



RESEARCH PAPER

Women's Reproductive Rights: A Situational Analysis in Pakistan

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ABSTRACT

To analyze the extent to which women have choices in reproduction. Issues related to human reproduction and reproductive health traverse multiple domains from medicine and technology to morality, law and culture. Qualitative research design was used for this research while using the case study method. Pakistan's maternal mortality rate is at 319 per 100,000 live births about 46% of women do not receive skilled prenatal care or full protection against infections. Additionally, there is a lack of access to contraceptive methods that results in a high rate of unplanned pregnancies. Unplanned pregnancies often result in women resorting to abortion, which owing to restrictive legislation, occur in unsafe environments. Auditing reproductive health and family planning programs. Directing public and private health sector facilities to provide safe abortion services. Evaluation of population control programs.

KEYWORDS Culture, Health, Human Rights, Law, Reproduction, Right to Family Planning, Women's Rights

Introduction

"Women are not an interest group, they are mothers and sisters and wives. They are perfectly capable of making their own choices about their health" ~ Barack Obama, 2012

From rights of women in all walks of life, to the rights of women in specifications regarding their personal well-being, Pakistan has been far behind in the track towards equal rights for women. Although there have been several attempts by international organisations, respective local governments and judiciary, there is still a lot of room for both improvisation and implementation.

Reproductive rights of women, or commonly also known as 'repro rights', have been compromised in the country in every sense of the word. Even though the laws and international signatures have mentioned the rights all women have regarding reproductive health and choices, yet to what extent they are given, is a matter of question. In the context of Pakistan, this is an issue of concern particularly when rising infant and maternal mortality, neglected fertility problems, and postpartum illnesses are reported.

Reproductive rights are not explicitly mentioned in major international human rights treaties, such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). However, these documents which Pakistan has signed up to provide for the right to health that inter alia includes right to reproductive health. The 1973 Constitution of Pakistan under the chapter on Principles of Policy calls upon the state to 'provide basic necessities of life', including 'medical relief'. The Principles of Policy cannot be a direct cause of action in a court of law in Pakistan. However, they hold persuasive value when read with Fundamental Rights and provide bench marks to evaluate state policy.

In the context of the International Covenant, the right to health, like other socio-economic rights, imposes International women's rights organisations and health upon state parties positive obligations to respect, agencies such as the United Nations Population Fund

protect and promote that right. The obligation to (UNFPA) and the World Health Organisations (WHO) are respect the right to health would require state parties not to take any measures that prevent women from having mechanisms and procedures in place for women to vindicate access to contraceptives, for example. The obligation to protect their rights in the event of violations requires measures by the state to ensure that non-state actors do not deprive women of their access to contraceptives.

While a human rights approach may help reform laws, policies obligation to fulfill means the state proactively engages in and practices, it has to be borne in mind that wider issues of measures intended to facilitate and secure access to gender and regional inequalities as well as predominant contraceptives. Social and economic conditions required to ensure that there is no discrimination in the that give rise to demand for more children and encourage exercise of the right and that a minimum core of the right is early marriages, for instance, need to be transformed if ensured, for example, through the provision of free individuals and women are to exercise their reproductive emergency obstetric care (Muzaffar, Yaseen, & Ahmad, 2018). Analyses of international proclamations and court decisions also bring into sharp relief the conceptual links between reproductive rights and other human rights. These include the right to life, the right to security, the right to non-discrimination, the right to privacy and family life and the right to dignity, all of which are guaranteed by the Constitution of Pakistan (Leadership for Environment and Development Pakistan - LEAD 2015).

Literature Review

Defining Reproductive Rights in a Global Context

The International Conference on Population Development (ICPD) of 1994 was a key event in defining sexual and reproductive health and rights. The ICPD cornerstones for gender, population and development programs as well as for reproductive health services and rights are:

- ensuring women's control of their own fertility;
- achieving women's empowerment;
- achieving gender equality and equity; and
- eliminating all forms of violence against women.

Reproductive health is complete physical, mental and social well-being in all matters related to the reproductive system. It implies (a) ability to have the number of children desired when desired and (b) access to the medical care needed to ensure reproductive health, namely:

- family planning services;
- antenatal, postnatal and delivery care;
- neonatal and infant care;
- treatment for reproductive tract infections and sexually transmitted infections (STIs);
- safe abortion services where they are legal and management of abortion-related complications;

- prevention and appropriate treatment for fertility;
- information, education and communication (IEC) on human sexuality, reproductive health, responsible parenting, and the discouragement of harmful practices; and
- treatment for reproductive system cancers and HIV/AIDS. (ICPD Program of Action, 3) (United Nations Development Fund for Women - UNIFEM, 2006).

