



Input by Pakistan Dalit Solidarity Network (PDSN) and International Dalit Solidarity Network (IDSN) for 90th Session of the Committee on the Elimination of All forms of Racial Discrimination for its examination of Pakistan 16-17 August 2016

Summary

The input is based on the key issues included in the [joint input to the list of themes](#) submitted by PDSN and IDSN for the 90th session. This submission provides a short introduction to the issue of caste-based discrimination in Pakistan, an overview of the international legal framework and suggestions for recommendations and follow -up to the last CERD review of Pakistan (2009) in relation to the key issues of **disaggregated data** (especially on Dalits who have converted from Hinduism to Islam), **bonded labour** and **forced conversions and forced marriages** of people from the Dalit community in Pakistan.

Table of Contents

1. Background	2
Introduction	2
Caste-based discrimination in Pakistan	2
2. International Legal Framework	3
CERD General Recommendation XXIX	3
Special Procedures - Special Rapporteur on minority issues	3
Universal Periodic Review	4
Committee on the Rights of the Child	4
CERD recommendations on caste from the latest examination of Pakistan in 2009	4
Replies by the State Party	5
3. Suggestions for follow-up and recommendations by PDSN and IDSN	7
Lack of disaggregated data on scheduled caste	7

Recommendations.....	7
Further resources:	7
Bonded labour	8
Recommendations.....	8
Further resources:	9
Forced conversion and forced marriages	9
Recommendations.....	10
Further resources:	10
References	10

1. Background

Introduction

This brief alternative report on caste discrimination in Pakistan is written by the Pakistan Dalit Solidarity Network (PDSN) and the International Dalit Solidarity Network (IDSN) and submitted to the UN Committee on Elimination of All Forms of Racial Discrimination and the review of Pakistan at the Committee’s 90th session (August, 2016). The report provides an overview of the legal framework for addressing caste under the Convention in relation to recommendations given by the committee in their last review of Pakistan in 2009, and the replies given by the State Party.

The *International Dalit Solidarity Network* is an international network that works on a global level for the elimination of caste discrimination and similar forms of discrimination based on work and descent. Members include national Dalit organisations in caste-affected countries; Dalit Solidarity Networks in seven European countries; and international associates, among others Human Rights Watch, Minority Rights Group, Anti-Slavery International and IMADR (www.idsn.org). Contact information: Email: info@idsn.org, phone: +45 29700630.

The *Pakistan Dalit Solidarity Network* is a network consisting of over 20 civil society organizations, and a member of IDSN. It was formally launched on 5th April 2009 after a research study conducted in 2007, which identified serious violation of basic rights of Scheduled Castes (Dalits in Pakistan), and specifically in Karachi, Sindh province of Pakistan. The main objectives of the network are to highlight the issue of Scheduled Castes through national and international advocacy (www.idsn.org/about-us/who-we-are/the-global-network/).

Caste-based discrimination in Pakistan

When the Government of Pakistan (GoP) is going to be reviewed by the Committee on the Elimination of Racial Discrimination (CERD) at its 90th session in August 2016, the Committee Members are urged to take into consideration the situation of the people who are categorized as “lower caste” Hindus in Pakistan. This part of the population, officially known as “Scheduled Castes”, is the single largest group falling victim to caste-based discrimination, including the practise of “untouchability”. Its members are the poorest of the poor in Pakistan,

where “untouchability” practices are obvious in all spheres of private and public life. As a result, Scheduled Castes live in separate colonies, they are served food in separate crockery, and they cannot sit indoors with upper castes. There is also very little political representation. The majority of Scheduled Castes suffer from extreme poverty and low human development, due to the prevailing patterns of exclusion and marginalization. They are often neglected in development initiatives, humanitarian assistance and government compensation where applicable.

2. International Legal Framework

CERD General Recommendation XXIX

CERD General Recommendation XXIX on descent-based discrimination (2002) article 1 (a) recommends states to take measures of a general and specific nature to address discrimination based on caste and analogous systems of inherited status. The GoP, as an affected country and a signatory to the Convention, should recognize that this form of discrimination takes place in the country and should seek guidance from this framework in order to prevent human rights violations in the country as an effect of caste-based discrimination.

