

Updates from the UN

- Stigma and discrimination identified as key barriers to accessing safe drinking water and sanitation, according to the annual report of the UN SR on the theme.
- UN SR on poverty submits final draft of guiding principles to HRC
- OHCHR expresses regret over Ukraine draft law on homosexuality
- UN SR on human rights defenders submits her 5th report to GA
- UNHCR guidelines for determination of refugee status of SOGI

International Developments

Asia

- Pak SC rules that eunuchs entitled to all constitutional rights
- Education Minister's measures and HC's judgment bring to light the attitude of Malaysia towards LGBT
- Pak Taliban and 'Jirga' continue to suppress and exploit girls
- Nepal successfully held its first LGBTI sports festival
- Pakistan and Sri Lanka undergo UPR, recommended review of penal regulation of sexuality

Beyond Asia

- France to remove term 'mother' and 'father' and replace it with 'parent' from its laws and regulations
- ECHR to hear case on adoption by lesbian couple in Austria
- Australian Parliament rejects marriage amendment bill for recognition of same-sex marriages
- CA becomes first US state to sign bill protecting LGBT youth from psychological abuse
- Acquittal of 10 men in case of gang rape shocks France and raises question about the Justice system
- ECHR creates history by condemning homophobic behaviour in prison
- Mobilization of autonomous feminist movement the most important force impacting VAW reveals study
- DOMA declared unconstitutional by a US Court of Appeals
- Northern Ireland HC opens path for homosexual couples to adopt

National

Judgements/Orders

- Delhi Sessions court awards death sentence for honour killing
- SC issues notice to Centre and State on petition to include transgender as a third category
- Bombay HC waives 6 month waiting period in divorce by mutual consent for couple
- SC expresses concern over attitude of courts in rape trials
- SC directs States, UTs and regulatory bodies to implement Vishaka guidelines
- Gujarat HC directs reinstatement of employment for victim of sexual harassment

News

- Rajasthan Cabinet approves VAW bill
- Social Justice Ministry introduces 'draconian' disability bill
- Activists compel NCW to reopen Soni Sori's case
- India plays a hypocrite on the international stage at UN

Resources

- 'Developing Capacities for Strengthening the Application of CEDAW: A Trainer's Guide': PLD
- 'The Crisis of Maternity: Healthcare and Maternity Protection for Women Wage Workers in the Informal Sector in India': Sahayog
- 'Building Inclusive Cities Women's Safety and the Right to the City': Routledge
- 'Women and Justice Collection': online library by Cornell Law School
- 'CEDAW in Action': blog by PLD
- 'Khulti Parten: Yaunikta Aur Hum Vol 1 & 2 (Hindi)': Nirantar
- 'Building the Evidence Base for Protecting and Promoting the Rights of Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI) children in Nepal: An assessment': Save the Children, Nepal and Blue Diamond Society

Events

- Film screening and a presentation on key findings of the study on Commercial Surrogacy in India: Sama, 22nd October 2012, New Delhi
- National Consultation on CEDAW: NAWO, 2nd and 3rd October 2012, New Delhi
- Protest for justice for Soni Sori: 10th October, New Delhi
- Online petition to save Grameen Bank
- Highlights of PLD's workshop on VAW and the law

Forthcoming Events

- UN SR on VAW to visit India in April-May 2013
- Annual Delhi Queer Pride Parade: 25th November 2012

Updates from the UN

Stigma and discrimination identified as key barriers to accessing safe drinking water and sanitation, according to the annual report of the UN SR on the theme.

The UN Special Rapporteur on the human right to safe drinking water and sanitation submitted her report to the Human Rights Council. The Report focuses on the links between stigma and the human rights framework as it relates to water and sanitation. The SR found that stigma, as a deeply entrenched social and cultural phenomenon, lies at the root of many human rights violations and results in entire population groups being disadvantaged and excluded. The report states that stigma is often closely linked to perceptions of uncleanness, untouchability and contagion. In many instances, stigmatized people are perceived as 'dirty', 'filthy' and 'smelly', affecting for instance homeless populations, menstruating women and girls, Roma communities, Dalits or women suffering from obstetric fistula.

The Report seeks to analyse and identify appropriate strategies for preventing and responding to stigma from a human rights perspective, before concluding with a set of recommendations. The Report emphasizes that States cannot fully realize the human rights to water and sanitation without addressing stigma as a root cause of discrimination and other human rights violations

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

UN SR on poverty submits final draft of guiding principles to HRC

The UN Special Rapporteur on extreme poverty and human rights submitted her final draft of the guiding principles on extreme poverty and human rights to the Human Rights Council. The guiding principles were prepared on the basis of consultations with States and other stakeholders since the initiation of the original drafting process in 2001.

The guiding principles are premised on the understanding that eradicating extreme poverty is not only a moral duty but also a legal obligation under existing international human rights law.

The Final draft can be accessed [here](#).

Source:

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12598&LangID=E>

OHCHR expresses regret over Ukraine draft law on homosexuality

The UN Human Rights Office (OHCHR) expressed concerns over the adoption of the draft law 8711 by the parliament of Ukraine. The 8711 law criminalises any reference to homosexuality in the media or public domain and, if adopted in its current form, could result in fines or prison sentences of up to five years.

