

# Annual Newsletter Digest 2010

Partners for Law in Development



# Contents

## Updates from the UN

- ❖ UN Special Representative on Sexual Violence in Conflict Appointed
- ❖ UN SC Adopts Resolution 1960 on Sexual Violence in Conflict
- ❖ UN Creates UN Women- New Structure for Promoting Women's Rights
- ❖ Michelle Bachelet Assumes Office as the First Head of UN Women
- ❖ UN Security Council Adopts Indicators for Implementation of SCR 1325
- ❖ United Nations GA Declares Access to Clean Water and Sanitation is a Human Right
- ❖ UN GA Removes Reference To Sexual Orientation From The Resolution On Extrajudicial, Summary and Arbitrary Executions
- ❖ UN Convention for the Protection of All Persons from Enforced Disappearance comes into force
- ❖ UN Establishes Expert Group on Role Of Women in Peace and Security
- ❖ Human Rights Council Creates a Working Group on Discrimination against Women in Law and Practice

## Independent Mechanisms and Reports

- ❖ SRVAW presents her report on Reparations to Women Who Are Subjects of Violence in Peace and Post Conflict
- ❖ Independent Expert on Cultural Rights Presents her First Report
- ❖ SR on Education Presents Report on the Human Right to Sexual Education
- ❖ SR on Torture Refers to Acid Throwing as a Form of Violent Assault against Women

## CEDAW related news

- ❖ CEDAW Committee adopts General Recommendations on rights of older women and on clarifying the meaning and scope of condemning discrimination against women in "all its forms"
- ❖ CEDAW Committee reviews India on Gujarat in respect of gender based violence and gendered impact of the 2002 carnage, and issues Concluding Comments

## Regional Human Rights Systems

- ❖ ASEAN sets up Commission for Promotion and Protection of Rights of Women and Children
- ❖ EU adopts resolution against all forms of sexual violence against women
- ❖ European Court of Human Rights calls Attention to Gender Based Violence
- ❖ ECHR strikes down UK immigration registration laws imposing controls on marriages to persons outside UK as discriminatory

## **International Legal Developments**

### **Asia**

- ❖ Nepal SC orders Government to set up abortion fund and promote availability of abortion services
- ❖ Timor-Leste Passes Law on Domestic Violence
- ❖ Bangladesh High Court rules that Women cannot Be Forced to wear Burqa
- ❖ Asma Jahangir elected as the first woman President of the Supreme Court Bar Association of Pakistan
- ❖ Afghanistan SC issues an edict on women and girls running away from home
- ❖ Bangladesh enacts a law on domestic violence
- ❖ Bangladesh HC holds extra judicial punishments including those in the name of Fatwa unlawful
- ❖ Malaysian HC allows Sisters in Islam to keep name
- ❖ Pakistan enacts Protection Against Harassment of Women at Workplace Act 2010
- ❖ Pakistani Christian given death penalty on charges of blasphemy
- ❖ Bangladesh Election Commission reverses decision to recognize sex work as a profession
- ❖ Aung Sang Suu Kyi released by the military junta

### **Beyond Asia**

- ❖ Czech Court awards full compensation to women for illegal sterilizations
- ❖ Supreme Court of Chubut (Argentina) decriminalises abortion in case of rape
- ❖ Supreme Court of Mexico Upholds Adoption by Same Sex Couples
- ❖ New Law on Protection from Domestic Violence Adopted in Montenegro
- ❖ Albania passes Anti-Bias Law
- ❖ President of Portugal Ratifies Law Allowing Same Sex Marriages
- ❖ Spain Approves New Abortion Law to Ease Restrictions on Abortion
- ❖ Parliament of Lesotho Enacts Law Guaranteeing Free and Compulsory Education for all Children
- ❖ Pope states that use of condoms is acceptable 'in certain cases'
- ❖ Argentina Approves Gay Marriage

## **National**

### **New Laws/Amendments**

- ❖ Amendments to Criminal Procedure Code come into effect
- ❖ Women's Groups condemn Draft Protection of Women against Sexual Harassment at Workplace Bill passed by Union Cabinet with narrow provisions
- ❖ Divorced women lose right to property and custody of children in Mizoram

## Judgements/Orders

- ❖ Ruchika Gihotra's Case and the Sexual Offences Bill
- ❖ Supreme Court allows adoption for German surrogate twins
- ❖ Supreme Court orders that conviction for rape is possible without corroboration
- ❖ Supreme Court Restricts Use of Narco Analysis for Investigation
- ❖ Supreme Court holds that Living-In is Akin to Marriage
- ❖ Supreme Court narrows the definition of "relationship in the nature of marriage" under domestic violence law to deny maintenance for a woman in a live-in relationship : 2 review petitions filed
- ❖ Supreme Court Directs Government to Make Section 498A Cases Compoundable
- ❖ Supreme Court adds murder charge in dowry death cases
- ❖ Supreme Court divided on whether failure to marry after cohabiting amounts to breach of promise to marry
- ❖ Delhi High Court states that sex after an intentionally false promise of marriage is rape
- ❖ Bombay High Court rules that a woman's caste does not change upon marriage
- ❖ Delhi Government relaxes marriage rules for couples from other states
- ❖ Delhi High court asks the state to rehabilitate slum dwellers
- ❖ Delhi High Court upholds Permanent Commission in armed forces for women
- ❖ Armed Forces Tribunal directs the government to treat military nurses on par with officers
- ❖ Karnataka High Court upholds coparcenary rights for married women and daughters
- ❖ Delhi High Court orders that mutual elopement cannot be regarded as 'kidnapping'
- ❖ Delhi High Court Rules that Marriages between Minors is Valid
- ❖ Delhi High Court Makes it tough to go back on Mediation
- ❖ The Lucknow Bench of the Allahabad High Court upholds "faith and belief" of Hindus in the Ayodhya verdict
- ❖ Bhopal Judgment: Abysmally Late, Abysmally Little
- ❖ Delhi High Court issues rules to Delhi Government to ensure reproductive rights to destitute women
- ❖ Bombay High Court holds that 'Marriage doesn't change daughter's role in supporting family'
- ❖ Delhi court rules that finger test on victims of sexual offences unconstitutional
- ❖ Sessions Court condemns and convicts for honour crimes sanctioned by Khap Panchayats
- ❖ BJP MLA Sentenced to 7 years RI for Kandhamal Riots
- ❖ Sessions Court condemns and convicts for honour crimes sanctioned by the Khap Panchayats

## News and Events

- ❖ Dr. Binayak Sen convicted on charges of sedition and treason
- ❖ Irom Sharmila completes 10 years of hunger strike against AFSPA
- ❖ AMU suspends gay teacher
- ❖ Justice for Dr. Siras: Protest Marches in Delhi, Mumbai and Thirussur
- ❖ Khap panchayats annul couple's marriage for violating caste norms
- ❖ RTI cannot be used to get medical treatment history without consent
- ❖ Human rights activists condemn human rights violation in Kalinganagar
- ❖ Human rights defenders arrested on false charges in Tamil Nadu after enquiring about a torture case
- ❖ State of Assam guarantees healthcare for all emergency patients

- ❖ South Asia Plus Consultation on Culture, Women and Human Rights (2-3 September 2010): PLD
- ❖ Consultations with Prof. Gay McDougall, UN Independent Expert on Minority Issues on 17 and 20 December

### **Programmes/Policies**

- ❖ Private member's petition to amend 498A: Written comments invited by Rajya Sabha
- ❖ Ministry calls for an end to sex selective abortions by celebrating women's roles as 'mothers-of-famous sons'
- ❖ Transgenders seek recognition as a Backward Class
- ❖ Centre approves decision to enumerate caste in second phase of census

## Resources

Gender, Religion and the Quest for Justice in Pakistan	Farida Shaheed
Gender Stereotyping	Rebecca J Cook and Simone Cussack
Equity or Equality for Women? Understanding CEDAW's Equality Principles	International Women's Rights Action Watch Asia Pacific (IWRAP AP)
No justice in Justifications: Violence against Women in the Name of Culture, Religion, and Tradition	Shaina Greiff
Criminalizing Sexuality: Zina Laws As Violence Against Women In Muslim Contexts	Ziba Mir Hosseini
The 2010 Commonwealth Games: Whose Wealth? Whose Commons?	Housing and Land Right Network (HLRN)
Women in the Middle East and North Africa: Agents of Change	Fatima Sadiqi and Moha Ennaji
Rights in Intimate Relationships: Towards An Inclusive And Justice Framework Of Women's Rights And The Family	Partners for Law in Development (PLD)
Negotiating Gender Justice, Contesting Discrimination: Mapping Strategies that Intersect Culture, Women and Human Rights	PLD
KANDHAMAL: The Law Must Change its Course	MARG
Addressing Domestic Violence through the Law- A Guide to the Protection of Women from Domestic Violence Act, 2005	MARG
Makeshift Migrants and Law: Gender, Belonging and Postcolonial Anxieties	Ratna Kapur
The Advocate, a film on KG Kannabiran	Deepa Dhanraj
The Truth About Me: A Hijra Life Story	A. Revathi translated by V. Geetha
The Right to Unite: A Handbook on Domestic Worker Rights across Asia	Asia Pacific Forum on Women, Law in Development (APWLD)
Activist's Guide to the Yogyakarta Principles	
Control and Sexuality: The Revival of Zina Laws in Muslim Contexts	Women Living Under Muslim Laws (WLUML)
Modes and Patterns of Social Control: Implications for Human Rights Policy	International Council for Human Rights Policy (ICHRP)

# Updates from the UN

## UN Special Representative on Sexual Violence in Conflict Appointed

Margot Wallström has been appointed as the UN Special Representative to the Secretary General (SRSG) as per the Security Council Resolution (SCR) 1888. Upon her appointment, according to Ms. Wallström her priorities included lobbying for recognition of sexual violence in war as a war crime and including women in the decision-making process in conflict resolution and peace making.

A Special Representative of the Secretary-General (SRSG) is appointed by the UN Secretary-General to represent him on a certain issue or in a region of particular importance to the work of the UN. The role of an SRSG is not specifically defined in the UN Charter, and has evolved throughout the history of the UN. For gender justice advocates, this SRSG appointment opens a vital channel of communication to the UN Secretary-General as SRSGs often conduct widespread consultations with various stakeholders and hold meetings where interested parties, such as local groups and NGOs, can raise concerns or bring a pressing issue to their attention.

Source: <http://www.iwtc.org/gnets/364.html>

## UN SC adopts resolution 1960 on Sexual Violence in Conflict

The UN Security Council has adopted a new Resolution on Sexual Violence in Conflict (1960) to strengthen the normative standards on women and peace and security- in particular with reference to UN SC Resolution 1888. The resolution is significant as it stresses on establishment of comprehensive monitoring and accountability mechanisms to end impunity for sexual violence in conflict. It reaffirms the principle of command responsibility and call on states to end impunity against sexual crimes and institute monitoring and justice mechanisms like national, international and mixed criminal courts and tribunals and truth and reconciliation commissions. The resolution also calls on states to increase access to health care, psychosocial support, legal assistance and socio-economic reintegration services for victims of sexual violence, in particular in rural areas, taking into account the specific needs of persons with disabilities; and recommends that the Secretary-General list parties who have committed acts of sexual violence in his reports for action to be initiated against the perpetrators.

