



# BI-MONTHLY LEGAL NEWS

## Vol. No. 6 (I) Jan-Feb 2013

*Partners for Law in Development*

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- 'Pursuing Elusive Justice: Mass Crimes in India and the Relevance of International Standards'; edited by Vahida Nainar and Saumya Uma
- 'Rising from the Ashes: Women's Narratives of 1971': The University Press Limited
- 'Erasing 76 Crimes': Colin Stewart
- New website for the project 'engendering policy through evaluation'

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## Updates from the UN

### UN SR on Right to Food submits report on women's rights and the right to food to HRC

The Special Rapporteur on the right to food submitted his report on women's rights and the right to food to the Human Rights Council. The report discusses the threats to women's right to food, identifying the areas that demand the most urgent attention. It examines successively the obstacles women face in access to employment, social protection and the productive resources needed for food production, food processing and value chain development. The SR has noted that disempowerment of women results in women facing discrimination as economic agents. This in turn means women are less economically independent, are exposed to violence and have a weaker bargaining position within the household and the community. As a result, they continue to assume a highly unequal share of tasks and family responsibilities within the household. He recommends that States effectively respond to women and girls needs and priorities in their food security strategies and to relieve women's unpaid work burden in the household, while at the same time address the specific constraints women face and transforming the existing gendered division of roles.

The report can be accessed [here](#).

### UN High Commissioner for HR praises report submitted to Indian Government by special committee – change heading to match contents

The UN High Commissioner for Human Rights, Navi Pillay, praised the recommendations of the Justice Verma Committee (JVC), which was set up in the wake of the gang rape and murder of a 23-year-old woman in New Delhi in December 2012, in terms of the ground breaking proposal to tackle all aspects related to violence against women in India. She further urged the Government to follow through with its recommendations.

The report bases the reforms in the duty of the state to guarantee women's constitutional rights to equality and non discrimination. The recommendations include dismantling of the existing immunities in law against marital rape, public servants, security forces; expanding the definition of rape, recognising that while all persons can be victims of rape, only men can be perpetrators; creating a gradation of sexual crimes including voyeurism/ stalking; and outlining prevention, police and electoral reforms, as well as reparations as integral to the package of necessary changes.

Ms. Pillay praised the report for eschewing the death penalty and any lowering of the age of juvenile perpetrators, opting instead for heavy prison sentences ranging from seven years to life imprisonment.

Source:

<http://www.un.org/apps/news/story.asp?NewsID=44000&Cr=india&Cr1=rights#.US8EnKJxS3E>

## UNHCHR submits report on promotion and protection of human rights to peaceful protest

The United Nations High Commissioner for Human Rights (UNHCHR) submitted its report on ‘Effective measures and best practices to ensure the promotion and protection of human rights in the context of peaceful protests’ to the Human Rights Council. The report was based on the input provided by various Special Procedures and Treaty Bodies as well as best practices by States, NHRIs and UN agencies and outlines examples of effective measures and best practices to promote and support the promotion and protection of human rights in the context of peaceful protests. The report concludes by stating that peaceful protests are a fundamental aspect of a vibrant a democracy and States should recognize the positive role of peaceful protests as a means to strengthen human rights and democracy.

The report can be accessed [here](#).

## LBT organisation submit memo to CEDAW during discussion on women’s access to justice

Committee on the Elimination of Discrimination Against Women (CEDAW) held a discussion on Women's Access to Justice, to commence the Committee’s process of elaborating a general recommendation (GR) on ‘access to justice’. The purpose of the general recommendation is to provide appropriate and authoritative guidance to States Parties on the measures to be adopted to ensure full compliance with their obligations to protect, respect and fulfil women’s human rights to access to justice. The discussion was held on 18<sup>th</sup> February 2013.

At the discussion, forty-three organizations from around the world jointly submitted a memo to CEDAW to encourage the Committee to include explicit reference to the barriers women face in access to justice because of their sexual orientation or gender identity in its forthcoming GR. Lesbian, bisexual and transgender (LBT) people face obstacles in accessing justice because as women, they are subject to the same barriers as all other women, and as people persecuted because of their sexual orientation or gender identity, they are subject to additional barriers that multiply the effects of discrimination.

The memo can be accessed [here](#).

Source: <http://www2.ohchr.org/english/bodies/cedaw/accesstojustice.htm>

## UN SR on torture and other cruel, inhuman or degrading treatment or punishment submits report to HRC

The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment submitted its report to the Human Rights Council. The report focuses on certain forms of abuses in health-care settings that may cross a threshold of mistreatment that is tantamount to torture or cruel, inhuman or degrading treatment or punishment.

The report examines a number of the abusive practices commonly reported in health-care settings and describes how the torture and ill-treatment framework applies in this context. The intention of the report is to analyse all forms of mistreatment premised on or attempted to be justified on the basis of health-care policies, under the common rubric of their purported justification as “health-care treatment”, and to find crosscutting issues that apply to all or most of these practices. It also

identifies the scope of State's obligations to regulate, control and supervise health-care practices with a view to preventing mistreatment under any pretext.

The report can be accessed [here](#).

