

# Breaking the Silence: Why Kenya Must Legislate Against Obstetric Violence

World Patient Safety Day Feature

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## Naming the Pain

Every generation is called to name its injustices because what remains unnamed remains unchallenged. Slavery was named. Apartheid was named. Female Genital Mutilation was named. Today, we must name obstetric violence. For too long, the pain of women and girls in maternity wards has been dismissed as ‘part of childbirth,’ and given fragmented terms such as dehumanized care, disrespect or abuse during childbirth, birth rape, womb violence or abuse and neglect in reproductive health services<sup>1</sup>. Although these terms highlight aspects of mistreatment, they fall short of reflecting the full scale of violence inflicted on women throughout pregnancy, childbirth, and the post-partum period.

Consider the story of a young woman, let us call her Grace, who arrived at a public hospital in labor. Instead of reassurance, she was met with scorn: “You are too young to be a mother, as your peers are studying, you were busy misbehaving, now suffer the consequences.” She had to wait while in pain for a bed to be available at the maternity

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<sup>1</sup>Chadwick, Joy ‘Obstetric Violence in South Africa’ S Afr Med J 2016;106(5):423-424. DOI:10.7196/SAMJ. 2016. v106i5.1

ward. Finally, when she went into labor, her cries for pain relief went unanswered, her consent was neither sought nor respected when interventions were sought, and at one point she was pinched on her thighs while being told to push. Unfortunately, an emergency intervention was required due to the delayed treatment and the referral process took too long, leading to her death. What should have been a happy moment was instead a death sentence. Grace's story is not isolated and that is why we must name and address obstetric violence.

## A Global and Regional Struggle

The concept of obstetric violence developed in the 1980s and 1990s within Latin America gained regional and international recognition<sup>2</sup> when Venezuela coined and codified the Organic Law on the Right of Women to a Life Free of Violence (2007). The law recognized obstetric violence by framing it as a structural and gendered form of violence. Obstetric violence is a form of gender-based violence which is experienced by women and girls during pregnancy, childbirth, and the postnatal period and comprises a wide range of violations. It has since been codified in other parts of Latin America such as Argentina, Uruguay, Panama and Mexico. In Africa, there has been no legislation on obstetric violence and many societies have normalized the practices by assuming it is essential in saving the life of the baby either through physical or verbal abuse of the mother, just to name a few. Most violations are overlooked and the most gruesome are dealt with under negligence laws which does not offer the reliefs and remedies necessary to curb the violence.

In 2007, Venezuela became the first country to legislate on obstetric violence through the *Organic Law on the Right of Women to a Life Free of Violence*. The law criminalizes nineteen forms of gender-based violence, including obstetric violence. It orders the creation of

courts for violence against women in each State Capital, a special 24-hour flagrancy department and created a multidisciplinary task team to support access to justice.<sup>3</sup>

Mexico integrated obstetric violence into its *General Law on Women's Access to a Life Free of Violence (2007)* at both state and federal levels through the *General Act for Women's Access to a Violence-Free Life (2007)*. It criminalizes practices including: performing caesarean sections without consent, inducing labour without medical justification, withholding pain relief, and denying timely attention. This law is complemented by state-level regulations on respectful maternity care.

Regionally, the recently adopted African Union's 2025 Convention on Eliminating Violence Against Women and Girls in February 2025 failed to explicitly mention obstetric violence, which is a missed opportunity to take the direction in Latin America in naming obstetric violence, its manifestations in the African context and how it can be curbed. Nevertheless, the African Commission, in March 2025 passed a [resolution to develop guidelines on eliminating obstetric violence](#), an opportunity for Africa to finally name and address this hidden form of violence.

Drawing lessons from Latin America, Kenya can lead the way by enacting the first national law in East Africa and regionally on obstetric violence, harmonizing with continental commitments and inspiring regional reform on maternal healthcare and health system infrastructure.

## The Kenyan Reality

In Kenya, obstetric violence is not explicitly recognized in law. Survivors seeking justice rely on broad constitutional provisions, such as Article 28 (right to dignity), Article 43 (right to the highest attainable standard of health and emergency treatment), Article 26 (right to

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<sup>2</sup> Pickles C. "Obstetric Violence," "Mistreatment," and "Disrespect and Abuse": Reflections on the Politics of Naming Violations During Facility-Based Childbirth. *Hypatia*. 2023;38(3):628-649. doi:10.1017/hyp.2023.73.

