



# BI-MONTHLY LEGAL NEWS

## Vol. No. 8(VI) November - December 2015

*Partners for Law in Development*

### Updates from the UN

- Committee on the Elimination of Discrimination against Women (CEDAW Committee) considers draft general recommendation on rural women, and linkages between CEDAW and Resolution 1325 at sixty-second session
- CEDAW Committee calls for respect, protection and fulfilment of rights women and girls displaced by conflict according to General Recommendation No.32
- UN Special Rapporteur on the situation of human rights defenders calls for strengthened protection for women defenders promoting sexual and reproductive rights
- UN Special Rapporteur on violence against women, its causes and consequences, asks states to institute 'Femicide Watch'

### International Developments

#### Asia

#### Beyond Asia

- Human Rights Council Universal Periodic Review Working Group examines record of Nepal, others at 23<sup>rd</sup> Session
- Tokyo issues Japan's first same sex marriage certificate
- Myanmar to pass draft law giving presidential immunity for acts done while in office
- Transgender candidates contest polls in Bangladesh for the first time
- Mongolia abolishes death penalty
- Vietnam approves bill to legalise sex reassignment surgeries
- Women in Saudi Arabia vote for the first time
- Japan issues apology to South Korea over sexual slavery of 200,000 women during World War
- Nepal expands definition of rape
- Russia proposes Bill penalising public display of LGBT expression
- Constitutional Court in Colombia rules that same-sex couples can adopt children
- Italian Constitutional Court says medical treatment not a pre-requisite for legal gender recognition
- Ukrainian Parliament passes law barring employment discrimination including protection for LGBT persons
- Victoria passes legislation introducing protest exclusion zones outside fertility clinics
- Working Group on discrimination against women in law and in practice visits US to assess progress made towards achieving gender equality
- Voters in Houston reject anti-discrimination ordinance
- Nuremberg State Court grants damages for Intersex Genital Mutilation treatment
- United Nations Mission in Liberia and OHCHR releases Report concerning traditional practices violating human rights in Liberia
- Greece legalizes same-sex civil partnership and Slovenia rejects same sex marriage through referendum
- Gambia bans female genital mutilation

### National

#### Judgements/Orders

- Supreme Court rules that women can claim *stridhan* even after separation from husband
- Supreme Court rules that a Hindu widow cannot be a coparcenor or karta of a Hindu Undivided Family
- Allahabad High Court directs State to 'take care' of minor rape victim
- Gujarat High Court appoints Committee to study condition of Women Protection Centres in the state
- Second wife of deceased government servant can claim pension without producing marriage certificate
- Bombay High Court directs Municipal Corporations to provide public toilets for women
- Allahabad High Court directs State Government to award compensation to victims of acid attack
- Rules regarding age-determination procedure under Juvenile Justice Act held constitutional

#### News

- Chapter on Sexual Offences in Modi's Medical Jurisprudence and Toxicology updated to reflect legal amendments
- Rajya Sabha passes the SC and ST (Prevention of Atrocities) Amendment Bill
- Rajya Sabha passes the Juvenile Justice Bill

### Resources

- PLD launches Feminist Law Archives to chronicle the engagement of the women's movements with the law
- Handbook on Sexual Harassment at workplace released by MWCD
- Bharatiya Muslim Mahila Andolan publishes report on triple talaq
- IDLO's study "Accessing justice: Models, strategies and best practices on Women's Empowerment" released

### Obituary

- Fatema Mernissi, Moroccan feminist writer and sociologist passes away
- B.D. Sharma, a well known social activist and former bureaucrat passes away

## UN Updates

### **CEDAW Committee considers draft general recommendation on rural women, and linkages between CEDAW and Resolution 1325 at sixty-second session**

The CEDAW Committee concluded its sixty-second session, after having undertaken country reviews of Lebanon, Liberia, Madagascar, Malawi, Portugal, Russian Federation, Slovakia, Slovenia, Timor-Leste, United Arab Emirates and Uzbekistan on the status of their compliance with the CEDAW Convention.

Following on the Global Study on Resolution 1325, on Women, Peace and Security, released in October 2015 [*PLD Newsletter Vol.8(V) September-October 2015*], the Committee held a panel discussion on Connecting CEDAW and the Women, Peace and Security Agenda. The panel deliberated on integrating human rights in the Women, Peace and Security agenda, and on the role of the CEDAW Committee in monitoring the implementation of the Agenda. In addition, the Working Group on rural women also met during the sixty-second session, and made progress in adopting the draft General Recommendation No.34 on rural women.

The report of the sixty-second session (informal document) can be accessed at [http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1\\_Global/INT\\_CEDAW\\_SED\\_62\\_24221\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_SED_62_24221_E.pdf)

**Source:**

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16789&LangID=E>

### **CEDAW Committee calls for respect, protection and fulfilment of rights women and girls displaced by conflict according to General Recommendation No.32**

In light of the unprecedented scale of mass displacement of peoples on account of war and conflict, the CEDAW Committee issued a statement calling upon states to respect, protect and fulfil the rights of women and girls throughout the displacement cycle. As per the Global Trends Study of the UN High Commissioner on Refugees, at the end of 2014, 1 in 122 persons in the world were displaced on account of war, conflict and persecution. As a result of the conflict in Syria alone, more than 4 million refugees have sought protection in neighbouring countries, while close to 7.6 million are internally displaced. The scale of current displacement of peoples has surpassed those during the second world war.

CEDAW General Recommendation No.32 of 2014 [*PLD Newsletter Vol.7(VI) November-December 2014*] discusses gender-related dimensions of refugee status, asylum, nationality and statelessness, and the human rights of women and girls throughout the displacement cycle. The statement of the CEDAW Committee reiterates that women and girls face a disproportionate impact of displacement, and are specially vulnerable to abuse. It calls upon the international community to uphold the rights of women in the process seeking refugee or asylum, and afterwards in the enjoyment of durable solutions in integration, resettlement and voluntary repatriation. The statement also emphasises the need to abide by the principle of non-refoulement, by which victims of displacement are not coercively sent back into situations of conflict and persecution. It further asks for the rights of women and girls seeking asylum to food, housing, water, sanitation, health services including sexual and reproductive services, education, economic activity and freedom from violence, to be protected.

The statement can be accessed at

[http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1\\_Global/INT\\_CEDAW\\_STA\\_7845\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_STA_7845_E.pdf)

## **UN Special Rapporteur on the situation of human rights defenders calls for strengthened protection for women defenders promoting sexual and reproductive rights**

On the occasion of International Women Human Rights Defenders Day, 29 November 2015, UN Special Rapporteur on the situation of human rights defenders, Michel Forst, turned attention to the situation of women human rights defenders promoting sexual and reproductive rights of women in the Americas. Michel Forst brought attention to the multiple threats, stigma and violence that women defenders of sexual and reproductive rights in Americas face from state as well as non-state actors, including religious and community leaders. Their work in contesting intersectional discrimination and stereotypical roles of women in societies which limit access to services, information and education on sexual and reproductive rights, renders them particularly vulnerable to assaults, discrimination, harassment and intimidation. These often target not only the work of the defenders, but also their own gender identities and sexual orientation.

