NGO Joint Parallel Report on the Government of Pakistan's
Second Report on the Implementation of the
International Covenant on Economic, Social and Cultural Rights

---

Submitted to the
UN Committee on Economic, Social and Cultural Rights
for consideration in the formulation of the
List of Issues during the 74th Pre-Sessional Working Group (4-8 March 2024)
by:

Science for Democracy

Rue Ducale 41,
1000 Bruxelles, Belgium

Contact: Dr. Laura Convertino
laura.errans@gmail.com

International Human Rights Center
Loyola Law School, Los Angeles

919 Albany Street
90015, Los Angeles, CA, USA

Contact: Prof. Cesare Romano
cesare.romano@lls.edu

and

Aahung

Karachi, Pakistan

Contact: Komal Qidwai
komal.qidwai@aahung.org

PURPOSE OF THIS PARALLEL REPORT 2
ABOUT THE AUTHORS OF THIS REPORT AND SOURCES 2
BACKGROUND 3
PAKISTAN FAILS TO FULFILL ITS INTERNATIONAL OBLIGATIONS CONCERNING SEXUAL AND REPRODUCTIVE HEALTH 6
I) The general criminalization of abortion violates women's human rights 7
II) The exception to the prohibition of abortion is vague 9
III) Stigma in medical settings surrounding abortion hinders women's access to sexual and reproductive health 11
IV) The lack of access to abortion pills violates the right to benefit from progress in science. 12
V) Lack of adequate contraception and family planning violates women's human rights and leads to unsafe abortions 13
RECOMMENDATIONS 15

PURPOSE OF THIS PARALLEL REPORT

(1) The purpose of this parallel report is to assist the Committee on Economic, Social and Cultural Rights (the Committee) in the formulation of the List of Issues during the 74th Pre-Sessional Working Group (4-8 March 2024), leading to the discussion of the Government of Pakistan's Second Periodic Report on the implementation of the Covenant on Economic, Social and Cultural Rights ("CESCR" or "Covenant").[1]

(2) The report focuses on the general criminalization of abortion, barriers to abortion care and the lack of effective family planning in Pakistan, issues that come under the purview of the Covenant (Articles 3, 10, 12 and 15). Pakistan ratified the Covenant on 17 April 2008.[2]

ABOUT THE AUTHORS OF THIS REPORT AND SOURCES

(3) This report has been prepared by Megan Mars (Science for Democracy), and by Chandra Ingram (JD Candidate 2024) and Marilynn Escún Yac (JD Candidate 2024) of the International Human Rights Center of Loyola Law School, Los Angeles, working under the supervision of Professor Cesare Romano, and in collaboration with Aahung.

(4) Science for Democracy is a Brussels-based NGO that promotes the right to science as a structural component of liberal democracies through dialogue between the scientific community and decision-makers all over the world.[3]

---

[1] CESCR, *Second periodic report submitted by Pakistan under articles 16 and 17 of the Covenant, due in 2022*, E/C.12/PAK/2, 22 June 2023.

[2] International Covenant on Economic, Social and Cultural Rights, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=131&Lang=EN [last accessed 1 Nov 2023].

[3] https://sciencefordemocracy.org/ [last accessed 1 Nov 2023].

(5) The International Human Rights Center of Loyola Law School, Los Angeles is committed to achieving the full exercise of human rights by all persons and seeks to maximize the use of international and regional political, judicial, and quasi-judicial bodies through litigation, advocacy, and capacity-building. Loyola Law School, Los Angeles is the school of law of Loyola Marymount University, a Jesuit university.[4]

(6) Aahung is a Karachi-based NGO, established in 1995, which aims to improve the sexual and reproductive health and rights of adolescents, male and female, across Pakistan.[5]

BACKGROUND

(7) In Pakistan, abortion is a crime that carries stiff penalties,[6] unless it is carried out to preserve the life of the woman or to provide necessary treatment to her.[7]

(8) In 1990, Pakistan amended its colonial-era Penal Code of 1860 to conform it to Islamic teachings. The revised Penal Code entered into force in 1997.[8] Under Chapter XVI of the Penal Code:

> *"Whoever causes woman with child whose organs have not been formed, to miscarry, if such miscarriage is not caused in good faith for the purpose of saving the life of the woman, or providing necessary treatment to her, is said to cause isqat-i-hamal … Whoever causes a woman with child some of whose limbs or organs have been formed to miscarry, if such miscarriage is not caused in good faith for the purpose of saving the life of the woman, is said to cause isqat-i-janin."*[9]

(9) The punishment for an abortion, or assisting with an abortion, is at least three years in prison or the imposition of diyah.[10] Diyah is compensation to the heirs of the victim (the victim being the fetus and the heirs being family who can inherit from the fetus, excluding those who helped carry out the abortion). It is paid by the woman receiving the abortion care (if she consented to the procedure), or anyone who assisted with the abortion.[11]

(10) It should be noted that the Pakistani Penal Code distinguishes between abortion taking place before and after

---

[4] https://www.lls.edu/academics/centers/internationalhumanrightscenter/ [last accessed 7 Nov 2023].

[5] https://www.aahung.org/ [last accessed 7 Nov 2023].

[6] Pakistan Penal Code, Chapter XVI, Section 338(A-C), https://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html [last accessed 7 Nov 2023].

[7] *Id.*

[8] United Nations Population Division, *Abortion Policies: A Global Review,* (2002), https://www.un.org/en/development/desa/population/theme/policy/AbortionPoliciesAGlobalReview2002_Vol3.PDF [last accessed 30 Nov 2023].

