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## The Status of Women in 2014: A Global Snapshot

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## The Status of Women in 2014: A Global Snapshot

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## The Status of Women in 2014: A Global Snapshot

SHARON JAMES, JESSICA THERKELSEN, SHELBY QUAST, TANYA SUKHIIJA,  
RONG KOHTZ, & CHHAYA PRASAD PHATARPEKAR\*

This article covers some of the events that had a particular impact on women in 2014. While not an exhaustive list of all issues affecting women during 2014,<sup>1</sup> it offers a glimpse into a few of the stories that caught our attention this year.

The article begins with an update on the Convention on the Elimination of All Forms of Discrimination against Women, followed by a section on female genital mutilation. Since these topics have a broad impact on women globally, they are set apart from the rest of the article. The remainder of the article comprises submissions received from Women's Interest Network members that are specific to a country or region of the world.

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1. For example, two of the most prominent headlines during 2014 that are not covered here were the deadly Ebola outbreak in Western Africa, which had a particularly harsh impact on women and girls in that region, and the kidnapping of hundreds of school girls in Nigeria by Boko Haram. See *As Front-Line Caretakers in Ebola Crisis, Women and Girls Need Gender-Based Humanitarian Response, Gender Alert Says*, UN WOMEN (Sept. 26, 2014), <http://www.unwomen.org/en/news/stories/2014/9/gender-alert-ebola-west-africa>; Eyder Peralta, *Reports: Boko Haram May Have Kidnapped Dozens More Girls In Nigeria*, NPR (Oct. 27, 2014), <http://www.npr.org/blogs/thertwo-way/2014/10/27/359360236/reports-boko-haram-may-have-kidnapped-dozens-more-girls-in-nigeria>.

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## I. CEDAW

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)<sup>2</sup> had 188 parties by the end of 2014, with one new accession by the State of Palestine during the year. Though the United States signed the CEDAW in July 1980, the treaty has yet to be ratified.<sup>3</sup>

On November 5, 2014, the CEDAW Committee issued General Recommendation 32,<sup>4</sup> addressing the specific rights, needs, and challenges faced by women in situations of displacement and statelessness. The General Recommendation notes that “[d]isplacement arising from armed conflict, gender related persecution and other serious human rights violations that affect women compounds existing challenges to the elimination of discrimination against women.”<sup>5</sup>

The Committee suggests that States allow women to lodge independent asylum claims and be heard separately from their families, as persecution under the refugee definition is often understood through the male lens. The General Recommendation further specifies that “violence against women . . . is one of the major forms of persecution experienced by women in the context of refugee status and asylum,” and reiterates that such violence is recognized as legitimate grounds for international protection.<sup>6</sup>

The Committee also asks States to treat trafficking as part of gender-related persecution, noting that trafficked persons should know about their right to seek asylum, and should have equal access to domestic immigration processes and procedures.<sup>7</sup>

## II. Female Genital Mutilation

Increased attention has been given to the need to protect women and girls from female genital mutilation (FGM)<sup>8</sup> in practicing countries and countries with diaspora communities from countries with a high prevalence of FGM practice. In Kenya, several government agencies have been working to better implement and enforce legislative prohibitions

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2. Convention on the Elimination of All Forms of Discrimination Against women (CEDAW), Dec. 18, 1979, 1249 U.N.T.S. 12 (entered into force Sept. 3, 1981).

3. *Status of the Convention on the Elimination of All Forms of Discrimination Against Women*, UNITED NATIONS TREATY COLLECTION (November 26, 2014), [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en).

4. *General Recommendation No. 32 on the Gender-Related Dimensions of Refugee Status, Asylum, Nationality and Statelessness of Women*, COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN, CEDAW/C/GC/32, Nov. 5, 2014.

5. *Id.* at para.14.

6. *Id.* at para.15.

7. *Id.* at paras. 44-46.

8. FGM is a harmful practice that involves the partial or total removal of the female genitalia. The practice of FGM ranges from the partial or total removal of the clitoris (clitoridectomy), to the removal of the entire clitoris and the cutting of the labia minora (excision), to its most extreme form, the removal of all external genitalia and the stitching together of the two sides of the vulva (infibulation). FGM is generally performed without anesthetic, and can have lifelong health consequences including chronic infection, psychological trauma, and severe pain during urination, menstruation, sexual intercourse, and childbirth. *Protecting Girls From Undergoing FGM in Kenya and Tanzania*, EQUALITY NOW (2011), available at [equalitynow.org/sites/default/files/Protecting%20Girls\\_FGM\\_Kenya\\_Tanzania.pdf](http://equalitynow.org/sites/default/files/Protecting%20Girls_FGM_Kenya_Tanzania.pdf).

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against FGM, the Prohibition of FGM Act<sup>9</sup> and the Children's Act.<sup>10</sup> The 2011 Prohibition of FGM Act constituted an Anti-FGM Board, and designates it as responsible for public awareness raising on FGM and designing programs aimed at the eradication of FGM. In December 2013, the Honorable Dr. Linah Jebii Kilimo was appointed as the chairperson of the Board.<sup>11</sup>

Kenya's Director of Public Prosecutions (DPP) has also taken steps to more effectively enforce the Prohibition of FGM Act. In April 2014, the DPP established a twenty-member Anti-FGM Prosecution Unit.<sup>12</sup> The unit has completed a roll-out program nationwide, and published a draft report of its assessment of FGM cases.<sup>13</sup> The unit has already brought several cases to court. The Office of the DPP also recently launched a hotline to rescue girls from FGM and child marriage, and to prosecute these crimes. While these are positive developments, girls are still at risk of FGM in Kenya and there are many reports of girls running away to rescue centers. Civil society organizations such as Equality Now and Tasaru Ntonomok Initiative have actively been engaging with the Honorable Dr. Kilimo and the DPP to support their work and refer FGM cases.

