
SCHOOL POLICY ON LEARNER PREGNANCY IN NAMIBIA: BACKGROUND TO REFORM

**prepared for the Ministry of Education by
Gender Research & Advocacy Project
Legal Assistance Centre**



2008

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1. INTRODUCTION

A school girl makes an unwise decision. Or she is coerced into have sex against her will by means of physical force, economic pressure or peer pressure. She becomes pregnant. The father may be a schoolboy, a teacher, a “sugar daddy” or even a relative. What will this mean for her future?

The problem of teenage pregnancy among school girls is a major concern in many countries. Teenage pregnancy has been cited as a constraint in the elimination of gender disparities in education, and in the achievement of the Millennium Development Goals of universal primary education and gender equality in education by 2015.

In a continent where the adage “*when you educate a woman you educate a nation*” holds so true, the repercussions of girls dropping out of school due to pregnancy cannot be underestimated.

The social benefits of educating women include improved agricultural productivity, improved health, reductions in fertility and reductions in infant and child mortality rates. Children born to educated mothers have a higher chance of enrolling and completing school. Conversely, children of less educated mothers are unlikely to complete school themselves, meaning that they have fewer opportunities to better their lives since they lack the level of education that would allow them to compete successfully for jobs. Thus, the concern about improving the educational rights of girls who become pregnant is based in part on the knowledge that this will affect the fate of their children and future generations.

The last decade or so has seen an introduction of more liberal teenage pregnancy policies in many African countries, including Namibia, as a way of encouraging teenage mothers to stay in school. There is now a need to revisit Namibia's policy on pregnancy amongst learners, to consider clarifications and improvements which could enhance girls' ability to exercise their right to education.

2. THE EXTENT OF THE PROBLEM

Official statistics on pregnancy-related school drop-outs in Namibia for 2007 show that a total of 1465 learners dropped out for this reason – with 96% of them being girls. There are large regional disparities, with pregnancy-related drop-outs being highest by far in Kavango and Ohangwena, followed by the regions of Omusati, Oshikoto, Oshana and Caprivi. Information from other sources indicates that the official figures may be an underestimate.

Other sources tell us that Namibian women continue to give birth at fairly young ages, although there is some improvement on this point in the post-independence era.

PERCENTAGE OF TEENAGERS WHO HAVE BEGUN CHILDBEARING includes both mothers and those pregnant with first child at time of survey			
Age at time of DHS survey	1992 survey	2000 survey	2006 survey (unofficial preliminary results)
15	1.3	2.2	2.7
16	6.3	5.8	5.5
17	18.7	16.0	13.9
18	36.0	27.6	21.6
19	45.4	39.3	34.7
Total	21.5	17.6	15.4

Source: Namibia Demographic and Health Surveys 1992, 2000, 2006

A good overview of the situation appeared in the first draft of Namibia's *Third National Development Plan*:

Despite limited research, it is clear that teenage pregnancy and family demands impact female learners. Indeed, if not for this, the percentage of female learners at Grade 10 (16 year olds) and above could be 2 percent to 3 percent higher. Although the incidence of teenage pregnancies has stabilized, there is still a lack of support and negative attitudes towards girls who fall pregnant. Pregnant teenagers are required to leave school, with few returning. A girl who becomes pregnant is by law

supposed to be allowed back to the same public school after one year's absence. However, the girls will have to give proof that they have someone responsible looking after their baby, criteria many cannot meet. Although the one-year absent rule is supposed to also apply to schoolboys who impregnate girls, schoolboys are rarely identified and older men seldom face any consequences, although a few schools have taken action.

The discussion of this topic concluded by stating that a new policy on teenage pregnancy would "contribute significantly to the goal of gender equality".

3. CURRENT NAMIBIAN POLICY

A draft policy on learner pregnancy was circulated for discussion during 1995 and 1997. The relevant portions of the 1997 version of the draft policy are reproduced in the box below.

"Policy on Pregnancy among Learners in Schools" draft dated 25 May 1997

1. INTRODUCTION

- 1.1 The Ministry of Basic Education and Culture is alarmed at the number of learners who have been forced to terminate or suspend their education because of pregnancy. Namibia needs skilled and well educated women and men to take part in the development of the country and cannot afford that many young Namibian women must give up their education because of pregnancy. The Ministry is concerned that the community at large appears to accept little responsibility for the circumstances which make this state of affairs possible.
- 1.2 It must be accepted that the school is only one among the players which share in the role of shaping the behaviour of our youth. The parents in the home should have the first and foremost responsibility of providing the child with the values and example which will guide him or her through childhood and the youthful years. To this the religious community and school add their influence. Family, religious community and school should be supported in these efforts by the wider community.
- 1.3 Only if this support is provided by the other educational agencies and the society at large can the schools hope to play a successful role in preventing unwanted pregnancies through provision of population and family life education, and in creating an atmosphere in which young people are protected from exploitation.
- 1.4 In the hope that such support will be forthcoming, the Ministry provides this policy on pregnancy among learners.

- 1.5 The Ministry believes that sexual activity should be delayed until after a learner has completed formal schooling, so as to allow him/her to pay maximum attention to and derive maximum benefit from the educational programme, and so as to allow sexuality to be practised within a safe and emotionally mature relationship, and would urge parents, church, community and traditional leaders to join forces with the school in providing guidance along these lines as a matter of course. However, it recognises that young people may be pressured into making unwise decisions, in which case the educational system should as far as possibly support them in their efforts to make the most of their lives.
- 1.6 The Ministry further believe that learners in formal education should not contemplate marriage until completion of their secondary schooling.

[The following sections contain a Code of Conduct for Teachers, a Code of Conduct for Learners and Sanctions for Sexual Misdemeanors. These do not concern pregnancy specifically.]

5. PREGNANCIES AMONG LEARNERS

Pregnancies among learners threaten their health and social welfare and the health and welfare of the children born to them. Pregnancies often cause learners to terminate their education, leaving them with very few options of establishing a good life for themselves and their children.

Schools must confront this situation by rendering support to rather than punishing the learners who are to become parents. The learners will need support to continue with their education until the time of confinement and subsequently, while still ensuring the welfare and health of the newborn child.

Schools should also provide information to assist female learners who have become pregnant in obtaining financial support for the child from the male responsible for the pregnancy or his family.

Therefore the following measures will be needed.

5.1 With respect to the girl who becomes pregnant:

5.1.1 There should be at least one member of staff with whom the girl can discuss her situation. It should be known who the teacher is that will be prepared to discuss the matter sympathetically and non-judgmentally, and provide counselling or direct the girl to someone who will be able to provide counselling. Counselling should include developing an understanding of the need for ante-natal care and of the options that are open to her once the infant is born, and also of the sort of support to which she is entitled from the father of the child or his family. Referral to a social worker should be made where this service is available.

5.1.2 The girl should be obliged to reveal the identity of the responsible male. She should be made aware of the consequences both of providing this information and of withholding it, and of the possible consequences of providing false information.

- 5.1.3 The girl may continue with her education at school, until the time of her confinement or an earlier date on the advice of a medical practitioner or clinic sister. After giving birth, and provided that a social worker is satisfied that the infant will be cared for by a responsible adult the girl shall have the right of readmission to the same school within twelve months of date on which she left school, irrespective of her age. She shall have the option, within the same period, to return to another school, provided that space is available. Should the girl decide not to return to full-time schooling, she should be counselled about the options available to her for continuing her education.
- 5.1.4 A girl who has left school because of pregnancy may write her end-of-year examinations provided that she can satisfy the School board that her work is up to standard. In effect this will apply to girls who have been attending school for at least the first half of the school year. She may write her examinations along with the other learners, unless the School Board decides to make other arrangements. If she herself is reluctant to write in the same room as other candidates, the school may try to arrange for a separate venue and invigilator, but she or her family will have to carry any additional costs which the school incurs.
- 5.1.5 These provisions are not intended as a form of punishment. They recognise that by becoming pregnant the girl has taken on other responsibilities which must be given due attention.
- 5.1.6 If she is a boarder in a government school hostel, she shall be entitled to continue in the hostel for the period that she is attending school under the same conditions as would have applied had she not fallen pregnant. She shall not, however, be permitted to continue in the hostel if she is in need of specialised medical care which cannot be provided in the hostel.
- 5.2 With respect to the boy responsible for the pregnancy, if he is a learner in school (either the same school as the girl, or another school), and provided that rape is not involved:
- 5.2.1 There should be at least one member of staff with whom he can discuss his situation. It should be known who the teacher is that will be prepared to discuss the matter sympathetically and non-judgmentally, and provide counselling or direct the boy to someone who will be able to provide counselling. Counselling should include developing an understanding of the need for supporting the girl morally, emotionally and financially, of her need for ante-natal care and of the options that are open to them once the infant is born. Referral to a social worker should be made where this service is available.
- 5.2.2 The boy should be made aware of the consequences of accepting or denying paternity, and of the possible consequences of providing false information.
- 5.2.3 The boy may continue with his education at school, until the girl leaves school for her confinement. After she has given birth, and provided that there is clear evidence that the infant will be cared for by a responsible adult other than the mother of the infant, the boy shall have the right of readmission to the same school within twelve months of date on which she left school, irrespective of his age. He shall have the option, within the same period, to return to another school, provided that space is

available. Should the boy decide not to return to full-time schooling, he should be counselled about the options available to him for continuing his education.

5.2.4 A boy who has left school for impregnating a schoolgirl may write his end-of-year examinations provided that he can satisfy the School board that his work is up to standard. In effect this will apply to boys who have been attending school for at least the first half of the school year. He may write his examinations along with the other learners, unless the School Board decides to make other arrangements. If the girl elects to write in a different venue, the boy may elect to write with her, provided that satisfactory arrangements are made for invigilation, in which case he will have to share the costs of invigilation with the girl or her family.

5.2.5 These provisions are not intended as a form of punishment. They recognise that by impregnating a girl, the boy has taken on other responsibilities which must be given due attention.

5.2.6 If he is a boarder in a government school hostel, he shall be entitled to continue in the hostel for the period that he is attending school under the same conditions as would have applied had he not impregnated a girl or woman.

5.3 With respect to a teacher or other staff member responsible for the pregnancy:

5.3.1 If the male is a teacher or other member of staff of a school, he shall be suspended and charged with misconduct, as described in paragraph 4.1, provided that the girl makes a sworn declaration that he has had sexual relations with her. If blood tests confirm the paternity of the teacher or other staff member, he shall be suspended from teaching immediately without pay and charged with misconduct. The school or social worker should counsel and support the girl in obtaining maintenance for the child from the father.

5.4 With respect to an outside member of the community responsible for the pregnancy:

5.4.1 The school or social worker should counsel and support the girl in obtaining maintenance for the child from the father.

[The remaining sections cover Population and Family Life Education, Pre-Service Teacher Education, In-Service Training of Practising Teachers and Related Matters. These sections state that all inspectors of education, principals, and teachers should be familiarised with the policy on pregnancy, and that copies of the policy should be given to all school board members. It is also suggested that student representative councils should receive guidance on the policy on pregnancy]

Cabinet approved “temporary guidelines” on teenage pregnancy in 1999. In 2001, the Ministry of Basic Education published a summary of the policy approved by Cabinet in a circular entitled “Implementation of the Policy on Pregnancy amongst Learners” (Formal Education Circular 5/2001) – see the following box. The “temporary guidelines” circulated in 2001 are still being described as temporary in 2008 and have not yet been replaced by any final guidelines or permanent policy.

Circular Formal Education 5/2001

To: Regional Directors
Head Office Directors
Principals of Primary and Secondary Schools
Inspectors
School Councillors

SUBJECT: IMPLEMENTATION OF THE POLICY ON PREGNANCY AMONGST LEARNERS

1.0 Introduction

Pregnancy amongst learners is one of the social problems which prevent girls from continuing with their education. The need to address this matter came to the fore in 1994 when a Study Group was set up to investigate this issue and recommend measures to address it. After consultation with stakeholders the Study Group drafted the Policy on Pregnancy amongst learners that was submitted to the Cabinet for approval.

The need to address this problem is still being experienced. From time to time parents approach the Ministry and concerned community members requesting that pregnant learners and those who have delivered should be allowed to continue with their studies. Such requests are in line with the recommendations of the Study Group on Policy on Pregnancy among learners.

The purpose of this circular is to encourage the implementation of those measures Cabinet has approved for implementation.

2.0 Cabinet Resolutions regarding Teenage Pregnancy

Cabinet has resolved:

- 2.1 That while the report is awaited from the ad hoc Cabinet Committee on the above issue, as a temporary guideline, pregnant schoolgirls be allowed to attend special afternoon/evening classes and they should also be allowed to sit for examinations.
- 2.2 That a pregnant girl should be allowed to attend regular classes at least until her pregnancy is visibly clear.
- 2.3 That as a temporary guideline, girls who fall pregnant should be allowed to return to normal schooling after spending at least a year with the baby.
- 2.4 That the same conditions should apply to the schoolboy who is held responsible for the pregnancy.

3.0 An Advice with the Implementation of the Policy

- 3.1 Pregnancy is a sensitive matter. There are certain cultural values that might not be comfortable with the spirit, which appears to characterize this new approach toward teenage pregnancy in schools. As we find ourselves in a modern society with all its evils, we have to adapt ourselves to the reality of a changing world.

- 3.2 The implementation of these measures should be done with care. Regional Directors should involve local stakeholders such as NANTU, TUN, NANSO, NASEM etc to help them sensitize parents and members of the communities to the new way in which we are advised to approach this delicate issue.
- 3.3 School Board members should also take full responsibility for explaining this policy to parents and other community members.
- 3.4 Finally it should be stressed that school councillors have a vital role to play to enhance the implementation of Cabinet resolutions regarding teenage pregnancy. They are the professionals whose expertise should be tapped in this respect. Obviously, in those regions where these posts are not filled this responsibility falls squarely on inspectors of education.

There are fundamental differences between the draft policy which was the subject of widespread consultations and the 1999 Cabinet decision summarised in the 2001 circular. The main points of difference are (1) how long a girl is allowed to continue with her schooling after becoming pregnant and (2) when the new mother may return to school. Furthermore, the draft policy emphasised support for both the girl and the boy involved, as well as providing detailed and sensitively-worded provisions which made comparable rules for both parties. These nuanced and supportive provisions are absent from the 2001 circular.

A 2001 study by FAWENA showed that the current policy is being implemented inconsistently in different places – with one girl astonishingly being forced to stay out of school for one year after giving birth even though the baby had died. This study recommended the adoption of a policy which focuses on support rather than punishment. It proposed that pregnant girls should be re-admitted into the school system after delivery, as soon as the baby is weaned. The study also recommended the establishment of “bridging centres” where young mothers can continue with their education while breast-feeding, counselling services for the affected girl and her parents, and the introduction of flexible models of attendance to provide additional opportunities for pregnant schoolgirls and young mothers to carry on with their classes.

A 2002 assessment of girls’ education in the Rundu Educational Region also found inconsistencies in how the current guidelines are being understood and implemented, particularly with respect to the amount of time a schoolgirl was allowed to remain in class after it becomes known that she was pregnant. In some schools, girls were allowed to stay on until they were due for delivery, while in others they were suspended as soon as the pregnancy became visible. There were also inconsistent practices in respect of the provision of counselling to pregnant schoolgirls.

In 2005 the debate on the teenage pregnancy policy was revived when a teenage mother, Utjiua Karuaihe, sought to be readmitted to school immediately after the birth of her child, without waiting for one year as stipulated in the guidelines. The case, which the Legal Assistance Centre took up as a matter of public interest, illustrates some of the problems with the current approach to schoolgirl pregnancy. However, despite a series of court applications, the new mother was unable to gain re-admission to her school in the academic year after she gave birth.

School ordered to reconsider young mother's application

In a ruling that could have far-reaching consequences because of the pregnancy rate among schoolgirls, the High Court has ruled that schools cannot shut out teenage mothers who have a support system to look after their babies while they are in the classroom.

The ruling came after the mother of an 18-year-old Windhoek High School student took the education authorities to court for refusing to readmit her to the school this year because she had given birth to a baby in December.

The school based its decision on a policy that requires teenage mothers to take a year off schooling to care for their babies.

Acting Judge John Manyarara ruled yesterday that the policy was not correctly interpreted, as it recommends great caution in accepting applications. He said it was not "reasonably possibly" the intention of the Cabinet policy to prohibit the enrolment of teenage mothers if they have a support system, like Utjiua Karuaihe, whose mother Seuaa Karuaihe-Samupofu was willing and able to take care of her daughter's baby during school hours.

Manyarara compared the situation to that of an employed mother who is entitled to three months' maternity leave and is expected to return to work after such a period.

"In practice too, women invariably do what this applicant (Karuaihe-Samupofu) has done for Utjiua; they make arrangements for a relative or nanny to take care of the baby while the mother is at work and the relative or nanny assumes full responsibility or the baby during that time," said Manyarara.

He said if the Cabinet policy aimed to facilitate the return to school of pupils who have given birth, there could be no reason why a pupil who has the necessary support system for the care of a baby should be prevented from taking advantage of the system.

"Much as society may abhor teenage pregnancies (with sound reason, I may add), it is not the intention of the Cabinet policy to punish learners who happen to find themselves in the position of Utjiua," he continued.

Manyarara set aside the decision by the principal of WHS to refuse Utjiua's application for admission. He ordered the principal to exercise his discretion in considering Utjiua's application and to inform her mother in writing of his decision within seven days.

In the event that Utjiua is refused admission on grounds other than that the school is full or her preferred subjects are not offered at WHS, Manyarara ordered the principal to notify the Basic Education Minister of the reasons. He told Seuaa Karuaihe-Samupofu that she could approach the court again if not satisfied...

Christof Maletsky, The Namibian, 11 February 2005

4. NATIONAL AND INTERNATIONAL LEGAL FRAMEWORK

4.1 Non-discrimination and the right to education

The starting point for the right to education is Article 20(1) of the Namibian Constitution, which states that “All persons shall have the right to education”.

The right to education has been interpreted at the international level as including the right of a learner not to be discriminated against or “disciplined” because of pregnancy, and the United Nations Commission on Human Rights has called upon all UN members to eliminate obstacles which limit access to education by pregnant girls. The UN Committee which monitors the Convention on the Rights of the Child has stated that the exclusion from school of pregnant schoolgirls “is not only discriminatory against girls but also a violation of the right to education”.

Courts in some other countries (including Colombia and South Africa) have found that even a temporary suspension on the basis of pregnancy is impermissible discrimination in respect of the right to education.

The current Namibian policy purports to apply precisely the same rules to pregnant schoolgirls and to male learners who father children during the course of their education. However, the policy is seldom applied to male learners, who can easily father children without this being noticed by school authorities. Thus, the policy arguably constitutes indirect discrimination since the number of girls who are adversely affected by it is far higher than the number of boys, even though it is framed in gender-neutral fashion.

4.2 The newborn child’s right to be cared for by both parents

Article 15 of the Namibian Constitution says that “Children shall have the right... subject to legislation enacted in the best interests of children, as far as possible the right to know and be cared for by their parents”. This Constitutional provision has been cited by the Ministry of Education as a justification for requiring new mothers (and fathers) to remain out of school for a year. However, reliance on this right to justify the current Policy on Pregnancy amongst Learners is misplaced.

This constitutional protection applies to all children, throughout their childhoods. If this Constitutional provision did support a policy forbidding new parents to continue their

schooling for the first year of their child's life, then working mothers and fathers would also have to be given a full year's maternity and paternity leave from work. By the same token, the Constitutional right of the child to be cared for by his or her parents does not come to an end at age one. If the Constitution could be applied in the way that has been suggested, then parents would be forbidden from working or attending school altogether. The "care" envisaged in the Constitution logically cannot not refer to full-time daily care of children of all ages, but must rather relate to ongoing parental contact, involvement and responsibility.

The UN Committee on the Right of the Child has recognised that a diversity of family and caregiving relationships can be in the best interests of a young child, noting the role of "some combination of mother, father, siblings, grandparents and other members of the extended family, along with professional caregivers specialised in childcare and education".

4.3 Other relevant international and regional commitments

Namibia has other international and regional commitments which give more specific attention to the issue of teenage pregnancy and education. Article 144 of the Namibian Constitution states that "unless otherwise provided by this Constitution or Act of Parliament, the general rules of public international law and international agreements binding upon Namibia under this Constitution shall form part of the law of Namibia." Therefore the commitments below, which have been signed by the Namibian government, are legally binding in Namibia.

Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)

This Convention requires the government to take all appropriate measures for "the reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely".

In 1997, in response to Namibia's first report under CEDAW, the Committee which monitors CEDAW cited teenage pregnancy as "the biggest challenge to female educational advancement" and expressed its concern that "pregnant teenage women were punished by expulsion from school".

In 2007, the same Committee gave a more detailed response on this issue in response to Namibia's combined second and third CEDAW report, expressing its concern "that the provision contained in the Policy on Pregnancy among Learners requiring that girls who

become pregnant should be allowed to return to normal schooling only after spending at least one year with the baby could act as a deterrent for girls to resume their studies after childbirth." The Committee recommended that Namibia "implement measures to retain girls in school".

Convention on the Rights of the Child

The Committee which monitors this Convention has emphasised the need to provide support for adolescent parents, noting that if support is lacking, young mothers may be prone to depression and anxiety, compromising their ability to care for their child. It has urged governments which are party to the Convention "to develop policies that will allow adolescent mothers to continue their education".

Charter on the Rights and Welfare of the African Child

This Charter requires governments to "take measures to encourage regular attendance at schools and the reduction of drop-out rates". Governments must also ensure that "children who become pregnant before completing their education shall have an opportunity to continue with their education on the basis of their individual ability". Commenting on this provision, the UN Special Rapporteur on the Right to Education stated:

Translating this obligation into practice often requires overcoming the denials of access to school for pregnant girls and very young mothers (when pregnancy is a disciplinary offence, for example), while overcoming this obstacle requires a well designed strategy for changing social norms through the mobilization of teachers, parents, community leaders, and pupils themselves.

Protocol to the African Charter on the Rights of Women in Africa

This Protocol commits states to the elimination of a range of barriers to girls' education and requires governments to "promote the enrolment and retention of girls in schools and other training institutions and the organisation of programmes for women who leave school prematurely".

Education for All (EFA)

"Education for All" refers to an international commitment adopted at a World Conference held in Jomtien, Thailand in 1990 which includes the goal of "eliminating gender disparities in primary and secondary education". In Namibia, one of the national strategic objectives to

advance this EFA goal is to decrease the rate of dropouts due to pregnancy and motherhood among schoolgirls. Namibia's National Plan of Action (2002-2015) for Education for All identifies several activities which could contribute to achieving this objective:

- Publicise and implement the policy on teenage pregnancy and encourage girls to **continue with their studies for as long as possible.**
- Sensitise teachers, Principals, school boards, community leaders, inspectors in order to **reduce the stigma of pregnancy and motherhood.**
- **Explore options which would allow pregnant girls to complete their education,** and increase access to reproductive health services.