[9] A woman who "causes herself to miscarry" is within the meaning of these sections. "*Isqat-e-haml* is the termination of pregnancy when organs of the child have not been formed yet. In turn, *Isqat-e-Janin* is the termination of pregnancy when some of the child's limbs and organs have been formed." Pakistan Penal Code, Chapter XVI, *supra* note 6; Shafaat Saleem, *Abortion Laws in the Islamic Republic of Pakistan: to what extent do social policies cater to human rights*?, LSE, 22 March 2022, https://blogs.lse.ac.uk/humanrights/2022/03/22/abortion-laws-in-the-islamic-republic-of-pakistan-to-what-extent-do-social-policies-cater-to-human-rights/#:~:text=Isqat%2De%2Dhaml%20is%20the,and%20organs%20have%20been%20formed. [last accessed 18 Dec 2023].

[10] Pakistan Penal Code, Chapter XVI, *supra* note 6.

[11] *Id.*

"organs have formed."[12] Before organs have formed, abortion is permitted to provide "necessary treatment" to the woman or to save the woman's life. After the organs have formed, abortion is only permitted to save the woman's life.[13] This exception is not clear nor widely understood and contributes to the lack of safe abortion care in the State.[14]

(11) Criminalization notwithstanding, Pakistan has one of the highest rates of abortion in the world.[15] Research conducted by the Guttmacher Institute (Guttmacher) found that in Pakistan, between 2015-2019, about one in four pregnancies (2,240,00 out of 9,720,000) ended in abortion.[16] Most women seeking abortions in Pakistan are married, poor and already have multiple children.[17]

(12) Because abortion is criminalized and stigmatized, often abortion procedures are performed secretly by untrained practitioners and in unsafe conditions.[18] As a result, researchers estimate that one-third of women who get an abortion in Pakistan suffer complications.[19] That is not surprising. Indeed, "[h]istorically, legal restrictions on abortion have proven ineffective at curtailing the incidence of abortion…[b]ut where abortions are largely illegal, they are more likely to occur under unsafe conditions."[20] The correlation between maternal mortality and restrictive abortion laws leading to unsafe abortions is recognized by treaty monitoring bodies and other human rights experts.[21]

---

[12] United Nations Population Division, *Abortion Policies: A Global Review*, *supra* note 8.

[13] *Id.*

[14] Anand Cerillo Sharma, Jina Dhillon, Ghulam Shabbir & Anna Lynam, *Notes from the field: political norm change for abortion in Pakistan*, Sex Reprod Health Matters, 21 March 2019, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7888059/ [last accessed 1 Dec 2023].

[15] Betsy Joles, *The Global Gag Rule's Long Shadow in Pakistan*, Foreign Policy, 2021, https://pulitzercenter.org/stories/global-gag-rules-long-shadow-pakistan [last accessed 15 Nov 2023]; Diaa Hadid, *Why the Abortion Rate in Pakistan is One of the World's Highest*, NPR, (2018), https://www.npr.org/sections/goatsandsoda/2018/11/28/661763318/why-the-abortion-rate-in-pakistan-is-one-of-the-worlds-highest [last accessed 19 Nov 2023].

[16] Guttmacher Institute, *Country Profile: Pakistan*, https://www.guttmacher.org/regions/asia/pakistan#:~:text=In%20Pakistan%20in%202015%E2%80%932019,preserve%20the%20pregnant%20person's%20health. [last accessed 1 Nov 2023]. Note, Pakistan has limited data on sexual and reproductive health issues; last comprehensive data collection by Population Council was in 2012. Lack of data is a concern in advocacy efforts as it makes it harder to do evidence-based policy making.

[17] Diaa Hadid & Abdul Sattar, *supra* note 15; N. Rehan, A. Inayatullah & I. Chaudhary, *Characteristics of Pakistani women seeking abortion and a profile of abortion clinics*, J Women's Health Gend Based Med, 2001, https://pubmed.ncbi.nlm.nih.gov/11703893/ [last accessed 19 Dec 2023].

[18] Betsy Joles, *supra* note 15*;* Laiba Imran, Syeda Tayyaba Rehan & Mohammad Mehedi Hasan, *Increasing incidence of unsafe abortions among female Pakistani university students: Lack of awareness and social stigma proves to be fatal*, Annals of Medicine and Surgery, vol. 79, 2022, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9213696/pdf/main.pdf [last accessed 19 Dec 2023].

[19] Population Council, *Induced Abortions and unintended pregnancies in Pakistan, 2012,* 2014, p. 3-5, https://knowledgecommons.popcouncil.org/cgi/viewcontent.cgi?article=1957&context=departments_sbsr-rh [last accessed 19 Dec 2023]; Dia Hadid & Abdul Sattar, *supra* note 15.

[20] Gilda Sedgh, Naisiadet Mason & Susheela Singh, *Undoing of Roe v. Wade Leaves US as Global Outlier on Abortion*, Guttmacher Institute, Aug 2022, https://www.guttmacher.org/article/2022/08/undoing-roe-v-wade-leaves-us-global-outlier-abortion [last accessed 28 Nov 2023].

[21] Center for Reproductive Rights, *Breaking Ground: Treaty Monitoring Bodies on Reproductive* Rights, 2019, p.12, https://reproductiverights.org/sites/default/files/documents/Breaking-Ground-2020.pdf [last accessed 28 Nov 2023].

