

# 4. Pakistan



## Statistics

### GENERAL

#### Population

- Total population: 153,600,000.<sup>1</sup>
- Population by sex: 72,358,880 (female) and 76,362, 250 (male).<sup>2</sup>
- Percentage of population aged 0–14: 41.2.<sup>3</sup>
- Percentage of population aged 15–24: 19.4.<sup>4</sup>
- Percentage of population in rural areas: 67.<sup>5</sup>

#### Economy

- Annual percentage growth of gross domestic product (GDP): 3.7.<sup>6</sup>
- Gross national income (GNI) per capita: USD 410.<sup>7</sup>
- Government expenditure on health: 0.9% of GDP.<sup>8</sup>
- Government expenditure on education: 2.3% of GDP.<sup>9</sup>
- Population below the poverty line: 32.6% (below national poverty line); 13.4% (below USD 1 a day poverty line); 65.6% (below USD 2 a day poverty line).<sup>10</sup>

### WOMEN'S STATUS

- Life expectancy: 60.9 (female) and 61.2 (male).<sup>11</sup>
- Average age at marriage: 21.7 (female) and 26.5 (male).<sup>12</sup>
- Labor force participation: 15.4% (female) and 84.6% (male).<sup>13</sup>
- Percentage of employed women in agricultural labor force: 66.3.<sup>14</sup>
- Percentage of women among administrative and managerial workers: 4.<sup>15</sup>
- Literacy rate among population aged 15 and older: 28.8% (female) and 57.4% (male).<sup>16</sup>
- Percentage of female-headed households: 7.<sup>17</sup>
- Percentage of seats held by women in national government: 2.<sup>18</sup>

### CONTRACEPTION

- Total fertility rate: 5.08 lifetime births per woman.<sup>19</sup>
- Contraceptive prevalence rate among married women aged 15–49: 28% (any method) and 20% (modern methods).<sup>20</sup>
- Prevalence of sterilization among couples: 5.0% (total); 5.0% (female); <0.1% (male).<sup>21</sup>
- Sterilization as a percentage of overall contraceptive prevalence: 28.1.<sup>22</sup>

**MATERNAL HEALTH**

- Lifetime risk of maternal death: 1 in 80 women.<sup>23</sup>
- Maternal mortality ratio per 100,000 live births: 476.<sup>24</sup>
- Percentage of pregnant women with anemia: 37.<sup>25</sup>
- Percentage of births monitored by trained attendants: 20.<sup>26</sup>

**ABORTION**

- Information unavailable.

**SEXUALLY TRANSMISSIBLE INFECTIONS (STIs) AND HIV/AIDS**

- Number of people living with sexually transmissible infections: Information unavailable.
- Number of people living with HIV/AIDS: 78,000.<sup>27</sup>
- Percentage of people aged 15–24 living with HIV/AIDS: 0.05 (female) and 0.06 (male).<sup>28</sup>
- Estimated number of deaths due to AIDS: 4,500.<sup>29</sup>

**CHILDREN AND ADOLESCENTS**

- Infant mortality rate per 1,000 live births: 87.<sup>30</sup>
- Under five mortality rate per 1,000 live births by sex: 135 (female) and 121 (male).<sup>31</sup>
- Gross primary school enrollment ratio: 54 (female) and 93 (male).<sup>32</sup>
- Primary school completion rate: Information unavailable.<sup>33</sup>
- Number of births per 1,000 women aged 15–19: 50.<sup>34</sup>
- Contraceptive prevalence rates among married female adolescents: 2.4% (modern methods); 3.9% (traditional methods); 6.2% (any method).<sup>35</sup>
- Percentage of abortions that are obtained by women younger than age 20: Information unavailable.<sup>36</sup>
- Number of children under the age of 15 living with HIV/AIDS: 2,200.<sup>37</sup>

**ENDNOTES**

1. See UNITED NATIONS POPULATION FUND (UNFPA), *THE STATE OF WORLD POPULATION 2003*, at 75 (2003) [hereinafter *THE STATE OF WORLD POPULATION 2003*]. Estimates for 2003.
2. See United Nations Population Fund (UNFPA), UNFPA Country Profiles, available at <http://www.unfpa.org/profile/default.cfm> (last visited Aug. 12, 2003) [hereinafter UNFPA Country Profiles]. Estimates for 2001.
3. See THE WORLD BANK, *WORLD DEVELOPMENT INDICATORS 2003*, at 39 (2003) [hereinafter *WORLD DEVELOPMENT INDICATORS 2003*]. Estimates for 2001.
4. See UNFPA Country Profiles, *supra* note 2.
5. See *THE STATE OF WORLD POPULATION 2003*, *supra* note 1, at 75.
6. See *WORLD DEVELOPMENT INDICATORS 2003*, *supra* note 3, at 187.
7. See THE WORLD BANK, *WORLD DEVELOPMENT INDICATORS 2003, DATA QUERY*, available at <http://devdata.worldbank.org/data-query/> (last visited Feb. 24, 2004). The statistical figure was obtained through the Atlas method. Estimates for 2002.
8. See *THE STATE OF WORLD POPULATION 2003*, *supra* note 1, at 75.
9. See United Nations, Information, Government Education Expenditure, available at [http://www.un.org/Pubs/CyberSchoolBus/infonation/e\\_infonation.htm](http://www.un.org/Pubs/CyberSchoolBus/infonation/e_infonation.htm) (last visited Dec. 18, 2003). Estimates for 1990-99.
10. See *WORLD DEVELOPMENT INDICATORS 2003*, *supra* note 3, at 59. The statistical figures were based on 1998-99.
11. See *THE STATE OF WORLD POPULATION 2003*, *supra* note 1, at 71.
12. See UNFPA Country Profiles, *supra* note 2.
13. See *id.*
14. Information on file with the Center for Reproductive Rights.
15. See UNITED NATIONS, *THE WORLD'S WOMEN 2000*, at 147 (2000) [hereinafter *THE WORLD'S WOMEN 2000*].
16. See UNFPA Country Profiles, *supra* note 2.
17. See *THE WORLD'S WOMEN 2000*, *supra* note 15, at 49. Estimates for 1985-1990.
18. See *SAVE THE CHILDREN, STATE OF WORLD'S MOTHERS 2003*, at 40 (2003) [hereinafter *STATE OF WORLD'S MOTHERS 2003*]. This indicator represents the percentage of seats in national legislatures or parliaments occupied by women.
19. See *THE STATE OF WORLD POPULATION 2003*, *supra* note 1, at 75.
20. See *id.*
21. See *ENGENDERHEALTH, CONTRACEPTIVE STERILIZATION: GLOBAL ISSUES AND TRENDS*, tbl. 2.2, at 47 (2002). Estimates for 1994-1995.
22. See *id.*, tbl. 2.5, at 56. Estimates for 1994-1995.
23. See WHO ET AL., *MATERNAL MORTALITY IN 1995: ESTIMATES DEVELOPED BY WHO, UNITED NATIONS CHILDREN'S FUND (UNICEF), UNFPA 45* (2001). Estimates for 1995.
24. See *THE STATE OF WORLD POPULATION 2003*, *supra* note 1, at 71.
25. See *STATE OF WORLD'S MOTHERS 2003*, *supra* note 18, at 40.
26. See *THE STATE OF WORLD POPULATION 2003*, *supra* note 1, at 75.
27. See UNAIDS & WORLD HEALTH ORGANIZATION (WHO), *EPIDEMIOLOGICAL FACT SHEETS ON HIV/AIDS AND SEXUALLY TRANSMITTED INFECTIONS UPDATED 18 AUGUST 2003: PAKISTAN 2* (2003) [hereinafter UNAIDS], available at <http://www.who.int/Glob-alAtlas/home.asp> (last visited Aug. 18, 2003). Estimates for 2001.
28. See *THE STATE OF WORLD POPULATION 2003*, *supra* note 1, at 75.
29. See UNAIDS, *supra* note 27, at 2.
30. See *THE STATE OF WORLD POPULATION 2003*, *supra* note 1, at 71.
31. See UNFPA Country Profiles, *supra* note 2.
32. See *THE STATE OF WORLD POPULATION 2003*, *supra* note 1, at 71. The ratios indicate the number of students enrolled per 100 individuals in the appropriate age group. The ratio may be more than 100 because the figures remain uncorrected for individuals who are older than the level-appropriate age due to late starts, interrupted schooling or grade repetition.
33. While *THE STATE OF WORLD POPULATION 2003* provides statistics for other countries, the information for Pakistan is unavailable in the report.
34. See *THE STATE OF WORLD POPULATION 2003*, *supra* note 1, at 71.
35. See Saroj & K. G. Santhya, *Reproductive Choices for Asian Adolescents: A Focus on Contraceptive Behavior*, 28 *Int'l Fam. Planning Persp.* 186-195 (2002), available at <http://www.agi-usa.org/pubs/journals/2818602t.html> (last visited Aug. 21, 2003). Estimates for 1996-1997.
36. While the article *Characteristics of women who obtain induced abortion: A worldwide review*, in the *International Family Planning Perspectives*, provides statistics for other countries, the information for Pakistan is unavailable in the report.
37. See UNAIDS, *supra* note 27, at 2.

Pakistan's history dates back to the former Indus Valley civilization, one of the world's earliest civilizations.<sup>1</sup> A succession of Hindu and Muslim rulers controlled the region comprising present-day Pakistan for many centuries until the rise of the British Empire in the eighteenth century, which ruled the Indian subcontinent for more than two hundred years.<sup>2</sup> The British partition of the Indian subcontinent along religious lines at the time of independence in 1947 resulted in the creation of predominantly Muslim Pakistan, with Mohammed Ali Jinnah as governor-general, and largely Hindu India.<sup>3</sup> Pakistan was initially comprised of two regions separated by more than 1,000 miles of Indian territory known as East and West Pakistan.<sup>4</sup> Relations between the two regions, which were unique socially and culturally outside of religion, were strained from the beginning.<sup>5</sup> Civil war erupted in 1971 and after months of widespread fighting, East Pakistan defeated West Pakistan (present-day Pakistan) to become the independent state of Bangladesh.<sup>6</sup>

Zulfikar Ali Bhutto took over as president of Pakistan and, in 1973, established a constitution that remains in force today.<sup>7</sup> Bhutto, who governed Pakistan under civilian rule, was overthrown in a 1977 military coup led by General Mohammed Zia ul-Haq, who declared himself president in 1978 and ruled by martial law until 1985.<sup>8</sup> His government announced a policy of *Nizam-i-Islam*, or Islamic rule.<sup>9</sup> Following Zia's death in a plane crash in 1988, Benazir Bhutto, daughter of Zulfikar Ali Bhutto, became prime minister; she ushered in a decade marked by a succession of unstable governments.<sup>10</sup>

On October 12, 1999, General Pervez Musharraf overthrew the government of then Prime Minister Nawaz Sharif in a bloodless military coup, suspending the 1973 constitution and once again imposing military rule on Pakistan.<sup>11</sup> Assuming the title of chief executive, he appointed an eight-member National Security Council to govern the country.<sup>12</sup> In 2000, the Supreme Court of Pakistan unanimously validated Musharraf's coup and granted him executive and legislative authority until 2002, ordering him to hold elections within three years.<sup>13</sup> In June 2001, Musharraf declared himself president, and his presidency was extended to 2007 following an April 2002 referendum.<sup>14</sup> In November 2002, a new civilian prime minister, Mir Zafarullah Khan Jamali, was elected, signaling the end of three years of purely military government.<sup>15</sup>

Pakistan's population is an estimated 142.5 million, 48.1% of which is female.<sup>16</sup> Urdu is the official language, although English is commonly used in the realms of government, military, business and higher education; other principal languages include Punjabi, Sindhi, Siraiki, Pashtu, Balochi, Hindko, Brahui and Burushaski.<sup>17</sup> The major ethnic groups are Punjabi, Sindhi, Pashtun, Baloch and Muhajir.<sup>18</sup> Islam is the state

religion and is practiced by 97% of the population, 77% of whom are Sunni Muslims and 20% of whom are Shia Muslims.<sup>19</sup> The remaining 3% of the population is comprised largely of Hindus, Christians, Buddhists and Parsis.<sup>20</sup>

As a border nation to Afghanistan, Pakistan historically has been a recipient of refugees fleeing military conflict. The Pakistani government estimates that there are some 3.3 million Afghan refugees living in Pakistan.<sup>21</sup> International agencies estimate that about half of that population receives government assistance and that there may be some two million other undocumented Afghans in Pakistan.<sup>22</sup>

Pakistan has been a state party to the United Nations (UN) since 1947.<sup>23</sup> It is also a member of the South Asian Association for Regional Cooperation (SAARC), the Organization of Islamic Conference and the Commonwealth of Nations, an organization of countries formerly part of the British Empire.<sup>24</sup>

## I. Setting the Stage: The Legal and Political Framework of Pakistan

Fundamental rights are rooted in a nation's legal and political framework, as established by its constitution. The principles and goals enshrined in a constitution along with the processes it prescribes for advancing them, determine the extent to which these basic rights are enjoyed and protected. A constitution that upholds equality, liberty and social justice can provide a sound basis for the realization of women's human rights, including their reproductive rights. Likewise, a political system committed to democracy and the rule of law is critical to establishing an environment for advancing these rights. The following section outlines Pakistan's legal and political framework.

### A. THE STRUCTURE OF NATIONAL GOVERNMENT

The Islamic Republic of Pakistan is a federal republic.<sup>25</sup> The preamble to the 1973 Constitution of the Islamic Republic of Pakistan characterizes the country as a "democratic State based on Islamic principles of social justice."<sup>26</sup> It maintains that "sovereignty over the entire Universe belongs to Almighty Allah alone" and that the people of Pakistan are empowered to exercise authority within the limits prescribed by Islam.<sup>27</sup> The constitution delineates three branches of government: executive, legislative and judicial.

#### *Executive branch*

The executive branch of government consists of the president, the prime minister and the Cabinet of Ministers.<sup>28</sup> The

president, who must be a Muslim, is the head of state.<sup>29</sup> He or she is elected by members of both houses of parliament and the provincial assemblies.<sup>30</sup> The president serves a five-year term, which is limited to two consecutive terms.<sup>31</sup> The constitution requires the president to act in compliance with the recommendations of the cabinet or prime minister, although he or she may use his or her discretion regarding “any matter which he is empowered by the constitution to do so” and the validity of such actions “shall not be called in question on any ground whatsoever.”<sup>32</sup> The president’s powers include granting pardons and remitting, suspending or commuting any sentence passed by any court.<sup>33</sup> A president may be removed from office by a two-thirds parliamentary majority for reasons of physical or mental incapacity, for gross misconduct or for violating the constitution.<sup>34</sup>

The president appoints the parliamentarian holding the confidence of the majority of the lower house to the office of prime minister.<sup>35</sup> The prime minister heads the Cabinet of Ministers and acts as a liaison between the cabinet and the president, communicating all cabinet decisions to the president and submitting presidential proposals to the cabinet.<sup>36</sup> The prime minister can only be removed from office by a vote of no confidence issued by a simple majority of the lower house of parliament.<sup>37</sup>

The Cabinet of Ministers, which is comprised of federal ministers, ministers of state and advisers, aids and advises the president in exercising his or her functions.<sup>38</sup> The president appoints members of parliament to the cabinet upon the advice of the prime minister.<sup>39</sup> The cabinet together with the ministers of state are collectively responsible to the National Assembly.<sup>40</sup>

#### **Legislative branch**

The *Majlis-e-Shoora* (parliament) consists of the president and two houses, known as the Senate (upper house) and the National Assembly (lower house).<sup>41</sup> Pursuant to constitutional amendments issued in 2002 by President Musharraf in his Legal Framework Order, the number of seats in the Senate increased from 87 to 100.<sup>42</sup> Of the 100 members, the order provides for the election of 22 members by each provincial assembly, four of whom are women and four of whom are technocrats including *ulema* (religious scholars).<sup>43</sup> One woman and technocrat each, and two members on general seats, are elected from the Federal Capital Territory, and eight members are elected from the Federally Administered Tribal Areas.<sup>44</sup> Members serve six-year terms, and the body is not subject to dissolution.<sup>45</sup>

The Legal Framework Order increased the number of seats in the National Assembly from 207 to 342, and candidates standing for election need not be Muslim as was pre-

viously required.<sup>46</sup> Of the total number of seats, the order provides for the reservation of 60 seats for women and ten seats for non-Muslims and persons belonging to the Quadiani or Lahori groups and scheduled castes.<sup>47</sup> Members to fill general seats are elected by direct vote, while seats reserved for women and non-Muslims are allocated on the basis of proportional representation to political parties that win at least 5% of the directly elected general seats.<sup>48</sup> Members serve for five years, with the entire assembly dissolving every five years.<sup>49</sup> The National Assembly must convene at least three times a year.<sup>50</sup> Seats are allocated to each province based upon the current population levels and are reallocated after each census.<sup>51</sup> Subject to the constitution, all of the National Assembly’s decisions are ratified by a majority vote of members present during the session.<sup>52</sup> The president has the authority to dissolve the National Assembly upon the advice of the prime minister, or at his discretion when the assembly has issued a vote of no confidence against the prime minister and no other member is likely to receive the support of the majority of the assembly.<sup>53</sup> The constitution also authorizes the president’s unilateral dissolution of the National Assembly where the business of government “cannot be carried on in accordance with the provisions of the Constitution and an appeal to the electorate is necessary.”<sup>54</sup>

The constitution prescribes the separate and shared powers of parliament and the provincial governments in two separate lists: the Federal Legislative List and the Concurrent Legislative List.<sup>55</sup> Parliament has exclusive legislative control over all subjects on the Federal Legislative List, which include national defense; nationality and citizenship; immigration; federal public services; national planning and national economic coordination; presidential, parliamentary and provincial assembly elections; taxation; jurisdiction and powers of all courts, except the Supreme Court; and enlargement of the Supreme Court’s jurisdiction.<sup>56</sup>

Both parliament and the provincial governments may legislate on subjects on the Concurrent Legislative List, which include criminal law and criminal and civil procedure; marriage and divorce; infants and minors; adoption; inheritance and succession, except with regard to agricultural land; transfer of property other than agricultural land; drugs and medicines; prevention of communicable disease transmission; population planning and social welfare; labor and employment; health insurance; education, including Islamic education; and legal and medical professions.<sup>57</sup>

Any legislation, with the exception of certain financial bills, may originate in either house.<sup>58</sup> Once a house passes a bill that it introduced, the bill is sent to the other house for approval and passage before it reaches the president.<sup>59</sup> If a

house rejects the bill, calls for an amendment or fails to pass the bill within 90 days, the bill is referred to a Mediation Committee composed of members from both houses of parliament for consideration and resolution.<sup>60</sup> The committee has 90 days to revise the bill so that both houses are likely to pass it.<sup>61</sup> If both houses pass the bill, it is sent to the president for his or her signature.<sup>62</sup> The president has the power to contest a proposed bill and return it to parliament with suggested changes. If the bill is then passed by a majority of both houses, the president is required to approve it.<sup>63</sup> Financial bills originate in the National Assembly, and a copy is sent to the Senate, which has seven days to make recommendations to the other house. The National Assembly may pass the bill with or without incorporating the Senate's recommendations and present it to the president for assent.<sup>64</sup>

#### ***Permanent Advisory Council of Islamic Ideology***

The constitution contains a distinct part, entitled Islamic Provisions, that provides for the creation of a Council of Islamic Ideology.<sup>65</sup> The council is an advisory body that serves primarily to make recommendations to parliament and the provincial assemblies on ways to enable and encourage Pakistani Muslims to live in accordance with Islamic principles.<sup>66</sup> The council also advises government officials such as the president, provincial governors and members of parliament or the provincial assemblies on whether a proposed law is or is not repugnant to the injunctions of Islam.<sup>67</sup>

The council is composed of eight to twenty members, including at least one woman, appointed by the president from various schools of thought.<sup>68</sup> Each member serves for three years.<sup>69</sup> All members must understand the principles and philosophy of Islam as articulated in the *Quran* and *Sunnah*, or understand the economic, political, legal and administrative problems facing Pakistan.<sup>70</sup>

### **B. THE STRUCTURE OF LOCAL GOVERNMENTS**

Pakistan has four provinces: Baluchistan, North-West Frontier Province, Punjab, and Sindh.<sup>71</sup> There are also seven tribal areas in the North-West Frontier Province, known as Federally Administered Tribal Areas.<sup>72</sup> The constitution prescribes the structure and powers of the provincial governments.

#### ***Executive branch***

Each province has a governor, a provincial cabinet of ministers headed by a chief minister and a provincial assembly.<sup>73</sup> The president appoints a governor with the advice of the prime minister.<sup>74</sup> The governor must act in accordance with the recommendations of the chief minister's cabinet. All of the governor's official powers—including issuing ordinances, calling upon the armed forces for assistance, dissolving the provincial assembly, appointing and removing the chief min-

ister and dismissing the provincial cabinet—are subject to the prior approval of the president.<sup>75</sup> The chief minister, who usually heads the body's majority party, serves as a liaison to the governor. The provincial cabinet is collectively responsible to the provincial assembly.<sup>76</sup>

#### ***Legislative branch***

Each provincial assembly consists of general seats and seats reserved for women and non-Muslims.<sup>77</sup> The general members of the provincial assemblies are elected by direct vote and serve a five-year term.<sup>78</sup> Reserved seats are allocated on the basis of proportional representation to parties based on the total number of general seats they win in the provincial assembly.<sup>79</sup> The governor may dissolve the provincial assembly upon the advice of the chief minister, or at his discretion under limited circumstances and subject to prior approval of the president.<sup>80</sup>

Provincial assemblies share legislative power with parliament with regard to subjects on the Concurrent Legislative List.<sup>81</sup> (See "Legislative branch" under "The Structure of National Government" for more information.)

The system of governance at the local level was restructured following the October 1999 coup and pursuant to the 2000 Local Government Plan.<sup>82</sup> The plan creates a far greater political role for local bodies by devolving power to the grassroots level.<sup>83</sup> It establishes a three-tier local government system at district, *tehsil* (subdistrict) and union levels throughout Pakistan.<sup>84</sup> Thirty-three percent of seats at each of these levels are reserved for women, and additional seats are reserved for peasants, workers and minorities.<sup>85</sup> The basic unit of this system is the union council, headed by the *nazim* (mayor) along with the *naib nazim* (deputy mayor).<sup>86</sup> Non-party local elections were held from December 2000 to August 2001, and newly elected local governments assumed power on August 14, 2001, in more than 100 districts in each of the four provinces.<sup>87</sup>

Pursuant to the Legal Framework Order, provinces are required to establish local systems of government but cede political, administrative and financial responsibility and authority to respective elected officials of local governments.<sup>88</sup>

### **C. THE JUDICIAL BRANCH**

The constitution provides for a Supreme Court, which is the highest court in the country, high courts in each of the four provinces and other courts established by law as necessary.<sup>89</sup> The Supreme Court has exclusive jurisdiction over disputes between the federal and provincial governments and between different provincial governments, and appellate jurisdiction over high court decisions.<sup>90</sup> In addition, the president can ask

the Supreme Court, in its advisory capacity, to render its opinion on questions of law that are of public importance.<sup>91</sup> The court is headed by the Chief Justice of Pakistan, who is appointed by the president, and served by other judges as determined by an act of parliament or the president.<sup>92</sup> The president appoints associate justices to the court upon the advice of the chief justice.<sup>93</sup> The age of retirement for judges is 68 years.<sup>94</sup>

High courts also consist of a chief justice and any other judges deemed necessary by the president or mandated by law.<sup>95</sup> The high court of each province has jurisdiction over civil and criminal appeals from lower courts within the province.<sup>96</sup> All high court judges are appointed by the president upon the advice of the Chief Justice of Pakistan, the governor of the province and the chief justice of the high court to which the appointment is being made.<sup>97</sup> High court judges may serve until the age of 65.<sup>98</sup>

Below high courts are district courts, which exist in every district.<sup>99</sup> District courts have both civil and criminal jurisdiction, but deal mainly with civil matters.<sup>100</sup>

The 1964 West Pakistan Family Courts Act provides for at least one family court in each district, and requires that a female judge preside over at least one family court per district.<sup>101</sup> Subject to provisions of the 1961 Muslim Family Laws Ordinance, family courts have exclusive jurisdiction over matters pertaining to the dissolution of marriage, dower (sum of money or other property given to the wife by the husband in consideration of Muslim marriage, also known as *mahr*), maintenance, the restitution of conjugal rights, the custody and guardianship of children, “jactitation of marriage” (false boasting by one party that he or she is married to another), and dowry (property or gifts given by either party to a marriage, or by his or her parents, to the other party, as distinguished from the Muslim dower).<sup>102</sup> Appeals from family courts are solely made to the appropriate high court.<sup>103</sup>

The constitution additionally authorizes parliament to establish administrative courts and tribunals to hear disputes involving federal matters, claims arising from tortious acts of government or civil servants, and matters relating to the terms and conditions of service of civil servants.<sup>104</sup> These courts operate under the administrative control of the federal government.<sup>105</sup> Appeals of decisions issued by these courts and tribunals are made to the Supreme Court and considered only if the court deems the case to involve a substantial legal question of public importance.<sup>106</sup>

There are a number of judicial systems that operate parallel to the ordinary court system. Some of these systems apply exclusively to tribal areas while others apply through-

out Pakistan. These systems have been incorporated into the constitution.<sup>107</sup> The most notable courts within this system are the Federal Shariat Court and the Shariat Appellate Bench of the Supreme Court, both of which have jurisdiction throughout the country.<sup>108</sup>

The Federal Shariat Court was established by presidential Order in 1980.<sup>109</sup> The court has exclusive jurisdiction over questions relating to the conformity of a law with the injunctions of Islam.<sup>110</sup> Such questions may be raised by the petition of any citizen, by the federal or provincial governments, or by the court itself.<sup>111</sup> When the court pronounces a federal law to be inconsistent with Islamic principles, the president must attempt to bring the law into conformity with the injunctions of Islam; governors must do the same in cases involving provincial laws.<sup>112</sup> A law or any portion of a law that the court deems “repugnant” to Islam ceases to have effect on the day the court’s decision takes effect.<sup>113</sup> To ensure that the law has been correctly applied, the court also reviews criminal court decisions relating to the enforcement of Hudood Ordinances in Pakistan—Islamic penal laws that deal with offenses against property, adultery, rape and the prohibition of alcohol. The ordinances prescribe punishments that include stoning to death and public flogging.<sup>114</sup> In 2002, the court overturned the decision of a lower court in the North-West Frontier Province that had sentenced a woman accused of adultery to death by stoning.<sup>115</sup> Substantive provisions of the constitution are beyond the scrutiny of the court.<sup>116</sup> However, with respect to matters within its power or jurisdiction, no other court or tribunal, including the Supreme Court and high courts, may interfere in its proceedings.<sup>117</sup>

The Federal Shariat Court is composed of eight Muslim judges including the chief justice, all of whom are appointed by the president.<sup>118</sup> Of these eight judges, no more than four may be persons who are, have been, or are qualified to be, a judge of the Supreme Court or any high court.<sup>119</sup> A maximum of three judges may be religious scholars selected from among those *Ulema* well-versed in Islamic law.<sup>120</sup>

The Federal Shariat Court’s decisions may be appealed to the Shariat Appellate Bench of the Supreme Court, which consists of three Muslim judges of the Supreme Court and up to two *ulema* (as ad hoc members) appointed by the president in consultation with the Chief Justice of Pakistan.<sup>121</sup> An appeal is made to the Supreme Court in cases where the Federal Shariat Court has, on appeal, reversed an order of acquittal of an accused person and sentenced her or him to death, life imprisonment or imprisonment for more than 14 years; enhanced a sentence of such person; or imposed punishment for contempt of

court.<sup>122</sup> Appeal from other decisions is allowed only if the Shariat Appellate Bench grants leave to appeal.<sup>123</sup> The decisions of the Shariat Appellate Bench, and non-appealed decisions of the Federal Shariat Court, are binding on the high courts and the subordinate judiciary.<sup>124</sup>

#### ***Customary forms of alternative dispute resolution***

Tribal councils—known as *jirgas* in some parts of the country—are an institution in rural Pakistan’s informal justice system.<sup>125</sup> These councils have no legal standing and are not governed by any legislation.<sup>126</sup> They are essentially councils of elders that issue informal judgments seeking to resolve local disputes such as those over land, water and breaches of honor.<sup>127</sup>

### **D. THE ROLE OF CIVIL SOCIETY AND NON-GOVERNMENTAL ORGANIZATIONS (NGOs)**

NGOs in Pakistan play a vital role in promoting and protecting human rights and contributing to the country’s social and economic development. They have made significant contributions in a number of fields, including promoting higher health standards; advancing women’s equality and empowerment; combating illiteracy; promoting the right to education of all Pakistani children, particularly girls; and advocating for legal reform.<sup>128</sup>

Although NGOs in Pakistan are generally not required to be registered before starting their advocacy work, registration gives them official status and renders them eligible to receive government financial support.<sup>129</sup> NGOs may register under five different acts and ordinances, including the 1961 Voluntary Social Welfare Agencies Registration and Control Ordinance.<sup>130</sup>

According to the 1997 directory of NGOs in Pakistan, there were 11,648 NGOs registered with the government’s Social Welfare Department.<sup>131</sup> Of the Ministry of Women Development, Social Welfare and Special Education’s roughly 900 development projects, almost half are conducted by NGOs on behalf of the government.<sup>132</sup>

The Family Planning Association of Pakistan, founded in 1953, is the country’s largest NGO and has been a pioneer in the field of family planning and reproductive rights advocacy. It provides services through 131 community-based units and organizations throughout the country and has involved more than 55,000 volunteers in its projects.<sup>133</sup>

### **E. SOURCES OF LAW AND POLICY**

#### ***Domestic sources***

English common law and Islamic law form the bedrock of Pakistan’s legal system.<sup>134</sup> Commercial law matters are heavily influenced by English common law principles, while laws relating to personal status and, more recently, criminal and tax

issues, are largely shaped by Islamic law.<sup>135</sup>

The constitution is the supreme law of the land and guarantees certain fundamental rights, including the freedom of thought, speech, worship, and expression.<sup>136</sup> It forbids discrimination solely on the basis of gender.<sup>137</sup> In addition to fundamental rights, the constitution contains several Principles of Policy, which offer authoritative guidance to state organs in policy matters, but are not enforceable like fundamental rights.<sup>138</sup> Among other things, the principles discourage discrimination on the basis of race, tribe, sect, province, or religion.<sup>139</sup> They also call for the full participation of women in national life and safeguard the rights and interests of minorities.<sup>140</sup>

The constitution’s Islamic Provisions require all existing laws to be brought in conformity with Islamic principles and prohibits the enactment of laws “repugnant” to such principles.<sup>141</sup> The constitution specifically provides that the application of this mandate to the personal law of various Muslim sects shall respect each sect’s unique interpretation of Islamic principles as contained in the *Quran* and *Sunnah*.<sup>142</sup>

Subordinate to the constitution are a number of national codes and federal acts and ordinances. The major codes include the 1908 Code of Civil Procedure, 1898 Code of Criminal Procedure and 1860 Penal Code.<sup>143</sup> Statutory rules and orders supplement federal acts.