The OHCHR noted that the law, which introduces anti-homosexuality amendments into four existing laws as well as into Ukraine's Criminal Code, is discriminatory and runs counter to Ukraine's international commitments to ensure freedom of expression and information. It urged the Ukrainian authorities to take all necessary steps to strengthen individual human rights

guarantees against discrimination, and note that the second reading of the draft law will provide an opportunity for the new parliament, which will be elected at the end of October, to rectify the situation.

Source:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12627&LangID=E>

UN SR on human rights defenders submits her 5th report to GA

The UN SR on human rights defenders submitted her fifth report to the General Assembly on the situation of human rights defenders. The report focuses on the use of legislation to regulate the activities of human rights defenders, in the light of considerable concern about legislation being adopted and/or enforced in ways that restrict the activities of human rights defenders in various countries, across continents and in diverse political and social contexts. It takes note of recent legislative developments in a number of countries that are not in compliance with international human rights standards, notably the Declaration on Human Rights Defenders, and that do not contribute to a conducive working environment for defenders.

The report takes into account principles developed by other special rapporteurs on issues relevant to the report and provides recommendations and guidance and lays down the manner in which to ensure that various types of national legislation contribute to a more conducive working environment for human rights defenders.

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

UNHCR guidelines for determination of refugee status of SOGI

The United Nations High Commission for Refugees (UNHCR) has come out with guidelines that are intended to provide legal interpretative guidance for governments, legal practitioners, decision makers and the judiciary, as well as UNHCR staff carrying out refugee status determination under its mandate. The guidelines provide substantive and procedural guidance on the determination of refugee status of individuals on the basis of their sexual orientation and/or gender identity, with a view to ensuring a proper and harmonized interpretation of the definition of refugee in the 1951 Convention relating to the Status of Refugees.

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

Source: <http://www.unhcr.org/refworld/docid/50348afc2.html>

International Developments

Asia

Pak SC rules that eunuchs entitled to all constitutional rights

Transsexuals and eunuchs in Pakistan finally won recognition following three years of interest shown by the Pakistan Supreme Court (SC). The SC, while disposing a case ruled that eunuchs were entitled to all the rights guaranteed in the Constitution of Pakistan to all citizens including the right of inheritance and the right to adopt any profession.

The issue of violations of the constitutional rights of transsexuals and eunuchs first surfaced in Pakistan in 2009 after police arrested some eunuchs by raiding a party in Taxila. Dr Mohammad

Aslam Khaki, an Islamic jurist and human rights activist, stood up for their rights upon discovery that not a single human rights group or non-governmental organisation (NGO) was working for the rights of this community in the country and filed a petition seeking the establishment of a commission to safeguard the rights of the transgender community. While concluding the proceedings, the bench appreciated the appointment of focal persons among the eunuch community in all the provinces to represent the community and help address issues being faced by them. In addition, the court directed all federal and provincial health and education secretaries and the chief commissioner of Islamabad to coordinate with the representatives of the transgender community in order to provide free healthcare and education to them.

Even though the judgement itself is welcomed, however, now it has to be seen whether this decision would be successful in changing the mind-sets of people towards eunuchs.

Source: <http://tribune.com.pk/story/442516/ensuring-equality-transgenders-equal-citizens-of-pakistan-rules-sc/>

Education Minister's measures and HC's judgment bring to light the attitude of Malaysia towards LGBT

Malaysia's education ministry, in a bizarre 'effort to curb the phenomenon of homosexuality' has committed to ensuring that it does not 'spread' to schools and harm the morals of students. According to Deputy Education Minister, various measures had and would be taken, including appointing counsellors in schools to help parents understand the issue and the dangers it posed. Further, he was of the opinion that the LGBT symptoms be honestly made known to parents and teachers so that the problem involving the young, especially those still schooling, could be checked.

Even though the LGBT activists in Malaysia have laughed at such comments, but they do acknowledge that in reality the government continues to attack homosexuality as if it is a disease.

In another case highlighting the worrying trend of the attitude of Malaysia towards LGBT, four Malaysian Muslim transsexuals, who identify themselves as female, lost a legal challenge before the High Court of Negri Sembilan to declare an Islamic Sharia law barring men from dressing as women as unconstitutional. This case raises concern that Islamic Law is supplanting the Malaysian Federal Constitution as the supreme law of the land.

Source: http://www.huffingtonpost.com/2012/09/13/guidelines-for-gay-and-lesbian-symptoms-malaysia-education-ministry_n_1881863.html

http://www.bbc.co.uk/news/world-asia-19906871#story_continues_1

Pak Taliban and 'Jirga' continue to suppress and exploit girls

In a shocking incident, Pakistan's first National Peace Prize award winner, 14 year old Malala Yousafzai was shot by the Taliban on the head and neck, while on her way back from school, for being 'pro-west' and speaking out against the Islamic militants and their attacks on girls' education.