(13) Pakistan's maternal mortality rates is one of the highest in South Asia.[22] Many deaths could be avoided by preventing unintended pregnancies.[23] However, access to contraception is generally lacking in Pakistan. Out of 9,720,000 pregnancies that took place in Pakistan between 2015-2019, Guttmacher found that 3,690,000 were unintended.[24]

(14) Regrettably, abortion is a common method of family planning in Pakistan.[25] Notably, a State-supported survey found that only 34% of married women use contraception in Pakistan.[26] At least 17% of married women have an unmet need for family planning.[27]

(15) The government of Pakistan has made efforts to mitigate the high rate of abortion complications by expanding post-abortion care policies and attempting to increase contraception use.[28] The government included post-abortion care in its National Health and Population Policies[29] and in 2011 delegated health care and policy, including post-abortion care and family planning policies, to the provinces.[30]

(16) Inadequate family planning and overall lack of access to contraception make it so that Pakistan's population is growing at an alarming rate. It is estimated that Pakistan's population is growing by 4.3 million people per year.[31] Although Pakistan seeks to reach 2.2 births per woman by 2030, a 2017-2018 survey showed the birth rate was still at 3.6 births per woman.[32] Recognizing the critical situation, in July 2018, the Supreme Court of Pakistan acknowledged family planning as a human rights issue and called for a task force to develop recommendations to address the alarming population growth.[33]

(17) It should be noted that, besides the obligations Pakistan has under the Covenant and other human rights treaties, Pakistan has also committed to implement the Beijing Declaration and Platform for Action (Beijing

---

[22] M. Hanif, S. Khalid, A. Rasul, K. Mahmood, *Maternal mortality in rural areas of Pakistan: challenges and prospects,* Rural Health 7, 2021, https://www.intechopen.com/chapters/76143 [last accessed 7 Dec 2023].

[23] WHO, *Maternal Mortality*, (22 Feb 2023), https://www.who.int/news-room/fact-sheets/detail/maternal-mortality [last accessed 28 Nov 2023].

[24] Guttmacher Institute, *Country Profile: Pakistan*, *supra* note 16.

[25] Betsy Joles, *supra* note 15; Zeba Sathar, Susheela Singh, Zakir Hussain Shah, Gul Rashida & Iram Kamran, *Post-abortion care in Pakistan: A national study*, Population Council, 2013, https://knowledgecommons.popcouncil.org/cgi/viewcontent.cgi?article=1154&context=departments_sbsr-rh [last accessed 4 Dec 2023].

[26] National Institute of Population Studies, *Pakistan Demographic and Health Survey*, *supra* note 26, at p. 125.

[27] *Ibid.,* p. 113.

[28] Betsy Joles, *supra* note 15.

[29] Engender Health, *Pakistan: PAC-FP Country Brief,* 2021, https://www.engenderhealth.org/wp-content/uploads/2021/12/PAC-FP-Country-Brief_Pakistan.pdf [last accessed 8 Dec 2023].

[30] *Id.*; Diaa Hadid & Abdul Sattar, *supra* note 15.

[31] National Institute of Population Studies (NIPS) and the Ministry Of National Health Services, Regulations and Coordination - Government of Pakistan, *Slow Progress of Family Planning in Pakistan and Possible Learnings from the Successful Experiences of Iran, Turkey and Bangladesh*, p. 1, https://pakistan.unfpa.org/sites/default/files/pub-pdf/low_uptake_of_fp_pk_-_v9.pdf [last accessed 8 Dec 2023].

[32] *Id.*

[33] *Action Plan (2019-2024) for Implementation of Recommendations Approved by CCI Regarding Alarming Population Growth in Pakistan*, https://phkh.nhsrc.pk/sites/default/files/2020-12/Pakistan%20Action%20Plan%20for%20Implementation%20of%20CCI%20Recommendations%202019-24.pdf [last accessed 19 Dec 2023].

Declaration).[34] The Beijing Declaration includes a call to action for States to "recognize and deal with the health impact of unsafe abortion as a major public health concern..." and to "reduce the recourse to abortion through expanded and improved family-planning services."[35] Yet, Pakistan's 2019 report of the implementation of the Beijing Declaration fails to mention abortion at all.[36]

(18) The Government of Pakistan's Health Services Academy has committed to the Generation Equality Action Coalition on Bodily Autonomy and Sexual and Reproductive Health and Rights.[37] The Coalition, led by the United Nations Population Fund (UNFPA), encourages members to "improve the availability, accessibility, acceptability and quality of comprehensive sexual and reproductive health services, free from coercion, violence and discrimination."[38]

(19) In 2023, Pakistan reaffirmed its commitment to the Cairo International Conference on Population and Development Programme of Action, which includes a commitment to end unsafe abortions and make reproductive health services a high priority including a "comprehensive range of contraceptive means."[39]

(20) Pakistan's second periodic report, submitted in May 2023, does not acknowledge the high rates of abortion in the State nor any plans to amend the current law to decriminalize abortion or clarify the exceptions.[40] However, Pakistan does refer to its post-abortion care advancements.[41] Moreover, although Pakistan's second periodic report highlights the National Population Action Plan, it does not recognize persisting low rates of contraceptive use and the need for improvement.[42] This parallel report intends to highlight these concerns.

PAKISTAN FAILS TO FULFILL ITS INTERNATIONAL OBLIGATIONS CONCERNING SEXUAL AND REPRODUCTIVE HEALTH

(21) Pakistan's criminalization of abortion and the fact that, criminalization notwithstanding, it has not been

---

[34] *Report of the Islamic Republic of Pakistan on the implementation of the Beijing Declaration and Platform for Action +25*, May 2019, p. 6, https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/CSW/64/National-reviews/Pakistan.pdf [last accessed 8 Dec 2023].

[35] Beijing Declaration and Platform for Action, 1995, para 106(j&k), https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/CSW/PFA_E_Final_WEB.pdf [last accessed 8 Dec 2023].

[36] *Report of the Islamic Republic of Pakistan on the implementation of the Beijing Declaration and Platform for Action +25*, *supra* note 34.

[37] Action Coalitions Commitments Dashboard, last updated 10 Sep 2022, https://dashboard.commitments.generationequality.org/map/ [last accessed 28 Dec 2023].

[38] UNFPA, *Generation Equality Forum: Action Coalition on Bodily Autonomy and Sexual and Reproductive Health and Rights*, https://www.unfpa.org/bodily-autonomy-coalition [last accessed 19 Dec 2023].