## International Developments

### Asia

#### Case filed in Singapore court challenging criminalisation of sodomy

The Singapore High Court held its first full hearing in a case brought by a gay couple in Singapore seeking to abolish a long-standing law banning gay sex. This case was filed just days after a former department store manager filed a case suing his boss for alleged discrimination against homosexuals. The two cases highlight how members of Singapore's gay community have become increasingly vocal, demanding changes in the State's attitudes toward homosexuality by speaking out against discrimination and raising legal cases to challenge the law.

Singapore law criminalizes sex between mutually consenting adult men, and offenders can be jailed for up to two years. These cases have been filed at a time when the Court of Appeal in Singapore reserved judgment on a challenge that Section 377A of the Penal Code, which criminalises sex between homosexuals, is unconstitutional (PLD BI-MONTHLY LEGAL NEWS Vol. No. 5(IV) July-August 2012).

Source: <http://abcnews.go.com/International/wireStory/singapore-gay-couple-seeks-abolish-gay-sex-law-18498612>  
<http://www.todayonline.com/singapore/judgment-reserved-challenge-section-377a>

#### Indonesian judge's comment on rape survivors enjoying the intercourse highlights insensitivity of judges

An Indonesian High Court Judge aspiring for elevation to the Supreme Court, in a bid to 'lighten' the mood of an intense interview commented that '(B)oth the victims of rape and the rapist might have enjoyed their intercourse together, so we should think twice before handing down the death penalty'. The comment which came after he was asked about his opinion on death penalty for rapists have provoked strong reaction and calls for him to stand down or be fired.

The Judge now faces an ethics tribunal after a judicial commission recommended his dismissal. The commission, which monitors judges' conduct and professionalism, called the judge's comments 'disgraceful'. This case highlights the insensitivity of the judiciary, and structural bias that women confront in pursuit of access to justice.

Source: <http://www.indianexpress.com/news/indonesian-judge-faces-axe-after-victims-enjoy-rape-remark/1062495>  
[http://www.huffingtonpost.co.uk/2013/01/16/daming-sanusi-judge-rape-victims-enjoy-sex-dismissal-indonesia\\_n\\_2485848.html](http://www.huffingtonpost.co.uk/2013/01/16/daming-sanusi-judge-rape-victims-enjoy-sex-dismissal-indonesia_n_2485848.html)  
<http://www.thejakartapost.com/news/2013/01/16/rape-judge-may-face-dismissal-ethics-review.html>  
<http://www.bbc.co.uk/news/world-asia-21039561>

## Bangladesh witnesses biggest protest in 20 years demanding death sentence for 1971 war crime accused

After the Bangladesh International Crime Tribunal sentenced Abdul Quader Mollah, accused of committing atrocities during the nine-month war against Pakistan in 1971, to life imprisonment, Bangladesh is witnessing what is now being referred to as the biggest mass demonstration in 20 years. The crowd has been demanding the death penalty to be given to Mollah, such as was given to Abdul Kalam Azad, co-accused, who was sentenced in absentia.

But the call for Mollah's death is about more than revenge. Since Bangladesh's independence, the state had done little to bring people such as Mollah to justice. The erasure of the war began in 1972 with the granting of amnesty to the Pakistani army officers who led the killings. Internationally, charges of genocide were never formally brought to the United Nations. The world quickly forgot the Bangladesh war. During the decades of political turmoil that followed in Bangladesh, the war, and its crimes, were buried, while one regime after another contributed to the rehabilitation of the Jamaat party. These protests are viewed by many as a reassertion of secular democratic principles on which the nation was originally founded, that over the years have diminished under onslaught of political Islam.

The Shahbag protest has been unique for Bangladesh for its prevalence and visibility of women, who are among the core organisers. In light of these protests, the 1973 International Crimes Tribunal Act was amended to arm the government with the right to appeal against verdicts of the Tribunal.

Source: <http://www.livemint.com/Opinion/HyyZvse0sL8nsuIi30nZQJ/Crowds-and-justice-at-Shahbag.html>

<http://www.guardian.co.uk/world/2013/feb/23/protest-death-penalty-bangladesh>

<http://www.guardian.co.uk/world/2013/feb/13/shahbag-protest-bangladesh-quader-mollah>

<http://bdnews24.com/bangladesh/2013/02/17/parliament-changes-ict-law-to-try-jamaat>

Op-ed: <http://bangladeshwarcrimes.blogspot.in/>

<http://www.thehindu.com/opinion/interview/cauterizing-the-wounds-of-1971/article4452583.ece>

<http://kafila.org/2013/02/23/india-slept-through-a-revolution-in-bangladesh-richa-jha/>

## *Beyond Asia*

### Rhode Island's house passed gay marriage bill

In a positive development, the Rhode Island House of Representatives passed a marriage equality bill on Thursday, 24 January, 2013. The House passed the legislation by a majority vote of 51-19. It will next face a Senate committee which must vote in favor of the bill being sent before the full Senate for a vote. Both supporters and opponents of gay marriage say it is difficult to predict the bill's fate.

Rhode Island is the only New England state where gay marriage is not yet legal. The bill was being debated in the Rhode Island legislature since 1997.

Source: <http://www.gaystarnews.com/article/rhode-islands-house-representatives-passes-gay-marriage-bill250113>

## US lifts ban on women serving in ground combat units to mitigate sexual assault in military

In a welcome move, Outgoing Defence Secretary Leon Panetta has formally announced to lift ban on women serving in front-line combat roles in US military. The decision overturns a 1994 rule that stated ‘women shall be excluded from assignment to units below the brigade level whose primary mission is to engage in direct combat on the ground.’