This case highlights the issue of education of girls, stemming largely from the belief that it brings more harm than good. At the age of 11, Malala started writing about the Taliban and their ban on education of women, in order to articulate her hopes and fears under a false name. When her cover

was blown she was threatened by the Taliban and its sympathizers, however she did not cease her writing. In contrast she went public, so that by the age of 14 she was a name and a force to be reckoned with. She soon found a place in the Taliban's 'hit list' for promoting western culture and because of her backing for 'the imposition of secular government'.

In another incident, a Pakistani tribal council also known as the 'Jirga' chaired by a Pakistani lawmaker decided to barter 13 minor girls aged between 4 to 16 years in marriage under the controversial 'vani' custom to settle a dispute between two clans, prompting the Supreme Court of Pakistan to take suo moto action against those responsible.

'Vani' is a controversial custom whereby girls, including minors, are given away in marriage to settle tribal disputes. Though the custom is illegal it continues to be practised by tribes in northwest and southwest Pakistan.

Source: <http://www.guardian.co.uk/world/2012/oct/09/pakistan-girl-shot-activism-swat-taliban>

<http://www.guardian.co.uk/world/2012/oct/09/taliban-pakistan-shoot-girl-malala-yousafzai>

<http://www.indianexpress.com/news/new-low-pakistan-jirga-barters-13-girls-to-settle-dispute/1014167/0>

Op-ed: <http://www.guardian.co.uk/uk/the-northerner/2012/oct/12/bradford-pakistan>

Nepal successfully held its first LGBTI sports festival

Nepal held its first South Asian Lesbian, Gay, Bisexual and Transgender Sports Festival at Katmandu. The three-day event showed how attitudes are changing, albeit slowly, in the conservative, Hindu-majority nation. The athletes were accompanied by masked dancers and Panchebaja -- musicians playing Nepal's traditional instruments including pipes and drums.

Homosexuality is still taboo in Nepal, which does not have clear laws about the rights of the increasingly assertive gay community. Though same sex marriages have taken place in public but wedding certificates are not given by authorities as there are no laws that recognise such unions. Gays still face numerous difficulties. Schools and colleges won't accept them, and they have trouble getting national identity cards in the gender they prefer. However, with the success of the sports festival, the situation of the LGBTI community in Nepal is looking up.

Source: [http://in.reuters.com/article/2012/10/15/nepal-gay-games-idINDEE89E03U20121015?feedType=RSS&feedName=topNews&utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+reuters%2FINtopNews+\(News+%2F+IN+%2F+Top+News\)](http://in.reuters.com/article/2012/10/15/nepal-gay-games-idINDEE89E03U20121015?feedType=RSS&feedName=topNews&utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+reuters%2FINtopNews+(News+%2F+IN+%2F+Top+News))

Pakistan and Sri Lanka undergo UPR, recommended review of penal regulation of sexuality

Pakistan and Sri Lanka recently underwent their universal periodic review. Canada, taking note of the rise in violence against women and the blasphemy laws, made the following recommendations to Pakistan:

- a) the decriminalization of defamation

- b) the adoption of measures to ensure that victims have access to protection and redress, that perpetrators are prosecuted and punished, and that gender sensitivity training be provided to relevant officials
- c) to repeal provisions of the Hadood Ordinances that criminalize non-marital consensual sex and fail to recognize marital rape;

Algeria recommended to Pakistan to continue to promote the gender equality for women, especially with regard to developing education and employment

For Sri Lanka, Canada recommended decriminalization of consenting homosexual relationships between persons over the age of consent by repealing Section 365A of the penal code. This recommendation, however, has been rejected by Sri Lanka. Argentina's recommendation to strengthen the measures to eliminate all discriminatory treatment based on sexual orientation or gender identity was also rejected. However, organisations working on these issues in Sri Lanka have expressed their gratitude to Canada and Argentina for recognising these issues and supporting them.

Source: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/141/27/PDF/G0814127.pdf?OpenElement>

http://lib.ohchr.org/HRBodies/UPR/Documents/Session2/LK/A_HRC_8_46_SriLanka_E.pdf

<http://www.thesundayleader.lk/2012/11/05/lanka-rejects-100-of-210-recommendations-at-upr/>

Beyond Asia

France to remove term 'mother' and 'father' and replace it with 'parent' from its laws and regulations

France, in a welcome move, has proposed a draft law changing the language of its law and regulation to marriage and parenthood to eliminate the terms 'mother' and 'father' and change it to 'parent'.

The draft law states that 'marriage is a union of two people, of different or the same gender'. According to it all references to 'mothers and fathers' in the civil code – which enshrines French law – will be swapped for simply 'parents'. The law would also give equal adoption rights to homosexual and heterosexual couples.

Source: <http://www.telegraph.co.uk/news/worldnews/europe/france/9563543/France-set-to-ban-the-words-mother-and-father-from-official-documents.html>

http://www.huffingtonpost.com/2012/09/25/france-mother-father-gay-parents-law-_n_1912606.html

ECHR to hear case on adoption by lesbian couple in Austria

European Court of Human Rights (ECHR), Europe's highest court on human rights heard arguments on the issue of homosexual adoption by a lesbian couple in Austria. The Grand Chamber of the ECHR heard the case of 'X & ors. v. Austria' on 3rd October 2012. Its decision will apply to 47 countries in the Council of Europe and cannot be appealed.

