

Annual Newsletter Digest 2011

Partners for Law in Development



Contents

UPDATES FROM THE UN

- ❖ HRC adopts resolution on human rights violations based on sexual orientation and gender identity and releases report in light of the same
- ❖ HRC elects its first woman President
- ❖ UNGA adopts Optional Protocol providing a complaints procedure for CRC
- ❖ ILO adopts Convention on Domestic Workers

INDEPENDENT MECHANISMS AND REPORTS

- ❖ SR on the situation of Human rights defenders submits report to HRC calling for protection of women human rights defenders
- ❖ SR on VAW presents report to GA highlighting the due diligence obligation of states to 'prevent' violence against women
- ❖ SR on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health presents report to GA on impact of criminal and other legal restrictions relating to enjoyment of sexual and reproductive health

CEDAW RELATED NEWS

- ❖ CEDAW Committee issues concluding observations on the sixth and seventh periodic report of Bangladesh
- ❖ CEDAW Committee issues concluding observations on the combined fifth, sixth and seventh periodic report of Sri Lanka
- ❖ CEDAW Committee holds Consultation on a General Recommendation on Women in Conflict and Post-Conflict Situations
- ❖ CEDAW Committee grants landmark decision in maternal health case against Govt. of Brazil
- ❖ CEDAW Committee rules that Peru relax its restrictions on abortions
- ❖ Malaysian court holds that CEDAW obligations are binding
- ❖ Musawah presents thematic report to CEDAW Committee on equality in marriage and family relations- Article 16
- ❖ Tunisia Lifts Reservations on CEDAW Convention

REGIONAL HUMAN RIGHTS SYSTEMS

- ❖ The first ASEAN Lesbian, Gay, Bisexual, Transgender, Intersex and Queer People's Caucus calls on States to guarantee protection and rights to LGBTIQ

- ❖ ECHR directs Czech Republic to address unlawful sterilization of Roma women
- ❖ Inter-American court hears first ever LGBT case
- ❖ Governments have a responsibility to protect families from abuse: Inter American Commission on Human Rights

INTERNATIONAL LEGAL DEVELOPMENT

Asia

- ❖ Pakistan SC acquits three out of four accused in Mukhtara Mai gang rape case and in response, citizens seek review of judgement
- ❖ Women Parliamentarians in Pakistan succeed in passing two landmark bills providing punishment against Anti-Woman Practices and Acid Attack
- ❖ Nepal adopts National Action Plan on UN SCR 1325 and 1820
- ❖ First Female Chief Justice of Sri Lanka sworn in
- ❖ Nepal Supreme Court upholds right to abortion and access to safe and affordable abortions
- ❖ Statement of the Indian women's rights activists in solidarity with women in Sri Lanka
- ❖ Sri Lanka opposes Human Rights Commissioner for the Commonwealth
- ❖ SR on the situation of Human Rights Defenders, issues statement after India visit
- ❖ SC Iran denies divorce to a woman for disobedience to her husband and non-fulfillment of wifely duties
- ❖ Myanmar passes a law allowing for peaceful protest

Beyond Asia

- ❖ British Columbia Supreme Court upholds Canada's ban on Polygamy
- ❖ New York legalizes gay marriages
- ❖ Kansas State passes order to legalizes domestic violence citing economic constraints
- ❖ Government of Mexico apologizes for negligence in investigation of sexual crimes against women
- ❖ Apex court in Nicaragua downgrades rape to crime of passion
- ❖ France bans the full face veil in public
- ❖ Sexual assault charges against Dominique Strauss Kahn withdrawn
- ❖ Girls get equal rights to the British throne
- ❖ Three women win Nobel Peace prize for promoting peace, democracy and gender equality
- ❖ Mali adopts conservative Family Code
- ❖ Women protesters face violence during the mass protests against dictatorship regimes in West Asia and N. Africa

NATIONAL

New Law/ Amendments

- ❖ Amendments to the Dowry Prohibition Act 1961 proposed and discussed
- ❖ Parliament agrees to adopt three key elements of the Jan Lokpal Bill

Judgements/Orders

- ❖ Supreme Court holds that sex workers are entitled to a life of dignity under Article 21 and orders rehabilitation scheme for sex workers
- ❖ Supreme Court directs Chhattisgarh government to disband Salwa Judum calling it illegal and unconstitutional
- ❖ Supreme Court holds in a gang rape case that the offence is compoundable
- ❖ Supreme Court declares Khap Panchayats which decree or encourage honour killings to be 'wholly illegal'
- ❖ Supreme Court award death penalty for honor killings
- ❖ Supreme Court rejects mercy killing plea
- ❖ 2 Judge bench of the Supreme Court recommends that illegitimate children be entitled to parent's property
- ❖ Supreme Court seeks clarification of government stand on AFSPA
- ❖ Supreme Court rules that the Hindu daughter has equal rights and the same liabilities as that of a male coparcener
- ❖ All interventions filed in support of reading down section 377 accepted by the SC
- ❖ High Court directs Chandigarh, Punjab and Haryana to publicize protection homes for runaway couples
- ❖ Delhi Additional District Judge allows triple talaq through an agent
- ❖ Special courts set up in Delhi for children who have dealt with violence and crime
- ❖ Delhi High court fines woman Rs.5 lakh for sexual harassment case filed 15 years ago
- ❖ Delhi court rules that wearing revealing dress constitutes 'mental cruelty'
- ❖ Bombay High Court helps fight sex selective abortion
- ❖ Bombay High Court states 'medical evidence is not always necessary to prove rape'

News and Events

- ❖ Binayak Sen released on bail
- ❖ Review petition filed by PLD in Velusamy vs Patchaiammal case dismissed
- ❖ PLD and partners file intervention in the case of Chanmuniya vs. V.K Singh
- ❖ Two incidents of discrimination against lesbian couples in India
- ❖ Special Godhra court awards death penalty to 11 people for burning of the Sabarmati Express

- ❖ Action demanded against state agents in three cases of sexual violence
- ❖ Ghaziabad SHO suspended after the public outcry over “Operation Majnu”
- ❖ Feminists endorse public statement against sex change surgery on infants
- ❖ Action demanded against state agents in three cases of sexual violence
- ❖ Oral Submissions by Women’s Groups on section 498 A IPC at the Rajya Sabha
- ❖ PLD organizes two South Asia Training of Trainers (ToT) on CEDAW “Strengthening Application of CEDAW in South Asia”

Programme/ Policy/ Institution

- ❖ Sex ratio in India drops to lowest since independence: Census 2011
- ❖ Live-in Couples not entitled to adopt under new guidelines
- ❖ Feminists endorse public statement against sex change surgery on infants
- ❖ Financial assistance and support services to victims of rape: A scheme for restorative justice
- ❖ SHRC report: Official acknowledgement of disappearance of civilians in Kashmir during armed conflict
- ❖ Government of Karnataka to withdraw social benefits from those conducting child marriages
- ❖ Maharashtra drafts Rules for the establishment of Holiday Courts to increase access to courts for women
- ❖ NHRC and WGHR send stakeholders reports’ to UN for India’s second Universal Periodic Review

Obituary

- ❖ K.G. Kannabiran, senior advocate and eminent civil rights activist passes away
- ❖ Prof. Dr Shanta Thapalia, eminent lawyer, academician and women’s right activist from Nepal passes away
- ❖ Supreme Court lawyer and women’s rights activist Rani Jethmalani passes away

RESOURCES

CEDAW and Muslim Family Laws: In Search of Common Ground (2011)	Musawah
Avoiding some deadly sins: Oxfam learning's and analysis about religion, culture, diversity, and development	Cassandra Balchin
Intersections between Women's Equality, Culture and Cultural Rights	PLD
Bringing Together Pleasure and Politics: Institute of Development Studies Practice Paper	Sexuality Workshops in Rural India by Jaya Sharma
CEDAW South Asia: Web resources to facilitate regional sharing and to strengthen implementation of CEDAW www.cedawsouthasia.org	Created and maintained by PLD Supported by UN Women
Constructing Conceptions: The Mapping of Assisted Reproductive Technologies in India	SAMA
Four Months the Kashmir Valley Will Never Forget: An Enquiry into The Mass Uprising Of 2010 http://kafilabackup.files.wordpress.com/2011/03/kashmir-fft-report.pdf	Bela Bhatia, Ravi Hemadri, S Murlidharan and Vrinda Grover
International Approaches to Rape	Geetanjali Gangoli and Nicole Westmaland
First Pan-India survey of sex workers http://www.sangram.org/Download/Pan-India-Survey-of-Sex-workers.pdf	Rohini Sahni and V Kalyan Shankar
Law Like Love: Queer Perspectives on Law	Arvind Narrain and Alok Gupta
OHCHR releases video and pamphlet on homophobic violence and discrimination	OHCHR
"Marriage, Divorce and Matrimonial Litigation" by Flavia Agnes	Flavia Agnes
Family Law Volume I: Family Laws and Constitutional Claims	Flavia Agnes
Family Law Volume II: Marriage, Divorce, and Matrimonial Litigation	Flavia Agnes
Defending Woman's Right to Maintenance	Majlis
Standup Against Violence: A website on violence against women to understand and deal with violence committed against women both in the family and community. www.standupagaistviolence.org	Akshara
Addressing Gaps in the Defense of Women Human Rights Defenders	Centre for Women's Global Leadership
The dialogue of difference: gender perspectives on international humanitarian law	International Committee of the Red Cross
Gender, Law and Justice in a Global Market	Ann Stewart
Muslim Family Law, Secular Courts and Muslim Women of India, Pakistan and Bangladesh	Alamgir Muhammad Serajuddin
Understanding and Measuring Women's Economic Empowerment http://www.icrw.org/publications/understanding-and-measuring-womens-economic-empowerment	International Centre for Research on Women
What the Women Say: The Arab Spring and Implications for Women	ICAN
Enforcing Rights and Correcting Wrongs -Overcoming Gender Barriers in Legal System	UNDP
Forced Marriage: Introducing a Social Justice and Human Rights Perspective	Aisha K. Gill, Anitha Sundari (ed)
Adjudication in Religious Family Laws: Cultural Accommodation, Legal Pluralism, and Gender Equality in India	Gopika Solanki

UPDATES FROM THE UN

HRC adopts resolution on human rights violations based on sexual orientation and gender identity and releases report in light of the same

The Office of the High Commissioner for Human Rights (OHCHR) submitted its first report to the Human Rights Council on the human rights of lesbian, gay, bisexual and transgender (LGBT). The report details how around the world people are killed or endure hate-motivated violence, torture, detention, criminalization and discrimination in jobs, health care and education because of their real or perceived sexual orientation or gender identity. It draws from information included in past UN reporting, official statistics on hate crimes where there are available, and reporting by regional organizations and some NGOs. The report has been welcomed by human rights activists all over the world.