[39] Radio Pakistan, *Pakistan vows to implement Cairo Int'l Conference on Population & Development Programme of Action*, 12 April 2023, https://www.radio.gov.pk/12-04-2023/pakistan-vows-to-implement-cairo-intl-conference-on-population-development-programme-of-action [last accessed 8 Dec 2023]; United Nations Population Fund, *Programme of Action of the International Conference of Population and Development*, 5-13 Sept 1994, para 7.10 & 8.20(a) , https://www.unfpa.org/sites/default/files/pub-pdf/programme_of_action_Web%20ENGLISH.pdf [last accessed 8 Dec 2023].

[40] CESCR, *Second periodic report submitted by Pakistan under articles 16 and 17 of the Covenant, supra* note 1, at para 165.

[41] *Ibid.*, para 166-68.

[42] *Ibid.*, para 170-171.

successful in significantly lowering abortion rates, particularly unsafe abortions, nor has it made family-planning and contraception an integral part of healthcare for women, are violations of the Covenant.

I) The general criminalization of abortion is inherently discriminatory and promotes inequality

(22) First, the criminalization of abortion is inherently discriminatory and promotes inequality. Pakistan's law discriminates against women by targeting and punishing them for their reproductive decisions. Arguably, this is a violation of Article 3 of the Covenant, which requires States parties to ensure "the equal right of men and women to the enjoyment of all economic, social and cultural rights."[43]

(23) UN human rights bodies have repeatedly affirmed that ensuring access to abortion in accordance with human rights standards is part of the State obligation to eliminate discrimination against women and to ensure women's right to health as well as other fundamental human rights.[44] Progress towards expanding access to safe, legal abortion is needed to ensure women are enjoying their rights under the Covenant.

(24) Pakistan's second periodic report claims that the current law criminalizing abortion "provides the appropriate safeguards and balances the interests of protecting the life of the child and the mother."[45] However, it fails to acknowledge that criminalization of abortion puts the life, health, and autonomy of women at risk.[46]

(25) Pakistan's Penal Code may push women to seek abortions outside of a clean, controlled medical setting.[47] As research clearly illustrates, this can result in complications and even death, contributing to avoidably high rates of maternal mortality.[48] Article 12 of the CESCR recognizes "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health."[49] The right to health includes a right to sexual health, including

---

[43] Covenant on Economic, Social, and Cultural Rights, Article 3.

[44] OHCHR, *Information Series on Sexual and Reproductive Health and Rights* (updated 2020), https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/SexualHealth/INFO_Abortion_WEB.pdf [accessed 7 Dec 2023]; UN Working Group on the issue of discrimination against women in law and in practice, a Human Rights Council's special mandate, called for "decriminalization of the termination of pregnancy and repeal of restrictive abortion laws." The UN Working Group on the issue of discrimination against women in law and in practice: *Women's Autonomy, Equality and Reproductive Health in International Human Rights: Between Recognition, Backlash and Regressive Trends*, p. 4, 2017, https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WG/WomensAutonomyEqualityReproductiveHealth.pdf [accessed 7 Dec 2023].

[45] CESCR, *Second periodic report submitted by Pakistan under articles 16 and 17 of the Covenant, supra* note 1, at para 165.

[46] Guttmacher Institute, *Abortion in Pakistan*, Nov 2009, https://www.guttmacher.org/report/abortion-pakistan [last accessed 7 Dec 2023]; Marina Baig, Sadia Abbas Ali, Kiran Mubeen, Arusa Lakhani, *Induced Abortions in Pakistan: an afflicting challenge needing addressal*, British Journal of Midwifery, Vol. 29, Issue 2, 2 Feb 2021, https://www.britishjournalofmidwifery.com/content/case-study/induced-abortions-in-pakistan-an-afflicting-challenge-needing-addressal/#B13 [last accessed 7 Dec 2023].

[47] Betsy Joles, *supra* note 15.

[48] Center for Reproductive Rights, *Decriminalization of Abortion: A Human Rights and Public Health Imperative*, https://reproductiverights.org/wp-content/uploads/2023/10/CRR_Decrimilization-of-Abortion-Factsheet_upl-10-19-23.pdf [last accessed 19 Nov 2023].

[49] Covenant on Economic, Social, and Cultural Rights, Art. 12.

abortion care.[50]

(26) The Committee has acknowledged the life-threatening harm that stems from criminal abortion laws and has provided clear guidance to States to decriminalize the procedure by amending or repealing the law.[51] In General Comment 22, the Committee noted that access to reproductive health must not be denied nor limited by the State through laws criminalizing reproductive health services.[52] It acknowledged that the denial of abortion services often leads to maternal mortality and morbidity and recognized the role that unsafe abortion plays in contributing to these medical conditions.[53] To prevent unsafe abortions, General Comment 22 recommended that, among other suggestions, States should "liberalize restrictive abortion laws."[54] The Committee has given States additional guidance as to the correct approaches they can take to realize the right to health, including implementing health programs developed by the World Health Organization (WHO).[55]

(27) Article 15.1.b of the Covenant recognizes "the right of everyone to enjoy the benefits of scientific progress and its applications."[56] Deterring women from seeking an abortion that is medically safe when performed legally is a denial of the enjoyment of the scientific progress in the field of reproductive health.[57] In 2012, approximately 700,000 women in Pakistan sought medical attention for complications following abortions.[58] Women should not be forced to seek unsafe and clandestine abortions because of restrictive and stigmatizing laws. Scientific and technological advancements have made it possible to procure abortion safely, for instance through mifepristone

---

[50] CESCR, *General Comment No. 14: The Right to the Highest Attainable Standard of Health* (Art. 12), E/C.12/2000/4, 11 Aug. 2000, para 8.

