Volume 3, Issue 1, 2025

Frontier in Medical & Health Research

ISSN: (e) 3007-1607 (p) 3007-1593

LEGAL AND MEDICAL PERSPECTIVES ON MATERNAL HEALTHCARE IN PAKISTAN: EVALUATING THE STATE'S DUTY TO ENSURE SAFE PREGNANCY AND CHILDBIRTH

Ahsan Faiz[*1], Dr. Tansif Ur Rehman[2], Dr. Aisha[3]

[*1]*Department of Law, Dadabhoy Institute of Higher Education, Pakistan*
[2]*Teaching Associate, Department of Sociology, University of Karachi, Pakistan; Visiting Faculty, Department of Law, Dadabhoy Institute of Higher Education, Pakistan*
[3]*Women Medical Officer, Civil Hospital Naushahro Feroze, Pakistan*

[*1]ahsanfaizsheikh@gmail.com, [2]tansif@live.com, [3]aishasolangi786@gmail.com

[*1]0000-0002-5454-2150

DOI: https://doi.org/10.5281/zenodo.20696185

Keywords
challenges, historical context, laws, opportunities, theoretical context

Article History
Received: 05 December 2024
Accepted: 15 January 2025
Published: 30 January 2025

Corresponding Author: *
Ahsan Faiz

Abstract

The issue of maternal healthcare highlights the stark reality between what the law states and the actual delivery of healthcare services in Pakistan. In spite of constitutional safeguards and internationally agreed-upon commitments, Pakistan is the worst in the South Asian region in terms of maternal mortality ratio (MMR). Other issues, including inaccessibility of skilled birth attendants, emergency obstetric services, and social-cultural factors, are critical. Article 9 (right to life) and Article 38 (promotion of social and economic well-being) of the Constitution impose a constitutional obligation on the state to offer safe pregnancy and childbirth. Medical implications of healthcare infrastructure failures are that most causes of death are avoidable, such as haemorrhage and sepsis. This discussion suggests that the role of the state is not only to enact laws but also to proactively create an enabling environment by properly allocating resources, successfully implementing policies, and developing well-established systems of accountability to bridge the gap between policy and practice in the form of maternal health.

Introduction

The health of the mother is a key indicator of the commitment of a state towards human rights and sustainable development. This measure shows a critical challenge in Pakistan. The World Bank data states that after the ratification of the international documents, such as the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the Maternal Mortality Ratio (MMR) is still high in the country, 276 maternal deaths per 100,000 live births, which is one of the highest in South Asia (Rashid, 2023). Maternal mortality is a condition that is characterized by the World Health Organization as the death of a woman during pregnancy or within 42 days of pregnancy, regardless of the duration of pregnancy and location of pregnancy, but not as a result of accidental or incidental causes (Ramos-Lafont, 2023). The gap in access and utilization of healthcare remains endemic, especially in Pakistan, where the maternal and neonatal mortality rates remain elevated, thus necessitating the need to have improved access and utilization of maternal healthcare (Khan, 2023).

Frontier in Medical & Health Research

ISSN: (e) 3007-1607 (p) 3007-1593

Article 9 of the Constitution of Pakistan offers a framework regarding the health rights based on the right to life and liberty and the right to social and economic welfare in terms of Article 38 (Begum, 2025). The persistence of these preventable deaths underscores a critical lack of connection between legal obligations of the state and the failure of its healthcare system to deliver, due to the lack of infrastructure, skilled birth attendants, emergency obstetric access, resource distribution, and cultural factors that do not allow women to seek medical help in time (Rashid, 2023). Furthermore, the health sector's governance is adversely affected by the frequent fluctuations in the government and its system. The health department has been characterized by instability as a result of different strategies, programs, and appointments of staff members that have been brought by different prime ministers (Ghani et al., 2023).

The paper employs an interdisciplinary legal-medical analysis in order to determine whether Pakistan has a duty to provide safe pregnancy and childbirth. It states that the structural failure of healthcare services, in conjunction with the ineffective policy implementation and enforcement mechanisms, is a systemic violation of constitutional and international duties of the state. This discussion will demonstrate that this implementation gap is still capable of sustaining a cycle of preventable maternal deaths, and structural reforms and increased accountability are desperately needed to bridge the gap between the law and healthcare reality.

