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## Women's Interest Network

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## **Women's Interest Network: 2015 In Review**

RONG KOHTZ, JAMI MILLS VIBBERT, AND SHARON M. JAMES\*

The Women's Interest Network ("WIN") is a constituent committee of the ABA Section of International Law. WIN is primarily focused on the promotion and preservation of the rights and interests of women globally. WIN's membership includes women and men, lawyers, and non-lawyer associates.

This Article spotlights some of the international legal issues and events that had a particular impact on women in 2015. The Article begins with a section on a topic of widespread attention and importance in 2015: the mass migration crisis and its devastating effects on women and children. This is followed by a section on worldwide attempts to increase participation by women on corporate boards. The final section covers reproductive health issues affecting women worldwide.

### **I. Women and Girls in the International Migration Crisis in 2015**

In 2015, we are confronted with an unprecedented global migration crisis. Worldwide forced displacement is at the highest level ever recorded.<sup>1</sup> The United Nations High Commission for Refugees ("UNHCR") reported that the number of people forcibly displaced at the end of 2014 had risen to a staggering 59.5 million compared to 51.2 million a year earlier and 37.5 million a decade ago.<sup>2</sup> It is estimated that by mid-November, over 800,000 migrants and asylum seekers reached the Mediterranean shores of Europe.<sup>3</sup>

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Sharon M. James is an assistant attorney general with the Washington State Attorney General's Office (however, this piece is solely her work and not that of her office), and she is a co-chair of the ABA Section of International Law Women's Interest Network. Sharon compiled the Article and wrote the section on women's reproductive rights.

1. U.N. High Commissioner for Refugees, The Office of the United Nations High Comm'r for Refugees (UNHCR), *UNHCR Global Trends: Forced Displacement in 2014*, p. 1 (June 18, 2015).

2. *Id.*

3. Press Release, International Organization for Migration, *Mediterranean Migrants: Latest Developments*, (Nov. 27, 2015).

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Women and girls are especially vulnerable in mass displacement situations, due to their gender roles and position in society. In situations of displacement, risks of abuse—particularly discrimination and sexual and gender-based violence—can be exacerbated. Unaccompanied women and girls, women heads of households, and pregnant, disabled, or older women may face particular challenges. Among many of these hardships, gender-based violence and statelessness due to discriminatory nationality laws are distinctively against migrant women and their children.

A. GENDER-BASED VIOLENCE

Sexual and gender-based violence is occurring in every aspect of the lives of displaced women and girls, and is inescapable for too many women and girls.

Gender-based violence is widespread in conflict-affected environments. Conditions for women and girls in war-torn regions are deteriorating as the armed conflicts drag on in Africa and the Middle East.<sup>4</sup> Sexual violence is widely used as a tactic of war and terror by extremist groups.<sup>5</sup> The stress and chaos of the crisis, coupled with entrenched gender inequality, have left women and girls extremely vulnerable to violence and abuse at home and in their own community. Millions of women and girls are forced to flee their countries and seek asylum as a result of pervasive gender-based violence.<sup>6</sup>

While the world's attention is fixed upon the crisis of migrants and refugees arriving in Europe, increasing numbers of Central American women and their children are desperately attempting to reach the United States in hopes of escaping the raging violence in their home countries.<sup>7</sup> Gender violence is a major cause of migration from Central America to the United States.<sup>8</sup> As in many other parts of the world, violence against women and girls occurs at incredibly high rates throughout Central America, particularly in Guatemala, El Salvador, and Honduras.<sup>9</sup>

During transit, refugee and migrant women are often attacked while moving through remote or insecure routes, or while staying in places that lack basic security. Many women who fled Central America reported being victims of physical or sexual abuse during their journey.<sup>10</sup> Some women took contraceptives before traveling in order to reduce the possibility of becoming pregnant if they were raped.<sup>11</sup> Women and girls traveling on their own are at grave risk of sexual assault en route to refugee camps. In poorly secured camps, refugee and migrant women and girls are at heightened risk of

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4. Press Release, Security Council, Fight against Sexual Violence in Conflict Reaches “New Juncture”, (Apr. 15, 2015).

5. *Id.*

6. *Id.*

7. U.S. Dept. of Homeland Security, Customs and Border Protection, U.S. Border Patrol Southwest Border Family Units and UAC Apprehensions (FY 2015 -FY2016), available at <http://www.cbp.gov/sites/default/files/documents/BP%20Southwest%20Border%20Family%20Units%20and%20UAC%20Apps%20-%20Jan.pdf>.

8. U.N. High Commissioner for Refugees, The Office of the United Nations High Comm’r for Refugees (UNHCR), *Women on the Run: First-Hand Accounts of Refugees Fleeing El Salvador, Guatemala, Honduras, and Mexico*, p. 4 (Oct. 2015).