Religion-based personal laws generally govern matters relating to family and private life in each of Pakistan’s religious communities. Some of these laws have been codified, although Muslim personal law remains largely uncoded. In addition to personal laws, some legislation relating to marriage applies to all Pakistani citizens, regardless of religious affiliation. These secular laws include the 1872 Special Marriage Act and the 1929 Child Marriage Restraint Act.<sup>144</sup>

The provinces also have the authority to legislate and issue ordinances and statutory rules, which are subordinate to national codes and federal legislation.<sup>145</sup> Parliament and the provincial assemblies share the power to legislate on matters including marriage, divorce, inheritance, population, social welfare, and education.<sup>146</sup>

Legislation is reviewed with a view to making recommendations for their modernization, unification and codification by the Law and Justice Commission of Pakistan, a statutory body established under the 1979 Law and Justice Commission of Pakistan Ordinance.<sup>147</sup> The commission has 12 members, who include the Chief Justice of Pakistan, who chairs the committee, the chief justice of the Federal Shariat Court, chief justices of the provincial high courts, the secretary of the Ministry of Law, Justice and Human Rights, and chairperson of the Commission on the Status of Women.<sup>148</sup>



So far, the commission has submitted 51 reports to the government commenting on and suggesting reforms relating to family courts, maternity benefits, family laws, and offenses against the human body.<sup>149</sup>

General Zia ul-Haq's 1977 military coup marked the beginning of an official policy of *Nizam-I-Islam* (Islamic rule) and set in motion a sweeping process of Islamicization of the entire legal system.<sup>150</sup> Although Islam had been a part of the country's constitutional and legal framework prior to 1977, this policy was the first substantive official effort for Islamic legal reform.<sup>151</sup> In 1985, a presidential order made the "Objectives Resolution" a substantive part of the constitution, establishing Islamic common law principles contained in the *Quran* and *Sunnah* as the framework for state policy.<sup>152</sup> The process of Islamicization was accelerated with a series of *shari'ah* (injunctions of Islam as laid down in the *Quran* and *Sunnah*) acts beginning in 1988 and culminating with the Enforcement of Shari'ah Acts of 1990 and 1991.<sup>153</sup> The 1991 act declared the *shari'ah* the supreme law of Pakistan.<sup>154</sup> In cases where two or more interpretations of a law are possible but conflict, the 1991 act mandated courts to adopt the legal interpretation most consistent with Islamic principles and jurisprudence.<sup>155</sup> Criminal law and procedure were also amended to bring them in conformity with Islamic injunctions as set forth in the *Quran*.<sup>156</sup>

Government policies in Pakistan are guided by the constitution and its Principles of Policy and are articulated and implemented within the framework of five-year strategic plans. The five-year plans are comprehensive national development plans that include goals, strategies and specific programmatic measures in areas such as economic infrastructure, urban and rural development, social development including health and population welfare, and issues specific to women and children. The Ninth Five Year Plan (1998–2003) is currently operative.

#### **International sources**

Pakistan is party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (Children's Rights Convention), and the International Convention on the Elimination of All Forms of Racial Discrimination (Racial Discrimination Convention).<sup>157</sup> Pakistan ratified CEDAW with a reservation to paragraph 1, article 29, pertaining to disputes and made a declaration that invokes the primacy and sovereignty of the constitution over and above all provisions of CEDAW.<sup>158</sup> It has not ratified the Optional Protocol to CEDAW.<sup>159</sup> The government also made a general reservation to the Children's Rights Convention stating that Articles

1–54 should be "interpreted in the light of Islamic laws and values."<sup>160</sup> The government has signed but not ratified the Optional Protocols to the Convention on the Rights of the Child regarding child prostitution and child pornography, and regarding children in armed conflict.<sup>161</sup> Pakistan is not party to the International Covenant on Economic, Social and Cultural Rights (Economic, Social and Cultural Rights Covenant), the International Covenant on Civil and Political Rights (Civil and Political Rights Covenant) and its Optional Protocols, the Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (Convention against Torture), or the Convention Relating to the Status of Refugees or Protocol Relating to the Status of Refugees.<sup>162</sup>

The government has also participated in key international conferences where it endorsed a series of consensus documents containing important principles of international human rights law and development goals. Pakistan is a signatory to the 1993 Vienna Declaration and Programme of Action; 1994 International Conference on Population and Development (ICPD) Programme of Action; 1995 Beijing Declaration and Platform for Action; and 2000 United Nations Millennium Declaration.<sup>163</sup> Pakistan endorsed the ICPD Programme of Action without any reservations, but endorsed the Beijing Platform for Action with reservations to paragraphs 97 and 232(f), relating to sexual and reproductive health issues.<sup>164</sup>

Pakistan is also a signatory to the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution and the SAARC Convention on Regional Arrangements for the Promotion of the Welfare of Children.<sup>165</sup>

## II. Examining Reproductive Health and Rights

In general, reproductive health issues are addressed through a variety of complementary, and sometimes contradictory, laws and policies. The manner in which these issues are addressed reflects a government's commitment to advancing reproductive health. The following section presents key legal and policy provisions that together determine women's reproductive rights and choices in Pakistan.

### **A. GENERAL HEALTH LAWS AND POLICIES**

In its Principles of Policy, the constitution promotes state provision of the "... basic necessities of life, such as ... med-

ical relief, for all such citizens, irrespective of sex, caste, creed, or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment.”<sup>166</sup> The federal government is responsible for the formulation of national health policies, the coordination of provincial health services and the creation of health training standards.<sup>167</sup> Until the country’s first health policy was formulated in 1988, all health initiatives were issued through national five-year plans.<sup>168</sup> Currently, both the Ninth Five Year Plan and the National Health Policy, issued by the Ministry of Health in 2001, provide the country’s policy framework on health.<sup>169</sup>

### **Objectives**

The National Health Policy proclaims that its “overall national vision” for the health sector is based on a “health for all” approach and aims to protect Pakistanis against hazardous diseases, promote public health and upgrade curative care facilities.<sup>170</sup> It sets forth three key features, which are these:

- to regard health sector investments as part of the government’s Poverty Alleviation Plan;
- to prioritize the work of primary and secondary health sectors; and
- to envisage good governance as the foundation for health sector reform.<sup>171</sup>

In order to realize its vision, the policy identifies specific areas for reform, which are the following:

- lowering the widespread prevalence of communicable diseases;
- addressing inadequacies in primary and secondary health-care services;
- removing professional and managerial deficiencies in the district health system;
- promoting greater gender equity;
- bridging basic nutrition gaps in the target population;
- correcting urban bias in the health sector;
- introducing mandatory regulation in the private medical sector;
- creating mass awareness of public health matters;
- effecting improvements in the drug sector; and
- building capacity for health policy monitoring.<sup>172</sup>

Each key area for reform is accompanied by a series of implementation strategies and target goals.

The goals and strategies of the National Health Policy are connected to the health objectives set forth in the Ninth Five Year Plan.<sup>173</sup> The plan identifies the following

nine critical issues of concern in its chapter on health, which inform national health priorities during the plan’s timeframe:

- organization, management and implementation of health services at the primary health-care and referral levels;
- sustainability of health services;
- development of human resources according to the needs of the health sector;
- the roles of the community, private sector and NGOs in health care;
- rationalization of the private sector’s role, especially in curative services;
- provision of primary health services, especially for the poor;
- community involvement and financing;
- the focus on reducing female mortality and morbidity; and
- provision of essential services in all priority areas previously neglected.<sup>174</sup>

The plan also highlights several weaknesses in Pakistan’s existing health-care system, including poor organizational infrastructure; poorly defined job descriptions and procedures; lack of accountability; disparities between urban and rural health care; ineffective referral systems; gender imbalances; underdevelopment of human resources; ineffective health management information systems; inadequate funds; and highly centralized decision-making in administrative and financial matters.<sup>175</sup>

### ***Infrastructure of health-care services***

#### *Government facilities*

According to the National Health Policy, implementation of health services is a partnership between the Ministry of Health and the provincial departments of health, and is undertaken in close collaboration with district health authorities under the local government structure.<sup>176</sup> The federal government plays a supportive and coordinating role, especially in priority health areas such as communicable disease control, while the provincial governments are charged with primary responsibility for the actual delivery of health services.<sup>177</sup> The policy acts as a collective framework and provides guidelines to the provinces, which are charged with the responsibility of developing implementation plans in accordance with the requirements and priorities of their respective provinces.<sup>178</sup>

The Ministry of Population Welfare is another key institution in the government health infrastructure. Through the provincial departments of population welfare, it administers a

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### **RELEVANT LAWS AND POLICIES**

- National Health Policy, 2001
- Ninth Five Year Plan, 1998–2003

system of family planning services separate from the Ministry of Health's health-care system, mainly through family welfare centers.<sup>179</sup> Its services include contraceptive distribution and sterilization, as well as some maternal and child health care. (See "Population" for more information on the Ministry of Population Welfare's provision of family planning services.)

The government's health delivery system consists of the following tiers:

- outreach and community-based activities, which consist of immunization, sanitation, malaria control, maternal and child health, and family planning;
- primary-level health-care facilities, which include basic health units and rural health centers, mostly for outpatient, but some inpatient, services;
- secondary-level facilities, which include *tehsil* headquarter hospitals and district headquarter hospitals and that provide secondary health services involving basic inpatient and outpatient care, referral services for primary-level care and some specialized services; and
- teaching hospitals located in provincial headquarters or large cities that are equipped for tertiary-level health care involving specialized inpatient services.<sup>180</sup>

The government system lacks effective referral services linking the various tiers of health care, leading to over- or under-use of certain services.<sup>181</sup>

At the community level, a cadre of community-based workers, known as family health workers, provides family planning and primary health-care services mainly to women and children in villages and selected urban areas.<sup>182</sup> (See "Population" for more information on family health workers.)

At the primary level, there is a network of 5,230 basic health units, each of which serves a population of 10,000–20,000.<sup>183</sup> Each unit is generally staffed by a medical officer and a small number of technical and non-technical staff, including a female health worker.<sup>184</sup> In addition, there are 541 rural health centers that provide primary health care to a population of 25,000–50,000 each, and are staffed by about 30 medical personnel that include several doctors and paramedics.<sup>185</sup>

At the secondary level, *tehsil* headquarter hospitals serve 100,000–300,000 people, while district headquarter hospitals serve populations of 1 million to 2 million.<sup>186</sup>

There is approximately one doctor for every 1,516 patients, and one nurse for every 3,639 patients.<sup>187</sup> Female medical staff, in particular, are lacking in government health-care facilities at all levels. One-third of government health facilities do not have any female staff.<sup>188</sup> While almost one-third of physicians registered in 1993 were female—an

increase from less than one-fourth in 1987—female physicians are concentrated in cities and are uncommon in rural areas.<sup>189</sup> A sample survey of basic health units found that women constituted 36% of health workers but that none held medical officer positions.<sup>190</sup> Among rural health centers, the survey found that women constituted 19% of health staff and 14% of medical officers; these percentages were slightly higher at surveyed *tehsil* and district headquarter hospitals.<sup>191</sup>

The government is the major source of hospital services in rural areas and of preventive services throughout the country.<sup>192</sup> However, only 15–25% of the population uses public sector health services.<sup>193</sup> Reasons cited by the general public for not using government health facilities for treatment of illness and injury include long distances (33%); unavailability of medicines (20%); uncooperative staff (11%); inability of providers to treat complications (8%); and unavailability of doctors (7%).<sup>194</sup>

Although the government and international aid agencies both have responsibilities for the provision of services to Afghan refugees in Pakistan, refugees do not have access to many basic government services, including health care.<sup>195</sup> Rather, the NGO sector provides services such as health care, education and water to refugees.<sup>196</sup>

#### *Privately run facilities*

The private health sector plays a significant role in the delivery of health care, providing services to 60–70% of the population.<sup>197</sup> The National Health Policy recognizes the role of the private health sector in the implementation of key policy initiatives.<sup>198</sup>

Private sector facilities are comprised mostly of more than 20,000 small clinics of general practitioners.<sup>199</sup> Government doctors often practice in private clinics, where they charge higher fees for providing the same services and drugs.<sup>200</sup> Other small private facilities include dispensaries, maternity homes and laboratories.<sup>201</sup> In addition, more than 500 small to medium-size private hospitals offer basic surgical, obstetric and diagnostic care, and there are a few large NGO-operated private hospitals in large cities.<sup>202</sup> There are also more than 11,000 pharmacies and thousands more non-pharmacy retail outlets that sell drugs.<sup>203</sup>

Formal private health facilities are located mostly in urban areas and generally provide curative, as opposed to preventive, care.<sup>204</sup> According to some studies, rural areas have only about 30% of private health facilities; in contrast, almost 70% of the population live in rural areas.<sup>205</sup> Private reproductive health services are also very limited, especially in rural areas.<sup>206</sup> Despite the uneven distribution of services, household surveys indicate that most people seek medical care in the private sector, at least for first consultations.<sup>207</sup>

Informal health-care systems, including traditional forms of medicine such as homeopathic, unani and ayurvedic, comprise a significant portion of the private sector.<sup>208</sup>

The distinction between the private and public health sector is often blurred in Pakistan.<sup>209</sup>

As of 1998, there had been no survey of NGOs working in the health sector.<sup>210</sup> However, NGOs in Pakistan are widely perceived as small in number and size and operating mostly in urban areas.<sup>211</sup> An exception is the Aga Khan Health Services Program, which has been successful in providing primary health-care services at the community level in two northern districts of Pakistan.<sup>212</sup>

### ***Financing and costs of health-care services***

#### *Government financing*

Total public sector spending on health in 2001–2002 was 0.7% of GNP, most of which was for recurring expenditures.<sup>213</sup> Public sector health spending as a percentage of GNP has remained relatively constant since 1995–1996, although the actual amount of spending in 2001–2002 was 4.6% more than the previous year.<sup>214</sup> The Prime Minister's Program for Family Planning and Primary Health Care, an important Ministry of Health program that provides community outreach health-care and family planning services, alone accounts for about 6% of total government health spending.<sup>215</sup> (See "Population" for more information on the Prime Minister's Program for Family Planning and Primary Health Care.) Provincial governments spend 5–9% of their annual budgets on health.<sup>216</sup>

Structural adjustment reforms advocated by the World Bank and the International Monetary Fund were introduced in 1988 and led to major cuts in public spending, causing an increase in poverty and a deterioration of public health.<sup>217</sup> Structural adjustment programs have had a particularly adverse effect on women's health.<sup>218</sup> The government attempted to counter the negative impact of these economic reforms by launching the Social Action Program in 1993, which focused on improving access to primary health care and nutrition among other objectives. The program aimed to increase public sector spending in specific areas such as primary health care and family planning and succeeded in protecting its budget from the drastic cuts made in other public programs.<sup>219</sup>

#### *Private and international financing*

The private sector is the major financier of health care in Pakistan, providing two-thirds of total health-care expenditure.<sup>220</sup>

International assistance has also been important for Pakistan's health programs, particularly in the area of population activities, most of which are focused on family planning and

reproductive health services.<sup>221</sup> From 1998–2000, the Asian Development Fund ranked as the largest donor (42% of all donated funds) in the health sector followed by the United Kingdom (35%) and the Netherlands (7%).<sup>222</sup> The United States Agency for International Development (USAID), UNFPA and the Department for International Development (DFID) have been among important donors to the government's population activities.<sup>223</sup> In general, a poor global environment of international aid as well as economic sanctions caused a declining trend of foreign aid to Pakistan in the 1990s, leading to an all-time low for the decade of USD 665 million in 1999–2000.<sup>224</sup> However, a recent restoration of relationships with international financial institutions has improved foreign aid commitments.<sup>225</sup> In 2001–2002, international assistance was projected to increase to nearly USD 3.94 billion, mainly due to higher disbursements of non-food aid (USD 2.06 billion) and relief assistance for Afghan refugees (USD 20 million).<sup>226</sup>

The World Bank approved a second structural adjustment loan for Pakistan of USD 500 million in 2002, with the primary objective of improving governance and human development and enhancing social protection and employment opportunities for low-income groups.<sup>227</sup>

#### *Costs*

While there is some variation among provinces in costs for public health-care services, a general structure of user charges and fees operates throughout government health-care facilities.<sup>228</sup> User fees include nominal charges for outpatient consultations and inpatient admissions.<sup>229</sup> Medical officers employed in medical clinics have the authority to waive such fees for certain patients, such as low-income individuals, after interviewing the patient or his or her relatives.<sup>230</sup> User charges do not include patients' out-of-pocket expenditures for the purchase of medical supplies or under-the-table payments.<sup>231</sup> Patients must also pay for diagnostic services, including x-rays and laboratory tests.<sup>232</sup> According to 1998 data from provincial health department in Sindh, patients were charged a standard outpatient fee of Rs 2, an inpatient bed fee of Rs 4, an x-ray fee of Rs 16, and laboratory fees of Rs 5–10.<sup>233</sup> Drugs are provided free of charge.<sup>234</sup>

On average, 4% of the total income in urban areas and 5% in rural areas is spent on health care.<sup>235</sup> In both areas, this constitutes more than 7% of the monthly household income of the low-income segments of the population.<sup>236</sup>

Private health insurance was recently introduced in Pakistan, although its approximately one-half million subscribers belong mostly to middle and upper-middle income brackets.<sup>237</sup> Employee Social Security Institutions, which are managed at the provincial level and under the general supervision

of the Ministry of Labor, Manpower and Overseas Pakistanis, provide private health insurance to lower-income employees.<sup>238</sup> Each institution is authorized to establish its own health facilities, or use public and private agencies for the provision of medical services.<sup>239</sup>

#### ***Regulation of health-care providers***

Pakistan has established various statutory bodies to regulate the practice and training of health-care providers and the standards of medical education.

The Pakistan Medical and Dental Council was established under the 1962 Medical Council Ordinance.<sup>240</sup> The ordinance applies to all medical and dental institutions in Pakistan that provide training or grant degrees, diplomas or licenses in medicine or dentistry.<sup>241</sup> Pursuant to the ordinance, the council has authority to certify individuals for the practice of medicine and dentistry, regulate curricula and examinations in medical schools, and maintain a medical register of qualified medical and dental practitioners.<sup>242</sup> It may also make recommendations to the central government to withdraw recognition of a given medical school, as well as remove names from the register of qualified medical practitioners in Pakistan and take other disciplinary actions against practitioners for professional misconduct. (See “Patients’ rights” for more information.)<sup>243</sup>

The College of Physicians and Surgeons of Pakistan, established under the 1962 Pakistan College of Physicians and Surgeons Ordinance, regulates postgraduate medical education, with an emphasis on specialist training and research.<sup>244</sup>

The Pakistan Nursing Council, established under the 1973 Pakistan Nursing Council Act, regulates the registration and training of nurses, midwives, health visitors, and nursing auxiliaries.<sup>245</sup> The council also has the authority to prescribe the standards for the curriculum and practice of nursing.<sup>246</sup> In addition, pharmacy councils, established under the 1967 Pharmacy Act, regulate pharmaceutical practices in the country.<sup>247</sup> Among other things, these councils set standards for the curriculum, examinations and practical training of pharmacy programs.<sup>248</sup>

Those practicing traditional medicine are also subject to statutory regulation and penalty. The law prohibits practitioners of allopathic, homeopathic, ayurvedic, unani, or other traditional systems of medicine from “misuse” of their professions.<sup>249</sup> For example, such providers are prohibited from presenting themselves as doctors without a recognized medical degree and from prescribing certain drugs.<sup>250</sup>

The National Health Policy proposes introducing regulations in the private medical sector to ensure that hospitals, clinics, laboratories, and private medical colleges conform to prescribed standards of equipment and services.<sup>251</sup> The poli-

cy indicates that draft laws and regulations on accreditation of private hospitals, clinics and laboratories, and on the obligations of private medical colleges to adhere to standards prescribed by the Pakistan Medical and Dental Council before they admit students, have been circulated to all provincial governments and stakeholders.<sup>252</sup>

#### ***Regulation of reproductive health technologies***

##### *Assisted reproductive technologies*

There is no central legislation that regulates the use of assisted reproductive technologies.

##### *Sex determination techniques*

There is no central legislation that prohibits the use of prenatal diagnostic testing for the purpose of determining fetal sex. However, the practice appears to be regulated through professional codes of conduct in some medical institutions.<sup>253</sup>

#### ***Patients’ rights***

There is no specific legislation that protects patients’ rights or specifically addresses issues of medical malpractice. However, criminal proceedings may be instituted against a medical provider for certain types of medical negligence or malpractice under provisions of the penal code that deal with offenses against the human body.<sup>254</sup> Providers are not liable for unintentional acts not known to cause death or grievous harm, or good faith acts intended to benefit the patient, provided that the patient consented to the act.<sup>255</sup> Wrongful accidental acts that are without criminal intent are also exempt from punishment, even if there was no consent to the act.<sup>256</sup>

Civil proceedings for damages may also be brought against doctors by individual patients under certain provisions of the civil code.<sup>257</sup> In addition, lawsuits for damages and compensation may be brought under tort law for claims of medical malpractice and for failure to exercise reasonable care and diligence. However, jurisprudence on tort law is not highly developed in Pakistan, so few cases of medical malpractice are actually brought or won.<sup>258</sup> The contractual nature of the patient-doctor relationship may also give rise to a lawsuit for breach of contract under contract law.<sup>259</sup>

Complaints relating to professional misconduct may also be brought before the Pakistan Medical and Dental Council, which may conduct an inquiry into a complaint of professional misconduct.<sup>260</sup> The council may thereafter cancel the registration of the practitioner found guilty of professional misconduct.<sup>261</sup>

The council has also issued a code of medical ethics for registered medical providers.<sup>262</sup> Included in the code’s prescriptions are guidelines for ensuring patients’ confidentiality rights. According to the code, a patient’s private records should not be given to any person without the consent of the patient or his or her legal representative.<sup>263</sup> Generally

speaking, the state does not have a right to demand information from a doctor about a patient under his or her care, except when required by the law, as in the case of communicable diseases, to protect the interests of state security, or to maintain law and order in the country.<sup>264</sup> The guidelines instruct doctors to supply a patient's information only when directed by a court order.<sup>265</sup> While the code provides that doctors are not required by law to provide information to the state concerning criminal abortion, venereal diseases, attempted suicides, and concealed births, the code does penalize practitioners that are found guilty of causing illegal abortions by suspending their license, or canceling their registration.<sup>266</sup> The code empowers the council to take disciplinary actions, including those leading to criminal conviction, against health-care practitioners who violate its prescriptions.<sup>267</sup>

## **B. REPRODUCTIVE HEALTH LAWS AND POLICIES**

Reproductive health is addressed in whole and in part through various national policies and legislation. Governmental policies addressing reproductive health include the 2000 National Reproductive Health Policy, the National Health Policy and the Ninth Five Year Plan.

The National Reproductive Health Policy seeks to improve the reproductive health status of Pakistanis within their "cultural and religious milieu."<sup>268</sup> The government's existing commitments to citizens' health and welfare, women and development, and education serve as guiding pillars for the policy.<sup>269</sup> The policy defines reproductive health as stated in the ICPD Programme of Action.<sup>270</sup> Moreover, several sections of the policy, including its overall vision, goals and principles, declare the need to ensure reproductive or human rights.<sup>271</sup> The policy recognizes that one of the core problems in reproductive health in Pakistan is the low status of women, which requires that the "position and condition of women in Pakistan be radically improved."<sup>272</sup>

The five aims of the policy are the following:

- provide universal reproductive health services for all ages and both genders;
- ensure equity in terms of access and affordability of

services, especially for the most vulnerable;

- address and enhance the quality and range of services to meet minimum standards;
- increase awareness and ensure information about reproductive health needs and services; and
- ensure reproductive rights for all.<sup>273</sup>

The policy identifies several conditions required to create an "enabling environment" for its effective implementation, which are the following:

- increased investment and spending in health and related sectors;
- the active support and coordination of various government ministries and departments in implementing various aspects of the policy;
- the repeal of all laws discriminatory to women;
- universal access to primary education along with a narrowing of the gender gap;
- comprehensive data collection and analysis to monitor progress in the policy's implementation and to set national and local priorities; and
- promotion of the roles of the private sector, NGOs, professional bodies, and civil society.<sup>274</sup>

The policy further outlines these five principles that serve as the basis for the implementation of the policy:

- ensure that reproductive health needs are identified and addressed for people at all stages of the life cycle, including adolescents and the elderly;
- ensure the dissemination of knowledge and provision of services that respect all human rights, including the "right to decide" and "right to choose";
- ensure that women are empowered to participate in all aspects of reproductive decision-making on a basis of equality with men and other household members;
- promote men's understanding of their roles and responsibilities in respecting women's reproductive rights; and
- discourage coercion and violence against women and girls.<sup>275</sup>

The policy also calls for the establishment of a national

## **RELEVANT LAWS AND POLICIES**

- National Health Policy, 2001
- Ninth Five Year Plan, 1998–2003
- National Reproductive Health Policy, 2000
- National Reproductive Health Services Package
- National Health Policy, 2001
- Ninth Five Year Plan, 1998–2003
- Drugs Act, 1976; and Drugs (Licensing, Registering and Advertising) Rules, 1976
- TV Code of Advertising Standards and Practice in Pakistan, 1995
- Qisas and Diyat Ordinance, 1990
- Pakistan Penal Code, 1860
- National HIV/AIDS Strategic Framework, 2001–2006
- Population Policy, 2002

steering committee on reproductive health to oversee the implementation of the policy at the national and provincial levels.<sup>276</sup>

In 1999, the Ministries of Health and Population Welfare jointly developed the Reproductive Health Services Package to cover reproductive health activities under the auspices of these two ministries. The package identifies the following nine components of reproductive health care:

- comprehensive family planning services for males and females;
- maternal health care, including services to ensure safe motherhood and pre- and post-abortion care for complications;
- infant health care;
- management of adolescents' reproductive health problems;
- prevention and management of reproductive tract infections and sexually transmissible infections (STIs), including HIV/AIDS;
- management of infertility;
- detection of breast and cervical cancers;
- management of other women's reproductive health problems; and
- management of men's reproductive health issues.<sup>277</sup>

The package describes service activities for different levels of institutions in the government's health-care system.<sup>278</sup> It emphasizes the importance of information, education and communication efforts, and collaboration with NGOs and the private sector.<sup>279</sup>

The National Health Policy also includes goals and strategies related to reproductive health. One of its key goals is to "promote greater gender equity in the health sector."<sup>280</sup> The strategies prescribed for implementation of this goal include the following:

- provide focused reproductive health services to childbearing women through a life cycle approach at their doorsteps;
- provide access to primary health services to the majority of women by expanding community-based workers known as lady health workers at the grassroots level;
- provide emergency obstetric care through the establishment of "women-friendly hospitals" in 20 districts of Pakistan under the Women Health Project;
- establish a referral system between the village level and health-care facilities up to the district level under the Women Health Project; and
- increase the enrollment of midwives, lady health workers, and nurses in schools for nursing, midwifery

and public health.<sup>281</sup>

With respect to this goal, the policy aims to train and develop 100,000 community-based workers called family health workers by 2005, and increase the number of nurses from 23,000 to 35,000 by 2005, and to 55,000 by 2010.<sup>282</sup>

The Ninth Five Year Plan identifies the reduction of female mortality and morbidity as a national health priority.<sup>283</sup>

Although these policies do not specifically address the reproductive health needs of refugees in Pakistan, several international agencies have been actively involved in programs to improve the reproductive health of Afghan refugee women in Pakistan. These agencies include United Nations Population Fund (UNFPA), World Food Programme, International Red Cross Society, International Federation of Red Cross and Red Crescent Societies, and United Nations Children's Fund (UNICEF).<sup>284</sup>

#### *Family Planning*

The country's first organized family planning activities began in 1953 with the founding of the Family Planning Association of Pakistan, a private NGO.<sup>285</sup> In 1960, the government began providing some family planning services through public health clinics as part of a broader health policy framework.<sup>286</sup> Since 1965, family planning in Pakistan has become more intertwined with the country's population policies and, over the years, family planning policies and services have frequently been administered under the aegis of population programs.<sup>287</sup> The introduction of the Reproductive Health Services Package in 1999 offered a different framework for the provision of family planning services. Under the package, comprehensive family planning services for men and women are included as a key component of reproductive health services, and the package's services are administered by both the Ministry of Health and the Ministry of Population Welfare.<sup>288</sup> (See "Population" for more information on the family planning component of Pakistan's population policy and the delivery of public family planning services.)