Research Justification

This study is urgently required to radically rebrand the discussion around maternal mortality in Pakistan, to change the lens to consider it as a technical public health problem instead of a basic problem of legal responsibility and state duty. Although the clinical causes of maternal deaths have been well documented, and constitutional provisions relating to the same have often been cited by legal scholars, there is still a major gap. The academic literature that systematically fuses the two domains into a solid case against the state in terms of failure of its structures is in short supply.

The combined law-medical approach is essential due to a number of reasons. First, it gives a sufficient normative basis in the advocacy of the populace and strategic litigation, hence enabling the civil society organizations and legal professionals to legally claim the justiciable obligations of the state. Secondly, it presents a critical analysis of the deep-rooted economic and systemic obstacles that any successful policy should overcome. By filling this academic gap directly, our research will provide an in-depth evaluation that will not only reveal the root causes of system failure, but also offer an effective and rights-focused solution that will offer a sustainable and ethical reform.

Literature Review

In Pakistan, maternal healthcare has been extensively researched in terms of sociological shifts and public health. But the comprehensive connection between the findings and the state's legal responsibility remains an under-researched area. Public health researchers always use the Three Delays Framework while analyzing maternal mortality pathways, taking into account the decision of seeking healthcare, reaching a healthcare facility, and receiving effective treatment (Santos et al., 2023). Deeply ingrained socio-cultural norms, gender inequalities, and existing economic and cultural issues that limit women's access to essential healthcare services contribute significantly to critical delays, especially in rural and remote areas (Rashid, 2023).

Parallel to such a finding, legal scholarship has come to stress more that even though the right to health is not explicitly written in the Constitution, it constitutes a key part of the basic right to life, and human dignity in Article 9. Notable court decisions have increasingly refined the understanding of Article 9 to include the right to a healthy environment and quality of life, and thus, set key legal precedents to enforceability (Begum, 2025). This mandate is further supported by the constitutional directive of Article 38 that stipulates the state to offer basic necessities, which

Frontier in Medical & Health Research

ISSN: (e) 3007-1607 (p) 3007-1593

places maternal healthcare as a constitutional requirement and not simply a policy choice.

Nonetheless, empirical research studies on national healthcare programs, especially the National Maternal and Newborn Health Program, do demonstrate the systematic implementation issues. These are chronic under-investment, weak administrative systems, and a significant lack of accountability measures (Odjer & Mensahh, 2025). Moreover, the community-based health interventions are often limited owing to the bigger structural barriers in the healthcare system (Afridi et al., 2025). The cumulative evidence of the available literature is that, although the legal framework in Pakistan offers an excellent basis of state accountability in maternal healthcare, practical failure of the systems translates into avoidable maternal mortality, and there is an urgent need to engage integrated strategies to bridge the gap between legal requirements and healthcare provision (Murtiza, 2024).

Historical Context of Maternal Health Care in Pakistan

The development of the policy of maternal health in Pakistan is associated with the alteration of political life in the country and the transformation of the priorities in development. The early healthcare systems post-independence provided only a minimal specialised attention to maternal care, which was viewed as a marginal, but not central health issue (Javed & Ejaz, 2023). A major change started in the 1990s with the introduction of the Lady Health Worker program, a new community-based program clearly aimed to fill in the dire gap between formal primary healthcare systems and rural communities and to offer help and empowerment to women who had limited movement. Implementing this measure led to an increase in the use of family planning methods. Nevertheless, opposing opinions existed when it came to the use of antenatal visits and hospital delivery (Ghani et al., 2023).

The era of the Millennium Development Goals triggered a more focused strategy that resulted in the development of the special national programs specifically focused on lowering the maternal mortality rates. Another important constitutional event was the 18th Amendment in 2011 that radically changed the governance system in the country by transferring the responsibility of the health sector to the provincial governments (Murtiza, 2024). Although theoretically aimed at the encouragement of localized governance and more responsive healthcare provision, such a transition brought significant issues to inter-provincial coordination and harmonization of policies as a result of the unequal allocation of resources, which eventually caused significant differences in the healthcare provision and outcomes across the provinces.