Reproductive rights involve the right of couples and individuals to:

- decide freely and responsibly the number, spacing and timing of their children;
- have the information, education and means to make these decisions;
- attain the highest standard of sexual and reproductive health; and
- make decisions about reproduction free of discrimination, coercion and violence. (ICPD Program of Action, 3) (United Nations Development Fund for Women - UNIFEM, 2006).

Women's reproductive health is both a determinant of and conditioned by women's reproductive choice. Once women reach childbearing age and start their fertility career, the main health risks for women come from giving birth too early, too soon, or too late, and from the conditions in which they have to give birth. High levels of maternal morbidity and mortality are still widely prevalent in poor countries. Unsafe abortions are a major factor in high levels of maternal mortality. These health risks reflect women's lack of reproductive choice. Giving birth at too young an age poses a well-documented health risk. Higher age at marriage of women tends to reduce the level of maternal morbidity and mortality (United Nations Populations Fund - UNFPA, 1997). Short intervals between births are not only risky for the mother but in many cultures also deemed undesirable. A baby should be properly breastfed before the mother becomes pregnant again, as is also stated in the Quran (2:233).

Fertility is thought to decline when it is within the calculus of conscious choice, lower fertility is perceived as being advantageous, and contraceptive means are available (Coale, 1973). However, these conditions have to be amended by adding a gender perspective and taking the normative context of fertility decisions into account. For rural women the opinions of especially the local religious leaders are important for a legitimate use of contraception. From a Muslim woman's point of view, the possible side-effects of different contraceptive methods have their specific drawbacks.

Much attention is given to the reproductive and sexual role of women in the Quran and Hadith. Islam acknowledges women's right to sexual gratification and, according to the letter, does not inhibit women's reproductive choice. However, practices have a negative impact on women's reproductive health, or constrain women's reproductive choice, and that are justified by reference to Islam, are unfortunately still widely prevalent. Muslim organisations for the reproductive and sexual rights of women are still facing huge challenges, even in the era of an "Islamic resurgence of gender issues" (Haddad and Esposito, 1998). (Niehof, 2013).

Analysis

Country Profile: Pakistan

Access to Reproductive Rights in Pakistan

Pakistan is a third world developing country that is among the 179 countries in the world to sign the International Conference on Population and Development Programme of Action (ICPD PoA) (1994) and is also reporting on the MDGs. In addition, Pakistan is also a signatory to Convention to Eliminate All Forms of Discrimination against Women (CEDAW) and Convention on the Rights of the Child (CRC). And yet an overview of the overall situation of Sexual and Reproductive Rights (SRR) in the country does not suggest positive outcomes. Sexual and Reproductive Rights (SRR) form an important pillar of the human rights framework and negative outcomes in this area reflect poorly on the overall human rights situation in the country.

Pakistan is labelled as one of the countries with highest mortality rate in Asia. The magnitude of maternal mortality in Pakistan reflects unashamed rejection of women's right to life, safe pregnancy, and childbirth. A number of factors contribute in keeping the sexual and reproductive health status low: insufficient health care system, illiteracy and poverty are a few dominant characteristics, however women face extra risks because of their low socio-economic status.

Pakistan adopted its first National Health Policy which envisaged provision of universal health care through skilled and trained health care providers. The policy put an emphasis on maternal and child health care. The National Health Policy was revised in 1997 by the Federal Ministry of Health.

A private member bill to facilitate reproductive healthcare and promote reproductive health rights (The Reproductive Healthcare and Rights Bill) was moved in the National Assembly in 2009. The bill aimed at providing quality reproductive health through short and long term efforts, among other, to professionalize obstetric care and improve reproductive health system, particularly in the primary health sector. The bill got passed by the National Assembly; however, it lapsed in the Senate where many members opposed the bill.

Pakistan also has a National Reproductive Health Package which offers comprehensive family planning for women and men, maternal health care including pre and post abortion care for complications, infant health care, management of infertility, and management of reproductive health related problems for adolescents, men and women.

