

Refugee Review Tribunal

AUSTRALIA

RRT RESEARCH RESPONSE

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This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

Questions:

1. Please provide information on inter-caste marriages in India.
2. Are inter-caste couples and/or their children subject to discrimination or other forms of harm (including violence)?
3. What is the situation for inter-caste couples in urban and rural areas?
4. Can inter-caste couples live safely in an Indian city?

RESPONSE:

1. Please provide information on inter-caste marriages in India.

Inter-caste marriage is legal in India. Such marriages are sanctioned by the *Special Marriage Act 1954* and are also permitted under *The Hindu Marriage Act 1955*. Pieces of legislation have also been introduced to encourage inter-caste marriages, including legislation to provide financial assistance to couples who undertake inter-caste unions. The latest proposal by the central Government in 2006 would see all such couples paid 50 000 rupees, or A\$1100, across all the states. This amount would represent a marked increase on current levels of assistance offered by state governments, especially in a state like West Bengal, where couples currently receive around A\$45.

Despite the absence of legal restrictions and such incentives, inter-caste marriage is rare due to the general social acceptance of caste and its influence on marriage, even within educated, urban upper class families. A survey reported on in 1998 found that 72 per cent of Indians opposed inter-caste marriage, while a 2006 survey found 74 per cent of respondents believed inter-caste marriage to be unacceptable. While unofficial sources suggest that inter-caste marriage is on the rise ('Four weddings and a funeral' 2000, *The Hindu website*, 13 February <http://www.hinduonnet.com/thehindu/2000/02/13/stories/13130612.htm> – Accessed 6 October 2006 – Attachment 1), no official statistics on the numbers of inter-caste unions

exist. Officials from the Indian Ministry of Social Justice and Empowerment stated in 2006 that they did not know how many inter-caste marriages there were due to the fact that so few marriages of any type are registered in India.

While small, the number of inter-caste marriage has been increasing since at least 1990. Reasons for this increase include greater caste diversity in the workplace and educational environments as a result of affirmative action policies and employment migration, and the greater earning capacity and independence of women. One source quoted by the Immigration and Refugee Board of Canada in 1999 states that “unconventional” marriages mainly occur among people in the same profession. A 2000 article from *The Hindu* pointed to an increase in such unions even in conservative areas of the northern state of Orissa:

“[d]espite a backlash, inter-caste marriages are on the rise...More inter-caste marriages have taken place in the past two years. That too, across conservative regions of Nuapada, Kalahandi and Bolangar [in Orissa]...Many villages now cite instances of inter-caste marriages. Often where there had been none just a few years ago.” (‘Four weddings and a funeral’ 2000, *The Hindu website*, 13 February
<http://www.hinduonnet.com/thehindu/2000/02/13/stories/13130612.htm> – Accessed 6 October 2006 – Attachment 1).

(For the legality of inter-caste marriage, recent increases in number of marriages and reasons for this see: Immigration and Refugee Board of Canada 2006, *IND100661.EX India: The situation of couples in inter-caste and inter-religious marriages, including societal attitudes, treatment by government authorities and the situation of children resulting from such marriages (2000 – 2005)*, 9 January – Attachment 2; and Immigration and Refugee Board of Canada 1999, *IND32417.E India: Society’s reactions to a marriage between a high caste man and a low caste woman, whether they would be shunned, and how the children would be treated*, 13 August – Attachment 3. Report of 1998 survey in: RRT Country Research 1999, *India – Mixed Marriages Update*, November – Attachment 4. Financial assistance for inter-caste couples is covered in ‘India: Breaking the Caste System’ 2006, *The Guardian*, 20 September – Attachment 5. Report of 2006 survey in: ‘Conservative, but want equal inheritance rights’ 2006, *HindustanTimes.com*, 25 January website – Attachment 6. Government financial assistance and officials from Ministry of Social Justice and Empowerment are reported in: Pandey, G. 2006, ‘India in low caste marriage plan’ *BBC News Online*, 15 September – Attachment 7).

