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#### Resources

- 'Targeting Women as Witches: Trends, Prevalence and the Law in Northern, Western, Eastern and Northeastern Regions of India': Partners for Law in Development
- 'Cartographies of Empowerment: The Story of Mahila Samakhya': Vimala Ramachandran & Kameshwari Jandhyala
- 'Changing Their World: Concepts and Practices of Women's Movements 2nd Edition': AWID
- 'Advocate for sexual diversity education: A Guide to Advocate for Enhanced Quality of Education Dealing with Sexual Diversity': GALE
- 'Human Rights in India – Status Report 2012': WGHR

#### Events

- BMMA hold press meet on 19th Nov. 2012
- Panel discussion on HR situation in India: WGHR, 6<sup>th</sup> Dec 2012
- Play on Karnataka Police Act, Bangalore, 28<sup>th</sup> Nov. 2012
- National Dalit and Adivasi Sammelan, NCDHR, New Delhi, 23<sup>rd</sup> Nov 2012

### UNFPA releases its annual report, describes family planning as a human right

The United Nations Population Fund (UNFPA) has released its 2011 Annual Report titled 'By Choice, Not By Chance: Family Planning, Human Rights and Development'. It is for the first time that a UN body has explicitly described family planning as a human right. In its report, UNFPA states that the '*(K)ey stakeholders must recognize systematic inequalities in family planning as an infringement of human rights*'. Though the report recognises contraceptives as a means of effective family planning, the UNFPA is yet to recognise abortion as a means of family planning.

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

Source: [http://www.huffingtonpost.com/2012/11/14/united-nations-contraception-access-human-right\\_n\\_2128551.html](http://www.huffingtonpost.com/2012/11/14/united-nations-contraception-access-human-right_n_2128551.html)

<http://www.guardian.co.uk/global-development/2012/nov/14/family-planning-development-priority-unfpa?INTCMP=SRCH>

### SR on Cultural Rights submits report to GA underlining rights of women to cultural life

Special Rapporteur in the field of Cultural Rights submitted her report to the General Assembly. The report proposes to shift the paradigm from one that views culture as an obstacle to women's rights to one that seeks to ensure equal enjoyment of cultural rights; such an approach also constitutes an important tool for the realization of all their human rights. The report underlines the right of women to have access to, participate in and contribute to all aspects of cultural life. This encompasses their right to actively engage in identifying and interpreting cultural heritage and to decide which cultural traditions, values or practices are to be kept, reoriented, modified or discarded.

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

### SR on extreme poverty analyses obstacles to access to justice in her report to GA

The Special Rapporteur on extreme poverty and human rights submitted her report to the General Assembly. The report analyses the obstacles to access to justice for persons living in poverty. Access to justice is a fundamental right in itself and essential for the protection and promotion of all other civil, cultural, economic, political and social rights. Without effective and affordable access to justice, persons living in poverty are denied the opportunity to claim their rights or challenge crimes, abuses or human rights violations committed against them.

The Special Rapporteur emphasizes that improving access to justice for persons living in poverty requires tackling a range of legal and extralegal obstacles present both within and outside of the formal justice system, including social, economic and structural obstacles.

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

Source:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12750&LangID=E>

## Public morality no ground for discrimination and restriction of freedom holds UNHRC decision

The UN Human Rights Committee (UNHRC), in a landmark ruling in *Fedotova v. Russia*, upheld Fedotova's rights to freedom of expression and to be free from discrimination, which are guaranteed by articles 19 and 26 of the International Covenant on Civil and Political Rights. Fedotova, was arrested under the Ryazan Region Law and fined 1500 rubles in 2009 for displaying signs that read 'Homosexuality is normal' and 'I am proud of my homosexuality' in front of a secondary school in Ryazan, a Russian city. Two appellate courts, including the country's Constitutional Court, upheld the conviction.

The UNHRC relied on the opinion of the International Court of Jurists (ICJ). The ICJ observed that 'even the proportionate use of a permissible aim, such as public morality, cannot be the basis for a restriction on freedom of expression if it is applied in a discriminatory manner. Therefore, by penalizing '*public actions aimed at propaganda of homosexuality*' – as opposed to propaganda of heterosexuality or sexuality generally – the Ryazan Region Law enacts a difference in treatment that cannot be justified. It singles out one particular kind of sexual behaviour for differential treatment. It does so even though sexual relationships between consenting adults of the same sex are not illegal in the Russian Federation.'

Importantly, this decision reverses the Committee's 1982 ruling in [Hertzberg v. Finland](#), which upheld the Scandinavian country's censorship of journalistic coverage of issues related to homosexual behaviour and had observed that as far television and radio went, since the audience could not be controlled, the harmful effects on minors could not be excluded.

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

Source: <http://hunterofjustice.com/2012/12/un-human-rights-committee-overturns-russias-public-morality-speech-restriction.html>

<http://www.icj.org/russia-human-rights-groups-hail-historic-decision-on-homosexual-propaganda-ban/>

## SR on VAW submits report on violence against women with disabilities

The Special Rapporteur on violence against women, its causes and consequences has submitted her report on advancement of women to the General Assembly. The report provides an overview of the activities of the Special Rapporteur and discusses the issue of violence against women with disabilities.