The two women who submitted the case to the Court – in their own names and in the name of the under-age son of one of them – live together in a stable relationship and wanted legally to become a ‘family’, recognised as such by society, through the adoption of the boy by the partner of his mother.

Even though Austria allows a step-parent to adopt a child if the estranged parent consents or a court decides the parent is abusive or completely disinterested in the child, the Austrian Authorities, in this case, determined that adoption would not be in the interest of the child since a woman cannot replace a father, and there was no cause for depriving the father of his rights over the child. The couple then took the case to the ECHR. The facts of the case can be accessed [here](#).

Source: <http://www.c-fam.org/fridayfax/volume-15/european-court-to-decide-if-lesbian-adoption-trumps-a-father%E2%80%99s-rights.html>

Australian Parliament rejects marriage amendment bill for recognition of same-sex marriages

The Australian Senate (the upper house of the federal parliament) and the House of Representatives voted against two separate private marriage amendment bills. The common amendment sort in both the bills was for the recognition of same-sex marriages.

The legal recognition of same-sex relationships has received considerable attention in recent years in Australia. In 2008 and 2009, various Australian federal laws were amended to provide for equal entitlements and responsibilities for same-sex couples in de facto relationships. Most Australian states and territories also provide for equal rights for all de facto couples that meet particular criteria, and some provide for civil unions or domestic partner registries that include same-sex relationships. However, while there are ‘fewer and fewer rights and obligations attached to married couples which do not attach to de facto couples – a status currently encompassing same-sex couples in most legal contexts – supporters of gay rights argue this is not enough’ and that same-sex partners should be able to marry.

Source: http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205403342_text

CA becomes first US state to sign bill protecting LGBT youth from psychological abuse

The Governor of California, in a historic move, signed the landmark Senate Bill 1172 that will protect lesbian, gay, bisexual, and transgender youth from psychological abuse by deceitful mental health professionals who falsely claim to be able to change their sexual orientation or gender expression. California has become the first state in USA to protect LGBT young people from these dangerous practices, including the use of shame, verbal abuse, and aversion therapy, that place youth at high risk of depression and suicide. The law, which goes into effect January 1, 2013, prohibits state licensed therapists from engaging in these practices with minors.

Source: <http://www.eqca.org/site/apps/nlnet/content2.aspx?c=kuLRJ9MRKrH&b=4990109&ct=12211565>

Acquittal of 10 men in case of gang rape shocks France and raises question about the Justice system

In a verdict that has shocked France, ten French men were acquitted and four received short sentences over the gang-rape of teenage girls in a trial described by one of the victims' lawyers as

a 'judicial shipwreck'. Those found guilty were handed sentences that ranged from three years' suspended sentence to one year in prison. Because of time already served on remand, only one man was returned to prison after the verdict.

The harrowing trial cast a light on a culture of youth sexual violence. Two women now in their twenties had endured months of almost daily gang-rapes by scores of men in Fontenay-sous-Bois outside Paris when they were teenagers. The case was seen as the tip of the iceberg of a wider problem of gang-rapes by youths on poor estates. The women kept quiet for years about the attacks until 2005, when one of the victims' was left unconscious by one final brutal beating following years of abuse and finally told a female police officer.

Source: <http://www.guardian.co.uk/world/2012/oct/09/french-gang-rape-trial-suburbs>

<http://www.guardian.co.uk/world/2012/oct/11/gang-rape-trial-france>

ECHR creates history by condemning homophobic behaviour in prison

The European Court of Human Rights (ECHR), for the first time since its existence, found that a complaint related to sexual orientation discrimination yielded a violation of Article 3 of European Convention on Human Rights. The judgment of *X. v. Turkey* concerns a young homosexual inmate, convicted for credit card fraud and forgery, who was intimidated and bullied by his fellow prisoners. After he complained to the prison authorities, he was placed in solitary confinement. As a result of this treatment the complainant started to suffer from depression.

ECHR noted that in this case, an adequate risk assessment had not been made at all. The person deciding on whether the detention circumstances had to be changed, after the complainant had complained about them, stated that his solitary confinement was preventive, since no risk could be taken that a transvestite would be lynched. The Court concluded that the complainant's sexual orientation rather than mere preventive concerns about his safety had been the main reason for keeping him in solitary confinement. Thus, he had suffered discrimination on the basis of sexual orientation for which no justification had been put forward.

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

Source: <http://echrblog.blogspot.in/2012/10/court-condemns-homophobic-treatment-in.html>

Mobilization of autonomous feminist movement the most important force impacting VAW reveals study

A study conducted over four decades in 70 countries by the American Political Science Review and published by Cambridge University Press on violence against women revealed the mobilization of feminist movements is more important for change than the wealth of nations, left-wing political parties, or the number of women politicians.

The study found that in feminist movements that were autonomous from political parties and the state, women were able to articulate and organize around their top priorities as women, without having to answer to broader organizational concerns or men's needs. Mobilizing across countries, feminist movements urged governments to approve global and regional norms and agreements on violence.

