

ADVANCING SEXUAL RIGHTS THROUGH THE SUSTAINABLE DEVELOPMENT GOALS

PAKISTAN

This country brief is part of a series to assist Asia Pacific Alliance for Sexual and Reproductive Health and Rights (APA) members and other advocates in using the Sustainable Development Goals (SDGs) to hold governments accountable to commitments they have made towards protecting and promoting sexual rights. This brief covers an overview of key sexual rights issues within a country and compares them with commitments at the national, regional and international levels, and outlines opportunities for advocates to engage with governments and other stakeholders to strengthen accountability.

I. SEXUAL RIGHTS AND THE SDGs

“Sexual rights” refer to a range of human rights relating to sexuality, reproduction, sexual and reproductive health (SRH) and gender. This includes issues such as comprehensive sexuality education, sexual and gender-based violence, contraception, rights of intersex persons, gender identity, safe and legal abortion, early and forced marriage, same-gender relationships, female genital mutilation, and rights of sex workers.

The SDGs are the cornerstone of an ambitious global agenda for development, known as Agenda 2030, which all United Nations (UN) Member States, including Pakistan, have committed to achieving in the next 15 years. With 17 goals and 169 targets, it spans a range of human rights and development issues, including sexual rights.

Certain sexual rights issues are explicitly included in the SDGs:

- Target 3.7 on SRH, and target 5.6 on SRH and reproductive rights;
- Target 3.1 on maternal mortality;
- Target 3.3 on AIDS and other communicable diseases; and
- Goal 5 on gender equality and the empowerment of women and girls.

Other goals and targets have clear links to sexual rights issues that are not directly included:

- Target 4.7 (on education for human rights and gender equality) could encompass comprehensive sexuality education;
- Target 10.3 (on reduction of inequalities, including through law and policy reform) could be used to advance the rights of sex workers and lesbian, gay, bisexual, transgender and intersex (LGBTI) persons and others; and

- Target 16.1 (on reduction of violence and related deaths) could include the reduction of sexual and gender-based violence, including violence based on sexual orientation, gender identity and expression.

The SDGs carry significant political weight, and are attracting a large investment of resources. They are expected to affect both policy and programming efforts in Pakistan, including national development strategies, international assistance, and budget allocations. Implementation of the SDGs affords important opportunities to advocate for the advancement of the full range of sexual rights in Pakistan.

II. KEY PAKISTAN'S COMMITMENTS AND OBLIGATIONS

Several international and regional level commitments protect and promote sexual rights. Of them, Pakistan has ratified the following and is thus legally bound to comply with their provisions:

- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- Convention on the Rights of the Child (CRC)
- Convention on the Rights of Persons with Disabilities (CRPD)

Pakistan has also endorsed other agreements that provide a blueprint for government action on sexual and reproductive rights, but are not legally binding:

- Programme of Action of the 1994 International Conference on Population and Development, (ICPD) and the outcome documents of its subsequent reviews, the latest of which is the 2013 Asian and Pacific Ministerial Declaration on Population and Development.
- Beijing Platform for Action of the Fourth World Conference on Women, 1995, and the outcome documents of its subsequent reviews, the latest of which is the 2014 Asian and Pacific Ministerial Declaration on Advancing Gender Equality and Women's Empowerment.

Pakistan's policies and strategies on SRH issues are not wholly compatible with the human rights obligations contained in the international instruments it has ratified or endorsed. In particular, strategies and policies that promote SRH have not been implemented effectively.

III. SEXUAL RIGHTS POLICY AND LAW IN PAKISTAN, COMPARED WITH ITS COMMITMENTS¹

ABORTION

POLICY AND LAW

The Criminal Code permits abortion only to save the life of a woman or to provide her with "necessary treatment". There is provider discretion as to what constitutes necessary treatment, and whether an abortion is required. There is anecdotal evidence to suggest that doctors may refuse to provide abortion services due to religious or personal beliefs. As extramarital sex is illegal in Pakistan, many unmarried women needing or wanting an abortion are fearful of seeking medical abortions, particularly at government hospitals. The highly restrictive abortion law in Pakistan and plethora of directly relevant policies and laws that undercut women's decision-making and sexual autonomy create incredible hardship for women needing or wanting vital SRH services.

