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Updates from the UN

Human Rights Council passes resolution on child, early and forced marriages

The Human Rights Council, in its 29th session that concluded on 3 July 2015, unanimously passed a resolution on ‘Strengthening efforts to prevent and eliminate child, early and forced marriages’ (A/HRC/29/L.15). While the Council had earlier passed a resolution on the issue in its 24th session in September 2013, this is the first substantive resolution delineating obligations of the state and the rights of citizens.

The Resolution recognizes that child, early and forced marriages are a violation of the human rights of girls and women, and calls upon states to ensure that marriages are entered into with the free, full, informed consent of parties. It also acknowledges the linkages of this practice with existing gender inequalities and stereotypes, hence calling for greater investment in women and girls to advance their access to justice, enhancement of their capacities and leadership, access to information, especially relating to sexual and reproductive health. Significantly, this is the first ever UN resolution to acknowledge the rights of girls (and not only women) to have control and autonomy over issues of their sexuality, including reproductive rights, sexual and reproductive health. The Resolution further urges states to ensure that women have equality with men in matters relating to marriage, divorce, child custody and the economic consequences of marriage and its dissolution.

The Resolution A/HRC/29/L.15 can be accessed [here](#).

Open Ended Intergovernmental working group (OEIWG) on transnational corporations and other business enterprises with respect to human rights holds its first meeting

The OEIWG on TNCs and other business enterprises held its first meeting from 6-10 July 2015 to initiate the first round of discussions on an international legally binding instrument to regulate the conduct of TNCs and other business enterprises with respect to human rights. The session witnessed attendance by 60 member states, 2 observers, along with UN Women, OECD, EU and Council of Europe, UNICEF, ILO, UNCTAD and civil society organizations.

All member states expressed their commitment to holding TNCs and business enterprises accountable for human rights violations, even as the primary responsibility of upholding human rights is that of the State. The European Union came under criticism by civil society organizations for attempting to stall the progress of work. The Working Group deliberated on the need to read the UN Guiding Principles on Business and Human Rights, along with the Human Rights Council resolution A/HRC/RES/26/9 on the same subject. Issues discussed at the meet include the contours of an international legally binding instrument, the coverage of human rights under this instrument, the status of TNCs and business enterprises under international law, their obligations towards prevention, mitigation and remediation, and the obligations of states to guarantee the respect of human rights by TNCs and other businesses, including those extending extra-territorially.

This OEIWG was established by the Human Rights Council in its 26th session in 2014 to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises.

The draft report of the OEIWG can be accessed [here](#).

Resolution A/HRC/RES/26/9 can be accessed [here](#).

United Nations Committee on the Elimination of Discrimination against Women (CEDAW) adopts 33rd General Recommendation on women's access to justice

The CEDAW, in its 61st session, adopted the 33rd General Recommendation (GR) on Women's Access to Justice, extending to the procedures and quality of justice for women at all levels of justice systems, and also non-state and mixed justice systems (such as customary, religious, indigenous laws). The GR clarifies the obligation of states with respect to ensuring access to justice for women under the Convention on the Elimination of Discrimination against Women.

The GR terms access to justice as the bedrock for all other rights contained in the Convention on the Elimination of Discrimination against Women, and clarifies that justiciability of rights, provision, availability, accessibility, and quality of remedies, and accountability of justice systems is crucial to ensure this objective. As part of this, the GR underlines the need to protect women complainants, witnesses, defendants and prisoners from threats, harassment and harm before, during and after proceedings. While providing redress, the unremunerated domestic and caring activities of women should be accounted for in awarding compensation in relevant proceedings. It further recommends the deletion of discriminatory laws and policies in substantive laws, evidentiary rules, and procedures for availing remedies.

The GR also brings attention to the need to eliminate gender stereotyping in the justice machinery and adjudication process, especially through capacity development mechanisms. It holds that for women to access justice, access to competent public defence and legal aid must be ensured.

The 33rd General Recommendation can be accessed [here](#).

