



**Joint NGO Stakeholder Submission to the Human Rights Council in Advance of the  
Universal Periodic Review of India (27th Session)  
September 2016**

**Submitted by:**  
**Center for Reproductive Rights**  
**199 Water St. 22<sup>nd</sup> Floor**  
**New York, NY 10038 USA**  
[pshah@reprorights.org](mailto:pshah@reprorights.org)  
[www.reproductiverights.org](http://www.reproductiverights.org)

The Center is an international NGO with offices in Nepal, the United States, Switzerland, Kenya, and Colombia and is dedicated to advancing reproductive freedom as a fundamental right that all governments are legally obligated to protect, respect, and fulfill.

**Human Rights Law Network**  
**576 Masjid Road**  
**Janpura, Delhi, India**  
[sarita@hrln.org](mailto:sarita@hrln.org)  
[www.hrln.org](http://www.hrln.org)

Human Rights Law Network (HRLN) is a collective of lawyers and social activists dedicated to the use of the legal system to advance human rights in India and the sub-continent.

1. This letter provides information regarding the recommendations accepted by the Government during its second Universal Periodic Report (UPR) calling for the Government to take effective measures to end child marriage<sup>1</sup> and to ensure women's rights to comprehensive and safe reproductive health and contraceptive services.<sup>2</sup> Specifically, India accepted recommendations to strengthen institutions, create stronger legal frameworks and undertake law reform; improve measures to end violence against women and girls; and conduct more consultations with the aim to ensure women's and children's rights.<sup>3</sup> Nonetheless, as explained below, in India there continues to be impunity for violations of girls' and women's rights arising from child marriage and female sterilization, resulting in abuse, suffering, and death.

## **I. Key Issues**

### **A. Child Marriage**

#### **1. Scope of the Problem**

2. India continues to account for the highest number of child marriages in the world, despite legal and policy commitments to eliminate the practice.<sup>4</sup> India's National Family Health Survey (NFHS) from 2005-06 indicated that nearly half (47%) of women aged 20-24 were married before age 18.<sup>5</sup> While national-level data from the latest NFHS is not yet available, a study recently conducted by India's Ministry of Women and Child Development revealed that this figure remains high: nationally, over a third of women aged 20-24 were married before the age of 18,<sup>6</sup> with several states reporting child marriage numbers around 40%,<sup>7</sup> particularly at the lowest end of the wealth index (44%).<sup>8</sup>
3. In the last UPR, India accepted recommendations to ensure the right to education,<sup>9</sup> address sexual abuse and exploitation of women and children,<sup>10</sup> and reduce maternal mortality<sup>11</sup>—each of which forms part of the continuum of harms resulting from child marriage. Married girls are often removed from school immediately before or following marriage; in 82% of child marriages in India, girls received no formal education,<sup>12</sup> increasing the likelihood of poverty<sup>13</sup> and isolation.<sup>14</sup> Married girls also are more likely to suffer from physical and sexual abuse.<sup>15</sup> A publication cosponsored by the government describes child marriage as “open[ing] the door to an endless and vicious cycle of domestic violence and abuse.”<sup>16</sup> The NFHS-3 indicates that 70% of 15-19 years old experienced violence over the past year.<sup>17</sup> Thirty-two percent of married women aged 15-24 have experienced forced sex,<sup>18</sup> with one in four women reporting that their first marital sexual experience was forced.<sup>19</sup> Data from India reveals that girls married before 18 were twice as likely to report being beaten, slapped or threatened by their husbands and three times as likely to report being forced to have sex without their consent as were women who married later in life.<sup>20</sup>
4. Child marriage is closely linked to negative reproductive health outcomes, including maternal mortality and morbidity, unsafe abortion, and early and unwanted pregnancy. <sup>21</sup> One

in six girls in India begins childbearing between the ages of 15-19;<sup>22</sup> such pregnancies typically occur within marriage.<sup>23</sup> India accounts for the highest number of maternal deaths globally, making pregnancy dangerous for all Indian women.<sup>24</sup> These risks are compounded for adolescent girls, who are twice as likely to die in pregnancy than women above the age of 20,<sup>25</sup> and in India are less likely to receive proper antenatal care,<sup>26</sup> less likely to be aware of the legal status of abortion or where to obtain a safe abortion,<sup>27</sup> and more likely to have closely-timed and frequent pregnancies.<sup>28</sup>

## 2. National Legal Framework

5. Child marriage violates India's national laws, including rights protected by the Indian Constitution.<sup>29</sup> India's Prohibition of Child Marriage Act (PCMA) establishes penalties for promoting or conducting marriages involving a girl younger than 18 or a boy under 21 years of age.<sup>30</sup>
6. Despite penalizing child marriage, the PCMA violates human rights law by treating child marriages as legally voidable<sup>31</sup> not void and by establishing a lower age of marriage for girls than boys.<sup>32</sup> The PCMA contains overly restrictive provisions that make voiding a marriage difficult for girls. Girls are required to seek judicial authorization,<sup>33</sup> which can be a barrier where girls lack the autonomy to access and pay for legal services. Further, child marriages are only voidable within two years of a child spouse reaching majority,<sup>34</sup> a time at which married girls may face barriers to leaving a marriage because they are pregnant or have young children.
7. The government admitted in a 2013 report that "on ground, implementation of PCMA[] 2006 has not been as effective as expected."<sup>35</sup> Although the PCMA requires the appointment of Child Marriage Protection Officers (CMPOs) in every district in India to implement and enforce the PCMA, there is a lack of publically available information on how many states have appointed CMPOs and the training provided to CMPOs.<sup>36</sup> Often, CMPO responsibilities are given to existing government officials who are thus overburdened or underqualified to perform their duties under the PCMA effectively.<sup>37</sup> Prosecution for promotion or solemnization of child marriages remains very low—for example, in 2014, only 15 convictions were reported nationwide.<sup>38</sup>
8. The PCMA does not clarify whether it supersedes personal laws, leading to ambiguity concerning whether the minimum ages of marriage and the status of child marriages as voidable should be universally applied, or if the often lower ages of marriage and legal statuses of child marriage established under personal laws should prevail.<sup>39</sup> Although a few state-level court decisions have held that that the PCMA supersedes personal laws, ambiguities remain due to a lack of a Supreme Court ruling or explicit legislative pronouncement.<sup>40</sup>
9. National laws on sexual violence continue to allow child marriage to exempt perpetrators of what would otherwise be considered statutory rape from prosecution—marriage provides an exception to criminal penalties for rape unless it involves a girl below 15 years of age,

despite the fact that sex with a child below the age of 18 years is generally criminalized.<sup>41</sup> Child marriage is also not explicitly recognized as falling within the Protection of Women of Domestic Violence Act (2005) or the Juvenile Justice Act (JJA), limiting girls' protections and access to legal and social services guaranteed under these laws.<sup>42</sup> Similarly, although human rights law recognizes child marriage as leading to domestic servitude,<sup>43</sup> in India child marriage is not clearly recognized as a violation of child labor laws that forbid employment (including as domestic workers) of children under the age of 14.<sup>44</sup> Despite the recognition of the role of education in preventing child marriage under human rights law,<sup>45</sup> the national law mandating compulsory and free education only includes children until the age of 14 years.<sup>46</sup>

