRC Project on 'Caste in Britain'

Stakeholders' Workshop

Lecture Theatre 4 (Room 451 upper 4th floor) 309 Regent Street London W1B 2HW

Agenda

Timing: 9:30 – 17:00

9:30: Arrival and Registration (with Tea/Coffee)

10:00: Welcome and Introduction (Meena Dhanda)

- Background with aims and objectives of the workshop (David Mosse)

10:30: Presentation 1:

Research on caste in Britain (Meena Dhanda)

Discussion

11:45: Tea/Coffee Break

12:00: Participants' written statements: reading time, post-it comments

12:30: Lunch

13:00: Presentation 2:

Principles for a legal definition of caste (Annapurna Waughray, David Keane)

Discussion

14.15: Task Groups in parallel sessions: 1

- Definitions
- Cases
- Implementation

15:00: Tea/Coffee Break with Festive Sweets

15.15: Task Groups in parallel sessions: 2

- Definitions
- Cases
- Implementation

16:00: Reporting back and closing session

17:00: End

For directions to the venue, please see: <http://www.westminster.ac.uk/business/facilities-and-services/venues-for-hire/conference-and-venues/309-regent-street/how-to-find-us>

Appendix 5: Registration form - experts

Experts' Seminar: 'Caste in Britain' with reference to the Equality Act 2010

9:30 am to 5:30 pm on Saturday, 19 October, 2013, at SOAS, University of London,
Thornhaugh Street, Russell Square, London WC1H 0XG

NAME AND TITLE OF ATTENDEE

Title: _____

First Name: _____

Surname: _____

EMPLOYMENT POSITION: _____

EMPLOYER'S NAME: _____

EMAIL ADDRESS for correspondence: _____

MOBILE TELEPHONE NUMBER for emergency contact on the day: _____

DIETARY RESTRICTIONS: _____

Please email the completed form by **Thursday, 3 October 2013** to:

Dr Meena Dhanda (M.Dhanda@wlv.ac.uk) and Jessie Kate Mundy (xxxx@soas.ac.uk)

Appendix 6: Registration form - stakeholders

EHRC project: 'Caste in Britain' with reference to the Equality Act 2010

**9:30 am to 5:30 pm on Saturday, 9 November, 2013, at University of Westminster,
309 Regent Street, London WC1B 2HW
(020 7911 5000; Nearest Tube: Oxford Street).**

ORGANISATION YOU ARE REPRESENTING:

POSITION YOU HOLD IN THE ORGANIZATION (member/office bearer):

NAME AND TITLE OF ATTENDEE

Title: _____

First Name:

Surname:

EMAIL ADDRESS for correspondence:

MOBILE TELEPHONE NUMBER for emergency contact on the day:

DIETARY RESTRICTIONS: _____

WILL THE ATTENDEE REQUIRE WHEELCHAIR ACCESS? _____ YES/NO (delete as appropriate)

WILL THE ATTENDEE REQUIRE A TRAVEL SUBSIDY? _____ YES/NO (delete as appropriate)

WHAT IS YOUR ESTIMATED TRAVEL CLAIM (SUPPORTED BY RECEIPTS TO A MAXIMUM OF £50)?

Please email the completed form by **25 October 2013** to:

Dr Meena Dhanda (M.Dhanda@wlv.ac.uk) and Jessie Kate Mundy (xxxx@soas.ac.uk)

Appendix 7: Key questions for experts

To help us document views on the research topic, we are writing to seminar participants in advance, including to those who are unable to attend, to ask for your comments on any of the following key questions. These will be the focus of our discussions on 19th October. We would be grateful if you allow us to share your views at the seminar and also to use your statements in our report. Please indicate clearly if you would like your replies to be kept confidential and only used anonymously in our report.