#### *Contraception*

Although reliable statistics are difficult to obtain, studies reveal a wide gap between family planning knowledge and practice. Household surveys show that knowledge of family planning methods among currently married women exceeds 90% in most rural and urban areas.<sup>289</sup> Knowledge of where to obtain a modern method is also high, at 70–77% for the pill, IUDs and injectables, and 76% for female sterilization.<sup>290</sup> In contrast, only 27.6% of married women are currently using a method of family planning and 40.2% have ever used any method.<sup>291</sup> The most commonly used methods of family

planning are female sterilization (6.9%), condoms (5.5%), withdrawal (5.3%), IUDs (3.5%), injectables (2.6%), the pill (1.9%), and periodic abstinence (1.6%).<sup>292</sup> Although the prevalence rate for current use has more than doubled in the past decade, 33% of currently married women still have an unmet need for family planning.<sup>293</sup>

Disparities in rates of current use exist both between urban and rural areas as well as among provinces. Among women living in urban areas, 39.7% use contraception, compared with 21.7% of their rural counterparts.<sup>294</sup> Women living in Baluchistan use contraception at about one-half the rate of their counterparts in Punjab, at 15.9% and 30%, respectively.<sup>295</sup> Available government data on contraceptive use and knowledge does not reflect the experiences of unmarried women.

Contraceptive use is even lower among Afghan refugee women in Pakistan. According to international sources of data on Afghan refugees in Pakistan, only an estimated 10% of women use any method of contraception.<sup>296</sup> Oral pills and injectable contraceptives are the most widely available methods; between the two, continued use is significantly higher for injectable contraceptives than for oral pills.<sup>297</sup> Contraceptive prevalence rates are higher among younger than older women.<sup>298</sup>

#### *Contraception: legal status*

There is no specific law or policy that governs the use of contraceptives.<sup>299</sup> The sale and distribution of contraceptives is governed by the 1976 Drugs Act, which regulates the import, manufacture and sale of all drugs generally.<sup>300</sup> Among other provisions, the act states that no person can manufacture any drug without a license or sell any drug except in accordance with the conditions in the license.<sup>301</sup>

Pakistan has registered new products formulated as emergency contraception, including Postinor-2.<sup>302</sup> Emergency contraception is available in pharmacies.<sup>303</sup>

Despite the lack of legal restraints on contraceptives, the popular perception, even among family planning service providers, is that laws regulating access do exist.<sup>304</sup> Religious beliefs in particular influence the use of contraceptives in Pakistan. While Islam does not prohibit married couples from practicing family planning, this same protection does not extend to unmarried individuals—a belief that has been codified in the Hudood Ordinances, which forbid extramarital sexual relations.<sup>305</sup> Consequently, in general, contraceptives are not readily available to unmarried individuals through government and NGO programs.<sup>306</sup>

#### *Regulation of information on contraception*

Under the 1976 Drugs (Licensing, Registering and Advertising) Rules, the advertisement of contraceptives is subject to

approval by the federal government upon the advice of a committee on advertising.<sup>307</sup> The government retains the authority to approve the contents of the advertisement as well as the conditions under which the advertisement is seen or heard.<sup>308</sup> For instance, television commercials featuring an image of a sealed packet of condoms are banned, and the promotion of family planning methods involving hormonal contraceptives had not been allowed previously, except for late at night, though they are now permitted.<sup>309</sup> Applications for the advertisement of any “drug, substance, remedy [*sic*], treatment or offer of treatment for any disease” are made to the Secretary of the Commissioner on Advertising.<sup>310</sup>

Advertisements are also governed by the 1995 TV Code of Advertising Standards and Practice in Pakistan, which declares that advertising in any medium should be guided by the general principle that it “... confirm [*sic*] to the law of the country and the best traditions of our people.”<sup>311</sup> Advertising should also be “legal, decent, honest, and truthful.”<sup>312</sup> According to provisions of the code on the advertising of medicines and treatments, contraceptives are to be advertised as medicines and not as “brands or products.”<sup>313</sup>

#### *Sterilization*

Female sterilization is the most popular form of family planning in Pakistan, used by 6.9% of married women and accounting for one-fourth of all contraceptive use.<sup>314</sup> There is a zero prevalence rate of male sterilization.<sup>315</sup>

#### *Sterilization: legal status*

There are no specific laws in Pakistan regulating sterilization. However, in the event of forced sterilization, remedies may be sought under the general penal code.<sup>316</sup>

#### *Sterilization policies*

To be eligible for female sterilization, a woman must have at least two children, one of whom must be male. The younger of the two children must be over the age of one. Spousal consent from the husband is mandatory for female sterilization, but consent from the wife is not required for male sterilization.<sup>317</sup> Clients for sterilization are paid nominal compensation for lost wages, which varies from Rs 75–100.<sup>318</sup> Medical practitioners who perform sterilization procedures are also compensated by the government, regardless of whether they are in public or private practice.<sup>319</sup> Their compensation ranges from Rs 250–350 per procedure.<sup>320</sup>

#### *Government delivery of family planning services*

The government delivers family planning services through facilities such as hospitals, family welfare centers and mobile service units, as well as through community-based workers.<sup>321</sup> IUDs, injectables, condoms, and pills are available in government hospitals and family welfare centers. Community-based workers also play an important role in the distribution of pills



and condoms to women in underserved areas. Female sterilization services are generally provided in government hospitals.<sup>322</sup> Vasectomies are generally unavailable at government clinics, and those seeking the service are often referred to private facilities run by NGOs.<sup>323</sup> (See “Population” for information on the delivery of family planning services through the Ministry of Population Welfare and its provincial departments.)

According to household surveys, government hospitals are the main source of modern contraceptive supplies for married women, providing supplies to 35% of all married female users of contraception.<sup>324</sup> About 9% of current users rely on family welfare centers for their supplies and 3% on female outreach workers.<sup>325</sup> Fewer than 1% rely on mobile service units.<sup>326</sup>

According to a recent study of reproductive health care in refugee settings in the North-West Frontier Province, Baluchistan and Punjab, very few lady health workers and medical officers know about emergency contraception.<sup>327</sup>

#### *Family planning services provided by NGOs and the private sector*

Family planning services are provided by private facilities as well as NGOs. According to household surveys, 15% of current users of modern methods of contraception report getting their method from private hospitals or clinics, 11% from pharmacies or drug stores, 8% from private shops, and 1% from NGOs.<sup>328</sup>

Pakistan’s social marketing program plays an important role in complementing the goals and targets of the government’s population and development policies and programs.<sup>329</sup> Social marketing of contraceptives involves using private sector resources such as marketing techniques and commercial distribution channels to increase the accessibility and quality of family planning services and information.<sup>330</sup> Pakistan’s program has led to the establishment of two leading private sector organizations, Social Marketing Pakistan and Key Social Marketing, that use a network of private sector outlets to supply services.<sup>331</sup> Key goals of social marketing projects include the following:

- expanding the coverage of family planning services, especially in urban areas;
- establishing trained staff for delivery of quality services;
- enhancing the availability of products to improve choice and answer the unmet need for contraceptives; and
- changing popular attitudes regarding payment for family planning services.<sup>332</sup>

In 1998, Social Marketing Pakistan provided family planning services to approximately 1.2 million couples, representing more than 20% of the government’s family planning

program that year.<sup>333</sup>

The Family Planning Association of Pakistan, the country’s largest social sector NGO, is a significant provider of family planning services.<sup>334</sup> Other NGOs working in family planning and reproductive health include the Pakistan Women’s Association, Behbud Association, Marie Stopes International, and Pakistan Voluntary Health and Nutrition Association.<sup>335</sup>

#### **Maternal Health**

According to a national household survey using the “sisterhood method,” an indirect community-based method widely used in low-income countries for estimating maternal mortality, the maternal mortality rate in Pakistan in 1990 was an estimated 533 maternal deaths per 100,000 live births.<sup>336</sup> One in every three births occurs within two years of the previous birth, increasing the risk of morbidity and mortality for both mother and infant.<sup>337</sup> The rate of stillbirths among the general population is highest among women under the age of 20.<sup>338</sup>

According to household surveys, a little more than 50% of women received prenatal care in their last pregnancy.<sup>339</sup> Postnatal care is less common, with only 27.6% of women receiving such care after their last pregnancy.<sup>340</sup> Nearly 77% of deliveries occur at home, with most other deliveries occurring in government or private hospitals.<sup>341</sup>

Pakistan has the world’s third highest rate of infant mortality from neonatal tetanus, which is the leading cause of infant mortality in the country.<sup>342</sup> Neonatal tetanus is often caused by non-sterile delivery procedures and can be prevented by immunizing the mother during prenatal care.<sup>343</sup>

In a study of 12 Afghan refugee settlements between January 1999 and August 2000, 41% of deaths among women of reproductive age were due to maternal causes, and 60% of their infants either were born dead or died soon after birth.<sup>344</sup>

#### *Policies*

Pakistan does not have a separate policy on safe motherhood, although it does address maternal health concerns through the National Reproductive Health Policy, the National Reproductive Health Services Package and the National Health Policy.

The National Reproductive Health Policy is geared toward improving a number of reproductive health indicators, including reducing Pakistan’s maternal and infant mortality and morbidity rates, which it characterizes as “alarming[ly] high.”<sup>345</sup> However, it does not include specific goals or strategies relating to maternal health.

The provision of maternal health care, including services to ensure safe motherhood and pre- and post-abortion care, is among the priority areas of the National Reproductive Health Services Package.<sup>346</sup> The package identifies several components of maternal health care, including the following:

- prenatal registration and care;
- treatment of existing conditions (e.g. anemia, malaria);
- essential obstetric care;
- clean and safe (atraumatic) delivery;
- early detection and management of postpartum complications;
- prevention and management of urinary and rectal fistulae and prolapse;
- genetic counseling;
- tetanus toxoid immunization; and
- blood test during pregnancy to determine Rh incompatibility.<sup>347</sup>

The package also aims to provide services for the prevention, screening, early detection, and management of reproductive tract infections, including HIV/AIDS and cervical cancer.<sup>348</sup> The package outlines a delivery infrastructure for reproductive health services. Maternal health services are to be provided at the community level by trained birth attendants, midwives, and community-based workers such as family planning workers and lady health workers, and through family welfare centers, maternal and child health centers, basic health units, reproductive health services centers, and rural health centers at the primary level of health facilities.<sup>349</sup>

The specific objectives of the National Health Policy relating to safe motherhood include delivering focused reproductive health services, including those for safe motherhood, to childbearing women at their doorsteps and providing emergency obstetric care through “women-friendly hospitals,” which are to be established in 20 districts.<sup>350</sup>

Pakistan’s population policy does not include specific goals or strategies relating to maternal health care. However, it does recognize the links between poverty, poor maternal health and nutrition, and maternal mortality, and aims to alleviate poverty by reducing population growth.<sup>351</sup>

International organizations that have provided technical assistance and funding to safe motherhood projects include UNFPA, World Food Programme and UNICEF. The UNFPA’s main project, Promoting Interventions for Safe Motherhood for 2000–2003, assists the government in training certain government community-based workers in midwifery skills and raising community awareness on maternal health issues.<sup>352</sup>

#### *Nutrition*

According to a household survey, nearly one-third of pregnant women were diagnosed as anemic during their last pregnancy.<sup>353</sup> Of these women, about half received treatment from a doctor and more than one-third received no treatment at all.<sup>354</sup>

The National Health Policy specifically addresses the problem of nutritional deficiencies in the population, especially among pregnant women. One of its objectives is to provide a health nutrition package, including vitamin-B complex syrup, ferrous fumerate and folic acid, to those in need through 100,000 family health workers.<sup>355</sup> Childbearing women and sick family members are specific target groups.<sup>356</sup>

One of the priorities of the National Reproductive Health Services Package is to provide counseling on nutrition and diet, including iron/folate supplementation, for pregnant women.<sup>357</sup>

#### *Abortion*

Official government statistics on abortion are not available.<sup>358</sup> A 1997 study by the Family Planning Association of Pakistan found an abortion rate of 1.03 for every 100 deliveries.<sup>359</sup> Another study the same year reported a figure of 25.5 abortions per every 1,000 women of reproductive age.<sup>360</sup> Private organizations have also conducted some research that has focused largely on hospital or clinical settings in large urban areas. Estimated mortality rates due to unsafe abortion, in a study based on information gathered from hospital admissions to obstetrics and gynecology departments of urban tertiary hospitals, were estimated to be 4.5–15%.<sup>361</sup> Another survey of 30 private and public hospitals in Pakistan estimated that 11% of maternal deaths were attributable to unsafe abortions.<sup>362</sup> Estimates based on hospital admissions such as these are considered to be of limited value because they do not represent women who have not experienced complications, who cannot or do not want to go to hospitals, or who die before getting to a hospital.<sup>363</sup>

#### *Abortion: legal status*

Abortion is illegal in Pakistan unless the procedure is necessary to save the woman’s life or provide “necessary treatment.”<sup>364</sup> The law on abortion was amended in 1990 by the Qisas and Diyat Ordinance, an Islam-based law, which changed the penal code’s prescribed punishments for the crime of causing a miscarriage and created the “necessary treatment” exception.<sup>365</sup> Previously under the penal code, abortion was only allowed for the purpose of saving the pregnant woman’s life.<sup>366</sup>

There is an absence of written law or policy regarding the requirements for obtaining an abortion under the “life” or “necessary treatment” exceptions. Practice indicates that physicians are left with the discretion to perform abortions, although they are reluctant to interpret the law liberally due to the risk of prosecution or of having their license suspended or revoked.<sup>367</sup> There are doctors who perform abortions when the health of the woman is endangered by serious medical conditions such as heart disease or hypertension.<sup>368</sup> Doc-

tors have indicated that they would obtain a second opinion on the need for a therapeutic abortion or verify their decision with a medical board consisting of three experts.<sup>369</sup> However, there are no national guidelines, whether from the medical profession or the government, mandating such verification.<sup>370</sup>

Mifepristone and misoprostol, two medicinal drugs commonly used for medical abortion, are available by prescription in Pakistan, although not for use as an abortifacient.<sup>371</sup>

The Qisas and Diyat Ordinance sanctions varying degrees of punishment under the penal code according to the developmental stage of the fetus and whether the woman consented to the abortion.<sup>372</sup> The crime of *Isqat-i-Haml* occurs whenever a person (including the pregnant woman herself) causes a woman “with child whose organs have not been formed” to miscarry, if the miscarriage was not caused in good faith for the purpose of saving the woman’s life or providing necessary treatment.<sup>373</sup> In such cases, the offender is subject to up to three years imprisonment if there was consent and up to ten years if there was no consent.<sup>374</sup>

The crime of *Isqat-i-Janin* occurs whenever a person (including the pregnant woman herself) causes a woman “with child some of whose limbs or whose organs have been formed” to miscarry, if the miscarriage was not caused in good faith for the purpose of saving the woman’s life.<sup>375</sup> Punishment for *Isqat-i-Janin* consists of imprisonment that may extend to seven years or monetary compensation as set by the court.<sup>376</sup> In cases of compensation, the payment is calculated as one-twentieth of *diyat* (compensation) if the “child” is born dead or full *diyat* if the “child” is alive but dies as a result of any act of the offender.<sup>377</sup> If there is more than one fetus in the womb, the offender is subject to punishment for each fetus.<sup>378</sup> If the woman suffers hurt or death as a result of the abortion, the offender is subject to punishment for such hurt or death.<sup>379</sup>

In a significant 1984 decision of the Federal Shariat Court, the court established an important precedent for findings of guilt in cases of illegal abortion. It held that the state has the burden of proving that an accused performed an illegal abortion, and that such proof must consist of more than simple medical evidence and the presence of a dead fetus.<sup>380</sup>

#### *Regulation of information on abortion*

Advertisements on abortion in Pakistan are regulated by the TV Code of Advertising Standards and Practice in Pakistan.<sup>381</sup> With respect to products offered for “disorders or irregularities peculiar to women,” it restricts the use of expressions (such as “female PILLS,” “[n]ot to be used in case of pregnancy,” “[t]he stronger the remedy the more effective it is,” and “[n]ever known to fail”) that may imply that the product can be effective in inducing miscarriage.<sup>382</sup>

The code also warns that scenes depicting acts of “perversion, abortion, childbirth, and surgical operation beyond the limits of decency” should be avoided.<sup>383</sup>

#### *Abortion: policies*

The National Reproductive Health Services Package includes pre- and post-abortion care among its service components.<sup>384</sup> Specific goals for the provision of such services include the following:

- creating awareness about the dangers of abortion;
- promoting detection and early management of complications from abortion; and
- counseling for post-abortion cases, including advice regarding family planning to avoid recurrence.<sup>385</sup>

The package also outlines a system of delivery for these services. Various community-based health workers, including trained birth attendants, midwives, lady health workers, and family welfare workers, are to provide counseling to women on the dangers and prevention of abortion, and referrals to higher-level facilities to women with abortion complications.<sup>386</sup> Abortion complications are to be managed at basic health units and rural health centers, and affected women are to be referred to *tehsil* and district headquarter hospitals, tertiary care hospitals and teaching hospitals for treatment.<sup>387</sup>

#### *Government delivery of abortion services*

Although abortion is legal in a few limited circumstances, abortion services are rarely available in government facilities.<sup>388</sup> Some medical practitioners provide services for lifesaving abortions, but many more are unwilling to do so because of religious or personal beliefs or the fear of being labeled an “abortionist.”<sup>389</sup>

A recent study of reproductive health care in refugee settings in the North-West Frontier Province, Baluchistan and Punjab found that post-abortion care was available in all surveyed community labor rooms.<sup>390</sup> However, such care does not always include counseling on family planning methods.<sup>391</sup>

#### *Abortion services provided by NGOs and the private sector*

Due to Pakistan’s restrictive laws on abortion, the majority of abortions, if not self-induced, are performed in clandestine clinics in the urban areas and by midwives and traditional birth attendants in the rural areas.<sup>392</sup> A 1997 urban study found that almost two-thirds of all abortions were carried out by inadequately trained individuals.<sup>393</sup> Private clinics offering abortion services can be found in all of the major cities. However, the cost of services in private facilities varies greatly.<sup>394</sup>

Family planning NGOs such as the Family Planning Association of Pakistan and the Behbud Welfare Association do provide post-abortion care.<sup>395</sup>

### *Sexually Transmissible Infections (STIs) and HIV/AIDS*

There is little research and information on the extent and nature of STIs in Pakistan, but health-care professionals caution that these infections are on the rise.<sup>396</sup> With regard to HIV/AIDS, Pakistan is considered a high-risk/low-prevalence country.<sup>397</sup> As of January 2000, the government officially had documented 1,436 cases of HIV and 187 cases of full-blown AIDS.<sup>398</sup> However, unofficial estimates of persons infected and living with HIV/AIDS were close to 74,000.<sup>399</sup> According to international estimates, as of December 2002, 78,000 Pakistani adults were infected with HIV and 16,000 of them were women aged 15–49.<sup>400</sup> All four provinces of Pakistan report HIV/AIDS cases, with the majority occurring in urban areas.<sup>401</sup>

Quality services to prevent the spread of STIs and HIV/AIDS are often lacking for the Afghan refugee population. A recent study of reproductive health care in refugee settings in the North-West Frontier Province, Baluchistan and Punjab found that most health-care providers lack the appropriate training, equipment and supervision needed to offer help preventing the transmission of HIV/AIDS and other infections.<sup>402</sup> Condoms, although widely available, are not always free, and safe sex practices are not promoted.<sup>403</sup> Information, education and communication materials on the prevention of STIs and HIV/AIDS are also unavailable.<sup>404</sup>

#### *Relevant laws*

There is no specific legislation on STIs or HIV/AIDS.<sup>405</sup> However, the penal code makes it a crime for anyone to “unlawfully or negligently [do] any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life....”<sup>406</sup> The punishment for this crime is a fine or imprisonment for a term which may extend to six months, or both.<sup>407</sup> This provision has been interpreted by commentators to include STIs such as syphilis.<sup>408</sup> Similarly, if any person does any act “maliciously” with the intention of spreading any disease dangerous to life, the penal code prescribes a fine or imprisonment for a term that may extend to two years, or both.<sup>409</sup>

No specific legislation prohibits discrimination against persons living with STIs or HIV/AIDS.<sup>410</sup>

#### *Policies for the prevention and treatment of STIs and HIV/AIDS*

After the initial cases of AIDS were detected in Pakistan, the government established the Federal Committee on AIDS through the Ministry of Health in 1987.<sup>411</sup> This initiative was followed in 1988 by the formation of the National AIDS Program, also under the Ministry of Health, to enhance and expand the nation’s response to the threat of HIV/AIDS.<sup>412</sup> The government developed a National HIV/AIDS Strategic Framework for 2001–2006 based on

HIV/AIDS findings by the National AIDS Program and other governmental, non-governmental and donor agencies, which includes provisions on STIs.<sup>413</sup> The funding and plan for implementation of this framework have been completed and approved by the government.<sup>414</sup>

The strategic framework emphasizes that HIV/AIDS is not only a health issue, but also a development issue, and that combating the disease necessitates a broad and multisectoral approach.<sup>415</sup> It lays out the following nine goals:

- ensure an effective, well-coordinated and sustainable multisectoral response to HIV/AIDS in Pakistan;
- reduce the risk of HIV infection among vulnerable and high-risk groups;
- reduce the vulnerability of young people to HIV/AIDS;
- expand the knowledge base in order to facilitate planning, implementation and evaluation of programs on HIV/AIDS and other STIs;
- reduce the prevalence and prevent the spread of STIs as part of the effort to reduce HIV transmission;
- reduce the risk of infection among the general public through an increase in awareness levels;
- reduce the risk of transmission of HIV and other blood-borne infections through blood transfusion;
- prevent transmission of HIV in formal and non-formal health-care settings through greater knowledge about and compliance with universal precautions; and
- improve the quality of life for people living with HIV/AIDS through the provision of quality care and support (including meeting their medical, social and sometimes material needs), and ensuring a secure environment for all people infected with and affected by HIV/AIDS.<sup>416</sup>

STIs and HIV/AIDS are also addressed in the National Health Policy. The policy’s objectives include preventing transmission of HIV through education, improving the care of infected persons and increasing early detection of STIs.<sup>417</sup> The objectives of the Reproductive Health Service Package also include providing services for the prevention, screening and management of STIs and HIV/AIDS.<sup>418</sup>

The government has also approved an ordinance on blood safety.<sup>419</sup> The ordinance provides for the establishment of a regulatory body called the Islamabad Blood Transfusion Authority to regulate the operation of blood banks in the capital and to help ensure safe blood transfusions through various safety measures.<sup>420</sup> Contravention of the ordinance’s provisions is punishable with imprisonment of one year and a fine of up to Rs 100,000.<sup>421</sup>

### *Regulation of information on STIs and HIV/AIDS*

There is no specific law regulating information on STIs and HIV/AIDS. However, advertisements pertaining to STIs, and presumably HIV/AIDS, fall under the same advertising restrictions as contraceptives and abortions. Under the drugs' rules, advertisers must apply to the government for permission to advertise for any "drug, or any substance or a remedy ... or a treatment or offer of a treatment for any disease."<sup>422</sup> The advertisement of treatments for venereal diseases and diseases of "sexual importance" are specifically prohibited.<sup>423</sup>

## **C. POPULATION**

In 1965, the government articulated its first explicit population policy, which became an integral part of Pakistan's Third Five Year Plan (1965–70), and initiated a national population program.<sup>424</sup> The original policy and its subsequent articulations expressed an apprehension about the impact of high population growth rates on development. As a result, population strategies have become an essential component of the government's development policies over the years, serving as an important vehicle through which to deliver family planning services and further family planning goals.<sup>425</sup>

### **Population policy**

#### *Objectives*

On World Population Day, July 11, 2002, President Musharraf announced Pakistan's population policy, which was formulated by the Ministry of Population Welfare and approved by the cabinet.<sup>426</sup> The policy claims to adopt a rights-based approach to achieving its goals and addresses a broad range of issues, including the impact of high population growth rates on poverty and sustainable development.<sup>427</sup> In particular, it identifies gender inequalities and the lack of access to quality services as core issues of concern.<sup>428</sup> The policy's provisions respond to Pakistan's "demographic realities" and focus on the following four areas:

- reduction in the rate of unwanted fertility;
- promotion of the small family norm;
- investment in youth; and
- focus on male involvement.<sup>429</sup>

The policy's "overall vision" is to achieve population stabilization by 2020 by reducing fertility and mortality rates.<sup>430</sup> With this premise, it sets forth overarching goals, time-bound objectives in the short and long term, and specific strategies and areas of policy focus.

