

# **LEGAL NORMS DEFINING THE RIGHTS ON RESPECTFUL MATERNITY CARE**

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## **INTRODUCTION**

Respect and care are vital to quality healthcare. These are of great importance during pregnancy, childbirth and the postpartum period. Usually, both in Armenia and around the world, quantitative data related to physical health are considered indicators of "protected maternity" in official bulletins: birth rate, number of live births, maternal and child mortality, etc.

Meanwhile, it is substantial that the indicators of "protected maternity" also include data on protecting fundamental human rights: respect for a woman's personality, dignity, feelings, choices, preferences, etc.

When women's rights are not respected, we deal with cases of obstetric violence or aggression. Obstetric violence is violence against a woman at all stages of childbirth: pregnancy, delivery, and the postpartum period. This violence can have serious physical consequences for the life and health of the woman and the newborn and cause psychological trauma for the woman and her family members.

In the Armenian public discourse (in the media and on various public platforms), "obstetric violence" and "respectful maternity care" are entirely new terms. Despite this, there are a number of legal regulations aimed at protecting maternity in Armenian legislation, as well as in international documents ratified by Armenia.

In this research, we looked at legal norms defining women's rights during pregnancy, childbirth and the postpartum period - ensuring respectful maternity care and preventing obstetric violence.

## **BACKGROUND AND SIGNIFICANCE OF THE TOPIC**

In Armenia, most women give birth in medical facilities. According to the Ministry of Health data, during 2019-2021, the percentage of births in facilities providing maternity care was 99.9%, and 0.03% outside facilities providing maternity care. Moreover, it is noted that after the birth outside the medical institution, all the women who gave birth were transferred to the appropriate institutions (Sloyan, 2023; p.107).

Although births mainly take place in medical institutions, women's experience is different, related to the medical institution where they were served, what qualified specialist was next to them, what resources and opportunities the medical institution had, etc. By the way, qualified specialist means doctor, nurse/midwife, and paramedic. At the same time, it is noted that no data is collected on what percentage of births are attended by obstetricians-gynaecologists and what percentage by midwives and other specialists because both the doctor and the midwife are considered qualified specialists (Sloyan, 2023; p.108).

Although there are paid services, maternity care in Armenia is considered free, and health services are available to all women. Thus, according to 2016 data, 99.6% of women received prenatal care and care from a qualified professional, and 92.4% had a postpartum check-up within two days of giving birth (Statistical Committee, 2016).

Since the prenatal stage, health care and supervision are mainly provided by gynecologists, nurses, midwives. Of course, other specialists can also be engaged with the woman and the newborn, carrying out mandatory and as-needed examinations and interventions.

With the consent of the woman, in addition to the medical staff members, a third person can be present during consultations and even during childbirth: the husband, a doula or a relative. By the way, relatively new specialists have started to work in Armenia, for whose services the state does not pay - pregnant women's fitness specialists, doulas, and breastfeeding consultants.

As we can see, the official indicators related to maternity care are mainly related to physical health. There is no research data on mental health and rights protection in the state or non-state sources. At the same time, in the state strategic plans and visions, although there are mentions of reducing maternal and child mortality rates, promoting birth rate growth, and planning towards quantitative indicators, there is no consideration of obstetric violence or ensuring mental health.

Information and publications on obstetric violence are scarce on Armenian public platforms. The issue does not have enough resonance to force changes from cultivating relevant statistics and adopting policies to implementation in practice.

## **RESEARCH QUESTION**

\*Do Armenian legal norms (including international legal documents ratified/signed by Armenia) define the rights underlying respectful maternity care?

## **POTENTIAL LIMITATION/ DELIMITATION**

The number of words is a serious limitation while researching a rather complex and multi-layered issue. This implies shortening the text as much as possible while at the same time presenting the problem as clearly and thoroughly as possible.

Another limitation concerns the integrity of the sources. Although we tried to observe the maximum diversity of sources and include essential and complete information, this research may be limited to finding and analysing all possible relevant information.

## **THEORETICAL FRAMEWORK AND LITERATURE REVIEW**

As the title of this study suggests the theoretical framework concerns the rights/legal norms of ensuring respectful maternity care. For that, the study considered these 2 theoretical frameworks - what is obstetric violence/aggression (rights violations), its causes and consequences, and what is respectful maternity (definition of rights). Hence, in the literature review, we examine the above-mentioned essential parts - obstetric violence and respectful maternity.