The report takes notes of the lack of a specific and comprehensive law, policy or programme on persons with disabilities in general or on women with disabilities in particular. It further notes that states that have a disability law do not specifically address the rights of women with disabilities in general, or violence specifically. States may also have a specific law on violence against women that generally provides remedies for all women, within a non-discriminatory framework. Unfortunately, such laws are not effectively implemented in respect of women with disabilities.

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

## UN GA adopts resolution banning FGM

The United Nations General Assembly's Human Rights Committee has adopted a resolution that calls for a global ban on female genital mutilation (FGM). It has called upon the 193 member states to condemn the practice and launch educational campaign for girls, boys, men and women, to eliminate it. It also urges all countries to enact and enforce legislation to prohibit FGM, to protect women and girls "from this form of violence" and to end impunity for violators.

Source: <http://www.guardian.co.uk/society/2012/nov/27/un-ban-female-genital-mutilation>

## International Developments

### Asia

#### Kabul Court convicts members of ALP of rape and imposes sentence of 16 years

In a landmark decision, a judicial panel in Kabul, Afghanistan, found four members for the Afghan Local Police guilty of raping an 18 years old girl and sentenced them to 16 years imprisonment. This case drew attention because of the rarity of victims of sexual abuse to speak out in Afghanistan. Further, instead of seeking a deal with their daughter's persecutors or following the brutal, traditional practice of killing her to redeem the family's honour because she had been 'tainted by rape', the family of the victim decided to seek justice through the government, which was an extraordinary step.

Source: <http://www.nytimes.com/2012/11/08/world/asia/afghan-militia-members-found-guilty-in-rape.html>

<http://www.bbc.co.uk/news/world-asia-20239567>

#### Pak court dismisses blasphemy case against minor Christian girl

In a welcome move, the Islamabad High Court dismissed the blasphemy case filed against a mentally disabled minor Christian girl in Pakistan. Following allegations by a Muslim clerk, the girl had been arrested under Pakistan's draconian blasphemy law for desecrating the Qur'an. The case had provoked strong feelings across the globe, with the victim's supporters hoping the huge outpouring of anger at the arrest would force Pakistan to repeal its harsh and vague blasphemy laws the punishment for which is death penalty and which are frequently misused to settle personal scores or to persecute religious minorities.

However, as comforting as it is to be to think that this case set precedence for dealing with blasphemy allegations, it remains in fact an exception in view of the age and mental disability of the girl accused. The blasphemy law still prevails as does the potential for its misuse.

Source: <http://www.thehindu.com/news/international/pak-girl-blasphemy-case-to-be-dropped/article4116259.ece>

<http://www.indianexpress.com/news/case-against-pak-girl-rimsha-masih-accused-of-blasphemy-dismissed/1033670/0>

Op-ed: <http://blogs.telegraph.co.uk/news/robcilly/100190638/rimshas-justice-is-the-exception-not-the-rule-in-pakistan/>

## Manila hosts 18<sup>th</sup> Pride Parade, asking for passing of Anti-Discrimination Bill

Manila, Philippines, hosted its 18<sup>th</sup> Metro Manila Pride. More than 1500 people attended the march this year. The primary demand of the dozens of advocacy groups was for the congress to pass the Anti-Discrimination Bill. The LGBT rights groups are also pressing the congress to repeal the anti-vagrancy law. The Anti-Discrimination Bill that could protect LGBT people from frequent discrimination in the workplace, education and in businesses was first introduced in 2000 during the 11<sup>th</sup> Congress; however, after 12 years the bill has still not been passed.

To know more about the bill, click [here](#) or [here](#).

Source: <http://www.gaystarnews.com/article/oldest-pride-asia-sees-1500-march-manila101212>

## Philippines congress passes reproductive health bill

In a welcome development, the Philippines congress passed the long-awaited Responsible Parenthood, Reproductive Health and Population and Development Act which gives women access to sexual and reproductive health care, including access to natural and modern conception and reproductive health information for adults. The Act mandates non-sectarian schools to give age-appropriate sexuality education to students of reproductive age, with parental consent. It further mandates the Department of Health to procure and distribute reproductive health care services and supplies through the help of local government units.

Source: <http://www.guardian.co.uk/global-development/2012/dec/21/philippines-reproductive-health-bill>

[http://www.nytimes.com/2012/12/18/world/asia/philippine-lawmakers-pass-reproductive-health-bill.html?\\_r=0](http://www.nytimes.com/2012/12/18/world/asia/philippine-lawmakers-pass-reproductive-health-bill.html?_r=0)

Op-ed-<http://www.amnesty.org/en/news/imperfect-philippines-health-law-still-fresh-start-womens-rights-2012-12-17>

## ***Beyond Asia***

### Gay marriages to be legitimized across Mexico

In a welcome move, Mexico's Supreme Court issued a landmark collective verdict that hopefully will flag the way for the eventual legalization of queer marriage in the rest of the states of the country. The court ruled against the Oaxaca law that claimed 'one of the purposes of marriage is the perpetuation of the species', stating that the definition of marriage as a union between one man and one woman violated 'the principle of equality'.

