

Success in High Court on Sterilisation Cases

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The High Court today agreed with the Legal Assistance Centre that the Public Service Act does not apply to the forced sterilisation cases, in which the LAC is representing several women suing the Government of Namibia for damages.

Earlier, the Government raised a legal point that the LAC's clients did not comply with the Public Service Act of 1995, which requires that a person wishing to institute legal action against the Government, must do so within 12 months of the action arising and only after written notice of one month has been given to the Government.

The LAC argued that the Public Service Act does not apply as that law only regulates the employment affairs of the public servants, and not to delictual or contractual disputes of non-public servants against the Government. As a result, no such notice was given, and in some of the cases, the legal action was only instituted after 12 months after the sterilisation was done.

The High Court, in a judgment of today, agreed with the LAC's arguments. The cases will now continue on the merits on whether or not the clients – all women who are HIV positive – were unlawfully sterilized without their consent when they were in labour. The women are each suing the Government for over N\$1 million in damages.

*Please, take note that the clients have obtained an order from the High Court that their identities should not be revealed as they fear further discrimination and stigmatisation because of their HIV status.