This year Egypt saw its first prosecution of an FGM case. A doctor, Raslan Fadl, performed FGM on thirteen-year-old Soheir Mohamed el-Batea on June 6, 2013. Soheir died during the procedure. Several civil society organizations including the Center for Egyptian Women's Legal Assistance, the Egyptian Coalition for Children's Rights, and Equality Now called on the government to prosecute Dr. Fadl and Mohamed al-Bata'a, Soheir's father.<sup>14</sup> The Attorney General charged the doctor and father in Soheir's death. The trial began on May 22, 2014. Unfortunately, however, on November 20, 2014, the judge acquitted both the doctor and father. Civil society groups responded quickly by protesting the decision. The General Prosecutor of Aga submitted a request to appeal on November 21.

The United Kingdom and United States, where there are diaspora groups from FGM-practicing communities, have also been paying more attention to FGM. The United Kingdom organized the first ever Girl Summit in July 2014<sup>15</sup> to mobilize domestic and international efforts to end FGM, and child, early, and forced marriage within a generation. The U.K. government committed to strengthening existing legislation to better protect women and girls at risk of FGM.<sup>16</sup> On March 21, 2014, the Crown Prosecution

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9. Prohibition of Female Genital Mutilation Act No. 32, (2011) (Kenya), available at [www.kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=CAP.%2062B](http://www.kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=CAP.%2062B).

10. Children's Act No. 8, (2001) art. 14 (Kenya), available at [www.kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=CAP.%2](http://www.kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=CAP.%2).

11. THE KENYA GAZETTE, Vol. CXV-No. 182 (27 Dec. 2013), available at [kenyalaw.org/kenya\\_gazette/gazette/volume/Nzcw/Vol.%20CXV-No.%20182](http://kenyalaw.org/kenya_gazette/gazette/volume/Nzcw/Vol.%20CXV-No.%20182).

12. Office of the Director of Public Prosecutions Anti-FGM Prosecution Unit, Draft Report on Sensitization of Prohibition of FGM Act 2011 (Nov. 2014), available at [www.scribd.com/doc/246975950/Final-FGM-Report](http://www.scribd.com/doc/246975950/Final-FGM-Report).

13. Office of the Director of Public Prosecutions Anti-FGM Prosecution Unit, *Draft Report on Sensitization of Prohibition of FGM Act 2011* (Nov. 2014), available at [www.scribd.com/doc/246975950/Final-FGM-Report](http://www.scribd.com/doc/246975950/Final-FGM-Report).

14. *Egypt: Enforce FGM law & properly investigate Soheir al-Batea's death*, EQUALITY NOW (Dec. 10, 2013), available at [www.equalitynow.org/take\\_action/egypt\\_action385](http://www.equalitynow.org/take_action/egypt_action385).

15. See [www.gov.uk/government/topical-events/girl-summit-2014](http://www.gov.uk/government/topical-events/girl-summit-2014).

16. *Girl Summit 2014 Commitments*, available at [www.girlsummit2014.org/Commitment/Show](http://www.girlsummit2014.org/Commitment/Show).

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Service announced its first two prosecutions under the FGM law.<sup>17</sup> In advance of the Girl Summit, Equality Now and the City University London released a new study on the number of women and girls affected by FGM in England and Wales.<sup>18</sup>

In the United States, with support from Equality Now, FGM survivor and activist Jaha Dukureh recently launched a Change.org petition<sup>19</sup> which has gained over 200,000 signatures. The petition calls on President Barack Obama to develop a comprehensive strategic plan to end the practice in the United States, and to provide services to those who have already been subjected to FGM. The U.S. government made several commitments to address FGM, including to undertake a nationwide study on FGM to determine how many women and girls are living with the consequences of FGM or are at risk of FGM, and to set forth guidance for all U.S. Attorney Offices on investigating and prosecuting cases of FGM.<sup>20</sup> In response to advocacy by civil society and FGM survivors, the U.S. Department of Health and Human Services hosted a consultation in October on how to best address FGM in the United States. At the state level, twenty-three states currently have laws against FGM,<sup>21</sup> with Arizona being the newest to pass its law in April 2014.<sup>22</sup>

The Global End FGM Social Change Campaign, “The Girl Generation: Together to End FGM” launched in Nairobi, Banjul, and London on the International Day of the Girl, October 10, 2014. The Campaign’s founding members include Equality Now, Options Consultancy Services and Ogilvy & Mather-Africa, and FORWARD.<sup>23</sup> The Campaign seeks to mobilize a critical mass of people speaking out and acting against FGM. The Open Working Group for Sustainable Development Goals has been preparing for a new development agenda to replace the Millennium Development Goals which will expire in 2015. The Open Working Group’s report<sup>24</sup> includes a goal to achieve gender equality, including a target to eliminate harmful practices such as FGM. While this is a positive step, civil society groups continue to advocate for UN member states to retain and strengthen this language.

### III. China

We will soon celebrate the 20th Anniversary of the Beijing Declaration and Platform for Action. During the past two decades, China made much progress in promoting gen-

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17. Crown Prosecution Service, *First prosecutions for female genital mutilation* (Mar. 21, 2014), available at [www.cps.gov.uk/news/latest\\_news/first\\_prosecutions\\_for\\_female\\_genital\\_mutilation/](http://www.cps.gov.uk/news/latest_news/first_prosecutions_for_female_genital_mutilation/).

