“Obstetric violence” as a violation of human rights of childbearing women

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Childbirth is one of the most gender specific topics, as it concerns specifically women in one of the stages of their reproductive life. In the recent decades, both the international scientific community as well as the civil society, has been expressing concerns about the quality of current maternity care practices.[1] These concerns have not been adequately addressed on the political and/or legal level. In fact, maternity and childbirth are not on the European political agenda, while they are on the international agenda only for the maternal and neonatal mortality rates and the lack of care in low income countries.

It is common to consider high income countries as the ones that provide the best care to mothers and babies, since their maternity and neonatal death rates are law, compared to developing countries. Yet, the United States saw a 26.6% increase in maternal deaths from 2000 to 2014, according to a study published in Obstetrics & Gynecology in 2016.[2] Caesarean rates are skyrocketing in high and middle-income countries, reaching 40-60%, without being epidemiologically justified.[3] A caesarean section (CS) is a major surgery and it is associated with immediate maternal and perinatal risks; it may have implications for future pregnancies, as well as long-term effects that are still being investigated. The use of CS has increased considerably worldwide in the last decades, despite the lack of evidence supporting substantial maternal and perinatal benefits with CS rates higher than 10%, and some studies showing a connection between increasing CS rates and poorer outcomes.[4] A growing body of evidence and the so called “grey literature” (stories of women that are shared or published outside the scientific literature) point out that there is a serious issue about maternity care worldwide that needs urgent attention.[5]

In March 2010, the USAID Action Project convened a meeting of governmental and non-governmental public health and human rights organizations, active in the area of maternal health to review the topic of respectful and disrespectful birth care, including abusive maternity care.[6] Meeting participants agreed that the issue was critical and recommended an extensive review of the evidence with regard to major categories and drivers of abusive maternal care, including a review of prior interventions to promote respectful care and/or reduce disrespect and abuse in childbirth. Based on a comprehensive review of the evidence, the USAID Action Project Report identified seven categories of disrespect and abuse in childbirth:[7]

1. **Physical abuse**

There are widespread reports of the practice of birth attendants vigorously pushing on a woman’s abdomen to force the baby out, as well as excessive physical force to pull babies out. Physical abuse has also been described in the context of unnecessary extensive episiotomies and post-partum suturing of vaginal tears or episiotomy cuts without the use of anesthesia.

2. **Non-consented care**

There is evidence of a widespread lack of patient information processes or lack of informed consent for common procedures during labor and childbirth in many settings (e.g. cesarean sections, episiotomies, hysterectomies, blood transfusions, sterilization, or augmentation of labor).

3. Non-confidential care

A frequent topic in the literature is the lack of privacy and confidentiality that many women worldwide experience when giving birth in hospitals. Lack of privacy happens at both physical level, since women in facilities often labor and deliver in public view (without any privacy protection), and at records level, where women's sensitive data, such as HIV status, age, marital status, medical history, are not treated as confidential.

4. **Non- dignified care**

Non-dignified care during childbirth is described in the literature as deliberate humiliation, blaming, rough treatment, admonishment, shouting, publicly revealing private patient information, and negative perceptions of care. It is important to highlight that a woman's description and perception of non-dignified care may be very context specific, so that an example from one country may not be relevant in other countries.

5. Discrimination based on specific patient attributes

Discrimination during childbirth is based on a woman's race, ethnicity, age, language, HIV/AIDS status, traditional beliefs and preferences, economic status, and educational level.

6. Abandonment of care

Abandonment of care means that a woman is being left alone during labor and birth, as well as failure of providers to assist women and intervene in life-threatening situations.

7. Detention in facilities

Detention of newly delivered women and their babies in health facilities, usually due to failure to pay the bill, has been described in a number of countries.

The outlined categories of disrespect and abuse are based on human rights and ethics principles and should be understood to help synthesize and organize the broad range of manifestations of disrespectful and abusive birth care reported in the literature. Nevertheless, disrespect and abuse often fall into more than one category, so that categories are not intended to be mutually exclusive.

Human rights principles most highly relevant to respectful and non-abusive care at birth include: equality and non-discrimination, information, redress, privacy, participation, dignity and freedom from torture and cruel, inhuman, or degrading treatment. Each of these human rights principles are contained in key international human rights treaties and covenants including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), among others. The fact that core human rights principles are recognized by so many countries in these international treaties provides a strong human rights platform from which to promote respectful and non-abusive birth care.

It is important to draw attention on the huge challenges that human rights defenders face in the area of maternity care and childbirth. There is a strong cultural imperative aimed at "normalizing" disrespect and abuse during childbirth, considering it a necessary element of care, in order to "save" women from their own bodies that are perceived (by health care providers, as well as by the common though) as potentially dangerous for themselves and the baby. This belief is a powerful factor contributing to the persistence of abusive care in practice and to legal barriers to a full protection of childbearing women's human rights. This idea is so deeply rooted in the cultural context that many women, who have never known any other system of care or that have never been informed about patient's rights, consider it "normal" to be mistreated during childbirth, even when they suffer physical and psychological consequences.