The policy has the following general goals:

- achieve a balance between resources and population in accordance with the broad parameters of the ICPD paradigm;
- address population issues within national laws and

development priorities while retaining social and cultural norms;

- increase awareness of the adverse consequences of rapid population growth at the national, provincial, district and community levels;
- promote informed and voluntary family planning as an entitlement;
- reduce fertility rates by improving access to and quality of reproductive health services; and
- slow population growth rates by promoting a delay in first birth, changing spacing patterns and promoting a desire for smaller families.<sup>431</sup>

The policy's short-term objectives are as follows:

- reduce the population growth rate to 1.9% by 2004; and
- reduce fertility to four births per woman by 2004 by promoting voluntary contraception.<sup>432</sup>

The policy's long-term objectives include the following:

- further reduce the population growth rate from 1.9% in 2004 to 1.3% by 2020;
- reduce fertility rates to the replacement level of 2.1 births per woman by 2020 by continuing to promote voluntary contraception; and
- provide universal access to safe family planning methods by 2010.<sup>433</sup>

To achieve these short- and long-term objectives, one of the policy's strategies is to develop advocacy campaigns that specifically target youth and adolescents.<sup>434</sup> The policy also proposes using "innovative incentive schemes" targeted to both clients and service providers to promote the small family norm.<sup>435</sup> A related strategy seeks to make quality family planning and reproductive health services available to all married couples with an unmet need for family planning, especially those who are "poor, under-served and un-served" in rural areas or urban slums.<sup>436</sup> The policy emphasizes that reproductive health services should address the areas prioritized in the Reproductive Health Package, which include family planning, safe motherhood, infant health, reproductive tract infections, and STIs.<sup>437</sup> It also advocates strengthening the role of civil society, particularly NGOs and the media, in population activities; expanding the private sector's role in the social marketing and local manufacture of contraceptives; and involving men in family planning decisions.<sup>438</sup>

The population policy's goals, objectives and strategies are encompassed within the Population Welfare Programme, Pakistan's national, federally funded population program. The program focuses on the provision of family planning services and also offers limited maternal and child health services.<sup>439</sup>

Like the population policy, the Ninth Five Year Plan estab-

lishes time-bound objectives related to population. It calls for reducing the population growth rate from 2.3% to at least 1.9% between 1998 and 2003, and increasing the contraceptive prevalence rate from 27% to more than 40% during the same period.<sup>440</sup> It also aims to provide universal coverage for family planning, with a particular emphasis on rural areas.<sup>441</sup>

The Interim Poverty Reduction Strategy Paper, prepared by the government in 2001, describes Pakistan's existing strategies to alleviate poverty, which partly involve reducing population growth. Although the paper recognizes Pakistan's progress in reducing population growth rates over the past decade, it characterizes the country's total fertility rate as "one of the highest in Asia" and calls for raising awareness and expanding quality services in family planning and reproductive health care at the grassroots level to increase contraceptive prevalence rates, reduce fertility and improve maternal health care.<sup>442</sup>

#### *Implementing agencies*

Overall government spending on population activities is 0.20% of GNP, one-fourth of which comes from international sources.<sup>443</sup> Most government spending on population (95%) goes to reproductive health and family planning activities, while the remainder goes largely to STI and HIV/AIDS services.<sup>444</sup> Only 1% of government population spending goes to research activities.<sup>445</sup> In 1997, the government gave the Ministry of Population Welfare and Ministry of Health each about one-half of its total population activities budget.<sup>446</sup> More than a quarter of the funding went to provincial departments of health, which operate under the federal Ministry of Health.<sup>447</sup>

Both the Ministry of Population Welfare and Ministry of Health play an important role in the country's population-related activities. The Ministry of Population Welfare maintains primary responsibility for the formulation of national population policies and implementation of the Population Welfare Programme.<sup>448</sup> It establishes and monitors standards for family planning service delivery, provides training for family planning service providers, and oversees the procurement, distribution and social marketing of contraceptives. In addition, it oversees the coordination and funding of NGOs, research and evaluation of existing programs, and national media campaigns.<sup>449</sup>

The Ministry of Population Welfare has its own service delivery system separate from the Ministry of Health, consisting of the following facilities and service providers:

- 1,688 family welfare centers, extending temporary methods of family planning and maternal and child health services;
- 276 reproductive health service centers based in

public, private or NGO-run hospitals, offering contraceptive services, including sterilization, as well as other family planning and maternal and child health services; and

- 131 mobile service units, providing a range of family planning services that include IUDs but not sterilization.<sup>450</sup>

Provincial population welfare departments are responsible for service delivery and local promotion and supervision of the facilities.<sup>451</sup>

The Ministry of Health provides family planning services through the Prime Minister's Programme for Family Planning and Primary Health Care, which deploys community-based health workers to villages and selected urban areas to provide family planning, health and nutrition education; health monitoring; and referral services mainly to women and children.<sup>452</sup> This group of workers was expanded in September 2002, when the Ministries of Population Welfare and Health merged their pools of community-based health workers, combining more than 13,000 family planning workers under the Ministry of Population Welfare and 58,000 lady health workers under the Ministry of Health.<sup>453</sup> This merger resulted in a new group of 71,000 family health workers under the Ministry of Health to help implement the Prime Minister's Programme for Family Planning and Primary Health Care, which represents the country's largest intervention for the delivery of integrated family planning and reproductive health services.<sup>454</sup> The National Health Policy aims to increase this group of workers to 100,000 by 2005.<sup>455</sup>

### III. Legal Status of Women

Women's health and reproductive rights cannot be fully understood without taking into account the legal and social status of women. Laws relating to women's legal status not only reflect societal attitudes that shape the landscape of reproductive rights, they directly impact women's ability to exercise these rights. Issues such as the respect and dignity a woman commands within marriage, her ability to own property and earn an independent income, her level of education, and her vulnerability to violence affect a woman's ability to make decisions about her reproductive health-care needs and to access the appropriate services. The following section details the nature of women's legal status in Pakistan.

#### **A. RIGHTS TO GENDER EQUALITY AND NONDISCRIMINATION**

The constitution guarantees all citizens the rights to equality and equal protection of the laws.<sup>456</sup> It specifically prohibits

discrimination on the sole basis of sex and authorizes the state to make any necessary special provisions for the “protection” of women and children.<sup>457</sup> The constitution’s “Objectives Resolution,” which was made an enforceable part of the constitution in 1985 and mandates the observation of Islamic injunctions in matters of state policy, further guarantees “fundamental rights including equality of status, of opportunity and before law, [and] social, economic and political justice . . . subject to law and public morality.”<sup>458</sup> The constitution’s Principles of Policy enjoin the state to ensure women’s full participation in all areas of national life.<sup>459</sup>

#### **Formal institutions and policies**

The Ministry of Women Development, Social Welfare and Special Education, established in 1989, is the principal government institution charged with coordinating, monitoring and evaluating government efforts to promote the advancement of women.<sup>460</sup> Its mandate includes formulating policy, recommending legislative reforms, and coordinating advocacy activities that help to ensure equal opportunity and full participation for women in all aspects of life.<sup>461</sup>

One of the ministry’s major policy efforts is the National Plan of Action, announced in 1998. The plan was formulated with a view to translating commitments Pakistan made at the 1995 Fourth World Conference on Women into concrete actions.<sup>462</sup> The plan outlines strategies to achieve specific objectives in the following 12 areas of concern:

- poverty;
- education and training;
- health;
- violence against women;
- armed conflict;
- economy;
- power and decision-making;
- institutional mechanisms;
- human rights;
- environment;
- the girl child; and
- media.<sup>463</sup>

The ministry has primary responsibility for implementation of the National Plan of Action.<sup>464</sup>

In 2000, the government established the first permanent National Commission on the Status of Women, which serves as a watchdog for governmental activities related to women.<sup>465</sup> Its specific responsibilities include reviewing and recommending amendments to legislation that affects

women’s rights; examining and recommending improvements to policies and programs related to women’s development; monitoring violence against women; and collaborating with NGOs at the national and international levels.<sup>466</sup> Although the commission is authorized to make rules to carry out its functions, it otherwise lacks an enforcement mechanism, and the government is not bound to implement its recommendations.<sup>467</sup>

## **B. CITIZENSHIP**

The principal law relating to Pakistani citizenship is the 1951 Pakistan Citizenship Act.<sup>468</sup> The act was amended most recently in 2000 with the Pakistan Citizenship (Amendment) Ordinance.<sup>469</sup>

Under the act, any person who was born in Pakistan, or any of whose parents or grandparents were born in Pakistan,

after the commencement of the act is a citizen of Pakistan.<sup>470</sup> Pursuant to the 2000 ordinance, a person born of wedlock between a Pakistani citizen and a foreign citizen is entitled to Pakistani citizenship by descent, regardless of whether it is the mother or father who has Pakistani citizenship.<sup>471</sup> Pri-

or to this amendment, only children of Pakistani fathers had this right.<sup>472</sup> The act permits the foreign wife of a Pakistani man to acquire Pakistani citizenship, but a Pakistani woman who marries a foreign man cannot confer citizenship upon her husband.<sup>473</sup>

The 1946 Foreigners Act informs the current government policy on the legal status of undocumented Afghan refugees in Pakistan. Under the act, such individuals are considered “aliens” and are subject to deportation.<sup>474</sup> Under the 1951 Foreigners Order, issued pursuant to the Foreigners Act, civil authorities at Pakistan’s border are authorized to refuse permission to enter the country to foreigners who do not have a valid passport or visa.<sup>475</sup>

## **C. RIGHTS WITHIN MARRIAGE**

The constitution’s Principles of Policy urge the state to “protect . . . marriage, the family, the mother and the child.”<sup>476</sup> Family laws in Pakistan are an amalgam of religion-based personal laws and codified laws that may apply to specific communities or all Pakistani citizens.<sup>477</sup> Codified laws of general application may allow religious communities to follow their own personal laws.<sup>478</sup>

#### **Marriage laws**

Personal laws, some of which have been codified, largely govern marriage in Pakistan’s various religious communities. Since Pakistani independence, there have been no family laws

### **RELEVANT LAWS AND POLICIES**

- National Plan of Action, 1998
- Pakistan Citizenship Act, 1951; and Pakistan Citizenship (Amendment) Ordinance, 2000

enacted exclusively for non-Muslims.<sup>479</sup>

In addition to personal laws, there are a few key marriage-related laws that apply to all Pakistani citizens, irrespective of their religious affiliation. One such law is the Child Marriage Restraint Act, which establishes the legal minimum age for marriage at 16 for females and 18 for males.<sup>480</sup> Violations of the act are punishable, but do not render an underage marriage void.<sup>481</sup>

The Special Marriage Act allows individuals who do not ascribe to a particular faith or are not of the same faith to register their marriage legally.<sup>482</sup> The act does not apply to Muslims.<sup>483</sup> The act prescribes the following conditions for a valid marriage:

- neither party may have a husband or wife living at the time of marriage;
- the man must be at least 18 years of age and the woman at least 14 years of age;
- each party, if he or she is not at least 21 years of age, must obtain the consent of his or her father or guardian to the marriage; and
- the parties must not be within prohibited degrees of relationship.<sup>484</sup>

Bigamy is punishable under the act and renders the marriage void.<sup>485</sup>

In 1976, the government passed the Dowry and Bridal Gifts Restriction Act and accompanying rules to combat harassment for such types of property.<sup>486</sup> The act defines “bridal gifts” as property given by the bridegroom or his parents to the bride and “dowry” as non-inherited property given to the bride by her parents.<sup>487</sup> Both types of property must be given in connection with the marriage but may be given before, during or after the marriage ceremony.<sup>488</sup> The act does not apply to the Muslim *mahr* (dower).<sup>489</sup> The act restricts the amount of bridal gifts and dowry that can be given to a bride as well as the total expenses that may be incurred for the marriage itself.<sup>490</sup> It also requires the person arranging the marriage to submit a declaration to a prescribed government official affirming that the total expenditure on the marriage, including dowry and bridal gifts, did not exceed the limits prescribed by the act.<sup>491</sup> Violations of the act’s provisions are punishable with imprisonment or a fine.<sup>492</sup>

#### *Laws governing Muslims*

Muslims in Pakistan belong to one of two distinct religious sects, namely Sunni and Shia. Islamic jurisprudence recognizes two broad strains of law based on the two sects. In the sphere of family law, the school of jurisprudence to which a Pakistani Muslim belongs determines which interpretation of the law applies to him or her.<sup>493</sup> Sunni jurisprudence is further divided into four schools of law: *Hanafi*, *Maliki*, *Hanbali*,

and *Shafei*.<sup>494</sup>

The 1962 West Pakistan Muslim Personal Law (Shariat) Application Act makes Muslim personal law applicable to all Pakistani Muslims in family law matters, including marriage, and subjects Muslims to the provisions of relevant acts already in force.<sup>495</sup>

Muslim personal law treats marriage as a civil contract.<sup>496</sup> Therefore, all the requisites of a valid contract must be present, including a proposal and an acceptance in the presence of two Muslim male witnesses, or one Muslim male and two Muslim female witnesses, and the consent of both parties at the time of marriage.<sup>497</sup> The parties to a marriage must also be of sound mind and have attained puberty, which is presumed to occur at the age of 15.<sup>498</sup> Although the Muslim Family Laws Ordinance establishes the statutory age for marriage at 16 for girls and 21 for boys, the ordinance applies to Muslim Pakistanis “notwithstanding any law, custom or usage,” pointing to the authority of customary practices over personal matters.<sup>499</sup>

In 1991, the Federal Shariat Court declared that an adult Muslim woman could enter into marriage according to her free will, with or without the consent of her father or guardian. The Supreme Court affirmed this ruling in 2003, overturning an earlier verdict by the Lahore High Court that deemed marriages in the absence of such consent invalid.<sup>500</sup>

An essential element of a Muslim marriage contract, or *nikahnama*, is the transfer of property known as dower. Dower is the sum of money or property that a husband must give to his wife in consideration of marriage.<sup>501</sup> Dower may be either stipulated in the marriage contract (“specified dower”) or unspecified in a contract but determined by a court on the principle of a wife’s entitlement to “proper” dower.<sup>502</sup> While the giving of dower is common practice, there is disagreement about whether dower is always a wife’s unconditional right or necessary to a valid marriage.<sup>503</sup>

Pursuant to the Muslim Family Laws Ordinance, all Muslim marriages must be registered and offenders are liable to be punished with imprisonment or a fine, or both.<sup>504</sup> Courts have held that where the fact of marriage is regarded with serious doubt between the parties, non-registration could cast further suspicion on its existence and solemnization.<sup>505</sup> Since the introduction of the 1979 Offence of Zina (Enforcement of Hudood) Ordinance, couples whose marriage has not been registered face the possibility of the serious charge of *zina* (fornication or adultery), the maximum punishment for which is stoning to death.<sup>506</sup> However, courts have also recognized that although non-registration of marriage is punishable under the ordinance, it does not invalidate an otherwise legal marriage.<sup>507</sup>

The Muslim Family Laws Ordinance restricts, but does not



ban, polygamy.<sup>508</sup> In order to contract another marriage, a Muslim male must seek written permission from an arbitration council constituted under the ordinance, which must ascertain whether the proposed marriage is “necessary” and “just,” among other conditions.<sup>509</sup> Grounds upon which the council may authorize another marriage include “sterility, physical infirmity, physical unfitness for the conjugal relation, willful avoidance of a decree of restitution of conjugal rights, or insanity on the part of the existing wife.”<sup>510</sup> The man must also obtain the consent of the existing wife or wives, and failing to do so is punishable with imprisonment or a fine, or both.<sup>511</sup> He may also be ordered to pay the entire amount of dower due to the existing wife or wives.<sup>512</sup> Despite these penalties, a second marriage contracted without the requisite permission remains valid.<sup>513</sup>

At the time of marriage, a woman must disclose in the *nikahnama* whether she has a husband from a previous marriage.<sup>514</sup> There is no such requirement of disclosure of previous marriages for men.<sup>515</sup> Bigamy by a woman or man is punishable with imprisonment of up to seven years and a fine.<sup>516</sup> A woman who remarries during the subsistence of a valid marriage may also be punished for *zina*.<sup>517</sup>

Marriages may be deemed valid, irregular or void, depending on the specific school of Muslim jurisprudence. A valid marriage satisfies all legal requirements.<sup>518</sup> An irregular marriage is not unlawful in and of itself but is impeded by a certain condition, which, if changed, could make the marriage valid.<sup>519</sup> A marriage contracted without witnesses or a fifth marriage by a man with four existing wives are examples of irregular marriages.<sup>520</sup> A void marriage is unlawful in and of itself, and its prohibition is “perpetual and absolute.”<sup>521</sup> It creates no civil rights or obligations between parties, and any resulting children are considered illegitimate.<sup>522</sup> A marriage with a woman who has a valid existing marriage with another man, or a marriage between persons who are related by certain degrees, is void.<sup>523</sup> Prohibited relationships in marriage include a man and his mother or grandmother, daughter or granddaughter, sister, niece or great-niece, paternal or maternal aunt or great-aunt, and certain in-laws.<sup>524</sup>

Marriages between Muslims of different sects or between Muslims and non-Muslims may also be deemed valid, irregular or void, depending on the Muslim school of jurisprudence. Sunni Muslim men may contract valid marriages with Muslims, Christians or Jews, but marriages with non-Muslims such as Hindus are irregular.<sup>525</sup> There is debate as to whether Sunni Muslim women’s marriages to non-Muslim males are

irregular or void.<sup>526</sup> According to the Shia school of Islamic jurisprudence, all marriages between Muslims and non-Muslims are unlawful and void.<sup>527</sup>

#### *Laws governing Hindus*

Hindu personal law governs marriage among Pakistani Hindus. Codified Hindu laws in Pakistan relating to marriage include the 1946 Hindu Marriage Disabilities Removal Act and 1856 Hindu Widow’s Marriage Act.<sup>528</sup> The former act legalizes marriage between two Hindu persons of the same *gotra* (clan) or different subdivisions of the same caste.<sup>529</sup> The Hindu Widow’s Marriage Act legalizes the remarriage of a Hindu widow upon her own consent, but requires the father’s consent where the widow is a minor.<sup>530</sup> The provisions of both laws apply to Hindus notwithstanding any contrary custom or interpretation of Hindu law.<sup>531</sup>

Hindu personal law does not ban polygamy.<sup>532</sup>

#### *Laws governing Christians*

Marriage among Christians in Pakistan is governed by the 1872 Christian Marriage Act, which requires solemnization and registration of Christian marriages in accordance with the act’s provisions.<sup>533</sup> Marriages not solemnized in accordance with the act are void.<sup>534</sup> Conditions for a valid marriage include the following:

- the man should be over the age of 16 and the woman should be over the age of 13;
- neither party should have an existing wife or husband;
- the parties should recite a specified oath in the presence of two witnesses and practitioner; and
- if either party is under the age of 18, that party’s father or guardian must consent to the marriage.<sup>535</sup>

Violations of the act’s provisions are punishable with imprisonment or a fine.<sup>536</sup>

### **RELEVANT LAWS AND POLICIES**

- Child Marriage Restraint Act, 1929
- Special Marriage Act, 1872
- Dowry and Bridal Gifts Restriction Act, 1976
- West Pakistan Muslim Personal Law (Shariat) Application Act, 1962
- Muslim Family Laws Ordinance, 1961
- Hindu Marriage Disabilities Removal Act, 1946
- Hindu Widow’s Marriage Act, 1856
- Christian Marriage Act, 1872
- Parsi Marriage and Divorce Act, 1936
- Dissolution of Muslim Marriages Act, 1939
- Divorce Act, 1869
- Hindu Married Women’s Right to Separate Residence and Maintenance Act, 1946
- Guardians and Wards Act, 1890

### *Laws governing Parsis*

Marriage between Parsis is governed by the 1936 Parsi Marriage and Divorce Act.<sup>537</sup> The requirements for a valid marriage include these:

- the parties must not be within prohibited degrees of relationship;
- the marriage must be solemnized according to the Parsi form of ceremony called ashirvad by a priest and in the presence of two additional witnesses;
- if either party has not completed 21 years of age, the consent of that party's father or guardian must be obtained; and
- neither party should have a husband or wife still living at the time of marriage.<sup>538</sup>

Additionally, all marriages must be registered wherever the marriage was first solemnized.<sup>539</sup> The act prohibits bigamy.<sup>540</sup>

### **Divorce laws**

#### *Laws governing Muslims*

Divorce among Muslims is governed by Muslim personal law. Two relevant codified laws are the Muslim Family Laws Ordinance and the 1939 Dissolution of Muslim Marriages Act.<sup>541</sup>

Under Muslim jurisprudence, there are several forms of divorce. *Talaq* traditionally refers to the right of the Muslim male to unilaterally and irrevocably repudiate the marriage contract without specifying any cause.<sup>542</sup> Muslim jurisprudence recognizes three modes of *talaq*, dependent upon the number and occasions of the pronouncement of divorce.<sup>543</sup> The husband's prerogative of *talaq* may also be delegated to the wife (*talaq-i-tafiveez*) either conditionally or unconditionally through a clause that may be inserted in the *nikahnama*.<sup>544</sup> However, despite its inclusion in the standard *nikahnama*, the option of *talaq-i-tafiveez* is trumped by customary practice and invariably removed at the time of signing.<sup>545</sup>

Generally, *talaq* is followed by a period of *iddat*, whereby the divorced wife is bound not to contract a new marriage if the existing marriage has been consummated.<sup>546</sup> The period of *iddat* is three months, unless the wife is pregnant, in which case *iddat* continues until delivery of the child.<sup>547</sup> The purpose of *iddat* is to avoid any confusion regarding paternity.<sup>548</sup>

Under the Muslim Family Laws Ordinance, any man who wishes to divorce his wife may pronounce *talaq* and must give written notice to the chairman of the Union Council and a copy to his wife.<sup>549</sup> He does not have to specify any grounds for divorce or return any of the benefits gained by the marriage. The chairman is then bound to constitute an arbitration council, which is assigned the task of attempting reconciliation between the parties.<sup>550</sup> However, even if an arbitration

council is not constituted or steps are not taken for reconciliation, *talaq* automatically becomes effective upon the expiration of a period of 90 days from the date the chairman and the wife receive notice of *talaq*, unless it is revoked earlier.<sup>551</sup> If the wife is pregnant at the time *talaq* is pronounced, *talaq* becomes effective upon delivery of the child or the expiration of the prescribed period of 90 days, whichever is later.<sup>552</sup> In January 2000, the Federal Shariat Court declared the 90-day expiration requirement in the ordinance inconsistent with Islamic injunctions and directed the president of Pakistan to take steps to amend the provision.<sup>553</sup>

The Muslim Family Laws Ordinance recognizes delegated divorce, or *talaq-i-tafiveez*.<sup>554</sup>

*Khula* is a form of divorce whereby the wife takes the initiative in dissolving the marriage. It is not a unilateral right and requires the wife to justify her desire for divorce and agree to forego her dower and other material benefits given by her husband at the time of marriage.<sup>555</sup> If both spouses mutually agree to *khula*, the marriage is dissolved without court interference.<sup>556</sup> If the husband does not consent to *khula*, a court may order dissolution of the marriage if it is convinced of the wife's case.<sup>557</sup> In addition, the woman must observe the period of *iddat*.<sup>558</sup>

Where the spouses mutually consent to terminate the marriage contract based on mutual aversion, the dissolution of marriage is termed *mubarat*. Contrary to the *khula* form of divorce, the wife is not bound to give benefits to the husband to be released from the marriage.<sup>559</sup> Like *khula*, the woman must undergo a period of *iddat*.<sup>560</sup>

In addition to the above forms of divorce, the Dissolution of Muslim Marriages Act provides for dissolution of marriage by judicial decree of the court.<sup>561</sup> The grounds for dissolution of marriage are as follows:

- absence of the husband for four years;
- neglect or failure of the husband to support his wife for two years;
- addition of a new wife in contravention to the Muslim Family Laws Ordinance, which requires the consent of one's current wife;
- a sentence of imprisonment for the husband of seven years or more;
- failure of the husband to perform, without reasonable cause, his marital obligations for three years;
- continuing impotency of the husband from the time of marriage;
- insanity of the husband for a period of two years, leprosy or contraction of a virulent venereal disease;
- marriage of the woman before 16 years of age and her repudiation of the marriage before age 18 provided

that the marriage has not been consummated;

- cruel treatment by the husband, the instances of which are listed in the statute; and
- any other grounds recognized under Muslim law.<sup>562</sup>

The act defines cruelty by the husband as follows:

- committing habitual assault or cruelty of conduct even if not amounting to physical ill-treatment;
- associating with women of evil repute or leading an infamous life;
- attempting to force the wife to lead an immoral life;
- disposing of wife's property or preventing her from exercising her legal rights over her property;
- obstructing her religious profession or practice; and,
- failing to abide by Quranic injunctions to treat a wife equitably in the context of a polygamous marriage.<sup>563</sup>

Other forms of divorce recognized under Muslim law, but rarely used, are *ila*, *zihar* and *lian*.<sup>564</sup> *Ila* describes a situation in which the husband abstains from sexual intercourse with his wife for at least four months.<sup>565</sup> *Zihar* is when the husband compares his wife with a woman (such as his mother) with whom he may not contract a legal marriage.<sup>566</sup> In *lian*, the husband accuses his wife of adultery and has only his word against hers to support his claim.<sup>567</sup> In all three forms, the woman is entitled to move the court for dissolution of marriage.<sup>568</sup>

#### *Laws governing Hindus*

The concept of divorce does not exist in Hindu personal law.<sup>569</sup>

#### *Laws governing Christians*

The 1869 Divorce Act governs divorce among Christians in Pakistan.<sup>570</sup> Under the act, a husband may petition for dissolution of marriage on the ground that his wife has been guilty of adultery.<sup>571</sup> A wife may petition for dissolution on the following grounds:

- conversion of the husband to another religion and his subsequent marriage to another woman;
- "incestuous adultery";
- bigamy coupled with adultery;
- the husband's marriage to another woman coupled with adultery;
- rape, sodomy or bestiality;
- adultery coupled with cruelty of a degree that, without adultery, would justify divorce *a mensa et toro* (the separation of a woman from the bed and board of her husband); and
- adultery coupled with desertion, without reasonable excuse, for at least two years.<sup>572</sup>

Either party may also petition for a decree of nullity of the marriage on the following grounds:

- impotence at the time of marriage and through the institution of the suit;
- the parties are within prohibited degrees of relationship;
- either party was a "lunatic" or an "idiot" at the time of marriage; and
- either party had a living spouse at the time of marriage.<sup>573</sup>

#### *Laws governing Parsis*

The Parsi Marriage and Divorce Act prescribes the grounds for divorce among Parsis.<sup>574</sup> Either party may sue for divorce on the following grounds:

- the marriage was not consummated within one year after its solemnization due to the willful refusal of the defendant;
- unsoundness of mind of the defendant from the time of marriage through the date of the suit;
- the wife was pregnant at the time of marriage by someone other than the husband;
- adultery, fornication, bigamy, rape, or an unnatural offense;
- grievous hurt;
- infection with a venereal disease by defendant;
- a husband who pressures his wife to prostitute herself;
- seven or more years imprisonment for an offense under the penal code;
- desertion for at least three years;
- lack of marital intercourse for at least three years since a decree or order for judicial separation or separate maintenance;
- failure to comply with a decree for restitution of conjugal rights for one year or more; and
- defendant has ceased to be a Parsi.<sup>575</sup>

In cases where consummation of the marriage is impossible because of physiological reasons, either party may bring a petition to declare the marriage void.<sup>576</sup> Continual absence of one spouse for a period of seven years is grounds for dissolution of the marriage by either party, provided that the missing spouse is not heard of as being alive during that period of time.<sup>577</sup>

#### *Judicial separation*

##### *Laws governing Muslims*

Judicial separation is not recognized as a matrimonial remedy.

##### *Laws governing Hindus*

See "Laws governing Hindus" under "Divorce Laws" for information.

*Laws governing Christians*

Under the Divorce Act, either party may obtain a decree of judicial separation on any of the grounds available for divorce under the act.<sup>578</sup>

*Laws governing Parsis*

Under the Parsi Marriage and Divorce Act, either party to the marriage may bring a lawsuit for judicial separation on any of the grounds available for divorce under the act, in addition to the grounds of cruelty to the spouse or their children, “personal violence” or behavior that would make it “improper” for a court to order a spouse to cohabit with the defendant.<sup>579</sup>

**Maintenance and support laws***Laws governing Muslims*

Under the Muslim Family Laws Ordinance, women are entitled to adequate maintenance from their husbands. Where a husband fails to “adequately” or “equitably” maintain his wife or wives, legal remedies are available to the women.<sup>580</sup> In addition, they may seek for an “arbitration council” constituted under the ordinance to issue an award for a specified amount of maintenance.<sup>581</sup>

As previously noted, the failure of a husband to maintain his wife for a period of two years is grounds for dissolution of the marriage by the wife under the Dissolution of Muslim Marriages Act.<sup>582</sup> A woman’s right to maintenance is unaffected by her ability to support herself, but is contingent upon cohabitation with her husband.<sup>583</sup> If she lives separately from him without reasonable cause, she loses her entitlement to maintenance.<sup>584</sup>

*Laws governing Hindus*

Under the 1946 Hindu Married Women’s Right to Separate Residence and Maintenance Act, Hindu married women are entitled to separate residences and maintenance from their husbands on the following grounds, notwithstanding any custom or law to the contrary:

- loathsome disease contracted from someone else;
- cruelty, rendering continued cohabitation unsafe or undesirable;
- desertion;
- remarriage;
- conversion to another religion;
- maintaining a concubine in the house or habitually residing with a concubine; and
- any other justifiable cause.<sup>585</sup>

A woman loses her right if she is unchaste, converts to another religion or fails to comply without sufficient cause with a decree for the restitution of conjugal rights.<sup>586</sup>

*Laws governing Christians*

Under the Divorce Act, a court may, using its discretion upon a decree for dissolution of marriage or judicial separa-

tion obtained by the wife, issue an order to a husband to make monthly or weekly payments for his wife’s maintenance.<sup>587</sup>

*Laws governing Parsis*

Under the Parsi Marriage and Divorce Act, a court has discretion to order a husband to support his wife for a specified period.<sup>588</sup> The court may order either payment of a gross sum, or monthly or otherwise regular payments that it considers reasonable. In determining the amount and schedule of payments, the court takes into consideration such factors as the wife’s property, the husband’s ability to pay and the conduct of the parties.<sup>589</sup>

**Custody and adoption laws**

The personal laws and customary practices of Pakistan’s various religious communities govern matters relating to the custody of minor children. Personal laws do not generally address adoption, although all Pakistani citizens may seek “guardianship” of minor children under the 1890 Guardians and Wards Act.<sup>590</sup>

Under the Guardians and Wards Act, fathers are considered the primary guardians of minor children, and courts will not appoint another guardian unless the father is found to be unfit.<sup>591</sup> In the case of married minor girls, the girl’s husband is considered her natural guardian, and courts will similarly not appoint another guardian unless he is found to be unfit.<sup>592</sup> Where courts must appoint a guardian, the principle of the “welfare of the minor” is paramount in their determination of custody.<sup>593</sup> Factors considered by courts when granting custody include the age, sex and religion of the minor; the “character and capacity” of the proposed guardian and his or her kinship to the minor; any wishes of a deceased parent; any existing or previous relations of the proposed guardian and the minor or his property; and the preference of the minor, if such minor is old enough to form an intelligent preference.<sup>594</sup>

*Laws governing Muslims*

While a mother or other female relative generally has custody of her minor children early in their childhood, traditional Muslim jurisprudence reverts custody to the father after the children have attained a certain age.<sup>595</sup> Under Sunni law, a mother has custody of her son until he attains the age of seven and her minor daughter until she attains puberty or until she is married, depending on the specific school of Muslim jurisprudence.<sup>596</sup> Under Shia law, a mother has custody of her son until he reaches the age of two and of her daughter until the age of seven.<sup>597</sup> There are several grounds for disqualification of a mother or female relative to the right of custody, including the following:

- remarrying to a man not related to the child within the prohibited degree;
- living far away from the child’s father;

- leading an immoral life or neglecting the child; or
- changing religion.<sup>598</sup>

Despite traditional Muslim jurisprudence regarding custody, Pakistani courts consider the “welfare of the child” as paramount and have deviated from standard Islamic rules in applying this standard.<sup>599</sup> There is a presumption that the responsibility for the welfare of the child lies with the mother.<sup>600</sup> However, courts prefer to take a case-by-case approach.<sup>601</sup>

#### *Laws governing Hindus*

Hindu personal law and customary practices generally govern matters relating to the custody of minor children among Pakistani Hindus.