18. *Female Genital Mutilation in England and Wales: Updated Statistical Estimates of the Numbers of Affected Women Living in England and Wales and Girls at Risk*, EQUALITY NOW (July 21, 2014), available at [www.equalitynow.org/sites/default/files/FGM%20EN%20City%20Estimates.pdf](http://www.equalitynow.org/sites/default/files/FGM%20EN%20City%20Estimates.pdf).

19. *End Female Genital Mutilation in the U.S.*, CHANGE.ORG, [www.change.org/p/end-fgm-now-protect-girls-from-getting-cut-and-support-victims-of-female-genital-mutilation-in-the-usa](http://www.change.org/p/end-fgm-now-protect-girls-from-getting-cut-and-support-victims-of-female-genital-mutilation-in-the-usa) (last visited Mar. 5, 2015).

20. *Female Genital Mutilation in the U.S. Factsheet*, EQUALITY NOW, available at [www.equalitynow.org/sites/default/files/EN\\_FAQ\\_FGM\\_in\\_US.pdf](http://www.equalitynow.org/sites/default/files/EN_FAQ_FGM_in_US.pdf) (last visited Mar. 5, 2015).

21. *Id.*

22. ARIZ. REV. STAT. ANN. §§ 12.513, 13-705, 13-1214, 13-3620 (2014), available at [www.azleg.gov/DocumentsForBill.asp?Bill\\_Number=SB1342&Session\\_ID=112](http://www.azleg.gov/DocumentsForBill.asp?Bill_Number=SB1342&Session_ID=112).

23. See [www.thegirlgeneration.org/](http://www.thegirlgeneration.org/).

24. Report of the Open Working Group of the General Assembly for Sustainable Development Goals, U.N. Doc. A/68/970 (12 Aug. 2014), available at [www.un.org/ga/search/view\\_doc.asp?symbol=A/68/970&Lang=E](http://www.un.org/ga/search/view_doc.asp?symbol=A/68/970&Lang=E).

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der equality and protection of women and children in China.<sup>25</sup> As of 2014, China has established a rather comprehensive body of legislation for protection of women's rights and promotion of gender equality.<sup>26</sup> But underneath the well-crafted legislation, sexism against Chinese women and girls at home and in the workplace persists. Single, highly-educated women over twenty-seven years old are commonly denigrated as "leftover women."<sup>27</sup> Sexual harassment and violence against young women factory workers are widespread.<sup>28</sup> "Women are often 'the last hired and the first fired[.]'"<sup>29</sup> Job advertisements often state "women need not apply" or "male only." Audaciously, the Hunan Province government requires female applicants for civil servant positions "to have symmetric breasts with no lumps, and have no genital inflammation."<sup>30</sup> Amidst this state of affairs, however, the last year marked Chinese women's first set of court victories against gender discrimination in recruitment.<sup>31</sup>

On November 19, 2014, the *People's Daily*, the Chinese government's propaganda mouthpiece, praised the first Chinese court order against gender discrimination in recruitment in *Huang Rong (Alias) v. Hangzhou Dongfang Culinary School*, and called for elimination of gender discrimination against highly-educated women in employment. The *People's Daily* editorial declared that employers may prefer to employ men for financial reasons, but that private firms' maximization of profits should not come at the cost of social equality.<sup>32</sup> In the *Huang Rong* case, Xihu District People's Court in Hangzhou City, Zhejiang Province entered decision in favor of Ms. Huang, who sued the culinary school after it denied her job application because of her gender. The court found that the school had violated Ms. Huang's right to equal employment and awarded her RMB 2,000 (approximately USD 326) in damages.<sup>33</sup>

Ms. Huang, a twenty-one-year-old college graduate and a social work major, had responded to an advertised clerical vacancy at Dongfang Culinary School in Hangzhou, China's fourth largest city with a population of 21.1 million. The school rejected her application with written notice stating that the job vacancy was open only to male candidates. Ms. Huang repeatedly appealed to the school in person and requested an interview based on her credentials. The school refused to interview Ms. Huang and insisted that the

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25. Periodic Report on Implementation of the United Nations Convention on the Elimination of All Forms of Discrimination against Women by the People's Republic of China (2014), available at [http://tbineternet.ohchr.org/\\_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=CHN&Lang=EN](http://tbineternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=CHN&Lang=EN).

26. *Id.* at page 15.

27. *Netizens Debate on Highly-Educated "Leftover Women"*, ALL-CHINA WOMEN'S FEDERATION (Jan. 21, 2014), <http://www.womenofchina.cn/womenofchina/html1/opinion/16/9208-1.htm>.

28. THE SEXUAL HARASSMENT OF WOMEN FACTORY WORKERS IN GUANGZHOU, SUNFLOWER WOMEN WORKERS CENTRE (2014), available at [http://www.clb.org.hk/en/sites/default/files/Image/research\\_report/sexual%20harassment%20survey%20sunflower%20centre.pdf](http://www.clb.org.hk/en/sites/default/files/Image/research_report/sexual%20harassment%20survey%20sunflower%20centre.pdf).

29. Crystal Roberts, *Far From a Harmonious Society: Employment Discrimination in China*, 52 SANTA CLARA L. REV. 1531, 1539 (2012).

30. Hunan Province State Civil Servant Recruitment Physical Examination Interim Guidelines (2003), Article 22 (on file with the author). See also Yu Hua, *Power is Arrogant*, N.Y. TIMES, May 8, 2013.

31. *Woman Celebrates Victory in Milestone Gender Discrimination Case*, ALL-CHINA WOMEN'S FEDERATION (Nov. 13, 2014), <http://www.womenofchina.cn/womenofchina/html1/news/china/1411/1609-1.htm>.