Source:

<http://ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16264&LangID=E>

UN OHCHR releases factsheet on Intersex as part of Free & Equal Campaign

The United Nations Office of the High Commissioner for Human Rights released a factsheet on Intersex as part of the Free & Equal Campaign. The factsheet informs that intersex people are born with sex characteristics that are excluded from a binary notion of male/female bodies, and that being intersex is a phenomenon as common as people having red hair. The factsheet also details that the 'difference' of intersex bodies and their exclusion from binary notions of sex subjects them to stigma, discrimination and invasive practices violative of their right to bodily integrity.

The factsheet is an informative document that details the human rights violations faced by intersex people, and action points for UN member states and other institutions. The action points provide an important benchmark for work on intersex human rights and health issues.

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

International Developments

Asia

Cambodia's law imposing restrictions on Associations and NGOs receives final approval

The Constitutional Council of Cambodia after reviewing the draft law on Association and NGO, declared it constitutional in both its content and the process of its drafting and approval. Provisions regarding the definitions of NGOs and associations, provisions on the mandatory registration process, and vast powers to national and local authorities over the registration and de-registration of associations places undue restrictions on the rights to freedom of association and of expression. It also legalizes the control and censorship of activities undertaken by domestic and international associations and NGOs. The restrictions it provides for contravenes provisions of Cambodian Constitution and violates International Covenant on Civil and Political Rights (ICCPR), which Cambodia has ratified. Moreover, the legislation was adopted after a secretive drafting process which lacked basic elements of consultation with civil society organizations and other stakeholders

Source: <http://www.licadho-cambodia.org/flashnews.php?perm=138>

CEDAW committee finds Philippines responsible for grave and systematic violations of women rights

Following an inquiry under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the United Nations Committee on the Elimination of Discrimination against Women has found the Philippines accountable for grave and systematic violations of women's rights. The request for inquiry was submitted to the CEDAW Committee following concerns about the impact on the health and lives of women resulting from Manila City Executive Order 003 Series of 2000 which discouraged the use of modern contraceptives and Executive Order 030 that prohibits Manila from using Local Government Unit funds in purchasing artificial contraceptives.

The Committee found violations under CEDAW with the national government taking "insufficient and inadequate measures to address the flaws of the Manila health system. The Committee also stressed that the denial of access to full range of methods of contraception had severe consequences not only for the lives and health of many women, but also impacted their other rights of employment and education by "limiting women's rights to freely choose the number and spacing of their children, women and girls were effectively undermined in accessing and pursuing the same education and employment opportunities as men, and thereby driven further into... poverty."

Source: <http://www.rappler.com/move-ph/issues/gender-issues/91595-manila-cedaw-rh-violation>

High Court in Bangladesh seeks explanation over delay in a rape case

In a gang rape case of a tribal woman in a microbus, High Court issued a rule Nisi upon the concerned authorities to explain the delay in recording cases and medical evidence and to explain as to why the victim should not be compensated for the delay in recording the case. In addition, the bench of Justice Farah Mahbub and Justice Kazi Md Ejarul Haque Akondo also directed the authorities to issue a circular to all police stations to ensure that they respond

to victims promptly and without any discrimination based on race, religion or gender. asked the police and the government.

Provisions of the Nari o Shishu Nirjaton Domon Ain 2000 (amended 2003) were cited regarding the holding of medical examinations, and the rights to equality before the law, non-discrimination on grounds of race, religion, sex, caste and place of birth, and equal protection of the law under Articles 27, 28 and 31 of the Constitution, as well as the state's obligations under the Convention on the Elimination of All Forms of Discrimination against Women to which Bangladesh is a party.

Source: <http://www.dhakatribune.com/bangladesh/2015/may/26/court-seeks-explanation-over-bhatar-gang-rape#sthash.NPDs0Cx2.dpuf>

Bangladesh Supreme Court quashes conviction on contempt of court against Zafrullah Chowdhury

The Appellate Division quashed the conviction and fine handed down by the International Crimes Tribunal-2 to veteran freedom fighter and founder of Gonoshasthya Kendra, Zafrullah Chowdhury for contempt of the tribunal. Zafrullah was reprimanded by the Tribunal for his criticism of the Tribunal's sentence to David Bergman, for questioning the official death toll of the 1971 war.