10. Birth and marriage registration are crucial to verify age at marriage.<sup>47</sup> Although birth registration is mandatory in India,<sup>48</sup> less than 25% of children in the poorest 20% of households—the most vulnerable to child marriage—had their births registered between 2005 and 2012.<sup>49</sup> Despite a 2006 Supreme Court of India ruling mandating marriage registration, a 2013 amendment to mandate marriage registration was rejected in both houses of Parliament.<sup>50</sup>

### **3. International Legal Framework**

11. The failure to eliminate child marriage violates a broad range of human rights.<sup>51</sup> Since India's last UPR, U.N. Special Rapporteur on Violence against Women and U.N. treaty bodies have continued to raise concern about child marriage in India.<sup>52</sup> India has been urged to ensure effective implementation of national laws prohibiting child marriage, amend and/or clarify national laws to ensure that child marriages are automatically voided and that national laws trump personal status laws, and enact legislation requiring marriage registration.<sup>53</sup> U.N. bodies also have encouraged the Government to raise awareness about the prohibition on child marriage and its spectrum of harms, including reproductive health issues, maternal and infant mortality, and violence against women.<sup>54</sup>
12. India should be commended for its participation in the development of the 2014 South Asia Association for Regional Cooperation's (SAARC) Regional Action Plan to End Child Marriage<sup>55</sup> and endorsement by its government officials of the Kathmandu Call for Action to End Child Marriage in Asia.<sup>56</sup> These actions include a commitment to strengthen and enforce laws to prevent and create accountability for child marriage, including by developing a national plan of action.<sup>57</sup> However, although the government prepared a national strategy on child marriage and initiated the drafting of a national action plan, there has been no public progress on these efforts in recent years.<sup>58</sup> Further, at the international level, India has demonstrated a lack of political will to end child marriage by failing to co-sponsor multiple General Assembly and Human Rights Council resolutions on child marriage.<sup>59</sup>

## **B. Coercive and Unsafe Sterilization**

### **1. Scope of the Problem**

13. Despite the Government's National Population Policy ("NPP"), which commits the Government to ensure a "voluntary and informed choice" and a "target free approach" in providing family planning services,<sup>60</sup> state implementation policies continue to focus disproportionately on female sterilization at the expense of all other methods. This has resulted in violations of the Government's obligation to ensure women do not bear a disproportionate burden in family planning<sup>61</sup> and have access to a full range of contraceptive methods. Women and girls, including married girls who face risks of early pregnancy, lack access to non-surgical or non-permanent methods that would allow them to time and space pregnancies.<sup>62</sup>
14. Doctors have reported that the state governments pressure local governmental officials and doctors to meet certain sterilization "quotas."<sup>63</sup> Further, in certain states, there have been reports of penalties being imposed on women and their families, such as denial of government subsidies including food rations, unless they consent to sterilization.<sup>64</sup> These pressures lead to violations of national guidelines on sterilization that require informed consent, counseling as to the full range of contraceptive methods, and quality and safe sterilization procedures.<sup>65</sup> Marginalized women tend to be the most impacted due to their lack of access to other forms of contraceptives and the fact sterilization is the only contraceptive method for which compensation for costs incurred is provided.<sup>66</sup>
15. Female sterilization camps are routinely conducted in India under state policies and programs that set targets for female sterilizations and are funded through the country's national health program. Alarming, women face serious harm as a result of unsafe and potentially fatal sterilization procedures in such camps. For example, during a "mass sterilization drive" in Chhattisgarh state in November 2014, more than eighty women were paid 1,400 rupees (roughly \$23) to undergo sterilization procedures in camps that were unequipped to sufficiently sanitize the facilities, perform quality operations, and provide adequate post-operative care.<sup>67</sup> Thirteen women died.<sup>68</sup> The judicial commission charged with investigating the incident attributed the deaths to "serious negligence," poor operating conditions and poisonous post-operation medication.<sup>69</sup>
16. This highly publicized event is indicative of a broader pattern of abuse and human rights violations faced by women in mass-sterilization drives across India. In January 2015 in Varanasi state, seventy-three women were sterilized within four hours by one doctor in a "bid to set [a] record."<sup>70</sup> Later that month in a government facility in Jharkhand state, forty women were sterilized without pre-operative screenings, and doctors operated by flashlight.<sup>71</sup> Continued reports of coerced and unsafe sterilizations throughout the country illustrate a lack of political will to stop the abuses.

## 2. National Legal Framework

17. State policies and programs leading to sterilization abuse have been recognized by the Supreme Court of India as violating women's rights as protected under the Indian Constitution.
18. In the 2005 case of *Ramakant Rai and Health Watch U.P. and Bihar v. Union of India*, the first public interest case filed in India against coercive sterilization practices targeting women, the Supreme Court ordered state governments to regulate healthcare providers who perform sterilization procedures and to compensate women who suffer complications due to substandard care and the families of the women who die from botched operations.<sup>72</sup> As a result of the Supreme Court order, in 2006 and 2008, the Central Government adopted national sterilization guidelines and standards.<sup>73</sup> Despite the court's order and the introduction of clear standards and guidelines, reports of substandard care, abuse, and discrimination in sterilization camps remain widespread and persist primarily because of the absence of proper monitoring mechanisms.<sup>74</sup>
19. In a commendable step, in September 2016, the Supreme Court of India issued a decision in the case of *Devika Biswas v. Union of India & Ors.* recognizing that the manner in which sterilization camps are being carried out in India violates women's rights to health and reproductive rights, as protected under Article 21 of the Constitution of India.<sup>75</sup> Significantly, the Supreme Court called on the Government to "reconsider the impact that policies such as the setting of informal targets and provision of incentives by the Government can have on the reproductive freedom of the most vulnerable groups of society whose economic and social conditions leave them with no meaningful choice . . . [and] render them the easiest targets of coercion."<sup>76</sup> The Supreme Court ordered the Government to stop conducting sterilization camps within three years and to ensure informed consent for sterilization including through implementation of the *Ramakant Rai* orders.<sup>77</sup> Further, the case calls for the Government to specifically take action in Chhattisgarh following the 2014 sterilization deaths—particularly pass a national health policy promoting gender equity, establish a system of annual reporting for more effective oversight of states in implementing family planning policies, introduce audits for every sterilization-related death, and improve compensation for sterilization deaths.<sup>78</sup>
20. Importantly, the Supreme Court stated that it was "pained to note the extremely casual manner in which some... [s]tates have responded" to the petition and criticized the lack of "any acceptable response to the allegations."<sup>79</sup> As a result, it ordered the chief justices in these states to initiate *suo moto* petitions in high courts of certain priority states to follow up on the decision.<sup>80</sup> However, despite the failure of states to take these rights violations seriously, the Supreme Court failed to clearly mandate that states need to eliminate targets in contraceptive and population policies, and instead stated that it "leave[s] it to the good sense of . . . each State Government or Union Territory to ensure that such targets are not fixed so that health workers and others do not compel persons to undergo what would amount to forced or non-consensual sterilization merely to achieve the target."<sup>81</sup> It remains to be seen if state high courts will ensure the effective implementation and monitoring of the orders in this

case and clear elimination of targets, as required to end coercive and abusive sterilization practices in India.