Gays and lesbians have been able to legally wed in Mexico City since 2010, but that right hasn't yet been extended outside the city's boundaries. The queer rights advocates view the victory as setting a legal exemplar encouraging others to challenge ban on same sex marriage.

Source: <http://www.globalpost.com/dispatch/news/regions/americas/mexico/121206/mexico-supreme-court-approves-gay-marriage>

## Ireland to revise abortion laws after Indian dentist dies following denial of abortion during miscarriage

Following the death of an Indian dentist Savita Hallapanvar, who was denied termination of miscarriage pregnancy and subsequently succumbed to septicaemia in Ireland, the Irish government has declared to revise abortion laws that will allow limited access to abortion when the life of the mother is at risk.

The present draconian constitutional ban on abortion in Ireland prioritizes the interest of the State dominated by religion above the life of women, divesting women of the right to opt for abortion even when their life is at risk. The law fails to recognize women as autonomous beings whose reproductive health is integral to their whole well being. The Irish government had maintained silence on clarifying the terms under which abortion is legal as recommended by the European Court of Human Rights in 2010.

Halappanavar's case is indicative of the possible danger of vague anti-abortion laws and the very real, dreadful outcomes of denying women access to abortion procedures.

Source: <http://www.dailymail.co.uk/news/article-2232676/Savita-Halappanavar-dies-Irish-doctors-refuse-abortion-saying-This-Catholic-country.html>

<http://www.guardian.co.uk/world/2012/nov/14/ireland-abortion-ban-history>

<http://in.reuters.com/article/2012/12/18/ireland-abortion-india-idINDEE8BH0EH20121218>

## Malawi Government retract on the moratorium on criminalizing homosexual relationships

In a controversial move, Minister of Justice and Attorney General Ralph Kasambara made an historic announcement of suspending anti-homosexual laws, to pave way for public debate and parliamentary vote on the legislation. The moratorium announced informally to a limited audience was pre-maturely celebrated by international human rights organizations in the media, triggering condemnation by the Church, and followed by a quick retraction to avoid further backlash. Malawi's anti-gay laws are some of the world's toughest and the journey to the moratorium announcement was an outcome of arduous behind the scene lobbying with the justice ministry.

The episode has reinstated the debate on international NGOs, culture and human rights – in terms of international NGOs setting national agendas without adequate consultation, claiming successes and adopting approaches that are culturally counter-productive. The United Nation and some western countries have been urging African governments to safeguard LGBTI rights. The recent decision of donor nations to tie those rights to development support has been counterproductive since it has resulted in increasing homophobia across the continent. The religious leaders and civil society groups are viewing the international solidarity for regarding LGBTI rights as human rights as cultural imperialism.

Source: <http://www.gaystarnews.com/article/churches-force-malawi-backtrack-suspending-anti-gay-laws081112>

Op-ed: [http://www.faceofmalawi.com/2012/11/debating-homosexuality-and-human-rights-in-malawi/?wpmp\\_tp=2](http://www.faceofmalawi.com/2012/11/debating-homosexuality-and-human-rights-in-malawi/?wpmp_tp=2)

## US gay rights advocates celebrate groundbreaking victory

Reflecting a positive change in public opinion on marriage equality for gay couples, the supporters of same sex marriage scored victory in successful ballot initiatives on same-sex marriage in Maine, Maryland, and Washington State. Over the last 14 years, there have been 32 attempts to put gay marriage on the ballot, each ending in defeat. The results mean that gay, lesbian and bisexual couples can now marry in nine states and the District of Columbia.

Source: <http://www.hrw.org/news/2012/11/07/us-state-votes-global-victory-gay-rights>

Op-ed: <http://www.policymic.com/articles/18901/gay-marriage-is-not-a-democrat-or-liberal-victory-it-is-an-american-one>

## Swedish court of appeals reversed transgender rape acquittal: Accused can be convicted regardless of the gender-identity of the victim

In a case that dismayed trans women across the world, the court of appeals in Sweden has brought relief by overturning the acquittal of a man charged with raping a transgender woman. The ruling comes more than a year after the incident, in which the accused had approached the victim, brutally beat her and ripped off her pants in an attempt to rape her. A witness rushed to the scene and intervened. The police came and arrested the attacker. While the district court observed that the accused had attempted to rape the victim, they ruled that it was in fact a woman the man wanted to rape, not a 'physical man'. Based on the reasoning that victim was 'physically a man' not a woman, the court had acquitted the accused of charges of rape. Despite the fact that the victim had undergone hormone therapy to change gender was considered, the court ruled there was no completed rape. The court however, did convict the accused of assault and battery.