The four principles of the Namibian Plan of Action for Education for All are equality, access, quality and democracy

5. APPROACHES IN OTHER COUNTRIES

The debate on policies on teenage pregnancies in schools in Sub-Saharan Africa has been ongoing for some time. The trend in most countries in the region – such as Botswana, Malawi, Zambia and Swaziland – in recent years is to move towards policies which make it easier for young mothers to continue their education. Botswana has instituted an innovative pilot project to support teen mothers in continuing their education, described in the next box.

In Madagascar, new mothers can return to school immediately after delivery if they wish. In Cameroon, girls have the right to negotiate the duration of their maternity leave with their school, and can arrange for extra classes so that they do not lag behind in their school work during the agreed period of absence from school.

Some of the most progressive policies on schoolgirl pregnancy are found in developing countries in the Spanish-speaking world, where there appears to be an increased trend to enshrine the rights of pregnant students and young mothers in legislation rather than merely in policy.

Further information on approaches in other countries can be found in the attached documents.

Botswana: Diphhalana

The Diphhalana initiative in Botswana is an example of a flexible learning programme that caters for a particular type of vulnerable learners – girls who get pregnant during their course of learning. Pregnant schoolgirls at Pekenene School are allowed to return to school after giving birth, for as long as they wish. Previously Botswana law only allowed re-entry by such girls in certain circumstances, and where this happened, girls had to wait for a year after birth. During maternity leave, schoolwork and other resources are sent to girls' homes and the school has developed a curriculum with some distance education modules that learners can attend from home, without attending formal school. This makes it possible for pregnant girls to continue learning from home instead of being marginalised as is normally the norm in most systems within the region. When they are certified fit to return to school by a doctor, they return with their babies. The school has crèche facilities, which can take babies as young as 4 months, and nappies and milk are provided. At break and lunchtimes the young mothers breast-feed their children. The Diphhalana project requires that the father, if he is at school, shares the responsibility of looking after the baby at break and lunchtimes, so that he can develop a sense of responsibility (Unterhalter et al., 2004).

Through the Diphhalana intervention, the double frustration brought about by getting pregnant prematurely and being rejected by the school system is greatly alleviated; hope is restored and a sense of being accepted by the society is instilled into the beneficiary learners. Such learners are likely to apply themselves conscientiously after the experience of childbearing and may realise great academic achievements in their lifetime. The benefits of providing such safety nets to the individual girl and her baby and to the wider society are immense. By making use of distance education support materials, keeping communication links with pregnant learners from their homes and giving them support, and providing extra facilities like crèches at school, the Diphhalana initiative shows how flexibility in delivery modes and adopting a different conception of school from the traditional one can cater for some of the vulnerable children in developing societies. In most of the sub-Saharan countries, many girls terminate their education prematurely due to pregnancy and the Diphhalana initiative is an example of good practice in terms of mitigating the effects of this problem on these vulnerable learners.

This initiative is also unique in that it demonstrates how concerns across a range of social sectors – health, education and social welfare – can be integrated to provide an imaginative response to the issue of schoolgirl pregnancy, one of the prevalent causes for dropping out of school amongst school girls, particularly those who live without adult care givers and who come from poor families.

www.ioe.ac.uk/SOFIE/publications/MhlangaReviewPaper.pdf

6. THE CHALLENGE OF PREVENTION

Prevention is an important component of any approach to adolescent pregnancy, but prevention is also a complex task.

Sexual activity begins early for most Namibian teens. National health statistics indicate that about half of girls aged 15-19 are sexually active, as well as about two-thirds of the boys in that age group. Factors which can lead to early pregnancy include peer pressure, “sugar daddy” relationships, lack of parental love and guidance, failure of parents to discuss sex with their children, lack of recreational activities for youth and alcohol abuse.

6.1 The influence of the school environment

One contributing factor is that girls in some parts of Africa do not start school at the appropriate age, meaning that they are older in their secondary school years and thus more likely to become sexually active. Even where girls do start school at the appropriate age, the necessity of repeating grades because of unsatisfactory progress may still result in higher age for grade than expected.

The quality of the school environment and the success of the education programme are also relevant. A 2001 study in Kenya found that girls who attended schools where they felt that they received equal treatment with boys were less likely to engage in sex than those who attended schools with less gender equality. Other studies have found that girls with poor school performance are significantly more likely than better students to become pregnant. It would also seem that girls who feel valued and hopeful about their futures are more likely to delay child-bearing.

Another area of focus in respect of pregnancy prevention should be the school hostel environment. A 2002 study of girls’ education in the Rundu area found that “most government-run hostels were seen as unsafe for girls”, lacking in sufficient measure for physical security (such as working locks on door) as well as suffering from inadequate disciplinary supervision and an absence of organised leisure activities, In order to play a positive role in preventing pregnancy, schools must be safe and secure environments where students feel protected against sexual harassment and coercion.

Namibia’s National Policy on Reproductive Health (2001) gives particular attention to adolescent-friendly reproductive health services. However, there is not yet full realisation of this ideal on the ground. There is a role for teachers and school guidance counsellors to

play in bridging the gap, to provide an alternate and possibly more accessible source of information and advice on reproductive health and contraception for adolescents.

6.2 Pregnancy as a result of unwanted sex

One factor which must not be underestimated is the effect of gender violence on schoolgirls – many pregnancies may be the result of forced sex rather than free choice or risky sexual behaviour. Recent police statistics indicate that just over one-third of all victims of rape and attempted rape are under age 18. A 2006 UNICEF study found that 19% of the girls aged 15-24 in the study had already been pregnant – *with a shocking 40% of these pregnancies resulting from forced sex.*

Another form of pressure can come from teachers. Between 1995 and 2002, the Ministry of Basic Education expelled 114 male teachers for impregnating schoolgirls. The full extent of this problem may never be known, as it is hard for a learner to point fingers at a teacher. While some people blame the school girls in such situations for “seducing” the teachers, it must be recognised that this is an unequal power relationship in which the teacher is in a position of trust and responsibility with respect to the learners.

Even where there is no overt coercion, girls may still feel powerless to negotiate sexual behaviour or contraceptive use if they do not feel they are equal partners in a sexual relationship. This inequality is obvious in relationships with richer, older men or men in positions of authority, such as teachers, but it can also be present in relationships with boys of their own age because of persisting gender inequalities in society. For example, a study of adolescent sexual behaviour in the Ohangwena Region noted that “the notion that a girl or a woman cannot refuse sex develops at an early age”

These concerns re-enforce other arguments against applying a punitive policy to pregnancy learners, since many schoolgirls are coerced or pressured into risking pregnancy against their will. The individual right to sexual autonomy needs to be highlighted in life skills programmes, as well as mutual respect for sexual partners. Girls need to be shown how to avoid placing themselves in situations of sexual vulnerability, such as by accepting gifts from older men, and boys need to be taught that “no means no”, and that girls have an absolute right to say no. These seemingly simple messages will not be easy to impart, given the fact that they go against some persisting cultural norms which continue to view women as being subordinate to men in sexual matters

6.3 Alcohol abuse

The UNICEF study highlighted the connection between alcohol and risky sexual behaviour. The study found that 15-24 year olds consume alcohol on a regular basis, and start drinking fairly early (at the age of 15). One-fifth of this age group uses alcohol daily or up to six times week. Furthermore, almost 27% had participated in sexual activities while under the influence of alcohol. Alcohol increases the probability of having taken one or more sexual risks which could lead to HIV (and thus also to pregnancy) more than threefold.

The connection between alcohol and risky sexual behaviour is already part of HIV education programmes and interventions such as 'My Future My Choice'. This could be bolstered by school-sponsored evening activities which provide entertainment options for students in an alcohol-free environment.

Interestingly, a 2002 study of girls' education in the Rundu area noted that parents, students and school officials interviewed all cited alcohol abuse by *teachers* as a problematic issue, in that intoxicated teachers not only neglected their teaching duties, but were also more prone to also solicit sex from female learners.

6.4 Relationships with teachers

Teachers are a potential source of positive information and influence. After parents and grandparents, teachers are often the most important adults in any school going child's life. Many children say that they would go to a teacher if they had a problem.

On the other hand, although children turn to teachers for help in situations of abuse, it is particularly disturbing to note that school teachers may be the culprits in some of the situations of forced sex. The Code of Conduct for the Teaching Service makes no particular reference to learner pregnancy, but stipulates that a teacher "may not become involved in any form of romance or sexual relations with a learner or sexual harassment or abuse of a learner". Teachers are also tasked to promote gender equality. Failure to comply with the Code of Conduct constitutes misconduct and must be dealt with in terms of Namibia's Public Service Act. This means that the misconduct could lead to suspension followed by an enquiry, with the ultimate result being reprimand, a fine, transfer to another post, a reduction in salary or rank, and possible dismissal, depending on the recommendation of the disciplinary committee which considers the case. Depending on the seriousness of the infringement of the Code of Conduct, the teacher in question

may also “be given the necessary counselling and advice and opportunity to correct his or her behaviour”.

The implementation of sanctions against teachers who violate this provision should be strictly implemented. There are reports that some teachers who have caused pregnancies have compromised the parents of the girl by offering settlements in form of cash or foodstuffs to discourage the parents from pursuing the matter with the Ministry of Education.

It is a very serious breach of trust and responsibility for a teacher to be intimately involved with a student. It should be noted that if the school girl is under the age of 16 and the teacher more than three years older, the teacher has committed a crime in terms of the Combating of Immoral Practices Act and should be prosecuted; if the school girl is under the age of 14, the crime is rape.

Ideally, the culprit teacher, in addition to being charged with a criminal offence if the girl is under the age of 16, ought to be barred from having any further direct contact with students. Simply put, the teacher should be barred from teaching. Further, the Ministry of Education should have a registry for teachers who have been found guilty of such behaviour for reference purposes, to prevent accidental re-hiring of such teachers for any post involving direct contact with children.

6.5 School programmes on sexuality

There are two programmes on enhancing children’s life skills in relation to relationships and sexuality: the “Window of Hope” programme aimed at 10 to 14 year olds, and the “My Future My Choice” (MFMC) programme aimed at youth aged 15 to 24 years. Both are structured as after-school activities, with out-of-school youth being able to participate in the MFMC programme along with school-going youth.

‘Window of Hope’ is designed to help children in the targeted grades to develop life skills such as communicating, decision-making, care-giving, identifying and managing emotions, building self-esteem, resisting peer pressure and building healthy relationships. ‘My Future My Choice’ makes use of peer educators and covers similar topics adapted for older audiences. It includes segments on contraception and on the consequences of early pregnancy.

The 2006 UNICEF study found that MFMC participants on average have been sexually active for a slightly shorter time than non-participants, and consumed alcohol slightly

less frequently. One drawback however is that the intended approach is not necessarily consistent with what is happening on the ground. For example, the 2002 Rundu study found that the aspects of the life skills education which were supposed to be incorporated into the formal curriculum were being neglected because these were non-promotional subjects.

Commitment to the continuation of such initiatives is already incorporated into the National Policy on HIV-AIDS for the Education Sector. These programmes are an obvious avenue for intensified attention to the problem of teen pregnancy, as well as the dissemination of information about a new school policy on pregnancy among learners.

There is also scope for cooperation with non-governmental groups on this topic. For example, learner pregnancy has been one of the topics focused on by the Ombetja Yehinga Organisation (OYO), which works with youth in Khomas, Erongo and Kunene regions and produces a bi-monthly magazine on issues of youth and sexuality. OYO has also worked with local youth to produce a film on learner pregnancy entitled "5 Minutes of Pleasure". Childline/Lifeline also gives school presentations in some schools which combine factual information about reproduction with information about gender equality and good relationships. As another example, the Otjituuuo Youth Association joined forces with the Red Cross to hold reproductive health training sessions in their village near Grootfontein during 2007, after several reports of teen pregnancy amongst local girls.

7. PROVIDING EFFECTIVE SUPPORT

Key factors which will be likely to influence the decision on whether or not to return to school are the availability of child care, the socioeconomic status of the household and the attitude of the learner's parents.

7.1 Change in status and stigma

A 2002 FAWENA study found shame and stigma to be a problem. For example, a primary school girl in Kunene Region who became pregnant felt that everyone was "talking about her" and that her teachers refused to accept her after her return. The 2002 Rundu study found that male learners and teachers teased new mothers, such as by mockingly referring to them as "mother".

A 2006 study in the Rundu area noted that girls who have given birth become adults in the eyes of some cultures. Such a change is normally a matter of pride, but it can also

be a basis for high expectation or for mockery when the young mother returns to school. Examples of comments which might be made were: "*A mother cannot behave like this*"; "*How can a mother give an incorrect answer?*"; "*Some of you are adult people and have children. You are not supposed to make noise*"; "*Why should a mother allow such behaviour to happen in the class?*".

This change in status is also perceived by some learners as meaning that teenage parents do not belong in the school environment any more, and some learners reportedly use negative words and names when referring to young mothers. One teen mother reported that fellow students might say things such as: "*We do not want to see an old woman in our class*". The result of such attitudes can be feelings of isolation and rejection.

One idea which could assist here is arranging regular meetings in which pregnant learners and learner parents can share and discuss the problems they experience and help each other to identify solutions. Another suggestion put forward is to set up special rooms at hostels where pregnant boarders can study together in private.

It should be noted in respect of this issue that the Code of Conduct for the Teaching Service states that a teacher "may not in any form humiliate or abuse a learner (i.e. physically, emotionally or psychologically)" and "must respect the dignity and constitutional rights of every learner without prejudice, including the right to education, equality of culture and the right to privacy". Teachers must further more "refrain from any form of discrimination" including discrimination on the basis of "health reasons". Similarly, the General Rules of Conduct for Learners state that a learner "must respect the dignity, person and property of teachers, learners and members of the public".

7.2 The burden of extra responsibilities

The 2006 Rundu study noted that young mothers who return to school shoulder the "double responsibility" of schooling combined with parenting. This was cited as a contributing factor to poor attendance by young mothers, especially with respect to afternoon study, extra classes after school and extra-curricular activities.

One suggestion offered for easing the burden on learner mothers is to excuse them from extra-curricular activities (unless they are staying the school hostel apart from their babies). Another suggestion is to try to schedule extra classes at times which can accommodate new mothers. It has been noted that parents should also be involved in assisting schoolgirl mothers with their burden of responsibility. Where they seem unwilling to help, schools could attempt to discuss the situation with them and try to convince them to be more supportive.

7.3 Teacher counselling

Both the 2002 and the 2006 Rundu studies found that while many schools had a specific female teacher who counselled girls on issues pertaining to sexuality – either a teacher formally assigned to play this role by school management or someone who had taken the task on out of her own initiative. However, none of the teachers had specific training in counselling skills, although some had attended workshops on this topic. Techniques for counselling and supporting pregnant learners and learner parents could be a topic of in-service training for school guidance counsellors and selected teachers.

8. ABORTION, “BABY-DUMPING” AND INFANTICIDE

In several other African countries, fear that a pregnancy would disrupt education is one of the main reasons young women cite for seeking abortions. There may be a link between educational policies and abortion in Namibia as well. Many learners have said that they would consider abortion if they became pregnant, while several reported that they had actually resorted to this option themselves. In discussing motivations for abortion, learners cited not only fears of having to leave school, but also shame, embarrassment, stigma, worries about not being able to support the child financially, not knowing how to look after a baby, and lack of emotional support from their parents or the baby's father. While no data exists on the number of Namibian school girls who have procured abortions in order to remain in school, some have certainly done so. Abortion in Namibia is illegal except in very narrowly defined circumstances and the possibility of girls in such situations resorting to backstreet abortions with dire health consequences or even fatalities is very real.

Restrictive school policies may also lead to baby-dumping or infanticide, although there are as yet no studies which document the extent of this connection.

Thus, assertions that a long enforced leave of absence for learner parents is in the interests of the newborn child are mistaken, as extremely restrictive policies may simply mean that there will be no newborn child to care for.

9. THE DIFFICULTY OF BEING GENDER-NEUTRAL

Simply applying the same rules to pregnant school schoolgirls as to schoolboys is not very effective, as practice shows in Namibia and other countries. For one thing, the schoolgirl's pregnancy will eventually become obvious while the father's involvement

will usually not be evident. Another issue is that the father is more likely to be an older man who is out of school than a fellow learner. Furthermore, girls are often reluctant to identify the father, whether he is a fellow learner or someone outside the school.

Simply stating that the same rules will be applicable to pregnant learners and the boys responsible for those pregnancies is not a sufficient method to achieve gender equality on this topic. Even if the fathers are schoolboys, there will not be symmetry in the consequences of the pregnancy for both social and biological reasons. In order to achieve gender equality with respect to learner pregnancies, the only option is to provide support to the female learner so as to minimise the negative consequences of the pregnancy.

10. RECOMMENDATIONS

Against this background, the Ministry of Education has recognised the need for a further revision of Namibia's policy on teenage pregnancy, to place greater emphasis on positive steps to prevent learner pregnancy, and to ensure that young parents are encouraged to complete their education for the benefit of themselves, their infants and the developing Namibian nation.

MAIN BACKGROUND PAPER

1. INTRODUCTION

A school girl makes an unwise decision. Or she is coerced into having sex against her will by means of physical force, economic pressure or peer pressure. She becomes pregnant. The father may be a schoolboy, a teacher, a “sugar daddy” or even a relative. What will this mean for her future?

The problem of teenage pregnancy among school girls is a major concern in most African countries. Teenage pregnancy has been cited as a constraint in the elimination of gender disparities in education, and in the achievement of the Millennium Development Goals of universal primary education and gender equality in education by 2015.¹

¹ The Millennium Development Goals were adopted by some 190 nations, including Namibia, at the United Nations Millennium Summit in 2000 (United Nations Millennium Declaration, Resolution 55/2 adopted by the General Assembly, 8 September 2000). The eight goals are:

- **Goal 1: Eradicate extreme poverty and hunger**
Target: Halve the proportion of people living on less than a dollar a day and the proportion of people who suffer from hunger.
- **Goal 2: Achieve universal primary education**
Target: Ensure that all boys and girls complete primary school.
- **Goal 3: Promote gender equality and empower women**
Target: Eliminate gender disparities in primary and secondary education preferably by 2005, and at all levels by 2015.
- **Goal 4: Reduce child mortality**
Target: Reduce by two thirds the mortality rate among children under five.
- **Goal 5: Improve Maternal Health**
Target: Reduce by three quarters the maternal mortality ratio.
- **Goal 6: Combat HIV/AIDS, malaria and other diseases**
Target: Halt and begin to reverse the spread of HIV/AIDS, and the incidence of malaria and other major diseases.
- **Goal 7: Ensure environmental sustainability**
Target: Integrate the principles of sustainable development into country policies and programmes; reverse loss of environmental resources; reduce by half the proportion of people without sustainable access to safe drinking water; and achieve significant improvement in lives of at least 100 million slum dwellers, by 2020
- **Goal 8: Develop a global partnership for development**
Target: [None specified.]

In a continent where the adage “*when you educate a woman you educate a nation*” holds so true, the repercussions of girls dropping out of school due to pregnancy cannot be underestimated.

Generally, quality education impacts positively on the productivity of both men and women at home and at work. The social benefits of educating women include improved agricultural productivity, improved health, reductions in fertility and reductions in infant and child mortality rates. According to a recent report by Save the Children, “the children of uneducated mothers are more than twice likely to die or be malnourished than the children of mothers who have secondary or higher education”.²

Children born to educated mothers have a higher chance of enrolling and completing school. Conversely, children of less educated mothers are unlikely to complete school themselves, meaning that they have fewer opportunities to better their lives since they lack the level of education that would allow them to compete successfully for jobs. Thus, the concern about improving the educational rights of girls who become pregnant is based in part on the knowledge that this will affect the fate of their children and future generations.

The last decade or so has seen an introduction of more liberal learner pregnancy policies in many African countries, including Namibia, as a way of encouraging teenage mothers to stay in school. The Namibian government has progressively defined and refined its policy on pregnancy amongst schoolgirls since independence. The Forum for African Women Educationalists (FAWE) through its local branch FAWE Namibia (FAWENA) has been actively involved in the promotion of education for girls and the readmission of teenage mothers to schools. There is now a need to revisit Namibia’s policy on pregnancy amongst learners, to consider further clarifications and improvements which could enhance girls’ ability to exercise their right to education.

This paper seeks to contribute to the discussion and acceptance of a new policy on learner pregnancy, by providing relevant background and comparative information.

² Save the Children, *State of the World’s Mothers Report 2005: The Power and Promise of Girls Education*.

2. THE EXTENT OF THE PROBLEM

2.1 The problem in Namibia

Official statistics on pregnancy-related school drop-outs in Namibia for 2007 show that a total of 1465 learners dropped out for this reason – with 96% of them being girls:

PREGNANCY-RELATED SCHOOL DROP-OUTS, 2007			
Region	Male	Female	Total
Caprivi	0	83	83
Erongo	4	55	59
Hardap	3	44	47
Head Office	1	3	4
Karas	0	37	37
Kavango	17	336	353
Khomas	1	49	50
Kunene	0	32	32
Ohangwena	2	300	302
Omaheke	1	19	20
Omusati	9	173	182
Oshana	6	95	101
Oshikoto	5	136	141
Otjozondjupa	13	41	54
Total	62	1,403	1,465

Source: Ministry of Education, based on information from all primary & secondary schools where the reasons for drop-outs were ascertained by the school.

The figures show large regional disparities, with pregnancy-related drop-outs being highest by far in Kavango and Ohangwena, followed by the regions of Omusati, Oshikoto, Oshana and Caprivi.³

³ As a point of comparison, the Minister of Basic Education, Sport and Culture cited 152 cases of learner pregnancies in 8 regions during 2004; however, this data appears to be incomplete as the Ministry of Education began collecting comprehensive information on drop-outs only in 2007 [footnote continues on next page].