### 3. International Legal Framework & Cooperation with International Mechanisms

21. International treaties to which India is a party mandate that India recognizes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.<sup>82</sup> States are under the obligation to respect this right to health by abstaining from discriminatory practices relating to women's health status and needs.<sup>83</sup> Safeguarding a woman's right to exercise informed consent in making reproductive health decisions is fundamental to protecting her right to health. Women have the right to access safe, effective, affordable and acceptable contraceptive methods of their choice.<sup>84</sup>
22. TMBs have expressly recognized women's rights to be free from unsafe and coercive sterilization.<sup>85</sup> The CEDAW Committee has obligated state parties to prohibit "forms of coercion, such as non-consensual sterilization... that violate women's rights to informed consent and dignity."<sup>86</sup> The Human Rights Committee has found that forced sterilization violates Article 7, which prohibits torture, cruel, inhuman or degrading treatment, and Article 17, ensuring the right to privacy, of the International Covenant on Civil and Political Rights.<sup>87</sup> Further, the Special Rapporteur on Violence against Women has described coercive sterilization as "a method of medical control of a woman's fertility without the consent of a woman," and has found that such forced sterilization results in "the battery of a woman—violating her physical integrity and security—forced sterilization constitutes violence against women."<sup>88</sup>
23. On March 11, 2015, several U.N. special procedures directed a letter (the Special Procedures' Letter) to the Government expressing "grave concern" about sterilization practices in India and in that context, reminded India of its obligation to eliminate torture and ill-treatment as well as gender-based violence.<sup>89</sup> The U.N. special procedures specifically noted that

*"violence and violations of women's reproductive health may result either from direct State action, via harmful reproductive policies, or from State failure to meet its core obligations to promote the empowerment of women. Direct State action violative of women's reproductive rights can be found, for example, in government regulation of population size, which can violate the liberty and security of the person if the regulation results in compelled sterilization .... States should take appropriate measures to monitor reproductive health services and ensure that these services are offered without any form of discrimination, coercion or violence, and that information disseminated by health workers is comprehensive and objective."*<sup>90</sup>

24. The Special Procedures' Letter called on the Government to furnish not only additional information regarding the tragic events that occurred in Chhattisgarh, but also to "provide

details of measures taken to ensure that sterilization procedures are conducted in accordance with international and national standards” and to “provide details of measure taken to ensure everyone who undergoes a sterilization procedure has given their full and informed consent.”<sup>91</sup> The Special Procedures’ Letter requested that the government provide the requested information within 60 days of receipt of the letter,<sup>92</sup> yet to date, there has been no recorded response.

## II. Questions

We respectfully urge Member States to raise the issues of child marriage and coercive, substandard, and abusive sterilization practices in India, and to encourage the Government to do more to prevent and address the resulting human rights violations by raising the following questions:

1. How does the Government plan to create a stronger, consistent legal framework to prevent, punish, and provide remedies for child marriage in line with constitutional and human rights obligations?
  - i. What proposals are currently being considered by the Government to assess gaps, weaknesses, and inconsistencies in laws and policies concerning child marriage? Is the Government taking any steps to clarify that the Prohibition of Child Marriage Act has primacy over personal status laws; facilitate greater enforcement of laws prohibiting child marriage; mandate and enforce marriage and birth registration; and ensure reform of laws on labor, education, and violence against women and children as required to strengthen protection from child marriage and provide remedies?
  - ii. What measures are being taken by the State Party to enable young married girls to postpone pregnancy and access quality reproductive health information and services relating to contraception, safe abortion and maternal health, as a means to prevent or mitigate the risks associated with early pregnancy?
  - iii. What specific steps are being taken by the State Party to protect girls from sexual violence both within and outside of marriage, including establishing a uniform legal age of marriage and recognizing marital rape as a crime?
2. Echoing the requests made by several U.N. special procedures in their 2015 communication to India, what steps is the Government taking to prevent coercive, unsafe, and abusive sterilization and create greater accountability for these practices, including to ensure free and full consent prior to conducting the procedure and compliance with international and national standards?
  - i. Please provide additional information of the Government’s implementation of the Supreme Court decision in *Devika Biswas v. Union of India and Others* recognizing coercive and substandard sterilization as a violation of women’s rights, including the number of states that have eliminated sterilization camps and targets entirely. What measures have been taken to double the compensation for sterilization-related injuries and deaths, introduce independent and thorough sterilization death audits, and initiate high court cases in states with a history of sterilization abuse?

### III. Recommendations

Following up on past UPR recommendations to the Government concerning women's reproductive rights, we request that the HRC Member States consider making the following recommendations:

1. Urge the National Human Rights Commission of India to undertake a thorough national inquiry in partnership with state human rights commissions into child marriage within two years, with the goal of monitoring and evaluating gaps in accountability that lead to the continued vulnerability of girls to child marriage and of identifying recommendations for law and policy reform and implementation, as well as budgetary expenditures necessary to end impunity for child marriage.
2. Harmonize laws and policies—including personal laws and laws on domestic and sexual violence including marital rape, reproductive health, marriage and birth registration, education, property and citizenship, and dowry—with human rights standards and constitutional guarantees to ensure a minimum legal age of marriage of 18 and to address gaps and inconsistencies that leave girls vulnerable to child marriage and limit married girls' access to legal remedies. Urgently implement and enforce laws and policies relating to child marriage to effectively prevent child marriage, including by appointing and training child marriage protection officers as mandated by the law.
3. Immediately implement the Supreme Court of India's orders in *Devika Biswas v. Union of India*, including discontinuing sterilization camps as soon as possible and at a maximum within three years; introducing stringent and impartial audits where sterilization deaths and injuries occur; doubling compensation for sterilization deaths and injuries; initiating *suo moto* cases in high courts to follow up on reports of coercive, unsafe, and abusive sterilization procedures; and ensuring informed consent prior to conducting sterilization procedures.
4. Comply with the requests of the special rapporteurs on torture and cruel, inhuman, and degrading treatment; violence against women; and health as well as the Working Group on Discrimination against Women in Law and in Practice by prohibiting informal and formal targets for all contraceptive methods including specifically sterilization and ensuring all women access to counseling on and access to the full range of modern contraceptives.