2. Are inter-caste couples and/or their children subject to discrimination or other forms of harm (including violence)?

It would appear that ostracism, discrimination and harm against inter-caste couples are perpetrated by family members, relatives, the local community, and local police. Reactions to inter-caste marriages vary depending on the religion, social status, and class of the couple, and on where the couple live. Social and cultural experts on Indian society quoted in a recent Immigration and Refugee Board of Canada report on inter-caste marriages in India indicated that opinion on inter-caste marriage remains generally negative. One expert stated that society often “ostracize[s] and discriminate[s] against couples in inter-caste marriages” (Immigration and Refugee Board of Canada 2006, *IND100661.EX India: The situation of couples in inter-caste and inter-religious marriages, including societal attitudes, treatment by government authorities and the situation of children resulting from such marriages (2000 – 2005)*, 9 January – Attachment 2). A 2005 *India Today* article on an inter-caste married couple in the state of Kerala described them as “[s]hunned by the families and ostracised by

their communities, such couples literally live on the edge” (Radhakrishan, M.G. 2005, ‘Whose lineage is it anyway?’ *India Today*, 2 May – Attachment 8). Most recently, a September 2006 *BBC News* online article reported that “[c]aste is deeply rooted in Indian society and those marrying outside their caste are often ostracised by their family and the wider community” (Pandey, G. 2006, ‘India in low caste marriage plan’ *BBC News Online*, 15 September – Attachment 7).

In extreme cases, some communities in India consider such marriages a crime and disapproval comes in the form of punitive violence. Numerous instances of “honour killings” of one or both members of the couple for the period 2000 and 2005 are referred to in the Immigration and Refugee Board of Canada response provided as Attachment 2. More recent examples of extreme violence against married couples include the killing of a seven-month pregnant wife and her husband, in the industrial city of Ludhiana, Punjab, allegedly by the wife’s father and relatives. This case involved a higher status woman marrying a lower caste male (‘Honour killing shocks Ludhiana’ 2005, *Hindustan Times.com*, 11 January – Attachment 9). In a case reported in September 2006, a wife in an inter-caste marriage alleges the involvement of her husband’s family in his death by poisoning and the lack of action by police to protect him (‘They killed my husband. Help!’ 2006, *HindustanTimes.com*, 13 September – Attachment 10).

Following a recent case involving the “honour killing” of an inter-caste couple, a statement by the Supreme Court of India indicates that while the legal system does seek to protect such couples, the protection offered by police requires reinforcement:

Terming “honour killing” as an act of barbarism, the Supreme Court has ordered the police across the country to take stern action against those resorting **to violence against major boys and girls who go for inter-caste** or inter-religious marriages.

“If the parents of the boy or girl do not approve of such inter-caste or inter-religious marriage, the maximum they can do is that they can cut off social relations with the son or the daughter, but they cannot harass the person who undergoes such inter-caste or inter-religious marriage...Hence, **inter-caste marriages** are in fact in the national interest as they will result in destroying the caste-system,” it said. ...Pointing out that “there is no bar to an **inter-caste** marriage under the *Hindu Marriage Act* or any other law,”...

...Directing the police to initiate criminal proceedings forthwith against Lata’s brothers and others involved in threatening Gupta, **the court issued a general direction to the police across the country to take stern action against those harassing couples of inter-caste** or inter-religious marriages (‘Honour killing is act of barbarism’ 2006, *OutlookIndia.com* website, 8 July http://www.outlookindia.com/pti_news.asp?id=397670 – Accessed 5 October 2006 – Attachment 11).

While the higher levels of the court system do seek to protect inter-caste couples, some parts of the local judicial system in India do not. In its most recent report on India, Human Rights Watch points to increasing violence against inter-caste marriage couples committed by local village officials:

Increasingly, caste panchayats, or caste-based village councils, **extrajudicially punish inter-caste marriages** with public lynching of couples or their relatives, murder of the bride or the groom, rape, public beatings, and other sanctions. This is particularly common if either bride

or bridegroom is a Dalit (Human Rights Watch 2006, *India – World Report*, 18 January – Attachment 12).

Information specific to children born from inter-caste marriages facing discrimination or harm was limited. Some parents and the Manusha Association, which advocates for inter-caste couples, recently protested against a 2005 Kerala Supreme Court decision that children inherit the caste of their father and not their mother. Formerly, children from inter-caste marriages were eligible to special benefits and reservations if either the father or mother belonged to a special or scheduled caste. The current decision would disadvantage children where the mother alone came from either of these caste categories (Radhakrishnan, M.G. 2005, ‘Whose lineage is it anyway?’ *India Today*, 2 May – Attachment 8).

