

# BI-MONTHLY LEGAL NEWS

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## Updates from the UN

### The UN Commission on the Status on Women fails to uphold women's rights

The recently concluded 56<sup>th</sup> session of Commission on the Status on Women (CSW) failed to produce its 'agreed conclusions', historic first, raising serious concerns regarding the global community's commitment to uphold the universal standards on women's equality. The session held from 27 February to 9 March 2012, saw sharply drawn conflict between conservative and progressive positions, as a consequence of which there were no 'agreed conclusions' at the end of the session. The word 'tradition' was sought to be delinked from the term "harmful and traditional practices," that appears in several UN documents and Beijing Platform +5, as a cause of violence against women. The debate at the CSW is part of the growing backlash to women's rights from conservatives, who demand that human rights be subjected to traditional values, and all negative references pertaining to tradition be erased henceforth in UN documents. In response, APWLD mobilised a widely endorsed petition to "say NO to safeguarding 'traditional values' over women's human rights!" that was sent to governments who participated in the CSW session.

As part of this backlash, the introduction of child marriage; reproductive and sexual rights as human rights and the right to negotiate for safer sex, were also fiercely opposed from being included. With regard to HIV and AIDS, the conservative groups protested against the demand for the introduction of the central role of the family in reducing the vulnerability to HIV by the South African Development community, Lastly Iran's opposition to the 2011 UN Declaration on HIV/AIDS was a major obstacle in its reaffirmation.

For a detailed analysis of the session, see

[www.wvhr.org/files/ANALYSIS%20OF%2056TH%20CSW.doc](http://www.wvhr.org/files/ANALYSIS%20OF%2056TH%20CSW.doc)

Proceedings at the 56<sup>th</sup> session of CSW:

<http://www.un.org/womenwatch/daw/csw/56sess.htm>

Read APWLD's petition against Harmful traditional Practices:

<http://www.apwld.org/uncategorized/say-no-to-safeguarding-traditional-values-over-womens-human-rights-sign-here/#more-2361>

### UN Human Rights Council adopts resolution on Accountability and Reconciliation in Sri Lanka

UN Human Rights Council has adopted a resolution "Promoting reconciliation and accountability in Sri Lanka". The resolution drafted by the United States and introduced by 40 co-sponsoring countries calls upon the government of Sri Lanka to implement the recommendations of the Lessons Learnt and Reconciliation Commission (LLRC); to initiate independent and credible actions to address alleged violations of international humanitarian and human rights law; and to present a comprehensive action plan towards both these ends. It also encourages the Office of the UN High Commissioner for Human Rights (OHCHR) and relevant Special Procedures to provide advice and technical assistance, and requests the OHCHR to present a report on its work in this regard to the 22nd regular session of the Council in March 2013.

The adoption of the resolution is a historic victory for human rights defenders in Sri Lanka who have been demanding the support from the international community to expose the injustices and war crimes committed by the Sri Lankan government during the conflict with LTTE. After much deliberation and last minute discussions at the National Parliament, India voted in favour of the resolution.

Text of the resolution: [http://daccess-dds-](http://daccess-dds-ny.un.org/doc/RESOLUTION/LTD/G12/115/97/PDF/G1211597.pdf?OpenElement)

[ny.un.org/doc/RESOLUTION/LTD/G12/115/97/PDF/G1211597.pdf?OpenElement](http://daccess-dds-ny.un.org/doc/RESOLUTION/LTD/G12/115/97/PDF/G1211597.pdf?OpenElement)

Report of the Commission of Inquiry on Lessons Learnt and Reconciliation, Sri Lanka, November 2011:  
<http://slembassyusa.org/downloads/LLRC-REPORT.pdf>

## UN General Assembly adopts progressive resolution on women and political participation

In a positive development, the UN General Assembly in its sixty-sixth session has adopted a resolution affirming the right of women to political participation. The resolution calls on States to eliminate laws, regulations and practices that may be discriminatory thereby preventing or restricting women's participation in the political process. Adding weight to UN SCR 1325 and 1820, the resolution stresses that States ensure that women are included in the 'management, prevention, mediation and in all other peace building efforts'. Further, significantly the resolution also calls on States in situations of political transition to take effective steps to ensure the participation of women on equal terms with men in all phases of political reform, from decisions on whether to call for reforms in existing institutions to decisions regarding transitional governments, to the formulation of government policy, to the means of electing new democratic governments.

Finally, the UNGA also requested in the resolution that the UN Secretary General, submit a report on the implementation at its sixty-eight session along with precise data on political participation from States.

