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Partners for Law in Development

Updates from the UN

- United Nations Secretary-General announces High-Level Panel on Women's Economic Empowerment
- CEDAW Committee holds discussion on Gender-related Dimensions of Disaster-risk Reduction and Climate Change, adopts 34th General Recommendation on Rural Women at 63rd session
- UN Special Rapporteur in the field of cultural rights submits report on the intentional destruction of cultural heritage as a violation of human rights
- UN High Commissioner for Human Rights emphasises the role of upholding human rights of women for an effective public health response to the Zika epidemic
- OHCHR releases Report on protection of family
- Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment releases a Report on torture of women, girls, and LGBTI persons

International Developments

Asia

- Saudi Arabia amends procedural laws to enable access to justice for women
- Pakistan rejects amendment in Child Marriage Restraint Bill to increase legal age of marriage from 16-18 years
- Indonesia bans LGBT promotion on TV and radio

Beyond Asia

- U.S.A. Supreme Court strikes part of Florida's death penalty statute as unconstitutional
- UN and African experts urge Sierra Leone's President to sign 2015 Safe Abortion Bill
- UN experts and Inter-American human rights systems urge Canadian government to address violence against indigenous women and girls
- Algeria passes law punishing domestic violence and sexual harassment
- Bohra leaders ban Female Genital Mutilation (Khatna) following Australian Supreme Court decision
- South Dakota's Governor Vetoes Anti-Transgender Student Restroom Bill
- Italian Parliament's lower house passes Civil Union Bill

National Developments

Judgements/Orders

- Bombay High Court rules that mere *talaqnama* not sufficient proof of Muslim divorce
- Delhi High court grants divorce because wife calls husband 'corrupt' and 'womaniser' in pleadings
- Delhi High Court rules that women can be 'karta' of Hindu undivided family
- Apex Court orders lifelong monthly compensation to be given to victim of sexual assault
- Supreme Court rules that 'stridhan' given at the time of marriage is not held by in-laws in 'trust' in the absence of a common residence
- Supreme Court refers curative petition concerning Sec. 377 of Indian Penal Code to a larger constitutional bench

News

- Human rights defenders Soni Sori, Malini Subramaniam and the Jagdalpur Legal Aid Group attacked in Chhatisgarh
- The socio-economic review of 2015-16 shows a dip in the sex-ratio in Gujarat
- Probe on rapes in Haryana during Jat agitation for reservations instituted by the High Court and the National Commission for Women
- Allocations under Gender budget statement 2016-17 remain unchanged from last year
- Central Government plans to launch an Umbrella Scheme for Transgender Children
- Central Government delays plan to increase quota for women in Panchayats
- Supreme Court order awaited in the Sabarimala Ayyappa temple case
- Islamic Centre in Mumbai awards certificates to first female Qazis trained by *Darul Uloom-e-Niswa*
- Mahila Samakhya set to be merged with National Rural Livelihood Mission

Resources

- UN Office of the High Commissioner for Human Rights releases resource guide on Human Rights Treaty Bodies
- UN Waters releases policy brief on discrimination in access to water and sanitation
- Fact sheet on right to development published by OHCHR

Obituary

- Berta Cáceres, environmental activist in Honduras, killed

UN Updates

United Nations Secretary-General announces High-Level Panel on Women's Economic Empowerment

The UN Secretary-General Ban Ki-moon announced the establishment of the first ever High-Level Panel on Women's Economic Empowerment to provide recommendations for the implementation of the Sustainable Development Goals 2020 Agenda. The objective of the Panel is *'to improve economic outcomes for women and promote women's leadership in driving sustainable and inclusive, environmentally sensitive economic growth.'* As part of its mandate, the Panel will evolve key policy recommendations and strategies that can be implemented by governments, private sector, the UN system and other stakeholders.

The Panel is supported by the United Kingdom, the World Bank group and UN Women, and is co-chaired by Luis Guillermo Solis, President of Costa Rica, and Simona Scarpaleggia, CEO of IKEA Switzerland. They will be joined by the leaders of the International Monetary Fund, World Bank Group, UN Women and a diverse range of eminent gender and equality actors, economics experts, academics, trade union leaders, business and government representatives from all regions.

Source: <http://www.unwomen.org/en/news/stories/2016/1/wee-high-level-panel-launch>

CEDAW Committee holds discussion on Gender-related Dimensions of Disaster-risk Reduction and Climate Change, adopts 34th General Recommendation on Rural Women at 63rd session

The CEDAW Committee convened its 63rd session from 15 February to 4 March 2016, where it held a half-day general discussion on Gender-related Dimensions of Disaster-Risk Reduction and Climate Change, towards elaborating a general recommendation on the subject. Taking notice of the disproportionate impact of natural disasters and climate change on women, the discussion emphasized the need for gender equality and women's empowerment in its response. Further, it stressed on the imperative to overcome gender stereotypes in pursuing the three principles of prevention, reduction and resilience.

Following up from the sixty-second session, the Committee also adopted the General Recommendation 34 on the rights of rural women [*PLD Newsletter Vol.8(VI) November-December 2015*]. The Recommendation analyses the scope of state obligation on the rights of rural women with respect to participating and benefiting from rural development, accessing health care services, adequate living conditions, education and employment. The recommendation elaborates on the parameters of state obligation relating to the rights of rural women in land and natural resources, political and public life, and economic and social life.

