



Report on Respecting, Protecting and Fulfilling the Right to Freedom of Thought: Forced Conversions and Forced Marriages - The Case of Pakistan
Special Rapporteur on Freedom of Religion or Belief

Submission by the International Dalit Solidarity Network - IDSN

Introduction

Guided by the objective of the call to “explore individuals and communities' perspectives on what freedom of thought encompasses, how the law could identify violations and how it could be protected in various contexts, whether involving State and non-State actors, both online and offline”, IDSN presents in this submission the case of forced conversions and marriages affecting the women’s and girls’ Dalit community, specifically in Pakistan.

In the context of this submission, forced conversions and marriages involve the abduction, luring, sexual exploitation, subjugation, forced marriage and/or conversion and abandonment of women from minorities, in which Scheduled Caste Hindu girls are the most severely affected.

Forced conversions and marriages represent one of the worst violations of the "freedom of thought", impairing or blocking minority and Dalit women and girls to freely choose their own religion or to opt to adhere to none. It indeed is a clear manifestation of “unlawful or coercive interference”, from these women’s “absolute freedom”. Moreover, forced conversions express an ongoing violation that perpetuates caste-based discrimination.

Guided by question 3¹ of the call, this submission demonstrates that forced conversions and marriages violate not only the right to freedom of religion and conscience, but other rights, such as the rights to education, right to life, right to privacy, right to freedom of expression, sexual and reproductive rights and right to redress (high rates of impunity). Embedded in many forms of harmful practices, forced marriages involve a complex set of prejudices and perpetrators (state and non-state actors), such as the community itself, local authorities, media, etc.

The Problem

In Pakistan, forced marriages and forced conversions of women and girls affect disproportionately Hindu and Christian minorities. There are frequent reports that the victims are kidnapped and subjugated to physical and emotional abuse involving threats of violence. These minorities face obstacles in pursuing remedies for the violations sustained. In a report to the CEDAW Committee of 2013, IDSN brought the issue of (forced) faith conversion, affecting minority women mostly from scheduled casts Hindu background. Many of the victims are forced to convert under the disguise of marriage of choice.² The worst victims are Scheduled Caste Hindu girls who are kidnapped or lured into conversion, sexually exploited and then abandoned.³

¹ “How and to what extent do other fundamental rights and freedoms (including but not limited to freedom of conscience, and freedom of religion or belief in Article 18 of the ICCPR, and the rights to privacy (Article 17 of the ICCPR), opinion and expression (Article 19 of the ICCPR)) either depend upon, support or otherwise relate to freedom of thought?”.

² Alternative report to the UN Committee on the Elimination of all forms of Discrimination Against Women (CEDAW) for the examination of the 4th periodic report of Pakistan at the 54th CEDAW session in February 2013 – “Schedules Caste Women in Pakistan - Denied a life in dignity and respect.” Prepared by the Pakistan Dalit Solidarity Network (PDSN) in association with the International Dalit Solidarity Network (IDSN), para. 74. Available at http://idsn.org/wp-content/uploads/user_folder/pdf/New_files/Pakistan/SCHEDULED_CASTE_WOMEN_IN_PAKISTAN_-_Alternative_report_to_CEDAW_-_PDSN_and_IDSN_-_Jan_2013.pdf

³ Scheduled Caste Children in Pakistan - Committee on the Rights of the Child (CRC) 72nd PSWG 5 - 9 October 2015 – Pakistan Joint alternative NGO report by the Pakistan Dalit Solidarity Network (PDSN) and the International Dalit Solidarity Network (IDSN), p. 9. Available at: [<https://idsn.org/wp-content/uploads/2015/07/IDSN-and-PDSN-alternative-report-on-Scheduled-Caste-Children-in-Pakistan-July-2015-CRC-Pakistan.pdf>]. See also: IDSN “Dalit women in Pakistan”, indicating that Dalit women that are victims to sexual abuse, abduction and forced religious conversion suffer triple discrimination due to their gender, religion and caste. Available at: [<https://idsn.org/key-issues/dalit-women/dalit-women-in-pakistan/>].