Source: http://www.cambridge.org/home/press_releases/display/item7122236/?site_locale=it_IT

DOMA declared unconstitutional by a US Court of Appeals

The 2nd U.S. Circuit Court of Appeals in New York has ruled that a law defining marriage as a union between a man and a woman is unconstitutional. It opined that discrimination against gays should be scrutinized by the courts in the same heightened way as discrimination faced by women was in the 1970s. The heightened scrutiny, as it is referred to in legal circles, would mean government discrimination against gays would be assumed to be unconstitutional. The ruling came after a woman filed a petition against the government because she was asked to pay \$ 363,053 in federal estate tax after her partner of 44 years died in 2009 and left her estate to the petitioner. The petition was on the ground that the Defense of Marriage Act, 1996 (DOMA) discriminates against gay and lesbian couples, violating equal protection provisions of the US constitution.

Since 1996, six states have legalised same-sex marriage but, because of DOMA, the federal government does not recognise same-sex marriages performed in those states.

Source: http://www.huffingtonpost.com/2012/10/18/doma-defense-of-marriage-act_n_1980197.html

<http://www.guardian.co.uk/society/2012/oct/18/defense-of-marriage-act-unconstitutional>

Northern Ireland HC opens path for homosexual couples to adopt

In a long awaited move, the High Court of Justice in Northern Ireland ruled that same-sex couples are allowed to adopt. In an application filed by the Northern Ireland Human Rights Commission, the court held that a government policy restricting adoption to married couples violated the European Convention on Human Rights.

The law in Northern Ireland stated that persons in civil partnerships (status open only to gay couples) were barred from adopting either as a couple or as individuals. The court found that the best interests of the child must be given priority and observed that, '*Issues related to the sexual orientation, lifestyle, race, religion or other characteristics of the parties...cannot be allowed to prevail over what is in the best interests of the child.*'

Source: http://hunterofjustice.com/2012/10/northern-ireland-court-gay-couples-can-adopt.html?utm_source=rss&utm_medium=rss&utm_campaign=northern-ireland-court-gay-couples-can-adopt

http://www.huffingtonpost.com/2012/10/18/northern-ireland-gay-unmarried-couples-adoption_n_1980860.html

National

Judgments/ Orders

Delhi Sessions court awards death sentence for honour killing

A Delhi sessions court awarded the death sentence to five members of a family for killing a teenaged couple for honour in 2010. The convicts had mercilessly, tortured and then electrocuted their daughter and her lover as they were opposed to her plans to get married to the boy belonging to a Scheduled Caste.

The Court, while deploring the manner in which the murders were committed, rejected the plea for leniency on behalf of the convicts stating that the fact that convicts belonged to a poor family or had minor children could not be a mitigating factor keeping in view the manner in which the offence was committed. While awarding sentence the Court noted that *'the offence was not only inhuman and barbaric but the savage nature of the crime has shocked the judicial conscience. In the case in hand, cold blooded, brutal murders through electrocution have been committed even as there was no provocation on behalf of the victims, making it a rarest of rare case, which calls for no punishment other than capital punishment'*.

Source: <http://www.indianexpress.com/news/honour-killing-girls-family-get-death-sentence/1012453/0>

<http://www.thehindu.com/news/cities/Delhi/death-for-five-of-a-family-for-honour-killing/article3969661.ece>

SC issues notice to Centre and State on petition to include transgender as a third category

The Supreme Court issued a notice to the Centre and Chief Secretaries of all States on a petition from the National Legal Services Authority (NALSA), asking for a direction to include the category of transgender people as a third category in providing various opportunities and facilities such as the voter ID card, passport, driving licence, ration card and admission to educational institutions.

The NALSA petition stated that Article 21 of the Constitution of India provided fundamental right to life and personal liberty that could not be denied to transgender people. It further stated that various manifestations of deprivation are the consequence of the practice of recognising only two sexes-or-genders for various facilities, amenities and privileges; that is male and female. There was an urgent need for recognising the third gender that is transgender. Treating a transgender as a legal nonentity was a violation of Articles 14, 15 and 16 of the Constitution and it was arbitrary and discriminatory, NALSA noted and sought a direction to the Centre and States to recognise them as a third category for the purpose of conferring various benefits.

Source: <http://www.thehindu.com/news/national/court-notice-to-centre-states-on-transgender-issue/article3956185.ece>

<http://news.outlookindia.com/items.aspx?artid=776956>

Bombay HC waives 6 month waiting period in divorce by mutual consent for couple

The Bombay High Court waived the mandatory six-month waiting period for couples, who, during the pendency of their appeal against the family court order, decided to end their marriage through mutual consent. In 2008, the Court had ruled that the family court cannot waive the six-month period before granting divorce. The present judgment distinguished the earlier verdict and held that in an appeal, the high court could waive the six-month period.

Appeals against family court orders are heard by the high court. The latter can now instantaneously grant divorce.