9. *Id.* at 6.

10. *Id.*

11. *Id.*, at 8.

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violence and abuse, including sexual violence.<sup>12</sup> Even in Europe, many reception centers are overcrowded and lack adequate lighting and separated spaces for single women and families with children.<sup>13</sup>

**B. GENDER-BASED STATELESSNESS**

Nationality is essential to guaranteeing a person's right to enter and reside permanently in the territory of a State or to seek asylum and resettle in another State. Statelessness due to lack of identification documentation is a grave concern for many refugees. Many of them have lost identification documents because of war, sudden flight and travel, crime, or lack of financial resource to renew passports or registrations.<sup>14</sup> Without identity documents of nationality, displaced women are subject to compounded discrimination and hardship as non-nationals or stateless persons.

Refugee women and their children are at particularly high risk of statelessness because of gender discrimination in nationality laws. Article 15 of the Universal Declaration of Human Rights affirms that "everyone has a right to a nationality," and "no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality." Pursuant to the Convention on the Elimination of All Forms of Discrimination Against Women, women are to have the same rights as men to acquire, retain, or change their nationality, regardless of marriage and divorce and of what their husbands do with their own nationality.<sup>15</sup> Women are also to transmit their nationality to their children under the same conditions as their husbands, whether they are in their own country or abroad.<sup>16</sup> However, it remains extremely difficult or impossible for a child to acquire his or her mother's nationality in 27 countries, including Syria, Iraq, Somalia, and Iran.<sup>17</sup> Nationality laws that do not grant women equality with men in conferring nationality to their children are a major cause of statelessness of Middle Eastern refugees.<sup>18</sup>

Due to the discriminatory nationality laws, a generation of children of refugee women have been born stateless, as in many cases the father is dead, forcibly separated from his family, or unknown.<sup>19</sup> Statelessness may lead to denial of asylum, high risk of deportation, and continuing displacement of the mother and her children.<sup>20</sup> Moreover, stateless

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12. U.N. High Commissioner for Refugees, The Office of the United Nations High Comm'r for Refugees (UNHCR), *UNHCR Summary Report: Survivors, Protectors, Providers: Refugee Women Speak Out*, p. 16 (Nov. 2011).

13. U.N. High Commissioner for Refugees, The Office of the United Nations High Comm'r for Refugees (UNHCR), *UNHCR concern over testimonies of abuse and sexual violence against refugee and migrant women and children on the move in Europe*, UNHCR Briefing Notes, (Oct. 23, 2015), <http://www.unhcr.org/562a3bb16.html>.

14. *UNHCR Summary Report: Survivors, Protectors, Providers: Refugee Women Speak Out*, *supra* note 12 at 5.

15. The Convention on the Elimination of All Forms of Discrimination, art. 9 (1), Dec. 18, 1979, 1249 U.N.T.S. 13.

16. *Id.*

17. U.N. High Commissioner for Refugees, The Office of the United Nations High Comm'r for Refugees (UNHCR), *UNHCR Background Note on Gender Equality, Nationality Laws and Statelessness*, (2014), <http://www.unhcr.org/4f5886306.html>.

18. *Id.*

19. U.N. High Commissioner for Refugees, *Born in Exile, Syrian Children Face Threat of Statelessness* (Nov. 4, 2014), <http://www.unhcr.org/54589fb16.html>.

20. *Id.*

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children lack access to government-funded services such as health care or education, and they can be deprived both of their childhoods and the foundation for any hope of a better future.

In the absence of effective state protection in the countries of origin, there is no immediate solution to the root causes of the unbearable situations that millions of displaced women and girls suffer. The responsibilities fall on the countries hosting refugee and migrant women and girls from the crisis. Given the demonstrated armed conflicts, violence, and persecution, the least we could do is to ensure that each woman has the opportunity to present her asylum case not only for reasons of generalized violence but also for gender-based violence, persecution, and discrimination. The unprecedented global displacement of large population also calls for a global instrument that legally binds governments to protect the rights and ensure the wellbeing of people forced to flee their homes by conflict, violence, disasters, and human rights abuses. The lack of such international instrument is putting the stability of the entire world at serious risk.

## II. Women on Corporate Boards

The movement for diversity on Boards of Directors, including gender diversity, has been accelerating over the past several years as several advocacy groups have increased focus and many legislative initiatives have issued.<sup>21</sup> Almost every country has seen an increase in board diversity, which has reached 12.7% globally.<sup>22</sup> Part of the reason for the new focus on diversity on corporate boards results from research showing that companies with a higher percentage of women were involved in fewer governance-related controversies, including fraud, bribery, corruption, and shareholder battles.<sup>23</sup> Those companies with more gender diversity have also been shown to financially outperform other less diverse companies, including higher return on sales, return on equity, and return on invested capital.<sup>24</sup> Below is a summary of several countries' legislative initiatives over the past year.

