Joint Submission to Universal Periodic Review of Pakistan

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Center for Reproductive Rights

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The Center for Reproductive Rights is a global human rights organization using the power of the law to advance reproductive rights as fundamental rights around the world.

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Aahung is a Karachi-based NGO which has been working to improve the sexual and reproductive health and rights of men, women and children in Pakistan since 1995.

CENTER *for* REPRODUCTIVE RIGHTS

AAHUNG

1. The Center for Reproductive Rights ("Center") and Aahung present this joint submission to supplement the report of the Government of Pakistan (the Government) scheduled for review in the 42nd session of the Human Rights Council. This submission focuses on the Government's obligations to protect and promote sexual and reproductive rights. Specifically, the submission highlights: (1) the persistently high rates of maternal mortality and morbidity; (2) barriers to accessing safe abortion services and post-abortion care; and (3) violations of adolescents' sexual and reproductive rights.

I. PERSISTENTLY HIGH RATES OF MATERNAL MORTALITY AND MORBIDITY

2. United Nations treaty monitoring bodies have stated that states are required not only to reduce maternal mortality, but also ensure that health services meet the distinct needs of women and are inclusive of marginalized and vulnerable sectors of society.[1] According to the most recent maternal mortality survey conducted in Pakistan in 2019, Pakistan's maternal mortality rate (MMR) stands at 186 deaths per 100,000 live births. While this is an improvement from the maternal mortality rate in the previous survey conducted in 2006-7 (276 per 100,000 live births),[2] it is still unacceptably high and indicates that hundreds of women die every year during pregnancy and childbirth due to preventable causes. The World Bank has found that Pakistan remains among the top ten countries in the world accounting for the most maternal deaths, with 8,300 women dying of pregnancy related causes in Pakistan every year.[3] Thousands more face debilitating maternal morbidities due to non-availability of quality and affordable maternal healthcare.

3. Furthermore, Pakistan's data collection on maternal mortality may underestimate maternal mortality ratio as the health information systems have a number of shortcomings.[4] For example, the District Health Information System (DHIS) does not incorporate data collected by Lady Health Workers, a cadre of health workers trained by the government to provide primary health services.[5] The Demographic Health Surveys also have limitations as they rely on household censuses with a small sample size, leading to underestimates of deaths.[6] As will be discussed in the following section, high maternal mortality persists due to a number of factors including the weak implementation of maternal health services and programs.

Limitations of Maternal Health Services and Programs.

4. The CEDAW Committee obligates states "to take appropriate legislative, judicial, administrative, budgetary, economic and other measures to the maximum extent of their available resources to ensure that women realize their rights to health care,"[7] and links high maternal mortality and morbidity rates with a failure to do so.[8] The Government has introduced a series of health policies designed to improve maternal health, such as the Maternal, Newborn and Child Health (MNCH) Program of 2005, which focuses on improving accessibility of quality health services and strengthening existing district health systems. [9] In addition, some provinces have adopted Health Sector Strategies, which also contain commitments pertaining to maternal

healthcare.[10] The implementation of these policies remains weak, however, as evidenced by the persistently high rates of maternal mortality.

5. The Federal Government has also adopted the Reproductive Maternal Newborn Child and Adolescent Health and Nutrition Vision Action Plan 2016-2025, which includes the commitment to reduce new-born, child and maternal mortality and morbidity. However, the Plan does not specify any indicators, targets or budgetary commitments.[11] The Sindh Reproductive Healthcare Rights Act passed in 2019 guarantees a range of obstetric and contraception services. The law does not, however, set forth specific programs, policies or targets. Further, Rules under the Act have not been made and therefore the law remains unimplemented.

6. Obstetric fistula is a debilitating pregnancy related injury that impacts approximately 5000 women in Pakistan every year. In 2019, the Sindh High Court directed the government of Sindh to take measures to prevent and treat obstetric fistula in the constitutional petition Syed & Others v. Government of Sindh & Others (C.P. 4243 of 2015).[12] The Sindh High Court ordered the government of Sindh to establish four fistula repair centers in the province of Sindh and fill vacant gynecologist posts in government hospitals in Sindh. By December 2021, the Sindh government had established fistula repair centers that provided fistula repair surgery and also filled up to two-thirds of vacancies in gynecologist posts.[13] The Sindh government committed to filling the remaining vacancies during 2022.