[51] In the Concluding Observations to Bolivia's third periodic report, it expressed regret over "the persistence of unsafe abortions due to the criminalization of abortion." CESCR Committee, *Concluding Observations: Bolivia*, E/C.12/BOL/CO/3, 2021, para 54; In the Concluding Observations to the Democratic Republic of Congo's sixth periodic report, it expressed concern about abortion being criminalized and recommended that provisions of the criminal code prohibiting abortion be repealed. CESCR Committee, *Concluding Observations: Democratic Republic of the Congo*, E/C.12/COD/CO/6, 2022, para 57; In the Concluding Observations to Bahrain's initial report, this Committee expressed concern about the criminalization of abortion, especially in the case of rape and incest, and recommended that laws be amended to expand the set of circumstances under which abortion is legal. CESCR Committee, *Concluding Observations: Bahrain*, E/C.12/BHR/CO/1, 2022, para 44-45; Although in General Comment 22 this Committee recognized that the full realization of the goal to guarantee the right to reproductive health is a duty to be discharged progressively, there are steps that can and must be taken immediately, or within a reasonably short period of time, including repealing or reforming laws that "nullify or impair the ability" to realize reproductive health.

[52] CESCR, *General Comment No. 22: on the right to sexual and reproductive health* (Art. 12), E/C.12/GC/22, 2 May 2016, para 38.

[53] *Ibid.*, para 10 & 28.

[54] *Ibid.,* para 28.

[55] CESCR, *General Comment No. 14, supra* note 50 at para 1; The WHO recommends "removing medically unnecessary policy barriers to safe abortion, such as criminalization," and acknowledges the dangers such policies can inflict on pregnant women including putting them at "greater risk of unsafe abortion, stigmatization, and health complications." World Health Organization*, WHO issues new guidelines on abortion to help countries deliver lifesaving care*, 9 March 2022, https://www.who.int/news/item/09-03-2022-access-to-safe-abortion-critical-for-health-of-women-and-girls [accessed 7 Dec 2023].

[56] Covenant on Economic, Social, and Cultural Rights, Art. 15.1.b.

[57] CESCR, *General Comment No. 25 (2020) on science and economic, social and cultural rights (article 15 (1) (b), (2) , (3) and (4) of the International Covenant on Economic, Social and Cultural Rights)* , E/C.12/GC/25, 30 April 2020, para 70.

[58] Guttmacher Institute, *Unsafe Abortion and Postabortion Care In Pakistan*, 2013, https://www.guttmacher.org/fact-sheet/unsafe-abortion-and-postabortion-care-pakistan [last accessed 14 Nov 2023].

with a combination pack. The Covenant requires that scientific progress and innovations be available to all persons to uphold a high quality of health care.[59]

(28) Further, as the Committee explained in General Comment 25, the right to "benefit" from science includes "the right of having scientific knowledge disseminated" and the duty of States to "form critical and responsible citizens who are able to participate fully in a democratic society."[60] In the concluding observations of Pakistan's initial report, the Committee expressed concern with women's "limited access to…information" regarding abortion care.[61] The lack of information and understanding of abortion care and the law among women is inconsistent with Article 15.1.b.[62]

(29) General Comment 14 requires States to "ensure the appropriate training of doctors and other medical personnel."[63] Health providers in Pakistan are not given sufficient information regarding abortions and the law. Although doctors in Pakistan are often trained in post-abortion care, they are not given any clear instruction as to when they can legally provide it, leaving the instances of when they use their scientific knowledge limited.

(30) While the National Service Delivery Standards and Guidelines on abortion care (and several provincial standards and guidelines) are comprehensive and even discuss provider responsibility,[64] doctors, especially in government hospitals, are generally unaware of them, and are mostly unknown to the public.[65] Provinces without these comprehensive guidelines should adopt and distribute the information to healthcare providers. A wider dissemination of this information is critical for women to enjoy the scientific benefit of trained medical professionals in the State.

II) The exception to the prohibition of abortion is vague

(31) The limited circumstances in which abortion can legally take place in Pakistan are exceedingly narrow and poorly defined, with the effect of deterring abortion even when it could be performed legally. Pakistan's Penal Code states that abortion can be performed before the organs are formed "*in good faith for the purpose of saving the life of the woman, or providing necessary treatment*." After the limbs or organs are formed, abortion may only be performed "*in good faith for the purpose of saving the life of the woman.*"

(32) Given the law's lack of clarity about what constitutes the necessary treatment, health professionals are uncertain whether performing certain abortions is legal. Most doctors cite cultural beliefs to say that abortion is illegal, which means hospitals and health service providers generally refuse to perform an abortion.[66] Due to the

[59] CESCR, *General Comment No. 25, supra* note 57.
[60] *Ibid.*, para 8.
[61] CESCR, *Concluding observations on the initial report of* Pakistan, E/C.12/PAK/CO/1, 20 July 2017, para 77.
[62] CESCR, *General Comment No. 25, supra* note 57, at para 8.
[63] CESCR, *General Comment No. 14, supra* note 50 at para 36.
[64] Ministry of National Health Services, Regulations and Coordination (Gov't of Pakistan, Islamabad), *National Service Delivery Standards and Guidelines for High-Quality Safe Uterine Evacuation/Post-Abortion Care*, March 2018.
[65] Interview with abortion research and advocacy professional, October 2023.
[66] Diaa Hadid & Abdul Sattar, *supra* note 15.

difficulty in accessing legal abortion services, most women resort to unsafe abortion practices.[67]

(33) Another issue is that the law does not provide an exception for pregnancies caused by rape, incest, and defilement. Sadly, according to Pakistan's Human Rights Commission (HRCP), in 2022, more than 4,000 rape-related crimes were officially reported to the police.[68] Furthermore, the Pakistani non-profit organization War Against Rape (WAR) believes that rape crimes are largely unreported due to the very low conviction rate for rape crimes, such as in a recent 2022 case where a convicted rapist was freed after agreeing to marry his victim.[69] Due to the lack of an exception for rape victims, many victims will resort to unsafe abortion practices or proceed with an unintended pregnancy.