Source:

[http://www.unog.ch/unog/website/news_media.nsf/\(httpNewsByYear_en\)/372C4B0BA9FEB377C1257F68004822A7?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/372C4B0BA9FEB377C1257F68004822A7?OpenDocument)

General Recommendation No.34 on Rural Women can be accessed here:
http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_7933_E.pdf

UN Special Rapporteur in the field of cultural rights submits report on the intentional destruction of cultural heritage as a violation of human rights

Soon after assuming office as Special Rapporteur in the field of cultural rights [*PLD Newsletter Vol.8(V) September-October 2015*], Karima Bennouna submitted her first report to the Human Rights Council at its thirty-first session, framing the intentional destruction of cultural heritage as a form of human rights violation. The Report carries forward the work of the previous Special Rapporteur on the subject, paying particular attention to the relationship between individuals and collectivities, and between the universality of cultural rights as distinct from cultural relativism. Such an analysis assumes importance in the face of mass destruction of cultural heritage in conflict and non-conflict situations around the world.

By way of preliminary recommendations, the report calls upon states to ensure the right of all individuals to practice their cultural rights, including by dissenting and disempowered individuals within groups. It also calls upon states to ensure the full participation of women to access, contribute to and participate in all aspects of cultural life, including in identifying and interpreting cultural norms.

The Report can be accessed here: <http://www.wunrn.org/pdf/hrc2.pdf>

UN High Commissioner for Human Rights emphasises the role of upholding human rights of women for an effective public health response to the Zika epidemic

In the midst of a Zika fever epidemic in Latin American countries, which has led the World Health Organization to declare a Public Health Emergency of International Concern, the UN High Commissioner for Human Rights emphasized that a public health response must uphold the human rights of women to be effective.

Apart from causing fever and rash, the Zika virus transmits from mother to foetus, leading to newborn microcephaly, a kind of neurodevelopmental disorder. Several countries, including Colombia, Ecuador, El Salvador and Jamaica have responded by advising women to postpone their pregnancies. The High Commissioner for Human Rights reminded governments that such a response “*ignores the reality that many women and girls simply cannot exercise control over whether or when or under what circumstances they become pregnant, especially in an environment where sexual violence is so common.*” He reiterated that a public health response must uphold sexual and reproductive rights of women, by ensuring that men, women and adolescents have access to comprehensive sexual and reproductive health services include contraception, emergency contraception, maternal healthcare and safe abortion services to the full extent.

Source:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17014&LangID=E>

OHCHR releases Report on protection of family

The Human Rights Council in its resolution 29/22 adopted in July 2015, had requested the office of United Nations Human Rights Office of the High Commissioner (OHCHR) to prepare a report on the (i) impact of the implementation of States of their obligations under relevant provisions of international human rights law with regard to protection of the family, (ii) contribution of families in realizing the right to an adequate standard of living for their members through their role in poverty eradication and achieving sustainable development [*PLD Newsletter Vol.8(III) May-June 2015*]. Contributors to the report include 24 States, 81

civil society organizations, several United Nations agencies and other inter-governmental organizations and national human rights organizations.

The Report titled 'Protection of the family: Contribution of the family to the realization of the right to an adequate standard of living for its members, particularly through its role in poverty eradication and achieving sustainable development'. The Report noted that the review on international human rights law and practices illustrate the potential contribution of families to the well-being and development of their members as well as the society. The Report also noted the role of families in sustainable development and it being grounded in several elements, including the need to recognize the diverse and changing norms of family institutions keeping in mind the different social, cultural and economic and characteristics of every society. The 2030 Agenda for the Sustainable Development was noted to be the latest expression of existing international consensus which aims at committing States to promote cohesive families as part of an integrated and comprehensive approach to sustainable development.

Source: <http://www.ohchr.org/EN/HRBodies/HRC/Pages/ProtectionFamily.aspx>

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment releases a Report on torture of women, girls, and LGBTI persons

The Special Rapporteur released a Report in which it assesses the applicability of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment in international law to the unique experiences of women, girls and lesbian, gay, bisexual, transgender and intersex persons. The Report covers all countries, irrespective of the fact whether a State has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

This Report was prepared pursuant to United Nations Commission on Human Rights's decision in its resolution 1985/33 to appoint an expert, a special rapporteur, to examine questions relevant to torture. The mandate was extended for 3 years in the Human Rights Council resolution 25/13 in March 2014. The Report recommended that States must repeal all laws that support the discriminatory and patriarchal oppression of women, inter alia laws that exclude marital rape from the crime of rape or grant pardon to rapists who marry their victims and laws that criminalize adultery. The Report also recommended to States must decriminalize same-sex relationships between consenting adults and repeal all laws that criminalize person on the basis of their actual or perceived sexual orientation, gender identity and/or expression. The Report also called on for appropriate framework for identification and prosecution of trafficking related human rights violations and treat fairly the LGBT persons in detention.

Source: <http://www.ohchr.org/EN/Issues/Torture/SRTorture/Pages/SRTortureIndex.aspx>

You can access the Report at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/000/97/PDF/G1600097.pdf?OpenElement>

International Developments

Asia

Saudi Arabia amends procedural laws to enable access to justice for women

The Ministry of Justice in Saudi Arabia has made new rules intended to simplify legal procedures for female claimants. The legal system obliges plaintiffs to file lawsuits at courts in locations where the defendants lived. Women have been exempted from this rule as they are no longer required to travel to the defendant's hometown to file a case relieving them of the burden of travelling to claim justice. They can file a case in their own area irrespective of whether or not the defendant also resides there. The other changes include giving women priority in cases of alimony and custody.

Source: <http://saudigazette.com.sa/saudi-arabia/new-policies-simplify-court-procedures-for-women-says-nshr/>

Pakistan rejects amendment in Child Marriage Restraint Bill to increase legal age of marriage from 16-18 years

The National Assembly's Standing Committee on Religious Affairs and Interfaith Harmony has rejected the "child marriage restraint" bill after the Council of Islamic Ideology dubbed it as "anti-Islamic" and "blasphemous." Introduced by a member of the ruling Pakistan Muslim League, the bill sought to increase the legal age of marriage from 16-18 years and to impose harsher penalties to those who arrange for child marriages. The original law stipulates the age of marriage at 16 for women and 18 for men but Pakistani religious scholars believe it is not in accordance with Islamic teachings which has been widely criticised by civil society organisations.

