Unsafe Abortion on in Humanitarian Emergencies, June 2015

Unsafe abortion accounts for approximately 13% of the global burden of maternal mortality, or an estimated 47,000 maternal deaths, and 5 million hospitalizations per year. 1 The World Health Organization (WHO) defines unsafe abortion as ‘a procedure for terminating a pregnancy performed by persons lacking the necessary skills or in an environment not in conformity with minimal medical standards, or both.’ 2 3 The general lack of access to safe abortion and post-abortion care in emergencies means that women and girls who seek abortion risk preventable infections and injuries. Refugees and internally displaced persons (IDPs) are particularly vulnerable to unintended pregnancies and unsafe abortions as a result of increased sexual violence, along with disruptions or absence of health services, including family planning (FP), safe abortion care (SAC), and post-abortion care (PAC). 4 5 UNFPA estimates that 25-50% of maternal deaths in refugee settings are due to complications of unsafe abortion. 6

Myanmar

The Myanmar Ministry of Health reports that the maternal mortality ratio is 123 deaths per 100,000 live births in urban areas and 157 in rural areas. 7 Major international health organizations estimate that the number may be closer to 200. 8 In eastern Myanmar, a part of the country heavily affected by ongoing conflict, the maternal mortality ratio is estimated to be 721 deaths per 100,000 live births. 9 Regionally, 13% of maternal deaths are due to complications of unsafe abortion, with the unsafe induced abortion rate for South East Asia at 22 per 1,000 women aged 15-44. 1

An estimated 1 in 3 pregnancies in Myanmar ends in abortion. 8 Complications of unsafe abortion are a leading cause of maternal mortality, and the Ministry of Health has recognized unsafe abortion as one of the top 10 national health problems. 10 11 A recent UNICEF study suggests that abortion-related sepsis accounts for approximately 10% of maternal deaths. 10

The burden of unsafe abortion-related complications is especially high among the displaced, cross-border, refugee, and migrant populations in Myanmar and in neighboring Thailand. 7 12 Women in these communities face heightened risk of both unintended pregnancy and unsafe abortion due to a lack of skilled reproductive health providers, shortages of contraceptives and other supplies, as well as distrust of government health providers. 7

The Myanmar Penal Code criminalizes abortion except to save the life of the woman:

**Article 312**: Whoever voluntarily causes a woman with child to miscarry shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment for a term which may extend to 3 years, or with fine, or with both; and, if the woman be quick with child, shall be punished with imprisonment for a term which may extend to 7 years, and shall also be liable to fine.

**Article 313**: Whoever commits the offense defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be punished with transportation for life, or with imprisonment for a term which may extend to 10 years, and shall also be liable to a fine.

**Article 315**: Whoever, before the birth of any child, does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment for a term which may extend to 10 years, or with fine, or with both. 11

While international and community-based organizations provide reproductive health services in crisis-affected areas of Myanmar, few offer safe abortion care. Some providers are known to refer women to facilities in Thailand, where abortion access is permitted for a broader range of reasons. However, a study noted that such referrals did not guarantee access to SAC. For example, justification for abortion in the case of rape requires the involvement of Thai law enforcement. 7 A recent pilot project sought to formalize this referral process and educate community partners on Thai abortion law, options counseling for unintended pregnancy, as well as the steps to refer clients for SAC. 12

With limited access to skilled providers, induced abortions are usually provided by traditional birth attendants, family members, or women themselves. Common methods include abdominal massage, modern and traditional medications, and insertion of objects into the vagina. 11 Anecdotal reports suggest that misoprostol is used for medical abortion, although the prevalence of this practice is unknown. Women seeking abortion represent a variety of backgrounds, ages and other characteristics. They include unmarried adolescents and older married women, many of whom already have children. 7

In Myanmar, the practice of abortion is surrounded by stigma and disapproval. Buddhist religious beliefs contribute to such attitudes, and some communities actively discourage abortion through methods such as requiring public apologies or fines from women who have obtained them. 7

**Legal Grounds for Abortion**

**In Myanmar, an abortion may be performed:**

- To save the life of the woman
- To preserve mental health 11
- To preserve physical health
- In cases of rape or incest
- In cases of fetal impairment
- For economic or social reasons

