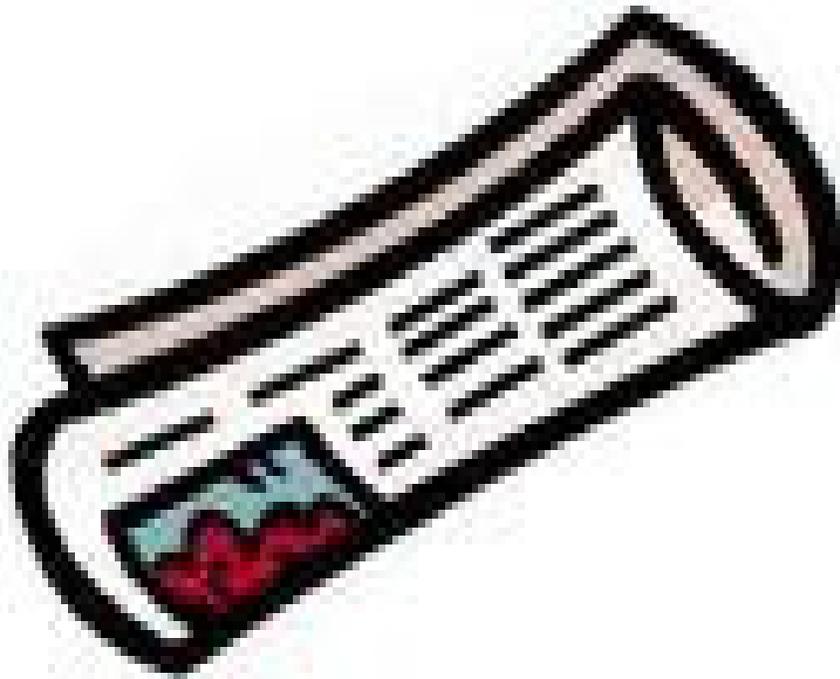


Newsletter Digest 2009



Partners for Law in Development

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Updates from the UN

UN General Assembly Statement Affirms Rights for All: 66 States Condemn Violations Based on Sexual Orientation and Gender Identity

On 18 December 2008, a high-level panel discussion on "Human rights, sexual orientation and gender identity" (organized by the Permanent Missions of Argentina, Brazil, Croatia, France, Gabon, the Netherlands and Norway), was held in the UN General Assembly. The General Assembly adopted a groundbreaking statement confirming that international human rights protections include sexual orientation and gender identity, with 66 nations voting for it. It is noteworthy that India did not become a signatory to the statement. It is the first time that a statement condemning rights abuses against lesbian, gay, bisexual, and transgender people has been presented in the General Assembly. The 66 countries reaffirmed "the principle of non-discrimination, which requires that human rights apply equally to every human being regardless of sexual orientation or gender identity." They stated they are "deeply concerned by violations of human rights and fundamental freedoms based on sexual orientation or gender identity," and said that "violence, harassment, discrimination, exclusion, stigmatization and prejudice are directed against persons in all countries in the world because of sexual orientation or gender identity."

Source: Human Rights Watch Press Release

<http://www.hrw.org/en/news/2008/12/11/un-general-assembly-address-sexual-orientation-and-gender-identity>

A Critical Review of 15 years of UNSRVAW mandate released

The UN Special Rapporteur on Violence against Women, Its Causes and Consequences has released a critical review of the 15 years of the mandates work from 1994 to 2009. This review was initiated by the current mandate holder Yakin Ertürk (Turkey) with research support by Madhu Mehra, Executive Director of Partners for Law in Development (India) and Regional Council Member of the Asia Pacific Forum for Women, Law and Development (Thailand). The current mandate holder's term commenced in 2003 and concludes in 2009, the previous mandate holder Radhika Coomaraswamy (Sri Lanka), held office from 1994 - July 2003. The critical review consolidates 15 years of the valuable work undertaken and jurisprudence generated by the mandate. It sets out the background and evolving scope of the mandate, brings together the key areas of focus, the conceptual gains, issues of compliance, implementation and accountability in relation to VAW, in addition to highlighting the future potential and challenges of the mandate. The full text of the review is available at:

<http://www2.ohchr.org/english/issues/women/rapporteur/docs/15YearReviewofVAWMandate.pdf>.

Details about the UNSRVAW can be accessed at:

<http://www2.ohchr.org/english/issues/women/rapporteur/>



Special Rapporteurs (Freedom of Religion or Belief; Trafficking in Persons, Especially Women and Children; Right to Food) present their reports to the Tenth Session of the Human Rights Council

At the Tenth Session of the Human Rights Council during January-February 2009, the following special procedure mandate holders presented their reports.

- Special Rapporteur on Freedom of Religion or Belief
- Special Rapporteur on Trafficking in Persons, Especially Women and Children
- Special Rapporteur on Right to Food
- Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context.

A gender perspective has also been integrated in these reports to bring out the situation of women in relation to these areas. Details about the Human Rights Council session as well as the reports can be accessed at: <http://www2.ohchr.org/english/bodies/hrcouncil/10session/> and <http://www2.ohchr.org/english/bodies/hrcouncil/10session/reports.htm> respectively.

Durban Review Conference: April 20-24, 2009

The Durban Review Conference took place from the 20th to the 24th of April 2009 in Geneva, Switzerland. It evaluated progress towards the goals set by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban, South Africa, in 2001. The aim of the conference and of the document produced was to identify 'concrete measures and initiatives at all levels' to weed out racial discrimination and intolerance. The outcome document includes specific measures to address multiple forms of discrimination against vulnerable groups, such as migrant workers, refugees, asylum seekers and internally displaced persons, children, women and girls, persons with disabilities, victims of slavery and exploitation, trafficking and people living with HIV/AIDS. The document while focusing on countries in Asia and Africa urges the governments to promote greater participation and opportunities for indigenous peoples, and ethnic, linguistic or religious minority groups. While the document represents pledges by governments across the globe to tackle all forms of racial discrimination, it also underlines the important role of international and regional organizations, national human rights institutions, civil society and their cooperation in fighting the battle against racism.

Source: <http://www.un.org/durbanreview2009/ddpa.shtml>

Special Rapporteur on VAW submits report on Political Economy of Women's Human Rights to Human Rights Council

Prof. Yakin Ertürk, the SRVAW submitted her third report to the UN Assembly on Political Economy of Women's Human Rights. The report draws attention to the linkages between violations of women's human rights and neo liberal globalization. It brings out the material basis underlying socio cultural inequality of women, and expresses concern at the disproportionate impact of the current political and economic crisis on women – emphasizing the importance of ensuring women's access to resources as part of the responses for elimination of violence.

Source: http://www.wunrn.com/news/2009/05_09/05_25_09/052509_sr_files/SR%20VAW%20Report%20to%20UN%202009.pdf



CEDAW Optional Protocol invoked by a Peruvian teen

A 16-year-old Peruvian rape survivor who suffered devastating consequences after being denied an abortion filed a human rights petition against her government before the United Nations Committee on the Elimination of Discrimination against Women (CEDAW). The CEDAW Committee monitors states' compliance with the Convention on the Elimination of All Forms of Discrimination against Women. She has charged that Peru's failure to implement measures that guarantee a woman's ability to obtain essential reproductive health services in a timely manner, particularly legal abortion, not only violates the Peruvian Constitution, but international treaty obligations. Among other remedies, she is asking that the Peruvian government acknowledges the human rights violation; provide her with reparations, including physical and mental rehabilitation; and issue necessary measures so that no other woman is denied her right to comprehensive health care and therapeutic abortion.

Source: <http://reproductiverights.org/en/press-room/teen-rape-victim-files-case-against-peru-in-un-committee>

Rashida Manjoo appointed the new UN SRVAW

The term of the former Special Rapporteur on violence against women, its causes and consequences, Dr. Yakin Ertürk, came to an end in July 2009. Ms Rashida Manjoo from South Africa has been appointed as the new UNSRVAW. The Special Rapporteur investigates and reports to the Human Rights Council on violence against women, makes recommendations to eliminate violations and suggests measures to remedy its consequences. While ending her mandate, Dr. Ertürk, described the establishment of the mandate as a milestone in history, which at one level monitored violations against women, at another, mobilised women around the world and gave them support to break the silence on violence.

Source: <http://www.ohchr.org/EN/NewsEvents/Pages/ViolenceWomen.aspx>

Maternal Mortality Resolution passed by UN Human Rights Council

On 16 June 2009, the Human Rights Council in its Eleventh Session passed a resolution expressing "grave concern at the unacceptably high global rate of preventable maternal mortality and morbidity". The resolution recognized "that most instances of maternal mortality and morbidity are preventable, and that preventable maternal mortality and morbidity is health, development and human rights challenge, which also requires the effective promotion and protection of the human rights of women and girls, including in particular their rights to life, to be equal in dignity, to education, to be free to seek, receive and impart information, to enjoy the benefits of scientific progress, to freedom from discrimination, and to enjoy the highest attainable standard of physical and mental health, including sexual and reproductive health." States were thus requested to renew their political commitment to eliminate this preventable phenomenon. As part of the resolution, the council requested that the U.N. High Commissioner for Human Rights (OHCHR) prepare a "thematic study on preventable maternal mortality and morbidity and human rights," in consultation with states, the WHO, UNPF, UNICEF the World Bank and other relevant stakeholders.

Source: The text of the resolution is available at:

http://www.who.int/pmnch/topics/maternal/20090617_humanrightsresolution/en/index.html



UN General Assembly approves new agency for women

United Nations General Assembly has adopted a historic resolution aimed at creating a new U.N. agency for women. The agency will be a separate powerful body and will deal exclusively with gender-related activities. At present, there are four existing women's U.N. entities in the world body: the U.N. Development Fund for Women (UNIFEM); the Office of the Special Adviser on Gender Issues; the U.N. Division for the Advancement of Women; and the International Research and Training Institute for the Advancement of Women (INSTRAW). However, none of them is as politically powerful and financially stable as full-fledged U.N. agencies. The resolution will consolidate these four bodies into a composite entity headed by an under-secretary-general (USG). The new agency will have the potential to streamline decision-making and programming related to women's rights under one overarching agency. Women's groups all over the world have welcomed the resolution as "a great victory for women's rights".

Source: www.ipsnews.net

Farida Shaheed appointed the Independent Expert on Cultural Rights

In March 2009, the Human Rights Council created a new mandate of the UN Independent Representative on Protection and Promotion of Cultural Rights. The mandate involves working with States to foster multi-level measures, examining ways of overcoming existing/emerging obstacles, identifying gaps and undertaking studies to clarify the content and scope of cultural rights. On October 2, the Human Rights Council appointed Ms. Farida Shaheed from Pakistan as the Independent Expert on Protection and Promotion of Cultural Rights. Ms. Shaheed is known for her outstanding work in the area of women's human rights in relation to culture, and women's groups widely welcome her appointment.

Source: <http://www.un.org/apps/news/story.asp?NewsID=32407&Cr=palestin&Cr1=>

UN Security Council expands criteria of violations against children during conflict

In August, The UN Security Council adopted Resolution 1882 for compliance and progress in ending six grave violations against children during conflict: the recruitment and use of children; killing and maiming of children; rape and other grave sexual violence; abductions; attacks on schools and hospitals; and denial of humanitarian access to children. The Resolution calls upon Member States to take decisive and immediate action against persistent perpetrators and to bring those responsible for violations prohibited under applicable international law before national or international justice systems. The Council also requested enhanced communication between the Working Group on Children and Armed Conflict with the relevant Council sanctions committees.