Section A:

1. In general, how do you see caste operating as a concept in equality legislation?
2. Do you envision a wide take-up of cases in the wake of caste legislation? If not, is this relevant? If so, would existing expertise be an issue? [i.e. is existing expertise sufficient?]
3. How might caste discrimination be argued in the courts, both from the point of view of the plaintiff [complainant] and the defendant?
4. Would proving caste discrimination be any different to proving other forms of discrimination, such as on the grounds of ethnic origin?
5. How might judges engage with the issue of caste discrimination as a new ground for discrimination law?
6. How would caste operate in terms of the Public Sector [Equality] Duty requirement?
7. How would caste be embedded within the permitted exceptions rules?
8. What might be the obstacles, if any, to victims of caste discrimination accessing legal remedies?
9. What might be the long-term effects of caste discrimination legislation, and are there any parallels with race discrimination?
10. How is caste related to other aspects of law/law enforcement?

Section B:

11. What is 'caste' and how can it be defined within the context of contemporary Britain?
12. How is caste related to 'identity, 'race' and religion in Britain?
13. Are there new manifestations of caste in Britain impacted by, for instance, youth culture, social media and globalisation?
14. What are the forms of caste discrimination, if any, in Britain?
15. Please provide us with references to your publications and to topic titles of your ongoing unpublished work that might be usefully included in a review of literature on this issue.

Thank you for agreeing to participate in our collective deliberations.

Meena Dhanda
(Dated: 10-10-13)

Appendix 8: Key questions for stakeholders with consent form

The amended equalities legislation aims to provide protection from harmful action in the workplace, education and the provision of goods, services and associations. In view of this, as a part of the process of consultation with Stakeholders, we are writing to all invitees to send us written responses to the questions listed below **in advance** of the meeting on 9th November. Please provide your answers in a maximum of two pages of A4 (approximately 1000 words). The word limit is a *maximum*; we are very keen to receive shorter comments.

Please answer as many questions as you feel able to and email your document to M.Dhanda@wlv.ac.uk with the subject heading: **EHRC - My answers and consent form**.

1. What do you understand by 'caste'?
2. What do you understand by 'caste discrimination'?
3. What do you understand by 'harassment' in relation to caste?
4. Have you directly or indirectly come across any instances of discrimination, harassment or victimization related to the issue of caste in the UK? Please give examples if you can.
5. In what way, if at all, do you think the proposed legislative change in the Equality Act 2010, making caste an aspect of race, is likely to affect you or your work?
6. What is your organization's view, if any, about the proposed change in the legislation in relation to caste?
7. Please write any other comments you have on the issue of caste in connection with UK equalities legislation.

We would like your permission to share your responses with other stakeholders and use the same in our report to the EHRC. For this purpose, please complete the consent form below and **email it along with your written statement**.

Consent Form

Regarding **permission to display** my written responses in full at the venue on 9th November 2013 to facilitate discussion between Stakeholders of the EHRC project – Caste in Britain led by Dr Meena Dhanda (delete as appropriate):

- Yes, I give you permission to display and you may specify my name/organization's name
- Yes, I give you permission to display but do not use my name/organisation's name
- No, I do not want my written responses to be displayed at all.

Regarding **permission to quote** my written responses, or parts thereof, in your report to the EHRC (delete as appropriate):

- Yes, I give you permission to quote and you may specify my name/organization's name
- Yes, I give you permission to quote but do not use my name/organization's name
- No, I do not want my written responses to be quoted at all.

My statement is given (delete as appropriate):

- as a member of (organization name)
- and, as an office bearer (title)
- in my personal capacity.

Signed:.....Dated:.....

Appendix 9: List of invited experts

| | Name | Institution | Present (✓) Apology (A) Written Statement (WS) |
|----|-----------------------------------|--|---|
| 1 | Professor Roger Ballard | University of Manchester | ✓ + WS |
| 2 | Dr Susan Bayly | University of Cambridge | A + WS |
| 3 | Dr Nathaniel Adam Tobias Coleman | University College London | A |
| 4 | Ms Mehvish Chaudhry | Practising Lawyer, London | ✓ |
| 5 | Professor Adam Dinham | Goldsmiths, University of London (Advisor, CIB) | A |
| 6 | Professor Gavin Flood | Oxford Centre for Hindu Studies | A + WS |
| 7 | Professor Sandra Fredman | University of Oxford | A |
| 8 | Professor Chris Fuller | London School of Economics | A |
| 9 | Professor David Gellner | University of Oxford | ✓ |
| 10 | Professor Paul Avtar Singh Ghuman | Aberystwyth University; (Advisor, CIB) | A |
| 11 | Dr Hugo Gorringe | University of Edinburgh | ✓ + WS |
| 12 | Professor Barbara Harriss-White | University of Oxford | A |
| 13 | Professor Bob Hepple | University of Cambridge | A |
| 14 | Professor Judith Heyer | University of Oxford | ✓ |
| 15 | Dr Nicolas Jaoul | EHESS (Ecole des Hautes Etudes en Sciences Sociales) Paris | A |
| 16 | Professor Satvinder Juss | King's College London | A |
| 17 | Dr Karin Kapadia | University of Oxford | A + WS |
| 18 | Mr Jay Langley | University of Wolverhampton | ✓ |
| 19 | Professor Aileen McColgan | King's College London | Interviewed |
| 20 | Professor Werner Menski | SOAS | A |
| 21 | Colm O'Cinneide | University College London | Interviewed |