### A. CANADA

Canadian securities regulators in Ontario, Quebec, Saskatchewan, Manitoba, Newfoundland, New Brunswick, the Northwest Territories, Nova Scotia, and Nunavut amended the corporate governance disclosure requirements in an attempt to increase disclosure transparency regarding the gender diversity of boards of Canadian public

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21. Helen Roxburgh, *Getting Women on Boards*, *Economia* (Mar. 4, 2015), available at <http://economia.icaew.com/business/march-2015/getting-women-on-boards>.

22. *Id.*

23. MSCI, INC., ESG RESEARCH, *2014 Survey of Women on Boards*, GOVERNANCE ISSUE REPORT 1 (Nov. 2014), available at [https://www.msci.com/resources/research/articles/2014/Executive\\_Summary-2014\\_Survey\\_of\\_Women\\_on\\_Boards.pdf](https://www.msci.com/resources/research/articles/2014/Executive_Summary-2014_Survey_of_Women_on_Boards.pdf).

24. CATALYST INFORMATION CTR., *Why Diversity Matters*, CATALYST REPORT 2 (July 2013), available at [http://www.catalyst.org/system/files/why\\_diversity\\_matters\\_catalyst\\_0.pdf](http://www.catalyst.org/system/files/why_diversity_matters_catalyst_0.pdf).

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companies.<sup>25</sup> The new disclosure rules became effective on January 1, 2015.<sup>26</sup> The new disclosure rules require issuers to disclose if they comply with the corporate governance principles and, if not, why not.<sup>27</sup> These disclosures include (1) whether a written policy for identifying and nominating women directors has been adopted, (2) whether and how the board considers the representation of women in the director appointment process, and (3) whether it has adopted targets regarding the number or percentage of women on its board.<sup>28</sup>

**B. GERMANY**

On March 3, 2015, Germany joined many of its European sister countries in enacting legislative efforts requiring women representation on corporate boards.<sup>29</sup> The German law requires that its top 100 companies must have 30% board positions held by women by the beginning of next year.<sup>30</sup> This could lead to a significant increase in board positions being held by women. While less than 20% of the board seats are currently held by women, Germany is home for some of the largest multinational companies.<sup>31</sup>

**C. JAPAN**

An initiative to increase gender diversity on boards in Japan was finalized this year when it published its new Corporate Governance Code in March.<sup>32</sup> In 2013, the Tokyo Stock Exchange began the conversation regarding gender diversity on boards by changing its disclosure rules to require all listed companies to include the number of female board members in their corporate governance reports.<sup>33</sup> The next year, at the request of Prime Minister Shinzo Abe, the Tokyo Stock Exchange and Japan's Financial Services Agency launched a panel to develop Japan's Corporate Governance Code.<sup>34</sup> The final proposal of

25. Janet McFarland, *Canadian companies slow to set targets for female directors*, *The Globe and Mail* (May 25, 2015), available at <http://www.theglobeandmail.com/report-on-business/canadian-companies-adopting-gender-diversity-policies/article24599616/>.

26. *Id.*

27. *Id.*

28. Ongoing Rules for Issuers and Insiders, Canadian National Instrument 58-101 Disclosure of Corporate Governance Practices & Form 58-101F1 Corporate Governance Disclosure, (2005) 28 OSCB 5377, available at [http://www.osc.gov.on.ca/documents/en/Securities-Category5/rule\\_20050617\\_58-101\\_disc-corp-gov-pract.pdf](http://www.osc.gov.on.ca/documents/en/Securities-Category5/rule_20050617_58-101_disc-corp-gov-pract.pdf); Canadian Sec. Admins., *Multilateral CSA Notice of Amendments to National Instrument 58-101 Disclosure of Corporate Governance Practices* (Oct. 14, 2015), available at [http://albertasecurities.com/Regulatory%20Instruments/5205268-v1-58-101\\_NI\\_Consolidation\\_Eff\\_Nov\\_17\\_2015.pdf](http://albertasecurities.com/Regulatory%20Instruments/5205268-v1-58-101_NI_Consolidation_Eff_Nov_17_2015.pdf).

29. Alison Smale & Claire Cain Miller, *Germany Sets Gender Quota in Boardrooms*, *N.Y. TIMES* (Mar. 6, 2015), available at [http://www.nytimes.com/2015/03/07/world/europe/german-law-requires-more-women-on-corporate-boards.html?\\_r=1](http://www.nytimes.com/2015/03/07/world/europe/german-law-requires-more-women-on-corporate-boards.html?_r=1).