This report follows the groundbreaking resolution passed by UN Human Rights Council (HRC) in March 2011. The resolution brought into specific and affirmed the universality of human rights, and notes concern about acts of violence and discrimination based on sexual orientation and gender identity. The statement was delivered on behalf of a broad grouping of 85 States from all regions of the world. The resolution was presented by South Africa along with Brazil and 39 additional co-sponsors from all regions of the world, was passed by a vote of 23 in favor, 19 against, and 3 abstentions.

The text of the resolution is available at: <http://ishr.us1.list-manage.com/track/click?u=97549cf8cb507607389fe76eb&id=ab686595ce&e=02bfad686a>
Source: <http://www.un.org/apps/news/story.asp?NewsID=38762&Cr=prejudice&Cr1>
<http://transactivists.org/news/>

UNHRC elects its first woman President

The United Nations Human Rights Council elected Laura Dupuy Lasserre, from Uruguay as its first ever woman President. In her acceptance speech she stated: *“My personal commitment to this cause, apart from deriving from shared national values where democracy and social justice go hand in hand, also involves having seen from very close by the injustices of the dictatorship. These directly affected my family. My father was a political prisoner and tortured, like many other victims who I wish to honor today.”*

Source: <http://www.unmultimedia.org/radio/english/2011/06/un-human-rights-council-elects-its-first-woman-president/>

UNGA adopts Optional Protocol providing a complaints procedure for CRC

In a historic step, the UNGA officially adopted on the third Optional Protocol to the Convention on the Rights of the Child (CRC) on a communications procedure 19 December. The new treaty will allow for inter-state communications and an inquiry procedure, which would allow the Committee overseeing the Convention’s implementation to receive and examine individual complaints from children and to organize country visits to investigate cases of grave and systematic violations of children’s rights. An official signing ceremony will take place in 2012, and the OP needs to be ratified by ten States before it can enter into force and be used.

Source: <http://www.crin.org/NGOGroup/childrightsissues/ComplaintsMechanism/>

ILO adopts Convention on Domestic Workers

At its 100th annual conference, the International Labour Organization (ILO) adopted a historic Convention on Domestic Workers which laid down a set of international standards aimed at improving the working conditions of domestic workers worldwide. Among other rights the new ILO standards emphasize on certain basic labour rights for domestic workers who care for families and households like reasonable hours of work, weekly rest of at least 24 consecutive hours, a limit on in-kind payment, clear information on terms and conditions of employment, as well as respect for fundamental principles and rights at work including freedom of association and the right to collective bargaining. The Convention defines domestic work as work performed in or for a household or households. While the new instruments cover all domestic workers, they provide for special measures to protect those workers who, because of their young age or nationality or live-in status, may be exposed to additional risks relative to their peers, among others. According to ILO proceedings, the new Convention will come into force after two countries have ratified it.

The adoption of the new standards is the result of a decision taken in March 2008 by the ILO Governing Body to place the elaboration of an instrument on the agenda of the Conference. In 2010, the Conference held its first discussion and decided to proceed with the drafting of a Convention supplemented by a Recommendation adopted today. India voted to back the adoption of this Convention.

Source: http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_157836.pdf
http://articles.timesofindia.indiatimes.com/2011-06-17/india/29669269_1_domestic-workers-india-votes-labour-rights

INDEPENDENT MECHANISMS AND REPORTS

SR on the situation of Human rights defenders submits report to HRC calling for protection of women human rights defenders

Margaret Sekaggya, United Nation Special Rapporteur (SR) on the Situation of Human Rights Defenders submitted her third report to the UNHRC. The report reaffirms that “*women defenders are more at risk of suffering certain forms of violence and other violations, prejudice, exclusion, and repudiation than their male counterparts. This is often due to the fact that women defenders are perceived as challenging accepted socio-cultural norms, traditions, perceptions and stereotypes about femininity, sexual orientation, and the role and status of women in society.*” The Rapporteur recommended that States publicly acknowledge the particular and significant role played by women defenders and those working on women’s rights or gender issues so as to prevent or reduce the risks they face.

The majority of States welcomed the focus of her report. However, some States held back support or threatened to withdraw support from the mandate if the focus was not changed from defenders working on issues of sexual orientation and gender identity as mentioned in the report.

Copy of the report is available at:

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A-HRC-16-44.pdf>

SR on VAW presents report to GA highlighting the due diligence obligation of states to 'prevent' violence against women

UNSR on VAW presented her first report to the GA, describing the activities undertaken, details of her visits and recommendations to Algeria, Zambia and USA, the countries she visited in her official capacity. Importantly, her report stresses the need for due diligence obligations of the state in respect of violence against women, highlighting in particular the often neglected, obligation to prevent. The report called on states to uphold their international human rights obligations by preventing acts of violence against women, investigating and punishing all acts of violence against women, protecting women against such violence, and providing remedy and reparation to the victims.

Text of the report: <http://www.un.org/Docs/journal/asp/ws.asp?m=A/66/215>

SR on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health presents report to GA on impact of criminal and other legal restrictions relating to enjoyment of sexual and reproductive health

UNSR on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health presented his interim report to the UN General Assembly. This interim report considers the impact of criminal and other legal restrictions relating to sexual and reproductive health such as restriction on abortion, conduct during pregnancy, contraception and family planning and provision of sexual and reproductive education and information. This report calls on states to realize their obligations and remove barriers on the realization of right to health created by criminal law or other legal restrictions.

The text of the report is available at: http://www.un.org/ga/search/view_doc.asp?symbol=A/66/254

CEDAW RELATED NEWS

CEDAW Committee issues concluding observations on the sixth and seventh periodic report of Bangladesh

While examining the sixth and seventh periodic report of Bangladesh, the CEDAW Committee acknowledged that Bangladesh has adopted a number of policies, programs and plans of action to promote gender equality and eliminate discrimination against women. However, it expressed concern over the prevalence of violence against women and girls, including domestic violence, rape, acid throwing, dowry-related violence, fatwa-instigated violence, and sexual harassment in the workplace. The Committee however was concerned that despite the High Court decision that the extra-judicial punishments fatwas are illegal, there were reports of illegal penalties still being enforced through *shalish* rulings to punish “anti-social and immoral behavior.”

Full text of the report available at:

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/417/30/PDF/G1141730.pdf?OpenElement>

CEDAW Committee issues concluding observations on the combined fifth, sixth and seventh periodic report of Sri Lanka

While examining the combined fifth, sixth and seventh periodic reports, the CEDAW Committee observed that Sri Lanka is on track towards achieving goals two (achieving universal primary education), four (reducing child mortality) and five (improving maternal health) of the Millennium Development Goals, and it welcomed the enactment of the Prevention of Domestic Violence Act 2005. However it expressed concern over discriminatory provisions in the Muslim Personal Law, the *Kandyan* Law and the *Tesawalamai* Law. Further, the Committee called attention to “*the criminalization of same sex relationship results in women being completely excluded from legal protection*” and that that law enforcement officers are allowed to arbitrarily detain them.

Full text of the report available at:

<http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-LKA-CO-7.pdf>

CEDAW Committee holds Consultation on a General Recommendation on Women in Conflict and Post-Conflict Situations

At its 49th session, on July 18, 2011, the CEDAW committee held a general discussion on a General Recommendation (GR) on Women in Conflict and Post-Conflict situations. The GR discussed would provide authoritative guidance to State Parties on the measures to be adopted to ensure full compliance with their obligations to protect, respect and fulfill women’s human rights during times of armed conflict and in all peace-building processes, including the immediate aftermath of conflict and long-term post-conflict reconstruction. Civil society groups are lobbying for the GR to institute complementary mechanism to promote accountability to UNSCR 1325 and 1820, which would mean that state parties to CEDAW would also report to the implementation of the two resolutions.

At the general discussion, thirty five oral statements were presented to the CEDAW, including from Margot Wallström, Special Representative of the Secretary-General on Sexual Violence in Conflict and Radhika Coomaraswamy, Special Representative of the Secretary-General on Children and Armed Conflict.

Source: <http://www2.ohchr.org/english/bodies/cedaw/discussion2011.htm>

CEDAW Committee grants landmark decision in maternal health case against Govt. of Brazil

In a landmark decision the CEDAW Committee held the Government of Brazil guilty for failing to fulfill its state obligations under Article 2 and 12 of CEDAW in a case of maternal mortality and awarded compensation. The case involved an Afro-Brazilian woman, who died of complications resulting from pregnancy after her local health center misdiagnosed her symptoms and delayed provision of emergency care. Ruling under the communication mechanism of the Optional Protocol, the Committee concluded that the woman was discriminated against, not only on the basis of her sex, but also on the basis of her status as a woman of African descent and that Brazil failed to comply with its obligation to provide effective judicial action and protection. The Committee in its judgement clearly stated that the State has an obligation to guarantee to women, regardless of income or racial background and public or private service providers- access to timely, non-discriminatory, and appropriate maternal health services.

Text of the judgement:

<http://reproductiverights.org/sites/crr.civicaactions.net/files/documents/Alayne%20v.%20Brazil%20Decision.pdf>

CEDAW Committee rules that Peru relax its restrictions on abortions

In a groundbreaking decision the CEDAW committee ruled that Peru must amend its law to allow women to obtain abortion in cases of rape and sexual assault; establish a mechanism to ensure the availability of those abortion services; and guarantee access to abortion services when a woman's life or health is in danger- circumstances under which abortion is currently legal in the country. The case was filed by Center for Reproductive Rights and its partner organization in Peru PROMSEX for a girl who became pregnant at 13 after being raped for years by different men in her neighbourhood. She could not abort as the Peruvian laws did not allow for abortion in case of rape and incest, ashamed she attempted suicide which left her with a spinal injury. However the doctors refused to operate as it would risk the child. The result being she miscarried and because of not being operated upon, became quadriplegic. Terming the denial of legal abortion as discrimination, the Committee asked Peru to change its laws and said that it was the responsibility of a state to guarantee access to abortion services.