Under the Hindu Widow’s Marriage Act, a Hindu widow may serve as guardian of any of her minor children if her deceased husband expressly provided for such guardianship in his will.<sup>602</sup> Where the will fails to name a guardian, the father, paternal grandfather or grandmother, or any male relative of the deceased husband may petition a court to appoint a guardian.<sup>603</sup>

#### *Laws governing Christians*

Under the Divorce Act, upon or after issuing a decree for judicial separation, dissolution or nullity of marriage, a court may in its discretion provide “as it deems proper” for the custody, maintenance and education of any minor children from the marriage.<sup>604</sup>

#### *Laws governing Parsis*

Under the Parsi Marriage and Divorce Act, a court may in its discretion upon issuing a final decree under the act provide “as it may deem just and proper” for the custody, maintenance and education of any children from the marriage under the age of 16.<sup>605</sup>

### **D. ECONOMIC AND SOCIAL RIGHTS**

#### ***Property laws***

The constitution provides that “every citizen of Pakistan shall have the right to acquire, hold and dispose of property . . . subject to the Constitution and any reasonable restrictions imposed by law in the public interest.”<sup>606</sup> It also affords special protection to property rights by providing that no person shall be unlawfully deprived of his or her property.<sup>607</sup>

The North-West Frontier Province is currently drafting a law that punishes people who deprive a woman of her property or inheritance.<sup>608</sup> The proposed 2003 NWFP Protection of Women’s Property Ownership Rights Act recognizes that women often are deprived of their property rights and that legal protection is necessary to ensure their enjoyment of such rights.

Under the draft law, any person who illegally deprives a woman of her property may be punished with up to ten years imprisonment or a Rs 50,000 fine, or both.

#### *Laws governing Muslims*

While Muslim personal law confers property rights on women, customary law has had a strong influence in this area and has led to the denial of women’s property rights.<sup>609</sup> Unlike Muslim jurisprudence, which grants men as well as women the ability to sell and transfer their property without restriction, customary law does not recognize the concept of

full ownership.<sup>610</sup> The general rule of succession in customary law excludes all females except widows and daughters.<sup>611</sup> Women who inherit property are limited to “bare maintenance” or “lifetime interests,” and gifts or property obtained through inheritance revert back to the male heirs of the last male owner upon termination of the limited interest (i.e., on the female’s marriage or death).<sup>612</sup> Customary laws throughout Pakistan prevent women from freely disposing

of immovable property (i.e., land or buildings) they inherit by making such transactions subject to the consent of male members of the family.<sup>613</sup>

A series of Shariat Application Acts were enacted beginning in the 1930s to replace customary law with Islamic law in certain specified areas.<sup>614</sup> The West Pakistan Muslim Personal Law (Shariat) Application Act provides that Muslim personal law is the rule of decision in matters including inheritance, succession and women’s separate property, notwithstanding “any custom or usage” and subject to the provisions of any legislation in force.<sup>615</sup>

While there are exceptions, the general rule under Muslim personal law is that a Muslim female gets half of what a male with an equivalent relationship would inherit.<sup>616</sup> According to Sunni *Hanafi* law, a wife is entitled to a one-fourth share of the husband’s property if there are no children or grandsons “however low-so-ever,” and one-eighth if there are children.<sup>617</sup> If there is more than one wife, their share is equally divided among them.<sup>618</sup> Daughters are entitled to inherit only if there is no son.<sup>619</sup> If there is only one daughter, her share is one-half; if there are multiple daughters their collective share is two-thirds.<sup>620</sup> When there is a son, the daughter becomes a “residuary,” meaning that she has no prescribed share and takes only the remainder of property after the claims of prescribed sharers are satisfied.<sup>621</sup> An illegitimate child inherits only from the mother’s side.<sup>622</sup>

### **RELEVANT LAWS AND POLICIES**

- West Pakistan Muslim Personal Law (Shariat) Application Act, 1962
- Muslim Family Laws Ordinance, 1961
- Hindu Widow’s Marriage Act, 1856

### **UP AND COMING LEGISLATION**

- North-West Frontier Province (NWFP) Protection of Women’s Property Ownership Rights Act, 2003

Under Shia law, the wife is entitled to one-eighth of the husband's property when there is a lineal descendant.<sup>623</sup> If there is more than one wife, this share is distributed equally among them.<sup>624</sup> A Quranic provision states that daughters are entitled to succeed with the son; Shia law interprets this tenet as applicable to all female heirs.<sup>625</sup> Shia law does not recognize the inheritance rights of an illegitimate child.<sup>626</sup> Adoption as a mode of filiation is not recognized under Muslim personal law; therefore, no inheritance rights exist between adoptive parents and the adopted child.<sup>627</sup> Similar exclusions apply to stepchildren.<sup>628</sup>

Under the Muslim Family Laws Ordinance, living children of a predeceased son or daughter who would inherit have a right to the share their parents would have received had they been alive.<sup>629</sup> Pursuant to the West Pakistan Muslim Personal Law (Shariat) Application Act, Muslim personal law is subject to this statutory provision.<sup>630</sup>

Pakistani courts have consistently upheld the rights of women to inherit immovable and movable property, including agricultural land.<sup>631</sup> Although these courts have adopted a protective attitude toward women's inheritance rights, social and customary norms have inhibited women from taking inheritance matters before the court, accounting for the minimal number of cases dealing with women's inheritance rights.<sup>632</sup>

#### *Laws governing Hindus*

Hindu personal law generally governs Hindu women's property rights in Pakistan.

Under the Hindu Widow's Marriage Act, all rights of a widow to her deceased husband's property extinguish upon her remarriage.<sup>633</sup> Her share lapses to the next heirs of her deceased husband.<sup>634</sup>

#### *Laws governing Christians*

No data is available on property laws governing Christians in Pakistan.

#### *Laws governing Parsis*

No data is available on property laws governing Parsis in Pakistan.

#### *Rights to agricultural land*

No data is available on laws governing Pakistani women's rights to agricultural land.

#### **Women's exclusive property**

##### *Laws governing Muslims*

All property given as dowry or bridal gifts is vested in the bride. Her interest is not limited by the statutory maximum

value when reclaiming the goods upon dissolution of the marriage.<sup>635</sup>

#### *Laws governing Hindus*

No data is available on Hindu women's exclusive property rights in Pakistan.

#### *Laws governing Christians*

No data is available on Christian women's exclusive property rights in Pakistan.

#### *Laws governing Parsis*

No data is available on Parsi women's exclusive property rights in Pakistan.

#### **Labor and employment**

Of the 39.4 million Pakistanis participating in the formal and informal employment sectors, only 6.2 million are women.<sup>636</sup> Most of the female workforce—some 79%—is employed in the agricultural sector, compared with 57.3% of men.<sup>637</sup> Of women who work in urban areas, 62.2% are employed in service jobs and the remainder are divided equally between the manufacturing and professional sectors.<sup>638</sup> The majority of urban women's jobs are in the informal sector, where standard or protective labor legislation does not apply.<sup>639</sup> Women generally comprise 1–2% of lawyers in bar associations across the country, peaking at 13.6% in Karachi.<sup>640</sup> Of 1,839 sanctioned positions in the subordinate judiciary in 1998, there were only 76 female judges.<sup>641</sup> Women hold 21% of seats in parliament and make up 9% of legislators, senior officials and managers in government.<sup>642</sup>

The constitution guarantees the fundamental right of all citizens to engage in "any lawful profession or occupation, and to conduct any lawful trade or business" subject to any qualifications prescribed by law.<sup>643</sup> It also prohibits gender discrimination in the appointment of government jobs, except with respect to those that "entail performance of duties or functions that cannot be adequately performed by the other sex."<sup>644</sup> The constitution's Principles of Policy enjoin the state to provide for "just and humane" work conditions for all, ensuring that women and children are not employed in jobs "unsuited to their age or sex."<sup>645</sup> The principles also urge the state to provide for maternity benefits in the workplace.<sup>646</sup>

The constitution does not guarantee the right to equal pay for equal work. However, the 1962 West Pakistan Minimum Wage Rules, which provide for the establishment of a Minimum Wages Board to make recommendations regarding

#### **RELEVANT LAWS AND POLICIES**

- West Pakistan Minimum Wage Rules, 1962
- West Pakistan Maternity Benefit Ordinance, 1958
- Mines Maternity Act, 1941
- Provincial Employees Social Security Ordinance, 1965
- Civil Servants Act, 1953
- Factories Act, 1934

minimum wage rates to the government, require that male and female workers be remunerated equally for work of equal value.<sup>647</sup> The rules are applicable throughout Pakistan.

A number of labor laws provide for paid maternity leave and other maternity benefits to female employees. The 1958 West Pakistan Maternity Benefit Ordinance permits all women employed in industrial, commercial or other establishments a paid maternity leave of 12 weeks.<sup>648</sup> The 1941 Mines Maternity Act provides similar benefits for women employed in mines.<sup>649</sup> Women governed by the ordinance must work at least four months before they become eligible for maternity benefits; under the Mines Maternity Act, the prerequisite period of employment is six months.<sup>650</sup> Both pieces of legislation make maternity leave, although paid, mandatory during the six-week period following delivery.<sup>651</sup> They also prohibit employers from terminating a female worker during a permitted period of leave, and the Mines Maternity Act additionally prohibits termination on account of such leave.<sup>652</sup> Contravention of these laws by employers is punishable with a fine of up to Rs 500.<sup>653</sup> Under the Mines Maternity Act, women may be punished with a fine of up to Rs 10 for working during the mandatory six-week maternity leave period following delivery and forfeit any further payment of maternity benefit.<sup>654</sup>

The 1965 Provincial Employees Social Security Ordinance also provides for a 12-week paid maternity leave period, but only for women in industrial, commercial and other establishments of at least ten employees.<sup>655</sup> Beneficiaries are also entitled to prenatal confinement and postnatal medical care.<sup>656</sup> Female civil servants are entitled to a similar leave period under the 1953 Civil Servants Act and accompanying rules, although such leave is only permitted up to three times during a worker's career.<sup>657</sup> Under the 1934 Factories Act, provincial governments are authorized to require factories employing more than fifty female employees to establish crèches for workers whose children are under the age of six.<sup>658</sup>

Women who work in export processing areas and in the informal sector are not entitled to maternity benefits.

Various federal labor statutes restrict women's employment in certain areas.<sup>659</sup> Women workers in mines, factories and export processing zones are prohibited from working at night.<sup>660</sup> Under the Factories Act, women are prohibited from working on or near moving machinery.<sup>661</sup> The act also authorizes provincial governments to make rules barring women employed in factories from engaging in work that may expose them to the risk of bodily injury,

poisoning or disease.<sup>662</sup>

#### *Access to credit*

Women face a number of legal and financial barriers to obtaining credit from traditional financial institutions.<sup>663</sup> Women often lack the necessary collateral to secure loans from conventional banks.<sup>664</sup> They are also at a legal disadvantage—in matters relating to written financial transactions only, the testimony of two women is considered equal to that of one man.<sup>665</sup>

In an effort to improve women's access to credit and promote their economic participation, the government established the First Women Bank in 1989, which is operated and managed almost entirely by women.<sup>666</sup> The bank offers special credit schemes for low-income women and students that provide group-based loans of up to Rs 25,000 without collateral requirements.<sup>667</sup> By 2000, the bank had financed 14,569 female entrepreneurs.<sup>668</sup> In addition to supplying credit, the bank offers entrepreneurial skills development and computer literacy programs, and it assists clients in displaying, promoting and identifying markets for their products.<sup>669</sup> To

make its services more accessible to women in rural areas, the bank employs 11 mobile credit officers and networks with a number of NGOs in rural credit lending programs.<sup>670</sup>

In 2000, the government established the *Khushhali* Bank, or Micro-Finance Bank, by presidential ordinance as part of its poverty reduction program.<sup>671</sup> The bank's objective is to "provide micro-finance services in a sustainable manner to poor persons, particularly poor women, with a view to alleviating poverty."<sup>672</sup> As of 2002, some 14,000 clients had received loans, 30% of whom were women.<sup>673</sup> The bank's lending programs are facilitated by community organizations and NGOs.<sup>674</sup>

#### *Education*

Some 37% of Pakistani women are literate, compared with 61% of men.<sup>675</sup> Literacy rates are significantly higher in urban than in rural areas, especially with respect to women: 60% of women in urban areas are literate, compared with 76% of men. In rural areas, the female literacy rate is 25%, compared with 53% for men.<sup>676</sup> Girls' and women's school enrollment rates lag behind those of boys and men at all levels of education, with the widest gaps in enrollment at the primary school level and in professional colleges.<sup>677</sup> Almost three times as many men than women are enrolled in professional colleges.<sup>678</sup>

The constitution prohibits discrimination in admission to any public educational institution on the sole basis of race, religion, caste, or place of birth, although the state may make

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### **RELEVANT LAWS AND POLICIES**

- West Pakistan Primary Education Ordinance, 1962
- National Education Policy, 1998–2010

provisions to promote the advancement of any “socially or educationally backward” group of citizens.<sup>679</sup> The constitution’s Principles of Policy further encourage the state to promote the educational interests of “backward classes or areas.”<sup>680</sup> They also enjoin the state to eliminate illiteracy, provide free and compulsory secondary education, and ensure the general availability of technical and professional education and the equal accessibility of higher education on a merit-based system.<sup>681</sup> Importantly, the principles characterize education as a “basic necessity of life” that the state should strive to provide for citizens without regard to sex, caste, creed, or race.<sup>682</sup>

While the Ministry of Education plays a planning and coordinating role in the main components of primary education, implementation of primary education and literacy programs is mainly the responsibility of provincial departments of education and the Prime Minister’s Literacy Commission, and is facilitated by NGOs.<sup>683</sup> Although some institutional mechanisms for the administration of primary education exist at the grassroots level, further decentralization is a priority for the government.<sup>684</sup>

The 1962 West Pakistan Primary Education Ordinance gave provincial governments the power to make primary education compulsory in any district, but did not require them to do so.<sup>685</sup> Thus far, three of Pakistan’s four provinces have passed legislation making primary education compulsory: Punjab, North-West Frontier Province and, most recently, Sindh.<sup>686</sup> The government of Sindh aims to implement compulsory primary education in all districts by April 2004.<sup>687</sup> Having all of Pakistan’s provincial governments pass legislation providing for free and compulsory education is a key objective of the National Education Policy for 1998–2010, the federal government’s main policy on education.<sup>688</sup> Other objectives of the National Education Policy include achieving the following goals:

- primary school enrollment rates of 90% by 2002–2003 and 105% by 2010;
- primary school retention and completion rates of 90% by 2010;
- minimum education levels among 90% of primary school students by 2010; and
- literacy rate of 70% by 2010.<sup>689</sup>

The policy also aims to eliminate existing urban/rural and gender disparities in education.<sup>690</sup> Government strategies in this area include ensuring that all new schools are coeducational and have a 70% female teaching staff.<sup>691</sup> Efforts to retain young female students in rural areas include providing free textbooks, stipends and meals.<sup>692</sup>

Non-formal education programs are a major compo-

nent of government education initiatives.<sup>693</sup> Several thousand Non-Formal Basic Education Schools, or home schools run by NGOs and community-based organizations, were established under a project launched by the Prime Minister’s Literacy Commission in 1995.<sup>694</sup> The National Education Policy aims to expand this project by establishing 75,000 additional schools.<sup>695</sup>

The National Commission for Human Development, formed by presidential directive in 2002, serves as a coordinating body for public and private sector activities relating to human development in Pakistan, including those in the area of primary education and literacy.<sup>696</sup> The commission aims to assist the government in attaining universal primary school enrollment in Pakistan and establishing public schools in areas where none exist.<sup>697</sup>

## **E. RIGHT TO PHYSICAL INTEGRITY**

According to the National Commission on the Status of Women, violence against women in Pakistan is on the rise.<sup>698</sup> Reports from domestic and international NGOs indicate that incidences of domestic violence, sexual assault, “honor killings” and other forms of violence against women are reaching alarming proportions in the country.<sup>699</sup>

NGO reports show that violence in the home is the most prevalent form of violence Pakistani women experience.<sup>700</sup> Estimates indicate that 70–95% of all women in Pakistan experience domestic violence.<sup>701</sup> Lahore’s national daily newspapers reported 266 “honor killings” between January and November 1999.<sup>702</sup> About 31% of these murders, in which a woman is killed by her male relatives because of her perceived or actual involvement with a man who is not her husband, were committed by the victim’s brother and 21% by the victim’s husband.<sup>703</sup> Minors were the victims in 15% of these cases.<sup>704</sup>

Domestic violence, incest and honor killing are reportedly commonplace in refugee camps, and domestic violence-related deaths are also on the rise.<sup>705</sup> In a sample survey of more than 200 women living in refugee camps outside of Peshawar, 79% reported being beaten by their husbands and 39% by other family members, and 13.4% believed that men have the right to beat their wives.<sup>706</sup> Access to legal redress and health and social services is extremely restricted for Afghan refugee women victims of violence.<sup>707</sup> Health-care providers working in refugee camps have no clear protocols for addressing violence, and there are no programs that provide counseling or other social services targeted to victims of gender-based violence living in refugee camps.<sup>708</sup> Outside of camps, refugees may seek medical and social services from local NGO-run programs for victims of violence in the population at large.<sup>709</sup>



The constitution guarantees all citizens' fundamental rights to life, liberty and inviolability of human dignity.<sup>710</sup> The government also has promulgated some specific legislation addressing violations of women's physical integrity.

### Rape

The offense of rape (*Zina bil Jabr*) is dealt with under the Offence of Zina (Enforcement of Hudood) Ordinance.<sup>711</sup> The ordinance repealed standing penal code provisions relating to rape and provided for stricter evidentiary requirements in establishing the crime.<sup>712</sup> Rape is defined as sexual intercourse by a person with a woman or man to whom he or she is not validly married under any of the following circumstances:

- against the victim's will;
- without the victim's consent;
- with the victim's consent, when such consent has been obtained by putting the victim in fear of death or of hurt; or
- with the victim's consent, when the offender knows that he or she is not validly married to the victim and that consent has been given because the victim believes that the offender is someone to whom the victim is or believes herself or himself to be validly married.<sup>713</sup>

The law does not recognize marital rape as a crime.<sup>714</sup> The ordinance eliminated the crime of statutory rape, which the penal code had previously criminalized.<sup>715</sup>

Two different degrees of punishment, *hadd* and *tazir*, are prescribed as penalties for rape depending upon religious affiliation, marital status and other evidentiary factors. Under the maximum punishment of *hadd*, if the accused is a married Muslim, a conviction for rape of another woman results in death by stoning.<sup>716</sup> However, this penalty can be awarded only if the evidence consists of a confession by the accused or a statement by four pious adult Muslim men who have witnessed the act of penetration.<sup>717</sup> If the accused is a non-Muslim, the punishment of *hadd* is carried out through whipping, extending to 100 lashes in a public place, or a death sentence, if deemed fit by the court.<sup>718</sup> Again, the crime must be proven either through a confession by the accused or the testimonies of four male eyewitnesses; the witnesses need not be Muslim.<sup>719</sup> The testimony of a woman or the raped woman herself bears no legal weight in *hadd* punishments.<sup>720</sup>

In cases where rape is established by other evidence, such as the testimony of a woman, the class of lesser punishments

of *tazir* is imposed.<sup>721</sup> The penalties for rape by a single assailant under *tazir* can be up to 25 years in prison and 30 lashes.<sup>722</sup> If rape is committed by two or more persons, each person receives the death penalty.<sup>723</sup>

The ordinance also criminalizes *zina* (adultery).<sup>724</sup> In light of the ordinance's strict evidentiary requirements for rape, a woman who alleges, but fails to prove that she has been raped, may be subject to prosecution for adultery, which carries penalties similar to those for rape: a maximum *hadd*

punishment of stoning to death or 100 lashes if not Muslim, or lesser *tazir* punishment of up to ten years imprisonment and 30 lashes.<sup>725</sup> The 1979 Offence of Qazf Ordinance aims to protect individuals against false accusations of adultery by criminalizing *qazf* (false imputation of adultery) with a *hadd* punishment of up to 80 lashes or a lesser *tazir* punishment of 40 lashes and two years imprisonment.<sup>726</sup> Some courts have interpreted this law as meaning that a wife cannot accuse her own husband of *qazf*.<sup>727</sup> In practice, very few *qazf* cases are filed by women.<sup>728</sup>

### Incest

There is no specific law on incest.<sup>729</sup> However, the personal laws of some religious communities prohibit marriage between certain closely related individuals. (See "Laws governing Muslims" and "Laws governing Parsis" under "Marriage laws" for more information.)

### Domestic violence

There is no specific legislation on domestic violence.<sup>730</sup> However, the National Commission on the Status of Women has since its establishment in 2000 made recommendations to the government for the enactment of specific legislation on domestic violence.<sup>731</sup>

Most acts of domestic violence are prosecuted under the Qisas and Diyat Ordinance, which are Islamic criminal laws dealing with the crimes of murder, attempted murder and bodily harm that amended relevant provisions of the penal code.<sup>732</sup> The Qisas and Diyat Ordinance defines and prescribes punishments for assault, criminal force (battery), murder and other forms of bodily harm a woman may suffer in a marital conflict, such as permanent damage to eyesight, hearing impairment, disfiguration of the head or face, and fracture or dislocation of a bone or tooth.<sup>733</sup> Under the ordinance, punishment is determined by the victim or her *wali* (the victim's legal heirs) who may choose either to exact *qisas* (retribution) or *diyat* (compensation), or to pardon the accused altogether.<sup>734</sup> If the victim or heir chooses

## RELEVANT LAWS AND POLICIES

- Offense of Zina (Enforcement of Hudood) Ordinance, 1979
- Offense of Qazf Ordinance, 1979
- Qisas and Diyat Ordinance, 1990
- Pakistan Penal Code, 1860
- West Pakistan Suppression of Prostitution Ordinance, 1961

es to waive *qisas*, or *qisas* is held to be inapplicable, a judge has discretion to order as punishment *diyat*, *tazir*, imprisonment or no punishment at all for the offender.<sup>735</sup>

An exception to this rule arises in cases of *Qatl-i-amd* (murder) when the *wali* is a direct descendant of the offender.<sup>736</sup> In such cases, the offender is not liable for *qisas*.<sup>737</sup> Consequently, if a woman were murdered by her husband, he would be exempt from capital punishment if the couple had any children, since the children, as the victim's *wali*, would also be direct descendants of the offender.<sup>738</sup> Although courts may impose *tazir* punishment in spousal murder cases of this kind, the maximum penalty they may award is 14 years imprisonment.<sup>739</sup>

Among the many forms of domestic violence affecting women in Pakistan is the widespread practice of stove-burning, the burning of a woman by her husband or in-laws because her dowry was not enough, or because of other marital disputes.<sup>740</sup> Although there is no specific legislation dealing with stove-burning, the Lahore High Court took *suo moto* notice of the issue in 1991 and issued a directive on the procedure for investigating and addressing such incidents of violence.<sup>741</sup> The National Commission on the Status of Women has issued a recommendation calling for specific legislation in accordance with the Lahore High Court's directive.<sup>742</sup>

#### **Sexual harassment**

There is no separate law dealing with sexual harassment. The penal code penalizes the offense of "insult[ing] the modesty of a woman" by prohibiting anyone from uttering any word, making any sound or gesture, or exhibiting any object with the intent to insult her modesty.<sup>743</sup> The punishment in this case is simple imprisonment of one year or a fine, or both.<sup>744</sup> Other penal code provisions criminalize certain types of behavior that could constitute sexual harassment, such as performing an obscene act in public, wrongfully restraining or confining a person, or assaulting a woman with an intent to "outrage her modesty," and impose punishments of various terms or a fine depending upon the gravity of the offense.<sup>745</sup>

The National Commission on the Status of Women has since its establishment in 2000 recommended to the government that legislation be enacted whereby employers are required to respond to and monitor incidents of violence and harassment in the workplace.<sup>746</sup>

#### **Commercial sex work**

Under the 1961 West Pakistan Suppression of Prostitution Ordinance, prostitution is illegal.<sup>747</sup> The ordinance prescribes punishments for women who engage in prostitution and for those who procure or entice a woman or girl to become a prostitute.<sup>748</sup>

#### **Sex-trafficking**

The constitution prohibits "all forms of forced labour and traffic in human beings."<sup>749</sup> The West Pakistan Suppression of Prostitution Ordinance prescribes punishments for those who bring or attempt to bring any woman or girl into the country for purposes of prostitution by imprisonment of up to three years or a fine, or both; if the convicted person is male, he may also be whipped.<sup>750</sup>

Other laws that prescribe punishments for the trafficking of women include the Offence of Zina (Enforcement of Hudood) Ordinance, which criminalizes the acts of buying or selling a person for the purposes of prostitution, and "enticing, taking away or detaining" a woman for the purpose of "illicit intercourse."<sup>751</sup> The punishments prescribed for these offenses range from seven years to life in prison and may include whipping and a fine.<sup>752</sup> The ordinance also criminalizes the abduction of any woman in order to force her into marriage or illicit intercourse, with the punishment being life imprisonment and whipping not exceeding 30 lashes.<sup>753</sup> The punishment is raised to death or up to 25 years imprisonment and 30 lashes as well as a fine for kidnapping or abducting any person for the purpose of subjecting him or her sexually.<sup>754</sup>

The Qisas and Diyat provisions of the penal code also punish trafficking-related acts with imprisonment.<sup>755</sup>

#### **Customary forms of violence**

Honor killing is not defined by law, but, according to practice, involves the murder of a woman by her male relatives because of her perceived or actual involvement with a man who is not her husband.<sup>756</sup> Cases of honor killings are tried under the legal provisions on murder contained in the penal code, but sentences for this crime are generally reduced from those prescribed for murder to those specified for manslaughter through a provision of the penal code that makes exceptions for murder due to "grave and sudden provocation."<sup>757</sup>

Honor killings are practiced in a variety of forms, of which "*karo-kari*" is one example. "*Karo-kari*" means "blackened man, blackened women" in Sindhi, a local language spoken in Pakistan.<sup>758</sup> A woman suspected of immorality is called *kari* while her male partner is called *karo*.<sup>759</sup> *Karo-kari* killings are carried out in the name of family "honor" to avenge the violation of tribal or cultural norms, including in instances when a woman and man have, or are suspected of having, an illicit relationship; when a woman wishes to seek a divorce; or when a woman "dishonors" her family by being raped. Based on all accounts, women are far more often the targets of the practice than men.<sup>760</sup> Courts often give precedence to customary or social norms over statutory law and have handed down extremely lenient sentences for perpetrators.<sup>761</sup> In rural areas, such cases are heard by tribal leaders.<sup>762</sup>

In April 2000, the government declared that honor killings were equivalent to murder and would be treated as such.<sup>763</sup> However, it has issued no ordinance to this effect.<sup>764</sup> A recent judgment of the Supreme Court denounced the excuse of “grave and sudden provocation” in an honor killing, finding it to be murder and a violation of the fundamental rights declared in the constitution.<sup>765</sup>

Additional customary practices or traditions harmful to women that are prevalent throughout Pakistan include the selling of girls into marriage; the marriage of women and girls to the *Quran* so as to divest them of property or inheritance rights; *badl-e-sulh*, or the exchange or barter of girls to resolve disputes; and *swara*, or relinquishing a young girl to a rival party to settle a conflict.<sup>766</sup>

## IV. Focusing on the Rights of a Special Group: Adolescents

The reproductive rights of adolescents, particularly the girl child, are often neglected. Adolescents face many age-specific disadvantages that are not addressed through formal laws and policies. The ability of adolescents to access the health system, their rights within the family, their level of education, and their vulnerability to sexual violence together determine the state of their reproductive health and their overall well-being. The following section presents some of the factors that shape adolescents’ reproductive lives in Pakistan.