Source: http://articles.timesofindia.indiatimes.com/2012-09-26/mumbai/34101324_1_divorce-plea-mutual-consent-grant-divorce

<http://kractivist.wordpress.com/2012/09/27/no-waiting-in-mutual-consent-divorce-goodnews/>

SC expresses concern over attitude of courts in rape trials

The Supreme Court, keeping in mind the ‘devastating increase’ in cases of rape and crime against women not only in India but internationally, held that the courts must make sure that offenders do not escape punishment on frivolous grounds. The Court was adjudicating upon a rape case wherein the accused, though sentenced to death by the Trial Court, was acquitted by the Allahabad High Court on the ground that the crime could not be established beyond reasonable doubts.

While sentencing the accused to life in prison, the SC underlined the concerns across the globe regarding spurt in such crimes. It noted that the primary concern both at national and international level was about the devastating increase in rape cases and cases relating to crime against women in the world. It added that courts should be more cautious in appreciating the evidence and the accused should not be left scot-free merely on flimsy grounds.

Source: <http://www.indianexpress.com/news/rape-accused-should-not-be-let-off-on-flimsy-grounds-sc/1016090/0>

SC directs States, UTs and regulatory bodies to implement Vishaka guidelines

While deciding on a public interest litigation, Medha Kotwal Lele and Others vs. Union of India and Others, filed because of the non implementation of the Vishaka guidelines ([Vishaka v. State of Rajasthan](#)), the Supreme Court has made it mandatory for all the States, Union territories and the regulatory bodies to put in place a legal mechanism to implement the guidelines which require the employers at workplace to ensure prevention of sexual harassment of women.

The Court observed that, if necessary, existing laws should be revised or new laws should be enacted to protect women from any form of indecency, indignity and disrespect at all places (in their homes as well as outside), prevent all forms of violence – domestic violence, sexual assault, sexual harassment at the workplace, etc; and provide new initiatives for education and advancement of women and girls in all spheres of life.

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

Source: <http://www.thehindu.com/news/national/supreme-court-fiat-to-states-to-check-sexual-exploitation-of-women-at-workplace/article4013878.ece>

Gujarat HC directs reinstatement of employment for victim of sexual harassment

The Gujarat High Court, in a judgment creating precedence, reinstated the petitioner to her job in a pharmaceutical company and upheld the decision of the Industrial Tribunal to compensate her with Rs. 50,000/- for illegal termination for her job. The petitioner had filed a number of complaints with the management of her company for sexual harassment, however, the company, choosing to ignore the complaint, illegally terminated her employment. The petitioner had then filed a case before the Industrial Tribunal which directed the management to compensate her and

pay back wages, however it did not grant her reinstatement for the reason that it felt that on account of loss of confidence, the reinstatement would not be proper.

It was against the last part of the direction that the petitioner had filed an appeal before the Gujarat High Court. The High Court opined that since the plea of loss of confidence was not raised by the Petitioner, the Tribunal could not merely assume the same.

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

News

Rajasthan Cabinet approves VAW bill

The Rajasthan cabinet approved the Rajasthan Women (Prevention and Protection from Atrocities) Bill, 2011 that proposes stringent punishment against women being branded as witches and subjected to other atrocities in the state. The bill had been prepared by the state's women and child welfare department keeping in view the increasing cases of women being branded as witches in the state. The bill also proposes the constitution of special courts for trial of such offences and for relief and rehabilitation of the victims. As per the bill, a crime would be considered to have been committed when any person or community intentionally or inadvertently abets, conspires, aids and instigates the identification of a woman as a witch leading to her mental and physical torture and humiliation.

However, the problem with such omnibus laws on violence against women is that it creates protection towards women rather than protection of rights of women.

Source: <http://ibnlive.in.com/news/rajasthan-clears-bill-on-violence-against-women/297610-3-239.html>

Social Justice Ministry introduces 'draconian' disability bill

The Ministry of Social Justice and Empowerment, Department of Disability Affairs, Government of India made public the latest version of the Rights of Persons with Disabilities Bill 2012. Disability groups however have termed the bill as 'draconian' and against the interest of people suffering from mental disorders.

The Bill takes away judicial safeguards which were present in the previous Mental Health Act of 1987. Further, the Bill provides that reservation for persons with disabilities shall be only for the specific posts that are expressly identified by the concerned authority. Thus, even if a person is able to do the work required for a particular post, he will be ineligible unless it is specifically reserved. This is highly controversial and violates UNCRPD principles since it presumes, wrongly, that persons with disabilities can only perform some jobs or tasks. The draft bill can be accessed [here](#).

Source: <http://www.deccanherald.com/content/284295/rights-groups-question-disability-bill.html>

Op-ed: <http://www.thehindu.com/news/national/the-disabilities-bill-is-a-mixed-bag/article3927212.ece>

Activists compel NCW to reopen Soni Sori's case

Pursuant to a protest by various human rights activists, the National Commission for Women (NCW) has been forced to reopen the closed case of Soni Sori. During the protest, on a perusal of the NCW case file, it came to the notice of the delegation that met NCW officials that NCW had recently closed the case of Soni Sori without informing her or those in-charge of the case. According to chairperson of NCW, Ms. Mamta Sharma, the Commission had followed its mandate and there was no question about any shortcoming in the investigation. Explaining its decision to close the case, NCW member secretary Charu Wali Khanna said that since this matter was sub judice in the Supreme Court, it was not proper for NCW to intervene. However, after the activists pointed out the provisions of the [NCW Act](#), which empowers the commission to intervene and/or assist in any pending case, the commission agreed to reopen and pursue the Soni Sori case.

