SCHOLARS
STRATEGY NETWORK

Obstetric Violence Is the Elephant in the (Delivery) Room

Melissa Brock, CUNY John Jay College of Criminal Justice

In July of 2012, Caroline Malatesta was admitted into an Alabama hospital to give birth to her fourth child. She left with a healthy baby and an experience so traumatic it would eventually necessitate medication to prevent panic attacks. Malatesta was the victim of obstetric violence, a form of gender-based violence, and she successfully sued the hospital responsible for her injuries in 2016. She was awarded 16 million dollars when a jury determined the hospital "violated the standard of care for labor and delivery" when its nurses forced Malatesta on her back despite her objections and held her infant's emerging head inside her body for more than five minutes. Unfortunately, Malatesta's experience is not an isolated one.

While much research and legislative action has been devoted to the prevention of violence against women, the U.S. lags behind other nations in providing medical and legal standards. Mistreatment around pregnancy and childbirth is pervasive and persistent. The history of this issue is replete with its inextricable ties to religiosity, racism, and classism. Racial and ethnic minorities, individuals of low socioeconomic status, and other disadvantaged groups (e.g. individuals with disabilities, youth, incarcerated persons) are more likely to experience obstetric violence than wealthy members of the racial majority.

What is Obstetric Violence?

Obstetric violence is physical or psychological abuse of birthing persons by medical providers during the birthing process. It can include forced or coerced medical procedures, physical restraint, vaginal examinations without consent, and as in Malatesta's case, physical measures taken to prevent birth until a doctor's arrival. This list is by no means exhaustive; obstetric violence can also include non-physical acts such as humiliation, intimidation, bullying, threat of child protective services involvement, separation of mother from newborn, and inadequate pain management.

Abuse during childbirth can result in physical injury to the birthing person or baby, as well as mental health diagnoses such as depression and post-traumatic stress disorder. Both physical and mental health impacts were seen in Malatesta's case, for example. Other negative outcomes may include the prolonged separation of a parent from a newborn and difficulty with breastfeeding. Mistreatment during the vulnerable act of childbirth can also result in the indelible mistrust of medical professionals, compromising the birthing person's willingness to seek future care.

Estimates of the prevalence of obstetric violence vary by country and by definition. One study reports as many as two-thirds of birthing persons experienced some form of abuse during childbirth, with another finding that number to be closer to 75%. The lack of a uniform definition of obstetric violence, compounded by the likelihood that there is underreporting of incidents, means the actual magnitude of the problem may not be fully appreciated.

A Social Syndemic: The Impact of COVID-19 and *Dobbs*

COVID-19 significantly altered the experience of being pregnant in the U.S. Many pregnant individuals' birthing plans were scrapped over objection to conform with hospital isolation protocols, as induced labors and cesarean sections are more conducive to containment than the unpredictability typically associated with the onset and progress of labor. Some patients gave birth without a support person in the room and were unable to receive visitors for the duration of the admission. Others were separated from their newborns or denied skin-to-skin contact following delivery. Concurrently, hospital staff was pushed to the brink as the number of the sick and dead soared; in the cacophony of global disaster, disease prevention was somewhat in conflict with the unique needs of maternity patients.

A second challenge has come in light of the 2022 *Dobbs v. Jackson* ruling, which overturned the precedent that safe and legal access to abortion is a constitutionally protected right in the U.S. Limiting access to a legal abortion is tantamount to withholding life-saving medical care in some cases, as with ectopic pregnancy, in which the only course of action is to terminate the pregnancy to save the life of the mother. Forcing an unwanted pregnancy to be carried to term, and forbidding practitioners to provide abortions in emergent situations is dehumanizing and can cause physical harm, amounting to violence perpetrated by the state. There are other consequences to consider, particularly pregnancy-related mortality rates that may be worsening in the wake of Dobbs, according to a 2023 survey of OBGYNs. Disturbingly, the data also anticipates a rise in infant mortality in states with restrictive abortion laws.

Implications for Policy

COVID-19 left many hospitals and doctor's offices short-staffed and many shortages have yet to be filled, placing prolonged pressure on current administrators, support staff, and practitioners to perform at acceptable levels. *Dobbs* has since exacerbated this problem. OBGYNs are no longer free to use medical judgment in some areas, instead turning to lawyers for guidance to remain in compliance with legal restrictions to their scope of practice. Doctors are leaving states with abortion restrictions, which might contribute to the growing number of maternity care deserts in the South and Midwest regions of the country. Finally, medical students are unable to receive full training in states with abortion bans, and are declining to accept residencies in these areas, which compounds the effects of inadequate staffing, closures, and care deserts.

Obstetric violence is a nuanced topic, and defining it will require difficult and honest conversations with patients, practitioners, advocates, and researchers. U.S. scholars and decision makers may find a path forward by way of Bowser & Hill (2010), who grouped a continuum of adverse obstetric behaviors into seven categories of disrespect and abuse. In this way, physical abuse may be differentiated from non-physical experiences such as scolding or divulgence of personal health information. This has a legal precedent in the assignment of "degrees'' to a criminal charge based on the details of the offending act. Similarly, there may be distinguishing features separating obstetric "violence" from obstetric "mistreatment."

A legal definition of obstetric violence is merely the first step towards achieving justice for the victims of abuse during pregnancy and childbirth. And it is an important step to take if the U.S. expects to keep pace with the rest of the developed world in providing safe, dignified, and accessible healthcare to birthing individuals. Pregnancy carries with it an inherent risk of complications which can result in any number of negative outcomes; violence in the delivery room need not be another threat to the well-being of pregnant individuals.

Beyond a definition of “obstetric violence,” the term should be introduced into existing public policy aimed at addressing gender-based violence such as the Violence Against Women Act (1994), which would facilitate funding towards additional research and patient/provider education. Until a productive discourse defines its scope to facilitate education and policy, however, instances of mistreatment, abuse, and violence enacted towards pregnant people will endure.

Read more in Maria T.R. Borges, "A Violent Birth: Reframing Coerced Procedures During Childbirth as Obstetric Violence," *Duke Law Journal* 67, no. 4 (2018): 827-862.

Read more in Bowser, D. & Hill, K. "Exploring evidence for disrespect and abuse in facility-based childbirth," *Harvard School of Public Health* (2010).

Read more in Diaz-Tello, F. "Invisible wounds: obstetric violence in the United States," *Reproductive Health Matters* 24, no. 47 (2016): 56–64.