Special Procedures - Special Rapporteur on minority issues

Annual thematic report for the 31st HRC session ([A/HRC/31/56](#)) on “Minorities and discrimination based on caste and analogous systems of inherited status

In March 2016, the Special Rapporteur presented her thematic report on caste to the Human Rights Council. In her report, the Rapporteur specific areas of impact of discrimination in caste-based and analogous systems in Pakistan.

Disaggregated data

In her report, section C. 32. the Rapporteur addressed the lack of statistics on non-Hindu religious communities, such as the Dalit Muslim and Christian communities. In Bangladesh and Pakistan, where most Dalits belong to the Hindu minority, the figures are also contested. In Pakistan, the most recent official data, from 1998, estimate the Dalit population to be 330,000, but researchers calculate that the actual number could be at least two millionⁱⁱ, whereas PDSN and Schedules caste activists working on ground up assess the number to be much higher, i.e. up to 7 million.

Bonded Labour

The Rapporteur refers to Pakistan in relation to “Intersectionality of caste and forced and bonded labour”. In Pakistan, Dalits, who are mainly minority Hindus, are disproportionately affected by forced and bonded labour, particularly in the Sindh and Balochistan provincesⁱⁱⁱ.

Forced conversion and marriage

The Rapporteur addressed the issue in para 4. on “freedom of religion and belief” mentions Pakistan under point 69. “Minority women, many of them from low-caste backgrounds, may be subjected to kidnapping and forced religious conversion. According to the Special Rapporteur on the right to freedom of religion or belief, “such incidents seem to occur in a climate of impunity”.ⁱⁱⁱ Civil society organizations have reported several cases of Dalit Hindu girls being kidnapped and forcibly converted to Islam following marriage in Pakistan^{iv} “.

Constitutional Provisions

In section B. 110. of the report, the Rapporteur notes that Art. 22, 26, and 27 of Pakistan's constitution explicitly refers to "caste" as one of the grounds for prohibited discrimination.

Universal Periodic Review

Report of the Working group ([A/HRC/WG.6/14/L.10](#))

Forced marriage

At the second Universal Periodic Review of Pakistan, October 2012 Austria recommended the government to: "Take effective measures to prevent forced or early marriage, in particular with a view to ending rape, sexual exploitation and forced conversions of scheduled caste girls" (rec: 122.103.) the recommendation was accepted and enjoyed the support of the Government of Pakistan.

Committee on the Rights of the Child

Concluding observations ([CRC/C/PAK/CO/5](#)) on the fifth periodic report of Pakistan, 3. June 2016

23. Right to life, survival and development: The Committee urges the State party to take immediate measures to:

(b) Prevent and combat malnutrition, especially among vulnerable and disadvantaged groups of children such as children living in poverty, including Dalit children; Economic exploitation, including child labour

71. The Committee welcomes the legislative acts in Punjab and KP provinces which prohibit employment of children in certain hazardous occupations. The Committee however remains seriously concerned about: (c) The continuous practice of bonded and forced labour affecting children from poor and vulnerable background, including Dalit children;

72. The Committee urges the State party to: (c) Eradicate all forms of bonded and forced labour of children, in particular children from marginalized and disadvantaged groups such as Dalit children and bring those responsible, in particular employers, to justice;

CERD recommendations on caste from the latest examination of Pakistan in 2009

Extracts from [concluding observations](#) from the Committee's last examination of Pakistan. Seventy-fourth session. 16 February – 6 March 2009. UN Doc.: CERD/C/PAK/CO/20.

Recommendations related to national legal framework and constitutional provisions:

10. While appreciating the State party's laws for the protection of recognized religious minorities, the Committee reiterates its concern about the absence of similar protection for relevant ethnic or linguistic groups. It welcomes the delegation's acknowledgment of the intersectionality, to a certain extent, of ethnicity and religion in the State party. (art. 1)

The Committee reiterates its recommendation that the State party broaden its understanding and constitutional definition regarding minorities, so as to take into account all the grounds of discrimination included in article 1, paragraph 1 of the Convention.

