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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Franciscans International, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2012]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Child marriage in India

Introduction

Franciscans International (FI) welcomes the annual report of the Special Representative of the Secretary-General on Violence against Children and her ongoing commitment to accelerate progress in children's protection from all forms of violence.

FI would like to draw the attention of the Special Representative of the Secretary-General to the issue of child marriage as a practice deeply rooted in the Indian society.

The current situation

The Government of India has taken significant steps toward the elimination of this heinous practice, notably the adoption of the National Action Plan for Children - whose priority, among others, is "complete abolition of female feticide, female infanticide and child marriage and ensuring the survival, development and protection of the girl child"¹ - the establishment of the National Commission for the Protection of Child Rights (NCPCR) and the adoption, in 2006, of the Prohibition of Child Marriage Act.² However, given the composite nature of the issue, India is still facing compelling challenges which are yet to be addressed.

The harmful traditional practice of child marriage in India is a complex and multifaceted issue which is related to socio-cultural, gender, economic and political factors and which may involve slavery, trafficking in persons, arranged, traditional and customary marriages, fictitious marriages and bride kidnapping.

FI is seriously concerned that the following factors have increased the number of child marriages in India in recent years. The first factor comprises sex-selective abortions and female infanticide; the second is the persistent lack of adequate systems of birth and marriage registration which, if put in place, would tremendously decrease the number of child marriages.

In India, gender selection is not a new phenomenon and it is widespread across the country. FI is aware that this custom is at least 30 years old in the Usilampatty area (Madurai District, Tamil Nadu State), and the State of Punjab is known for its gender selection and abortion centers.³ Diverse and complex reasons lie beneath the choice to terminate a pregnancy or to kill a girl-child and they all refer to the common perception of girls as social and financial burdens on their families.

¹ National Plan of Action for Children, page 3, available at: <http://wcd.nic.in/napaug16a.pdf> (last visited 7 February 2011).

² The Prohibition of Child Marriage Act, 2006, available at: <http://wcd.nic.in/cma2006.pdf> (last visited 9 February 2011).

³ Section 4 of The Medical Termination of Pregnancy Amendment act, 2002 states that "No termination of pregnancy shall be made in accordance with this Act at any place other than (a) a hospital established or maintained by Government, or b) a place for the time being approved for the purpose of this Act by Government or a District Level Committee constituted by that Government with the Chief Medical Officer or District Health Officer as the Chairperson of the said Committee (available at [http://rajswasthya.nic.in/PCPNDT%2005.12.08/\(11\)/MTP%20Amendmend%20act%202002%20\(8\).pdf](http://rajswasthya.nic.in/PCPNDT%2005.12.08/(11)/MTP%20Amendmend%20act%202002%20(8).pdf), last visited 9 February 2012).

The same rationale pushes families to arrange early marriages. Young girls are frequently forced into early marriages to preserve their chastity; therefore, the ceremony is usually arranged before puberty, without considering the physical and psychological consequences for the child-bride. Early marriages are also organized to relieve families from the social obligation of providing a dowry as early as possible. The dowry requirements increase with the age and level of education of the girls, and for this reason there are instances of families arranging weddings for girls below the age of fifteen.⁴

Furthermore, gender selection and female feticide are causes of the distorted gender ratio affecting India today. The diminishing number of girls drives families to take advantage of this situation and organize their daughters' weddings in accordance with the best offer they receive from potential husbands, with little consideration of the conditions which might be imposed on the child-brides. In some cases, poor parents also sell their daughters to traffickers and middle-men who make fraudulent promises to arrange their marriages. Frequently the result is that these girls become sexual slaves, domestic workers or are exploited in different ways by their husbands and/or his family.⁵

Young girls belonging to the lower castes and tribes and living in disadvantaged regions of India are the preferred victims of this kind of traffic, and widespread corruption among police and armed forces, along with the lack of proper documentation on victims of trafficking, exacerbate the problem. Tribal adolescent girls from rural areas of the States of Bihar, Jharkhand, Chhattisgarh, Orissa, West Bengal, and Assam are deceived, trafficked, and then sold for sexual exploitation in Delhi, Mumbai, Kolkata, Chennai, Goa, and Bangalore.