Forst called upon the international community to enthusiastically acknowledge the work of these defenders, renew protection to them which is gender-based, and instate efficient legal mechanisms for the investigation and prosecution of crimes against them.

Forst's statement came 2 days after a gunman with an assault-style rifle opened fire at a Planned Parenthood centre in Colorado Springs, USA, killing a police officer, two civilians, and injuring nine others.

The statement of Michel Forst can be accessed at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16810&LangID=E>

For information on the Planned Parenthood shooting, click [http://www.nytimes.com/2015/11/28/us/colorado-planned-parenthood-shooting.html?\\_r=0](http://www.nytimes.com/2015/11/28/us/colorado-planned-parenthood-shooting.html?_r=0) and <http://edition.cnn.com/2015/11/28/us/colorado-planned-parenthood-shooting/>

## **UN Special Rapporteur on violence against women, its causes and consequences, asks states to institute 'Femicide Watch'**

During the 16 Days of Activism against Gender Based Violence, from 25 November to 10 December, the UN Special Rapporteur on violence against women, its causes and consequences, Dubravka Šimonović, called upon all states to institute a 'Femicide Watch', as a register for all gender-related killings of women. The register should account for the number of gender-related killings of women, the age and sex of the perpetrator, as well as the relationship between them.

Dubravka Šimonović pointed out that the lack of adequate and reliable data on femicide weakens the ability of states to evolve strategies for prevention of violence against women by disabling proper risk assessment. Misidentification, concealment and under-reporting of such crimes only go towards enhancing impunity of such actions. The Femicide Watch intends to fill this gap. The Special Rapporteur thus also calls upon states to carefully analyse this data to identify failure of protection, such that preventive measures can be improved. This information should then be made publically available. In collecting, analysing and publishing such data, Dubravka Šimonović emphasised the need for participation by civil society actors and human rights institutions, as well as representatives of the victims.

### **Source:**

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16796&LangID=E>

## International Developments

### Asia

#### **Human Rights Council Universal Periodic Review Working Group examines record of Nepal, others at 23<sup>rd</sup> Session**

At its 23<sup>rd</sup> session, the United Nations Human Rights Council Universal Periodic Review Working Group examined the human rights record of 14 countries, including Nepal. Representatives of countries under review present their progress in fulfilling their human rights obligations, and the challenges, for peer-review before other member-states, and to receive recommendations.

This was Nepal's first review after the promulgation of the new Constitution, marking the conclusion of the peace process and a historic period of transition. For the first time, India too expressed concerns over the lack of 'political progress' and incidents of 'violence, extra-judicial killings and ethnic discrimination' referring to protests by the Madhesi population in Nepal. The Working Group made recommendations to Nepal on ensuring that discrimination and violence against women is prohibited and suitably redressed, and that all marginalized groups, including Dalits, have access to earthquake relief measures. It was also recommended that Nepal should ratify Convention against Torture, the Convention on enforced disappearances, among others.

Source: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/Highlights4Nov2015pm.aspx>

#### **Tokyo issues Japan's first same sex marriage certificate**

Two Tokyo districts, Shibuya and Setagaya, issued Japan's first certificates officially recognising same-sex partnerships. The local ordinances recommend that same-sex couples be granted equal rights, including hospital visitations and apartment rentals, as heterosexual couples. Though it does not provide any legal recognition of same sex unions and bears only symbolic significance since the Japanese constitution still identifies marriage as the joining of two individual based on mutual consent of the parties from both sexes, but this has been a significant move forward for equal rights for sexual minorities.

Source: <http://www.japantimes.co.jp/news/2015/11/05/national/social-issues/shibuya-set-issue-first-certificates-recognizing-sex-couples/#.VpHn79J95Bx>

#### **Myanmar to pass draft law giving presidential immunity for acts done while in office**

Myanmar is in the process of passing a draft law called 'Former President's Security Bill' which grants immunity to former head of states for crimes committed during their term in office, including war crimes and crimes against humanity. The bill seeks to provide security for former presidents in terms of risks to their lives or physical safety, to ensure their right to live peacefully with their families, and to protect them from disturbance and danger. The law compliments article 445 of the Constitution which provides impunity for Myanmar's longstanding military government blocking justice for the victims of decades of human rights violations carried out under the military rule.

Source: <https://www.hrw.org/news/2015/12/23/burma-brazen-bid-presidential-immunity>

#### **Transgender candidates contest polls in Bangladesh for the first time**

In a welcome move, for the first time a transgender took part in Kalaroa municipal election in the Satkhira district in Bangladesh. Transgenders were given voting rights in Bangladesh in

December 2009. There have been similar instances in India and Pakistan in recent years, where transgenders have contested in elections. Madhu Bai Kinnar, a transgender person and a member of the Dalit caste, was elected mayor of Raigarh, Chhattisgarh. Also, in 2013, Bindiya Rana, a transgender person, contested in a provincial assembly seat in Pakistan.

**Source:** <http://www.firstpost.com/world/in-a-first-third-gender-candidates-to-contest-polls-in-bangladesh-2546154.html>

### **Mongolia abolishes death penalty**

Following the ratification in 2012 of the Second Optional Protocol to the International Covenant on Civil and Political Rights aimed at abolishing the death penalty, Mongolia became the 105<sup>th</sup> country to abolish death penalty by adopting a new Criminal Code that abolishes capital punishment for all crimes. The new criminal code will take effect from September 2016. The last execution in Mongolia was in 2008 and the death penalty remains classified as a state secret. Since then, the country had taken a series of steps towards abolition, ultimately culminating in the historic parliamentary vote in December 2015.

**Source:** <https://www.amnesty.org/en/latest/news/2015/12/mongolia-historic-vote-abolishes-death-penalty/>

### **Vietnam approves bill to legalise sex reassignment surgeries**

In a positive move, Vietnamese National Assembly approved a bill to legalize sex reassignment surgery and introduced the right to legal gender recognition for transgender people who have undergone such surgery. However, the requirement for surgical procedures as a precondition for legal gender recognition imposes a burden on transgender people that is at odds with their fundamental rights to be recognized in the gender with which they identify. Under the current civil code, Sex Reassignment Surgery, was prohibited for transgender people, and permitted only intersex people to undergo such a surgery. In the past, transgender people had to undergo such surgeries in neighbouring countries. The new law will come into effect early in 2017 and constitutes a significant step towards recognition of transgender rights.

**Source:** <https://www.hrw.org/news/2015/11/30/vietnam-positive-step-transgender-rights>

### **Women in Saudi Arabia vote for the first time**

In a historic step, women in Saudi Arabia voted and contested in polls for the first time in the country, which had so far denied equal citizenship rights to women. About 13,000 women registered to vote in local council elections, and 20 women also won seats in Mecca, Jawf, Tabuk, Jeddeh and Qatif, though the local councils have little influence on national policies.

