

Obstetric violence: a new framework for identifying challenges to maternal healthcare in Argentina

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Abstract: Argentina has recognized women's right to not be subjected to obstetric violence, the violence exercised by health personnel on the body and reproductive processes of pregnant women, as expressed through dehumanizing treatment, medicalization abuse, and the conversion of natural processes of reproduction into pathological ones. Argentina's legislative decision to frame this abuse and mistreatment of women under the rubric of gender-based violence permits the identification of failures in both the healthcare system and women's participation in society. This article examines how applying the Violence Against Women framework to address issues of abuse and mistreatment of women during maternal health care provides a beneficial approach for analyzing such embedded structural problems from public health, human rights, and ethics perspectives. The framework of Violence Against Women seeks to transform existing harmful cultural practices, not only through the protection of women's reproductive autonomy, but also through the empowerment of women's participation in society. © 2016 Reproductive Health Matters. Published by Elsevier BV. All rights reserved.

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Introduction

A woman, experiencing her first pregnancy, undergoes an unconsented episiotomy during childbirth which, as a result of poor care, leads to loss of sphincter control.¹ A woman experiencing a healthy pregnancy is given oxytocin for easier labor management during six hours without monitoring, consequently the fetus is harmed.² A woman, pregnant as a result of rape, is denied access to an abortion by a physician who demands prior judicial authorization.³ These are examples of women's experiences of maternal health services in Argentina. They also represent different dimensions of ongoing challenges to guaranteeing safe and high quality maternal healthcare.

These experiences have been conceptualized, although with variations, as the abuse and mistreatment of women during the provision of maternal healthcare. International health institutions, such as the World Health Organization (WHO) have described such phenomena as "disrespectful, abusive, and neglectful treatment", focusing on the provision of treatment during childbirth at healthcare facilities. The WHO, among others, considers that "disrespectful, abusive, and neglectful treatment" may involve physical abuse, humiliation or verbal abuse, coercive or unconsented practices on women, failure

to maintain confidentiality or obtain informed consent, as well as refusal of pain medication or admission to a health facility, among others.⁴

In 2014, the International Federation of Gynecology and Obstetrics launched a "Mother-Baby Friendly Birthing Facilities Initiative." The Federation has been developing guidelines for identifying practices constituting "abusive, coercive, and neglectful treatment"; these include lack of privacy in labor/delivery; physical, verbal, emotional or financial abuse; and prohibiting preferred positions and/or the ingestion of food and beverages in labor.⁵

International organizations are producing systematic studies and benchmark documents on understanding and measuring the abuse and mistreatment of women in health facilities during childbirth.⁶ A systematic review of studies in thirty-four countries identified that women suffer from physical abuse, sexual abuse, verbal abuse, stigma and discrimination, health system constraints and bad quality conditions, and failure to meet professional standards of care that impact on their health.⁷ The review concluded that in conceptualizing and measuring the different sufferings experienced by women during childbirth at health facilities, "mistreatment of women" should be proposed as the terminology best capturing the range of experiences.

Alongside these international developments and advocacy for safety and quality of care for women during different maternal health services, in 2009, Argentina enacted a statute on Violence Against Women. This Argentinean law establishes a woman's right to be free from obstetric violence, which the statute defines as,

*“[v]iolence exercised by health personnel on the body and reproductive processes of pregnant women, expressed through dehumanizing treatment, medicalization abuse, and the conversion of natural processes of reproduction into pathological ones...”*⁸

This statute considers the abuse and mistreatment experienced by women in different maternal health services (prenatal, labor, childbirth, postpartum, and abortion care) within a Violence Against Women (VAW) framework and aims to raise awareness about the abuse, mistreatment and disrespectful care that women experience within the health sector. Furthermore, the legal concept of obstetric violence seeks to shed light on the ongoing lack of state oversight of the provision of maternal health services in both the public and private health sectors. It is also noteworthy that the concept of obstetric violence established by Argentinean legislation represents a different terminology for conceptualizing the abuse, mistreatment, and disrespectful maternal care that women receive in health facilities than the “disrespectful, abusive, and neglectful treatment” chosen by the WHO and the “mistreatment of women” proposed by Bohren et al.⁹

This article critically explores the concept of obstetric violence as a legal framework for identifying healthcare practices that constitute abuse and mistreatment of women. It examines different legislations and health policies on maternal health and VAW as tools for complementing the scope and interpretation of obstetric violence. Furthermore, this article aims to demonstrate, from a public health, ethical, and human rights perspective, that the concept of obstetric violence serves to identify and address persisting systemic practices that harm women, put them at risk, or disempower their decision-making in the context of maternal healthcare.

Obstetric violence in the Argentinean legal order

The definition of obstetric violence in the Violence Against Women statute identifies three main ways in

which this kind of violence may be perpetrated on women: dehumanizing care, over-medicalization, and the conversion of biological processes into pathological ones. A definition of how these three practices impact on women is absent in the general VAW statute. However, a previous Statute on Humanized Labor, an executive decree regulating the VAW statute, and Ministry of Health public policies, can complement the scope or definition of obstetric violence.

Dehumanized care has been defined by the executive decree regulating the general VAW statute as “cruel, dishonourable, dismissive, humiliating or threatening treatment provided by health personnel”,¹⁰ causing physical or psychological harm. However, the executive decree does not specify particular practices. The general Statute on Violence against Women defines physical violence as cruel or threatening when a woman experiences pain, harm or battery. It also recognizes psychological effects resulting from “restrictions, dishonesty or actions that produce emotional suffering or loss of self-confidence; or prevent personal development; or seek to degrade; or control a woman's actions, behaviours, beliefs or decisions.”¹¹ Here, the definitions of physical and psychological violence contribute to a better understanding of how some obstetric practices constitute dehumanizing care of women.

The 2004 Statute on Humanized Labor, which recognizes the rights of women in health facilities during the provision of various maternal health services, characterizes over-medicalization as procedures that do not translate into better maternal health, or fail to prevent maternal mortality and morbidity.¹² Examples include: routine episiotomies, routine practice of enemas, or unconsented or unjustified cesarean section. There is clear evidence that episiotomy is an unnecessary routine procedure and can be harmful.¹³ Similarly, enemas, which are still routinely practiced, cause extreme discomfort and there is no evidence that they improve sanitary conditions or reduce infections.¹⁴ In response to such over-medicalization, the Humanized Labor statute establishes health personnel's obligation not to prescribe medication and to avoid invasive practices unless such treatment is necessary for protection of the health of the mother or fetus.

Finally, practices considered to pathologise the natural processes of reproduction can be determined by examining the 2004 medical practice guidelines issued by Argentina's Ministry of Health, which recommends safe and respectful maternal healthcare practices during labor and childbirth.

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