Source: <http://reproductiverights.org/en/changetheworld>

<http://reproductiverights.org/en/press-room/un-rules-that-peru-must-relax-restrictions-on-abortion>

Malaysian court holds that CEDAW obligations are binding

In a landmark decision, the Shah Alam High Court ruled that CEDAW is binding upon the state of Malaysia. The decision was given in a case filed by a teacher against the Education Ministry for a declaration that pregnancy cannot be used as an excuse for not employing a person. She sought a position as an untrained relief teacher. The court recognised that the government had to commit to CEDAW, and adopt Article 11 as law. Since Malaysia is a signatory to CEDAW the judge held that CEDAW has the force of the law and is binding upon the Malaysian government.

Source: <http://www.malaysiakini.com/news/169670>

Musawah presents thematic report to CEDAW Committee on equality in marriage and family relations- Article 16

Musawah submitted its first thematic report on Article 16 of the CEDAW Convention on equality in marriage and family relations to the CEDAW Committee in October 2011. The report was also prepared in the absence of any shadow or alternate report for Kuwait and Oman. The report looks at the following issues related to marriage and family relations within Muslim contexts: dowry, child marriage, forced marriage, and choice in marriage, divorce, property rights within marriage and its dissolution, inheritance, domestic violence, obedience, guardianship, custody, and the ability to pass nationality to foreign spouses and/or children.

The text of the report is available at: <http://bit.ly/tSfShY>

Tunisia Lifts Reservations on CEDAW Convention

Marking an important step towards gender inequality, Tunisia became the first country in the African region to withdraw all specific reservations to the CEDAW Convention but retained its declaration. The lifting of reservations has been upheld as a step towards recognising women's equality in the family and in marriage. These include passing on their nationality to their children, rights and responsibilities in marriage and divorce, matters relating to children and guardianship, personal rights for husbands and wives with regard to family name and occupation, and ownership of property. While activists have welcomed the lifting of reservations they have also demanded removal of declaration as it could be used by countries as an excuse for not complying with international standards. The retained declaration stated that Tunisia —shall not take any organizational or legislative decision in conformity with the

requirements of this Convention where such a decision would conflict with the provisions of Chapter I of the Tunisian Constitution. There have also been demands to review personal code as women are denied equal share in inheritance and granting custody of children to men who have remarried but denying custody to women in case they chose to remarry.

Source: <http://www.hrw.org/news/2011/09/06/tunisia-government-lifts-restrictions-women-s-rights-treaty>

REGIONAL HUMAN RIGHTS SYSTEMS

The first ASEAN Lesbian, Gay, Bisexual, Transgender, Intersex and Queer People's Caucus calls on States to guarantee protection and rights to LGBTIQ

From May 2 to May 5, 2011 lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) activists and groups representing 8 out of ten Southeast Asian countries came together in a historic assembly for the ASEAN People's Forum to call on the States to take active steps towards the recognition, promotion, and protection of LGBTIQ rights. The forum demanded that laws which criminalize a community based on sexual orientation and gender identity (SOGI) be repealed; recognize LGBTIQ rights as human rights; harmonize national laws and create national level mechanisms policies and practices with the Yogyakarta Principles. Secondly, the forum demanded de-pathologization of SOGI and promotion of psychosocial well - being of people of diverse SOGI in accordance with the World Health Organization (WHO) standards, and ensure equal access to health and social services.

Source: <http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/partners/1381.html>

ECHR directs Czech Republic to address unlawful sterilization of Roma women

Following the Czech government's expression of regret in November 2009 for the unlawful sterilizations of women, mainly Roma, and calls for further action to provide adequate reparation to the victims of these gross human rights violations. On 3 March 2011, the Commissioner for Human Rights at the Council of Europe in Strasbourg issued a report on the state of human rights in the Czech Republic. The Commission called the state policy with respect to sterilizations until 1991 a gross systemic violation of human rights and called on the Czech Government to thoroughly investigate and redress it. As a guideline for their compensation the Commission proposed the Government refers to a 2005 UN document on Basic Principles and Recommendations for Victims of Gross Violations of Human Rights as well as to compensation mechanisms for the victims of forced sterilization in other countries.

Source: http://www.romea.cz/english/index.php?id=detail&detail=2007_2271

Inter-American court hears first ever LGBT case

The Inter-American Court of Human Rights has ruled in favour of a lesbian mother who was stripped of custody of her two daughters by the Supreme Court of Chile in 2003. The petitioner, who won in lower court decisions, lost custody of her children when the High Court ruled that she was an unfit mother on the basis of her sexual orientation. She sought justice through the Inter-American Human Rights System, which redresses human rights violations committed by states. The Inter-American Commission on Human Rights subsequently reviewed the case and in 2011 issued a decision in her favour.

Source: <http://www.msngf.org/index.cfm/id/11/aid/4458>

Governments have a responsibility to protect families from abuse: Inter American Commission on Human Rights

The Inter American Commission on Human Rights has ruled that the United States of America has violated international obligations by failing to enforce a restraining order against an abusive husband. The couple's daughters were found dead with gunshot wounds in the back of the husband's truck in Colorado in 1999. The wife had called the police several times after her husband abducted her three daughters. Despite the fact that she had a restraining order against her estranged husband, the police took no action.

In reviewing the case, the commission found that the US failed to act with due diligence to protect the woman and her daughters from domestic violence, violating the American Declaration of the Rights and Duties of Man, which provides protections against gender discrimination and equal protection before the law. The government's failures also violated the daughters' right to life and her right to judicial protection. The SR on VAW expressing concern over lack of protective provisions on domestic violence in United States and inadequate implementation of certain policies and programmes, said "The US Government should reassess existing mechanisms for protecting victims and punishing offenders, and establish meaningful standards for enforcement of protection orders and impose consequences for a failure to enforce them."

Source: http://www.wunrn.com/news/2011/08_11/08_15/081511_inter-american.htm

Statement of SR on VAW:

<http://www.un.org/apps/news/story.asp?NewsID=39362&Cr=violence+against+women&Cr1>

INTERNATIONAL LEGAL DEVELOPMENT

Asia

Pakistan SC acquits three out of four accused in Mukhtara Mai gang rape case and in response citizens seek review of the judgement

In the Mukhtara Mai rape case, the Supreme Court of Pakistan in a shocking convicted only one of the three accused in the gang rape. The nine year old case, caught the attention of region in 2002, when 14 men of the dominant Mastoi tribe in Meeranwalla Pakistan gang raped Mukhtara Mai in as a form of honour revenge. Although it was clearly established that Mukhtara was raped, the SC acquitted one accused on the ground of mistaken identity, and two other accused on the ground that there was insufficient light in the room and therefore the prosecution could not satisfactorily prove its case. While applauding the courage of Mukhtara Mai who stood against the harassment and threats, women's right groups in Pakistan strongly condemned the judgement and appealed to the Chief Justice of Pakistan to constitute a larger Bench of the SC to hear the Review Petition in the case. The appeal stated that the will set a negative precedent at law and will have a highly detrimental influence on the way crimes of sexual violence against women are perceived by the police, judiciary and the legal profession. Apprehension was expressed that, in future this judgement will serve as a powerful deterrent to women victims and survivors of such violent crimes, preventing them from reporting such crimes to the police and from recourse to legal action.

Source: <http://www.humanrights.asia/news/forwarded-news/AHRC-FST-030-2011>

A copy of the appeal is available with PLD.

Women Parliamentarians in Pakistan succeed in passing two landmark bills providing punishment against Anti-Woman Practices and Acid Attack

Pakistan Senate unanimously passed two historic bills upholding the rights of women - The Acid Control and Acid Crime Prevention Bill 2010 and The Prevention of Anti-Women Practices (Criminal Law Amendment) Bill 2011. Enactment of both Bills would require amendment in the Pakistan Penal Code 1860 and the Code of Criminal Procedure 1898 and have already been passed by the National Assembly. The two laws come in the light of growing incidents of violence against women.

Though the Acid Prevention Act is a positive development that seeks to control the import, production, transportation, hoarding, sale and use of acid to prevent misuse and provide legal support to acid and burn victims and recommends 14-year to lifetime imprisonment sentences and levies fines up to Rs.1 million for the perpetrators of the crime. On the other hand, the Prevention of Anti-Women Practices Bill seeks to eliminate several practices and customs which restrict and violate women's rights. The Bill further states that customary norms, which are contrary to Islamic injunctions, should be done away forthwith and the persons continuing such practices are dealt with severely by providing penal and financial liabilities. On the contrary such a provision will defeat the purpose of the proposed The Anti - Women Practices (Criminal Law Amendment) Bill 2011.

Source: <http://www.dawn.com/2011/12/12/senate-passes-two-pro-women-bills-unanimously.html>
<http://tribune.com.pk/story/165678/national-assembly-unanimously-approves-bill-to-control-acid-crimes/>

Nepal adopts National Action Plan on UN SCR 1325 and 1820

On February 1, 2011 the Government of Nepal adopted its National Action Plan (NAP) on UNSCR 1325 and 1820. Nepal is the first country in South Asia and the second in Asia (the Philippines being the first), and the 24th country globally to adopt a NAP for UNSCR 1325. The NAP presents the contextual framework and analysis of the peace and security situation in Nepal, as well as provides insight into the impact of conflict on Nepali women. The NAP aims to contribute to the Nepali people's overall goal of achieving sustainable peace and establishing a just society. It is structured around five pillars, specifically, Participation, Protection and Prevention, Promotion, Relief and Recovery, and Resource Management, Monitoring and Evaluation.