32. Qiye Bushi Zao tang, Jing Ren Xiankan Nannu? [Workplace Is Not a Bathhouse, Inspecting Gender at the Entrance?], PEOPLE'S DAILY (Nov. 19, 2014).

33. Chinese Woman Wins Sexual-Discrimination Case, PEOPLE'S DAILY (Nov. 13, 2014), <http://english.peopledaily.com.cn/n/2014/1113/c90882-8808679.html>.

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job was for men only.<sup>34</sup> Ms. Huang then sued Dongfang Culinary School. Xihu District People's Court found that the school violated the Law on Promotion of Employment, which provides that "women enjoy equal right to work as men" and an employer shall not refuse to employ women based on their gender, except where the type of occupation or job duty is specifically designated as unsuitable for women by state law or regulations.<sup>35</sup> The court held that women are able to do the clerical position offered by the school and the school's action to recruit only men for the job was therefore unlawful.<sup>36</sup>

China's first lawsuit on gender discrimination in employment, *Cao Ju (Alias) v. Juren Academy*, was settled in December 2013 in Haidian District People's Court in Beijing. Ms. Cao, a new college graduate, applied for a position as an office assistant at Juren Academy in Beijing. Juren Academy rejected Ms. Cao's application because the position was open only to male candidates. Ms. Cao brought an action against Juren Academy in June 2012.<sup>37</sup> However, the court first refused to hear her case. Only after the case was widely publicized and Ms. Cao received tremendous public support did the court accept the suit. The lawsuit was settled through mediation.<sup>38</sup>

Ms. Huang and Ms. Cao's successes are no small victories for Chinese girls and women who wish to advance their education and career. Their victories are nevertheless limited as both lawsuits were against companies in the private sector. Chinese courts have not changed the previous rulings that the courts do not have jurisdiction to review employment practices of state-owned enterprises and government agencies, which employ the majority of white-collar workers in China.

Chinese women continue to face immense challenges in the pursuit for equality, liberty and freedom. Many of these challenges may be insurmountable until China achieves true democracy and rule of law for all Chinese people.

#### **IV. India**

Used as a method to control population growth, men and women undergo involuntary sterilizations in different parts of the world. Throughout history, sterilizations have been coerced upon ethnic minorities,<sup>39</sup> prison inmates,<sup>40</sup> the mentally ill,<sup>41</sup> and sometimes as a part of eugenics studies.<sup>42</sup> In the Bilaspur district of Chattisgarh, a state in India, the botched tubectomies that led to the death of thirteen women and hospitalization of sixty

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34. Faliu Meiyong Rang Ta Ku [The Law Did Not Leave Her Crying], CHINA WOMEN'S NEWS (Nov. 16, 2014), <http://paper.cnwomen.com.cn/content/2014-11/16/010752.html>.

35. Law of the People's Republic of China on Promotion of Employment, Article 27. The English translation of it is available at the website of the National People's Congress of the People's Republic of China, [http://www.npc.gov.cn/englishnpc/Law/2009-02/20/content\\_1471590.htm](http://www.npc.gov.cn/englishnpc/Law/2009-02/20/content_1471590.htm).

36. See *supra* note 32.

37. *First Gender Discrimination Lawsuit in China*, ALL-CHINA WOMEN'S FEDERATION (July 25, 2012), <http://www.womenofchina.cn/womenofchina/html/14/3321-1.htm>.

38. *China's First Workplace Gender Discrimination Lawsuit Closes*, ALL-CHINA WOMEN'S FEDERATION (Dec. 19, 2013), <http://www.womenofchina.cn/womenofchina/html/news/china/16/8270-1.htm>.

39. Rosalind Pollack Petchesky, *Reproduction, Ethics, and Public Policy: The Federal Sterilization Regulations*, 9 HASTINGS CENTER REP. 29, 30 (1979).

40. Mark A. Largent, "The Greatest Curse of the Race": *Eugenic Sterilization in Oregon, 1909-1983*, 103 OREGON HISTORICAL Q. 188, 202 (2002).

41. *Id.*

42. *Id.*



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others (rendering over a dozen in serious condition) made headlines all over the world.<sup>43</sup> The news once again aroused anger and frustration, and put the spotlight on India's disregard towards woman's health issues.<sup>44</sup> With a population of over 1.18 billion,<sup>45</sup> the Indian government has been trying to stem the continuing population growth by developing and aggressively implementing family planning schemes. The kinds of governmental schemes seen in Chattisgarh state have a long history in India. Setting targets for sterilizations, providing monetary incentives, and forcing men and women into sterilization during the Emergency period of 1975-77 tarnished Prime Minister Indira Gandhi's regime to some extent.<sup>46</sup>

Article 21 of the Indian Constitution guarantees to every individual the protection of life, health, and personal liberty; these guarantees encompass the right to make decisions with respect to one's reproductive health.<sup>47</sup> After receiving reports of injuries to women due to negligence by doctors while performing tubectomies from various Indian states, the Supreme Court of India in *Ramakant Rai v. Union of India*, issued an interim order in March 2005.<sup>48</sup> The order required all the Indian states to comply with uniform procedures while performing sterilizations on patients.<sup>49</sup> The order specified the doctor's qualification performing the sterilizations, a checklist seeking information of the patient's age, health, number of children, consent forms from patients, compliance with established guidelines of running pathological tests before surgeries to detect any health issues, and medical facilities with proper equipment and sanitized conditions to avoid infections to patients.<sup>50</sup> Under the order, the states were also required to record the number of sterilizations performed, the type of procedure used, and the number of individuals incapacitated or dead as a result of the sterilizations.<sup>51</sup> Furthermore, the order spelled out the compensation to families of victims in the amount of rupees 1,00,000 (\$1,790.00) in case of death and rupees 30,000, (\$537.00) in case of incapacitation of the victim because of improper sterilization procedures.<sup>52</sup> Another public interest litigation case filed in 2012 by a health activist Devika Biswas, pertaining to unsafe sterilizations performed on women, awaits hearing in the Supreme Court of India.<sup>53</sup>

Using the guidelines provided by the National Rural Health Mission (NRHM) in 2005, the state of Chattisgarh laid out a comprehensive health policy for its towns and villages. The policy makers provided for monetary incentives to health workers, also called

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43. See, e.g., *India Sterilization Deaths: Chhattisgarh Protests as Toll Climbs*, BBC NEWS INDIA (Nov. 12, 2014), <http://www.bbc.com/news/world-asia-india-30015752>.

