

Ending Obstetric Violence Against Adolescents and Young Mothers



Each year on International Youth Day on 12th August, we celebrate the voices, dreams, and agency of young people. Yet for many adolescent girls, especially those who become mothers while still children themselves, their rights are often the first to be discarded. Among the gravest injustices they face is obstetric violence, a form of gender-based violence during childbirth.

The Landscape of Adolescent Pregnancy in Kenya

In Kenya, teenage pregnancies remain alarmingly high. According to the Kenya National Council for Population and Development, Teenage Pregnancy and motherhood situation in Kenya, 1 in 5 girls aged 15–19 is either pregnant or already a mother. These pregnancies are often a consequence of various factors including poverty, sexual violence, inadequate access to contraception, child marriage, and gaps in comprehensive sexuality education.¹

It is also important to note that adolescents face greater adverse complications during pregnancy as they are not fully physiologically and biologically prepared for pregnancy. They are also disadvantaged in maintaining healthy pregnancy due to lack of health education, inadequate access to antenatal care, inability to afford costs of pregnancy and childbirth. Resultingly, adolescent pregnancy- whether intended or unintended- increases the risk of

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¹Ministry of Youth Affairs (MOYAS), Youth Dialogue Tool (2011)

maternal mortality and morbidities including complications of unsafe abortion, prolonged labor, delivery and post-natal period.²

The Intersection of Obstetric Violence and Adolescent Pregnancy

When adolescent girls do seek maternal healthcare, they frequently encounter a health system ill-prepared, and at times unwilling, to treat them with the dignity they deserve. This is due to facility limitations such as limited staffing, limited resources, and the lack of policies and awareness on rights. Further compounding this is obstetric violence, which includes verbal abuse, non-consensual procedures, denial of pain relief, unnecessary medical interventions, detention due to non-payment, and even refusal of care, which disproportionately affects adolescent mothers. Many are scolded for their age, shamed for their decisions, or subjected to invasive procedures without explanation or consent. Some are left to labor unattended as a form of punishment for “misbehaving.”³

For many adolescents in Kenya and the world at large, childbirth is not just physically harrowing, but also emotionally scarring. What should be a moment of support and safety becomes one of shame, abuse, and neglect. Adolescent and young mothers rarely report such violence either because of the lack of awareness of their rights and manifestations of violations, or because they fear retaliation and further stigma.

These experiences have devastating consequences. Beyond the physical risks such as obstetric fistula, haemorrhage, or long-term complications, there are invisible wounds. Young mothers report feeling traumatized, ashamed, and afraid to return to healthcare facilities. Existing studies have shown that experiencing mistreatment and abuse during

childbirth can be a deterrent for seeking facility-based deliveries for subsequent births. It can also negatively impact post-partum healthcare utilization.⁴

Legal and Policy Framework

These acts violate multiple rights enshrined in Kenya’s Constitution, including the right to dignity (Article 28), the highest attainable standard of health (Article 43(1)(a)), right to emergency treatment (Article 43(2)), life (Article 26), access to information (Article 35) and freedom from discrimination (Article 27(4)), and freedom and security of the person including the right not to be treated in a cruel, inhuman and degrading manner (Article 29(f)).

The Adolescent Sexual and Reproductive Health Policy (2015) highlights the need for specialized services for adolescent mothers and mandates non-discriminatory healthcare for adolescents. It recognizes the unique needs of adolescent mothers and mandates responsive care. However, the policy remains largely unimplemented due to inadequate resource allocation, lack of political will and cultural and religious barriers.

Kenya is also a signatory of various international treaties such as the Convention on the Rights of the Child (CRC), and the African Charter on the Rights and Welfare of the Child (ACRWC), that reinforce the duty to provide youth-friendly, non-abusive healthcare to adolescents. It is also a signatory to the Convention on the Elimination of Discrimination Against Women (CEDAW) and the Maputo Protocol that speak on the rights of women.

a) Freedom from discrimination on any ground including age, sex and pregnancy (Article 27(4) of the Constitution of Kenya)

Obstetric violence has not been coined in

²The Adolescent Sexual and Reproductive Health Policy (2015)

³BJM Global Health Adolescents’ experience of mistreatment and abuse during childbirth: a cross-sectional community survey in a low-income informal settlement in Nairobi, Kenya

⁴Moyer CA, Adongo PB, Aborigo RA, et al. ‘They treat you like you are not a human being’: maltreatment during labour and delivery in rural Northern Ghana. *Midwifery* 2014;30:262–8.

our laws, but it is reflected in national and regional legal frameworks. Adolescent and young mothers experience compounding discrimination due to their age. The forms of obstetric violence that manifests on adolescents and young mothers as discussed above, showcase the vulnerability and discrimination that is due to their sex and also age which creates an imbalance of power.