The prosecution then filed an appeal in the Courts of Appeal, which has ruled against the findings of the District judge by convicting the attacker of attempted rape. Officials of the court argued that even though the previous judge was correct in saying rape physically could not have taken place; the offender did intend to sexually assault the victim and thus was guilty of attempted rape. The transgendered person was dressed in women's clothes and thus appeared to the assailant to be a woman.

Source: [http://www.loc.gov/lawweb/servlet/lloc\\_news?disp3\\_l205403383\\_text](http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205403383_text)

## Anti-homosexuality bill is up again for debate in Uganda

The anti-homosexuality bill also famous as 'kill the gay bill' has been reintroduced in the parliament after 2009; earlier it was shelved following international condemnation. The current bill endorses capital punishment for individuals found guilty of 'aggravated homosexuality', broadly defined to include, among other acts, same-sex relations with an individual who is under 18 years old or who has a disability, where the accused is a person living with HIV (regardless of whether or not the accused is aware of his or her status), or where the accused has been previously convicted of the 'offense of homosexuality.' It would also criminalise the public promotion of homosexuality including discussions by rights groups with a sentence of up to seven years in prison for anyone convicted. With parliament adjourning until 2013, the bill will now not be discussed until next February

The proposed anti-homosexuality law, if enacted, will be a major blow to Uganda's obligations to provide everyone equal protection of the law under the constitution and international human rights treaties.

Source: <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/uganda/9069297/Ugandan-parliament-reintroduces-gay-rights-bill.html>

Op-ed: <http://thinkafricapress.com/uganda/experts-weekly-ugandas-anti-homosexuality-bill>

## **National**

### ***Judgments/ Orders***

#### **Madras High Court holds that the mother could be the legal guardian of the child**

The Madras High Court held that mother could be the legal guardian of a child even if the father was alive. The court was hearing the case of a couple who were based in the US where their daughter was born. The couple divorced a few years later, and the mother returned to Chennai with her daughter. The father argued before the High Court that his right to be the natural guardian to his daughter, under the Guardians and Wards Act must be restored and that the mother could only be a custodian. Rejecting the father's argument, Justice Chandru of the Madras High Court held that since the child, who is now nine years old, has been with the mother for eight years, including during the time when the case was going on, it is in the interest of the child that she should remain with the mother. The young girl also expressed her wish to stay with the mother.

Source: <http://m.timesofindia.com/india/Not-only-kids-custodian-mother-can-be-guardian-too-HC/articleshow/17272732.cms>

#### **Allahabad HC recognizes the non-economic contribution of the homemaker**

While deciding the insurance claims of dependants of a woman who died in a road accident, the Allahabad High Court observed that women who are not engaged in wage employment also make substantial contribution to the household, which must be recognized. The insurance company was directed to pay compensation to the legal representatives and dependents of the deceased woman. The insurance company contested this award before the High Court on the ground that since the deceased woman had been a homemaker and did not have any 'income', her family members could not be said to be dependent on her contributions. The court rejected this argument and held that as a homemaker or as a mother, the work of a woman is more time and labour intensive than that of a regular wage earner, and hence economic value must be assigned to it while computing insurance claims.

Several such judgments have been coming from various High Courts in recent times that call for recognizing the non-economic contribution made by the homemaker. The central government and the Maharashtra government are currently considering legislations to provide for matrimonial property rights of women. While it is true that several aspects of these legislative initiative lack clarity and are contested, judgments such as these validate the feminist demand for recognizing the value of housework.

Source: [http://articles.timesofindia.indiatimes.com/2012-11-27/india/35386983\\_1\\_allahabad-hc-allahabad-high-court-present-value](http://articles.timesofindia.indiatimes.com/2012-11-27/india/35386983_1_allahabad-hc-allahabad-high-court-present-value)



## Supreme Court issues directions to State governments and Union Territories to address sexual harassment in public places

The Supreme Court while hearing an appeal against the order of the Madras High Court acquitting an errant policeman of sexual harassment against a woman issued the following directions to the state governments and the union territories:

- Deployment of plain clothed female police officers at all public places
- Installing CCTV cameras at all strategic locations
- Those in charge of educational institutions, places of worship, cinema halls to take steps to prevent sexual harassment of women
- If an incident takes place in a public vehicle and the woman complains to the crew of the vehicle, then the crew must take the vehicle to the nearest police station
- Establishing Women's Helplines
- Boards cautioning against sexual harassment at all public places
- Responsibility of the passers-by to report such incidents to the nearest police station
- District Collectors and District Supdt. of Police to take effective steps to curb incidents of sexual harassment at public places

The judgment can be accessed [here](#)

## Delhi court holds that forcible sex with wife does not amount to rape

A Delhi court has held that if a woman is the lawfully wedded wife of a man, then any act of sexual intercourse even if it is without the consent of the woman does not amount to rape. This is owing to the fact that the Indian Penal Code does not recognise the concept of marital rape. Forcible sexual intercourse with wife is an offence under the IPC only if the wife is below the age of 15 or if the husband and wife are living in judicial separation. The court in this matter was hearing the complaint made by a woman that after her husband's death a few years back, the accused asked her to marry him. After the marriage she found out that the man wanted to grab her property and had already sold some of it without her knowledge. In addition to the charges of criminal intimidation, causing hurt and theft, the police had also charged the accused with rape, which was being heard by the court in this case.