When considering the topic of women's rights in Pakistan through the lenses of both Islamic and legislative points of view, an important gap is observed between the theoretical justifications and practical implementations of policies and laws (Ghani et al., 2023). Three fundamental issues, namely lack of political commitment among various changing governments, persistent under-funding of the healthcare sector in comparison to actual needs, and institutional bias favoring the curative approach of care rather than the preventive approach, have consistently impeded significant progress despite new policy documents and repeated commitments (Khowaja et al., 2025). This lack of implementation and structural incompetence in the healthcare governance model of Pakistan portrays an evident and growing trend of deliberate and systematic sabotage of policies with progressive measures.

Theoretical Context of Maternal Health Care in Pakistan

The concept of the right to health is changing with time, and the state's responsibility towards maternal health is grounded in it. This basic right is not a health guarantee per se, but rather a guarantee that all people have a right to a holistic system of health protection that gives them an equal chance to health. This is described by international human rights standards in the AAAQ framework, which specifies that health facilities, goods, and services should be available, accessible, Accessible, Acceptable and of good Quality.

Frontier in Medical & Health Research

ISSN: (e) 3007-1607 (p) 3007-1593

This framework offers a stringent analytical instrument in analyzing state responsibilities. Maternal death is an applicable statistic to measure the quality of life and the level of civilization of a society, as it is a measure of equity and access to health services by its citizens. The socioeconomic and educational level of a population is reflected in maternal deaths. In practical terms of maternal healthcare, it is translated into three concrete state responsibilities: to Respect women's rights by withholding or denying them access to services, to protect their rights by not letting third parties intervene with access to healthcare, and to fulfil their right through legislative, budgetary, and policy interventions that would make sure that safe motherhood is delivered fully. Using this holistic model in the context of the maternal healthcare system in Pakistan shows that there are significant shortcomings in all of the categories, which, in turn, systematically prove the inability of the state to fulfil its positive responsibilities under both its constitution and the international law on human rights. This systematic evaluation presents a precise platform on which the adherence of Pakistan to its maternal healthcare duties can be evaluated.

Laws Regulating Maternal Healthcare in Pakistan

There are various legal and policy instruments that cover maternal health in the country; however, their implementation is seriously compromised.

1. Constitutional Framework: According to the constitution of Pakistan, the responsibility of providing health care services to people living within the country is mainly of the provinces. The right to life is guaranteed under Article 9, and the responsibility of the state to ensure the welfare of its citizens is guaranteed under Article 38, which lays the constitutional foundations for the protection of maternal health.

2. Maternity Benefit Ordinance of 1958: The most specific legislation that gives paid maternity leave of 12 weeks for formal sector working women. This law, however, has serious flaws, particularly failing to cover a significant proportion of women workers in agriculture and informal sectors, not incorporating up-to-date health care provisions and weak enforcement procedures, which all make it unsuitable for complete protection of women.

3. National Health Vision 2016-2025: It is a policy vision of the Government that has specific goals and objectives of reducing maternal mortality and improving skilled attendance. This policy is conceptually appropriate, but has significant operational problems, such as a lack of coordination at the provincial level after the 18th Amendment, inconsistent funding allocation, and an inadequate monitoring system to effectively track progress.

4. Lady Health Workers Program: At the ground level, this has played a significant role in providing basic maternal care services to the remote areas. They are the health workers in the front-line who are key to delivering antenatal services, health education and referral. However, there are broader issues that prevent the program from having a larger impact: workload, under-compensation, few professional development opportunities and poor logistical support are all issues.

The combined deficiencies of these legal and policy instruments present a picture of a systemic weakness: although they are adequate in principle, they are often lacking in the areas of enforcement, resourcing and implementation. The constitution itself is sound, specific legislation is old, policies are under-resourced, and front-line programme are lacking in support. This lack of linkage between legal intent and actual practices has been a major hurdle in improving maternal health in Pakistan, which further leads to a difference between the policy goals and the actual gains made in maternal health at a national level.

Challenges to Safe Motherhood in Pakistan

Safe motherhood issues in Pakistan are so deeply rooted and interlinked that they span the infrastructure, human resources, socio-cultural norms and governance systems. The combination of all these layers results in a substandard health status for the mothers and a denial of the basic right of mothers to healthcare.