(34) The law is also unclear on whether health providers can legally perform abortion on minors. Girls in Pakistan are particularly vulnerable due to common child sexual abuse and child marriage practices. An NGO in Pakistan has recorded more than 2,000 cases of child sexual abuse from January to June of 2023 where more than half of the victims were girls.[70] According to UNICEF, an estimated "18.9 million girls in Pakistan marry before the age of 18 and 4.6 million marry before 15" and "married girls are often forced into dangerous pregnancies at a young age."[71]

(35) Adolescent girls have a right to sexual and reproductive health services. The CRC stated that the development and implementation of programs to provide access to sexual and reproductive health services must include "safe abortion practices where abortion is not against the law."[72] This Committee has also noted in General Comment 22 that to prevent unintended pregnancies and unsafe abortions, States should "liberalize restrictive abortions laws" and "guarantee ... girls access to safe abortion services."[73]

(36) Lastly, although the Pakistani government has adopted some policy measures to service providers, such as

---

[67] Guttmacher Institute, *Unintended Pregnancy and Induced Abortion in Pakistan*, Jan 2015, https://www.guttmacher.org/fact-sheet/unintended-pregnancy-and-induced-abortion-pakistan [last accessed 4 Dec 2023].

[68] Human Rights Commission of Pakistan, *State of Human Rights in 2022*, 2023, p. 23, https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2023-State-of-human-rights-in-2022.pdf [last accessed 8 Dec 2023].

[69] War Against Rape (WAR), *FACTSHEET: Sexual and Gender-Based Violence*, 2021, http://war.org.pk/wp-content/uploads/2022/05/WARs-SGBV-Factsheet-Jan-2020-to-Dec-2021-1.pdf [last accessed 8 Dec 2023]; Haroon Janjua, *Anger as Pakistan court frees rapist after he agreed to marry his victim,* The Guardian, 30 Dec 2022, https://www.theguardian.com/global-development/2022/dec/30/pakistan-court-frees-rapist-after-he-agrees-deal-to-marry-his-victim [last accessed 8 Dec 2023].

[70] Abid Hussain, *A child was sexually abused every two hours in Pakistan, NGO says*, Al Jazeera, 25 Aug. 2023, https://www.aljazeera.com/news/2023/8/25/a-child-was-sexually-abused-every-two-hours-in-pakistan-this-year-ngo-says [last accessed 4 Dec 2023]; Jahanzaib Yasin, *In Pakistan, 12 children sexually abused per day in first half of 2022*, The Express Tribune, 15 Sept 2022, https://tribune.com.pk/story/2376831/in-pakistan-12-children-sexually-abused-per-day-in-first-half-of-2022 [last accessed 4 Dec 2023].

[71] Human Rights Watch, *World Report 2023: Pakistan*, 2023, https://www.hrw.org/world-report/2023/country-chapters/pakistan#723967 [last accessed 4 Dec 2023].

[72] Committee on the Rights of the Child, *General Comment No. 4 (2003) on Adolescent Health and Development in the Context of the Convention on the Rights of the Child*, para 27, CRC/GC/2003/4, 1 July 2003; Pakistan ratified the Convention on the Right of the Child on November 12, 1990.

[73] CESCR, *General Comment No. 22, supra* note 52, at para 28.

recommended methods for first trimester abortions and service providers' obligations to women and girls,[74] the guidelines are not legally binding and have only been shared with service providers.[75] By not letting the public know about these policy measures, women are unaware of the quality of abortion services they should receive from service providers.[76]

III) Stigma in medical settings surrounding abortion hinders women's access to sexual and reproductive health

(37) Women are unable to enjoy their right to the "highest standard of physical and mental health" guaranteed under the Covenant due to stigma surrounding abortion within healthcare settings.[77] According to General Comment 22, "[l]aws, policies and programmes, including temporary measures, are required to prevent and eliminate discrimination, *stigmatization* [emphasis added], and negative stereotyping that hinder access to sexual and reproductive health."[78] Further, "States must ensure that individuals are not subject to harassment for exercising their right to sexual and reproductive health."[79] Pakistan's National Service Delivery Standards and Guidelines acknowledge the "high levels of stigma", which, in turn, leads women and girls to "resort to clandestine and unsafe abortion procedures."[80] Some doctors display abusive or coercive behavior, and tend to act as a "morality police" to deter women from seeking the care they want and need.[81]

(38) Within States parties' obligation to protect the right of everyone to sexual and reproductive health are the specific obligations to "take measures to prevent third parties from directly or indirectly interfering with the enjoyment of the right to sexual and reproductive health"[82] and to "monitor and regulate the conduct of non-State actors to ensure that they do not violate the equal right of men and women."[83]

(39) While Pakistan's second periodic report asserts that there is "no restriction on providing post-abortion care services at both public and private sector health facilities,"[84] stigma persists in these settings, deterring many women in need of care, particularly induced abortion care.[85] The State's claim also ignores the fact that women in Pakistan are forced to seek unsafe and clandestine abortions, putting their lives and health at risk.[86]

---

[74] Center for Reproductive Rights, *Joint Submission to Universal Periodic Review of Pakistan*, 13 July 2022, para 13, https://reproductiverights.org/wp-content/uploads/2022/07/pakistan-UPR-submission-july-2022.pdf [last accessed 3 Dec 2023].
[75] *Id.*
[76] *Id.*
[77] CESCR, Article 12.1.
[78] CESCR, *General Comment No. 22, supra* note 52, at para 31.
[79] *Id.*
[80] Ministry of National Health Services, Regulations and Coordination (Gov't of Pakistan, Islamabad), *supra* note 64.
[81] Interview with abortion research and advocacy professional in Pakistan, October 2023.
[82] CESCR, *General Comment No. 22, supra* note 52, at para 42.
[83] CESCR, *General Comment No. 16: The Equal Right of Men and Women to the Enjoyment of All Economic, Social and Cultural Rights (Art. 3 of the Covenant)*, E/C.12/2005/4, 2005, para 19-20.
[84] CESCR, *Second periodic report submitted by Pakistan under articles 16 and 17 of the Covenant, supra* note 1, at para 166.
[85] Ministry of National Health Services, Regulations and Coordination (Gov't of Pakistan, Islamabad), *supra* note 64, at p. 3.
[86] *Id.*