The ban stymied women’s careers since combat experience is an invaluable skill when evaluating personnel to select for promotion. Although women have performed admirably in combat during the last decade, because they have not served in billets in ground combat units, their chances at promotion to general officer were still small compared to their male counterparts.

A recent research suggests that military sexual assaults in combat zones happen frequently. General Martin Dempsey, the head of the Joint Chiefs of Staff, which spearheaded the new policy change, also acknowledges that the U.S. military has an ongoing issue with sexual harassment and sexual assault. Officially recognizing women as equal and treating them at par with their male counterparts may help in reducing the crime against women warriors at battleground and military academies

The military services will have until May 15 to submit a plan for implementing the decision. That plan, which has to be approved by the defense secretary and notified to Congress, will guide how quickly the new combat jobs open up and whether the services will seek an exemption to keep some closed.

The policy would be implemented by 2016.

Source: <http://www.indianexpress.com/news/us-to-lift-ban-on-women-in-frontline-combat-jobs/1064146/5>  
[http://www.huffingtonpost.com/2012/12/27/military-sexual-assaults\\_n\\_2370099.html](http://www.huffingtonpost.com/2012/12/27/military-sexual-assaults_n_2370099.html)

Op-ed: <http://www.globalissues.org/news/2013/01/25/15726>

## European Court of Human Rights and German high court rule same-sex couples are regular parents

In a historic move, The European Court of Human Rights delivered its judgment in the case of X and Others v. Austria concerning the inability of a woman in a same-sex relationship to adopt her partner’s son without severing the mother’s legal ties with the child (second-parent adoption), and ruled that Austria’s Civil Code discriminates against a partner in a same-sex relationship by making it legally impossible to adopt the biological child of the other partner while permitting second parent adoptions for unmarried heterosexual couples.

The couple argued that her exclusion from the legal right to adopt her partner’s child amounted to discrimination under the European Convention on Human Rights, specifically breaching Article 8, which governs respect for ‘private and family life’, and Article 14, governing discrimination itself. The ECHR ruled on a majority of only ten to seven that the couple’s rights under Articles 8 and 14 had been violated – but only in comparison with unmarried heterosexual couples. However, the court also ruled unanimously that there had been no violation of their rights in comparison with a married couple seeking ‘second parent adoption’.



On the other hand, civil partners in Germany have gained the right to adopt their partner's step or adopted children, after the country's highest court ruled that current restrictions were discriminatory. Under existing legislation, only heterosexual couples can adopt their partner's non-biological children. The Federal Constitutional Court of Germany has now ordered the government to draft new laws by June next year. However, same sex couples in Germany will be prohibited from adopting unrelated children.

Source: <http://www.fidh.org/European-Court-of-Human-Rights-ban-12919>  
[http://articles.washingtonpost.com/2013-02-19/world/37166877\\_1\\_gay-couples-civil-partnerships-adoption-rights](http://articles.washingtonpost.com/2013-02-19/world/37166877_1_gay-couples-civil-partnerships-adoption-rights)

Op-ed: [http://hudoc.echr.coe.int/sites/eng-press/pages/search.aspx?i=003-4264492-5083115#{"itemid":\["003-4264492-5083115"\]}](http://hudoc.echr.coe.int/sites/eng-press/pages/search.aspx?i=003-4264492-5083115#{)

## France's parliament approves 'marriage for all' bill

Same-sex marriage in France has come one step closer to legality as lawmakers in the lower house of parliament approved a 'marriage for all' bill that would extend the right to marry and adopt to same-sex couples.

The French National Assembly has approved a law legalizing gay marriage by a majority of 329 in favor to 229 against. The new law allows marriage for all, regardless of sexual orientation. This would mean gay couples – who have had the right to civil partnerships since 1999 – could, through marriage, take their partner's name and gain inheritance and pension rights. Adoption would also become legal for married same-sex couples.

The bill must still go before the senate before it becomes law. If passed, it would mark the biggest step forward for French gay rights advocates in more than a decade.

Source: [http://www.cbsnews.com/8301-202\\_162-57568950/french-national-assembly-approves-same-sex-marriage/](http://www.cbsnews.com/8301-202_162-57568950/french-national-assembly-approves-same-sex-marriage/)

## Landmark Ruling: Human Right Court rules religious beliefs do not trump LGBT rights

In a promising decision, European Court of Human Rights (ECHR) ruled in *Eweida and Others v the United Kingdom* that an individual's religious beliefs do not trump the rights of an LGBT person and may not be used to discriminate against them. The Court, in Strasbourg, France, examined four cases brought by Christians from the UK, two of which related to their refusal to provide professional services to same-sex couples on the grounds it violated their religious beliefs. In all cases the applicants claimed that their right to 'freedom of thought, conscience or religion', guaranteed by Article 9 of the ECHR, as well as their right to non-discrimination, guaranteed by Article 14 of the ECHR, had been violated.