Source: <http://www.aljazeera.com/news/2016/01/pakistan-child-marriage-160118062004700.html>

Indonesia bans LGBT promotion on TV and radio

The backlash against Indonesia's LGBT community continues with the Indonesian Broadcasting Commission (KPI) issuing bans on campaigns related LGBT issues on television and radio. KPI officials were joined by the Indonesian Child Protection Commission in saying that any content that might encourage children and adolescents to imitate or justify LGBT behaviours should be blocked. Religious groups had earlier in February issued a "fatwa" on homosexuality, transgender and "adultery practices", labelling them as forbidden. In addition to this, Indonesia's Communication and Information Ministry has also asked Facebook and WhatsApp to block LGBT-themed emojis and stickers in Indonesia. Amidst this crackdown on LGBT content, the communications and Information Minister is reportedly drafting a bill to comprehensively ban LGBT "propaganda".

Source: <http://qz.com/619022/indonesias-top-muslim-council-is-pushing-to-make-homosexuality-illegal-nationwide/>
<https://www.hrw.org/news/2016/02/16/dispatches-indonesia-censors-lgbt-radio-and-tv>
<http://www.digitaltrends.com/social-media/indonesia-gay-emojis-ban/>

Beyond Asia

U.S.A. Supreme Court strikes part of Florida's death penalty statute as unconstitutional

The U.S. Supreme Court by 8-1 vote declared Florida's death penalty statute unconstitutional. Under this statute, a 12-member jury heard the evidence and recommended a sentence, while the final decision lay with the judge. The case, *Hurst v. Florida* concerned Timothy Lee Hurst who was convicted of murdering his co-worker. He was sentenced to death in 2000. Thereafter, the Supreme Court of Florida ordered a re-sentence following which a second jury in the lower court recommended a death sentence by a 7-5 vote in 2012. The judge then independently considered the evidence and concluded that Timothy should be executed.

Justice Sotomayor in the U.S. Supreme Court noted that the procedure was unconstitutional and violated the Sixth Amendment which requires a jury and not a judge to find each fact necessary to impose a sentence of death and that a jury's mere recommendation is not enough. The decision has not struck down the death penalty in Florida, but only found violations in procedural rules. The decision now lies with the legislators in Florida whether they would rewrite the current statute or abolish death penalty altogether. Justice Samuel while dissenting spoke of a Florida precedent which ruled that juries and not judges make the factual findings to support death sentences. He said that in any case this case did not require striking down the Florida system of granting death penalty and that the courts should follow its precedents.

However, the impact of the decision on the inmates currently on Florida's death row is still uncertain. It is clear, though, that defendants awaiting trial, and those awaiting sentence, now potentially face a maximum sentence of life imprisonment.

The judgment is available at: http://www.supremecourt.gov/opinions/15pdf/14-7505_5ie6.pdf

Source: <http://www.nytimes.com/2016/01/13/us/politics/supreme-court-death-penalty-hurst-v-florida.html>

<http://www.orlandosentinel.com/news/breaking-news/os-florida-death-penalty-struck-down-20160112-story.html>

UN and African experts urge Sierra Leone's President to sign 2015 Safe Abortion Bill

A group of United Nations and African Commission on Human and Peoples' Rights Commission human rights experts urged the President of Sierra Leone, Ernest Bai Koroma, to sign the 2015 Safe Abortion Bill for it to enter into force without further delay. The 2015 Safe Abortion Bill, passed by Parliament in December 2015, is aimed at ensuring women's and adolescents' access to safe services regarding abortion and authorizes the termination of a pregnancy under any circumstances up to 12 weeks and in cases of incest, rape, fetal impairment as well as when the woman's health is at risk, up to 24 weeks.

The group warned that reluctance towards the decriminalization of abortion by some parties, including religious organizations, has resulted in delays in signing the Bill, as the President sent it back to Parliament for reconsideration. The group and experts also called on the President to respect its obligations under international and regional human rights law by ensuring access to sexual and reproductive health and rights for women, including maternal health care and access to all methods of contraception.

Source:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16994&LangID=E>

UN experts and Inter-American human rights systems urge Canadian government to address violence against indigenous women and girls

Six human rights experts from the UN and Inter-American Human Rights systems urged the Canadian government to address the root causes of extreme violence and discrimination against indigenous women and girls in Canada. The experts had also taken part in a two-day symposium at the University of Ottawa with indigenous women leaders and their allies on murders and disappearances of Indigenous women and girls to discuss the possible framework and structure of the inquiry.

Canada had faced criticism from the UN and the Inter-American Commission on Human Right (IACHR), which conducted their own inquiries, for its inaction to address the disappearances and murders of Indigenous women and girls, and the neglect of their human rights. Both the UN and the IAHR, as well as indigenous communities and advocacy groups, had long called for an inquiry. In December 2015, the Canadian government announced a national inquiry, suggesting a new recognition of the crisis.

In this address, an appeal was made by the experts in Ottawa in a key meeting with three Canadian ministers (Ministers for Justice, Indigenous and Northern Affairs and the Status of Women) charged with designing the official national inquiry into the murder or disappearance of nearly 1,200 indigenous women and girls over past three decades in Canada. The address also pointed out that the enquiry must be participatory, should showcase strong commitment to international norms of which Canada is a part of along with strong application of domestic laws. Two members of the UN Committee on the Elimination of Discrimination against Women (CEDAW), which carried out its own inquiry law year had pointed out that Canada's failure to protect indigenous women and to provide them with effective remedies under the law was a grave violation of the Convention.