(40) It is well-documented that health care providers have "negative attitudes towards women seeking [post-abortion care] and are reluctant to treat these women."[87] Thus, women are not able to enjoy their right to scientific advancements in abortion and post-abortion care as required by Article 15 under the Covenant. Women often seek less qualified practitioners, and in turn, may face adverse health effects.[88] Access to post-abortion care cannot be realized without qualified, skilled medical professionals' willingness to provide it.[89]

(41) In its second periodic report, Pakistan describes health professionals' "capacity building trainings" aimed at helping them "overcome the stigma surrounding abortion and teach them about abortion's legal status and empower women to decide upon the number and spacing of births."[90] However, many health providers are not aware of what the law is, and, if they are, still put their moral or religious values above providing comprehensive care to women.[91]

IV) The lack of access to abortion pills violates the right to benefit from progress in science.

(42) In General Comment 25, the Committee explained that to ensure the right to sexual and reproductive health "States parties must ensure access to up-to-date scientific technologies necessary for women in relation to this right."[92] The Committee further interpreted State obligations to include ensuring "access to modern and safe forms of contraception, including emergency contraception, medication for abortion, assisted reproductive technologies, and other sexual and reproductive goods and services."[93] Therefore, Pakistan is obligated to ensure access to abortifacients, such as mifepristone and misoprostol.[94]

(43) Inclusion in the National Essential Medicines List is one important component of ensuring that quality abortifacients are available.[95] Although mifepristone and misoprostol are listed in the 2023 National Essential Medicines List, reflecting the WHO list,[96] they are classified as drugs with limited use "where permitted under national law and where culturally acceptable," and therefore in practice they are not available together in Pakistan.[97]

(44) While the use of misoprostol to induce abortions has become prominent in Pakistan and is used in public

---

[87] Marina Baig, *supra* note 46, at p. 23.
[88] *Id.*
[89] *Id.*
[90] CESCR, *Second periodic report submitted by Pakistan under articles 16 and 17 of the Covenant, supra* note 1, at para 169.
[91] Ministry of National Health Services, Regulations and Coordination (Gov't of Pakistan, Islamabad), *National Service Delivery Standards and Guidelines for High-Quality Safe Uterine Evacuation/Post-Abortion Care*, March 2018, p. 3.
[92] CESCR, *General Comment No. 25, supra* note 57, at para 33.
[93] *Id.*
[94] *Id.*
[95] WHO Guidance, *Global Abortion Policies Database*, *Country Profile: Pakistan,* 18 Dec 2023, https://abortion-policies.srhr.org/country/pakistan/ [last accessed on 22 Dec. 2023].
[96] *Id.*
[97] Listed use for misoprostol includes by tablet, "management of incomplete abortion and miscarriage" and "prevention and treatment of postpartum hemorrhage where oxytocin is not available, and by vaginal tablet, "only for use of induction of labour." *See* Pakistan Essential Medicine List, 2023, p. 53, https://www.dra.gov.pk/wp-content/uploads/2023/10/WHO-Essential-Medicines-List-02.10.2023.pdf [last accessed on 3 Dec 2023]; Zeba Sathar, *supra* note 25, at pp. xv.

teaching hospitals, private health facilities and by community level providers, mifepristone is not available separately nor in combination packs with misoprostol.[98] Moreover, in general, health facilities in Pakistan are not sufficiently equipped and staff is not properly trained to provide adequate post-abortion care.[99]

(45) If Pakistan is to properly discharge its obligations under the Covenant, abortifacients and safe sexual and reproductive care must be not only administered in professional settings by obstetricians, gynecologists and physicians, but also by a wider range of trained health care professionals, including nurses and midwives, and community health workers.[100] Especially in rural areas, stigma around abortions prevents women from seeking safe abortion procedures in hospitals.

(46) Inconsistency in practicing mandates for healthcare workers is an issue in that regard. For example, Ipas, a nongovernmental organization (NGO) working globally to increase women's ability to exercise their sexual and reproductive rights and to reduce deaths and injuries from unsafe abortion,[101] campaigned with the Pakistan Nursing Council for the inclusion of misoprostol in the midwifery curriculum.[102] Given the non-surgical and less-skilled nature of drug administration, they agreed and endorsed the inclusion of misoprostol in September 2013.[103] However, after 2017, progress related to training healthcare providers preferred by women in rural and urban/peri-urban slums stalled and has not yet resumed.[104]

(47) It should be noted that the government of Punjab, one of Pakistan's states, procured 10 million misoprostol tablets for post-abortion care in 2015-2016.[105] However, with continuing high rates of unsafe, clandestine abortions, much more needs to be done.

V) Lack of adequate contraception and family planning violates women's human rights and leads to unsafe abortions

(48) In the concluding observations on the initial report of Pakistan, this Committee recommended the State "take effective measures to empower women to decide upon the number and spacing of births."[106] Family planning is essential for achieving this objective.

(49) Unintended pregnancy is high in Pakistan because too many women are not using modern methods of contraception.[107] Only 34% of married women are using contraceptives,[108] and when women do use contraceptives, 30% discontinue their use within 12 months.[109]

---

[98] *Id.*
[99] *Id.*
[100] World Health Organization (WHO), *Health worker roles in providing safe abortion care and post-abortion contraception*, 2015.
[101] https://www.ipas.org/ [last accessed 8 Dec 2023].
[102] Anand Cerillo Sharma, *supra* note 14.
[103] *Id.*
[104] *Id.*
[105] Engender Health, *Pakistan: PAC-FP Country Brief, supra* note 29.
[106] CESCR, *Concluding observations on the initial report of* Pakistan, *supra* note 61, at para 78(d).
[107] Guttmacher Institute, *Unsafe Abortion and Postabortion Care In Pakistan*, *supra* note 58.
[108] Betsy Joles, *supra* note 15.
[109] National Institute of Population Studies, *Pakistan Demographic and Health Survey*, *supra* note 26, at p. 113.

