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The true pain of childbirth: obstetric violence in the Brazilian reality

The real pain of childbirth: obstetric violence in the Brazilian reality

Izabela Lacerda Silva

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SUMMARY
In several models of childbirth care in public services in Brazil, obstetric violence occurs. These procedures offend, humiliate, causing psychological and physical suffering for women. This scientific article will analyze the obstetric violence experienced by pregnant women. The results point to birth care practices marked by disrespect for women and their babies. In view of these cases, a real transformation of obstetric practices carried out by nurses and doctors in humanized birth care and the national regulatory entity is suggested, in order to intervene to inhibit and combat practices occurring against women.
Key words: Obstetric violence. Violence against women. Dignity of human person. Theory of legal good. Humanized service. Childbirth. Criminal Law.

ABSTRACT
In several health services and childbirth care models in Brazil, obstetric violence practices occur. These are procedures that offend and humiliate, inflicting psychological, physical suffering for women. This scientific articles to analyze the obstetric violence perceived by victims. The results proposed that delivery care practices, made by disrespect for women and yous babies; Suggests the transformation of nurses, obstetrical doctors in huanized birth care and the national regulatory authority, may intervene to inhibit and combat practices occurring against the women.
Keywords: Obstetric violence. woman violence. Dignity of human person. Criminal Legal Well. Labor. Care humanization. Childbirth.CriminalLaw.

1.INTRODUCTION

As we know, there are many cases of obstetric violence committed against women across the country. Hospital-Such, private and public clinics are responsible for the well-being of each parturient, but unfortunately, there are many times where these institutions and even professionals in the field overshadow these acts committed daily against women, unworthily affected in a physical, psychological and moral way. Thus, it misleads the true pain of childbirth: obstetric violence in the Brazilian reality.

What is being described and analyzed here is what is heard through the stories told by women across the country, stories that lead us to reflect on each act described in words and we can call it violence, a crime that affects the psychological character, physical, sexual, generating moral damage caused to women.

These are obstetric procedures carried out without any scientific proof, humiliating, unnecessary procedures that offend and force pregnant women to give birth, without taking into account the specificities of each organism, of each woman who arrives with her reality, her pain, her emotion.

Thus, that moment that should be unique in the life of a woman and her baby becomes a moment of pure frustration. Surprised by the climate of terror, the mother and her child end up scarred for life. The mother labeled “weak”, “exaggerated”, full of “manias”; the child is often physically injured, exposed to great health risks. And how many, when they do not face consequences, even lose their lives.

One has to question why so many doctors, nurses and health workers, equipped with all the technical and scientific knowledge, end up revealing themselves to be practicing the aforementioned violence.

It is necessary for the State to recognize such a relevant topic, worthy of awareness throughout society,

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in order to generate mobilization so that more women and babies are protected from suffering and obstetric violence. There must also be projection in public policies that ensure them of their rights and better treatment and obstetric monitoring that each parturient deserves.

In this work, studies will be presented regarding obstetric violence experienced by women on a daily basis in delivery rooms, clinical consultations, during and after pregnancy. These are acts of violence committed that must be recognized and those who commit them receive appropriate punishment, as well as so that women receive protection in their unique moment, which is motherhood.

> Violence is any practice, whether action or omission, that has the intention of discriminating, imposing, establishing differences and resulting in damage or death, causing physical, sexual, mental, financial problems, honor, among others. (PIOVESAN,2002apud PEREREIRA; PEREREIRA,2021)

Once acts of violence have been identified, it is necessary to resort to this in an attempt to inhibit and combat to have.

It is important to highlight that there are many consequences left on women: psychological, physical and moral, always aggravated by the lack of ethics and humanity of their attackers. The victim carries with them so much pain, which is often irreversible. Obstetric violence is understood as labor pain caused by third parties.

The aim of this work is to promote full attention to the topic in question, in order to elucidate the practices of violence committed in the area of obstetrics, focusing on reports published by groups of women who have already experienced motherhood.