In June, the UN Department of Peacekeeping Operations (DPKO) had adopted the Child Protection Policy, adopted by which responds to the call for greater mainstreaming of child protection across the UN system by ensuring the presence of child protection advisers in the field, training and advocacy, and a lead role for peace operations in monitoring for resolution 1612.

Text of the Resolution:

<http://www.un.org/apps/news/story.asp?NewsID=31674&Cr=child+soldiers&Cr1>



United Nations Security Council adopts Resolution 1888 and 1889

The United Nations Security Council stepped up efforts under its women, peace and security agenda by adopting two resolutions: 1888 (30th September 2009) and 1889 (5th October 2009). UNSCR 1888 addresses the need to end sexual violence against women in conflict-affected countries. It strengthens the commitments made under UNSCR 1820 with reference to prevention of sexual violence with the maintenance of peace and security. The resolution provides for a platform for action, along with high-level leadership in the form of a Special Representative of the Secretary-General on sexual violence in conflict, to ensure UN leadership and coordination to respond to sexual violence.

UNSCR 1889 builds on UNSCR 1325. It focuses on the implementation of 1325 in the immediate post-conflict peace building period. Further, it calls attention to women's exclusion from peace building and the consequent lack of prioritization or adequate funding for responding to women's needs, including their safety and access to services. Notably, it gives space to women and peace and security activists to provide recommendations in building accountability to women and their needs in conflict and post-conflict situations.

Text of 1888 Resolution:

<http://www.un.org/News/Press/docs/2009/sc9753.doc.htm>

Text of 1889 Resolution:

<http://www.un.org/News/Press/docs/2009/sc9759.doc.htm>

ICC and Regional Human Rights Systems

Commencement of the Lubanga trial before the International Criminal Court

The commencement of the Lubanga trial on 26 January 2009 marked the start of the first ever trial before the International Criminal Court (ICC) as a landmark event in the development of international law. The trial of Mr. Thomas Lubanga Dyilo, a Congolese national charged with the war crimes of enlisting and conscripting children under the age of fifteen and using them to participate in hostilities, finally commenced today at the world's permanent International Criminal Court in The Hague, after numerous delays which lead to a stay of proceedings in June 2008. The trial date was the third attempt by the ICC judges to try Mr. Lubanga who has been in ICC custody since March 2006. The Lubanga trial also marked another 'first' in international criminal proceedings. Ninety-three victims have thus far been granted the right to participate in the case, the first time at an international level that victims will be allowed an independent voice in the courtroom.

Source: International Bar Association, Press Release

<http://www.ibanet.org/Article/Detail.aspx?ArticleUid=200A0A31-7B63-4CBA-95F2-3C3BF08F26BD>



En route to Criminal Justice: developments in international criminal proceedings on crimes against humanity in Cambodia, Lebanon, Sudan and Rwanda

Developments in February-March 2009 indicate a growing affirmation of international criminal justice system. The most remarkable and unprecedented step was the issuing of an arrest warrant by the International Criminal Court against Sudan's president, Omar al- Bashir, on 4 March 2009 for crimes allegedly committed in Darfur. He thus becomes the first sitting head of state to be indicted. He narrowly escaped charges of genocide but has been accused of "intentionally directing attacks against an important part of the civilian population of Darfur, murdering, exterminating, raping, torturing and forcibly transferring large numbers of civilians and pillaging their property". A UN tribunal to investigate the 2005 assassination of Lebanon's former prime minister, Rafiq al-Hariri, opened hearing during the last week of February 2009. Similarly, on 17 February, the long-awaited UN-backed trial of a former Khmer Rouge leader in Cambodia opened at a Phnom Penh court, 30 years after the murderous regime fell. The accused was head of a notorious prison camp and is accused of presiding over the murder and torture of at least 15,000 inmates. Another UN war crimes court handed a 25-year jail sentence to a former Rwandan priest, Emmanuel Rukundo, for his role in the 1994 genocide on 27 February 2009. The court said that Rukundo monitored local Tutsis and was often accompanied by soldiers and militiamen during the violence. "The accused was found to have abused his moral authority and influence to promote the abduction and killing of Tutsi refugees," the UN court said. "Rukundo's acts were clearly part of the genocide," said Judge Joseph Asoka de Silva after the judgement had been delivered. "When he committed these crimes, he intended to completely or partially destroy the Tutsi ethnic group." The court also convicted him of the attempted rape of a young Tutsi woman.

Sources: <http://www.hindu.com/2009/03/04/stories/2009030455100900.htm>;
<http://www.timesonline.co.uk/tol/news/world/africa/article5847926.ece>;
<http://news.bbc.co.uk/go/em/-/1/hi/world/africa/7915388.stm&>
<http://news.bbc.co.uk/go/em/-/1/hi/world/asia-pacific/7893138.stm>

European Court of Human Rights upholds state accountability for domestic violence

In the case *Opuz v. Turkey*, the European Court of Human Rights held in June 2009 that by failing to prevent a woman's murder by her son-in-law, Turkey denied her "right to life", thus for the first time holding a state accountable for failing to prevent domestic violence. The case was brought by the victim's daughter, Nahide Opuz, who had told police that her mother's life was in danger. Turkey was ordered to pay her \$50,670 in damages and legal expenses. The case underlines the important responsibility on Government's to exercise 'due diligence' to protect rights – in other words, Governments must not only avoid breaching human rights but also take reasonable steps to prevent others from abusing rights so long as those steps are not too burdensome – such as steps to protect people from domestic violence or to prevent perpetrators from being violent.

Source: http://www.impunitywatch.com/impunity_watch_europe/2009/06/by-nima-nayebiimpunity-watch-reporter-europestrasbourg-france---in--its-first-ruling-against-a-country-for-failing-to-p.html



Updates on international trials on war crimes

Earlier this year the UN tribunal on Cambodia began trial of leaders responsible for Khmer Rouge atrocities in the 1970s in which thousands were killed. In June 2009, one of the few survivors of the Khmer Rouge regime's notorious Tuol Sleng detention centre, Van Nath testified at the trial of the man who ran the prison, Comrade Duch. About 15,000 people were detained at Tuol Sleng in the late 1970s, but only seven are thought to have survived. Van Nath owed his survival to his skills as a painter. He was forced to produce portraits of Khmer Rouge leaders. Comrade Duch is accused of overseeing the torture and extermination of prisoners at the jail. Earlier in his trial, he has admitted responsibility for his role as governor of the jail, and begged forgiveness from his victims. However, he also insisted that he did not hold a senior role in the regime, and that he had had little choice but to work there. Four other former Khmer Rouge leaders are currently in detention at the court, and are expected to face trial in 2010.

The Sudanese President Omar al-Bashir who had been indicted over alleged atrocities in the Darfur region in March 2009, has won support from the African Union (AU). The AU leaders have decided against cooperating with the International Criminal Court (ICC) because they see the ICC as an attempt by the West to interfere in their affairs. President Bashir has been indicted on two counts of war crimes - intentionally directing attacks on civilians and pillage - as well as five counts of crimes against humanity, including murder, rape and torture, related to the conflict. He however denies the allegations on the grounds that the state has a responsibility to fight rebels. Despite AU's disapproval, the Prosecutors at the International Criminal Court (ICC) have appealed against the judges' decision not to indict Sudan's president for genocide. The judges in March said there was insufficient evidence to support the three charges of genocide in Darfur.

The U.N. backed Special Court for Sierra Leone continued to hear testimonies against the former Liberian President Charles Taylor at The Hague. He has been charged for arming and commanding rebel forces in Sierra Leone to increase his influence in the diamond mining region. Taylor, the first African head of state to be tried by an international court, is charged with 11 counts of murder, torture, rape, sexual slavery and using child soldiers. His indictment holds him accountable for the rebels' barbaric methods, as they pillaged, killed, raped, used drug-crazed children as soldiers and hacked off limbs, ears or noses to subdue civilians. As many as 2,00,000 people died in the decade of fighting, and Taylor's war strategies are said to have affected many more in Liberia, but only crimes in Sierra Leone between 1996 and 2002 are within the mandate of the court. Witnesses have told stories of mind-boggling violence, even cannibalism. In July 2009, Charles Taylor testified in his own defense and pleaded not guilty, saying that the allegations against him are based on "disinformation, misinformation, lies, rumours."

Source: On Khmer Rouge - <http://news.bbc.co.uk/go/em/-/1/hi/world/asia-pacific/8123541.stm>;
On Sudanese President – <http://news.bbc.co.uk/go/em/-/1/hi/world/africa/8133925.stm> &
<http://news.bbc.co.uk/go/em/-/1/hi/world/africa/8138554.stm>; On the Sierra Leone trial -
<http://www.hindu.com/2009/07/14/stories/2009071453081200.htm> &
<http://www.guardian.co.uk/world/2009/jul/14/liberia-taylor-war-crimes-defence>



International Legal Developments

Asia

Reinstatement of the Chief Justice of Pakistan

After two years, the sacked Chief Justice of Pakistan, Iftikhar Choudhary was reinstated by the Zardari government in the wake of massive protests throughout the country, including the Long March call of 'Islamabad Chalo' by eminent Pakistani political leader Nawaz Sharif, who defied house arrest. The former President, General Pervez Musharraf, had suspended Justice Choudhary when he was deciding whether the military ruler could legally hold office. The delay in his reinstatement after the democratic government assumed power in Pakistan is attributed to the fact that Justice Choudhary is likely to hold a judicial review of the controversial amnesty that Musharraf granted Zardari, protecting him from possible corruption charges.

Source: <http://www.cbc.ca/world/story/2009/03/22/pakistan-chaudhry.html>

Sharia law to be implemented in Pakistan's Swat Valley as a part of peace deal with Taliban group

In February 2009, the Pakistan government signed a peace deal with a militant Taliban group in the North West Frontier Province. The Taliban insurgency in that area since 2007 has resulted in the destruction of many schools and educational institutions, mostly meant for girls. On 15 February 2009, the Chief Minister of North West Frontier Province Ameer Hussain Hoti announced a bill had been signed that would implement a new "order of justice" in the Malakand division, which includes Swat. The bill will create a separate system of justice for the whole region. Sharia law has been in force in Malakand since 1994 but appeal cases are heard in the Peshawar High Court, which operates under the civil code. As a result of the deal, there will be alterations to the appeals process - a point of contention often cited by the militants for their continued insurgency. The agreement will bind the provincial government to implement Sharia law in the Malakand division, which comprises Swat and its adjoining areas. More than 1,000 civilians have died in shelling by the army or from beheadings sanctioned by the Taliban. Thousands more have been displaced. The Taliban now control the entire countryside of Swat, limiting army control to parts of the valley's capital, Mingora.