### ***Obstetric Violence/Aggression***

According to the WHO, obstetric violence (or aggression) is carried out against a woman during pregnancy, childbirth, and postpartum. It is manifested by acts such as “outright physical abuse, profound humiliation and verbal abuse, coercive or unconsented medical procedures (including sterilisation), lack of confidentiality, failure to get fully informed consent, refusal to give pain medication, gross violations of privacy, refusal of admission to health facilities and providing medical care due to an inability to pay (2015).”

As can be seen, the forms of manifestation of obstetric violence are multi-layered and unlimited: physical, psychological, economic, etc.

Physical violence is considered not only, for example, slapping a woman, but also the use of unnecessary medical methods and the prescription of medication, interventions in the ordinary course of childbirth (for example, rupture of the amniotic sac, artificial stimulation of birth), not allowing the woman to be in a comfortable position during delivery, etc.

To avoid this form of obstetric violence, the WHO has several recommendations for refusing interventions such as episiotomy, Kristeller's method (compression of the woman's abdomen to stimulate the birth of the child), rupture of the amniotic membrane, as well as limit the use of oxytocin, maintain the number of cesarean sections indicated by the WHO (10-15% of total births), etc. (WHO, 2018). In Armenia, there is no official statistical data on the number of episiotomies, Kristeller's method, and other interventions, and the number of cesarean sections reaches about 40% (Karapetyan, 2022).

Psychological violence is when a woman is subjected to humiliating, disrespectful, and discriminatory treatment, such as insulting, sexist remarks being made to the woman or refusing to provide proper medical care because of her beliefs, etc.

In the literature on obstetric violence, the right to give informed consent is given a special place. Women have the right to complete information about treatment to make informed decisions. The International Federation of Gynecology and Obstetrics considers obtaining informed consent an obligation for healthcare professionals, although it can be difficult and time-consuming (UN General Assembly, 2019; Article 32).

The visible layer of the consequences of obstetric violence is perhaps the cases when there is a tragic end: death of the mother or newborn or damage to their health; based on these cases, criminal cases can be initiated. However, there are also cases when the mother and newborn are alive and have no apparent health problems, but there are other consequences.

According to Taghizadeh and others, some studies show that women's negative experiences in obstetric care can lead to postpartum psychological problems, including postpartum depression, post-traumatic stress disorder, deep feelings of guilt and sadness, and feelings of helplessness. In the long-term, the desire for pregnancy decreases, while the tendency to cesarean section, negative feelings, thoughts about the baby, and breastfeeding problems increase (2021).

Annborn and others state that women's fear of childbirth increases if they are exposed to 'obstetric violence', which can have severe consequences for the woman's mental well-being and bonding to the child (2021).

Research on the causes of obstetric violence shows that they are based on systemic problems and the human factor. Bohren and others state that women's feelings of vulnerability during childbirth can be exacerbated by a lack of resources in healthcare, staff whose behaviour is inappropriate, a lack of policies, and poor infrastructure in the form of understaffing and lack of equipment (2015). According to Annborn and others, the reasons for the negative experience are mainly the unprofessional approaches of the medical staff and insufficient or bad communication with the patient (2021).

Doctors Zoe Bradfield and Alyce Wilson offer solutions for providing violence-free and respectful maternity care. The first solution is the awareness of healthcare workers and a critical approach to their work and changing their practices. The other solution option is systemic changes (2020).

“Providing respectful, woman-centred maternity care is quite literally the way to change the world. ... When we improve outcomes and quality of care for mothers, we improve the health of families, communities, society and our world – one woman at a time,” state Bradfield and Wilson (2020).

### ***Respectful Maternity***

According to WHO, respectful maternity care refers to care organised for and provided to all women in a manner that maintains their dignity, privacy and confidentiality, ensures freedom from harm and mistreatment, and enables informed choice and continuous support during labour and childbirth. This type of care is recommended by WHO (2018-2).

In 2013, the White Ribbon Alliance published the Advocacy Guide for Respectful Maternal Care, in which, based on the world's experience and issues raised, seven rights were identified, the protection of which is a direct priority and is the basis of respectful maternity. (Windau-Melmer, 2013). The 7 rights are:

1. Freedom from harm and ill-treatment,
2. Right to information, informed consent and refusal and respect for choices and preferences including companionship during maternity care,
3. Confidentiality and privacy,
4. Dignity, respect,
5. Equality, freedom from discrimination, equitable care,

6. Right to timely healthcare and to the highest attainable level of health,
7. Liberty, autonomy, self-determination and freedom from coercion.