This is only the third time Saudi Arabia has gone to the polls in its history, with no elections taking place between 1965 and 2005. The first local election was in 2005, and the second in 2011 and women were excluded from both.

**Source:** [https://www.washingtonpost.com/world/saudi-women-vote-for-the-first-time/2015/12/12/9ad0b898-9ad0-11e5-aca6-1ae3be6f06d2\\_story.html](https://www.washingtonpost.com/world/saudi-women-vote-for-the-first-time/2015/12/12/9ad0b898-9ad0-11e5-aca6-1ae3be6f06d2_story.html)

### **Japan issues apology to South Korea over sexual slavery of 200,000 women during World War**

More than 70 years after the end of World War II, South Korea and Japan reached a landmark agreement where Japan issued a formal apology and offered an \$8.3 million settlement to the South Korean victims of Japan's "comfort women" policy during World War. The settlement

comes after years of talks between the two countries about the forced sexual slavery of around 200,000 Korean women used by Japanese troops during the war. Only 46 “comfort women” are still living, and will benefit from the settlement. The women were however missing from the negotiation table and said that the apology is more of a political expediency than justice.

Source: <http://www.bbc.com/news/world-asia-35188135>

### **Nepal expands definition of rape**

The Government of Nepal has amended the existing law under the General Code in order to broaden the definition of rape and has now changed it to “penile penetration of orifices” from “non-penile penetration of vaginas” which includes rape of a male as well as same sex rape. The Act to Amend Laws to End Gender Violence and Ensure Gender Equality 2072, came into effect November, 2015 after the recommendations of a high-level monitoring committee formed by the then Prime Minister Baburam Bhattarai in December, 2012. The new Act also increased term of imprisonment for marital rape and for acid attack. In addition, the statute of limitations on reporting of rape cases has also been extended from existing 35 to 180 days in the new law.

Though this has been regarded as a huge step forward, the new law also continues to exclude non-penile penetration of non-vaginal orifices, and does not address the issues related to minors, mute persons, and persons in coma.

Source: <http://kathmandupost.ekantipur.com/news/2015-11-28/govt-broadens-definition-of-rape.html>  
<http://kathmandupost.ekantipur.com/news/2015-11-30/statute-of-limitations-on-rape-extended-to-180-days.html>

### **Beyond Asia**

#### **Russia proposes bill penalising public display of LGBT expression**

Lawmakers in Russia have introduced a draft bill in the parliament that would penalise any public display of ‘non traditional sexual relations’ by adding it to Russia’s *Code of Administrative Offences*. Introduced by parliament members from the Communist Party, this bill builds upon the existing LGBT propaganda law which bans the “promotion among children of nontraditional sexual relations.” Another law adopted in 2013 banned adoptions of Russian children by foreign same-sex couples.

Though the draft law has not yet been scheduled for plenary debate, in an explanatory note to the bill it is contended that homosexuality is “socially infectious,” especially for children and teenagers exposed to public manifestations of homosexuality. The note also conflates homosexuality with pedophilia, explicitly accusing LGBT movement of striving to support pedophilia.

Source: <http://www.hrw.org/news/2015/11/04/russia-homophobic-abusive-bill>

#### **Constitutional Court in Colombia rules that same-sex couples can adopt children**

The Constitutional Court in Colombia recently ruled that same-sex couples can adopt children. For two years, the petitioner had been trying to adopt the biological child of her partner, who was born through artificial insemination. The case included the amicus brief filed by the Williams Institute which conducts independent research on sexual orientation, gender identity and public policy. This brief reviewed social science research on psychological, emotional and educational outcomes of the children of same-sex parents,



explaining that there is not much difference between lesbian, gay and heterosexual parents with regard to mental health, parenting stress and parenting competence. The brief also showed that there are few differences between children raised by same-sex parents and heterosexual parents in terms of self-esteem, quality of life, psychological adjustment and social functioning.

The court ruled that there is no evidence which shows that that a same-sex couple adopting a child could have a negative impact on that child and denying such a right would entail restriction on the children's right to have a family and not to be separated from it.

The decision can be accessed at <http://www.corteconstitucional.gov.co/comunicados/No.%2050%20comunicado%2004%20de%20noviembre%20de%202015.pdf>

Source: <http://www.theguardian.com/world/2015/nov/05/colombia-same-sex-couples-must-be-allowed-to-adopt-children-court>  
<http://williamsinstitute.law.ucla.edu/research/international/colombian-constitutional-court-relies-on-social-science-studies-in-decision-allowing-same-sex-couples-to-adopt/>  
<http://www.washingtonblade.com/2015/12/10/puerto-rico-court-issues-historic-adoption-ruling/>

### **Italian Constitutional Court says medical treatment not a pre-requisite for legal gender recognition**

The Italian Constitutional Court has ruled against mandatory medical treatment as a pre-requisite for legal recognition of change in gender. The case challenged earlier judicial practices which mandated gender reassignment surgeries, or, at the minimum, mandatory sterilization, to grant legal recognition to the gender of a person distinct from their gender at birth. The court ruled that the State should guarantee the individual's right to gender identity as an expression of personal identity. The court referred to the Article 2 of the Constitution (recognizes the inviolable rights of individuals or in social groups where human personality is expressed) and Article 8 of ECHR (Right to respect for private and family life) observing that a person has the full right to their gender identity which also includes constitutional right to health coverage.

The legal requirement for medical procedures often become an obstacle for trans\* individuals for changing their genders. Many countries have removed the mandatory requirement of medical intervention for obtaining the legal status of gender re-assignment including Ukraine, Ireland [*PLD Newsletter Vol. 8 (IV) July – August 2015*], Denmark [*PLD Newsletter Vol. 7 (III) May – June 2014*] and ECtHR [*PLD Newsletter Vol. 8 (II) March – April 2015*]. Reading Article 6 of the Universal Declaration of Human Rights, 1948 (Everyone has the right to recognition everywhere as a person before the law), Article 16 (Right to recognition as a person before the law) and Article 17 (The right not to be subjected to arbitrary or unlawful interference with their privacy, family, home correspondence, nor to unlawful attacks on their honour and reputation) of the International Covenant on Civil and Political Rights, 1966 and Article 18 of Yogyakarta Principles (Protection from Medical Abuses), the Indian Supreme Court, in *National Legal Services Authority v. Union of India* did away with the requirement of Sex Re-assignment Surgeries [*PLD Newsletter Vol. 7 (II) March – April 2014*].

Source: <http://www.retelenford.it/879-la-corte-costituzionale-conferma-la-non-necessariet%C3%A0-delle-modifiche-chirurgiche-ai-fini-del-cambio-di-sesso.html>

## **Ukrainian Parliament passes law barring employment discrimination including protection for LGBT persons**

The Ukrainian Parliament has approved the proposed amendment to Ukraine's labour codes, banning employment discrimination based on sexual orientation, gender identity, HIV status, race, age etc. This law comes in the light of Ukraine's attempts to integrate with the European Union, by which it is mandated to ban employment discrimination for LGBT persons.