Subsequently, Zafrullah signed a statement stating that '*[b]y the sentence of David Bergman, the very freedom of expression and the scope of discussing and analyzing the history of our war of liberation will be squeezed.*' While the tribunal had exonerated 22 other signatories to the statement with 'serious caution' as they had done it for the first time, they held Zafrullah guilty of contempt again, sentencing him to imprisonment for an hour in the courtroom and fined Tk 5,000. On an appeal against the fine, the Supreme Court quashed the conviction and set aside the fine, warning Zafrullah against undermining the judiciary again.

Source: <http://newagebd.net/141534/sc-quashes-contempt-sentence-against-zafrullah-chowdhury/#sthash.6C6xXDwL.wQ9STvLu.dpbs>
<http://newagebd.net/146343/contempt-of-court-decision-on-zafrullah-on-august-30/#sthash.XuxcXYqx.dpbs>

Pakistan executes juvenile offender Shafqat Hussain

Shafqat Hussain, who was sentenced to death for kidnapping and involuntary manslaughter in 2004 was executed following a trial that reportedly did not comply with the requirements of due process and where a proper investigation was not conducted into allegations that the confession was recorded under torture. He was also under 18 when he was sentenced to death. This is in contravention to Pakistan's obligation under the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights, both of which Pakistan has ratified. Also, in March 2015, the Pakistani Government had lifted its moratorium on the death penalty in all capital cases, including murder and rapes. This has been severely criticised by the international community and represents a step back since the country lifted the moratorium on the death penalty in December 2014 for terrorist acts.

Source: <http://www.bbc.com/news/world-asia-33767835>

Beyond Asia

UN Committee rules Tanzania's inheritance laws violates CEDAW

After the death of her husband, a mother moved the court challenging the customary law of Tanzania which does not recognize a woman's right to inheritance. Her husband's property, after his death passed on to her brother-in-law rendering her homeless. After approaching Tanzania's Women's Legal Aid Centre and Georgetown University's International Women's Human Rights Clinic, she and another widow initiated court proceedings to challenge the discriminatory inheritance laws arguing that they violated Tanzania's Constitution and international human rights treaties' obligations ratified by Tanzania.

The court recognized these violations but refused to take any action. After appealing against this decision which again resulted in no action, the petitioner approached the United Nations committee responsible for monitoring state compliance with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The Committee ruled in favour of the petitioner and recommended repeal or amendment of such discriminatory customary law provisions. The Committee also recommended dialogues between women's organizations and local authorities, prohibition against courts resorting to undue delays and coordinating mechanisms to implement these recommendations.

Source: <https://www.opensocietyfoundations.org/voices/un-s-rebuke-inheritance-laws-victory-women-s-health>
<https://opcedaw.wordpress.com/2015/05/03/e-s-s-c-v-united-republic-of-tanzania/>

Mozambique new Penal Code drops harsh punishment against homosexuality

The new Penal Code adopted in Mozambique has reformed Article 70 of the Penal Code of 1886 which listed security measures against individuals who indulged in 'acts against the order of nature'. The earlier law, as part of these security measures included confinement in an insane asylum, workhouse or agricultural colony, probation, taking an oath of good conduct and/or disqualification from the practice of a profession. Although, reports say that such laws were rarely used against homosexuals in the country, yet the constitutional amendments recognized the importance of LGBT individuals' fight for social inclusion.

Source: <http://www.bbc.com/news/world-africa-33342963>

Administrative District Court in Ukraine rules against medical requirement for gender recognition

The Administrative Court in Kiev, Ukraine ruled that minimal required surgeries for trans individuals seeking legal gender recognition does not match the requirements of the Constitution of Ukraine. The court held that refusal to undergo genital surgery cannot be a reason to withhold the legal right to gender recognition. The case arose from a suit filed by a trans man who had undergone orchiectomy (removal of testicals) and who had been denied gender recognition by the special Commission on the Issues of Change (Correction) of Gender Identification saying that the minimum requirement for trans men seeking gender recognition is to undergo surgeries for removal of sexual organs (both testicals and penis).