---

## Endnotes:

- 1 List of Recommendations Accepted by the Government of India, A/HRC/21/10/Add.1, 17 September 2012 (Switzerland).
- 2 List of Recommendations Accepted by the Government of India, A/HRC/21/10/Add.1 (“Take further measures to ensure that all women without any discrimination have access to adequate obstetric delivery services and sexual and reproductive health services, including safe abortion and gender-sensitive comprehensive contraceptive services.” – Finland).
- 3 List of Recommendations Accepted by the Government of India, A/HRC/21/10/Add.1 (“Re-examine the budgets and social laws taking into account gender issues” – Morocco; “Continue measures to increase opportunities for consultations on child rights issues with relevant stakeholders.” – Iran; “Continue legal efforts in the protection of women as well as children’s rights as well as improve measures to prevent violence against women and girls, and members of religious minorities.” – Iran; (“Continue following-up on steps taken to eliminate discrimination against women, including through awareness-raising and continuous strengthening of the relevant legal and institutional frameworks.” – Egypt).
- 4 Press Release, WORLD HEALTH ORGANIZATION (WHO), CHILD MARRIAGES: 39,000 EVERY DAY, U.N. Press Release (Mar. 7, 2013), *available at* [http://www.who.int/mediacentre/news/releases/2013/child\\_marriage\\_20130307/en/](http://www.who.int/mediacentre/news/releases/2013/child_marriage_20130307/en/).
- 5 INTERNATIONAL INSTITUTE FOR POPULATION SCIENCES, *Key Indicators for India from NFHS-3, DISTRICT LEVEL HOUSEHOLD & FACILITY SURVEY (REPRODUCTIVE & CHILD HEALTH PROJECT) (2005-06)*, *available at* <http://rchiips.org/nfhs/pdf/India.pdf>.
- 6 With an estimated 53.8 million women between the ages of 20-24, these statistics indicate that at least 17 million girls are victims of child marriage. *See* 2014 DEMOGRAPHIC Y.B. 217, U.N. Doc. ST/ESA/STAT/SER.R/44.
- 7 GOVT. OF INDIA, MINISTRY OF WOMEN AND CHILD DEVELOPMENT, *Rapid Survey on Children National Fact Sheet*, at 5-6 (2015) [hereinafter *Rapid Survey on Children*]. *See also* NFHS state factsheets for Bihar and West Bengal (each around 40%) while Andhra Pradesh’s rate hovers at 35%. *See also* the latest UNFPA country-specific fact sheet projections on child marriage in India is from 2012 (at [http://www.devinfo.info/mdg5b/profiles/files/profiles/4/Child\\_Marriage\\_Country\\_Profile\\_ASIIND\\_India.pdf](http://www.devinfo.info/mdg5b/profiles/files/profiles/4/Child_Marriage_Country_Profile_ASIIND_India.pdf)) and appears to be based on data from the 2005-2006 NFHS survey.
- 8 At the lowest end of the wealth index, nearly half of women (44.1%) between the ages of 20-24 were married before the age of 18. *See Rapid Survey on Children, supra* note 7, at 5-6.
- 9 List of Recommendations Accepted by the Government of India, A/HRC/21/10/Add.1 (“Continue to strengthen/develop programmes and initiatives geared towards guaranteeing the rights to health and education.” – Cuba; “Continue implementing a non-discriminatory and inclusive policy and guarantee quality education to all girls and boys in the country.” – Ecuador; “Further promote children’s right to education.” – Greece; “Enhance the coordination of both [the central and state governments] in an effective manner in order to guarantee the smooth implementation of the 2010 Right of Children to Free and Compulsory Education Act.” – Indonesia; “Continue its efforts with regard to education for children and take the necessary measures to allow women to participate on an equal footing with men in all developmental efforts.” – Qatar).
- 10 List of Recommendations Accepted by the Government of India, A/HRC/21/10/Add.1 (“Strengthen legislations to combat sexual offences against minors.” – Algeria; “Take more efforts to prevent children from sexual exploitation and separation from families and give them the opportunity and assistance to grow up in an environment of freedom and dignity.” – Bahrain; “Take the necessary legislative, civil and criminal measures to provide the appropriate protection to women, and children that are victims of sexual abuse.” – Mexico).
- 11 List of Recommendations Accepted by the Government of India, A/HRC/21/10/Add.1 (“Take further practical steps to reduce the high level of maternal and child mortality, inter alia, through better access to maternal health services.” – Austria; “Further efforts towards addressing the challenge of maternal and child mortality.” – Egypt).
- 12 GOVT. OF INDIA, MINISTRY OF HEALTH AND FAMILY WELFARE, INTERNATIONAL INSTITUTE FOR POPULATION SCIENCES, POPULATION COUNCIL, *YOUTH IN INDIA: SITUATION AND NEEDS 2006-2007*, 228 (2010).

