

The Obstetric Violence Observatory in Portugal (OVO PT) hereby urges the members of GREVIO to recognize Obstetric Violence as a form of violence against women that deserves protection under the Istanbul Convention.

1. Obstetric Violence Observatory in Portugal

OVO PT emerged as a civic movement on November 6th 2021, in protest against an opinion issued by the College of the Specialty of Gynecology and Obstetrics of *Ordem dos Médicos* (the representative body of doctors in Portugal) which denied the existence of Obstetric Violence in the country. This opinion, in turn, was a reaction to Bill No. 912/XIV/2°, which aimed to strengthen the protection of women during pregnancy and childbirth, specifically through the criminalization of Obstetric Violence.

On 25th January 2022, the OVO PT was established as a non-profit association. Collaborates with the Latin American network of Observatories of Obstetric Violence and is dedicated to observe, report cases of Obstetric violence, and also promote its eradication.

2. CONCEPT OF OBSTETRIC VIOLENCE

Obstetric Violence is a form of gender-based violence practised against pregnant, birthing, or postpartum women, widely disseminated in both public and private maternity hospitals in Portugal and other countries around the world. It is a form of violence that has been normalised and is not recognized as violence by the medical community and society. For this reason, victims suffer in silence, blaming themselves for the mistreatment and avoiding seeking available legal mechanisms.

The concept of Obstetric Violence is widespread and categorized in the scientific literature and legislation of central a south-american countries. However, health

professionals refuse to recognize the term Obstetric Violence as appropriate to describe the violence perpetuated during pregnancy, childbirth, and postpartum.

The opinion article "Obstetric violence is a misnomer" was published (American Journal of Obstetrics, 2024) considering the term inappropriate.

“Using the term “obstetric violence” to advance controversial scientifically unproven agendas is not only a clinically false descriptor but also a political rhetoric. Using the term “obstetric violence” in this context increases the degree of conflict between the patient and the provider who may disagree about the best course of treatment and may also vilify the provider as an intentional perpetrator of interpersonal violence. Using the term “violence” inappropriately has the potential to increase suspicion and distrust in both patients and their physicians. Although a “violent” birthing experience has been described by some women, this may be an inappropriate description. The broad use of the language of “obstetric violence” to describe problems in maternity care may introduce unnecessary hostility in the patient-provider relationship. For example, applying the language of violence to low-level forms of insulting and disrespectful treatment may detract from the outrage properly directed at more extreme violations. The Foucauldian discourse analysis perspective focuses on the power relationships in our society. Patients should be empowered to partner with obstetricians to denounce violence against women wherever it occurs and not limited to reproductive years.”¹

Additionally, a joint statement by the European Association of Perinatal Medicine (EAPM), the European Board and College of Obstetricians and Gynaecologists (EBCOG), and the European Midwives Association (EMA) was made public. This statement, titled "Substandard and disrespectful care in labour – because words matter," was published in the European Journal of Obstetrics & Gynecology in 2024.

“(…) we believe that the term “obstetric violence” should not be used to describe situations of substandard and disrespectful care, as it does not help

¹ Chervenak FA, McLeod-Sordjan R, Pollet SL, De Four Jones M, Gordon MR, Combs A, Bornstein E, Lewis D, Katz A, Warman A, Grünebaum A. Obstetric violence is a misnomer. Am J Obstet Gynecol. 2024 Mar;230(3S):S1138-S1145. doi: 10.1016/j.ajog.2023.10.003. Epub 2023 Oct 6. PMID: 37806611.

in the identification of the underlying problem, its causes, or its correction. It is generally seen as an unjust and offensive term by obstetricians and other healthcare professionals, including those who aim to provide safe and positive experiences in labour and childbirth. It can generate negative emotional reactions from healthcare professionals, together with a more defensive and less collaborative mind-set. The term does not help to build confidence between the different players involved in the purpose of improving women's positive experiences in labour. It may prevent honest engagement between them to tackle the important issues of substandard and disrespectful care, and finding effective strategies to correct them. It has even been unjustly used in the past to denigrate the role of obstetricians in intrapartum care, and to promote the cooperative interests of other individuals and professions.”²

3. LEGAL INSTRUMENTS IN PORTUGAL

According to the recently published report by the European Commission, *Obstetric Violence in the European Union: Situational Analysis and Policy Recommendations (2024)*, Portugal is the only country in the European Union with specific legislation on childbirth that explicitly promotes respectful maternal care, human rights, and a physiological approach to childbirth. However, no Member State, including Portugal, has passed national legislation that directly addresses and defines Obstetric Violence, let alone criminalises it.