A private member bill on reproductive health care and rights was collectively passed in the national assembly in 2013 (Reproductive Healthcare and Rights Act) to promote reproductive health care in accordance with the Constitution and international commitments made under the Convention on Elimination of Discrimination Against Women (CEDAW).

Abortion is now legal in Pakistan if carried out for the medical treatment of a pregnant woman in the early stages of pregnancy. Previously, the Pakistan Penal Code allowed for abortion only if it was required to save the life of the pregnant woman. Section 338 of the Penal Code amended by Criminal Law (Amendment Act No. 1 of 2005) now reads:

"Whoever causes a woman with child whose 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, or providing necessary treatment to her, is said to cause Isqat-i-haml".

The inclusion of the clause 'providing necessary treatment' provides greater legal latitude for an abortion and makes it difficult to obtain a conviction for isqat-i-haml or abortion before the limbs are formed (LEAD Pakistan, 2010).

Policies and legislations with regards to sexual and reproductive health and rights are in place in almost all parts of the country in different forms. The policies mentioned

above are being implemented across the country through an extensive network of primary, secondary and tertiary level healthcare systems. However, gaps and challenges in terms of their effective implementation and desired outcomes remain (Shirkat Gah - Women's Resource Centre, 2017).

Women's reproductive rights and Gender Initiative in SAARC

This conference which was hosted by the government of Nepal, was attended by Ministerial - level delegations from all SAARC member states. The conferences adopted the Kathmandu resolution on women and family health. The resolution incorporated the four main themes based on the deliberations of four working groups. They were

- i) Socio cultural, Environmental and Developmental factors.
- ii) Reproductive health and delivery of services.
- iii) contraceptive technology and women's concerns, and
- iv) planning management and financing.

The resolution affirmed the need for all members states to take appropriate action to integrate women into the development process to attain gender equality. It also underscored the imperative to provide quality reproductive health care to enable them to make a voluntary and informed choice to regulate their own fertility.

The resolution stated that each nation in the region needed to take apt measures to raise the age of marriage; register births and deaths; provide access to quality family planning services; strive to increase the institutional deliveries attended by trained health workers; promote universal literacy amongst girls; reduce maternal mortality , infant mortality and child mortality rates; reduce maternal anemia and iodine deficiency among pregnant women; reduce the number of babies born with low birth weight; promote breast feeding; reduce level of malnutrition among children, adolescents, pregnant and lactating women; increase contraceptive prevalence rate; promote birth spacing; reduce the incidence of unsafe abortions and prevent infanticide and feticide (Gender Initiatives in SAARC pg. no. 30-31).

Sustainable Development Goals for Women's Reproductive Health

The Sustainable Development Goals (SDGs), otherwise known as the Global Goals, are a universal call to action to end poverty, protect the planet and ensure that all people enjoy peace and prosperity. These 17 Goals build on the successes of the Millennium Development Goals, while including new areas such as climate change, economic inequality, innovation, sustainable consumption, peace and justice, among other priorities. The goals are interconnected – often the key to success on one will involve tackling issues more commonly associated with another.

For reproductive health of women, a target has been set in the SDGs;

'By 2030, ensure universal access to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes'. (United Nations Development Program, 2018)

Women's reproductive rights – An issue of HUMAN RIGHTS

Throughout much of history, people acquired rights and responsibilities through their membership in a group – a family, indigenous nation, religion, class, community, or state. Most societies have had traditions similar to the "golden rule" of "Do unto others as you would have them do unto you." The Hindu Vedas, the Babylonian Code of Hammurabi, the Bible, the Quran (Koran), and the Analects of Confucius are five of the oldest written sources which address questions of people's duties, rights, and responsibilities. In addition, the Inca and Aztec codes of conduct and justice and an Iroquois Constitution were Native American sources that existed well before the 18th century. In fact, all societies, whether in oral or written tradition, have had systems of propriety and justice as well as ways of tending to the health and welfare of their members.

Pakistan is the sixth most populous country in the world with a prominent youth slot. However, the sexual and reproductive health and right concerns of the population, particularly the youth, remain unaddressed at the policy level as well in terms of implementation. There is general shyness when it comes to talking about such a topic because cultural norms have deemed sexual and reproductive rights as a taboo subject, which consequently restricts people's choices in this matter. The unequal power relation between men and women is also an important factor which makes it difficult for girls and women to exercise autonomy when it comes to making informed decisions about their own bodies and to negotiate safer sex.