Despite demands made by the women's movement to drop the marital rape exception from the Indian Penal Code, the clause continues to be there in the law, including the Criminal Law (Amendment) Bill 2012 which is currently before the Indian Parliament.

Source: [http://zeenews.india.com/news/nation/forcible-sex-with-wife-doesnt-amount-to-marital-rape-court\\_814445.html](http://zeenews.india.com/news/nation/forcible-sex-with-wife-doesnt-amount-to-marital-rape-court_814445.html)

## Bombay HC holds that maintenance depends on domestic relationship, not on legality of marriage

The Bombay High Court has held that a woman need not prove a legally valid marriage in order to claim maintenance from her husband. Under the Domestic Violence Act 2005, she could ask for maintenance just by showing that she had been in a domestic relationship with the respondent. The complainant in this case was a woman who was the second wife of the respondent. When she

failed to have a child even after several years of marriage, the man and his first wife threw her out of the house and demanded money as a precondition to her being allowed to stay in the house.

When she filed a case of domestic violence against the husband, the magistrate directed him to pay maintenance, but on appeal, the Sessions Court struck down that order. The High Court reinstated the magistrate's order, which was indeed in line with the Domestic Violence Act. Recognizing that many women are in intimate relationships that are not legally valid marriages – such as women in bigamous, fraudulent or live-in relationships – the Act uses the term 'relationships in the nature of marriage' to denote those who can claim protection from domestic violence.

Source: [http://articles.timesofindia.indiatimes.com/2012-11-14/mumbai/35111623\\_1\\_neeta-dva-high-court](http://articles.timesofindia.indiatimes.com/2012-11-14/mumbai/35111623_1_neeta-dva-high-court)

## Delhi High Court pulls up Delhi Police for the gang rape incident

The Delhi High Court took suo motu cognizance of the incident of torture and gang rape of a woman on a bus in Delhi and directed the Delhi Police to submit a report to the court. The court raised specific questions relating to investigation in the particular case and also raised questions about the state of preventive measures put in place by the police. The court asked the Delhi Police to state in its report why vehicles with tinted glasses were still plying on the roads despite an order of the Supreme Court disallowing them; why the bus kept circling the same stretch for over 40 minutes without being stopped; who were the police officers who were on patrolling duty in that area. The Court also asked the police to conduct forensic examination of the bus where the crime was committed.

The Central Government has also constituted a Commission of Inquiry under the Chairpersonship of Justice (retd.) Usha Mehra to gather information about the gang rape incident and inquire into lapses on the part of the Police. The Commission is also tasked with the responsibility to make suggestions to improve safety and security of women in Delhi and the National Capital Region. The Commission would submit its report within three months.

Source: <http://www.thehindu.com/news/national/hc-takes-suo-motu-cognisance-of-gang-rape-pulls-up-police/article4217081.ece>

<http://www.thehindubusinessline.com/news/gang-rape-case-former-judge-usha-mehra-to-conduct-probe/article4241073.ece>

## News

### Homicidal gang rape in Delhi leads to nationwide outrage

The brutal gang rape of the paramedic student on the evening of 16th December 2012, in a bus she boarded with a male companion in Delhi became a tipping point for the city and the nation. The case illustrated the impunity with which sexual crimes are perpetrated in the city on account of, amongst other things, failure of everyday policing and implementation of transport and traffic rules that make it possible for such savagery to go undetected. Tens and thousands of protesters, both female and male, many of them students, took to the streets to demand accountability and law reform. Delhi has earned notoriety for sexual crimes against women, including gang rapes. Despite successive cases, the police attitudes towards women and policing have not changed. The findings of the [Teheka study in 2012](#) showed that a large section of the Delhi police view rape complaints as extortionary tactics by women engaged in soliciting. That apart, the State has failed

to introduce legislative reform on sexual assault despite demands by the women's movement over two decades; and more recently, the recommendations of CEDAW Committee (2007) and the UPR (2012) to India.

The anger and outrage on the Delhi streets and in metros across the country was as much against this case and as it was against the pandemic proportions of sexual crimes and state failure to respond to it. The protesters continue to demand systemic change – in laws, mind-sets, policing. In contrast, the parliamentary debates have been focused on death penalty and castration. This narrow focus is reflected in the terms of reference and tenure of the three member committee headed by a retired Supreme Court Judge, Justice J.S. Verma, tasked with recommending reforms related to speedy trial and sentencing for aggravated sexual offences within a period of one month. With thousands of submissions made to the Committee within an unrealistic time frame, on a subject of considerable complexity, many are questioning whether these attempts are diversionary or whether they intend to protect women from routine as well as grave forms of sexual crimes. In a confidence enhancing gesture, the committee has widened its own terms of reference, signaling willingness for making comprehensive recommendations to ensuring safety and security of women.