Law No. 110/2019, of September 9, establishes the principles, rights, and duties applicable in the protection of preconception, medically assisted procreation, pregnancy, childbirth, birth, and postpartum care, proceeding to the second amendment to Law No. 15/2012, of March 21. This law introduced a wide range of rights, including:

² Ayres-de-Campos D, Louwen F, Vivilaki V, Benedetto C, Modi N, Wielgos M, Tudose MP, Timonen S, Reyns M, Yli B, Stenback P, Nunes I, Yurtsal B, Vayssière C, Roth GE, Jonsson M, Bakker P, Lopriore E, Verlohren S, Jacobsson B. European Association of Perinatal Medicine (EAPM), European Board and College of Obstetricians and Gynaecologists (EBCOG), European Midwives Association (EMA). Joint position statement: Substandard and disrespectful care in labour - because words matter. *Eur J Obstet Gynecol Reprod Biol.* 2024 May;296:205-207. doi: 10.1016/j.ejogrb.2024.02.048. Epub 2024 Feb 29. PMID: 38460251.

- The right to continuous assistance (Articles 15-G and 18, paragraph 2)
- The right to dignified and respectful treatment, free from violence or discrimination (Article 15-A, paragraph 1, c), d), e))
- The right to information, refusal, and informed consent (Article 15-A, paragraph 1, a))
- The right to freedom, autonomy, and self-determination (Article 15-A, paragraph 1, g))
- The right to minimal interference (Article 15-F, paragraphs 2 and 6)
- The right to accompaniment (Articles 12, 17, and 32-A)
- The right to the best healthcare (Article 15-A, paragraph 1, f) and Article 15-F, paragraphs 2 and 6).

However, in Portugal, healthcare providers and professionals repeatedly fail to comply with this law without facing any legal consequences. There is no effective civil, criminal, disciplinary or administrative accountability. Additionally, after the law was published, no efforts were made to update hospital protocols or the academic *curricula* of doctors and nurses to align practices with the law. Nor has there been any movement from professional orders to raise awareness of the existence and eradication of Obstetric Violence.

Since its establishment, the OVO PT has received numerous complaints. It is challenging to count the number of criminal complaints filed, as there is no distinct crime category for Obstetric Violence, and such practices are subsumed under other types of crime. Due to difficulties in obtaining evidence (clinical reports not provided to the victim, incomplete or inconsistent) and the lack of awareness among magistrates about the reality of Obstetric Violence, criminal cases are often dismissed.

Practices constituting Obstetric Violence can fall under the following types of crimes defined in the Criminal Code:

simple physical assault (Article 143.º),
negligent physical assault (Article 148.º),

arbitrary medical-surgical interventions (Article 156.º),
refusal of medical assistance (Article 284.º),
invasion of privacy (Article 192.º),
breach of medical confidentiality (Article 195.º),
insult (Article 181.º),
threat (Article 153.º),
coercion (Article 154.º),
female genital mutilation (Article 144-A.º),
and serious physical assault (Article 144.º).

Victims of Obstetric Violence can file lawsuits in civil courts (for private hospitals) or administrative courts (for public hospitals) to obtain compensation for damages suffered under general civil liability terms. These cases often drag on for years, and the difficulty of proving claims impedes successful actions (the burden of proof lies with the plaintiff). Complaints can also be filed with the *Ordem dos Médicos* and *Ordem dos Enfermeiros* (Portuguese Medical Association and the Portuguese Nursing Association, respectively). However, these institutions resist to recognize the concept of Obstetric Violence and consequently don't investigate the conduct of professionals.

Public institutions, responsible for regulating the health sector, can also receive complaints. Several victims receive standardised responses that downplay the violence suffered, and no changes are promoted to address the circumstances leading to the violation of their rights.

The guidelines issued by the World Health Organization through the *Recommendations for a Positive Childbirth Experience*³ (15/02/2018), the UN through the report *A Human Rights-Based Approach to Mistreatment and Violence Against Women in Reproductive Health Services with a Focus on Childbirth and Obstetric Violence*⁴ (11/07/2019), and the Council of Europe through Resolution 2306/2019 *Obstetrical and Gynecological Violence*⁵ (03/10/2019) have had no effect in Portugal.