Recommendations on disaggregated data:

12. While the Committee welcomes the steps taken by the State party to address caste-based discrimination, such as a range of development schemes and the appointment of a member of a scheduled caste as advisor to the Sindh Province Senate, it is concerned that the State party has not yet adopted a law prohibiting discrimination on the basis of caste. It is further concerned about the lack of information in the State party's report on concrete measures taken to combat caste-based discrimination. The Committee is also concerned about the persisting de facto segregation of and discrimination against Dalits regarding their enjoyment of all economic, civil, political, and social rights (arts. 2, 3 and 5).

The Committee refers the State party to its general recommendation 29 (2002), on descent-based discrimination, and recommends that the State party adopt legislation aimed at the prohibition of caste-based discrimination and take effective and immediate measures to ensure its effective implementation. The State Party is also invited to provide, in its next periodic report, statistical data on persons belonging to scheduled castes in the territory of the State party, including their enjoyment of all rights protected under article 5 of the Convention.

Recommendations on bonded labour:

21. While welcoming the steps taken to abolish the practice of bonded labour, including the adoption of the Bonded Labour System Abolition Act, the Committee is concerned about the persistent existence of bonded labour in the State party, which appears to be related to, inter alia, the unequal distribution of land. It also expresses concern that such practice mainly affects marginalized groups such as scheduled castes. (5 (e) (i) and (iv)).

The Committee urges the State to intensify its efforts to implement the laws and programmes adopted to put an end to bonded labour and discrimination against marginalized groups such as the scheduled castes. It further encourages the State party to carry out the national survey on this practice without delay and to continue cooperation with the International Labour Organization in combating this phenomenon.

Recommendation on political participation:

24. The Committee notes with concern the lack of information on the steps taken to comply with article 7 of the Convention regarding measures taken with a view to combating prejudices which lead to racial discrimination and to promoting tolerance and friendship among its ethnic groups. (art. 7)

The Committee recommends the State party to provide in its next periodic report information on article 7 such as measures taken to eradicate the social acceptance of racial and ethnic prejudice, e.g. by intensifying public education and awareness-raising campaigns, incorporating educational objectives of tolerance and respect for other ethnicities, as well as instruction on the culture of all minorities in the State party, and ensuring adequate media representation of issues concerning all ethnic and religious minorities, with a view to achieving true social cohesion among all ethnic groups, castes and tribes of Pakistan.

Replies by the State Party

The [State Party report](#) 26. November 2015, submitted under article 9 of the convention for the CERD examination of Pakistan, 90th session, UN Doc.: CERD/C/PAK/21-23^v

Reply to recommendation contained in Paragraph No. 10

17. Chapter I of the Constitution of Pakistan already guarantees and lays down the framework for the protection of Fundamental Rights of all its citizens “without any discrimination”, as does Chapter II that lays down Principles of Policy which also envision substantive framework for the protection of rights of the citizens of Pakistan including the rights of the minorities. Article 27 of the Constitution provides safeguard against any kind of discrimination in services on the basis of race, religion, caste, sex, residence or place of birth, while Article 9 of the Constitution mandates protection of life and liberty to all citizens subject to law. Fundamental rights of the citizens are of paramount importance as provided in Art. 8 of the Constitution, which states that “Laws inconsistent with or in derogation of fundamental rights to be void”.

18. Article 3610 of the Constitution of Pakistan uses the word “minority” which encompasses all minorities, i.e., religious, ethnic, and linguistic. Similarly, Article 33 of the Constitution forbids any sort of discrimination among citizens on racial, parochial, tribal or sectarian grounds. Discrimination on the basis of ethnic diversification is not a relevant phenomenon in the Pakistani society. Furthermore there is no bar on any caste, creed, linguistic and ethnic group in respect of political participation at national, provincial or local level.

26. Article 38 of the Constitution states that the state shall “secure the well-being of people, irrespective of sex, caste, creed or race by raising their standard of living ...”.

31. Besides, Article 26 states that no person otherwise qualified can be discriminated against in the matter of employment on the basis of race, religion, caste, sex, residence or place of birth. Article 27 places complete ban on discrimination on the basis of sex in appointment in “the service in Pakistan”, provided that the performance and functions of the job can be carried out by, and is deemed suitable for, both sexes.