Source: [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/66/130&Lang=E](http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/66/130&Lang=E)

## ICC delivers its first judgement against use of child soldiers in conflict in Eastern DRC

In a historic judgement, the International Criminal Court (ICC) convicted Thomas Lubanga for conscripting, enlisting and using children under the age of 15 and using them to participate in an armed conflict from September 2002 to August 2003 in Eastern Democratic Republic of Congo. He now faces a maximum sentence of life imprisonment. Human rights activists have hailed the judgement as being monumental in the struggle against impunity, however they were concerned that Lubanga was not explicitly charged with sexual and gender based crimes. During the trial, the appeals chamber rejected an attempt by the victims participating in the case to amend the charges to include gender crimes. However, in the course of presenting evidence, witnesses raised the use of girls as soldiers and the abuse of girls and women as sex slaves.

Thomas Lubanga as the leader of the group President of the Union des patriotes Congolais (UPC) during the conflict of 2002-03, a rebel militia to dominate Easter DRC's Ituri region, home to one of the world's most lucrative gold reserves. Children as young as 11 were recruited from their homes and schools, were taken to military training camps and beaten and drugged and used as sex slaves.

Source: <http://www.iccwomen.org/WI-WomVoices4-12-FULL/WomVoices4-12.html>  
<http://www.guardian.co.uk/law/2012/mar/14/lubanga-icc-milestone-accountability>

## CEDAW Committee raises concern over non- addressal of gender stereotyping by States

The CEDAW Committee through its mechanism of the Optional Protocol has held that States failure to address gender stereotypes leads to a failure to protect survivors of violence and prevent them to undergo further discrimination. The case was of a Bulgarian woman who moved to Poland with her husband and children. Following continued domestic abuse and pending divorce proceedings she returned to Bulgaria seeking protection. However, the Bulgarian authorities failed to respond to her and refused to grant a protection order as there had been no abuse for a month thereby concluding that "there was no imminent danger or threat to life". The Committee found that the refusal to grant a permanent protection order was based on gender stereotypes related to domestic violence. It also found that the divorce proceedings had been influenced by gender stereotypes related to the roles and behaviour expected of men and women

within marriage and family relations. According to the Committee, reliance on these gender stereotypes amounted to discrimination and also resulted in the re-victimization of woman, in violation of articles 2(d) and 2(f) of CEDAW as well as article 5 (a), read in conjunction with article 16(1) and the Committee's General Recommendation No. 19 on violence against women.

Decision of the CEDAW Committee in Bulgarian case:

<http://www2.ohchr.org/english/law/docs/CEDAW-C-49-D-20-2008.pdf>

## United Nations Commission on Population and Development adopts resolution on young people's reproductive health

At the conclusion of 45th Session of the United Nations Commission on Population and Development (CPD) adopted a groundbreaking resolution supporting sexual and reproductive health and rights of adolescents and youth. The resolution reaffirmed that it is a basic right of all individuals to decide when to have children and to have access to the necessary information and quality medical services to facilitate that decision. Importantly, the resolution called on States to provide protect the right of young people to decide on all matters related to their sexuality; provide access to comprehensive sexual and reproductive health services, including safe abortion where it is legal—free of discrimination and with full respect for their privacy and confidentiality; protect the right of young people to control their sexuality free from violence, discrimination and coercion; and provide young people comprehensive sex education based on science.

Press release: <http://www.un.org/News/Press/docs//2012/pop1006.doc.htm>

Proceedings of the 45<sup>th</sup> session: <http://www.un.org/esa/population/cpd/cpd2012/cpd45.htm>

## Human Rights Council adopts resolution on adequate housing in the context of disasters

United Nations Human Rights Council passed a resolution regarding adequate housing in the context of disaster settings. In its introduction, the resolution expresses the Council's concern at the number and scale of natural disaster and weather events, which have resulted in massive loss of life and homes, as well as forced displacements and other negative consequences. It also shows the necessity of a human rights-based approach as a factor to the realization of the right to adequate housing, and reinforces the importance of the principles of participation and 'empowerment of the affected people and gender equality'.

The Resolution calls on states to note special needs of women in post disaster assessments and respect international human rights standards including that of gender equality while rebuilding community structures and networks.

Source: <http://www.ohchr.org/Documents/Issues/Housing/A.66.270.doc>

## International Developments

### Asia

## Burma ushers in an era of democratic reforms with the election of Aung San Suu Kyi

Under the leaderships of Aung San Suu Kyi, the National League for Democracy (NLD) created history by sweeping the by-elections held in April. This was followed by a dispute on oath where NLD wanted the phrasing "safeguarding the Constitution" to be changed to "respect the Constitution". However, after the government did not agree, NLD climbed down with a resolve to amend the 2008 Constitution that brought immense power to the Army. Aun San Suu Kyi's entry into Parliament as member has brought

back hopes of democratic reforms to the people of Burma. In 2010, a few days before Aun San Suu Kyi's release, the military government backed Union Solidarity and Development Party won elections and formed the government. The elections were believed to be hugely manipulated and were boycotted by NLD. Thein Sein, a member of the Rakhine Nationalities Development Party, which represents one of Burma's ethnic minorities, was elected President. His government has spearheaded some unexpected yet welcome reforms, including the holding April by-elections. While NLD has too few seats to wield any real power in the ruling party-dominated assembly, however there are fears the presence of an opposition could legitimise the current regime. But the new MPs are likely to bring a level of public debate to the legislative body that has never been seen as they prepare for the next general election in 2015.