Source: http://news.bbc.co.uk/go/em/-/1/hi/world/south_asia/7891955.stm

Nepal Supreme Court orders government to enact comprehensive abortion law

On 20 May 2009, Nepal's Supreme Court ordered the Nepal government to enact a comprehensive abortion law to guarantee that women have access to safe and affordable abortion services. Since 2002, Nepalese law has permitted abortion under most circumstances, but multiple barriers—including the government's failure to implement its own policy, prohibitive costs, and inadequate availability of abortion providers—have prevented women from accessing safe abortion services. Under the court ruling, the government must set up a fund to cover the cost of abortion for poor and rural women; and invest enough resources to meet the demand for



abortion services and to educate the public and health service providers of the existing abortion law. Source: <http://reproductiverights.org/en/press-room/court-orders-nepal-to-improve-women%E2%80%99s-access-to-abortion>

Bangladesh High Court sets out guidelines against sexual harassment

On May 14, 2009 the High Court of Bangladesh defined and set out guidelines against sexual harassment at the workplace for the first time. The Court's decision defined sexual harassment to include both physical and verbal abuses and established guidelines to prevent sexual harassment in the workplace and in educational institutions. The guidelines in the ruling will serve as law until parliament implements permanent laws on sexual harassment. A HC bench set out the guidelines, directive and ruling in its verdict upon a writ petition filed as public interest litigation by Bangladesh National Woman Lawyers Association (BNWLA). In the first case to apply the High Court's ruling, four female students at Jahangirnagar University successfully used the guidelines to reverse the University's decision to expel the students after they complained of sexual harassment by a teacher. The High Court instructed the University to open a fresh investigation of the students' allegations.

Source: [http://www.stopvaw.org/Bangladesh Landmark Ruling Aims to Prevent Sexual Harassment in the Workplace.html](http://www.stopvaw.org/Bangladesh_Landmark_Ruling_Aims_to_Prevent_Sexual_Harassment_in_the_Workplace.html)

Public protest leads to revision of marriage law in Afghanistan

Afghanistan's government has revised a law that stirred an international outcry because it essentially legalized marital rape and various women's groups had taken to the streets in protest. The new version no longer requires a woman submit to sex with her husband. Two of the most controversial articles have been changed. An article that previously required a wife to submit to regular sex now requires her only to perform whatever household chores the couple agreed to when they married. The revised version makes no attempt to regulate sexual relations between husband and wife. A section that required a wife to ask her husband's permission to leave the house has also been deleted. In its place, an article states that a woman is the "owner of her property and can use her property without the permission of her husband." However, these changes still require parliamentary approval.

Source: http://news.yahoo.com/s/ap/20090709/ap_on_re_as/as_afghan_marriage_law

Marginal reform in honour killing law in Syria

Following women's groups persistent demands to scrap the contentious law that decriminalised "honour" killings in Syria, the President replaced the law with a new one by a Presidential decree. This new law has replaced the existing maximum sentence of one year in jail with a minimum jail term of two years. It says that a man can still benefit from extenuating circumstances in crimes of passion or honour "provided he serves a prison term of no less than two years in the case of killing". The legislation covers any man who "unintentionally" kills his wife, sister, daughter or mother after catching her committing adultery or having unlawful sex. It also covers cases where the woman's lover is killed. Women's rights activists have given a cautious welcome to the change because the new law still invites men to murder women if they catch them having sex or suspect them of doing so.

Source: http://news.bbc.co.uk/2/hi/middle_east/8130639.stm



Pakistan Supreme Court orders equal benefits for transvestites

The Pakistan Supreme Court has ordered that transvestites, being equal citizens of Pakistan, should also benefit from the federal and provincial governments' financial support schemes such as the Benazir Income Support Programme (BISP). A three-member bench ruled that 'They are citizens of Pakistan and enjoy the same protection guaranteed under Article four (rights of individuals to be dealt with in accordance of law) and Article nine (security of person) of the Constitution.' The bench had taken up the petition filed by Islamic jurist Dr Mohammad Aslam Khaki, who researched on the conditions of the transvestites seeking establishment of a commission to emancipate effeminate men ostracised by the society for no fault of theirs. The transvestites are one of the most oppressed and deprived segment of the society and subjected to humiliation and molestation left by the society to live by begging, dancing and prostitution.

Source:<http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/metropolitan/14-sc-orders-equal-benefits-for-transvestites-zj-02>

Philippines President signs the Magna Carta of Women into law

President of Philippines signed into law Republic Act 9710 (the Magna Carta of Women) that seeks to eliminate discrimination against women by recognising, protecting, fulfilling and promoting the rights of Philippine women in all spheres of society. The Magna Carta of Women contains provisions which promote women's rights, including the right to non-discrimination. The law defines discrimination against women as "any gender-based distinction, exclusion or restriction which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field." The law aims at substantive equality between men and women as alongwith equal opportunities it also ensure women have equal access to resources and to positive outcomes of development initiatives. The Act, significantly, states that the rights of women would be drawn from international treaties signed by Philippines. It covers equal rights in all matters relating to marriage and family relations, including the right to choose the number and spacing of their children; as well as equality in the sphere of public life, work and citizenship. However, the rights stipulated under it remain contingent on the provisioning of State policies.

Direct Link to the Magna Carta: http://www.congress.gov.ph/download/billtext_14/hbt04273.pdf

Source:<http://newsinfo.inquirer.net/breakingnews/nation/view/20090814-220278/Arroyo-signs-Magna-Carta-for-women>

Bangladesh High Court calls for immediate measures to stop extra judicial penalties delivered by the Shalish

Responding to a writ petition, the Bangladesh High Court has issued a Rule Nisi on the Government and the Inspector General of Police. The court stated that the writ petition filed jointly by the Bangladesh Legal Aid and Services Trust (BLAST), Bangladesh Mahila Parishad, Ain-o-Salish Kendra (ASK), BRAC and Nijera Kori brought to its notice that a section of people across the country have been imposing punishments by beating and lashing during the course of rural 'shalish', often in the presence of or with the active participation of Members or Chairmen of Union Parishads and the imposition of such punishments not being permitted by the Constitution nor by any law. The petitioners challenged the failure of the Government to prevent



the imposition of such extra-judicial penalties, or to provide information to the public that such penalties are wholly without lawful authority. They sought urgent preventive measures as well as information to be issued to the public and to concerned bodies regarding their duties to prevent such incidents.

Source: <http://news.bbc.co.uk:80/2/hi/africa/8223736.stm>

Afghanistan President passes law limiting women's rights

The President of Afghanistan, Hamid Karzai passed an act that severely limits the rights of women by reinforcing gender roles. The law allows Shia men to deny their wives food and sustenance if they refuse to obey their husbands' sexual demands and gives the police a free hand to use any means to ensure that married women perform their sexual duties. The legislation also grants guardianship of children exclusively to their fathers and grandfathers, and requires women to get permission from their husbands to work. Islamic law experts and human rights activists say that although the language of the original law has been changed due to international pressure, many of the provisions are still repressive, for example the law calls for fulfillment of sexual duties by women in the name of granting men their 'Shariat rights'.

Source: <http://www.abcnews.go.com/International/Story?id=8327666&page=1>

President returns Women Rights Bill in Mali in the wake of protests by fundamentalist groups

The President of Mali refused to give his assent to the Women Rights Bill and returned it to the Parliament for consideration for 'the sake of national unity'. Muslim groups have been protesting against the law, as it gives greater rights to women. For example, the proposed law does not require women to obey their husbands, instead it defines marriage as a secular institution where husbands and wives owe each other loyalty and protection. The law provides women with inheritance rights, stipulates 18 years as the minimum age for girls to marry. The passing of the bill by the Parliament led to angry protests by Muslim groups that considered the law against Islam. This was cited as the reason by the President for sending the bill back to the Parliament for review. Women's groups have been greatly disappointed as they had been pushing the bill for the past ten years.

Source: <http://news.bbc.co.uk:80/2/hi/africa/8223736.stm>

Solomon Islands Parliament strides towards gender equality in Sexual Assault Law

Solomon Islands Parliament has changed four legal practices in its Evidence Act 2009 making it gender sensitive. The changes also remove obstacles to successfully prosecuting offenders in sexual assault cases. The Act removed the corroboration rule which required evidence to corroborate women's testimony of sexual assault. This was based on the belief that women almost always lie about sexual matters. Secondly, the Act also prevents courts from inferring that a woman who delayed reporting sexual assault would be lying. Thirdly, the Act requires judicial permission before the women could be questioned on their past sexual history. Finally, in order to protect the victim and witnesses, the Act permits them to testify using modern technology.

Source: <http://apww.isiswomen.org/list/archive/msg00681.html>



Bahrain passes landmark family law

Bahrain has passed a family law protecting the rights of women within the family. The law requires the consent of the woman to enter a marriage, regardless of her age, and forbids her family from preventing her marriage without a legitimate reason. The law also gives women the right to prohibit their husbands from taking additional wives. Witnesses are no longer required to prove harm in divorce matters.

Source: bahwu@batelco.com.bh

Aceh passes adultery stoning law

Aceh's regional legislature has unanimously passed a law that makes adultery punishable by stoning to death and imposes severe sentences for rape, homosexuality, alcohol consumption and gambling. The act calls for death by stoning for adultery committed by married heterosexual people, eight and a half years in prison and 100 lashes of the cane for premarital sex or homosexuality, 400 lashings for child rape, and 60 lashings for gambling. The act covers any sexual activity outside marriage, including sexual activity between unmarried people, male to male sexual activity, and female to female sexual activity. The law does not give any scope for debate; even the assent of the Governor is a formality.

Source: <http://news.bbc.co.uk/2/hi/asia-pacific/8254631.stm>

<http://www.iwpr.net/EN-btm-b-356650>

Constitutional Court of Kuwait allows women to get own passports without the approval of husbands

The Constitutional Court of Kuwait has issued a landmark ruling annulling an article in the 1962 passports law that banned Kuwaiti women from obtaining their own passports without the prior approval of their husbands. The ruling was in response to a Kuwaiti woman who sued her husband as he refused to give her passport and those of their three children. The constitutional court also said that husbands cannot prevent their wives from travelling without a court order and only when they prove that their travel undermines the interest of both parties.

Source: http://www.gulfinthemedia.com/index.php?id=492103&news_type=Top&lang=en

Beyond Asia

Forcibly Sterilized Woman Files International Case against Chile

On 3 February 2009, a woman diagnosed with HIV filed a complaint against Chile before the Inter-American Commission on Human Rights, an international human rights body, charging that the government failed to protect her from being forcibly sterilized at a state hospital immediately after she gave birth. In a petition submitted by the Center for Reproductive Rights and Chilean-based HIV/AIDS service organization *Vivo Positivo* on her behalf, the 27-year-old Chilean woman argues that the hospital staff because of her HIV status, without even discussing it, let alone seeking her consent. Notably, neither the Ministry of Health nor the Chilean Courts found that the facts of this case amounted to a violation of her human rights, demonstrating apathy towards discrimination that people living with HIV/AIDS continue to suffer. In the complaint, the Center and *Vivo Positivo* have argued that the Chilean government has violated her right to be free from discrimination, as well as her right to decide the number and spacing of



her children, the right to be free from violence, and the right to have access to justice. These rights are guaranteed under the American Convention on Human Rights and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women.

Source: *Vivo Positivo* Press Release dated February 3, 2009

US "global gag rule," revoked

The "global gag rule," which cut off U.S. aid for any organization that fostered, provided or even advised women about abortion, has been revoked by the new Barak Obama administration. By rescinding the Global Gag Rule, President Obama has stood up for reproductive rights, for individual dignity and autonomy, and for the simple proposition that women's health should be the central concern of women's health policy. For the last eight years, and for almost a decade during the Reagan and George H.W. Bush administrations, the Global Gag Rule withheld critical funds from organizations abroad which, using separate funds provided legal, voluntary abortions, counseled women about abortion, or engaged in advocacy for abortion rights. The imposition of this ideologically motivated rule reduced access to basic reproductive health services and information, and undermined women's health around the world.