This reflection will serve as an instrument for analyzing a social/legal vision by distinguishing principles of crime and defending women victims of conflicts caused by obstetric violence. As well as, evaluate the applicability of the Brazilian legal system in terms of granting penalties or correction to the damages caused to victims of obstetric violence and, according to the evaluation, identify and validate the human rights of women as pregnant women by guaranteeing greater protection for those in need of obstetric care;

To this end, reflect and take into account the responsibility of national and state regulatory entities that must favor the creation*tion and implementation of*public policies for the rights and protection of pregnant women victims of abuse caused by obstetric violence.

two.THEORETICAL REFERENCE

2.1 Maternity, humanized monitoring

When we analyze the event of motherhood within the historical context, it is possible to observe the trajectory of births seen as home rituals to mention: the presence of midwives or women who had already gone through the experience of giving birth, being a mother. In this scenario, there is a lot of tension; application of popular beliefs; poor accommodation for pregnant women, medicalization devoid of scientific foundations, lack of technological resources. In this reflection, studies by (Sanfelice, 2014) are cited, which tells us that in the period:

> Until the end of the 18th century, childbirth was a women's ritual, carried out in family homes under the supervision of midwives (Rattner, 2009; Pasche, Vilela, & Martins, 2010; Sanfelice, Abbud, Pregnolatto,Silva, & Shimo, 2014).
> At the end of the 19th century, a process of change began through attempts to control the biological event by obstetrics, which ceased to be the sphere of the feminine and began to be understood as a medical practice (Sanfelice et al., 2014).

In this conception, the maternity process begins to be influenced by the use of technologies capable of regulating and monitoring childbirth, skills attributed to the doctor, obstetric nurse and other professionals who make up the team participate in the process, in making decisions regarding the delivery route, without taking away the role of the mother/woman in the action, and must be treated within a humanized purpose.

Unfortunately, what is perceived nowadays are mistakes made by many health professionals, as they lack ethics and humanized service during childbirth and the work of these professionals is seen in the configuration of a modelarchaic, and ends up subjecting women/parturients to moments of pure terror (Diniz & Chacham, 2006; Leal et al., 2014; Pasche et al., 2010; Tornquist, 2002).

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> The Brazilian reality is characterized by an abuse of surgical interventions, which is often humiliating, in which there is a lack of information for women and even the denial of the right to a companion, which is considered disrespectful to women's reproductive and sexual rights, in addition to of a violation of human rights (Diniz & Chacham, 2006; Leal et al., 2014; Pasche et al., 2010; Tornquist, 2002).

It has become common to hear from women narratives of their stories and experiences of motherhood. Between one case and another, they narrate their pain, deep marks, scenes of discomfort, acts, judgments, insults. In these reports, the women themselves demonstrate awareness or are able to measure the severity of the violence suffered and in a**sharp**, the real pain of childbirth, experienced at the highest level of aggressiveness committed by the institutions and professionals that make up them**.**

According to the national women's health program since 1994, educational, preventive, diagnostic, treatment and recovery actions were included, including assistance to women in gynecological clinics, prenatal care, childbirth and the postpartum period, climacteric, family planning, STDs, cervical cancer uterus and breast, in addition to other needs identified based on the population profile of women (BRASIL, 1984).

In this sense, it is worthwhile for States and Municipalities to undertake network mobilization work to promote lessons, distribution of information cards, use of various media, TV, internet, etc. Women, once informed and aware of their rights, will be able to take a stand and thus avoid the naturalization of abuses committed by certain archaic procedures that trivialize the facts.

1.2**Precariousness of Obstetric Care**

Since the implementation of the Ambulatory Information System (AIH), there has been a trend towards an increase in the number of prenatal consultations, especially since 1997. In 1995, 1.2 prenatal consultations were registered for each birth carried out in the SUS. In December 2002, this ratio was 4.4 prenatal consultations for each birth (Tabnet SIA-Datasus and TabwinAIH-Datasus, 2003).

Despite the increase in the number of prenatal consultations, the quality of this assistance is poor. This may indicate that teams of health professionals do not always have sufficient information and awareness of the importance of postpartum consultations.

According to research (Leal et al., 2014), carried out between 2011 and 2012,suggeststo analyze the hospital base in different regions of Brazil and obstetric interventions performed on postpartum women and newborns. The survey numbersrevealthat of 23,940 women, 56.8% were referred for surgical intervention procedures through the diagnosis of their health conditions for cases of usual obstetric risk. In 45.5% of these women, a cesarean section was indicated and 54.5% for a vaginal birth, only 5.6% had a natural birth without any intervention (Leal et al., 2014).

The research also revealed that in relation to labor, venipuncture was performed in 70% of women; oxytocin (rupture of the membrane surrounding the fetus) to accelerate labor by 40%; the spinal epidural analgesia procedure in 30% of them. Lithotomy interventions (lying position with face up and knees flexed) were used in 92% of parturients.

The Kristeller maneuver procedure (characterized by applying pressure to the upper part of the uterus) applied in 37%; episiotomy (cutting in the perineum region) occurred in 56% of cases. The numbers presented can be said to be excessive and worrying, according to the research analysis (Leal et al., 2014) and are incapable of scientific support.