**Across the Border:**

**LEGAL ABORTION IN THAILAND**

In Thailand, abortion is allowed to preserve a woman’s physical or mental health, and in cases of rape, incest, and fetal impairment. The rape justification also extends to all girls under age 15, the age of consent, who request abortion. However, only a physician can provide abortion, and a second physician must certify an abortion’s legality. Due to the limited number of facilities staffed by physicians with the necessary certification to provide SAC, access to abortion is constrained in much of the country. 7 Shortfalls in facilities, supplies and providers are particularly acute in areas bordering Myanmar. 7

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Influences on Safe Abortion Provision in Myanmar

**International Law**

**Human Rights Law** The international community recognized the need to address unsafe abortion at the 1994 International Conference on Population and Development (ICPD) in Cairo, Egypt (Principle 8).25 And numerous international human rights treaties uphold rights relevant to SAC access: Universal Declaration of Human Rights - “right to life, liberty and security of person” (Articles 2 & 3);22 International Covenant on Civil and Political Rights - “right to privacy” (Article 17);23 International Covenant on Economic, Social and Cultural Rights - “right to health” (Article 12.1);24 Convention on the Elimination of All Forms of Discrimination Against Women - “right to decide on the number and spacing of their children” (Article 16.1).26

**Humanitarian Law** Article 3 of the Geneva Conventions, which covers the rights of the “wounded and sick” during armed conflicts has been interpreted to include the availability of SAC as part of rightful medical care for women who have been raped.27 This article and its elaborations are considered customary international law and binding to all actors in a conflict situation. Denial of safe abortion to a rape victim can be considered in violation of her rights to care and human treatment.28 Medical providers caring for rape survivors during armed conflicts are immune from prosecution under domestic law.29 In 2013 the UN Security Council unanimously adopted Resolution 2106 (later reinforced by Resolution 2122), which cites the “need for access to the full range of sexual and reproductive health services, including regarding pregnancies resulting from rape, without discrimination.”20

**National Law**

According to the **Penal Code** of Myanmar, induced abortions are legal only to save the life of the mother.30 In neighboring Thailand, the law pertaining to abortion is less restrictive.

**On-the-ground Practices**

Unsafe abortion is widespread and one of the major causes of maternal mortality and morbidity in Myanmar. While there are many international and community-based organizations providing RH and PAC services in crisis-affected regions of Myanmar, few provide SAC. Some provide referrals to facilities in Thailand, although SAC services are weak on both sides of the Myanmar-Thailand border.

**Humanitarian Guidelines** The Inter-Agency Field Manual on Reproductive Health in Humanitarian Settings includes a specific chapter on Comprehensive Abortion Care,23 and the WHO/UNHCR Clinical Management of Rape Survivors manual for refugees and IDPs includes the delivery of safe abortion information and options whenever possible.24

**Donor Policies: U.K. and U.S. Aid**

**U.K.** The UK has stated that it expects all recipients of UK humanitarian aid to treat survivors of rape during conflict according to international humanitarian law rather than national law.20 DFID, the UK’s development assistance agency, has indicated that it will support initiatives to improve the quality and safety of abortion services to the extent that they are legally permitted, as well as certain locally-led efforts to enable legal and policy reform in settings where restrictions on abortion contribute to high maternal mortality and morbidity.22

**U.S.** The 1973 **Helms Amendment** forbids the use of U.S. foreign aid funds “to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions.”23 Provision of abortion for non-FP reasons is not forbidden by the Helms Amendment. However, administrative policy within the United States Agency for International Development (USAID) effectively prohibits the use of U.S. government funds to provide abortion services under any circumstances.22 Under the Helms Amendment, an organization can use funding from other sources to provide SAC and organizations are permitted to provide information or counseling on pregnancy options as “consistent with local law.”27 The Helms Amendment does not restrict provision of PAC.27 If an organization does not receive U.S. government funds, the Helms Amendment does not apply to its activities. The **Mexico City Policy**, also known as “the Global Gag Rule,” was repealed in 2009. When in place, it barred non-U.S.-based USAID grantees from engaging in abortion-related activities, including with funds from other sources.29

For more on legal and other barriers to safe abortion, visit IPPF’s **Access to Safe Abortion** tool: http://ippf.org/sites/default/files/access_to_safe-abortion.pdf

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29 Obana, B. Mexico City Policy and Assistance for Voluntary Population Planning: Memorandum to Secretary of State. 2009. [http://1.usa.gov/15vF7k](http://1.usa.gov/15vF7k)

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