COMMITMENTS AND OBLIGATIONS

The International Conference on Population and Development (ICPD) Programme of Action requires States to recognize the reproductive rights of women. However, the lack of access to legal abortion, and clarity on what is considered "necessary treatment" denies women their rights and may force women to seek out unsafe or clandestine abortions. In 2007, in accordance with its General Recommendation No. 24 on women and health, the Committee on the Elimination of All

Forms of Discrimination Against Women recommended that Pakistan take specific measures to ensure that women do not seek unsafe medical procedures, review punitive laws that criminalize women seeking abortions, and provide access to quality services for complications from unsafe abortions.² In 2013, in an attempt to bring Pakistan's laws and policies in line with the CEDAW, the Committee again urged Pakistan to "review its abortion legislation with a view to expanding the grounds under which abortion is permitted" and to prepare guidelines on and ensure access to post-abortion care.³

In its General Comment No. 22 on the right to SRH services, the Committee on Economic, Social and Cultural Rights stated that preventing unsafe abortions required all States to "liberalize restrictive abortion laws; to guarantee women and girls access to safe abortion services and quality post-abortion care, including by training health care providers; and to respect the right of women to make autonomous decisions about their sexual and reproductive health."⁴

ADULTERY

POLICY AND LAW

All sex outside of marriage is criminalized under the Penal Code, provided that the "beyond a reasonable doubt" burden of proof is met. If a person is accused of adultery, under article 17 of the Qanun-e-Shahadat Order (1984), the testimony of a woman is considered to be less than half the value of a man's testimony. The Penal Code provides for imprisonment and a fine for any individual convicted of adultery. The Hudood Ordinance Laws can also be used to prosecute individuals accused of adultery, and result in a sentence of death by stoning for Muslims or 100 lashes for non-Muslims. Some women, including those in tribal areas, may be tried by *jirgas* – parallel and informal courts. Even if acquitted, women may be stigmatized and discriminated against, and possibly subjected to "honour crimes", including murder. Such restrictive laws on consensual sexual activity codify violence against women, can penalize women who have experienced sexual violence, place sex workers at incredible risk, and restrict access to SRH services for fear of imprisonment, violence and discrimination.

COMMITMENTS AND OBLIGATIONS

Pakistan's criminal and customary codes, as they pertain to all sex outside of marriage, violate the country's human rights obligations, including the right to privacy, as articulated in the International Covenant on Civil and Political Rights. During its first and second Universal Periodic Reviews, Pakistan received five recommendations calling for the country to decriminalize consensual sex outside of marriage, to repeal punitive laws pertaining to adultery, and provide redress to women who have been subject to "honour crimes", only the last of which it has accepted. In a UN Joint Statement (2012), the Working Group on Discrimination Against Women in Law and in Practice stated that adultery as a criminal offence violates the human rights of women.⁵ Because the laws are disproportionately applied to women and their treatment before the court is highly

inequitable, Pakistan's continued use of punitive measures for extramarital consensual sexual activity also violates women's right to be free from discrimination, thereby also violating their obligations under CEDAW.

SEXUALITY EDUCATION

POLICY AND LAW

The provision of sexuality education in Pakistan varies within the country and can only be mandated by provinces. Information on HIV and AIDS is encouraged for ninth and tenth grade students, and the country's national HIV and youth policies both reference life skills-based education. Customary and religious law, however, prohibit such education in religious schools, and the curriculum is severely curtailed by the country's conservatism. The national reproductive health strategy does not address sexuality education at all, and the youth policy encourages education in order to "make youth capable of coping with their problems in the early years of marriage".⁶ The exclusion of sexuality education for young people in religious schools and the limited curriculum on sexuality across the country undermines the self-determination and autonomy of young people, and prevents them from having the information they need to have healthy and fulfilling sexual lives.

COMMITMENTS AND OBLIGATIONS

There is an urgent need to improve the quality and coverage of sexuality education across Pakistan. The country has failed to meet internationally and regionally set standards. The Asian and Pacific Ministerial Declaration on Advancing Gender Equality and Women's Empowerment (2014) recognizes the need to provide universal access to comprehensive evidence-based education on sexuality⁷ and the ICPD Programme of Action (including, but not limited to, paragraphs 7.41, 7.46–47) also calls for all States to provide such education to young people. In 2003, the Committee on the Rights of the Child (CRC) expressed concerns about the lack of family life education for adolescents in Pakistan.⁸ In 2009, the CRC Committee called on Pakistan to provide access to information on reproductive health and family planning.⁹

IV. ADVOCACY OPPORTUNITIES

Every country has or will have national SDG planning, implementation, monitoring and review processes. Advocates can push for **inclusion of additional indicators related to sexual rights in monitoring frameworks**, such as:

- annual number of unsafe abortions per 1,000 women aged 10–49 years;
- inclusion of sexuality education in national education policies, curricula, teacher education and student assessment; and
- decriminalization of sex work.

Advocates can **promote inclusion of specific rights-based actions in the SDG implementation plan**; for example, a review of laws and policies pertaining to sexual rights; a consultative process with marginalized groups, such as sex workers and transgender and intersex persons to develop robust policies and programmes; and training of teachers and health workers on young people's sexual rights. Advocates can participate in national preparatory reviews in advance of Pakistan's voluntary review at the UN High-Level Political Forum on Sustainable Development.

Advocates can **encourage new national policies, strategies and action plans, or revision of existing ones**. For example, due to the 18th constitutional amendment, population and youth policies are now determined at the provincial level; thus far, only Khyber Pakhtunkhwa Province has made progress towards creating its policies. Advocates can engage with the provincial governments with regard to developing their policies. Elections, such as the general elections in 2018, present other opportunities to advocate for advancements in sexual rights.