Detailed submissions to the Verma Committee by various groups can be accessed [here](#).

Source: <http://www.bbc.co.uk/news/world-asia-india-20860569>

<http://www.indianexpress.com/news/tihar-inmates-assault-chartered-bus-driver/1048307/>

## Anti-terror law amended setting dangerous precedent

Amid protests from human rights groups, the Parliament brought drastic amendments to the Unlawful Activities (Prevention) Act, 1967. The amendments were hurriedly pushed through the Lok Sabha on 30 November, followed by the Rajya Sabha on 20 December. The amendments expand the definition of 'persons' such that any group of individuals could be apprehended under this Act; certain economic offences which are already covered by the Indian Penal Code are included in this Act as 'terrorist acts' and have harsher punishments; increase the periods of detention for investigation without providing any safeguards against torture; shift the burden of proof on the accused; and allow organisations suspected of terrorist activities to be banned for up to five years. The Parliamentary Standing Committee that examined the amendments noted they impinged on the freedom of expression and association guaranteed under the Indian Constitution. The government has justified the amendments as necessary for discouraging international money laundering and financing of terrorist activities. There is growing evidence about how this legislation has been used to curb dissent and resistance against the oppression of Dalits, Adivasis and religious minorities.

Source: <http://www.thehindu.com/opinion/editorial/rethink-the-new-uapa/article4218425.ece>

<http://www.thehindu.com/todays-paper/tp-national/uapa-amendments-may-curb-dissent-further-says-amnesty/article4230761.ece>

## Ajmal Kasab's execution carried out secretly in Pune prison

Pakistani national, Ajmal Kasab, the main accused in the violence unleashed at multiple locations in Mumbai in late November 2008, was secretly executed in Pune's Yervada Jail on 21<sup>st</sup> November 2012. Kasab was convicted by the Special Sessions Court in 2010, which was later

confirmed by the Bombay High Court in 2011 and by the Supreme Court of India in August 2012. Several citizens' collectives and human rights organisation had petitioned the President of India, who has the constitutional power to allow mercy petitions of those sentenced with death penalty, to grant pardon to Kasab. However, upon recommendation of the Union Home Ministry, his mercy petition was rejected on November 5<sup>th</sup> and he was executed shortly thereafter. Human rights groups such as the Amnesty International and the People's Union for Civil Liberties expressed dismay at the hasty and secretive manner in which Kasab was executed. It is argued that the ideology of retribution underlying the practice of death penalty is as violent as the offence for which it is awarded, and research shows that the manner in which this punishment is meted out by the courts is extremely arbitrary.

Source: <http://www.thehindu.com/news/national/kasabs-execution-a-dangerous-precedent/article4120502.ece>

<http://kafila.org/2012/11/23/abolition-of-death-penalty-a-time-for-national-reflection-pucl/>

<http://www.flonnet.com/fl2924/stories/20121214292412800.htm>

### Police charges Pinki Pramanik with rape, among other offences

Athlete and Asian Games gold medallist, Pinki Pramanik, who was arrested in June 2012 following the complaint of her live-in partner, has been charged with rape and other offences by the police. To constitute the offence of rape under the Indian Penal Code, there must be at least partial peno-vaginal penetration. The physiological sex of Pinki remains disputed, given that the multiple medical tests carried out to determine her biological sex have not been consistent. The police charges are based on the report of the medical board that concluded Pinki is male, based on her chromosomal test. However, several members of the very same medical board feel that this conclusion is in fact an incorrect understanding and application of its findings. They explain that the presence of a XY chromosomal combination does not mean that the person also has a penis and is capable of penetration, which is the primary requirement to constitute the offence of rape.

This case once again shows the ambiguous nature of categories such as 'male' and 'female'. The physiological sex of a person is just one aspect which may not correspond to the chromosomal or hormonal status of the person. It remains to be seen how the courts address the issues raised by this case.

Source: <http://www.indianexpress.com/news/tests-show-pinki-pramanik-is-a-male-charged-with-rape-police/1030514/2>

[http://articles.timesofindia.indiatimes.com/2012-11-14/athletics/35111300\\_1\\_pinki-pramanik-medical-experts-medical-report](http://articles.timesofindia.indiatimes.com/2012-11-14/athletics/35111300_1_pinki-pramanik-medical-experts-medical-report)

### Mumbai acid attack case reveals inadequacy of the current legal framework

Jerrit John, a Mumbai based filmmaker and producer has been booked for unlawfully detaining and disfiguring the face of his ex-lover by throwing a hazardous, corrosive substance on her face. John was absconding following the incident but was arrested by the police. The victim was with some friends when the incident took place and therefore, there are eye witnesses, which is rare in such cases of acid attack.

