

IDSN submission to UN Special Rapporteur on contemporary forms of slavery:

Input to thematic report on forced marriage, May 2012

Forced marriage and forced prostitution of Dalit women

Thousands of Dalit women are pushed into forced marriage, prostitution, and sexual exploitation every year as a result of harmful, traditional practices inherited from the caste system. The link between caste and forced prostitution is apparent in the Devadasi and Jogini systems practiced in India, and the Badi caste in Nepal. This type of practice legitimizes sexual violence and discrimination and highlights the intersection between discrimination based on caste and gender. Another problem is forced conversions of Hindu girls in Pakistan.

While the systems of forced prostitution contain some of the elements of forced marriage – e.g. in the form of religiously sanctioned sexual abuse – they may not constitute marriage as such. Instead the women may be prohibited from marrying and leading a normal family life (Devadasi system).

Several UN treaty bodies have expressed concern about the dowry and devadasi systems of harmful, customary practices, incl. forced marriage, sexual exploitation, and marital rape (see list of references below).

Forced conversions in Pakistan

One of the key concerns faced by women in Pakistan, particularly Hindus in Sindh province, is the problem of forced conversion under the guise of marriage of choice. The worst victims are Scheduled Caste girls who are kidnapped or lured into conversion, sexually exploited and then abandoned.ⁱ It has been estimated by the Pakistan Hindu Council, a social organization in Pakistan, that at least 25 Hindu girls are reported kidnapped each month in Sindh, leaving out those cases that are unreported.ⁱⁱ A case from late February 2012 clearly illustrates the need for immediate response by the government to the increase in these cases.ⁱⁱⁱ Ms. Rinkel Kumari, a 17-year old Hindu girl from the town of Mirpur Mathelo, was kidnapped on February 24 2012. The kidnapping was allegedly ordered by a Member of the National Assembly (MNA) of the Pakistan People's Party (PPP). The same week that Rinkel was kidnapped three other Hindu girls were kidnapped and underwent the same harassment, conversion, and forced marriage including a physician who worked at a prestigious hospital in Karachi. The problem of faith conversion is a serious situation, which affects a minority and marginalized group in a country where the majority are Muslims.

In a recent report on Pakistan (UPR submission 2012), ALRC and ACAT-France estimate that on average some 700 Christian and 300 Hindu girls are forcibly converted to Islam each year in Pakistan, notably in Punjab, Khyber Pakhtun Kha and Sindh provinces.^{iv} Typically girls are abducted, raped and kept in Madrassas, where they are forced to sign marriage certificates and claim that they have converted to Islam. Despite the 2011 Prevention of Anti-women Practices Act, which abolishes the practice of forced marriages and the exchange of girls in settling disputes, as well as the marriage of minor girls, the police refuse to intervene in such cases and courts are even complicit in this, by nullifying women's previous non-Islamic marriages and recognising their forced marriages instead.

In effect, IDSN recommends that the Government of Pakistan take effective measures to prevent and investigate cases of forced conversion of girls, with an emphasis on the most vulnerable groups such as Scheduled Caste girls.



Mura, Far Western Province, Nepal, Nov 2007. Soni Badi, 25, is a sex worker. As a Badi Dalit she is prevented from owning land, has little access to education and other services crucial to sustain life and avoid lifelong poverty.

Forced prostitution of Dalit women (India and Nepal)

In India and Nepal there are harmful cultural practices predominantly affecting marginalized Dalit communities.^v The *Devadasi* and *Jogini* systems in India are a form of religiously sanctioned sexual abuse. Keeping Dalit women as prostitutes and tying prostitution to bondage is a means of subjugation by dominant castes seeking to enforce their social status and economic superiority.

In 2006, Anti-Slavery International undertook a research project into the practice of ritual sexual slavery or forced religious 'marriage' (released in 2007). It found that 93% of *Devadasi* were from Scheduled Castes (Dalits) and 7% from Scheduled Tribes (indigenous) in India (ASI, 2007).