Source: <http://www.bbc.co.uk/news/world-asia-17607842>; <http://www.bbc.co.uk/news/world-asia-17588313>; <http://www.guardian.co.uk/world/2012/apr/23/aung-san-suu-kyi-boycott>  
<http://www.dvb.no/analysis/suu-kyi-embraces-new-role-and-compromise/21877>

## Human Rights Watch through it report asks for release of women jailed for 'moral crimes' in Afghanistan

Human Rights Watch has demanded that the Government of Afghanistan end the shocking wrongful imprisonment of women and girls who are victims of crimes rather than criminals. The report, "I Had to Run Away": Women and Girls Imprisoned for 'Moral Crimes' in Afghanistan," is based on 58 interviews conducted in three prisons and three juvenile detention facilities with women and girls accused of 'moral crimes'. According to the findings of the report almost all girls in juvenile detention in Afghanistan had been arrested for 'moral crimes', while about half of women in Afghan prisons were arrested on these charges. These "crimes" usually involve flight from unlawful forced marriage or domestic violence. Some women and girls have been convicted of zina, sex outside of marriage, after being raped or forced into prostitution.

The report is available to download at:

[http://www.hrw.org/sites/default/files/reports/afghanistan0312webwcover\\_0.pdf](http://www.hrw.org/sites/default/files/reports/afghanistan0312webwcover_0.pdf)

## Parliament of Kyrgyzstan fails to pass legislation against 'Bride Kidnapping'

In a disappointing move, the Parliament of Kyrgyzstan failed in passing a law against 'Bride Kidnapping,' that sought to impose fines on Islamic clerics who bless marriages that are not registered with the state. Critics of bride kidnapping feel that the law was not passed as it would enabel action against polygamous marriages which is despite being forbidden in the civil code is common in Kyrgyzstan, affecting a vast majority of people. Bride kidnapping, the practice of abducting women and girls in order to force them into marriage, is illegal in Kyrgyzstan. However, the approval of an Islamic cleric can validate the marriage in the eyes of the community, which enables perpetrators to avoid registering the marriage with the state.

Source: <http://www.eurasianet.org/node/64973>; <http://ipsnews.net/news.asp?idnews=107673>

## Israel amends Sexual Harassment Law extending the timeframe to file sexual harassment suit

In a positive development, Israel's parliament, the Knesset, passed an amendment to the Prevention of Sexual Harassment Law, which extended the statute of limitations for filing a sexual harassment suit from three years from the date of the act to seven years. The extension is based on the view that there are special characteristics of these types of offenses, taking into account the 'long process required for victims to recognize that they have suffered from harassment, loss of employment, and the time necessary to deal with feelings of guilt and fear of exposure'.

According to the original 1998 law, sexual harassment includes, “threats, indecent acts, repeated sexual offers, or comments focusing on a person's sexuality when the person has expressed a lack of interest in such offers or comments, as well as demeaning behaviour towards a person regarding his or her gender, sexuality, or sexual orientation”.

Source: [http://www.stopvaw.org/israel\\_prevention\\_of\\_sexual\\_harassment\\_law\\_amended.html](http://www.stopvaw.org/israel_prevention_of_sexual_harassment_law_amended.html)  
[http://www.loc.gov/lawweb/servlet/lloc\\_news?disp3\\_1205402983\\_text](http://www.loc.gov/lawweb/servlet/lloc_news?disp3_1205402983_text)

## ***Beyond Asia***

### UK Court upholds decision against woman jailed for falsely retracting accusations against husband

In a surprising and insensitive move, court of appeal in UK refused to quash criminal conviction against a mother of four young children who was jailed for falsely retracting an accusation of rape against her allegedly violent and abusive husband. In this instance the case of rape against her husband was discontinued when she retracted her allegation. The woman was jailed for 8 months after she admitted to retracting accusations that her husband had repeatedly raped her. She was charged after she came to the police to inform them that her retraction had been false. She claimed that she changed her position due to extreme pressure from her husband and his sister.

Despite recognising that the woman was suffering from post traumatic stress disorder at the time of the retraction, the Court did not quash her conviction stating inability to “quash a conviction on a broad, somewhat nebulous basis of unfairness where the conviction, following due process, is in every respect safe” because the woman was “undoubtedly guilty of a serious crime”.