30. *Id.*

31. *Id.*

32. *Japan Corporate Governance Code: Seeking Sustainable Corporate Growth and Increased Corporate Value over the Mid- to Long-Term*, THE COUNCIL OF EXPERTS CONCERNING THE CORPORATE GOVERNANCE CODE 18 (Mar. 5, 2015), <http://www.fsa.go.jp/en/refer/councils/corporategovernance/20150306-1/01.pdf>.

33. *Women in the boardroom: A global perspective*, DELOITTE (2015), <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Risk/gx-ccg-women-in-the-boardroom-a-global-perspective4.pdf>.

34. *Japan's Corporate Governance Code and ISS' Director Election Policy: Frequently Asked Questions*, INSTITUTIONAL SHAREHOLDER SERVICES (2015), <https://www.issgovernance.com/file/policy/faq-on-japan-s-corporate-governance-code-and-iss-director-election-policy.pdf>.

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this Code was published in March 2015 and specifically provides for the active participation of women:

**Principle 2.4 Ensuring Diversity, Including Active Participation of Women**

Companies should recognize that the existence of diverse perspectives and values reflecting a variety of experiences, skills and characteristics is a strength that supports their sustainable growth. As such, companies should promote diversity of personnel, including the active participation of women.<sup>35</sup>

The new Code also encourages an increase in the number of outside directors serving on the boards to at least two, providing a means for companies to achieve Principle 2.4.<sup>36</sup> In alignment with the new Code and initiative, the Tokyo Stock Exchange amended its rules again, effective as of June 1, 2015, which provide that companies must submit their Corporate Governance Report indicating compliance with the new Code.<sup>37</sup> Given the new requirements, the Exchange allowed companies until December 2015 to submit the Reports stating compliance or noncompliance (and justification thereof) on each provision of the Code, including Principle 2.4.<sup>38</sup>

D. MALAYSIA

Malaysia has repeatedly taken measures to increase gender diversity in its workforce, including updating its Code on Corporate Governance, which recommends that “[t]he board should establish a policy formalizing its approach to boardroom diversity” and “take steps to ensure that women candidates are sought as part of its recruitment exercise.”<sup>39</sup> But the Code has yet to produce the desired effect, so the Bursa Malaysia Stock Exchange updated its disclosure requirements to mandate polices regarding the gender diversity of boards in January of 2015:

The listed issuer must provide, in its annual report, a statement about the activities of the nominating committee in the discharge of its duties for the financial year. Such statement must include how the requirements set out in paragraph 2.20A of these Requirements are met and contain the following information:

- (a) the policy on board composition having regard to the mix of skills, independence and diversity (including gender diversity) required to meet the needs of the listed issuer;
- (b) the board nomination and election process of directors and criteria used by the nominating committee in the selection process; and

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35. THE COUNCIL OF EXPERTS CONCERNING THE CORPORATE GOVERNANCE CODE, *supra* note 32, at 18.

36. *Id.* at 27.

37. INSTITUTIONAL SHAREHOLDER SERVICES, *supra* note 34.

38. *Id.*

39. *Malaysian Code on Corporate Governance*, 14 (2012), [http://www.mia.org.my/new/downloads/circulars/andresources/circulars/2012/21/MCCG\\_2012.pdf](http://www.mia.org.my/new/downloads/circulars/andresources/circulars/2012/21/MCCG_2012.pdf).

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(c) the assessment undertaken by the nominating committee in respect of its board, committees and individual directors together with the criteria used for such assessment.<sup>40</sup>

The Bursa Malaysia FAQs clarify its focus on gender diversity on boards:

Although Rule 15.08A(3) . . . does not explicitly require such disclosure, a listed corporation is *strongly encouraged to disclose the targets and measures taken to meet the targets in relation to its gender diversity policy as recommended in the Malaysian Code on Corporate Governance.*

In this regard, we wish to draw the listed corporation's attention to the announcement made by the Prime Minister Datuk Seri Najib Tun Razak on 27 June 2011 on the Government's policy approved by the Cabinet that women must comprise at least 30% of those in decision-making positions in the corporate sector within 5 years (i.e. by 2016).<sup>41</sup>

Thus, the Malaysian Stock Exchange disclosure requirements, as updated this year, focus on the attempt to diversify corporate boards in that country.

E. REPUBLIC OF KOREA

Recent developments to increase gender diversity on corporate boards in the Republic of Korea include the new revisions to the Framework Act on Women's Development. Originally passed in 1995, the purpose of the Act was "to promote the equality between men and women in all the areas of politics, economy, society and culture and to facilitate the women's development."<sup>42</sup> The revised Act changed its name to the Framework Act on Gender Equality and took effect on July 1, 2015.<sup>43</sup> The revised Act "contains reinforced policies for gender equality," including a quota for women in executive and senior positions.<sup>44</sup> Guidance on the Act also has stated that state and local governments must

prepare policies to promote equal participation of women and men in all areas of society including policy decision process, public, political or economic activities. The heads of public organizations should implement quota for administrative positions so that women and men can be assigned as directors in balance.<sup>45</sup>

This new focus on gender diversity spans all areas of Korean life, including those related to board composition.