Although women sometimes choose to become *Devadasi*, frequently young girls are dedicated to the temple by their families before puberty, without consent or any understanding of what it means. There are variations in the cultural practices of temple dedication; however, in all *Devadasi* systems the girls are 'married' to the temple deity, before or at puberty. They are raped soon after they reach puberty and then expected to be sexually available to any man in the area. Girls who are given by their families to become *Joginis* undergo an initiation ceremony including a 'marriage' to stand-in 'husband' (who may be a relative or already married). This 'husband' may take responsibility for looking after her economically or he may abandon her. If he abandons her, she is either given to another man (again without her consent) who undertakes to support her economically or she may become forced to accept the sexual advances of any man in the local area (ASI, 2007).

Originally a sacred, religious practice, the *Devadasi* dedication of girls to temples has turned into a systematic sexual abuse of young Dalit girls serving as prostitutes for dominant caste community members and subsequent auctioning into brothels. They are prohibited under the practice from marrying and leading a normal family life, nor can they enjoy the normal social standing of a wife and mother even if they do have a 'husband' or partner. All *Devadasi* belong to particular Scheduled Castes and Tribes in a system which is predominantly found in Southern India. Thus, most girls and women in India's urban brothels come from Dalit, lower-caste, tribal, or minority communities (MRG, 2011).

Girls who become *Devadasi* and *Jogini* are prohibited from marrying and are stigmatized by the community. There is a saying that *Devadasi* are the 'servant of god but wife of the whole town' (Pradeep, 2003). Because the sexual abuse starts when they are very young, they frequently have children at a young age with the consequent health risks (see below). They are also exposed to the risk of sexually transmitted diseases. The status is permanent and they are unable to give up or renounce it. The children

of *Devadasi* and *Jogini* suffer from discrimination because they do not have a recognized father. Their daughters are particularly at risk of sexual exploitation because of their mother's perceived 'availability' and in some cases the status is inherited. Although the practice of dedicating young girls to a temple has been prohibited by law, it still continues (ASI, 2007).

Children of Devadasi also suffer discrimination because they have no recognised fathers. These are among the most vulnerable of all children to commercial sexual exploitation and trafficking both because of their mother's status, and because in some traditions the role is handed down through the generations (ASI, 2007).

In Nepal, the Badi caste is a Dalit 'sub-caste', known as the prostitute caste. Many Badi women are forced into prostitution and end up being trafficked to Mumbai's sex industry. The traditional ties of the Badi community to the sex trade may make girls and women in this community particularly vulnerable to exploitation.

Originally a caste of entertainers – dancers and musicians – the *Badi* saw their status decrease as society and the economy changed, eventually becoming prostitutes. *Badi* girls are frequently pressured by their families to start working as a prostitute at an early age to help with the household income. Lack of education and discrimination means that other job opportunities are rare both for *Badi* men and boys and for *Badi* women and one young *Badi* daughter working as a prostitute often supports her whole family. Their 'customers' are frequently upper caste men – local businessmen, politicians etc - who shun them in public. Until recently *Badi* women were unable to pass on citizenship to their children; however, that has changed. Efforts to reduce discrimination against Badi women and girls and provide them with alternative economic options have had mixed results (MRG, 2011).

In connection with a CEDAW review of Nepal in 2011, the Feminist Dalit Organisation demanded that the excessive exploitation of Badi women be put to an end, and that alternative employment for those involved in the sex trade must be arranged. In order to solve the issues of the Badi Community, the agreement reached between the National Badi Rights Struggle Committee and the Government should be implemented immediately.