However, information from other sources indicates that the official figures may be an underestimate.⁴ In 2002, a doctor reported that one in five pregnant women in the Karibib district “were teenagers who should have been in school”.⁵ In 2004, Women’s Action for Development surveyed 6 schools in the Khomas Region and recorded even higher reports of learner pregnancies, finding that at least 68 pregnancies had occurred amongst school-girls at these 6 schools between January and September 2004, involving girls as young as age 15.⁶ A 2004 news report stated that Lüderitz, which has one secondary school, records an average of 8 teenage pregnancy cases annually, and had 14 such cases in 2004.⁷

In 2007, it was estimated that 21 schoolgirls become pregnant each year in Rehoboth, forming part of the picture of the 170 secondary-school learners who drop out annually in this community.⁸ Even more shockingly, a 2007 news report states that over 500 girls in the Kavango region dropped out of school in 2005 (518 girls) and 2006 (568 girls) because of pregnancy – although some 900 teenage mothers were readmitted to school in the region in the 2007 academic year.⁹ Ohangwena Governor Usko Nghaamwa reported that there were about 18 schoolgirl pregnancies at Okatope Combined School in Ohangwena during 2007.¹⁰

As another point of comparison, a survey was done in all schools early in 1996, to establish how many learners had left school in 1995, and their reasons for dropping out. A total of 29 436 learners were reported to have dropped out in 1995, and the survey found that 24% of female drop outs – and up to 40% in some regions – were due to pregnancy.¹¹

LEARNER PREGNANCIES, 2004			
Region	Total	Region	Total
Caprivi	18	Kunene	no stats
Erongo	14	Ohangwena	no stats
Hardap	27	Omaheke	6
Head Office	no stats	Omusati	no stats
Karas	25	Oshana	5
Kavango	11	Oshikoto	no stats
Khomas	46	Otjozondjupa	no stats
TOTAL 152			

Source: Memorandum to Legal Assistance Centre from the Minister of Basic Education, Sport and Culture, dated 1 March 2005

⁴ In Botswana, when official statistics on pregnancy-related drop-outs were compared with findings from other kinds of studies, the official figures were found to be misleadingly low. D Meekers and G Ahmed, *Pregnancy-Related School Drop-outs in Botswana*, *Population Studies*, Vol 53, No 2, July 1999, pages 195-209, at pages 199-200.

⁵ *The Namibian*, 26 June 2002.

⁶ *New Era*, 25 October 2005; “Let’s talk about sex, says WAD”, *The Namibian*, 20 October 2005.

⁷ “Not a girl, not yet a woman – but already a mother”, *New Era*, 9 November 2004, and *The Namibian*, 10 November 2004, quoting Agnes Pokolo, a nurse at the Lüderitz State Hospital.

⁸ “Rehoboth tries to defuse ‘time bomb’ at schools”, *The Namibian*, 14 November 2007.

⁹ “Worries over pregnant schoolgirls”, *The Namibian*, 6 November 2007, quoting statistics compiled by Regional Education planner L Shaningwa.

¹⁰ “Taxis are a disease: Governor Nghaamwa”, *The Namibian*, 11 January 2008.

¹¹ Abt Associates South Africa, *The Impact of HIV/AIDS on Education in Namibia*, Windhoek: Ministry of Basic Education, Sport and Culture / Ministry of Higher Education, Training and Employment Creation, June 2002, Annex G at pages 94-97.

Percent of drop-outs due to pregnancy amongst girls by region (1996)

Caprivi	17%
Erongo	13%
Hardap	8%
Karas	8%
Kavango	14%
Khomas	11%
Khorixas	5%
Ohangwena	34%
Omaheke	12%
Omusati	40%
Oshana	38%
Oshikoto	37%
Otjozondjupa	7%
National	24%

Source: Abt Associates South Africa, *The Impact of HIV/AIDS on Education in Namibia*, Windhoek: Ministry of Basic Education, Sport and Culture / Ministry of Higher Education, Training and Employment Creation, June 2002, Annex G at page 97.

When the reasons for drop-outs were analysed by grade, pregnancy proved to be a strong factor beginning in Grade 5, with some drop-outs due to pregnancy occurring as early as Grade 2. (Some children are older than might be expected for their grade, because of starting late or repeating years.) *The study found that from Grade 6 onward, pregnancy was the most commonly identified reason for school drop-out, even when data on female and male learners was considered together.*

Percent of drop-outs due to pregnancy among all learners by grade (1996)

Grade 1	0,0%
Grade 2	0,5%
Grade 3	2,0%
Grade 4	5,9%
Grade 5	14,1%
Grade 6	20,7%
Grade 7	24,8%
Grade 8	25,1%
Grade 9	25,1%
Grade 10	16,5%
Grade 11	33,2%
Grade 12	32,1%
All grades	12,4%

Source: Abt Associates South Africa, *The Impact of HIV/AIDS on Education in Namibia*, Windhoek: Ministry of Basic Education, Sport and Culture / Ministry of Higher Education, Training and Employment Creation, June 2002, Annex G at page 96.

In 2005, there were more females than males attending school in most regions in Namibia. According to 2005 statistics, national school enrolment was 50,7% female overall, with the percentage of females being higher at secondary level than at primary level.¹² However, there was a drop in female enrolment between junior secondary school and senior secondary school which could be attributable in part to learner pregnancy.¹³ There were also significant regional variations, with female enrolment at senior secondary level being particularly low in Kavango, Kunene and Caprivi.¹⁴ A similar pattern was evident in the flow of learners from grade to grade; in 2005, females had higher promotion and lower repetition rates than males up to Grade 6, but the pattern was reversed in the higher grades.¹⁵

In 2007, gender comparisons had improved, with female and male enrolment being approximately equal overall, and the overall percentage of female enrolment being *higher* than male enrolment in all secondary grades. There were about equal numbers of female and male new entrants (about 50% females) in most grades. However, national statistics showed a marked and progressive increase in the percentage of female repeaters and re-entrants after grade 5. According to the Ministry of Education, “the higher repetition rates could indicate a higher commitment among females to complete their education, whereas the re-entrants could possibly indicate females returning to school after pregnancy.”¹⁶

		TOTAL ENROLMENT		NEW ENTRANTS		REPEATERS		RE-ENTRANTS	
School Phase	Grade	Total	% female	Total	% female	Total	% female	Total	% female
Total		567,670	50.8%	471,609	51.8%	93,097	45.7%	2,964	48.4%
Lower Primary	Grade 1	68,861	48.2%	54,380	49.7%	13,930	42.5%	551	47.7%
	Grade 2	58,910	48.9%	50,276	50.5%	8,333	39.4%	301	43.5%
	Grade 3	57,148	49.1%	49,448	50.6%	7,455	39.7%	245	35.5%
	Grade 4	56,697	49.3%	47,447	51.1%	8,953	40.3%	297	35.7%
Upper Primary	Grade 5	64,552	49.0%	48,512	50.9%	15,730	43.1%	310	34.8%
	Grade 6	51,932	51.2%	43,863	52.2%	7,894	46.3%	175	36.0%
	Grade 7	51,408	52.2%	42,063	52.5%	9,152	50.9%	193	53.9%
Junior Secondary	Grade 8	50,575	53.1%	38,754	53.6%	11,520	51.4%	301	62.1%
	Grade 9	41,582	54.2%	33,727	54.0%	7,497	54.5%	358	66.5%
	Grade 10	32,291	54.8%	29,726	53.9%	2,448	64.6%	117	72.6%
Senior Secondary	Grade 11	16,977	54.1%	16,755	54.1%	130	56.9%	92	48.9%
	Grade 12	16,737	53.3%	16,658	53.2%	55	58.2%	24	75.0%

Source: EMIS Education Statistics 2007, Windhoek: Ministry of Education, Table 29.

¹² Education Management Information System (EMIS), *Education Statistics 2005*, Windhoek: Ministry of Education, Table 8. School enrolment was 53,1% at secondary level, compared to 49,9% at primary level.

¹³ Ibid. Enrolment at junior secondary level (Grades 8-10) was 53,5% female, compared to 51,3% at senior secondary level (Grades 11-12).

¹⁴ Ibid. Enrolment at senior secondary level in 2005 was 39,8% female in Kavango, 45,2% female in Kunene and 46,9% female in Caprivi.

¹⁵ Id, Table 30.

¹⁶ Education Management Information System (EMIS), *Education Statistics 2007*, Windhoek: Ministry of Education, Table 29 (commentary).

Following a pattern similar to that observed in 2005, in 2007 females had higher promotion rates and lower repetition rates than males up to Grade 8 while the opposite was true for higher grades. After Grade 8, a higher percentage of females than males left school.¹⁷ Some of this attrition is undoubtedly attributable due to learner pregnancy and parenthood.

High proportions of Namibian mothers are very young, and one consequence of teenage pregnancy is that young women are less likely to complete their basic schooling... The greatest percentages of very young mothers under the age of 15 are in eastern Kavango, in north-eastern Otjozondjupa, and at various other places scattered across the country. There are also high proportions of mothers aged 15-19 in Ohangwena, Caprivi and in parts of Kunene.

Ministry of Health and Social Services,
Health in Namibia: Progress and Challenges, 2001 at page 59

Other sources tell us that Namibian women continue to give birth at fairly young ages, although there is some improvement on this point in the post-independence era. Namibia's *1992 Demographic and Health Survey* indicated that about 17% of all women surveyed had their first child before reaching age 18, and about 35% before reaching age 20.¹⁸ Looking at just those women who were teenagers *at the time of the survey*, 19% of the 17-year-olds had begun child-bearing at the time of the survey, 36% of the 18-year-olds and 45% of the 19-year-olds.¹⁹ The *2000 Demographic and Health Survey* found that about 17% of all women surveyed in 2000 had their first child before reaching age 18, and about 32% before reaching age 20.²⁰ However, looking at just those women who were teenagers *at the time of the survey*, 16% of the 17-year-olds had begun child-bearing at the time of the survey, 28% of the 18-year-olds and 39% of the 19-year-olds.²¹

To highlight the comparison over time, about 13% of women aged 15 to 19 *at the time of the most recent 2006-07 survey* were already mothers, and another 3% in this age group

¹⁷ Ibid at Table 30 (commentary).

¹⁸ Ministry of Health and Social Services (MoHSS), *Namibia Demographic and Health Survey 1992*, Windhoek: MoHSS, 1993, percentages based on Table 3.6 (hereinafter "*Namibia Demographic and Health Survey 1992*").

¹⁹ Id at Table 3.9.

²⁰ Ministry of Health and Social Services (MoHSS), *Namibia Demographic and Health Survey 2000*, Windhoek: MoHSS, 2003, based on Table 3.7 (hereinafter "*Namibia Demographic and Health Survey 2000*").

Secondary sources have cited different percentages. See, for example, C Maletsky, "Close to 50% of Namibian girls have children by age of 19", *The Namibian*, 25 July 2000 quoting President Sam Nujoma as having said that the Demographic and Health Survey says that "by the age of 19 some 45 per cent of Namibian girls have had children". This statistic is correct only for Namibian girls who were aged 19 *at the time of the survey*, and not necessarily true for "all Namibian girls".

²¹ *Namibia Demographic and Health Survey 2000* at Table 3.9.

were pregnant with their first child at the time of the survey. This is a small improvement over the situation in 2000, when about 15% of the women aged 15 to 19 at the time of the 2000 survey were already mothers, and another 3% in this age group were pregnant with their first child at the time of the survey – which is again a small improvement over the situation in 1992, when almost 18% of the women aged 15 to 19 at the time of the survey had already given birth, while almost 4% were pregnant with their first child.²² The median age at first pregnancy has remained unchanged over this period at 21.²³

PERCENTAGE OF TEENAGERS WHO HAVE BEGUN CHILDBEARING includes both mothers and those pregnant with first child at time of survey			
Age at time of DHS survey	1992 survey	2000 survey	2006-07 survey
15	1.3	2.2	2.7
16	6.3	5.8	5.5
17	18.7	16.0	13.9
18	36.0	27.6	21.6
19	45.4	39.3	34.7
Total	21.5	17.6	15.4

Source: Namibia Demographic and Health Surveys 1992, 2000, 2006-07

The 2000 and 2006-07 surveys both highlight the regional variations in these statistics, with first births tending to occur earlier in Caprivi, Kavango, Kunene, Omaheke and Otjozondjupa than in other regions. Some of these regions are also notable for low female school enrolment at secondary level. Of course, it must be noted that the relationship between teen pregnancy and educational levels is a circular one; the age of first pregnancy tends to be higher amongst women who have at least some secondary schooling, while teen pregnancy is also a factor which mitigates against the completion of secondary schooling by the teen mother.²⁴ The 2000 survey report commented:

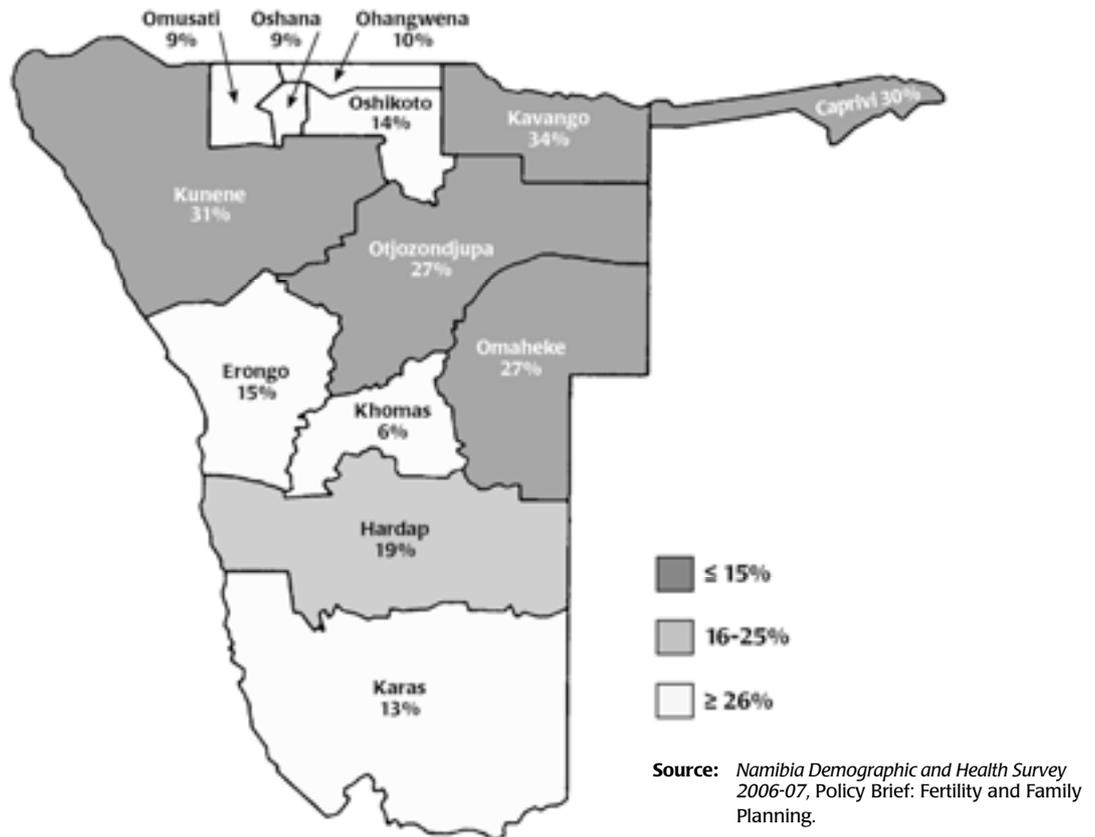
Early childbearing, particularly among teenagers (those under 20 years of age) has detrimental demographic, socioeconomic and sociocultural consequences. Teenage mothers are more likely to suffer from severe complications during delivery, which result in higher morbidity and mortality for both themselves and their children. In addition, **the socioeconomic advancement of teenage mothers in the areas of educational attainment and accessibility to job opportunities may be curtailed.**²⁵

²² Ministry of Health and Social Services (MoHSS), *Namibia Demographic and Health Survey 2006-07: Key Findings*, Windhoek: MoHSS, 2008, page 4 (hereinafter “*Namibia Demographic and Health Survey Key Findings 2006-07*”); *Namibia Demographic and Health Survey 2000*, Table 3.8; *Namibia Demographic and Health Survey 1992*, Table 3.9.

²³ See *Namibia Demographic and Health Survey 2006-07: Key Findings*, page 4 and *Namibia Demographic and Health Survey 2000* at page 53.

²⁴ *Namibia Demographic and Health Survey 2000*, Table 3.7; *Namibia Demographic and Health Survey 2006-07*, Policy Brief: Fertility and Family Planning.

²⁵ *Namibia Demographic and Health Survey 2000* at pages 53-55; quote from page 54. (emphasis added).



The cold statistics do not convey the reality of life as a pregnant schoolgirl under the current policy which requires that she leave school as soon as the pregnancy is visible and return only after spending one year with the child. A 16-year-old girl with hopes of becoming an engineer reported that she was expelled from Grade 9 in 2004: “The authorities learnt of my pregnancy in the third month and expelled me. I have been told that I can only be admitted in school next year.”²⁶ Parents at Omundaungilo village in Ohangwena Region reportedly blocked the entrance of a local school in protest in January 2006, after two girls allegedly became pregnant by teachers at the school, while a third girl was reportedly raped by another teacher. The girls were abused by their teachers and yet were still “punished” by being forced to remain outside school.²⁷ In August 2006, the school board at a secondary school in Caprivi allowed 16 pregnant schoolgirls to return to school to write their final exams, although they were temporarily stopped from attending class before the exams. Both the young mothers and the schoolboys who had impregnated them were barred from returning to school on a regular basis until one year after the birth of the child.²⁸ Anecdotes such as these give some indication of the impact of the problem and the policy in action.

²⁶ *The Namibian*, 31 October 2005; “Namibia: Growing controversy over teen pregnancy”, IRIN news, 20 October 2005.

²⁷ *The Namibian*, 17 January 2006.

²⁸ *The Namibian*, 15 August 2006; *New Era*, 10 August 2006. .

“It happens every year...”

“It happens every year,” explains Helena, a softly spoken, serious-looking student. “One of my classmates dropped out and gave birth last week. At first, we didn’t know anything. Her belly wasn’t too big. She was always quiet and sleeping in class; we asked her if she was sick but she didn’t say. Only when the Principal called her and she came back crying did we know there was a problem. She was chased out of school.”

Helena’s own story is a successful one – overcoming ill health and her family’s poverty, her focus is on matriculating and winning a bursary for university. She sees teenage pregnancy as the main obstacle in the way of girls completing their education.

“Teenage pregnancy is a big problem. Maybe the girls think that if they get involved with boys, they will support them in the future. But it’s not true; they make them pregnant and then leave them. The girls don’t come back to school.”

Helena attributes much of her own success to the Girls’ Club at her school, of which she is an active member. “In the club we discuss the importance of education and what we can achieve in life with it. We also learn how as girls we can protect ourselves against pregnancy and HIV.”

Government of the Republic of Namibia, *Namibia Millennium Development Goals 2004*,
Windhoek: Office of the President / National Planning Commission, August 2004

Teen pregnancy in Rundu Rural West

...Some of the victims succumbed to pressure from their peers who claim: “If you have a boyfriend he will give you material support and give you everything that you need.”

Fifteen-year-old *Charity Karupu an expectant mother impregnated by a close male relative was recently expelled from school at Mavanze Primary after it was discovered she was six-months pregnant. Karupu is a good representative example of children falling pregnant at Mavanze some 12 kilometres west of Rundu, after they had unprotected sex.

Two years ago, to be exact, she experienced her first pregnancy at the tender age of thirteen and she had to drop out of school but her baby died shortly after birth.

And when Elizabeth Hilger [of the Theresia Orphans and Vulnerable Children Foundation] heard about her heart-rending tale, she pleaded with the head-teacher at Mavanze Primary to give the girl-child a second chance and the sympathetic principal heeded the impassioned appeal by re-admitting the girl back to school.

But this year Karupu’s cousin professed his undying love and that he would be buying for her products such as Vaseline, lotion and other cosmetics. She got hooked onto him again.

The cousin started having an incestuous affair with the minor and after he promised to marry her they started having sex initially with a condom, but later they had unprotected sex and this led to her pregnancy that resulted in her expulsion from school.

Her family’s hope that one day she may have a better education than they had have been dashed, and she is not only back to square one but the relative has not fulfilled his marriage promise.

It appears her dream of one day becoming a nurse will remain a fantasy and her seven siblings will remain trapped in abject poverty at Mavanze where life is a daily struggle.

"Her mother was very happy when I took her and supported her with her education, food and clothes. But the mother is very devastated after she discovered that her daughter was pregnant again. Her boyfriend left school a long time ago and just sits at home doing nothing," explained Hilger.

There is also the story of sixteen-year-old *Judith Kasara who recently dropped out of grade-eight after she was made pregnant by a 16-year-old school-leaver.

This girl was reportedly a virgin when she first had sex with the idler. The boy who made her pregnant is an orphan. Judith Kasara has an elder sister who failed Grade 10 and a brother who also failed the same grade. She also has a younger brother currently in Grade 9 and a younger sister who is in Grade 2. Her story is made sadder by the fact that a single parent has been raising them after their father passed away.

She was also her family's hope out of poverty possibly after she furthered her education and landed a job at Rundu or at any of the towns in Namibia.

Like Karupu, she also got hooked in a ruinous love relation after her boyfriend made empty promises to buy her bathing soap, washing powder and promised to marry her.

Initially, they used condoms but after the boy's stock ran out, they had unprotected sex and dashed her hopes for a better future after she fell pregnant.

excerpt from **C Inambao**,
"School Girls Forced Into Marriage", *New Era*, 13 July 2008

A good overview of the situation appeared in the first draft of Namibia's Third National Development Plan:

Despite limited research, it is clear that teenage pregnancy and family demands impact female learners. Indeed, if not for this, the percentage of female learners at Grade 10 (16-year-olds) and above could be 2 percent to 3 percent higher. Although the incidence of teenage pregnancies has stabilized, there is still a lack of support and negative attitudes towards girls who fall pregnant. Pregnant teenagers are required to leave school, with few returning. A girl who becomes pregnant is by law supposed to be allowed back to the same public school after one year's absence. However, the girls will have to give proof that they have someone responsible looking after their baby, criteria many cannot meet. Although the one-year absent rule is supposed to also apply to schoolboys who impregnate girls, schoolboys are rarely identified and older men seldom face any consequences, although a few schools have taken action.²⁹

The discussion of this topic concluded by stating that a new policy on teenage pregnancy would "contribute significantly to the goal of gender equality".³⁰

²⁹ National Development Plan 3 (NDP3), Volume 1, first draft at page 97. The final document was not yet available at the time of writing.

³⁰ Id at page 101.

