



PLD

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Updates from the UN

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

General Recommendation 27 on the rights of older women

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

General Recommendation 28 on clarifying the meaning and scope of condemning discrimination against women in “all its forms”

The Committee also adopted GR 28 on Article 2 of the Convention, which calls on State parties to condemn discrimination against women in all its forms. The Committee reaffirmed that discrimination of women based on sex and gender was inextricably linked with other factors that affected women, such as race, ethnicity, religion or belief, sexual orientation and gender identity. The Committee clarified that the obligation requires States parties to protect women against discrimination by private actors and take steps directly aimed at eliminating customary and all other practices that prejudice and perpetuate the notion of inferiority or superiority of either of the sexes, and of stereotyped roles for men and women. The Committee emphasized that States parties should pursue their policies in this regard by all appropriate means and without delay. The Committee also called on State parties to consider withdrawing reservations to the Convention, in particular those relating to Article 2.

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

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

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

Source:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10405&LangID=E>
http://www.equalitynow.org/english/pressroom/press_releases/unmechanism_20101001_en.html

Michelle Bachelet assumes office as the first head of UN Women

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

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

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

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

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

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

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

The full text of the statement is available at: <http://www.stop-stoning.org/files/UN%20SR%20Torture%20Statement%20for%20Event%20on%20Women%20&%20Acid%20Attacks-HRC%2015.pdf>

International Legal Developments

Asia

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

Asma Jahangir has been elected as the first woman President of the Supreme Court Bar Association in Pakistan. Her victory is a fillip to the international human rights movement and will strengthen the lawyer's movement for an independent bar, the supremacy of the judiciary and the rule of law in Pakistan. Asma Jahangir has served as an advocate to the Supreme Court of Pakistan and was the Chairperson of the Human Rights Commission of Pakistan (HRCP). Besides, she was also the UN SR on extrajudicial, summary, or arbitrary executions from 1998-2204 and the UN SR on freedom of religion or belief from 2004- July 2010.

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

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

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

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

Indonesian government urged to finish plan for women in conflict zones

Women activists from Indonesia's conflict zones have called upon the government to finalize a national action plan to end the violence, sexual abuse and suppression suffered by many women in times of conflict. The drafting of the national action plan has entered its 10th year, after the release of the plan's basis, United Nations Resolution 1325, in 2000. Conflict has previously afflicted many parts of Indonesia for long periods of time, such as has happened in Aceh, Maluku, Papua and Central Sulawesi. The plan's finalization would provide a platform for allegations of violence to be heard and processed legally. Further groups also demand that the government incorporate initiatives that would grant women ample access to decision-making opportunities.

Source: <http://www.thejakartapost.com/news/2010/10/23/govt-urged-finish-plan-women-conflict-zones.html>

Beyond Asia

New Law on Protection from Domestic Violence Adopted in Montenegro

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

Source:

http://stopvaw.org/new_law_on_protection_from_domestic_violence_adopted_in_montenegro.html

National

Judgments/Orders

The Lucknow Bench of the Allahabad High Court upholds “faith and belief” of Hindus in the Ayodhya verdict

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

Source:

<http://www.hindu.com/2010/10/01/stories/2010100163711400.htm>

<http://www.thehindu.com/opinion/op-ed/article807232.ece>

Supreme Court narrows the definition of “relationship in the nature of marriage” under domestic violence law, in case of ‘maintenance’ under another law

The Supreme Court narrowed the definition of “relationship in the nature of marriage” under the Protection of Women from Domestic Violence Act in a case where a woman sought maintenance from her partner of over fourteen years under s.125 of the Cr PC. The court spelt out four important grounds from the definition of ‘common law marriage’ and said that arrangements commonly understood as live-in relationship must satisfy these conditions to be recognised as a “relationship in the nature of marriage” under the DV Act. In the case of *Velusami vs. Patchaiammal*, the SC also stated that “merely spending weekends together or a one-night stand would not make it a domestic relationship” under the DV Act. Moreover, “if a man has a ‘keep’ whom he maintains financially and uses mainly for sexual purpose and/or as a servant, it would not,

in our opinion, be a relationship in the nature of marriage" under the Act. Women's groups have protested against the language used in the *Patchaiammal* judgment as well against the narrow interpretation of 'relationship in the nature of marriage.'