Source: <http://www.guardian.co.uk/society/2012/mar/13/woman-retracted-rape-claim-husband>

### Oklahoma Supreme Court Rules “personhood” initiative “clearly unconstitutional”

In a positive development, the Supreme Court of Oklahoma ruled unanimously against an initiative that sought to amend the Oklahoma Constitution to include fertilized eggs within the definition of a “person”. This initiative the Court ruled is “clearly unconstitutional and repugnant to the Constitution of the United States.” and could not be added to the state ballot in the upcoming elections. The amendment if passed would ban most forms of contraception and fertility treatments. Moreover, this initiative also had the potential to impact women’s ability to access medical care, including treatment for ectopic pregnancy and care provided to women with a high-risk pregnancy.

The amendment was challenged by the US Center, on behalf of six Oklahomans, on the ground that it would violate women’s constitutional rights; as well as the constitutional requirement that all measures seeking amendment require that information of its effects be given to voters. Another opponent was the Center for Reproductive Rights on behalf of Oklahoma physicians as well as individual women who would have been affected by the amendment upheld quashing of the amendment by the Court.

Source: <http://reproductiverights.org/en/press-room/oklahoma-supreme-court-rules-%E2%80%9Cpersonhood%E2%80%9D-initiative-%E2%80%9Cclearly-unconstitutional%E2%80%9D>;  
<http://reproductiverights.org/en/case/in-re-initiative-petition-395-state-question-no-761-ok-personhood>

### Nicaragua: Parliament Approves Violence Against Women Act

In a landmark decision, the Nicaraguan Parliament approved a Comprehensive Violence Against Women Act. The Act recognizes different forms of violence against women, including femicide and those related

to physical, psychological, property, economic, and sexual and workplace, as criminal acts punishable by law. The Act calls for an inter-institutional commission to address violence against women, and makes any acts of violence perpetrated by government officials punishable.

Additionally, the Nicaraguan Parliament agreed to reform the penal code, increasing maximum prison sentences for femicide and other forms of violence against women. The Act comes after a long struggle by women's rights activists; the bill was proposed in October 2011 as the culmination of an extensive process in which 2,500 female victims of violence gave their testimonies and expressed the need for a special law that would put an end to violence against women in Nicaragua.

Source: <http://awid.org/Library/Women-s-Advocates-in-Nicaragua-Celebrate-Law-on-Violence-Against-Women>

## Ontario Court of Appeal upholds rights of sex workers

In a promising decision, the Ontario Court of Appeal while upholding the rights of sex workers ruled that two elements of Canada's prostitution laws violate the fundamental rights of women and thus were unconstitutional. The two provisions are the 'bawdy-house provisions' and the 'living-off-the-avails provisions.' The ruling allows them to hire a driver or a bodyguard, for example, as a way to ensure their safety – practices that were previously criminalized under the living-off-the-avails provision. It enables women to work together out of the same apartment; as previously criminalized under the bawdy-house provisions. The ruling meant that women could now work together and more safely.

The ruling has been welcomed by feminists as an 'explicit and welcome statement that the question at hand is not one of morality, but rather, of constitutionality.' However they have also raised concern over the harm caused by the "communicating" provision of the Criminal Code, which still stands. The communication provision according to them undermines women's autonomy in relation to work and sexuality which is enhanced when women can communicate. For instance, sex workers' ability to protect themselves from violence would be facilitated if they could communicate clearly with potential clients about all work-related matters.

Source: <http://www.montrealgazette.com/news/Feminists+celebrate+prostitution+ruling+step+forward/6380643/story.html#ixzz1uTDMJz2J>

## Missouri State passes two bills allowing employers and doctors to deny women birth control

In an initiative that would deny women of their reproductive rights and right over their body, Missouri Senate and House Republicans have passed two bills restricting women's access to abortion and contraception. The first bill allows employers to deny coverage for contraception and abortion services for religious reasons and the other bill gives doctors, nurses, and pharmacists the right to refuse contraception for the same reason. This would imply that an employer can question the woman about why she needs contraception, and if she doesn't give a satisfactory reason or it would go against her/his religious views, she could be denied coverage. Additionally if a woman needs an emergency abortion or is raped and needs an abortion, the medical staff can refuse to help her.

The bills have been passed in the name of religious freedom have been strongly criticised for eliminating women's rights and destroying privacy and personal liberty and doctor/patient confidentiality.

Source: <http://www.addictinginfo.org/2012/03/31/missouri-republicans-pass-two-anti-abortion-bills-allowing-employers-and-doctors-to-deny-women-birth-control/>

## Activists in Morocco protest against law allowing rapists to marry their victims

Human rights groups in Morocco have stepped up pressure demanding repealing of the Article 475 of the Penal Code which can be interpreted to allow someone who rapes a minor to escape punishment if he marries the victim. Such an article, women's group say justifies a traditional practice of allowing a rapist to marry his victim to preserve the 'honour' of the woman's family. The protests picked up after suicide by a 16 year old girl who was physically abused after being forcibly married to her rapist. The protesting groups have also raised contention over the age of marriage for consent clause where the legal age for marriage is 18 but it allows marriage in "special circumstances" which is how the victim was married.

