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EDITORIAL ANALYSIS

Malicious, or Merely Unwelcome? India and the Treaty Body It Just Dismissed

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INTERVIEW ANGLE

"India rejects caste as a form of racial discrimination while CERD holds that descent covers caste. If India is right on the law, does rejecting the committee's findings outright still serve India's interest, or would a reasoned rebuttal on the record serve it better?"

Source: [Original editorial ↗](#)

The Hindu

 Every fact web-verified against primary sources

THE LIFT LINE

WHY THIS EDITORIAL MATTERS FOR YOUR EXAM

This is the rare topic that sits cleanly across three GS2 sub-headings at once: **international treaties and bodies**, **mechanisms and institutions for the protection of vulnerable sections**, and **India's foreign policy and multilateral aspirations**. Most candidates can write about one of them. Very few can write the sentence that connects them, which is that a domestic social-justice question has become an instrument in a Security Council candidacy.

There is a second reason to study it. This topic tempts candidates into taking a side, and both available sides are traps. Writing that international criticism of India is inherently biased reads as defensive. Writing that India should simply accept the findings ignores a real and long-standing legal objection. The mark-earning position is procedural: **contest the jurisdiction, answer the facts, and stop there**.

BACKGROUND AND CONTEXT

The review. India appeared before the **Committee on the Elimination of Racial Discrimination** on **August 11 and 12, 2026**, its first appearance since **2007**, on its **combined twelfth to twenty-first periodic reports** submitted in **2023**. The inter-ministerial delegation was led by **Solicitor General Tushar Mehta**.

What the committee said. The concluding observations recorded grave concern about reported **large-scale violations by law enforcement officials** against ethnic and ethno-religious groups, **Indigenous and Tribal Peoples including Scheduled Tribes, Scheduled Castes and particularly Dalits**, and **non-citizens**. The listed conduct included racially motivated violence, excessive use of force, extrajudicial killings, arbitrary and prolonged detention without due process, torture, ill-treatment and sexual violence.

On **caste**, the committee recorded that Dalit communities continue to face **segregation and exclusion from shared public, religious and cultural spaces**, with severely limited access to adequate infrastructure.

On **Assam**, the committee said India urgently needed to address **hate crimes against Bengali-speaking Muslims**. It had already raised the matter through its **early-warning and urgent-action procedures in May 2025 and January 2026**, and described **systematic and structural racial discrimination** in the updating of the **National Register of Citizens**.

India's reply. The Ministry of External Affairs called the references **politically motivated** and **highly malicious**. It characterised the exercise as a **routine treaty-body review** in which India had participated **in a spirit of constructive engagement**, and said the delegation had already rejected **sweeping generalisations, unsubstantiated allegations and the tendency to exceed the Convention's mandate** during the review itself.

THE ANALYSIS

What CERD is, precisely. It is the body of **eighteen independent experts** that monitors implementation of the **International Convention on the Elimination of All Forms of Racial Discrimination**, adopted in **1965** and in force from **1969**. India **ratified in 1968**. States parties submit periodic reports; the committee issues **concluding observations**, which are **recommendations and are not legally binding**.

The jurisdictional dispute, which is the intellectual core. **Article 1(1)** of the Convention defines racial discrimination by reference to **race, colour, descent, or national or ethnic origin**. The single contested word is **descent**.

POSITION	ARGUMENT
India's position	Caste is a form of social stratification internal to Indian society, not a matter of descent in the Convention's sense. India argued this at the 2001 Durban World Conference against Racism and has maintained it since.
The committee's position	Its General Recommendation of 2002 held that descent includes discrimination based on caste and analogous systems of inherited status .

Why this is a serious argument and not a dodge. A treaty means what its parties negotiated. If a monitoring body can extend a definition by interpretation, states lose control over the scope of obligations they accepted. That is a legitimate structural objection and it is made by other states in other contexts.

Why rejection is still a poor instrument. The observations bind nobody. Engaging costs India **no sovereignty** and creates **no obligation**. What a blanket rejection forfeits is the **record**. India has substantial material to put forward: **Article 17** abolishing untouchability, the **Protection of Civil Rights Act, 1955**, the **Scheduled Castes and the**

Scheduled Tribes (Prevention of Atrocities) Act, 1989, and constitutional commissions under **Articles 338** and **338A**.

