

Brazilian Institute of Maternity Law

Porto Alegre, Rio Grande do Sul, Brazil.

**UNITED NATIONS HUMAN RIGHTS - OFFICE OF THE HIGH COMISSIONER**

The Brazilian Institute of Maternity Law is a non-governmental organization formed by members of the Academia from several universities in south of Brazil. It aims to research about the intersections between law and maternity in several fields such as obstetric violence, breastfeeding laws, employment laws regarding mothers, etc.

According to the research of the Institute, regarding the Special Rapporteur on violence against women, we are able to answer the questions with the following answers:

**1 - Please indicate whether in your country there are cases of mistreatment and violence against women during reproductive health care, particularly facility-based childbirth. If so, please specify what kind of cases and describe your country’s response and any good practices, including protection of human rights**.

It is estimated that 1 in 4 women in Brazil has suffered obstetric violence[[1]](#footnote-1). The mistreatment and violence are not only physical but also verbal and psychological.

->**Physical violence**: Unnecessary and violent practices and interventions without the consent of woman. These include the use synthetic oxytocin, deprivation of fluid and food intake, excess of internal tests, artificial rupture of the water, pubic hair shaving, imposition of a position of delivery that is not chosen by the woman, episiotomy without a prescription, "husband's point" (medical team seam woman´s vagina after delivery in order to make it “tighter” for the husband), use of forceps without clinical indication, immobilization of arms or legs , Kristeller's maneuver, etc.

C-section can also be considered a practice of obstetric violence, when used without medical prescription and without the consent of the woman. According to the World Health Organization (WHO), Brazil is the country with the second highest percentage of deliveries by caesarean section in the world: the Brazilian reality indicates that 55.6% of the deliveries are performed via caesarean. The percentage is even higher in private medicine, in which 85.5% of deliveries are made from caesarean section, according to data from the National Supplemental Health Agency.

->**Verbal and psychological violence**: The medical team acts in a way that that causes feelings of inferiority, vulnerability, abandonment, insecurity, such as threats, lies, jokes, humiliation and insults.

**2 - Describe your country’s response and any good practices, including protection of human rights**

Recently (2015) the Brazilian Ministry of Health has determined that both the Brazilian public health system and the private health system implement the use of a delivery schedule, in which the medical team has the obligation to record the evolution of the birth of the child , eventual contingencies and indication of caesarean sections. The measure was an initiative to reduce the number of unnecessary caesareans in the country, as well as an attempt to record the events and intercurrences of the childbirth.

There are also specific laws that allow the woman in labour to have a companion throughout labour and during her stay in hospital.

**3 - Please specify if full and informed consent is administered for any type of reproductive health care and if these include childbirth care;**

Women in labour are required to sign a document, particularly in the private health care system, but not always in the public health care system, in which they declare that they know and accept the use of forceps and episiotomy. Also, in the case of caesarean sections, they are informed and consent that a caesarean section is an option, to be carried out at the woman's request or by medical indication.

It is important to point out that the woman, at the time of childbirth, is in a moment of situational vulnerability. The term of informed consent is regularly signed, without greater objection of the woman, due to the peculiar vulnerable moment that she is experiencing.

**4 - Please specify whether there are accountability mechanisms in place within the health facilities to ensure redress for victims of mistreatment and violence, including filing complaints, financial compensation, acknowledgement of wrongdoing and guarantees of non-repetition. Please indicate whether the ombudsperson is mandated to address such human rights violations**;

The reparation of the victims of obstetric violence in Brazil is very small. According to research conducted by IBDMater, analysing decisions from Brazilian Judiciary, the reparations are generally only financial, and occur in cases of intellectual or physical injury to the mother or child during childbirth. Obstetric violence itself is not analysed, and only effectively proven damages in mother or child due to childbirth are repaired.

**5 - Does your health systems have policies that guide health responses to VAW and are these in line with WHO guidelines and standards on this issue**.

In the last five years, there have been some advances in legislation and recommendations of the Ministry of Health in Brazil, in order to highlight obstetric violence in Brazil and also to mitigate it. However, in May 2019, under the policy of a new President, the Ministry of Health[[2]](#footnote-2) has issued a recommendation that the term obstetric violence should be no longer used in academia, civil society organizations and the Ministry itself.

According to the statement, the expression "obstetric violence" is inadequate, since in any cases of violence during childbirth, there would be no intention of the health professional to harm the woman or the child and therefore, the expression “obstetric violence” will be no longer used by the Ministry of Health and should also no longer utilized in society.

Several organizations have repudiated the statement by the Ministry of Health, such as the Brazilian Bar Association, Federal Prosecution Service, members of the Academy, medical organizations that advocate the humanization of birth, as well as various organizations that work with women and Human Rights.

 Brazil has one of the highest rates of elective caesareans in the world. Births are controlled according to the schedules of the medical staff. In Brazil it is not the child who chooses the time to be born. In most cases, it is the medical staff. For various reasons, which may be pointed out on other occasions, women are led to believe that a c-section is a better option than a natural birth. However, regardless of the type of birth, it is estimated that 25% of women suffered some form of obstetric violence in Brazil. Unfortunately, with the new Brazilian President and his intention to ban the expression "obstetric violence" it is feared that the few advances that have been made in reducing violence against women during childbirth will disappear or even regress.

**Brazilian Institute of Maternity Law**

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1. Data from the research: Gender and Brazilian Women. Available at: <https://apublica.org/wp-content/uploads/2013/03/www.fpa_.org_.br_sites_default_files_pesquisaintegra.pdf> [↑](#footnote-ref-1)
2. In January of 2019 the political mandate of the current President Jair Bolsonaro began. President Bolsonaro is self-declared far right and critical of public policies and legislation that could give women greater autonomy and power. [↑](#footnote-ref-2)