Source: http://www.wunrn.com/news/2011/02_11/02_07/020711_nepal.htm

Nepal Supreme Court upholds right to abortion and access to safe and affordable abortions

In a landmark decision reaffirming a woman's right to abortion, the Supreme Court of Nepal in the case of Lakshmi Dhikta vs. Nepal ruled that the government must guarantee access to safe and affordable abortion services. The case was filed by FWLD and a group of human rights lawyers when Lakshmi, was forced to carry forward an unintended pregnancy despite the right to abortion, only because she couldn't afford the abortion fees. The SC while stressing on the need for a new abortion law, laid down that it was the state's responsibility to ensure that no woman is denied a legal abortion owing to inability to pay for the same. Upholding the right to abortion as being central to the right to equality and non discrimination of women, the court stated that there could be no infringement of a woman's fundamental right to physical and mental health and well-being in the name of a foetus; the foetus could not supersede the protection of a woman's physical and mental health and well being.

Source: <http://reproductiverights.org/en/feature/nepal-supreme-court-abortion-is-a-right>
<http://reproductiverights.org/en/case/lakshmi-dhikta-v-government-of-nepal-amici-supreme-court-of-nepal>

First Female Chief Justice of Sri Lanka sworn-in

In Sri Lanka's first female Chief Justice, Dr. Shirani Bandaranayake took her oath in May 2011. Dr. Bandaranayake, who had served as the Acting Chief Justice on several occasions, was appointed as a Supreme Court Judge in 1996 when she was an Associate Professor of Law and the Dean of the Faculty of Law at the University of Colombo.

Source: http://www.colombopage.com/archive_11/May18_1305699545CH.php

Sri Lanka opposes Human Rights Commissioner for the Commonwealth

In a meeting with the heads of state of Commonwealth at Perth in Australia held on 31st October, under a series of reforms being deliberated to reinvigorate the group, one idea was to appoint a human rights commission for the Commonwealth. The proposal, opposed most vehemently by Sri Lanka, was shelved. Such a commission would have monitored allegations of human rights violations, and would have proposed sanction against offenders. Another human rights issue that came under scrutiny was the Sri Lankan government's treatment of the country's Tamil minority. The Sri Lankan government has been accused of war crimes at the end of the conflict with the Tamil Tiger rebels in 2009. Commonwealth countries have warned that unless Sri Lanka better its human rights record, they would boycott the next Commonwealth Summit scheduled to be held in Sri Lanka in 2013.

Source: <http://allafrica.com/stories/201110310011.html>

Statement of the Indian Women's Rights Activists in Solidarity with Women in Sri Lanka

Women's rights activists in India issued a statement strongly condemning the human rights violations by the Sri Lankan Government following the end of the conflict and made six set of demands from the governments of Sri Lanka and India. These demands are— the right to return and speedy, sustained and holistic resettlement of women and their families in their chosen places of return, dismantling of high security zones which have caused a serious loss of land to many families, such as in Sampur in Trincomalee district, Mullikulam and Silawathurai in Mannar district, cancelling of industrial projects in various parts of the country, including those in high security zones, the increased militarization in the country as a whole, particularly in the north and east, should be brought to an end immediately, the specific concerns of women such as problems of title on land in women-headed households and among widows and so on be taken cognizance of and addressed at the earliest, and finally the government should take active measures to find missing persons, and either prosecute or release prisoners who have been kept in prison without any prosecution for many years. The statement has been made in the event of Sri Lanka appearing before the CEDAW Committee.

Full text of the statement: <http://kafila.org/2011/07/26/statement-of-indian-womens-rights-activists-in-solidarity-with-women-in-sri-lanka/>

SR on the situation of Human Rights Defenders, issues statement after India visit

From 10th to 21st January 2011, Margaret Sekaggya, SR on the Situation of Human Rights Defenders carried out a fact-finding mission to assess the situation of human rights defenders in India, and travelled to New Delhi, Bhubaneshwar (Orissa), Kolkata (West Bengal), Guwahati (Assam), Ahmedabad (Gujarat), Jammu and Srinagar (Jammu and Kashmir). She expressed particular concern for the plight of human rights defenders working for the rights of marginalized people, i.e. Dalits, Adavasis (tribals) religious minorities and sexual minorities, who face particular risks and ostracism because of their activities. Amongst her other recommendations to the Central and State governments, the SR has stated that "*the*

Armed Forces Special Powers Act and the Public Security Act be repealed and application of other security laws which adversely affect the work and safety of human rights defenders should be reviewed.”

Source: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10664&LangID=E>

SC Iran denies divorce to a woman for disobedience to her husband and non-fulfillment of wifely duties

Setting a regressive precedent, the SC of Iran ruled that women cannot access divorce even if the husband remarries. The applicant in the case, a poor woman from a rural area in the west of Iran sought a divorce alleging that her husband was violent and abusive, and had taken a second wife without her permission. Under Iranian law, women can only seek divorce from their husbands under conditions specified by law. In the case at hand, the Court was asked to interpret the 1984 legislation which specifies that if a husband takes a second wife without the permission of the first wife, the first wife can apply for a divorce.

The SC by a majority held that a wife will lose her right to a divorce based on this condition if she has been disobedient. It analysed case law of lower courts which had come to differing conclusions but held that since article 1108 of the Civil Law makes obedience to the husband a legal responsibility of the wife – therefore, if she refuses to carry out these wifely duties without legal justification then she cannot divorce on the grounds that he has taken another wife. Moreover, the Supreme Court held that this is now a precedent which must be followed in similar cases.

Source: <http://www.wluml.org/node/7022>

Myanmar passes a law allowing for peaceful protest

In a significant move in the achievement of civil liberties, Myanmar’s president has pushed through a new law “Myanmar Protest Bill” which allows citizens to peacefully protest if they obtain a permit first. Previously in the traditionally repressive nation, demonstrations were banned and authorities have cracked down hard on anti-government protest. Now if the citizens want to stage a demonstration they have to apply for permission five days in advance from the police and provide details about the slogans and speakers. The police have the right to deny the permit but they “must explain the reason why”. Protests are prohibited at factories, hospitals and government offices. Staging a protest without permission carries a penalty of one year in prison.

Source: <http://www.thedailyactivist.com/civil-rights-peaceful-protests-approved/>

Beyond Asia

British Columbia Supreme Court Upholds Canada’s ban on Polygamy

A special judicial inquiry set up to examine whether the Canadian anti-polygamy law violates protections of religious freedom or is still needed to protect women’s rights has ruled that though Section 293 Criminal Code (banning polygamy) minimally impaired religious freedoms, however saying there is evidence that women and children in polygamous relationships are more vulnerable to physical and psychological harm. In this respect the judge suggested that children between 12 and 17 years old who are forced to marry more than one person at the same time, essentially child brides should not be penalized.

The decision made on the basis of hearing testimonies and legal arguments was in response of a request to the court by BC Government to review the constitutionality of the polygamy ban. The constitutional case was prompted by the failed prosecution of two men from Bountiful who were charged in 2009 with practicing polygamy. A group called the BC Civil Liberties Association filed an argument against the law banning polygamy on the ground that individuals should be free to make choices, and the state cannot

interfere in the private lives of consenting adults. The Association stated that while harm can occur in plural relationships, there is no evidence the harms are specific to polygamy.

Though the decision is a constitutional opinion and not binding, yet has been held by legal experts as sending strong message against polygamy and the exploitation of children.

Source: <http://www.ctv.ca/CTVNews/Canada/20110416/canada-polygamy-ban-110416/>
<http://www.news1130.com/news/local/article/302548--bc-supreme-court-upholds-canada-s-ban-on-polygamy>

New York legalizes gay marriages

The State of New York has adopted a Bill legalizing same sex marriages in the State. This entitles the same sex couples to the right of inheritance, employer health benefits and state tax benefits etc. New York has become the sixth state to allow same-sex marriages. Currently, Massachusetts, Connecticut, Iowa, Vermont and New Hampshire and the District of Columbia grant same-sex marriage licenses. The move has been criticized by Catholic groups as undermining both the institutions of marriage and family. New York gave birth to the gay rights movement in the 1960s, and thus its legalisation is a historic development and has been welcomed by civil rights groups. At the same time this step necessitates that the benefits and rights could only accrue to a couple only if they were married. A section of the civil society groups have demanded that New York City has a domestic partnership law that allows both same-sex and different-sex couples to register as “domestic partners (as many couples do not marry by choice) and all those who are in such partnerships be entitled to the same rights as, “married couples”.

Source: <http://edition.cnn.com/2011/POLITICS/06/25/new.york.gay.marriage/>
http://www.nytimes.com/2011/06/24/opinion/24franke.html?_r=2

Kansas State passes order to legalizes domestic violence citing economic constraints

In a shocking development, the mayor of Topeka the capital city of Kansas passed an order legalising domestic violence. The reason for the change in law was fourfold; to save the police time, to save city exchequer's prosecution costs, to save the city costs from providing services to victims of domestic violence and to relieve space in the jail for ‘more serious crimes’. The repeal seems to have been motivated only due to economic constraints of cutting the budget by 10% and handing over the responsibility of prosecuting domestic violence cases from the county to the district. The move resulted in the release of many perpetrators from jail without any charge. Women's rights activists have protested against the decision as the only motive is to reduce costs and no consideration was given to the health and safety of women leaving them without any state protection.

Source: <http://www.dailymail.co.uk/news/article-2048189/Domestic-violence-legal-Kansas-repeals-law--save-police-time.html#>

Government of Mexico apologizes for negligence in investigation of sexual crimes against women

Accepting its responsibility to protect and provide security to women, Mexico's government publicly apologized for failing to prevent the killings of three women in the border city of Ciudad Juarez and for the negligence of officials in investigating the crimes. After failing to receive justice in Mexico, the families of three of the dead women asked the international court to take up their cases. The court only ruled on those three cases. The apology is a response to a 2009 ruling by the Inter American Court of Human Rights that besides seeking an apology, also asked Mexico to reopen investigations into the cases and to erect a memorial site in the empty lot where the bodies of eight women were found in 2001. The

state of Chihuahua, where Ciudad Juarez is located, has been plagued by the unsolved slayings of hundreds of women since 1993. Most of the victims were raped, killed and dumped in the desert outside of Ciudad Juarez.