For details click [here](#)

Op-ed: <http://www.guardian.co.uk/law/2013/jan/15/christian-gay-rights-strasbourg>

## Russian parliament backs ban on ‘gay propaganda’

In a regrettable move, Russia's lower house of parliament has given initial approval to a draft law that would impose fines on individuals, government officials, and organizations that engage in ‘promoting’ homosexuality to anyone under 18. The experts on freedom of expression, human rights defenders, cultural rights and the right to health warned the bill may undermine the enjoyment and promotion of human rights in Russia, unjustifiably singling out lesbian, gay, bisexual, transgender and intersex people, who have increasingly become the target of sanctions and violence in Russian federation

The bill led to protests before the Duma debate by LGBT rights supporters in at least six Russian cities and internationally. Assailants attacked protesters in several Russian cities, with the most severe attack in Voronezh, about 400 kilometers south of Moscow. Several nationalist groups published specific and explicit calls to attack LGBT activists protesting the bill.

The lower house of the Russian parliament, the Duma, postponed further discussion of the bill until May. The bill faces two more readings, after which it must be approved by the upper house and President Vladimir Putin before it becomes law.

Source: <http://www.ifex.org/russia/2013/01/29/>

Oped:<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12964&LangID=E>  
[http://www.ilga-europe.org/home/news/for\\_media/media\\_releases/russia\\_duma\\_draft\\_law](http://www.ilga-europe.org/home/news/for_media/media_releases/russia_duma_draft_law)  
<http://www.newrepublic.com/article/112362/russias-gay-propaganda-ban-putin-brings-past-present#>

## Pope’s resignation may make International prosecution easier: CCR press statement

In response to news that Pope Benedict XVI plans to resign, the Center for Constitutional Rights an organization, that has filed a case with the International Criminal Court on behalf of the SNAP(Survivors Network of those Abused by Priests) against the pope and other high-level Vatican officials for crimes against humanity, issued a note stating that Pope is responsible for sexual assault around the world, both through his exercise of superior responsibility and through his direct involvement in the cover up of specific crimes. Tens of thousands of victims, most of them children, continue to suffer because he has placed the reputation of the church above the safety of its members. His resignation will make international prosecution easier for national systems of justice that still grant immunity to current heads of state.

Press note: <https://ccrjustice.org/newsroom/press-releases/pope%E2%80%99s-resignation-may-make-international-prosecution-easier>

## **National**

### **Judgments/ Orders**

## Supreme Court directs the Suryanelli gang rape case to be heard afresh after 17 years

The horrific case of a young girl from Idukki, Kerala, who was kidnapped, gang raped and tortured over a period of 40 days in early 1996, has resurfaced after the Supreme Court directed



the Kerala High Court to hear the case afresh. In 2000, a special court hearing the case had convicted 35 people accused in this case and sentenced them to rigorous imprisonment. However the Kerala High Court, in a 2005 judgment acquitted all the accused except for the prime accused, Dharmarajan, who first raped the girl, on the ground that there was no compelling evidence that the girl had not consented to sexual intercourse with the remaining accused.

On an appeal by the state government, the Supreme Court set aside the judgement of the High Court and cancelled the bail of all the accused. The bench rejected the conclusion of the 2005 judgment that the girl was a consenting party to the gang rape and directed the High Court to hear the bail applications afresh.

The case assumes importance not only for judicial bias and insensitivity but also because the victim has named the politician and Rajya Sabha Deputy Chairman, P.J. Kurien as one of the rapists. While the state and central governments appear unwilling to take action against Kurien, the High Court has constituted a special bench to hear the case.

Source: <http://www.thehindu.com/news/national/kerala/sc-quashes-all-acquittals-in-1996-suryanelli-case/article4366139.ece>

<http://www.thehindubusinessline.com/news/hc-constitutes-new-bench-to-hear-suryanelli-case/article4446156.ece>

## Supreme Court directs government to enact comprehensive law to address acid attacks

The Supreme Court while hearing a public interest litigation filed by an acid attack victim, enquired what steps the government had taken towards enacting a comprehensive legislation to address this growing phenomena. Acid and similar corrosive substances are increasingly being used to maim and disfigure women, as a means of reprisal. In addition to seeking directions to the government regarding legislative action and compensation for herself, the litigant in this case also prayed for total ban on the sale of acid across the counter.

The Supreme Court has directed the government to bring in a legislation not only criminalizing acid attacks but also providing for care, treatment and rehabilitation of the victim and regulation of the sale of acid in the open market. The Criminal Law Ordinance 2013 has incorporated Sections 326 A and B in the Indian Penal Code, which provide for punishment for throwing, administering or attempting to throw or administer acid as well as compensation for the victim. However, the clause makes compensation to the victim contingent upon conviction of the accused and the financial capacity to pay, which makes its reach rather limited. A comprehensive legislation on the issue would be a welcome opportunity to push for more holistic rehabilitation and prevention measures.

Source: <http://www.thehindu.com/news/national/acid-vengeance/article4446924.ece>

## Wife beating is not a normal aspect of married life, observes the Supreme Court

The Supreme Court of India, in a recent case came down heavily on such judicial attitudes and expressions. The Court was hearing a case where a woman had committed suicide as a result of domestic violence committed by the husband. The trial court however, failed to convict the

husband on the ground that, “one or two beatings is not the kind of cruelty that could drive a woman to commit suicide.”

The verdict of the trial court was overturned by the Karnataka High Court, which convicted the husband and sentenced him to five years of imprisonment. The Supreme Court while dismissing his appeal observed that people, including judges need to adopt an attitude of zero-tolerance towards violence against women, so that the constitutional vision of gender justice is rendered meaningful.

