



**Bi-Monthly Legal News**  
**Partners for Law in Development, Issue XII, December 2009**

| <b>INTERNATIONAL</b>  |   |
|---|---|
| <b>UPDATES FROM THE UN</b>  | <b>INTERNATIONAL LEGAL UPDATES</b>  |
| <ul style="list-style-type: none"><li>❖ United Nations Security Council adopts Resolution 1888 and 1889</li></ul>   | <ul style="list-style-type: none"><li>❖ Constitutional Court of Kuwait allows women to get own passports without the approval of husbands</li><li>❖ Bahrain passes landmark family law</li><li>❖ Aceh passes adultery stoning law</li></ul> |
| <b>INTERNATIONAL NEWS</b>   |   |
| <ul style="list-style-type: none"><li>❖ New secular coalition against fundamentalisms up for endorsement</li><li>❖ The African Union adopts Convention on Internally Displaced Persons</li></ul>  |   |
| <b>NATIONAL</b>   |   |
| <b>NEWS</b>   |   |
| <ul style="list-style-type: none"><li>❖ Government approves 50% reservation in panchayats and urban local bodies</li></ul>  |   |
| <b>LEGAL DEVELOPMENTS</b>   |   |
| <ul style="list-style-type: none"><li>❖ The SC asks the Centre to legalise prostitution if they cant curb it</li><li>❖ Medical expenses of wife can be claimed as interim maintenance</li><li>❖ Dowry law applies to live-in partner</li><li>❖ Inter-caste child marriage declared void</li><li>❖ Obstructing ‘Love Jihad’ or inter religious marriages?</li><li>❖ Landmark judgment protecting the rights of aged parents</li></ul>  |   |
| <b>EVENTS</b>   |   |
| <ul style="list-style-type: none"><li>❖ Irom Sharmila enters 10th year of hunger strike</li><li>❖ Safe Delhi for Women Initiative launched on 25 November</li><li>❖ ‘One Day, One Struggle to Promote Human Rights’; 9 November</li><li>❖ ‘Four Decades of Violence against Women in Indonesia: Building Public Knowledge and a Collective Responsibility to end impunity and rebuild a Just Nation’; 29-30 November</li><li>❖ ‘My Body, My Life, My Rights: Addressing Violations of Women’s Sexual and Reproductive Rights’ APWLD, 7-8 December</li></ul> |   |
| <b>RESOURCES</b>  |   |
| <ul style="list-style-type: none"><li>❖ Waves in Hinterland: Farah Naqvi</li><li>❖ Unpackaging Human Rights: Concepts, Concerns and Campaigns: WRAG and MIHRE</li><li>❖ Staying Alive: Third Monitoring &amp; Evaluation on the Protection of Women from Domestic Violence Act, 2005: Lawyers Collective and ICRW</li><li>❖ When Legal Worlds Overlap: Human Rights, State and Non-State Law: ICHR</li><li>❖ New Website on CEDAW launched on its 30<sup>th</sup> Anniversary</li></ul>   |   |

# INTERNATIONAL

## UPDATES FROM THE UN

### United Nations Security Council adopts Resolution 1888 and 1889

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

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

Text of 1888 Resolution:

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

Text of 1889 Resolution:

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

## INTERNATIONAL NEWS

### New secular coalition against fundamentalisms up for endorsement

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

This charter highlights the bogey of clash of civilizations, the role of public policies leading to greater inequality, and the impact of religious fundamentalisms and right wing identity politics in dividing people locally, nationally and internationally. It condemns the retreat of the state from the social domain leaving the terrain to manipulation by religious-political outfits, and condemns as well, the left groups who have allied with fundamentalists to fight imperialism. The full text of the charter is available for public consultation and is open for signatures at: <http://www.laicity.info/bli>

## **The African Union adopts Convention on Internally Displaced Persons**

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

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

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

## **LEGAL DEVELOPMENTS**

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

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

Source: [http://www.gulfinthemedia.com/index.php?id=492103&news\\_type=Top&lang=en](http://www.gulfinthemedia.com/index.php?id=492103&news_type=Top&lang=en)

### **Bahrain passes landmark family law**

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

Source: [bahwu@batelco.com.bh](mailto:bahwu@batelco.com.bh)

## **Aceh passes adultery stoning law**

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

Source: <http://news.bbc.co.uk/2/hi/asia-pacific/8254631.stm>  
<http://www.iwpr.net/EN-btm-b-356650>