- 
- <sup>13</sup> UNICEF, CHILD MARRIAGE IN INDIA: AN ANALYSIS OF AVAILABLE DATA (2012), at 17 (2012) [hereinafter CHILD MARRIAGE IN INDIA]. According to the national data from the NFHS-3, A staggering 76.5% of women aged 20-24 married by age 18 had no formal education and only 14.1% had completed more than 10 years of schooling.
- <sup>14</sup> UNICEF, ENDING CHILD MARRIAGE: PROGRESS AND PROSPECTS, at 3 (2014); *see also* ECPAT International, *Thematic Report: Unrecognised Sexual Abuse and Exploitation of Children in Child, Early and Forced Marriage*, at 37-38 (2015). Once married, girls are rarely able to access public places independently and are expected to live with their husbands and undertake household duties. *See e.g.*, CHILD MARRIAGE IN INDIA, *supra* note 13, at 21 (only one in six girls are able to venture outside their community/village and only one in five girls is able to visit health facilities alone). Such situations often deteriorate into situations of sexual and domestic abuse and servitude.
- <sup>15</sup> UNICEF, EARLY MARRIAGE: A HARMFUL TRADITIONAL PRACTICE, at 22 (2005).
- <sup>16</sup> GOVERNMENT OF INDIA, MINISTRY OF WOMEN AND CHILD DEVELOPMENT, HAQ: CENTRE FOR CHILD RIGHTS, UNICEF, HANDBOOK ON THE PROHIBITION OF MARRIAGE ACT, 2006, 6 (2009).
- <sup>17</sup> GOVERNMENT OF INDIA, MINISTRY OF HEALTH AND FAMILY WELFARE, INTERNATIONAL INSTITUTE FOR POPULATION SCIENCES, A PROFILE OF YOUTH IN INDIA: NATIONAL FAMILY HEALTH SURVEY (NFHS-3), SUMMARY OF FINDINGS, 2005-06, 409, *available at* <http://hetv.org/india/nfhs/nfhs3/NFHS-3-Summary-of-Findings.pdf>.
- <sup>18</sup> GOVERNMENT OF INDIA, MINISTRY OF HEALTH AND FAMILY WELFARE, INTERNATIONAL INSTITUTE FOR POPULATION SCIENCES, POPULATION COUNCIL, YOUTH IN INDIA: SITUATION AND NEEDS 2006-2007, 236 (2010) [hereinafter GOVERNMENT OF INDIA, YOUTH IN INDIA: SITUATION AND NEEDS].
- <sup>19</sup> *Id.* at xxxiii, 236.
- <sup>20</sup> ICRW, DEVELOPMENT INITIATIVE ON SUPPORTING HEALTHY ADOLESCENTS (DISHA) PROJECT: ANALYSIS OF QUANTITATIVE BASELINE SURVEY DATA COLLECTED IN SELECT SITES IN THE STATES OF BIHAR AND JHARKHAND, INDIA (2005).
- <sup>21</sup> WORLD HEALTH ORGANIZATION (WHO), WHO GUIDELINES ON PREVENTING EARLY PREGNANCY AND POOR REPRODUCTIVE OUTCOMES AMONG ADOLESCENTS IN DEVELOPING COUNTRIES 2 (2011).
- <sup>22</sup> UNICEF, WHY 'NOT' CHILD MARRIAGE, *available at* <http://unicef.in/Whatwedo/30/Child-Marriage>.
- <sup>23</sup> India's latest District Level Health Survey (DLHS) reveals that in certain states with a high prevalence of child marriage, such as West Bengal, more than 10% of all births were by girls aged 15-19, and this number doubles (20%) in certain districts within those states. *See* GOVT. OF INDIA, MINISTRY OF HEALTH AND FAMILY WELFARE, DISTRICT LEVEL HOUSEHOLD AND FACILITY SURVEY (DLHS-4), *Fertility % - DLHS IV (2014)*, *available at* <https://data.gov.in/catalog/district-level-household-and-facility-survey-dlhs-4>.
- <sup>24</sup> In 2010, India accounted for the highest number of maternal deaths (56,000). WHO, UNICEF, UNITED NATIONS POPULATION FUND (UNFPA) AND THE WORLD BANK, TRENDS IN MATERNAL MORTALITY: 1990 to 2010 1 (2012).
- <sup>25</sup> WORLD HEALTH ORGANIZATION (WHO), WHO GUIDELINES ON PREVENTING EARLY PREGNANCY AND POOR REPRODUCTIVE OUTCOMES AMONG ADOLESCENTS IN DEVELOPING COUNTRIES 2 (2011).
- <sup>26</sup> Anita Raj, *When the Mother is a Child: The Impact of Child Marriage on the Health and Human Rights of Girls* 95 ARCH. DIS. CHILD 931, 932 (2010) [hereinafter *Anita Raj, When the Mother is a Child*]. According to the last round of NFHS for which India has released national-level data, only 40% of adolescent births were delivered in a health facility and more than half of girls aged 15-19 did not have even one antenatal care visit in the first trimester of pregnancy.
- <sup>27</sup> GUTTMACHER INSTITUTE, ABORTION WORLDWIDE: A DECADE OF UNEVEN PROGRESS 40 (2009).
- <sup>28</sup> *Anita Raj, When the Mother is a Child, supra* note 26, at 95.
- <sup>29</sup> Center for Reproductive Rights, *Child Marriage in South Asia*, 44 (2013); M. Mohammed Abbas vs. Chief Secretary, No.3133/2015, paras.19-21, Madras HC (2015), *available at* <http://indiankanoon.org/doc/193569690/>.
- <sup>30</sup> Prohibition of Child Marriage Act, 2006, sec. 2, No. 6, Acts of Parliament, 2007 (India).
- <sup>31</sup> Prohibition of Child Marriage Act, *supra* note 30, sec. 3 (The only marriages that are outright void ab initio are those where coercion or fraud is used or where a child is trafficked or sold for the purpose of marriage). (Yet "if the law does not attribute consent to a child, it must render all child marriages void as all child marriages then become marriages that have taken place . . . through some form of coercion or use of fraud."); HAQ Centre for Child Rights (HAQCRC), *Child Marriage in India: Achievements, Gaps and Challenges, Response to Questions for OHCHR Report on Preventing Child, Early and Forced Marriages for Twenty-sixth Session of the Human Rights Council*, at

---

11 (2014), available at

<http://www.ohchr.org/Documents/Issues/Women/WRGS/ForcedMarriage/NGO/HAQCentreForChildRights1.pdf>; Committee on the Elimination of Discrimination Against Women (CEDAW Committee), *CEDAW General Recommendation No. 21: Equality in marriage and family relations*, (13th Sess., 1994), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty 11 Bodies*, para. 36, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008).

<sup>32</sup> Such disparities perpetuate gender discrimination. See, e.g., United Nations Population Fund (UNFPA), *Marrying Too Young: End Child Marriage*, at 11, (2012); International Planned Parenthood Federation, UNFPA, The Global Coalition For HIV/AIDS, *Ending Child Marriage: A Guide For Global Policy Action*, at 18, (2006); Union Budget, *Economic Survey of India 2016-17*, Vol. II, Ch. 9, at 212, available at <http://www.indiabudget.nic.in/es2015-16/echapvol2-01.pdf>.

<sup>33</sup> Prohibition of Child Marriage Act, *supra* note 30, sec. 3 (“Child marriages to be voidable at the option of contracting party being a child / (1) Every marriage, whether solemnized before or after the commencement of this Act, shall be voidable at the option of the contracting party who was a child at the time of the marriage: provided that a petition for annulling a child marriage by decree of nullity may be filed in the district court only by a contracting party to the marriage who was a child at the time of the marriage.”).

<sup>34</sup> Prohibition of Child Marriage Act, *supra* note 30, sec. 3.

<sup>35</sup> GOVT. OF INDIA, MINISTRY OF WOMEN AND CHILD DEVELOPMENT, *Annual Report 2012-13*, at 74 (2013), available at <http://wcd.nic.in/sites/default/files/AR2012-13.pdf>.

<sup>36</sup> GOVT. OF INDIA, GENDER RIGHTS, GENDER BASED VIOLENCE, LAW ENFORCEMENT, NATIONAL RESOURCE CENTRE FOR WOMEN, NATIONAL MISSION FOR EMPOWERMENT OF WOMEN, MINISTRY OF WOMEN AND CHILD DEVELOPMENT, *Report on Status of Implementation of Prohibition of Child Marriage Act Collected from the States* (2014), available at <http://nmew.gov.in/WriteReadData/l892s/PCMA%20FINAL-19112720.pdf> (only eight states voluntarily submitted data on the infrastructural implementation of the PCMA).

<sup>37</sup> HAQ, *supra* note 31, at 4; see, e.g., OXFAM India, *Implementing the PWDVA: Safeguarding Women from Domestic Violence*, at 3, (2015), available at [https://www.oxfamindia.org/sites/default/files/PB-Implementing-PWDVA-Safeguarding-Women-from-Domestic-Violence-261015-ENG\\_0.pdf](https://www.oxfamindia.org/sites/default/files/PB-Implementing-PWDVA-Safeguarding-Women-from-Domestic-Violence-261015-ENG_0.pdf).