In its Concluding Observations on Pakistan, the CERD has demonstrated its concern about instances of forced marriage in that country, by highlighting that:

The Committee is deeply concerned at the repeated reports on abduction of Dalit women and girls for the purpose of forced conversion to Islam and forced marriage. It regrets the lack of detailed information and data on the situation of Dalits in the State party (arts. 1, 2 and 5).⁴

The Magnitude of the Problem

Abductions and forced marriages in Pakistan affect a wide range of minorities but affect more seriously Hindu and Christian women and girls. It has been estimated by the Aurat Foundation that around 1,000 women and girls are abducted, converted and then married off to their abductors. There are also accounts that, once kidnapped and forcibly converted, women and girls are raped, sold off, and are forced into prostitution or into human trafficking, particularly among the most deprived populations, as in the Sanghar, Ghotki and Jacobabad regions. In a 2012 UPR report, it was estimated 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.⁵

The socio-economic context and the position of the victim in society are key factors that victimize women and girls in forced marriage and conversion. IDSN accounts for that the so-called Untouchables, or Scheduled Castes amount to 330,000 under official statistics, but that the real figure may reach 2 million. Dalits and Hindus face frequently bonded labour in the agriculture and brick kiln sectors. The young Dalit women and girls, who work in the agricultural sector, are more vulnerable to violence, harassment and rape. 14-year-old Jeetvi, the daughter of bonded labourers, was abducted from her parent's home by the landlord, converted to Islam and forcibly married to him as a second wife, given his claim of an unpaid debt of US\$ 1000.00 by her family. Other factors such as destruction of community buildings and temples leaves Hindus vulnerable due to a lack of community protection and cohesion.

⁴ CERD, Concluding Observations on Pakistan, UN Doc. CERD/C/90/1, para. 31.

⁵ UPR Stakeholder submission by the Asian Legal Resource Centre and ACT-France, 23 April 2012.

Legal Framework

Since 1860, Pakistani legislation prohibits forced marriage (Penal Code, Chapter XX-A, Offenses against Women). In 1929, the Child Marriage Restraint Act is approved providing more clarity on the prohibition forced marriage. However, in practice this act is hardly ever applied, as it has been un-Islamic by the Council of Islamic Ideology, blocking efforts to prevent forced conversion, as pointed out by the CESCR in 2017:

The Committee is concerned that the practices of forced conversion of non-Muslim women and forced marriage continue. It is particularly concerned that the proposed amendment to the Child Marriage Restraint Act, 1929, has been declared un-Islamic by the Council of Islamic Ideology and that efforts to enact a law to prevent forced conversion have been blocked by the Council (arts. 3 and 10).

The Committee recommends that the State party prohibit the forced conversion of a person from his/her belief without his/her consent.⁶

However, in 2016, this act was amended and inserted an additional definition of female child as “non-Muslim woman”. This additional definition is ambiguous, problematic and open to abuse. Such scenario is further complicated by the application of Sharia Islamic Law principles. For instance, the *Wali* (guardian) of a girl is empowered by those principles to authorize a child marriage. The case of Revita Megwar (Hindu, 16) is illustrative. She was kidnapped and hours later re-appeared apparently embracing Islam. Her parents filed a petition to the court requesting her return, while her husband filed another petition requesting protection of his family. Given diverse legal applications from different religious groups, the Islamic marriage law prevailed over the Marriage Restraint Law, leading the court to order the return of Revita to her husband.

The Sindh Criminal Law (Protection of Minorities) Bill was unanimously adopted in 2016 by the Sindh Assembly, which included many sections banning forced marriage, through specific instruments of implementation. Chapter IV(5) defines comprehensively forced conversion as forcing a person to adopt other religion under duress, force, coercion or threat. Chapter II provides for training and sensitization of the police and the judiciary on child marriage. It also establishes a body to oversee the relevant violations. Chapter III prohibits the conversion of a person under 18. Chapter IV sets the criminal penalties for anyone convicted of child marriage.

⁶ CESCR, Concluding Observations on Pakistan, [UN Doc. E/C.12/PAK/CO/1](#), paras. 57-58.

Chapter V gives priority to such cases in court, enabling swift action by courts. Chapters X through XII provide a number of procedural protections to the victim of forced marriage and conviction. Despite the positive provisions of this law, it was not enacted by the governor, given the strong mobilization and pressure of influential Islamist groups and parties against this law.