The Court applied various provisions of the Constitution of Ukraine including Articles 3 (recognition of human being's highest social value of his/her life, dignity, honour) 23 (right to free development of every person's personality) and 32 (non-interference with a person's personal and family life except few cases specified by the State) and said that such denial was

not in consonance with these laws. The Court also looked at Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms (Right to respect for private and family life), Article 17 of the International Covenant on Civil and Political Rights (Right against arbitrary and unlawful interference with privacy, home or correspondence) and various cases of European Court of Human Rights.

Source: <http://tgeu.org/administrative-district-court-of-kyiv-rules-against-forced-surgery-requirement/>

ECtHR rules that international human rights law requires governments to provide legal recognition for same-sex couples

In the case of *Oliari and Others v. Italy*, the European Court of Human Rights ruled that international human rights law requires governments to provide legal recognition for same-sex couples. The lawsuit was filed by three same sex couples in Italy which is the only country in Western Europe which does not legally recognize same sex couples (either civil partnership or marriage). The court ruled that Italy violated Article 8 (Right to respect for private and family life) of the European Convention on Human Rights. The rules which were set up in Italy in December 2013 allowed for cohabitation agreements, but these were of limited scope and did not provide basic recognition to couples, including inheritance rights. The court pointed out that Italian legislations have failed to recognize basic dignity for its citizens (including inheritance rights) and that legal recognition and the core protection of the applicants as same-sex couples are facets of an individual's existence and identity.

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

Source: <http://www.theguardian.com/world/2015/jul/21/italy-violates-human-rights-of-same-sex-couples-court-rules>

Polish Senate passes Gender Accordance Act and Ireland's Senate passes Gender Recognition Act

The Gender Accordance Act which was passed by the lower chamber of the Polish Parliament (sejm) on 23rd July, was passed by the Polish Senate under a new name of Gender Marker Change Act with a controversial amendment. Even as the Act does away with the requirement of individuals having to sue their parents as a necessary condition for gender recognition, it requires the presence of an expert witness (psychologist and psychiatrist) during a gender recognition court session, if the applicant is a parent to a minor. The Trans-Fuzja's office says that the condition introduced by the amendment is unnecessary since trans individuals have to undergo medical evaluation as a pre-requisite for submitting an application (under the Gender Accordance Act). This amended law would now return to the lower house to be processed during September.

Ireland's senate passed the Gender Recognition Bill which was formally signed into law by the President on July 22. The Act allows trans individuals to gain legal protection without any requirement of medical intervention or medical treatment. The Act however, does not provide access to gender recognition to children under the age of 16 and requires procedural requirement for 16 and 17 years old's parents', primary treating physician's and second physician's to submit documentary evidence to support legal gender recognition to a Circuit Family Court where ultimately the judge decides whether the child is eligible for gender recognition or not. Nevertheless, Ireland becomes the 5th country to provide legal gender recognition outside the medical framework besides Argentina, Denmark, Malta and Columbia.

Source:

http://transfuzja.org/en/artykuly/press_releases/polish_senate_passes_the_gender_accordance_act_with_unnecessary_amendments.htm

<https://www.hrw.org/news/2015/07/16/dispatches-ireland-steps-out-global-transgender-leader>

<https://www.hrw.org/news/2015/07/14/letter-government-ireland-rights-transgender-children>

Portugal tightens its abortion laws

In the final session of the Parliament in July, Portugal adopts a bill which imposes stringent requirements for women exercising their choice to abort. The bill, moved by the majority by the government coalition aims at making women pay to end their pregnancy. The amendments made to the law require women to get psychological and social counseling and advice on family planning before getting an abortion. Prior to the 2007 referendum (which reformed the erstwhile abortion laws and permitted abortion paid for by the state during the first 10 weeks of pregnancy), women who exercised abortion could be jailed upto 3 years except in the cases of rape and grave health conditions of the mother.