40. [Main LR] *Chapter 15 – Corporate Governance*, BURSAMALAYSIA.COM (Jan. 27, 2015), <http://customer.bursamalaysia.com:8080/MainLR/Pages/MainChapter15.aspx>.

41. *FAQ 15.21: Nominating Committee*, BURSAMALAYSIA.COM, <http://customer.bursamalaysia.com:8080/ACE/Pages/FAQ%2015.21.aspx>.

42. *Framework Act on Women's Development*, Ch. 1, Art.1, <http://www.hsph.harvard.edu/population/womenrights/korea.women.95.pdf>.

43. 'Framework Act on Gender Equality,' *Enforces on July 1st, 2015*, MINISTRY OF GENDER & FAMILY: REPUBLIC OF KOREA (Aug. 12, 2015), <http://www.mogef.go.kr/eng/press/index04.jsp?menuID=eup0300&id=eup0300&cate=&key=&search=&order=&desc=asc&year=&smmonth=&sdate=&eyear=&emonth=&edate=&deptcode=&menuID=eup0300&pg=2&mode=view&idx=7201>.

44. *Id.*

45. *Id.*

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## F. UNITED STATES

This year, at least two states, Illinois and Massachusetts, have considered and passed resolutions that urge higher representation of women on corporate boards.<sup>46</sup> An Illinois House of Representatives resolution, “[e]ncourag[ing] equitable and diverse gender representation on corporate boards of directors and urg[ing] that, within the next 3 years, publicly held corporations in Illinois have specified minimum numbers of women on their boards,” passed the House on May 30, 2015.<sup>47</sup> It has yet to go to the Senate.

Similarly, the Massachusetts resolution seeks “to encourage equitable and diverse gender representation on boards of companies in the Commonwealth.”<sup>48</sup> In addition to corporate board gender disclosure requirements, the resolution encourages companies “to adopt policies designed to the gender diversity in their boards of directors and senior management groups.”<sup>49</sup> The resolution also sets compositional goals—companies are encouraged to have a minimum of thirty percent women directors on boards of nine or more and a minimum of two women directors on boards with fewer than nine directors by the end of 2018.<sup>50</sup> The Massachusetts resolution passed in the Senate in July 2015 and passed in the House of Representatives in October 2015.<sup>51</sup>

State officials have also used policies to encourage more gender diversity on boards of public retirement or pension funds.<sup>52</sup> For example, the Massachusetts State Treasurer proposed a policy against voting for a board nominee if the board was less than twenty-five percent diverse in race and gender.<sup>53</sup> California’s State Treasurer pushed for the same policies, also citing company well-being as a driving factor.<sup>54</sup>

As can be seen above, in many countries, initiatives aimed at increased corporate boards have been and continue to be on the rise. The effects of those resolutions and legislative initiatives have been steady but slow, and in many countries, the legislation far outpaces the cultural and societal barriers to such board membership.

**III. Women’s Reproductive Rights**

The rights of women to access sexual and reproductive health services and to control reproductive decision-making are often at the heart of efforts to improve the lives of

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46. See H.R. Res. 0439, 99th Gen. Assemb. Reg. Sess. (Ill. 2015); S. 1007, 189th Gen. Ct. (Mass 2015).

47. Bill Status of H.R. Res. 0439, 99th Gen. Assemb. Reg. Sess., *available at* <http://www.ilga.gov/legislation/BillStatus.asp?DocNum=0439&GAID=13&DocTypeID=HR&LegID=&SessionID=88&SpecSess=&Session=&GA=99>.

48. S. 1007, 189th Gen. Ct. (Mass 2015).

49. *Id.*

50. *Id.*

51. Michael D. Kane, *Massachusetts’ Legislature wants more women on boards of directors*, MASS LIVE (Oct. 22, 2015), [http://www.masslive.com/news/worcester/index.ssf/2015/10/massachusetts\\_legislature\\_want.html](http://www.masslive.com/news/worcester/index.ssf/2015/10/massachusetts_legislature_want.html).

52. *Treasurer Goldberg Proposes Bold Prim Proxy Voting Guidelines To Bolster Corporate Board Diversity*, MASS.GOV (Mar. 26, 2015), <http://www.mass.gov/treasury/aboutvmedia-pubs/treas-press-rel/2015/goldberg-proposes-prim-proxy-voting-guidelines.html>; *Treasurer Chiang Calls for More Diversity on Corporate Boards Including: Expanding the Definition of Diversity to Include Sexual Orientation*, CA.GOV (Feb. 19, 2015), <http://www.treasurer.ca.gov/news/releases/2015/20150219.asp>.