The text of the resolution is available at:

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/698/34/PDF/N1069834.pdf?OpenElement>

## UN Creates UN Women- New Structure for Promoting Women's Rights

The United Nations General Assembly has set up a separate organization for women called **UN Women: the United Nations Entity for Gender Equality and the Empowerment of Women**. UN Women will be headed by an under-secretary (USG). The existing four women's UN entities: 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) will fall under UN Women. The organization will start work from January 2011. UN Women will be at par with other UN bodies like UNICEF, UNDP and UNFPA and will have two key roles: it will support inter-governmental bodies such as the Commission on the Status of Women in their formulation of policies, global standards and norms, and it will help Member States to implement these standards, standing ready to provide suitable technical and financial support to those countries that request it, as well as forging effective partnerships with civil society. Secondly, it will also help the UN system to be accountable for its own commitments on gender equality, including regular monitoring of system-wide progress.

Source: <http://www.unwomen.org>, <http://www.ipsnews.net/news.asp?idnews=52024>  
[http://news.bbc.co.uk/2/hi/world/us\\_and\\_canada/10496864.stm](http://news.bbc.co.uk/2/hi/world/us_and_canada/10496864.stm)

## Michelle Bachelet assumes office as the first head of UN Women

Former Chilean president Michelle Bachelet has been selected to head United Nations Women (UN Women). UN Women merges four UN agencies and offices: the UN Development Fund for Women (UNIFEM), the Division for the Advancement of Women (DAW), the Office of the Special Adviser on Gender Issues, and the UN International Research and Training Institute for the Advancement of Women (UN-INSTRAW) will be operational from January. Michelle Bachelet was Chile's first female president who prioritized women's issues throughout her tenure and since leaving office has been working with UNIFEM to advocate for the needs of Haitian women after the earthquake.

Source: <http://www.un.org/apps/news/story.asp?NewsID=35912&Cr=WOMEN&Cr1>

## UN Security Council Adopts Indicators for Implementation of SCR 1325

On the occasion of 10<sup>th</sup> anniversary of Security Council Resolution 1325 the Security Council has adopted a comprehensive set of indicators towards improving accountability and implementation of UNSCR 1325. These indicators address the impact of war on women and stress the importance of women's involvement in conflict resolution and peace building in four key areas: women's participation in all aspects of conflict prevention and peace-making; prevention of violence against women; protection of women's rights during and after conflict; and women's needs in relief and recovery. The indicators were produced by 14 UN entities under the leadership of the Office of the Special Adviser on Gender Issues in collaboration with Member States, UNIFEM and women's civil society groups from around the world.

Report of the Secretary General enlisting the indicators:

[http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2010/173](http://www.un.org/ga/search/view_doc.asp?symbol=S/2010/173)

[http://www.unifem.org/news\\_events/story\\_detail.php?StoryID=1076](http://www.unifem.org/news_events/story_detail.php?StoryID=1076)

## United Nations GA Declares Access to Clean Water and Sanitation Is a Human Right

The UN General Assembly has declared that safe and clean drinking water and sanitation is a human right essential to the full enjoyment of life and all other human rights. The General Assembly, voicing deep concern, said that almost 900 million people worldwide do not have access to clean water. This declaration is welcome as it seeks to recognize that women and children often walk long distances to secure water for agriculture, human and livestock consumption. They are also most vulnerable to water related diseases leading to loss of school days for children and affects women's health as it is the women who collect water, store it and control its use and sanitation.

Source: <http://www.un.org/apps/news/story.asp?NewsID=35456&Cr=SANITATION&Cr1=>

## UN GA removes reference to sexual orientation from the resolution on extrajudicial, summary and arbitrary executions

In a regressive move, the United Nations General Assembly voted to remove 'sexual orientation' from the resolution on extrajudicial, summary and arbitrary executions. Sexual orientation was part of the resolution since 1999 based on the repeated concern of the Special Rapporteur on Extrajudicial, Summary and Arbitrary Executions. The SR's most recent report identified gays, lesbians, bisexuals and transsexuals as being vulnerable to such crimes. But this year, Morocco and Mali introduced an amendment on behalf of African and Islamic nations that called for deleting the term 'sexual orientation' and replacing it with 'discriminatory reasons on any basis.' This amendment was opposed by many countries (including India) which spoke in favour of retaining reference to sexual orientation as there is enough evidence to prove that world over sexual orientation has been a motive for extrajudicial killings. However, the amendment deleting the term 'sexual orientation' was finally adopted by a margin of 70-79, and 17 abstentions. This resolution has evoked discussions at the UN over whether sexual minorities should be offered the same protections as other minorities whose lives are threatened.

The General Assembly passes a resolution condemning extrajudicial, summary and arbitrary executions and other killings every two years. The 2008 resolution included an explicit reference to killings committed because of the victims' sexual preferences.

Source: <http://af.reuters.com/article/maliNews/idAFN1611322420101117>

<http://www.guardian.co.uk/world/2010/dec/21/gay-rights-row-un-resolution>

Draft Resolution on Extrajudicial, Summary or Arbitrary Executions A/C.3/65/L.29/Rev.1

Proposed Amendment to replace the words "any discriminatory reason, including sexual orientation" with the words "discriminatory reasons on any basis". A/C.3/65/L.65

UN Department of Public Information (16<sup>th</sup> November 2010):

<http://www.un.org/News/Press/docs/2010/gashc3997.doc.htm>

Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions (20<sup>th</sup> May 2010) A/HRC/14/24

## UN Convention for the Protection of All Persons from Enforced Disappearance comes into force

In a significant and historic step, the International Convention for the Protection of All Persons from Enforced Disappearance has come into force with Iraq being the 20<sup>th</sup> country to ratify the Convention. The Convention makes it binding on all State parties to address and reduce the number of enforced disappearances as well as provide justice and reparation to the victims and their families. The Convention is supported in its role and application by the United Nations Working Group on Enforced or Involuntary Disappearances that was established to assist families in determining the fate and whereabouts of disappeared relatives by channel of communication between the families and the Governments concerned and to ensure that individual cases are investigated objectively.

Text of the Convention: <http://www2.ohchr.org/english/law/disappearance-convention.htm>  
<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10561&LangID=E>

## UN establishes Expert Group on Role of Women in Peace and Security

The United Nations has appointed a group of independent experts to advise on ways to better protect women in conflict situations, and to ensure that their voices are heard in peace processes and that they are included in post-conflict reconstruction and governance structures. The establishment of the group comes on the tenth anniversary of the resolution 1325 and will be tasked with assessing the impact of resolution 1325 on women in the context of armed conflict over the past decade. The group will consult civil society organizations around the world to identify time-bound goals and targets, along with measurement and accountability mechanisms to inform and guide the work of a UN High-Level Steering Committee set up by Deputy Secretary General Asha-Rose Migiro and look at ways of scaling up resources involving women in times of conflict.

Source: <http://www.un.org/apps/news/story.asp?NewsID=33992&Cr=gender+equality&Cr1>

## Human Rights Council creates a Working Group on Discrimination against Women in Law and Practice

The Human Rights Council (HRC) has created a new mechanism to accelerate the elimination of discrimination against women in legislation and administration of justice. The three year mandate of the working group would include finding ways to help States to fulfill their commitments to eliminate discrimination against women. The experts will be appointed at the next session of the HRC in March 2011 and the group's first report is scheduled for the 20th session of the Council in June 2012. In the resolution on discrimination against women, the Council called upon States to fulfill their obligations and commitments to revoke any remaining laws that discriminate on the basis of sex and remove gender bias in the administration of justice, taking into account that those laws violate their human right to be protected against discrimination.

Source:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10405&LangID=E>  
[http://www.equalitynow.org/english/pressroom/press\\_releases/unmechanism\\_20101001\\_en.html](http://www.equalitynow.org/english/pressroom/press_releases/unmechanism_20101001_en.html)

## Independent Mechanisms and Reports

### SRVAW presents her report on Reparations to Women Who Are Subjects of Violence in Peace and Post Conflict

UN Special Rapporteur on Violence Against Women its causes and consequences, Rashida Manjoo presented her first thematic report at the 14th Human Rights Council on the topic of reparations to women who have been subjected to violence in contexts of both peace and post-conflict situations. The focus of her report is the obligation of the state to provide adequate reparations to victims of violence as laid out in Article 4 of CEDAW. The SRVAW also engages with other elements of reparation like restorative justice and the need to address the pre-existing inequalities, injustices, prejudices and biases or other societal perceptions and practices that enabled violations to occur, including discrimination against women and girls. Her report is significant as it coincides with the Security Council adopting indicators for SCR 1325, one of the aims of which is to provide relief and recovery to women.

The report is available at: [http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.22\\_AEV.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.22_AEV.pdf)

## Independent Expert on Cultural Rights Presents her First Report

The Independent Expert on Cultural Rights, Farida Shaheed presented her first report to the Human Rights Council at its 14th session. Focusing on the challenges regarding the scope and content of cultural rights she reviewed the relevant existing provisions in United Nations human rights instruments, and developed her initial thoughts on the interaction between the principle of universality of human rights, the recognition and implementation of cultural rights and the need to respect cultural diversity. The independent expert selected a list of priority issues she proposes to address. These issues relate to two main topics: (a) cultural rights, globalization of exchanges and of information, and development processes; and (b) participation, access and contribution to cultural life, without any discrimination.

The full text of the report is available at:

[http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.36\\_en.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.36_en.pdf)

## SR on Education presents interim annual report on the Human Right to Sexual Education

The Special Rapporteur (SR) on Education Vernor Munoz Villalobos presented his interim report on the *Human Right to Sexual Education* at the sixty fifth session of the General Assembly introduces the topic of the right to sexual education. The report laid down sexuality, health and education as three interdependent rights and elucidated on the relationship of this right to other rights from a gender and diversity perspective. The SR called on nations to take responsibility and guarantee the right to sexual education and gave specific recommendations for States and the international community.

The report is available at: <http://daccess-dds.ny.un.org/doc/UNDOC/GEN/N10/462/13/PDF/N1046213.pdf?OpenElement>

## SR on Torture refers to acid throwing as a 'form of violent assault against women'

The SR on Torture Manfred Nowak, has called attention for the need to understand acid attacks within an anti-torture framework to broaden the scope of prevention, protection, justice and reparation for women. The SR on Torture at an event sponsored by Women's UN Report Network, Worldwide Organization for Women and NGO Committee on the Status of Women-Geneva, referred to acid throwing in the context of domestic violence and stated that "women victims of acid throwing are attacked by husbands, ex-husbands and/ or partners." Besides challenges of access to justice, reparations, and rehabilitation, victims of acid attacks particularly fear rejection and stigma from their families and/ or communities. This statement is significant for South Asia, where a number of acid throwing cases are reported from Bangladesh, Pakistan, Afghanistan and India.