2.2 The problem in Africa

The next table gives some indication of the incidence of girls dropping out of school because of pregnancy in a range of African countries. However, this data must be approached with caution. A separate and overlapping reason given for dropping out of school was early marriage, although marriage may have been preceded or followed in many cases by pregnancy. Also, some young women may not report either of these factors as their reasons for dropping out, even if pregnancy or marriage did play a role. Another hidden factor is the role of varying policies on schoolgirl pregnancy, which ranged from complete expulsion to temporary withdrawal to continuation policies in the countries examined.³¹

PREGNANCY AS A REASON FOR SCHOOL EXIT AS REPORTED BY WOMEN AGED 20-24 IN 20 AFRICAN COUNTRIES				
Country	Year of survey	Percentage of respondents who reported ever attending school	Percentage of school attendees who reported school exit before completion of secondary school	Percentage of those who exited school who reported pregnancy as main reason for exit
Burkina Faso	1998-99	18	79	6
Niger	1998	22	87	1
Mali	1995-96	23	85	3
Guinea	1999	24	70	5
Chad	1996-97	29	86	2
Benin	1996	34	90	2
Côte d'Ivoire	1998-99	53	82	4
Central Africa Rep	1994-95	58	88	15
Togo	1998	61	85	9
Comoros	1996	64	66	2
Mozambique	1997	65	95	10
Nigeria	1999	68	48	8
Uganda	1995	78	90	8
Cameroon	1998	79	83	12
Madagascar	1997	82	94	2
Tanzania	1996	83	95	4
Zambia	1996-97	89	94	17
Kenya	1998	96	69	13
Zimbabwe	1994	97	94	7
South Africa	1998	98	37	31

Source: based on Cynthia B Lloyd & Barbara S Mensch, Marriage and Childbirth as Factors in School Exit: An Analysis of DHS Data from sub-Saharan Africa, Population Council, 2006, Table 1, drawn from Demographic & Health Survey (DHS) data in the respective countries. The Namibia DHS 1992 and DHS 2000 did not ask this question.

³¹ CB Lloyd & BS Mensch, Marriage and Childbirth as Factors in School Exit: An Analysis of DHS Data from sub-Saharan Africa, Policy Research Division Working Paper No. 219, New York: Population Council, 2006 at pages 7-10.

It was reported in 1999 that most studies in Botswana found that pregnancy was the reason for the majority of school drop-outs by girls.³² It is also the foremost cause of school drop-out for girls in Malawi, where official statistics in 2000 indicated that 3.1% of all female learners and 0.1% of all male learners dropped out because of pregnancy.³³ In South Africa in 2002, 66 000 teenage girls that reported pregnancy as the main reason for not attending an educational institution, rising to 86 000 in 2004, and dropping slightly to 71 000 in 2006. This means that in 2002, about 12% of South African teenage girls who were not in an educational institution reported pregnancy as the main reason, rising to 17% in 2004 and declining to 14% in 2006.³⁴ Namibia is not alone in the need to find better ways to address the problem of pregnancy amongst learners.

³² D Meekers & G Ahmed, "Pregnancy-Related School Dropouts in Botswana", 71 *Population Studies*, Vol 53, No 2 (July 1999), at page 199.

³³ Dr. D Maluwa-Banda, *Gender Sensitive Educational Policy and Practice: The Case of Malawi*, 2003, at page 12, citing *Education Basic Statistics (2000)* from the Ministry of Education, Science and Technology.

³⁴ P Lehohla, "Women's month reminds us of struggles past, and future challenges", *Statistics South Africa*, August 2007, www.statssa.gov.za/news_archive/23August2007_1.asp.

3. SUCCESSIVE NAMIBIAN POLICIES

3.1 Individual school policies 1990-1994

Concerns about the problem of teenage pregnancy in Namibia emerged shortly after independence in 1991.

A study by Panduleni Hailonga (1993) involved focus group discussions about teen pregnancy in Katutura with boys and girls aged 14-18. The main consequence of teenage pregnancy cited by the participants was “lack of education”. Girls expressed unhappiness that pregnant girls had to leave school while the boys responsible for pregnancies suffered no consequences. Pregnant adolescents who were interviewed expressed a desire to continue with their education, but were afraid of being teased by other learners. Furthermore, participants reported that the “unwritten policy” was that pregnant schoolgirls were expelled from school.³⁵

Prior to 1994, there was no written national policy on teenage pregnancy in schools, and it was left to the discretion of individual schools to handle the cases of pregnant learners. Girls were normally expelled from school as soon as the school authorities learned about their pregnancies, and the decision on whether to readmit them after they had delivered was left entirely to the individual school. The father of the child, in cases where he was a learner and identified, was usually expelled as well. Teachers who were found to be responsible for impregnating learners were dismissed but, if fully qualified, could return to teaching in a different community after two years or at their former schools after five years. Unqualified teachers responsible for such pregnancies could return to teaching only if they first acquired professional teaching qualifications.

3.2 National policies issued by Ministry of Education: 1994 & 1995

In March 1994, the government’s general policy was outlined in a document signed by the Minister of Education (see the following box).

³⁵ P Hailonga, *A Study to Identify Adolescents Knowledge, Attitudes and Beliefs Towards Teenage Pregnancy*, Windhoek: Ministry of Health & Social Services, 1993.

- (1) When a girl becomes pregnant, she should be prepared to take care of the child (breast feeding) for two years. During that time she may attend afternoon continuing education classes.
- (2) After two years she may find a place in any other school, but not where she is known to have had a child. The principal of the original school could write a confidential letter to the principal of the accepting school.
- (3) The principal of the accepting school will only accept the mother student on his or her own discretion. In other words, a mother student cannot take up a place of any other deserving learner.
- (4) A mother student has a right to attend continuing education classes any time where such classes are available.

Signed by **Minister Nahas Angula**, March 1994³⁶

However, this policy does not seem to have been consistently followed, as some principals reportedly understood the policy as being a guideline rather than a set of binding rules. An unpublished study carried out in 1994 reported, on the basis of interviews with Ministry officials, that principals, teachers and parents believed that if pregnant girls were allowed to continue their formal education, this would encourage other students to engage in sexual relations. Some Ministry officials also expressed the view that a learner who has borne a child has changed in status from being a child to an adult, and so should enrol in adult education programmes instead of returning to the formal education system which is designed for children.

At the beginning of 1995, a circular by the Ministry of Education and Culture was sent to all schools with secondary grades. This circular stated that female learners excluded from school because of pregnancy “may” be readmitted to their former schools or to another school, but only if they were not over the maximum permissible age. Learners applying to Grade 8 must not yet be 17 years old on the 1st of January of that school year, Grade 9 applicants must not yet be 18 years old, and Grade 10 applicants must not yet be 19 years old.³⁷ Thus, the decision was still left primarily at the discretion of the individual school, with the readmission of young mothers being limited nationally on the basis of age.

³⁶ As reproduced in C Dieden (University of Lund), “Draft Study of Teenage Pregnancy”, unpublished, Windhoek: Human Rights and Documentation Centre, University of Namibia, 1994.

³⁷ Ministry of Basic Education and Culture, Formal Education Circular 1/1995, Ref No 15/7/1.

In 1995, a study on knowledge and attitudes about teenage health was conducted at Dawid Bezuidenhout High School in Windhoek. This study, which was conducted by five learners at the school, found that more than half of the female respondents personally knew someone who had become pregnant as a teenager. Female respondents rated teenage pregnancy as the most serious problem facing urban teenagers. Both boys and girls interviewed expressed concern that teenage pregnancy usually spoiled the educational opportunities of the mother, which also meant that the child would not be properly supported and raised.³⁸

Another 1995 study published by the Centre for Applied Social Science was based on focus group discussions and individual interviews in four geographical areas: Rundu, the Nkurenkuru/Nankudu area in western Okavango, Windhoek and Gibeon. In the Kavango Region, it was taken as matter of course that pregnant girls would have to leave school until after they gave birth. Most were allowed to write their final examinations if they became pregnant shortly before the examination date, but they were not allowed to attend regular lessons. Two reasons were cited for this approach: (a) concerns about the health and psychological well-being of the learner and (b) fears that a pregnant school girl would set a bad example for other learners. Some principals were reluctant to re-admit young mothers, although some had begun to allow re-admission after receiving the new Ministry guidelines. Many community members were unaware that re-admission was even a possibility. In Windhoek and Gibeon, there were marked differences in practice, with some schools reluctant to admit any teenage mothers, others preferring teen mothers who had previously attended different schools, and still others willing to make an exception for new mothers who had previously attended their own school. Thus, the study concluded that the decision of whether or not to admit a young mother to continue her education was subject to the personal beliefs and attitudes of individual principals.³⁹

One particularly interesting finding of the study was that many adults felt that teenage pregnancy must be “punished”:

There seems to be a general fear among adults that if pregnant girls were allowed to remain in school, unpunished as it were, this would “encourage” other girls to fall pregnant as well. It appears that a pregnant girl symbolises teenage *sexuality*, which is strongly disapproved of by Namibian society on moral grounds. Therefore, pregnant girls as such should not be seen in the school environment, whereas many

³⁸ R Blaauw et al, *Report on the Knowledge and Attitudes about Teenage Health: Baseline Survey at Dawid Bezuidenhout High School*, Windhoek: Namibian Development Trust, March 1995.

³⁹ H Becker et al, *Teenage Pregnancy and the Right to Education*, Windhoek: Centre for Applied Social Sciences, CASS Papers No. 32, 1995.

teachers, but particularly parents, have no problems allowing young mothers to be at school. This policy corresponds with the general attitude of the adult community to shun girls during pregnancy, but accept them back into community life once they have given birth.⁴⁰

This study recommended that female learners who become pregnant should be allowed to remain at school during their pregnancy for as long as they felt they could cope with the classroom situation, allowed to sit for examinations if they left school during the second half of the academic year and re-admitted to the same or another school for the next academic year. It also recommended that schoolboys responsible for pregnancy should be required to leave school temporarily as well, and similarly re-admitted.⁴¹

3.3 Initiative to develop a new national policy

Following a Ministerial Consultation on School Drop-outs and Adolescent Pregnancy convened by the Forum for African Women Educationalists which brought African Ministers of Education together in Mauritius in September 1994,⁴² the Ministry of Basic Education and Culture introduced an initiative to develop a more comprehensive policy on teenage pregnancy. A Task Force involving both governmental and non-governmental representatives was set up to investigate the issue and make recommendations.

After initial consultations, a draft policy was circulated for discussion during 1995. This draft was used as the basis for discussion at regional workshops during October 1995. The draft policy was circulated again in May 1997, with only a few changes made on the basis of feedback from the regional workshops and some further changes recommended by the Office of the Attorney-General. The relevant portions of the 1997 version of the draft policy are reproduced in the following box (with emphasis added).

⁴⁰ Id at page 97.

⁴¹ Id at page 100.

⁴² Forum for African Women Educationalists (FAWE), "School drop-out and adolescent pregnancy: African education ministers count the cost, A report on the Ministerial Consultation held from 15-18 September 1994", Mauritius.

“Policy on Pregnancy among Learners in Schools” draft dated 25 May 1997

1. INTRODUCTION

- 1.1 The Ministry of Basic Education and Culture is alarmed at the number of learners who have been forced to terminate or suspend their education because of pregnancy. Namibia needs skilled and well educated women and men to take part in the development of the country and cannot afford that many young Namibian women must give up their education because of pregnancy. The Ministry is concerned that the community at large appears to accept little responsibility for the circumstances which make this state of affairs possible.
- 1.2 It must be accepted that the school is only one among the players which share in the role of shaping the behaviour of our youth. The parents in the home should have the first and foremost responsibility of providing the child with the values and example which will guide him or her through childhood and the youthful years. To this the religious community and school add their influence. Family, religious community and school should be supported in these efforts by the wider community.
- 1.3 Only if this support is provided by the other educational agencies and the society at large can the schools hope to play a successful role in preventing unwanted pregnancies through provision of population and family life education, and in creating an atmosphere in which young people are protected from exploitation.
- 1.4 In the hope that such support will be forthcoming, the Ministry provides this policy on pregnancy among learners.
- 1.5 The Ministry believes that sexual activity should be delayed until after a learner has completed formal schooling, so as to allow him/her to pay maximum attention to and derive maximum benefit from the educational programme, and so as to allow sexuality to be practised within a safe and emotionally mature relationship, and would urge parents, church, community and traditional leaders to join forces with the school in providing guidance along these lines as a matter of course. However, it recognises that young people may be pressured into making unwise decisions, in which case the educational system should as far as possible support them in their efforts to make the most of their lives.
- 1.6 The Ministry further believe that learners in formal education should not contemplate marriage until completion of their secondary schooling.

[The next sections contain a Code of Conduct for Teachers, a Code of Conduct for Learners and Sanctions for Sexual Misdemeanours. These do not concern pregnancy specifically.]

5. PREGNANCIES AMONG LEARNERS

Pregnancies among learners threaten their health and social welfare and the health and welfare of the children born to them. Pregnancies often cause learners to terminate their education, leaving them with very few options of establishing a good life for themselves and their children.

Schools must confront this situation by rendering support to rather than punishing the learners who are to become parents. The learners will need support to continue with their education until the time of confinement and subsequently, while still ensuring the welfare and health of the newborn child.

Schools should also provide information to assist female learners who have become pregnant in obtaining financial support for the child from the male responsible for the pregnancy or his family.

Therefore the following measures will be needed.

5.1 With respect to **the girl who becomes pregnant**:

5.1.1 **There should be at least one member of staff with whom the girl can discuss her situation. It should be known who the teacher is that will be prepared to discuss the matter sympathetically and non-judgmentally, and provide counselling or direct the girl to someone who will be able to provide counselling.** Counselling should include developing an understanding of the need for ante-natal care and of the options that are open to her once the infant is born, and also of the sort of support to which she is entitled from the father of the child or his family. Referral to a social worker should be made where this service is available.

5.1.2 **The girl should be obliged to reveal the identity of the responsible male.** She should be made aware of the consequences both of providing this information and of withholding it, and of the possible consequences of providing false information.

5.1.3 **The girl may continue with her education at school, until the time of her confinement or an earlier date on the advice of a medical practitioner or clinic sister. After giving birth, and provided that a social worker is satisfied that the infant will be cared for by a responsible adult the girl shall have the right of readmission to the same school within twelve months of date on which she left school, irrespective of her age. She shall have the option, within the same period, to return to another school, provided that space is available.** Should the girl decide not to return to full-time schooling, she should be counselled about the options available to her for continuing her education.

5.1.4 **A girl who has left school because of pregnancy may write her end-of-year examinations provided that she can satisfy the School Board that her work is up to standard. In effect this will apply to girls who have been attending school for at least the first half of the school year.** She may write her examinations along with the other learners, unless the School Board decides to make other arrangements. If she herself is reluctant to write in the same room as other candidates, the school may try to arrange for a separate venue and invigilator, but she or her family will have to carry any additional costs which the school incurs.

5.1.5 **These provisions are not intended as a form of punishment.** They recognise that by becoming pregnant the girl has taken on other responsibilities which must be given due attention.

5.1.6 **If she is a boarder in a government school hostel, she shall be entitled to continue in the hostel for the period that she is attending school under the same conditions as would have applied had she not fallen pregnant.** She shall not, however, be permitted to continue in the hostel if she is in need of specialised medical care which cannot be provided in the hostel.

5.2 With respect to **the boy responsible for the pregnancy**, if he is a learner in school (either the same school as the girl, or another school), and provided that rape is not involved:

5.2.1 **There should be at least one member of staff with whom he can discuss his situation. It should be known who the teacher is that will be prepared to discuss the matter sympathetically and non-judgmentally, and provide counselling or direct the boy to someone who will be able to provide counselling.** Counselling should include developing an understanding of the need for supporting the girl morally, emotionally and financially, of her need for ante-natal care and of the options that are open to them once the infant is born. Referral to a social worker should be made where this service is available.

5.2.2 **The boy should be made aware of the consequences of accepting or denying paternity**, and of the possible consequences of providing false information.

5.2.3 **The boy may continue with his education at school, until the girl leaves school for her confinement. After she has given birth, and provided that there is clear evidence that the infant will be cared for by a responsible adult other than the mother of the infant, the boy shall have the right of readmission to the same school within twelve months of date on which she left school, irrespective of his age. He shall have the option, within the same period, to return to another school, provided that space is available.** Should the boy decide not to return to full-time schooling, he should be counselled about the options available to him for continuing his education.

5.2.4 **A boy who has left school for impregnating a schoolgirl may write his end-of-year examinations provided that he can satisfy the School Board that his work is up to standard. In effect this will apply to boys who have been attending school for at least the first half of the school year.** He may write his examinations along with the other learners, unless the School Board decides to make other arrangements. If the girl elects to write in a different venue, the boy may elect to write with her, provided that satisfactory arrangements are made for invigilation, in which case he will have to share the costs of invigilation with the girl or her family.

5.2.5 **These provisions are not intended as a form of punishment.** They recognise that by impregnating a girl, the boy has taken on other responsibilities which must be given due attention.

5.2.6 **If he is a boarder in a government school hostel, he shall be entitled to continue in the hostel for the period that he is attending school under the same conditions as would have applied had he not impregnated a girl or woman.**

5.3 With respect to **a teacher or other staff member responsible for the pregnancy**:

5.3.1 If the male is a teacher or other member of staff of a school, he shall be suspended and charged with misconduct, as described in paragraph 4.1, provided that the girl makes a sworn declaration that he has had sexual relations with her. If blood tests confirm the paternity of the teacher or other staff member, he shall be suspended from teaching immediately without pay and charged with misconduct. The school or social worker should counsel and support the girl in obtaining maintenance for the child from the father.

5.4 With respect to **an outside member of the community responsible for the pregnancy:**

5.4.1 The school or social worker should counsel and support the girl in obtaining maintenance for the child from the father.

[The remaining sections cover Population and Family Life Education, Pre-Service Teacher Education, In-Service Training of Practising Teachers and Related Matters. These sections state that all inspectors of education, principals, and teachers should be familiarised with the policy on pregnancy, and that copies of the policy should be given to all school board members. It is also suggested that student representative councils should receive guidance on the policy on pregnancy.]

3.4 “Temporary guidelines” approved by Cabinet

Cabinet approved “temporary guidelines” on teenage pregnancy in 1999. In 2001, the Ministry of Basic Education published a summary of the policy approved by Cabinet in a circular entitled “Implementation of the Policy on Pregnancy amongst Learners” (Formal Education Circular 5/2001). This circular is reproduced in full in the box below. Both the Cabinet decision and the circular differ significantly from the draft policy which was reportedly the outcome of widespread consultation.⁴³

⁴³ A secondary source reports that Cabinet decided on different “temporary guidelines” in 1995:

- Namibia cannot afford that many young Namibian women and men must give up their education because of pregnancy
- amorous sexual relations between teachers and learners are a serious offence, if the learner is under 16, it is a criminal offence.
- sexual activity should be delayed until after a learner has completed formal schooling;
- sexual relationships between learners and learners are regarded as “totally inconsistent with the status of a learner at primary or secondary school”; however, in case of pregnancy, **the educational system should give support to teenage mothers “to make the most of their lives”.**
- sanctions for sexual misdemeanours be as follows: in the case of a sexual relation of a teacher with a learner a charge of misconduct must be laid and the teacher be suspended, preferably dismissed; In the case of sexual relations between learner and learner on school or hostel premises, learners should be counselled to amend behaviour; if behaviour persists, he/she may be expelled.
- **falling pregnant is no reason for discipline or expulsion;** rather than punishing the learners who are to become parents, the school should render them support.
- in case of pregnancy a girl may continue with school **until the time of her confinement** and is also entitled to continue staying in the hostel for the period that she is attending school.
- after giving birth she may return to school, irrespective of age, **within 12 months of the date of leaving school;** girls who left school because of pregnancy may write end-of-year examinations if they have attended school for at least the first half of the school year; the same is applicable for boys.

E von Wietersheim, Educationally Marginalized Children in Namibia: An Inventory of Programmes, Interventions and Data UNICEF/Ministry of Basic Education, Sport and Culture (MBESC), October/November 2002, at page 53 (emphasis added).

It must be noted, however, that the Cabinet Office could locate no record of the decision cited in this secondary source. Personal communication, W Detleefs, Media Officer, Ministry of Information and Communication Technology, and Mr Mbambus, Cabinet Office, July-August 2008.

The 1999 Cabinet decision was as follows:

- That, as a temporary guideline, pregnant school girls be allowed to attend special afternoon/evening classes and they should also be allowed to sit for examinations;
- Pregnant girls should be allowed to attend regular classes at least until pregnancy [shows];
- As a temporary guideline, school girls who fall pregnancy be allowed to return to normal schooling after spending at least a year with the baby; and
- That the same conditions should apply to the school boy who is held responsible for the pregnancy.⁴⁴

The 2001 Circular of the Ministry of Education, which appears in full in the box below, elaborates on the Cabinet decision.

Circular Formal Education 5/2001

To: Regional Directors
Head Office Directors
Principals of Primary and Secondary Schools
Inspectors
School Councillors

SUBJECT: IMPLEMENTATION OF THE POLICY ON PREGNANCY AMONGST LEARNERS

Introduction

Pregnancy amongst learners is one of the social problems which prevent girls from continuing with their education. The need to address this matter came to the fore in 1994 when a Study Group was set up to investigate this issue and recommend measures to address it. After consultation with stakeholders the Study Group drafted the Policy on Pregnancy amongst learners that was submitted to the Cabinet for approval.

The need to address this problem is still being experienced. From time to time parents approach the Ministry and concerned community members requesting that pregnant learners and those who have delivered should be allowed to continue with their studies. Such requests are in line with the recommendations of the Study Group on Policy on Pregnancy among learners.

The purpose of this circular is to encourage the implementation of those measures Cabinet has approved for implementation.

⁴⁴ "Policy on pregnancy among Learners in School", prepared from Cabinet Action Letters by the Director: Media Affairs, Ministry of Information and Communication Technology, 22 July 2008.

2.0 Cabinet Resolutions regarding Teenage Pregnancy

Cabinet has resolved:

- 2.1 That while the report is awaited from the ad hoc Cabinet Committee on the above issue, as a temporary guideline, pregnant schoolgirls be allowed to attend special afternoon/evening classes and they should also be allowed to sit for examinations.
- 2.2 That a pregnant girl should be allowed to attend regular classes at least until her pregnancy is visibly clear.
- 2.3 That as a temporary guideline, girls who fall pregnant should be allowed to return to normal schooling after spending at least a year with the baby.
- 2.4 That the same conditions should apply to the schoolboy who is held responsible for the pregnancy.

An Advice with the Implementation of the Policy

- 3.1 Pregnancy is a sensitive matter. There are certain cultural values that might not be comfortable with the spirit, which appears to characterize this new approach toward teenage pregnancy in schools. As we find ourselves in a modern society with all its evils, we have to adapt ourselves to the reality of a changing world.
- 3.2 The implementation of these measures should be done with care. Regional Directors should involve local stakeholders such as NANTU, TUN, NANSO, NASEM etc to help them sensitize parents and members of the communities to the new way in which we are advised to approach this delicate issue.
- 3.3 School Board members should also take full responsibility for explaining this policy to parents and other community members.
- 3.4 Finally it should be stressed that school councillors have a vital role to play to enhance the implementation of Cabinet resolutions regarding teenage pregnancy. They are the professionals whose expertise should be tapped in this respect. Obviously, in those regions where these posts are not filled this responsibility falls squarely on inspectors of education.

