

OFFENCES AGAINST A PERSON 2

Offences covered

- i) Infanticide
- ii) Suicide
- iii) Concealing birth
- iv) Killing an unborn child
- v) Assault
- vi) Sexual Offences

1. INFANTICIDE

- Section 210, Penal Code: ‘Where a woman by any wilful act or omission causes the death of her child being a child under the age of twelve months, but at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent on the birth of the child, then, notwithstanding that the circumstances were such that but for the provisions of this section the offence would have amounted to murder, she shall be guilty of a felony, to wit, infanticide, and may for that offence be dealt with and punished as if she had been guilty of manslaughter of the child.’
- *Republic v SC [2021] eKLR, Criminal Case No. 7 of 2019;*

2. SUICIDE

- Section 209 (1), Penal Code ‘It shall be manslaughter, and shall not be murder, for a person acting in pursuance of a suicide pact between him and another to kill the other or be a party to the other killing himself or being killed by a third person.’

3. CONCEALING BIRTH

- Section 227, Penal Code: ‘Any person who, when a woman is delivered of a child, endeavours by any secret disposition of the dead body of the child to conceal the birth, whether the child died before, at or after its birth, is guilty of a misdemeanour.’

4. KILLING UNBORN CHILD

- Section 228, Penal Code: ‘Any person who, when a woman is about to be delivered of a child, prevents the child from being born alive by any act or omission of such a nature that, if the child had been born alive and had then died, he would be deemed to have unlawfully killed the child, is guilty of a felony and is liable to imprisonment for life.’

5. ASSAULT

- Assault is both a tort and a crime.
- In torts, battery (apprehension or fear of violence) and assault (actual bodily violence) are separate torts, in criminal law, assault covers both aspects of the tort of assault and the tort of battery
- Recognition of different degrees of assault:
 - i) Common assault; section 250, Penal Code;
 - ii) Assault causing actual bodily harm; section 251, Penal Code;
 - iii) Aggravated assault; section 252, Penal Code

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- iv) Grievous harm, section 234, Penal Code
- Assault of a police officer



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