SAFE ABORTION IN EMERGENCIES: PAKISTAN

Unsafe Abortion 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 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).3 UNFPA estimates that 25-50% of maternal deaths in refugee settings are due to complications of unsafe abortion.4

Pakistan

In Pakistan, the maternal mortality ratio is 170 maternal deaths per 100,000 live births.5 13% of maternal deaths in the South Central Asia region are due to complications of unsafe abortion.6 Hospital studies in Pakistan have found that 11%-15% of maternal deaths were caused by abortion-related complications.5 The estimated induced abortion rate is 50 per 1,000 women aged 15-49 per year (approximately 2,250,000 induced abortions each year), a marked increase from 29 per 1,000 women in 2002 (though some of the change may be attributed to the inclusion of private facilities in the most recent study).7,8 Induced abortion rates are highest in Sindh and Balochistan provinces, where contraceptive prevalence is among the lowest in the country at 24.5% and 16% respectively.9 In 2012, 623,000 women sought medical assistance for complications of induced abortion in Pakistan.10

The section of the Pakistan Penal Code pertaining to abortion was revised in 1990. Abortion is currently permitted for “necessary treatment” during the first four months of pregnancy, as well as to save the life of the woman. Abortions performed outside these conditions are punishable by a fine or prison sentence (3 to 10 years).10 These legal conditions represent an attempt to align national law with Islamic law, specifically the Hanafi school of thought, which defines pregnancy in two stages: the first 4 months of pregnancy, and after, with acceptable grounds for abortion narrowing in the latter stage:

**Article 338:** Whoever causes a 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-haml.”

**Article 338-B:** 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-jaan.”11

While data are incomplete, studies consistently find that the average age for women seeking an abortion is close to 30 years, and most are married with children.12 The most common reasons women give for obtaining an abortion are having their desired number of children, not being able to afford another child, and currently having infant children.13 Abortion care in Pakistan has long been characterized by inequity, with wealthier urban populations having more access to and ability to pay for higher quality care than poorer and rural populations: in 2012, an estimated 48% of poor rural women’s abortions were performed by a skilled health provider, such as a doctor, nurse or midwife, in contrast to 88% of non-poor urban women.12 However, the most recent study from Population Council suggests that this gap may be starting to narrow, noting an overall trend towards seeking care from formally trained providers.14 Medical abortions and manual vacuum aspiration (MVA), less risky than the more invasive options used a decade ago, now account for a substantial and increasing proportion of all abortion procedures.15 Although mifepristone and misoprostol are readily available by prescription, neither is registered for medical abortion in Pakistan.14

Although SAC is included in medical residency training, few government facilities readily provide SAC services.7 While private facilities perform 62% of abortions, few facilities and providers, whether public or private, are equipped or adequately trained in best practices.8

Awareness of current abortion law is low among both the public and health providers.15 In addition, health providers often choose not to perform abortions due to religious or personal beliefs, or fear of stigma and prosecution. One study found that while most providers held unfavorable attitudes towards abortion, 85% agreed that it was permissible to save a woman’s life, and significant majorities agreed that it should be permitted in cases of rape or detection of a fetal anomaly, circumstances that are beyond the scope of current law.12

Although some providers insist on obtaining second opinions or medical board approvals prior to performing abortions, such verification procedures are not required under current law. Notably, in 1984, the Federal Shariat Court declared that the state has the burden of proving an illegal abortion was provided, and evidence beyond “simple medical evidence” and “the presence of a dead fetus” is required.11

Legal Grounds for Abortion

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<th>In Pakistan, an abortion may be performed:</th>
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<tr>
<td>To save the life of the woman</td>
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<td>To preserve physical health</td>
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<td>To preserve mental health*</td>
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<tr>
<td>In cases of rape or incest</td>
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<td>In cases of fetal impairment</td>
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<td>For economic or social reasons</td>
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<td>On request</td>
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*During the first four months of pregnancy
Influences on Safe Abortion Provision in Pakistan

On-the-ground Practices

Aborted women are provided by both formally trained medical personnel and traditional practitioners. However, great stigma surrounds abortion and providers may not perform abortions due to personal beliefs or fear. Moreover, equipment and training are largely inadequate to follow best practices. In 2010, the Asia Safe Abortion Partnership, the Dutch NGO Women on Waves, and Pakistani women’s organizations launched a hotline to provide women with information on medical abortion.

Humanitarian Guidelines

The Inter-Agency Field Manual on Reproductive Health in Humanitarian Settings includes a specific chapter on Comprehensive Abortion Care, 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.

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.25 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.29

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.”30 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.28 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.”30 The Helms Amendment does not restrict provision of PAC. 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. In the place it, barred non-U.S.-based USAID grantees from engaging in abortion-related activities, including with funds from other sources.31

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

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), 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); International Covenant on Civil and Political Rights – “right to privacy” (Article 17.1); International Covenant on Economic, Social and Cultural Rights – “right to health” (Article 12.1); 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).31

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.22 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 survivor can be considered in violation of her rights to care and humane treatment.25 Medical providers caring for rape survivors during armed conflicts are immune from prosecution under domestic law.24 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.”27

National Law

According to the Pakistan Penal Code, induced abortions are illegal for “necessary treatment” during the first 4 months of pregnancy, and to save the life of the mother any time during pregnancy.29

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