Franciscans working in remote villages of India are often witnesses to cases of girls being trafficked for marriage purposes. They testify to the paramount importance of raising awareness on child trafficking. The following is the case of a fourteen-year-old girl, T. (FI will not disclose her full name for privacy reasons), brought to the attention of FI by our network in the state of West Bengal.

In 2011, a man unknown to the whole community came to the village of Fazilnagar, presenting himself as a street vendor. He started to sell attractive things to the villagers and at the same time he showed an unusual interest in T.'s family, and little by little he managed to gain their full confidence. One day, this man told T.'s parents that he received a very good marriage proposal for T. and that they could not risk to lose such an interesting offer: the boy was from a very wealthy family who would have born all the expenses related to the wedding. T.'s illiterate and poverty stricken parents felt quite comfortable about the offer and agreed to give their daughter in marriage in the following six months. As soon as T. knew this, she felt very sad, especially because she would have had to discontinue her studies as a consequence of the wedding. Luckily enough, T. recalled the awareness raising classes on trafficking held by the Adolescent Girls Group (AGG). Without any hesitation she informed the AGG group about the marriage proposal and they elaborated a plan to rescue T. The following week, when the man arrived to the village, the AGG members stopped him and asked him to give them the full details of the boy who would have married T. The man did not know what to answer to the precise questions posed to him, so he decided to leave the village. So far he has not returned back, and T. is safe at home.

⁴ UNICEF Regional Office for South Asia (Rosa), Early Marriage in South Asia, A Discussion Paper, page 6.

⁵ UNICEF, Innocenti Research Centre, Early Marriage. Child Spouses, in Innocenti Digest, No. 7, March 2001, Florence, page 12.

FI's network also reported frequent cases of parents providing inaccurate information for the birth certificates of girls in rural areas so as to bypass the controls put in place by the local governments, particularly in mass wedding functions

Conclusions and recommendations

FI commends the Government of India for the progress achieved in the protection of children. Nevertheless, with regard to child marriage, FI recalls that despite the fact that India ratified, among others, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) - Article 16 of which requires States Parties to "take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations (...) and that (...) the marriage of a child shall have no legal effect (...)" – the country is one of the Asian nations where the issue of child marriage is still a serious concern.

Franciscans International urges the Government of India to:

- Closely monitor the implementation of the Prohibition of Child Marriage Act, 2006, and the Dowry Prohibition Act, 1961, with particular reference to the proper establishment of the Child Marriage Prohibition Officers and of the Dowry Prohibition Officers in all Districts;
- Adopt and implement a holistic National Action Plan for the eradication of child marriages, and provide for long term strategies and adequate budgeting, while reinforcing the provisions envisaged in the Prohibition of Child Marriage Act, 2006;
- Amend the existing legislative framework to guarantee effective birth registration mechanisms; provide for new legislation which, taking into consideration India's "customs, religions and level of literacy,"⁶ establish an efficient system of compulsory registration of marriages, and establish monitoring bodies to oversee the enactment of the law.
- Provide the competent government agencies – notably the Ministry of Women and Child Development (MWCD), the National Institute of Public Cooperation and Child Development (NIPCCD) and the National Commission for the Protection of Child Rights (NCPCR) – with adequate financial resources so as to enable them to raise awareness and organize capacity building initiatives on the issue of child marriage – including trafficking and consequences of an early marriage – especially in the rural areas and for tribal and lower caste communities.
- Ensure that the recommendations of the newly created Sectoral Innovation Council on Child Sex Ratio (CSR) are put in place to attain a balanced gender ratio and to establish a mechanism to guarantee that abortions practiced in abortion centers and prenatal diagnostic techniques are carried out according to the existing laws.
- Foster and support the collaboration of government institutions with community based organizations, civil society and faith-based groups which currently work on the issue of child protection.

⁶ Declaration made by India upon signature and confirmed upon ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), available at: http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en (last visited 8 February 2011).