The legislation still needs President's approval and publication in the government gazette. Abortion is a highly controversial subject in Portugal. The amendments to the abortion laws have resulted in a heated debate, and criticism that such laws only humiliate Portuguese women.

Source: <http://www.theguardian.com/world/2015/jul/23/portugal-tightens-abortion-laws-women-pay-end-pregnancies>

<http://www.dailymail.co.uk/wires/ap/article-3172001/Portugal-changes-abortion-law-demands-payment-counselling.html>

Chad reinstates death penalty for acts of terrorism, as Connecticut holds death penalty unconstitutional for the remaining inmates on death row

Following attacks by Boko Haram Islamist militants, 146 out of 189 MPs in Chad voted in favour of reinstating the punishment of death penalty for acts of terrorism. Chad has been active in helping Nigeria curb the terrorist activities including bomb attacks and suicide bombing by Boko Haram and other terrorist organizations. Opposition to this new anti-terror legislation argue that such measures will significantly curb civil liberties and is inconsistent with contemporary human rights standards.

Significantly, it was on the basis of the same arguments that the Connecticut Supreme Court abolished the capital punishment in a decision 3 years ago. The Court observed that death penalty "no longer comports with contemporary standards of decency and no longer serves any legitimate penological purpose". The Court noted how multiple racial and other biases often determine death sentences. The inmates would follow the sentence of lifetime life imprisonment without the possibility of release. However, the decision left intact the death sentences of those inmates who were already on the death row. Recently, in the case of *State of Connecticut v. Eduardo Santiago*, the Connecticut Supreme Court further ruled that the execution of these remaining inmates on the death row is also unconstitutional.

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

Source: <http://www.bbc.com/news/world-africa-33732176>

<http://www.washingtonpost.com/news/post-nation/wp/2015/08/13/connecticut-supreme-court-says-the-death-penalty-is-unconstitutional-banning-it-for-remaining-inmates-on-death-row/>

Christian Woman Sentenced to 20 Lashes for ‘indecent dressing’ in Sudan

The Public Order Police arrested twelve female Christian students between 17 and 23 years old for wearing trousers and long skirts. Women were arrested based on Article 152 of Sudan's 1991 Criminal Code, which carries a punishment of up to 40 lashes if anyone is found wearing an "indecent or immoral dress". The Sudanese Constitution, however, exempts religious minorities from the provisions of the law which is based on Shariah. While cases against eight of the ten students charged concluded with either a not guilty verdict or a fine being imposed, other two girls were sentenced to flogging and/or heavy fines.

Source:

<http://ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16355&LangID=E>

Amnesty International endorses De-criminalization of Sex Work

In its international council meeting in Dublin, Amnesty International voted to adopt a policy advocating the decriminalization of sex work to uphold the human rights of persons engaged in the activity. Amnesty maintained that they stand against criminalization of all aspects of consensual adult sex including sex work that does not involve coercion, exploitation or abuse. Giving instances of their interactions with people involved in sex work and working with organizations who have been involved in helping sex workers, the documents maintains a strict anti-trafficking stance, but states that the burden of criminalization is borne by sex workers themselves, who are then subject to greater violations of human rights. The policy stands for the criminalization of those who abuse and exploit sex workers.

Source: <https://www.amnesty.org/en/latest/news/2015/08/sex-workers-rights-are-human-rights/>

National Developments

Judgments/Orders

Supreme Court holds unwed mother to be child’s guardian without father’s consent

In a landmark judgment in the case of *ABC v. State of NCT of Delhi*, the Supreme Court ruled that an unwed mother can be appointed as the sole legal guardian of her child without the consent of the father. The court further held that it was not required of the mother to disclose the identity of the father and include him as a party to the guardianship petition in certain cases.

According to the petitioner, the father did not even know about the existence of the child, and under these circumstances, the petitioner challenged the statutory necessity of involving the father of her child in a guardianship petition even though she never married him.

The Court noted that the best interest of the child required to do away with the procedural requirement of issuing a notice to the father when a guardianship petition is moved.