7. **Disparities in maternal healthcare.**

   A deeper review of the persistently high maternal mortality ratio reveals severe disparities in access to maternal healthcare. Quality obstetric care services are beyond the reach of low-income women. A study of over 1000 cases of maternal deaths across the country found that an overwhelming majority of women and girls who died during pregnancy and childbirth were poor.[14] The Pakistan Demographic and Health Survey 2017-18 (PDHS 2017-18) shows that educational status is highly related to whether delivery is assisted by a skilled provider and whether birth is delivered in a health facility. 92% of women belonging to highest wealth quintile have birth in a healthcare facility as compared to 42% of women in the lowest wealth quintile.[15] It also found disparities in access to maternal healthcare between urban and rural women: while 81% of births to urban mothers were in a health facility, only 59% of rural women were supported by a skilled provider.[16] The latest maternal mortality survey conducted in 2019 finds that significant disparities in maternal mortality rates exist across geographical areas. The MMR is 26% higher in rural areas than in urban areas. The MMR is almost twice as high in Balochistan (298) as it is in Punjab (157).[17]

8. **Inadequate budget for health services.**

   The health system in Pakistan continues to suffer from a lack of investment by the government. Pakistan's expenditure in healthcare stands at 3.38% of the GDP.[18] Although government hospitals and basic health units exist at the district level to provide secondary and primary healthcare services, most expenditure in healthcare in Pakistan is out of pocket, and in spite of the public health infrastructure, a majority of

Pakistan's population relies on private healthcare facilities and providers.[19] Expanding maternal health services and modern contraceptive usage in Pakistan would require additional investment, but the savings accrued due to fewer unintended pregnancies and improved maternal health would offset the additional costs.[20] A 2019 study estimates that if all women wanting to avoid pregnancy used modern contraceptives and all pregnant and newborn persons received recommended care, the country would save USD 152 million.[21]

9. **Barriers To Accessing Contraception.**

The CEDAW Committee has recognized that lack of access to contraceptives contributes to maternal mortality by denying women the ability to prevent unwanted pregnancies and by exposing them to the risk of pregnancy complications as well as unsafe abortion complications.[22] The unmet need for contraception among women remains high in Pakistan: 17% of currently married women have an unmet need for contraception.[23] Modern contraception use in Pakistan has stagnated in recent years (26% using a modern method in 2012-13 and 25% in 2017-18).[24] There are significant disparities in contraceptive use in Pakistan. Modern contraceptive use among married women increases substantially according to wealth quintile.[25]

10. **Covid 19 and Maternal Health.**

The Covid 19 response increased barriers faced by women in accessing reproductive health services. A fact-finding study on the impact of Covid 19 on availability and access to reproductive health services in the province of Sindh conducted by the Center for Reproductive Rights and the Collective for Social Science Research found that access to obstetric care services and effective contraception was drastically undermined during the pandemic.[26] Contraceptive imports were suspended during the lockdown and stakeholders complained that global manufacturers doubled the prices of some of their products. Healthcare providers reported a significant decline in institutional deliveries during the lockdown.[27] Provision of tele-health services accelerated during Covid 19. However, there is no regulatory framework around tele-health services, making it difficult to ensure provision of quality and accessible tele-health services.[28]

II. BARRIERS TO ACCESSING ABORTION AND POST-ABORTION CARE

11. Treaty monitoring bodies have consistently recognized connection between restrictive abortion laws, high rates of unsafe abortion, and maternal mortality[29] and found that restrictive abortion laws violate many human rights, including the rights to health, life and privacy.[30] Restrictive abortion laws in Pakistan deny women their right to access safe abortion services. Abortion is criminalized under Pakistan's Penal Code unless it is to save the life of the woman or provide "necessary treatment" to a woman before the organs of the fetus have been formed.[31] The law is silent as to whether abortion on the grounds of pregnancy, incest or fetal impairment constitutes "necessary treatment." Once the organs have been formed, abortion is permitted only to save the

life of the pregnant woman.[32] Aside from these two exceptions, abortion remains criminalized, and women undergoing abortions as well as service providers are liable to criminal penalties.[33] In spite of exceptions to the criminalization of abortion in the Pakistan Penal Code, medical service providers are often reluctant to provide abortion or post-abortion care services due to personal beliefs. Studies show that medical service providers often demonstrate negative attitudes to women seeking abortion or post-abortion care services, and some providers admit to strongly "counselling" women against abortion.[34]