### A. REPRODUCTIVE HEALTH

Pakistan does not have a specific law or policy addressing adolescents’ reproductive health. However, the National Reproductive Health Policy, Reproductive Health Services Package and Pakistan’s population policy include general and specific provisions relating to the reproductive health issues and needs of adolescents.

The National Reproductive Health Policy generally aims to provide reproductive health services for individuals of all ages and either gender throughout their life cycles.<sup>767</sup> It makes specific reference to the need for implementation strategies to identify and address the reproductive health needs of adolescents, but does not go beyond this directive.<sup>768</sup>

The Reproductive Health Services Package, which puts into operation the National Reproductive Health Policy, identifies the “management of reproductive health related problems of adolescents” as one of its nine key components.<sup>769</sup> This component encompasses the following services:

- education regarding physiological changes during puberty;
- management of problems such as dysmenorrhea, sexual abuse, substance abuse, and “abnormal” sexual behavior;
- information about personal hygiene and nutrition; and
- detection and management of developmental abnormalities such as imperforate hymen, early and delayed menarche, and undescended testes.<sup>770</sup>

Pakistan’s population policy notes with concern that the country’s “ever-largest adolescent population ... embodies potential population growth for several decades,” which holds serious consequences for the country’s national development and provision of basic services, including health services.<sup>771</sup> The policy contains general strategies to develop and launch advocacy campaigns targeted to special groups, including youth and adolescents, but does not include more specific policy provisions addressing adolescent reproductive health care.<sup>772</sup> Its strategies to reduce unmet need for family planning services target married couples.<sup>773</sup>

NGOs are playing a significant role in implementing these policy provisions through awareness-raising activities about adolescent reproductive health issues and the provision of services. NGO initiatives include providing youth counseling and launching youth help lines to answer reproductive health queries; recommending curriculum development for sexuality and reproductive health; and running youth centers.<sup>774</sup>

### B. MARRIAGE

The Child Marriage Restraint Act prohibits marriage of women below the age of 16 and men below the age of 18.<sup>775</sup> However, while the act prescribes punishments in cases of underage marriage, it does not invalidate such marriages.<sup>776</sup>

#### *Laws governing Muslims*

Under Muslim personal law, girls who have attained the age of puberty are eligible for marriage. A Muslim girl who entered into marriage before the age of 16 has the option of dissolving her marriage before attaining the age of 18, provided that the marriage has not been consummated.<sup>777</sup> (See “Laws governing Muslims” under “Marriage laws” for more information.)

#### *Laws governing Hindus*

Hindu personal law governs marriage among Pakistani Hindus. Codified Hindu laws in Pakistan relating to marriage include the Hindu Marriage Disabilities Removal Act and Hindu Widow’s Marriage Act.<sup>778</sup> Under the Hindu Widow’s Marriage Act, the widow’s father’s consent to remarriage is required if the widow is a minor.<sup>779</sup> (See “Laws governing

Hindus” under “Marriage laws” for more information.)

#### ***Laws governing Christians***

Under the Christian Marriage Act, the legal age for marriage is 16 for men and 13 for women.<sup>780</sup> Where either party to a marriage is under the age of 18, that party’s father must consent to the marriage.<sup>781</sup> (See “Laws governing Christians” under “Marriage laws” for more information.)

#### ***Laws governing Parsis***

Under the Parsi Marriage and Divorce Act, the minimum legal age for marriage is 21 for both men and women.<sup>782</sup> Where either party to a marriage is below this minimum age, that party’s father or legal guardian must consent to the marriage.<sup>783</sup> (See “Laws governing Parsis” under “Marriage laws” for more information.)

### **C. EDUCATION**

Female literacy rates among adolescents are higher than the national average for adult women. Among girls aged 10–14, 47.7% are literate, compared with 60.9% of boys.<sup>784</sup> At 46.3%, the rate is slightly lower among girls aged 15–19, but higher among their male counterparts at 67%.<sup>785</sup> Primary school enrollment is generally low among both boys and girls aged five to nine, although disparities exist by gender and among provinces. On average, 41% of girls in this age group are enrolled in primary school, compared with 61% of their male counterparts.<sup>786</sup> Among the provinces, net enrollment rates for girls range from 46% in Punjab to 21% in Baluchistan.<sup>787</sup> Among boys, enrollment rates peak in North-West Frontier Province at 72% and are lowest in Baluchistan at 49%.<sup>788</sup> Enrollment rates steadily decline as students progress through higher stages of education.<sup>789</sup> Young people aged ten to 18 of both genders cite cost as the most common reason they have never attended school.<sup>790</sup> The second most common reason among girls, cited by 27.5% of the group, is that their parents do not allow them to attend.<sup>791</sup>

Among young Afghan refugees, many report that they have not attended school because of high costs, language barriers and discouragement by Pakistani communities.<sup>792</sup> In 1997, home-based schools were instituted in refugee villages to provide education for girls up to the fifth grade.<sup>793</sup>

Primary school education is a top government priority in education.<sup>794</sup> The National Education Policy reflects this focus, setting time-bound targets for attaining specified levels of primary school enrollment, completion and learning by 2010, and aiming to make primary education free and compulsory throughout Pakistan.<sup>795</sup> A major initiative launched under the policy includes establishing 45,000 new primary schools.<sup>796</sup> The provision of primary education through non-formal basic education schools and other alternative programs

for out-of-school children and adolescents is also an important feature of the policy.<sup>797</sup> The policy also aims to eliminate gender and urban/rural disparities in education and literacy rates.<sup>798</sup> To help alleviate the financial burden of education on many low-income Pakistanis, the policy provides for free basic textbooks and learning materials for low-income children.<sup>799</sup>

Sexual and reproductive health education for adolescents is limited in national policies. Knowledge about sex is primarily viewed as a taboo topic and feared as a stimulant for increased premarital sex among adolescents.<sup>800</sup> Even formal training for medical schools does not include sex education; however, population and family planning issues are generally included.<sup>801</sup>

Among recommendations noted in Pakistan’s population policy’s for addressing adolescent reproductive health needs and curbing population growth is the provision of “Population and Family Life Education” for students, including those in college.<sup>802</sup> The goal of advocacy and education targeted to youth and adolescents is to raise awareness about “the wide-ranging consequences of rapid population growth for the individual, family and nation and, therefore the need to build a mindset for responsible parenthood.”<sup>803</sup>

In addition, the National Education Policy provides that secondary schools should incorporate information about HIV/AIDS.<sup>804</sup>

A few NGOs, such as the Family Planning Association of Pakistan, Pakistan Voluntary Health and Nutrition Association and the Karachi Reproductive Health Project, are taking initiatives to provide sexual health education for adolescents.<sup>805</sup>

### **D. SEXUAL OFFENSES AGAINST MINORS**

Laws prescribing punishments for sexual offenses against minors are contained in the penal code and Offence of Zina (Enforcement of Hudood) Ordinance, but as a general rule, federal laws provide limited coverage for crimes of abuse specifically against adolescents.<sup>806</sup> Most legislation addressing abuses against minors exists at the provincial rather than federal level.<sup>807</sup> However, an accused person can be charged under a provincial law only in addition to a federal charge.<sup>808</sup> It has been noted that provincial legislation prescribes nominal fines of Rs 1,000 for serious offenses, reflecting the cursory attitude toward the whole issue of child sexual abuse and exploitation in Pakistan.<sup>809</sup>

Most federal laws recognize the age of majority as 16 or 18; for the purposes of establishing the crime of adultery, the Offence of Zina (Enforcement of Hudood) Ordinance curtails a girl’s status as a minor when she reaches the age of 16 or attains puberty.<sup>810</sup> Therefore, adolescent girls who allege that they have been raped but cannot prove the allegation may

subsequently be prosecuted as adults for the offense of adultery, depending on their age.

Under the penal code, the act of inducing a girl under the age of 18 to go from any place or perform any act with the intent of seducing her or forcing her into illicit intercourse with another person is punishable with up to ten years imprisonment and a fine.<sup>811</sup> Minor boys are not covered by this provision.

Pakistan does not have any specific laws penalizing statutory rape or incest committed against minors, or for exploiting minors for the creation of pornographic material.<sup>812</sup>

## ENDNOTES

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184. See PAKISTAN: TOWARDS A HEALTH SECTOR STRATEGY, *supra* note 179, at 15.
185. See *id.* [DRAFT] NINTH FIVE YEAR PLAN, *supra* note 173, at 5; ECONOMIC SURVEY 2001–2002, *supra* note 183, at 2.
186. See PAKISTAN: TOWARDS A HEALTH SECTOR STRATEGY, *supra* note 179, at 15.
187. See ECONOMIC SURVEY 2001–2002, *supra* note 183.
188. See ANNE G. TINKER, WORLD BANK, IMPROVING WOMEN’S HEALTH IN PAKISTAN 19 (1998) (citing FEDERAL BUREAU OF STATISTICS, GOVERNMENT OF PAKISTAN, INTEGRATED HOUSEHOLD SURVEY 1995–96 (1996)).
189. See *id.*
190. See *id.* (citing SOUTH ASIAN REGION, COUNTRY DEPARTMENT I, POPULATION AND HUMAN RESOURCES DIVISION, PAKISTAN NORTHERN HEALTH PROGRAM PROJECT, PROJECT APPRAISAL DOCUMENT (1996)).
191. See *id.* at 19–20.
192. See [DRAFT] NINTH FIVE YEAR PLAN, *supra* note 173, at 5.
193. See Handout on Health Care System in Pakistan, *supra* note 168, at 5.
194. See PAKISTAN: TOWARDS A HEALTH SECTOR STRATEGY, *supra* note 179, at 21.
195. UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR), 2002 COUNTRY PROGRAMME—PAKISTAN 2 (2002).
196. See Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women, Report of the Special Rapporteur on violence against women, its causes and consequences, Commission on Human Rights, 56th Sess., U.N. Doc. E/CN.4/2000/68/Add.4, ¶ 47, Mar. 13, 2000.
197. See Handout on Health Care System in Pakistan, *supra* note 168, at 5.
198. See NATIONAL HEALTH POLICY, *supra* note 169, at 3.
199. See PAKISTAN: TOWARDS A HEALTH SECTOR STRATEGY, *supra* note 179.
200. See UNITED NATIONS POPULATION FUND (UNFPA) & NETHERLANDS INTERDISCIPLINARY DEMOGRAPHIC INSTITUTE (NIDI), FINANCIAL RESOURCE FLOWS FOR POPULATION ACTIVITIES: REPORT OF A CASE STUDY IN PAKISTAN 44 (1999), [http://www.nidi.nl/res-flows/rf\\_download/pakistan.pdf](http://www.nidi.nl/res-flows/rf_download/pakistan.pdf) (last visited Jan. 8, 2004).
201. See *id.* at iv.
202. See *id.*
203. See *id.*
204. FINANCIAL RESOURCE FLOWS FOR POPULATION ACTIVITIES: REPORT OF A CASE STUDY IN PAKISTAN, *supra* note 200. See PAKISTAN: TOWARDS A HEALTH SECTOR STRATEGY, *supra* note 179, at v.
205. PAKISTAN: TOWARDS A HEALTH SECTOR STRATEGY, *supra* note 179, ¶ 3.11. See FINANCIAL RESOURCE FLOWS FOR POPULATION ACTIVITIES: REPORT OF A CASE STUDY IN PAKISTAN, *supra* note 200, at 1.
206. See ASIAN DEVELOPMENT BANK & GOVERNMENT OF PAKISTAN ET AL., FINAL REPORT: REPRODUCTIVE HEALTH PROJECT PAKISTAN i, ADB TA No. 3387 (2001).
207. See PAKISTAN: TOWARDS A HEALTH SECTOR STRATEGY, *supra* note 179, at v.
208. See Handout on Health Care System in Pakistan, *supra* note 168, at 5.
209. See FINANCIAL RESOURCE FLOWS FOR POPULATION ACTIVITIES: REPORT OF A CASE STUDY IN PAKISTAN, *supra* note 200.
210. See PAKISTAN: TOWARDS A HEALTH SECTOR STRATEGY, *supra* note 179, ¶ 3.15 at 16.
211. See *id.* ¶ 3.15 at 16–17.
212. See *id.*
213. See ECONOMIC SURVEY 2001–2002, *supra* note 183, at 3.
214. See *id.* tbl. 12.4.
215. See PAKISTAN: TOWARDS A HEALTH SECTOR STRATEGY, *supra* note 179, ¶ 2.10.
216. See Handout on Health Care System in Pakistan, *supra* note 168, at 5.
217. Sandhya Srinivasan, *Structural Adjustment Takes its Toll in Pakistan*, <http://www.infochangeindia.org/fetaures12print.jsp>. See ZAFAR IQBAL & RIZWANA SIDDIQUI, PAKISTAN INSTITUTE OF DEVELOPING ECONOMICS, DISTRIBUTIONAL IMPACT OF STRUCTURAL ADJUSTMENT ON INCOME INEQUALITY IN PAKISTAN: A SAM-BASED ANALYSIS 6 (1999). See also Lorraine Corner, United Nations Development Fund for Women (UNIFEM), *Why do we need to engender macroeconomic policy?* (2002), [www.unifem-ecasia.org/ecogov-apas/EEGKnowledgeBase/EEGwhyengenderpolicy.htm](http://www.unifem-ecasia.org/ecogov-apas/EEGKnowledgeBase/EEGwhyengenderpolicy.htm) (last visited Aug. 1, 2002).
218. See MINISTRY OF WOMEN DEVELOPMENT, SOCIAL WELFARE AND SPECIAL EDUCATION, GOVERNMENT OF PAKISTAN, NATIONAL PLAN OF ACTION, Strategic Objective A.2, Action #1 (1998), <http://www.un.org.pk/undp/gender/npa.pdf> (last visited Jan. 9, 2004).
219. See FINANCIAL RESOURCE FLOWS FOR POPULATION ACTIVITIES: REPORT OF A CASE STUDY IN PAKISTAN, *supra* note 200, at 14.
220. See *id.* at 5.
221. See *id.* at 25.
222. See ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT, HEALTH FOCUS FOR PAKISTAN, [http://www1.oecd.org/dac/images/AidRecipient/pak\\_h.gif](http://www1.oecd.org/dac/images/AidRecipient/pak_h.gif) (last visited Jan. 9, 2004).
223. See FINANCIAL RESOURCE FLOWS FOR POPULATION ACTIVITIES: REPORT OF A CASE STUDY IN PAKISTAN, *supra* note 200, at 25.
224. See ECONOMIC SURVEY 2001–2002, *supra* note 183, ch. 10, at 1.
225. See *id.*
226. See *id.*
227. See World Bank, DevNews Media Center, *Pakistan: Second Structural Adjustment Credit* (June 11, 2002),

- <http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,content-MDK:20049721~menuPK:34471~pagePK:40651~piPK:40653~theSitePK:4607,00.html> (last visited Jan. 9, 2004).
228. See PAKISTAN: TOWARDS A HEALTH SECTOR STRATEGY, *supra* note 179, ¶3.76.
229. *See id.*
230. *See id.*
231. See Memorandum from Meeting with Inam-ul Haq, Health Specialist, World Bank, regarding Health & Population Policies (July 24, 2001) (on file with Center for Reproductive Rights).
232. See PAKISTAN: TOWARDS A HEALTH SECTOR STRATEGY, *supra* note 179, ¶ 3.76.
233. See MULTI-DONOR SUPPORT UNIT FOR THE SOCIAL ACTION PROGRAMME, SOCIAL ACTION PROGRAMME, PRICING REPRODUCTIVE HEALTH SERVICES IN PAKISTAN 10 (2000).
234. See PAKISTAN: TOWARDS A HEALTH SECTOR STRATEGY, *supra* note 179, ¶ 3.76.
235. See Mehtab S. Karim, Disease Patterns, Health Services Utilization and Cost of Treatment in Pakistan, 43 J. PAK. MED. ASS'N. 8, abstract (1993).
236. *See id.*
237. See Memorandum from Meeting with Saifuddin Zoomkawala, Chairman, EFU Allianz, regarding Health Insurance in Pakistan (Aug. 31, 2001) (on file with Center for Reproductive Rights).
238. PAKISTAN: TOWARDS A HEALTH SECTOR STRATEGY, *supra* note 179, ¶ 5.22. See Social Security Administration, U.S. Government, Social Security Online, Social Security Programs Throughout the World, Pakistan, <http://www.ssa.gov/policy/docs/progdesc/ssptw/1999/pakistan.htm> (last visited Sept. 26, 2003).
239. See PAKISTAN: TOWARDS A HEALTH SECTOR STRATEGY, *supra* note 179, ¶ 5.22.
240. See Medical Council Ordinance, 1962, Ordinance No. XXXII of 1962 (Pak.).
241. *See id.* arts. 1(2), 2(c)-(d).
242. See Pakistan Medical and Dental Council, <http://www.pmdc.org.pk> (last visited Jan. 9, 2004).
243. See Medical Council Ordinance, 1962, arts. 22(1), 31 (Pak.).
244. See Pakistan College of Physicians and Surgeons Ordinance, No. XX, 1962, pmbl. (Pak.).
245. See Pakistan Nursing Council Act, No. XXVI, 1973 (Pak.).
246. *See id.* § 26(g)-(j).
247. See Pharmacy Act, No. XI, 1967 (Pak.).
248. *See id.* §§ 17-19, 21.
249. See Allopathic System (Prevention of Misuse) Ordinance, No. LXV, 1962 (Pak.).
250. *See id.* § 3, 7.
251. See NATIONAL HEALTH POLICY, *supra* note 169, ¶ 7.1.1.
252. *See id.* ¶ 7.1.1. A draft of the Regulation of Medical Education and Training in Pakistan Ordinance, 2000 may be consulted in MINISTRY OF HEALTH, GOVERNMENT OF PAKISTAN, HEALTH LEGISLATION ON THE ANVIL 3-7 (2000).
253. See DAWN Group of Newspapers, *Doctors urged not to help female infanticide*, Sept. 28, 2001, [www.dawn.com/2001/09/28/local8.htm](http://www.dawn.com/2001/09/28/local8.htm) (last visited July 14, 2003).
254. See PAK. PEN. CODE §§ 302, 316, 319, 322, 324, 329, 337L, 338-A.
255. *See id.* §§ 87-88.
256. *See id.* § 80.
257. See CODE OF CIVIL PROCEDURE § 9 (Pak.).
258. See Letter from M.L. Shahani, Former Judge, High Court of Sindh, Advocate, Supreme Court, to Seema Sharif, Senior Programme Officer, Reproductive Health (July 19, 2001) (copy on file with Center for Reproductive Rights).
259. See Contract Act, No. IX, 1872, § 73 (Pak.).
260. See Medical Council Ordinance, No. XXXII, 1962, art. 31(1) (Pak.); *see also* Pakistan Medical and Dental Council, [at http://www.safety.net.pk/pmdc/](http://www.safety.net.pk/pmdc/) (last visited Jan. 22, 2004).
261. *See id.*
262. See PAKISTAN MEDICAL & DENTAL COUNCIL, CODE OF MEDICAL ETHICS (1968) (revised 1974).
263. *See id.* § 4(b).
264. *See id.* § 4(b), (d).
265. *See id.* § 4(c).
266. *See id.* §§ 3, 4(e).
267. *See id.* at 1.
268. See PLANNING AND DEVELOPMENT DIVISION, GOVERNMENT OF PAKISTAN, NATIONAL REPRODUCTIVE HEALTH POLICY ¶ 7 (2000).
269. *See id.*
270. *See id.*
271. *See id.* ¶¶ 7, 8, 10.
272. *See id.* ¶¶ 2, 3.
273. *See id.* ¶ 8.
274. *See id.* ¶ 9.
275. *See id.* ¶ 10.
276. *See id.* ¶ 11.
277. See MINISTRY OF HEALTH & MINISTRY OF POPULATION WELFARE, GOVERNMENT OF PAKISTAN, PAKISTAN REPRODUCTIVE HEALTH SERVICE PACKAGE 8 (1999).
278. *See id.* at 8-13, 15-26.
279. *See id.* at 35.
280. See NATIONAL HEALTH POLICY, *supra* note 169, § 4.1, at 12.
281. *See id.*
282. *See id.* § 4.2, at 13.
283. See [DRAFT] NINTH FIVE YEAR PLAN, *supra* note 173.
284. See Asia and the Pacific Division, United Nations Population Fund (UNFPA), *Afghanistan Project: AFG/98/P03: Improving Reproductive Health of Afghan People Living in Refugee Camps in Pakistan*, [www.unfpa.org/regions/apd/countries/afghanistan/afg98p03.htm](http://www.unfpa.org/regions/apd/countries/afghanistan/afg98p03.htm) (last visited July 25, 2002); *see* World Food Programme (WFP), *WFP in Afghanistan*, [www.un.org.pk/wfp/pak-fact-sheet.htm](http://www.un.org.pk/wfp/pak-fact-sheet.htm) (last visited Jan. 8, 2002); *see* Bureau of Population, Refugees and Migration, U.S. Department of State, Response to the Afghan Crisis, Fact Sheet (Apr. 12, 2002), [www.state.gov/g/prm/rls/fs/9321.htm](http://www.state.gov/g/prm/rls/fs/9321.htm) (last visited Jan. 8, 2004).
285. See ROSEN & CONLY, *supra* note 179, at 9
286. *See id.*
287. *Id.*
288. See REPRODUCTIVE HEALTH SERVICE PACKAGE, *supra* note 277.
289. See NATIONAL INSTITUTE FOR POPULATION STUDIES (NIPS), GOVERNMENT OF PAKISTAN, PRELIMINARY FININGS [sic] OF PAKISTAN FAMILY PLANNING AND REPRODUCTIVE HEALTH SURVEY 2001, tbl. 5.2.
290. *See id.* tbl. 5.3.
291. *See id.* tbs. 5.7, 5.8.
292. *See id.* tbl. 5.8.
293. *See id.* tbs. 5.8, 6.3.
294. *See id.* tbl. 5.9.
295. *Id.*
296. See CENTER FOR REPRODUCTIVE RIGHTS, DISPLACED AND DISREGARDED, REFUGEES AND THEIR REPRODUCTIVE RIGHTS 5 (2001) (citing UNFPA, *Humanitarian Crisis in Afghanistan, Fact Sheet: Reproductive Health Indicators for Afghanistan*), <http://www.unfpa.org/tpd/emergencies/afghanistan/factsheet.htm> (last visited Jan. 10, 2004)).
297. See WOMEN'S COMMISSION FOR REFUGEE WOMEN AND CHILDREN, STILL IN NEED: REPRODUCTIVE HEALTH CARE FOR AFGHAN REFUGEES IN PAKISTAN 4, 7 (2003).
298. *See id.* at 4.
299. Drugs Act, No. XXXI, 1976, § 23 (Pak.). *See* Communication with Seema Sharif, Shirkat Gah, *CRLP Study, Health Policies (draft)* 13 (Oct. 19, 2001) (on file with Center for Reproductive Rights) [hereinafter *CRLP Study, Health Policies (draft)*] from Seema Sharif].
300. See Drugs Act, No. XXXI, 1976, § 23 (Pak.).
301. *See id.* § 23(b).
302. See Consortium for Emergency Contraception, *ECP Status and Activity by Country*, <http://www.cccinfo.org/files/ecstatusavailability.pdf> (last visited Jan. 10, 2004).
303. *See id.*
304. Cassandra Balchin & Khawar Mumtaz, et al., *The Woman Not the Womb: Population Control vs Women's Reproductive Rights* 21, Mar. 1994. *See also* *CRLP Study, Health Policies (draft)* from Seema Sharif, *supra* note 299.
305. See Offence of Zina (Enforcement of Hudood) Ordinance, No. VII, 1979 § 4 (Pak.).
306. Memorandum on Meeting with Dr. Jabeen Abbas, Programme Officer, Pakistan Voluntary Health and Nutrition Association, regarding Adolescent Reproductive Health (May 21, 2001) (on file with Center for Reproductive Rights).
307. See Drugs (Licensing, Registering and Advertising) Rules, 1976, § 31(1)(8) (Pak.).
308. *See id.* § 31.
309. Naziha Syed Ali, *See No Evil?*, NEWSLINE, May 2001, at 89.
310. See Drugs (Licensing, Registering and Advertising) Rules, 1976, § 31(1-A) (Pak.).
311. See PAKISTAN TELEVISION CORPORATION LIMITED, TV CODE OF ADVERTISING STANDARDS & PRACTICE IN PAKISTAN § 1 (1995).
312. *See id.*
313. *See id.* § 1(ii).
314. See PAKISTAN'S POPULATION: STATISTICAL PROFILE 2002, *supra* note 16, at 15, n.4.
315. *See id.* at 15 (citing NATIONAL INSTITUTE OF POPULATION STUDIES, PAKISTAN REPRODUCTIVE HEALTH AND FAMILY PLANNING SURVEY 2000-2001 (2000))
316. See PAK. PEN. CODE §§ 332-36.
317. See Memorandum from Interview with Dr. Khwaja Shoab, Joint Secretary, Ministry of Population Welfare, Government of Pakistan, regarding Ministry of Population Welfare policies, programs and implementation 2 (Apr. 18, 2001) (on file with Center for Reproductive Rights); *see also* *CRLP Study, Health Policies (draft)* from Seema Sharif, *supra* note 299, at 18.
318. See Memorandum from Interview with Dr. Khwaja Shoab, *supra* note 317.
319. *See id.*
320. *See id.*
321. See ABDUL HAKIM, ET AL., NATIONAL INSTITUTE OF POPULATION STUDIES, ISLAMABAD & CENTRE FOR POPULATION STUDIES, LONDON SCHOOL OF HYGIENE & TROPICAL MEDICINE, PAKISTAN FERTILITY AND FAMILY PLANNING SURVEY 1996-97, at 149 (1998).
322. *See id.*
323. See ROSEN & CONLY, *supra* note 179, at 36.
324. *See id.* at 149.
325. *See id.*
326. *See id.*
327. See STILL IN NEED: REPRODUCTIVE HEALTH CARE FOR AFGHAN REFUGEES IN PAKISTAN, *supra* note 297, at 1, 7.
328. See PAKISTAN FERTILITY AND FAMILY PLANNING SURVEY 1996-97, *supra* note 321.
329. See MULTI-DONOR SUPPORT UNIT FOR THE SOCIAL ACTION PROGRAMME, SOCIAL ACTION PROGRAMME, SITUATION ANALYSIS OF SOCIAL MARKETING OF CONTRACEPTIVES IN