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

Delhi High Court rules that commissioning mothers of surrogate babies can avail maternity leave

In a landmark verdict the Delhi High Court in the case of *Rama Pandey v. Union of India & ors.*, ruled that surrogate mothers/commissioning mothers who have children through surrogacy are entitled to maternity leave, which includes pre- and post-natal period.

Reasoning that the commissioning mother is the legal mother of the child, HC laid down guidelines and filled a vacuum in law since the Centre or state governments have no maternity benefit policy for surrogate mothers. The Court ruled that the commissioning mother would become the principal care giver upon the birth of child and she needs to bond with the child and at times take over the role of a breast-feeding mother, immediately after the delivery of the child. Thus, it cannot be questioned that she was equally emotionally involved as the surrogate mother.

The Court observed that the word "maternity" as appearing in government rules, with advancement of science and technology, should be given a meaning which includes within it the concept of motherhood attained via the surrogacy route.

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

Chhattisgarh High Court allows woman to claim maintenance from step-son

While deciding the question of whether a step-mother can claim maintenance from her step-son, the High Court of Chhattisgarh, while upholding the order of the family court, ruled in the affirmative.

The Court held that the dominant purpose of Section 125 CrPC is that the wife, child and parents should not be left in a helpless state of distress, destitution and starvation, and hence, a childless step-mother may claim maintenance from her step-son under Section 125 CrPC, provided she is widow or her husband, if living, is incapable of supporting and maintaining her.

Source: <http://blog.sconline.com/post/2015/07/21/childless-step-mother-can-claim-maintenance-from-her-step-son-s.aspx>

Supreme Court releases murder convict who was juvenile at the time of commission of offence

The Supreme Court reaffirmed that once the declaration of juvenility on the date of the commission of offence is established before Court of competent jurisdiction, then the accused must get the benefit under the Juvenile Justice (Care and Protection) Act, 2000.

The Court relying on its previous decisions said that the maximum period for which a juvenile could be kept in a special home is for three years prescribed under Section 15 of the Juvenile Justice Act, 2000, Thus, allowing the appeal and setting aside the impugned judgment and order passed by the Trial Court and the High Court, the applicant was directed to be released forthwith, getting the benefit of the Juvenile Justice Act, 2000 since he was a juvenile on the date of commission of offence and had already served 10 years in prison.

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

Punjab and Haryana High Court stays amendments mandating academic qualification for contesting Panchayat elections

The Punjab and Haryana High Court on Friday stayed a Haryana government decision making academic qualifications and some other conditions mandatory for those contesting panchayat (village council) elections in the state. The amendments also barred candidates facing criminal charges and loan defaulters from contesting the elections. The stay was granted by the high court following a petition by a woman candidate.

People against whom charges have been framed by the competent court for grave criminal offences punishable by not less than 10 years in jail would not be allowed to contest the elections till they are acquitted. Defaulters of cooperative loans would also be debarred from contesting the elections. Another amendment made it mandatory for candidates to ensure that they clear their outstanding dues of rural domestic electricity connections to contest the elections.

Source: <http://www.tribuneindia.com/news/haryana/hc-stays-academic-qualification-for-haryana-panchayat-pol>

News

Mumbai police illegally raids hotel rooms and detains consenting adult couples for ‘public indecency’

A team from the Malwani police conducted raids in lodges and two-star hotels in and around Madh Island and Aksa in Mumbai and detained 40 adult, consenting couples, in an act of moral policing that has invited mass outrage. Couples reported being harassed by the police, and one girl was also slapped by a police officer for resisting detention. They were later charged with committing ‘public indecency’ for consensually sharing a hotel room with their partners, were fined Rs.1200, and harassed and detained in the police station for 5 hours. Several college couples were also forced to call their parents, in an attempt to shame them.

The raids by the police invited outrage for a blatant violation of the privacy of individuals, and for harassing consenting adults in a private space with charges of public indecency. Such instances of moral policing reveal the manner in which expressions of sexuality by consenting adults is caught in the web of criminality through various laws meant to address sexual violence and indecency. These amplify the vulnerabilities of individuals electing relationships of choice and consent, through the coercive machinery of the state driven by public morals against sexual expression.