<sup>38</sup> GOVT. OF INDIA, NATIONAL CRIME RECORDS BUREAU MINISTRY OF HOME AFFAIRS, *Crime in India 2012: Compendium*, at 150, available at <http://ncrb.nic.in/CD-CII2012/Compendium2012.pdf>.

<sup>39</sup> Prohibition of Child Marriage Act, *supra* note 30, secs. 2(a), 3; The Hindu Marriage Act, No. 25 of 1955, INDIA CODE (1978) (providing the minimum age for marriage for girls is 18 and for boys, 21); The Muslim Personal Law (Shariat) Application Act, No. 26 of 1937, INDIA CODE (1937) (though not codified, the personal law gives Muslims the authority to determine when marriage is acceptable; common practice indicates that this is typically understood to be the age of puberty); The Parsi Marriage and Divorce Act, No. 3 of 1936, INDIA CODE (1993); The Indian Christian Marriage Act, No. 15 of 1872, INDIA CODE (1993). The lack of clarity concerning the PCMA and personal laws is evidenced by several high court cases seeking to answer this specific question. *T. Sivakumar v. The Inspector Of Police*, H.C.P. No. 907/2011, Madras HC (2011); *Court On Its Own Motion (Lajja Devi) v. State*, W.P. (Cri.) No. 338/2008, Delhi HC (2012). For example, under the PCMA, marriages of girls below 18 and boys below 21 are voidable at the request of either party who was a minor at the time that the marriage occurred within 2 years of attaining majority. However, child marriages are not void or voidable under the Hindu Marriage Act. Rather, a girl may leave a child marriage through a divorce, which can be granted if the girl was married before 15 and she repudiates the marriage after 15 and before 18. The Hindu Marriage Act, sec. 13(2)(iv). The Muslim personal laws are also distinct from the Prohibition of Child Marriage Act, *supra* note 30, and the Hindu Marriage Act. Under Muslim personal laws, a girl who was married as a child can “avoid” the marriage if she repudiates it within 3 years of turning 15 years of age so long as the marriage has not been consummated. Further, a marriage involving a party who has reached puberty requires the consent of that party; without consent, such marriages are void under the law. These legal standards are conflicting, and lead to confusion about the minimum age of marriage, status of child marriages, and rights of girls who are seeking to dissolve a child marriage.

---

40 Court on its own motion *Lajja... vs. State*, Delhi High Court (July 27, 2012), paragraph 20; in *Mohd. Nihal vs. State*, Delhi High Court (July 8, 2008) the court voided the marriage; in *T. Sivakumar v. The Inspector of Police*, Madras High Court (October 3, 2011) the court held the marriage was voidable but not valid.

41 Criminal Law (Amendment) Act, sec. 8, No. 13, Act of Parliament, 2013 (India); Protection of Children From Sexual Offences Act, sec. 2(d), No. 32, Act of Parliament, 2012 (India).

42 The Protection of Women from Domestic Violence Act, No. 43, Acts of Parliament, 2005 (India); U.N. Children's Fund, *Desk Review of Child Marriage*, at 8 (2011), available at <http://www.khubmarriage18.org/sites/default/files/18.pdf>.

43 U.N. Human Rights, Office of the High Commissioner, *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Gulnara Shahinian, Thematic report on servile marriage*, paras. 10, 88, U.N. Doc. A/HRC/21/41 (2012).

44 Child Labor (Prohibition and Regulation) Act, secs. 2, 3, schedule A - Occupations 14, Acts of Parliament, 1986 (India); Child Labor (Prohibition and Regulation) Act, *supra* note 43, (“In this Act, unless the context otherwise requires... “child” means a person who has not completed his 14<sup>th</sup> year of age.”).

45 CEDAW Committee, *Joint General Comment/Recommendation by the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child on harmful practices*, para. 65, U.N. Doc. CEDAW/C/GC/31-CRC/C/GC/18 (2014).

46 Right of Children to Free and Compulsory Education Act, sec. 2(c), No. 35, Acts of Parliament, 2009 (India).

47 South Asian Association for Regional Cooperation (SAARC), *Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia*, art. 4(3)(d) (2002), available at <http://www.saarc-sec.org/userfiles/conv-children.pdf> (highlighting the importance of compulsory marriage in preventing child marriages).

48 The Registration of Births and Deaths Act, No. 18, Acts of Parliament, 1969 (India).

49 United Nations Children's Fund (UNICEF), *India Statistics* (2013), available at [http://www.unicef.org/infobycountry/india\\_statistics.html](http://www.unicef.org/infobycountry/india_statistics.html).

50 Editorial, *RS passes Bill for compulsory marriage registration*, THE HINDU (2013), available at <http://www.thehindu.com/news/national/rs-passes-bill-for-compulsory-marriage-registration/article5019348.ece>. The amendment required registrants to provide information as the Registrar may request, but it does not on its face require proof of the age of each participant in the marriage.

51 CRC Committee; CEDAW Committee; U.N. Committee on Economic, Social and Cultural Rights (OHCHR Committee); U.N. Special Representative of the Secretary General on Violence against Children; U.N. Special Rapporteur on Sale of Children, Child Prostitution and Child Pornography; U.N. Special Rapporteur on Contemporary Forms of Slavery, Including its Causes and Consequences; U.N. Special Rapporteur on Violence against Women; U.N. Special Rapporteur on Trafficking in Persons, Especially Women and Children & U.N. Working Group on Discrimination Against Women in Law and Practice, *Joint Statement by a Group of UN Human Rights Experts to Mark the First UN International Day of the Girl Child. Forced Child Marriage, Slavery like Reality in Every Single Region of the World* (2012), available at <http://www.un.org/en/events/girlchild/2012/hrexperts.shtml>; CEDAW Committee, Committee on the Rights of the Child (CRC Committee), *Joint General Recommendation/General Comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on Harmful Practices*, U.N. Doc. CEDAW/C/GC-31-CRC/C/GC/18 (2014); World Conference of the International Women's Year, Mexico City, Mexico, June 19-July 2, 1975, *Declaration of Mexico on the Equality of Women and Their Contribution to Development and Peace*, para. 28, U.N. Doc. E/CONF.66/34 (1975); Programme of Action of the International Conference on Population and Development, Cairo, Egypt, Sept. 5-13, 1994, paras. 5.5, 6.11, U.N. Doc. A/CONF.171/13/Rev.1 (1995); Beijing Declaration and the Platform for Action, Fourth World Conference on Women, Beijing, China, Sept. 4-15, 1995, para. 107(a), U.N. Doc. A/CONF.177/20/Rev.1 (1996); Human Rights Council Res. 23/25, *Accelerating Efforts to Eliminate all Forms of Violence against Women: Preventing and Responding to Rape and other Forms of Sexual Violence*, preamble, U.N. Doc. A/HRC/23/L.28-1 (2013); Human Rights Council Res. 22/32, *Rights of the Child: the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health*, paras. 22-23, U.N. Doc. A/HRC/RES/22/32 (2013); Human Rights Council Res. 19/37, U.N. Doc. A/HRC/19/2, at 104, para. 17(b) (2013); Comm'n on the Status of Women, Draft Agreed Conclusions Submitted by the Chair of the Commission, Ms. Marjon V. Kamara (Liberia), on the Basis of Informal

---

Consultations: The Elimination and Prevention of all Forms of Violence against Women and Girls, para. 34(qq), U.N. Doc. E/CN.6/2013/L.5 (2013).