Adopting the human rights-based approach to global maternity health care in 2014, the WHO published an official statement titled "The prevention and elimination of disrespect and abuse during facility-based childbirth",[8] affirming that many women across the globe experience disrespectful, abusive or neglectful treatment during childbirth in facilities. This constitutes a violation of trust between women and their health-care providers, and it can be a powerful disincentive for women to seek and use maternal health care services. While disrespectful and abusive treatment of women may occur throughout pregnancy, childbirth and the postpartum period, women are particularly vulnerable during childbirth. Such practices may have direct adverse consequences for both the mother and infant.

WHO incorporates and enlarges the categories of abuse and disrespect during childbirth, defined by the USAID Action Project, describing them as outright physical abuse, profound humiliation and verbal abuse, coercive or unconsented medical procedures, lack of confidentiality, failure to get fully informed consent, refusal to give pain medication, gross violations of privacy, refusal of admission to health facilities, neglecting women during childbirth to suffer life-threatening, avoidable complications, and detention of women and their newborns in facilities after childbirth. [9] The WHO calls upon all the states to listen to women's voices, to collect data on the quality and the perception of care and to implement policies that include participative approach and shared decision-making.

Within the international legislation the issue of disrespect and abuse in childbirth is named "obstetric violence", and it is codified for the first time in Venezuela in 2007 in the "Organic Law on the Right of Women to a Life Free of Violence", followed by similar laws in Argentina and Mexico. In the "Organic Law" the issue is defined as "appropriation of women's body and reproductive processes by health personnel, which is expressed by a dehumanising treatment, abuse of medicalisation and pathologisation of natural processes, resulting in a loss of autonomy and ability to decide freely about their bodies and sexuality, negatively impacting their quality of life". [10] Under a legal perspective the "obstetric violence" recognition is facing similar barriers as any other form of violence against women that at first stage have to deal with denial and stereotypes. The "obstetric violence" in the Latin countries is legally considered as part of the gender-based violence, but the laws do not include redress mechanisms or systematic compensations for the victims. In fact, there is no criminalization of violence towards women and babies in childbirth, a phenomenon that is left unnoticed and unpunished, both in countries that have addressed the issue, as well as in countries that have not yet tackle the argument.[11]

Even though the “Declaration on the Elimination of Violence against Women”[12] was adopted by the UN General Assembly in 1993 and the Istanbul Convention[13] define violence against women as “violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violation that result in, or are likely to result in physical, sexual, psychological, or economic harm or suffering to women including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life”, violence suffered by women in childbirth, in high, middle and low income countries, is generally not acknowledged.

In 2016, the United Nations Office of the High Commissioner for the Human Rights has published a “Report of the Working Group on the issue of discrimination against women in law and in practice", inviting all the States to address “obstetrical and gynecological violence” in order to prevent the instrumentalisation of women in the birthing process and ensure that penalties are incurred.[14]

In Italy, the law proposal “Norms for the Protection of the Rights of Women and Newborns in Childbirth and Regulation for the Promotion of Physiological Birth” introduced for the first time the term “obstetric violence” in national political and legal discourse, defining it as criminal offence and proposing compensations for damages faced by the victims. The law proposal sparked a strong public debate, fueled by a viral social media campaign #bastatacere (“break the silence”) that gave voice to thousands of women confirming the existence of the issue.[15] In 2017, the Obstetric Violence Observatory in Italy published the results of the first nationally representative survey, suggesting that, in the last 14 years, over 1 million women in Italy experienced inappropriate and abusive care. These data have been published in scientific journals and are available for consultation.[16,17]

Other countries have produced data on “obstetric violence”, that have been acknowledged by local governmental bodies, and new policies on maternal care have been produced and implemented. However, there is still no compensation for women who have experienced damages due to inappropriate and abusive maternity assistance. It is very hard for them to claim their right to bodily integrity or report damages due to malpractice. The medical intervention in childbirth is considered to be right in any case and there is still little or no legal discussion on the concept of “overmedicalisation” when mothers and babies are concerned.

The authors argue that the issue of “obstetric violence” calls for immediate intervention by legislators and the governments in order to end “medical paternalism” where health professionals feel legitimized, according to the mandate exercised within medical practice, to ignore choices and preferences of service users, enacting gender prejudices and inhumane treatments. We invite legal experts, and especially women in legal careers, to start addressing the issue and to be part of the growing discussion on the topic that have not yet been embraced by the community of legal experts and thus have little or no echo in the courts. We shall advocate for an accountable gender-sensitive health care system that respects human rights of childbearing women and babies, while offering appropriate, equitable and participative quality services - without living aside and alone the victims of current malpractices in maternity health care.

Notes

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