(50) In Pakistan, only 19% of women are informed about alternative methods of contraceptives available, possible side effects and what to do if side effects occur.[110] General Comment 22 addressed the need for "information accessibility" related to sexual and reproductive health.[111] All people "have the right to evidence-based information on all aspects of sexual and reproductive health, including... contraceptives [and] family planning..."[112] It is particularly important for women to be adequately informed about contraception after childbirth.[113]

(51) When contraception interventions occur in Pakistan, women receive little to no follow-up on how to use them.[114] Oftentimes, healthcare workers do not have sufficient knowledge or information concerning family planning and contraceptives to share with women.[115] This may contribute to the fact that modern contraceptive use among married women has stagnated in recent years.[116] However, General Comment 22 indicates that for goods or information and services to be of respectable quality, "trained and skilled health-care personnel" are required.[117]

(52) According to Article 15.1.b of the Covenant, Pakistan must "recognize the right of everyone to enjoy the benefits of scientific progress and its applications." Modern contraceptive options are continuing to evolve and improve. Therefore, Pakistani women should have a variety of contraceptive options depending on their preferences and circumstances.[118] In the concluding observations on the fifth periodic report of Pakistan, the CEDAW Committee expressed concern over "women's limited access to family planning services, including modern contraceptives."[119]

(53) High levels of an unmet need for contraception and low levels of contraceptive use put women and girls at particular risk for unintended pregnancies.[120] This Committee, in the concluding observations on Pakistan's initial report, advised the government to "improve women's and men's access to sexual and reproductive health information and services, including by making contraceptives available and accessible to all…"[121]

(54) Pakistan's Demographic and Health Survey (2017-2018) acknowledged that family planning methods "helps women avoid unintended pregnancies and reduces risks of unsafe abortions."[122] However, the percentage of

---

[110] *Id.*
[111] CESCR, *General Comment No. 22, supra* note 52, at para 18.
[112] CESCR, *General Comment No. 22, supra* note 52, at para 18.
[113] Diaa Hadid & Abdul Sattar, *supra* note 15.
[114] Anmol Irfan, *Illegal back-alley abortions and reproductive rights in Pakistan*, The New Arab, 17 June 2022, https://www.newarab.com/features/why-pakistans-abortion-laws-need-be-better-understood?amp [last accessed 6 Dec 2023].
[115] *Id.*
[116] National Institute of Population Studies, *Pakistan Demographic and Health Survey*, *supra* note 26, at p. 113.
[117] CESCR, *General Comment No. 22, supra* note 52, at para 21.
[118] Erica Cahill & Simranvir Kaur, *Advances in contraception research and development*, Current Opinion in Obstetrics and Gynecology, vol. 32(6), Dec 2020, p. 393, https://journals.lww.com/co-obgyn/abstract/2020/12000/advances_in_contraception_research_and_development.4.aspx [last accessed 6 Dec 2023].
[119] CEDAW, *Concluding observations on the fifth periodic report of Pakistan*, CEDAW/C/PAK/CO/5, 2020, para 44.
[120] Ministry of National Health Services, Regulations and Coordination (Gov't of Pakistan, Islamabad), *supra* note 91.
[121] CESCR, *Concluding observations on the initial report of* Pakistan, *supra* note 61, at para 78(d).
[122] National Institute of Population Studies, *Pakistan Demographic and Health Survey*, *supra* note 26, at p. 113.

unintended pregnancies that ended in abortion in Pakistan increased from 30%, in 1990-1994, to 61% in 2015-2019.[123]

(55) To ensure the enjoyment of the highest attainable standard of physical and mental health under Article 12 of the Covenant, Pakistan must implement comprehensive and effective family planning strategies. Family planning can help prevent women from experiencing health implications from pregnancy, such as gestational diabetes or miscarriages. More importantly, it can prevent the need for unsafe abortions and reduce maternal mortality.[124] In 2013 in Pakistan, an estimated 696,000 women were treated for postabortion complications.[125] Yet, many of these cases could have been prevented through contraceptive use and family planning.

RECOMMENDATIONS

(56) We respectfully recommend the Committee to include at least one of the following questions in the List of Issues it will prepare for Pakistan.

1. Please explain what steps Pakistan intends to take to ensure availability and access to abortion and post-abortion care by all women.

2. Please explain what steps Pakistan intends to take to decriminalize abortion or, at a minimum, expressly include exceptions for rape and incest.

3. Please explain what steps Pakistan intends to take to address the high abortion rate in the State.

4. Please explain what steps Pakistan intends to take to increase the use of, and continued use of, contraception and family planning services.

5. Please explain what steps Pakistan intends to take to address stigma in healthcare settings surrounding abortion.

6. Please explain what steps Pakistan intends to take to improve data collection and monitoring infrastructure of women's sexual and reproductive health.

7. Please provide up-to-date data on the incidence of abortion and its related morbidity and mortality.

---

[123] Guttmacher Institute, *Country Profile: Pakistan*, *supra* note 16.

[124] The Medical City (TMC), *Importance of Family Planning*, 4 May 2020, https://www.themedicalcity.com/news/family-planning-basic-human-right#:~:text=Family%20planning%20helps%20protect%20women,%2C%20infections%2C%20miscarriage%20and%20stillbirth. [last accessed 28 Nov 2023].

[125] Ministry of National Health Services, Regulations and Coordination (Gov't of Pakistan, Islamabad), *supra* note 91.