³ <https://who.int/publications/i/item/9789241550215>

⁴ <https://digitallibrary.un.org/record/3823698?v=pdf>

⁵ <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=28236>

There is a continuous devaluation of Obstetric Violence by public institutions and healthcare professionals. The governmental Resolution No. 181/2021⁶, of May 28, which recommended the Portuguese government to eliminate practices of Obstetric Violence and conduct a study on them, particularly the Kristeller manoeuvre and routine episiotomy, did not lead to concrete actions.

4. FRAMEWORK OF OBSTETRIC VIOLENCE IN THE ISTANBUL CONVENTION

Article 3, paragraph a) of the Istanbul Convention defines "violence against women" as all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological, or economic harm or suffering to women.

Obstetric Violence is a form of gender-based violence that can cause harm and suffering to women. It is a manifestation of historically unequal power relations. Obstetrics, as a medical speciality, was largely dominated by men and their perspectives on women's reproductive processes, developed in opposition to midwifery, which has thousands of years of tradition in assisting childbirth. Misogyny leads to the perpetuation of practices aimed at "saving women" from themselves and their "faulty" bodies instead of recognizing and supporting their intrinsic ability to conceive and give birth, intervening only when there are deviations from normality, posing risks to the woman and her baby.

Women are the victims of Obstetric Violence because they are the ones who undergo pregnancy, childbirth, and postpartum. Obstetric Violence is also a form of institutional violence, pervasive across all health institutions in the country, public or private. Women face difficulties in accessing health services due to underinvestment in certain services (such as abortion care) or inadequate allocation of human and material resources (such as in childbirth). This leads to the omission, or violation, of

⁶ <https://diariodarepublica.pt/dr/detalhe/resolucao-assembleia-republica/181-2021-165865615>

women's rights during pregnancy, labour, and postpartum periods, invoking institutional protocols that contradict existing legislation.

Physical, verbal, and sexual assaults on women during childbirth are presented to pregnant, labouring, and postpartum women as an inevitability, as if they were fundamental for the reproductive processes to occur.

Obstetric Violence practices fall within the forms of violence defined in the Istanbul Convention, namely psychological violence (Article 33), physical violence (Article 35), and sexual violence (Article 36).

Psychological Violence

During childbirth, women are often subjected to coercion, threats, including ones that aim for the women to consent to practices that are not in their best interest, humiliating practices, comments that undermine their self-esteem, discriminatory treatment, disrespect, psychological abuse, and unempathetic care. Often they are also deprived of their legal right to chaperone during care and left alone at a tremendously vulnerable moment of their reproductive life.

Symptoms related to labour pain and discomfort, as well as emotional needs, are oftentimes disregarded. Information is frequently withheld from women, and interventions (that can have lifelong consequences) are performed without their informed consent.

Physical Violence

Women in labour report being tied to the stretcher, subjected to the Kristeller manoeuvre. They also reported being restricted in a certain place or position for several hours, therefore being unable to move freely while in labour. Physical assaults, such as slaps and punches on the limbs, forced fasting, trichotomy (pubic hair shaving), denial of pharmacological pain relief methods, and interventions without clinical indication (such as cesarean section, administration of oxytocin, artificial rupture of membranes, membrane stripping, episiotomy) are also reported.

Sexual Violence

Childbirth involves nudity, prolonged exposure of the genital organs, and manipulation of the perineum, placing the woman in an extremely vulnerable position. Sexual violence includes successive, invasive, and aggressive vaginal examinations, episiotomy, membrane stripping, and other procedures without consent. During pregnancy, childbirth, and postpartum, women are subjected to unnecessary and disproportionate touching of the breasts and genital organs, with reports of manipulation of the nipples and clitoris. Women who have experienced violent childbirth report feeling violated by the successive non-consensual interventions and manipulation of their bodies by various healthcare professionals.

For all these reasons, the Observatory of Obstetric Violence in Portugal believes it is up to the members of GREVIO to take the pioneering step of recognizing Obstetric Violence as a form of violence against women, to be eradicated and condemned by the signatory States of the Istanbul Convention.

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| OBSERVATÓRIO DE VIOLÊNCIA OBSTÉTRICA EM PORTUGAL