Source:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17004&LangID=E>

Algeria passes law punishing domestic violence and sexual harassment

Algeria's Parliament passed a law criminalizing domestic violence against women and sexual harassment, which had earlier been blocked in the Senate for eight months. As per the legislation, any husband injuring his wife can be punished from 10 to 20 years in prison depending on the extent of injuries. It also includes imprisonment of up to 2 years for any husband who acts to "dispose of the assets or financial resources" of his wife.

The opposition to this law came from various conservative groups as well as members of the Parliament, on the basis that it would lead to a breakdown of marriages since men would be deterred from marriage. Justice Minister Tayeb Louha defended the legislation within the parameters of Islamic Law, stating that the Quran protects the honor of women and does not permit violence against them. The passing of the law is a victory for many feminist groups who have fought for many years for this legislation. It was noted by the officials that 7,500 cases of violence against women reported in 2015 only represented about 20% of the real number since many women choose to stay silent about violence within their families.

Source: <http://www.middleeasteye.net/news/algeria-passes-law-banning-domestic-violence-against-women-596359589>
<http://www.startribune.com/new-algerian-law-punishes-violence-against-women/367384881/#>

Bohra leaders ban Female Genital Mutilation (Khatna) following Australian Supreme Court decision

Following the Australian Supreme Court decision in November 2015 convicting three high-ranking Bohra clerics to imprisonment for conspiring to undertake *Khatna* (female genital mutilation) of two 7 year old Bohra girls, the Australian Bohra Jamaat has issued a public announcement banning Female Khatna. Khatna involves clipping of clitoris of girls and women from the Bohri community, aimed to prevent enjoyment of sexual pleasure.

Anjuman-e-Burhani, a trust managing Bohra affairs in Australia, said in its statement that, “Khafd (also known as khatna or female circumcision) has recently been interpreted by the Supreme Court of New South Wales (NSW) to be within the meaning of Female Genital Mutilation (FGM) as defined in Section 45 of the Crimes Act of NSW. It is likely that the practice will be interpreted to fall within the specific laws in relation to FGM in other states or territories of the Commonwealth of Australia. Consequently, *khatna* is illegal, whether it is carried out within any of the states of Australia or overseas.”

The practice of FGM has been banned in several countries across the world. 19 countries in Africa have banned FGM including Nigeria [*PLD Newsletter Vol. 8 (III) May – June 2015*], Gambia [*PLD Newsletter Vol. 8 (VI) November – December 2015*] and Egypt [*PLD Newsletter Vol. 7 (II) March – April 2014*]. In addition to preventing female sexuality and pleasure, FGM has long term psychological impact as well as physical risks such as haemorrhagic shock, bleeding which might lead to death and infection.

Source: <http://muslimmirror.com/eng/after-australian-govt-action-bohra-leaders-take-a-u-turn-on-female-khatna/>
<http://www.thequint.com/women/2016/02/20/hope-for-an-end-to-fgm-uk-australia-ban-the-barbaric-practice>

South Dakota’s Governor Vetoes Anti-Transgender Student Restroom Bill

The South Dakota state senate in U.S.A. passed a Bill by a 15-20 vote to ban transgender students from using school restrooms as per their self-identified gender identity. After the Bill was passed by the Senate, South Dakota Governor Dennis Daugaard vetoed the bill. In his veto message, Daugaard said that this bill does not address any pressing issue and that such decisions were best left to local school officials.

Passing the bill would have meant that trans* individuals would be required to use the facilities designated for the gender they were assigned at birth. Many activists and lawyers welcomed this move by the Governor. Some argued that the law would have resulted in strict action against the school. The American Civil Liberties Union also had earlier threatened legal action if the bill was signed. Furthermore the Bill also violated Title IX of the Education Amendments of 1972, which prohibits sex discrimination in schools. The U.S. Department of Education had ruled that Title IX, in prohibiting sex discrimination, applies to discrimination based on gender identity.

Source: <http://www.vox.com/2016/2/17/11032100/south-dakota-transgender-discrimination>

<http://www.advocate.com/transgender/2016/3/01/breaking-south-dakota-gov-vetoes-anti-trans-bathroom-bill>

Italian Parliament's lower house passes Civil Union Bill

The Civil Union Bill, which was earlier adopted in the Italian Senate by 173 votes in favour against 71 votes, was passed by the lower house of the Parliament. This will allow same-sex couples to enter into civil unions that provide legal rights similar to those of married couples. Earlier a High Court in Italy had ruled that same-sex couples would not be entitled to marriage rights under the country's constitution [*PLD Newsletter 8(1) January – February 2015*]. Although this is a significant victory for LGBTIQ activists after years of getting the Bill passed, many have expressed disappointment as the Bill was watered down before its passage. Among the provisions which were struck down from the Bill was granting of parental rights to non-biological parents in same-sex union, which was known as the 'stepchild' provision. Another provision which was struck down was the one addressing the requirement for "faithfulness" in the relationship after conservatives complained that the language tried to mimic marriage vows.

The bill gives same sex couples the right to receive a deceased partner's pension, the right to take a partner's name, inheritance rights and next-of-kin rights in medical emergencies, all only allowed in marriage so far. This compromise (of removing the 'stepchild provision'), many activists argue ignores the existence and needs of children of same sex couples.

Source: <http://www.reuters.com/article/us-italy-gaymarriage-idUSKCN0VY2DT>
<http://www.theguardian.com/society/2016/feb/25/italy-passes-watered-down-bill-recognising-same-sex-civil-unions>

National Developments

National Judgments/Orders

Bombay High Court rules that mere *talaqnama* not sufficient proof of Muslim divorce

The Bombay High Court in *Shakil Ahmad Jalaluddin Shaikh vs. Vahida Shakil Shaikh* has held that, mere existence of a document like *talaqnama*, is not sufficient to render a valid *talaq*.