44. Ashutosh Bharadwaj, *Chhattisgarh Sterilisation Tragedy: Besides Medical Negligence, Guidelines For Operations Also Violated*, THE INDIAN EXPRESS (Nov. 12, 2014), <http://indianexpress.com/article/india/india-others/bilaspur-8-women-dead-20-others-in-a-serious-condition/>.

45. CENSUS OF INDIA, <http://censusindia.gov.in/> (last updated Nov. 18, 2014).

46. See Davidson R. Gwatkin, *Political Will and Family Planning: The Implications of India's Emergency Experience*, 5 POPULATION & DEVELOPMENT REV., 29, 38 (1979).

47. INDIA CONST. art. 21, available at <http://lawmin.nic.in/olwing/coi/coi-english/Const.Pock%202Pg.Ro m8Fsss%286%29.pdf>; *Mandal v. Deen Dayal Harinagar Hosp. & Ors.*, (2010) W.P.C. 8853/2008 (India).

48. See *Ramakant Rai & Anr v. Union of India & Ors.*, (2005) W.P.C. 209/2003.

49. *Id.*

50. *Id.*

51. *Id.*

52. *Id.*

53. See *Devika Biswas vs. Union of India and Ors.*, (2012) W.P.C. 81/2012.

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“Mitanins”<sup>54</sup> who convince individuals to use the governmental and non-governmental health centers for cataract surgeries, vasectomies, laparoscopic tubectomies, to obtain contraceptives, children’s immunization, and so on.<sup>55</sup> The government pays men and women who undergo sterilization, an amount that serves as a financial enticement.<sup>56</sup> The question raised here is whether the women who undergo the tubectomies receive enough information about the consequences of the procedures, the risks associated, the non-reversible nature of the procedure, and the other options for birth control.

In the Bilaspur district between April 2013 and March 2014, the number of women who underwent sterilization as compared to men shows a shocking gender disparity. Thirty-three thousand three hundred eighty-seven (33,387) females were sterilized while only 764 males underwent sterilization.<sup>57</sup> The trend of men refusing to undergo sterilization in rural India seems to have changed a little in the past few years; hence, a premium is placed on convincing a man into undergoing a vasectomy. According to the 2012-13 Chattisgarh Sterilization Policy, a Mitanin receives 100 rupees (\$1.79) for every female she convinces to undergo a tubectomy and 125 rupees (\$2.24) for every man whom she convinces to undergo a vasectomy.<sup>58</sup>

The prevalence of well-publicized prior incidents involving botched sterilizations should have served as an eye-opener to the Chattisgarh government to take immediate steps to avoid any similar future incident.<sup>59</sup> However, within a few days of the November 2014 Chattisgarh tragedy where the doctor performed eighty-three tubectomies in five hours and the huge public outcry thereafter, twenty-six tubectomies were performed at another sterilization camp in Bilaspur district, leaving twenty women with surgical complications and one dead.<sup>60</sup> What could be the reason for such a callous attitude shown by the government? Why is this mad rush for sterilizing the women? Instead of letting the women take control of their reproductive health and giving them options for fertility limitation, they are unnecessarily dragged into invasive surgeries.

Violence against women continues in India. Rapes of women and girls are a common occurrence, even after the gang rape of Nirbhaya in December 2012 that made headlines around the world.<sup>61</sup> Not only do family members still physically punish adult daughters

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54. A “Mitanin” is trained female community health worker/volunteer in rural towns and villages of India who works very closely with the medical staff at the health centers recruited by the community health center. See also PROD, <http://hsprodindia.nic.in/searnum.asp?PNum=49> (last visited Mar. 5, 2015).

55. See Project Implementation Plan for Chattisgarh 2012-13 at 252 & 253, <http://cg.nic.in/health/programonitoring/PIPHHealthFinancing/PIP201213.pdf>.

56. Jason Burke, *India’s Population Policies, Including Female Sterilization, Beset By Problems*, THE GUARDIAN (Nov. 13, 2014), <http://www.theguardian.com/world/2014/nov/13/india-population-growth-policy-problems-sterilisation-incentives-coercion>.

57. See *Monthly Cumulative Reports of Family Planning (Permanent Method)*, CHATTISGARH GOVERNMENT HEALTH AND FAMILY WELFARE, <http://cg.nic.in/health/programonitoring/Reports/rptfamilyplanning.aspx> (last visited Mar. 5, 2015).

58. Project Implementation Plan for Chattisgarh 2012-13 at 252, *supra* note 55.

59. Shoumojit Banerjee, *Kaparfora Tubectomies: NGO Blacklisted, Surgeon Sacked*, THE HINDU (Feb. 12, 2012), <http://www.thehindu.com/todays-paper/tp-miscellaneous/tp-others/kaparfora-tubectomies-ngo-blacklisted-surgeon-sacked/article2884530.ece>.