The judgment can be accessed here:

<http://164.100.9.38/judis/bitstream/123456789/38820/1/39892.pdf>

## Supreme Court keen on Vishaka-style Guidelines, to address violence meted out by Khap Panchayats

While hearing a public interest litigation seeking directions to address violence meted out by Khap Panchayats against couples marrying outside caste or within the same *gotra*, the Supreme Court observed that it would lay down guidelines for the police and other authorities to follow in such cases. These guidelines – similar to the Vishaka guidelines that were laid down by the court in a 1996 case for addressing sexual harassment at workplace – would be in operation till the time the legislature enacts a law to deal with this problem.

The bench also stated that it would like to hear the views of the Khap Panchayats on the extra judicial killings and imposition of sanctions on erring couples and their families that are carried out by their orders. The Supreme Court has had a consistent stance not only on the issue of Khap Panchayats but also on the rights of couples who defy parents and communities and choose their life partners. In the past the Court has dismissed cases that have sought ban on inter-gotra marriages and have provided protection to runaway couples.

Source: [http://articles.timesofindia.indiatimes.com/2013-01-05/india/36161043\\_1\\_khap-panchayats-baghpat-guidelines](http://articles.timesofindia.indiatimes.com/2013-01-05/india/36161043_1_khap-panchayats-baghpat-guidelines)

<http://dailypioneer.com/nation/120189-sc-wants-khaps-to-give-views-on-honour-killing.html>

## Privileging Patriliney: killing of male child is an aggravating factor justifying death penalty, holds the Supreme Court

The Supreme Court in a recent case awarded capital punishment to a person accused of kidnapping and murdering a young boy. The accused, who was known to the deceased boy and his family, was lured by the former and kidnapped for a ransom of Rupees five lakhs. When there was a delay in paying the money, he strangled the young boy, put him in a gunny bag and threw the dead body in a lake.

The accused was convicted and sentenced to death by the trial court which was subsequently confirmed by the Madras High Court. The Supreme Court while deciding the appeal, did not find any mitigating circumstances on the basis of which the death sentence could be commuted. The fact that the accused was known to the deceased and was trusted by him, and that the murder was carried out in a planned manner without any provocation, were considered by the judges as

justifying capital punishment. In a shocking manifestation of patriarchal attitude, the judges held that singling out the sole male child of the parents to carry out his intentions, was also an aggravating factor in this case, as without the male child the family lineage cannot be carried forward. While capital punishment itself is problematic owing to its underlying philosophy of retribution, this case is more problematic as patriarchal reasoning is used to qualify this case as the 'rarest of the rare' to accord death penalty.

Source: <http://www.thehindu.com/todays-paper/tp-national/tp-tamilnadu/there-should-be-no-leniency-in-kidnap-for-ransom-and-murder-cases-sc/article4384189.ece>

The judgment can be accessed here:

<http://164.100.9.38/judis/bitstream/123456789/38831/1/40013.pdf>

## Kolkata journalist wins sexual harassment case against employer after 10 years

Rina Mukherji, a senior journalist working with Kolkata based newspaper, The Statesman, was fired from her job in 2002, when she complained of sexual harassment by a senior colleague. The State Commission for Women attempted conciliation in the case which failed due to non-cooperation by the employer. The case then moved to the Industrial Tribunal, which in February 2013 ruled in Rina's favour. The Tribunal awarded reinstatement with full back wages from the time she was fired. However the libel suits that were filed against her for tarnishing the image of the newspaper and the person against whom the complaint was filed are still pending.

Filing counter complaints against the complainant in sexual harassment cases is a common strategy. A lot of women facing sexual harassment are discouraged from filing or pursuing their cases because they fear that the outcome of these counter complaints may go against their interests.

Source: <http://www.millenniumpost.in/NewsContent.aspx?NID=21047>

<http://feministsindia.com/tag/sexual-harassment-at-work/>

## News

### The Government enacts a law to protect women from sexual harassment at workplace

More than sixteen years after the Supreme Court laid down guidelines for addressing complaints of sexual harassment at workplace – popularly known as the Vishaka guidelines – the government has enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2012. It was passed by the Lok Sabha in September 2012 and in February 2013 by the Rajya Sabha. The definition of sexual harassment includes one or more acts that are unwelcome such as physical contact or advances, request for sexual favours or sexually coloured remarks. The Act makes it mandatory for all public and private sector establishments to have an internal complaints mechanism, which would have to be decided within a period of 90 days.

Not all the contentious issues that had come up in course of the debates on the Bill have been addressed. While the coverage of the Act is not limited to the formal sector, and extends to the unorganised sector including agricultural and domestic workers, the clause penalising false and

malicious complaints has been retained with the rider, that failure to prove a case of sexual harassment would not imply mala fide intention on the part of the complainant. The Act would come into effect when the Rules are framed and notified by the government.

Source: <http://www.thehindu.com/news/national/bill-to-curb-sexual-harassment-in-workplaces-passed-in-rajya-sabha/article4455795.ece>

## Central government announces ‘Nirbhaya Fund’ for women’s safety

While presenting the 2013 Union Budget, Finance Minister P. Chidambaram announced a central fund with a corpus of Rs. 1000 crore for the safety of women. The fund is named ‘Nirbhaya’ – the name given by the media to the woman who was gang raped and murdered on a bus in Delhi in December 2012. Women’s groups and activists however are not swayed by this move. For years they have demanded better budgetary allocations to implement the anti domestic violence and anti sex selective abortion laws. Announcing a new fund for women’s safety, while sidestepping long standing demands for better implementation of existing laws is being called by many as tokenistic.