<sup>52</sup> See Rashida Manjoo, *Special Rapporteur on Violence against Women, its Causes and Consequences, Report to the Human Rights Council*, U.N. Doc. A/HRC/26/38/Add.1 (2014) (“[T]he high prevalence of such marriages continues to endanger the lives of girls, whether in respect of domestic violence, marital rape or early pregnancies. It also deprives them of numerous human rights, including the right to education and the enjoyment of their childhood.”); CEDAW Committee, *Concluding Observations on the Combined Fourth and Fifth Periodic Reports of India*, paras.20, 38, U.N. Doc. CEDAW/C/IND/CO/4-5 (2014); CRC Committee, *Concluding Observations on the Combined Third and Fourth Periodic Reports of India*, para. 51, U.N. Doc. CRC/C/IND/CO/3-4 (2014).

<sup>53</sup> CEDAW Committee, *supra* note 51, para. 39; CRC Committee, *supra* note 51, para. 52.

<sup>54</sup> CEDAW Committee, *supra* note 51, para. 39; CRC Committee, *supra* note 51, para. 52; CEDAW Committee, *supra* note 51, paras. 10-11, 30 (expressing concern over high rates of violence against women and maternal mortality); CRC Committee, *supra* note 51, paras. 51-52, 63, 65-66 (expressing concern over lack of access to reproductive information and services for adolescent girls).

<sup>55</sup> South Asian Initiative to End Violence against Children, *Regional Action Plan to End Child Marriage in South Asia (2015-2018)* (Aug. 2014).

<sup>56</sup> Regional Convening on Using Law to Promote Accountability to End Child Marriage, *Kathmandu Call for Action to End Child Marriage in South Asia* (Nov. 7, 2014), available at [http://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/SA%20End%20Child%20Marriage%20Brochure\\_20Nov14\(final\)-2%20\(1\).pdf](http://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/SA%20End%20Child%20Marriage%20Brochure_20Nov14(final)-2%20(1).pdf).

<sup>57</sup> South Asian Initiative to End Violence against Children, *Regional Action Plan to End Child Marriage in South Asia (2015-2018)* (2014).

<sup>58</sup> GOVT. OF INDIA, MINISTRY OF WOMEN AND CHILD DEVELOPMENT, Press Release, *Child Marriages in India (Nov. 20, 2013)*, available at <http://pib.nic.in/newsite/mbErel.aspx?relid=100741>.

<sup>59</sup> India failed to co-sponsor a 2013 resolution adopted by the Human Rights Council and a 2013 resolution recommended by the Third Committee for adoption by the General Assembly. Human Rights Council Res. 24, *Strengthening Efforts to Prevent and Eliminate Child, Early and Forced Marriage: Challenges, Achievements, Best Practices and Implementation Gaps*, U.N. Doc. A/HRC/24/L.34/Rev.1 (2013); G.A. Third Comm., Child, Early and Forced Marriage, U.N. Doc. A/C.3/68/L.29 (2013).

<sup>60</sup> INDIA NATIONAL COMMISSION ON POPULATION, NATIONAL POPULATION POLICY, at 2 (2000), available at <http://countryoffice.unfpa.org/india/drive/NationalPopulation-Policy2000.pdf>.

<sup>61</sup> INTERNATIONAL INSTITUTE FOR POPULATION SCIENCES, GOVERNMENT OF INDIA MINISTRY OF HEALTH AND FAMILY WELFARE, NATIONAL FAMILY HEALTH SURVEY -4, STATE FACT SHEET, MADHYA PRADESH, 2015-2016 (2016), available at [http://rchiips.org/nfhs/factsheet\\_NFHS-4.shtml](http://rchiips.org/nfhs/factsheet_NFHS-4.shtml) [hereinafter NATIONAL FAMILY HEALTH SURVEY: MADHYA PRADESH]. These statistics reveal a “shocking gender imbalance” focusing Indian population control on female sterilization. See Farhan Javed, *The Sterilized and Subjugated: Population Control and The Plight of Indian Women*, HARVARD INTERNATIONAL REVIEW (April 15, 2015) available at <http://hir.harvard.edu/the-sterilized-and-subjugated-population-control-and-the-plight-of-indian-women/>.

<sup>62</sup> INTERNATIONAL INSTITUTE FOR POPULATION SCIENCES, GOVERNMENT OF INDIA MINISTRY OF HEALTH AND FAMILY WELFARE, NATIONAL FAMILY HEALTH SURVEY-4, STATE FACT SHEET, BIHAR, 2015-2016 (2016), available at [http://rchiips.org/nfhs/factsheet\\_NFHS-4.shtml](http://rchiips.org/nfhs/factsheet_NFHS-4.shtml); NATIONAL FAMILY HEALTH SURVEY: MADHYA PRADESH, *supra* note 61.

<sup>63</sup> Annie Gowen, *Indian investigators suspect tainted drugs involved in botched sterilizations*, WASHINGTON POST (November 14, 2014) available at [https://www.washingtonpost.com/world/doctor-arrested-after-botched-sterilization-at-india-camp-kills-13/2014/11/13/a50991d6-6b06-11e4-a31c-77759f1eacc\\_story.html](https://www.washingtonpost.com/world/doctor-arrested-after-botched-sterilization-at-india-camp-kills-13/2014/11/13/a50991d6-6b06-11e4-a31c-77759f1eacc_story.html); Maneeva Naqvi, *Doctor arrested after India sterilization deaths*, USA TODAY (November 13, 2014) available at <http://www.usatoday.com/story/news/world/2014/11/13/india-sterilization-deaths/18957653/> (finding that although the Indian government said it stopped setting targets for sterilizing women in the 1990s, doctors and human rights workers have alleged for years that targets exist, which would lead to inevitable coercion in villages where most people have limited access to education and health care); *Botched sterilizations kill 12 in India*, AL JAZEERA

---

(November 12, 2014) available at <http://america.aljazeera.com/articles/2014/11/12/india-gender-sterilizationwomen.html>.

<sup>64</sup> See Milind Ghatwai, *No sterilisation, no ration: MP Sarpanch's new order*, THE INDIAN EXPRESS (Mar. 8, 2012) available at <http://www.indianexpress.com/news/no-sterilisation-no-ration-mp-sarpanchs-new-order/921445/>.