There are fundamental differences between the draft policy which was the subject of widespread consultations and the 1999 Cabinet decision summarised in the 2001 circular. The main points of difference are (1) how long a girl is allowed to continue with her schooling after becoming pregnant and (2) when the new mother may return to school. Furthermore, the draft policy emphasised support for both the girl and the boy involved, as well as providing detailed and sensitively-worded provisions which made comparable rules for both parties. These nuanced and supportive provisions are absent from the 2001 circular.

Others have also noted the discrepancies between the draft policy and the temporary guidelines approved by Cabinet and contained in the 2001 circular. For example, the following statement was made in a report prepared for the Intersectoral Task Force on Educationally Marginalized Children in 2002:

[In] 1994 the MBESC set up a study group to investigate the issue of teenage pregnancy. The group drafted a “Policy on Pregnancy amongst Learners” and submitted it to Cabinet for approval. Cabinet then resolved as a temporary guideline that, in principle, the educational system should give support to teenage mothers “to make the most of their lives” and that falling pregnant is no reason for discipline or expulsion....

In a circular letter of April 2001 this policy was explained to regional directors, inspectors, principals and school councillors with the aim to “encourage the implementation of those measures Cabinet has approved for implementation”. The circular letter, however, deviates in important aspects from the approved policy such as continuation of school attendance of pregnant schoolgirls and their return after giving birth. While the policy states that a pregnant girl may continue with school “until her time of confinement”, the circular letter states that she may continue “at least until her pregnancy is visibly clear.”

Furthermore, the policy states that after giving birth, a girl may return to school *within* 12 months of date of leaving school, while the circular letter states that girls may return to school *after* spending at least one year with the baby.⁴⁵

There appears to be some confusion even within government circles as to what constitutes the official policy. In January 2007, the Minister of Gender Equality and Child Welfare discussed the policy on pregnancy among learners in her report to the Committee which monitors the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). She stated the following:

In addressing teenage pregnancy in schools, the Educational Policy provided that a pregnant girl could continue with her education at school, until the time of her confinement, or an earlier date on the advice of a medical practitioner. After giving birth, and provided that a social worker was satisfied that the infant would be cared for by a responsible adult, the girl had the right of readmission to the same school within 12 months after the date when she left school.⁴⁶

⁴⁵ E von Wietersheim, *Educationally Marginalized Children in Namibia: An Inventory of Programmes, Interventions and Data* UNICEF/Ministry of Basic Education, Sport and Culture (MBESC), October/November 2002, at pages 20-21 (emphasis added).

⁴⁶ UN Department of Public Information, News and Media Division, New York, “Anti-discrimination committee experts welcome Namibia’s steps to advance women’s equality, urge introduction of strategies to change stereotypes”, UN General Assembly, WOM/1592, 17 January 2007. The Minister appears to have been describing the actual Cabinet decision here.

This was also the policy described in the government's written report in terms of CEDAW, which was approved by Cabinet and tabled in Parliament.⁴⁷

However, the Shadow Report submitted by the National Society for Human Rights and Women's Solidarity reported on the Utjua Karuaihe case, where the Ministry of Education clearly applied the policy as it is stated in the 2001 Circular – which is the one that schools appear to be implementing in practice according to recent studies of the issue.

The CEDAW Committee asked the Namibian Government delegation for clarity on this point. The written reply from the government delegation was as follows:

- 18. Implementation of the Policy on Pregnancy among Learners:** Circular Formal Education Number 5/2001 dealt with this issue after the Cabinet has resolved that it should be implemented across the education system.

Cabinet Resolution stated that: (a) While the report is awaited from the ad hoc Cabinet Committee on the above issue, as a temporary guideline, pregnant school girls are allowed to attend special afternoon /evening classes and they should also be allowed to sit for examinations. (b) A pregnant girl should be allowed to attend regular classes at least until her pregnancy is visibly clear. (c) As a temporary guideline, girls who become pregnant should be allowed to return to normal schooling after spending at least a year with the baby and, (d) The same condition should apply to the schoolboy who is held responsible for the pregnancy.

This is the current policy and is being implemented as per the Cabinet Resolution in all our schools. Where there is deviation, such deviation can only be through the approval by the Ministry of Education.⁴⁸

The CEDAW Committee went on to criticise the “temporary guidelines” contained in the 2001 Ministry of Education Circular which is being applied in practice, as discussed in more detail below.

⁴⁷ Ministry of Women Affairs and Child Welfare, Convention on the Elimination of All Forms of Discrimination Against Women: Second & Third Country Report, Republic of Namibia, August 2004 at pages 31-32. According to the Namibia government delegation's response to queries from the CEDAW Committee, the Namibian Cabinet reviewed the draft of the second and third country report on CEDAW and approved its submission to the Committee on 17 August 2004. The report was tabled in the National Assembly on 17 February 2005 by the Minister of Women's Affairs and Child Welfare. Committee on the Elimination of Discrimination against Women, Pre-session Working Group, Thirty-seventh session: 15 January-2 February 2007, Responses to the list of issues and questions with regard to the consideration of the combined second and third periodic reports: Namibia, paragraph 1.

⁴⁸ Committee on the Elimination of Discrimination against Women, Pre-session Working Group, Thirty-seventh session: 15 January-2 February 2007, Responses to the list of issues and questions with regard to the consideration of the combined second and third periodic reports: Namibia, at paragraph 18. Note that this response is based on the circular from the Ministry of Education rather than the actual Cabinet decision.

These “temporary guidelines” circulated in 2001, and still being described as temporary in 2008, have not been replaced by any final guidelines or permanent policy.

In 2001, FAWENA commissioned a study to review the implementation of the policy on teenage pregnancy (as expressed in the 2001 Circular), with a particular emphasis on implementation of the policies on school re-entry of adolescent mothers and the impact of such re-admissions. This study, which included interviews with 10 girls who had become pregnant while attending school, showed that the policy was being implemented inconsistently in different places – with one girl astonishingly being forced to stay out of school for one year after giving birth even though the baby had died. This study recommended the adoption of a policy which focuses on support rather than punishment. It proposed that pregnant girls should be re-admitted into the school system after delivery, as soon as the baby is weaned. The study also recommended the establishment of “bridging centres” where young mothers can continue with their education while breast-feeding, counselling services for the affected girl and her parents, and the introduction of flexible models of attendance to provide additional opportunities for pregnant schoolgirls and young mothers to carry on with their classes.⁴⁹

A 2002 assessment of girls’ education in the Rundu Educational Region conducted interviews at 28 schools in the region, including discussions with parents, principals, teachers, community leaders, female learners and 26 girls who had dropped out of school – all but 3 of whom had discontinued school because of pregnancy. The 22 schools in the sample which provided complete information reported that they had experienced a total of 115 cases of pregnant learners in 2001. One school with 1096 learners had 23 cases of pregnancy, while 2 small schools reported no instances of learner pregnancy in 2001. All of the girls who had dropped out of school because of pregnancy said that they would like to return to school, but none had actually sought re-admission. (This is not necessarily typical – the sample of girls chosen for the interviews was deliberately limited to girls who had not re-entered school.) None were continuing their education through the Namibia College of Open Learning (NAMCOL), and three of the young mothers were working in shops or *cuca* shops. Others interviewed said that many new mothers do re-enter school, but usually a different school from the one they attended before becoming pregnant.

Parents expressed reservations about spending money on educating girls because “girls can easily fall pregnant, then you will have wasted all your money”. One mother said:

⁴⁹ V Tjombonde, *Promoting Girls’ Education through Re-entry Policy for Adolescent Mothers A Case Study to provide an in-depth review of the implementation of the Teenage Pregnancy Policy in Namibian schools*, Windhoek: FAWENA, 2002.

My daughter fell pregnant while in Grade 11. It was very sad. When I realised she was pregnant, I wished it were a butterfly which I can just pluck out of her body. But it was it!

Community leaders and education officials also cited pregnancy as the main obstacle to girls' education, and mentioned cases where girls as young as 12 had fallen pregnant.

The study found that there was considerable inconsistency in how the guidelines on pregnancy among learners were understood and implemented, particularly with respect to the amount of time a schoolgirl was allowed to remain in class after it became known to the school authorities that she was pregnant. In some schools, girls were allowed to stay on until they were due for delivery, while in others they were suspended as soon as the pregnancy became visible. There were also inconsistent practices in respect of the provision of counselling to pregnant schoolgirls.⁵⁰

In 2005 the debate on the teenage pregnancy policy was revived when a teenage mother, Utjiua Karuaihe, sought to be readmitted to school immediately after the birth of her child, without waiting for one year as stipulated in the guidelines. The case, which the Legal Assistance Centre took up as a matter of public interest, illustrates some of the problems with the current approach to schoolgirl pregnancy. However, despite a series of court applications, the new mother was unable to gain re-admission to her school prior to the expiration of the one-year period. Full details of this case are contained in the following section of this report.

In January 2005, in response to media interest sparked by the Utjiua Karuaihe case, the Ministry of Basic Education issued a press release which explained the existing policy in more detail (see the following box).

⁵⁰ S Felton & C Haihambo-Muetudhana, *Girls Education in Rundu Educational Region: A report on a field assessment*, Windhoek: Ministry of Basic Education/UNICEF, 2002.

Ministry of Basic Education, Sport and Culture

MEDIA RELEASE: POLICY ON PREGNANCY AMONG LEARNERS IN SCHOOLS

1.1 With reference to recent media reports on the above-mentioned subject, regarding the MBESC's (Government) policy on teenage pregnancies among learners in school, the Ministry wishes to further provide the following information. Hopefully, such information will help, in further clarifying certain uncertainties, misconceptions and questions, regarding this sensitive and contentious subject matter. By way of introduction, it is important to highlight the following:

- (a) Broad and successful consultation with various stakeholders preceded the eventual finalization of the policy on teenage pregnancies in schools.
- (b) The policy was adopted by the Cabinet in October 1999.
- (c) Thereafter, the policy document, with the necessary accompanying explanatory circulars, were sent to all Regional Offices of education, all schools and also to other stakeholders in education, for information and practical implementation.

1.2 The Ministry wishes to point out that this policy should be seen and appreciated, as an honest attempt, to balance the entrenched right to education, as articulated in article 20(1) of the Namibian Constitution, on the one hand, and the fundamental right of the child as enunciated in Article 15(1) of the same Namibian Constitution. Article 15(1) reads as follows:

"Children shall have the right from birth to a name, the right to acquire a nationality and, subject to legislation enacted in the best interests of children, as far as possible the right to know and be cared for by their parents" (my underlining for emphasis). The stipulations of the policy, particularly the provision that: "school girls who fall pregnant, be allowed to return to normal schooling, after spending at least a year with the baby," should be appreciated in that context and against that background.

1.3 Finally, the Ministry wishes to emphasize that, every right that is guaranteed and entrenched in our Supreme law, must necessarily, be accompanied by responsibility, obligation and accountability at the same time.

1.4 In the name of fairness, all Regions and schools are reminded to ensure that all policy directives, including the policy on teenage pregnancy in schools, should be practically implemented in a fair, consistent and humane manner.

John Mutorwa, Minister

Windhoek, 19 January 2005

4. THE CASE OF UTJIUA KARUAIHE

The 2005 debate about the fate of one pregnant schoolgirl in particular helped to highlight the arguments for and against the current policy.

Utjiua Karuaihe was a student at Windhoek High School in grade 11, age 17, when she became pregnant in March 2004. The pregnancy was noticed in about October. Arrangements were made for Utjiua to write her Grade 11 examinations separately from the other students. She passed these examinations and was therefore eligible to continue with Grade 12. Utjiua gave birth in December 2004 and sought to continue with her studies when the new academic year commenced in January 2005.

Because Utjiua was a minor, her mother, Seuua Karuaihe-Samupofu, made a request for Utjiua's immediate re-admission on the following grounds:

- Seuua would take care of Utjiua's baby during school hours, as it is in any event in line with Herero custom for the maternal grandmother to play this role; she was even prepared to formally adopt the child if this would enable Utjiua to return to school right away.
- Utjiua would express breast milk to be given to the baby during her absence, so that there would be no nutritional disadvantages from the arrangement.
- Utjiua would spend significant quality time with her child after school hours.
- Utjiua had already lost a year's schooling as a result of a diplomatic posting taken up by her stepfather.
- Utjiua was eager to complete her schooling and felt that she would be demoralised if she were not allowed to return right away.

Windhoek High School refused to re-admit Utjiua for the 2005 academic year, citing the provisions in the official guidelines on teenage pregnancy which require that girls who fall pregnant should be allowed to return to normal schooling only after spending at least a year caring for the baby.

Utjiua's mother was referred to the Director of Education for the Khomas Region, who informed her that Utjiua would not be permitted to return to school in 2005, even though she had a support system which would ensure that the baby was cared for.

Attempts to appeal to the Permanent Secretary and the Under-Secretary of the Ministry of Basic Education proved fruitless.

When school re-opened on 18 January 2005, Utjiua and her mother went to the school and attempted to register Utjiua and pay her school fees, but the principal again informed them that he was unable to register Utjiua in light of the provisions of the "Policy on Pregnancy amongst Learners".

In January 2005, Utjiua's mother brought a court case challenging the refusal to allow Utjiua to continue her studies in the 2005 academic year. Acting Judge Manyanara of the High Court ruled that the Policy approved by Cabinet, which states expressly that it is only a "temporary guideline", is not binding on schools which have a duty to exercise discretion on issues relating to pregnancy amongst learners. Judge Manyanara stated further that "it cannot reasonably possibly be the intention of the Cabinet Policy to prohibit the enrolment of teenage mothers where the mother has a support system", such as in Utjiua's case. The court went on to draw a comparison with women in formal employment, who are entitled by law to a period of only three months maternity leave, pointing out that these women must invariably do what Utjiua has done – arrange for a relative or a nanny to take care of the baby while they are unavailable. Judge Manyanara concluded that "much as society may abhor teenage pregnancies (with sound reason, I may add), it is not the intention of the Cabinet Policy to punish learners who happen to find themselves in the position of Utjiua". The question was referred back to the principal of the school to exercise his discretion in light of the court decision.

The school principal looked at the matter afresh, and denied admission to Utjiua in a letter dated 16 February 2005. The reasons given for the refusal to re-admit Utjiua in 2005 were:

- Windhoek High School "strives to maintain high ethical and moral standards in line with official ministerial Policy".
- "It is important to maintain discipline and not allow exceptions to the Windhoek High School Disciplinary Code and to divert from Ministerial policy. Such a diversion could encourage other learners from Windhoek High School and schools throughout the country to challenge all aspects of education policies which could result in a serious increase in disciplinary problems at Windhoek High School."
- "It is in the best interests of both Utjiua Karuaihe and her baby that she remains at home to attend to the needs of her baby and to ensure that effective mother/child bonding takes place."

- Utjiua would not benefit fully in 2005 from the education offered, because “her obvious maternal concern for her baby will impact negatively on her ability to benefit from the morning lessons and her participation in extramural activities and her attention to homework and study duties will suffer as a result of her responsibilities to the baby in the afternoons”.

The principal therefore concluded that it was not in the best interests of Utjiua or Windhoek High School that Utjiua return to school in 2005, but was prepared to guarantee her a position in Grade 12 for the academic year 2006.

The family appealed against the school’s decision to the Minister of Basic Education, Sport and Culture. While awaiting a decision on the appeal, the Legal Assistance Centre filed an urgent application with the High Court on 24 February, arguing that Utjiua should be readmitted to school pending the outcome of the appeal so as to avoid missing out on essential schoolwork. The specific arguments put forward for Utjiua’s immediate readmission were as follows:

- Denying Utjiua access to school undermined her constitutional right to education.
- Utjiua should have been automatically re-admitted after passing her previous year’s examinations, unless she was suspended or expelled in accordance with proper procedures.
- Utjiua was missing out on school work because of the required absence and would thus be ill-prepared for exams in April should the outcome of the appeal be successful.
- Windhoek High School was Utjiua’s only hope; it would take her two years to complete Grade 12 at more expensive private institutions such as the University Centre for Studies in Namibia (TUCSIN) and Damelin Namibia, and these institutions as well as the Namibia College of Open Learning (NAMCOL) do not offer Grade 12 subjects at an appropriate level to secure entrance to most tertiary institutions such as those in South Africa (ie they offer IGCSE level but not HIGCSE level qualifications).

At this stage, the Ministry took the position (in an affidavit by the Permanent Secretary) that the Policy on Pregnancy among Learners “was adopted by Cabinet for the safety and wellbeing of society”. The Permanent Secretary noted that every Constitutional right must be accompanied by “responsibility, obligation and accountability”. He also asserted that the Constitutional right to education must be balanced against the right of the child to be care of by his or her parents, saying that

- Children deserve their mother and father.
- A baby's mother and father must take care of him/her.
- A baby needs his/her parents.
- A baby cannot stand up for his own rights.
- A child has the right to know his parents.

The Permanent Secretary stated:

Grade 12 is very demanding and requires learners to invest all their time from 07h00 to 13h15 attending classes. Further time is required in the afternoon and evenings to attend to sport or other activities and last but not least your schoolwork. Upon all of this the caring mother must also take care of her small child, which includes many hours of caring, building a bond and relationship. The small child has the right to be taken care of by his/her parents and the time spend with her little baby is to the benefit of such baby and his/her future development. It is incumbent on the parents of the young teenage scholar, Mrs Utjiua, to ensure that the young teenage mother indeed learns responsibility by spending quality time with and taking care of her infant.

The Permanent Secretary also noted that youth should not be taught to simply transfer responsibility to grandparents, as this would “contribute to the erosion of moral and parental obligations”.

Utjiua's mother disagreed with the Permanent Secretary's reasoning, saying that she could not understand “how denying a perfectly healthy and intelligent young girl the right to finish her secondary schooling amounts to an interest in the youth being educated” or “how this policy is adopted for the safety and well being of society”. She asserted that, on the contrary, “the object of the policy is to punish young girls for making the grave mistake Utjiua made”, with the result of stigmatising such girls. On the question of ensuring that Utjiua took responsibility for her situation, her mother argued that Utjiua was taking responsibility for parenting her child. Utjiua's mother emphasised that Utjiua was not transferring responsibility for her baby to anyone else, but was only being assisted by her family so that she could complete her education.

I am simply, as the grandmother and traditional mother of Utjiua's baby, taking care of the baby when Utjiua is at school. Utjiua is aware of all the challenges facing her as a result of the choices she made. And she is prepared to meet them and become a responsible and independent parent. She needs to complete school so that she can commence tertiary education, and earn a living, so that she can care for her baby. Utjiua's daughter knows and is cared for by her mother with my assistance. I state that the baby's constitutional rights are not affected.

Utjiua's mother also asserted that Utjiua should not be forced to choose between waiting one year to continue her education at Windhoek High School and completing her education immediately at another institution such as NAMCOL, as Utjiua would have a better chance of being accepted at a competitive university if she had continuity in her schooling. Utjiua's mother concluded that Utjiua was being discriminated against on the grounds of her social status as a teen mother, and being punished for the mistake that she made.

On 3 March 2005, Judge Silungwe of the High Court refused the application for interim relief, on the grounds that it was unnecessary for the court to intervene at this stage since the outcome of the appeal against the school's decision to the Ministry was expected by 11 March at the latest.

In a letter dated 1 March 2005, the Minister endorsed Windhoek High School's refusal to admit Utjiua, giving the following reasons:

- Laws and policies must be applied in the same way to all, regardless of their social or economic status. Therefore it would be unfair to take into consideration the fact that Utjiua had arranged for her mother to take care of her grandchild. This would be like granting permission for a particular child to study at home just because the parents in question were able to provide a conducive and supportive teaching environment in the home.
- The proposal that Utjiua's mother would care for the child in the mornings while Utjiua spent time with the baby in the afternoons and evenings would prevent Utjiua from participating fully in extramural activities and educational tours which are obligatory for learners. Exempting Utjiua from these activities would have negative consequences for her.
- The fact that Utjiua already missed a year of schooling as a result of her parent's diplomatic posting is irrelevant, as this was due to the failure of the parents to make proper preparation.
- The Ministry was not convinced by the assertion of psychologist Dr Whittaker that mother and baby could still bond with each other if she were re-admitted to school right away. Schools cannot be expected to install "mother friendly corners" for breastfeeding and bonding like those provided at workplaces for "mature adult mothers".
- Dr Whittaker's assertion that Utjiua was experiencing suicidal thoughts as a result of the situation made the Ministry worry that "if readmitted prematurely and carelessly,

Utjiua is likely to be intermittently tormented and mocked by her peers, for being a mother with an unknown father of her baby”, which might intensify her suicidal thoughts – especially when combined with biological, physiological, psychological and emotional stress.

- The decision of Windhoek High School to guarantee Utjiua a position in Grade 12 for the following 2006 academic year is “magnanimous, fair, commendable and perfectly taken within the letter and spirit of the policy on Teenage Pregnancies in Schools and the specific Cabinet decision” which says that school girls who fall pregnant should be allowed to return to normal schooling after spending at least a year with the baby.
- Such decisions should not be left to the discretion of principals. The Policy on Pregnancies amongst Learners is “an honest and fair attempt” to balance the Constitutional rights of the mother (and father if he was/is a school learner) to education against the rights of the newly-born child. The policy is also “deeply grounded in certain basic and fundamental moral, ethical and educational principles” including “justice, fairness, responsibility, accountability, etc”.
- Education is not compulsory past age 16 or past primary school. Utjiua is now 18 years old and has completed primary school.
- Utjiua has other options, such as pursuing her education through the Namibia College of Open Learning (NAMCOL), which has flexible programmes and is largely state-funded.

Utjiua’s mother made a third attempt to have Utjiua readmitted to school. She brought an application for judicial review of the Ministry’s decision, and an urgent application for Utjiua’s readmission to school pending the outcome of the review application (which was expected to take place only in 6-9 months).

On behalf of Utjiua’s mother, the Legal Assistance Centre argued that the Ministry’s refusal to order Windhoek High School to immediately re-admit Utjiua was a denial of her constitutional right to education, and a contravention of the African Charter on the Rights and Welfare of a Child, which directs member states to adopt appropriate measures to ensure that children who become pregnant before completion of their education have an opportunity to continue with their education on the basis of their individual ability.

It was also asserted by Utjiua’s mother that teenage pregnancy and motherhood, while undesirable, are not in themselves unethical or immoral. The fact that Utjiua was allowed to take her examinations only in a separate place from the other learners while she was

pregnant treated her as if she was suffering from some horrible contagious disease which the other learners needed to be protected against. The mother's fear was that Utjiua might lose interest in school after spending a year being idle at home. She was also concerned that Utjiua was essentially losing out on a year of her life, instead of being able to complete her education and enter a career as quickly as possible. Utjiua's mother also stated that "it is likewise in the best interest of Utjiua's baby that she has an educated mother".