| | | | |
|----|-----------------------------------|---|--------|
| 22 | Dr Sushrut Jadhav | University College London; Advisor, CIB | A |
| 23 | Dr Rusi Jaspal | De Montfort University | √ + WS |
| 24 | Dr Jasbir Jhutti-Johal | University of Birmingham | √ |
| 25 | Dr Tarunabh Khaitan | University of Oxford | √ |
| 26 | Hilary Metcalf | NIESR | A |
| 27 | Karon Monaghan QC | Practising Lawyer, London | A |
| 28 | Professor Eleanor Nesbitt | University of Warwick | A + WS |
| 29 | Mr Vimal Patel | De Montfort University | √ + WS |
| 30 | Dr Kaveri Qureshi | University of Sussex; University of Oxford | √ |
| 31 | Professor Chakravarthi Ram-Prasad | Lancaster University; (Advisor, CIB) | A |
| 32 | Mr Charles Ramsden | Government Equalities Office | √ |
| 33 | Dr Beatrice Renzi | Universität Bern Switzerland | √ |
| 34 | Gilbert Rodrigo | Commonwealth Fellow | √ |
| 35 | Zimran Samuel | Practising Lawyer | A |
| 36 | Dr Mary Searle-Chatterjee | University of Manchester | √ + WS |
| 37 | Dr Prakash Shah | Queen Mary University, London | A |
| 38 | Professor Gurharpal Singh | SOAS | A |
| 39 | Dr Gurnam Singh | Coventry University | A |
| 40 | Dr Pritam Singh | Oxford Brookes University | A + WS |
| 41 | Dr Steve Taylor | Northumbria University | A + WS |
| 42 | Professor Patrick Thornberry | Keele University | A |
| 43 | Dr Luisa Steur | University of Copenhagen | √ + WS |
| 44 | Dr Clarinda Still | University of Oxford | √ + WS |
| 45 | Dr Opinderjit Kaur Takhar | University of Wolverhampton | √ |

| | | | |
|---|---------------------------|--|--------|
| 46 | Professor Maya Unnithan | University of Sussex | A |
| 47 | Dr Kalpana Wilson | London School of Economics | A + WS |
| 48 | Dr John Zavos | University of Manchester | A |
| 49 | Dr Cosimo Zene | SOAS | √ |
| OBSERVERS | | | |
| | Dr Fiona Glen | EHRC | √ |
| | Dr Karen Jochelson | EHRC | √ |
| | Dr Dave Perfect | EHRC | √ |
| PROJECT TEAM: CASTE IN BRITAIN (CIB) | | | |
| | Dr Meena Dhanda | University of Wolverhampton Project Leader, CIB | √ |
| | Dr Roger Green | Goldsmiths, University of London, Researcher, CIB | A |
| | Dr Steve Iafrati | University of Wolverhampton, Researcher, CIB | √ + WS |
| | Dr David Keane | Middlesex University, Researcher, CIB | √ |
| | Professor David Mosse | SOAS, Co-Lead (Events), CIB | √ |
| | Dr Annapurna Waughray | MMU, Co-Lead (Review of research), CIB | √ |
| | Professor Stephen Whittle | MMU, Researcher, CIB | A |
| | Jessie Kate Mundy | SOAS, Research Assistant | √ |
| | Raj Lal | UoW, Research Assistant | √ |
| | Kirat Randhawa | University of Sussex, Research Assistant | √ |
| | Natalie Robinson | UoW, Admin Support | √ + WS |