## **METHODOLOGY**

It is planned to conduct qualitative desk research within the framework of which the information published in Armenian and international open sources (scientific and media articles and other materials, official websites of state agencies and CSOs, etc.) are collected and studied. When collecting information, the reliability of their sources was taken into account. Priority was given to official and scientific sources. The collected information was analysed based on the theoretical framework and literature review.

## **ANALYSIS**

As can be seen, the cases of obstetric violence are about the violations of the rights of female patients. It is specifically about the 7 rights identified as “The universal rights of childbearing women” by the White Ribbon Alliance (Windau-Melmer, 2013). Till now, these seven rights are mentioned in international organisations and professional literature as the basis of respectful maternity. Therefore, we have considered the legislative regulations regarding the following seven rights.

### **➤ Freedom from harm and ill-treatment**

No one should subject a woman and her newborn to physical violence. All physical contact should be as gentle as possible and in the woman's and child's best interest. However, the experience of the world shows that there are cases of slapping, unnecessary episiotomy, and sewing of cuts and tears without anaesthesia, etc. Below, the norms confirming the right of freedom from harm and ill-treatment are presented:

- “...violence against women means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”
  - UN Declaration on the Elimination of Violence against Women, Article 1 (1993), not signed by Armenia

Although Armenia has not ratified this declaration, references are made to this document in scientific and legal documents.

- “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. ”
  - UN International Covenant on Civil and Political Rights, Article 7 (1966), ratified by Armenia in 1993
  
- “No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”
  - European Convention on Human Rights, Article 3 (1950), ratified by Armenia in 2002
  
- Everyone shall have the right to physical and mental integrity (Article 25). No one may be subjected to torture, inhuman or degrading treatment or punishment (Article 26).
  - Constitution of Armenia (2015)
  
- Everyone has the right to be protected from all forms of oppression, including sexual exploitation and abuse, forced pregnancy, abortion, sterilisation, and other reproductive rights violations.
  - Law on Human Reproductive Health and Reproductive Rights of Armenia, Article 4 (2002)

➤ Right to information, informed consent and refusal and respect for choices and preferences including companionship during maternity care

No one should force a woman or do anything to her without her knowledge and consent. The purpose of interventions should be explained to all patients so that they understand it and give their consent or refuse (informed consent). However, the world data shows that there are still cases when health workers do not adequately inform about the purpose and consequences of the intervention and do not ask for the woman's consent, even for surgical interventions like caesarean section, episiotomy, sterilisation, etc. Below, the norms confirming this right are presented:

- “Any preventive, diagnostic and therapeutic medical intervention is only to be carried out with the prior, free and informed consent of the person concerned, based on adequate



information. The consent should, where appropriate, be express and may be withdrawn by the person concerned at any time and for any reason without disadvantage or prejudice.”

- UNESCO Universal Declaration on Bioethics and Human Rights, Article 6 (2005), not signed or ratified by Armenia
  
- “No one shall be subjected without his free consent to medical or scientific experimentation.”
  - UN International Covenant on Civil and Political Rights, Article 7 (1966), ratified by Armenia in 1993
  
- “An intervention in the health field may only be carried out after the person concerned has given free and informed consent to it. This person shall beforehand be given appropriate information as to the purpose and nature of the intervention as well as on its consequences and risks. The person concerned may freely withdraw consent at any time.”
  - Convention on Human Rights and Biomedicine (Oviedo Convention), Article 5 (1997), not signed by Armenia

Although the Oviedo Convention was not signed by Armenia, we can state that it is accepted by the Ministry of Health. [An entire section](#) of exam questions for crediting Armenian medical workers is dedicated to the provisions of the Oviedo Convention.