- PAKISTAN, preface (2000).
330. See *id.* at 1.
331. See *id.* at 2–3.
332. See *id.* at 3.
333. See Posting of Muhammad Tariq, Trainer, Social Marketing Pakistan, [jigar@brain.net.pk](mailto:jigar@brain.net.pk), to [afro-nets@usa.healthnet.org](mailto:afro-nets@usa.healthnet.org) at 1 (Sept. 28, 1999) (copy on file with Center for Reproductive Rights).
334. See International Planned Parenthood Federation, *Country Profiles, Pakistan*, [http://ippfnet.ippf.org/pub/IPPF\\_Regions/IPPF\\_CountryProfile.asp?ISOCODE=PK](http://ippfnet.ippf.org/pub/IPPF_Regions/IPPF_CountryProfile.asp?ISOCODE=PK) (last visited Oct. 24, 2003).
335. See FINANCIAL RESOURCE FLOWS FOR POPULATION ACTIVITIES: REPORT OF A CASE STUDY IN PAKISTAN, *supra* note 200, at 40–44.
336. See PRELIMINARY FINDINGS OF PAKISTAN FAMILY PLANNING AND REPRODUCTIVE HEALTH SURVEY, *supra* note 289, tbl. 3.23.
337. See TINKER, *supra* note 188, at 8.
338. See PRELIMINARY FINDINGS OF PAKISTAN FAMILY PLANNING AND REPRODUCTIVE HEALTH SURVEY, *supra* note 289, at tbl. 3.5.
339. See *id.* tbl. 3.1.
340. See *id.* tbl. 3.6.
341. See *id.* tbl. 3.4.
342. See TINKER, *supra* note 188, at i, 8.
343. See *id.* at 8.
344. See STILL IN NEED: REPRODUCTIVE HEALTH CARE FOR AFGHAN REFUGEES IN PAKISTAN, *supra* note 297, at 4.
345. See NATIONAL REPRODUCTIVE HEALTH POLICY, *supra* note 268, ¶ 1.
346. See REPRODUCTIVE HEALTH SERVICE PACKAGE, *supra* note 277, at 39–40.
347. See *id.* ¶ 2(a)–(k), at 9.
348. See *id.* ¶¶ 6(a)–(b), 8(a)–(b), at 10.
349. See REPRODUCTIVE HEALTH SERVICE PACKAGE, *supra* note 277, at 13.
350. See NATIONAL HEALTH POLICY, *supra* note 169, ¶¶ 4.1.1, 4.1.3.
351. See MINISTRY OF POPULATION WELFARE, GOVERNMENT OF PAKISTAN, POPULATION POLICY OF PAKISTAN, pmbl. (2002).
352. See UNFPA Pakistan, *Summary of Project: Promoting Interventions for Safe Motherhood (PRISM) PAK/01/Po1-01/P01*, <http://www.un.org.pk/unfpa/PAK-01-P01-01-P01.htm> (last visited July 24, 2002).
353. See PRELIMINARY FINDINGS OF PAKISTAN FAMILY PLANNING AND REPRODUCTIVE HEALTH SURVEY, *supra* note 289, at tbl. 3.3.
354. See *id.*
355. See NATIONAL HEALTH POLICY, *supra* note 169, ¶ 5.1.4.
356. See *id.*
357. See REPRODUCTIVE HEALTH SERVICE PACKAGE, *supra* note 277, at 9.
358. See PRELIMINARY FINDINGS OF PAKISTAN FAMILY PLANNING AND REPRODUCTIVE HEALTH SURVEY, *supra* note 289, § 3.7.
359. See FAMILY PLANNING ASSOCIATION OF PAKISTAN, UNSAFE ABORTION: MAGNITUDE AND PERCEPTIONS, at vi (1998).
360. See Sarah Saleem, *Determinants of Unsafe Abortion in Three Squatter Settlements in Karachi 1 (1998)* (unpublished Masters Thesis, Aga Kahn University) (on file with the Center for Reproductive Rights).
361. See *id.* A Karachi-based study in 1985 estimates the maternal mortality rate due to abortion at 12.6%, while a 1995 Lahore based study estimates maternal mortality due to abortion at 4.7%. See UNSAFE ABORTION: MAGNITUDE AND PERCEPTIONS, *supra* note 359, at 7. Community-based data from squatter settlements of Karachi estimates the maternal mortality rate to be 281 per 100,000 per live births, meaning 8.8% of all maternal deaths are due to induced abortions. See Saleem, *supra* note 360, at 5.
362. See REPRODUCTIVE HEALTH SERVICE PACKAGE, *supra* note 277, at 40 (citing Aga Khan University 1996). Another study based on urban squatter settlements in Karachi also places maternal mortality due to abortion at 11%. Saleem, *supra* note 360, at 5.
363. See SHIRKAT GAH, *WOMEN LIVING UNDER MUSLIM LAWS, TIME TO SPEAK OUT: ILLEGAL ABORTION AND WOMEN'S HEALTH IN PAKISTAN 15* (Dec. 1996) (Special Bulletin).
364. PAK. PEN. CODE § 338. See also *TIME TO SPEAK OUT: ILLEGAL ABORTION AND WOMEN'S HEALTH IN PAKISTAN*, *supra* note 363, at 23.
365. Anika Rahman, *A View Towards Women's Reproductive Rights Perspective on Selected Laws and Policies in Pakistan*, 15 WHITTIER L. REV. 4, 981, 992 (1994); UNITED NATIONS, *ABORTION POLICIES: A GLOBAL REVIEW, PAKISTAN 20*, <http://www.un.org/esa/population/publications/abortion/profiles.htm>, (last visited Jan. 11, 2004). See *TIME TO SPEAK OUT: ILLEGAL ABORTION AND WOMEN'S HEALTH IN PAKISTAN*, *supra* note 363, at 24. The amendment was made after the Shariat Appellate Bench (of the Supreme Court) upheld a decision by the Federal Shariat Court that found provisions of the Pakistan Penal Code affecting the human body as repugnant to Islam. Now, under the Qisas and Diyat Ordinance, all offences against the human body, including murder, are compoundable. See *id.*
366. See *TIME TO SPEAK OUT: ILLEGAL ABORTION AND WOMEN'S HEALTH IN PAKISTAN*, *supra* note 363, at 23.
367. Rahman, *supra* note 365, at 995.
368. See *id.*
369. See *id.*
370. See *id.*
371. See E-mail from Azeema Faizunnisa (Oct. 31, 2003) (on file with Center for Reproductive Rights); see also LESTER R. BROWN, *EARTH POLICY INSTITUTE, ECO-ECONOMY: BUILDING AN ECONOMY FOR THE EARTH 221* (2001); see also Email from Ayesha Ahmed, Drug Information Helpline, regarding misoprostol/diclofenac combination (2), (Jan. 25, 2001 10:19:44 EST), [www.essentialdrugs.org/indices/archive/200101/msg00010.php](http://www.essentialdrugs.org/indices/archive/200101/msg00010.php) (on file with Center for Reproductive Rights).
372. See PAK. PEN. CODE § 338C.
373. See *id.* § 338; see also Rahman, *supra* note 365, at 993 (arguing that this crime seeks to punish early attempts to induce abortion that are performed neither to save the woman's life nor provide "necessary treatment" and, since the term "child" is undefined, that it remains unclear whether early abortions are even theoretically permitted under the penal code).
374. See PAK. PEN. CODE § 338A.
375. See *id.* § 338B; see also Rahman, *supra* note 365, at 993 (arguing that because organs begin forming and functioning as early as five weeks, this crime would occur any time an abortion is induced after the fetus is five weeks old).
376. See PAK. PEN. CODE § 338–C; see also Rahman, *supra* note 365, at 993.
377. See PAK. PEN. CODE §§ 323, 338C(a), (b).
378. See PAK. PEN. CODE § 338C.
379. See PAK. PEN. CODE § 338C.
380. See *TIME TO SPEAK OUT: ILLEGAL ABORTION AND WOMEN'S HEALTH IN PAKISTAN*, *supra* note 363, at 26.
381. See TV CODE OF ADVERTISING STANDARDS & PRACTICE IN PAKISTAN TV, *supra* note 311, § 13(vii).
382. See *id.* app. II § 1(xi).
383. See *id.* app. II § 13(viii).
384. See REPRODUCTIVE HEALTH SERVICE PACKAGE, *supra* note 277, at 9.
385. See *id.*
386. See *id.* at 15–19.
387. See *id.* at 22, 24, 26.
388. See UNSAFE ABORTION: MAGNITUDE AND PERCEPTIONS, *supra* note 359, at 43.
389. See *id.* at 14, 44.
390. See STILL IN NEED: REPRODUCTIVE HEALTH CARE FOR AFGHAN REFUGEES IN PAKISTAN, *supra* note 297, at 9.
391. See *id.*
392. See *TIME TO SPEAK OUT: ILLEGAL ABORTION AND WOMEN'S HEALTH IN PAKISTAN*, *supra* note 363, at 18–22.
393. See UNSAFE ABORTION: MAGNITUDE AND PERCEPTIONS, *supra* note 359, at vii.
394. See *id.* at vii–viii.
395. See AYESHA KHAN, UNFPA & POPULATION COUNCIL, *ADOLESCENTS AND REPRODUCTIVE HEALTH IN PAKISTAN: A LITERATURE REVIEW 45*, Research Report No. 11 (2000).
396. See MINISTRY OF HEALTH, GOVERNMENT OF PAKISTAN & UNAIDS, *HIV/AIDS IN PAKISTAN A SITUATION & RESPONSE ANALYSIS 2* (2001).
397. See *id.* at 3.
398. See *id.* at 2.
399. See *id.*
400. JOINT UNITED NATIONS PROGRAMME ON HIV/AIDS (UNAIDS), ET AL., *EPIDEMIOLOGICAL FACT SHEETS ON HIV/AIDS AND SEXUALLY TRANSMITTED INFECTIONS: PAKISTAN 2002 UPDATE 2* (2000), [http://www.unaids.org/hiv/aidsinfo/statistics/fact\\_sheets/pdfs/Pakistan\\_en.pdf](http://www.unaids.org/hiv/aidsinfo/statistics/fact_sheets/pdfs/Pakistan_en.pdf).
401. See *HIV/AIDS IN PAKISTAN A SITUATION & RESPONSE ANALYSIS*, *supra* note 396.
402. See STILL IN NEED: REPRODUCTIVE HEALTH CARE FOR AFGHAN REFUGEES IN PAKISTAN, *supra* note 297, at 7.
403. See *id.*
404. See *id.*
405. See UNAIDS, *National Response Brief: Pakistan*, at <http://www.unaids.org/national-response/result.asp> (last visited Jan. 21, 2004) [hereinafter UNAIDS, Pakistan Response Brief].
406. See PAK. PEN. CODE § 269.
407. See PAK. PEN. CODE § 269.
408. See FAZEEL, *supra* note 116, at 334.
409. See PAK. PEN. CODE § 270.
410. See UNAIDS, Pakistan Response Brief, *supra* note 405.
411. See SHARAF ALI SHAH, ET AL., *HIV WORKING GROUP, AIDS IN PAKISTAN 15* (1998); see also JOINT UNITED NATIONS PROGRAMME ON HIV/AIDS (UNAIDS), *THE UNITED NATIONS SYSTEM IN PAKISTAN, UNITED NATIONS STATEMENT ON HIV/AIDS IN PAKISTAN 11* (2002).
412. See UNITED NATIONS STATEMENT ON HIV/AIDS IN PAKISTAN, *supra* note 411.
413. See MINISTRY OF HEALTH, *THE NATIONAL HIV/AIDS STRATEGIC FRAMEWORK: AN OVERVIEW 1* (2001).
414. UNAIDS, Pakistan Response Brief, *supra* note 405.
415. See *THE NATIONAL HIV/AIDS STRATEGIC FRAMEWORK: AN OVERVIEW*, *supra* note 413.
416. See *id.*
417. See NATIONAL HEALTH POLICY, *supra* note 169, ¶ 1.1–1.1.8, at 6–7.
418. See REPRODUCTIVE HEALTH SERVICE PACKAGE, *supra* note 277, §§ 6(a)–(b), at 10.
419. UNAIDS, Pakistan Response Brief, *supra* note 405.
420. *Islamabad: Safe blood transfusion Ord promulgated: Regulatory authority to be set up in Capital*, DAWN, Oct. 16, 2002, at <http://www.dawn.com/2002/10/16/local26.htm> (last visited Oct. 14, 2003).
421. *Id.*
422. See *Drugs (Licensing, Registering and Advertising) Rules, 1976*, § 31 (Pak.).

423. See *id.* sched. E.
424. FINANCIAL RESOURCE FLOWS FOR POPULATION ACTIVITIES: REPORT OF A CASE STUDY IN PAKISTAN, *supra* note 200, at 7. See ROSEN & CONLY, *supra* note 179, at 9.
425. See generally FINANCIAL RESOURCE FLOWS FOR POPULATION ACTIVITIES: REPORT OF A CASE STUDY IN PAKISTAN, *supra* note 200, at 7–11.
426. PAKISTAN POPULATION ASSESSMENT, *supra* note 179, at 53. See POPULATION POLICY OF PAKISTAN, *supra* note 351;
427. See POPULATION POLICY OF PAKISTAN, *supra* note 351, Introduction.
428. See *id.*
429. See *id.*
430. See *id.* at 4.
431. See *id.* at 5.
432. See *id.* at 6.
433. See *id.*
434. See *id.* at 6, 14–15.
435. See *id.* at 6.
436. See *id.* at 7.
437. See *id.* at 8.
438. See *id.* at 7–8.
439. See FINAL REPORT: REPRODUCTIVE HEALTH PROJECT PAKISTAN, *supra* note 206, ¶ 5.
440. See MINISTRY OF POPULATION WELFARE, GOVERNMENT OF PAKISTAN, POPULATION AND DEVELOPMENT: PAKISTAN COUNTRY REPORT FOR ICPD+5, at 20 (1999).
441. See *id.*
442. See POLICY WING, FINANCE DIVISION & POVERTY REDUCTION CELL, PLANNING COMMISSION, GOVERNMENT OF PAKISTAN, PAKISTAN: INTERIM POVERTY REDUCTION STRATEGY PAPER, ¶¶ 159–160 (2001).
443. See FINANCIAL RESOURCE FLOWS FOR POPULATION ACTIVITIES: REPORT OF A CASE STUDY IN PAKISTAN, *supra* note 200, at 24.
444. See *id.*
445. See *id.*
446. See *id.*
447. See *id.*
448. See *id.* at 12; ROSEN & CONLY, *supra* note 179, at 24; POPULATION POLICY OF PAKISTAN, *supra* note 351, at 12–13; FINAL REPORT: REPRODUCTIVE HEALTH PROJECT PAKISTAN, *supra* note 206, ¶ 5.
449. See FINANCIAL RESOURCE FLOWS FOR POPULATION ACTIVITIES: REPORT OF A CASE STUDY IN PAKISTAN, *supra* note 200, at 12; ROSEN & CONLY, *supra* note 179, at 24; POPULATION POLICY OF PAKISTAN, *supra* note 351, at 12–13.
450. FINAL REPORT: REPRODUCTIVE HEALTH PROJECT PAKISTAN, *supra* note 206, ¶¶ 62–63; See also ROSEN & CONLY, *supra* note 179, at 25, 28; PAKISTAN POPULATION ASSESSMENT, *supra* note 179.
451. See FINANCIAL RESOURCE FLOWS FOR POPULATION ACTIVITIES: REPORT OF A CASE STUDY IN PAKISTAN, *supra* note 200, at 12; ROSEN & CONLY, *supra* note 179, at 8.
452. PAKISTAN: TOWARDS A HEALTH SECTOR STRATEGY, *supra* note 179, ¶ 3.20. See FINANCIAL RESOURCE FLOWS FOR POPULATION ACTIVITIES: REPORT OF A CASE STUDY IN PAKISTAN, *supra* note 200, at 12.
453. PAKISTAN POPULATION ASSESSMENT, *supra* note 179, at 52; NATIONAL HEALTH POLICY, *supra* note 169, ¶ 2.1.1., at 8. For information on lady health workers previously under the Ministry of Population Welfare, See FINAL REPORT: REPRODUCTIVE HEALTH PROJECT PAKISTAN, *supra* note 206, ¶ 6.
454. NATIONAL HEALTH POLICY, *supra* note 169, ¶ 2.1.1., at 87; PAKISTAN POPULATION ASSESSMENT, *supra* note 179, at 2.
455. See NATIONAL HEALTH POLICY, *supra* note 169, ¶ 2.1.1., at 8.
456. See PAK. CONST., art. 25(1).
457. See *id.* art. 25(2), (3).
458. See *id.* art. 2(a), annex.
459. See *id.* art. 34.
460. NGO COORDINATING COMMITTEE FOR BEIJING+5, PAKISTAN NGO REVIEW BEIJING+5, WOMEN 2000: GENDER EQUALITY, DEVELOPMENT AND PEACE FOR THE 21<sup>ST</sup> CENTURY 71 (2000). See NATIONAL PLAN OF ACTION, *supra* note 218, § H.
461. See WOMEN 2000: GENDER EQUALITY, DEVELOPMENT AND PEACE FOR THE 21<sup>ST</sup> CENTURY, *supra* note 460.
462. See NATIONAL PLAN OF ACTION, *supra* note 218, Preface.
463. See *id.* Table of Contents.
464. See *id.* Implementation Plan: Roles and Responsibility, at vi.
465. See National Commission on the Status of Women Ordinance, No. XXVI, 2000 (Pak.); see also E.quity@work: An Information Base on Equal Opportunities for Women and Men, International Labor Organization, *National Commission on the Status of Women—Pakistan* [http://www.ilo.org/public/english/employment/gems/eo/law/pakistan/i\\_ncsw.htm](http://www.ilo.org/public/english/employment/gems/eo/law/pakistan/i_ncsw.htm) (last visited Nov. 25, 2003).
466. See National Commission on the Status of Women Ordinance, No. XXVI, 2000 § 7 (Pak.); see *National Commission on the Status of Women—Pakistan*, *supra* note 465.
467. See National Commission on the Status of Women Ordinance, No. XXVI, 2000, § 18 (Pak.); *Reports on status of women submitted*, DAWN—INTERNET EDITION, Apr. 29, 2002, <http://www.dawn.com/2002/04/29/nat12.htm>.
468. Citizenship Act, No. II, 1951 (Pak.).
469. Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, Second periodic reports of States parties due in 1997: Pakistan, 34th Sess., ¶ 114, U.N. Doc. CRC/C/65/Add.21 (2003) [hereinafter CRC Committee, States parties second periodic reports, Pakistan].
470. See Citizenship Act, No. II, 1951, § 3(a) (Pak.).
471. See NATIONAL COMMISSION ON THE STATUS OF WOMEN, ANNUAL REPORT, AMENDMENTS TO THE CITIZENSHIP ACT, [http://www.ncsw.gov.pk/annual\\_report/annual\\_report\\_01\\_13.htm](http://www.ncsw.gov.pk/annual_report/annual_report_01_13.htm) (last visited Nov. 25, 2003).
472. See *id.*
473. See *id.*
474. [155] U.S. DEPARTMENT OF STATE, PAKISTAN: COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES 2001 24 (2002). See Report of the Special Rapporteur on violence against women, *supra* note 196, ¶ 41.
475. [156] See HUMAN RIGHTS WATCH, AFGHANISTAN, IRAN AND PAKISTAN, CLOSED DOOR POLICY: AFGHAN REFUGEES IN PAKISTAN AND IRAN 20, vol. 14, No. 2(G) (2002).
476. See PAK. CONST., art. 35.
477. See COMMISSION OF INQUIRY FOR WOMEN, REPORT ON THE COMMISSION OF INQUIRY FOR WOMEN: PAKISTAN 19 (2nd ed. 1998).
478. See *id.*
479. See *id.* at 20.
480. See Child Marriage Restraint Act, No. XIX, 1929, §§ 2(a), 4 (Pak.).
481. See *id.* as construed in MUHAMMAD ASLAM HAYAT, THE MANUAL OF FAMILY LAWS IN PAKISTAN 135.
482. See Special Marriage Act, No. III, 1872, art. 2 (Pak.).
483. See SHIRKAT GAH & WOMEN LIVING UNDER MUSLIM LAWS, A HANDBOOK ON FAMILY LAW IN PAKISTAN 52 (Cassandra Balchin ed., 1994).
484. See Special Marriage Act, No. III, 1872, art. 2(1)–(4) (Pak.).
485. See *id.* arts. 15–16.
486. See A HANDBOOK ON FAMILY LAW IN PAKISTAN, *supra* note 483, at 41; see Dowry and Bridal Gifts (Restriction) Act, No. XLIII, 1976 (Pak.).
487. See Dowry and Bridal Gifts (Restriction) Act, No. XLIII, 1976, § 2(a)–(b) (Pak.).
488. See *id.* § 2(a), (b).
489. See *id.* § 2(a).
490. See *id.* §§ 3–4, 6.
491. See *id.* § 8.
492. See *id.* § 9.
493. See Communication with Seema Sharif, Shirkat Gah, *CRLP study part 2, Legal Status of Women (draft) 1* (Oct. 19, 2001) (on file with Center for Reproductive Rights) [hereinafter *CRLP study part 2, Legal Status of Women (draft)* from Seema Sharif].
494. See *id.*
495. Punjab/Sindh/N.W.F.P./Baluchistan Muslim Personal Law (Shariat) Application Act, No. V, 1962 (Pak.), <http://www.lawfirm.org.pk/shar.html> (last visited Nov. 25, 2003). This act was first adopted as the West Pakistan Muslim Personal Law (Shariat) Application Act, No. V, 1962 (Pak.). The Adaptation of Laws Order, 1975 caused the provisions of this first act to be incorporated into the Punjab/Sindh/N.W.F.P./Baluchistan Muslim Personal Law (Shariat) Application Act, as noted in A HANDBOOK ON FAMILY LAW IN PAKISTAN, *supra* note 483, at 265. See also LAW & RELIGION PROGRAM, EMORY LAW SCHOOL, *supra* note 99.
496. See ASMA JAHANGIR ET AL., MINISTRY OF WOMEN DEVELOPMENT, GOVERNMENT OF PAKISTAN, MUSLIM FAMILY LAWS AND THEIR IMPLEMENTATION IN PAKISTAN 13 (1988).
497. M. HIDAYATULLAH & ARSHAD HIDAYATULLAH, MULLA'S PRINCIPLES OF MAHOMEDAN LAW § 252 (19th ed. N. M. Tripathi Private Ltd. 2003). See A HANDBOOK ON FAMILY LAW IN PAKISTAN, *supra* note 483, at 35.
498. M. HIDAYATULLAH & ARSHAD HIDAYATULLAH, *supra* note 497, § 251.
499. Kausar S. Khan & Fariyal F. Fikree, *Legislation and Policies, in GENDER, SEXUALITY AND REPRODUCTIVE HEALTH IN SOUTH ASIA 83–84* (PILAR RAMOS-JIMENEZ & CELESTE MARIA V. CANDOR eds., 2001).
500. Zaffar Abbas, *Pakistani Women to Marry Freely*, BBC NEWS, Dec. 19, 2003.
501. M. HIDAYATULLAH & ARSHAD HIDAYATULLAH, *supra* note 497, § 285.
502. *Id.* §§ 286, 289.
503. See A HANDBOOK ON FAMILY LAW IN PAKISTAN, *supra* note 483, at 42–43.
504. See Muslim Family Laws Ordinance, No. VIII, 1961, § 5(1)(4) (Pak.), [http://www.vakilno1.com/saarclaw/pakistan/muslim\\_family\\_laws\\_ordinance.htm](http://www.vakilno1.com/saarclaw/pakistan/muslim_family_laws_ordinance.htm) (last visited Nov. 26, 2003).
505. See SHIRKAT GAH & WOMEN LIVING UNDER MUSLIM LAWS, WOMEN & LAW COUNTRY PROJECT, WOMEN, LAW AND SOCIETY: AN ACTION MANUAL FOR NGOS 54 (Cassandra Balchin ed., 1996).
506. *Id.* See Offence of Zina (Enforcement of Huddood) Ordinance, No. VII, 1979, § 5.
507. See Habib v. State XXXII PLD 796.
508. See Muslim Family Laws Ordinance, No. VIII, 1961, § 6 (Pak.).
509. See *id.* SHAUKAT MAHMOOD & NADEEM SHAUKAT, MUSLIM FAMILY LAWS 22 (12th ed., rev. 1996).
510. See W.P. Rules Under the Muslim Family Laws Ordinance R. 14, *reprinted in* SHAUKAT MAHMOOD & NADEEM SHAUKAT, *supra* note 509.
511. See Muslim Family Laws Ordinance, No. VIII, 1961, §§ 6(2), 6(5)(b). W.P. Rules Under the Muslim Family Laws Ordinance R. 15, *reprinted in* SHAUKAT MAHMOOD & NADEEM SHAUKAT, *supra* note 509.
512. See Muslim Family Laws Ordinance, No. VIII, 1961, § 6(5)(a).
513. See SHAUKAT MAHMOOD & NADEEM SHAUKAT, *supra* note 509, at 23. Zulaikhan v. Noor Muhammad XXXVII PLD 1986 Quetta 290.
514. WOMEN, LAW AND SOCIETY: AN ACTION MANUAL FOR NGOS, *supra* note 505, at 67. *CRLP study part 2, Legal Status of Women (draft)* from Seema Sharif, *supra* note 493, at 3.
515. *Id.*
516. See PAK. PEN. CODE § 494.