Source: *The Huffington Post*

Church of England Drafts Women Bishops Legislation

The Church of England has published a draft legislation that could allow the ordination of women bishops. The proposed measures are scheduled to go up for debate by the church's General Synod governing body in February. The Anglican Church is divided between conservatives who argue that allowing gay and women bishops goes against Bible teachings, and liberals who want a more inclusive communion. Under the draft legislation, male "complementary bishops" would be nominated to minister to those parishes objecting to women bishops. However, the legislation process would mean that there is unlikely to be a female bishop installed before 2014, even if the proposal is finally accepted. Liberal and conservative Anglicans have been at odds since the US Episcopal Church consecrated an openly gay priest, Gene Robinson, as Bishop of New Hampshire in 2003, and Barbara Harris as the US church's first female bishop in 1989. Moreover, The Vatican has warned that any decision to allow the ordination of women bishops could harm reconciliation between Anglicans and Roman Catholics too.

Source: Yahoo News

http://news.yahoo.com/s/afp/20081229/lf_afp/britainreligionanglicanwomen

Italian decree against sexual violence and illegal immigration

Italy's government issued a decree in February 2009 to crack down on sexual violence and illegal immigration after a spate of rapes blamed on foreigners. The decree sets a mandatory life sentence for the rape of minors or attacks where the victim is killed. This decree was prompted by three incidents of rape within the span of 2-3 days in mid February. In all these cases, the accused are men from North Africa, Tunisia and Eastern



Europe. The decree went into effect immediately though it needs to be passed by the Parliament within two months. It speeds up trials for sex offenders caught in the act, takes away the possibility of house arrest, and gives free legal assistance to victims. It also sets rules for citizen street patrols, in which officials said retired police and soldiers would play a major role. Critics say the measures could effectively legitimise vigilantism and xenophobia. The Vatican has warned against anything that turns innocent foreigners into convenient scapegoats. The government, on the other hand, has pointed to official statistics saying immigrants committed as many as 35% of crimes in Italy in 2007. The backlash against immigrants has had the most pronounced effect on Romanians who constitute the largest immigrant community in Italy and on the members of a gypsy community of Romas (many of whom are from Romania, but some Roma people belong to other Balkan countries).

Source: <http://news.bbc.co.uk/go/em/-/1/hi/world/europe/7902107.stm>

Swedish Marriage Code becomes gender neutral

In a landmark decision, the Swedish Parliament passed a bill amending the Swedish Marriage Code, making it gender neutral. The amended legislation was passed by an overwhelming majority, 261 votes in favour, 22 against, 16 abstentions and 50 MPs absent. The new gender neutral Marriage Code entered into force on 1st May, 2009.

Source: <http://www.sweden.se/eng/Home/Work-live/Equality/Facts/Gender-neutral-marriage-and-marriage-ceremonies/>

California outlaws Same Sex Marriages

The state Supreme Court in California upheld the Proposition 8 which was passed by 52 percent majority by the voters in California in November 2008. The Proposition outlawed same sex marriages by recognizing a marriage valid only when it is between a man and a woman. The voters who are said to be affiliated with Christian conservative groups raised nearly \$40 million for the campaign which has been recorded as the highest ever for a ballot measure on a social issue. The ruling, the court's third major decision on same-sex marriage in five years, may be the last word from the state's legal system on the issue. But the matter is far from settled in the political arena. Gay-rights advocates, anticipating the decision, have discussed putting another constitutional amendment on the ballot in 2010 or 2012 to try to repeal Proposition 8.

Source: http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/05/26/BAE017PTAD.DTL&tsp=1http://www.mercurynews.com/ci_12451435?source=most_viewed

Egypt passes law on women's quota in parliament

In June 2009, a law was passed in the Egyptian Parliament allocating 64 seats for women in the People's Assembly for two sessions. The law has come into existence after continued lobbying efforts by women's groups since 1995. However, women's groups are concerned about the law's application for only two parliamentary sessions. According to them, this fixed limit contradicts the aim of this quota, which is to be a tool for changing the attitudes of society. Two parliamentary sessions is not enough time to change the attitudes of a generation, and thus they are demanding that it should be extended to four parliamentary sessions.



Source: <http://www.awid.org/eng/Issues-and-Analysis/Issues-and-Analysis/Egypt-Women-on-Road-to-Parliament> & Egyptian Centre for Women's Rights (ECWR) Press Release dated 18 June 2009

U.S. Federal Court allows Dell Inc. to settle gender discrimination lawsuit by paying \$9.1 million

In the case Hubley and Guenther v. Dell, 08-804, in the U.S. District Court, Western District of Texas (Austin), Dell Inc. (the second-largest maker of personal computers) agreed to settle the suit by paying \$9.1 million. The Court allowed this settlement on 24 July 2009. The lawsuit was filed by two former female employees who alleged that the firm "systematically denied equal employment opportunities to its female employees" in compensation and promotions, in training, in assignments of positions outside the U.S. and in programs designed to accelerate advancement. Dell has also agreed to hire an expert psychologist to review its employment practices and a labor economist who may recommend pay adjustments for female employees in some positions.

Source: <http://www.bloomberg.com/apps/news?pid=20601103&sid=aZtD.RbF.pjY>

Nigeria proposes to criminalize gay marriage

The public committee of the Nigerian National Assembly is discussing a new bill to outlaw same sex marriage. Gay sex is already criminalized there, and is in fact punishable with the death sentence in the Shariat ruled Islamic North. This new move seeks to criminalize cohabitation, and is also detrimental for human rights defenders of LGBTIs. The bill's sponsor, House of Representatives member Mayor Eze, said the bill was necessary to protect the family. The new law would mean prison sentences for gay people who live together, and anyone who "aids and abets" them, thus gay people need not necessarily be caught "in the act". Under the new law anyone who has "entered into a same gender marriage contract" would be liable to be jailed for three years, and defines a same sex marriage as gay people living together. Anyone who "witnesses, abet and aids the solemnization" of a same gender marriage would face five years in prison, or a fine – i.e. harsher punishment than even the gay people themselves. Church groups are in favour of the bill, saying that gay marriage risked "tearing the fabric of society". Gay rights activists in Nigeria have launched a protest against this proposed law and have also appealed to the National Assembly to not pass it. The law would make it easier for the police to arrest suspects, and criminalise anyone working in a human rights organisation that dealt with gay rights.

Source: <http://news.bbc.co.uk/go/em/-/1/hi/world/africa/7937700.stm>



International News

Asia

Aung San Suu Kyi convicted within two months of arrest

The Court in Myanmar found Aung San Suu Kyi guilty of violating the terms of the house arrest under which she has already been held for 14 of the last 20 years and sentenced her to three years of hard labour, but her sentence was commuted to a new term under house arrest of upto 18 months. Her latest six-year term of house arrest expired in mid-May and thus the trial has been condemned as a strategy to keep her in detention to prevent her from contesting in the parliamentary election scheduled in Myanmar for next year. She was put on trial after an American intruder stayed at her house in May.

Source: <http://www.nytimes.com/2009/08/12/world/asia/12myanmar.html>

Formalization of rules on sex change operations in China

The Chinese Ministry of Health has proposed new guidelines covering sex change operations to ensure that all those who want surgery meet certain requirements. Those who apply for a sex change must be single, over 20 and have wanted the surgery for at least five years. The new rules aim to improve the oversight of sex change operations in China and ensure their safety. Those who want surgery must have openly lived and worked as a member of the opposite gender for at least two years. Moreover, they must have received psychological counselling for at least a year and have told their families about their wishes. China's public security bureau must also agree to change the person's sex on their identify documents.

Source: <http://news.bbc.co.uk/2/hi/asia-pacific/8104561.stm>

Bangladesh gets its first woman police chief

Bangladesh has appointed Hosne Ara Begum as the first woman chief of a police division. She started her career with the Bangladesh police in 1981 and has worked in many regions of Bangladesh, in different police jurisdictions and departments, including the Intelligence Branch of the Bangladesh police. Women first entered the country's police force in 1974. Then there were only 14, now there are 1,937, and among them 1,331 police constables.

Source: <http://www.asianews.it/index.php?l=en&art=15319&size=A>

Widows in Nepal protest against cash marriage incentive for men

Widows in Nepal are protesting against a decision by the Nepalese government to offer a cash incentive to men for marrying them. The incentive was announced in the government's annual budget earlier this week - it is a lump sum of 50,000 Nepali rupees. Nepal has a large number of widows because of the bloody conflict there in recent years as well as the high rates of HIV and other diseases found in the country. Women's groups have challenged the government's move to "empower widows through remarriage". They are instead urging the government to provide social security payments, health care and education to these women.

Source: http://news.bbc.co.uk/80/2/hi/south_asia/8153193.stm



Beyond Asia

Pope opposes non-discrimination on grounds of gender identity and sexual orientation

In an end-of-year speech to senior Vatican staff, Pope Benedict XVI said that mankind needed to be saved from a destructive blurring of gender. He warned that blurring distinctions between male and female could lead to the "self-destruction" of the human race. The Catholic Church opposes gay marriage. The Vatican had earlier said that the proposed United Nations resolution decriminalizing homosexuality went too far. "Unjust discrimination" against gay people should be avoided, but the use of wording such as "sexual orientation" and "gender identity" in the text would "create serious uncertainty in the law", it said. Lesbian Gay Bisexual Transsexual (LGBT) activists and groups world wide strongly condemned such regressive comments made by the Pope and PLD expresses its solidarity with protesting voices.

Source: BBC News <http://news.bbc.co.uk/go/em/-/1/hi/world/europe/7797269.stm>

First gay PM for Iceland cabinet

Iceland has announced a new government that will be headed by the modern world's first openly gay leader. Ms. Johanna Sigurdardottir was named the new prime minister by the country's coalition political parties. Ms. Sigurdardottir, a former social affairs minister, is the member of the Social Democratic Alliance. The 66-year-old's appointment as interim leader - until elections in May - can be seen as a milestone for the gay and lesbian movement. Ms. Sigurdardottir has never hidden her sexuality and married her companion Jonina Ledsdottir in 2002. Ms Sigurdardottir, one of Iceland's most popular politicians, was first elected to Iceland's parliament in 1978 and was given her first ministerial office - social affairs - in 1987.

Source: BBC News <http://news.bbc.co.uk/1/hi/world/europe/7863923.stm>

Spain: Plan for Asset Seizure of Convicted Human Traffickers

The Spanish government announced a new plan on 12 December 2008 to combat human trafficking, which includes a measure for the immediate seizure of the assets of anyone convicted of involvement in such activities, in particular, those who force foreign women into prostitution. The Integral Plan to Combat Human Trafficking for the Purposes of Sexual Exploitation includes 61 measures aimed at raising social awareness and implementing a zero tolerance policy against human trafficking-related crimes. It also seeks to tackle the causes of these crimes with active cooperation policies involving the countries of origin, transit and destination, and with the participation of NGOs. The full implementation of the resolution adopted by the Council of Ministers requires legislative reforms and amendments to the criminal code, which means it will take several months to be in effect. The plan, which has Congressional backing, includes the seizure of all assets and goods owned by pimps, managers or owners of any facilities where sexual exploitation activities are detected.