Source: http://www.wunrn.com/news/2011/11_11/11_07/110711_mexico.htm

Apex court in Nicaragua downgrades rape to crime of passion

In another setback to the movement on violence against women where the conduct of the victim-survivor is targeted, the Supreme Court in Nicaragua reduced the sentence of a man convicted of rape from eight to four years, on the grounds that his sexual assault was not violent and was committed "*in a fit of passion under the influence of alcohol, and with "permissive cooperation"*" by the victim, because she had had a few beers with him. The court further ordered the release of the convict who had spent 18 months in jail on remand on the ground that there were no mitigating factors like previous criminal history, bad behaviour etc.

Source: http://www.wunrn.com/news/2011/08_11/08_15/081511_nicaragua.htm

France bans the full face veil in public

The French President formally announced the ban on the full face veil (niqab) in public places making France the first country in Europe to do so. Under the law, any Muslim woman wearing a face concealing veil is banned from all public places in France, including when walking down the street, commuting in public transport, etc. Further it imposed a fine of €150 fine and a citizenship course for women defying the ban. Moreover, people forcing women to wear the niqab would be charged with a larger fine and a prison sentence of up to two years. Though the Police cannot forcibly remove face coverings in the street, they can order women to a police station to check their identity.

In addition, the government introduced a new controversial law to implement this ban, rather than use the existing laws on public security that allow for curtailing the full face veil. Critiques including sections of French Muslims who support the full face veil ban, have critiqued the introduction of a new law as it is intended to appeal to the right wing sections within politics and their electoral base, when the same results could have been achieved by the existing legislation without targeting any single community.

Source: <http://www.bbc.co.uk/news/world-europe-13031397>

<http://www.wluml.org/node/7079>

http://www.nytimes.com/2011/04/12/world/europe/12france.html?_r=1

Sexual assault charges against Dominique Strauss Kahn withdrawn

In a move which highlights how the conduct of a victim – survivor continues to obscure rape prosecutions, charges of sexually assaulting a housekeeper in a hotel suite were withdrawn against Dominique Strauss Kahn due to unreliability of the complainant and inconclusive physical evidence. The victim's credibility as a witness began to crumble after prosecutors discovered what they characterized as a series of lies she had told, though none bore directly on her version of the encounter with Strauss-Kahn. The prosecutors in their report wrote "After an extensive investigation, it is clear that proof of two critical elements - force and lack of consent - would rest solely on the testimony of the complaining witness at trial." While there is evidence that Strauss-Kahn engaged "in a hurried, sexual encounter with the complainant..." it "...does not independently establish her claim of a forcible, non-consensual encounter." The decision to withdraw charges has led to mixed reactions amongst feminists particularly as many other women have come forward with stories of abuse by Strauss Kahn.

Source: <http://www.nytimes.com/2011/08/22/nyregion/strauss-kahn-prosecution-said-to-be-ending.html?pagewanted=all>

Girls get equal rights to the British throne

In a landmark development, leaders of 16 Commonwealth countries (where the Queen is the head of state) unanimously approved a change in succession laws to the British throne. Hereon, both sons and daughters of any future UK monarch would have equal right to the throne. Under the old succession laws the heir to the throne was the first-born son of the monarch, which also meant younger brother were preferred over elder sisters. Only when there were no sons, as in the case of the Queen's father George VI, the crown passed to the eldest daughter. In addition, the restriction that the monarch could not marry a Roman Catholic has been lifted. Yet the monarch him/herself would still need to be in communion with the Church of England. To bring these changes into effect would mean amendment of a range of succession laws that could take a minimum of four years. The laws to be amended would include the Bill of Rights 1689, the Act of Settlement 1701, the Coronation Oath Act 1689, the Act of Union with Scotland 1706, Princess Sophia's Precedence Act 1711, the Royal Marriages Act 1772, Union with Ireland Act 1800, the Accession Declaration Act 1910 and the Regency Act 1937.

Source: <http://www.bbc.co.uk/news/uk-15492607>

<http://www.bbc.co.uk/news/uk-15489544>

Three women win Nobel Peace prize for promoting peace, democracy and gender equality

The Nobel Peace Prize for 2011 has been awarded to three women from Africa and the Arab world in acknowledgment of their nonviolent role in promoting peace, democracy and gender equality. The winners were Liberian President Ellen Johnson Sirleaf (also Africa's first elected female president), her compatriot, peace activist Leymah Gbowee and Tawakul Karman of Yemen, a civil society campaigner. The Nobel Peace Prize committee called on nations to recognize that —we cannot achieve democracy and lasting peace in the world unless women obtain the same opportunities as men to influence developments at all levels of society. Calling attention to the UNSCR 1325, the Committee said the women were chosen for their non-violent struggle for the safety of women and for women's rights to full participation in peace-building work.

Source: <http://www.wluml.org/news/international-nobel-peace-prize-awarded-three-women>

Mali adopts conservative Family Code

In a disappointing development, Mali has adopted a new Family Code which far from increasing protection eliminates rights of women and perpetuates discrimination. According to the new Code, “a woman must obey her husband” and men are considered “head of the family”. The legal age for marriage is 18 years for males and 16 for females. In certain cases, marriage can be authorised from 15 years. Religious marriages are legally recognised. Human rights activists in Mali had made repeated calls for adoption of a Family Code guaranteeing women's human rights. They further criticized the government including recommendations by the High Islamic Council and ignoring those of the civil society.

A first draft of the Family Code was adopted by the National Assembly of Mali in August 2009. Although the text did not enshrine equal rights between the sexes, it did contain significant advances. However, following protests by conservative forces, President Amadou Toumani Touré decided not to enact the law and to send it back to Parliament for a second reading. During the revision process, the central provisions - concerning the legal age for marriage, custody of children and inheritance underwent substantial changes; the modified text was finally adopted.

Source: <http://www.fidh.org/Mali-s-new-Family-Law-women-s>

<http://www.wluml.org/news/mali-malis-new-family-law-womens-rights-denied-discrimination-upheld>

Women protesters face violence during the mass protests against dictatorship regimes in West Asia and N. Africa

In the anti-government protests that shook West Asia and Africa and led to the fall of dictatorships over the last year, women protestors were active in the process of democratization in the region. However, reports have pointed out that while women are playing an invaluable role in pro- democracy movements they face violence both from male non state actors and state representatives.

In Libya, a woman reported to foreign journalists that Libyan troops had raped her. She claimed that government troops had detained her at check point, tied her up and then she was gang raped by fifteen men, including the son of a high ranking police officer. On International Women's day in Cairo, a mob of angry men beat and sexually assaulted women marchers calling for political and social equality. Amnesty International responded by calling on the Egyptian authorities to investigate serious allegations of torture, including forced 'virginity tests' inflicted by the army on women protesters arrested in Tahrir Square but the findings of the enquiry were never publicised. In another incident, in one of the largest female demonstrations of the present times, several thousand women marched in 23 December 2011 Cairo to protest against the violence on female demonstrators demanding end of military rule in Tahrir Square. The spark for the march on came over the 20-21 December 2011, when hundreds of military police officers in riot gear repeatedly stormed Tahrir Square, indiscriminately beating anyone they could catch. Videos showed more than one instance in which officers grabbed and stripped female demonstrators.

Local human rights activists accused the Egyptian military of systematically targeting female political activists, and have demanded that Egypt's military rulers admit to continued violations committed against demonstrators.

Source: <http://www.amnesty.org/en/news-and-updates/egyptian-women-protesters-forcedtake-%E2%80%98virginity-tests%E2%80%99-2011-03-23>
<http://www.guardian.co.uk/world/2011/mar/27/benghazi-woman-rape-and-detention>

NATIONAL

New Law/ Amendments

Amendments to the Dowry Prohibition Act 1961 proposed and discussed

The National Commission for Women has drafted certain amendments to the Dowry Prohibition Act 1961 in order to make the Act more effective. The amendments seek to make changes in the definition of 'dowry' to exclude gifts given voluntarily to the bride and/or bridegroom – provided that where such gifts are made by or on behalf of the bride or any person related to the bride, such gifts are of a customary nature and not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given. The NCW draft proposes deletion of the phrase 'in connection with the marriage' in the definition of 'dowry' and retain the phrase 'before or at any time after the marriage' - as judges have used the phrase 'in connection with the marriage' to deny justice to victims of dowry harassment. However, the Ministry of Law has circulated a Bill containing amendments to the Act, which retain the phrase 'in connection with the marriage.'

A consultation to discuss these amendments was organised by the NCW on 17th February 2011, which was attended by a limited number of NGO's, advocates and academics.

NCW amendments available at <http://ncw.nic.in/>

For a copy of the Bill drafted by the Law Ministry, please contact PLD

Parliament agrees to adopt three key elements of the Jan Lokpal Bill

The Indian Parliament agreed to adopt three key elements of the Jan Lokpal Bill - Citizen's Charter, inclusion of lower bureaucracy and creation of Lokayuktas in the States through the Lokpal Bill - to the Standing Committee for its perusal. The Jan Lokpal (or, 'The Citizen's Ombudsman') Bill is a proposed anti corruption law that seeks to create an independent ombudsman empowered to register and investigate complaints of corruption against state officers without prior government approval. Gandhian activist, Anna Hazare, broke a 12 day fast following this decision by the Parliament.

Source: <http://www.thehindu.com/news/national/article2405862.ece>,
<http://timesofindia.indiatimes.com/india/Anna-Hazare-breaks-fast-after-288-hours-nation-relieved/articleshow/9766385.cms>

Judgements/Orders

Supreme Court holds that sex workers are entitled to a life of dignity under Article 21 and orders rehabilitation scheme for sex workers

The Supreme Court in *Budhadev Karmaskar Vs. State of West Bengal* (Criminal Appeal No. 135 of 2010) held that it 'strongly felt' that the Central and State governments through Social Welfare Boards "...should prepare schemes for rehabilitation all over the country for physically and sexually abused women commonly known as prostitutes.." The SC further observed that "prostitutes" have a right to dignity under Article 21 of the Constitution and that if such women are granted the opportunity of availing of technical or vocational training, they would be able to earn their livelihood.