In many of these procedures carried out, imprudence can be proven.committed by the doctor or obstetric nurse who at least informs the patient of the type of birth she will undergo and is often hasty, this professional is characterized as reckless and negligent. Highlights Regina Beatriz Tavares da Silva explains:

> Negligence is fault of omission, as opposed to diligence or careful action. It is inattention, distraction, indolence, inertia, passivity. Thus, in the area of health, we can define it as the omission of behaviors recommended by medical practice and science. (...) Recklessness is the opposite of forethought. It is levity, thoughtlessness, haste, precipitation. In the health area we can define it as the use of procedures not recommended by medical practice and science. (...) Malpractice is the opposite of expertise. It's unpreparedness or lack of skill. In the health sector, it can be defined as a lack of technical knowledge. [...] (SILVA, 2007, p. 26-28).

As guilt is highlighted, it is worth highlighting art. 14 of the Consumer Protection Code - Law 8078/90:

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> Art. 14 - The service supplier is responsible, regardless of the existence of fault, for repairing damages caused to consumers due to defects relating to the provision of services, as well as for insufficient or inadequate information about their enjoyment and risks.

According to what was mentioned in the article, the supplier is responsible whether there is fault or not.In light of the Law, Nascimento et al. (2014, p. 116) understand obstetric violence as:

> Harmful interventions to both the physical and psychological integrity of women in institutions and by professionals by whom they are cared for, as well as disrespect for their autonomy. These interventions, routinely practiced at the time of birth, are considered, according to the standards of the World Health Organization (WHO), risk factors for both the woman and the baby. Thus, obstetric violence implies violations of human rights, such as the right to bodily integrity, autonomy,
> non-discrimination, health and guaranteeing the right to the benefits of scientific and technological progress.

Childbirth is considered a unique, very significant and important moment for women. This cannot be another moment of isolation. Therefore, making the right to have a companion of your choice during hospitalization is what Law no. 11,108 of April 7, 2005.

> Art. 19-J. The health services of the Unified Health System - SUS, whether part of its own or partnered network, are obliged to allow the presence, with the parturient woman, of 1 (one) companion during the entire period of labor, birth and immediate postpartum .

It is noted that both political authorities and health professionals must raise awareness for a greater effort and to combat aggressiveness and obstetric violence, historically understood as normal, and many women cry in silence, repressed and afraid of hearing expressions coming from the aggressors such as : freshness, exaggeration, woman's softness.

Much needs to be done to implement standards and combat obstetric violence against women. res.

2.3 Obstetric violence and criminal law

It is necessary to specify combat standards and penalties for obstetric violence in Brazilian legislation. And, terms of liability this can occur in the civil or criminal sphere.

> In the civil sphere, there is the institute of civil liability, formalized by art. 5th items V and Here, any person, natural or legal and in any situation, has the obligation to be responsible for the effects of a harmful act, fact, or business (BRASIL, 1988).

Based on art. 186 of the civil code, it is understood that health professionals who committed an act of obstetric violence configured as a “medical error” can be held responsible and civilly penalized for the damages caused to the victims, proven authorship of the damage, the author is obliged to pay compensation to the victim.

> It is important to point out that any procedure that is not properly informed to the pregnant woman and subsequently authorized, if there are complications and damages, the responsible doctor will be liable for the crime of bodily harm. These cases also include the practice of abuse in an intervention, which falls under the crime of illegal constraint (MORAES, 2020).

Regarding this situation, the following case law should be highlighted:

> CRIMINAL APPEAL. MANSLAUGHTER. NORMAL BIRTH WITH EPISIOTOMY. ART. 121, § 3, DO CP. MAJOR INCIDENCE OF § 4 OF THE SAME LEGAL PROVISION. IT'S A Pity IT DOESN'T DESERVE RESIZING. It was demonstrated that the defendant acted with negligence, imprudence and malpractice, and that this conduct led to the patient's death, as, after giving birth with an episiotomy, he failed to perform a rectal revision procedure, which allowed the fecal content to communicate with the canal. vaginal, culminating in generalized infection, which resulted in the death of the victim [...]. (Crime Appeal No. 70053392767, Second Criminal Chamber, RS Court of Justice, Rapporteur: Lizete Andreis Sebben, Judged on: 11/14/2013).

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From the judgment above, it can be seen that the health professional, after carrying out the birth route via episiotomy, was absent, failed to complete the due care and did not efficiently monitorthe patientwhich caused greater damage to her health, causing widespread infection, leading to the death of the parturient woman. The doctor's recklessness led to his conviction for the crime of manslaughter.