In view of a large number of such cases of people using corrosive substances to settle personal grouse, the central government has proposed an amendment to the Indian Penal Code as part of

wider reforms outlined in the Criminal Law Amendment Bill 2012 to specifically criminalise such acts and regulate the sale of corrosive substances in open market. While defining acid attack is a welcome reform, the proposal falls short in providing compensation and free quality medical aid to acid survivors, whose treatment involves surgery over several years at a high cost. There is a need for state to provide immediate compensation and quality medical care as part of its duty to protect, redress and compensate for survivors of acid crimes.

Source: <http://www.indianexpress.com/news/production-firm-owner-wanted-in-acid-attack-case/1029542>

[http://www.dnaindia.com/mumbai/report\\_aryanka-poured-chemical-on-herself-jeerit-g-john\\_1763163](http://www.dnaindia.com/mumbai/report_aryanka-poured-chemical-on-herself-jeerit-g-john_1763163)

## National Commission for Women Team visits Soni Sori in Jail

A team from the National Commission for Women (NCW) that visited Soni Sori at the Raipur Central Jail stated that though Sori was physically well, she was mentally distraught and needed psychological counselling to cope with the state that she was in. However, Annie Raja of the National Federation of Indian Women (NFIW) who was also part of the team has stated that Sori does not need psychological counselling and that had she been in need of psychological treatment, she would not have been able to explain her position and put her demands to clearly.

Sori was arrested in October 2011 for her alleged links with the Maoists. Sori has been allegedly sexually tortured by the Chhattisgarh Police while in custody. Human rights and women's rights organisations have demanded that Sori's complaint be seriously taken by the authorities and the role of the concerned officials who interrogated Sori be investigated. Sori herself has requested several times that she be shifted to the Jagdalpur Central Jail, so that she is closer to her family. Instead of addressing these demands, stating that all that Sori needs is psychological counselling obscures the issue and fails to respond to Soni Sori's rights violations.

Source: <http://www.indianexpress.com/news/soni-sori-needs-psychological-counselling-ncw/1040822/0>

<http://www.thehindu.com/news/states/other-states/soni-sori-doesnt-need-counselling/article4236040.ece>

## Freedom of expression under threat as Mumbai Police censors facebook post

Two girls were arrested by the Mumbai Police for posting and liking a comment on Facebook, that questioned the city wide shut down in the aftermath of Right-wing political leader Bal Thackeray. The police booked the two girls for the offence of hurting religious sentiments and sending offensive message through a computer. They were subsequently released on bail on a bond of Rs. 15000. Members of the Right-wing group, Shiv Sena, of which Thackeray was the leader, later vandalized the clinic that belonged to the uncle of one of the girls.

Following widespread protests by common people, civil society organisations and even the Chairperson of the Press Trust of India, charges against the girls were dropped and investigation was ordered about the role of the police officials who made the arrests. This incident forms part of a larger pattern unfolding in recent times where opinions and artistic expressions on social media such as Facebook and Twitter are being censored by the authorities, in the name of sedition or

hurting religious or community sensitivities. In contrast, hate speech against minorities and women in the public domain remains uncontested.

Source: [http://www.thehindu.com/news/states/other-states/two-girls-held-for-fb-post-over-thackeray-funeral/article4111814.ece?utm\\_source=action\\_alert&utm\\_medium=email](http://www.thehindu.com/news/states/other-states/two-girls-held-for-fb-post-over-thackeray-funeral/article4111814.ece?utm_source=action_alert&utm_medium=email)

<http://www.thehindu.com/news/states/other-states/charges-dropped-against-girls-held-for-fb-post-on-thackeray/article4214545.ece>

## UN High Commission for HR takes note of the rising VAW in India

In the backdrop of the widespread public outrage against the homicidal gang rape of the paramedic student in Delhi, the UN High Commissioner for Human Rights, called for urgent and rational debate on comprehensive measures to address such crimes rather than call for death penalty. The High Commissioner observed that the Committee on the Elimination of Discrimination against Women (CEDAW) had recommended in February 2007 that India widen the definition of rape in its Penal Code to reflect the realities of sexual abuse experienced by women and to remove the exception for marital rape from the definition of rape. The Committee recommended the Government to consult widely with women's groups in its process of reform of laws and procedures relating to rape and sexual abuse. It is relevant to recall that a similar recommendation on reform of sexual assault law was made at India's UPR-2 in May 2012 was not accepted by India.

## RESOURCES

### 'Targeting Women as Witches: Trends, Prevalence and the Law in Northern, Western, Eastern and Northeastern Regions of India': Partners for Law in Development

This report focuses on the violence inflicted on women under the garb of witch hunting, its causes and consequences and recommends legal and policy responses. The report is based on three regional consultations involving 165 participants, the work of their respective organisations on this issue and the experience of survivors.

For copies of the report, please contact PLD

### 'Cartographies of Empowerment: The Story of Mahila Samakhya': Vimala Ramachandran & Kameshwari Jandhyala

'Cartographies of Empowerment: The Story of Mahila Samakhya' has been put together by Vimala Ramachandran & Kameshwari Jandhyala, and is published by Zubaan. The book documents the collective effort of many people associated with 'Mahila Samakhya' a scheme launched by government of India in 1989 to empower women through education.