Source: <http://www.thehindu.com/todays-paper/tp-national/ncw-reopens-soni-sori-case/article3989714.ece>

India plays a hypocrite on the international stage at UN

In what came as a shocking move, the Indian delegation voted in favour of Russia's latest resolution on traditional values, which was adopted by the UN Human Rights Council. The resolution tasks the Office of the High Commissioner for Human Rights with gathering information on 'best practices in the application of traditional values while promoting and protecting human rights and upholding human dignity.'

The push to incorporate traditional values into the way we define human rights is not new, but it is disturbing. And on the face of it, no country should understand that better than India. India has made a concerted effort to eliminate a range of harmful cultural practices based upon traditional values and beliefs, and should be rightly proud of the harm it has thereby avoided to its citizens. The *Untouchability Offences Act* (1955) forbade caste-based discrimination despite its long history in Indian society, and the *Directive Principles of State Policy* require the Indian state to strive to protect rights such as equal pay for equal work, a right to education and the protection of children from exploitation, which were not historically present in India. The *Constitution of India* has a similarly modern outlook, protecting fundamental rights such as the right to freedom of religion and the right to equality. Additionally, the *Prohibition of Child Marriage Act* (2006), the *Dowry Prohibition Act* (1961) and the *Commission of Sati (Prevention) Act* (1987) have all outlawed practices which were informed by traditional values, and yet violated the human rights of those who participated in them.

The Indian Parliament and the people of India should be outraged that a Government empowered by a Constitution with a social justice agenda and committed to tackling all forms of traditional malpractice voted in favour of a resolution which seeks to downgrade and relativize human rights principles by legitimizing harmful traditional beliefs. And yet, there has been very little media coverage of this issue. The fact that India is playing politics, betraying its own foundational principles to vote in favour of a harmful resolution in order to curry favour with powerful economic players such as Russia, should be exposed and remedied.

RESOURCES

‘Developing Capacities for Strengthening the Application of CEDAW: A Trainer’s Guide’: PLD

Partners for Law in Development (PLD) has released a trainer’s guide titled ‘Developing Capacities for Strengthening the Application of CEDAW: A Trainer’s Guide’. The guide draws upon the two CEDAW South Asia regional trainings of trainers organised by PLD in 2011, ‘Strengthening the Application of CEDAW in South Asia Training of Trainers’, from 8–12 April 2011 (Nepal) and from 14–21 July 2011 (India), and conducted with the support of UN Women. The guide covers concepts and perspectives, as well as issue specific aspects, integrating information about complementary international standards where relevant. In addition, it covers implementation of CEDAW and mechanisms for reviewing and reporting domestic application of the treaty obligations, including the Optional Protocol.

The guide can be accessed here: <http://cedawsouthasia.org/wp-content/uploads/2012/09/PLD-CEDAW-Trainers-Guide1.pdf>

‘The Crisis of Maternity: Healthcare and Maternity Protection for Women Wage Workers in the Informal Sector in India’: Sahayog

Sahayog, an organisation working on promoting gender equality and women's health from a human rights framework by strengthening partnership-based advocacy, has released a report titled ‘The Crisis of Maternity: Healthcare and Maternity Protection for Women Wage Workers in the Informal Sector in India’. The report is a compilation of two national studies, Informal Sector Women Wage Labourers Access to Maternal Health Services: A block-level Study in Chhattisgarh, Uttarakhand and Uttar Pradesh, India (2007- 2009) and Monitoring the IGMSY from Equity and Accountability Perspective: A block-level study in West Bengal, Odisha, Jharkhand and Uttar Pradesh (2011-2012)

The report can be accessed here: <http://www.sahayogindia.org/wp-content/uploads/2012/08/The-Crisis-of-Maternity.pdf>

‘Building Inclusive Cities Women’s Safety and the Right to the City’: Routledge

‘Building Inclusive Cities Women’s Safety and the Right to the City’ edited by Carolyn Whitzman, Crystal Legacy, Caroline Andrew, Fran Klodawsky, Margaret Shaw and Kalpana Viswanath, has been published by Routledge. The book documents cutting edge practice and builds theory around a rights based approach to women’s safety in the context of poverty reduction and social inclusion. Drawing upon two decades of research and grassroots action on safer cities for women and everyone, this book is about the right to an inclusive city.

The book is available for purchase here: <http://www.routledge.com/books/details/9780415628167/>

‘Women and Justice Collection’: online library by Cornell Law School

Cornell Law School's Avon Global Center for Women and Justice has launched the Women and Justice Collection, an online library of legal and other resources relating to gender-based violence

and gender justice. The collection offers a free searchable database of case law from more than forty-eight countries and eight international and regional human rights bodies.