60. Bharadwaj, *supra* note 44.

61. Rama Lakshmi, *Two Years After Infamous Delhi Gang Rape, India Isn’t Any Safer*, WASH. POST WORLDVIEWS (Dec. 16, 2014), <http://www.washingtonpost.com/blogs/worldviews/wp/2014/12/16/two-years-after-infamous-delhi-gang-rape-india-isnt-any-safer/>.

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for having relationships with boys from a lower caste, they frequently go to the extent of killing the girl or the boy who has dared to defy the caste-based marriage system.<sup>62</sup> Even today, Indians yearn for a male offspring causing female infanticide to be a rising concern.<sup>63</sup> On one hand, the Government of India touts the launch of Mangalyaan, the Mars Orbiter Mission, as a mark of India's technological prowess to the world,<sup>64</sup> while on the other, hundreds of women face deadly consequences for undergoing a simple sterilization procedure.

## V. Europe

The Convention on Preventing and Combating Violence against Women and Domestic Violence, also known as the Istanbul Convention, was adopted by the Council of Europe Committee of Ministers on April 7, 2011.<sup>65</sup> After its ratification by Andorra on April 22, 2014, the Istanbul Convention went into effect on August 1, 2014.<sup>66</sup> As of this writing, the following nations have ratified the convention: Albania, Andorra, Austria, Bosnia & Herzegovina, Denmark, France, Italy, Malta, Monaco, Montenegro, Portugal, Serbia, Spain, Sweden, and Turkey.<sup>67</sup>

The Convention centers on preventing violence against women, protecting victims, prosecuting perpetrators of violence against women, and monitoring how governments comply with the convention.<sup>68</sup> It covers not only physical and psychological abuse and sexual violence, but it is also intended to extend to stalking, sexual harassment, forced marriage, and forced sterilization.<sup>69</sup> The convention is focused primarily on eliminating violence against women; however, all parties to the convention are encouraged to apply the framework to others who are affected by family violence, including men, children, and the elderly.<sup>70</sup>

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62. See, e.g., Carlin Carr, *In Urban India, Inter-Caste Couples Hide Out in a Network of Secret Shelters*, NEW CITY (Sept. 17, 2014), <http://nextcity.org/daily/entry/in-urban-india-inter-caste-couples-hide-out-in-a-network-of-secret-shelters>.

63. See, e.g., Alex Sangha, *Domestic Violence in the South Asian Community Needs to Stop*, HUFF. POST (Nov. 27, 2014), [http://www.huffingtonpost.ca/alex-sangha/domestic-violence-south-asian-surrey\\_b\\_6222520.html](http://www.huffingtonpost.ca/alex-sangha/domestic-violence-south-asian-surrey_b_6222520.html).

64. *2014: The Year of Narendra Modi, Mars Mission and Kashmiri*, IBN LIVE (Dec. 30, 2014), <http://ibnlive.in.com/news/2014-the-year-of-narendra-modi-mars-mission-and-kashmir-floods/520494-3.html>.

65. *Historical Background*, COUNCIL OF EUROPE, [http://www.coe.int/t/dghl/standardsetting/convention-violence/background\\_en.asp](http://www.coe.int/t/dghl/standardsetting/convention-violence/background_en.asp) (last visited Mar. 5, 2015).

66. *Id.*

67. *Treaty Office*, COUNCIL OF EUROPE, <http://www.conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=210&CM=&DF=&CL=ENG> (last visited Mar. 5, 2015).

68. *Convention in Brief*, COUNCIL OF EUROPE, [http://www.coe.int/t/dghl/standardsetting/convention-violence/brief\\_en.asp](http://www.coe.int/t/dghl/standardsetting/convention-violence/brief_en.asp) (last visited Mar. 5, 2015).

69. *About the Istanbul Convention*, COUNCIL OF EUROPE, [http://www.coe.int/t/dghl/standardsetting/convention-violence/about\\_en.asp](http://www.coe.int/t/dghl/standardsetting/convention-violence/about_en.asp) (last visited Mar. 5, 2015).

70. *Id.*

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The convention is binding law on the nations that have ratified it, and those governments can be held accountable under the treaty.<sup>71</sup> Independent experts are expected to be appointed in 2015 to begin monitoring compliance with the convention.<sup>72</sup>

## VI. United Kingdom

Malala Yousafzay's fight for the education of girls gained worldwide attention when she was targeted for her activism and was brutally shot by a member of the Taliban in her native country of Pakistan. Instead of silencing Malala, the act brought overwhelming international support for her and her cause.<sup>73</sup> In 2014, the Nobel Peace Prize was awarded jointly to Malala Yousafzay and Indian activist Kailish Satyarthi for their work in fighting for the rights of children and young people to education and to be free from exploitation and suppression.<sup>74</sup>

Malala currently resides in Birmingham, England, where she is attending high school.<sup>75</sup> In addition to publishing a memoir,<sup>76</sup> Malala has set up a fund to support efforts to educate girls around the world.<sup>77</sup>

## VII. Canada

The Canadian House of Commons convened a Special Committee on Violence Against Indigenous Women to study the disproportionate number of abused, missing, and murdered indigenous women in Canada. The Committee's mandate was to "conduct hearings on the critical matter of missing and murdered Indigenous women and girls in Canada, and to propose solutions to address the root causes of violence against Indigenous women."<sup>78</sup>

According to the Native Women's Association of Canada, the homicide rate of Indigenous women was almost seven times higher than the rate for non-Indigenous women

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71. *Istanbul Convention Enters into Force*, COUNCIL OF EUROPE (Jan. 8, 2014), <http://www.coe.int/t/dghl/standardsetting/convention-violence/>.