<sup>65</sup> Jason Burke, *Indian women die after state-run mass sterilisation campaign goes wrong*, THE GUARDIAN (last accessed February 7, 2016) available at <http://www.theguardian.com/world/2014/nov/11/indian-women-die-mass-sterilisation-camp>.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*; Sugam Pokharel and Sumnima Udas, *India: 11 women die, 62 more hospitalized after being paid to be sterilized*, CNN (November 12, 2014) available at <http://www.cnn.com/2014/11/11/world/asia/india-sterilization-deaths/>.

<sup>68</sup> Raksha Kumar, *India's lethal contraception culture*, AL JAZEERA AMERICA (last accessed February 4, 2016) <http://america.aljazeera.com/multimedia/2015/2/female-sterilization-in-india.html>.

<sup>69</sup> India Today, *Chhattisgarh: Negligence, sub-standard drugs led to sterilisation camp deaths* (December 24, 2015) <http://indiatoday.intoday.in/story/negligence-sub-standard-drugs-led-to-sterilization-camp/1/554872.html>.

<sup>70</sup> Kirti Jiturekha Chauhan, *'Patriarchal' India is pushing women into sterilisation since 44 years*, IAMIN (February 5, 2015) <http://www.iamin.in/en/new-delhi/news/patriarchal-india-pushing-women-sterilisation-44-years-52373>.

<sup>71</sup> Deepu Sebastian Edmond, *Jharkhand: Sterilisation procedures not under flashlight, but other violations found*, INDIAN EXPRESS (January 10, 2015) <http://indianexpress.com/article/india/india-others/jharkhand-sterilisation-procedures-not-under-flashlight-but-other-violations-found/>.

<sup>72</sup> Ramakant Rai v. Union of India W.P., (C) No. 209 of 2003 (Dec. 6, 2007) (India) available at <http://www.escri-net.org/node/365195>.

<sup>73</sup> In the light of the Court's order in the Ramakant Rai case, the Government of India through the Ministry of Health and Family Welfare formulated and disseminated the following guidelines for conducting safe sterilization operations: (1) STANDARDS FOR FEMALE AND MALE STERILISATION SERVICES (2006), available at <http://dhs.kerala.gov.in/docs/pdf/fwiec2.pdf>; (2) QUALITY ASSURANCE MANUAL FOR STERILIZATION SERVICES (2006) available at [http://cfw.tg.nic.in/pdf/Quality\\_Assurance.pdf](http://cfw.tg.nic.in/pdf/Quality_Assurance.pdf); (3) STANDARD OPERATING PROCEDURES FOR STERILIZATION SERVICES IN CAMPS (2008), available at <http://dhs.kerala.gov.in/docs/pdf/fwiec4.pdf>; and (4) MINISTRY OF HEALTH AND FAMILY WELFARE, 2008 OPERATIONAL GUIDELINES ON FIXED DAY STATIC APPROACH FOR STERILIZATION SERVICES UNDER THE FAMILY PLANNING PROGRAMME (2008), available at [http://203.193.146.66/hfw/PDF/Services\\_Operational%20Guideline.pdf](http://203.193.146.66/hfw/PDF/Services_Operational%20Guideline.pdf).

<sup>74</sup> See HUMAN RIGHTS LAW NETWORK, FACT-FINDING REPORT ON STERILIZATION, ACCESS TO CONTRACEPTIVE INFORMATION AND SERVICES, AND WOMEN'S HEALTH IN BILASPUR DISTRICT, CHHATTISGARH, at 16-17 (2014), available at <http://www.hrln.org/hrln/images/stories/pdf/Report-Chhattisgarh-Sterilization-Fact-Finding-November-2014.pdf>.

<sup>75</sup> Devika Biswas v. Union of India & Ors., (C) No. 95 of 2012, para. 81 (Sep. 14, 2016) (India), available at <http://www.lawkam.org/caselaw/sterilization-devika-biswas-india/10487/>.

<sup>76</sup> *Id.* para. 87.

<sup>77</sup> *Id.* paras. 88(2), 88(8).

<sup>78</sup> *Id.* paras. 88(4), 88(6), 88(7), 88(15).

<sup>79</sup> *Id.* para. 88(13).

<sup>80</sup> *Id.*

<sup>81</sup> *Id.* para. 88(10).

<sup>82</sup> International Covenant on Economic, Social and Cultural Rights, adopted Dec. 16, 1966, art. 12(1), G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3 (entered into force Jan. 3, 1976).

<sup>83</sup> ECSR Committee, *General Comment No. 14: The right to the highest attainable standard of health*, (22<sup>nd</sup> Sess., 2000), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 86, para. 34, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008) [hereinafter ESCR Committee, *Gen. Comment No. 14*].

---

<sup>84</sup> See ECSR Committee, *Gen. Comment No. 14*, *supra* note 82, para. 21; Convention on the Elimination of All Forms of Discrimination against Women, *adopted* Dec. 18, 1979, art. 12(1), G.A. Res. 34/180, U.N. GAOR, 34<sup>th</sup> Sess., Supp. No. 46, at 193, U.N. Doc. A/34/46, U.N.T.S. 13 (*entered into force* Sept. 3, 1981) [hereinafter CEDAW], (“States Parties should take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.”); *id.*, art. 16(1) (“States Parties should take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular to ensure, on a basis of equality of men and women . . . the same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education, and means to enable them to exercise these rights”); CEDAW Committee, *Concluding Observations: Democratic Republic of the Congo*, para. 36(f), U.N. Doc. CEDAW/C/COG/CO/6(2012); *Uruguay*, para. 203, U.N. Doc. A/57/38(2002); ESCR Committee, *General Comment No. 16: The equal right of men and women to the enjoyment of all economic, social and cultural rights*, (34<sup>th</sup> Sess., 2005), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 119, para. 29, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008).

<sup>85</sup> See generally Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice, *et al.*, *Mandates of the Working Group on the issue of discrimination against women in law and in practice; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on violence against women, its causes and consequences* [hereinafter Special Procedures’ Letter], Annex.

<sup>86</sup> CEDAW Committee, *General Recommendation No. 24: Article 12 of the Convention (women and health)*, (20<sup>th</sup> Sess., 1999), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 363-364, para. 22, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008) [hereinafter CEDAW Committee, *Gen. Recommendation No. 24*].

<sup>87</sup> Human Rights Committee, International Covenant on Civil and Political Rights, *General Comment No. 28: Equality of rights between men and women*, 68<sup>th</sup> Sess., paras. 11, 20, U.N. Doc. CCPR/C/21/Rev.1/Add.10 (2000); see also Report of Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Human Rights Council, para. 45, U.N. Doc. A/HRC/31/57 (2016).

<sup>88</sup> See Report of the Special Rapporteur on violence against women, its causes and consequences, Radhika Coomaraswamy, para. 51, U.N. Doc. E/CN.4/1999/68/Add.4 (1999).

<sup>89</sup> Special Procedures’ Letter, *supra* note 85, at 4.

<sup>90</sup> *Id.* at 7.

<sup>91</sup> *Id.* at 4.

<sup>92</sup> *Id.*