517. See *CRLP study part 2, Legal Status of Women (draft)* from Seema Sharif, *supra* note 493, at 3.
518. See ASMA JAHANGIR ET AL., *supra* note 496.
519. See *id.*
520. See Shaheen Sardar Ali & Rukhshanda Naz, *Marriage, Dower and Divorce: Superior Courts and Case Law in Pakistan*, in SHIRKAT GAH WOMEN'S RESOURCE CENTRE, SHAPING WOMEN'S LIVES: LAWS, PRACTICES & STRATEGIES IN PAKISTAN 111–112 (Farida Shaheed, et al., eds., 1998).
521. See ASMA JAHANGIR ET AL., *supra* note 496.
522. See *id.*
523. See Shaheen Sardar Ali & Rukhshanda Naz, *supra* note 520, at 111.
524. M. HIDAYATULLAH & ARSHAD HIDAYATULLAH, *supra* note 497, §§ 260–262.
525. Shaheen Sardar Ali & Rukhshanda Naz, *supra* note 520, at 112. See also *CRLP study part 2, Legal Status of Women (draft)* from Seema Sharif, *supra* note 493, at 4.
526. See Shaheen Sardar Ali & Rukhshanda Naz, *supra* note 520, at 112; see also A HANDBOOK ON FAMILY LAW IN PAKISTAN, *supra* note 483, at 49.
527. M. HIDAYATULLAH & ARSHAD HIDAYATULLAH, *supra* note 497, § 259.
528. See Hindu Marriage Disabilities Removal Act, No. XXVIII, 1946 (Pak.). Hindu Widow's Marriage Act, No. XV, 1856 (Pak.).
529. See Hindu Marriage Disabilities Removal Act, No. XXVIII, 1946, § 2(a)–(b) (Pak.).
530. See Hindu Widow's Marriage Act, No. XV, 1856, §§ 1, 7 (Pak.).
531. See Hindu Marriage Disabilities Removal Act, No. XXVIII, 1946, § 2. Hindu Widow's Marriage Act, No. XV, 1856, § 1.
532. See REPORT ON THE COMMISSION OF INQUIRY FOR WOMEN; PAKISTAN, *supra* note 477, at 20 (citing Rochi Ram, Advocate of High Court of Sindh, Papers on Family Laws for Hindus in Pakistan; Kishanchand L. Bharvani, Advocate, Paper on Hindu Family Laws).
533. See Christian Marriage Act, No. XV, 1872, §§ 4–9, 27–59 (Pak.).
534. See *id.* § 4.
535. See *id.* §§ 19, 60.
536. See *id.* §§ 66–75.
537. See Parsi Marriage and Divorce Act, No. III, 1936 (Pak.).
538. See *id.* §§ 3–4.
539. See *id.* § 6.
540. See *id.* § 4.
541. See Muslim Family Laws Ordinance, No. VIII, 1961 (Pak.). Dissolution of Muslim Marriage Act, No. 8, 1939, *reprinted* in SHAUKAT MAHMOOD & NADEEM SHAUKAT, *supra* note 509.
542. See A HANDBOOK ON FAMILY LAW IN PAKISTAN, *supra* note 483, at 43.
543. See *id.* at 43–44. The three forms of *talaq* are: (i) *talaq-i-ahsan*, which consists of a single pronouncement of divorce made during a period of *tuhr* (the period between menstruation) followed by abstinence from sexual intercourse for the period of *iddat* (period during which woman must refrain from marrying another in order to ascertain whether she is pregnant so as to avoid confusion of paternity); (ii) *talaq-i-hasan*, which consists of three pronouncements of divorce during three successive *tuhrs* with no intercourse during any of the three *tuhrs*; and (iii) *talaq-i-bidat*, which consists of three pronouncements of divorce either in one sentence or in three sentences on a single occasion with the intention of pronouncing an irrevocable divorce.
544. Muslim Family Laws Ordinance, No. VIII, 1961, § 8 (Pak.). See W.P. Rules Under the Muslim Family Laws Ordinance Form II, cl. 18, *reprinted* in SHAUKAT MAHMOOD & NADEEM SHAUKAT, *supra* note 509, at 92.
545. See A HANDBOOK ON FAMILY LAW IN PAKISTAN, *supra* note 483, at 65.
546. See *id.* at 47.
547. See *id.*
548. See A HANDBOOK ON FAMILY LAW IN PAKISTAN, *supra* note 483, at 43–44.
549. See Muslim Family Laws Ordinance, No. VIII, 1961, § 7(1) (Pak.).
550. See *id.* § 7(4).
551. See *id.* § 7(2).
552. See *id.* § 7(5).
553. R.M. Pal, *Women's Movement in Islamic Countries, People's Union for Civil Liberties*, Bulletin, Dec. 2000 (citing SHIRKAT GAH, WOMEN'S RIGHTS IN MUSLIM FAMILY LAW IN PAKISTAN: 45 YEARS OF RECOMMENDATIONS VS THE FSC JUDGEMENT, SPECIAL BULLETIN, Feb. 2000; SHIRKAT GAH, NEWS SHEET, vol. XI, No. 4).
554. See Muslim Family Laws Ordinance, No. VIII, 1961, § 8 (Pak.).
555. See Shaheen Sardar Ali & Rukhshanda Naz, *supra* note 520, at 120; see also *CRLP study part 2, Legal Status of Women (draft)* from Seema Sharif, *supra* note 493, at 5.
556. See A HANDBOOK ON FAMILY LAW IN PAKISTAN, *supra* note 483, at 45.
557. Muslim Family Laws Ordinance, No. VIII, 1961, § 7(6) (Pak.); A HANDBOOK ON FAMILY LAW IN PAKISTAN, *supra* note 483, at 45.
558. See A HANDBOOK ON FAMILY LAW IN PAKISTAN, *supra* note 483, at 45.
559. See *id.* at 44.
560. See *id.*
561. See Shaheen Sardar Ali & Rukhshanda Naz, *supra* note 520, at 120.
562. See Dissolution of Muslim Marriage Act, No. 8, 1939, § 2 (Pak.).
563. See *id.* § 2.
564. A HANDBOOK ON FAMILY LAW IN PAKISTAN, *supra* note 483, at 45. See Shaheen Sardar Ali & Rukhshanda Naz, *supra* note 520, at 120.
565. See *id.*
566. See *id.*
567. See *id.*
568. See *id.*
569. See REPORT ON THE COMMISSION OF INQUIRY FOR WOMEN; PAKISTAN, *supra* note 477, at 20 (citing Rochi Ram, Advocate of High Court of Sindh, Papers on Family Laws for Hindus in Pakistan; Kishanchand L. Bharvani, Advocate, Paper on Hindu Family Laws).
570. See Divorce Act, No. IV, 1869, pmbl. (Pak.).
571. See *id.* § 10.
572. See *id.* § 10; see also Webster's Dictionary, "divorce" (1913).
573. See Divorce Act, No. IV, 1869, §§ 18–19 (Pak.).
574. See Parsi Marriage and Divorce Act, No. III, 1936, pmbl. (Pak.).
575. See *id.* § 32.
576. *Id.* § 30.
577. See *id.* § 31.
578. See Divorce Act, No. IV, 1869, § 23 (Pak.); see also *id.* § 10.
579. See Parsi Marriage and Divorce Act, No. III, 1936, § 34 (Pak.).
580. See Muslim Family Laws Ordinance, No. VIII, 1961, § 9 (Pak.).
581. See *id.*
582. See Dissolution of Muslim Marriage Act, No. 8, 1939, § 2(ii) (Pak.).
583. See *id.* § 4.
584. See *id.* § 6.
585. See Hindu Married Women's Right to Separate Residence and Maintenance Act, No. XIX, 1946, art. 2 (Pak.).
586. See *id.*
587. See Divorce Act, No. IV, 1869, § 37 (Pak.).
588. See Parsi Marriage and Divorce Act, No. III, 1936, § 40(1) (Pak.).
589. See *id.*
590. See Shaheen Sardar Ali & Mohammad Nadeem Azam, *Custody and Guardianship: Case Law 1947–1997*, in SHIRKAT GAH WOMEN'S RESOURCE CENTRE, SHAPING WOMEN'S LIVES: LAWS, PRACTICES & STRATEGIES IN PAKISTAN 143 (Farida Shaheed, et al., eds., 1998); see also CRC Committee, States parties second periodic reports, Pakistan, *supra* note 469, ¶¶ 204–205.
591. See Guardians and Wards Act, No. VIII, 1890, § 19 (Pak.).
592. See *id.*
593. See *id.* § 17(1).
594. See *id.* § 17(2), (3), (5).
595. See *CRLP study part 2, Legal Status of Women (draft)* from Seema Sharif, *supra* note 493, at 6.
596. See CRC Committee, States parties second periodic reports, Pakistan, *supra* note 469, ¶ 89. A HANDBOOK ON FAMILY LAW IN PAKISTAN, *supra* note 483, at 150.
597. See *CRLP study part 2, Legal Status of Women (draft)* from Seema Sharif, *supra* note 493, at 6.
598. See A HANDBOOK ON FAMILY LAW IN PAKISTAN, *supra* note 483, at 152–153.
599. See *id.* at 158.
600. See *id.* at 160.
601. See *id.* at 162.
602. See Hindu Widow's Marriage Act, No. XV, 1856, § 2 (Pak.).
603. See *id.* § 3.
604. See Divorce Act, No. IV, 1869, §§ 41–44 (Pak.).
605. See Parsi Marriage and Divorce Act, No. III, 1936, § 49 (Pak.).
606. See PAK. CONST., art. 23.
607. See *id.* art. 24(1).
608. See *Draft law on women ownership rights prepared*, DAWN—INTERNET EDITION, Aug. 23, 2003, www.dawn.com/2003/08/23/nat10.htm (last visited Nov. 26, 2003).
609. See A HANDBOOK ON FAMILY LAW IN PAKISTAN, *supra* note 483, at 262.; see also *CRLP study part 2, Legal Status of Women (draft)* from Seema Sharif, *supra* note 493, at 6–7.
610. See A HANDBOOK ON FAMILY LAW IN PAKISTAN, *supra* note 483, at 263; see also *CRLP study part 2, Legal Status of Women (draft)* from Seema Sharif, *supra* note 493, at 7.
611. See A HANDBOOK ON FAMILY LAW IN PAKISTAN, *supra* note 483, at 262.
612. See *id.*
613. See *id.* at 194.
614. See Kamran Arif & Shaheen Sardar Ali, *The Law of Inheritance and Reported Case Law Relating to Women*, in SHIRKAT GAH WOMEN'S RESOURCE CENTRE, SHAPING WOMEN'S LIVES: LAWS, PRACTICES & STRATEGIES IN PAKISTAN 163–167 (Farida Shaheed, et al., eds., 1998).
615. See West Pakistan Muslim Personal Law (Shariat) Application Act, No. V, 1962, § 2 (Pak.) (later adapted as the Punjab/Sind/NWFP/Baluchistan Muslim Personal Law (Shariat) Application Act, 1962 by the Adaptation of Laws Order, 1975); see A HANDBOOK ON FAMILY LAW IN PAKISTAN, *supra* note 483, § 3.5, n.4; see also Kamran Arif and Shaheen Sardar Ali, *supra* note 614, at 167.
616. See MAHBUB UL HAQ HUMAN DEVELOPMENT CENTRE, HUMAN DEVELOPMENT IN SOUTH ASIA 2000: THE GENDER QUESTION 89 (2000).
617. See Kamran Arif and Shaheen Sardar Ali, *supra* note 614, at 174.
618. See A HANDBOOK ON FAMILY LAW IN PAKISTAN, *supra* note 483, at 269.
619. See *id.*
620. See *id.*
621. See *id.*
622. See *id.* at 276.
623. See *id.* at 274.
624. See *id.*
625. See *id.*
626. See *id.* at 276.
627. See *id.*

628. *See id.*
629. *See* Muslim Family Laws Ordinance, No.VIII, 1961, § 4 (Pak.).
630. West Pakistan Muslim Personal Law (Shariat) Application Act, No.V, 1962, § 2 (Pak.). *See also* Kamran Arif and Shaheen Sardar Ali, *supra* note 614, at 166–167.
631. *See* WOMEN, LAW AND SOCIETY: AN ACTION MANUAL FOR NGOS, *supra* note 505, at 149.
632. *Id.* at 149. *See* Kamran Arif and Shaheen Sardar Ali, *supra* note 614, at 171–72.
633. *See* Hindu Widow's Marriage Act, No. XV, 1856, § 2 (Pak.).
634. *See id.* § 2.
635. Dowry and Bridal Gifts (Restriction) Act, No. XLIII, 1976, § 5 (Pak.).
636. PAKISTAN'S POPULATION: STATISTICAL PROFILE 2002, *supra* note 16, at 12.
637. *See* PROGRAMS DEPARTMENT (WEST) & OFFICE OF ENVIRONMENT AND SOCIAL DEVELOPMENT, ASIAN DEVELOPMENT BANK, COUNTRY BRIEFING PAPER: WOMEN IN PAKISTAN 8 (2000).
638. *See id.* at 9.
639. *See id.*
640. *See id.* tbl. 6.
641. *See id.* tbl. 7.
642. *See* Program in Pakistan to Promote Women's Political Participation, U.N. Wire, Nov. 7, 2003, [http://www.unwire.org/UNWire/20031107/449\\_10216.asp](http://www.unwire.org/UNWire/20031107/449_10216.asp).
643. *See* PAK. CONST., art. 18.
644. *See id.* art. 27.
645. *See id.* art. 37(e).
646. *Id.*
647. *See* West Pakistan Minimum Wages Rules, 1962, R. 14–15 (Pak.).
648. *See* West Pakistan Maternity Benefits Ordinance, No. XXXIII, 1958, § 4 (Pak.).
649. *See* Mines Maternity Benefit Act, No. XIX, 1941, § 5 (Pak.).
650. *See* West Pakistan Maternity Benefits Ordinance, No. XXXIII, 1958, § 4 (Pak.); *see* Mines Maternity Benefit Act, No. XIX, 1941, § 5 (Pak.).
651. *See* West Pakistan Maternity Benefits Ordinance, No. XXXIII, 1958, § 3 (Pak.); *see* Mines Maternity Benefit Act, No. XIX, 1941, § 3(1) (Pak.).
652. *See* West Pakistan Maternity Benefits Ordinance, No. XXXIII, 1958, § 7(1) (Pak.); *see* Mines Maternity Benefit Act, No. XIX, 1941, § 10(1) (Pak.).
653. *See* West Pakistan Maternity Benefits Ordinance, No. XXXIII, 1958, § 9(1) (Pak.); *see* Mines Maternity Benefit Act, No. XIX, 1941, § 13(1) (Pak.).
654. *See* Mines Maternity Benefit Act, No. XIX, 1941, § 12 (Pak.).
655. Board of Investment, Government of Pakistan, *Human Resources—Minimum conditions of Employment*, [http://www.pakboi.gov.pk/html/human\\_resources.html](http://www.pakboi.gov.pk/html/human_resources.html) (last visited Jan. 20, 2004). *See* Provincial Employees Social Security Ordinance, No. X, 1965, § 36 (Pak.). A “secured person” is defined as “a person in respect of whom contributions are or were payable” under the ordinance. *Id.* § 2(25).
656. *See* Provincial Employees Social Security Ordinance, No. X, 1965, § 38(2) (Pak.).
657. *See* LAW AND JUSTICE COMMISSION OF PAKISTAN, LEGISLATION PERTAINING TO MATERNITY BENEFITS, ¶ 3, Report No. 27, *supra* note 143.
658. *See* Factories Act, No. XXV, 1934, § 33(2)(a) (Pak.).
659. *See e.g.*, Mines Act, No. 35, 1923, § 23–C (Pak.); Factories Act, No. XXV, 1934, §§ 27(2), 32, 33(2) (Pak.); West Pakistan Hazardous Occupations (Lead) Rules, 1963, § 5; West Pakistan Hazardous Occupations (Sand Blasting) Rules, 1963, § 4; West Pakistan Hazardous Occupations (Petrol Gas Generating Plant) Rules, 1963, § 3.
660. *See* Mines Act, No. 35, 1923, § 23–C(2); Factories Act, No. XXV, 1934, § 45(b); Export Processing Extra Zone (Control of Employment Rules), 1998.
661. *See* Factories Act, No. XXV, 1934, § 27 (Pak.).
662. *See id.* § 33–Q(4)(b).
663. *See* First Women Bank, Ltd., *About Us*, <http://www.fwbl.com.pk> (last visited Jan. 20, 2004).
664. *See id.*
665. *See* Qanun-e-Shahadat (The Islamic Law of Evidence), Chief Exec. Order No. 10, 1984, § 17(2).
666. *See* First Women Bank, Ltd., *supra* note 663.
667. *See id.*
668. *See id.*
669. *See id.*
670. *See id.*
671. *See* Micro-finance Bank Ordinance, No. XXXII, 2000 (Pak.), amended by Micro-finance Bank (Amendment) Ordinance, No. LX, 2000.
672. *Id.* § 5.
673. *See* Posting of Seema Javed Amin, [seema@isb.sdnpc.org](mailto:seema@isb.sdnpc.org), Samina Waqas, *Poverty: A Pressing Challenge*, THE NATION, Jan. 21, 2002, <http://www.nation.com.pk/daily/today/business/bn2.htm>, to Econo-list (Jan. 21, 2002, 17:44:33), <http://lists.isb.sdnpc.org/pipermail/econo-list/2002-January/001923.html> (copy on file with Center for Reproductive Rights).
674. *See* First Women Bank, Ltd., *supra* note 663. Asian Development Bank, *Pakistan: Microfinance Sector Development Program, 2000*, available at <http://www.adb.org/gender/practices/microfinance/pak001.asp> (last visited Jan. 20, 2004).
675. *See* DAWOOD SHAH, MINISTRY OF EDUCATION, GOVERNMENT OF PAKISTAN, DECENTRALIZATION IN THE EDUCATION SYSTEM OF PAKISTAN: POLICIES AND STRATEGIES 3 (2003).
676. *See id.*
677. *See id.*
678. *See id.*
679. *See* PAK. CONST., arts. 22(3)(b), 22(4).
680. *See id.* art. 37(a).
681. *See id.* art. 37(b)–(c).
682. *See id.* art. 38(d).
683. *See* MINISTRY OF EDUCATION, GOVERNMENT OF PAKISTAN & UNESCO, ET AL., EDUCATION FOR ALL 2000 ASSESSMENT COUNTRY REPORT: PAKISTAN 6 (2000), <http://unesdoc.unesco.org/images/0012/001215/121541eo.pdf>; *see also* West Pakistan Primary Education Ordinance, No. XXIX, 1962, § 4 (Pak.).
684. *See id.*
685. *See* West Pakistan Primary Education Ordinance, No. XXIX, 1962, § 17(1).
686. Bureau of International Labor Affairs, U.S. Department of Labor, Pakistan, available at <http://www.dol.gov/ILAB/media/reports/iclp/Advancing1/html/pakistan.htm> (last visited Nov. 30, 2003); Sindh Education Department, *Compulsory Primary Education*, <http://www.sindhedu.gov.pk/Links/cpe.htm> (last visited Jan. 20, 2004). *See* EDUCATION FOR ALL 2000 ASSESSMENT COUNTRY REPORT: PAKISTAN, *supra* note 683, at 25; *see* West Pakistan Primary Education Ordinance, No. XXIX, 1962, § 17(1).
687. *See* Sindh Education Department, *supra* note 686.
688. *See* EDUCATION FOR ALL 2000 ASSESSMENT COUNTRY REPORT: PAKISTAN, *supra* note 683, at 25.
689. *See id.* at 67, 69.
690. *Id.* at 67.
691. *See id.* at 25.
692. *See id.*
693. *See id.* at 67.
694. *See id.* at 49–50.
695. *See id.* at 50.
696. *See* National Commission for Human Development, *About NCHD*, <http://www.nchd.org.pk/nchd/nchd.asp> (last visited Jan. 20, 2004).
697. *See id.*
698. *Violence against women increasing: NCSW, DAWN—INTERNET EDITION*, Sept. 29, 2002.
699. *See* HUMAN RIGHTS WATCH, CRIME OR CUSTOM? VIOLENCE AGAINST WOMEN IN PAKISTAN 29–32 (1999) (citing frequently the non-governmental Human Rights Commission of Pakistan); *see also* YASMEEN HASSAN, WOMEN LIVING UNDER MUSLIM LAWS, THE HAVEN BECOMES HELL: A STUDY OF DOMESTIC VIOLENCE IN PAKISTAN, Special Bulletin, Aug. 1995.
700. *See* CRIME OR CUSTOM? VIOLENCE AGAINST WOMEN IN PAKISTAN, *supra* note 699, at 29 (citing HUMAN RIGHTS COMMISSION OF PAKISTAN, STATE OF HUMAN RIGHTS IN 1997); YASMEEN HASSAN, *supra* note 699, at 3.
701. *See* CRIME OR CUSTOM? VIOLENCE AGAINST WOMEN IN PAKISTAN, *supra* note 699, at 100.
702. *See* HUMAN DEVELOPMENT IN SOUTH ASIA 2000: THE GENDER QUESTION, *supra* note 616, at 92.
703. *See* YASMEEN HASSAN, *supra* note 699, at 22; HUMAN DEVELOPMENT IN SOUTH ASIA 2000: THE GENDER QUESTION, *supra* note 616, at 92.
704. *See* HUMAN DEVELOPMENT IN SOUTH ASIA 2000: THE GENDER QUESTION, *supra* note 616.
705. *See* Report of the Special Rapporteur on violence against women, *supra* note 196, ¶ 46.
706. JEANNE WARD, WOMEN'S COMMISSION FOR REFUGEE WOMEN AND CHILDREN, IF NOT NOW, WHEN? ADDRESSING GENDER-BASED VIOLENCE IN REFUGEE, INTERNALLY DISPLACED, AND POST-CONFLICT SETTINGS: A GLOBAL OVERVIEW 47–78 (2001), <http://www.womenscommission.org/reports/ifnotnow/index.html> (last visited Nov. 14, 2003).
707. *See id.* at 49.
708. *See id.*
709. *See id.*
710. *See* PAK. CONST., arts. 9, 14.
711. *See* Offence of Zina (Enforcement of Hudood) Ordinance, No. VII, 1979, § 6 (Pak.).
712. *See* CRIME OR CUSTOM? VIOLENCE AGAINST WOMEN IN PAKISTAN, *supra* note 699, at 33.
713. *See* Offence of Zina (Enforcement of Hudood) Ordinance, No. VII, 1979, § 6 (Pak.).
714. *See* YASMEEN HASSAN, *supra* note 700, at 31 (citing PAK. CONST., § 375).
715. *See* PAK. PEN. CODE § 375(5) (repealed). The penal code criminalized sexual intercourse with a girl under the age of 14, with or without her consent. *See also* JEANNE WARD, *supra* note 706. CRIME OR CUSTOM? VIOLENCE AGAINST WOMEN IN PAKISTAN, *supra* note 699, at 33.
716. *See* Offence of Zina (Enforcement of Hudood) Ordinance, No. VII, 1979, §§ 6, 2(b), (d) (Pak.).
717. *See id.* § 8.
718. *See id.* § 6.
719. *See id.* § 8.
720. Human Rights Watch, *Discrimination under the Hudood Ordinances*, in HUMAN RIGHTS WATCH, THE HUMAN RIGHTS WATCH GLOBAL REPORT ON WOMEN'S HUMAN RIGHTS (1995).
721. *See* Offence of Zina (Enforcement of Hudood) Ordinance, No. VIII, 1979, §§ 9–10 (Pak.). *Discrimination under the Hudood Ordinances*, *supra* note 720.
722. *See* Offence of Zina (Enforcement of Hudood) Ordinance, No. VII, 1979, § 10(2)–(4) (Pak.).
723. *See id.* §§ 10(4), 12.
724. *See id.* § 4.

725. See *id.* §§ 5, 8, 10.
726. See *Offence of Qazf (Enforcement of Hadd) Ordinance, No.VII, 1979, §§ 3, 7, 10 (Pak.)*.
727. See *WOMEN, LAW AND SOCIETY: AN ACTION MANUAL FOR NGOS, supra* note 505, at 239.
728. See *id.*
729. PILAR RAMOS-JIMENEZ & CELESTE MARIA V. CONDOR eds., *supra* note 499, at 86.
730. See *HUMAN DEVELOPMENT IN SOUTH ASIA 2000: THE GENDER QUESTION, supra* note 616, at 93. *CRIME OR CUSTOM? VIOLENCE AGAINST WOMEN IN PAKISTAN, supra* note 699, at 41 (citing YASMEEN HASSAN, *supra* note 699, at 57, 60).
731. See NATIONAL COMMISSION ON THE STATUS OF WOMEN, *Recommendations, Violence against Women*, at [http://www.ncsw.gov.pk/archive/document\\_002\\_08.htm](http://www.ncsw.gov.pk/archive/document_002_08.htm) (last visited Jan. 18, 2004) [hereinafter *Recommendations of the National Commission of the Status of Women on Violence against Women*].
732. See *CRIME OR CUSTOM? VIOLENCE AGAINST WOMEN IN PAKISTAN, supra* note 699, at 40, n.92. The Qisas and Diyat Ordinance amends sections 299 to 388 of the Pakistan Penal Code. The ordinance was introduced by President Ghulam Ishaq Khan in 1990 and kept in force through the president's power to reauthorize it every four months, bypassing the national legislature and parliamentary debate. The ordinance was formally enacted into law by the Criminal Law (Amendment) Act, No. II, 1997 (Pak.). See *PAK. PEN. CODE §§ 299-318, § 299 n.23*.
733. See e.g., *PAK. PEN. CODE §§ 332-335*. See also YASMEEN HASSAN, *supra* note 698, at 58-59.
734. See e.g., *PAK. PEN. CODE §§ 305-307*. For a definition of the terms *diyat, qisas*, and *wali*, see *PAK. PEN. CODE § 299(e), (k), (m)*.
735. *PAK. PEN. CODE §§ 308, 311*. See *CRIME OR CUSTOM? VIOLENCE AGAINST WOMEN IN PAKISTAN, supra* note 699, at 41.
736. *PAK. PEN. CODE § 306(c)*. See *CRIME OR CUSTOM? VIOLENCE AGAINST WOMEN IN PAKISTAN, supra* note 699, at 42.
737. See *CRIME OR CUSTOM? VIOLENCE AGAINST WOMEN IN PAKISTAN, supra* note 699, at 42. *PAK. PEN. CODE § 306(c)*.
738. See *CRIME OR CUSTOM? VIOLENCE AGAINST WOMEN IN PAKISTAN, supra* note 699, at 42.
739. See *PAK. PEN. CODE § 308(1)*.
740. See e.g., *HUMAN DEVELOPMENT IN SOUTH ASIA 2000: THE GENDER QUESTION, supra* note 616, at 93. YASMEEN HASSAN, *supra* note 699, at 41.
741. See *CRLP study part 2, Legal Status of Women (draft)* from Seema Sharif, *supra* note 493, at 14.
742. See *Recommendations of the National Commission of the Status of Women on Violence against Women, supra* note 731.
743. See *PAK. PEN. CODE § 509*.
744. See *id.*
745. See e.g., *id.* §§ 294, 339, 341, 350, 352, 354.
746. See *Recommendations of the National Commission of the Status of Women on Violence against Women, supra* note 731.
747. See *West Pakistan Suppression of Prostitution Ordinance, No. II, 1961, §§ 3-4, 7-10 (Pak.)*.
748. See *id.*
749. See *PAK. CONST., art. 11(a)*.
750. See *West Pakistan Suppression of Prostitution Ordinance, No. II, 1961, § 9 (Pak.)*.
751. See *Offence of Zina (Enforcement of Hudood) Ordinance, No.VII, 1979, §§ 13-14, 16*.
752. See *id.*
753. See *id.* § 11.
754. See *id.* § 12.
755. See *PAK. PEN. CODE § 366-A-B*. See *relatedly §§ 367, 370-371, 340*.
756. See YASMEEN HASSAN, *supra* note 699, at 22.
757. See *id.* at 23.
758. See *id.* at 22.
759. See *HUMAN DEVELOPMENT IN SOUTH ASIA 2000: THE GENDER QUESTION, supra* note 616, at 92. This practice originated in Baluchistan but has spread to Sindh and Punjab.
760. See *id.*
761. See *id.*
762. See YASMEEN HASSAN, *supra* note 699, at 23.
763. See *HUMAN DEVELOPMENT IN SOUTH ASIA 2000: THE GENDER QUESTION, supra* note 616, at 92.
764. See *id.*
765. See *CRLP study part 2, Legal Status of Women (draft)* from Seema Sharif, *supra* note 493, at 13.
766. See *REPORT ON THE COMMISSION OF INQUIRY FOR WOMEN: PAKISTAN, supra* note 477, at 88.
767. See *NATIONAL REPRODUCTIVE HEALTH POLICY, supra* note 268, §10.
768. See *id.*
769. *REPRODUCTIVE HEALTH SERVICE PACKAGE, supra* note 277, at 8, 10.
770. See *id.* at 10.
771. See *POPULATION POLICY OF PAKISTAN, supra* note 351, at 2.
772. See *id.* at 6.
773. See *id.* at 7.
774. *ADOLESCENTS AND REPRODUCTIVE HEALTH IN PAKISTAN: A LITERATURE REVIEW, supra* note 395, at 24. Memorandum from Interview with Dr. Noor Elahi Arain, Regional Director, Family Planning Association of Pakistan, regarding Family Planning, Contraception, Sterilization, Abortions and Adolescent and Reproductive Health, June 4, 2001 (on file with Center for Reproductive Rights). See Interview with Dr. Jabeen, Pakistan Voluntary Health & Nutrition Association, Karachi, May 21, 2001.
775. See *Child Marriage Restraint Act, No. XIX, 1929, §§ 2(a), 4 (Pak.)*.
776. See *id.* as construed in MUHAMMAD ASLAM HAYAT, *THE MANUAL OF FAMILY LAWS IN PAKISTAN* 135.
777. See *Dissolution of Muslim Marriage Act, No. 8, 1939, § 2(vii) (Pak.)*.
778. See *Hindu Marriage Disabilities Removal Act, No. XXVIII, 1946 (Pak.); Hindu Widow's Marriage Act, No. XV, 1856 (Pak.)*.
779. See *Hindu Widow's Marriage Act, No. XV, 1856, art. 7 (Pak.)*.
780. See *Christian Marriage Act, No. XV, 1872, § 60(1) (Pak.)*.
781. See *id.* §§ 19, 60.
782. See *Parsi Marriage and Divorce Act, No. III, 1936, § 3(c) (Pak.)*.
783. See *id.* § 3(c).
784. See *PAKISTAN'S POPULATION: STATISTICAL PROFILE 2002, supra* note 16, at 7.
785. See *id.*
786. *EDUCATION FOR ALL 2000 ASSESSMENT COUNTRY REPORT: PAKISTAN, supra* note 683, tbls. 21-22.
787. See *id.* tbl. 21.
788. See *id.* tbl. 22.
789. See *id.* at 74.
790. See *PAKISTAN'S POPULATION: STATISTICAL PROFILE 2002, supra* note 16, at 7.
791. See *id.*
792. See *WOMEN'S COMMISSION FOR REFUGEE WOMEN AND CHILDREN, FENDING FOR THEMSELVES: AFGHAN REFUGEE CHILDREN AND ADOLESCENTS WORKING IN URBAN PAKISTAN* 16 (2002).
793. See *Report of the Special Rapporteur on violence against women, supra* note 196, ¶ 41.
794. *EDUCATION FOR ALL 2000 ASSESSMENT COUNTRY REPORT: PAKISTAN, supra* note 683, at 22.
795. See *id.* at 67-68.
796. See *GOVERNMENT OF PAKISTAN, NATIONAL EDUCATION POLICY 1998-2010: PAKISTAN, <http://www.saarcnet.com/newsarcnnet/govtpolicies/Pakistan/educationpolicy.html> (last visited Oct. 24, 2003)*.
797. *EDUCATION FOR ALL 2000 ASSESSMENT COUNTRY REPORT: PAKISTAN, supra* note 683, at 69.
798. See *id.* at 67.
799. See *id.* at 68.
800. *ADOLESCENTS AND REPRODUCTIVE HEALTH IN PAKISTAN: A LITERATURE REVIEW, supra* note 395, at 23-24.
801. See *id.* at 24.
802. See *POPULATION POLICY OF PAKISTAN, supra* note 351, at 8.
803. See *id.* at 14-15.
804. See *ADOLESCENTS AND REPRODUCTIVE HEALTH IN PAKISTAN: A LITERATURE REVIEW, supra* note 395, at 24.
805. See Memorandum from Interview with Dr. Noor Elahi Arain, *supra* note 774. Email from Dr. Yasmeen Sabeeh Qazi, Executive Director, Pakistan Voluntary Health and Nutrition Association, to Seema Sharif, Shirkat Gah, (Aug. 28, 2001, 10:29:40-0700 E.S.T.) (on file with Center for Reproductive Rights); *ADOLESCENTS AND REPRODUCTIVE HEALTH IN PAKISTAN: A LITERATURE REVIEW, supra* note 395, at 24.
806. SAHIL, *CHILD SEXUAL ABUSE & EXPLOITATION IN PAKISTAN: AN OVERVIEW 9* (on file with Center for Reproductive Rights).
807. See *id.*
808. See *id.*
809. See *id.*
810. See *Offence of Zina (Enforcement of Hudood) Ordinance, No.VII, 1979, § 2(a) (Pak.)*.
811. See *PAK. PEN. CODE § 366-A*.
812. *PAK. PEN. CODE § 375(5) (repealed)*. See *CHILD SEXUAL ABUSE & EXPLOITATION IN PAKISTAN: AN OVERVIEW, supra* note 806, at 11.