Source: <http://www.bbc.co.uk/news/world-africa-17379721>  
[http://latimesblogs.latimes.com/world\\_now/2012/03/moroccan-girl-suicide-marry-rapist.html](http://latimesblogs.latimes.com/world_now/2012/03/moroccan-girl-suicide-marry-rapist.html)

## Turkey becomes the first nation to ratify European Convention to Combat Violence against Women

Turkey officially ratified the Council of Europe's Convention to Combat Violence against Women after the Grand National Assembly of Turkey approved the Convention in November 2011. The Convention recognises that violence against women constitutes a serious violation of human rights and a form of discrimination. It represents a major step forward in combating such violence through measures aimed at preventing it, protecting victims and reinforcing the criminal penalties that can be imposed on perpetrators under national legal systems. In this connection it criminalises acts such as female genital mutilation, forced marriage, harassment, psychological violence, forced abortion and forced sterilisation. While 17 Council of Europe member states have signed the Convention, Turkey is the first state to sign and ratify it. The Convention was adopted by the Council of Europe on 7 April 2011 and will officially enter into force after 10 countries sign and ratify the Convention.

Source:  
[http://www.stopvaw.org/turkey\\_first\\_to\\_ratify\\_european\\_convention\\_to\\_combat\\_violence\\_against\\_women.html](http://www.stopvaw.org/turkey_first_to_ratify_european_convention_to_combat_violence_against_women.html)

## **National**

### **Judgment and Orders**

#### Supreme Court reinforces impunity for extra judicial killings by the army

In a disappointing judgment the Supreme Court has reinforced special powers that allow India's armed forces suspected of involvement in extra-judicial killings to sidestep the civilian courts. In the context of the killing of 36 Sikhs on 20 March 2000, personnel of the Rashtriya Rifles (RR) were found by the Central Bureau of Investigation (CBI) to have killed five persons in a fake encounter on 25 March 2000. A chargesheet was produced before the Chief Judicial Magistrate-cum Special Magistrate (CJM). The CJM granted an opportunity to the Indian Army to exercise the option of a court-martial. The Army stated that in light of Section 7 of the Armed Forces Jammu and Kashmir (Special Powers) Act, (AFSPA) 1990, the chargesheet could not have been produced before the CJM without obtaining sanction for prosecution from the Central government. The matter was litigated up to the SC and by the judgment of 1 May 2012 the Court rules that the Army shall take a decision within a period of eight week as to whether the trial would be held by the criminal court or by a court-martial, and if they choose court martial then sanction from the Central government is not required. It has also endorsed the army's viewpoint that a prior permission of the central government is needed to prosecute army officers.



Section 7 of AFSPA states “no prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act”.

The Judgment can be accessed at <http://judis.nic.in/supremecourt/helddis3.aspx>

Source: <http://www.hindustantimes.com/India-news/Srinagar/SC-s-Pathribal-ruling-a-setback-for-victims-Amnesty/Article1-849589.aspx>,  
[http://www.tehelka.com/story\\_main52.asp?filename=Ws040512Kashmir.asp](http://www.tehelka.com/story_main52.asp?filename=Ws040512Kashmir.asp),  
<http://kafila.org/2012/05/08/supreme-court-judgment-on-pathribal-case-a-lost-opportunity-warisha-farasat/>

## Supreme Courts has directed the Chhattisgarh government to bring Soni Sori to AIIMs for treatment

After a long delay, the Supreme Court judges on May 2, 2012, directed the Chhattisgarh state to bring Soni Sori for treatment to the All India Institute of Medical Sciences (AIIMS) within one week. Reacting to descriptions of her continuing severe medical health problems in letters received from Soni Sori in Raipur jail and from her advocate who had met with her, the Supreme Court expressed concern about Soni Sori's medical condition and recommended that she be brought to AIIMS at the earliest for a thorough medical examination and full treatment.

The Director of AIIMS has also been directed to constitute a Medical Board comprising of Heads of Gynecology, Endocrinology and other departments who would examine Soni Sori and treat her, and give their opinion on her condition to the Supreme Court by July 10th.

Source: [http://www.tehelka.com/story\\_main52.asp?filename=Ws020512Chhattisgarh.asp](http://www.tehelka.com/story_main52.asp?filename=Ws020512Chhattisgarh.asp)

## Supreme Court has upholds constitutional validity of the Right to Education Act

The Supreme Court Bench comprising of Chief Justice Mr S.H. Kapadia and Justices Mr K.S. Radhakrishnan and Mr Swatanter Kumar ruled, by a 2:1 majority, that the provisions of the RTE Act are applicable to the Government and unaided private schools, but not unaided private minority schools. This means all Government and unaided private schools, barring unaided private minority schools, will have to reserve a minimum of 25 per cent of seats for economically backward students in their neighbourhood.