This urgent application was turned down by Judge Gibson of the High Court, who stated that the provisions of the Namibian Constitution and the African Charter were not being contravened since Utjiua would be allowed to continue her education after one year. Judge Gibson also ruled that there was no merit to the argument that the requirement to stay out of school for a year was punishment. The judge noted that Utjiua has the option of continuing her education at NAMCOL, saying that "in the unplanned circumstances she must face the realities". Judge Gibson found that taking two years to complete the desired course of study "is not so great an inconvenience" and concluded that the status quo (that Utjiua was not allowed to attend Grade 12 classes until the issues were finally determined) should be maintained. The request to re-admit Utjiua to school while the application for judicial review of the Ministry's decision was pending was denied.

There was little point in proceeding with further legal action at this stage, since the academic year was progressing and the question of when to re-admit Utjiua would have become irrelevant before any further court proceedings could be concluded. Therefore, there was no final resolution of the varying opinions of the Namibian court on the Cabinet guidelines.

Utjiua Karuaihe remained out of school for the remainder of the year 2005 and rejoined Windhoek High School for Grade 12 in 2006. She completed her matric and went on to attend university in South Africa. Her mother and her grandmother helped care for her baby while she continued her studies.

In a follow-up interview with conducted by the Legal Assistance Centre in 2007, Utjiua said that she felt that she should have had the right to decide when she was ready to come back to school after her baby was born. She says that she had not been very much involved in extra-curricular activities before becoming pregnant and so did not feel that the constraint on after-school activities cited by the school was actually problematic. In fact, as a result of one round of the legal proceedings, she was allowed to return to school for one week early in the year after her baby was born and did not experience any problems during this trial period.

During her forced one-year leave of absence, she was not a full-time mother, but brought in income by working as a “temp” doing clerical work for Telecom. She considered not returning to school at all, but was ultimately motivated to come back by her knowledge that she need to equip herself to eventually be able to support her child without the help of her family.

Utjiua described her year out of school as being “very long” and “stagnant”. She kept in touch with only a few of her school friends, and she found returning after the one-year break a bit “uncomfortable” as “everybody had an opinion, including the teachers”.

At the time of the interview, Utjiua and her child had no ongoing contact with the child’s father, who had visited for the first year and a half of the child’s life but then lost touch with them – perhaps partly because of the extended time Utjiua spent in South Africa for her studies. At the time of the interview, the father was paying no maintenance and had never contributed more than sporadic gifts.

When asked what kinds of support from school would assist learner mothers most, Utjiua replied that schools should mainly give mothers more choices: “Some mothers may choose to take a year off, but others may feel ready to come back sooner. Options for home schooling could also be considered.” Utjiua did not feel that any physical amenities such as a baby room would be necessary, as she would not have brought her child along to school – although the situation might differ from mother to mother, or in rural areas where some learners live father away from schools than those in urban areas.

Utjiua feels strongly that pregnant learners should not be punished, discriminated against or stigmatised as in the current environment. For example, she recalls that she was told by school officials that she would “infect” other learners by her pregnancy. In her view, it is more important to educate women – and particularly mothers – so that they can look after their children effectively.

Utjiua is perhaps one of the luckier young mothers, in the sense that she has not let her pregnancy and young motherhood deter her from her overall life goals. She is currently studying for a 3-year degree in politics, and hopes to ultimately qualify as a lawyer and work at the United Nations. However, she says that the situation caused her to fall “behind” for a year so that now she feels that she is under pressure to achieve things faster.⁵¹

⁵¹ Interview with Utjiua Karuaihe by Rachel Coomer, Legal Assistance Centre, December 2007.

5. APPLICATION OF THE NATIONAL AND INTERNATIONAL LEGAL FRAMEWORK

5.1 Non-discrimination and the right to education

“Education is both a human right in itself and an indispensable means of realizing other human rights. As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities. Education has a vital role in empowering women, safeguarding children from exploitative and hazardous labour and sexual exploitation, promoting human rights and democracy, protecting the environment, and controlling population growth. Increasingly, education is recognized as one of the best financial investments States can make. But the importance of education is not just practical: a well-educated, enlightened and active mind, able to wander freely and widely, is one of the joys and rewards of human existence.”

Committee on Economic, Social and Cultural Rights,
Implementation of the International Covenant on Economic,
Social and Cultural Rights, General Comment No. 13, The right to education
(Article 13 of the Covenant), E/C.12/1999/10, 8 December 1999, at paragraph 1.

The starting point for the right to education is Article 20(1) of the Namibian Constitution, which states that “All persons shall have the right to education”. This provision echoes guarantees of the right to education in the Universal Declaration of Human Rights (Article 26), the International Covenant on Economic, Social and Cultural Rights (Article 13) and the Convention on the Rights of the Child (Article 28).

This right must be read together with Article 10 of the Namibian Constitution which, again echoing several international conventions, guarantees equality and freedom from discrimination:

- (1) All persons shall be equal before the law.
- (2) No persons may be discriminated against on the grounds of sex, race, colour, ethnic origin, religion, creed or social or economic status.

An additional buttress to the right to education is found in Article 95(e) of the Namibian Constitution, which commits the state to adopting policies which ensure that “every

citizen has a right to fair and reasonable access to public facilities and services in accordance with the law” – with education being a key public service.

What does the “right to education” entail with respect to teenage pregnancy?

In 1998, the United Nations Commission on Human Rights appointed a Special Rapporteur on the Right to Education. The mandate of this Special Rapporteur, as defined by the Commission on Human Rights, was to monitor and report on the realisation of the right to education, with particular emphasis on the difficulties that may be encountered in this process. The Social Rapporteur was also tasked with taking into account “gender considerations, in particular the situation and needs of the girl child” and promoting “the elimination of all forms of discrimination in education”.⁵²

The Special Rapporteur took on the task of giving content to the “right to education”. In a 1999 report, to portray the complexity of governmental obligations corresponding to the right to education, the Special Rapporteur structured government duties into a four-point scheme – availability, accessibility, acceptability and adaptability.⁵³ This report

⁵² Resolution 1998/33 of 17 April 1998.

⁵³ UN Commission on Human Rights, Preliminary report of the Special Rapporteur on the right to education, Ms. Katarina Tomasevski, submitted in accordance with Commission on Human Rights resolution 1998/33, E/CN.4/1999/49, 13 January 1999.

The four-point scheme was elaborated upon by the Committee on Economic, Social and Cultural Rights in connection with the “right to education” guaranteed by Article 13 of the International Covenant on Economic, Social and Cultural Rights:

6. While the precise and appropriate application of the terms will depend upon the conditions prevailing in a particular State party, education in all its forms and at all levels shall exhibit the following interrelated and essential features:
 - (a) Availability – functioning educational institutions and programmes have to be available in sufficient quantity within the jurisdiction of the State party. What they require to function depends upon numerous factors, including the developmental context within which they operate; for example, all institutions and programmes are likely to require buildings or other protection from the elements, sanitation facilities for both sexes, safe drinking water, trained teachers receiving domestically competitive salaries, teaching materials, and so on; while some will also require facilities such as a library, computer facilities and information technology;
 - (b) Accessibility – educational institutions and programmes have to be accessible to everyone, without discrimination, within the jurisdiction of the State party. Accessibility has three overlapping dimensions:
 - *Non-discrimination* – education must be accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds...
 - *Physical accessibility* – education has to be within safe physical reach, either by attendance at some reasonably convenient geographic location (e.g. a neighbourhood school) or via modern technology (e.g. access to a “distance learning” programme);
 - *Economic accessibility* – education has to be affordable to all. This dimension of accessibility is subject to the differential wording of article 13(2) in relation to primary, secondary and higher education: whereas primary education shall be available “free to all”, States parties are required to progressively introduce free secondary and higher education;
 - (c) Acceptability – the form and substance of education, including curricula and teaching methods, have to be acceptable (e.g. relevant, culturally appropriate and of good quality) to students and, in appropriate cases, parents; this is subject to the educational objectives required by article 13(1) and such minimum educational standards as may be approved by the State....
 - (d) Adaptability – education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings.
7. When considering the appropriate application of these “interrelated and essential features” the best interests of the student shall be a primary consideration. [Footnote continues on next page.]

cited the treatment of pregnancy as a disciplinary offence as an issue which undermines accessibility to education.

The concern about treating pregnancy as a basis for punishment was addressed more extensively as an aspect of “acceptability “ in a 2000 report by the Special Rapporteur, which stated that treating pregnancy as a disciplinary offence calls into question the acceptability of school discipline as well as the general orientation of education:

57. The Commission on Human Rights has emphasized the role of education in enhancing the ability of women to make informed choices. **The practice of defining pregnancy as a disciplinary offence routinely leads to the expulsion of the pregnant girl from school, sometimes precluding her from continuing education. The lack of access to information that would have enabled the girl to make any choice, least of all an informed one, is usually the background to this practice. The frequent clash between societal norms which pressurize girls into early pregnancy and legal norms which aim to keep them in school makes this phenomenon difficult to tackle...**
58. Information about the definition of pregnancy as a disciplinary offence leading to expulsion from school is regrettably fragmentary. As far as the Special Rapporteur could ascertain for Africa (although the available information is scarce and outdated), pregnant girls are expelled from primary and secondary schools in Liberia, Mali, Nigeria, Swaziland, Tanzania, Togo, Uganda and Zambia, while change has been introduced in Bolivia, Botswana, Chile, Côte d'Ivoire, Guinea, Kenya and Malawi. Such information is usually collected as the first step towards affirming the girls' right to education. The coming into force in November 1999 of the Charter on the Rights and Welfare of the African Child, which includes an explicit requirement that States ensure that pregnant girls have an opportunity to continue with their education, is likely to increase the momentum for change.
59. **Change does not come easily. The views of parents, teachers and community leaders tend to support the expulsion of pregnant girls from school, rationalizing this punitive choice by the need to uphold a moral norm which prohibits teenage sex – pregnancy being considered as irrefutable proof that this norm was breached and as entailing punishment.** Punitiveness sometimes also encompasses schoolboys who father children, but never adult men who seem responsible for most teenage pregnancies, more

Committee on Economic, Social and Cultural Rights, Implementation of the International Covenant on Economic, Social and Cultural Rights, General Comment No. 13, The right to education (Article 13 of the Covenant), E/C.12/1999/10, 8 December 1999.

than 70 per cent in Botswana. **Societal norms are not automatically changed through the adoption of international or domestic guarantees of the equal right to education for girls nor are they usually altered through democratic decision-making, in which girls routinely do not have a voice. Law thus provides a good starting point for the process of change.**⁵⁴

In 2001, the Commission on Human Rights adopted a resolution renewing the Special Rapporteur's mandate for another three years. This resolution also called upon states "to give full effect to the right to education and to guarantee that this right is recognized and exercised without discrimination of any kind". More specifically, the Resolution calls upon states **"to take all appropriate measures to eliminate obstacles limiting access to education, notably by girls, including pregnant girls..."**⁵⁵

In a comprehensive report on "Girls' Right to Education" issued in 2006, the Special Rapporteur once again called attention to pregnancy and motherhood as a basis for discrimination against girls in education, worrying that this fact might even lead to increases in abortion:

Pregnancy and motherhood in teenage girls are also common motives for discrimination in education; worse, when pregnancy is a disciplinary offence teenagers risk expulsion from school and are forced to consider abortion if they wish to continue their studies.⁵⁶

The UN Committee which monitors the Convention on the Rights of the Child has similarly called attention to this issue, noting in its comments on Lesotho's country report in 2001 that the exclusion from school of pregnant schoolgirls "is not only discriminatory against girls but also a violation of the right to education".⁵⁷

Thus, the right to education which appears both in international instruments and in the Namibian Constitution would appear to require not just the right for young mothers to

⁵⁴ UN Commission on Human Rights, Progress report of the Special Rapporteur on the right to education, Katarina Tomaševski, submitted in accordance with Commission on Human Rights resolution 1999/25, E/cn.4/2000/5, 1 February 2000 (emphasis added).

⁵⁵ Commission on Human Rights, Resolution 2001/29 of 20 April 2001: The right to education (E/CN.4/RES/2001/29), www.un-documents.net/ecn40129.htm (emphasis added). See also Commission on Human Rights, Resolution 2002/23 of 22 April 2002, which reiterated this point.

⁵⁶ UN Commission on Human Rights, Girls' right to education: Report submitted by the Special Rapporteur on the Right to Education, Mr. V. Muñoz Villalobos, E/CN.4/2006/45, 8 February 2006, at paragraph 76.

⁵⁷ Concluding Observations of the Committee on the Rights of the Child: Lesotho, CRC/C/15/Add.147, 21/02/2001, paragraph 53: "The Committee notes with deep concern that girls who become pregnant whilst still attending school are often excluded from school and that such action is not only discriminatory against girls but also a violation of the right to education."

continue their education, but also the right not to be discriminated against or “disciplined” because of the pregnancy.

Courts in some other countries have found that even a temporary suspension on the basis of pregnancy is impermissible discrimination in respect of the right to education.

The Special Rapporteur on the Right to Education has drawn attention to a case in the Supreme Court of Colombia which has established an important precedent by demanding that school regulations, which envisaged penalisation of pregnancy by suspending pregnant girls from schooling and rerouting them into tutorials, should be altered and the pregnant girls to whom they were applied returned to normal schooling. Even though the policy in question involved suspension and not a complete denial of the right to education, the Court still found it impermissibly discriminatory:

... although a suspension from school attendance does not imply a definitive loss of the right to education, it does imply the provision of instruction to the pregnant schoolgirl in conditions which are stigmatizing and discriminatory in comparison with other pupils in her ability to benefit from [the right to education]. Surely, the stigmatization and discrimination implied in the suspension from school attendance have converted this method of instruction into a disproportionate burden which the pupil has to bear solely because she is pregnant, which, in the opinion of the Court, amounts to punishment.

The conversion of pregnancy – through school regulations – into a ground for punishment violates fundamental rights to equality, privacy, free development of personality, and to education.⁵⁸

The 1991 *Mfolo* case from Bophuthatswana in South Africa also found a rule requiring the suspension of all pregnant students to be discriminatory. Here, the Court considered a provision in the “Regulations Relating to Teachers’ Colleges and Hostels for College Students” which provided that in the event of it being established that a female student had become pregnant, “the principal shall ... suspend her rights as a student for the rest of

⁵⁸ UN Commission on Human Rights, Progress report of the Special Rapporteur on the right to education, Katarina Tomaševski, submitted in accordance with Commission on Human Rights resolution 1999/25, E/cn.4/2000/5, 1 February 2000. The Colombia case referred to is Supreme Court of Colombia, *Crisanto Arcangel Martinez Martinez y Maria Eglina Suarez Robayo v. Colegio Ciudad de Cali*, No. T-177814, 11 November 1998, as translated from Spanish. The original text reads as follows:

... aunque la . desescolarización. no implica la pérdida absoluta del derecho a la educación, sí implica su prestación conforme a una condición que tiende a estigmatizar a la alumna embarazada y a discriminarla frente a los restantes estudiantes en la recepción de los beneficios derivados del [derecho a la educación].

... erigir – por vía reglamentaria – el embarazo de una estudiante en causal de sanción, viola los derechos fundamentales a la igualdad, a la intimidad, al libre desarrollo de la personalidad y a la educación.

the academic year". This regulation was challenged on the basis that it conflicted with section 9 of the Bophuthatswana Constitution, which provided for equality before the law and prohibited discrimination on the basis of sex. The Court ruled that while there may be good reason for making specific provisions for pregnant female students, it is unjustifiable to apply a uniform sanction to all pregnant students, irrespective of whether they were married or unmarried, residing in a hostel or elsewhere, or able to continue with their studies or not. The Ministry of Education advanced a number of possible purposes for the regulations – including the encouragement of morality, health, and the maintenance of discipline amongst others – but the Court found that none of these purposes justified the blanket regulation, which was ruled to be unconstitutional.⁵⁹

The current Namibian policy purports to apply precisely the same rules to pregnant schoolgirls and to male learners who father children during the course of their education. However, the policy is seldom applied to male learners, who can easily father children without this being noticed by school authorities. Thus, the policy arguably constitutes indirect discrimination since the number of girls who are adversely affected by it is far higher than the number of boys, even though it is framed in gender-neutral fashion.

5.2 The newborn child's right to be cared for by both parents

Article 15 of the Namibian Constitution on children's rights is also significant to the discussion of the policy on teenage pregnancy. Subsection (1) is particularly relevant to the newborn child:

- (1) Children shall have the right from birth to a name, the right to acquire a nationality and, subject to legislation enacted in the best interests of children, as far as possible the right to know and be cared for by their parents.

This provision mirrors Article 7(1) of the UN Convention on the Rights of the Child.

This Constitutional provision has been cited by the Ministry of Education as a justification for requiring new mothers (and fathers) to remain out of school for a year. However, this argument is obviously untenable. If this Constitutional provision did support a policy forbidding new parents to continue their schooling until after they have spent at least a year with their child, then it would equally provide a Constitutional mandate for a full

⁵⁹ *Mfolo and Others v Minister of Education, Bophuthatswana* (1994) (1) BCLR 136 (B) (date of judgment 07/11/1991); 1992 (3) SA 181 (BG).

year's maternity and paternity leave from work. This Constitutional protection also applies to all children, throughout their childhoods; therefore, the Constitutional right of the child to be cared for by his or her parents does not come to an end at age one. If the Constitution could be applied in the way that has been suggested, then parents would be forbidden from working or attending school altogether. The "care" envisaged in the Constitution logically cannot refer to full-time daily care of children of all ages, but must rather relate to ongoing parental contact, involvement and responsibility.

Furthermore, in the case of teenage pregnancy, both the mother and her child (and in some cases the father) have the legal status of children. Under the present common law, an unmarried minor child who gives birth is not able to act as the legal guardian or custodian of the baby; this role falls to the parent of the minor (the baby's grandparent). Once the Children's Status Act comes into force, the minor parent will be able to act as the child's custodian, but that minor will still not be able to function as the baby's legal guardian.⁶⁰ In this sense, our legal framework precludes giving full legal responsibility to a minor for another minor, but rather acknowledges that the assistance of persons who are legally classified as adults will be required.

The UN Committee on the Right of the Child has recognised that a diversity of family and caregiving relationships can be in the best interests of a young child:

19. **Social trends and the role of the family.** The Convention emphasizes that "both parents have common responsibilities for the upbringing and development of the child", with fathers and mothers recognized as equal caregivers (art. 18.1). The Committee notes that **in practice family patterns are variable and changing in many regions, as is the availability of informal networks of support for parents, with an overall trend towards greater diversity in family size, parental roles and arrangements for bringing up children. These trends are especially significant for young children, whose physical, personal and psychological development is best provided for within a small number of consistent, caring relationships. Typically, these relationships are with some combination of mother, father, siblings, grandparents and other members of the extended family, along with professional caregivers specialized in childcare and education. The Committee acknowledges that each of these relationships can make a distinctive contribution to the**

⁶⁰ Section 12(1) (a) and (b) of the Children's Status Act 6 of 2006 makes it clear that mothers and fathers of children born outside marriage can be custodians of their children regardless of whether they are majors or minors. However, section 13(2) states that "If a parent is a minor, guardianship of such parent's child does, unless a competent court directs otherwise, vest in the guardian of such parent". This issue does not arise in respect of parents who are married, as marriage confers the status of majority on the spouses even if they have not yet reached age 21.

fulfilment of children’s rights under the Convention and that a range of family patterns may be consistent with promoting children’s well-being. In some countries and regions, shifting social attitudes towards family, marriage and parenting are impacting on young children’s experiences of early childhood, for example following family separations and reformations. Economic pressures also impact on young children, for example, where parents are forced to work far away from their families and their communities. In other countries and regions, the illness and death of one or both parents or other kin due to HIV/AIDS is now a common feature of early childhood. These and many other factors impact on parents’ capacities to fulfil their responsibilities towards children. More generally, during periods of rapid social change, traditional practices may no longer be viable or relevant to present parental circumstances and lifestyles, but without sufficient time having elapsed for new practices to be assimilated and new parental competencies understood and valued.⁶¹

The provision of the Convention which gives children the right to be cared for by their parents must also be read together with the other provisions of the Convention, such as Article 5 which acknowledges the role of “members of the extended family or community as provided for by local custom” and Article 9 which authorises separation from the parents “for the best interests of the child”. It is also clear that the concept of being “cared for” as used in the Convention does not imply only direct physical care, but also forms of involvement with the child on the part of absent parents.⁶²

Thus, a thorough and logical consideration of a child’s Constitutional right “to be cared for” by his or her parents indicates that reliance on this right to justify the current Policy on Pregnancy amongst Learners is misplaced.

5.3 Other relevant international and regional commitments

Namibia has other international and regional commitments which give more specific attention to the issue of teenage pregnancy and education.

⁶¹ Committee on the Rights of the Child, General Comment No. 7 (2005): Implementing child rights in early childhood, CRC/C/GC/7/Rev.1, 20 September 2006, paragraph 19 (emphasis added).

⁶² UNICEF, *Implementation Handbook for the Convention on the Rights of Every Child*, 2007 at page 108.

Convention on the Elimination of all forms of Discrimination Against Women

As a signatory to the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), the Namibian government has committed itself to take all appropriate measures to eliminate discrimination against women in order to ensure equal rights with men in the field of education, more specifically through “the reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely”.⁶³

In 1997, in response to Namibia’s first report under CEDAW, the Committee which monitors CEDAW stated:

Teenage pregnancy, which was common, was the biggest challenge to female educational advancement. It was a major factor in the school drop-out rate for girls.

The Committee noted further that it was “concerned that pregnant teenage women were punished by expulsion from school”, although it did not make a specific recommendation on this point.⁶⁴

In 2007, the same Committee gave a more detailed response on this issue, after consideration of Namibia’s combined second and third CEDAW report:

The Committee expresses concern about the high dropout rates of girls from formal education. **The Committee is also concerned that the provision contained in the Policy on Pregnancy among Learners requiring that girls who become pregnant should be allowed to return to normal schooling only after spending at least one year with the baby could act as a deterrent for girls to resume their studies after childbirth.** The Committee regrets that insufficient statistical data and information were provided on girls’ education.

The Committee recommends that the State party implement measures to retain girls in school and monitor the impact of the Policy on Pregnancy among Learners on the rate at which girls return to school after childbirth. The Committee requests that the State party give high priority to the implementation of its programme on population and family life education. The Committee calls on the State party to include,

⁶³ Article 10(f).