The online library can be accessed here:

<http://www.lawschool.cornell.edu/womenandjustice/Legal-and-Other-Resources/>

‘CEDAW in Action’: blog by PLD

A blog to showcase a range of legal and other developments which are relevant to the implementation of CEDAW with a focus on South Asia, has been launched by Partners for Law in Development (PLD). The blog is a tool to renew conversations about CEDAW and its implementation within the South Asia Trainings network.

Articles, write-ups and any other material are welcome! Please send your contributions to online@pldindia.org.

The blog can be accessed at: <http://cedawsouthasia.org/blog>

‘Khulti Parten: Yaunikta Aur Hum Vol 1 & 2 (Hindi)’: Nirantar

Nirantar, an organisation working towards empowering women through education, has published a resource book in two volumes which is aimed at explaining key concepts of sexuality in a manner that is in-depth, yet accessible to community-based practitioners, and that relates to lives and work at the community level. The book is in Hindi and costs Rs. 400.

The Resources book can be accessed [here](#).

‘Building the Evidence Base for Protecting and Promoting the Rights of Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI) children in Nepal: An assessment’: Save the Children, Nepal and Blue Diamond Society

The assessment commissioned by Save the Children, Nepal aims to generate knowledge and understanding about Lesbian, Gay, Transgender, Intersex (LGBTI) children (under the age of 18) and explore rights infractions faced by them. The assessment also contains recommendations for protection and promotion of the rights of LGBTI children in Nepal.

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

EVENTS

Film screening and a presentation on key findings of the study on Commercial Surrogacy in India: Sama, 22nd October 2012, New Delhi

Sama, a resource group for women and health, organized a session to share the research findings on the commercial surrogacy market in India and also held a screening of their film ‘Can we see the baby bump please?’ by Ms Surabhi Sharma which explored questions and concerns through the experiences of surrogate women on 22nd October 2012 at Alliance Francaise, New Delhi

National Consultation on CEDAW: NAWO, 2nd and 3rd October 2012, New Delhi

National Alliance of Women (NAWO) organized a national consultation on CEDAW in preparation of the Alternate Report to the IV & V Periodic Report on 2nd and 3rd October 2012 at YMCA, New Delhi. The participants were invited to give specific inputs into various Articles and any other special concerns to the preparation of the IV and V Alternate Report.

Protest for justice for Soni Sori: 10th October, New Delhi

Justice for Soni Sori campaign along with various human rights organisations and activists held a protest at the office of National Commission for Women on 10th October 2012 in New Delhi asking the Commission for proper assurance of action in the Soni Sori case. The protest was attended by a large number of people.

Read our national news section to find out about the outcome of the protest!

Online petition to save Grameen Bank

Avaaz, an online campaign community, has put an online petition on the Bangladeshi cabinet recent approval to amend the Grameen Bank Ordinance 1983, thereby giving full power to the Bank chairman to pick the future managing director of the microfinance institution. The proposed amendment gives the present Chairman powers to over-ride the views of the majority of the Board of Directors, including the 9 rural women representing its borrowers, in deciding the composition of the search committee that will appoint the managing director.

The petition can be accessed and signed at:

http://www.avaaz.org/en/save_the_world_best_bank/?bNTDHbb&v=18519

Highlights of PLD's workshop on VAW and the law

'The Good, Bad and the Ugly: Introspecting Violence against Women & the Law', a five-day residential workshop organised by PLD was conducted from the 27th – 31st October 2012. The workshop was designed as a space for conversations between activists across different regions, to energize and contribute to ongoing debates on law reform. Some areas that emerged as needing greater attention within the community are flagged below. Although not comprehensive, these concerns speak to contemporary engagement of the women's movement with the law.

- Revisiting Criminal Justice
- The Persistence of Morality, Chastity and Indecency

- Silence around Sex Work
- Reparations, including Compensation for Criminal Injuries
- Grounded research for evidence based Advocacy
- Campaigns and Cross-Sectoral Conversations
- Institutional Mechanisms

For more details, please go to <http://cedawsouthasia.org/2121/the-good-the-bad-and-the-ugly-introspecting-violence-against-women-and-the-law-2>

FORTHCOMING EVENTS

UN SR on VAW to visit India in April-May 2013

UN SR on VAW Rashida Manjoo will be visiting India from April 22-May 1, 2013. Though she hasn't decided yet on what topics she will be covering, however she is going to narrow down her focus closer to the date of visit.

Submissions should be made latest by January. The submission ideally should be compiled and submitted together with a summary of key issues that rights groups feel the SR should focus on and why and some in-depth findings related to specific issues where her attention is needed.

The submissions should be sent to: vaw@ohchr.org

Annual Delhi Queer Pride Parade: 25th November 2012

Delhi is hosting its fifth annual Pride Parade on the 25th of November 2012. The Parade is from 12:00 pm to 3:00 pm and is being followed by a picnic at central park, Connaught place. The organising committee has planned a line-up of events leading to the pride to keep everyone busy! Some of the events are the Queer Mela and Placard-making.

For information click [here](#)