The full text of the statement is available at:

<http://www.stop-stoning.org/files/UN%20SR%20Torture%20Statement%20for%20Event%20on%20Women%20&%20Acid%20Attacks-HRC%2015.pdf>

## CEDAW related news

### CEDAW Committee adopts two general recommendations on the rights of older women and on clarifying the meaning and scope of condemning discrimination against women in "all its forms"

#### *General Recommendation 27 on the rights of older women*

The CEDAW Committee has adopted GR 27 on the rights of older women. The GR identifies multiple forms of discrimination that women face as they age; outlines the content of the obligations assumed by States as parties to the Convention, from the perspectives of ageing with dignity and older women's rights; and includes policy recommendations to mainstream the responses to the concerns of older women into national strategies, development initiatives and positive action so that older women could participate fully without discrimination and on the basis of equality with men in the political, social, economic, cultural, civil and any other field in their society.

#### *General Recommendation 28 on clarifying the meaning and scope of condemning discrimination against women in "all its forms"*

The Committee also adopted GR 28 on Article 2 of the Convention, which calls on State parties to condemn discrimination against women in all its forms. The Committee reaffirmed that discrimination of women based on sex and gender was inextricably linked with other factors that affected women, such as race, ethnicity, religion or belief,

sexual orientation and gender identity. The Committee clarified that the obligation requires States parties to protect women against discrimination by private actors and take steps directly aimed at eliminating customary and all other practices that prejudice and perpetuate the notion of inferiority or superiority of either of the sexes, and of stereotyped roles for men and women. The Committee emphasized that States parties should pursue their policies in this regard by all appropriate means and without delay. The Committee also called on State parties to consider withdrawing reservations to the Convention, in particular those relating to Article 2.

The texts of the GR's are available at: <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW-C-2010-47-GC1.pdf> , <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW-C-2010-47-GC2.pdf>

## **CEDAW Committee reviews India on Gujarat in respect of gender based violence and gendered impact of the 2002 carnage, and issues Concluding Comments**

The matter of gender based violence in the Gujarat carnage of 2002 was brought to the attention of the CEDAW Committee in 2003 by an Extraordinary Petition. Since then, the Committee has consistently asked questions of the GoI, including requesting the GoI to submit in January 2008 a follow-up report on the impact of the Gujarat riots on women for the consideration by the Committee later in 2008. As part of the follow up procedure, a review on questions relating to Gujarat was held by the Committee in October 2010. The Committee expressed regret that the Exceptional Report 'was long overdue, provided limited and vague information and did not address adequately all the questions posed by the Committee and that the supplementary material reached the Committee only two days prior to the dialogue.' Moreover, the Committee noted there was no representative from Gujarat, and other officials, including from the Ministry of Women and Child Development did not participate actively.

The CEDAW Committee's Concluding Comments stress that decentralisation of powers cannot be used as an excuse for failure to fulfill state obligations, the need for a gender inclusive Communal Violence Bill and its intention to continue dialogue with GoI on Gujarat in the next periodic review.

Source: <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-IND-CO--SP1.pdf>

## **Regional Human Rights Systems**

### **ASEAN sets up Commission for Promotion and Protection of Rights of Women and Children**

ASEAN inaugurated its Commission for Promotion and Protection of Rights of Women and Children (ACWC). The ACWC will work closely with ASEAN Intergovernmental Commission on Human Rights (AICHR). The Commission will promote the implementation of international and regional instruments related to the rights of women and children and develop policies, programs and strategies to promote and protect the rights of women and children.

Source: <http://www.aseanhrmech.org/news/ASEAN-commission-inaugurated.htm>  
<http://news.brunel.fm/2010/04/08/asean-body-on-rights-of-women-children-established/>

### **EU adopts resolution against all forms of sexual violence against women**

The European Union Parliament has adopted a resolution recognizing sexual violence as a crime and offenders should be automatically prosecuted by all EU Member States. The resolution calls for a recognition of targeted sexual violence, including within marriage and intimate informal relationships and cultural practices and traditions as a mitigating factor in cases of sexual violence against women. The resolution also called on Member States to combat crimes of honour, forced marriages and FGM as violating human rights and in particular the rights to life, safety, dignity, physical and mental integrity and sexual and reproductive choice and health.

While referring to the consistent increase of gender based violence, the resolution recognized that male violence against women, irrespective of men's age, education, income or social status as a structural problem across European Union Member States.

Direct Link to European Parliament Resolution on Violence Against Women - 11/26/09:  
<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2009-0098+0+DOC+XML+V0//EN&language=EN>,  
[http://www.europarl.europa.eu/news/expert/infopress\\_page/014-65220-327-11-48-902-20091124IPR65219-23-11-2009-2009-false/default\\_en.htm](http://www.europarl.europa.eu/news/expert/infopress_page/014-65220-327-11-48-902-20091124IPR65219-23-11-2009-2009-false/default_en.htm)

## European Court of Human Rights calls Attention to Gender Based Violence

In a significant ruling concerning domestic violence against women, the European Court of Human Rights held that the Turkish government violated the European Convention on Human Rights and also failed to address gender-based domestic violence, which constitutes discrimination under CEDAW. The case pertained to regular and violent abuse by a husband on his wife for about a decade and mother-in-law (later killing his mother-in-law). The local authorities however, failed to protect her and her mother from violent abuse and death threats. After exhausting all domestic remedies, in Turkey the woman sought relief before the European Court of Human Rights. The court held that domestic violence was a serious problem and the governments have to take all necessary measures to protect women from it. The court cited CEDAW and other regional instruments relating to gender-based violence and put on notice all European states to review their laws, reform law enforcement policies, pursue criminal proceedings, conduct effective criminal proceedings, and develop human rights education/training in the area of domestic violence and gender-based violence.

Source: <http://www.timesonline.co.uk/tol/news/world/europe/article7113490.ece>

## ECHR strikes down UK immigration registration laws imposing controls on marriages to persons outside UK as discriminatory

In *O'Donoghue v United Kingdom*, the European Court of Human Rights (ECHR) delivered a noteworthy judgment striking down the Certificate of Approval scheme in the UK, which requires those subject to immigration control to obtain a certificate from the Home Office before they are permitted to get married. The ECHR found the scheme as being discriminatory, and inconsistent with the European Convention on Human Rights.

Summary of *O'Donoghue v United Kingdom* is available at:

<http://response.pure360.com/act/link.php?mId=C81737286981661611633556432813&tId=49687941>

## International Legal Developments

### Asia

### Nepal SC orders Government to set up abortion fund and promote availability of abortion services

Nepal's Supreme Court ordered the government of Nepal 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 have prevented women from accessing safe abortion services. As per 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. At the center of the petition was Lakshmi Dhikta. Dhikta, who comes from an extremely poor household in the rural western region of Nepal, could not afford to pay the fee charged for abortion at a public hospital and as a result, was forced to continue an unintended pregnancy. The case was filed in the Nepalese Supreme Court in 2007 by the Center for Reproductive Rights (Asia) and Forum for Women, Law, and Development, Nepal.

Source: <http://reproductiverights.org/en/press-room/court-orders-nepal-to-improve-women%E2%80%99s-access-to-abortion>

### Timor-Leste Passes Law on Domestic Violence

The National Parliament of Timor-Leste has passed its first and long awaited law on domestic violence. The new law gives power to people other than the victim to report incidents of domestic violence to the police and the police are bound to investigate domestic violence crimes. Victims will have access to emergency medical help, shelter, psycho-social and legal support services. Traditionally most cases of domestic violence have been resolved in Timor-Leste through customary practices where the perpetrator pays a fine to the victim's father. The new law provides for public awareness campaigns on domestic violence; developing a national action plan; setting up victim support centres and education on domestic violence education in the school curriculum.

Source: <http://www.awid.org/eng/Issues-and-Analysis/Library/Timor-Leste-Passes-Groundbreaking-Domestic-Violence-Law>, [http://www.unifem.org/news\\_events/story\\_detail.php?StoryID=1087](http://www.unifem.org/news_events/story_detail.php?StoryID=1087)

## **Bangladesh High Court Rules That Women Cannot Be Forced To Wear Burqa**

The High Court has ruled that no women can be forced to wear burqa or religious dress at work and educational institutions. The court also ordered the government to ensure that the cultural activities and sports in the educational institutions are not restricted for girls by forcing them to wear a burqa. The orders came in the wake of a public interest petition filed by a group of lawyers in the Supreme Court against a principal of a college in Northern Bangladesh, who had stopped cultural activities and sports at the college and forced female students to wear burqa in the college. The court also asked the government to explain why imposition of restriction on cultural activities and sports in the educational institutions and offices and forcing the female students to wear veil should not be declared illegal.

Source: <http://newsfrombangladesh.net/view.php?hidRecord=332264>

## **Asma Jahangir elected as the first woman President of the Supreme Court Bar Association of Pakistan**

Asma Jahangir has been elected as the first woman President of the Supreme Court Bar Association in Pakistan. Her victory is a fillip to the international human rights movement and will strengthen the lawyer's movement for an independent bar, the supremacy of the judiciary and the rule of law in Pakistan. Asma Jahangir has served as an advocate to the Supreme Court of Pakistan and was the Chairperson of the Human Rights Commission of Pakistan (HRCP). Besides, she was also the UN SR on extrajudicial, summary, or arbitrary executions from 1998-2004 and the UN SR on freedom of religion or belief from 2004- July 2010.

Source: <http://news.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/04-scba-election-polling-starts-qs-02>

## **Afghanistan SC issues an edict on women and girls running away from home**

The General Administration Directorate of Supreme Court of Afghanistan has issued an edict stating that women and girls who run away from their own residence (regardless of the reason) to a stranger's residence, rather than to a relative's house, to security or justice departments, will be condemned to committing the crime of adultery or prostitution. Women who are declared guilty of this crime shall receive discretionary punishment. Pro women organisations such as Medica Mondiale Afghanistan have protested against this edict as it will make women vulnerable to domestic violence and leave them without the option of fleeing their homes. Such an edict does not take into consideration the social reality of the region as women who flee their homes usually do not get any assistance from relatives, who fear ostracisation. For those who are in remote areas the police are of little or no help.

Source: [http://www.wunrn.com/news/2010/12\\_10/12\\_06/120610\\_afghanistan.htm](http://www.wunrn.com/news/2010/12_10/12_06/120610_afghanistan.htm)

## **Bangladesh enacts a law on domestic violence**

In a landmark step, the Bangladesh Parliament has passed the Domestic Violence (Prevention and Protection) Bill 2010. Among the salient features of the Bill is that it contains a provision for incremental punishment. The law provides for six months imprisonment or a fine of Taka 10,000 as maximum punishment. A provision has been kept in the Act for maximum two years imprisonment or Taka 100,000 as fine, or both, 'if the violence repeats. The offence is bailable and compoundable. The Domestic Violence (Prevention and Protection) Act, 2010 will come into effect on a date to be fixed by the government through a gazette notification.