In 2017, the Hindu Marriages Act was approved by the National Assembly in Pakistan, formalizing the registration of Hindu marriages, filling an important gap of official registration, particularly in view of the risk of Hindu women and girls being accused of adultery, through the *zina* judgments. However, this law authorizes unilateral right to divorce by one of the parties in case of conversion of the other party. This clause opens the door to new forced conversion and annulment of marriages and to legitimize abduction and forced marriages. This clause is also in violation of Article 18 ICCPR stating that the change of religion should imply on an individual's marital position.

Access to Justice

Access to justice for girls subjected to forced marriage represent an important obstacle, given the frequent biases and lack of adherence to the legal procedures in cases involving forced marriage. Deeply entrenched patriarchal values and cultural norms in Pakistan have influenced the acceptance by the justice system of the face-value statements of the husbands. Seldom there are investigations into the allegations of the surrounding circumstances of the marriages and conversions, and the girl victim's age is frequently ignored.

As demonstrated by these cases, the general practice of forced conversions is that a girl is kidnapped; her parents lodge a complaint with the police about the kidnapping; and a few days later she is declared to have embraced Islam, and her marriage with a Muslim man is announced. In such cases, the law against forced marriages hardly applies, because the case becomes a religious issue; once the girl is declared a Muslim, she cannot revert back to her former religion. The government therefore needs to put in place laws and measures, which take this matter into account and protect the rights of these minority girls.⁷

The case of Rinkle Kumari, judged by the Supreme Court of Pakistan (2012) is rather representative. She filed a petition before the Karachi High Court alleging that she had been forcibly abducted and converted, with the support of a powerful politician. Even hearing Rinkle's

⁷ PDSN and IDSN, report *supra*, para. 76 (underlines added).

compelling argument that she had been forced to conversion and marriage, that Court allowed the accused to “take her home”. The Supreme Court ignored her age of 16 years, thus illegal in that country.⁸

The CERD, in 2016, strongly recommended Pakistan to take all effective measures to eradicate the practice of forced conversion and forced marriage by punishing the perpetrators proportionally:

It urges the State party to take immediate action to end the forced conversion and forced marriage of Christian and Hindu Dalit women and to prosecute and punish the abductors with penalties commensurate with the gravity of the crime. CERD/C/PAK/CO/21-23 7.

The media in Pakistan often silences forced marriage and forced conversion. Many cases go underreported due to pressure on the media by influential locals and religious leaders. Such insufficient reporting and debate on a serious problem such as the current one contribute to the social milieu that encourages forced conversions and marriages.

A Multi-Violation Problem

Forced marriages and forced conversions affect a wide range of rights of Dalit women and girls trapped in those situations, including the right to education, sexual and reproductive rights and access to justice. Kirshana Lal, 33, from the Kolhi clan (bottom of the hierarchy among scheduled castes), counselor in a legal aid center explains:

“The incidence of kidnapping, forced conversion and sexual harassment of scheduled caste and minority girls are often and most frequently happening in the provinces of Sindh and South Punjab”, she explains. As a result, the majority of the parents hesitate to send their daughters to schools and out of the home. She points out some recent incidences involving two Dalit child girls. 14 year-old Momal converted into Islam, and 6-year old Viganti was raped. But no action was taken to punish the perpetrators. Kirshana says that despite the enactment of the

⁸ Id: “One case, which received media coverage in local, national and international newspapers, was the case of Ms. Rinkel Kumari, a 17-year old Hindu girl from the town of Mirpur Mathelo. She was kidnapped on February 24 2012; a kidnapping which 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.” Para. 75.

law on Protection against Harassment of Women at Workplace, there is very little implementation at the grass root level. The young Dalit women and girls, who work in the agricultural sector, are more vulnerable to violence, harassment and rape. But the media does not pick up such cases. The rape case of Kastoori Kolhan became a high profiled case in the national and international media. But no real action was taken, “Unfortunately justice is only for the rich; not for the poor and lower caste people. We cannot change our status, until we fight against this injustice. And to fight for justice, we need to educate our people,” Kirshana says.⁹

⁹ IDSN: “Case Studies of Dalit Women in Pakistan (2012)”, available at: [https://idsn.org/wp-content/uploads/user_folder/pdf/New_files/Pakistan/Dalit_women_in_Pakistan_-_case_studies_2012.pdf]