In view of the reflections on the topic exposed here, it suggests extreme urgency in the elaboration and legalization of specific standards that combat obstetric violence directly and that promote safety and protection for women at all stages of motherhood who are victims of abuse in obstetrics.

3. MATERIALS AND METHODS

This work is based on bibliographical research, using the exploratory-description method.
tive, reading laws, traditional manuals, various articles, documentaries, publications on blogs and websites.

It all started from spontaneous conversations between well-known women who talked about their experiences during their pregnancies.

Each report led to reflection and decision-making in the preparation of this work, a subject so urgent and necessary in raising awareness among other sectors of society to embrace the cause in question and combat yet another type of violence suffered by women, obstetric violence.

4.RESULTS AND DISCUSSION

However, the mobilization of health professionals, an urgent change in their actions, as well as the Judiciary, public prosecutors, politicians in general for promoting public policies and the entire society for denouncing and combating this type of violence.

> As an alternative to this change, it is necessary to develop public policies that ensure the reduction of social inequalities, the appreciation of health workers, the use of good practices in labor and birth, based on scientific evidence, and the distribution of services and equipment health services that are articulated in a network and understand the subjects comprehensively (Gomes, 2014).

It is also essential to understand obstetric violence, its roots and which practices considered as violence exist in health systems regarding the care of pregnant women and women in labor.

By the senate committee, studies were carried out based on State Law 17,097, of January 17, 2017, of the state of Santa Catarina, which provides for protection measures for pregnant women and women in labor and, at the federal level, Law No. 8,080, of September 19, 1990 – the SUS (Unified Health System) Law, and establishes the right to the presence of a companion during the birth process, to make the moment of care for pregnant or parturient patients more relaxed so that they feel protected and safe during their care in the hospital environment.

In the legal text of § 1 of Federal Law No. 11,108, of April 7, 2005, it is emphasized that: the companion will be indicated by the patient. Therefore, if the companion notices any disrespect coming from health professionals or the team installed to care for the woman in labor, she can make a complaint to the hospital management. However, the right to complain is registered as per the following ordinance:

> *Regulates, in accordance with art. 1st of Law No. 11,108, of April 7, 2005, the presence of a companion for women in labor, birth and immediate postpartum in public hospitals and those affiliated with the Unified Health System - SUS*. (Ordinance No. 2418 of the Ministry of Health, 2005)

Therefore, in addition to this routine situation in hospital and clinical environments, many others can be pointed out so that specific regulations can be created, such as: treating the pregnant or parturient woman well, consulting the patient and/or family members to make decisions regarding delivery routes; maintain empathy for your gestational status; avoid mockery or mockery of natural, physiological and emotional behaviors at the time of giving birth; listen to the complaints of women in labor; promote an environment suitable for caring for pregnant women; allow the pregnant woman to be accompanied by someone of her choice throughout labor; avoid painful, unnecessary or humiliating procedures; explain

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in clear and simple words what will be offered or recommended to the patient at the time of birth; offer care to the baby and subject it to injections or procedures in the first hour of life, with the primary need to place it in contact with the mother, including guidance and motivation for breastfeeding; favor necessary accommodation after labor.

5. FINAL CONSIDERATIONS

For centuries, women have fought for dignity and to assert their rights. In the most diverse environments of society, the female gender is subjugated, concepts and values that disqualify women and make them ridiculed, questioned, including whether or not they have a "standard" body, among other stigmas.

There are several forms of violence, configured in many nuances, pressuring, coercing the woman, or the patient, such as the pain of vaginal birth, suffering and painful considered as naturalized pain and the woman in labor subjected to unnecessary procedures. These are eternal scars caused to women and this can often influence their relationship with their children, their self-esteem and sexual life.

Not to mention that the options for carrying out the birth often come from medical conveniences, applicable to interns, residents and each person, exploring their hypotheses; performing touches; episiotomy inductions (a method used to enlarge the vaginal opening during labor) in an attempt to speed up the process; the dreaded forceps; women are prevented from being with their newborn children after giving birth, among other events.

In relation to natural childbirth, women in labor often, soon after giving birth, are ignored by the teams who leave them without assistance and they, alone, especially mothers who have their first child, live without any guidance and support, like the example of moment of the first lactation and care for the baby.

It is essential to combat this violence and to seek guarantees of constitutional rights for each female citizen. They are as human beings, unique, contemplated by nature and pregnancy situation, exposed to motherhood, worthy of their experiences with childbirth.

It is considered, therefore, that the fight against obstetric violence is the repression of the violation of the protected legal good, in these cases, such as the physical and psychological integrity of the pregnant or parturient woman, as well as her babies, in addition to the health and well-being of both of them as human beings, and must be treated with dignity.

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