3. **What is the situation for inter-caste couples in urban and rural areas?**
4. **Can inter-caste couples live safely in an Indian city?**

Inter-caste marriages are more common in urban than in rural areas. According to a New Delhi based scholar quoted in a recent Immigration and Refugee Board of Canada research, 80% of inter-caste marriages occurred in towns and 20% from villages in 2004 (Immigration and Refugee Board of Canada 2006, *IND100661.EX India: The situation of couples in inter-caste and inter-religious marriages, including societal attitudes, treatment by government authorities and the situation of children resulting from such marriages (2000 – 2005)*, 9 January – Attachment 2). A January 2003 article in the Indian newspaper *The Telegraph* stated that “[t]oday inter-caste marriage and dating are not uncommon in urban India” (Rao, S.L. 2003, ‘The dollar brides – Indian girls marrying NRIs often escape to a hassle-free life’ *The Telegraph*, 28 January http://www.telegraphindia.com/1030128/asp/opinion/story_1611909.asp – Accessed 4 October 2006 – Attachment 13).

While the sources consulted refer on a number of occasions to the greater numbers of inter-caste marriages in urban than in rural areas, no statements were found describing the situation or safety of such couples in urban areas relative to rural areas. The absence of statistics on both the number of inter-caste marriages in India and the crimes committed against members of such unions may account for this. The difficulty surrounding the provision of firm conclusions on this issue is well described in a 2003 article from *The Hindu*:

EVERY week, perhaps every day, the Chander and Sajini story is retold. Another cast, another location but the same narrative. Two young people who fall in love and hope to build a life together, are hunted down for daring to think that they can.

The murders of young women and men, who have married by choice or across caste barriers, often go unnoticed. There are no names, not even statistics. Many are not investigated because the community closes ranks, apparently making it impossible to find out what really happened.

Naz Parveen was 25, and unusually for a woman in Khalapur, Uttar Pradesh, a doctor. Kasif Jamal, 10 years older, was from the same village. They married “against family wishes”. **Their killers found them in the middle of a crowded bazaar. Some say they were shot, others that they were stabbed. No investigation was done, because “dozens of people from the community came forward to claim responsibility”. No cases of obstructing the course of justice were filed.**

... “Suicide” even outside a police station can be murder by other means, says Saarika Kalia of Aali, a Lucknow based legal aid NGO. **The line between having no where to run to and “choosing” death is very thin.**

Where the law is nominally enforced, “legal” means are employed to reclaim these women. They get hauled up before the courts on the weight of complaints made by their parents. Their husbands are accused of abduction and their conjugal love termed “rape”. Where proof of age is not available, the charge is “abduction and rape of a minor”. The legal age of consent is a curious weapon in the hands of those who would otherwise have no qualms about child marriage. In cases where there is no ambiguity that the woman is a legal adult, the complaint declares her to be of “unsound mind”.

The police, normally so reluctant to file a first information report (FIR), is happy to register these complaints. They ask for no evidence of the age or even proof of the “abducted” woman’s alleged mental incapacity. In fact Aali’s experience in Uttar Pradesh and the PUDR’s in Delhi, is that the police often arbitrarily arrests members of the man’s family, or the young man himself, and files specious charges against any number of them.

Manjith Rathi, a college lecturer in English and an activist of the Janwadi Mahila Samiti, says that there are dozens of such cases filed in just the three districts of Haryana in which she works. When following-up one such case with the Hissar district administration, the collector told her “do your work, which is to make rotis, instead of interfering in other people’s lives”. A senior officer of the Delhi Police told Prof. Uma Chakravathy, of Delhi University, inquiring about “abduction” charges against a young man, “why are you pursuing this case? If your daughter had done such a thing as this girl has, you too would have pressed the same charges.”