None of that enters the file if the reply is that the criticism is malicious.

The audience point. The exchange is not really with eighteen experts in Geneva. It is with **third states**, many of them in the constituency India courts as a leader of the Global South, and many of them themselves the subject of critical treaty-body findings which they answered rather than dismissed. For a state whose case for a permanent Security Council seat rests on being a **norm-abiding power fit to enforce norms against others**, declining to be measured against a non-binding standard is a costlier signal than any single paragraph of criticism.

DATA AND INSTITUTIONS VAULT

PRELIMS-GRADE FACTS:

THE CONVENTION AND THE COMMITTEE:

ICERD is the International Convention on the Elimination of All Forms of Racial Discrimination.

ICERD was adopted in 1965 and entered into force in 1969; India ratified it in 1968.

CERD is a body of eighteen independent experts monitoring implementation of ICERD.

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

CERD's concluding observations are recommendations and are not legally binding.

CERD's General Recommendation of 2002 held that descent includes caste-based discrimination.

India has argued since the 2001 Durban conference that caste is not covered by descent.

THE 2026 REVIEW:

India appeared before CERD on August 11 and 12, 2026, its first review since 2007.

The review covered India's combined twelfth to twenty-first periodic reports, submitted in 2023.

Solicitor General Tushar Mehta led India's inter-ministerial delegation.

CERD recorded concern about violations against Scheduled Tribes, Scheduled Castes and non-citizens.

CERD said Dalits face segregation and exclusion from shared public, religious and cultural spaces.

CERD flagged hate crimes against Bengali-speaking Muslims and the NRC update in Assam.

CERD had used early-warning and urgent-action procedures on Assam in May 2025 and January 2026.

India's Ministry of External Affairs called the references politically motivated and highly malicious.

THE DOMESTIC FRAMEWORK:

Article 17 of the Constitution abolishes untouchability and forbids its practice in any form.

The Protection of Civil Rights Act, 1955 penalises the enforcement of untouchability.

The SC and ST (Prevention of Atrocities) Act, 1989 is the dedicated atrocities statute.

Article 338 establishes the National Commission for Scheduled Castes.

Article 338A establishes the National Commission for Scheduled Tribes.

*CERD is a **treaty body** created by ICERD, made up of independent experts. It is **not** a UN Charter body and it is **not** the **Human Rights Council**, which is an inter-governmental body of member states conducting the **Universal Periodic Review**. Two different mechanisms, two different memberships, two different legal characters. Confusing them is one of the commonest GS2 errors on this topic.*

THE DEBATE

India was right to push back. The committee extended a treaty definition its parties did not negotiate, relied on submissions selected by advocacy organisations, and issued findings on an internal social question over India's explicit and repeated objection. A state that acquiesces in interpretive expansion invites more of it.

India was wrong to push back this way. The observations bind nobody, so nothing was gained by refusing them and something was lost. A reasoned legal objection plus enforcement data would have contested the jurisdiction just as firmly while placing India's own account on the same record. "Highly malicious" cannot be cited by anyone, in any forum, in India's favour.

Where the truth likely sits. The substance of India's legal objection is stronger than the form of its reply. Those are separable, and separating them is free. A state can say, in the same document, that the Convention does not reach caste, that the allegations are contested, and here is the prosecution data. That reply would have been harder to dismiss than the one that was issued.

HOW TO THINK ABOUT THIS

For any international criticism of a state, run four questions in order.