72. *Id.*; see also Gauri van Gulik, *Dispatches: A Step Forward Today in Ending Violence Against Women in Europe*, HUMAN RIGHTS WATCH (Aug. 1, 2014), <http://www.hrw.org/news/2014/08/01/dispatches-step-forward-today-ending-violence-against-women-Europe>.

73. Malala Yousafzai, Bio, <http://www.biography.com/people/malala-yousafzai-2136225> (last visited Mar. 5, 2015).

74. Press Release, The Nobel Peace Prize for 2014, NOBELPRIZE.ORG, [http://www.nobelprize.org/nobel\\_prizes/peace/laureates/2014/press.html](http://www.nobelprize.org/nobel_prizes/peace/laureates/2014/press.html) (last visited Mar. 5, 2015).

75. Nsikan Akpan, *What Will Malala's Nobel Peace Prize Mean For Girls' Education?*, NPR (Oct. 15, 2014), <http://www.npr.org/blogs/goatsandsoda/2014/10/15/355160473/what-will-malalas-nobel-peace-prize-mean-for-girls-education>.

76. MALALA YOUSAFZAI, *I AM MALALA: THE GIRL WHO STOOD UP FOR EDUCATION AND WAS SHOT BY THE TALIBAN* (2013).

77. Akpan, *supra* note 75.

78. *Invisible Women: A Call To Action: A Report On Missing And Murdered Indigenous Women In Canada*, PARLIAMENT OF CANADA, <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=6469851&Language=E&Mode=1&Parl=41&Ses=2&File=21> [hereinafter Committee Report] (last visited Mar. 5, 2015).

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between 1997 and 2000.<sup>79</sup> Additionally, Indigenous women aged fifteen and older are 3.5 times more likely to be victims of violence.<sup>80</sup>

The Committee issued its report in March of 2014. The report included several recommendations to the Canadian government, such as strengthening the criminal justice system to ensure that violent and repeat offenders receive appropriate sentences; developing the Canadian Victims Bill of Rights; implementing a national DNA-based missing person's index; and encouraging "Aboriginal organizations, the Canadian Police College and municipal, provincial, and territorial governments to improve police officer training, including continuing education, to foster cultural understanding and sensitivity."<sup>81</sup>

The Canadian government issued a response to the recommendations in which it recognized the importance of the Committee's work and affirmed its commitment to address the issues identified in the report.<sup>82</sup> The government cited its plan to set aside \$25M over the next five years, and in response to that economic plan and to the Committee's report, it developed an action plan focused on the following:

- Preventing violence by supporting action and solutions at the community level.
- Supporting Aboriginal victims by providing appropriate services.
- Protecting Aboriginal women and girls by investing in shelters and continuing to improve the criminal justice and police response.<sup>83</sup>

The Committee's report came under scrutiny for failing to make recommendations for concrete actions, such as implementing an independent national inquiry or addressing police misconduct.<sup>84</sup> The issue is not likely to go away, particularly when brutal attacks against Indigenous women continue to make headlines in Canada.<sup>85</sup>

## VIII. United States

### A. EQUAL PAY FOR WOMEN

Women in the United States make on average only 78% of the wages earned by their male counterparts.<sup>86</sup> The federal government has taken steps to address this disparity, such as passing the Lilly Ledbetter Fair Pay Restoration Act in 2009. On April 8, 2014, President Obama signed an Executive Order to ensure equal pay for women, in part by prohibiting retaliation against employees who discuss their compensation with cowork-

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79. *Fact Sheet: Violence Against Aboriginal Women*, NATIVE WOMEN'S ASSOCIATION OF CANADA, [http://www.nwac.ca/files/download/NWAC\\_3E\\_Toolkit\\_e.pdf](http://www.nwac.ca/files/download/NWAC_3E_Toolkit_e.pdf) (last visited Mar. 5, 2015).

80. *Id.*

81. Committee Report, *List of Recommendations*, PARLIAMENT OF CANADA, <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=6469851&Language=E&Mode=1&Parl=41&Ses=2&File=84> (last visited Mar. 5, 2015).

82. *Government Response*, PARLIAMENT OF CANADA (Sept. 15, 2014), <http://www.parl.gc.ca/committeebusiness/ReportsResponses.aspx?Cmte=IWFA&Language=E&Mode=1&Parl=41&Ses=2>.

83. *Id.*

84. See, e.g., *Canada: Parliament Panel Fails Indigenous Women*, HUMAN RIGHTS WATCH (Mar. 7, 2014), <http://www.hrw.org/news/2014/03/07/canada-parliament-panel-fails-indigenous-women>.

85. See Celine Cooper, *Violence Against Aboriginal Women Has To Stop*, MONTREAL GAZETTE (Nov. 24, 2014), <http://montrealgazette.com/news/national/celine-cooper-violence-against-aboriginal-women-has-to-stop>.

86. *The Simple Truth about the Gender Pay Gap*, AAUW, <http://www.aauw.org/research/the-simple-truth-about-the-gender-pay-gap/> (last visited Mar. 5, 2015).

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ers.<sup>87</sup> The Executive Order applies to federal contractors and aims to increase wage transparency so that employers are not able to hide pay discrepancies between their male and female employees. Information about pay rates will give women more negotiating power at the outset and alert them if they have a potential cause of action for gender discrimination.<sup>88</sup>

**B. REPRODUCTIVE RIGHTS VS. RELIGIOUS FREEDOM**

Women's reproductive rights have been in the forefront of U.S. legal news in 2014. In addition to challenges to state legislative curtailments on abortion rights,<sup>89</sup> a case dealing with the requirements of the federal Affordable Care Act (ACA) (also somewhat disparagingly referred to as "Obamacare") gained national attention for its potential impact on women's access to contraceptives and reproductive services.

