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Pro **Bono**

INFORMATION ABOUT NAMIBIA'S LAW ON ...

LEARNER PREGNANCY POLICY: PART 2-MANAGEMENT

ProBono is a monthly column by the Legal Assistance Centre designed to inform the public about Namibian law on various topics. You can request information on a specific legal topic by sending an SMS to 081-600-0098. Note that we will not be able to give advice on specific cases in this column, only general legal information.

The previous Pro Bono column addressed the five pillars of learner pregnancy prevention from the Ministry of Education's revised "Education Sector Policy for the Prevention and Management of Learner Pregnancy". This column will discuss the second half of the policy, which covers the management of learner pregnancy.

Despite the best prevention efforts, learner pregnancies are likely to still occur. When they do, the focus shifts to supporting the learner-mother to complete her education whilst ensuring that the infant's health and safety are protected, and encouraging the learner-father to have direct and regular involvement with the infant and to provide a fair share of financial support.

Being allowed to complete one's education during and after pregnancy is not just a privilege, it is a right. The Namibian Constitution states at Article 20(1) that "all persons shall have the right to education." At the international level, this right to education has been interpreted as including the right of a learner not to be discriminated against or "disciplined" because of pregnancy.

International human rights instruments to which Namibia is a party echo these provisions. The UN Convention on the Elimination of all forms of Discrimination Against Women requires the government to take all appropriate measures for the reduction of female learner drop-out rates. The Committee that monitors the UN Convention on the Rights of the Child has urged States Parties to develop policies that will allow adolescent mothers to continue their education.

In addition to upholding constitutional rights and international human rights commitments, allowing adolescent mothers to continue their education may also reduce the occurrence of illegal abortion, baby-dumping and infanticide – desperate options which have been utilised by learner mothers to prevent motherhood from interfering with their education.

Like the prevention half of the learner pregnancy policy, the management side emphasises flexibility, taking into account the health of learner and infant, different cultural values, different levels of family support and the point in the academic calendar when the baby is born.

There are five key pillars to the policy on the management of learner pregnancy. Underlying all five is the principle that the school environment must be one of tolerance and non-discrimination.

The first pillar is the provision of information, counselling and support to both male and female learners. Learners should be encouraged to inform a trusted adult of the pregnancy. In respect of each pregnancy, at least one member of staff should be identified as a support person to discuss the matter non-judgmentally and to provide or refer the learner to counselling. The school must ensure that the learner receives information about a range of relevant topics: * ante-natal and post-natal care; * options for prevention of mother-to-child transmission of HIV; * the law on rape and support in laying a rape charge with police if relevant; * how to obtain a legal abortion where this is permissible; * adoption; * parental rights and responsibilities; * the father's duty to participate actively in parenting and to support the mother of the infant emotionally and financially; * the importance of continuing education; and * how to claim maintenance.

The second pillar is attention to the health of the pregnant learner, learner-mother and infant. The school must facilitate the referral of the pregnant learner, through the learner's parents or primary caregiver, to a health clinic. A pregnant learner or learner-mother will only be allowed to attend school if it is safe for both her and her child. Any medical information provided by the learner must be kept strictly confidential.

The third pillar is the promotion of education, with the period of leave from school for pregnant learners and learner mothers being determined on a case-by-case basis according to the specific needs of the mother and infant, and the preferences of the family and school. The pregnant learner may choose to return to school as soon as she can supply the required documentation or she may choose to take a period of leave up to one calendar year from the date she left school because of the pregnancy. She may take a longer leave of absence, but then her place at school will not be reserved.

The fourth pillar is the encouragement of learner fathers to be involved and responsible fathers and to share in the duty of maintenance. Learner fathers will be allowed to continue their education so as to be in a better position to assist with future financial support.

The final pillar is involvement of the family (where appropriate), involvement of all key ministries and support for individual schools. For example, the school is supposed to refer the learners' parents and/or primary caregivers for counselling about the pregnancy. The school must also arrange to keep in touch with the family and encourage re-entry of the learner to school.

Together, these five pillars allow learners to realize their constitutional right to an education, and Namibia to reap the benefits of an educated population.