## **NATIONAL**

### **NATIONAL NEWS**

#### **Government approves 50% reservation in panchayats and urban local bodies**

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

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

### **LEGAL DEVELOPMENTS**

#### **The SC asks the Centre to legalise prostitution or curb it**

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

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

#### **Wife can claim medical expenses as part of interim maintenance**

The Supreme Court has upheld the right of the wife to claim interim maintenance till the final adjudication of the suit under the Hindu Adoptions and Maintenance Act 1956. The

interim maintenance will also cover expenses incurred towards medical treatment. While delivering the judgment the Court said that “maintenance” and “support” are comprehensive terms and provide and their scope would also include medical expenses.

Rajesh Burman vs Mitul Chatterjee (2009) 1 SCC 398

### **Dowry law applies to live-in partner**

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

Times of India, November 17

### **Inter-caste child marriage declared void**

The Punjab and Haryana High Court, has declared as “void” the (inter-caste) marriage of a girl below 18 under the Prohibition of Child Marriage Act, 2006 which prohibited marriage of a minor. This father of the girl complained against the boy for enticing his 16 year old daughter and marrying her against his wishes. The court pronounced the judgment when the couple approached the court for protection from the parents of the girl. Instead, the court declared the marriage void and said that the persons responsible for the child marriage are liable for prosecution with punishment of two years in prison and a fine up to Rupees one lakh. The court also refused plea of protection to the boy who is a major and his parents for protection for threat to life. Further the court directed the state to take action against all persons including the priest who solemnized the “child marriage” in this case. The Act makes child marriages voidable at the option a party to the child marriage upon attaining adulthood, but declares ‘void’ a marriage of a minor who has been ‘enticed out of the keeping of the lawful guardian’ into marriage. In the wake of extensive documentation of violence, intimidation and abuse of law to obstruct inter-caste and inter-religious marriages of choice, this judgment cannot be seen purely as relating to child marriage. Instead, the objection to child marriage (otherwise widely acceptable) must take into account the intersecting concerns of patriarchy and caste that are at play in this case. The judgment reveals ways in which a socially desirable law, and a technically correct decision, can reinforce patriarchal authority and caste divide, if applied without regard to the social prejudices and inequalities.

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

### **Obstructing ‘Love Jihad’ or inter religious marriages?**

The Karnataka High Court has passed an order in the case of a woman who had converted to Islam to marry a Muslim from Kerala, to return to her parents’ home until the case is

investigated for unlawful trafficking of women and ordered the police to investigate if it was a case of 'love jihad'. The People's Union for Civil Liberties (PUCL) has said it will file a writ petition in the Supreme Court challenging the Karnataka High Court's order despite her statement in court that she had willingly converted and was waiting to get married under the provisions of the Special Marriage Act 1954.

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

Source:

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

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

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

### **Landmark judgment protecting the rights of aged parents**

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

Source: The Indian Express, October 21

## **EVENTS**

### **Irom Sharmila enters 10th year of hunger strike**

On 2 November 2009, Manipur poet and activist Irom Sharmila, will entered the 10<sup>th</sup> year of her hunger strike demanding the repeal of the Armed Forces Special Powers Act (AFSPA). In solidarity with her many women and activists from Manipur have been on a relay hunger strike since December 10, 2008. On the occasion of her struggle entering the tenth year, they celebrated her resilience as a "Festival of Hope, Justice and Peace."

## **Safe Delhi for Women Initiative launched on 25 November**

The Department of Women and Child Development, Delhi Government launched the Safe Delhi For Women Initiative, in collaboration with UNIFEM, JAGORI and UN Habitat in New Delhi on 25 November 2009 to check the growing incidents of violence against women and girls in public places and address the lack of safety and security for women in the city.