- “Any medical intervention is performed with the woman's consent during pregnancy. A woman has the right to refuse medical intervention or to demand its interruption. Without the consent of the pregnant woman, by the decision of the medical commission, in case of its impossibility, by the decision of the doctor, it is allowed to carry out the medical intervention in cases of danger to the life of the pregnant woman, as well as in cases of diseases posing a threat to the environment...”
  - Law on Human Reproductive Health and Reproductive Rights of Armenia, Article 6 (2002)
  
- "A person's consent is a necessary condition for medical intervention, except for the cases provided by this law. The consent can also be in writing at the request of the healer or the patient."
  - Law on Medical Care and Services of the Population of Armenia, Article 8 (1996)

## ➤Confidentiality and privacy

No one have the right to reveal or publish a woman's personal data. This implies that healthcare workers must maintain the principle of privacy during consultations, examinations, and other clinical activities while at the same time maintaining the confidentiality of the patient's personal data. Violations of this right manifest when third parties are present during childbirth without the woman's consent, there are no separations with curtains when serving different patients, etc. Below, the norms confirming this right are presented:

- “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”
  - UN International Covenant on Civil and Political Rights, Article 17 (1966), ratified by Armenia in 1993
  
- “Everyone has the right to respect for his private and family life, his home and his correspondence.”
  - European Convention on Human Rights, Article 8 (1950), ratified by Armenia in 2002
  
- Everyone has the right to receive medical consultation and services on sexual and reproductive health issues in privacy and confidentiality.
  - Law on Human Reproductive Health and Reproductive Rights of Armenia, Article 4 (2002)
  
- Everyone has the right to request ensuring the confidentiality of information, the fact of seeking help from a doctor, about their state of health, examinations, diagnosis and treatment.
  - Law on Medical Care and Services of the Population of Armenia, Article 5 (1996)

Moreover, according to Article 205 of the Criminal Code (2021), in case of revealing a medical secret, the punishment can be up to five years in prison.

## ➤Dignity and respect

No one has the right to humiliate or verbally abuse someone. Healthcare workers must ensure patients feel comfortable and receive respectful and dignified treatment during medical consultations, examinations, and other activities. The patient should be encouraged to freely express their opinion, even if it differs from the health worker's opinion, fears, concerns, as well as the opinion about the quality of the service.

- “No one shall be subjected ... to unlawful attacks on his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”
  - UN International Covenant on Civil and Political Rights, Article 17 (1966), ratified by Armenia in 1993
- “The human being shall be the highest value in the Republic of Armenia. The inalienable dignity of the human being shall constitute the integral basis of his or her rights and freedoms. The respect for and protection of the basic rights and freedoms of the human being and the citizen shall be the duty of the public power. The public power shall be restricted by the basic rights and freedoms of the human being and the citizen as a directly applicable law.” Article 3

“Human dignity is inviolable.” Article 23

“Everyone shall have the right to inviolability of his or her private and family life, honour and good reputation.” Article 31

- Constitution of Armenia (2015)

Article 5 of the Law on Medical Care and Services of the Population of Armenia stipulates: "When applying for medical assistance, as well as receiving medical assistance and services, everyone has the right to be treated with respect by those providing medical assistance and services." According to articles 19 and 19.3 of the same law, medical workers must show a caring and respectful attitude towards the patient (1996).

Moreover, the obligation to treat the patient with respect is defined by the rules of professional ethics, which was approved by the 182-N decision of the Government (2022).

### ➤ Equality, freedom from discrimination, equitable care

All women are equal and should be treated respectfully, regardless of ethnicity, culture, social and educational level, etc. In practice, the reason for discrimination can be women's poverty and social insecurity, having certain diseases, etc. Non-discrimination is enshrined in many international documents. However, it is fundamentally essential to refer to several provisions of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1981), which was ratified by Armenia in 1993.

CEDAW Article 1 prohibits discrimination, exclusion, or limitation based on sex. Article 12 of the Convention states: «1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. ... States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.» Article 14 emphasises providing access to the aforementioned services for women living in rural areas.

Prohibiting all types of discrimination (also based on sex) against people is also defined by Article 29 of the RA Constitution.

Also, since 2013, the Law on Ensuring Equal Opportunities for Women and Men has been in force in Armenia, which defines the exclusion of all gender-based discrimination.

### ➤ Right to timely healthcare and to the highest attainable level of health

Often, women are left alone in maternity wards instead of receiving caring and attentive service. Meanwhile, the women in labor should not only be at the center of attention of the medical staff and receive help as-needed time, but also should have the opportunity to have an escort: the husband, another family member, a doula, etc.