Source:

<http://www.banglanews24.com.bd/English/detailsnews.php?nssl=b8c8c63d4b8856c7872b225e53a6656c&nttl=201010076137>,

## **Bangladesh HC holds extra judicial punishments including those in the name of Fatwa unlawful**

In a landmark decision, the Bangladesh High Court has held that imposition of extrajudicial punishments including those in the name of execution of Fatwa are unlawful and has ordered penal action for the abettors. The Court also directed the State to create awareness and spread information about the Constitution as the source of law so as to discourage imposition of extra-judicial punishment in any form including those in the name of execution of Islamic Sharia/Fatwa in all school, college and university syllabus particularly in madrasas. The Court reiterated the failure of

the State in taking any systematic action to prevent such incidents of imposition and execution of extra-judicial penalties, and such failure involves a breach of state obligations under the Constitution and international law to ensure the right to freedom from cruel, inhuman and degrading treatment or punishment.

Source: <http://www.thedailystar.net/newDesign/news-details.php?nid=146085>

### Malaysian HC allows Sisters in Islam to keep name

The Malaysian High Court has passed an order to allow Sisters in Islam (SIS) to continue using the word 'Islam' in its name. The court was responding to an application by a NGO, Dewan Pemuda Masjid Malaysia (Malaysian Assembly of Mosque Youth, MAMY) to prevent SIS from using its Sisters in Islam name on grounds that the word 'Islam' was controlled and limited by the Registrar of Companies. Sisters in Islam (SIS) has welcomed the High Court's decision.

Source: <http://110.74.134.63/malaysia/article/sisters-in-islam-get-to-keep-name/>

### Pakistan enacts Protection Against Harassment of Women at Workplace Act 2010

In a significant move, the Pakistan Assembly has passed the Protection Against Harassment of Women at Workplace Act 2010 to prevent sexual harassment at workplaces and provide a safe working environment. The Act which punishes harassment of women at workplaces has been opposed for many years. The Act was finally passed with amendments that extended protection also to men. Punishment for the guilty, or violators of a code of conduct, will range from a censure to dismissal and an unspecified fine. The law defines harassment as *“any unwelcome sexual advance, request for sexual favours or other verbal and written communication or physical conduct of a sexual nature or sexually demeaning attitudes, causing interference with the work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made condition for employment.”*

According to the act all federal and provincial government ministries, departments, corporations, educational institutions, private commercial organisations and registered civil society associations, will be required to constitute inquiry committees of at least three members each-one of them being a woman-to probe complaints and give their findings within 30 days to a concerned competent authority that will award recommended penalties.

Source: <http://southasia.oneworld.net/todayshadlines/pakistan-clears-landmark-bill-against-workplace-harassment>

Text of the Act is available at: <http://www.aasha.org.pk/>

### Pakistani Christian given death penalty on charges of blasphemy

Asia Bibi, a Pakistani Christian has been convicted for blasphemy under section 295C of the Pakistani Penal Code (death penalty) by a district court in Nankana Sahib near Lahore. The Lahore High Court has granted a stay order restraining the government from amending the blasphemy law as well as restraining the President or anyone from the government from taking any action with regard to pardoning Asia Bibi. Local and national human rights activists have strongly condemned the conviction of Asia Bibi and called for repealing or amendment of the discriminatory blasphemy laws. Pakistan Supreme Court Bar President and women's rights activist Asma Jahangir deprecated the death penalty given to Asia Bibi expressing that laws should be made to protect religious minorities and not to provide a tool for exploitation in the name of religion.

There has been considerable national and international attention on blasphemy laws in Pakistan which are used to curb freedom of speech and expression and discriminate against religious minorities. The blasphemy laws were promulgated during Zia-ul-Haq's dictatorship twenty years ago, despite numerous campaigns against the laws; they however still continue to be used to spread religious intolerance, violence and are politically motivated.

Source: <http://www.indianexpress.com/news/pak-cleric-offers-rs-5-lakhs-for-killing-christian-woman/720088/1>

<http://www.indianexpress.com/story-print/721033/>, <http://www.wluml.org/node/6788>,

<http://www.wluml.org/node/6830>

## Bangladesh Election Commission reverses decision to recognize sex work as a profession

Human rights activists and other civil society groups in Bangladesh are preparing to challenge a recent government decision in Bangladesh excluding sex work as a profession on new voter cards. Activists argue that excluding sex work will effectively block sex workers' access to HIV prevention and life-saving health care. In August 2010, the Bangladesh Election Commission (BEC) had announced that sex work would be recognized for the first time as a profession on new voter ID cards. But pressure from conservative religious groups led the BEC to reverse its decision. According to the Election commission the term 'sex worker' was omitted in line with Article 18(2) of Bangladesh's Constitution, which states that "gambling and prostitution should be discouraged. "Activists hold that Article 40 of the Constitution, gives citizens the right to "enter upon any lawful profession or occupation" and women can choose sex work as a profession.

Source: <http://www.irinnews.org/Report.aspx?ReportId=90747>

## Aung Sang Suu Kyi released by the military junta

In a boost to the struggle for democracy, Myanmar pro democracy leader Aung Sang Suu Kyi has been released after fifteen years of house arrest by the military junta. Suu Kyi has been imprisoned by Myanmar's military junta since 1989 when she led the National League for Democracy (NLD) but was not allowed to form the civilian government. Few days before her release, the military government backed Union Solidarity and Development Party won elections and formed the government. The elections were believed to be hugely manipulated and were boycotted by NLD.

Source: <http://www.bbc.co.uk/news/world-asia-pacific-11749661>,  
<http://www.thehindu.com/news/international/article883790.ece>

## *Beyond Asia*

## Czech Court awards full compensation to women for illegal sterilizations

In a significant move, the High Court in Prague has awarded two women full compensation for being illegally sterilized by doctors without their permission. In the past there have been other such incidents where Roma women have been sterilized without their consent and the hospital authorities either have refused to compensate them or have done so only partially. This is the first instance where the Court has directed the doctors to respect women's right to bodily integrity and freedom of choice and awarded them full compensation to somewhat ameliorate the harm caused by these violations.

Source: [http://www.roma.lt/en/news/en\\_news/news\\_item/224](http://www.roma.lt/en/news/en_news/news_item/224)

## Supreme Court of Chubut (Argentina) decriminalises abortion in case of rape

The Supreme Court of Chubut (a province in Argentina) and a panel of the Court of Appeals of the same province deciding on two cases where young girls sought permission for abortion following rape have established that abortion is never punishable in case of rape. The decision is landmark as it overturns the earlier restrictive understanding by the courts and allows for abortion to even non-mentally retarded victims of rape. It also paves way for the changes that would lead to avoid future denials of legal abortions. The decisions were taken with regard to two cases of 15 year old girls who were denied a legal abortion by the lower courts despite evidence being given that the girls' health was at risk. Finally the Supreme Court taking cognizance of the multiple victimization suffered by the girls reversed the order of the lower court citing various human rights treaties like CRC and CEDAW. The Supreme Court drew attention to the General recommendation 19 of CEDAW, the Recommendations made to Argentina by the Human Rights Committee (CCPR/CO/70/ARG) on the relationship between restrictive abortion laws, clandestine abortions and threats to women's lives; and the Report of the Special Rapporteur on Violence against Women (E/CN.4/1999/64/ADD.4).

Source: [http://www.wunrn.com/news/2010/04\\_10/04\\_19\\_10/041910\\_argentina.htm](http://www.wunrn.com/news/2010/04_10/04_19_10/041910_argentina.htm)

More information on the cases can be found in Spanish at: [www.despenalizacion.org.ar](http://www.despenalizacion.org.ar)

## Supreme Court of Mexico Upholds Adoption by Same Sex Couples

The Supreme Court in Mexico upheld an order by a city court allowing same sex couples to adopt children. While overruling the argument that adoption of children by same sex couples would fail to protect adoptive children against possible ill effects or discrimination, or to guarantee their rights to a traditional family, the court said it would be discriminatory to consider gay couples less capable of parental duties than heterosexual couples. The Supreme Court magistrate, who wrote up the ruling, said that refusing homosexuals the possibility to marry and adopt children “would be to constitutionalise discrimination, whatever the kind or origin, ignoring the existence of families with same-sex parents, or pretending they don't exist.” This is the second progressive judgement in a month by the judiciary. In an earlier judgement the court approved the law on same sex marriages passed by the Mexico City legislative assembly as constitutional and ordered its enforcement in all of Mexico's thirty one states. This law has been criticised by the Roman Catholic Church.

Source: <http://gbmnews.com/wp/?p=1230>, <http://www.ipsnews.net/news.asp?idnews=52509>  
<http://www.awid.org/eng/Issues-and-Analysis/Mexico-supreme-court-upholds-gay-adoptions>

## New Law on Protection from Domestic Violence Adopted in Montenegro

The Parliament of Montenegro has adopted the Law on Protection from Domestic Violence in July 2010. The law recognizes and aims to institute measures to combat family violence; to raise awareness about gender-based violence as a human rights issue; and to strengthen local work around violence in the family. The law contains several (not all) recommendations made by civil society groups highlighting the gaps in the draft bill and drawing the government's attention to address safety and security of the victim.

Source: [http://stopvaw.org/new\\_law\\_on\\_protection\\_from\\_domestic\\_violence\\_adopted\\_in\\_montenegro.html](http://stopvaw.org/new_law_on_protection_from_domestic_violence_adopted_in_montenegro.html)

## Albania passes Anti-Bias Law

The Albanian government showing its commitment to rights and freedoms has passed an anti-discrimination bill which seeks to protect against all forms of discrimination, including on the grounds of sexual orientation and gender equality. The bill is a result of yearlong lobbying by Albanian human rights activists and Human Rights Watch, that highlighted the need for a broad anti-discrimination law that would expressly protect lesbian, gay, bisexual, and transgender Albanians against unequal treatment.

To read Human Rights Watch's letter to the Prime Minister of Albania, please visit:

<http://www.hrw.org/en/news/2010/02/12/letter-prime-minister-republic-albania>

## President of Portugal Ratifies Law Allowing Same Sex Marriages

Portugal's President has ratified a new law allowing same sex marriages in the country. The Bill was passed by the parliament in January but was pending with the President. The President while ratifying the Bill said he was doing so keeping aside his personal convictions and fearing an overturning of his decision by the liberals lest he return it. The President stated he did not see any merit in engaging in a debate on the Bill as he did not want to divert the attention of Parliamentarians from graver problems like unemployment and deepening poverty facing Portugal.

Source: <http://abcnews.go.com/International/wireStory?id=10668911>,  
<http://www.tldm.org/News14/PortugalPresidentRatifiesGayMarriageLaw.htm>

## Spain approves new abortion law to ease restrictions on abortion

The Spanish government has allowed women to undergo abortion without the threat of facing imprisonment by easing restrictions and passing a new law that allows abortion without restrictions up to 14 weeks. The law permits abortion up to 22 weeks if two doctors certify there is a serious threat to the health of the mother, or fetal malformation; and beyond 22 weeks, it would be allowed only if doctors certify fetal malformation deemed incompatible with life or the fetus were diagnosed with an extremely serious or incurable disease. The law also allows minors to have abortions by informing their parents or legal guardian but not necessarily taking their permission. However if the minors can prove that the above condition would expose them to violence, threats or coercion within their family, then they are exempted from informing their parents.