The case pertained to an appeal before the High Court against an order of the Sessions Court granting maintenance to the woman under S.125, CrPC. The husband contended that he had validly divorced his wife, and under the Muslim Women (Protection of Rights of Divorce) Act, 1986, he had no obligation to give any maintenance to the wife beyond the *iddat* period.

The High Court, however, rejected this contention and held that a document such as the *talaqnama* is insufficient for a valid divorce under Muslim law, unless it can be proved that the necessary preconditions of arbitration and conciliation were also undertaken, as per the Supreme Court decision in *Shamim Ara v. State of UP*. In this case, there was no material to prove that arbiters or conciliators were appointed. The Court therefore upheld the Sessions Court order granting maintenance to the wife.

Citation: *Shakil Ahmad Jalaluddin Shaikh v. Vahida Shakil Shaikh*, W.P.2201/2007, Bom. HC

Source: <http://www.livelaw.in/talaqnama-not-sufficient-proof-of-muslim-divorce-bombay-hc/#.VqYaG-jjpzA.mailto>

Delhi High court grants divorce because wife calls husband ‘corrupt’ and ‘womaniser’ in pleadings

In a recent judgment, the Delhi High Court dismissed an appeal by a woman against a divorce order granted by the family court. In her written statement before the family court, she had alleged that her husband was a ‘corrupt officer’ and a ‘womaniser’. The High Court observed that the statements made by the wife were not in the heat of the moment but in a pre-meditated and calculated manner, in legal proceedings and that there was no cogent evidence to prove the same.

Stating that to be called a womanizer and corrupt by his own spouse, would have caused such pain and suffering to the respondent as would lead him to entertain the apprehension that it would not be conducive to his physical and mental wellbeing, the High Court upheld the order of the divorce.

Citation: AS v. SNS, MAT. APP. 54/2009

Source: <http://www.livelaw.in/husband-is-entitled-to-seek-divorce-from-a-wife-who-calls-him-womanizer-in-her-pleadings-without-leading-any-cogent-evidence-delhi-hc-2/>

Delhi High Court rules that women can be ‘karta’ of Hindu undivided family

The Delhi High Court ruled that the eldest woman can be a *karta* of a Hindu Undivided Family (HUF). In this case, after the death of the four brothers in an HUF, the eldest son of a younger brother declared himself to be the next *karta*. This was challenged by the daughter of the eldest brother, who was the senior-most member in the family. The respondent argued that the 2005 Amendment to the Hindu Succession Act gave equal rights to daughters in succession to ancestral property, but not management of the estate.

Rejecting the contention, High Court held that “[t]he amendment recognises equal rights of inheritance to Hindu males and females, its objective is to recognise the rights of female Hindus and to enhance their rights to equality apropos succession. Therefore, courts would be extremely vigilant in any endeavor to curtail or fetter statutory guarantee of enhancement of their rights. Now that this disqualification has been removed by the 2005 amendment, there is no reason why Hindu women should be denied the position of a *karta*”.

Citation: Sujata Sharma v. Manu Sharma, 2015 SCC OnLine Del 14424

Source: <http://www.dnaindia.com/india/report-in-a-landmark-verdict-delhi-hc-rules-hindu-women-can-be-karta-of-a-family-2172583>

Apex Court orders lifelong monthly compensation to be given to victim of sexual assault

In a recent case, the apex court convicted a man for the offence of rape, while also ordering the state to pay a sum of Rs.8,000/- per month as compensation to the victim for the rest of her life. In this case, the victim was a blind girl who had sexual intercourse with the accused on the condition that he will marry her. However, when she became pregnant, the accused abandoned her.

The Supreme Court recognised that the victim was in a vulnerable position as she had no family support and therefore, a duty was cast upon the State to look after her. Since she is not

in a position to keep and manage a lumpsum amount on account of her disability, the State should give her a monthly amount as compensation for rehabilitation.

Citation: Tekan @Teka Ram v. State of Madhya Pradesh, Cr. App. No. 884/2015

Source: <http://blog.scconline.com/post/2016/02/12/adequate-victim-compensation-crucial-in-case-of-rape-sexual-exploitation/>

Supreme Court rules that ‘stridhan’ given at the time of marriage is not held by in-laws in ‘trust’ in the absence of a common residence

In a recent case, the father of a deceased woman had lodged a complaint under S.6, Dowry Prohibition Act, against her husband and in-laws for return of dowry articles. Under S.6, whoever receives dowry on behalf of a woman, is bound to return the dowry articles to her within stipulated time, and after her death, to her parents in the absence of children.

In the instant case, the woman was residing with her husband in Bangalore, while her in-laws stayed separately in Vizianagaram. The Apex Court held that since the in-laws were not residing with the couple, it could not be said that they received the articles on behalf of the woman, and thereby they were not holding it in trust for her.

Citation: Bobbili Ramakrishna Raju v. State of Andhra Pradesh

Source: <http://www.livelaw.in/dowry-given-during-wedding-time-does-not-raise-presumption-that-it-was-entrusted-to-parents-in-law-of-the-bride-to-attract-the-offence-under-dowry-act-sc/>

Supreme Court refers curative petition concerning Sec. 377 of Indian Penal Code to a larger constitutional bench

The Supreme Court after hearing the curative petition on sec. 377 in an open court has decided to refer it to a larger bench. The court in its order referred the matter to constitutional bench comprising of five Hon’ble Judges of the Supreme Court stating that the issues raised in the petition are of considerable importance, public interest and include constitutional dimensions. Earlier in the year 2009 in the case of Naz Foundation vs. the Government of NCT of Delhi, High Court found section 377 violating Article 14, 15 and 21 and unconstitutional. But in the year 2013 the Supreme Court of India in Suresh Kumar Kaushal vs. Naz Foundation held that section 377 of IPC does not violate the constitution. The Supreme Court after dismissing the review petition was approached with the curative petition as a last option for the gay rights activists.