Additionally the ordered the states to make schemes for the relief and rehabilitation of sex workers. It has constituted a panel which will ensure that the states allocate resources for the relief and rehabilitation of sex workers, and will come out with a report on this issue. In this regard, suggestions by the state governments and sex workers will be taken cognizance of. It has further been held that any rehabilitation of the sex workers should not be coercive in any manner and it should be voluntary on the part of the sex workers.

The judgement can be seen at <http://xa.yimg.com/kq/groups/25274660/1909883979/name/1.pdf>

Source: <http://www.hindu.com/2011/02/15/stories/2011021554410900.htm>

Supreme Court directs Chhattisgarh government to disband Salwa Judum calling it illegal and unconstitutional

In a landmark decision upholding civil liberties, the Supreme Court has declared the deployment of Salwa Judum as illegal and unconstitutional and ordered the Chhattisgarh government to disband and disarm them. Holding that the government was violating constitutional responsibility the Court held that the policy of the State violated the rights under Articles 14 and 21 of the Constitution of those being employed as Special Protection Officers in Chhattisgarh and used in counter-insurgency measures against Naxalites, as well as of citizens living in those areas. Criticising the use of Salwa Judum by the government for anti naxal operations for its violations of human rights, use of child soldiers and poorly trained uneducated youth for counter-insurgency, the Court ordered investigation into the crimes and human rights violation committed by the Salwa Judum.

The order can be read at:

http://www.thehindu.com/multimedia/archive/00679/Supreme_Court_judgm_679794a.pdf

Supreme Court holds in a gang rape case that the offence can be compromised

In the case of *Baldev Singh and Others vs State of Punjab* the Supreme Court directed each of the accused in a case of gang rape (section 376 IPC) to pay the victim rupees fifty thousand each. The court took into cognizance that the victim and the accused had entered a compromise and the case was an old one before passing this order. The Sessions Court had awarded 10 years imprisonment to the accused, and the Punjab and Haryana High Court had upheld this sentence. Section 376 is a non compoundable offence.

Source: <http://www.ndtv.com/article/india/court-frees-rapists-agrees-they-can-pay-victim-87242>

Supreme Court declares Khap Panchayats which decree or encourage honour killings to be 'wholly illegal'

In the case of *Arumugam Servai vs. State of Tamil Nadu* and *Ajit Kumar and Others vs State of Tamil Nadu*, the Supreme Court decried the caste system and observed it was a 'curse' on the nation. According to the Court, inter caste marriages are in the national interest as such marriages will result in destroying the caste system. The Court declared Khap Panchayats 'which often decree or encourage honour killings or other atrocities in an institutionalized way on boys and girls of different castes and religion, who wish to get married or have been married, or interfere with the personal lives of people' as wholly illegal. In this case, the Bench upheld the sentence under the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, 1989, awarded by a trial court to Arumugam Servai, who called a member of a Scheduled Caste community by his caste name, 'Pallan' and then attacked him with sticks in a dispute regarding the method of tying bullocks in a Temple festival. Khap leaders are seeking to file a review of this order.

Source: <http://www.thehindu.com/news/national/article1710337.ece>

http://articles.timesofindia.indiatimes.com/2011-04-24/india/29468779_1_khap-panchayats-khap-leaders-honour-killings

Supreme Court awards death penalty for honor killings

In the case of *Bhagwan Das vs. State of Delhi*, involving the murder by a father of his daughter who left her husband in order to have an incestuous relationship with her uncle - the Supreme Court observed that honor killings have become commonplace in many parts of the country, particularly Haryana, Western U.P and Rajasthan. According to the court, "In our opinion honor killings, for whatever reason, come within the category of rarest of rare cases deserving death punishment. It is time to stamp out these barbaric, feudal practices which are a slur on our nation"

Citing its decision in *Lata Singh*, the Supreme Court affirmed that there is nothing honorable in honor killings, but that they are brutal murders and the death penalty is necessary as a deterrent for such uncivilized behavior.

Source: www.indianexpress.com/news/...death-penalty-for-honour.../787987

Supreme Court rejects mercy killing plea

The Supreme Court in *Aruna Ramchandra Shanbaug vs. Union of India* laid down certain rules with regard to euthanasia. The Court has directed that active mercy killing of a patient with poisonous injection or other means is illegal; however, the Court allowed passive mercy killing of a patient in a permanent vegetative state (PVS) by withdrawing the life support system with the approval of a medical board and on the directions of the High Court concerned. In this case, the Court did not accept the plea of Pinky Virani seeking permission to withdraw life support to her friend, Aruna Ramachandra Shanbaug, who has been lying in a PVS in the KEM hospital Mumbai for 37 years, following a brutal rape assault. The Court dismissed the petition filed by Pinky Virani of Bombay on the ground that she did not have the locus standi and that only the hospital could make such a request.

Source: <http://www.thehindu.com/news/national/article1516644.ece>

2 Judge bench of the Supreme Court recommends that illegitimate children be entitled to parent's property

2 Judge Bench of the Supreme Court in the case of *Revanasiddappa and Anr. Vs Mallikarjun and Ors* has passed an opinion in favor of extending all rights in parental property to illegitimate children. The Court citing Constitutional provisions, specifically Article 39 (f) of the Directive Principles regarding children, and Article 300A on right to property – and thereby interpreted section 16(3) of the Hindu Marriage Act to observe that “A child born in such relationship is innocent and is entitled to all the rights which are given to other children born in valid marriage. However, “..such children are only entitled to the property of their parents and not of any other relation.” The matter has been referred to a larger Bench.

Supreme Court seeks clarification of government stand on AFSPA

The Supreme Court has asked the government to spell out its position on the Armed Forces Special Powers Act. The apex court made the remarks after the senior counsel appearing for the Centre, voiced divergent views on two separate encounter killings involving military personnel in Jammu and Kashmir and Assam. In the 2004 Chattisingpora killing in Jammu and Kashmir, where seven youth were killed in an alleged fake encounter by Rashtriya Rifles personnel, the counsel sought prosecution of the army men whereas in a similar alleged fake encounter by CRPF men in Assam, the counsel said they enjoyed immunity. The court asked the government to clearly spell out its stand on two issues: (a) whether army and paramilitary personnel enjoy immunity from criminal prosecution for any penal offence committed in discharge of their official duties including fake encounters and rapes vis-a-vis AFSPA, Section 197 Cr.P.C and Section 17 of the CRPF Act; and (b) should the investigating agency like CBI conduct a preliminary inquiry into such killings before registering an FIR against accused army and paramilitary personnel.

Source: <http://www.thehindu.com/news/national/article2110019.ece>

Supreme Court rules that the Hindu daughter has equal rights and the same liabilities as that of a male coparcener

The Supreme Court has held that a Hindu woman or girl will have equal property rights along with other male relatives for any partition made in intestate succession after September 2005. The court held that the Section 6 of the Hindu Succession Act, 2005 provides for parity of rights in the coparcenary property among male and female members of a joint Hindu family on and from September 9, 2005. Coparceners are persons on whom the lands of inheritance descend from their ancestor. Prior to the Amendment in 2005, women were not coparceners under Indian law. The Legislature has now conferred a substantive right in favor of the daughters. According to the new Section 6, the daughter of a coparcener becomes a coparcener by birth. She consequently acquires her own rights and liabilities in the same manner as the son. The court further held that the declaration in Section 6 that the daughter of the coparcener shall have same rights and liabilities in the coparcenary property as she would have been a son is unambiguous and unequivocal.

With this judgement, the Apex Court has cleared any ambiguities left on the rights of Hindu women during intestate succession and made it clear that she gets the same share as her brother.

Source: <http://dc.asianage.com/india/sc-hindu-woman-has-equal-rights-582>

All interventions filed in support of reading down section 377 accepted by the SC

The SC has allowed all the five intervention applications filed in support of reading down section 377 of the IPC. The applications filed by Teachers for Democracy, parents of LGBT children, psychiatrists, byfilm director, Shyam Benegal and by law professors have been accepted. In contrast, the SC dismissed a plea by Suresh Kumar Kaushal, who submitted that the defence forces should be made a party to the matter as the Army chief had openly expressed his opinion against homosexual behaviour and had said that such behaviour would not be allowed in the forces. April 19th has been fixed as the next date for hearing.

Source: <http://economictimes.indiatimes.com/news/politics/nation/sc-refuses-to-impead-forces-in-gay-sex-case/articleshow/7448303.cms>
http://www.tehelka.com/story_main48.asp?filename=Ws070211SUPREME.asp

High Court directs Chandigarh, Punjab and Haryana to publicize protection homes for runaway couples

The Punjab and Haryana High Court has directed Chandigarh and the states of Punjab and Haryana to publicize centers opened for the protection of runaway couples with the help of media including radio. The UT/state governments have been directed to furnish details of number of marriages registered, counseling given to parents of runaway couples and protection offered after registration of marriage. Further, the two advocates assisting the H.C in this case have been asked to pay a surprise visit to the protection homes in Punjab and Haryana.

Source: <http://www.indianexpress.com/news/HC-orders-Punjab--Haryana--UT-to-publiciseprotection-homes-for-runaway-couples/778036/>

Delhi Additional District Judge allows triple talaq through an agent

A Delhi ADJ dismissed an appeal against a family court order moved by a Muslim woman demanding that the talaqnama issued by her husband, who engaged the services of an Arabic-conversant agent to pronounce talaq on his behalf, be declared “null and void.” The man appointed an agent to pronounce divorce on his behalf as he could not utter the words in Arabic. The court said that Shia Muslim personal law allows a man to obtain talaq under these circumstances. The woman is seeking assistance of women’s groups for appealing against this judgement.

Source: http://articles.timesofindia.indiatimes.com/2011-05-09/delhi/29524688_1_talaq-divorce-sessions-court

Special courts set up in Delhi for children who have dealt with violence and crime

Around 450 cases have been registered in the 11 children’s courts in the national capital since July when they became functional. Delhi is the first state to open such facilities in the country. The initiative to open children’s courts was taken by the Delhi Commission for Protection of Child Rights (DCPCR), which approached the Delhi High Court citing law that guarantees the setting up of children courts. Children’s courts are different from juvenile court. While juvenile court is a tribunal having special authority to try and pass judgements for crimes committed by children or adolescents, children’s court deals with cases where a child has suffered due to any form of violence or crime.

