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UN Racial Discrimination Committee Issues Findings on India; India Rejects Them

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UN Racial Discrimination Committee Issues Findings on India; India Rejects Them

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✓ Every fact web-verified against primary sources

The **UN Committee on the Elimination of Racial Discrimination (UNCERD)** published its concluding observations on India on **August 25, 2026**, following India's **11th periodic review** under ICERD, in which the Committee examined India's **combined twentieth and twenty-first periodic reports**, document symbol **CERD/C/IND/CO/20-21**. The review sitting itself, as background to the findings, was held in Geneva on **August 11 and 12, 2026**, during the Committee's **118th session (August 10 to 25, 2026)**. On **August 26**, the Ministry of External Affairs **rejected the observations**, with Spokesperson **Randhir Jaiswal** stating that India **"rejects any politically motivated highly malicious references in the report with all the contempt that it deserves."** India's delegation to the review had been headed by **Solicitor General Tushar Mehta**.

READ THIS ARTICLE CAREFULLY

This is a contested item. Everything the Committee said is reported below **as the Committee's assertion**, not as established fact. India has formally rejected the findings. Both positions are set out in full so that an aspirant can argue either side, which is what an examination answer on this topic actually requires.

WHAT UNCERD IS, AND WHAT ITS FINDINGS ARE WORTH

ATTRIBUTE	DETAIL
Full name	Committee on the Elimination of Racial Discrimination
Parent treaty	International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
ICERD adopted	1965; entered into force 1969
India	Signed 1967, ratified 1968
Composition	18 independent experts serving in their personal capacity
Distinction	The oldest of the UN human rights treaty bodies

The Legal Status of Concluding Observations

This is the single most important point for the examination, and it is frequently got wrong.

Concluding observations of a treaty body are recommendations. They are not binding, they are not a judgment, and the Committee is not a court. The obligation India accepted on ratifying ICERD is to submit periodic reports and to engage with the review. It did both: it sent a delegation led by the Solicitor General. Accepting the recommendations is a separate matter, and a State party may reject them.

Note also that India has **not made a declaration under Article 14** of ICERD, which is the optional provision allowing the Committee to receive complaints from individuals. The Committee therefore has no individual-complaints jurisdiction over India.

The Committee had earlier raised concerns through its **early-warning and urgent-action procedures** in **May 2025** and **January 2026**.

WHAT THE COMMITTEE SAID

The Committee stated it was “gravely concerned” about reports of large-scale violations by law enforcement officials against ethnic and ethno-religious groups, indigenous and tribal peoples including Scheduled Tribes and Scheduled Castes, particularly Dalits, and non-citizens. It referred to reported **extra-judicial killings, arbitrary and prolonged detention without due process, torture, ill-treatment and sexual violence**.

On Electoral Roll Revision

The Committee recommended that India **review the Special Intensive Revision (SIR)** to protect the participation of ethno-religious minorities in the electoral process, and independently investigate reported irregularities. It stated that since the SIR was rolled out across **12 States and Union Territories**, approximately **52 million names** have allegedly been removed, with **West Bengal** particularly affected at a reported **9.1 million deletions** ahead of the State elections of **April 2026**. It expressed concern that Bengali-speaking Muslim voters were reportedly disproportionately affected in **West Bengal and Assam**.

On Hate Speech and Hate Crime

The Committee said India’s legislative framework “does not contain provisions that expressly criminalise or effectively address all acts of racist hate speech and hate crime” in accordance with **Article 4** of ICERD. It recommended that India review the **Bharatiya Nyaya Sanhita** and the **Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules** to explicitly criminalise hate speech and hate crimes on all grounds recognised in **Article 1** of the Convention, and to recognise **racist motivation as an aggravating circumstance**.