<sup>3</sup>Sara Fernández Rivera :Analysis of the Venezuelan reform of the organic law on women's right to a life free of violence of 2021

life), and Article 27 (equality and freedom from discrimination) of the Constitution of Kenya (2010) and specific legislations and policies such as the Health Act 2017 and the Patients' Rights Charter that stipulates health and health related rights. While powerful, these provisions do not adequately capture the specific realities of obstetric violence, leaving gaps in prevention, redress, and accountability.

Research studies in Kenya show that obstetric violence is not only prevalent but a growing concern. A report by Nguvu Collective indicates the prevalence in the different manifestations of obstetric violence in Kenya.<sup>4</sup> One study comparing thirteen (13) healthcare facilities estimated that disrespect occurred in at least 20% of cases in rural facilities.<sup>5</sup> Notably, in Kenya, there are several factors that contribute to the prevalence of obstetric violence in healthcare settings. The doctor-to-patient ratio is 19 practitioners per 100,000 people which translates to 1 doctor per 5,263 Kenyans, five times the WHO recommended ratio of 1 doctor for every 1,000 people.<sup>6</sup> Additionally, 84% of an estimated 5000 health facilities lack essential equipment for maternity services while only 5% of public health facilities have the readiness to provide comprehensive maternity services.<sup>7</sup> Numbers tell us the scale of the problem, but laws tell us how we intend to solve it. Without codification, obstetric violence remains unchallenged, perpetuating a cycle of injustices.

## Why Legislation Matters

Kenya's own history shows how legislation can

drive change. Before 2011, survivors of female genital mutilation (FGM) relied on general constitutional protections. The Prohibition of FGM Act changed that: it criminalized the practice, established accountability mechanisms, and provided prevention strategies. Prevalence rates have since declined.

A law on obstetric violence could do the same for maternal healthcare transforming health facilities into spaces of dignity, safety, and trust. Such legislation should:

- Clearly define obstetric violence as a structural form of gender-based violence and a human rights violation.
- List prohibited practices, from coerced sterilizations, denial of emergency obstetric care, verbal and physical abuse, unnecessary caesarean sections, denial of pain relief, to non-consensual use of medical technologies.
- Guarantee patients rights during pregnancy, labour, and postpartum, including informed consent, companion of choice, privacy, dignified care, emergency obstetric care, non-discrimination, prohibit detention for inability to pay, post-birth mental-health screening or support among others.
- Provide protections for special groups such as adolescents and persons with disabilities.
- Establish accountability and redress mechanisms, while mandating systemic investment in staffing, training, and respectful maternity care.

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<sup>4</sup>The Nguvu Collective "Towards Ending OBV in Kenya: Unveiling the Invisible Wounds of Obstetric Violence Through the Voices of Kenyan Women" (2024). Key findings available <https://www.standardmedia.co.ke/national/article/2001492915/public-hospitals-leading-in-obstetric-violence-against-women-report>

<sup>5</sup>Abuya T, Warren CE, Miller N, Njuki R, Ndwiga C, Maranga A, Mbehero F, Njeru A, Bellows B. Exploring the prevalence of disrespect and abuse during childbirth in Kenya. *PLoS One*. 2015;10(4): e0123606. <https://doi.org/10.1371/journal.pone.0123606>.

<sup>6</sup>See Economic Survey (2023). Available at Kenya National Bureau of Statistics

<sup>7</sup>MOH. Kenya Health Facility Census Report (September 2023)

## Call to Action

Ending obstetric violence requires more than awareness, it demands deliberate and coordinated action. This would take the form of the following steps that are actionable:

- **Development of a policy brief** – Stakeholder roundtable (the Ministry of Health, Parliament’s Health Committee, Member’s of Parliament, Civil Society Organizations and medical professional bodies) – Drafting of the Bill – Public hearings & Consultations – Public participation submissions.
- **Parliamentary Process:** First Reading- Second Reading- Committee Stage- Third Reading- Senate Consideration- Presidential Assent- Implementation by Ministry of Health and oversight by professional bodies and CSOs.

## Conclusion: Naming to End It

Obstetric violence is not just a health issue, it is a human rights issue. It undermines dignity, erodes trust in health systems, and perpetuates gender inequality. As part of ensuring patient safety, the law must do what the Constitution envisioned: ensure that every woman and girl enjoys the right to life, the highest attainable standard of health, dignity, and equality. Kenya has the chance to break the silence, name the injustice, and legislate against it, ensuring that every woman and girl experiences childbirth not as violence, but as the life-affirming moment it is meant to be. On this World Patient Safety Day, let us remember: what we fail to codify in law, we fail to end.

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