REFERENCES

UN human rights treaty body recommendations

CEDAW Concluding Comments – Nepal 2011 (CEDAW/C/NPL/CO/4-5)

Stereotypes and harmful traditional practices

17. The Committee is concerned that patriarchal attitudes and deep-rooted stereotypes that discriminate against women remain entrenched in the social, cultural, religious, economic and political institutions and structures of the Nepali society, as well as in the media. The Committee is concerned at the persistence of harmful traditional practices in the State party, such as child marriage, dowry system, son preference, polygamy, widows accused of witchcraft, Chaupadi, Jhuma, Deuki and Dhan-Khaane.

Violence against women

[...] (d) Continue to provide the police, public prosecutors, the judiciary and other relevant Government bodies, as well as healthcare providers, with the necessary training on domestic and sexual violence and

undertake wider awareness-raising programs in all communities, including Dalit community, specifically targeting men and boys; and

(f) Adopt and enact without delay the draft law under preparation which significantly increases the punishment for marital rape, as mentioned during the dialogue, and undertake an awareness-raising campaign on the new provisions in this regard.

CEDAW Concluding Comments – Nepal 2004 (A/59/38 (SUPP))

208. The Committee is concerned at the continuing existence of child marriage and polygamy and other practices, including the institution of dowry, *deuki* (dedicating girls to a god and goddess), *jhuma* (in some communities, second sisters remain unmarried and spend their life in monasteries), *kumari pratha* (having a girl child as living goddess) and *badi* (ethnic practice of prostitution among young girls), that are contrary to the Convention and constitute discrimination against women. The Committee is also concerned that the enactment of the draft bill on domestic violence has been delayed indefinitely.

209. The Committee recommends action without delay by the State party to enforce its marriage laws, particularly as they relate to the prohibition of child marriage and polygamy, in the light of general recommendation 21 on equality in marriage and family relations, and urges the State party to take steps to abolish other harmful and discriminatory traditional practices, such as dowry *deuki*, *jhuma*, *kumari pratha*, and *badi*. The Committee also recommends that the State party take comprehensive and effective measures, including the training of the judiciary and law enforcement officials and public awareness-raising campaigns aimed at eliminating these practices. The Committee requests the State party to adopt immediately measures on domestic violence and to provide in its next report information about progress in relation to the draft bill on domestic violence.

CESCR Concluding Observations – India 2008 (E/C.12/IND/CO/5)

25. The Committee is deeply concerned about the lack of progress achieved by the State party in eliminating traditional practices and provisions of personal status laws that are harmful and discriminatory to women and girls, including *sati*, *devadasi*, witch-hunting, child marriages, dowry deaths and honour killings, in spite of the legal prohibitions such as the 2005 Domestic Violence Act, the 1961 Dowry Prohibition Act, the 1982 Prohibition of Dedication Act, the 1939 Child Marriage Restraint Act and the 2006 Prohibition of Child Marriage Act.

CEDAW Concluding Observations – India 2007 (CEDAW/C/IND/CO/3)

22. While noting that consultations are under way to amend relevant legislation relating to rape, the Committee is concerned about the narrow definition of rape in the current Penal Code and its failure to criminalize marital rape and other forms of sexual assault, including child sexual abuse.

23. The Committee urges the State party to widen the definition of rape in its Penal Code to reflect the realities of sexual abuse experienced by women and to remove the exception for marital rape from the definition of rape. It also calls upon the State party to criminalize all other forms of sexual abuse, including child sexual abuse. It recommends that the State party consult widely with women's groups in its process of reform of laws and procedures relating to rape and sexual abuse.

26. In addition to previously expressed concerns about customary practices, such as dowry, *sati* and the *devadasi* system (3), the Committee is concerned about the practice of witch-hunting which constitutes an extreme form of violence against women.

27. The Committee recommends that the State party adopt appropriate measures to eliminate the practice of witch-hunting, prosecute and punish those involved, and provide for rehabilitation of, and compensation to, victimized women. It recommends that such measures be based on an analysis of its causes, including control over land. The Committee calls upon the State party to create public awareness of forms of violence against women rooted in custom as an infringement of women's human rights.