The amendment has been pushed before the Parliament several times before, but passed this time with 234 votes barely passing the necessary threshold of 226. Fulcrum, a Ukrainian LGBT advocacy group say that this is the first time in 25 years the LGBT persons have legal protection from discrimination. Although these amendments have been approved, Ukraine's labour codes stand to be replaced in the coming weeks. The push by the religious and conservative groups is to dilute the language which bans employment discrimination against LGBTIQ persons or to keep it out altogether. Some argue that such a move might give the appearance that Ukraine has complied with the EU standards but ultimately failing to provide legitimate and permanent protection against discrimination. There have been and continue to be instances of violence and discrimination against LGBT individuals in Ukraine including attacking the police during LGBT pride by a nationalist group, attack on LGBT community centre, throwing smoke bombs at LGBT forums among many other individual attacks.

**Source:** <http://foreignpolicy.com/2015/11/17/lgbt-gains-in-ukraine-are-in-danger/>  
<http://www.washingtonblade.com/2015/11/13/ukrainian-lawmakers-approve-anti-lgbt-discrimination-measure/>

## **Victoria passes legislation introducing protest exclusion zones outside fertility clinics**

The Upper House of the Parliament in Victoria, a state in Australia passed a Bill which amends the Health and Wellbeing Act by 31 votes against 8. The legislation now enables 150 metre buffer zone which makes it illegal for anti-abortion protestors to harass or film women going in or coming out of the abortion clinics. These amendments were first introduced by the Australian Sex Party MP Fiona Patten who was confident that the Bill would be supported by number of Liberal women MPs who supported a woman's right to go to fertility clinics without being harassed. The law has come out after years of complaints from clinics wherein pro-life campaigners would stand outside clinics and urge women not to terminate their pregnancies.

The legislation now provides police protection outside the clinics to prevent harassment of women entering the clinics wherein the protestors breaching the buffer zone might face penalty or jail time for repeat offenders. The legislation has been welcomed by women's health campaigners. The health minister Jill Hennessy said that this law enables women's right to medical privacy and access legal health service without harassment or intimidation. On the other hand President of Right to Life Australia Margaret Tighe argues that such a law would not stand in the face of killing human life and that enforcing a 150 metre buffer zone infringes on the group's right to free speech.

**Source:** <http://www.abc.net.au/news/2015-11-27/abortion-clinic-buffer-zone-law-passes-victorian-upper-house/6971220>  
[http://www.theguardian.com/world/2015/nov/27/victoria-passes-legislation-limit-protests-abortion-clinics?CMP=soc\\_567](http://www.theguardian.com/world/2015/nov/27/victoria-passes-legislation-limit-protests-abortion-clinics?CMP=soc_567)

## **Working Group on discrimination against women in law and in practice visits US to assess progress made towards achieving gender equality**

The United Nations Working Group on discrimination against women in law and in practice



comprising of Current Chair-Rapporteur Eleonora Zielinska (Poland), Alda Facio (Costa Rica), Frances Raday (Israel/United Kingdom), Kamala Chandrakirana (Indonesia), Emma Aouij (Tunisia) undertook a country visit to the USA to assess the progress made towards achieving gender equality and the protection of women's human rights in the country.

The independent experts assessed the legislative reforms and policies that had been implemented to promote women's rights and gender equality with regard to US women in global context, public and political life, economic and social life, access to health care, reproductive health and rights, and women's safety. The findings of the country report include that the legislative and political representation of women which on an average is 24.9%, is the highest that the country has ever achieved; and further that the country ranks at 72 in terms of global ranking of women in higher levels of legislative representation. The Report noted that negative stereotyping, mis-representation of women in media and removal of limits on campaign funding by the Supreme Court adds to this low representation. With respect to reproductive health and rights, the report notes that the ratio of maternal mortality rates in the country has increased by 136% between 1990 and 2013. The Working Group encouraged effective implementation of the Woman's Health Protection Act which prohibits interference by health care providers with women's personal decision making, blocking access to safe and legal abortion services; and also emphasised the importance of establishing an independent human rights institution in compliance with the Paris Principles, including a woman's rights commission.

The Report noted that US has not ratified CEDAW. Even though many of its standards are entrenched in the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights and binding on USA., highlighting the need for ratification of CEDAW as several rights and protections seem to be missing such as universal paid maternity leave, accessible reproductive health care and equal opportunity in standing for political election.

**Source:** <http://www.un.org/apps/news/story.asp?NewsID=52797#.Voz6ILZ97cc>  
<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16872&LangID=E>  
<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16820&LangID=E>

### **Voters in Houston reject anti-discrimination ordinance**

The voters in the city of Houston in Texas, United States of America rejected The Houston Equal Rights Ordinance (Hero). This anti-discrimination ordinance by the City Council sought to ban discriminatory and unequal treatment and create an environment free from any discrimination based on sex, race, colour, ethnicity, national origin, age, familial status, marital status, religion, disability, sexual orientation, gender identity or pregnancy. The ordinance covers all privately owned and operated 'public accommodations', that is, facilities that are used by the public. These include restaurants, bars, entertainment venues, places of entertainment and amusement, hotels, bathrooms etc. Currently the state of Texas currently does not have any statewide law banning discrimination against LGBT people.

Currently 200 other cities and 17 states across USA have passed similar anti-discrimination ordinances. Many countries, such as Canada, Denmark, Finland, France, Iceland, Ireland, Israel, The Netherlands, New Zealand, Norway, Slovenia, Spain, and Sweden in their national laws forbid discrimination against LGBTIQ persons. The United Nations Human Rights Commission also monitors steps taken by the parties to carry out their obligations as guaranteed under International Covenant on Civil and Political Rights which covers protection against discrimination based on sexual orientation and gender identity.

The Houston Equal Rights Ordinance can be accessed at [https://archive.org/stream/equal\\_rights\\_ordinance/equal\\_rights\\_ordinance\\_djvu.txt](https://archive.org/stream/equal_rights_ordinance/equal_rights_ordinance_djvu.txt)

**Source:** [http://www.huffingtonpost.com/entry/houston-equal-rights-ordinance\\_5638de92e4b00a4d2e0bee4e?section=india&adsSiteOverride=in](http://www.huffingtonpost.com/entry/houston-equal-rights-ordinance_5638de92e4b00a4d2e0bee4e?section=india&adsSiteOverride=in)  
<http://www.theguardian.com/us-news/2015/nov/04/houston-anti-discrimination-bathroom-ordinance>

### **Nuremberg State Court grants damages for Intersex Genital Mutilation treatment**

The Nuremberg State Court in Germany ruled that Erlangen University Clinic pay damages and compensation to Michaela Micha Raab for non-consensual Intersex Genital Mutilation treatment including partial clitoris amputation, castration and imposition of hormones. This is the second case worldwide of a verdict against non-consensual intersex genital mutilation. Michaela sued the University Clinic and the surgeon Prof. S. for 250,000 Euros in damages and a monthly pension of 1,600 Euros. Michaela had not been informed prior to the treatment that she had both female and male sex organs and the Clinic treated Michaela as if they were a woman denying them the opportunity to be treated as a man. The court dismissed the charges against the Surgeon ruling that the lack of disclosure of the diagnosis, karyotype and treatment options was not his fault but responsibility of other doctors, therefore the clinic's.