Source: [http://www.msnbc.msn.com/id/35565952/ns/world\\_news-europe/](http://www.msnbc.msn.com/id/35565952/ns/world_news-europe/)

## **Parliament of Lesotho Enacts Law Guaranteeing Free and Compulsory Education for all Children**

In an effort to advance universal primary education, the Government of Lesotho has enacted its Education Act 2010 guaranteeing free and compulsory education to all children. The Act is the outcome of a widely held consultative process which aimed at reviewing the Education Act of 1995. One of the primary goals of the Act (apart from improving quality of education) is making the education system more responsive to the impact of HIV, AIDS and poverty on children and helping them take informed decisions for a safer and healthier life.

Source: [http://www.unicef.org/media/media\\_53653.html](http://www.unicef.org/media/media_53653.html)

[http://www.melodika.net/index.php?option=com\\_content&task=view&id=28675&Itemid=55](http://www.melodika.net/index.php?option=com_content&task=view&id=28675&Itemid=55)

## **Malawian Court Sentences Gay Couple; who are later pardoned as a result of international pressure**

A court in Malawi sentenced a gay couple to 14 years imprisonment and hard labour for 'gross indecency' and 'unnatural acts against the law of nature'. The Government of Malawi supported the verdict as protecting the culture and traditions of Malawi. The sentence and the Malawian government's support to homophobia was condemned by activists and governments from all over the world, they said that the ruling was a setback to justice and human rights in Malawi and will further marginalise and stigmatise the homosexual community. As a consequence of international pressure and a threat of decrease in aid to Malawi, the President of Malawi pardoned the gay couple.

Source: [http://www.womenwontwait.org/index.php?option=com\\_content&task=view&id=203&Itemid=1](http://www.womenwontwait.org/index.php?option=com_content&task=view&id=203&Itemid=1)

<http://www.afrol.com/articles/36158>, <http://thehill.com/blogs/blog-briefing-room/news/100619-white-house-applauds-pardon-of-malawi-gay-couple-facing-prison-term->

## **Pope states that use of condoms is acceptable 'in certain cases'**

In a break with traditional Christian teachings, Pope Benedict XVI has said the use of condoms is acceptable 'in certain cases.' Speaking to a German journalist, the Pope said that in the case of a male prostitute using a condom to reduce the risk of HIV "can be a first step in the direction of moralisation, a first assumption of responsibility, on the way toward recovering an awareness that not everything is allowed and that one cannot do whatever one wants." The Pope's comments follow his controversial assertion in 2009 that the rising tide of HIV in Africa could be made worse, not better, by the distribution of condoms. Catholic HIV/AIDS workers have welcomed the Pope's message on condoms.

Source: <http://www.guardian.co.uk/world/2010/nov/21/pope-benedict-condoms-hiv-infection>

<http://www.medicalnewstoday.com/articles/210324.php>

## **Argentina Approves Gay Marriage**

Argentina has become the first country in Latin America to legalise same sex marriages. The new law will give gay couples the same marital, adoption and inheritance rights as heterosexual couples. While the law in general has been criticised by some sections as being motivated by political gains, yet it is a positive step in confronting the conservative voice in a country where the Church has a strong and visible presence.

Source: <http://www.bbc.co.uk/news/10630683>, <http://www.reuters.com/article/idUSTRE66E1IH20100715>

[http://www.nytimes.com/2010/07/16/world/americas/16argentina.html?\\_r=1&pagewanted=print](http://www.nytimes.com/2010/07/16/world/americas/16argentina.html?_r=1&pagewanted=print)

# National

## New Laws/ Amendments

### Amendments to Criminal Procedure Code come into effect

The Criminal Procedure Code (Amendment) Act, 2008 came into effect from December 31, 2009. It incorporates the recommendations of the Law Commission, the Justice Malimath Committee's report and the guidelines issued by the Supreme Court to prevent overcrowding of jails with under trials. However, following protests from lawyers, the government has decided not to notify Sections 5, 6 and 21b (amendments relating to arrest, notice of appearance before a police office and adjournments). The Act gives protection to rape victims and confers rights; provides for compensation to victim for illegal arrest and police harassment. A rape victim with the courts permission can engage an advocate to help the prosecution. The statement is to be recorded by a woman officer in the presence of parents or guardian at the victim's home or in a safe place or a place of her choice. Under the new law, statements can be recorded through audio/video or other electronic means. Investigations of rape/child sexual abuse are to be completed in three months from the date when information was recorded by the officer in charge of the police station.

Source: <http://www.thehindu.com/2010/01/02/stories/2010010253101200.htm>

### Women's groups condemn Draft Protection of Women against Sexual Harassment at Workplace Bill passed by Union Cabinet with narrow provisions

The Union Cabinet has tabled the draft Bill on Protection of Women against Sexual Harassment at Workplace in the Lok Sabha. While welcoming the effort of the government to ultimately introduce the legislation, at the same time women's groups have protested against certain narrow provisions of the draft Bill. Firstly, while the Bill has broadened its scope to include students, research scholars in colleges/universities, patients in hospitals and women in the unorganised sector under its purview, it has excluded domestic workers, leaving them vulnerable to sexual harassment. Secondly, 'false and malicious complaints' of sexual harassment have been made punishable in the proposed law, which goes against the spirit of the *Vishaka* judgement. The Bill provides for a mandatory redress committees in organizations and for the constitution of local complaints committees by the designated district officer at the district or sub-district level to inquire into the complaints and recommend action to the employer or the district officer; however it does not lay out specific procedural rules for constitution of its committees and selection of members.

Source: [http://www.thestatesman.net/index.php?option=com\\_content&view=article&id=347425&catid=35](http://www.thestatesman.net/index.php?option=com_content&view=article&id=347425&catid=35)

<http://www.hindustantimes.com/StoryPage/Print/630108.aspx>

<http://indialawyers.wordpress.com/2010/12/02/promise-to-women/>

### Divorced women loose right to property and custody of children in Mizoram

Women who are divorced on Mizoram have lost the right to property and the custody of children as the state has allowed the Mizo Divorce Ordinance, promulgated in 2008, to lapse by not bringing in a Bill to replace it. Instead the state government said that the divorced women will be governed by the Mizo customary laws, which do not ensure their rights over property or maintenance. This means a Mizo wife loses property and custody of children the moment her husband utters 'ka ma che (I divorce you)'. She is entitled to take back only the customary 'hmeichhe thuum' (a mattress, two pillows and her clothes).

However, if she is divorced for allegedly committing adultery then she is not entitled to even these few things and will have to leave with just the clothes she is wearing. The Indian Divorce Act, 1869 does not apply to Mizoram and other Northeastern states.

Source: <http://www.indianexpress.com/news/divorcetomakemizoramwomenpoorer/599041/>

## Judgments/Orders

### Ruchika Gihotra's Case and the Sexual Offences Bill

The Ruchika Girhotra case highlighted major lacunae in the Indian law including lack of any special provision for child victims of sexual molestation. The Government worked on a new law called Sexual Offences (Special Courts) Bill to provide quick justice to victims of sexual abuse. It has been indicated that the Sexual Offences Bill, which is currently before a special Parliamentary Select Committee will be passed shortly. The Bill has been criticized by women's organizations as it stops short of making the kind of definitional change, recognizing the various forms of sexual assault on women and children, that would make a substantial difference. There is also no reference to an already existing piece of draft legislation, "The Criminal Law Amendment Bill 2002", painstakingly prepared by women's organisations and vetted by the National Commission for Women:

Source: <http://www.frontlineonnet.com/fl2704/stories/20100226270403600.htm>,  
<http://www.stabroeknews.com/2010/stories/02/24/2010-is-women%E2%80%99s-development-year-manickchand/>

### Supreme Court Allows Adoption For German Surrogate Twins

The Supreme Court by circumventing its own procedures has helped a German couple to adopt their surrogate children born of an Indian mother. The case came to light when the German embassy refused to grant visa's to the children since surrogacy is considered contrary to human dignity in Germany. The Indian government was as a consequence approached for an Indian passport for the twins, following which the Centre asked the Solicitor General to look into the matter. The Solicitor General then responding to the government query said that the couple could adopt the children through inter-country adoptions as provided by the Hague Convention. The surrogacy industry has been growing in India, presently the industry operates without legal sanction. The Assisted Reproductive Technology (Regulation) Bill, 2008, has yet to become law. The Bill has provisions for protection of rights of surrogates (like payments in installments to ensure she is paid even in miscarriage) as well as couples (to ensure surrogate doesn't refuse to hand over baby etc). If the law comes into force, India would become the first country to have a legal sanction on 'paid' surrogacy regulations

Source: <http://www.indianexpress.com/news/surrogate-twins-wont-get-german-visas/569035/>  
<http://opinionator.blogs.nytimes.com/2008/01/03/outsourced-wombs/#comments>  
<http://www.msnbc.msn.com/id/22441355/>

### Supreme Court orders that conviction for rape is possible without corroboration

The Supreme Court has held that a person can be convicted for rape if the victim's testimony, though not fully corroborated, is credible and even if there is slightest penetration without rupturing the hymen. And that minor discrepancies like non- examination of the medical doctor by the prosecution cannot be a ground for giving the benefit of doubt to the culprit. The court upholding the conviction of the rapist by the Madhya Pradesh High Court said that any Indian girl or woman would not make such allegations against a person as she is fully aware of the repercussions and thus corroboration is not the *sine qua non* for conviction in a rape case. Although the reasoning in relation to corroboration is laudable, it must be noted that such reasoning is unevenly applied by the courts and continues to invoke problematic stereotypes of the Indian women to justify it.

Source: <http://www.indianexpress.com/news/conviction-for-rape-possible-even-without-corroboration-sc/561084/2>

### Supreme Court Restricts Use of Narco Analysis for Investigation

In a significant judgment, the Supreme Court has directed that it is illegal to forcibly use narco-analysis, brain-mapping and polygraph tests during investigation. The court said subjecting a person to such techniques amounts to intrusion of personal liberty under Article 21 of the Constitution and held that even if the tests were conducted upon the consent of the accused, the results would not be admissible as evidence. The order follows a batch of petitions challenging investigation techniques like brain mapping, lie detection and narco-analysis as being illegal and unconstitutional, especially in cases where accused are opposed to them. The verdict is significant as it will curtail the misuse and indiscriminate use of these tests by investigating agencies.

Source: <http://www.indianexpress.com/story-print/615471/>, <http://beta.thehindu.com/opinion/op-ed/article449164.ece>

<http://www.dailypioneer.com/253765/Narco-analysis-brain-mapping-illegal-SC.html>

## Supreme Court holds that Living-In is Akin to Marriage

Days after the Delhi High Court held that a partner could 'walk in and walk out' of a live-in relationship, the Supreme Court has ruled to the contrary. The Supreme Court held that live-in relationship if continued for a long time, cannot be termed in as 'walk in and walk out' relationship; instead, there is a presumption of marriage. The court dismissed an appeal which had sought to reverse the Allahabad High Court judgment permitting the authorities to include the names of four children, born out of the live-in relationship, as legal heirs to the legacy of the petitioners' father. After perusing the records and concurrent findings by the district authorities, the bench held the petitioners' father lived with his live-in partner till his death. Their relationship had been accepted by the society and also by their family members.