In collaboration with the United Nations Development Programme, the Government's Planning and Development Division created provincial SDG cells to facilitate the implementation process. Although there is no institutionalized mechanism for civil society engagement, organizations collaborate with the Human Rights Ministry and Planning Divisions to share responsibilities in the action plan. Advocates can **join Pakistan's numerous civil society platforms and alliances**, such as Lawyers and Youth, HYPE Youth Alliance or Youth Advocacy Network Pakistan (YAN), which engage in advocacy for sexual rights. These civil society coalitions typically review national and provincial laws to ensure their alignment with international instruments.

Advocates can push for rights-based implementation of the SDGs during **human rights reviews of Pakistan at the UN**. These include the Universal Periodic Review (UPR), and reviews by treaty bodies such as the Committee on Economic, Social and Cultural Rights, the Child Rights Committee, and the Committee on the Elimination of Discrimination against Women, among others. Advocates can raise sexual rights issues during national SDG preparatory processes and submit information and recommendations to the UN reviews on the country's human rights situation. Below is a schedule of Pakistan's next review at the UPR and its reporting deadlines for the following treaty bodies:

WHAT	WHEN
UPR	November 2017
ICESCR review	May – June 2017
CRC review	Concluded June 2016
ICCPR review	October – November 2016
CEDAW review	March 2017
CRPD review	Report was due in 2013 and was submitted in 2015

At the regional level, advocates can engage with the Asia-Pacific Forum on Sustainable Development, organized by the Economic and Social Commission for Asia and the Pacific, to push for stronger regional and national monitoring and review processes, as well as influence priorities, strategies and actions. Advocates can encourage their government to participate in the Forum's regional review process and support civil society participation as Observers and included in government delegations. Civil society organizations can also engage with the Asia Pacific Regional Civil Society Engagement Mechanism, for which APA is co-coordinator (with ARROW) of the cross-constituency Thematic Working Group on Gender, Sexuality, and SRHR.

Regional reviews of the ICPD Programme of Action and the Beijing Platform for Action, planned for 2018 and 2019 respectively, also provide opportunities for highlighting gaps in the implementation of commitments made by countries

along with recommendations for greater achievement of those commitments and the SDGs, all of these being complementary in nature.

Don't be overwhelmed by all these options! Your organizational mandate and capacity will determine which opportunities you engage with. Remember, consistent evidence and recommendations can be easily tailored to suit different advocacy opportunities, and working in collaboration can help distribute the burden of engaging with multiple reviews.

¹ Based on information from the Sexual Rights Initiative's National Sexual Rights Law and Policy Database. Accessed 29 June 2016, <http://sexualrightsdatabase.org/countries/366/Pakistan>.

² Committee on the Elimination of Discrimination Against Women, "Concluding Comments" (Geneva: United Nations, 2007), <http://uhri.ohchr.org/document/index/33c37619-b9c7-4fbf-b931-a65d02643894>.

³ Committee on the Elimination of Discrimination Against Women, "Concluding Observations" (Geneva: United Nations, 2013), <http://uhri.ohchr.org/document/index/08a402ca-e975-43e1-a69d-d3629c893a24>.

⁴ E/C.12/GC/22, http://tbinetnet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/GC/22&Lang=en.

⁵ UN Working Group Statement, www.wluml.org/taxonomy/term/418.

⁶ *Review of Policies and Strategies to Implement and Scale Up Sexuality Education in Asia and the Pacific* (Bangkok: UNESCO, 2012), <http://unesdoc.unesco.org/images/0021/002150/215091e.pdf>

⁷ "Asian and Pacific Ministerial Declaration on Advancing Gender Equality and Women's Empowerment", adopted at the Asian and Pacific Conference on Gender Equality and Women's Empowerment (2014), www.unescap.org/sites/default/files/Beijing%2B20%20Conference%20Report%20%28Web%20version%29.pdf.

⁸ Committee on the Rights of the Child, "Concluding Observations" (Geneva: United Nations, 2003), <http://uhri.ohchr.org/document/index/dc0adc65-900b-4714-8b09-b6f3c4a63bf7>.

⁹ Committee on the Rights of the Child, "Concluding Observations" (Geneva: United Nations, 2009), <http://uhri.ohchr.org/document/index/acff0cbe-4352-4d2b-a16b-99725fdbc349>.



ABOUT APA

The Asia Pacific Alliance for Sexual and Reproductive Health and Rights (APA) is a network of national, regional and global civil society organizations that advocate for the fulfilment of sexual and reproductive health and rights for all persons in the Asia Pacific region. APA mobilizes civil society advocacy across the region to hold governments and other stakeholders accountable for their obligations and commitments to SRHR. Interested in becoming an APA member? Check out our website or email join@asiapacificalliance.org.

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18th Floor, Sathorn Thani II, 92 North Sathorn Road, Bangkok, Thailand, 10500

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