**Source:** <https://www.justiz.bayern.de/gericht/olg/n/presse/archiv/2015/05075/index.php>  
<http://stop.genitalmutilation.org/post/Nuremberg-Hermaphrodite-Lawsuit-Damages-and-Compensation-for-Intersex-Genital-Mutilations>

### **United Nations Mission in Liberia and OHCHR releases Report concerning Traditional Practices violating human rights in Liberia**

The United Nations Mission in Liberia and the Office of the High Commissioner for Human Rights (OHCHR) released a Report 'An Assessment of Human Rights Issues Emanating Traditional Practices in Liberia' highlighting the negative and harmful impact on human rights because of some traditional and cultural practices in Liberia. Some of these practices include female genital mutilation (FGM), forced initiation into secret societies, accusations of witchcraft, trials by ordeal and ritualistic killing. The report shows that such practices disproportionately affect women, children, elderly people and persons with disabilities drawing from in-depth interviews with victims, family members, community leaders, Government officials and civil society members between January 2012 and September 2015. The Report also documents cases of abduction, rape, ritualistic killings in the region and other violations which are occurring due to political tensions. The Report documents that an estimated 58% of Liberian women and girls have undergone forced FGM, and found 132 cases of 'cleansing rituals' and accusations of witchcraft. It also found that some cultural and traditional practices have the impact of denying education to girls and forcing high rates of drop-out.

The Report recommended the Government of Liberia to adopt legislation concerning Domestic Violence to criminalize all forms of FGM, forcible initiation, harmful traditional practices related to accusations of witchcraft and trial by ordeal. Among many other recommendations, the Report also recommended the Government to adopt a human rights-based approach to changing social and cultural norms that nurture harmful traditional practices; empower women and girls; build the capacity of all relevant professionals who are in regular contact with victims, potential victims, and perpetrators of harmful traditional practices, at all levels.

The report can be accessed at <http://www.ohchr.org/Documents/Countries/LR/HarmfulTraditionalPracticesLiberia.pdf>

**Source:** <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16904&LangID=E>

## Greece legalizes same-sex civil partnership and Slovenia rejects same sex marriage through referendum

Greece has become the 26<sup>th</sup> European country to recognize same-sex partnership with 194 parliamentarians voting for it and 55 against. Registered partnership since 2009 could only be availed by heterosexual partners and such a practice was declared discriminatory by the European Court of Human Rights in 2013. The benefits now available to the same-sex couples would be entitled to various rights and protections which earlier could only be availed by the married couples, including inheritance. But few provisions regarding family law such as joint adoption were dropped before the vote.

Slovenia, on the other hand, voted in a referendum against an amendment which would have given the same-sex couples the right to get married. With a turnout of 36%, 63.5% voted no. Earlier in March 2015, the Slovenian Parliament had agreed to redefine marriage as between 'two people' as opposed to 'man and a woman' but was opposed by a Church led citizen's initiative which called for a referendum to repeal this amendment. The jurisdiction of family law, including marriage remains with the exclusive competence of Member States. The Members of the European Parliament (MEP) regret the referendum which they argue was initiated to withhold equal rights.

**Source:** <http://bigstory.ap.org/article/14df800b25264425a0f6f821c40bdc4e/greek-parliament-legalizes-same-sex-civil-partnerships>  
<http://ilga-europe.org/resources/news/latest-news/greece-becomes-26th-european-country-recognise-same-sex-partnerships>  
<http://www.lgbt-ep.eu/press-releases/slovenians-vote-against-marriage-equality/>  
<http://edition.cnn.com/2015/12/21/europe/slovenia-rejects-same-sex-marriage/>

## Gambia bans female genital mutilation

Gambia has banned the practice of Female Genital Mutilation saying that it has no place in Islam, the country's predominant belief system. The Inter-African Committee which is currently operating in 28 African countries and who work to bring an end to FGM practice say that growing pressure from international and national rights groups over decades has been a driving force in bringing about this change in Gambia. Around 76% females in Gambia are subjected to the practice of FGM.

Gambia joins 18 other countries in Africa, including Nigeria [*PLD Newsletter Vol. 8 (III) May - June 2015*] and Egypt [*PLD Newsletter Vol. 7 (II) March - April 2014*] which have banned the practice of FGM. It remains to be seen whether the ban would take effect through a legislation. Many activists are insisting that the ban needs to be implemented effectively for it to work properly. Support for continuation of FGM in Gambia varies across different ethnic communities, with the country's richest women supporting the practice. The Muslim clerics in the country had previously denied FGM saying that they don't practice mutilation of bodies but what they do is 'female circumcision'. Many are calling the ban by the President as surprising because such a move right at the time of elections could cost him his position since FGM has been a controversial issue in Gambia with many supporting it arguing that it is permitted in Islam.

**Source:** <http://www.aljazeera.com/news/2015/11/gambia-bans-female-genital-mutilation-151125151025550.html>  
<http://www.theguardian.com/society/2015/nov/24/the-gambia-bans-female-genital-mutilation>

## National Developments

### Judgments/Orders

#### Supreme Court rules that women can claim *stridhan* even after separation from husband

While quashing orders of the trial court and the Tripura High Court, the Supreme Court has held that a woman can claim her *stridhan* after separation from her husband. The couple was judicially separated and thereafter, the woman had filed an application before the magistrate under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (PWDVA) for claiming *stridhan* from her husband. The lower courts and the High Court, however, dismissed her claim ruling that she was no longer an ‘aggrieved woman’ under the PWDVA since the two no longer shared a household.

A division bench of the Supreme Court, however, ruled that the woman continued to be an ‘aggrieved woman’ as per the definition under the PWDVA as she was part of a ‘domestic relationship’ under the Act, which included any two persons who have at any time in the past lived together as part of a shared household.

**Citation:** [Krishna Bhattacharjee v. Sarathi Choudhury & ors., CrI. App. 1545 of 2015, Supreme Court of India](#)

#### Supreme Court rules that a Hindu widow cannot be a coparcenor or karta of a Hindu Undivided Family

In a recent case, the Supreme Court has held that a Hindu widow cannot be a ‘karta’ of a Hindu Undivided Family (HUF). In cases where the only male member is a minor, the Hindu widow may assume the role of a ‘manager’ in her capacity as the natural guardian of the sole surviving male co-parcenor, to manage the day-to-day affairs of the HUF until the co-parcenor assumes majority. This is because a Hindu widow is not a coparcenor in the HUF, but enjoys only limited estate during her lifetime after the death of her husband.

