



Health. Access. Rights.

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Human Rights Committee (HRCttee)
Office of the High Commissioner for Human Rights
Geneva, Switzerland

RE: Supplementary information for Bangladesh scheduled for review by the HRCttee during its 119th session in March 2017.

Dear Committee Members:

This shadow letter is intended to complement the periodic report submitted by the State of Bangladesh for your consideration during the 119th session of the HRCttee. Ipas Bangladesh is a nongovernmental organization (NGO) which is based in Dhaka and working to increase women's ability to exercise their sexual and reproductive rights and to reduce deaths and injuries from unsafe abortion. Ipas believes that every woman has the right to the highest attainable standard of health, to safe reproductive choices, and to high-quality health care. This letter is intended to provide the Committee with an independent report on maternal mortality and access to abortion in Bangladesh.

The abortion law in Bangladesh is governed by the 1860 criminal code. It criminalizes abortion in all cases except to save a woman's life.¹ However, state party allows, in practice, for "menstrual regulation," within 12 weeks² of a woman's last menstruation without confirmation of pregnancy.³ However, this procedure is not yet widely available in the country and the most vulnerable populations, including adolescents such as those who have been married at an early age and rural women, are particularly unable to access such services, leaving them vulnerable to maternal mortality and morbidity (see below for more details).

This Committee has explicitly described illegal and unsafe abortion as a violation of Article 6, noting the link between illegal and unsafe abortion and high rates of maternal mortality.⁴ The HRCttee also stated in General Comment 28 that "State parties should give information on any measures taken by the State to help women prevent unwanted pregnancies, and to ensure that they do not have to undergo life-threatening clandestine abortions."⁵ The HRCttee has criticized legislation that criminalizes or severely

¹ Penal Code, 1860, as adopted by the Bangladesh Laws Revision and Declaration Act of 1973.

² Bangladesh Family Planning Department, Ministry of Health, National Guidelines on Menstrual Regulation (2013).

³ Susheela Singh et al., *The Incidence of Menstrual Regulation Procedures and Abortion in Bangladesh* 38(3) INTERNATIONAL PERSPECTIVES ON SEXUAL AND REPRODUCTIVE HEALTH, 122, 122 (2012) [hereinafter Susheela Singh et al., *Menstrual Regulation Procedures*].

⁴ See e.g., **Bolivia**, 01/04/97, U.N. Doc. CCPR/C/79/Add.74, par. 22; **Chile**, 30/03/99, U.N. Doc. CCPR/C/79/Add.104, par. 15; **Mongolia**, 25/05/2000, U.N. Doc. CCPR/C/79/Add.120, par. 8(b); **Sudan**, 19/11/97, U.N. Doc. CCPR/C/79/Add.85, par. 10; **Zambia**, 03/04/96, U.N. Doc. CCPR/C/79/Add.62, par. 9.

⁵ Human Rights Committee, *General Comment 28: Art. 3* (68th Sess., 2000), in *Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies*, at 228, U.N. Doc. HRI/GEN/1/Rev. 9 (2008).

restricts access to abortion in concluding observations.⁶ This Committee has specifically recommended to State parties that they review or amend legislation criminalizing abortion, often referring to such legislation as violating the right to life.⁷ The Committee has also acknowledged that restrictive abortion laws have a discriminatory and disproportionate impact on poor, rural women and girls.⁸

In November 2016 the CEDAW Committee issued Concluding Observations on Bangladesh and the Committee on the Rights of the Child did the same in 2015. Both treaty bodies raised concern over Bangladesh's restrictive sexual and reproductive health framework. CEDAW specifically raised concerns both about the criminalization of abortion and the high levels of maternal mortality often due to child marriages and subsequent early pregnancies which force women and girls to resort to unsafe abortion. It recognized that abortion is not criminalized in case of risk to the life of the pregnant woman in and cases of menstrual regulation, but raised concern that the exception is rarely applied and is concerned about lack of access to modern contraception for adolescent girls and unmarried women as well as general lack of information on sexual and reproductive health and rights.⁹ The Committee specifically recommended that Bangladesh:

‘(a) Legalize abortion at least in cases of rape, incest, threats to the life and/or health of the pregnant woman, or severe foetal impairment and decriminalize in all other cases, as well as provide women with access to quality post-abortion care, especially in cases of complications resulting from unsafe abortions. The State party should also remove punitive measures for women who undergo abortion;

(b) Address negative stereotypes and discriminatory attitudes with regard to the sexuality of adolescents and ensure that they have affordable access to modern contraceptives and to accurate information and education on sexual and reproductive health and rights, including responsible sexual behaviour, prevention of early pregnancies and sexually transmitted diseases;

