

## Syed & Others v. Sindh

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### Factsheet

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### INTRODUCTION

Kiran Sohail was in her early twenties and had delivered her first child when she developed a preventable pregnancy-related injury that would cause her almost a decade of misery. In 2006, Kiran gave birth with the assistance of a traditional midwife at her home in Karachi, Pakistan. Soon after, Kiran began suffering from the symptom of obstetric fistula, a condition that caused her to continually and uncontrollably leak feces. She faced extreme discomfort that made it difficult for her to perform daily chores or leave home. Although Kiran repeatedly sought medical help, the

doctors at government health facilities continuously told her they lacked the training to provide treatment. Kiran was only able to get fistula repair surgery in November 2014 after her nephew connected her to Koochi Goth Hospital, the only hospital in Karachi that provides fistula treatment for free – eight years after she first developed the condition.<sup>1</sup>

Gynecologist Dr. Shershah Syed founded Koochi Goth Hospital in 2005 in response to the widespread suffering caused by obstetric fistula in Pakistan. Obstetric fistula is a hole that develops between the birth canal and the rectum or bladder that leads to continuous, uncontrollable

## Why This Case Is Important?

This was the first case filed in Pakistan that seeks recognition that the widespread incidence of obstetric fistula, which is an easily preventable disease, is a violation of women's fundamental right to dignity and life.

There has been very significant progress in maternal health in Sindh province in Pakistan as a result of this petition. There were 95 gynecologist posts in public hospitals lying vacant as of 2018. More than two-thirds of these vacancies have been filled up and the remaining are expected to be filled in the beginning of 2022 in response to High Court orders. Also, four fistula repair facilities have been activated that provide fistula repair free of cost following orders in the petition.

flow of urine, feces or both. The main cause is prolonged, obstructed labor that is not properly addressed through timely emergency obstetric care. Women with fistula are often shunned by family members and community, abused or abandoned by their husbands, and left without the ability to lead normal lives. In addition to isolation and stigma, when left untreated, fistula also can be fatal and carries severe physical consequences including rashes, boils, and ulcers on women's vulva and thighs.<sup>2</sup>

Fistula is preventable and normally can be repaired through a simple surgical procedure. However, it disproportionately afflicts poor, rural and less educated women and girls who face barriers in accessing timely, quality obstetric care. The number of women suffering from a fistula in Pakistan increases by 5,000 every year,<sup>3</sup> with an estimated 1,500 of these women residing in Sindh.

### PETITIONERS

The public interest litigation, developed through the Center's South Asia

Reproductive Justice and Accountability Initiative (SARJAI), was filed in the High Court of Sindh at Karachi on July 6 2015<sup>4</sup> by Advocate Sara Malkani on behalf of Kiran Sohail, Dr. Shershah Syed, and a leading Pakistani women's rights organization called Tehrik-e-Niswan that conducts advocacy to end fistula and promote maternal health. The respondents are the Sindh Maternal, Neonatal and Child Health Programme and the Sindh Department of Health.

### CLAIMS

The petition asserts that widespread incidence of fistula, a preventable condition, in Sindh constitutes a violation of women's fundamental rights to life and dignity guaranteed under Articles 9 and 14 of the Pakistan Constitution. The petition further claims that these violations arise as a result of non-implementation of maternal health policies, including the National Maternal Newborn and Child Health Framework and the Sindh Health Sector Strategy.

The petition also argues that Pakistan is violating its international human rights obligations to ensure women's right to health without discrimination under two UN treaties of which Pakistan is a signatory: the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 12 of CEDAW requires that states "take appropriate measures to eliminate discrimination against women in the field of health care in order to ensure on the basis of equality of men and women, access to health care services, including those related to family planning." Article 12 of ICESCR declares that "State parties to the present Covenant recognize the right of everyone to the

“The dream is very simple – that every woman has a right to basic obstetric care, in case of an emergency, at her doorstep, free of charge. And it can be done.”

Dr. Syed, co-petitioner

enjoyment of the highest attainable standard of physical and mental health.”

The petition requests the High Court of Sindh to recognize the prevalence of fistula as a fundamental rights violation. The petition also seeks orders instructing the respondents to fulfill their responsibilities in preventing its incidence and providing accessible and affordable treatment to all women in Sindh as per the principles of policy contained in Articles 29, 34, 35 and 38 of the Constitution. It requests that the respondents be directed to:

- train and equip one gynecologist in every District hospital in Sindh to provide fistula repair surgery;
- provide Basic and Comprehensive Emergency Obstetric (Maternal) Care in accordance with the NMNCH Framework;
- ensure that community midwives are trained and deployed across Sindh in accordance with the NMNCH Framework;

#### OUTCOME

From 2015 to 2019, the High Court made several interim orders directing the respondents to submit information on the status of implementation of maternal health policies and ordered the formation of a committee comprising government officials and experts to develop a plan for implementation. In February 2019, the High Court passed a final order directing the Sindh government to establish fistula repair centers in government hospitals in four cities in Sindh and to fill vacancies in gynecologist posts in government hospitals. The order noted that the petitioners may file an application before the High Court in case the government does not fully implement the Court’s orders. Due to the failure of the government

to act expeditiously, petitioners filed an application in August 2019 seeking directions to the government to implement the High Court’s orders. Subsequently, the government submitted periodic reports showing partial implementation.

In December 2021, the government submitted that it has scheduled interviews in January and February 2022 to fill the remaining vacancies for gynecologist posts in government hospitals in Sindh. It also submitted that four fistula repair centers across the province have trained gynecologists who conduct fistula repair surgeries. Their data shows that 34 surgeries have been conducted in these centers in 2020 and 2021. In addition to the fistula repair centers set up pursuant to the Court’s orders, two hospitals in the city of Karachi have also been equipped to provide fistula repair surgery and have provided 33 surgeries since 2020. At the final hearing on December 15, 2021, the High Court acknowledged that the government has taken significant steps towards the implementation of the Court’s decision and disposed of the petition.

#### Endnotes

- 1 Dr. Shershah Syed and Others v. Province of Sindh and Another, C.P. No. 4243 of 2015 (High Court of Sindh at Karachi) [hereinafter Dr. Shershah and Others v. Province of Sindh].
- 2 USAID, Living with Obstetric Fistula: Qualitative Research Findings from Bangladesh and the Democratic Republic of Congo 4 (2012).
- 3 Farahnaz Zahidi, Dignity Restored: The Blessing of Being Dry, *The Express Tribune*, June 30 2013.
- 4 Pakistani High Court Calls for Response to Allegations Women Are Denied Maternal Health Services, Center for Reproductive Rights, Press Release, September 1 2015.