Source: <http://articles.economictimes.indiatimes.com/2011-1023/news/303131871courts-dcpcr-first-state#>

Delhi HC fines a woman fined Rs.5 lakh for sexual harassment case filed 15 years ago

In a regressive decision, the Delhi High Court directed a woman to pay compensation of Rs 5 lakh on a sexual harassment case filed 15 years ago by her against her boss. The woman had alleged that she was sexually harassed in 1996, while working as secretary to the then chief personnel officer in Northern Railways. The Central Administrative Tribunal (CAT) had ruled in her favour, but the Delhi High court in 2008 set aside the order, terming it "invalid".

The man had filed a defamation suit against the woman seeking damages of Rs 10 lakh for the "emotional trauma" he underwent. Holding that the woman had defamed the 74-year-old man, who has now retired, additional district judge Rajender Kumar Shastri directed the woman to pay compensation, saying "every man has his own status, however humble, and he has a right to guard his reputation".

Source: <http://m.timesofindia.com/city/delhi/Woman-fined-Rs-5-lakh-for-false-sexual-harassment-case-filed-15-years-ago/articleshow/10952533.cms>

Delhi court rules that wearing revealing dress constitutes 'mental cruelty'

An Additional District Judge in Delhi accepted a husband's plea that he suffered from 'mental agony' as his wife wore 'vulgar' (short) dresses regularly. The court rejected the woman's more serious contention that her husband and in-laws had leveled frivolous and baseless allegations against her as her parents failed to meet their demand for dowry.

Source: <http://www.thehindu.com/news/national/article1414300.ece>,
<http://timesofindia.indiatimes.com/city/delhi/Divorce-sparked-off-by-short-dress/articleshow/7478785.cms>

Bombay High Court helps fight sex selective abortion

In a significant victory for the state government in its drive against sex selective abortion, the Bombay High Court on 26th August 2011 upheld Kolhapur district collector's decision to make it mandatory for all pathologists using sonography and ultrasound machines to install the "silent observer", a device which records all sonography images, which are then stored in a centralised server, and can be reviewed later to track instances of sex selection. The system also enables documentation of pregnant women to be stored online.

Source: http://www.dnaindia.com/mumbai/report_bombay-high-court-helps-fight-female-foeticide_1580153,
<http://www.hindustantimes.com/Device-helps-check-female-foeticide-improves-sex-ratio/Article1-738355.aspx>

Bombay High Court states, 'medical evidence is not always necessary to prove rape: Bombay High Court'

A single judge bench of the Bombay High Court, Nagpur Bench has held that medical evidence is not always necessary to prove rape. The court said that merely because there was no medical evidence to prove sexual intercourse, it cannot be held that the accused was innocent, adding that this was because there was strong, truthful and reliable evidence of the victim. The court observed that 'in girls aged about 13-14 years, the hymen is tough and without rupture of hymen, the sexual intercourse is possible with slight penetration.' Justice Bakre, while upholding the Gadchiroli sessions court verdict of convicting Sadmak, ruled that victim's testimony 'inspires full confidence, is wholly reliable and has circumstantial support of the testimonies of other witnesses'.

Source: http://articles.timesofindia.indiatimes.com/2011-09-25/nagpur/30200235_1_evidence-gadchiroli-komolika

News and Events

Binayak Sen released on bail

In a progressive move, the Supreme Court has granted bail to civil rights activist, Dr. Binayak Sen, who had been accused of colluding with Naxalites and sentenced to life imprisonment on charges of sedition. The Supreme Court observed in its order that Sen was only a ‘sympathiser’ of the Naxalite movement and this does not lead to the offence of sedition.

Source: <http://www.indianexpress.com/news/after-sc-nod-rights-activist-binayak-sen-out-onbail/777695/0>

Review petition filed by PLD in Velusamy vs Patchaiammal case dismissed

In an order dated 17th August 2011, the Supreme Court dismissed the review petition filed by PLD in the case of *Velusamy vs Patchaiammal*, where the SC narrowed the definition of the phrase “relationship in the nature of marriage” used in the Protection of Women from Domestic Violence Act, 2005 – thereby excluding many women from benefits associated with the Act. In the order, the SC clarified that words and expressions used in the judgement were only meant to elucidate certain points, and were never meant to show any disrespect to women or say anything disparaging about them.

A review petition filed by Mahila Dakshata Samiti in the same case was dismissed in March this year. There are no further reviews with the court on this case.

PLD and partners file intervention in the case of Chanmuniya vs. V.K Singh

PLD along with seven partner organisations has filed an intervention application in the Supreme Court in the case of *Chanmuniya vs. V.K Singh*. In this case, while dealing with the issue of maintenance for a woman who is not the legal wife of the man but had married according to a customary practice, the SC referred three substantial questions of law to a larger Bench pertaining to the question ‘who is a wife?’ PLD filed the intervention in the context of its work on rights in intimate relationships to argue for an inclusive definition that takes care of protection gaps for women in relationships akin to marriage.

Two incidents of discrimination against lesbian couples in India

Policemen from Mumbai and Delhi arrived at the home of an openly lesbian couple in Vasant Kunj, Delhi and tried to barge their way in while the two women kept the door bolted and stayed inside. As the family of one of the women had not come to terms with her sexuality, they had filed a complaint with the National Commission for Women who served a notice on the girls. Both claimed to have appeared before the NCW, expressed their views on the issue and asserted that they didn't wish to go back. Women's groups and members of Naz Foundation protested against the Delhi Police flouting rules and prevented the arrest of the girls.

Source: <http://timesofindia.indiatimes.com/city/delhi/Lesbian-couple-hounded-in-city/articleshow/7531247.cms#ixzz1ESxPSbcY>

In another incident relating to violations of rights of sexual minorities, two lesbian girls committed suicide after being harassed and ostracised (one being married forcefully) in West Bengal. The families refused to accept and cremate their bodies because of the ‘unnatural nature’ of their acts. Sappho, a Kolkata-based NGO that works for the LGBT community, is in the process of conducting a fact-finding in the case.

Source: <http://www.indianexpress.com/news/punished-in-life-death/755565/0>

Special Godhra court awards death penalty to 11 people for burning of the Sabarmati Express

A special Godhra court set up to investigate the Gujarat riots of 2002 has observed the case fell into the 'rarest of rare' category and awarded death sentences to 11 accused for burning down coach S-6 of the Sabarmati Express. While 63 people have been let off, 20 others have been convicted and given life sentences for their role in the 2002 incident that left 58 kar sevaks dead and fuelled a pogrom against Muslims in the state. The defence will challenge the verdict in the Gujarat High Court. Two different panels had been appointed to probe into the incident – while the Banerjee Commission appointed by the former Railway Minister had said the fire was accidental, the Nanavati Commission, appointed by the Gujarat government, concluded the fire was a pre-planned incident. The court gave its verdict according to the Nanavati report.

Source: <http://www.indianexpress.com/story-print/756263/>

Action demanded against state agents in three cases of sexual violence

The recent reports of rape and killing of women with impunity by state agents has prompted several agencies and organisations to demand accountability for these acts. The National Commission for Women (NCW) submitted its final report into the Bhatta Parsaul violence in which held the police officials deployed in the twin villages of Uttar Pradesh responsible for the rape and physical abuse of women during a farmers' agitation earlier this year. In another case, the State Human Rights Commission (SHRC) of Jammu and Kashmir has asked the government to reopen the 20 year old mass rape case where army soldiers had allegedly gang raped over 30 women at Kunan Poshpora village in Kupwara district. Though medical reports and testimonials confirmed the gang-rape, the investigation was closed as "untraced." There were 34 petitioners against the incident - all describing gory details the army brutality on the night of February 23 and 24, 1991. And thirdly, human rights activists have demanded action against the Chattisgarh police for the rape and killing of a 16-year-old tribal girl, Meena Khalko. On July 6, Meena Khalko a resident of Surguja district in Chhattisgarh was killed by police on the pretext of having links with Naxal. As a response to the outrage caused by the post mortem report, the State Home Ministry defended the police by saying that the girl was 'habituated to sexual contact'.

Taking note of the incident where the rape was not investigated rather an attempt was made to slur the deceased minor victim, a widely endorsed petition was sent by women's groups to the three main ministries – the Ministry of Home Affairs, Ministry of Law and Justice, Ministry of Health and Family Planning, to press for the enactment of the long delayed law reform on sexual assault. The phrase 'habitual sexual contact' and two finger tests similarly, continue to mar rape investigations – and need to be eliminated from medico forensic practice as part of the reforms.

Source: http://articles.timesofindia.indiatimes.com/2011-09-20/india/30179521_1_ncw-yasmin-abrar-bhatta-parsaul

<http://indiatoday.intoday.in/story/shrc-wants-jammu-and-kashmir-army-mass-rape-case-reopened/1/156960.html>

www.indianexpress.com/news/naxal-girls-killing-kin...rape.../0

Ghaziabad SHO suspended after the public outcry over "Operation Majnu"

After camera footages of couples in a park being roughed up, and men being asked to do sit ups by the police, were aired by television channels, the Ghaziabad police suspended SHO, the officer in charge. According to the police, operation, called "Operation Majnu" was started, in an attempt to check 'eve teasing' in the area. During the implementation of the drive cops had been picking up young couples at

parks and malls. The “offenders” were being asked to “explain their conduct” and then handed on-the-spot “punishment”, without a care for their dignity and rights.

Source: <http://www.indianexpress.com/news/Operation-Majnu--SHO-suspended-in-wake-of-outcry-over-public-harassment/882650/>

Feminists endorse public statement against sex change surgery on infants

Feminists, activists and organisations (including PLD) have endorsed a statement expressing shock at the practice of sex change surgery on infants. The statement questions the claims of doctors that surgery is only performed on intersex infants with ambiguous genitalia - by observing that there is no mention of surgeries to turn some of the children into girls. The statement further points out that there are several intersex persons in India who are leading happy lives as adults and that surgeries done at a very young age are irreversible and have led to great personal trauma for the victims in their later life.