This case involved a dispute between the son of the first wife of the deceased karta, and the grand-daughter of the second wife. After the death of the earlier ‘karta’, the second wife had been managing the day-to-day affairs of the family property. The issue was whether the suit property had been purchased by her out of HUF funds or her own property. This involved a resolution of the question whether she received the funds in her capacity as a ‘karta’ or an heir of her deceased husband. The Supreme Court held that the funds belonged to the HUF, which she managed not as a ‘karta’, but in her capacity as the guardian of the minor male coparcenor.

This case once again brings to light the limited rights of ownership to property of Hindu widows. While the 2005 amendment to the Hindu Succession Act granted equal rights as coparcenors to Hindu daughters, Hindu widows continue to have limited estate in the HUF property. Vide S.14, read with S.6, of the Hindu Succession Act, the Hindu widow has full estate only in the self-acquired property of the deceased husband.

**Citation:** [Shreya Vidyarthi v. Ashok Vidyarthi Civ. App. 3162-63 of 2010, Supreme Court of India](#)

#### Allahabad High Court directs State to ‘take care’ of minor rape victim

A recent case before the Allahabad High Court involved a minor rape victim, who gave birth to a female child conceived through the rape. Focussing on the rehabilitation of the victim, the court directed the State Government to provide monetary compensation to the girl under

Section 357-A of the Code of Criminal Procedure, under which the Uttar Pradesh government formulated the Uttar Pradesh Victim Compensation Scheme 2014. The court added that such schemes help compensate the victim to some extent, and this responsibility lies on the State as the State has failed in its duty to protect its citizens.

As regards the child born of rape, the court observed that she was a 'second victim' of the rape and all efforts should be made for her rehabilitation as well. As her biological mother was not in a condition to take care of her, the court directed that she should be given up for adoption.

**Citation:** [‘A’ through her father ‘F’ v. State of UP., Writ Petition No.8210 \(M/B\) of 2015, Allahabad High Court](#)

### **Gujarat High Court appoints Committee to study condition of Women Protection Centres in the state**

A Public Interest Litigation (PIL) was recently filed by a few organisations of Ahmedabad, such as the Peace and Equality Cell, before the Gujarat High Court, to draw attention to the dismal conditions of the Women Protection Centres across the state. The court in this case admitted that the conditions in these centres were below the expected levels as far as the condition of the buildings, numbers of requisite staff, facilities available for living with minimum dignity are concerned. However, before directing the State Government to update the facilities, the court constituted a committee comprising of the senior-most additional district judge of each district, Commissioner of Women and Child department, Jhanavi Antaria of Anandi (NGO) and Manjula Pradeep of Navsarjah (NGO). The Court also drew up a list of Centres that needed a visit, in order to prepare a composite study report on the conditions of these centres along with conclusions and suggestions as to improve the same.

**Citation:** [Peace and Equality Cell & ors. v. State of Gujarat & ors., WP \(PIL\) No. 321 of 2014, Gujarat High Court](#)

### **Second wife of deceased government servant can claim pension without producing marriage certificate**

While considering whether the second wife of a deceased government employee is entitled to claim the family pension without production of her marriage certificate, Justice Hariparanthaman of the Madras High Court ruled in the affirmative. In this case, the petitioner was refused family pension from the government department as she could not produce a marriage certificate. The government department argued that she was not the legal heir of the deceased, but rather the children from his first wife were so and therefore they sought the marriage certificate in order to help establish whether she was an heir or not. It was argued by the petitioner that although she was the second wife of the deceased, she had married him lawfully after the death of the deceased's first wife therefore it was not justified to refuse grant family pension to her.

The Court ruled that as long as she could prove that she was the heir of the deceased, she could be granted the pension of her deceased husband. On perusing the facts of the case, the court observed that the petitioner has proved her eligibility as the heir of the deceased by producing documents like the death certificate of her husband and the birth certificate of her child, therefore the respondent is not justified in refusing the family pension to her by making the production of the marriage certificate as a condition to the same.

**Citation:** [G. Pushpam v. Superintendent Engineer, W.P\(MD\)No. 17926 of 2015, Madras High Court](#)



## **Bombay High Court directs Municipal Corporations to provide public toilets for women**

A PIL filed by several organisations and women's groups sought the Municipal Corporations to be directed to set up safe and clean public toilet facilities for 'women walking on the streets'. They also submitted before the Court that there was no bonafide effort on the part of the Pune Municipal Corporation to discharge their public duties, imposed on them by the Maharashtra Municipal Corporation Act.

The Court observed that various provisions of the Constitution including Articles 47 and 48-A impose a duty on the state to ensure the welfare of its citizens which includes right to clean toilets. It also said that the health of the people in the city is inextricably linked to its toilets and it is imperative to provide them in sufficient number and that no human being can live with dignity unless there are facilities to maintain basic hygiene. The Court also added that public health is of paramount importance and that it is the duty of the State and the Corporations to ensure that public latrines, urinals and similar conveniences are constructed, maintained and kept in a hygienic condition. In furtherance of these observations, the Court issued various guidelines to the Municipal Corporations for construction of toilets/ urinals/ restrooms/ privies for women walking on the streets by forming a 'committee' within 4 weeks. It also directed the corporations to file their first compliance before 8<sup>th</sup> of March, 2016 setting out details of the scheme formulated by them and steps taken pursuant to the same.

**Citation:** [Milun Suryajani v. Pune Municipal Commissioner, 2015 SCC OnLine Bom 6256, Bombay High Court](#)

## **Allahabad High Court directs State Government to award compensation to victims of acid attack**

In a case of a crime of acid attack, the Allahabad High Court ordered the state to pay compensation to a victim of acid attack, under the Uttar Pradesh Victim Compensation Scheme formulated under S.357-A of the Code of Criminal Procedure. The judgment adds to the growing jurisprudence on victim-centric approaches to justice, whereby the role of the state extends beyond prosecution, to also rehabilitation of the victim. The Court ruled that the regime of criminal law can no longer claim that the responsibility of the state ends at registering a case, conducting investigation and initiating prosecution. It is now an established duty of the state to also provide compensation to the victim and enable her to live a life of dignity, within the criminal law machinery.

**Citation:** Md. Kaleem v. State of UP, Crl. App. No 1726 of 2012, Allahabad High Court

**Source:** <http://indianexpress.com/article/india/india-others/allahabad-hc-asks-up-govt-to-report-on-action-taken-to-compensate-acid-attack-victims/>

## **Rules regarding age-determination procedure under Juvenile Justice Act held constitutional**

In a writ petition, the Delhi High Court has upheld the procedural rules stipulated by different states under the Juvenile Justice Act for age determination. As per the Act, the age of a person will be determined as per the Matriculation or equivalent certificate of the child, followed by the date of birth certificate provided by the school, and third, by date of birth certificate of a local body. The petitioner claimed that the date of birth certificate by the local body should be given first preference since it is the most valid document, and the rules in their current form therefore violate Article 14 of the Constitution.