...¹⁰

The Committee on the Rights of the Child a year earlier, in 2015, raised similar concerns about the high prevalence of adolescent pregnancy and the lack of adolescent-friendly health services in health facilities in Bangladesh.¹¹ That Committee recommended that the government adopt a comprehensive sexual and reproductive health policy for adolescents, ensuring that sexual and reproductive health education be a part of mandatory school curriculums and targeted at adolescent girls and boys, with special attention to preventing early pregnancy and sexually transmitted infections.¹² The CRC also recommended that Bangladesh improve access to adolescent-friendly health services across the country, including menstrual management facilities and services.¹³ In the government's current report to this Committee, it sets forth the legal framework on

⁶ See e.g., **Argentina**, 03/11/2000, U.N. Doc. CCPR/CO/70/ARG, par. 14; **Bolivia**, 01/04/97, U.N. Doc. CCPR/C/79/Add. 74, par. 22; **Chile**, 30/03/99, U.N. Doc. CCPR/C/79/Add. 104, par. 15; **Peru**, 15/11/2000, U.N. Doc. CCPR/CO/70/PER, par. 20; **Poland**, 29/07/99, U.N. Doc. CCPR/C/79/Add. 110, par. 11; **Senegal**, 19/11/97, U.N. Doc. CCPR/C/79/Add. 82, par. 12; **Venezuela**, 26/04/2001, U.N. Doc. CCPR/CO/71/VEN, par. 19.

⁷ See e.g., **Argentina**, 03/11/2000, U.N. Doc. CCPR/CO/70/ARG, par. 14; **Chile**, 30/03/99, U.N. Doc. CCPR/C/79/Add. 104, par. 15; **Peru**, 15/11/2000, U.N. Doc. CCPR/CO/70/PER, par. 20; **United Republic of Tanzania**, 18/08/98, U.N. Doc. CCPR/C/79/Add. 97, par. 15; **Venezuela**, 26/04/2001, U.N. Doc. CCPR/CO/71/VEN, par. 19.

⁸ See e.g., *Mellet v. Ireland*, Communication No. 2324/2013, UN Doc. CCPR/C/116/D/2324/2013 (2016), (Human Rights Committee).

⁹ CEDAW Committee, *Concluding Observations: Bangladesh*, para. 34, November 2016. UN Doc. CEDAW/C/BGD/CO/8.

¹⁰ CEDAW Committee, *Concluding Observations: Bangladesh*, para. 35, November 2016. UN Doc. CEDAW/C/BGD/CO/8.

¹¹ CRC, *Concluding observations on the fifth periodic report of Bangladesh*, para. 56 (October, 2015).

¹² *Id.* at para. 57(a).

¹³ *Id.* at para. 57(b).

marriage age, and programs in place to prevent child marriage.¹⁴ However, it does not address the extent of the practice of child marriage and the resulting human rights implications for adolescents, including that deaths of adolescent girls due to unsafe abortion remain high (see below for details). In relation to the protection of life of women, the government's reports refer to the 1860 Penal Code prescribing punishment for causing an illegal abortion, which also applies to the pregnant woman.¹⁵

We wish to supplement the government's reports by commenting on the positive steps that the government of Bangladesh has taken to alleviate maternal mortality due to unsafe abortion. We will also identify areas where the government should take further measures, including by revising its abortion law to come into compliance with the CCPR.

The Legal Framework for Abortion and its impact on maternal mortality

Under the Penal Code of 1860, abortion is prohibited in all cases except to save a woman's life.¹⁶ "Menstrual Regulation" (MR) is part of Bangladesh's national family planning program. MR is a procedure to "establish non-pregnancy" after a missed period, authorized up to 12 weeks after the last menstrual period if performed by a physician.¹⁷ Family Welfare Visitors (FWVs) and Paramedics are also permitted to provide MR services up to 10 weeks after the last menstrual period.¹⁸ FWVs are posted in primary care facilities across the country, covering primarily rural areas, and MR procedures are provided by the government free of charge.¹⁹

However, the procedure is not yet widely available in the country. Studies have shown that over a quarter of women asking for menstrual regulation are turned away, and that in 2010 only 57% of facilities that could provide menstrual regulation services actually did so in 2010.²⁰ According to Guttmacher Institute, women report being turned away for several reasons, including because they lack the consent of their husbands, are told that they are too young, or that they currently had no children. Further, women's limited knowledge about menstrual regulation limits the reach of the program.²¹