⁶⁴ Committee on the Elimination of Discrimination Against Women, Concluding Observations: Namibia, UN Doc. A/52/38/Rev.1, Part II paras.69-131 (1997) at paragraphs 77 and 108.

in its next report, statistical data disaggregated by sex, ethnicity and region, as well as information on girls' education, providing analysis of trends over time and progress towards the achievement of goals.⁶⁵

Convention on the Rights of the Child

As noted above, this Convention includes a statement of the right to education, as well as the principle of non-discrimination. The Convention does not address teenage pregnancy explicitly, but the Committee on the Rights of the Child, in discussing the interpretation of the Convention, has emphasised the need to provide support for adolescent parents:

Adolescent girls should have access to information on the harm that early marriage and early pregnancy can cause, and those who become pregnant should have access to health services that are sensitive to their rights and particular needs. States parties should take measures to reduce maternal morbidity and mortality in adolescent girls, particularly caused by early pregnancy and unsafe abortion practices, and to support adolescent parents. **Young mothers, especially where support is lacking, may be prone to depression and anxiety, compromising their ability to care for their child. The Committee urges States parties (a) to develop and implement programmes that provide access to sexual and reproductive health services, including family planning, contraception and safe abortion services where abortion is not against the law, adequate and comprehensive obstetric care and counselling; (b) to foster positive and supportive attitudes towards adolescent parenthood for their mothers and fathers; and (c) to develop policies that will allow adolescent mothers to continue their education.**⁶⁶

Charter on the Rights and Welfare of the African Child

This Charter, to which Namibia is a signatory, requires governments to “take measures to encourage regular attendance at schools and the reduction of drop-out rates” and to “take special measures in respect of female, gifted and disadvantaged children, to ensure equal access to education for all sections of the community”.⁶⁷ Even more specifically, government are also obliged to ensure that “**children who become pregnant before**

⁶⁵ Committee on the Elimination of Discrimination against Women, Concluding comments of the Committee on the Elimination of Discrimination against Women: Namibia, Thirty-seventh session, 15 January-2 February 2007, paragraphs 22-23 (emphasis added).

⁶⁶ Committee on the Rights of the Child, General Comment No. 4 (2003), Adolescent health and development in the context of the Convention on the Rights of the Child, CRC/GC/2003/4, 1 July 2003, at paragraph 31.

⁶⁷ Article 11(3)(d) and (e).

completing their education shall have an opportunity to continue with their education on the basis of their individual ability”.⁶⁸

Commenting on this provision, the UN Special Rapporteur on the Right to Education stated:

Translating this obligation into practice often requires overcoming the denials of access to school for pregnant girls and very young mothers (when pregnancy is a disciplinary offence, for example), while overcoming this obstacle requires a well designed strategy for changing social norms through the mobilization of teachers, parents, community leaders, and pupils themselves.⁶⁹

Protocol to the African Charter on the Rights of Women in Africa

Support for steps on teenage pregnancy can also be found in the Protocol to the African Charter, adopted by Namibia, which commits states to the elimination of a range of barriers to girls’ education. The section of this Protocol on education and training requires governments to “promote the enrolment and retention of girls in schools and other training institutions and the organisation of programmes for women who leave school prematurely”.⁷⁰

Draft SADC Protocol on Gender and Development

The SADC Protocol on Gender and Development is still in draft form, but Namibian representatives have played a major role in shaping its contents so far. Several drafts of the Protocol have given specific attention to pregnant amongst learners as part of the commitment to gender equality in education.

In 2006, the draft Protocol (1st Zero Draft, SADC/M/2006/GAD/4) provided that Member States, “in order to ensure equal access to quality education” must take every step necessary to

draw up and implement policies and laws which ensure that **girls who become pregnant while at school can continue with their education or take a sabbatical, if they wish, and continue with their education after the delivery of their children.**⁷¹

⁶⁸ Article 11(6) (emphasis added).

⁶⁹ Preliminary report of the Special Rapporteur on the right to education, Ms. Katarina Tomaševski, submitted in accordance with Commission on Human Rights resolution 1998/33, E/CN.4/1999/4913, January 1999, at paragraph 61.

⁷⁰ Article 12.2(c).

⁷¹ SADC Protocol on Gender and Development, 1st Zero Draft, SADC/M/2006/GAD/4, Article 6(g) (emphasis added). No target date was set for this step.

As of 2007, this section of the draft Protocol (First Draft, SADC/M/2007/GAD/2) had been strengthened by the addition of (a) a clause saying that new mothers could return to their previous schools if they wished, and (b) a target date of 2015 for enacting appropriate policies and laws.⁷² It is noteworthy that the leave from school proposed in both of these drafts was to be at the discretion of the new mother, rather than a set period imposed by the state.

The most recent draft of the SADC Protocol as approved by the Justice Ministers of SADC in 2008 (SADC/MJ/2/2008/3) has removed all specific references to learner pregnancy in favour of a much more general wording:

1. State Parties shall, by 2015, enact laws that promote equal access to and retention in primary, secondary, tertiary, vocational and non-formal education in accordance with the Protocol on Education and Training and the Millennium Development Goals.
2. State Parties shall by 2015 adopt and implement gender sensitive educational policies and programmes addressing gender stereotypes in education and gender based violence, amongst others.⁷³

The Southern African Gender Protocol Alliance, a groups of NGOs based in the region, objected to the removal of the specific commitment to supportive policies on pregnant learners and proposed its reinstatement (along with the reinstatement of other specific commitments pertaining to girls' education which were also cut from the draft Protocol):

The education section was heavily cut and yet it is vital to women's empowerment. The additions proposed are key strategic issues that are not mentioned in the SADC Protocol on Education and are lost in the current compression of the section. For example gender violence in schools cannot be conflated with curriculum; this is a separate and serious issue. Illiteracy, teenage pregnancy, early childhood development

⁷² Draft SADC Protocol on Gender and Development (First Draft, SADC/M/2007/GAD/2), Article 6.2(g), emphasis added.

⁷³ This wording appears in Article 14 of the draft approved by SADC Gender Ministers in April 2008 (SADC/2008/GAD /2) and the draft subsequently approved by SADC Justice Ministers in July 2008 (SADC/MJ/2/2008/3) which is the latest draft available at the time of writing. According to the Southern African Gender Protocol Alliance (writing in April 2008):

In the making since 2005, the Protocol has gone through seven different drafts, and faced major resistance ahead of the 2007 summit, with key sections removed or whittled down by senior officials from finance and trade-related ministries. Following the deferring of the protocol by SADC leaders for "further consultation" senior officials responsible for gender met in Livingstone in December [2007] to try to salvage what they could of the original draft, while taking note of concerns that it was too long and prescriptive.

Comments on the Draft Protocol on Gender and Development as amended by Senior Officials Responsible for Gender and Women's Affairs by the Southern Africa Gender Protocol Alliance, April 2008, www.genderlinks.org.za/attachmentview.php?pa_id=407. at page 2.

etc are key strategic areas for gender equality that require some degree of specificity in a Protocol of this nature.⁷⁴

The Protocol is not yet finalised, but it is expected to move forward within SADC structures during 2008.⁷⁵ Even if the more specific wording on national policies on teenage pregnancy is not finally included, the earlier drafts are indicative of recent trends towards more progressive policies in the region.

Education for All (EFA)

“Education for All” refers to an international commitment adopted at a World Conference held in Jomtien, Thailand in 1990. The World Declaration on Education for All adopted at this conference stated that “the most urgent priority is to ensure access to, and improve the quality of, education for girls and women, and to remove every obstacle that hampers their active participation”.⁷⁶

There are six EFA goals (see the following box), several of which are relevant to the rights of girls who become pregnant while still in school.

⁷⁴ Comments on the Draft Protocol on Gender and Development as amended by Senior Officials Responsible for Gender and Women’s Affairs by the Southern Africa Gender Protocol Alliance, April 2008, www.genderlinks.org.za/attachment_view.php?pa_id=407 at page 5.

The SADC Gender Protocol Alliance comprises a large grouping of NGOs from countries in the region, including Namibia: the Botswana Congress of NGOs (BOCONGO); Federation of African Media Women (FAMW) – SADC; Gender Links (GL); Gender and Media Southern Africa Network (GEMSA); Justice and Peace (Lesotho); Malawi Council of Churches; Media Institute of Southern Africa (MISA); NGO Gender Coordination Network Malawi; SAFAIDS; Society for Women and AIDS in Africa Zambia (SWAAZ); Women in Law and Development in Africa (WILDAF); Women in Law in Southern Africa (WLSA); Women, Land and Water Rights Southern Africa (WLWRSA); Women in Politics Caucus Botswana; Women’s Leadership Centre Namibia; Young Women’s Christian Association Botswana (YWCA); Zimbabwe Women’s Resource Centre (ZWRCN).

The wording on learner pregnancy proposed by the Alliance is as follows:

State Parties shall, by 2015 enact laws that promote equal access to and retention in primary, secondary, tertiary, vocational and non-formal education in accordance with the Protocol on Education and Training and the Millennium Development Goals. **These shall include policies and programmes to ensure that young women who drop out of school as a result of teenage pregnancy are able to complete their education.** (emphasis added)

⁷⁵ The draft will next be reviewed at the Standing Committee of Senior Officials Meeting (10-12 August 2008) and the Council of Ministers Meeting (14-15 August 2008) before reaching Heads of State.

⁷⁶ Adopted by the World Conference on Education for All: *Meeting Basic Learning Needs*, Jomtien, Thailand, 5-9 March 1990, Article III.

The six EFA goals

1. Expanding and improving comprehensive early childhood care and education, especially for the most vulnerable and disadvantaged children.
2. Ensuring that by 2015 all children, particularly girls, children in difficult circumstances and those belonging to ethnic minorities, have access to, and complete, free and compulsory primary education of good quality.
3. Ensuring that the learning needs of all young people and adults are met through equitable access to appropriate learning and life-skills programmes
4. Achieving a 50 per cent improvement in levels of adult literacy by 2015, especially for women, and equitable access to basic and continuing education for all adults.
5. Eliminating gender disparities in primary and secondary education by 2005, and achieving gender equality in education by 2015, with a focus on ensuring girls' full and equal access to and achievement in basic education of good quality.
6. Improving all aspects of the quality of education and ensuring excellence of all so that recognized and measurable learning outcomes are achieved by all, especially in literacy, numeracy and essential life skills.⁷⁷

In Namibia, one of the national strategic objectives to advance the EFA goal of eliminating gender disparities is to decrease the rate of dropouts due to pregnancy and motherhood among schoolgirls. Namibia's National Plan of Action (2002-2015) for Education for All identifies several activities which could contribute to achieving this objective:

- Publicize and implement the policy on teenage pregnancy and encourage girls to **continue with their studies for as long as possible.**
- Sensitize teachers, principals, school boards, community leaders, inspectors in order to **reduce the stigma of pregnancy and motherhood.**
- **Explore options which would allow pregnant girls to complete their education,** and increase access to reproductive health services.

The establishment of facilities which would enable nursing mothers to continue their education was cited as one of the indicators of success for these activities.⁷⁸

⁷⁷ Education for All Global Monitoring Report: www.unesco.org/education.

⁷⁸ Government of the Republic of Namibia, Education for All (EFA), National Plan of Action 2002-2015, revised 16 July 2002. http://64.233.183.104/search?q=cache:5ZhEWbFCMNAJ:portal.unesco.org/education/en/file_download.php/1da9a989e55533b913ae7cd49ceb2bfaEFA%2BNamibia%2BRevised%2B16%2BJuly.doc+Namibia+te+en+pregnancy+school+drop+out&hl=en&ct=clnk&cd=30&gl=na [accessed 13 August 2007].

6. OPINIONS ON THE CURRENT NAMIBIAN POLICY

6.1 Consultative workshop: 2006

The Legal Assistance Centre convened a small consultative workshop in Windhoek on 29 November 2006. This workshop was attended by 17 participants, including representatives from the Ministry of Education, Ministry of Gender Equality and Child Welfare, Ministry of Youth, Namibia Institute for Educational Development, University of Namibia, FAWENA, Namibia Planned Parenthood Association, UNICEF, UNFPA and one local secondary school.

None of the participants at this workshop favoured the policy on teenage pregnancy in its current form. The workshop was agreed that rights should be taught together with responsibilities. However, no one supported the existing policy as being the correct route for achieving that balance.

Participants found the fact that the current policy is labelled as a “temporary guideline” confusing. One of the complaints put forward was that teachers are not familiar with the guidelines on teenage pregnancy, and that they have not contributed to its creation as it was “imposed from above”. It was also noted that teenage learners should participate in the formulation of policies which will affect them.

On the question of enforced absence from school after the birth of the child, one participant suggested that that we must examine the reason *why* learners should be kept out of school in the case of a pregnancy, as answering this question will help in the formulation of a new policy. Several participants thought that even three months mandatory “leave” from school after the birth of a child would be too much. For example, one participant said: “Three months is a lot of time wasted for a school child to be out of school. We need to get the learners back to school as soon as possible. They will struggle to catch up if they are out of school for a long time.”

A social worker said: “We don’t want kids out of school for a year as it is a waste of time. There is no guarantee that kids will go back and finish their education.” Another participant suggested allowing a medical team to determine when the girl is able to return to school, instead of stipulating a fixed time. She also suggested that the school should pay for the cost of this medical advice.

Another participant stressed the need for flexibility to accommodate the school schedule, saying that “it may be better for a learner to start at the beginning of the year instead of having them start mid year”. Several teachers strongly endorsed this suggestion.

Several participants also emphasized the need to ensure that the newborn child receives proper care, but agreed that there are many options. One participant asked why teenage parents who can arrange alternative child care should be forced to remain out of school. Other participants noted that the mother or grandmother of the learner usually takes responsibility for the baby, which makes it possible for learners return to school earlier without endangering the best interests of the baby.

Participants also said that it is common for a girl who gets pregnant the first time to get pregnant again, although it should be noted that research in other countries indicates that an early return to school is one factor which can mitigate against a rapid second pregnancy.⁷⁹ One participant indicated that this holds true for Namibia as well, with a second baby more likely to be conceived soon if the learner is out of school for a year.

The lack of counselling services was cited as a serious barrier. One participant said: “Many girls do not actually seek readmission into school after a pregnancy. Could it be because of cultural issues, insufficient childcare, or the fact that there is no counselling available?” Another asked: “What counselling do we have in place for those who do not know what to do with the baby?”

The lack of formal support systems for pregnant teens, particularly in rural areas, was also cited as a serious practical problem, with the burden of providing support in this situation falling almost exclusively on families.

On the consequences for schoolboy fathers, participants felt that both mother and father should be involved in their child’s life at an early stage, but noted that pregnant schoolgirls are often reluctant to name the father. It was suggested that the current policy is one reason for this reluctance: “Some girls want the father to stay in school. Later, he will have to take care of the baby and so he will need to stay in school to better his chances

⁷⁹ See, for example, **South Africa**: CE Hoffman, T de Wet & J Stadler, “Adolescent Pregnancy and Parenthood in South Africa”, 32 [2] *Studies in Family Planning* 147-160 (2001); **Jamaica**: P McNeil, “Women’s Centre, Jamaica: Preventing Second Adolescent Pregnancies by Supporting Young Mothers”, Family Health International, 1999, www.fhi.org/en/Youth/YouthNet/Publications/FOCUS/ProjectHighlights/womenscentre_jamaica.htm; and **USA**: Florida State University for Prevention & Early Intervention Policy, “Subsequent Pregnancies and Births Among Adolescent Mothers”, 2005, www.cpeip.fsu.edu/resourceFiles/resource-File_76.pdf, citing several studies which indicate that young mothers who leave school after giving birth experience second pregnancies much sooner than those who return to school within six months of delivery.

of a job. Why force the boy out of school if the girls should leave on medical grounds, as proposed?"

It was also noted that young fathers are unlikely to participate in caring for the child in any event, unless this process is facilitated. One participant noted that the schoolboy father may not want or be able to see the girl or the baby, so why not let him continue with his education in that case?

6.2 Discussions with learners: 2007

The Legal Assistance Centre sampled learner opinions at a small number of schools to inform the preparation of this background paper. Our goal was not to present a representative sample of learner opinion, but rather to identify some ideas and concerns coming from the learner perspective.

We held discussions with small groups of learners at four schools:

- JA Nel, Senior Secondary School, Keetmanshoop
- Suiderlig High School, Keetmanshoop
- Okahandja Senior Secondary School, Okahandja
- Delta High School, Windhoek.

The location of the discussions was random, in the sense that they were conducted when we had a researcher in an area for other purposes with sufficient time to arrange a learner discussion. All of the discussions involved a mixture of male and female secondary school learners, and each discussion involved about 20 learners on average. We wanted to hold discussions with learners when no teacher or school official was present, to encourage them to express their views freely, but this was allowed at only one school. In two of the discussions, the teachers present intervened to the point that it was difficult to be sure that the learners were expressing their true opinions. The learners who participated were usually members of the schools' learner representative councils.

Pregnancy amongst learners had occurred recently in each school. At one school, the teacher recalled 2 recent learner pregnancies after being prompted by the learners who were present. Learners at one school could not agree on how many girls at their school had become pregnant in the last year, with estimates ranging from 2 to 9. Learners at a third school reported 4-5 pregnancies there within the last year. At a fourth school, the school councillor estimated that there are 10-15 pregnancies amongst learners at the school each year.

Learners generally seemed to be familiar with the provisions which apply to schoolgirls who become pregnant, but not those which are supposed to apply to schoolboys who father a child.

When asked about the provision which requires pregnant girls leave school as soon as the pregnancy is visible, learners had differing opinions. Some of the comments in favour of the current approach were:

- “If they are allowed to stay, then it would be as though the school is approving of the pregnancy and this could poorly influence other students.”
- “Girls must leave school when the pregnancy is visible.”
- “Some students might see the pregnant girls and think that it is a good idea to start having sex and get pregnant. “
- “The girls often leave school voluntarily before the pregnancy is very advanced.”

Yet learners at every school cited concerns about the teasing and harassment that a pregnant schoolgirl would experience, which would seem to contradict the idea that she would be viewed as an example to be followed. Interestingly, although learners at all schools pointed to this problem, no one suggested that this problem should be addressed by the school in any way.

Points against the current approach were:

- “The girl should be allowed to stay in school during the whole pregnancy.”
- “The choice to leave or not should be hers.”
- “Give the girl a chance even if the pregnancy is visible.”
- “The rules which apply to pregnant employees should be applied in schools.”

A school councillor brought up an example of one girl in Grade 8 who gave birth on a Friday and returned to school on Monday to write her exams – which she passed – noting that she was able to carry on in this way because of parental support.

Opinions were also divided on the question of whether a new mother should be required to stay out of school for one year after the baby is born. The majority of the learners in one discussion agreed with the current one-year policy. Some points made in favour of the current approach:

- “It is a good idea for the mother to stay out of school for some period of time so that she can bond with the child.”
- “The girl mother should stay at home because the baby needs attention and breastfeeding, and if she is allowed back in class, she will not concentrate.”
- “Taunting, lack of concentration..... the girl should stay out of school.”
- “Teenage pregnancy is bad, and the girls make a choice therefore they need to bear the consequences.”
- “It would be seen to be encouraging girls to fall pregnant.”

It became clear that many learners viewed the current policy as being a punitive one. When asked if the same rules should apply to a schoolgirl who becomes pregnant as a result of a rape, many learners felt that this would be unfair because in this case the pregnancy was not the learner’s “fault”.

Many learners – including the majority of the learners in one discussion – felt that it would be better to let the schoolgirl mother choose when she is ready to return to school. Here is a sampling of the views which supported changing the current policy:

- “Both learners are already supported by their parents and the new baby would likely be supported and cared for by the parents as well. This means that there is less of a need to keep the learners out of school because the learner’s parents become the primary caregivers of the new babies.”
- “It would be better to let the students decide when they actually want to come back.”
- “Three months would be a sufficient time for the learners to be able to bond with their children while staying at home. Education of the parent learners is very important as this will help them support their baby later on.”
- “If a girl is in grade 11 and is in good health she can go back to school.”
- “The girl may be tempted to kill the child in order to rejoin before the year is over.”

Learners at all the schools said that it is rare for schoolgirls to return to complete their education after the birth of the baby. While some girls decide to re-apply to different schools it was said at one school that “many other girls will not go back to school at all because it is too difficult to reintegrate into school and complete the required work after being gone for almost two years”. At another school, the learners estimated that only 10-20% of the girls who become pregnant ever return to school. At one school, the

school councillor said that “most girls do not come back and very few of them attempt NAMCOL”, and she believed that the one-year rule was partly responsible. Also, in her experience, girls who become pregnant in Grades 11 or 12 are more likely to return to complete their education than girls in lower grades.

The requirement that schoolboy fathers should also remain out of school for one year seemed to inspire particularly heated debate. No learner was aware of any case where this policy was applied to a male learner in practice. The following points were made in favour of the current requirement:

- “Both should be suspended.”
- “The responsible boy must also stay at home.”
- “The boy should quit school and get a job so that he could help support the baby when it was born.”
- “As both parents wanted the child, both of them are equally responsible for the child.”
- “It is a good idea for both parents to stay out of school for some period of time so that they can bond with the child.”

Counterarguments included these:

- “Boys should not have to stay home from school. This provision is punishment and does not serve any useful purpose.”
- “Both should stay in school and get an education.”
- “The male student should not have to leave school because he needs an education to find a job to support his family.”

Some learners suggested that the schoolboy father, like the schoolgirl mother, should stay out of school for some time period to bond with the new baby, but not for as long as one year.

Learners at one school said with great certainty that there would be no disciplinary action at their school against a teacher who impregnated a female learner, although most learners who commented on this point agreed that this situation should result in the teacher being permanently banned from teaching. (This issue was not discussed at the other schools.)

There was some discussion amongst the learners of steps which could be taken to support teenage parents. A few suggested distance learning as the best way to allow the young mother to have a realistic chance of catching up when she returns to school, while others

thought that separate classes might be helpful. Others commented that the policy's reference to special afternoon or evening classes for pregnant schoolgirls was not realistic, as the numbers of such schoolgirls at a school at any one time is very limited, and they will not all be from the same grade.

6.3 Other learner opinions

Other comments by adolescents paint a bleak picture of the chance of a pregnant learner's chances of completing her education.

This was expressed, for example, in recent studies of adolescent sexual and reproductive health in three regions of Namibia (Karas, Oshana and Ohangwena) which canvassed youth opinions about the consequences of learner pregnancies:

Karas

Adolescents interviewed said that school girls who become pregnant are expelled, but allowed to return after the birth or to take examinations. Girls sometimes prefer to return to different schools to avoid embarrassment. The boys responsible for the pregnancy are not expelled, but are able to remain in school. Some said that school boy fathers and their parents voluntarily provide financial assistance for the child, while others said that teenage mothers go to court to request maintenance from the teen fathers and their parents – which may cause the boy to lose out on his education if he must leave school to find a job so that he can support the child.⁸⁰

Ohangwena

In Ohangwena, some teachers interviewed expressed concerns about the impact of the current policy. One teacher said:

The girl suffers from poverty in the long run. She will not complete her education. Even if they have the chance to come back to school after two years, they usually lose interest and do not come back. Some parents ask the teenagers to look after themselves and the babies.