Frontier in Medical & Health Research

ISSN: (e) 3007-1607 (p) 3007-1593

1. Inability of the Healthcare system: In rural and remote areas, Pakistan has a very poor healthcare system. The quantity of Basic Health Units (BHUs) and Rural Health Centres (RHCs) – the first port of call for most people to access health care – is alarmingly low. The current equipment, basic medical supplies and quality utilities (such as electricity and clean water) are not used, and often are missing. Lack of medical facilities and ambulances has become a challenge while accessing healthcare services in rural areas. These gaps at such an initial level of accessing healthcare have left women deprived of even the most basic emergency obstetric treatment. This is also a direct violation of two of the most essential components of the Right to Health, namely availability and quality.

2. Human Resource Crisis: Lack of qualified and competent healthcare professionals contributes to another of the major challenges. Female doctors, trained and community midwives, are severely low in numbers where they are needed the most, especially in rural areas. Which in turn, leads to risky reliance on Traditional Birth Attendants (TBAs), who, although culturally relevant, may not have the required training and competence to deal with obstetric complications like postpartum bleeding or infant crises.

3. Socio-Cultural and Economic Obstacles: The entrenched patriarchal culture and traditions are a major barrier to accessing healthcare by women. The lack of mobility (purdah), as well as autonomy to make vital decisions within the household, tends to delay timely seeking care during an obstetric emergency. Adding to these cultural obstacles are enormous financial issues. The actual expenses of medical care, together with the indirect costs of transport and lost income, are insurmountable to many families.

4. Governance and Accountability Deficit: There are systemic governance issues that contribute to the maternal health crisis. This is not possible due to the high levels of corruption, inefficient allocation of resources, and absence of proper maternal death surveillance systems. In the absence of adequate audit mechanisms to probe maternal deaths and complications, policies are more of a dream than a reality. All these issues are interlinked barriers, and they demand multi-sectoral strategies to enable all women in Pakistan to enjoy safe motherhood.

Opportunities for Improving Maternal Healthcare in Pakistan

Nevertheless, there are still important opportunities to improve maternal health right in Pakistan through legal, structural, and systemic reforms. The strategies offer feasible paths that can be used to transform the way maternal healthcare is provided in the country.

1. **Judicial Activism and Legal Enforcement:** Transformative change can be brought about by the court and, in particular, by provincial High Courts through public interest litigation. Courts, through their constitutional power, can hold the state accountable and enhance the legal status of health rights. Such judicial intervention may set some important precedents to oblige the government to take certain measures and allocate resources to maternal healthcare services.

2. **Policy Reform and the Modernization of Legislation:** The creation of a comprehensive right-to-health provincial legislation would enhance the legal provisions on maternal health protection. Skilful reform of the current legislation, especially the old Maternity Benefit Ordinance of 1958, would not only expand the coverage of the informal sector to women but also reduce the discrepancy between the legal framework and the current healthcare requirements.

3. **Health System Investment and Workforce Development:** Healthcare workforce development has short-term payoffs. Effective interventions to focus on include recruitment, training, and retention of skilled birth attendants in rural areas. Promoting the Lady Health Workers program and providing sufficient support and compensation would be an excellent step towards enhancing access to healthcare in rural areas. At the same time, there should be growing public health

Frontier in Medical & Health Research

ISSN: (e) 3007-1607 (p) 3007-1593

spending to develop infrastructure sustainability and access to medicine.

4. Mechanisms and Systemic Monitoring: This can be done by developing strong accountability mechanisms through the creation of an autonomous provincial health commission. These commissions would monitor maternal health outcomes and systematic death audits and suggest evidence-based improvements. These will ensure that policies are turned into actual health benefits and increase the transparency of such systems.

Pakistan will be able to bridge the gap between the promise and reality of maternal healthcare, making sure all females have access to safe motherhood. Both immediate and long-term systemic challenges related to maternal health care would also be resolved.

Discussion

The issue of maternal deaths in Pakistan is not just a national health failure; it's a blatant violation of its constitutional and international legal obligations, as evidenced in this discussion. The right to health is measured using the AAAQ criteria (availability, accessibility, acceptability and quality), which form a theoretical framework that is holistic. The evidence reveals that there is significant failure to deliver services, inadequate infrastructure and inequitable use and allocation of resources, all of which run counter to these overarching principles. Without the political will and administrative efficiency to enforce protective laws and policies, the existence of the protective laws and policies becomes a futile exercise.