The court dismissed the writ petition on the ground that the petitioner failed to show how these Rules are in violation of Article 14. The court said that it may be reasonable to give



first preference to the birth certificate issued by the local body. However, legislations are made keeping in view the needs of the people and what is good and bad for them. Therefore, no enactment can be struck down on the ground that the court thinks it unjustified.

**Source:** <http://blog.sconline.com/post/2015/11/26/rules-regarding-age-determination-procedure-under-juvenile-justice-act-are-not-unconstitutional/>

## News

### **Chapter on Sexual Offences in Modi's Medical Jurisprudence and Toxicology updated to reflect legal amendments**

Modi's textbook on Medical Jurisprudence and Toxicology, the authoritative guide on medical jurisprudence since 1920, was recently revised to overcome misinformation and negative stereotypes relating to sexual violence and victims thereof. The textbook is widely used by medical students and professionals, and provides relevant instructions on conducting medical examinations for criminal trials as well. Previous versions of the textbook stated that injuries and marks of resistance on the body of the victim were crucial factors to establish the offence of rape. It also invoked stereotypes relating to the physical built and character of the victim as relevant factors for the determination of rape. Furthermore, the textbook reflected severe insensitivity to victims by writing that women generally put false charge of rape on men for causing harm to their reputation or in some situations women consensually make sexual relation and later they accuse the man of rape. These views were reflected as late as the 23<sup>rd</sup> edition of the textbook that was published in 2012.

Since 2012, several consultations were held among experts, academicians and judges relating to revisions in the textbook. Subsequently, Justice Kannan of the Punjab and Haryana High Court substantially revised the chapter on sexual offences in its 25<sup>th</sup> Edition. The revised version says that the book need to make a departure from the insensitive medical approaches due to which even the trial processes becomes humiliating for victims. It says that there is no need to find the hymenal status of the woman and determine the vaginal laxity to give opinion about her past sexual history. It also says that there is no need to conduct the two finger test on the victim of rape. It says that, finding out that whether the victim was sexually active or not is illegal, irrelevant and inappropriate. The victim should be provided physical care and mental counseling. The medical practitioners should always respect the privacy and should conduct the tests on with the consent of the victim.

### **Rajya Sabha passes the SC and ST (Prevention of Atrocities) Amendment Bill**

The SC and ST (Prevention of Atrocities) Amendment Bill was passed by Rajya Sabha unanimously in December, 2015. The Lok Sabha had passed the Bill earlier in August, 2015. The Bill makes additions to the kinds of acts treated as atrocity, to include sexual violence for the first time, as also dedicating an SC or ST woman as devdasi to a temple. Previously, some acts, such as dumping excreta, sewage or other obnoxious substance in the premises occupied by SC/ST, garlanding an SC or ST person from shoes etc., were considered an atrocity only if they were motivated by an intention to insult or humiliate an SC/ST person. However, now, the Act *per se* will be treated as an atrocity, without the additional requirement of proving intent to humiliate. The bill also specifies the duty of public officer failing which the officer will be liable for imprisonment for a term of six years to one month. The public officer has a duty to register the FIR, read the FIR to the complainant, furnish the copy of the FIR, record the statement of the witnesses, filing the charge sheet within 60 days, etc. The bill also provides for setting up of special and exclusive special courts to prosecute atrocities covered by the Act at the district level as well as providing special and exclusive special public prosecutors in such cases. The bill adds the rights of victim and witnesses as a separate

chapter altogether. It says that it shall be duty of the state to protect the victim, witnesses and their dependents during the investigation and trial stage, they should be treated with fairness and respect, the expense for their travel, food and other arrangements should be made by the state during the trial period.

**Source:** <http://www.hindustantimes.com/india/rajya-sabha-unanimously-passes-sc-st-bill-2-more-within-minutes/story-ARVVXQR2R10SW8XodrJ3QK.html>

### **Rajya Sabha passes the Juvenile Justice Bill**

The Rajya Sabha passed the Juvenile Justice (Care and Protection of Children) Bill, 2014. This Bill replaces the Juvenile Justice (Care and Protection of Children) Act, 2000. It addresses children in conflict with law and children in need of care and protection. . The new legislation allows juveniles aged between 16-18 years accused of heinous crimes like rape, murder, arson etc. to be tried as adults under the Indian Penal Code. According to the amendment, the Juvenile Justice Board (JJB) will make an assessment of the mental state of the juvenile, and whether the crime was committed with an understanding of its consequences. Based on this assessment, the Board will determine whether to try the child as a juvenile or as an adult through the procedure laid down in the Code of Criminal Procedure.

Changes in the age were made despite the recommendations of the Parliamentary Standing Committee, which advised against reducing the age of juvenility based on established international human rights standards contained in the Convention on the Rights of the Child. The amendment to the age of juvenility was made despite major opposition from child rights groups, who have consistently emphasized the need for reform of juvenile offenders instead of retribution through adult incarceration. This is based on studies which demonstrate that children between the ages of 14 to 17 years are prone to reckless behaviour due to a lack of maturity, and not because of criminal inclinations. Measures towards reformation at this stage are more likely to enable re-integration into society as responsible productive citizens, whereas incarceration will have the effect of intensifying their criminal tendencies. Despite claims to the contrary, the NCRB data actually shows that only 1.2 % of the cognizable crimes were committed by persons below the age of 18 years, which has also witnessed a steady decrease over the years.

The Act provides that one JJB and Child Welfare Committee should be established in each district. Apart from that, it also includes extensive provisions on adoption, and permits adoption by married couples or single parents as well. Moreover, the Act also makes provision for adoption for the relatives of the child who are living abroad. While laying down the procedure of adoption, the Act stipulates that a specialized adoption agency will first make a report about the adoptive parents assessing their eligibility to adopt under the Act. In case of adoption of an orphan child, he/she can be given in adoption to foreign nationals only if the specialized agency is unable to find any Indian or non-resident Indian parents.

A summary of the Parliamentary Standing Committee Report can be found at <http://www.prsindia.org/uploads/media/Juvenile%20Justice/SCR%20summary-%20JJ%20Bill.pdf>

**Source:** <http://www.firstpost.com/india/juvenile-justice-bill-public-pressure-forces-rajya-sabha-to-take-it-up-for-debate-but-it-may-not-be-a-smooth-passage-2555798.html>  
[http://www.huffingtonpost.in/harpal-singh/new-juvenile-justice-act-\\_b\\_8893144.html](http://www.huffingtonpost.in/harpal-singh/new-juvenile-justice-act-_b_8893144.html)

## Resources

### PLD launches Feminist Law Archives to chronicle the engagement of the women's movements with the law

Partners for Law in Development launched Feminist Law Archives (FLA), to celebrate the rich and vibrant history of feminist engagement with law in India. The FLA is an online open-access portal which chronicles the evolution of debates, perspectives and activism within the women's movements in India by providing access to documents and advocacy materials from the movements. Activists and researchers can find unpublished and difficult to access memorandums, reports, petitions, articles, resolutions etc on various themes. The FLA is response to a widely felt need for historical debates to root our present understandings within the movement.