12. Despite the narrow legal grounds for abortion, there were an estimated 2.2 million abortions in 2012, the last year for which figures are available, and the abortion rate was 50 abortions per 1000 women aged 15-29.[35] A majority of abortions in Pakistan are clandestine, which place the health and lives of women at risk.[36] In 2012, an estimated 623,000 women were treated for complications resulting from induced abortions, the vast majority of which were performed by unqualified providers or involved traditional methods.[37]

13. The government has taken some positive policy measures to promote safe abortion services. In April 2015, the Government of Punjab issued "Service Delivery Standards and Guidelines for High Quality Safe Uterine Evacuation and Post-Abortion Care."[38] In March 2018, the Federal Government published guidelines similar to Punjab's policy.[39] The guidelines provide the recommended methods for first trimester abortions based on the World Health Organization's guidelines of 2014,[40] the skills required of the healthcare provider, and healthcare provider obligations to women and girls. However, guidelines to service providers are not legally binding and do not contain provisions regarding monitoring and accountability. Although these guidelines have been shared with service providers, they have not been disseminated to the public at large, and therefore women remain unaware of the quality of abortion services they are entitled to under the guidelines.

III. VIOLATIONS OF ADOLESCENTS' SEXUAL AND REPRODUCTIVE RIGHTS

14. The Committee on the Rights of the Child has called on states to ensure that adolescents are provided comprehensive reproductive and sexual health services and has noted that denial of such services to adolescents amounts to discrimination.[41] The 2017-18 PDHS notes that teenage pregnancy has a "profound effect on lives and health of young women."[42] The promotion of adolescent sexual health and reproductive rights in Pakistan is challenging due to a prohibitive legal and cultural environment, where "there is little acknowledgment that adolescents have sex, whether consensual or coerced, before marriage and many believe that exposure to sexuality education will incite unwanted behavior."[43] Despite the high incidence of child marriage in Pakistan, "there is also little acknowledgement that married adolescents need to be proactively prepared to meet their [sexual and reproductive health needs] and promote their well-being."[44]

15. Adolescents are not provided comprehensive sexuality education in Pakistan. Curricula in government schools exclude sexuality education and therefore young

people are denied crucial information regarding sexual and reproductive health and contraception. The education department of the province of Sindh has introduced "Life Skills Based Education" in its curriculum, which aims to raise awareness among children of child sexual abuse and gender-based violence.[45] However, it does not include content regarding prevention of sexually transmitted diseases or contraception. Other provinces in Pakistan have not yet incorporated "Life Skills Based Education" regarding sexual abuse and gender-based violence or comprehensive sexuality education in their curriculum.

Child marriage

16. The persistence of child marriage in Pakistan poses a grave risk to the reproductive health and rights of girls. Child marriage causes an array of reproductive and sexual harms for girls, as it severely compromises their sexual and reproductive health and autonomy. Eighteen percent of girls in Pakistan are married by the time they reach the age of 18.[46] The Child Marriage Restraint Act 1929, (CMRA) which is applicable in most provinces of Pakistan, does not entirely prohibit child marriages as it permits the marriage of girls above the age of 16, while setting 18 as the minimum age of marriage for boys.[47] The only province in Pakistan with independent legislation on child marriage is Sindh, which passed the Sindh Child Marriage Restraint Act (SCMRA) in 2013.[48] The SCMRA sets a uniform age minimum age as 18 for both boys and girls. The implementation of the law is severely hampered, however, by the absence of support mechanisms for girls who wish to escape child marriage.[49] There is a severe shortage of child protection institutes and shelters for girls as well as an absence of effective legal aid and psycho-social counseling.[50]

17. An increasing number of self-arranged marriages involving adolescent girls are reported in Pakistan's media.[51] These cases often involve adolescent girls in romantic relationships who leave their parents' home and marry their partners. Due to patriarchal norms, young boys and girls are unable to engage in consensual relationships outside marriage and that is one factor motivating them to escape from their families and marry. Parents of the girls often approach the police and courts to have the marriages annulled and also charge the boys or men with kidnapping or rape. Even after the police recovers the girls, no counselling or health services are provided to her. If the girls refuse to return to their parents, courts sometimes order that the girls be detained in shelters, where their freedom of movement is severely hampered.[52]

Suggested Questions to the State under Review

We respectfully request that the following questions be posed to the Government:

1. What measures are being taken by the Government to implement laws and policies to reduce the rates of maternal mortality and morbidities, including obstetric fistula?
2. What measures are being taken to eliminate disparities in access to maternal healthcare based on socio-economic status, ethnicity and geographical location?
3. What steps are being taken to regulate telehealth services and increase their availability?
4. What measures are being taken to increase contraceptive prevalence rate and reduce the unmet need for contraceptives?