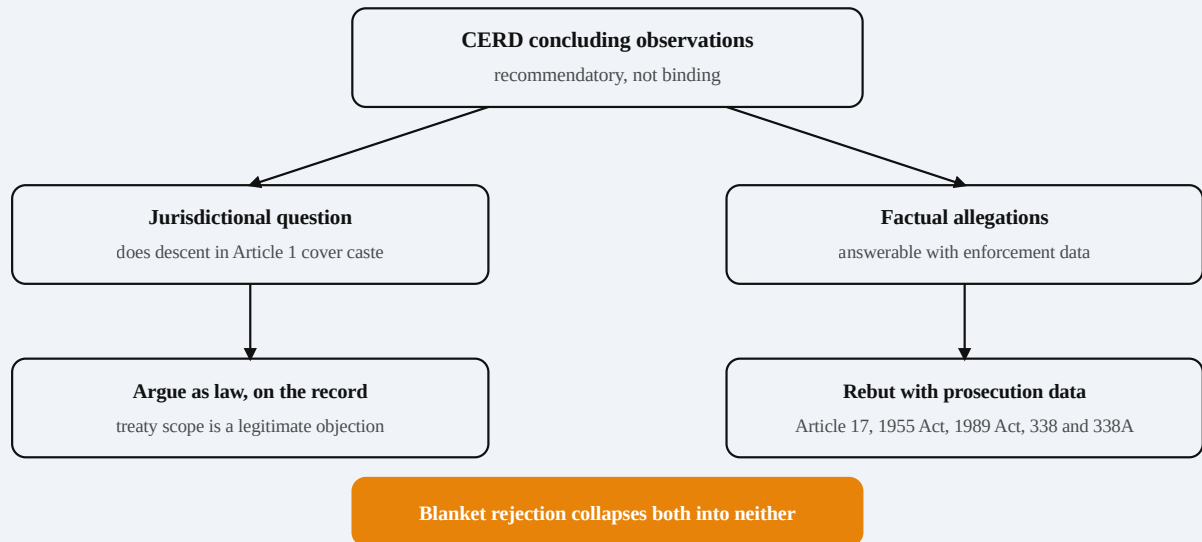
Is the body binding or recommendatory? If recommendatory, "sovereignty" is not the issue and an answer that leans on sovereignty has misread the mechanism.

Is the objection jurisdictional or factual? Jurisdictional objections are about scope and are argued as law. Factual objections are about evidence and are argued with data. Merging them weakens both.

Who is the real audience? Almost never the body itself. Usually third states, and sometimes the domestic public.

What does the state's wider strategy require? A country seeking to enforce norms multilaterally is held to a different standard of engagement than one that is not, and it has chosen that standard for itself.

DIAGRAM-IN-WORDS



The two objections are separable and each has a proper instrument. A single charge of malice answers the first weakly and the second not at all, which is why it leaves only the criticism on the record.

TAKEAWAY BOX

A recommendation you can lawfully ignore is still a record other states will read.

ICERD adopted 1965, in force 1969, India ratified 1968; CERD is eighteen independent experts; Article 1(1) covers race, colour, descent, or national or ethnic origin; CERD's 2002 General Recommendation reads descent to include caste; India contested this at Durban in 2001; India's review was on August 11 and 12, 2026, its first since 2007, on the twelfth to twenty-first periodic reports submitted in 2023; Solicitor General Tushar Mehta led the delegation; concluding observations are non-binding.

Separate the jurisdictional objection, argued as law, from the factual allegations, rebutted with enforcement data.

Rejection costs no sovereignty because nothing binds; it costs the evidentiary record, and the audience is third states rather than the committee.

If India is right that the Convention does not reach caste, does rejecting the findings outright still serve India's interest, or would a reasoned rebuttal on the record serve it better?

Sources: *The Hindu, OHCHR, Ministry of External Affairs*

Source: Malicious, or Merely Unwelcome? India and the Treaty Body It Just Dismissed — Ujiyari.com | Free UPSC & State PCS Editorial Analysis

● KEY ARGUMENTS AT A GLANCE

Writing in The Hindu, the argument is that India's blanket characterisation of the CERD concluding observations of August 2026 as politically motivated and highly malicious may cost more than a substantive engagement would have, because a state that presents itself as a leader of the Global South and a candidate for permanent membership of the UN Security Council is asking to be trusted with the enforcement of exactly the kind of norms it has just declined to be measured against.