Source: <http://www.hindustantimes.com/SC-snubs-HC-says-living-in-akin-to-marriage/Article1-587751.aspx>

## Supreme Court narrows the definition of "relationship in the nature of marriage" under domestic violence law to deny maintenance for a woman in a live-in relationship: 2 review petitions filed

The Supreme Court narrowed the definition of "relationship in the nature of marriage" under the Protection of Women from Domestic Violence Act in the case of *Velusami vs. Patchaiammal* where a woman sought maintenance from her partner of over fourteen years under s.125 of the Cr PC. The court spelt out four important grounds from the definition of 'common law marriage' and said that arrangements commonly understood as live-in relationship must satisfy these conditions to be recognised as a "relationship in the nature of marriage" under the DV Act. The SC also stated that "merely spending weekends together or a one-night stand would not make it a domestic relationship" under the DV Act. Moreover, "if a man has a 'keep' whom he maintains financially and uses mainly for sexual purpose and/or as a servant, it would not, in our opinion, be a relationship in the nature of marriage" under the Act. Another case involving a similar question of law (*Chanmuniya vs. V.K Singh*) regarding maintenance for a woman who is not in a valid marriage is presently before the Supreme Court.

Two review petitions have been filed in the case of *Velusamy vs. Patchaiammal*. Mahila Dakshta Samiti has moved the Supreme Court to recall the use of the expression 'keep' to describe the woman, on the grounds that the expression is highly derogatory and constitutes discrimination against women on the grounds of marital status. PLD has filed a review petition on six grounds, including derogatory terminology used, but also, that a rigid definition of the term 'relationship in the nature of marriage' excludes women from access to beneficial legal provisions, the PWDVA is unconnected with section 125 Cr.P.C, and the four conditions set out by the SC to define 'relationship in the nature of marriage' defeat the object and purpose of the PWDVA.

Source: <http://www.thehindu.com/news/national/article918011.ece>,

<http://hindu.com/2010/10/22/stories/2010102257190100.htm>

## Supreme Court Directs Government to Make Section 498A Cases Compoundable

To reduce pendency and delays of cases in courts, the Supreme Court has asked the Centre and the Law Commission to examine the question of making certain offences in the Indian Penal Code, including 498A (cruelty to a wife) and section 326 (causing grievous hurt), subject to settlement through payment of fine by accused.

Source: [http://www.expressindia.com/story\\_print.php?storyId=656529](http://www.expressindia.com/story_print.php?storyId=656529)

## Supreme Court adds murder charge in dowry death cases

Enforcing stricter punishments for severe crimes against women, the Supreme Court has made it mandatory for courts across the country to add murder charge against the accused persons in all dowry death cases. Presently, dowry death is registered under Section 304B IPC entailing a maximum punishment of life imprisonment (minimum seven years). After this order, a person convicted of dowry death would get either life imprisonment or capital punishment. The Court has also directed that the copy of the order be sent to registrar generals and registrars of all high courts for further circulation to all trial courts.

Source:

<http://www.hindustantimes.com/Charge-murder-in-dowry-death-cases-SC-tells-courts/Article1-629661.aspx>

<http://www.indianexpress.com/news/add-murder-charge-provision-to-dowry-deaths-sc-tells-courts/714522/>

## **Supreme Court divided on whether failure to marry after cohabiting amounts to breach of promise to marry**

The Supreme Court delivered a split verdict on whether a man in a live-in relationship can be considered guilty of deceiving a woman for letting her believe that she was legally married to him and cohabit with him. The case related to a man who was cohabiting with a woman for the past nine years and they had two children, but he disowned her subsequently. During the live-in period, the man executed an agreement with the woman that they will marry later and filed an application to special marriage officer for procuring a marriage certificate. According to one judge, the act could be considered immoral but not illegal, while the other judge citing section 493 of the IPC held it as an act of deception. Since the judges had different opinions the matter has been referred to Chief Justice for having the issue examined by a larger Bench.

Source: <http://www.indianexpress.com/story-print/717895/>

## **Delhi High Court states that sex after an intentionally false promise of marriage is rape**

The Delhi High Court has held that having sex with a girl on the promise of marriage and later refusing to tie the knot on flimsy grounds amounts to commission of rape. The court dismissed an anticipatory bail application of a boy who had tricked a girl into having sex with him on the promise of marriage and later refused to fulfill it on the ground that she had hidden her real gotra from him. The judgment said that “a case where the girl agrees to have sexual intercourse on account of her love and passion for the boy and not solely on account of the misrepresentations made to her by the boy or a case where a boy, on account of circumstances, which he could not have foreseen or which are beyond his control, does not marry her despite having all good intention to do so, has to be treated differently from a case such as the present one.” The judge while commenting on the intention of the boy said that “the petitioner from very inception had no intention of marrying the prosecutrix to whom he was a complete stranger before he met her to consider the proposal for marriage with her”.

Source: <http://beta.thehindu.com/news/cities/Delhi/article98711.ece>

## **Bombay High Court rules that a woman's caste does not change upon marriage**

In a significant judgment, the Bombay High Court has held that the caste of a woman born into a scheduled caste or scheduled tribe does not change on her marriage to a person from a forward caste. The ruling was in response to a petition filed by a man who sought anticipatory bail after his wife who is from a scheduled caste, accused him and her in-laws of dowry harassment and casteist atrocities. The man who is from a forward caste, argued that since the woman was married to him she could not seek protection under Prevention of Atrocities Act (PAA). He contended that after marriage a woman loses her original caste status and gains that of the man she marries.

Source: <http://www.hindustantimes.com/Women-s-caste-does-not-change-with-marriage-HC/H1-Article1-501046.aspx>

## **Delhi High court asks the state to rehabilitate slum dwellers**

The Delhi High Court has pulled up the state agencies for demolishing slum clusters in the name of beautifying the city by asking them to rehabilitate the slum dwellers even if they were encroaching on public land. The court was hearing a *suo moto* case on a newspaper report that highlighting the plight of people rendered homeless in the Delhi winter when the MCD demolished their night shelters to beautify the city for the upcoming Commonwealth Games. Due to the demolition of their *jhuggis* many slum dwellers succumbed to the cold. The court ordered the state agencies to protect and the respect of the rights to life and dignity which the Constitution guarantees all and to relocate them with a surety of basic amenities consistent with the rights to life and dignity.

Source: <http://economictimes.indiatimes.com/news/politics/nation/HC-directs-Delhi-to-rehabilitate-all-slum-dwellers/articleshow/5563003.cms>, <http://www.in.com/news/current-affairs/rehabilitate-slum-dwellers-rules-court-12769037-7693d73192d00e8d29bdb3f76331fe7b805c4752-rhp.html>

## **Delhi High Court upholds Permanent Commission in armed forces for women**

The Delhi High Court upheld the right of women in the armed forces by granting them permanent commission on par with the male officers with all consequential benefits. The order will also hold for those women who have been in non-

combat roles in the army since 1993. The case was filed by women officers who were granted short service commission in the Indian Air Force and Army and who sought permanent commission challenged the government's refusal to consider them for permanent commission rather given extensions to the short service commissions. The consequence of not being granted permanent commission was that they were deprived of certain benefits and privileges such as pension, 'ex-serviceman status' and medical facilities. The Court found merit in the argument of the petitioners that their plea for permanent commission was based on the principle of legitimate expectation. The Central government argued that there could be no legitimate expectation since the women officers knew that their induction into the IAF was on an experimental basis for five years, to be reviewed thereafter. Further while noting that there are countries that have given opportunities to women even in combat areas, the judgment laid out that in India, there is reluctance on the part of the armed forces to induct women as permanent commission officers.

Source: <http://www.indianexpress.com/news/women-get-permanent-commission-in-armed-forc/590079/>  
<http://www.deccanherald.com/content/57682/women-get-permanent-commission-military.html>  
<http://www.frontlineonnet.com/stories/20100409270703600.html>

### **Armed Forces Tribunal directs the government to treat military nurses on par with officers**

The Armed Forces Tribunal has directed the government to treat military nurses on par with regular commissioned officers of the three Services in terms of rank and entitlements. The order was pronounced on a petition by a woman officer from the Military Nursing Service (MNS) who sought that Nursing Officers be treated at par with all other officers. The Tribunal gave the order while quashing the Army order of April 2004, which stated that MNS officers were not at par with rest of the officers of the Services. After the Tribunal order, the MNS officers would be allowed to display flags and star plates on their official vehicles, which symbolise their rank and status.

Source: <http://www.indianexpress.com/story-print/601253/>

### **Karnataka High Court upholds coparcenary rights for married women and daughters**

The Karnataka High Court validated that the Hindu Succession (Amendment) Act, 2005 upholding that the daughter has an equal share in coparcenary property. Those daughters born after June 17, 1956, when the parent Hindu Succession Act came into force, can challenge proceedings with regard to their coparcenary properties. The Hindu Succession Amendment Act is curative, remedial in nature and wants to undo the injustice done to her in the last 50 years, the Bench said. The amendment wants to give such rights from the day the Act came into force. This is the will of the people, the Bench observed.

Source: <http://timesofindia.indiatimes.com/city/bangalore/Equal-rights-in-property-for-girls-/articleshow/5704505.cms>  
<http://www.mangaloreheadlines.com/show-contents.php?id=3120>, <http://www.deccanherald.com/content/58991/hc-upholds-equal-property-right.html>

### **Delhi High Court orders that mutual elopement cannot be regarded as 'kidnapping'**

The Delhi High Court has ruled that a person cannot be charged with kidnapping of a minor girl if she leaves her parents' home of her own will and gets married to him. Citing earlier judgments of the High Court and Supreme Court, the court even said that if the couple marries after elopement then the marriage is not void and should be legally recognized. In the particular case the judge said that there was no evidence of coercion from the boy's side and she left her parents house on her own accord, got married on her free will and then got the marriage registered. This judgments comes in the background of many cases where the parents often file kidnapping charges against the boy to stop young couples from exercising choice in matters of intimacy and marriage, and coerce the girl to return home – often followed by 'honour killing.'

Source: <http://www.hindustantimes.com/rssfeed/newdelhi/No-kidnapping-case-if-elopement-mutual/Article1-525583.aspx>, <http://www.indianexpress.com/story-print/612631/>

### **Delhi High Court Rules that Marriages between Minors is Valid**

The Delhi High Court held in *Jitender Kumar Sharma vs. State* that marriages between minors are valid but can be annulled on a plea made by either one of the partners. The judgment held that under the Prohibition of Child Marriage Act a marriage involving minors is not invalid, but void if a plea is made by the minor partner. In this case, the parents of the girl were strongly opposed to the marriage, as the two families were distantly related to each other. The High

Court sought to give legitimacy to the choice exercised by the couple, in the backdrop of honour killings being condoned by khap panchayats in cases where the couple are from the same *gotra*.

Source: <http://timesofindia.indiatimes.com/articleshow/6294214.cms?prtpage=1#ixzz0wk5vWS6Y>  
<http://timesofindia.indiatimes.com/articleshow/6294214.cms?prtpage=1>

### **Delhi High Court Makes it Tough to go back on Mediation**

Noting a spurt in cases where parties approach courts asking for compromise deeds to be quashed, claiming they were made 'under duress', the Delhi HC observed that a complaint of coercion must be stringently tested before a compromise deed is set aside. According to the court, approaching the court after drawing the benefits of an agreement meant pushing the other party, who chose to comply with the terms, to a state of utmost disadvantage. Hence, equity must prevail in such cases so that no injustice is done. The retraction often comes after one of the parties has already availed the benefits of the compromise deed.