5. What steps are being taken to liberalize the legal framework on access to safe abortion services and implement federal and provincial guidelines for provision of abortion and post-abortion care?
6. What measures are being taken to introduce comprehensive sexuality education in schools in Pakistan?
7. What measures are being taken to implement protection services and mechanism for young persons, especially girls, vulnerable to child marriage?

Proposed Recommendations to the State under Review by Member States

1. Implement maternal health policies and programs that increase availability and access for women, particularly from poor socio-economic backgrounds, rural areas and marginalized ethnic groups, including without limitation, the Reproductive Maternal Newborn Child and Adolescent Health and Nutrition Vision Action Plan 2016-2025 and the Sindh Reproductive Healthcare Rights Act 2019.
2. Implement policies to reduce the unmet need for contraceptives and increase availability of modern methods of contraception.
3. Enforce regulations for telehealth services and increase their availability for women and girls seeking reproductive health services.
4. Take concrete measures to liberalize the legal framework on abortion and effectively implement policies and guidelines to ensure availability of safe abortion services and post-abortion care.
5. Take concrete measures to remove barriers to adolescents' access to sexual and reproductive health services by:
    i. Ensuring adolescents access to comprehensive sexuality education;
    ii. Address social and cultural taboos that prevent adolescents from accessing reproductive health services;
    iii. Ensure availability of support and protection mechanisms for girls who are victims of child marriage.

[1] *See e.g.* Alyne de Silva v. Brazil, CEDAW Committee Comm'n No. 17/2008 para 7.5 UN Doc. CEDAW/C/49/D/17/2008 (2011).
[2] National Institute of Population Studies, *Pakistan Maternal Mortality Survey 2019* at 23, *available at* https://dhsprogram.com/pubs/pdf/PR128/PR128.pdf
[3] World Bank, *Number of maternal deaths* (2017), *available at* https://data.worldbank.org/indicator/SH.MMR.DTHS?most_recent_value_desc=false.
[4] Jasmin Anwar et al., *Under-estimation of maternal and perinatal mortality revealed by an enhanced surveillance system: enumerating all births and deaths in Pakistan*, 18 BMC PUBLIC HEALTH 428 (2018), *available at* https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5880001/.
[5] *Id.*
[6] *Id.*
[7] CEDAW Committee, *Gen. Recommendation No. 24* on Women and Health, para 17, U.N. Doc.A/54/38 (1999).
[8] See e.g. CEDAW Committee, *Concluding Observations: Bolivia*, para.43 U.N. Doc CEDAW/C/BOL/CO/4 (2008).
[9] Research and Advocacy Fund, *Maternal and Newborn Health: the Policy Context in Pakistan* available at https://assets.publishing.service.gov.uk/media/57a08ab9e5274a27b200071b/MNH-PolicyContextPakistan.pdf .
[10] *See e.g.* Government of Punjab, Punjab Health Sector Strategy 2019-28; Government of Sindh, Sindh Health Sector Strategy 2012-20.
[11] Reproductive Maternal Newborn Child and Adolescent Health and Nutrition Vision Action Plan 2016-2025 available at https://www.unicef.org/pakistan/media/1276/file/National%20Vision%202016-2025.pdf
[12] Center for Reproductive Rights Factsheet, *Syed & Others v. Sindh*, available at https://reproductiverights.org/wp-content/uploads/2022/01/20220110_Syed-vs-Sindh-Factsheet-Update_v2.pdf
[13] *Id.*
[14] Pakistan Initiative for Mothers and Newborns, *Deaths of Women of Reproductive Age* (2010) available at https://knowledgecommons.popcouncil.org/cgi/viewcontent.cgi?article=1116&context=departments_sbsr-rh
[15] National Institute of Population Studies, *Pakistan Demographic and Health Survey (2017-18)*, 159, available at https://dhsprogram.com/pubs/pdf/FR354/FR354.pdf [hereinafter PDHS 2017-18).
[16] *Id.*
[17] National Institute of Population Studies, *Pakistan Maternal Mortality Survey 2019* (2020), 23, available at https://dhsprogram.com/pubs/pdf/PR128/PR128.pdf
[18] World Bank, *Current Health Expenditure (% of GDP)* available at https://data.worldbank.org/indicator/SH.XPD.CHEX.GD.ZS
[19] World Bank, *Out of Pocket Expenditure (% of current expenditure)* available at https://data.worldbank.org/indicator/SH.XPD.OOPC.CH.ZS
[20] Aparna Sundaram et. al, *Adding it up: costs and benefits of meeting the contraceptive and maternal and newborn health needs of women in Pakistan*, Guttmacher Institute, September 2019 *available at* https://www.guttmacher.org/report/adding-it-up-meeting-contraceptive-mnh-needs-pakistan
[21] *Id.*
[22] CEDAW Committee, Concluding Observations: Pakistan, para. 41, U.N. Doc. CEDAW/C/PAK/CO/3 (2007).
[23] PDHS 2017-18 at 113