Since then, the Commissioner and Joint Commissioner of Police have admitted that the police overstepped their powers, and an inquiry has been instituted into the incident.

Source: <http://www.firstpost.com/india/raid-shame-slap-adults-wanting-privacy-mumbai-cops-round-40-couples-hotels-2384370.html>
<http://indianexpress.com/article/cities/mumbai/mumbai-hotel-raids-made-a-mistake-cops-were-overzealous-admit-mumbai-police/>

Law Commission of India recommends abolition of the death penalty

In its 262nd Report on the Death Penalty, the Law Commission of India recommended the abolition of the capital sentence. This is a landmark document, since this is the first time the Law Commission has recommended the complete abolition of the death penalty, in the face

of growing evidence of the arbitrariness of the ‘rarest of rare’ standard, and of its staunch anti-poor bias. Finding that the application of the death sentence does not comply with due process requirements in Article 21 and is patently unequal, the Report states that the death penalty is unconstitutional. Previously, the 35th Law Commission Report on Capital Punishment in the year 1967 is the only other report to consider the constitutionality of the death sentence. Despite finding merit in the argument of irrevocability of the punishment and its dissonance with contemporary human rights standards, it nevertheless recommended the retention of the penalty.

However, the current report carves out an exception for terror-related offences, even though it notes that ‘*there is no valid penological justification for treating terrorism differently from other crimes*’. Three members of the Law Commission have filed their dissenting notes separately.

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

Women barred from entering the Haji Ali Dargah: a legal battle between the activists and trustees of the Dargah

The Haji Ali Dargah of Mumbai has recently disallowed women to pray alongside men in the inner sanctum. Earlier, for around 600 years the Haji Ali Dargah allowed women in the inner sanctum of the Dargah. The trustees of Dargah are of the view that they have to correct the mistake made by previous Dargah trustees and that because according to Quran women are not allowed in Dargahs and mosques therefore they have taken this decision. Since 2012, the Bharatiya Muslim Mahila Andolan (BMMA) made several attempts to get this rule suspended but in vain. Thereafter, the organization filed a PIL in the Bombay High Court against the rule made by trustees of the Dargah. The organization has based its arguments on two grounds. First, the rule is against right to equality of gender. Second, it is against the principles of Islam which doesn’t differentiate between man and woman.

The organization also conducted a survey of 19 Dargahs in Mumbai and the findings revealed that only seven of them did not allow women entry in the inner sanctum including Haji Ali Dargah. Although the mosques in Mumbai do not allow women but that is due to the space crunch in the city, otherwise mosques outside Mumbai have separate space for women to offer prayers in the mosque. According to the BMMA the response to the PIL within the Muslim community has been encouraging, but, there are some sections of conservatives who support the move of trustees.

Source: <http://indianexpress.com/article/india/india-others/citizen-hope-stuck-on-the-threshold/#sthash.CcWLpobe.dpuf>

Amendment in the SC/ST atrocities Act introduces stringent provisions

The Center has decided to amend the Prevention of SC/ST Atrocities Act (POA). This amendment seeks to strengthen the law by including more crimes categorised as "atrocities". The amendments propose stringent provisions for sexual / gestures or for touching a Dalit or tribal woman in a sexual manner without consent; and includes practices related to the outlawed Devadasi system. The bill introduces a presumption of castist motives, in case an offence occurs, placing the onus on the accused to prove otherwise. It also introduces new elements of accountability of public officials for failure to register a complaint. The amendment also proposes the establishment of exclusive courts to dispose of cases within

two months, mandating three months for disposal of appeals by high courts.. The legislation will be presented to the Lok Sabha.

Source: <http://timesofindia.indiatimes.com/india/SC/ST-atrocities-Act-to-be-made-more-stringent/articleshow/48245254.cms>

Department of Telecommunications blocked and then unblocked pornographic websites

The DOT ordered to block 857 websites on the grounds of decency and morality saying that it has the power to do so under section 79(3)(b) of the Information Technology Act. The move came after the Supreme Court expressed its concern that little had been done to prevent child pornography from being accessed on the web. Meanwhile, the Internet Service Providers expressed inability to ban porn websites because the servers hosting these websites were outside the country. The government later issued orders to unblock a large number of these sites, responding to public outrage, but sustained the ban on websites carrying child pornography.