Reply to recommendation contained in Paragraph No. 12

33. The State of Pakistan does not recognize any discrimination among individuals on the basis of their belonging to a specific caste.

34. National Database and Registration Authority (NADRA) which has been mandated under the law for the registration of all the citizens of the country was requested to collect data along with specific information which is required under the law of the land. NADRA responded that there is no requirement under the Pakistani law to maintain data on the basis of caste. Pakistan does not encourage the recognition of the individuals on the basis of caste for it may be discriminatory to divide a culturally diverse society on the basis of caste.

35. Such an approach is evident from State practice. Government has abandoned all earlier references to the term “scheduled caste” from the pre-partition inherited documentations. The Government has made policies after independence for the advancement of socially backward classes of citizens by prescribing quota for the underdeveloped castes and regions.

Reply to recommendation contained in Paragraph No. 18

56. As stated earlier, Article 27 of the Constitution of Islamic Republic of Pakistan 1973, categorically provides safeguards against discrimination to all citizens of Pakistan for appointment in the service of Pakistan on the basis of race, religion, caste, sex, residence or place of birth. Moreover, in order to secure adequate representation from all areas of Pakistan for vacancies in the

Ministries/Division/Departments/Autonomous/Semi Autonomous bodies/corporations etc, seats are reserved for direct recruitment to be filled on all-Pakistan basis as per the following quota:

Merit	7%
Punjab (Including ICT, Islamabad)	50%
Sindh (R)	11.4%
Sindh (U)	7.6%
K.P	11.5%
Baluchistan	6%
NA/FATA	4%
Azad Kashmir	2%
Total	100%

Reply to recommendation contained in Paragraph No. 19

60. Pakistan’s founding principles are echoed in Quaid-e-Azam Muhammad Ali Jinnah’s 28 historic speech of 11th August 1947: “You are free; you are free to go to your temples. You are free to go to your mosques or to any other places of worship in this State of Pakistan. You may belong to any religion, caste or creed—that has nothing to do with the business of the State. We are starting with this fundamental principle that we are all citizens and equal citizens of one state”.

3. Suggestions for follow-up and recommendations by PDSN and IDSN

Lack of disaggregated data on scheduled caste

In response to the recommendations contained in paragraph 12. (CERD concluding observations 2009) the State Party report (para. 33-34) fails to recognize any type of discrimination based on caste and refuses to provide specific data on caste stating that: “Pakistan does not encourage the recognition of the individuals on the basis of caste for it may be discriminatory to divide a culturally diverse society on the basis of caste”.

As highlighted by the Special Rapporteur on minority issues in her report A/HRC/31/56^{vi}, officially, the number of Dalits is approximately 330,000 (1998 census), but according to researchers the real figure may be two million, or much higher as estimated by PDSN and scheduled caste activists working on the ground . These data do not include ‘lower castes’ within the Muslim community, living under similarly depressed conditions. In the first phase of the new national census process, which was started in 2011, no special efforts have been made to ensure accuracy of the data based on caste. Generally, the need for accurate and disaggregated data, as well as comprehensive, updated studies on the situation of Dalits in Pakistan, is a pressing issue.

Recommendations

- For the upcoming census, IDSN and PDSN suggest that census data include disaggregated data on caste in order to bring light to and eliminate discrimination based on work and descent and to justify giving Dalit people their due representation and share in development/assemblies/government etc.

Further resources:

- For more information [Download the IDSN briefing note on Pakistan \(2014\)](#)