As a result, it is time to shift the perception of maternal healthcare to a more charitable or developmental perspective and to start seeing it as a legal right that should be enforced. It would be a stronger foundation for long-term reform to make maternal healthcare a fundamental right, which citizens can enforce, and courts can adjudicate. Such a rights-based practice has the benefit of placing the burden on the state in order to show that it is abiding by its obligations.

Finally, maternal mortality needs a comprehensive approach, combining both legal action and health improvement in the system and community empowerment. This holistic strategy will have to include judicial control and infrastructure development, training of healthcare professionals, and awareness campaigns among the citizens. It is only then that, with such multi-sectoral efforts, Pakistan can turn constitutional guarantees of dignity and life protection into a reality for all women and thus close the much-needed gap between legal promises and actual healthcare delivery in the country.

Conclusion

Pakistan's maternity healthcare condition has made evident the lack of accountability on the state's part. The right to safe motherhood has been outlined both by the global obligations and the Constitution of the country. However, the persistent number of preventable maternal deaths highlights a stark discrepancy between what the legislation promises and what actually happens. Some of the factors that maintain this gap include prevalent cultural and social biases, lack of health infrastructure and lack of the state's accountability. Pakistan must go beyond policy declarations to meet its responsibilities. It needs more funding, policies and laws that can be appropriately implemented, an effective monitoring system, and a robust and competent workforce. Ensuring safe pregnancy and childbirth is not just a health goal but an essential part of the Constitution and fundamentally an important step in the State's commitment to human dignity and justice.

Recommendations

In light of the overall evaluation of maternal healthcare, the following recommendations are crucial in addressing women's health rights and systemic issues in Pakistan.

1. Judicial Action: The Supreme Court and Provincial High Courts should take the lead in considering cases that relate maternal mortality to fundamental violations of Constitutional rights. The judiciary can compel the government to take action by establishing a legal precedent that maternal healthcare is a protected fundamental right.

2. Legislative Reform: Provincial assemblies should focus on legislative advocacy to pass

Frontier in Medical & Health Research

ISSN: (e) 3007-1607 (p) 3007-1593

comprehensive reforms on the Right to Health. These laws should outline maternal health rights, implementation schedules and effective monitoring systems to ensure that Constitutional obligations are adhered to.

3. Executive Implementation: The government must demonstrate political intent by providing targeted funding for maternal health programs and increasing the overall funding for the health sector. This should involve focusing on the development and upgrading of the health sector, investing in establishing health facilities that are well equipped, competent birth attendants, emergency obstetric care and improving the availability of required medical supplies in a timely manner. Maternal campaigns also help females in accessing healthcare and make more informed decisions at early stages to avoid any risks, particularly in rural areas.

4. Strengthening Regulations: Maternal mortality monitoring and response mechanisms should be established by Provincial health departments, which may include investigating maternal deaths, publishing findings and implementing evidence-based strategies for the prevention of such tragedies in future.

This collaboration among different government levels can pave the way for a comprehensive strategy to improve the maternal healthcare system in Pakistan, ensuring that Constitutional rights are actually fulfilled in terms of health outcomes

Research Limitations

There are several important limitations that need to be acknowledged in this study despite its comprehensiveness. The study may not be sufficient to capture two important points due to its reliance on secondary data resources, i.e. variations in outcomes of maternal health in sub-regions and under-reporting of prevalent maternal deaths, especially in rural and underserved areas of Pakistan. Despite being thorough, the legal analysis also has its own limitations, mainly because of the scarcity of publicly available systemic data regarding health-related litigation and court proceedings across the country.

Furthermore, this is a desk-based study and does not contain data from primary qualitative sources like bereaved families, important stakeholders, policy implementers, and front-line healthcare professionals whose insights can provide a deeper contextual understanding of the systemic problems. Further studies can adopt mixed method designs that incorporate both empirical and qualitative observations and investigations to eliminate these gaps, provide more detailed and thorough means and ways to advance maternal healthcare services in Pakistan.