Source: [http://www.expressindia.com/story\\_print.php?storyId=656184](http://www.expressindia.com/story_print.php?storyId=656184)

### **Bhopal Judgment: Abysmally Late, Abysmally Little**

A trial court in Bhopal on 7th June 2010 found Union Carbide Corporation (UCC) and 7 senior officials of UCC guilty of criminal negligence for the gas leak in Bhopal in 1984. The gas leak killed thousands and crippled generations of victims. The former members of UCC's senior management in India have been sentenced to two years in jail and fined Rs.100,000. Following the verdict there were countrywide protests against the inadequate sentence as being too late and offering too little relief to the victims and their families. The verdict is blamed on a decision taken by the Supreme Court in 1996 which reduced the charges against the accused from culpable homicide not amounting to murder to causing death by negligence; and on the government which provided allowed the ex-UCC chief Warren Anderson to leave the country soon after the gas leak.

In response to the public reaction against the judgement, the Centre has approved enhanced compensation for Bhopal gas leak victims, made by the Group of Ministers; a central package of Rs 1,265.56 crore will include compensation and environmental cleanup. The Cabinet has also agreed to make fresh efforts to seek extradition of Warren Anderson and for restoration of a stronger case against the accused.

Source: <http://www.expressindia.com/latest-news/GoM-on-Bhopal-tragedy-discusses-legal-options/635927/>  
<http://www.indianexpress.com/news/solution/631005/>, <http://www.indianexpress.com/news/cong-joins-chorus-on-bhopal-verdict-gom-reconstituted/631864/0>, <http://www.indianexpress.com/story-print/636564/>  
<http://www.indianexpress.com/story-print/635623/>, <http://www.indianexpress.com/story-print/631005/>

### **The Lucknow Bench of the Allahabad High Court upholds "faith and belief" of Hindus in the Ayodhya verdict**

In a controversial judgment, the Lucknow Bench of the Allahabad High Court has held that the disputed land should be distributed among the Waqf Board, the Nirmohi Akhara and the party representing Ram Lalla Virajman. The judges held that the Hindu plaintiffs in the case have a claim to the disputed site because as per the "faith and belief of the Hindus" the place under the central dome of the Babri Masjid, where the idols of Ram Lalla were placed surreptitiously in 1949, is the birthplace of Lord Ram. The Bench has been criticised for legitimising the destruction of the 500 year old Babri Masjid in 1992 by mobs of the Hindu right. The judgment is further criticised for being political in nature and for creating a precedent that land can be claimed by declaring it to be the birthplace of a divine or semi-divine being worshipped by a group that defines itself as a community.

Source: <http://www.hindu.com/2010/10/01/stories/2010100163711400.htm> , <http://www.thehindu.com/opinion/op-ed/article807232.ece>

### **Delhi High Court issues rules to Delhi Government to ensure reproductive rights to destitute women**

Acting upon a newspaper report which reported the death of a destitute pregnant woman upon child birth owing to lack of medical care, the Delhi High Court issued instructions to the Delhi Government to set up five shelters exclusively for pregnant and destitute women and lactating mothers; ensure that adequate medical assistance and food are provided

in the shelters and professionally trained personnel are deployed; to create a hotline service; to set up a Mobile Medical Unit; to establish awareness camps; to disseminate existing schemes and shelters through radio/TV media and involve genuine NGOs in constructing and implementation of services. The destitute woman died within four days of childbirth. The order was issued when the High Court initiated a suo motu petition and appointed Colin Gonsalves, Executive Director, Human Rights Law Network as Amicus Curiae. It is the responsibility of the government to ensure health facilities for women especially poor women are provided and maintained.

Source: <http://www.hrln.org/hrln/press%20release/PRESS%20RELEASE.pdf>

### **Bombay High Court holds that 'Marriage doesn't change daughter's role in supporting family'**

In the case of *Medha Parke vs State of Maharashtra* the Bombay High Court held that a labour practice which allowed only unmarried daughters eligible for employment on compassionate ground in the case of her parent's premature retirement was unfair. The Bombay High Court observed that "it is impossible to accept in this day and age that assuming a woman gets married she will cut off her ties with the family she is born in and will leave it to suffer the vagaries of life in penury." The court was hearing an appeal filed by Maharashtra Government against an order of Industrial court which termed as illegal the termination of a woman, who had secured employment in keeping with the Government policy framed under Maharashtra Civil Services (pension) Rules after her father retired prematurely on medical ground.

Source: <http://www.indianexpress.com/news/on-jobs-govt-has-been-unfair-to-married-women-bombay-hc/706023/0>

### **Delhi relaxes marriage rules for couples from other states**

The Delhi Cabinet has relaxed marriage registration rules in the Delhi as mentioned in the Hindu Marriage Registration Rules, 1956 under which a marriage can be registered in the city if the couple proves that either of them or parents of at least one of them have been a resident of the area falling under the jurisdiction of the registrar for at least a month. Couples wanting to get their marriages registered in the city have been facing difficulties because of the particular clause. Couples from other states will be able to easily get their marriages registered in Delhi provided their marriages take place in Delhi.

Source: <http://www.indianexpress.com/story-print/681067/>

### **Delhi court rules that finger test on victims of sexual offences unconstitutional**

The sessions court in Delhi has held that the finger test examination, conducted on the victims of sexual violence, infringes upon their privacy and is violative of their Constitutional rights. The Per Vagina (PV) test, which is normally called the finger test, is routinely carried out on victims of sexual offences to prove that they are "habituated to sex" or "used to sex". This test only establishes whether the vestibule is congested and whether one, two or three fingers can be inserted. This court ruled that the existing medical and legal procedures like the two finger test which were irrelevant to the trial should be reviewed and stopped. The court also directed that if the test was indeed necessary, it should be carried out only after obtaining the consent of the victim or her guardians, followed by due permission from the court.

Source: <http://www.indianexpress.com/news/pv-test-infringes-on-rape-victims-right-to/702014/>  
<http://www.hindustantimes.com/tabloid-news/newdelhi/Finger-test-violates-rape-victims-privacy/Article1-617458.aspx>

### **Sessions Court condemns and convicts for honour crimes sanctioned by the Khap Panchayats**

In a first of its kind judgment, a court in Karnal has awarded capital punishment to five persons and life sentence to one for murdering a couple following an order of the khap panchayat that they belonged to the same gotra and their marriage should be resolved. As a backlash to the judgement, an assembly ('*Sarv Jaati Khap Mahapanchayat*') of representatives 36 'khap panchayats from Haryana, parts of UP, Rajasthan and Delhi, was convened which resolved to fight the court verdict. In addition they also demanded; firstly, that court marriages and marriages in temple should be considered valid only if they were performed in the presence of parents of the bride as well as the bridegroom and their signature must be made compulsory while issuing a marriage certificate; secondly that khap panchayats should be given the status of Lok Adalats and thirdly amendment to the Hindu Marriage Act 1955 for making it illegal to marry in the same gotra (sub-caste).

The Khaps have done gross injustice to hundreds of young men and women who have either aspired or married for love by ostracizing them and their families and ordering extra judicial punishments.

Source: <http://www.indianexpress.com/story-print/597690/>, <http://www.indianexpress.com/story-print/606139/>  
<http://www.indianexpress.com/story-print/605860/>, <http://www.indianexpress.com/story-print/611030/>  
[http://www.telegraphindia.com/1100428/jsp/opinion/story\\_12388910.jsp](http://www.telegraphindia.com/1100428/jsp/opinion/story_12388910.jsp)

## **News and Events**

### **Dr. Binayak Sen convicted on charges of sedition and treason**

In an appalling and shameful decision, noted human rights activist, Dr. Binayak Sen has been convicted on charges of guilty of sedition and treason by a session court in Raipur. The court held him guilty under provisions of section 124A IPC (sedition), 120 B IPC (conspiracy) and Chhattisgarh Special Public Security Act. Dr. Binayak Sen is a paediatrician and has worked to improve the health and nutrition status among the tribal communities of Chattisgarh for the past 30 years. He is also a member of People's Union for Civil Liberties (PUCL) and has raised his voice against human rights violations both by the state and killings of innocent people by the Salwa Judum in the naxal affected areas of Chattisgarh. Dr. Sen was arrested under the Unlawful Activities (Prevention) Act and the Chhattisgarh Special Public Security Act in May 2007 on charges of having links with Maoists, however despite immense national and international appeals he was not released but was given bail owing to his deteriorating health condition after nearly two years in May 2009. Human rights activists have strongly condemned this verdict.

Source: <http://www.thehindu.com/news/article974280.ece>

### **Irom Sharmila completes 10 years of hunger strike against AFSPA**

Irom Sharmila has completed 10 years of her hunger strike on 2 November. She has been on an indefinite hunger strike campaigning for the repeal of the controversial Armed Forces (Special Powers) Act (AFSPA) that provides unlimited powers to the security forces to shoot on sight and arrest anybody without a warrant. Irom Sharmila began her non-violent protest after the Malom massacre where 10 civilians were killed by the army on 2 November 2002. However despite repeated demands by the civil society and national and international human rights groups, AFSPA has not been repealed, instead Irom Sharmila has been charged with attempt to suicide and has been held in isolation. Irom Sharmila is symbol of courage, strength of the human spirit and an inspiration to continue the struggle against AFSPA and state perpetrated violence.

Source: <http://www.hindustantimes.com/StoryPage/Print/621075.aspx> , <http://expressbuzz.com/nation/manipurs-iron-lady-10-years-of-fasting/220116.html>

### **AMU suspends gay teacher**

The Aligarh Muslim University has suspended a teacher, on charges of "misconduct" on campus for having consensual sex with someone of the same sex within the privacy of his home. The university's decision to suspend the professor goes against the Delhi High Court's judgment on interpreting Section 377 last year which decriminalized homosexuality. Further, there were either cameras placed by students within Dr Siras' house or television reporters got into the house and made a video film of the alleged incident that was then passed on to the university authorities. However instead of taking stern action against those who have violated his right to privacy and dignity, the university suspended the professor. Several academicians from all over the country have issued a petition letter condemning this homophobic attitude and moral policing by the university. PLD supports the petition letter.

Source: <http://www.indianexpress.com/news/amu-suspends-gay-teacher/580269/>  
<http://www.hindustantimes.com/Whose-morality-is-this/H1-Article1-510347.aspx>  
[http://epaper.hindustantimes.com/ArticleImage.aspx?article=19\\_02\\_2010\\_012\\_008&mode=1](http://epaper.hindustantimes.com/ArticleImage.aspx?article=19_02_2010_012_008&mode=1)

### **Justice for Dr. Siras: Protest Marches in Delhi, Mumbai and Thirussur**

Following the unnatural death of Dr. Srinivas Ramachandra Siras, protest marches were organised in Bombay (9th April), Thrissur (11th April) and Delhi (12th April) to condemn the harassment he faced, including the unlawful and

unethical suspension he faced on account of his being gay which led to his death.