Source: http://www.telegraphindia.com/1140423/jsp/nation/story_18268612.jsp#.VvJsS9J97IXfile:///D:/Current%20Data/Desktop/SUPREME_COURT_Curative_Order_Feb2_2016.pdf

News

Human rights defenders Soni Sori, Malini Subramaniam and the Jagdalpur Legal Aid Group attacked in Chhatisgarh

The past few months have witnessed a spate of severe attacks on human rights defenders, especially women, in Chhatisgarh. Soni Sori, tribal rights activist against state atrocities, was attacked by unknown persons with an acid-like chemical substance, causing severe burn injuries on her face. Malini Subramaniam, journalist reporting on human rights violations against tribals in Chhatisgarh, was harassed by the local vigilante group Samajik Ekta Manch

before being forced to leave Bastar. Stones were pelted at her house and her vehicle, after which the police summoned her landlord compelling him to evict her from the house. The Jagdalpur Legal Aid group (JagLAG), which provides *pro bono* legal services to tribals in the region, and who were also counsel for Malini Subramaniam, were similarly threatened and forced to finally leave Bastar. Previously, the team of JagLAG had met the inspector general of police and superintendent of police against the harassment of landlords and other related people. Despite the assurances from the senior police officials that lawyers and journalists would not face any difficulty in carrying their duty these incidences have occurred. JagLAG members are also facing difficulty in going to the court.

Source: <http://forbesindia.com/article/30-under-30/guneet-kaur-isha-khandelwal-and-parijata-bhardwaj-bringing-law-to-the-land/39601/1>
<http://thewire.in/2015/10/06/in-chhattisgarh-pressure-mounts-on-lawyers-taking-up-cases-of-tribal-prisoners-12482/>
<http://thewire.in/2016/02/08/police-refuse-to-file-fir-after-attack-on-journalist-in-chhattisgarh-21118/>
<http://thewire.in/2016/02/19/activists-allege-state-persecution-for-flagging-human-rights-violations-in-chhattisgarh-22100/>

The socio-economic review of 2015-16 shows a dip in the sex-ratio in Gujarat

As against an increase in the national average by 10 points from 2001 to 2011, the sex ratio in Gujarat dipped from 920 to 919, according to the socio-economic review of 2015-16 presented before the Gujarat State Assembly. Gujarat ranked at the 22nd position among 28 states in the national census with regard to the sex-ratio. The review states that the sex-ratio has declined more in urban areas than rural areas. Tribal districts of Tapi, Dang and Dahod have the best sex ratio, and urbanized districts such as Surat and Ahemdabad have the worst sex-ratios.

Source: <http://www.outlookindia.com/newswire/story/sex-ratio-dips-in-gujarat-ranks-22nd-in-india/932733>

Probe on rapes in Haryana during Jat agitation for reservations instituted by the High Court and the National Commission for Women

The Jat community in Haryana started fresh agitations for reservations under the OBC category in employment and education. During these protests numerous incidences of violence took place. At least ten women who were crossing through Haryana, were indiscriminately beaten up and raped by at least forty Jat protesters and their vehicles were torched. The reports claimed that the women who were raped in the fields were rescued by the villagers later, who also provided them with clothes.

When the women approached the police, they were asked to not lodge an FIR to protect their 'honour'. However, media reports led the Punjab and Haryana High Court to take *suo moto* cognizance in the matter, and ordered a high-level probe to investigate. The National Commission for Women also commenced an independent probe into the matter. The police denied the occurrence of sexual violence in its status report before the divisional bench of the Punjab and Haryana High Court. Soon thereafter, however, victims started coming forth to

complain of the incidents. This later led to the police initiating serious investigation, and offering measures to protect the identities of the victims in case they wish to file FIRs.

There were other incidences of violence also where the properties and life of people belonging to other castes were harmed. In an incidence of violence at Jhajjar four non-dalit men who belonged to the OBC community were beaten up and murdered by the Jats. Shops and properties belonging to Sainis, Nias and Punjabis were also burnt and harmed.

Source: <http://www.tribuneindia.com/news/nation/women-commuters-violated-by-highway-goons/200406.html>

<http://www.thehindu.com/news/national/haryana-police-file-status-report-denying-murthal-rapes/article8296298.ece>

<http://www.tribuneindia.com/news/haryana/delhi-woman-alleges-gang-rape-in-murthal-haryana-police-file-fir/202349.html>

<http://indianexpress.com/article/india/india-news-india/jat-quota-stir-turns-into-inter-caste-violence-4-non-jats-killed-shops-burnt-as-per-owner-caste/>

<http://www.tribuneindia.com/news/haryana/delhi-woman-alleges-gang-rape-in-murthal-haryana-police-file-fir/202349.html>

Allocations under Gender budget statement 2016-17 remain unchanged from last year

The allocations for women in the Gender budget statement 2016-17 have remained unchanged at 4.5% of the budget. But there have been significant changes in the expenditure arrangement. The allocation for National Mission for Empowerment of Women has doubled to Rs. 50 crore but there is no significant increase for the Ministry of Women and Child Development and National Commission for Women. The allocations for schemes related to trafficking and empowerment of adolescent girl children have increased but no budgetary allocation is made for the schemes meant to implement the Domestic Violence Act. There has been a decline in the allocation of budget for Integrated Child Development Scheme and Indira Gandhi Matritva Sahyog Yojana (IGMSY) which will adversely affect the participation of women in the labour market and will increase their care work. The budgetary allocation for Indira Gandhi Matritva Sahyog Yojana (IGMSY) is insufficient to be implemented in all districts across the country. The budgetary allocations for MNREGA scheme, which is one of the largest employers of women in the unorganized sector, was granted Rs 38,500 crore as against the need of 47,549 crores because a substantive portion of the fund will be spent in liability against the 21 states. The center owes Rs. 5595 crores to 21 states under the MNREGA scheme that was spent for the work done under the MNREGA scheme. Keeping in mind the level of inflation and to maintain the previous year level of employment the amount sanctioned is not adequate. Moreover, budgetary allocations for Nirbhaya schemes, shelter homes and one-stop crisis centres have been increased. The budgetary allocation for shelter homes was 52 crores in 2015-16 but this year it has been increased to 100 crores. The allocations for establishment of one stop crisis center have increased from 13 crores to 75 crores. An additional sum of 500 crores has been added to the previous sum of 3000 crores allotted to the Nirbhaya Fund for meeting additional requirements.