On Migrants, Asylum Seekers and Citizenship

RECOMMENDATION	CONTENT
Non-refoulement	Refrain from collective expulsion of migrants and asylum seekers needing international protection
Immigration law	Review the Immigration and Foreigners Act to align it with ICERD
NRC	Suspend the National Register of Citizens
Citizenship law	Review the Citizenship (Amendment) Act to align it with the Convention and combat statelessness
Statelessness treaties	Ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness

On Tribal Rights, Institutions and Data

The Committee called for protection of the rights of the **Naga, Kuki, Chakma and Hajong** peoples; for suspension of the projects on the **Great Nicobar and Andaman Islands** pending a full independent environmental, economic, social, cultural and spiritual impact study; and for strengthening the **National Human Rights Commission** in accordance with the **Paris Principles**, including its institutional independence and pluralistic composition. It asked India to provide **disaggregated demographic statistics** in the **2027 census**, respecting self-identification and anonymity.

INDIA'S POSITION

The Government of India rejected the observations. The Ministry of External Affairs said India “**rejects any politically motivated highly malicious references in the report with all the contempt that it deserves**”, a single phrase qualifying the references in the report rather than two separate descriptors, and stated that the Indian delegation had “**already rejected the sweeping generalisations**” during the review itself.

The Underlying Legal Disagreement: Is Caste “Race”?

Beyond the specific findings, there is a long-standing and fundamental legal disagreement that every aspirant should know.

India’s consistent position, maintained for decades including at the 2001 Durban World Conference against Racism, is that caste-based discrimination does not fall within the definition of “racial discrimination” in Article 1 of ICERD. Article 1 defines racial discrimination by reference to **race, colour, descent, or national or ethnic origin**. India’s argument is that **caste is not**

race, that Scheduled Castes and Scheduled Tribes are not racial or ethnic groups, and that caste discrimination is therefore an internal matter addressed by India’s own extensive constitutional and statutory machinery rather than a treaty obligation under ICERD.

The Committee’s contrary view, expressed in its General Recommendation on descent-based discrimination, is that “descent” in Article 1 includes caste. This disagreement is the root of most India-CERD friction and long predates the current review.

India’s Domestic Framework

India’s answer to allegations of discrimination rests on a constitutional and statutory architecture that is among the most elaborate anywhere:

PROVISION OR LAW	CONTENT
Article 14	Equality before law and equal protection of the laws
Article 15	Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth
Article 16	Equality of opportunity in public employment
Article 17	Abolition of untouchability , an absolute prohibition enforceable against private persons
Article 21	Protection of life and personal liberty
Articles 25 to 28	Freedom of religion
Articles 330, 332, 335, 338, 338A, 342	Political reservation, service safeguards, and the National Commissions for SCs and STs
Protection of Civil Rights Act, 1955	Penalises the practice of untouchability
SC and ST (Prevention of Atrocities) Act, 1989	Special offences, special courts and victim compensation
Forest Rights Act, 2006	Recognises individual and community forest rights of forest-dwelling tribal communities
Protection of Human Rights Act, 1993	Establishes the NHRC and State Human Rights Commissions

India is also **not a party to the 1951 Refugee Convention or its 1967 Protocol**, which is the legal basis on which it declines obligations framed in refugee-law terms, while maintaining that it has hosted large refugee populations for decades as a matter of policy.

CRITICAL ANALYSIS

The status question governs everything else. Because concluding observations are non-binding recommendations, the dispute is not about legal compulsion but about reputational and diplomatic weight. A State that rejects them faces no sanction, but the observations enter the record cited by other States, by the Human Rights Council's **Universal Periodic Review**, and by civil society.

Sovereignty against international scrutiny is a genuine tension, not a rhetorical one. The case for engagement is that India voluntarily ratified ICERD, that treaty review is reciprocal and applies equally to Finland and Kuwait reviewed in the same session, and that a confident democracy gains from external audit. The case for rejection is that a committee of eighteen experts working from submitted reports and civil-society material cannot **adjudicate** the internal affairs of a country of 1.4 billion people, that its recommendations on the NRC and CAA go to matters of citizenship policy that are quintessentially sovereign, and that selective attention to India relative to other States indicates political motivation.

The caste-is-not-race question is analytically separable from the specific allegations, and a good answer keeps them apart. One can accept India's legal position that ICERD does not cover caste, and still hold that caste discrimination is a serious problem for Indian constitutional law under Articles 15 and 17 to address. Conversely, one can hold that the Committee has jurisdiction and still contest particular findings on the evidence.