Bonded labour

The Special Rapporteur on minority issues highlighted the intersectionality of caste and forced and bonded labour in Pakistan, and stated that Dalits, who are mainly minority Hindus, are disproportionately affected by forced and bonded labour, particularly in the Sindh and Balochistan provinces. Pakistan has ratified a number of international covenants and conventions which proscribe slavery, forced labour, and debt-bondage. The Constitution of Pakistan forbids slavery and forced labour, and the Bonded Labour System (Abolition) Act of 1992 along with the Bonded Labour System (Abolition) Rules of 1995 completely outlaw bonded labour. They also cancel all existing bonded debts and forbid lawsuits for the recovery of such debts. Yet, bonded labour in Pakistan is widespread, particularly in agriculture and brick making, and the majority of the bonded labour community belongs to marginalized and excluded groups such as the scheduled caste Hindus, Christians and Muslim Sheikhs. Scheduled Castes /Dalits are landless, poor and work predominantly in the agricultural sector, where the majority are doing bonded labour, lacking basic facilities and facing social/racial and psychological discrimination. In its examination of Pakistan in May 2016, the Committee on the Rights of the Child expressed serious concern over the continuous practice of bonded and forced labour affecting vulnerable children, including Dalit children and urged the GoP to eradicate all forms of bonded and forced labour of children and in particular children from marginalized and disadvantaged groups such as Dalit children, and bring the responsible employers to justice.

In their report to the committee (2015) the GoP states that the prohibition of slavery is recognized and safeguarded by the fundamental laws of Pakistan. 32 Article 11 of the Constitution, at the very outset prohibits forced and bonded labour as well as human trafficking (21-23 Periodic Report of the state party). However, the State fails to address the Committee's specific recommendations on caste: "to intensify its efforts to implement the laws and programmes adopted to put an end to bonded labour and discrimination against marginalized groups such as the scheduled castes" (CERD Concluding Observations on Pakistan, rec. 21 74 session, 2009). In their response the recommendations contained in paragraph 21., the State Party lists a number of measures taken to address the issue of bonded labour, but does not mention any implementation of any laws or programmes, which deals specifically with bonded labour and discrimination against marginalized groups such as scheduled castes.

Recommendations

- IDSN and PDSN urge the GoP to ensure full implementation of the Bonded Labour System (Abolition) Act from 1992 and urge the GoP to consider how the lacking implementation affects the Dalit population, whereof many are forced into debt-bondage.
- IDSN and PDSN urge the GoP to implement make efforts to specifically include a consideration for caste-based discrimination in the implementation of laws and programmes with the aim to end forced and bonded labour in Pakistan.
- The GoP should ensure that Scheduled Caste peasants are given their due share of agricultural productions, so that labourers are not subjected to bonded labour; and extend an invitation to the UN Special Rapporteur on contemporary forms of slavery.
- Given the gravity of the issues, as reflected also in the reports of Human Rights Commission of Pakistan, the GoP should obligate provincial governments to immediately enact anti-bonded labour laws.

Further resources:

- [IDSN webpage on caste-based slavery in Pakistan](#)
- [The Choice of Reforms: The Human Rights Situation of Ethnic, Linguistic, Religious Minorities, Scheduled Castes Hindus and Indigenous People in Pakistan \(TRDP/NCJP/PILER/IDSN/Justice and Peace Netherlands, 2009. Publication\)](#)
- [Unfree Labour in Pakistan: Work, Debt and Bondage in Brick Kilns \(ILO, 2004, Publication\)](#)
- [Information on Caste Based Discrimination in South Asia \(IIDS/IDSN, 2007, Publication\)](#)
- [Contemporary Forms of Slavery in Pakistan \(Human Rights Watch, 1995, Publication\)](#)
- [A Rapid Assessment of Bonded Labour in Hazardous Industries in Pakistan: Glass Bangle-Making, Tanneries and Construction \(ILO, 2004, Publication\)](#)
- [IDSN and PDSN UPR Submission 2012](#)
- [Poverty, Discrimination and Slavery](#): The reality of bonded labour in India, Nepal and Pakistan Anti-Slavery International, 2008.
- [Caste-based discrimination in South Asia - a study on Pakistan: Long Behind Schedule \(2008\)](#)
- Haris Gazdar: [“Class, Caste or Race: Veils over Social Oppression in Pakistan”](#), Economic and Political Weekly January 13, 2007.
- Working Paper: [A rapid assessment of bonded labour in hazardous industries in Pakistan: glass bangle-making, tanneries and Construction](#) by Collective for Social Science Research, Karachi, International Labour Office, Geneva, March 2004.