Sources: <http://pib.nic.in/newsite/PrintRelease.aspx?relid=137028>

<http://timesofindia.indiatimes.com/budget-2016/women/Budget-2016-To-really-transform-India-focus-on-women-first/articleshow/51201811.cms>

<http://www.livemint.com/Home-Page/h0s3Phn00d6v2VK2DHio0L/Budget-2016-Mixed-bag-for-women.html>

Central Government plans to launch an Umbrella Scheme for Transgender Children

The central government is planning to launch a scheme for the transgender community in the next financial year with an aim to provide better education facilities to transgender children, which includes pre-matric and post-matric scholarship and vocational training. The scheme also extends financial aid to those who are unemployed, and pension for those within the 40-60 year age bracket. In addition, the scheme includes monetary benefits for families that have transgender children. Apart from that the umbrella scheme provides for the The scheme has been made after receiving inputs from various states. Till now the government did not have adequate plans to support the transgender community.

Source: <http://timesofindia.indiatimes.com/india/Centre-to-launch-umbrella-scheme-for-transgenders/articleshow/50752000.cms>

Central Government delays plan to increase quota for women in Panchayats

Minister for Rural Development and Panchayati Raj, Birender Singh, declared the intention of the government to introduce 50% reservation for women in panchayati raj institutions, up from the current 33% reservation. The UPA government previously had introduced the 110th Constitutional Amendment for this purpose, which was tabled in the Lok Sabha but which later lapsed. The constitutional amendment will reserve the ward for women for two five year terms to ensure continuity of development processes. Currently, the rotation of ward reserved for women happens after every term. Mr. Singh declared that the amendment will be brought in the budget session of Parliament in 2016, which did not eventually happen.

States such as Bihar, Himachal Pradesh, Madhya Pradesh and Uttarakhand have already provided 50 % reservation to women. Concurrently, Bubnal village in Maharashtra elected an all-woman Panchayat six months ago, for the first time in India.

Source: <http://www.thehindu.com/todays-paper/tp-national/50-quota-for-women-in-panchayats-planned/article8195602.ece>
<http://www.thehindu.com/todays-paper/tp-national/maharashtra-gets-first-allwomen-panchayat/article8254936.ece>

Supreme Court order awaited in the Sabarimala Ayyappa temple case

The Sabarimala Ayyappa temple has since years restricted entry of women between 10 to 50 years of age. This matter was taken to the Supreme Court by Indian Young Lawyers Association and five women advocates asking to uplift the ban on entry of women in temple without any age barrier. At a hearing in January, 2016 the Court asked the Travancore Devaswom Board the reason behind not letting women enter into the shrine and proof to show that women did not enter the shrine. The court also said that no temple or its governing body can prohibit the women from entering the shrine. This ban on entry of women was imposed by the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules, 1965. The constitutionality of the ban was challenged in the Kerala High Court but it had upheld the ban in 1991 and had directed the Devaswom Board to implement it.

The Bombay High Court is also awaiting the Supreme Court judgment in this case before deciding in the case of Haji Ali Dargah. The Haji Ali Trust had recently decided to ban the entry of women in the sanctum sanctorum of the Dargah. Thereafter a PIL was filed in the Bombay High Court challenging the decision (PLD-Newsletter-Vol.8-IV-Jul-Aug-2015).

Also, in Pune women trying to enter Shani Signapur temple to protest the ban imposed on women visiting the temple were stopped by police and villagers. The tradition of banning women from the temple has been followed since 400 years.

Source: <http://www.dailyo.in/politics/sabarimala-right-to-pray-happy-to-bleed-shani-shingnapur-haji-ali-indian-women/story/1/8789.html>

<http://www.thehindu.com/news/national/do-you-have-a-constitutional-right-to-prevent-women-entry-at-sabarimala-sc-to-devaswom/article8092924.ece>

<http://www.ndtv.com/mumbai-news/order-on-womens-entry-in-haji-ali-dargah-after-supreme-court-verdict-on-sabarimala-1267214>

<http://www.thehindu.com/news/national/ban-on-womens-entry-call-for-1991-sabarimala-case-records-says-kerala/article8121647.ece>

<http://indianexpress.com/article/blogs/shani-shingnapur-sabarimala-temple-entry-protest-rights/>

Islamic Centre in Mumbai awards certificates to first female Qazis trained by *Darul Uloom-e-Niswa*

For the first time in India, the certificate of *qaziyat*, was awarded to two Muslim women, designating them as *qazis*. The certificate was awarded by the Islamic Center in Mumbai to Afroz Begum and Jahan Ara from Jaipur, who were trained by the *Darul Uloom-e-Niswa* run by the Bhartiya Muslim Mahila Andolan. They were trained in the rights of women under the *Quran*, *Hadith* and Indian Constitution. Their methodology emphasises analysing the background details of both parties to the marriage before solemnizing it, to prevent possibilities of *talaq* as far as possible, and to ensure that the rights of women related to marriage, *talak* and *meher* are not violated. This was opposed by some religious conservative clerics in Rajasthan, but the *Darul-Uloom* in Deoband defended the female *Qazis*, arguing that Islam does not discriminate between men and women with regard to education and gaining knowledge. Muslim women thus can become Qazis and have the right to become religious scholars.