For further details contact: [www.samawomenshealth.org](http://www.samawomenshealth.org)

## **‘One Day, One Struggle to Promote Human Rights’ 9 November**

On 9 November 2009, the Coalition for Sexual and Bodily Rights (CSBR) organised a historic international campaign ‘One Day One Struggle’ across 11 Muslim countries to promote human rights. Organisations held simultaneous public demonstrations and events to assert that sexual and reproductive rights are universal human rights which have been denied in Muslim societies. The event was marked by press conferences, seminars, street processions in Bangladesh, Sudan, Lebanon, Cyprus, Egypt, Tunisia, Malaysia, Pakistan, Palestine and Turkey with the message that “*sexuality is not a private issue but a site of political struggle.*”

Source: [www.wwhr.org/csbr.php](http://www.wwhr.org/csbr.php), [irazca.geray@wwhr.org](mailto:irazca.geray@wwhr.org)

## **‘Four Decades of Violence against Women in Indonesia: Building Public Knowledge and a Collective Responsibility to end impunity and rebuild a Just Nation’ 29-30 November, Jakarta**

The National Women’s Commission on VAW in Indonesia, the Komnas Perempuan, organized a two day event to mark 10 years of its work with defenders and survivors of violence against women on November 29-30, 2009 in Jakarta. The event captured the exceptional character of the women’s machinery that was constituted following the May 1998 violence against the ethnic minority Indonesian Chinese community, and sexual violence against the women. This two day event reflected the work of the Commission in recording the history of impunity towards violence against women, in the family, in the community by the militia and non state actors, and by the state military in countering political resistance. Bringing together the survivors, defenders with the civil society and the State, the event was a powerful way of acknowledging wrongs of history and the Indonesian state, to pave the way for a just Nation.

## **‘My Body, My Life, My Rights: Addressing Violations of Women’s Sexual and Reproductive Rights’ APWLD 7-8 December**

An Asia Pacific NGO consultation was organized by Asia Pacific Forum for Women, Law and Development (APWLD) in Bangkok from December 7-8, 2009 to enable defenders and activists from the region to discuss their concerns on the theme with the UNSRVAW, Rashida Manjoo. One of the recommendations emerging from the consultation was the need for a clear normative recognition of sexual rights in international law, particularly in relation to lesbians, bisexual, transgender and intersex persons.

## **RESOURCES**

### **Waves in Hinterland: Farah Naqvi**

Nirantar and Zuban have released 'Waves in Hinterland' by Farah Naqvi which traces the journey of Khabar Lahariya, a weekly newspaper published since 2002 from Uttar Pradesh's Chitrakoot District. The newspaper is collated, designed, edited, published and distributed by an all-women team. In 2004 the paper won the Chameli Devi Jain Award for Excellence in Journalism.

### **Unpackaging Human Rights: Concepts, Concerns and Campaigns: WRAG and MIHRE**

Mumbai Initiative for Human Rights Education (MIHRE), Justice and Peace Commission (JPC) and Women's Action and Research Group (WRAG) have released a research tool 'Unpackaging Human Rights: Concepts, Concerns and Campaigns' edited by Saumya Uma. The book provides comprehensive reference material on human rights that combines theory, concepts, debates and discourses with a focus on ground realities, campaigns, movements and advocacy initiatives.

For further details contact: [www.wragindia.org](http://www.wragindia.org)

### **Staying Alive: Third Monitoring & Evaluation on the Protection of Women from Domestic Violence Act, 2005: Lawyers Collective and ICRW**

Lawyers Collective Women's Rights Initiative in collaboration with The International Center for Research on Women supported by UNIFEM have released "Staying Alive: Third Monitoring & Evaluation on the Protection of Women from Domestic Violence Act, 2005." The report was released by The President of India, Mrs. Pratibha Devisingh Patil on the 13 November.

### **When Legal Worlds Overlap: Human Rights, State and Non-State Law: ICHR**

International Council on Human Rights has released its report When Legal Worlds Overlap-Human Rights, State & Non-State Law. The report emphasizes on the contested nature of culture, especially when dealing with gender equality, religious freedom and indigenous peoples' rights.

Link to the Report: [http://www.ichrp.org/files/reports/50/135\\_report\\_en.pdf](http://www.ichrp.org/files/reports/50/135_report_en.pdf)

### **New Website on CEDAW launched on its 30<sup>th</sup> Anniversary**

On the occasion of the 30<sup>th</sup> Anniversary of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), a working group of the United Nations' Inter-Agency Network on Women and Gender Equality (IANWGE) has planned a number of activities in 2009 including a special anniversary website, [www.unifem.org/cedaw30](http://www.unifem.org/cedaw30). Along

with featuring resources and interviews with CEDAW experts from around the world, the website also contains events and programmes scheduled all over the world to celebrate the adoption on the Convention. The working group is composed of OHCHR and UNIFEM (co-chairs), UNICEF, UN-DAW, UNDP and UNFPA.