

2. SUPREME COURT SEEKS NCW VIEWS ON COMPULSORY REGISTRATION OF MARRIAGES

In the matter of Smt Seema Vs Ashwani Kumar, transfer petition (civil) No 291 of 2005, the Hon'ble Supreme Court, issued notice to the commission, for placing its views on the registration of marriages and the proposed legislation prepared by the commission.

The commission filed its reply along with the draft law on compulsory registration of marriages and the Hon'ble Court in its judgment dated 14th February 2006 observed that " as rightly contended by the national commission for women , in most cases non registration of marriages affects the women the most---- and directed the states and central government to initiate steps including framing of the rules for registration of marriages "

3. PETITION FILED IN SUPREME COURT AGAINST THE DELHI HIGH COURT JUDGMENT IN SHIKHA SHARMAS CASE

Recent judgement of the Honble High Court of Delhi wherein, the marriage of two young girls of 15 and 16 was held to be valid. While the judgement took into account the peculiar facts and circumstances of that case and the fact that no purpose would be served if the case of rape proceeded and keeping a lawfully wedded husband in judicial custody, it brought into open the wide disparities within various legislations dealing with the minimum age for marriage, the definition of a child, the age to give sexual consent and the effect of child marriage in certain cases.

the Hon'ble High Court of Delhi in two petitions for habeas corpus, basing on the existing provisions of law, a young girl of 15-16 was allowed to bear a child and her marriage was legalized. This judgement, though protested by

many, was passed within the realms of the existing law. However, it raised larger questions of public interest and particularly the health of the girl child keeping in mind the high rate of maternal mortality especially in the age group of 15-22. The petition seeks to highlight the disparities in various legislations, particularly the Child Marriage (Restraint) Act 1929, The Hindu Marriage Act 1955, and the explanation to Section 375 of the Indian Penal Code, 1890 as well as the Shariat law, the Indian Divorce Act, 1869 and the Juvenile Justice (care and protection of children) Act 2000.

The petition raises the following questions of law of general public importance which needs to be adjudicated.

- A. Whether the provisions of Section 375 and 376 of the Indian Penal Code are in conformity with the Child Marriage (restraint) Act?
- B. Whether the Hindu Marriage Act is in conformity with the Child Marriage (restraint) Act?
- C. Whether allowing sexual intercourse by a man with a girl as young as 15 years contravene the principles of the Juvenile Justice (care and protection of children) Act, 2000 as well as the Child Marriage (restraint) Act, 1929?