Source: Inter Press Service News Agency
<http://ipsnews.net/news.asp?idnews=45094>



A global study affirms that anti-terror measures world-wide have seriously undermined international human rights law

On the basis of a three year long global study, the International Commission of Jurists (ICJ, a Geneva-based International NGO) has said that many states have used the public's fear of terrorism to introduce measures, which are often illegal and counter-productive. Such measures include detention without trial, illegal disappearance and torture. It also said that the UK and the US have "actively undermined" international law by their actions. The study has observed that the legal systems put in place after World War II were "well-equipped to handle current terror threats". It said countries should use civilian legal systems to try suspects and "not resort to ad-hoc tribunals or military courts to try terror suspects". The report's authors expressed concern at the lack of adequate safeguards in the use of control orders, the weakness of diplomatic assurances in relation to deportations and "excessive detention without charge". The ICJ report recommended an urgent review of counter-terrorism laws and policies to prevent serious and permanent damage to fundamental human rights principles. Some of the world's top international law experts served on the ICJ panel, including Mary Robinson, former president of Ireland and former United Nations Human Rights Commissioner, and Arthur Chaskelson, former President of the Constitutional Court of South Africa.

Source: <http://news.bbc.co.uk/go/em/-/1/hi/world/7892387.stm>

First woman in the Council of Ministers in Saudi Arabia

King Abdullah appointed Noor al-Fayez as Prince Faisal's deputy for girls' education — the first time a woman has been appointed to the council of ministers. This appointment is part of a larger reform project launched by the Saudi King. In a bid to reform the religious establishment, Saudi King Abdullah on 14 February 2009 dismissed the head of the feared religious police (formally known as the Commission for the Promotion of Virtue and Prevention of Vice) and a hard-line cleric who issued an edict last year saying it was permissible to kill owners of satellite TV stations that show "immoral" content. However, some view the appointment of a woman as a deputy ministry as mere tokenism as the office of the deputy is a weak and subordinate to that of the Minister. Real according to this view would be symbolized by appointing a woman as a Minister.

Source: <http://www.hindu.com/2009/02/15/stories/2009021560951700.htm>

Four women are elected to the Parliament in Kuwait for the first time

First time in the history of Kuwait, four women were elected to the Parliament. Kuwaiti women were first given the right to vote and run for office in 2005 but failed to win any seats in the 2006 and 2008 elections. There were 16 women among the 210 candidates for the 50-seat assembly in the 2009 election. Many hailed it as a victory for women and for Kuwaiti democracy.

Source: http://www.gulfinthemedia.com/index.php?id=470177&news_type=Top<=en

Uneven progress in human rights in relation to sex work and trafficking

In a move to control trafficking and illegal migration into Netherlands, its Cabinet has passed a draft legislation that prosecutes both illegal prostitutes and their customers. In a similar case,



Iceland imposed a ban on prostitution and stripping to prevent trafficking. These developments seek to penalize the already affected victim of trafficking and are inconsistent with the OHCHR's Recommended Principles and Guidelines on "Human Rights and Human Trafficking". Human rights standards assert that responses to trafficking must protect human rights of the victim and not further penalize her by using law-and-order approach to trafficking. The OHCHR Recommended Principles and Guidelines on 'Human Rights and Human Trafficking' appeals to the governments "*to re-think restrictions on legal migration, legal protection under national and international labour law regardless of legality of status, and removal of gender bias in law that makes the immigration status of women contingent on their being 'dependent spouses'.*"

Source: http://www.nisnews.nl/public/280409_2.htm

http://icelandreview.com/icelandreview/daily_news/?cat_id=16539&ew_0_a_id=321477

The US Senate rejects plans to close Guantanamo Bay Prison Camp

The Senate rejected the plan of shutting down the Guantanamo Bay prison camp with a 90-6 voting when the White House could not satisfactorily present a plan as to the transfer of the 240 detainees. One of the first decisions taken by President Obama was to shut down the detention camp by January 2010. However, the officials have said the plan will ultimately rely on some combination of sending some prisoners overseas for release, transferring others to the custody of foreign governments, and moving the rest to facilities in the United States, either for military or civilian trials, or in some cases, perhaps, to be held without charges. But the prospect that detainees might be moved to American soil has run into strong opposition in Congress.

Guantanamo Bay Prison has been the subject of much international discussion because of the human rights violations in the prison camp. Throughout the world, human rights institutions have been demanding closing down of the prison camp. The prison which has many cases pending against it for human rights violations, received orders from the Bush administration to indefinitely detain any non-citizen who was believed to have been suspected to be involved in international terrorism.

Source: <http://news.bbc.co.uk/2/hi/americas/8060350.stm>

New secular coalition against fundamentalisms up for endorsement

On 9 December 2009 on the 104th Anniversary of the French Law for Separation of Churches and State, many non governmental organizations and individuals from across the world have signed a common public statement against the role of fundamentalist politics and the need to counter it internationally. The signatories propose the formation of International Bureau for Laicity that would facilitate, network and support struggles for secularism.

This charter highlights the bogey of clash of civilizations, the role of public policies leading to greater inequality, and the impact of religious fundamentalisms and right wing identity politics in dividing people locally, nationally and internationally. It condemns the retreat of the state from the social domain leaving the terrain to manipulation by religious-political outfits, and condemns as well, the left groups who have allied with fundamentalists to fight imperialism.

The full text of the charter is available for public consultation and is open for signatures at:

<http://www.laicity.info/bli>



The African Union adopts Convention on Internally Displaced Persons

The African Union has adopted a new treaty for the protection of people who are internally displaced in Africa due to conflict and natural disasters. The Convention besides protecting the IDPs, aims to promote regional and national measures to prevent, mitigate, prohibit and eliminate the root causes of internal displacement and provide for durable solutions. The text of the Convention evolved through dialogue among a Group of Experts and the Foreign Ministers of AU member states over the last three years.

Welcoming the Convention, the UN High Commissioner for Human Rights, Navi Pillay acknowledged that unlike the refugees, the IDPs have been excluded from the system of international legal protection “even though they are often displaced in exactly the same way, and for exactly the same reasons, as refugees.”

Source: <http://www.fidh.org/The-African-Union-IDPs-Convention-a-unique>
<http://www.unhchr.ch/hurricane/hurricane.nsf/view01/8AFF483549450BEFC12576570056B62B?opendocument>

National

New Laws/Amendments

The Right to Education Bill passed

On July 21, the Parliament passed ‘The Right of Children to Free and Compulsory Education Bill, 2009,’ which envisages free and compulsory education to children in the age-group of 6-14. The Act ensures every child, the right to education, and the obligation of the government to impart it. The Act gives each child the right to free, compulsory and quality education by qualified teachers to be appointed by an academic committee. The Act proposes to ban capitation fees, admission interviews and private tuition. Upto the elementary level, education would be provided in the mother tongue of the child. It also fixed responsibility on schools to reserve at least 25% of their seats for children from the weaker and disadvantaged sections. The act is a significant step towards fulfillment of disability rights in India as disabled children have for the first time been included within the category of the ‘weaker and disadvantaged sections’. Further the act makes it mandatory for all states to integrate the differently abled into the school systems.

Source:

<http://www.thehindu.com/2009/08/05/stories/2009080558780100.htm><http://ibnlive.in.com/news/education-bill-to-benefit-disabled-children-says-sibal/98575-3.html>

Bill for Unorganized Sector Workers passed

On 17 December 2008, the historic Unorganized Workers’ Social Security Bill, 2008 was passed, that seeks to provide the benefit of health, life and disability insurance, old-age pension and the group accident scheme for unorganized sector workers including farm workers and migrant labourers. It is noteworthy that it has taken the State 60 years to enact social security rights to



the most vulnerable section of workers, finally fulfilling the promise of the Directive Principles of State Policy. Another recent legislation, the National Rural Employment Guarantee Act, 2005, also seeks to do so.

Source: *The Hindu*, 18 December 2008.

<http://www.thehindu.com/2008/12/18/stories/2008121859331100.htm>

Gram Nyayalaya Bill passed by Rajya Sabha

The Gram Nyayalaya Bill 2008, which aims at providing inexpensive justice to people in rural areas on their doorstep, was passed unanimously in the Rajya Sabha on 17 December 2008. These ‘village courts’ will have first class judicial magistrates called *Nyaya Adhikaris* dispensing justice. The full cost on capital account would be borne by the Central government. These courts will sit at the district headquarters and in taluks. They will go in a bus or jeep to the village, work there and dispose of the cases. The cost of litigation would be borne by the state and not by the litigant. However, tribal areas have not been brought into the purview of this bill.

Source: *The Hindu*, 18 December 2008.

<http://www.thehindu.com/2008/12/18/stories/2008121859351100.htm>

The NIA Act, 2008 and the Unlawful Activities (Prevention) Amendment Act, 2008

In the wake of the Mumbai terror attacks, the Parliament in December passed two new legislations namely the National Investigative Agency Bill and The Unlawful Activities (Prevention) Amendment Bill which received Presidential assent on 30 December 2008. These anti-terror laws have sought to broaden the definition of terror acts to cover violence related to militancy, insurgency and Left-wing extremism. The NIA Act has concurrent jurisdiction which empowers the central government to decide what constitutes terror and investigate such attacks in any part of the country covering offences including challenge to country's sovereignty and integrity, bomb blasts, hijacking of aircraft and ships and attacks on nuclear installations. The measures also provide for constitution of special courts to try offences under the NIA Act and to provide for summary trial. The Unlawful Activities (Prevention) Amendment Act defines what constitutes terror acts intended to threaten the unity and sovereignty and to cause terror in people by using bombs, dynamites or other explosive substances or lethal weapons or poisonous gases or chemicals including biological, radio-active and nuclear. Under the UAPA Act, preventive detention of an accused can extend up to 180 days instead of 90 days as at present and no accused can be given bail without the prosecution being heard. Further bail can also be denied if the court feels that the charges against the accused are prima facie true. “Foreign nationals” who have entered the country illegally and accused under this law, shall be denied bail.

Speaking at a conference on terrorism, rule of law and human rights, the Chief Justice of India K.G. Balakrishnan had said on 13 December 2008 that “questionable methods such as permitting indefinite detention of terror suspects, the use of coercive interrogation techniques and the denial of the right to fair trial” cannot be a substitute for a “considered response to the growth of terrorism”. Justice Balakrishnan had also said that apprehension and interrogation of terror suspects must be done professionally with adequate judicial scrutiny. “This is required because



in recent counter-terrorist operations there have been several reports of arbitrary arrests of individuals belonging to certain communities and the concoction of evidence.”

Source: Rediff News - <http://www.rediff.com/news/2008/dec/31mumterror-government-appoints-internal-security-advisor.htm> ; *The Hindu*, 16 December 2008 - <http://www.hinduonnet.com/thehindu/holnus/000200812161946.htm> & *The Hindu*, 14 December 2008 - <http://www.hindu.com/2008/12/14/stories/2008121459891000.htm>

Presidential assent to the CrPC (Amendment) Bill, 2008

The Criminal Procedure Code (Amendment) Bill, 2008 which received presidential assent in January 2009, has severe implications for some important protections available for women. The amendment restrains the police from arresting a person for criminal offences for which the maximum sentence is up to seven-year imprisonment. The police can simply issue a “notice of appearance” to the accused instead of putting them behind bars. The person can be arrested only if he/she does not appear before the police in response to the notice. Most importantly, once the amended law comes into force, Section 498A of IPC (dowry harassment) will become a toothless penal provision as it has a maximum punishment of three years. Similarly other offences, many of which are used for gender specific crimes and attract a sentence of seven years or less, including voluntarily causing grievous hurt, outraging a woman's modesty, attempt to commit culpable homicide, kidnapping, cheating and death caused by negligence, are impacted. Implementation of some of the provisions of the Protection of Women against Domestic Violence Act will also come under cloud. This amendment to the CrPC has come against the backdrop of a virulent public backlash on the ‘misuse’ of laws that are perceived as ‘favourable’ to women. In light of the gross under-reporting of crimes against women, and the abysmally low conviction rates, the ‘arrest’ of the accused following a criminal complaint serves very often as a deterrent. Its dilution therefore, is a cause of concern to women’s rights advocates. It is ironic, that on the one hand the State is whittling down fair trial protections afforded to the accused in criminal justice in relation to internal security matters, and on the other hand, it is diluting the force of criminal law in relation to crimes against women.