Another case involving a similar question of law (*Chanmuniya vs. V.K Singh*) regarding maintenance for a woman who is not in a valid marriage is presently before the Supreme Court.

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

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

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

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

Supreme Court says wife cannot accuse husband's girlfriend of cruelty under 498 A

The Supreme Court has set aside the decision of the Jharkhand trial court and High Court to hold that no case under section 498A of the Indian Penal Code could be filed against "the other woman" if she is not related to the husband by blood or marriage. In this case, (*Sunita Jha vs. State of Jharkhand*) it was held that at best, if a husband was living with another woman besides his wife, such an act could be a ground for seeking divorce. However, it would not constitute "cruelty" under section 498A I.P.C.

Source: <http://timesofindia.indiatimes.com/india/Wife-cant-accuse-husbands-girlfriend-of-cruelty-SC/articleshow/6561853.cms>

Supreme Court holds that divorce decree cannot be purchased

The Supreme Court in *Sanjeeta Das vs Tapan Kumar Mohanty* held that one party cannot pay another party to agree to a decree for divorce. The court set aside an order from the Calcutta High Court granting divorce to a man who agreed to pay maintenance to his wife and daughter in exchange for dissolution of the marriage. The court held that the Hindu Marriage Act would apply, and the consent of the party to agree such a transaction is immaterial.

Source: <http://www.hindu.com/2010/09/27/stories/2010092761831100.htm>

News

Delhi relaxes marriage rules for couples from other states

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

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

Rajya Sabha constitutes a Select Committee to review Torture Bill

The Rajya Sabha constituted a Parliamentary Select Committee to review the Prevention of Torture Bill, 2010. The Prevention of Torture Bill was passed by the Lok Sabha in May 2010 to allow India to ratify the United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. Human rights groups pointed out a series of shortcomings in the Bill and sent their submissions to the Committee. The definition of torture in the Bill is narrow and restricted; it does not capture the spirit and essence of the UN Convention Against Torture (UNCAT) and other cruel, inhuman or degrading treatment or punishment. The Bill provides a lenient punishment for torture and the limitation period for cognizance of offences falls below the national average.

Source: <http://timesofindia.indiatimes.com/india/RS-refers-torture-Bill-to-select-committee/articleshow/6470200.cms>

Centre approves decision to enumerate caste in second phase of census

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

Source: http://www.telegraphindia.com/1100910/jsp/nation/story_12919791.jsp

Resources

The Truth About Me: A Hijra Life Story: A Revathi translated by V. Geetha

What makes *The Truth About Me: A Hijra Life Story* is an autobiography of A Revathi an actor and an activist based in Bangalore who is a women but was born as a boy in Karnataka. It questions the society, the law, the system and the rigid mindset and discusses the issues of sexual minorities and their rights—right to employment, education and, to live a life of dignity. It was written in Tamil but translated in English by V. Geetha. The book is available at all bookstores.

Unraveling the Fertility Industry: Challenges and Strategies for Movement Building, Sama

Sama has released a new report on “Unraveling the Fertility Industry: Challenges and Strategies for Movement Building”. This publication documents the proceedings of an International Consultation on the commercial, economic and ethical aspects of Assisted Reproductive Technologies (ARTs), organized by Sama in January 2010. This report highlights and brings together the various debates around reproductive and genetic technologies, particularly ethical questions regarding commercialization of reproductive tissues and labour, the regulatory challenges posed by this phenomenon, and the politics of in/fertility technologies, population and neo-eugenics from a feminist perspective.

For copies write to: sama.womenshealth@gmail.com

Dignity on Trial, Human Rights Watch

Human Rights Watch has released a report that documents the continued use of the archaic practice and the continued reliance on the "results" by many defense counsel and courts. The practice, described in outdated medical jurisprudence textbooks used by many doctors, lawyers, and judges, involves a doctor inserting fingers in a rape victim's vagina to determine the presence or absence of the hymen and the so-called "laxity" of the vagina. These findings perpetuate false and damaging stereotypes of rape survivors as "loose" women. Defense attorneys use the findings to challenge the credibility, character, and the lack of consent of the survivors.