53. MASS.GOV, *supra* note 52.

54. CA.GOV, *supra* note 52.

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women worldwide.<sup>55</sup> Each year we see the waxing and waning of these rights throughout the world, and 2015 was no exception. Among the many stories on this topic, this year we saw the development and adoption of the United Nations' Sustainable Development Goals, which include goals targeted at reproductive health and rights for women globally, the change in China's "one-child" policy,<sup>56</sup> and the continuing legal challenges in the United States over access to abortion services and reproductive rights versus religious freedom.

A. UNITED NATIONS SUSTAINABLE DEVELOPMENT GOALS

At the United Nations General Assembly in September 2015, the 193 UN member states unanimously adopted an expansive agenda for sustainable development that applies to all countries and focuses on the economic, social, and environmental challenges facing our world.<sup>57</sup> The ambitious agenda includes seventeen sustainable development goals with 169 associated targets that are meant to come into effect on January 1, 2016, and to be implemented during the next fifteen years.<sup>58</sup>

Noting that "[t]he achievement of full human potential and of sustainable development is not possible if one half of humanity continues to be denied its full human rights and opportunities," one key part of the sustainable development goals is a focus on gender equality and the empowerment of women and girls.<sup>59</sup> To this end, in addition to goals directed at ensuring access to resources and ending poverty and hunger, a stand-alone goal was adopted that specifically addresses gender equality and empowerment.

Sustainable Development Goal number 5 reads, "Achieve gender equality and empower all women and girls."<sup>60</sup> Some of the targets associated with that goal include "[e]nd[ing] all forms of discrimination against all women and girls" (Target 5.1); eliminating violence against women and girls, including trafficking, sexual violence and exploitation (Target 5.2); ending practices such as child and forced marriage and genital mutilation (Target 5.3); and ensuring reproductive rights and "universal access to sexual and reproductive health" (Target 5.6).<sup>61</sup> The adoption of this stand-alone goal was seen as an important win in the advancement of women's rights.<sup>62</sup>

The significance of reproductive rights and access was underlined again in Sustainable Development Goal number 3—"Ensure healthy lives and promote well-being for all

55. Dr. Flavia Bustreo, *Ten top issues for women's health*, WORLD HEALTH ORGANIZATION (Mar. 8, 2015), <http://www.who.int/life-course/news/commentaries/2015-intl-womens-day/en/>.

56. This author acknowledges that the term "one child policy" is somewhat of a misnomer, as there are many exceptions to the policy, as discussed *infra*.

57. *Historic New Sustainable Development Agenda Unanimously Adopted by 193 UN Members*, UNITED NATIONS (Sept. 25, 2015), <http://www.un.org/sustainabledevelopment/blog/2015/09/historic-new-sustainable-development-agenda-unanimously-adopted-by-193-un-members/>.

58. *Transforming Our World: The 2030 Agenda for Sustainable Development*, G.A. Res. A/70/L.1, at 6 (Sept. 25, 2015); at 6.

59. *Id.*

60. *Id.* at 18.

61. *Id.*

62. Amber Muradali, *Family Care International Update On SRMNC.AH In The Post-2015 Development Agenda Outcome Document*, GLOBAL HEALTH COUNCIL (Aug. 13, 2015), <http://globalhealth.org/family-care-international-update-on-srmncah-in-the-post-2015-development-agenda-outcome-document/>.

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ages.”<sup>63</sup> That goal includes targets aimed at reducing maternal and infant mortality and ensuring “universal access to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes.”<sup>64</sup>

Shortly after the adoption of the goals, the United Nations reported that it was “already looking ahead to the monumental task” of implementing the goals.<sup>65</sup> The UN Development Group pledged its collaboration with all member states, particularly in providing direction and coordination, to begin the transformations called for in the 2030 Agenda.<sup>66</sup> Ban Ki-moon, United Nations Secretary-General, also “announced over \$25 billion in initial commitments spanning five years to help end preventable deaths of women, children and adolescents, and ensure their health and well-being.”<sup>67</sup>

**B. CHINA’S “ONE-CHILD” POLICY**

Xinhua, the official state news agency in China, announced on October 29, 2015, that China would end its one-child policy.<sup>68</sup> This surprising news came from a statement issued by the Communist Party of China.<sup>69</sup> Although the Chinese government has not ceded its control over family-planning decisions, it has announced that it will lift the one-child restriction and allow all couples to have two children.<sup>70</sup> The law will not take effect until after it is ratified in March 2016 by the National People’s Congress.<sup>71</sup>

The one-child policy was introduced by China in 1979 to limit the population growth occurring in China during that time.<sup>72</sup> The policy had many exceptions, including an exception for people in rural areas who were allowed to have a second child if their first child was a girl.<sup>73</sup> Those subject to the policy were reportedly faced with punishments ranging from fines and loss of employment<sup>74</sup> to forced sterilizations and abortions<sup>75</sup> for failing to abide by the policy.