Every month the High Court in New Delhi hears between 15 and 20 new cases of “abduction” and “rape” of women who say they have married by choice. Most, according to the public prosecutor Mukta Gupta, “are decided in favour of the women”. She admits that while the court upholds a woman’s legal rights, this does not guarantee her safety outside the court. **Most couples invariably have to return to live surrounded by a hostile community and police force, that instead of protecting them will continue to harass them.**

... The “limit” that Lata and Bhramanand crossed was to have loved and to have chosen, but most of all, in doing so, to have shaken the invisible walls that maintain the separations and hierarchies of caste.

“When anyone, but specially a woman, acts autonomously or asserts choice, the entire edifice of the caste and class system is disrupted,” says Prof. Chakravathy. **There could be no more profound a transgression, for a society whose self-definition is caste, than marrying across caste. Inter-caste marriages blur, like nothing else, the boundaries of caste and shake its foundations** (Mody, A. 2003, ‘When love spells death’ *The Hindu*, 2 November <http://www.hinduonnet.com/thehindu/mag/2003/11/02/stories/2003110200140200.htm> – Accessed 6 October 2006 – Attachment 14).

Based on anecdotal opinions reported on in some news articles, violent reactions against inter-caste marriage appear to be more severe in rural villages than in urban centres. A mother who had agreed to undertake ‘purification’ rituals because of the marriage of her daughter (who belonged to the Brahmin caste) to a lower caste husband, is reported as saying in 2000: “why should society take such a stand [against inter-caste marriage]. Why does this happen in these tiny rural places? In the bigger cities, it is not so rigid” (‘Four weddings and a funeral’ 2000, *The Hindu*, 13 February – Attachment 1). A 2001 article from the *Irish Times*, covering the murder of a two young people from different castes killed by their family in

rural Uttar Pradesh village of Alipur, stated that “[i]n urban India, inter-caste marriage is broadly accepted” (‘The teenage lovers lynched for talking’ 18 August 2001, *Irish Times* – Attachment 15). However, an article on the same murders from the Indian *The Hindu* newspaper pointed to the strength of resistance to inter-caste marriages even in urban centres:

Almost all the inhabitants of Alipur...the entire village was opposed to this intercaste love affair. Can such a thing happen in the 20th Century, we ask. They belong to the rural section of the population – illiterate and hidebound, we tell ourselves. Alipur is an extreme case of barbarity and intolerance. But caste arouses strong feelings in the urban population too. Scratch the surface and most of us have reservations regarding caste and community. When it comes to the question of marriage especially, how many of us are willing to allow our sons or daughters freedom of choice, caste no bar? (Santhanam, K. 2001, ‘A taboo no more?’ *The Hindu*, 8 October <http://www.hinduonnet.com/2001/10/08/stories/13080611.htm> – Accessed 5 October 2006 – Attachment 16).

Instances of violence against inter-caste married couples who live in cities do exist. One example was referred to in answer to question 2 above, involving the death of a couple in the industrial city of Ludhiana in Punjab (‘Honour killing shocks Ludhiana’ 2005, *Hindustan Times.com*, 11 January – Attachment 9).

Specialist academic literature on inter-caste marriage could not be made available within the time constraints within which this response was prepared. One recent work, *Hindu Inter-caste Marriage in India: Ancient and Modern* by Haripada Chakraborti (Delhi, 1999) has been ordered through the RRT Library in Sydney.

List of Sources Consulted

Internet Sources:

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The Hindu website <http://www.hinduonnet.com/>

The Telegraph <http://www.telegraphindia.com/>

Search Engines

Google search engine <http://www.google.com.au/>

Databases:

FACTIVA (news database)

BACIS (DIMA Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State Reports)

RRT Library Catalogue

List of Attachments

1. ‘Four weddings and a funeral’ 2000, *The Hindu* website, 13 February <http://www.hinduonnet.com/thehindu/2000/02/13/stories/13130612.htm> – Accessed 6 October 2006.

2. Immigration and Refugee Board of Canada 2006, *IND100661.EX India: The situation of couples in inter-caste and inter-religious marriages, including societal attitudes, treatment by government authorities and the situation of children resulting from such marriages (2000 – 2005)*, 9 January.
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13. Rao, S.L. 2003, 'The dollar brides – Indian girls marrying NRIS often escape to a hassle-free life' *The Telegraph*, 18 January http://www.telegraphindia.com/1030128/asp/opinion/story_1611909.asp – Accessed 4 October 2006.
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