Maternal mortality due to unsafe abortion has remained high in Bangladesh as many women and adolescent girls are unable to access safe and legal menstrual regulation services. Without access to safe services, women and adolescent girls in Bangladesh risk their health and lives by resorting to unsafe abortion. As of 2010, the rate of Bangladeshi women seeking unsafe abortion was 18 per 1,000 women each year.²² Also in 2010, approximately 231,000 women received treatment for

¹⁴ Consideration of reports submitted by States parties under Article 40 of the Covenant, Bangladesh, 3 September 2015 UN Doc. CCPR/C/BGD/1, para. 235; Replies of Bangladesh to the list of issues, 14 February 2017 UN Doc./C/BGD/Q/1/Add.1

¹⁵ Penal Code, 1860, as adopted by the Bangladesh Laws Revision and Declaration Act of 1973.; Consideration of reports submitted by States parties under Article 40 of the Covenant, Bangladesh, 3 September 2015 UN Doc. CCPR/C/BGD/1, para 46; Replies of Bangladesh to the list of issues, 14 February 2017 UN Doc./C/BGD/Q/1/Add.1

¹⁶ Penal Code, 1860, as adopted by the Bangladesh Laws Revision and Declaration Act of 1973.

¹⁷ See Government of the People's Republic of Bangladesh, Memo No. 5-14/ MCH-FP/ Trg.79, Dhaka, Bangladesh: Population Control and Family Planning Division, 1979 ; NIPORT, Mitra and Associates and Macro International, Bangladesh Demographic and Health Survey, 2007, Dhaka, Bangladesh: NIPORT and Mitra and Associates; and Calverton, MD, USA: Macro International, 2009.

¹⁸ Johnston H et al., *Scaled up and marginalized: a review of Bangladesh's menstrual regulation programme and its impact*, in: Blas E, Sommerfeld J and Karup A, eds., *Social Determinants Approaches to Public Health: From Concept to Practice*, Geneva: WHO, 2011 , pp.9-24.

¹⁹ *Proceedings .of the 62th Meeting of the National Technical Committee (NTC) held on 30 June 2014.*

²⁰ Singh Set al., *The incidence of menstrual regulation procedures and abortion in Bangladesh*, International Perspectives on Sexual and Reproductive Health 122, 122 (2012); GUTTMACHER INSTITUTE, MENSTRUAL REGULATION AND INDUCED ABORTIONS IN BANGLADESH (2012)

²¹ GUTTMACHER INSTITUTE, MENSTRUAL REGULATION AND INDUCED ABORTIONS IN BANGLADESH (2012)

²² *Proceedings .of the 62th Meeting of the National Technical Committee (NTC) held on 30 June 2014.*

complications of unsafe abortion, and estimates suggest that only about 40% of those needing treatment for complications actually received it.²³ The situation is far worse for adolescent girls.

The situation of adolescent girls and early marriage

According to UNICEF, the maternal mortality ratio for adolescents in Bangladesh is double the national rate.²⁴ Of all the countries in the South Asia region, Bangladesh has the highest rate of pregnancy before the age of 18, at 40%.²⁵ One in four teenagers age 15-19 in Bangladesh have given birth.²⁶ This situation is most common to those who live in rural or poor areas.²⁷ Most pregnancies occur with marriage since early marriage is so common.²⁸ Bangladesh has the fourth highest incidence of child marriage worldwide.²⁹ A 2013 UNICEF report, notes that 32% of women in the country are married by the age of 15 and 66% by age 18 years.³⁰

The main causes of death among adolescent girls between the ages of 15 and 19 in developing countries worldwide, are complications arising from early pregnancy and childbirth are the.³¹ The World Health Organization reports that adolescents who experience early pregnancy are twice as likely to die in pregnancy or childbirth as women over the age of 20.³² Adolescents under 15 “are five times more likely to die during pregnancy or childbirth.”³³ The World Health Organization has explicitly recommended a standard marriage age of 18 and empowering adolescents to delay pregnancy until 20 due to the particularly harmful effects of early pregnancy.³⁴

Conclusion

The government of Bangladesh has shown strong political will towards eliminating maternal mortality due to unsafe abortion. Maternal deaths have declined by approximately two-fifths between 1990 and 2010-2011.³⁵ However, due to the criminalization of abortion, and the barriers to accessing MR throughout the country, we urge this Committee to remind the government of its obligation under CCPR to make health services more readily available to women and girls in the country, and to remove barriers that keep them from accessing lifesaving health services.