63. G.A. Res. A/70/L.1, *supra* note 58, at 14.

64. *Id.* at 16.

65. *UN already forging ahead on ways to implement ambitious new development agenda*, UNITED NATIONS (Sept. 25, 2015), <http://www.un.org/sustainabledevelopment/blog/2015/09/un-already-forging-ahead-on-ways-to-implement-ambitious-new-development-agenda/>.

66. *Id.*

67. *UN Secretary-General Announces \$25 Billion in Initial Commitments to End Preventable Deaths of Women, Children and Adolescents by 2030*, UNITED NATIONS (Sept. 26, 2015), <http://www.un.org/sustainabledevelopment/blog/2015/09/un-secretary-general-announces-25-billion-in-initial-commitments-to-end-preventable-deaths-of-women-children-and-adolescents-by-2030/>.

68. *China to allow two children for all couples*, Xinhuanet (Oct. 29, 2015), [http://news.xinhuanet.com/english/2015-10/29/c\\_134763645.htm](http://news.xinhuanet.com/english/2015-10/29/c_134763645.htm).

69. *Id.*

70. *Id.*

71. *China’s Hoped For Demographic Changes Likely a Long Way Away*, ECONOMY WATCH (Nov. 20, 2015), <http://www.economywatch.com/features/Chinas-Hoped-For-Demographic-Changes-Likely-a-Long-Way-Away1120.html>.

72. *China to end one-child policy and allow two*, BBC (Oct. 29, 2015), <http://www.bbc.com/news/world-asia-34665539>.

73. *Id.*

74. *See Country Information and Guidance, China: Contravention of national population and family-planning laws* UNITED KINGDOM HOME OFFICE 6 (July 2015), [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/444273/CIG\\_-\\_China\\_-\\_One\\_Child\\_Policy\\_-\\_v1\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/444273/CIG_-_China_-_One_Child_Policy_-_v1_0.pdf).

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The Chinese government estimates that 400 million births were prevented by the one-child policy.<sup>76</sup> Critics charge that the policy led to forced abortions and the rise of female infanticide in the country.<sup>77</sup> It has also led to a gender imbalance in China and to concerns that there may not be enough young workers to support its aging society in the near future.<sup>78</sup> Whether the change in policy will ease those concerns remains to be seen, as some believe many couples will continue to have only one child.<sup>79</sup> That is what happened when restrictions were eased in 2013 in Beijing and only 6.7% of those eligible opted to have more than one child.<sup>80</sup> The change in policy also does not end the government's control over its peoples' family-planning decisions, which is a major disappointment to many human rights advocates.<sup>81</sup>

C. LEGAL BATTLES IN THE UNITED STATES

Women's reproductive rights were in the forefront of U.S. legal news again in 2015. After last year's U.S. Supreme Court decision in *Burwell v. Hobby Lobby*,<sup>82</sup> it was widely anticipated that more challenges would be forthcoming to the Affordable Care Act's provisions regarding birth control.<sup>83</sup> Those predictions proved true.

This year, the U.S. Supreme Court accepted review of seven cases in which religious non-profits contend that the government's accommodation—the opt-out provision from the Act's birth control mandate discussed in *Hobby Lobby*—contravenes their religious beliefs by forcing them to take an affirmative step (filing a notice) that results in women

75. See Mia Jian, *China's barbaric one-child policy*, THE GUARDIAN (May 6, 2013), <http://www.theguardian.com/books/2013/may/06/chinas-barbaric-one-child-policy>.

76. *China to end one-child policy and allow two*, *supra* note 72.

77. Mia Jian, *supra* note 75.

78. *China to end one-child policy and allow two*, *supra* note 72; Megha Rajagopalan & Koh Gui Qing, *China to allow all couples two children to counter aging population*, REUTERS (Oct. 30, 2015), <http://www.reuters.com/article/2015/10/30/us-china-politics-plenum-idUSKCN0SN16Y20151030#1TbFc5FU1wWHURGd.97>.

79. Rajagopalan & Quing, *supra* note 78; *China's Hoped For Demographic Changes Likely a Long Way Away*, ECONOMY WATCH (Nov. 20, 2015), <http://www.economywatch.com/features/Chinas-Hoped-For-Demographic-Changes-Likely-a-Long-Way-Away1120.html>.