CERD Concluding Observations – India 2007 (CERD/C/IND/CO/19)

15. The Committee is concerned about the alarming number of allegations of acts of sexual violence against Dalit women primarily by men from dominant castes, in particular rape, and about the sexual exploitation of Dalit and tribal women who are being trafficked and forced into prostitution. (art. 5 (b))

The Committee urges the State party to effectively prosecute and punish perpetrators of acts of sexual violence and exploitation of Dalit and tribal women, sanction anyone preventing or discouraging victims from reporting such incidents, including police and other law enforcement officers, take preventive measures such as police training and public education campaigns on the criminal nature of such acts, and provide legal, medical and psychological assistance, as well as compensation, to victims. The State party should also consider adopting victim-sensitive rules of evidence similar to that of Section 12 of the Protection of Civil Rights Act (1955) and establishing special court chambers and task forces to address these problems.

CRC Concluding Observations - India 2004 (CRC/C/15/ADD.228)

29. The Committee welcomes the National Plan of Action for the Girl Child and the Platform for Action, but is deeply concerned at the persistence of discriminatory social attitudes and harmful traditional practices towards girls, including low school enrolment and high dropout rates, early and forced marriages, and religion-based personal status laws that perpetuate gender inequality in areas such as marriage, divorce, custody and guardianship of infants, and inheritance.

30. The Committee urges the State party to take all necessary measures for the implementation of the National Plan of Action for the Girl Child and encourages the enforcement of protective laws. The Committee also encourages the State party to continue its efforts to carry out comprehensive public education campaigns to prevent and combat gender discrimination, particularly within the family. Political, religious and community leaders should be mobilized to support efforts to eradicate harmful traditional practices and attitudes which still discriminate against girls.

CRC Concluding Observations - India 2000 (CRC/C/15/ADD.115)

32. The Committee notes the persistence of discriminatory social attitudes and harmful traditional practices towards girls, including female infanticide, selective abortions, low school enrolment and high drop-out rates, early and forced marriages, and religion-based personal status laws which perpetuate gender inequality in areas such as marriage, divorce, custody and guardianship of infants, and inheritance.

Special Rapporteur on violence against women

Communications to/from Governments and interactive dialogue, 11th HRC session, June 2009 (A/HRC/11/6/Add.1)

In the addendum to her report to the Human Rights Council, the Special Rapporteur on Violence against Women, Ms. Yakin Ertürk, refers to 30 cases of violence against Dalit women in India, including incidences

of physical and verbal abuse, gang rape, sexual exploitation, witch hunting, and naked parading (paragraphs 185-246). The Special Rapporteur concludes in her rapport:

“217. According to the information received, Dalit women and men suffer descent based discrimination in various aspects of their lives and are also victims of violence and untouchability practices arising out of the caste system. Despite the formal abolition of “untouchability” by article 17 of the Indian Constitution, de facto discrimination and segregation of Dalits persists, in particular in rural areas and with regard to access to places of worship, housing, hospitals, education, water sources, markets and other public places.

218. Dalit women are confronted with discrimination, exclusion and violence to a larger extent than men. Land and property issues in particular, tend to cause or be at the root of conflicts over which Dalit women have faced eviction, harassment, physical abuse and assault. Dalit women are often denied access to or are evicted from their land by dominant castes, especially if it borders land belonging to such castes. They are thus forced to live in the outskirts of villages, often on barren land. Reportedly, on many occasions, cases of violence against Dalit women are not registered, and adequate procedures are not taken by the police.”

Draft UN Principles and Guidelines on the effective elimination of discrimination based on work and descent, paras. 23-25

Physical security and protection against violence

23. National and local governments should prohibit harmful practices of child marriages and dowry, and those forbidding the remarriage of widows, the dedication of girls to temple deities and forced, ritualized prostitution and create local law enforcement task forces for the effective implementation of the prohibition. (8)

24. State actors should take special measures, such as devising and implementing comprehensive plans of action and creating a monitoring mechanism, to protect affected communities from physical violence, including torture, sexual violence and extrajudicial killings.