Given the scale of the task, PLD plans to build the FLA over stages. Currently, it maps the themes of sexuality, sexual violence, family law and domestic violence/marital cruelty, along with alternative lawyering practices and community-based action. In the near future, coverage will be extended to reproductive and health rights of women, economic rights and political participation, among several others.

The FLA can be accessed at <http://feministlawarchives.pldindia.org/>

### Handbook on Sexual Harassment at workplace released by MWCD

The Ministry of Women and Child Development released a handbook on sexual harassment at workplace, to provide basic information to practitioners and workplaces/institutions/organizations on the Sexual Harassment at Workplace Act, 2012. The book interprets the terms 'sexual harassment at workplace' and 'aggrieved women' given under the Act expansively; and gives a broad overview of the mechanisms of the Complaints Committees. The handbook also discusses the provisions relating to procedure of conducting inquiry, and the timeline. Notably, the handbook identifies some select best practices from around the world, and also discusses international instruments relating to sexual harassment, such as the CEDAW and Beijing Rules. However, the book does not adequately discuss *quid pro quo* and retaliation as forms of sexual harassment. It also does not discuss on the crucial conciliation procedures, provision for false complaints and the mechanism for appeal.

The Handbook can be accessed at <http://wcd.nic.in/sites/default/files/Handbook%20on%20Sexual%20Harassment%20of%20Women%20at%20Workplace.pdf>

### Bharatiya Muslim Mahila Andolan publishes report on triple talaq

The Bharatiya Muslim Mahila Andolan (BMMA), an autonomous organization working on the rights of Muslim women, released a report on *triple talaq*, "*No More Talaq Talaq Talaq – Muslim Women call for the Ban of an Un-Islamic Practice*". The report is based on 100 case studies collected from Rajasthan, Madhya Pradesh, Maharashtra, Tamil Nadu, Karnataka, Uttar Pradesh, Odisha and West Bengal, of Muslim women having been divorced extra-judicially by the pronouncement of talaq three times. According to the study, 59% of the women reported being divorced unilaterally by their husband by mere utterance of the word 'talaq', thrice. In almost all the other cases as well, the divorce was one sided, with either the woman being informed of her divorce by the local Qazi, relatives or by her husband, on phone. 79% women said that they didn't receive any maintenance from their husband post their divorce. Over 40% women were not able to collect their belongings, jewelry and valuables from their husband's house after divorce. Over 50% of women had not received

their mehr. Some of those who received their mehr are mostly women whose mehr was fixed at a meagre token sum. This, when 63% of the women surveyed relied on their father or brother's family income of up to Rs 50,000.

The report suggests that these issues can be resolved by amending the Dissolution of Muslim Marriages Act, 1939, whereby the grounds specified for women to obtain divorce should also extend to men. The Shariat Application Act, 1937 should also be amended, to specify the minimum age of marriage, marriage procedure, divorce procedure, polygamy, maintenance, custody of children, property etc. based on Quranic injunctions. The report says that amendment to these laws would also be in consonance with the rights to religious freedom enshrined in the constitution.

The Report can be accessed at <https://drive.google.com/file/d/0B620GpkWZ9-UT294TUVaLXF3OXM/view>

### **IDLO's study "Accessing justice: Models, strategies and best practices on Women's Empowerment" released**

The International Development Law Organization (IDLO), an intergovernmental organization working on law reforms and strengthening institutions to promote peace, justice, sustainable development and economic opportunity, recently released a study named "Accessing Justice: Models, Strategies and Best Practices on Women's Empowerment". The study explores the challenges and solutions for access to justice for women in different legal setups and systems. It suggests that women face structural barriers such as insufficient knowledge of rights and remedies, illiteracy or poor literacy, and lack of resources or time for participation in various processes, in accessing their rights and remedies. They also face cultural barriers such as; intensive family responsibilities, traditions etc.

The study focuses on legal empowerment as a tool to improve both access to justice and the quality of justice. The study presents case studies across countries Afghanistan, India, Namibia, Rwanda, Mozambique, Tanzania, Morocco, Papua New Guinea and the Solomon Islands. It suggests strategies and best practices in both formal and informal justice systems. It emphasises the need for civil society organizations to engage with the informal sector to enable legal empowerment for women, and that the engagement should be a dialogic, two-way process. The legal empowerment strategies should be carefully designed looking into the context (especially in the informal sector) for improving women's access to justice. The programs can run successfully only when there is a clear knowledge about social, economic, and political context in which the informal system is operating. Moreover, development practitioners should create a sustainable legal empowerment programmes both in the formal and informal justice sectors. For making these empowerment programmes to be sustainable they should be locally owned and should be coupled with law reforms in countries at the domestic level so that the laws and regulations are in line with international legal standards on gender equality. The problems regarding women's access to justice can be successfully tackled only when process of legal empowerment is properly integrated with other initiatives which provide solution to the economic, social and cultural practices that perpetuate inequality in the community and the society at large. It will help to better address the discriminatory practices.

The Report can be accessed at [http://www.idlo.int/sites/default/files/Womens\\_Access\\_to\\_Justice\\_Full\\_Report.pdf](http://www.idlo.int/sites/default/files/Womens_Access_to_Justice_Full_Report.pdf)

The Summary of the report can be accessed at [http://www.idlo.int/sites/default/files/Womens\\_Access\\_to\\_Justice\\_Report\\_Summary.pdf](http://www.idlo.int/sites/default/files/Womens_Access_to_Justice_Report_Summary.pdf)

## Obituary

### **Fatema Mernissi, Moroccan feminist writer and sociologist passes away**

Fatema Mernissi, Moroccan writer and sociologist died of cancer on November 30 in Rabat. She was known for her pioneering work in the field of Islamic feminism. A longtime faculty member of Mohammed V University in Rabat, she wrote in Arabic, French and English, published and lectured worldwide. Her best known work, *Beyond the Veil*, examines Islam from a feminist perspective and critiques traditional, male-dominated interpretations. Her other important works include 'Islam and Democracy' and 'Dreams of Trespass.' Mernissi contributed immensely to issues of human rights and democracy in Muslim countries.

### **B.D. Sharma, a well known social activist and former bureaucrat passes away**

Dr. Brahm Dev Sharma, a committed defender of the rights of Adivasis, Girijans, Dalits, workers and farmers passed away after a prolonged illness. His fight to achieve constitutional began in 1968 in Bastar. He had almost single-handedly steered the preparation of the Bhuria Commission report, the Forest Rights Act and PESA (Panchayat Extension of Scheduled Areas Act), which enabled Gram Sabhas to govern their own resources in scheduled areas and was also instrumental for pushing through the concept of a Tribal sub plan. He also served as the Vice Chancellor of NEHU, Central University and in numerous committees of Planning Commission and National Advisory Council.