- “The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”

- UN International Covenant on Economic, Social and Cultural Rights, Article 12 (1966), ratified by Armenia in 1993
- “Parties, taking into account health needs and available resources, shall take appropriate measures with a view to providing, within their jurisdiction, equitable access to health care of appropriate quality.”
  - Convention on Human Rights and Biomedicine (Oviedo Convention), Article 3 (1997), not signed or ratified by Armenia

According to Article 86 of the Constitution of Armenia, the main objectives of state policy are implementing programmes for the population’s health care and improvement, and creating conditions for effective and affordable medical services.

In addition, according to the order of the Minister of Health (2020), one person is allowed in the antenatal and maternity rooms to provide psychological support. Hence, with women's consent, a third person - such as the spouse, doula, or other relative - can be present at the consultation and even during the birth.

➤ Liberty, autonomy, self-determination and freedom from coercion

World experience shows that there are cases when a woman or an infant was not discharged from the hospital or was threatened with not being discharged because of non-fulfilment of their conditions (not paying enough money, not feeding the infant with formula, etc.). Meanwhile, such behaviour is illegal.

- “Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”
  - UN International Covenant on Civil and Political Rights, Article 9 (1966), ratified by Armenia in 1993

Article 5 of the European Convention on Human Rights and Fundamental Freedoms and Article 27 of the Constitution of Armenia state that everyone has the right to freedom and personal integrity, and no one can be deprived of their freedom in any other way than in accordance with the law.

As can be seen, there are sufficient legal norms and regulations in the international and Armenian legislative fields that protect women's rights in the sensitive period of maternity. Violations of all these rights, depending on the nature of the act, may result in criminal proceedings and/or civil lawsuits being brought to court. Therefore, the offender may be criminally liable and/or pay damages. However, it should be mentioned that there is no research and data on how all these rights are protected in practice.

Another important observation is that Armenian legal regulations (also in the case of international documents ratified by Armenia) refer to all people or all patients, and generally, there is no gender-sensitive approach, while the target of obstetric violence is women. At the same time, some regulations do not refer to all periods of early motherhood (pregnancy, childbirth and postnatal). For example, Article 6 of the Law on Human Reproductive Health and Reproductive Rights of Armenia states that “any medical intervention is performed with the woman's consent during pregnancy...”. There is no note about childbirth and postpartum periods.

## **DISCUSSION**

As can be seen, obstetric violence and respectful maternity care are directly related phenomena. When healthcare workers follow legal regulations and professional ethics, they can ensure respectful maternity care, and cases of obstetric violence can be minimised.

Of course, for healthcare professionals to follow and fulfil the requirements of the legislation, several conditions must be ensured: professional competence and awareness of their rights and responsibilities, availability of appropriate medical equipment and other necessary items, decent treatment to medical workers (for example a decent salary, a not heavy workload that can lead to stress and overfatigue), etc.

In our opinion, it is not correct to consider only (or mainly) women's rights as the basis of respectful maternity care. There are situations when it becomes difficult or almost impossible for healthcare workers to follow legal norms or ethical rules. For example, when the doctor is overloaded, stress and fatigue can trigger verbal abuse, disrespect, or professional mistakes.

In other words, in this case, talking about providing respectful maternity care in practice, should be discussed not only the rights of women patients but also the working conditions and rights of healthcare workers. This should become the subject of further research.

## CONCLUSION

The results of our research show that international and Armenian legislation (also international legal documents, ratified by Armenia) has sufficient regulations regarding the fundamental rights underlying the provision of respectful maternity care. Violations of these rights, depending on the nature and degree of the breach, can cause criminal proceedings and/or civil lawsuits. Hence, the offender may be criminally sanctioned and/or pay damage compensations.

However, it should be noted that the observed legal regulations mainly refer to the rights of all people or all patients, and there are no gender-sensitive approaches. Moreover, some regulations do not refer to all periods of early motherhood (pregnancy, childbirth and postnatal). For example, according to the Law on Human Reproductive Health and Reproductive Rights, the right to give informed consent is "applicable" only during pregnancy, and there is no mention of childbirth and the postpartum period.

Our findings highlight that, although there are sufficient legislative regulations, their wording does not emphasise the importance of respectful maternity care. There should be clarifications at the legislative level regarding the rights of childbearing women. The findings of the study, considering the limitations, may be useful for other researchers.

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\*All mentioned online links were available on 19.07.2023.