Source: The Times of India, 19 January 2009

http://timesofindia.indiatimes.com/India/Amendment_may_make_dowry_law_toothless/articleshow/3998702.cms; The Times of India, 20 January 2009 -

http://timesofindia.indiatimes.com/India/CrPC_Amendment_Renuka_to_fight_for_womens_rights/articleshow/4008404.cms &

The Hindu, 20 January 2009: <http://www.hindu.com/2009/01/20/stories/2009012060051100.htm>

Law Commission calls for a review of the Christian Divorce Act

Law Commission Chairman, has asked the Central Government to review the 150-year old Christian divorce law stating, that Section 2 of the Divorce Act is not only not in tune with the present times but is also harsh upon Christian women in India. A Christian woman, according to the Christian divorce law, cannot file a petition before a court seeking divorce if her husband is not an Indian citizen. The law requires both parties to the divorce to be Indian citizens. The report demands that Indian courts be allowed to entertain such petitions where either of the parties have their residence in India.

Source: <http://in.christiantoday.com/articles/law-commission-wants-christian-divorce-law-to-be-amended/4541.htm>



Judgments

Dowry law applies to live-in partner

A trial court in Delhi has held that demanding money from a woman in a live-in relationship amounts to dowry harassment with punishment up to life imprisonment. In this particular case the court went by the woman's dying declaration that the man she lived with set her on fire when she refused to give him the money. The court said that the husband would be tried under 498A and 304B. Passing the judgment the court held that "a person who enters into a marital relationship under the colour of such proclaimed or feigned status of husband and subjects the woman concerned to cruelty or coerces her in any manner, whatever be the legitimacy of the marriage itself, comes under the purview of Section 498A."

Source: Times of India, November 17

Court holds kissing in public an expression of love not obscenity

In a ruling in early February 2009, the Delhi High Court stayed criminal proceedings filed by the police against a couple for kissing in a public place, "despite the Sub-Inspector finding on enquiry that the two Petitioners were husband and wife living in the same place". The Court observed, "It is inconceivable how, even if one were to take what is stated in the FIR to be true, the expression of love by a young married couple, in the manner indicated in the FIR, would attract the offence of "obscenity" and trigger the coercive process of the law". While the judgment is welcome affirmation of individual freedoms and liberties, it does reflect the growing trend in moral policing by the state and the Right wing forces. The growing intolerance towards even mild display of heterosexual marital intimacy in public has worrying implications for the liberties of persons in non-marital and queer relationships.

Source:http://timesofindia.indiatimes.com/Cities/Married_couple_kiss_in_public_OK_HC/articleshow/4066941.cms

Consent of parties to a marriage and not consent of their parents vital under the law

The Delhi High Court smoothened out the marriage plans of young couples under Special Marriage Act of 1954 by directing the marriage officers to not send prior notice of the wedding to their residences. While delivering the verdict, the Judge stated that the procedure did not have any authority of law and neither the Act nor the website of the Delhi Government required officers to send notices to the couple's residences or to local police stations. The court held that the unwarranted disclosure of marriage plans of two adults may jeopardize their marriage or endanger life and limb of either or both parties. The decision was taken in a petition filed by an engineer who wished to marry a 'manglik' woman; however the district marriage officer informed the couple that the notice of intended marriage would be sent to both parents. This urged the boy to file a petition against this provision in the high court.

Source: Express Newslines (The Indian Express), May 21



No one-day marriage for rape victim

A lower court in Chandigarh has denied a rape victim's request to let the accused marry her for a day so that she can give her daughter a father's name. The victim had urged the court to direct the 21-year-old accused to marry her. The sole aim was to legitimize the relationship in order to give her child a father's name and divorce the husband the very next day.

Source: Rashtra Mahila. April 2009.p.3

<http://dgroups.org/ViewDiscussion.aspx?c=88241b94-6078-4f5d-8712-a3b0b8eda0c8&i=f7044529-4c20-4b00-b4cc-dbd257c2b8ac>

Legislative gap contributes to impunity for Child Sexual Abuse

Despite the recommendations of the Law Commission and the Women's Commission for drafting of a law on Child Sexual Abuse (CSA), successive governments have failed to do so. As a result, the existing penal provisions relating to adults on 'outraging of modesty', 'rape' and 'unnatural sex' continues to be used to partially prosecute cases of CSA. Given the range of acts falling under CSA, these legal provisions have failed to respond to the crime with seriousness or the severity it deserves, resulting in trivializing the offence, as reflected in a recent case. A recent case of digital rape of a 5 year old by a relative convicted the offender only for 2 years, despite a successful prosecution. Decrying this as travesty of justice, the Delhi High Court urged the Centre to implement the Law Commissions Report on the subject. For many years women's groups have been lobbying for a sexual assault law that covers a range of sexual violence including CSA, and have even submitted a draft Sexual Assault Bill on which no action has been taken by the Law Ministry.

Source: The Hindu, May 2

Fast track courts set up to try the Godhra case and the post Godhra carnage

The Gujarat High Court, following a directive of the Supreme Court, set up nine special fast track courts for the trial of nine cases of communal violence in Gujarat in 2002 being reinvestigated by the Special Investigation Team. Of the nine courts, four will function in Ahmedabad, including the one at Sabarmati Central Jail; two each in Mehsana and Anand and one in Himmatnagar, district headquarters of Sabarkantha, in North Gujarat.

Source: The Hindu, May 9

Gujarat riot compensation order

The Gujarat High Court has ordered authorities to speed up the distribution of compensation to the victims of the communal carnage of 2002. The ruling came in response to a complaint filed by some of the riot victims against the State Government. They said they were yet to receive the compensation, even though the Centre allocated a sum of more than \$52m last year.

Source: http://news.bbc.co.uk/2/hi/south_asia/8050793.stm

Children from illegitimate marriages can inherit property

In a recent landmark judgment, the Kerala High Court held that 'illegitimate' children are also entitled to inherit the property of parents along with the children born in valid marriage. The court also suggested to the Central government to enact the law to confer right of succession to



all illegitimate children, irrespective of their religion, in tune with Section 125 of the CrPC which provides maintenance to be given to wife and children.

Source: Rashtra Mahila. February 2009. p.1

<http://d2.dgroups.org/oneworld/cwds-bol>

Lok Adalat accepts maintenance rights of second wife and child

A Lok Adalat held in Delhi ruled that a second wife along with her child also has the right to maintenance. The Lok Adalat was organized by Delhi Legal Services Authority (DLSA) in which 60 cases relating to maintenance and domestic violence were listed in four courts in the capital.

Source: Rashtra Mahila. April 2009.p.3

<http://dgroups.org/ViewDiscussion.aspx?c=88241b94-6078-4f5d-8712-a3b0b8eda0c8&i=bf917c3d-256a-4ec9-a7bb-541f93d1f33e>

Muslim woman wins right to alimony under Muslim Women (Protection of Rights on Divorce) Act, 1986

The Delhi High Court granted Rs. 9 lakh in maintenance along with money worth 20 tolas of gold to a Muslim woman from her ex-husband under the Muslim Women (Protection of Rights on Divorce) Act, 1986. The Act was enacted in May 1986 in the wake of the Shah Bano judgment with the aim of barring divorced Muslim women from claiming maintenance from ex-husbands under the Criminal Procedure Code. Despite enactment, it remains relatively less known and used, and many maintenance claims by divorced Muslim women continue to be filed under the Cr.P.C. In this case, not only was the 1986 Act used but it was applied in such a manner as to grant substantial alimony to the wife. The judgment held that the alimony to a divorced wife was not confined to the period of Iddat (the waiting period following the divorce within which a woman cannot remarry) under the Act, and a Muslim husband was legally bound to make provisions for the woman.

Source: <http://www.indianexpress.com/story-print/520469/>

High Court allows same gender adoption prohibited by Hindu Law

In a landmark judgment, the Bombay High Court has ruled that Hindu parents would be allowed same gender adoptions even if the Hindu adoption law prohibits it. The verdict sought to harmonise the personal laws with secular legislation. In arriving at this verdict the Court drew upon the Juvenile Justice (Care and Protection of Children) Act of 2000 that enables rehabilitation of abandoned children through adoption, and held that its principles would prevail over the Hindu Adoption and Maintenance Act. The Hindu Personal law places stringent conditions and prohibits adoption of a child of the same gender where an adoptive father or mother already have a child living at that time. For example, if the adoption is of a daughter the adoptive parent must not have a Hindu daughter or a son's daughter living at the time of adoption. Similarly, while adopting a son, the adoptive parents must not have a Hindu son, a grandson or even a great-grandson alive. The Juvenile Justice Act, which was enacted in the year 2000, is vastly progressive as it provides a wider platform for the adoption of abandoned and destitute children.

Source: Times of India, September 22



Supreme Court grants reproductive rights to women with mental illnesses

The Supreme Court has ordered that abortion cannot be performed without the consent of the woman even if she is 'mentally retarded' and not in a position to understand the consequences. The bench held that medical termination of pregnancy cannot be done on an adult woman without her consent even if she suffered from retardation. Performance of abortion without such a woman's consent would amount to a violation of 'equal protection before the law' as laid down in Article 14 of the Constitution. The Court also held that a woman's right to make reproductive choice was a dimension of 'personal liberty' as understood under Article 21. Thus, the state has to guarantee a woman her reproductive rights, which includes an entitlement to carry a pregnancy to its full term to give birth and to subsequently raise children.

The SC asks the Centre to legalise prostitution or curb it

The Supreme Court has asked the Centre to consider legalizing prostitution if they cannot curb it so as to be able to monitor the trade, rehabilitate and provide medical aid to those involved in the trade. The Court said legalising sex trade would be a better option to avoid trafficking of women as nowhere in the world has the trade been curbed by punitive measures. The court's remarks came while dealing with a PIL filed by an NGO, Bachpan Bachao Andolan and the intervention application moved by Childline complaining about large scale child trafficking in the country.

Source: <http://news.outlookindia.com/item.aspx?670812>

Wife can claim medical expenses as part of interim maintenance

The Supreme Court has upheld the right of the wife to claim interim maintenance till the final adjudication of the suit under the Hindi Adoptions and Maintenance Act 1956. The interim maintenance will also cover expenses incurred towards medical treatment. While delivering the judgment the Court said that "maintenance" and "support" are comprehensive terms and provide and their scope would also include medical expenses.

Source: Rajesh Burman vs Mitul Chatterjee (2009) 1 SCC 398

Landmark judgment protecting the rights of aged parents

In the first ever judgment of its kind, the Central District Tribunal on Delhi has upheld the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 by ordering a man and his wife to vacate the house owned by his parents on account of ill-treating their aged parents. Under the Act, errant children can face up to three months in jail and payment of a monthly sum of up to Rs.10,000 towards maintenance of their elderly parents.