Source: <http://timesofindia.indiatimes.com/city/jaipur/Breaking-the-glass-ceiling-First-female-Qazis-in-Rajasthan/articleshow/50885491.cms>

<http://www.thehindu.com/news/national/other-states/darululoom-deoband-backs-appointment-of-women-qazis/article8219715.ece>

Mahila Samakhya set to be merged with National Rural Livelihood Mission

The Mahila Samakhya programme is set to be merged with the National Rural Livelihood Mission, after the Central Government discontinued funding to the exemplary grassroots programme working on education and empowerment of women from marginalized communities for the last 27 years. Previously, the programme operated under the Ministry of Human Resource Development, but had autonomy in matters of its operations, which reaped significant results in increasing public participation of women, mitigating violence against women and in education. The merger with NRLM programme will affect the autonomy of the programme, since the NRLM programme has its own aims and structures, which treats women as mere beneficiaries. The authority to design and structure future direction of the programme will also lie with the NRLM, which imperils the independent structures created

by Mahila Samakhya, such as the Nari Adalat, Mahila Samakhya Kendras and Sanjivini Kendras.

Source: <http://timesofindia.indiatimes.com/india/Will-Mahila-Samakhya-plan-lose-its-edge-after-merger/articleshow/50894517.cms>

Resources

UN Office of the High Commissioner for Human Rights releases resource guide on Human Rights Treaty Bodies

The UN Office of the High Commissioner for Human Rights released a resource guide explaining the human rights treaty body mechanisms in an easy and accessible manner. It traverses themes such as the human rights expert committees, the mechanics of the review processes before committees, the reporting cycle for states under different human rights treaties. It also analyses the role of governments, civil society groups, national human rights institutions, and UN bodies through the reporting and review processes. Furthermore, it also explains the process of filing individual complaints apart from the reporting and review mechanism. The guide will be helpful for civil society members to understand and contribute to the functioning of the Human Rights treaty bodies.

The guide can be accessed here:

http://www.ohchr.org/Documents/HRBodies/TB/TB_booklet_en.pdf

UN Waters releases policy brief on discrimination in access to water and sanitation

UN Waters, an inter-agency entity of the United Nations to support states in realising their water-related goals under the older Millennium Development Goals, released a policy brief to suggest policy initiatives to states regarding their obligation to provide access to water and sanitation without discrimination. It identifies income disparities, formal and informal infrastructure of housing, as well as gender, caste etc. as factors that inhibit access to water and sanitation. It also finds that recognizing access to drinking water and sanitation in the national legislation as a basic fundamental right by 94 countries, has had little impact on marginalized sections of society, due to the lack of adequate data collection, proper implementation and monitoring mechanisms.

It identifies the gendered nature of access to water and sanitation. In most parts of the world, collecting water is primarily the responsibility of women, who have to travel long distances to do so, and risk facing sexual and physical violence in the process. The threat of violence is further exacerbated by the lack of access to sanitation, when women are driven to open defecation particularly at night. The impact of this on education of girls can also not be undermined, since girls often drop out due to the absence of sanitation facilities in school. Moreover, absence of sanitation facilities also impacts menstrual health, which continues to be stigmatized. Many girls have to use unhygienic sanitary methods, such as rags and newspapers because they do not have resources to resort to more hygienic methods.

The policy brief emphasizes adherence to the principle of non-discrimination and equality under international human rights law in state response on fulfilling the right to water and sanitation. This involves identification of discrimination, progressive efforts to end discrimination, law-making, adequate budgetary provisions, providing free access to water and sanitation services, and monitoring frameworks. It also emphasizes the principle of non-retrogression, which “*envisages that resources must contribute to the long-term sustainability*

of measures towards equality in service provision.” Importantly, the policy brief casts wide obligations on businesses and corporations in line with The United Nations Guiding Principles on Business and Human Rights, *“that corporations should act with due diligence to avoid infringing on the human rights of others, and to identify, prevent and address any harms that do occur.”*

The policy brief can be accessed here:

http://hrbaportal.org/wp-content/files/UN-Water_Policy_Brief_Anti-Discrimination.pdf

Fact sheet on right to development published by OHCHR

As part of its factsheet series, UNOHCHR recently released a factsheet on the right to development. It reiterates that the 1986 Declaration on the right to Development adopted by the General Assembly affirmed that the freedoms proclaimed in the Universal Declaration (such as, right to equality and right to adequate livelihood) will be realized for everyone without discrimination. It informs that the General Assembly recognized development not only in economic terms but as a comprehensive economic, social, cultural and political process which works for the constant improvement of the well-being of the people. It dismisses gross national product as the sole indicator of development, reiterating that the 1986 Declaration calls for a holistic understanding in terms of social, cultural and political indicators as well. The limited understanding of development has in fact hindered the actual aim of development which is to provide adequate standard of living for people. Because this understanding constitutes dominant economic model therefore the benefits of the economic growth was not equitably distributed among people and countries.

The factsheet can be accessed here:

http://www.ohchr.org/Documents/Publications/FSheet37_RtD_EN.pdf

Obituary

Berta Cáceres, environmental activist in Honduras, killed

Honduran environmental activist and winner of the 2015 Goldman Environmental Prize, Berta Cáceres, was shot dead at her home in the town of La Esperanza. A member of the Lenca indigenous group and co-founder of the Council of Indigenous Peoples of Honduras, Cáceres led a successful campaign against one of Central America's biggest hydropower projects of four giant dams in the Gualcarque River basin. Thereafter, she faced continuous death threats and harassment by police, soldiers, local landowners, employees from the corporations constructing the dam, on account of which she had also been granted police protection. Cáceres contribution to the struggle for the protection and promotion of human rights and for the environment is invaluable.