25. Particular attention should be given to the situation of women and girls, including under domestic violence laws, and to sexual violence, sexual exploitation and trafficking committed against women and girls of affected communities.

Link to UN Principles and Guidelines (Annex to report published by the HRC in 2009, A/HRC/11/CRP.3):
http://idsn.org/fileadmin/user_folder/pdf/New_files/UN/A-HRC-11-CRP3.pdf

Global Call and Recommendations on Good Practice and Strategies to Eliminate Caste-Based Discrimination (2011)

2. Addressing multiple discrimination against Dalit women

e. Women and girls affected by caste-based discrimination are particularly vulnerable to various forms of sexual violence, forced and ritual prostitution, trafficking, domestic violence and punitive violence when they seek justice for crimes committed. Measures should be taken to increase protection from these crimes and to tackle impunity and discrimination in access to justice. Such measures can include police and judicial training and monitoring, legal assistance for prosecution of crimes, strengthening laws against domestic violence and other forms of violence against women, awareness campaigns to help prevent exploitation, and investing resources into education for women and girls affected by caste-based discrimination.

Download: www.idsn.org/globalcall

OTHER RESOURCES

IDSN compilation of UN references to caste discrimination: www.idsn.org/uncompilation

[*Women in Ritual Slavery: Devadasi, Jogini and Mathamma in Karnataka and Andhra Pradesh, Southern India*](#), Anti-Slavery International, 2007:

http://idsn.org/fileadmin/user_folder/pdf/New_files/India/WomeninRitualSlavery.pdf

Submission by Minority Rights Group International to the call for papers on Harmful Practices in advance of a Joint CEDAW-CRC General Recommendation / Comment on Harmful Practices (2011):

http://www2.ohchr.org/english/bodies/cedaw/docs/cedaw_crc_contributions/MinorityRightsGroupInternational.pdf

[Article on forced prostitution in India's Southern States](#) by Manjula Pradeep, Navsarjan Trust (2003)

[Dalit women speak out - read the charter of demands made by the National Federation of Dalit Women \(NFDW\)](#)

IDSN key issue note on Dalit women: <http://idsn.org/caste-discrimination/key-issues/dalit-women/>

ⁱ See demands by Pakistan Dalit Solidarity Network to the Government of Pakistan to stop forcible conversions of Dalit girls: <http://www.thenews.com.pk/Todays-News-4-59668-Dalits-ask-govt-to-stop-forced-conversions> See also more press clippings on this aspect: <http://www.pakistanchristianpost.com/headlinenews.php?hnewsid=2874> and <http://www.asianews.it/news-en/Pakistan,-forced-conversions-of-Hindu-girls-to-Islam.-Often-unreported-out-of-fear-21826.html>

ⁱⁱ According to this information, Hindus are targetted due to many local muslims seeing them as kafirs (non muslims) and therefore of lower class as well as evil. <http://www.chakranews.com/at-least-25-hindu-girls-abducted-every-month-in-pakistan/655> Read more about this: <http://alertpak.wordpress.com/category/plight-of-hindus-in-pakistan/>

ⁱⁱⁱ Read more about the case: http://articles.timesofindia.indiatimes.com/2012-03-14/us/31164574_1_hindu-religious-conversion-islamization and <http://tribune.com.pk/story/345540/forced-hindu-conversions-rinkles-neighbourhood-floods-into-karachi-to-demand-her-release/>

^{iv} [UPR Stakeholder submission by the Asian Legal Resource Centre](#), 23 April 2012

^v In 2011, the Minority Rights Group International made a submission on Harmful Practices in advance of a Joint CEDAW-CRC General Recommendation / Comment on Harmful Practices, with inputs from IDSN. Parts of this text is taken from the submission (see link in "Other Resources").