The data recommendation is the most quietly consequential. A request for disaggregated demographic statistics in the 2027 census intersects directly with India's own caste enumeration debate. Here the Committee's recommendation and a substantial body of Indian domestic opinion point in the same direction, which complicates any framing of the review as purely **adversarial**.

UPSC RELEVANCE

GS Paper 2 (International Relations and Polity): Important international institutions, agencies and fora, their structure and **mandate**; bilateral and global groupings involving India; mechanisms, laws and institutions for the protection of vulnerable sections; statutory and quasi-judicial bodies.

Prelims focus: ICERD's adoption and entry-into-force years; CERD's composition of 18 experts and its status as the oldest treaty body; the non-binding nature of concluding observations; Article 14 ICERD's optional individual-complaints procedure; the Paris Principles; India's non-party status to the 1951 Refugee Convention.

Mains angle: The strongest framing is **the legitimacy and limits of international human rights review of a sovereign democracy**. Argue both sides honestly: treaty-body review is a voluntary obligation India accepted, and it is also a non-binding process whose findings a State may contest. Bring in the caste-is-not-race disagreement as the **doctrinal** core, and note that India's domestic constitutional protections against discrimination are more extensive than those of many States that face lighter scrutiny.

★ FACTS CORNER — KNOWLEDGE PEDIA

THE EVENT:

UNCERD concluding observations on India published August 25, 2026; the periodic review itself was held in Geneva earlier in August 2026, as historical background to the findings

India's delegation headed by Solicitor General Tushar Mehta

India rejected the observations on August 26, 2026; MEA Spokesperson Randhir Jaiswal said India "rejects any politically motivated highly malicious references in the report with all the contempt that it deserves"

Document symbol: CERD/C/IND/CO/20-21, the concluding observations on India's combined twentieth and twenty-first periodic reports

Background: the review sitting was held in Geneva on August 11 and 12, 2026, in the Committee's 118th session (August 10 to 25, 2026)

The same session reviewed Finland, Honduras, India and Kuwait, and adopted a General Recommendation on reparatory justice for colonialism, enslavement and the transatlantic trade in enslaved Africans

ICERD AND CERD:

ICERD adopted 1965, in force 1969; India signed 1967, ratified 1968

CERD has 18 independent experts; it is the oldest UN human rights treaty body

Concluding observations are NON-BINDING recommendations, not judgments

Article 1 defines racial discrimination by race, colour, descent, or national or ethnic origin

Article 4 concerns criminalisation of racist propaganda and incitement

Article 14 is the optional individual-complaints procedure; India has NOT made this declaration

INDIA'S LEGAL POSITION:

India holds that caste-based discrimination is not "racial discrimination" under ICERD Article 1, a position maintained including at the 2001 Durban Conference

India is NOT a party to the 1951 Refugee Convention or the 1967 Protocol

India is not a party to the 1954 Statelessness Convention or the 1961 Convention on the Reduction of Statelessness

INDIAN CONSTITUTIONAL AND STATUTORY FRAMEWORK:

Articles 14, 15, 16, 17 (abolition of untouchability), 21

Articles 330, 332, 335, 338 (NCSC), 338A (NCST), 342

Protection of Civil Rights Act, 1955; SC and ST (Prevention of Atrocities) Act, 1989

Forest Rights Act, 2006; Protection of Human Rights Act, 1993 (NHRC)

Paris Principles (1993) govern national human rights institution accreditation

OTHER RELEVANT FACTS:

As background, the Committee had used early-warning and urgent-action procedures on India since May 2025 and again in January 2026

Related recommendations covered the SIR, NRC, the Citizenship (Amendment) Act, the Immigration and Foreigners Act, the Bharatiya Nyaya Sanhita and the IT Rules

Communities named: Naga, Kuki, Chakma, Hajong; also the Great Nicobar and Andaman Islands projects

Sources: The Hindu, OHCHR, Ministry of External Affairs

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