SUPPORTING

- The review was a routine periodic obligation, not an adversarial proceeding: India appeared before CERD for the first time since 2007, on its combined twelfth to twenty-first periodic reports submitted in 2023, with an inter-ministerial delegation led by the Solicitor General.
- The committee's concluding observations are recommendations, not orders, so engaging with them costs India no sovereignty and creates no enforceable obligation, while a blanket rejection forfeits the chance to place India's own account of the facts on the international record.
- India's substantive legal position, that caste is not covered by the Convention, is a serious and long-standing argument that deserves to be made in legal terms rather than dissolved into an accusation of malice, which is a weaker instrument.
- The audience for the exchange is not the committee but third states, and the Global South constituency India courts includes many states that have themselves been criticised by treaty bodies and have chosen to answer rather than to dismiss.



COUNTER

The counter-argument is that treaty bodies are not neutral. They rely heavily on submissions from non-governmental organisations, apply a jurisprudence that member states never negotiated, and have in this instance extended the Convention to caste despite India's explicit and repeated position that descent in Article 1 does not cover it. On this reading a firm rejection is not petulance but a legitimate defence of the treaty's negotiated scope, and a state that concedes ground on interpretation invites the committee to expand it further. India also has a defensible record to point to: constitutional prohibition of

untouchability, a dedicated criminal statute, and constitutional commissions for Scheduled Castes and Scheduled Tribes.



WAY FORWARD

Separate the legal objection from the political one and make both properly. Contest the jurisdictional question, that the Convention does not extend to caste, in reasoned legal terms on the record.

Answer the factual allegations with India's own data on prosecutions, convictions and institutional remedies, which is the material a rebuttal actually needs. Reserve the language of malice for demonstrable bad faith.

And treat the periodic report as a domestic accountability instrument as much as an international one, since a state that can document its own record credibly is a state that has less to fear from being reviewed.


MAINS ANSWER FRAMEWORK
QUESTION

International human rights treaty bodies issue non-binding recommendations that states are free to reject. Examine the costs and benefits of rejection for a state seeking a permanent seat on the UN Security Council. (250 words)

INTRODUCTION

International human rights treaty bodies, established under the core United Nations conventions, examine periodic state reports and issue concluding observations. These observations are recommendatory: they create no enforceable obligation and no state can be compelled to accept them.

A state may therefore reject them at no direct legal cost. The strategic question, for a country seeking permanent membership of the Security Council, is whether the indirect cost is equally nil.

BODY

The case for rejection is real. Treaty bodies depend heavily on civil society submissions whose selection is not neutral, and they develop interpretive doctrine that states never negotiated.

The Convention on the Elimination of All Forms of Racial Discrimination, adopted in 1965 and in force from 1969, defines racial discrimination in Article 1 by reference to race, colour, descent, or national or ethnic origin. India ratified it in 1968 and has maintained since, most prominently at the 2001 Durban conference, that caste is a question of social stratification and not of descent within the meaning of the Convention.

The committee's General Recommendation of 2002 took the opposite view. That is a genuine interpretive dispute about the negotiated scope of a treaty, and a state that acquiesces in an expansive reading invites further expansion.

The case against blanket rejection is that it answers the wrong question. Since the observations bind nobody, engagement forfeits no sovereignty.

What rejection forfeits is the record: a reasoned reply places a state's own account of prosecutions, convictions, institutional remedies and constitutional guarantees before the same audience that read the criticism, whereas a dismissal leaves only the criticism on file. The relevant audience is also not the committee but third states, and a substantial part of the constituency India seeks to lead consists of countries that have themselves been reviewed critically and have chosen to answer.

Finally, a state arguing for admission to the Security Council is arguing that it should be trusted with the enforcement of international norms against others; declining to be measured against a recommendatory standard weakens that argument more than any single finding could.

CONCLUSION

The balanced position is that the legal objection and the political reaction should be separated. A state may properly and firmly contest a treaty body's jurisdiction over a subject its negotiators did not include, and the objection on descent is a serious one.

But it should be made as law, on the record, alongside a factual rebuttal drawn from the state's own

enforcement data, rather than folded into a charge of malice which persuades no third party and cannot be cited. Engagement without concession is available, it costs nothing legally, and for a state whose international ambitions rest on being seen as a norm-abiding power it is the more useful instrument.

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