[24] *Id.*
[25] *Id.* at 115.
[26] Center for Reproductive Rights and Collective for Social Science Research, *Impact of Covid 19 on Sexual and Reproductive Health and Rights in Sindh* (2020) available at https://reproductiverights.org/wp-content/uploads/2020/12/Impact-of-Covid-19-on-Sexual-and-Reproductive-Health-and-Rights-in-Sindh.pdf
[27] *Id.* at 15.
[28] *Id.*
[29] Committee on Economic Social and Cultural Rights, *General Comment No. 22: On the right to sexual and reproductive health,* U.N. Doc. E/C.12/GC/22 (2016)
[30] *Mellet v. Ireland*, Human Rights Committee, Comm'n No. 2324/2013, U.N. Doc. CCPR/C/116/D/2324/2013 (2016).
[31] Pakistan Penal Code of 1860, s. 338.
[32] Pakistan Penal Code of 1860, s. 338-B
[33] Pakistan Penal Code of 1860, s. 338-A, 338-B.
[34] Sathar et. al. *Post-abortion care in Pakistan: A National Study* (2013) Population Council Islamabad
[35] Sathar et. al. *Induced Abortions and Unintended Pregnancies in Pakistan*, Studies in Family Planning, 471-491, 471 (2014).
[36] Guttmacher Institute, *Factsheet: Unintended Pregnancy and Induced Abortion in Pakistan* (2015) *available at* https://www.guttmacher.org/sites/default/files/factsheet/fb-pakistan.pdf
[37] Sathar et. al. *Induced Abortions and Unintended Pregnancies in Pakistan*, Studies in Family Planning**,** 471-491, 481 (2014).
[38] Government of Punjab, Service Delivery Standards and Guideline for High Quality Safe Uterine Evacuation and Post-Abortion Care (April 2015).
[39] Government of Pakistan, National Service Delivery Standards and Guidelines for High Quality Safe Uterine Evacuation and Post-abortion Care (March 2018).
[40] The guidelines are limited to standard of care for first trimester abortions as this appears to coincide with the definition of a legal abortion in Pakistan of up to 120 days of pregnancy to save the life of the woman or to provide "necessary treatment." The guidelines do not provide advice or insight with respect to application or interpretation of Pakistan's abortion laws.
[41] Committee on Rights of the Child, *General Comment No. 20 on the implementation of the rights of the child during adolescence* CRC/C/GC/20 (2016).
[42] PDHS 2017-18 at 68.
[43] Chandra-Mouli et. al., *Building Support for Adolescent Sexuality and Reproductive Health Education and Responding to Resistance in Conservative Contexts: Cases from Pakistan,* GLOBAL HEALTH: SCIENCE AND PRACTICE, 1-2 (2018).
[44] *Id.*
[45] Consultation with experts on reproductive rights held on June 1 2022.
[46] UNICEF, *Child Marriage Country Profile – Pakistan State of the World's Children*, 152 (2016) *available at* https://www.unicef.org/publications/index_91711.html
[47] Child Marriage Restraint Act 1929.
[48] Sindh Child Marriage Restraint Act 2013.
[49] Center for Reproductive Rights, *Ending Impunity for Child Marriage in Pakistan: Normative and Implementation Gaps*, 33-34 (2018) available at https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/64785006_ending_impunity_for_child_marriage_pakistan_2018_print-edit-web.pdf
[50] *Id.*
[51] *See e.g.* Dawn, *The Strange Case of the Silent Women*, November 10 2019 available at https://www.dawn.com/news/1515863
[52] *See e.g.* Dawn, *The Case of the Missing Arzoo*, December 27 2020 *available at* https://www.dawn.com/news/1598113

ANNEX

Submitting organisations

1. Center for Reproductive Rights

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2. Aahung

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