The link to the book is: [http://www.zubaanbooks.com/zubaan\\_books\\_details.asp?BookID=204](http://www.zubaanbooks.com/zubaan_books_details.asp?BookID=204)

### 'Changing Their World: Concepts and Practices of Women's Movements 2nd Edition': AWID

The Association for Women's Rights in Development (AWID) has released the 2nd edition of Changing their World that has been edited by Srilatha Batliwala. The book clarifies concept of

feminist movements, by analyzing the experiences of strong and vibrant women's movements in different parts of the world, to understand how they evolved, strategized, and made an impact.

The book can be accessed here: <http://www.awid.org/Library/Changing-their-World-Concepts-and-practices-of-women-s-movements-2nd-Edition>

### ‘Advocate for sexual diversity education: A Guide to Advocate for Enhanced Quality of Education Dealing with Sexual Diversity’: GALE

At a global meeting held at the UNESCO headquarters in Paris focusing on the millennium goal of “Education for All”, Global Alliance for LGBT Education (GALE) presented a new guide to advocate for sexual diversity education. The guide is a 40 page brochure, which offers guidelines on how to analyze the extent to which the Right to Education and the goals of Education for All are implemented in a country, and furthermore, to advocate more effectively to improve the situation. The guide also provides tools and instruments for both monitoring and strategic planning of improvement of the implementation of the Right to Education, which will help advocacy organizations in making informed decisions on what national strategy would be most helpful to make education more inclusive for people who are disadvantaged because of their (expressed) sexual orientation of gender role.

The guide can be accessed here: [http://www.lgbt-education.info/doc/gale\\_products/GALE-ADVOCACY-GUIDE.pdf](http://www.lgbt-education.info/doc/gale_products/GALE-ADVOCACY-GUIDE.pdf)

### ‘Human Rights in India – Status Report 2012’: WGHR

The Working Group on Human Rights in India and the UN (WGHR) released the ‘Human Rights in India – Status Report 2012’ on 6<sup>th</sup> December 2012. The report discusses the human rights situation in India under three broad themes: 1) Economic; Social and Cultural Rights (ESCR) and Right to Development, 2) Militarization and Security Laws/Apparatus; and 3) Access to Justice.

The report can be accessed here: [http://www.wghr.org/pdf/Human%20rights%20in%20India%20-%20Status%20report\\_revised\\_Dec2012.pdf](http://www.wghr.org/pdf/Human%20rights%20in%20India%20-%20Status%20report_revised_Dec2012.pdf)

## EVENTS

### BMMA hold press meet on 19<sup>th</sup> Nov. 2012

Taking into consideration the plight of Muslim women who have been divorced by their husbands through letters, short messaging services, emails and orally, the Bharatiya Muslim Mahila Andolan held simultaneous press conferences and press releases in Maharashtra, Madhya Pradesh, Odisha, Karnataka, West Bengal, Bihar, Jharkhand, Rajasthan, Tamil Nadu, and UP to demand a ban on oral divorce.

### Panel discussion on HR situation in India: WGHR, 6<sup>th</sup> Dec. 2012

The Working Group on Human Rights in India and the UN (WGHR) hosted a panel discussion which was centred on the human rights situation of India and the potential impact of the Universal

Periodic Review (UPR) at the launch of its “Human Rights in India – Status Report 2012” (Updated and Revised).

WGHR published the first edition of the report as preparatory material for India’s second Universal Periodic Review (UPR) that was held at the UN Human Rights Council (HRC) in May 2012. The UPR is a unique peer review process during which the HRC reviews the human rights record of all 193 UN member states, once every four and a half years. The new edition of the WGHR report includes updates on the human rights situation since India’s second UPR in May 2012, as well as the list of recommendations made to the Government of India (GoI) by the HRC during the second UPR.

The panelists included member and chairpersons of all the six commissions in India (National Commission for Minorities, National Commission for Women, National Commission for Scheduled Castes, National Human Rights Commission, National Commission for Protection of Children’s Rights and Planning Commission).

### [Play on Karnataka Police Act, Bangalore, 28<sup>th</sup> Nov. 2012](#)

As part of the Bangalore Pride Week, a play titled ‘Tackling the draconian Karnataka Police Act’ was performed in Bangalore on 28<sup>th</sup> Nov. 2012. The play contextualised the history of police violence faced by transgender communities, the Karnataka Police Act being the latest legal cover for such violence.

### [National Dalit and Adivasi Sammelan, National Campaign on Dalit Human Rights, New Delhi, 23<sup>rd</sup> Nov 2012](#)

Thousands of Dalits and Adivasis gathered at the Ramlila Maidan in New Delhi on 23<sup>rd</sup> November 2012. Since 2009, the National Coalition for Strengthening the SC/ST POA Act, comprising of 200 civil society organisations from 18 states, has been actively mobilising for bringing amendments to the SC/ST Act. The Sammelan was called to generate public support for this cause, which is critical to the assertion and protection of the rights of the Dalits and Adivasis.