Source: <http://indianexpress.com/article/india/india-others/porn-ban-govt-asks-isps-to-block-857-websites-but-will-it-work/>

Shelter Homes for victims of sexual abuse to be set up in Jharkhand

In Jharkhand the trend shows that girls are abandoned by their families if they become pregnant as a result of rape and then they have no other option but to approach the agents of placement agencies who promises jobs in cities. From Jharkhand many girls are trafficked every year to bigger cities on the pretext of jobs but are sold instead. Therefore, Jharkhand government proposes to set up shelter home for unmarried pregnant women and single mothers who have been rejected by their families. It will provide medical assistance and help them in getting rehabilitated. Such shelter homes will be first of their kind in the state, it is being set up with the aim to provide primary need of shelter, food, clothing and care to the marginalized women/girls living in difficult circumstances without any social and economic support. The move came after an NGO approached the government with the proposal to establish such homes.

Source:<http://www.thecitizen.in/NewsDetail.aspx?Id=4572&Victims/of/Sexual/Abuse/Shunned/by/Families/soon/to/get/Shelter/Homes>

Delhi witness protection scheme notified by the government

A policy named “Delhi witness protection scheme” was notified by the Delhi Government to bring in a witness protection programme to ensure protection of witnesses in crucial cases. This policy envisages categorization of witnesses, creation of witness protection fund, types of protection and procedure for processing such request by the competent authority. This policy came after two years of the Delhi High Court direction to the government (in 2013) to frame a witness protection policy to provide guidelines and principles which the police, prosecution and executive agencies will have to follow. A sub-committee comprising of officers of Law Department (Home Department), Directorate of Prosecution, the Delhi Police and Delhi State Legal Authorities was formed by the Home Department for deliberations on the formation of this policy.

Source: <http://www.ndtv.com/delhi-news/delhi-government-notifies-witness-protection-policy-1202275>

Resources

UN Women releases discussion paper on gender equality and human rights

The UN Women discussion paper series, named “gender equality and human rights” evaluates the role of various actors tasked with elaborating the meaning of human rights in international law. The achievement of substantive equality is understood as having four dimensions: redressing disadvantage; countering stigma, prejudice, humiliation and violence; transforming social and institutional structures; and facilitating political participation and social inclusion. The paper shows that, although not articulated in this way, these dimensions are clearly visible in the application by the various interpretive bodies of the principles of equality to the enjoyment of treaty rights. At the same time, it shows ways in which these bodies could go further, both in articulating the goals of substantive equality and in their assessment of compliance of international obligations by states.. The paper suggests that there is a growing consensus at the international level on an understanding of substantive equality that reflects the four dimensions. Making this understanding explicit will assist in addressing, through a range of means, the challenges of gendered inequality.

Source: <http://www.ungei.org/resources/files/goldblatt-fin.pdf>

Obituary

P.A Sebastian, indefatigable lawyer-crusader for democratic rights passes away

P.A. Sebastian, a well-known lawyer passed away on 23rd July 2015. He stood at the forefront of the democratic rights movement in India for nearly four decades and was one of the pioneers of the idea of people’s tribunals. He had contributed immensely taking cudgel for the hapless victims of Bombay riots in December 1992 and January 1993. He was not only one of the founders of Committee for Protection of Democratic Rights (CPDR) in Mumbai in 1977, and its General Secretary for nearly 20 years, but also helped set up the Indian People's Human Rights Commission (IPHRC) and the Coordination of Human Rights Organisations (CDRO). He was also a founder member and the first President of International Association of Peoples Lawyers (IAPL) as well as its Indian Chapter. He is also Vice President, Committee for Release of Political Prisoners (CRPP). He fought many valiant battles, inside and outside courts, participated in numerous fact-finding teams all over the country, and stood on the side of those who faced, and rose in revolt against, oppression.