80. Rajagopalan & Quing, *supra* note 78.

81. See, e.g., Tom Phillips, *China ends one-child policy after 35 years*, THE GUARDIAN (Oct. 29, 2015), <http://www.theguardian.com/world/2015/oct/29/china-abandons-one-child-policy>.

82. *Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751, 189 L. Ed. 2d 675 (2014). In *Hobby Lobby*, the Court determined that for-profit, closely-held corporations should be excused from the Affordable Care Act's requirement of providing certain contraceptive products and services that were in contravention of the owners' religious beliefs. *Id.* at 2759-60. The decision was based on the Court's reading of the federal Religious Freedom Restoration Act of 1993, 42 U.S.C. §§ 2000bb-1 to -4 (1993), which 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. *Id.* § 2000bb-1. Although the majority of the Court recognized that the so-called "birth control mandate" may serve a compelling government interest, they felt that it was not the least restrictive means of accomplishing that goal because the government had an opt-out provision for private religious entities that could be extended to those closely-held corporations. *Hobby Lobby*, 134 S. Ct. at 2759.

83. See, e.g., David Masci, *The Hobby Lobby impact: A Q&A [with Robert Tuttle]*, PEW RESEARCH CENTER (July 2, 2014), <http://www.pewresearch.org/fact-tank/2014/07/02/the-hobby-lobby-impact-a-qa/>; Peter Moskowitz, *Why Hobby Lobby could open a Pandora's Box of legal discrimination*, ALJAZEERA AMERICA (July 3, 2014), <http://america.aljazeera.com/articles/2014/7/3/hobby-lobby-future.html>.

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being provided with the contraception products and services that they eschew.<sup>84</sup> These cases, like the *Hobby Lobby* decision, are limited to the provisions of the federal Religious Freedom Restoration Act (RFRA),<sup>85</sup> which the Court had previously determined cannot be applied to the states.<sup>86</sup> But many states have passed similar laws and may look to the Court's decision in interpreting their own RFRAs.<sup>87</sup> As with the *Hobby Lobby* decision, a decision in these new cases is unlikely to stop the continuing legal battles that seek to balance a woman's right to contraception against opposing religious beliefs.

The U.S. Supreme Court also granted review in an abortion access case from Texas. In *Whole Women's Health v. Cole*, the Court will look at whether that state's requirements—that doctors performing abortions have admitting privileges at a nearby hospital and abortion clinics comply with ambulatory surgical center standards—create an undue burden on women seeking abortions.<sup>88</sup> The challengers are also asking the Court to address how much deference should be given to a state in determining whether that state's abortion restrictions really do protect women's health.<sup>89</sup>

The Texas requirements were predicted to close a majority of abortion clinics in Texas and force many women to travel long distances in order to find a provider.<sup>90</sup> But the Court granted a stay to the law's challengers this summer, temporarily keeping affected clinics open, at least until a final decision is made.<sup>91</sup> That decision will directly affect other states that have passed similar requirements.<sup>92</sup> More importantly, the decision is likely to have far-reaching effects if the Court decides to address the deference question or take another look at the meaning of “undue burden” when it comes to abortion access.<sup>93</sup>

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84. The cases have all been consolidated under *Zubik v. Burwell*, 136 S. Ct. 529 (U.S. Nov. 17, 2015) (No. 14-1418); see also *Zubik v. Burwell*, SCOTUSBLOG, <http://www.scotusblog.com/case-files/cases/zubik-v-burwell/> (last visited Nov. 29, 2015); Lyle Denniston, *Court to hear birth-control challenges* (Updated), SCOTUSBLOG (Nov. 6, 2015, 2:15 PM), <http://www.scotusblog.com/2015/11/court-to-hear-birth-control-challenges/>.

85. 42 U.S.C. §§ 2000bb-1 to -4.

86. *City of Boerne v. Flores*, 521 U.S. 507, 534-536 (1997).

87. See Juliet Eilperin, *31 states have heightened religious freedom protections*, THE WASHINGTON 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/>.

88. *Whole Woman's Health v. Cole*, 135 S. Ct. 2923 (2015).

89. Lyle Denniston, *supra* note 84.

90. Lisa Soronen, *Supreme Court Accepts Abortion and Birth Control Mandate Cases*, THE COUNSEL OF STATE GOVERNMENTS KNOWLEDGE CENTER (Nov. 16, 2015, 2:11 PM), <http://knowledgecenter.csg.org/kc/content/supreme-court-accepts-abortion-and-birth-control-mandate-cases>.

91. *Whole Women's Health*, 135 S. Ct. 2923 (2015) (stay granted June 29, 2015).

92. Lyle Denniston, *supra* note 84.

93. Lisa Soronen, *supra* note 90.

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