The court interpreted the RTE Act in a “child specific” manner. According to the Act, right to education is a fundamental right of all children between 6 and 14 years of age.

Source: <http://www.indianexpress.com/news/sc-upholds-constitutional-validity-of-rte-ac/935869/>

## Bombay High Court upholds that family planning and pushing for condom use is not cruelty by wife

An HC division bench of judges P B Majmudar and Anoop Mohta while hearing a petition by a man, who said that during their honeymoon his wife refused to have sex unless he wore a condom and subsequently refused to conceive on the grounds that they were not financially stable. While holding that conceiving was mutual decision and the husband could not insist on that, the judges said that “She must not have shown willingness to become a mother unless there was financial stability. She wanted to give the child a better life.” The judges also held that the husband’s other grounds for seeking divorce i.e. wife not knowing how to cook, not being religious, not parting with salary and not folding clothes properly, did not amount to cruelty either.

Source: [http://articles.timesofindia.indiatimes.com/2012-05-04/india/31571576\\_1\\_perna-divorce-wife-marital-home](http://articles.timesofindia.indiatimes.com/2012-05-04/india/31571576_1_perna-divorce-wife-marital-home)

## Bombay High Court holds the live-in relationships are ruining the institution of marriage

In a regrettable move, the Bombay High Court held that, “live-in relationships are spoiling marriages in our country.” The statement was made while directing a couple living separately for nearly 25 years to work out an amicable solution regarding divorce and alimony to be paid to the wife. The division bench of justice was hearing a revision petition filed by the wife seeking enhancement of the maintenance amount. Her husband opposed the plea, stating that he was staying with another woman and had three children from the live-in relationships. He also had to support his parents and therefore, it would be difficult to pay any additional amount to his estranged wife.

The court in this particular case, digressed from the issue at hand which was primarily an issue of enhancement of maintenance. Rather than focus on the issue of maintenance, the court made these regrettable comments on the question of live in relationships which was neither necessary nor relevant to deciding the issue.

Source:<http://www.hindustantimes.com/India-news/Mumbai/Live-in-relations-spoiling-marriages-HC/Article1-852368.aspx>

## Child bride Laxmi Sargara has her marriage annulled in a historic case

In a landmark case, Laxmi who was married at the age of 3 to another child of the same age has annulled her marriage seventeen years later after the wedding. She was informed about the marriage only in the month of April 2012 and was given a deadline to move in with her in laws. However, she was unhappy about the marriage and sought help from her parents who refused to help her get out of this situation. She then contacted the social worker in her town Jodhpur and convinced her husband to have the marriage declared void.

Source:[http://www.huffingtonpost.com/2012/04/26/laxmi-sargara-india-child-bride\\_n\\_1456212.html](http://www.huffingtonpost.com/2012/04/26/laxmi-sargara-india-child-bride_n_1456212.html)

## News

### On his official visit to India, the UN Special Rapporteur on extrajudicial, summary and arbitrary executions expresses concern over high impunity enjoyed by army and police

UN Special Rapporteur on extrajudicial, summary and arbitrary executions Christof Heyns, during his visit to India from March 19 to March 30 held meetings in different regions of the country and also interacted with government officials, to investigate the circumstances and causes of killings signifying state repression. After his visit he called on the Government of India to continue to take measures to fight impunity in cases of extrajudicial executions, and communal and traditional killings. He expressed concern over the high level of impunity that the police and army enjoy requirement that any prosecutions require sanction from the central government and discussed the “fake encounters” happening in certain parts of the country and the powers of the armed forces in the North Eastern States and Jammu and Kashmir. The other areas of concern relate to the prevalence of communal violence, and, in some areas, the killing of ‘witches’, as well as dowry and so-called ‘honour’ killings, and the plight of Dalits and Adivasis.

Source:

[http://www.unog.ch/unog/website/news\\_media.nsf/\(httpNewsByYear\\_en\)/B04ACD8B61CBCB8EC12579D1004E13D7?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/B04ACD8B61CBCB8EC12579D1004E13D7?OpenDocument)

<http://www.un.org/apps/news/story.asp?NewsID=41676&Cr=india&Cr1=>

## Cabinet approves the Marriage Laws (Amendment) Bill 2010

The cabinet has approved the Marriage Laws (Amendment) Bill 2010. The Bill provides women the right to their husband's property and also aims at giving rights to adopted children on par with biological offsprings. The Marriage Laws (Amendment) Bill, 2010, was introduced in the Rajya Sabha two years ago and then referred to the Parliamentary Standing Committee on Law and Justice and Personnel. Supporting the Bill which sought to make "irretrievable breakdown of marriage" a new ground for grant of divorce, the Standing Committee had in March last year opposed doing away with the prevailing waiting period before moving a joint motion for annulling marriage. The Bill will ensure that either of the parties who come to court for divorce by consent do not willfully keep the divorce proceedings inconclusive by avoiding the court.