Source: <http://www.deccanherald.com/content/315528/nirbhaya-fund-safety-women.html>

## Verma Committee Report on Sexual Assault Law Reform welcomed by Women’s Groups

A three member committee, led by retired Supreme Court judge, Justice J.S. Verma, submitted its report on amendments to the criminal law on sexual offences, on 23<sup>rd</sup> January 2013. The Committee was constituted by the government in the wake of the brutal gang rape and murder of a woman in Delhi, the previous month. The Committee received about 80,000 submissions from individuals, civil society organizations and academic bodies from both within the country and without. Additionally, the Committee also convened a two day hearing in New Delhi, where oral testimonies were presented by activists and scholars from various regions of the country on different aspects of sexual violence and the law.

The laudable consultative process as well as the report of the Committee has been welcomed by the women’s movement, media and a wide cross section of society. It signals a serious engagement with the women’s movement as well as other constituencies working on sexual violence. This is reflected in the content of the Report which ushers a paradigm shift in understanding sexual violence and grounding the discourse on legal protection in constitutional rights of equality and non-discrimination. In addition to a number of procedural changes geared towards making the justice system hospitable for victims of sexual violence, the Committee has also suggested changes in the substantive law, which redefine certain offences and strike at the culture of impunity fostered by the current legal framework on sexual offences. The Committee’s recommendations have received widespread support nationally as well as globally.

Source: <http://www.thehindubusinessline.com/news/justice-j-s-verma-panel-submits-report-on-crime-against-women/article4335768.ece>

<http://www.thehindu.com/todays-paper/tp-national/tp-newdelhi/women-welcome-verma-committee-report/article4363296.ece>

## Government introduces Ordinance on Sexual Assault: Selective incorporation of Verma Committee Recommendations

On February 3<sup>rd</sup>, 2013, just a few weeks before the parliamentary session, the central government introduced an Ordinance, purportedly to give effect to the recommendations made by the Justice Verma Committee Report. The ordinance provides for imprisonment for life and death penalty in some cases, which were explicitly rejected by the Verma Committee as well as by the women's movement. However key demands of the women's movement, which were endorsed by the Committee, do not find any place in the ordinance. These include, retaining a gender specific definition of sexual assault, explicitly debarring the two-finger test by doctors, recognizing marital rape as an offence, non-requirement of sanction by the government while prosecuting members of the security forces for sexual offences and provision for compensation, among others.

While the government projected the ordinance as a tool of deterrence and claimed it to be resulting from public demand, women's groups as well as some political parties have questioned the hasty and secretive manner in which the ordinance was introduced and promulgated. Women's groups have rejected the Ordinance and asked for a full and comprehensive implementation of the Verma Committee recommendations. In the meanwhile, the report of the Parliamentary Standing Committee on Home Affairs on the Criminal Law Amendment Bill 2012 has been tabled in the parliament and a new Bill is expected to be tabled by the government in the current session of the Parliament. The report of the Standing Committee has ruled out criminalizing marital rape and has endorsed the suggestion of gender neutrality.

Source: [http://www.business-standard.com/article/pti-stories/women-s-groups-unhappy-with-anti-rape-ordinance-113020200359\\_1.html](http://www.business-standard.com/article/pti-stories/women-s-groups-unhappy-with-anti-rape-ordinance-113020200359_1.html)

<http://www.thehindu.com/news/national/ordinance-on-crime-against-women-promulgated/article4375214.ece?homepage=true>

## Steps taken by State Governments to ensure women's safety in public places

In November 2012, the Supreme Court of India while hearing the case of *Dy. Inspector General of Police and Anr. vs S. Samuthiram*, had issued a set of directions to all the state governments and union territories, on safety of women in public places [PLD Newsletter Vol. 5 (VI) Nov-Dec 2012]. As per media reports, steps have been initiated in some states and cities in furtherance of the Supreme Court directions. The Director General of Police in Maharashtra has asked all the police stations in the state to submit the numbers of schools, colleges, bus stands, railway stations, cinema halls, malls and so on, within their jurisdictions, so that provision for adequate personnel may be made. Similar steps have also been taken by the authorities in Haryana and Ahmedabad.

A common feature of the proposed plans in above states is to deploy female police personnel for the protection of women in public places. There seems to be an assumption that only women police personnel would be receptive to helping other women in distress or that the latter would only be comfortable approaching women police personnel, if they are being harassed. None of these assumptions hold water when seen in light of the experience with the Women Police Stations. Further, the Haryana initiative talks about deploying police women in plainclothes at designated public places. What is not explained is how a woman, who is being harassed, would identify a police woman and approach her for help, if she is in plainclothes?

While these are indeed welcome steps by the police and state governments, we want to emphasize that ensuring safety and security to women must become part of mainstream policing and should not be treated as a 'women's issue', best handled by women.