Needless to say, young people have rights to access adequate and age appropriate knowledge regarding their sexual and reproductive healthcare. However, they are the ones who are most vulnerable because they lack information and access to relevant services. Even though, the inclusion of youth is an integral part in National Population Policy and National Reproductive Health Strategy, the intervention programs in line with these policies are still hidden when it comes to issues regarding Sex Ed (sexuality education) for youth and availability for youth-friendly health services.

Youth, today, experience complex challenges, including an earlier emergence of puberty and sexual activity and often have no knowledge about their sexuality and/or about the consequences they might face as a result of their sexual behaviours. They are prone to high risks of pregnancy and abortion and are victims of exploitation, sexual violence, prostitution, discrimination and other crises. In addition, they generally lack appropriate life skills to deal with social and economic pressures and to make informed, responsible choices. As a result of all this, young people are at a high risk to substance abuse (tobacco, alcohol, other drugs) and getting exposed to sexually transmitted infections (STIs) such as HIV/AIDS.

Pakistan's large number of young population is still living on the edge of society because of poor socio-economic factors. Homeless young people are often the casualties of an economic crisis, displacement as a result of war/conflict, poverty, loss of traditional values, domestic violence, broken homes, physical and mental abuse. These statistics about the youth population in Pakistan calls for intensive programmatic measures in order to take care of young people's vulnerabilities. We need to empower them enough to be able to bring a shift in development so they can eventually break the cycle of poverty in Pakistan.

Enabling youth to attain necessary life skills regarding SRHR without discrimination is a vital device in reaching many of the Millennium Development Goals (MDGs) particularly those pertaining to poverty reduction, HIV/AIDS, maternal mortality and gender equality.

In Pakistan, very few programmes seem to address the issues of the youth's sexual health and rights. Most government programmes tend to focus on reproductive health in terms of family planning issues that serve young married people. According to the The National Strategic Framework on HIV/AIDS, youth is a priority area, especially the street youth, because of the increasing rates of HIV infection among the young members of the

society during the last few years. The major cause of this increase in infection has been lack of right information on issues regarding this same very topic.

There is a dire need to implement and practice Life-Skills Based Education in Pakistan without discriminating against gender or socio-economic group as the major area in meeting the challenges of the SRHR sector. Life Skills Education does not only help develop skills and knowledge of young people regarding their health but also helps them build their self-esteem and confidence when it comes making decisions about their bodies and rights.

The prevailing government needs to strengthen and endorse proper resources to ensure that all schools nation-wide are introduced to universal Life-Skills/Sexuality education for adolescents so that when they reach puberty, they have sufficient information and knowledge to deal with biological and psychological changes they face at that age. The most important way to bring about a change, however, is to consciously create a shift in thinking which makes the subject of sexual and reproductive health and rights more inviting and open for consideration.

Conclusion and Recommendations

Pakistan's maternal mortality rate is at 319 per 100,000 live births about 46% of women do not receive skilled prenatal care or full protection against infections. Almost 2 in 3 births occur at home and 48% are not assisted by skilled medical attendants. Neglected childbirth involving prolonged labour sometimes results in obstructed fistula. Women who develop fistulas are often abandoned by husbands. Similarly contraceptive use has seen a dramatic increase in the incidence of rejection by communities.

Additionally, there is a lack of access to contraceptive methods that results in a high rate of unplanned pregnancies. Contraceptive prevalence rate (CPR) is still low in the country at 35%, meaning that majority of married couples do not use a birth spacing method, this despite the fact that 96% of married Pakistani women are aware of at least one modern contraceptive method. Unplanned pregnancies often result in women resorting to abortion, which owing to restrictive legislation, occur in unsafe environments. An estimated 5000 cases of abortion occur in Pakistan every year, a majority of which result in post-abortion complication and deaths (Jinnah Institute, 2014).

In view of the foregoing, the following measures should be adopted:

- audit all reproductive health and family planning programmes and plans with a view to ensuring targeted coverage of high-risk groups, such as street children, adolescent girls and boys, prisoners, commercial sex workers, injecting drug users (IDUs) and truckers.
- issue notification directing public and private health sector facilities to provide safe abortion services to women in accordance with criteria set out in the amended law of abortion (Jinnah Institute, 2014).
- evaluate population control programmes to make sure there is an adequate focus on behavior and communication activities with youth and married men

re-orient public health campaigns and social mobilization activities with a view to involving men as responsible partners in family planning and reproductive health (LEAD Pakistan, 2010).

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