The Convention on the Elimination of Discrimination Against Women (CEDAW) General Recommendation No 24: Article 12 of the Convention (Women and Health) under paragraph 2 calls for non-discriminatory access to healthcare services, particularly in the areas of family planning, pregnancy and during the post-natal period, including for adolescent and young mothers.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) General Comment No 24 on Women and Health also notes in paragraph 11 that measures to eliminate discrimination against women are considered to be inappropriate if a healthcare system lacks services to prevent, detect and treat illnesses specific to women. The failure to implement the the Adolescent Sexual and Reproductive Health Policy (2015) and provision of youth-friendly service highlights the compounded discrimination in access to healthcare services.

b) State obligation in promotion of access to health care services (Article 21(1) of the Constitution)

The National Government through the Ministry of Health is in-charge of ensuring policies are developed and implemented to protect health rights as under Article 21(1) of the Constitution of Kenya. This right imposes both negative and positive obligations on the State. A negative obligation for the State to refrain from denying or limiting access to health services. A positive obligation to take deliberate steps to ensure the availability, accessibility, acceptability and quality of health services. The Fourth Schedule of the Constitution Part 2 provides

that health is a devolved function. This places the responsibility for the promotion of primary healthcare on the county governments.

The Convention on Economic, Social and Cultural Rights General Comment No 3 on the Nature of States Parties' Obligations provides for progressive realization and acknowledges the constraints due to the limits of available resources. However, it also imposes various obligations which are of immediate effect. One of those being guaranteeing various rights and ensuring rights are exercised without discrimination. The Commission notes in paragraph 3 that in fields such as health, and the protection of children and mothers, legislation is an indispensable element.

Under paragraph 9 of the General Comment, it imposes an obligation on States to move as expeditiously and effectively as possible towards achieving progressive realization. Moreover, any deliberate retrogressive measures in that regard require the most careful consideration and need to be fully justified.

Gaps in existing legal and regulatory frameworks

Currently, there is no domestic legal framework that addresses obstetric violence in Kenya. This is a failure of the State to undertake its obligations to create and implement policies for the protection of adolescent and young mothers when accessing maternal healthcare services.

Recognition of obstetric violence as violence against women in national and regional instruments including expediting the development of the African Commission on Human and Peoples' Rights (ACHPR) guidelines on the elimination of obstetric violence and promotion of maternal healthcare in Africa.

Call to action:

On this International Youth Day, we hope that measures will be put in place to prevent further violations of adolescent and young mothers.

KELIN calls upon:

1. The National Government and County Governments

- To scale up adolescent-responsive health services that respect autonomy and confidentiality.
- Train healthcare providers in rights-based approaches to maternal care.
- Establish robust mechanisms for complaints, redress, and accountability through policies that cater to the needs and gaps to protect adolescents.
- Promote comprehensive sexuality education to reduce unintended adolescent pregnancies.
- Develop a national policy and/or legal framework addressing obstetric violence in Kenya.

2. Civil Society Organizations

- To amplify the voices of the young ones and jointly pursue legal and policy reforms to seek protection and accountability for the obstetric violence violations to adolescent and young mothers.
- To actively take part in the process of developing the African Commission on Human and Peoples' Rights (ACHPR) guidelines on the elimination of obstetric violence and promotion of maternal healthcare in Africa and other related advocacy to ensure dignified maternal care for all.

3. The general public

- To become conversant with your rights and report violations to seek justice for your rights but also for other women who may experience the same.
- To actively engage with our online advocacy campaign on obstetric violence (#EndObstetricViolence) and share the message widely to protect all women from experiencing violations during childbirth.

Conclusion

Adolescent and young mothers are not irresponsible children. They are rights-holders, deserving of protection of their constitutional rights, compassion, dignity, and care. Let's make our health systems safe for all, especially the youngest among us.

For any assistance or support kindly email us at litigation@kelinkenya.org