The fact finding report following Dr. Siras's suspension from AMU can be found at:

<http://altlawforum.org/news/Amumoralpolicingfinal10.03.pdf>

### **Khap panchayats annul couple's marriage for violating caste norms**

A caste panchayat at Kheri village in Rohtak district of Haryana has annulled a couple's marriage and ordered the man and his wife to treat each other as siblings. The couple fell in love and got married with their parents consent two years back. However the villagers discovered that the couple belonged to two separate gotras (Beniwal and Berwal), members of which accepted each other as 'brothers and sisters'. The custody of the couple's child however has been given to the mother and henceforth the father of the child will be considered his maternal uncle. The panchayat also asked the boy's family to pay a fine of Rs. 3 lakh for concealing the daughter-in-law's gotra. Earlier the police refused to intervene but when the case gained publicity, the matter was sorted out and the couple were reunited but asked to live outside the village. There have been many incidents of young couples being separated and ostracized for marrying against the wishes of their community by their 'khap panchayats', or caste councils as being against social norms. In some cases the couple are killed to restore the 'honour' of the community.

Source: <http://wp.me/pqrag-ly>, <http://www.indianexpress.com/story-print/578765/>,  
<http://www.indianexpress.com/story-print/576576/>

### **RTI cannot be used to get medical treatment history without consent**

The Bihar State Information Commission (SIC) delivered a first of its kind judgment saying that a husband/wife cannot use the RTI Act to get her/his spouse's medical treatment history from the hospital without the spouse's consent. The SIC judgment is based on different Sections of the RTI Act, 2005 and also on the oath taken by doctors at the time of their registration, pleading confidentiality towards their patients. The case related to a man whose wife was treated in the government-owned Patna Medical College and Hospital (PMCH). He submitted an application to the PMCH's public information officer (PIO) seeking details of his wife's treatment history for using it against his wife in an ongoing litigation. The PIO, however, sought the wife's consent which she did not give. The husband was denied the information and he then moved the SIC which too upheld the PIO's stand.

Source: <http://timesofindia.indiatimes.com/city/patna/Hubby-cant-access-wifes-treatment-details-sans-consent/articleshow/5521083.cms>

### **Human rights activists condemn human rights violation in Kalinganagar**

The Working Group on Human Rights in India and the UN (WGHR) has condemned the severe repression of adivasi protesters in Kalinganagar, Orissa. The adivasi's have been opposing the forceful acquisition of their agricultural lands for the construction of a Tata steel plant since 2006. The police along with private militia have been repressing the protestors by indiscriminate firing which has killed many protestors. Further the injured are not being allowed out of the villages as a result of police *gherao* and private militia which has killed many tribals (including women and children) due to lack of access to medical treatment. In wake of call such a mass scale of repression, the WGHR has called upon the state government to immediately cease the police repression, and begin honest dialogue on land acquisition with the adivasi communities of Kalinganagar along with Tata Steel. In addition other demands include: 1) an immediate halt to the building of the common corridor, 2) withdrawal of all false criminal cases against protestors, 3) the removal of private militias and police *gherao* from the affected villages, and 4) medical treatment to be made immediately available.

Press release 14 and 19 April 2010 and about WGHR: <http://www.wghr.org/index.html>

### **Human rights defenders arrested on false charges in Tamil Nadu after enquiring about a torture case**

A group of five human rights defenders, including three women, were arrested on false charges in the on 15<sup>th</sup> August in Veeravanallur Police Station, Tirunelveli district, Tamil Nadu. The group had gone to the police station as part of a fact-finding mission enquiring about the torture case of Dalit youth involving the serving Sub-Inspector of the same police station. The group was arrested illegally without any information. The arrest was in violation of many of the procedural safeguards provided by the Constitution, the code of criminal procedure and the Supreme Court's DK Basu guidelines. One of the most glaring procedural irregularities is the violation of section 46 (4) of the criminal procedure

code, which prohibits the arrest of any woman after sunset and before sunrise except in 'exceptional circumstances'. The group was taking part in a training programme on Dalit human rights monitoring. The programme was organized by the Institute of Human Rights Education of People's Watch for the Dalit Foundation, an organization working towards the eradication of caste-based discrimination and atrocities. The arrests are a clear form of harassment against the legitimate work of human rights defenders in seeking to improve their capacity to conduct their work of documenting alleged violations and trying to protect the rights of victims.

For details of the case and other documents see [http://www.pwtn.org/dailt\\_trainees\\_arrested.html](http://www.pwtn.org/dailt_trainees_arrested.html)

[http://www.wghr.org/pdf/PR%2017.08.10\\_final.pdf](http://www.wghr.org/pdf/PR%2017.08.10_final.pdf)

[http://www.forum-asia.org/index.php?option=com\\_content&task=view&id=2618&Itemid=32](http://www.forum-asia.org/index.php?option=com_content&task=view&id=2618&Itemid=32)

## **State of Assam guarantees healthcare for all emergency patients**

Assam has become the first state to guarantee all its citizens the right to healthcare by passing the Assam Public Health Bill, 2010. The new law makes it mandatory for all government and private nursing homes and hospitals to provide free healthcare to an emergency patient of any kind for the first 24 hours. According to the law, patients who cannot afford treatment in a private hospital can later be shifted to a government hospital after getting immediate necessary treatment for the first 24 hours. Further in case a patient fails to receive attention in a government hospital or health establishment because of the absence of doctors or any other medical staff, such patients would be entitled to monetary compensation. In addition, the act provides every patient the right, that his or her complete medical records of at least two years be maintained by the hospitals and nursing homes.

Source: <http://www.hindustantimes.com/india-news/guwahati/Assam-shows-the-way-provides-healthcare-for-all/Article1-525519.aspx>

## **South Asia Plus Consultation on Culture, Women and Human Rights (2-3 September 2010): PLD**

PLD with local support from WOREC is organising a South Asia Plus Consultation on Culture, Women and Human Rights in Dhulikhel, Nepal. The consultation aims to consolidate the concerns that have emerged through PLD's field work, and help develop a bottom up understanding of cultural rights (to shape the newly created mandate of the Independent Expert in the field of Cultural Rights). It seeks to provide a forum to the SRVAW to continue the mandate's engagement with the theme of women and culture.

## **Consultations with Prof. Gay McDougall, UN Independent Expert on Minority Issues**

In her unofficial visit organized by National Campaign on Dalit Human Rights (NCDHR), Professor Gay McDougall, UN Independent Expert on Minority Affairs delivered a public lecture, held consultations and meetings with human rights groups and academicians. The mandate of the Independent Expert on minority issues complements and enhances the work of other UN bodies and mechanisms that address minority rights and minority issues, including the Forum on Minority Issues and the treaty monitoring bodies. Importantly, the Independent Expert can consult directly with Governments regarding minority issues, and is also mandated to take into account the views of NGOs, offering a unique opportunity for constructive engagement in country situations.

## ***Programmes/Policies***

### **Private member's petition to amend 498A: Written comments invited by Rajya Sabha**

The Committee on Petitions of the Rajya Sabha is considering a petition praying for amendments in Section 498A IPC. The petition claims that women are misusing section 498A IPC to get rich quickly, to deny child custody to the father, as a bargaining tool for women who 'indulge in adultery', and to 'inflict sufferings on the husband.' The Committee has decided to undertake consultations with a wide cross section of society and has invited written comments on the petition. Concerned feminists and women's organisations will be responding to the Rajya Sabha with regard to its decision to entertain this petition, and seeking amendments to section 498A IPC, and it is hoped that the petition will be dropped by the Rajya Sabha. The petition is available at the Rajya Sabha website [www.rajyasabha.nic.in](http://www.rajyasabha.nic.in)

### **Ministry calls for an end to sex selective abortions by celebrating women's roles as 'mothers-of-famous sons'**

On the occasion of the National Girl Child Day, to promote awareness about sex selective abortions, the Women Child Development Ministry issued an advertisement which called for a “campaign against female foeticide”. While the advertisement was criticized by many for it included the picture of a Pakistani General along with Kapil Dev and Virender Sehwag and Amjad Ali Khan, which invoked an apology from the PMO. The advertisement also highlights a complete lack of understanding of gender equality or even sex selection that is the subject of the poster – as it portrays women’s contribution to society only as mothers of famous sons, rather than as individual citizens in all areas of public life. Even as the minister, Ms. Krishna Tirath pointed out that “the message is more important than the image.... The girl child should be protected, that is more important. The real motive behind this advertisement is to encourage girls to become mothers and stop female foeticide,” The message reinforces the value of women only as ‘mothers-of-sons’.

Source: <http://www.india-server.com/news/advertisement-on-female-foeticide-19951.html>

[http://www.indianexpress.com/news/former-pak-air-chief-flies-into-govt-of-india-ad-pmo-apologises-orders-probe/571347/0.](http://www.indianexpress.com/news/former-pak-air-chief-flies-into-govt-of-india-ad-pmo-apologises-orders-probe/571347/0)

<http://www.expressbuzz.com/edition/story.aspx?Title=What+is+Pakistani+air+chief+doing+i+n+Indian+ad?&artid=tpTOIKGPE7I=&SectionID=b7ziAYMenjw=&MainSectionID=b7ziAYMenjw=&SEO=&SectionName=pWehHe7IsSU=>

### Transgenders seek recognition as a Backward Class

The transgender community in Karnataka including hijras, kothis, jogappas and Female to Male (FTM) transgender persons have deposed before the Karnataka State Backward Classes Commission and have demanded to be officially recognised as a “Backward Class” so they can benefit from government schemes and also work towards a situation similar to Tamil Nadu, where there are a number of state-targeted programmes aimed at this community. The hearing follows a petition filed by organizations such as Karnataka State Sexual Minorities Forum (KSMF) and those funded by Karnataka Health Promotion Trust and Karnataka State AIDS Prevention Society. They spoke about a range of issues from the need for medical facilities to discrimination and the violence and stigma they face within families, schools, work places, in police custody etc. Human rights activists at the hearing called the state agencies to address discrimination faced on the basis of gender identity through legislation and policy and give the community the rights due to them.

Source: <http://www.hindu.com/2010/03/04/stories/2010030455740600.html>

### Centre approves decision to enumerate caste in second phase of census

The Centre has approved that India's first caste-based census since 1931 would take place from 2011. The count would last from June-September 2011, after a full census had been held. However, answering questions on caste will be optional. The move is intended to help target affirmative action benefits. The Centre will formulate a "suitable legal regime for collection of data on castes" in consultation with the ministry of law and justice. It will also constitute an expert group to classify the caste/tribe returns after the enumeration is completed." The office of the Registrar General and Census Commissioner, India, would hand over the details of the castes/tribes returned in the census to the proposed expert group.

Source: [http://www.telegraphindia.com/1100910/jsp/nation/story\\_12919791.jsp](http://www.telegraphindia.com/1100910/jsp/nation/story_12919791.jsp)

PLD is a legal resource group working in the fields of social justice and women’s rights in India and South Asia. 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](http://www.pldindia.org)

Or write to us at: [pldindia@gmail.com](mailto:pldindia@gmail.com)