(Please contact PLD for a copy of the statement).

Oral Submissions by Women’s Groups on section 498 A IPC at the Rajya Sabha

The Rajya Sabha invited select women’s organisations (including PLD) and lawyers to present their oral submission on section 498 A of the Indian Penal Code on 3rd June 2011. A petition was filed in the Rajya Sabha by Dr. Anupama Singh claiming that ‘the law is fearlessly abused and misused’ by ‘unscrupulous people and women to enable a get rich quick soon scheme’ and to ‘extort money from innocent families.’

Many organisations and individuals sent written submissions in response to this petition towards the end of 2010, pointing out the value of section 498 A in a context where women are not at par with men, and do not have access to the same resources men have.

PLD organizes two South Asia Training of Trainers (ToT) on CEDAW “Strengthening Application of CEDAW in South Asia”

PLD supported by UN Women is organising two residential South Asia Training of Trainers (ToT) on CEDAW “Strengthening Application of CEDAW in South Asia” from 14-21 July 2011, in New Delhi and 8-14 April 2011, in Lalitpur, Nepal. The ToT aimed to strengthen the capacities of stakeholders in advancing application of CEDAW in local and national contexts. They sought to refresh and deepen understanding of concepts, facilitate implementation in key contexts of gender inequality in South Asia, and familiarise with diverse applications of CEDAW, including the review processes.

Information about the ToT is available at www.cedawsouthasia.org

Programmes/ Policy/Institution

Sex ratio in India drops to lowest since independence: Census 2011

The child sex ratio in India has dropped to 914 females per 1,000 males – the lowest since independence. The states of Punjab and Haryana have seen an increase in the child sex ratio of females, but still remain the states with the lowest child sex ratio at 846 and 830 respectively. An increasing trend has been seen in the child sex ratio in the states of Punjab, Haryana, Himachal Pradesh, Gujarat, Tamil Nadu, Mizoram and Andaman and Nicobar islands. All other states and UT’s have seen a declining trend. However, the overall sex ratio at the national level has seen an increase and has reached 940 females per 1,000 males.

Source: http://articles.economictimes.indiatimes.com/2011-03-31/news/29365989_1_ratio-males-girl-child

Live-in Couples not entitled to adopt under new guidelines

The Ministry of Women and Child Development has been reported as having decided on new guidelines pertaining to adoption, which include that unmarried couples living together will not be considered eligible for adoption of children. The government is expected to issue the notification soon. This move is detrimental for the rights of many couples who are in relationships in the nature of marriage, but choose or are unable to be legally married.

Source: <http://www.hindustantimes.com/New-rules-Live-in-couples-ineligible-for-adoption/Article1-711395.aspx>

Feminists endorse public statement against sex change surgery on infants

Feminists, activists and organisations (including PLD) have endorsed a statement expressing shock at the practice of sex change surgery on infants. The statement questions the claims of doctors that surgery is only performed on intersex infants with ambiguous genitalia - by observing that there is no mention of surgeries to turn some of the children into girls. The statement further points out that there are several intersex persons in India who are leading happy lives as adults and that surgeries done at a very young age are irreversible and have led to great personal trauma for the victims in their later life.

(Please contact PLD for a copy of the statement).

Financial assistance and support services to victims of rape: A scheme for restorative justice

The Ministry of Women and Child Development has notified a scheme to compensate victims of rape by providing them with financial assistance of up to Rupees three lakhs. Under the scheme, if a rape case is prima facie made out, the victim will receive an interim financial assistance of Rs. twenty thousand within 15 days. After giving due consideration to the physical injury and emotional trauma faced by the victim, she will be provided with further financial aid up to fifty thousand. The major chunk of the compensation will be handed over to the victim only after she makes the final deposition before the court.

The details of the scheme are available at:

<http://wcd.nic.in/schemes/Financialssistancerapevictimscheme.pdf>

SHRC report: Official acknowledgement of disappearance of civilians in Kashmir during armed conflict

A state human rights commission inquiry has concluded that thousands of bullet-riddled bodies are buried in dozens of unmarked graves across Kashmir. Many of these are likely to be those of civilians who disappeared more than a decade ago at the time of armed struggle. The inquiry, the result of three years of investigative work by senior police officers working for the Jammu and Kashmir State Human Rights Commission, brings the first official acknowledgment that civilians might have been buried in mass graves in Kashmir.

Source: <http://www.nytimes.com/2011/08/23/world/asia/23kashmir.html>

<http://www.kashmirtimes.com/news.aspx?ndid=14857>

Government of Karnataka to withdraw social benefits from those conducting child marriages

In a positive of a welfare scheme in Karnataka will have to give an undertaking that he or she will not abet a child marriage and that government benefits could be withdrawn if they renege on their promise.

The circular on this was recently issued by the Additional Chief Secretary, Department of Women and Child to all departmental secretaries. This was one of the many recommendations of the four-member Core Committee on Prevention of child marriage headed by former Justice of Supreme Court Shivaraj V. Patil. As per the committee's recommendation, the Revenue Department has also issued an elaborate set of guidelines on mass marriages as many child marriages take place in these events. The guidelines also include those, on registration of organization conducting the marriage, thorough verification of age proof documents and mandatory presence of Child Development Project Officer in the events and so on.

Source: <http://www.thehindu.com/news/cities/Bangalore/article2608521.ece>

Maharashtra drafts Rules for the establishment of Holiday Courts to increase access to courts for women

In a bid to provide greater access to courts to the litigants, the Bombay High Court has drafted Rules introducing morning, evening and Holiday working in Family Courts in Maharashtra. According to the plan, the Holiday Courts would function on public holidays (including Saturday and Sunday), the Morning Courts from 8:30 am to 10:30 am and Evening Courts from 6 pm to 8 pm. The courts would consider matters of mutual consent, maintenance and child custody cases. The Rules would come into effect on the date of publication of the Rules in the Official Gazette.

However, some women's rights activists and groups have opposed this move as being tokenistic and both impractical and inconvenient for women. The timings of the evening court would make it difficult for women to commute back home as this will cause more of a problem in smaller towns not only for women working outside their homes but also for women working within. Further, holiday courts would be a deterrent for women as in custody cases, access is granted to children on weekends. Moreover such a move would make family courts a hardship post for judges and make it harder for women litigants, court staff, and lawyers. The often cited structural obstacle to justice for women has been periodic adjournments and ineffective hearings, a problem that remains unaddressed by this proposal. Indeed, this move effectively expands the hours available for court hearings, making more hearings possible, without the promise of effectiveness or gender justice.

The draft rules can be accessed at

<http://bombayhighcourt.nic.in/notifications/PDF/noticebom20111018041454.pdf>

NHRC and WGHR send stakeholders reports' to UN for India's second Universal Periodic Review

National Human rights Commission has submitted their a separate report to UN assessing India's human rights situation for India's second Universal Periodic Review (UPR). The report is available at <http://nhrc.nic.in/Reports/UPR-Final%20Report.pdf>. This is the first time NHRC is not submitting an independent stakeholders report.

In our last newsletter we carried news about Working Group on Human Rights (WGHR) submitting "Joint Stakeholders Report" to UN on India's second Universal Periodic Review process to be conducted in May 2012. The same report titled "Human Rights in India: An Overview" was released by WGHR at a press conference organized on 7 December 2011. The report is an appraisal of the current human rights situation in India and submitted an assessment of the same. Among other things, the report enlists alleged violations like arbitrary arrests and extra judicial killings by security forces in the disturbed areas of India. In addition to WGHR's joint stakeholders report, separate networks and groups have sent specific thematic reports to the UN as well.

WGHR's report and press release are available at: <http://www.wghr.org/>

Obituary

K.G. Kannabiran, senior advocate and eminent civil rights activist passes away

K.G Kannabiran, senior advocate, eminent civil rights activist and former President of PUCL passed away on December 30th 2010. Some of the prominent issues Kannabiran was associated with include legal challenges to the A.P Preventive Detention Act 1970, enacted by the government to crush revolutionary student activism, legal challenges to the imposition of the Emergency in 1975, and on encounter killings leading to a by the Andhra Pradesh High Court recognising that encounter deaths are prima facie cases of culpable homicide.

Prof. Dr Shanta Thapalia, eminent lawyer, academician and women's right activist from Nepal passes away

Prof. Dr Shanta Thapalia, eminent lawyer, academician and women's right activist from Nepal passed away on 2 February 2011. She was also the chairperson of Legal Aid and Advocacy Centre (LAAC).

Supreme Court lawyer and women's rights activist Rani Jethmalani passes away

Rani Jethmalani, women's rights activist and Supreme Court lawyer passed away in Mumbai on 31st December 2011 due to terminal illness. Ms. Jethmalani, worked relentlessly for women's rights and was associated with the Mahila Dakshata Samiti to campaign against the social injustices and violence against women. She was also one of the founding members of Asia Pacific Forum for Women, Law and Development, the region's leading network on women's rights. Commit-2-Change, a non-profit organization, where she served as a Board Member, described her as a lawyer who made "most significant advances in the area of dowry and dowry-death related cases. Her innovative use of public interest litigation in criminal trials challenged societal and cultural trends."

She also co-founded the WARLAW (Women's Action Research and Legal Action for Women) to research and challenge the out-dated laws, and to make the implementation and practice of law more gender-neutral. Her death is great loss to the women's movement.

Source: <http://www.thehindu.com/news/states/other-states/article2764191.ece>
<http://www.hindustantimes.com/India-news/Mumbai/SC-lawyer-Rani-Jethmalani-passes-away/Article1-789417.aspx>

PLD is a legal resource group working in the fields of social justice and women's rights in India and South Asia. We view law as an essential resource in the struggle for social justice and consider gender equality as central to the attainment of social justice. Our belief is that social justice goals are best shaped by human rights laws which establish a framework for the realization of the rights of the disadvantaged and the marginalised. Our understanding of rights and dignity of all persons is drawn from human rights law as well as the contextual realities of disadvantaged groups.

Please visit us at www.pldindia.org and www.cedawsouthasia.org
Or write to us at: resources@pldindia.org