Source: <http://www.hrw.org/node/92724>

New South Asian legal history resources webpage

Mitra Sharafi has launched a new South Asian legal history resources webpage. It includes a number of research tools on the history of law in South Asia, particularly for the colonial period. Among these are: a research guide to using case law from colonial South Asia (written for non-lawyers); a list of abbreviations used in South Asian case law citation; a list of published primary sources (including legislation, case digests, law reports and law journals); a list of titles held in the library of a colonial solicitors' firm in Bombay, c.1911; a list of titles of articles in seven leading colonial law journals, 1891-1947 (none of these journals is available electronically); admission register entries of South Asian law students at the Inns of Court in London, 1863-1947 (including demographic information).

The webpage can be accessed at: <http://hosted.law.wisc.edu/wordpress/sharafi/>

Events

Irom Sharmila completes 10 years of hunger strike against AFSPA

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

Source:

<http://www.hindustantimes.com/StoryPage/Print/621075.aspx>

<http://expressbuzz.com/nation/manipurs-iron-lady-10-years-of-fasting/220116.html>

Discussion on Re-visiting Women's Rights and the Family: PLD, Akshara, Awaaz-e-Niswan and RCWS SNDT University

Partners for Law in Development in collaboration with Research Centre for Women's Studies (RCWS) SNDT University, Akshara and Awaz-e-Niswan organized a discussion on "Re-visiting Women's Rights and the Family" on October 7th 2010 at SNDT Women's University in Mumbai. The discussion introduced the issues through PLD's work as reflected in the resource book 'Rights in Intimate Relationships' with the objective of forging alliances and identifying strategies to promote transformatory frameworks and norms, that aspire for gender justice within the private arena of intimate relationships and conjugality, beyond the confines of the marital relationships.

Press conference to protest against the UID project: 28 September

A press conference was held on 28 September to protest against the UID Project. The UID project, to give every resident a Unique Identity Number, has been initiated without any public debate - there is no project document; there is no feasibility study; there has been no cost: benefit analysis; there are serious concerns about data and identity theft. Civil liberty groups have been protesting against the UID project which has proceeded so far without any legal authorization, on the basis of an executive order, that could change the status of the people in this country, with effects on our security and constitutional rights, and a consideration of all aspects of the project should be undertaken with this in mind.

Multilogue on Challenges to Peace and Prospects for Cooperation: SAHR

South Asians for Human Rights (SAHR) organized a Multilogue on Challenges to Peace and Prospects for Cooperation at The India International Centre from 13-15 October 2010.

Conference on 'Gender Based Violence in Public Spaces: Challenges and Solutions': NCW and CEQUIN

Centre For Equity and Inclusion and NCW organized a two day conference on Gender Based Violence in Public Spaces: Challenges and Solutions on 26-27 October 2010 at the Constitution Club. The workshop intended to build a more effective response to the problem of gender based violence in public spaces, and create a network of advocates to carry forward the work.

Symposium on 'Tools and Procedures in Sexual Assault': Women against Sexual Violence and State Repression

Women against Sexual Violence and State Repression (WSS) organised a symposium on 'Tools and Procedures in Sexual Assault', on 30th October at the Indian Social Institute, New Delhi. This interaction was initiated with the intention of developing an understanding of legal, medical and forensic evidence gathering and monitoring of the evidence gathered so as to make the criminal justice system accountable. The presentations of forensics experts, lawyers, activists and journalists, addressed issues arising from cases of sexual violence especially in conflict areas highlighting the need to put a set of protocols in place to ensure proper investigation and justice for the assaulted women. PLD supported participation of a resource person and some participants to the event.

Announcements/Forthcoming Events

Book Release- HAQ: Centre for Child Rights Budget for Children

HAQ: Centre for Child Rights will release their new resource book on Budget for Children, on November 11, 2010 at the IIC Annexe.

Seminar on Addressing Sex – Selection: Continued Challenges and Emerging Concerns: Sama

Sama Resource Group for Women and Health is organizing a Seminar on Addressing Sex – Selection: Continued Challenges and Emerging Concerns on 4th December, 2010 at India Islamic Centre, Delhi. Given the complex nature of the issue of sex-selection and emerging concerns, this seminar aims to bring together people, who have been working on different aspects linked to sex selection to reflect on past experiences and arrive at concrete strategies for future action.

Second Law and Social Sciences Research Network (LASSnet): December 27-30

LASSnet will hold the Second Law and Social Sciences Research Network (LASSnet) Conference: SITING LAW from December 27-30, 2010 at FLAME, Pune. A complete list of abstracts and details on the conference are available at: www.lassnet.org