Source: <http://www.ndtv.com/article/india/cabinet-clears-major-changes-in-marriage-adoption-laws-189371>

## Haryana Government warns women and prohibits wearing of jeans to work

Reinforcing stereotypes of women's clothing, the Haryana department of women and child has directed its field staff to wear 'decent' clothes to work, the women and has asked them to desist from wearing jeans and T-shirts to work. Calling attention 'to wear decent clothes in office,' the order dismisses jeans and T-shirts as 'indecent' clothing. The circular, issued on April 18, has been sent by the WCD director's office to all its field offices which run the Integrated Child Development Scheme (ICDS) and Integrated Child Protection Scheme (ICPS). Advising the field staff, the directive describes 'decent' clothing as 'sari/salwar-kameez with dupatta' for women and 'pant-shirt' for men.

Source: <http://www.ndtv.com/article/cities/no-jeans-at-work-haryana-govt-department-warns-women-208348>

## Gujarat CM Narendra Modi can be prosecuted for promoting hatred during post Godhra Riots: Amicus Curiae

The Supreme Court-appointed amicus curiae has said that the Gujarat Chief Minister, Narendra Modi can be prosecuted under various sections of the IPC for "promoting enmity among different groups" during the post-Godhra riots. Amicus Curiae Raju Ramchandran in his report on the complaint of Zakia Jafri, the widow of Congress MO Ehsan Jafri has said "In my opinion, the offences which can be made out against Modi, at this prima facie stage, are offences inter alia under Sections 153 A (1) (a) and (b) of IPC, which means promoting enmity among different groups on grounds of religion and 153 B (1) which says assertions prejudicial to national integration." Ehasan Jafri was one among the 69 who was killed at the Gulberg Society massacre.

Source: [http://articles.economictimes.indiatimes.com/2012-05-08/news/31626609\\_1\\_amicus-post-godhra-riots-gulberg-society](http://articles.economictimes.indiatimes.com/2012-05-08/news/31626609_1_amicus-post-godhra-riots-gulberg-society), <http://www.hindustantimes.com/India-news/Ahmedabad/Gujarat-riots-Modi-can-be-prosecuted-says-amicus-curiae/Article1-852057.aspx>, <http://www.indianexpress.com/news/gujarat-riots-amicus-curiae-says-modi-can-be-prosecuted/946400/>

## Rajya Sabha passes the Protection of Children Against Sexual Offences Bill, 2011

The Rajya Sabha has passed Protection of Children Against Sexual Offences Bill, 2011. The Bill provides for special courts and stringent punishment including life imprisonment for sexual assault against a minor. However activists have expressed grave concern over the regressive provision that seeks to penalise young persons who are exploring their sexuality by making sexual intercourse below the age 18 an offence. Such a provision would allow the enforcement authorities to harass young couples between the ages of 16 to 18 years. During the debates around the Bill the age of consent was contested with the civil society largely of the opinion that the age of consent should be 16 years.

Source: <http://timesofindia.indiatimes.com/india/Rajya-Sabha-passes-bill-to-protect-children-against-sexual-abuse/articleshow/13089517.cms>, <http://www.indianexpress.com/news/bill-to-protect-children-from-sexual-abuse-passed-in-rs/947851/2>

## Resources

### Sexual Rights and the Universal Periodic Review: A Toolkit for Advocate: SRI and IPPF

The Sexual Rights Initiative (SRI) and the International Planned Parenthood Federation (IPPF) released a new resource in the form of a toolkit for advocates on sexual rights and the Universal Periodic Review. This toolkit was developed to assist Civil Society Organizations to bring their knowledge, expertise, experiences of sexual right through engagement with the UPR process influence the realization of human rights.

The toolkit can be downloaded at: <http://bit.ly/GTk3tR>

### Whose Right to Life? Women's Rights and Prenatal Protections under Human Rights and Comparative Law: Center for Reproductive Rights

Center for Reproductive Rights has released a new toolkit that examines international standards and national court precedents to demonstrate that human rights law does not recognize a right to life before birth. It examines the legal and human rights implications of recognizing an embryo or fetus as a rights holder, and proposes how states can legitimately promote an interest in prenatal life without undermining women's rights.

The resource is available at: <http://reproductiverights.org/en/document/whose-right-to-life-womens-rights-and-prenatal-protections-under-human-rights-and-compariti>

### 'Honour' and Women's Rights: South Asian Perspectives': MASUM and IDRC

This book attempts to posit the the diverse ways in which different feminist groups would like to theorise and address violence against women, including that which is committed in the name of 'honour'. It is expected to be of use to practitioners working on domestic violence either through case-work, legal reform, advocacy or community-level interventions.