Forced conversion and forced marriages

A key concern is the problem of forced conversion of minority and scheduled caste women and girls under the guise of marriage of choice.vii Minority women in general and Hindu and scheduled caste girls in particular are subject to forced conversions and sexual abuse. This trend has increased in recent years and was most recently addressed by the Special Rapporteur on Minority Issues in her latest thematic report to the human rights council (A/HRC/31/56).viii The worst victims are Scheduled Caste Hindu girls who are kidnapped or lured into conversion, sexually exploited and then abandoned.ix 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.x Together with Pakistan institute for Labour Education and Research (PILER), PDSN has previously appealed to the government to take notice of the alleged adoption of Dalit girls and their forceful conversions to Islam.xi

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, it is found that the police refuse to intervene in such cases. Even the courts are complicit in this, by nullifying women’s previous non-Islamic marriages and recognizing their forced marriages instead (ALRC and Act-France, UPR 2012).

Furthermore, the Sindh Child Marriage Restraint Act from 2013 prohibits marriage before the age of 18, but courts are failing to implement the law in cases concerning Hindu Dalit minors in the Sindh province.

Forced conversions is a serious issue and has been affecting the Dalit community for many years^{xii}. So far, no action has been taken by the GoP to address the issue and there is currently no law to curb forced conversion or make the practise illegal.

The problems of forced conversions and forced marriage are interlinked as many young Scheduled Caste girls are forced into conversion by way of marriage.

Recommendations

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- The GoP should 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.
- The Government of Pakistan should commit to taking serious steps to address the issue of forced conversions, including proposing legal measures to effectively put an end to this practise.
- The GoP should ensure the effective implementation of the Prevention of Anti-women Practices Act (2011)
- The GoP should ensure the effective implementation of the 2013 Sindh Child Marriage Restraints Act.
- The GoP should eliminate multiple forms of discrimination experienced by Dalit women and girls on the basis of caste and gender in accordance with CEDAW General Recommendations 25, 28 and 33.

Further resources:

- [Dalit women in Pakistan](#) fall victim to sexual abuse, abduction and forced religious conversion. They suffer triple discrimination due to their gender, religion and caste.
- [Newsletter from Pakistan Dalit Solidarity Network](#), November 2014
- [SCHEDULED CASTE WOMEN IN PAKISTAN – Alternative report to CEDAW \(PDSN and IDSN\)](#), 2013
- [Cluster and analysis of issues and recommendations from UN institutions on caste affected women and girls](#) (June 2016)

References

ⁱ “Caste-based discrimination in Pakistan”, [International Dalit Solidarity Network](#) briefing note (May 2014).

ⁱⁱ Anti-Slavery International, *Poverty, Discrimination and Slavery: The Reality of Bonded Labour in India, Nepal and Pakistan* (2008), p. 14.

ⁱⁱⁱ See A/67/303, para. 43.

^{iv} Pakistan Dalit Solidarity Network and International Dalit Solidarity Network, “Scheduled caste women in Pakistan: denied a life in dignity and respect”, alternative report to the Committee on the Elimination of Discrimination against Women at its fifty-fourth session (2013), p. 12.

^v <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/270/79/PDF/G1527079.pdf?OpenElement> (last accessed 29-06-2016)

^{vi} Iszak-Ndiaye, Rita, “Minorities and discrimination based on caste and analogous systems of inherited status” Report to the 31st Session of the Human Rights Council (A/HRC/31/56), 2016:

http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Documents/A_HRC_31_56_en.doc (last accessed 29-06-2016)

^{vii} 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.

^{viii} Iszak-Ndiaye, Rita, “Minorities and discrimination based on caste and analogous systems of inherited status” Report to the 31st Session of the Human Rights Council (A/HRC/31/56), 2016:

http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Documents/A_HRC_31_56_en.doc

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- ^{ix} See demands by the 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>
- ^x [UPR Stakeholder submission by the Asian Legal Resource Centre and ACT-France](#), 23 April 2012
- ^{xi} Dalits ask government to stop forced conversions: <http://sindhstudy.com/edu-news/dalits-ask-govt-stop-forced-conversions>
- ^{xii} Jinnah Institute, "A question of faith -a report on the status of religious minorities in Pakistan, research report, 2011: http://www.jinnah-institute.org/images/stories/jinnah_minority_report.pdf (last accessed 29-06-2016)