Source: [http://articles.timesofindia.indiatimes.com/2013-01-02/mumbai/36111261\\_1\\_women-police-police-stations-police-commissionerate](http://articles.timesofindia.indiatimes.com/2013-01-02/mumbai/36111261_1_women-police-police-stations-police-commissionerate)

[http://articles.timesofindia.indiatimes.com/2013-02-02/ahmedabad/36702745\\_1\\_police-stations-railway-stations-women-police](http://articles.timesofindia.indiatimes.com/2013-02-02/ahmedabad/36702745_1_police-stations-railway-stations-women-police)

[http://www.business-standard.com/article/pti-stories/haryana-govt-initiate-efforts-to-check-eve-teasing-harassment-113010900497\\_1.html](http://www.business-standard.com/article/pti-stories/haryana-govt-initiate-efforts-to-check-eve-teasing-harassment-113010900497_1.html)

## Delhi gets six fast track courts for trying rape cases

Following the brutal gang rape and murder of a woman on a bus in Delhi in December 2012, the Delhi High Court has set up six fast track courts in the court complexes at Saket, Rohini, Karkardooma, Dwarka and Tis Hazari (two fast track courts). These courts have been set up to expedite trials in cases of rape. While it is true that avoiding protracted trials in rape cases is crucial, this aspect alone does not ensure justice to the victim. The purpose of these courts should not stop at speedy trial alone but must also include sensitivity towards the victims of sexual violence and putting into practice all the victim-centric procedural and substantive guidelines laid down by the Supreme Court in various cases, over the years.

Additionally, rape cases get delayed due to a number of reasons, which include delay in receiving forensic reports, key witnesses such as doctors not being present in the court or periodic adjournments sought by the accused. It remains to be seen how these issues are tackled by the new fast track courts and whether their mandate of speedy justice is realised.

Source: <http://www.hindustantimes.com/India-news/NewDelhi/Crime-against-women-Judges-take-charge-of-fast-track-courts/Article1-984989.aspx>

[http://articles.timesofindia.indiatimes.com/2013-01-02/delhi/36112321\\_1\\_special-courts-trial-courts-high-court](http://articles.timesofindia.indiatimes.com/2013-01-02/delhi/36112321_1_special-courts-trial-courts-high-court)

## No coordination between the police and the transport department caused the Delhi gang rape, concludes Justice Usha Mehra Commission

A one member commission constituted by the Home Ministry to look into the lapses that led to the incident of gang rape and murder of the paramedic in Delhi recently submitted its report. The report pointed to the lack of coordination between the Delhi police and the transport department, as one of the causes why the bus plied on the streets without being detected or stopped. Additionally, the commission has pointed out, there were no PCR vans in the vicinity of the area.

Among other things, the commission has recommended setting up of one-stop rape crisis centers at certain hospitals. These centers should be equipped with doctors, counsellors, forensic experts and policemen so that speedy and holistic relief can be provided to the rape victims.



## RESOURCES

### ‘Those who did not die- Impact of the Agrarian Crisis on Women in Punjab’: Ranjana Padhi

Based on a study done in eight districts of the Malwa region of the Punjab, this book uses quantitative data along with field work, narratives and interviews with peasant unions. The book outlines the distress borne by the family, including women, the children and the elderly in the aftermath of peasant suicides. By doing so, it interrogates the split between public and private; production and social reproduction; work and family. It highlights the determining character of capitalist-intensive agriculture in today's crisis times by focusing on women's reality and renewed hardships in a caste, class and patriarchal society.

Available at: <http://www.uk.sagepub.com/books/Book240408>

### ‘Pursuing Elusive Justice: Mass Crimes in India and the Relevance of International Standards’; edited by Vahida Nainar and Saumya Uma

The book explores various issues pertaining to human rights and criminal justice system in India. It critically examines the patterns of impunity as they exist for some of the serious criminal conducts in and outside the contexts of mass crimes in India—including torture, enforced disappearances, sexual and gender-based violence against dalits as well as religious and sexual minorities. It compares India's legal framework with that of the international community, and builds a strong case for reforms.

The essays introduce a much-needed discourse within the Indian legal framework on a gamut of issues, ranging from the Indian penal and military law regimes, terrorism, victims' rights and culpability of non-State actors to the relevance of global justice and standards related to 'crimes against humanity' and 'genocide'.

For details click [here](#)

### ‘Rising from the Ashes: Women's Narratives of 1971’:The University Press Limited

This volume is a collection of the experiences of 22 women who faced fire, rape, eviction, displacement and death, during the war of independence in Bangladesh in 1971. It covers their struggles for survival, for recognition and claim for justice seeking not only retribution for past but restoration of their dignity.

The volume is edited by- Shaheen Akhtar, Suraiya Begum, Meghna Guhathakurta, Hameeda Hossain, Sultana Kamal and translated by- Niaz Zaman

For review click [here](#)

<http://www.uplbooks.com.bd/book/rising-ashes-women%E2%80%99s-narratives-1971>

## ‘Erasing 76 Crimes’: Colin Stewart

The book is a compilation of struggle stories of LGBT people from Colin Stewart’s blog ‘Erasing 76 Crimes’ that focuses on the human toll of 76 countries’ anti-gay laws and the struggle to repeal them. The book’s authors include LGBT activists in Cameroon, Uganda, the United Kingdom, the United States, and Zimbabwe.