Research Implications

The findings of this study have policy, practice and advocacy implications in Pakistan. It provides a solid legal basis to recognize maternal health as a fundamental obligation of the State and its integration into national plans and budgets. To healthcare leaders, it highlights the importance of dealing with systemic impediments to quality care. The research also provides a proper strategy of litigation and campaign to the civil society and legal advocates, which can result in groundbreaking court decisions that can promote health rights. It facilitates an essential change in the thinking about maternal mortality as a health concern to viewing it as a constitutional right and state responsibility issue that needs to be addressed by various sectors.

Future Research Directions

This integrated approach to law and medicine should be developed in future research to improve maternal health in Pakistan. Among the priorities is to undertake in-depth research to quantify the actual effects of provincial health programs on maternal death reduction. Legal experts ought to discuss the most effective means of applying right-to-health lawsuits in the legal framework of Pakistan and force the government to answer.

Moreover, a critical, first-hand insight into the barriers of the healthcare system would be gained through in-depth interviews with women who have been subjected to life-threatening complications during childbirth. Lastly, the cost and effectiveness of various models in providing maternal care should be compared to support effective and evidence-based policy-making. Such research directions will produce the knowledge

Frontier in Medical & Health Research

ISSN: (e) 3007-1607 (p) 3007-1593

required to develop specific, practical, and sustainable solutions to save the lives of mothers.

REFERENCES

Afridi, J. R., Jan, S. A., & Asif, M. F. (2025). Assessing inequality of opportunity in access to maternal healthcare services in Pakistan: A quantitative attempt. *BMC Health Services Research, 25*(1), 1280. https://doi.org/10.1186/s12913-025-13525-8

Begum, R. (2025). Fundamental rights in the Constitution of Pakistan. *Physical Education, Health and Social Sciences, 3*(3), 464–474. https://doi.org/10.63163/jpehss.v3i3.640

Ghani, A., Hashmi, H. A., & Sadaf, D. (2023). Prevailing government maternal health care system and challenges faced by health professionals: A case study in Tehsil Jampur. *Pakistan Journal of Humanities and Social Sciences, 11*(3), 3788–3800. https://doi.org/10.52131/pjhss.2023.1103.0657

Javed, S., & Ejaz, K. (2023). Women's reproductive rights: A situational analysis in Pakistan. *Journal of Development and Social Sciences, 4*(1), 478–485.https://doi.org/10.47205/jdss.2023(4-I)43

Khan, B. A. A., Mahmood, H., Jamil, S., Hadyait, M. A., & Jabeen, R. (2023). Barriers related to antenatal care utilization at primary health care level in pregnant women of Hazro district Attock. *Pakistan Journal of Medical & Health Sciences, 17*(6), 78. https://doi.org/10.53350/pjmhs202317678

Khowaja, B. M. H., Feroz, A. S., Rani, M., Abrejo, F., & Saleem, S. (2025). Challenges to community midwives in the provision of maternal services to rural communities of Pakistan. *BMC Health Services Research, 25*, 1432.https://doi.org/10.1186/s12913-025-13585-w

Murtiza, M. A. (2024). Discrepancy between ideals and realities: A socio-legal study of women's rights in Pakistan. *Law and Policy Review, 3*(1), 48-77. https://dx.doi.org/10.2139/ssrn.4645604

Odjer, E. K., & Mensahh, E. K. G. (2025). Maternal mortality and legal accountability: Examining government responsibility for preventable deaths. *Journal of Law and Criminal Justice, 13*, 49–73. https://doi.org/10.15640/jlcj.v13p4

Ramos-Lafont, C. P., & Montenegro Martínez, G. (2023). Tendencias en la mortalidad maternal en el departamento de Córdoba – Colombia, 2008–2020. *Enfermería Global, 22*(2), 382– 403. https://doi.org/10.6018/eglobal.549601

Rashid, M. A. (2023). Maternal health challenges in Pakistan: Addressing a crucial concern. *Pakistan Journal of Public Health, 13*(4), 144–145. https://doi.org/10.32413/pjph.v13i4.1288

Santos, P. S. P. D., Belem, J. M., Cruz, R. D. S. B. L. C., Calou, C. G. P., & Oliveira, D. R. D. (2023). Applicability of the three delays model in the context of maternal mortality: Integrative review. *Saúde em Debate, 46*, 1187–1201. https://doi.org/10.1590/0103-1104202213517I