



24 May 2016

**Re: Your liability regarding legal claims of caste discrimination**

You may be aware that the Equality Act 2010 now makes caste discrimination unlawful (as part of race discrimination) and potentially opens up voluntary and community organisations to litigation concerning acts amounting to caste discrimination. This was confirmed by the Employment Appeal Tribunal in 2014 in the case of *Chandhok v Tirkey* (UKEAT/0190/14/KN). By expanding the meaning of race to cover caste, the case law also opens up the possibility of prosecutions under criminal law.

Caste-related risks your organisation may have to be aware include:

- If your organisation is primarily based on caste membership (e.g. a jati or gnati belonging) it could be open to allegations of caste discrimination on grounds that an unlawful preference is given to members of one caste.
- If your organisation holds events primarily for the benefit of people because of their caste membership it could be open to claims of caste discrimination.
- If your organisation provides a preferential treatment on caste grounds for hiring premises for events such as weddings, or the costs of hiring, it could be open to litigation for caste discrimination.
- If your organisation convenes events such as Navratri or a puja, and invites or allows attendance primarily for members of a caste group, it could be open to litigation for caste discrimination.
- If you are not aware of the caste group to which the employees or customers of your organisation belong, you could be held liable for caste discrimination, even for inadvertently offending them.
- Not keeping records of the caste status of your employees, customers or beneficiaries could also result in a greater risk of a claim of caste discrimination against you or your organisation.
- Because it is thought that membership of a caste group survives conversion to another religion, non-Hindus - e.g. Christians or Muslims - could make discrimination claims against your organisation because of their antecedent caste.
- Your organisation or employees could be subject to criminal prosecution on grounds of racially aggravated offences (which entail a higher add-on sentence for the primary crime) if it were claimed that the unlawful action was aggravated by caste considerations.
- If your organisation constitutes or assists a business or professional association around a caste group, it risks legal action for caste discrimination.
- Your organisation will want to reassure itself that its insurance policy covers risks of legal claims of caste discrimination or criminal liability. This may result in a higher premium for Indian organisations because of the presumption as to which groups discriminate, harass or criminally aggravate on grounds of caste.

**Dharmic Ideas Policy Foundation**

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- Being found liable for caste-based discrimination or aggravation could result in questioning of a person's ability to be a director of a company, a trustee or holder of public or political office.
- If your organisation is a charity, being found liable for caste-based discrimination or aggravation could result in the withdrawal of its charity status and therefore affect a significant part of its budget.

This letter is meant to be for guidance only and is not to be construed as legal advice for any purpose whatsoever. We merely wish to draw your attention to the potential risks of claims of caste discrimination and criminal aggravation the new legal scenario makes possible. Should you require accurate and reliable legal advice in confidence, you are well advised to consult your legal representatives directly.

Should you be interested in the background and content to how caste is covered in the Equality Act and how to inform your MP about your concerns, please feel free to contact us at [director@dipf.org.uk](mailto:director@dipf.org.uk).

Yours sincerely,

Prakash Shah

Dr. Prakash Shah  
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