Source: The Indian Express, October 21

Inter-caste child marriage declared void

The Punjab and Haryana High Court, has declared as "void" the (inter-caste) marriage of a girl below 18 under the Prohibition of Child Marriage Act, 2006 which prohibited marriage of a minor. This father of the girl complained against the boy for enticing his 16 year old daughter and marrying her against his wishes. The court pronounced the judgment when the couple approached the court for protection from the parents of the girl. Instead, the court declared the marriage void and said that the persons responsible for the child marriage are liable for



prosecution with punishment of two years in prison and a fine up to Rupees one lakh. The court also refused plea of protection to the boy who is a major and his parents for protection for threat to life. Further the court directed the state to take action against all persons including the priest who solemnized the “child marriage” in this case. The Act makes child marriages voidable at the option a party to the child marriage upon attaining adulthood, but declares ‘void’ a marriage of a minor who has been ‘enticed out of the keeping of the lawful guardian’ into marriage. In the wake of extensive documentation of violence, intimidation and abuse of law to obstruct inter-caste and inter-religious marriages of choice, this judgment cannot be seen purely as relating to child marriage. Instead, the objection to child marriage (otherwise widely acceptable) must take into account the intersecting concerns of patriarchy and caste that are at play in this case. The judgment reveals ways in which a socially desirable law, and a technically correct decision, can reinforce patriarchal authority and caste divide, if applied without regard to the social prejudices and inequalities.

Source: <http://news.outlookindia.com/item.aspx?670212>

Practice directions issued by Delhi and Andhra Pradesh HCs for assistance to Protection Officers under the PWDVA

Lawyers’ Collective and the Delhi government Social Welfare Board had approached the Chief Justice of the Delhi High Court to request him to issue Practice Direction for provision of assistance to the protection officer under the Protection of Women against Domestic Violence Act, 2005 at the time of issuing and service of notices. Such a move was triggered after a Protection Officer had to face violence at the house of a respondent where she had gone to serve notices. Following this, the Registrar of the Delhi High Court issued a practice direction to all the concerned Magistrates for assistance being provided to the Protection Officers at the time of serving notice, in December 2008. Women’s groups in various states took a cue from this and began lobbying for similar directives in other states. In February 2009, the Andhra Pradesh campaign bore fruit and the Registrar of the Andhra Pradesh High Court also issued a Practice Direction on the same lines as that by the Delhi High Court. This is a very positive development and the campaign in other states must be intensified for similar provisions

IPC s.377 read down by Delhi High Court

The beginning of the month of July marked a historic victory for queer rights activists, when the Delhi High court annulled the law that criminalizes adult homosexual relations, ending an eight year old legal battle for gay rights. Pronouncing the order in Naz Foundation (India) Trust v. Government of NCT, Delhi and Others, Writ Petition (Civil) No. 7455 of 2001, a division bench of Chief Justice A.P Shah and Justice S. Muralidhar said “We declare that Section 377 IPC, insofar it criminalizes consensual sexual acts of adults in private, is violative of Articles 21, 14 and 15 of the Constitution.” Elaborating the reasons behind the order, Chief Justice A.P Shah said “If there is one constitutional tenet that can be said to be underlying theme of the Indian Constitution, it is that of ‘inclusiveness’. This Court believes that the Indian Constitution reflects this value deeply ingrained in Indian society, nurtured over several generations. The inclusiveness that Indian society traditionally displayed, literally in every aspect, is manifest in recognizing a role in society for everyone. Those perceived by the majority as ‘deviants’ or ‘different’ are not on that score excluded or ostracized.” The Court further affirmed, “In our



view, Indian Constitutional law does not permit the statutory criminal law to be held captive by the popular misconception of the LGBTs are. It cannot be forgotten that discrimination is anti-thesis of equality and it is the recognition of equality that will foster the dignity of every individual.”

Appeals challenging the above verdict have been filed in the Supreme Court of India. Without granting a stay of the verdict, the Supreme Court has granted eight weeks time to the Centre to file its response.

Source: Lawyers’ Collective Press Release - <http://www.lawyerscollective.org/node/1004> & <http://www.hindu.com/2009/07/21/stories/2009072150170100.htm>

The full text of the 105 page judgment is available at:

http://news.bbc.co.uk/2/shared/bsp/hi/pdfs/02_07_09_india_gay.pdf

Fighting ‘Love Jihad’ or inter religious marriages?

The Karnataka High Court has passed an order in the case of a woman who had converted to Islam to marry a Muslim from Kerala, to return to her parents’ home until the case is investigated for unlawful trafficking of women and ordered the police to investigate if it was a case of ‘love jihad’. The People's Union for Civil Liberties (PUCL) has said it will file a writ petition in the Supreme Court challenging the Karnataka High Court’s order despite her statement in court that she had willingly converted and was waiting to get married under the provisions of the Special Marriage Act 1954.

The term Love Jihad was first used in the case of two adult girls from Kerala who chose of their own accord to marry Muslim men. Nonetheless, their parents filed habeas corpus petitions responding to which the court summoned the girls. The girls sought the court’s permission to live with their husbands, as they would not be allowed to follow their faith in their parental homes. The court however turned down their request and sent them to live with the parents, directing the parents to provide all help for the girls to follow their new religion. Subsequent to being ‘ordered’ to live in their parents’ home, and having resumed living with their parents, the girls stated that they had been asked to convert forcibly by their husbands. This led the Court to view the cases as a new trend of forced conversions to Islam carried out by young Muslim youth by developing inter-religious relationships. It was described as a movement being run by an organization called Love Jihad, or Romeo Jihad. The Kerala high court ordered an inquiry into the matter and asked the state to curb this trend, despite the police report denying any evidence of such a movement or spurt of similar cases in the region.

Source:

<http://www.thehindu.com/2009/10/23/stories/2009102360270700.htm>

<http://www.thehindu.com/2009/10/23/stories/2009102355311100.htm>

<http://www.thehindu.com/2009/10/23/stories/2009102354650500.htm>

Programme and Policies

National Mission for Female Literacy launched

The National Mission for Female Literacy was launched by the Prime Minister on the eve of International Literacy Day. The mission, earlier called the National Literacy Mission, aims to



make all women functionally literate by 2012. The mission is part of the commitment made by the President (in her address to the joint session of Parliament on June 4) to promote gender equality in the country.

Source: The Hindu, September 9

NCW seeks amendment to Prohibition of Indecent Representation of Women and Children Act 1986

The NCW has sought an amendment in the Prohibition of Indecent Representation of Women and Children Act 1986. The proposed amendment includes the extension of the applicability of the Act to the visual media and the computer, including internet and satellite related communication as well as incorporating more stringent punishment for its violation. The proposal also calls for a redefinition of terms as 'advertising and electronic media'. According to the Chairperson of the Commission, the definition of indecent representation of woman would include 'the depiction in any manner of the figure of a woman, her form, her body or any part thereof in such a way as to have the effect of being indecent, derogatory or denigrating'.

The commission has also demanded that the Centre set up an authority to govern and regulate the manner in which the women are represented in any document, published, broadcast or telecast. The Authority would be headed by member secretary, NCW and should have representatives from Advertising Standards Council of India, Press Council of India, Ministry of Information and Broadcasting and a member experienced in working on women's issues.

Source: The Hindu, September 7

NCW launches NRI Cell for married women

The National Commission launched a special cell to deal with issues of women married to non residential Indians (NRI), on 24 September. The cell called the NRI cell will function under the chairperson of the NCW, has been set up to address the growing cases of desertion of wives by NRI men.

Government approves 50% reservation in panchayats and urban local bodies

The Government has approved enhancing of reservation for women from 33% to 50% in urban local bodies. This provision will apply to the total number of seats to be filled by direct election, offices of chairpersons and seats and offices of chairpersons reserved for SCs and STs. The proposed amendment will cover all states and Union Territories.

Source: <http://news.outlookindia.com/item.aspx?668214>

Concerns on the Equal Opportunities Commission Bill

The President of India promised the constitution of an Equal Opportunity Commission during her address to the Parliament on 4 June 2009, in keeping with the recommendations of the Sachar Committee. An expert committee under Dr. Madhav Menon was constituted to consider the recommendations of the Sachar Committee. The Menon Committee Report (2008) proposed an Equal Opportunity Commission Bill to prohibit discrimination against 'deprived groups' defined on certain grounds such as sex, disability, religion, caste, language etc. Also, the



Amitabh Kundu Committee Report (2008) recommended the constitution of a Diversity Commission to oversee the incentivisation of diversity in education institutions, employment establishments and housing societies. The proposed 'diversity index' is sensitive to religion, caste and sex. In an important open letter to the Minister for Minority Affairs, the National Law School of India University urges the Ministry to initiate larger public debate on the issue before the Bill is introduced in the parliament. This letter also includes annexures of various similar legislations from the US, UK, EU, Canada and South Africa.

Source: <http://www.nls.ac.in/csse/additional%20resources.htm>

Appointments

Meira Kumar elected as the first Dalit woman Lok Sabha Speaker

On 3 June 2009, the Indian parliament elected its first woman speaker, who is also a member of the Dalit community. Meira Kumar was elected unopposed by the 543 member 15th Lok Sabha which includes 59 women MPs. She is a five-term MP who was a career diplomat before she entered politics in 1985. The motion to elect Kumar was moved by Congress party Chief Sonia Gandhi and seconded by opposition leader L.K. Advani from the Hindu nationalist Bharatiya Janta Party.

Source: http://www.channelnewsasia.com/stories/afp_asiapacific/view/433556/1.html

Indira Jaising becomes the first woman Additional-Solicitor General

Noted Supreme Court lawyer and human rights activist, Indira Jaising earned the distinction of being the first woman Additional Solicitor General of India, in fact the first woman to become a law officer in the country's highest court. On her appointment she said, "Being the first woman to be appointed additional solicitor general in the Supreme Court, I feel a special duty to explain my own reasons for accepting the post. To begin with, the posts have been a male bastion and there is no doubt that this appointment crosses that barrier and the post will now cease to be considered as reserved for men alone. It is in this context I am sure the appointment will send an electrifying signal to women lawyers all over the country, to aspire to the highest law offices."

Source: <http://news.rediff.com/column/2009/jul/06/indira-jaising-on-judicial-reforms-an-idea-whose-time-has-come.htm>

News and Events

Qualified condemnation by the State on attacks on women in Mangalore Pub

Members of the Sri Ram Sene (SRS), a Hindu ultra-right group on 24 January 2009, forcefully entered into the Amnesia Bar and Restaurant in Mangalore, Karnataka and assaulted women and girls present there, objecting to women consuming alcohol claiming it was against Indian culture. The 28 SRS members involved in the case were arrested but later granted bail. The political leaders across party lines have condemned the violence only in qualified terms - prefixing their condemnation with objections to "pub culture", thereby rationalizing the subject of SRS ire. The Karnataka Chief Minister failed to categorically condemn the violence against women and the



open threats to women's exercise of Constitutionally guaranteed liberties. Instead, his concern was that the SRS was 'taking law into their hands', when in fact the pubs function lawfully and there is no legal restriction against women visiting pubs. So the attack cannot amount to taking law into one's hands, but certainly does amount to a criminal act. None of the condemnations issued by the leaders have affirmed women's liberties, or expressly condemned the erosion of women's freedoms by the Hindu Right. The continued intimidation and threats by the SRS have restrained all victims and witnesses from filing or assisting in the criminal proceedings against the SRS. Alarming, the state has failed to counter such threats through assurance of victim or witness protection, thereby strengthening the Hindu Right.