²³ Singh Set al., *The incidence of menstrual regulation procedures and abortion in Bangladesh*, International Perspectives on Sexual and Reproductive Health, 2012

²⁴ UNICEF, Adolescent Empowerment Project in Bangladesh I(2009) available at [http://www.unicef.org/bangladesh/Adolescent_Empowerment_\(KA\).pdf](http://www.unicef.org/bangladesh/Adolescent_Empowerment_(KA).pdf)

²⁵ Acharya Dev Raj et al., *Factors associated with teenage pregnancy in South Asia: a systematic review*, 4(1) HEALTH SCIENCE JOURNAL (2010), 1, 4.

²⁶ NATIONAL INSTITUTE OF POPULATION RESEARCH AND TRAINING ET. AL, BANGLADESH: DEMOGRAPHIC AND HEALTH SURVEY 2014, at 62 (March 2016)

²⁷ PLAN INTERNATIONAL BANGLADESH, CHILD MARRIAGE IN BANGLADESH: FINDINGS FROM A NATIONAL SURVEY 2013, at 13-14 (2013)

²⁸ Amir M. Sayem and Abu Taher M.S. Nury, *Factors associated with teenage marital pregnancy among Bangladeshi women*, 8 REPRODUCTIVE HEALTH (2011), 1, 4; CENTER FOR REPRODUCTIVE RIGHTS, CHILD MARRIAGE IN SOUTH ASIA

²⁹ UNICEF, STATE OF THE WORLD'S CHILDREN 2013: CHILDREN WITH DISABILITIES 132 (May 2013)

³⁰ UNICEF, STATE OF THE WORLD'S CHILDREN 2013: CHILDREN WITH DISABILITIES 132 (May 2013).

³¹ UNITED NATIONS POPULATION FUND (UNFPA), MARRYING TOO YOUNG: END CHILD MARRIAGE, at 11 (2012) Early pregnancy also exposes young girls, who are physically not fully developed, to complications such as obstetric fistula, which leads to infection, incontinence, and significant pain.

³² WORLD HEALTH ORGANIZATION (WHO), WHO GUIDELINES ON PREVENTING EARLY PREGNANCY AND POOR REPRODUCTIVE OUTCOMES AMONG ADOLESCENTS IN DEVELOPING COUNTRIES, at 2 (2011)

³³ WORLD HEALTH ORGANIZATION (WHO), WHO GUIDELINES ON PREVENTING EARLY PREGNANCY AND POOR REPRODUCTIVE OUTCOMES AMONG ADOLESCENTS IN DEVELOPING COUNTRIES, at 2 (2011)

³⁴ WORLD HEALTH ORGANIZATION (WHO), WHO GUIDELINES ON PREVENTING EARLY PREGNANCY AND POOR REPRODUCTIVE OUTCOMES AMONG ADOLESCENTS IN DEVELOPING COUNTRIES, at 82 (2011)

³⁵ Singh Set al., *The incidence of menstrual regulation procedures and abortion in Bangladesh*, International Perspectives on Sexual and Reproductive Health, 2012

We urge this Committee to recommend that the government reform the abortion law in order to address the problem of unsafe abortion. We also urge this Committee to acknowledge that a reformed abortion law should not contain barriers that will hinder access to safe abortion for women and adolescent girls in Bangladesh. For example, there is a lack of trained service providers to provide abortions and there is no provision of training in the pre-service curricula for doctors or nurses. There is also a lack of standard service provision site, as noted above. In addition, stigma and discrimination resulting from religious, social and cultural barriers are a hindrance to access sexual and reproductive health services. The stigma impacts the availability of menstrual regulation as service providers are reluctant to receive training. Women also experience discrimination in access to MR because of the stigma, for example, women report being turned away from MR for several reasons, including because they lack the consent of their husbands, are told that they are too young, or that they currently had no children.³⁶

We request this Committee pose the following questions to the State of Bangladesh during the 119th Session of the HRCtee:

1. What further steps will the State take to ensure that maternal mortality due to unsafe abortion is reduced?
2. What is being done to ensure that health care personnel and other stakeholders are aware of the legality of menstrual regulation?
3. How will the State ensure that young women and poor women do not experience additional barriers in accessing reproductive health services, including family planning services and safe abortion care?
4. What further data and information has been collected regarding the health status of women and adolescents in the country, and especially regarding the availability of comprehensive reproductive health care information and services?

We hope that this information will be useful for your review of the State of Bangladesh's compliance with the ICCPR.

Very Sincerely,



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³⁶ GUTTMACHER INSTITUTE, MENSTRUAL REGULATION AND INDUCED ABORTIONS IN BANGLADESH (2012)