Copies are available online <http://www.amazon.com/From-Wrongs-Gay-Rights-uncertain/dp/0983020620>

## New website for the project ‘Engendering policy through evaluation’

The website <http://www.feministevaluation.org/> is part of Engendering Policy through Evaluation project at Institute of Social Studies Trust (ISST) funded by IDRC and Ford Foundation. It intends to strengthen understanding of gendered implications of policies and programmes and to enable formulation of more gender sensitive approaches to evaluation. The website brings together information on gender and evaluation with a focus on India/South Asia. It also provides links to other sites/ resources on feminist approaches to evaluation and shares materials developed through an on-going project led by ISST

## EVENTS

### Witch Hunting Consultation Report (PLD) - Press Conference, 21 Jan 2013

PLD’s report, 'Targeting of Women as Witches' was released at a press conference on 21st January, in New Delhi. The report was released by Ms Annie Raja, General Secretary, National Federation of Indian Women. 'Targeting of Women as Witches: Trends, Prevalance and the Law in Northern, Western, Eastern and Northeastern Regions of India'.

The report is an outcome of 3 consultations held in Northern, Eastern, Western and Northeastern regions of India by PLD in partnership with state organisations, with the support of the NCW. The report maps the trends of violations inflicted on women in the name of witch hunting, its repercussions, and the role of the state and the law. The consultations involved 165 participants, including lawyers, activists, academicians, NGOs, survivors, police and state women's commissions. The report also offers recommendations that are instrumental to advance justice to the survivors of witch-hunting.

Source: <http://m.timesofindia.com/city/delhi/Many-cases-of-women-targeted-as-witches-still-go-unreported-Report/articleshow/18133630.cms>

### Dalit & Adivasi women’s national congress, TISS Mumbai: 15-16 Feb 2013

A first of its kind conference, 'All India Dalit and Adivasi Women's Congress' at Tata Institute of Social Sciences (TISS) was conceptualized, organized and co-ordinated by Dalit and Adivasi women.

In a unique two-day session, over 200 Dalit and Adivasi women gathered to make their voices heard. This conference focused on mapping the extreme margins of Dalit and Adivasi women as citizens of a modern state. It aimed to understand the role of education in the emancipation of

Dalit and Adivasi women; the stake of Dalit and Adivasi women in the process of development and displacement; globalization- its challenges, opportunities and state retreat; and the role of Dalit and Adivasi women in contemporary politics.

Source:<http://www.indianexpress.com/news/unite-or-vanish-say-dalit-adviasi-women-in-one-voice/1076822>

## One Billion rising to speak up and end violence against women: 14 Feb

Women and men from all walks of life came together on 14 Feb to pledge their commitment to put an end to violence against girls and women. A series of cultural events were held across the world as part of the global campaign which is being called 'One Billion Rising'.

A day of celebration and dance across the world will not, in fact, end violence against women. It won't stop traditionally self-proclaimed authorities from governing women; it won't make access to justice easier for the survivors of violence. But what it does is help in building sense of connection across demographic and organisational difference, it's a platform to share lived experience, thoughts, ideas for change, and of course in raising collective voice to put an end to violence against half of the human race.

## FORTHCOMING EVENTS

### DesiQ 2013: International LGBTIQ conference for South Asians, July 2013

Presentation proposals are invited for DesiQ 2013 - An international conference for LGBTIQ South Asians and their allies in the world.

The 4th conference of its kind, DesiQ 2013 aim to highlight and centre the issues of underserved individuals and communities under the vast umbrella that is 'Queer & Trans South Asian', the concerns of bisexual, transgender, working class, silver / senior, international, underrepresented and/or historically overlooked experiences, and detached (or involved in other movements and struggles). The conference will be held in the San Francisco Bay Area in July 2013

The Requests for Proposals for programming and arts presentations can be completed online through the links provided below.

Programming RFP

<https://docs.google.com/spreadsheet/viewform?usp=sharing&formkey=dHpwWTIEUUIYZDFKU FJ4REVHeWdaY1E6MQ#gid=0>

Arts RFP

[https://docs.google.com/forms/d/1sS851jFBgr8xivAVUt3\\_xP\\_f2VI8Oqm7QHPngMzx6tY/viewform](https://docs.google.com/forms/d/1sS851jFBgr8xivAVUt3_xP_f2VI8Oqm7QHPngMzx6tY/viewform)

The deadline to submit proposals is March 10, 2013.

## OBITUARY

### Lotika Sarkar, law professor, women's rights activist and mentor, passes away

Lotika Sarkar - women's rights activist, law professor, beloved teacher - passed away in New Delhi on 23rd February 2013. Lotikadi, as she was popularly known, was the first woman to graduate from Cambridge and the first woman law professor at the Delhi University, Faculty of Law. She was later a member of the Committee on the Status of Women, which produced the Towards Equality report - arguably a key milestone in the history of women's movement as well as the founding document for the academic domain of Women's Studies in India. Lotikadi was also instrumental in the setting up of institutions such as the Center for Women's Development Studies and the Indian Association for Women's Studies. Lotikadi's name came up frequently in the last couple of months, in the deliberations and discussions over sexual assault law reform. She was remembered again and again in the context of the historic Open Letter written to the Chief Justice of the Supreme Court of India in the wake of the Mathura judgment. Lotikadi was one of the authors of the letter, which had protested the reasoning followed by the Supreme Court that absence of marks of injury on the body of the victim amounts to her consent to sexual intercourse. Even after 30 years of writing that letter, this line of reasoning is prevalent among members of the judiciary. And hence Lotikadi's memory would live on, for she continues to be part of our ongoing struggles with the law and the legal system.