Appendix 10: List of invited stakeholders' organisations

| | ORGANISATION | REPRESENTATIVE | Present (✓) Apology (A) Withdrawn (W) |
|----|--|--|--|
| 1 | Alliance of Hindu Organisations | Mr Pratik Dattani | ✓ |
| 2 | Ambedkar Memorial Trust, London | Mr Arun Kumar | ✓ |
| 3 | Annual Hindu Convention | Mr Kishan Bhatt | ✓ |
| 4 | Anti Caste Discrimination Alliance (ACDA) | Dr Raj Chand/ Ms S. Dass (same as no. 25 below) | A/✓ |
| 5 | Asian Rationalist Society, GB | Mr Sachdev Virdee | ✓ |
| 6 | BAPS Shri Swaminarayan Mandir | Mr Nitin Palan | ✓ |
| 7 | Begumpura Foundation | Mr Ravi Kumar | ✓ |
| 8 | Bhagwan Valmik Sabhas Bedford | Mr Tarsem Kalyan | ✓ |
| 9 | British Hindu Voice | Mr Mukesh Nakar | W |
| 10 | British Organisation for People of Indian Origin | Mr Sat Pal Muman | ✓ |
| 11 | British Organisation of People of Asian Origin (BOPA) | Dr Rakesh Sachdev | ✓ |
| 12 | British Pakistani Christian Association | Mr Wilson Chowdhry | A |
| 13 | Buddha Dhamma Association, Southall | Mr Gautam Chakravarty | ✓ |
| 14 | CasteAway Arts | Mrs Rena Annobil | ✓ |
| 15 | CasteWatch UK | JP Davinder Prasad | ✓ |
| 16 | Central Valmiki Sabhas UK | Mr Faquir Chand Sahota | A |
| 17 | City Hindus Network | Mr Prinal Nathwani | ✓ |
| 18 | Confederation of Indian Organisations | Mr Bhupen Dave | W |
| 19 | Dalit Aid | Mr Gilbert Rodrigo | ✓ |
| 20 | Dr. Ambedkar Memorial Committee GB, Wolverhampton | Ms Kamla Chumber | A |
| 21 | Dr. Ambedkar Mission Society, Bedford | Mr Pirthi Ram Kaeley | ✓ |
| 22 | Dalit Solidarity Network | Ms Meena Varma | A |
| 23 | Equality & Diversity Officer, HR, University of St Andrews | Mr Sukhi Bains | ✓ |
| 24 | Equality Officer, Office of CE, Wolverhampton City Council | Ms Delva Campbell | ✓ |

| | | | |
|----|--|---|--------|
| 25 | Federation of Ambedkarite and Buddhist Organisations UK | Ms MBE Santosh Dass | √ |
| 26 | Gujrati Arya Kshatriya Mahasabha, UK | Mr Manish Amriwala | W |
| 27 | Head of Equality and Human Rights, LB Hounslow | Ms Celia Golden | √ |
| 28 | HealthWatch Kent | Ms Lillian Ndawula | A |
| 29 | Hindu Council UK www.hinducounciluk.org | Mr Sanjay Jagatia (and Mr Anil Bhanot) | √ √ |
| 30 | Hindu Council UK www.hinducouncil.net/ | Mr Rajnish Kashyap | √ |
| 31 | Hindu Forum of Britain | Mr Swaminathan Vaidyanathan | √ |
| 32 | Hindu Lawyers Association UK | Mr Pramod Joshi (and Mr Jayesh Jotangia) | √ √ |
| 33 | Hindu Swayamsevak Sangha UK | Mr Nilesh Solanki | √ |
| 34 | International Krishna Consciousness | Mr Gauri Dass | √ |
| 35 | Indian Workers Association | C. Avtar Uppal | √ |
| 36 | Jain Network | Dr Natubhai Shah | A |
| 37 | Kesri Lehar | S. Jagdeesh Singh | √ |
| 38 | National Council of Hindu Priests UK | Dr Hari Shukla | √ |
| 39 | National Council of Hindu Temples UK | Mr Satish Sharma | √ |
| 40 | National Hindu Students Forum UK | Ms Tejal Shah | √ |
| 41 | Nepalese Hindu Forum UK | Mr Chiranjibi Paudyal | √ |
| 42 | Punjab Buddhist Society | Mr Ram Pal Rahi | √ |
| 43 | Sant Nirankari Satsang Bhavan, London | S. Sukhwinder Gill | A |
| 44 | Shree Hindu Community Centre Lakshminarayan Temple Birmingham | Mr Dinesh Chauhan | A |
| 45 | Shree Prajapati Association UK | Mr Jitubhai Mistry | W |
| 46 | Shri Guru Ravi Dass Mission International Kanshi TV | Mr Balbir Kalair | A |
| 47 | Shri Guru Ravidas Sabha Southall | Mr Jograj Ahir | A |
| 48 | Shri Guru Ravidass Dharmik Temple, Wolverhampton | Mr B.R. Mahay | A |
| 49 | Sikh Community Action Network (Slough) | S. Jagdeesh Singh (same as no. 37 above) | √ |
| 50 | Sikh Council UK | S. Gurinder Singh Josan | √ |
| 51 | Sikh Feminist Research Institute (UK Representative) | Ms Herpreet Grewal | √ |