Source: (Facts of the incident) IBN Live - <http://ibnlive.in.com/news/mangalore-pub-row-sri-ram-sene-men-get-bail/84145-3.html>.

Haryana pays Rs. 1 lakh to sexual abuse victim

A Class VIII girl student who was alleged to have been sexually abused by a school headmaster in a village in Rewari district of Haryana has been given an interim relief of Rs.1 lakh by the State Government on orders from the National Human Rights Commission. The Commission received the compliance report and proof of payment on January 19. It had ordered the Haryana Government for payment within four weeks after it found that prima facie violation of human rights of the girl had been established.

Source: *The Hindu*, 4 February 2009 -

<http://www.hindu.com/2009/02/04/stories/2009020454200400.htm>

Human Rights Watch slams Indian government

In its World Report 2009, Human Rights Watch says India lacks the "will and capacity" to implement many laws and policies. India has routinely ignored recommendations from UN human rights bodies including UN committees on the Elimination of Racial Discrimination and the Committee on the Elimination of All Forms of Discrimination against Women. Children and adults with HIV/AIDS, internal migrants, sex workers, injecting drug users, men who have sex with men, and transgender populations -face widespread stigmatization and discrimination, including denial of employment, access to education and healthcare.

Source: Centre for Health and Social Justice (Delhi) Newsletter and Human Rights Watch - <http://www.hrw.org/world-report-2009>

Navanethem Pillay's (UN High Commissioner for Human Rights) visit to India

The UN High Commissioner for Human Rights (UNHCHR), Navanethem Pillay visited New Delhi from 22-24 March 2009. She held meetings with various stakeholders – the government, the NHRI and the civil society groups working on human rights. She addressed a conference organised on 23 March 2009 by the National Human Rights Commission for the Chairpersons and Secretaries of State Human Rights Commissions, selected public functionaries, experts and NGOs concerned with Human Rights issues. In her presentation she highlighted the need for India to reject the legacy of colonial laws that grant immunity to state agencies from prosecution, including the Armed Forces (Special Powers) Act and the provisions that criminalize



homosexuality. She recommended implementing the Sachar Committee Report through adoption of an Equal Opportunity Bill that operates through the structure of an ombudsman. She has also called upon India to live up to role as a regional and global leader by taking a lead at the Durban Review Conference to ensure the outcome is successful, given its commitment to fight caste discrimination, as well as play a lead role in promoting human rights in the sub-region, in respect of Sri Lanka and Burma.

She appreciated the advances made by the Supreme Court of India and legislative achievements in relation to Right to Information Act and the Domestic Violence Act. She however regretted that the Supreme Court of India and the National Human Rights Commission did not have a single women judge/ member. She emphasised that the progress made in relation to women's rights must be actively defended specially with reference to the backlash by anti secular forces, and noted that while marital rape was included within the scope of domestic violence law, the penal law on rape was yet to recognize it as an offence. She also cautioned that the current economic crisis should not become a pretext to set women back and force their withdrawal from the economic sphere. The need to ensure participation of women in economic sector and in policy making is paramount.

The text of her statement to the NHRC on 23 March is available at:

<http://www.indianet.nl/docs/090323.doc>

Friends of Lotika Sarkar (FOLS) campaign to restore her property

Lotika Sarkar, an octogenerian pioneer in the field of women's studies and human rights, has been forced to leave her house in Hauz Khas which is currently under fraudulent occupation by Nirmal Dhoundiyal, a Bihar cadre IPS officer who claims that Lotika has gifted her house to him. Lotika Sarkar maintains that she has not done so and the question of any such does not arise since the house is her only source of survival in her old age. The matter is now in the Delhi High Court. Friends and well-wishers of Lotika Sarkar have launched a campaign expressing solidarity with her under the banner of "Friends of Lotika Sarkar". The group has drafted a petition which has been handed over to the Home Ministry for action against Nirmal Dhoundiyal. The option of bringing a private members' bill in Parliament on legal safeguards for women in Lotika's situation is also a matter of discussion in the campaign. The petition has been endorsed by 152 individuals as well as 12 groups and institutions, including Partners for Law in Development (PLD). It is ironic that one of the authors of the landmark report of the Committee on the Status of Women in India – *Towards Equality* (published in 1974) – is homeless now and is fighting for justice at the dusk of her life.

Source: <http://www.thehindu.com/2009/03/17/stories/2009031754030400.htm>

Women's organisations prepare a charter of demands ahead of the Lok Sabha Elections

Several women's groups came together to draft a Charter of Demands for the political parties. Similarly, the National Alliance of Women (NAWO) have drafted a Women's Political Manifesto (2009) to ensure that their concerns are highlighted and the same become part of the mainstream political agenda in the coming Lok Sabha elections. The demands include the passage of the Women's Reservation Bill, legislation to stringently punish those guilty of



communal violence and increase allocation for social welfare schemes, law to address honour killings and acid attacks, and special measures to provide financial support to victims of acid attacks. The charter wanted that the farm loan waiver scheme must benefit women farmers also, including those indebted to private money-lenders, and implementation of gender budgeting policy with one-third allocation of resources for women.

Source: <http://www.hindu.com/2009/03/18/stories/2009031861111400.htm>

Condemnable 'virginity tests' in Madhya Pradesh

In a condemnable manner 'virginity tests' were conducted on more than 150 would-be brides before a government sponsored mass wedding under the 'Mukhyamantri Kanyadan Yojna' in Madhya Pradesh. The would-be brides were mostly from poor tribal families. The National Commission for Women (NCW) took *suo motu* cognizance of the matter and sought an interim report from the MP government. It also formed a committee to look into the matter. The issue was also raised in the Parliament by non-BJP parties whereas the BJP Chief Minister of MP was in denial mode who maintained what was carried out was "procedural medical examination." The NCW declared the MP government interim report as "unsatisfactory" and decided to send a five-member team of the Commission led by NCW member Yasmin Abrar including a lawyer and a member of the Madhya Pradesh Women's Commission, to the State to study the execution of the scheme. The NCW later concluded that while the tests may not have taken place, the women were nonetheless, subjected to "indecent exposure" where they were examined downwards from their abdomen, causing immense humiliation.

Source: <http://www.indianexpress.com/news/MP-virginity-test-row--NCW-says-women-faced-indecent-exposure/492416> & <http://www.hindu.com/2009/07/14/stories/2009071460591100.htm>

Lawyers' strike in Madras obstructs delivery of justice

The Madras High Court has been paralysed for most of this year, due to an agitation ostensibly meant to protest against the Sri Lankan military operations in Jaffna. The Chennai lawyers' violent clashes with police and apathy to suffering litigants have raised legitimacy about their commitment to justice. The lawyers intensified their strike after the unfortunate lathi charge by the police on agitating lawyers in the Madras High court premises. The Chief justice of the Madras High court had expressed grave concern over the way the prolonged strike had held the justice system at ransom. The lawyers finally resumed work on 23 March 2009 after the Madras High Court ordered the suspension of two senior police officers for the violent incidents of 19 February 2009.

Source: <http://www.hindu.com/thehindu/holnus/000200903111922.htm>

Gujarat High Court launched the first model e-court

On 8 February 2009, Gujarat High Court became the first court in the country to implement the model e-court project on a pilot basis at the City Civil and Sessions Court in Ahmedabad. The objective of the model e-court is to provide tamperproof, authenticated audio-video recording of courtroom proceedings along with multipoint video conferencing facilities between the courtroom, central jail, police commissioner's office and the forensic science laboratory.

Source: <http://www.hinduonnet.com/businessline/blnus/28071920.html>



Binayak Sen granted bail by the Supreme Court

On 25 May 2009, the Supreme Court granted bail to Dr. Binayak Sen who was languishing in Raipur jail for over two years under unproven charges of links with Maoists in Chhattisgarh. The court took just about a minute to grant him bail, and did not even listen to what the Chhattisgarh government had to say. Dr. Binayak Sen, the vice president of People's Union for Civil Liberties (PUCL) had been arrested under the draconian anti-terror law, Unlawful Activities Prevention Act. Dr. Sen's counsel had sought bail for him pleading that "the case against him has already been demolished in the trial court as all the material witnesses in the case have been examined" and none of them have deposed against him. It was contended that despite the case against him having been demolished, the Chhattisgarh High Court was not entertaining his bail plea.

Source: <http://timesofindia.indiatimes.com/NEWS/India/Civil-rights-activist-Binayak-Sen-gets-bail/articleshow/4574543.cms>

Kolkata Sex Workers march for labour rights on May day

Around 500 sex workers in Sonagachi, Kolkata paraded down the streets of Kolkata at midnight to press for legalization of their profession. Organized by Durbar Mahila Samanway Committee, a self help group, they appealed for the Immoral Traffic Prevention Act (ITPA) to be discarded since it restricts them from earning their livelihood. In addition to demanding registration for their work, they demanded a voice in the Parliament and State Assemblies like all other professions. In the month of July last year, the sex workers of Kolkata had gone on an indefinite hunger strike, protesting against the ITPA. Sonagachi, a bustling red light district is home to around 15,000 sex workers. It is estimated that in West Bengal alone there are 70,000 sex workers. Although prostitution is illegal in India, it is a thriving underground industry and voluntary groups estimate that there are about two million women sex workers in India.

Source: (ANI) May 2

<http://monthlyreview.org/mrzine/barden020509.html>

Appeal against the Parliamentary Committee Report on Sex Education

Groups working on violence against women, health, sexuality, education and human rights have appealed against the stand taken by Parliamentary Committee on sex education. The appeal asserts the need for sexuality and not sex education, besides de-mystifying the fears relating to sex education. The Committee led by Venkaiah Naidu was directed to probe the petition filed in the Rajya Sabha in August 2007 against imparting of sex education to the students of Class VI onwards in CBSE affiliated schools. The petitioners called for the withdrawal of sex education on the grounds that the curriculum was culturally inappropriate and would corrupt Indian youth; it would sexualize student teacher relationship; promote condom usage; create an immoral society and encourage single parent families. The Committee endorsed these views and strongly recommended an end to sex education on grounds that it 'pollutes the young and impressionable minds of students by exposing them to indecent material'. The Committee compared sex to basic instincts like food, fear, greed, coitus etc., and recommended that the focus of education should be on 'instinct control'.



It is ironic that the Committee's report comes at the time of the 15th anniversary of International Conference on Population and Development (ICPD) when civil society groups have been lobbying with the Indian Government to introduce age appropriate, non-moralistic and fact based Sexuality Education for adolescents and youth at school level. This is also a necessary part of the governmental obligation under ICESCR, CRC and CEDAW to eliminate socio cultural discrimination and gender based violence against girls and women.

Report of the Parliamentary Committee on Sex Education:

<http://164.100.47.5:8080/newcommittee/reports/EnglishCommittees/Committee%20on%20Petitions/135%20Report.htm>

To endorse the appeal: icpd15sect@gmail.com

PLD is a legal resource group working in the fields of social justice and women's rights in India. We view law as an essential resource in the struggle for social justice and consider gender equality as central to the attainment of social justice. Our belief is that social justice goals are best shaped by human rights laws which establish a framework for the realization of the rights of the disadvantaged and the marginalised. Our understanding of rights and dignity of all persons is drawn from human rights law as well as the contextual realities of disadvantaged groups.

Please visit us at www.pldindia.org

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