The case, *Burwell v. Hobby Lobby*,<sup>90</sup> was one of two consolidated cases in which for-profit corporations sought to be excused from the ACA's requirement that their medical plans cover certain contraceptive services. The closely-held corporations<sup>91</sup> argued that requiring them to provide this coverage was in contravention of their religious beliefs, and as such, a violation of the federal Religious Freedom Restoration Act of 1993 (RFRA).<sup>92</sup>

RFRA provides that the government may not substantially burden a person's free exercise of religion unless the government has a compelling government interest and the burden is the least restrictive means of accomplishing that interest.<sup>93</sup> A primary issue in this case was whether closely-held corporations could exercise religion, and if so, whether they have a right to be free from substantial burdens on that free exercise.

The ACA provision at issue was a requirement that employers with fifty or more employees offer health coverage that provides "minimum essential coverage"<sup>94</sup> unless an exception applies. Essential care includes "preventive care and screenings" for women without "any cost sharing requirements." Federal guidelines specified that this includes "[a]ll Food and Drug Administration [(FDA)] approved contraceptive methods, sterilization procedures, and patient education and counseling."<sup>95</sup> Some of the FDA-approved methods of contraception were felt to be particularly offensive to the employers because they "may have the effect of preventing an already fertilized egg from developing any

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87. *Fact Sheet: Expanding Opportunity for All: Ensuring Equal Pay for Women and Promoting the Women's Economic Agenda*, WHITEHOUSE.GOV (Apr. 8, 2014), <http://www.whitehouse.gov/the-press-office/2014/04/08/fact-sheet-expanding-opportunity-all-ensuring-equal-pay-women-and-promot>.

88. *Id.*

89. *See, e.g.*, *Whole Women's Health v. Lakey*, 135 S.Ct. 399 (2014) (vacating stay of Texas's admitting privilege requirement and ambulatory surgical center requirements for abortion providers).

90. 134 S.Ct. 2751 (2014).

91. According to the Internal Revenue Service (IRS), "closely-held" corporations are those that have more than half the value of outstanding stock owned, either directly or indirectly, by five or fewer individuals and are not personal service corporations. *See Help & Resources*, IRS.GOV (last visited Mar. 5, 2015), <http://www.irs.gov/Help-&-Resources/Tools-&-FAQs/FAQs-for-Individuals/Frequently-Asked-Tax-Questions-&-Answers/Small-Business,-Self-Employed,-Other-Business/Entities/Entities-5>.

92. 107 Stat. 1488, 42 U. S. C. §2000bb et seq.

93. 42 U.S.C. § 2000bb-1.

94. 26 U. S. C. §5000A(f)(2); §§4980H(a), (c)(2).

95. 77 Fed. Reg. 8725.

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further by inhibiting its attachment to the uterus.” Nevertheless, employers who did not provide this coverage could be subject to penalties under the ACA.<sup>96</sup>

A majority of the U.S. Supreme Court agreed that the requirement substantially burdened the religious beliefs of the business owners, and held the provision violated the RFRA.<sup>97</sup> The majority recognized that the requirement may serve a compelling government interest, but they felt it was not the least restrictive means of accomplishing the government’s goal of ensuring reproductive services for women. This was because the government had an opt-out provision for private religious entities, and the majority thought that this could fairly easily be extended to these closely-held corporations.<sup>98</sup>

Although the female employees of these employers may still have access to contraceptives through other options under the ACA, that may not always hold true, particularly if the ACA is amended or repealed in the future. As the dissent pointed out, the Court has previously recognized the importance of access to contraceptives on women’s economic and social well-being: “The ability of women to participate equally in the economic and social life of the Nation has been facilitated by their ability to control their reproductive lives.”<sup>99</sup> The dissent and many critics of the opinion contend that the majority ignored that wisdom and incorrectly placed more importance on the rights of corporations than on the rights of the women they employ.<sup>100</sup>

The ultimate effect of the opinion may be limited by the fact that it was based on the federal RFRA and not on the First Amendment of the Federal Constitution. Since the Court has previously determined that the RFRA cannot be applied to the states,<sup>101</sup> the decision does not directly affect states’ regulation of closely-held corporations in this regard (although some states have passed similar provisions<sup>102</sup>). On the other hand, the decision is predicted to lead to many challenges on religious grounds to other federal actions and legislation.<sup>103</sup> We shall see in the next year or two how far federal courts are willing to extend RFRA protections to employers, and at what cost to their employees.

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96. *Hobby Lobby*, 134 S.Ct. 2751 (2014).

97. *Id.*

98. *Id.*

99. *Id.* at 2787-88 (Ginsburg, J., dissenting) (citing *Planned Parenthood of Southeastern Pa. v. Casey*, 505 U. S. 833, 856 (1992)).

100. *Id.*; see also *What Does the Hobby Lobby Decision Mean?* AAUW (July 3, 2014), <http://www.aauw.org/2014/07/03/what-hobby-lobby-means/>.

101. *City of Boerne v. Flores*, 521 U.S. 507 (1997).

102. See Juliet Eilperin, *31 States Have Heightened Religious Freedom Protections*, WASH. POST (Mar. 1, 2014), <http://www.washingtonpost.com/blogs/the-fix/wp/2014/03/01/where-in-the-u-s-are-there-heightened-protections-for-religious-freedom/>.

103. See, e.g., David Masci, *The Hobby Lobby impact: A Q&A [with Robert Tuttle]*, PEW RESEARCH (July 2, 2014), <http://www.pewresearch.org/fact-tank/2014/07/02/the-hobby-lobby-impact-a-qa/>, predicting that “the next wave of disputes is likely to involve employers who object on religious grounds to paying benefits to the same-sex spouses of employees.”

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