| | | | |
|---|---|--|---|
| 52 | South Asia Solidarity Group | Ms Amrit Wilson | √ |
| 53 | Southall Black Sisters | Ms Pragna Patel | √ |
| 54 | Sri Guru Ravidass Cultural Association, Birmingham | Mr Rajinder Rattu | √ |
| 55 | Sri Guru Ravidass Sabha Bedford | Mr Sat Paul | √ |
| 56 | The Employers Network for Equality and Inclusion (ENEI) | Mr Alan Beazley | √ |
| 57 | The Leicestershire Brahma Samaj | Ms Rashmi Vyas | W |
| 58 | The Panjabi Centre | S. Ajit Singh Khera | √ |
| 59 | Voice of Dalit International | Mr Eugene Culas | √ |
| 60 | Workers Educational Association London Region | Ms Natasha Chatterjee | A |
| OBSERVERS | | | |
| | Dr Dave Perfect | EHRC | √ |
| | Dr Karen Jochelson | EHRC | √ |
| PROJECT TEAM: CASTE IN BRITAIN (CIB) | | | |
| | Dr Meena Dhanda | University of Wolverhampton (UoW) Project Leader, CIB | √ |
| | Professor David Mosse | SOAS, University of London, Co-Lead (Events) | √ |
| | Dr Annapurna Waughray | Manchester Metropolitan University, Co-Lead, (Review) | √ |
| | Dr David Keane | Middlesex University, Researcher, CIB | √ |
| | Dr Roger Green | Goldsmiths, University of London, Researcher, CIB | √ |
| | Professor Eleanor Nesbitt | University of Warwick, Advisor, CIB | √ |
| | Dr Steve Iafrazi | UoW, Researcher, CIB | √ |
| | Professor Stephen Whittle | MMU, Researcher, CIB | A |
| | Jessie Kate Mundy | SOAS, Research Assistant, CIB | √ |
| | Chand Starin Basi | MIND (Ealing), Research Assistant, CIB | √ |
| | Kirat Randhawa | University of Sussex, Research Assistant, CIB | √ |
| | Jay Langley | UoW Admin Assistant | √ |

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The Commission's publications are available to download on our website: **www.equalityhumanrights.com**. If you are an organisation and would like to discuss the option of accessing a publication in an alternative format or language please contact engagementdesk@equalityhumanrights.com. If you are an individual please contact the Equality Advisory and Support Service (EASS) using the contact methods below.

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This report covers two events that were held with experts and stakeholders in the context of the requirement in the Enterprise and Regulatory Reform Act 2013 to make caste ‘an aspect of’ the protected characteristic of race in the Equality Act 2010. The events explored the nature of caste in the UK; discrimination on the grounds of caste; the definition of caste for the purposes of the Equality Act 2010; legislative exceptions and exclusions; the implementation of the law; and the impact of legislation on caste.

The report is a companion study to *Caste in Britain: Socio-legal Review* (Research report no. 91).