### Nation building, Gender and War Crimes in South Asia: Bina D'Costa

This book provides a narrative account of the role of war, war crime especially against women and myth in the construction of modern South Asian nation-states. Through her book she has held that any theorisation of nation-building in post-partition India and Pakistan, or post-liberation Bangladesh, is incomplete without a gendered analysis.

Review of the book is available at:

<http://www.himalmag.com/component/content/article/5036-the-birangana-and-the-birth-of-bangladesh.html>

### Annual Human Rights Report of 2011 call attention to increasing cases of honour killings: Human Rights Commission of Pakistan

In shocking statistics, the Human Rights Commission of Pakistan in its annual report for 2011 has stated that at least 943 Pakistani women including 93 minor girls were killed in 2011 for allegedly defaming

their family's honour. The statistics highlight the growing scale of violence suffered by many women in Pakistan. Human rights groups in Pakistan while raising attention to these statistics have also said that in addition to these there may be a number of unreported such cases of honour killings. They demand that the government enforce stringent procedures to ensure prevention and that women subjected to violence, harassment and discrimination have effective access to justice.

The report is available at: <http://www.hrcp-web.org/pdf/AR2011/Complete.pdf>

### The Convention on the Elimination of All Forms of Discrimination: A Commentary

The book is a collaborative effort of fifteen experts in women's human rights from five regions. It includes chapters on all the articles of the CEDAW Convention, describing the CEDAW Committee's application of each substantive article, the history of the Committee's practices and procedures, the drafting and application of the Optional Protocol, and the Committee's approach to reservations. It also includes a comprehensive introduction and a bibliography. The Commentary has been edited by Marsha A. Freeman, Christine Chinkin, and Beate Rudolf.

Source: <http://www.awid.org/News-Analysis/New-Resources2/A-New-Resource-The-Convention-on-the-Elimination-of-All-Forms-of-Discrimination-A-Commentary>

### Count Me IN! Research Report on Violence Against Disabled, Lesbian, and Sex-working Women in Bangladesh, India, and Nepal: CREA

CREA released a research study report conducted across Bangladesh, India, and Nepal to map violence against 'disabled, lesbian and sex working women'. The findings of the research show an overwhelming prevalence of violence in the lives of these three groups of women and how in many ways, violence still remains the most powerful tool for gender subordination.

The report is available at: [www.creaworld.org](http://www.creaworld.org)

### New website on sexuality and disability: CREA and Point of View

CREA and Point of View have released a new website that seeks to give sexuality related information to women with disability i.e about her body, about the mechanics and dynamics of having sex, about the complexities of being in an intimate relationship or having children, about unvoiced fears or experiences of encountering abuse in some form. The premise of the website is that women who are disabled are sexual beings, just like any other woman.

Website link: <http://www.sexualityanddisability.org/>

## Events

### East Region Consultation on Violations Relating to Women Targeted as Witches: NCW and PLD

Partners for Law and Development (PLD), Social Research Institute of Research and Action (SIRSA) and Centre for Social Justice (CSJ) organized the East Region Consultation on women targeted as witches on 28<sup>th</sup> April 2012. The Consultation was supported by the National Commission for Women and was held to map prevalence and practices and new trends of witch hunting in states of Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Orissa and Uttar Pradesh.

## Protest march against police inaction and apathy towards rape

The Citizens Collective against Sexual Assault organized a protest march from Mandi House to Jantar Mantar in Delhi on the 5<sup>th</sup> May 2012. The march was organised following a spate of rape cases in the NCR region where the police response has been highly insensitive and lacking an understanding of its role in investigating the complaints of rape. The police apathy became clearer by the cover story by Tehelka where two journalists talked to 30 senior cops in Delhi/NCR region on complaints of sexual assault. The story highlighted the blatant insensitivity of police in dealing with cases of sexual assault and a general tendency to blame the woman. The demands of the group were that the Commissioner of Police to publicly take responsibility for the statements made by his department/officials stated in the story by Tehelka. Additionally, the Police must immediately respond to complaints of crimes against women and follow the legal process and action be taken against police personnel who fail to do this.

The report of Tehelka can be found here

[http://www.tehelka.com/story\\_main52.asp?filename=Ne140412Coverstory.asp](http://www.tehelka.com/story_main52.asp?filename=Ne140412Coverstory.asp)

## International Law and Social Sciences Research Network Conference

LASSnet, anchored at CSLG, JNU in collaboration with Law and Society Trust, Colombo and the University of Peradeniya will be conducting the International Law and Social Sciences Research Network Conference on December 14 to 16, 2012 at the University of Peradeniya, Sri Lanka. Abstracts of 250 words should be sent to [lassnetsri@gmail.com](mailto:lassnetsri@gmail.com) latest by 30 June 2012.