Parents who were interviewed emphasised the shame that the pregnancy brings on the family, saying that the pregnancy will make the family appear weak. Parents also noted that girls were likely to drop out of school permanently after a pregnancy, meaning that the father loses out on the investment he made in her education.⁸¹

⁸⁰ M Gebhardt et al, *Socio-Cultural Research on Adolescent and Youth Sexual and Reproductive Health: Karas Region*, UNAM/UNFPA, 2004 at pages 67.

⁸¹ C Nengomasha et al, *Socio-Cultural Research on Adolescent and Youth Sexual and Reproductive Health: Ohangwena Region*, UNAM/UNFPA, 2004 at pages 86-87.

Oshana

Girls said that pregnant learners are forced to leave school when the pregnancy is discovered, and that they seldom return to complete their education. The interviewees said that they would hate to be forced to leave school to care for the baby, without being able to see their friends. One girl spoke about the implications of this for the nation:

I feel pity for them and the country, because the more teenagers are impregnated, the more the development of the country is affected. The more teenage mothers there are, the higher the employment rate is going to be, because teenagers end up in the house taking care of babies and their children will not get an education and the effect will just snow ball.

Boys also discussed the fact that teen fathers are supposed to be expelled from school, with one saying:

Both the boy and the girl will be chased away from school, and this can also have a negative impact on the school if these learners were among the best performers.

Some felt that the young father should be allowed to continue his education without interruption so that he can get a good job and support the child, while others said that both should be expelled to avoid sending out the wrong message to other learners.⁸²

Similar comments have been made by students writing inputs for the Ombetja Yehinga Organisation youth magazine:⁸³

These days, young people who were supposed to become someone or something just drop out of school because of teenage pregnancy. The thing that really hurts me is that most of the girls that get pregnant are under the age of 17, but they are impregnated by men over the age of 25. The kids end up dropping out of school while the big fathers get away with it!

learner at Kuisebmond Secondary School

I feel pity for those who unexpectedly become pregnant and teenage pregnancy makes me cry. Almost every day I see learners walking around the street pregnant. If we learners become pregnant we drop out of school and we forget about our education.

learner at Dibasen Junior Secondary School

If you are pregnant you may be lucky and survive, but you will have to drop out of school. This will mean that you will not have an education.

learner at unidentified school

⁸² T Shapumba et al, *Socio-Cultural Research on Adolescent and Youth Sexual and Reproductive Health: Oshana Region*, UNAM/UNFPA, 2004 at pages 64-ff.

⁸³ *OYO Young Latest and Cool*, Vol 3 No 1: Teenage pregnancy, unwanted pregnancy and abortion, 2004 and Vol 6 No 5: Sex, 2007.

7. APPROACHES IN OTHER COUNTRIES

The debate on policies on teenage pregnancies in schools in sub-Saharan Africa has been ongoing for some time. In 2002, Bagele Chilisa of the University of Botswana presented a critique of regional policies, which she classified into three types: namely, expulsion, re-entry and continuation policies.⁸⁴

Chilisa argues that **expulsion policies**, which were still utilised in several countries (including Mozambique and Tanzania) stem from the influence of Christian missionaries during the colonial period and constitute punishment of the immoral status of pre-marital pregnancy.⁸⁵ She asserts that **re-entry policies** (such as those applied in Botswana, Malawi, Zambia and South Africa), while more progressive, still reflect traditional ideologies that discriminate against women because they fail to adequately address the barriers which mitigate against the young mother's continuation of her education. Her paper argues that even when a national policy allow girls to re-enter the school system, administrative bureaucracy and ideologies of exclusion at the school level can disable girl mothers, thus constituting a serious form of gender bias. She concludes that **continuation policies** (such as those found in Cameroon, Madagascar and Burkino Faso) are the most "girl-friendly", creating the best conditions for the empowerment of the "girl mother".⁸⁶

The current policy in Namibia can be classified as a re-entry policy, because it requires that the girl mother stay home for a period of one year after the birth of the child, but authorises her to eventually re-enter classes.⁸⁷

⁸⁴ B Chilisa, *National Policies on Pregnancies in Education Systems in Sub-Saharan Africa: The case of Botswana*, Gender and Education, Vol 14, No. 1, pp 21-35, 2002. Information in this paper on African school pregnancy policies is based on responses to a questionnaire distributed to African Ministers of Education by the Forum for African Women Educationalists (FAWE) in 1997 and may not reflect recent changes.

⁸⁵ In addition to Mozambique and Tanzania, Togo and Mali also reportedly have very strict policies requiring expulsion of pregnant schoolgirls. CB Lloyd & BS Mensch, *Marriage and Childbirth as Factors in School Exit: An Analysis of DHS Data from sub-Saharan Africa*, Policy Research Division Working Paper No. 219, New York: Population Council, 2006 at page 8.

⁸⁶ It is reported that Burkina Faso has a very progressive continuation policy, with girls who are pregnant being allowed to stay in school throughout their pregnancy and resume their schooling immediately after delivery. Id at page 8.

⁸⁷ Chilisa's paper erroneously asserts that Namibia's policy is a continuation policy, where a schoolgirl mother can supposedly continue with school so long as a social worker has confirmed that the baby will receive proper care while the mother attends school. This describes the draft policy which was under discussion at the time the information for Chilisa's paper was collected, but not the policy guidelines issued by Cabinet and circulated by the Ministry of Education which allow re-entry into school only after the new mother has spent at least one year at home with the baby.

7.1 Re-entry policies

Botswana

Botswana adopted a re-entry policy for pregnant students in 1977, at a time when most other African countries were applying expulsion policies. Since then it has been gradually liberalising the policy to make re-entry easier.

The original re-entry policy required that the girl withdraw from school immediately after her pregnancy was discovered and return 12 months after delivery. The 12-month leave period was supposed to enable the mother to be restored to full health, and also to act as a deterrent to pregnancy. Culturally, it was also expected that a mother who had just delivered should be secluded for a long period. This version of the policy read as follows:

1. If a pupil becomes pregnant the parent or guardian of such a pupil shall be required to withdraw her from the school at which she is enrolled and her admission to a school, which shall be other than that from which she was withdrawn, shall be at least one calendar year after cessation of pregnancy and subject to the written approval of the Minister.
2. The parent or guardian of a pupil who is responsible for the pregnancy of another pupil shall be required to withdraw him from the school and his return shall be subject to a written approval from the Minister.
3. A pupil shall not be allowed to write an examination while she is pregnant.
4. A pupil who is withdrawn from a school on account of her pregnancy shall not be allowed to write an examination at a school until at least six months after such pregnancy has ceased.
5. A pupil who has been expelled from school under regulation (2) at which he was enrolled shall not during the academic year during which he was expelled or withdrawn, be allowed to write an examination for which he had registered at such school unless the Minister authorises otherwise.⁸⁸

This policy was clearly discriminatory. It required the mother to stay out of school for a year, prohibited her from sitting exams while pregnant or within six months from her date of delivery and forced her to seek written Ministerial permission to transfer to another school if she wished to continue her education. A schoolboy father, on the other hand,

⁸⁸ Republic of Botswana, Education Regulations, 1978, 58-68, as quoted in B Chilisa, *National Policies on Pregnancies in Education Systems in Sub-Saharan Africa: The case of Botswana*, Gender and Education, Vol 14, No. 1, pp 21-35, 2002.

could apparently return to the same school after an unspecified period of leave with the approval of the Minister, and could receive Ministerial authorisation to take exams without interruption.⁸⁹

After some variations in implementation of the policy were encountered, the procedure for the readmission of learners was standardised in 1995 as follows:

- A girl cannot be readmitted into the same school.
- A girl should have spent a year of absence of leave.
- A girl should produce a birth certificate to verify the date of birth of the child.
- Boys and girls should produce a testimonial and school reports from previous school.
- The age of the applicants should meet the admission age criteria.
- Applicants should produce an identity card so that their age can be verified.⁹⁰

The 1995 elaboration of the policy continued to exhibit sexual inequality, with its differing rules for girls and boys.

In practice, teen mothers reported that it was very difficult to obtain the required birth certificates, with delays by the Ministry of Home Affairs in processing these resulting in delayed returns to school. Some teen mothers surveyed had not managed to obtain readmission until more than two years after the birth of their children. Girls were also disadvantaged in practice by the requirement that they re-enrol in new schools, as some small villages have only a single school – meaning that the young mother faced additional expense and possible separation from both her parents and her child. Some girls were also unable to return to school because of the age requirement, especially girls from rural areas who often started school at a later age. A 1997 study of the implementation of the Botswana policy found that only about 10 out of 100 girls who dropped out were re-admitted, as compared to about 35 out of 100 boys. Thus, the policy was clearly not successful in encouraging children, and particularly girls, to complete their education.⁹¹

⁸⁹ Some schools had varying interpretations of clause 34(2). Some allowed the boy in question to return to school only the following year. Some also understood that the Minister's approval was contingent on the approval of the parents of the impregnated girl, which would normally be given only if the parents of the boy in question were contributing to the baby's maintenance.

⁹⁰ Ministry of Education Memorandum to School Heads, 1995, as quoted in B Chilisa, *National Policies on Pregnancies in Education Systems in Sub-Saharan Africa: The case of Botswana*, Gender and Education, Vol 14, No. 1, pages 21-35, 2002.

⁹¹ B Chilisa, *National Policies on Pregnancies in Education Systems in Sub-Saharan Africa: The case of Botswana*, Gender and Education, Vol 14, No. 1, pp 21-35, 2002, at pages 31-33.

The Botswana policy has recently been further liberalised, with the period of enforced absence for both girls and boys being shortened from one year to six months.⁹² The Ministry of Education website provides the following statement of the current policy:

Students who dropped out of school due to pregnancy can be re-admitted to any school six months after cessation of pregnancy provided the following documents are submitted to the School Head:

- Testimonial from their previous school
- Proof of date of cessation of pregnancy (birth certificate, hospital card)
- Proof of applicant's age (Passport, birth certificate or Omang card).

On submission of the above mentioned documents the School Head may decide to admit the student, provided a place is available.⁹³

It would appear that the birth certificate is now only one of several possible ways to document the date of birth, while proof of the age of the learner also appears to have been made more flexible.

One relatively recent news report offered the following overview of pregnancy in school in Botswana:

This is a problem that the school system has lived with for quite some time. In the past, it dealt with this issue in a punitive manner. School girls who became pregnant (and in some cases the boys who were implicated in the pregnancies) were expelled, most of the time never to return to the public school system. A small percentage of these girls re-entered school and attended private night schools, or chose to pursue their studies through non-formal means. The present regulations are more progressive in that they exhibit greater tolerance and sympathy for young learners who fall pregnant. Again, however, no specific targets were set either for reducing teenage pregnancy or for devising measures that would enable them to pursue their education.⁹⁴

At a 2005 SADC Forum, it was reported that the Botswana policy is still not being effectively and uniformly implemented in practice.

⁹² "Botswana: Baby steps in bringing down teen pregnancy", 11 November 2005, www.iolhivaid.co.za/index.php?fSectionId=1838&fArticleId=2991141

⁹³ www.moe.gov.bw/dse/students/admissions.html (accessed 1 July 2008).

⁹⁴ Rodrick Mukumbira, "Botswana a model for Africa?", 13 April 2005, www.newsfromafrica.org/newsfromafrica/articles/art_10225.html

...[T]he re-admission of pregnant schoolgirls policy in Botswana has long been in existence but is not being implemented. Parents are not aware of this policy and this leaves the school heads to make their own decisions as to whether the girls will be re-admitted. At times the school heads expel the pregnant girls.⁹⁵

It was also noted at a 2006 youth forum held in the Boteti Region of Botswana that learners who are forced to drop out of school because of pregnancy run the risk of losing their chance to complete their education because of the problem of limited spaces in the schools.⁹⁶

Malawi

In Malawi, the learner pregnancy policy was revised in 1993 to allow girls to go back to school after delivery, unlike the past situation where the girl faced permanent expulsion from school. The revised policy states that the new mother will be readmitted after one academic year, upon application, as long as there is assurance of "safe custody of the child". If a male student is responsible for the pregnancy, he is also supposed to be withdrawn for one academic year, with the right to re-apply for admission in the next year. The right to re-enter school after a pregnancy is supposed to be given to learners only once in their school career.⁹⁷

An assessment of Malawi's re-entry policy published in 2003 concluded that it was still insufficient to deal with the problem of teenage pregnancy:

It should be noted that while this policy is useful in its own right, its implementation has been problematic. For one thing, the procedures for application are not clearly laid out. As a result, head teachers interpret it differently. Because of the stigma and sometimes a hostile environment to girl mothers re-admitted to their previous schools, some parents and guardians have preferred to have their daughters re-admitted at a different school. More work is still needed to change people's attitudes to girls returning to school after delivery.⁹⁸

Malawi has also been criticised for its failure to publicize the re-entry policy, and for the absence of any provision for counselling or sex education for teenage mothers to help prevent further pregnancies.⁹⁹

⁹⁵ Report on the SADC Consultative Conference on Gender and Development, Gaborone, December 2005, SADC Secretariat, available at www.fes.org.bw/Downloads/SADC%20GENDER%20AND%20DEV.pdf, at page 15.

⁹⁶ TB Moatswi, "Youth Forum- A Share of Knowledge and Experience", Bareng Newsletter for the Ministry of Education, *August* 2006, www.moe.gov.bw/cde/downloads/bareng0806.pdf.

⁹⁷ Dr D Maluwa-Banda, University of Malawi, Gender Sensitive Educational Policy and Practice: The Case of Malawi, submitted to UNESCO's International Bureau of Education, May 2003.

⁹⁸ Ibid.

⁹⁹ EC Kadzamira, Affirmative Action Policies for Girls' Education: a strategy that works, Open Society Initiative for Southern Africa, *Openspace*, Vol 1, No 1, April 2005, at pages 35-38.

Even though the current policy allows re-entry to the same school, some parents and guardians reportedly prefer to have their daughters re-admitted to a different school because the stigma attached to teen pregnancy means that learner mothers readmitted to their previous schools sometimes face a hostile environment. It has been suggested that more work is needed to change people's attitudes to girls returning to school after giving birth.¹⁰⁰

I dropped out of school and went home where I was met with fury and anger but eventually my parents got over it. I gave birth to a baby... My uncle came to encourage me to go back to school but my parents were not supportive because they said I might bring them another pregnancy. There was no way that could happen to me. I had learnt a bitter lesson. Once bitten twice shy. I requested that I be transferred to another school.

statement of **17-year-old Malawian girl**, as quoted in
Dr D Maluwa-Banda, University of Malawi,
Gender Sensitive Educational Policy
and Practice: The Case of Malawi,
submitted to UNESCO's International
Bureau of Education, May 2003 at page 17

Zambia

In 1997, Zambia replaced its expulsion policy with a re-entry policy requiring that girl mothers go back to school *not later than* a year after giving birth. There have been some inconsistencies in interpretation. A recent FAWE study reports that in some schools pregnant girls are being allowed to continue with their schooling during their pregnancy until they feel they cannot cope, while other schools send pregnant girls away as soon as the pregnancy becomes obvious. With respect to re-entry, the minimum period for leave in day school is generally six months, with 12-18 months leave being recommended for boarding schools. In one case study, one girl was told that she could return to school as soon as the baby was weaned, while another was told that she could return 8 months after the birth.¹⁰¹

While this policy has served to encourage girls to return to school after pregnancy, and has in fact been documented as a best practice of a re-entry policy, gaps have been identified, especially in the implementation of the policy. For example:

¹⁰⁰ Dr D Maluwa-Banda, University of Malawi, Gender Sensitive Educational Policy and Practice: The Case of Malawi, submitted to UNESCO's International Bureau of Education, May 2003.

¹⁰¹ Forum for African Women Educationalists (FAWE), FAWE Zambia's Campaign for an Enabling Readmission Policy for Adolescent Mothers, paper presented at the Scaling Up Good Practices in Girls' Education: UNGEI Policy Consultation, 23-25 June 2004, Nairobi, Kenya, at pages 8, 25-ff.

1. Only girls are counselled, while the boys responsible for the pregnancy are not.
2. Girls in Zambia are given only one chance of rejoining school after pregnancy. A second incidence of pregnancy means that the girl cannot be accepted back into formal schooling but must seek admission into night schools instead. However, schoolboys do not have the same conditions imposed on them, no matter how many children they father.¹⁰²

The following are some of FAWE Zambia's recommendations for refining and improving Zambia's policy:

1. A bursary scheme for teen mothers, as well as assistance with obtaining child maintenance from the baby's father.
2. Sensitization of teachers, both male and female, whose attitudes towards girl mothers may discourage them from attending classes.
3. Psycho-social counselling for student mothers, as well as a supportive school environment. (For example, FAWE cites a case where a young mother thought that she would have to miss exams because she had no one to care for her baby at that time, but one of the girl's teachers offered her own home as a suitable place where this girl could take the examination with her baby present.)
4. Detailed data collection on re-entry, with a tracer system to provide outreach to girls who do not return to school.
5. A programme aimed at avoiding teen pregnancy, to run alongside the re-entry policy.¹⁰³

Swaziland

In 2004, press reports from Swaziland announced that pregnant school girls no longer face expulsion, but would be allowed to return to school after nursing their babies for "some months" (see box). Nevertheless, a 2005 "shadow report" to the United Nations by non-governmental organisations reported that problems concerning the policy on pregnancy persist:

Civil society notes with concern that there is still no clear policy about what it to happen to the future of these girl-children. Many questions are still left unanswered

¹⁰² Id at page 19.

¹⁰³ Id at pages 19-21.

regarding whether these girls should be accepted back into the school system after giving birth to their children or that they should stay home and look after their children. Often there are no resources left to allow the girl-child to return to school however there are no vocational centres that could assist in helping such victims of teenage pregnancy to develop some skills through which they could earn a living.¹⁰⁴

It has also been reported that “teenage girls who get pregnant in one school can now continue their education in a different school after delivery. Because of the stigma usually attached to teenage pregnancy, the girls would not like to go back to the same school.”¹⁰⁵

Thus, it appears that despite steps to liberalise the expulsion policy utilised in Swaziland the past, young mothers still face problems in returning to school to complete their education.

**SWAZILAND:
Pregnant school girls no longer face expulsion
21 June 2004**

MBABANE, 21 June (IRIN) – High school girls who fall pregnant will no longer be expelled from their schools, the Swaziland Schools Headteachers Association resolved last week. The policy change overturns what has been standard practice since before independence, when Christian missionaries established schools in Swaziland.

“Expelling pregnant girls is inhumane, because in most cases they are impregnated by boys who are allowed to carry on with their education, while the girl stays home,” Themba Shabangu, Secretary General of the headteachers’ association, said in a statement.

“This is welcome news. Discrimination against pregnant girls has led to the disruption of many young lives,” Florence Kunene, a counsellor with the Bosco Skills Centre in Manzini, told IRIN. Kunene’s centre has a special school for pregnant girls and teenage mothers who drop out of school to take care of their babies.

“Once a girl leaves school it is often hard for her to resume her education. This extends the cycle of poverty for those girls, who tend to be poor to begin with. These girls also have the burden of raising children, usually with little family assistance. Without a high school degree, decent jobs are hard to get,” said Kunene.

Swazi schools have always expelled pregnant girls on moral grounds, and in the belief that their pregnant condition disrupted other students.

“I had to drop out when my boyfriend made me pregnant, and I never went back to school. It was a Catholic school, where they were very strict,” said Maggie Thwala, 35, who cleans houses for a living in Manzini, the commercial and industrial centre of Swaziland.

“There was an unfairness. The boy who made me pregnant went to a Catholic school for boys. He was not punished; he continued his education,” Thwala said.

¹⁰⁴ An Alternative Report on the Implementation of the United Nations Convention on the Rights of the Child – Swaziland, prepared by the OVC Network Shadow Reporting Core Team, July 2005.

¹⁰⁵ African Commission on Human and Peoples’ Rights, Report of the Promotional Mission to the Kingdom of Swaziland, 21–25 August 2006, at paragraph 36, available at www.achpr.org/english/Mission_reports/Swaziland/swazi%20report.pdf.

Swazi custom has also played a role in the expulsion of pregnant girls – traditionally, a Swazi woman's primary role has been to raise children.

“Education was seen as a luxury for girls, and not really necessary. Some men resented educated wives. Some educated women felt frustration and resentment at not being able to apply their knowledge. When a teenage girl fell pregnant, society thought it necessary that she assume her ‘real’ role as a mother to a Swazi child, and forget about education,” Phineas Mamba, a secondary school teacher in Manzini, explained.

Swaziland is rethinking the value of education in a girl's life largely because of AIDS, which has cut into the Swazi workforce, creating a need for more skilled, educated workers and a rising awareness of gender equality in the country, Mamba noted...

A programme aimed at girls who leave school because of family obligations or other reasons will be launched next year with NERCHA funding, he said. Special classes will be taught at community centres, along with the adult literacy courses that have been offered to Swazis since the 1960s.

The Ministry of Education has not commented on the head teachers' resolution, but the Minister of Education, Constance Simelane, has expressed her support for an end to the expulsion requirement for pregnant girls.

“Girls should be able to continue their education – it is their right. It is a right declared in the United Nations Charter on Human Rights, to which Swaziland is a signatory,” Simelane said in a speech last month.

The Minister supports a re-entry rule that allows girls to return to school after they have nursed their babies for some months. The head teachers' association also supports this option, Shabangu said.

<http://medilinkz.org/news/news2.asp?NewsID=6953>

7.2 Continuation policies

Cameroon and Madagascar

Continuation policies allow for girl mothers to rejoin school immediately after delivery. In Cameroon and Madagascar, the policies on teenage pregnancies do not compel new mothers to take a stipulated period off from school as maternity leave; they can return to school immediately after delivery if they wish. In Cameroon, girls have the right to negotiate the duration of their maternity leave with their school, and can arrange for extra classes so that they do not lag behind in their school work during the agreed period of absence from school.¹⁰⁶

Continuation policies such as these take into consideration the personal development and empowerment of the girl mother and that of her child and ensure that her right to an education is not compromised. The fact that the girl gets to negotiate maternity leave, in

¹⁰⁶ B Chilisa, *National Policies on Pregnancies in Education Systems in Sub-Saharan Africa: The case of Botswana*, Gender and Education, Vol 14, No. 1, pp 21-35, 2002, at page 24.

contrast to re-entry policies with a fixed leave duration, allows the girl to be away from school for a period that is reasonable for her needs as a young mother while at the same time ensuring that her right to education is not significantly delayed or denied.

7.3 A policy in transition: South Africa

The South African Constitution explicitly prohibits discrimination on the grounds of pregnancy.¹⁰⁷ In addition, there is a general prohibition against unfair discrimination on the grounds of pregnancy discrimination in the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000.¹⁰⁸ However, despite this strong legislative backdrop, South Africa's policy on teen pregnancy recently appears to have taken a step backward towards a more restrictive approach.

Until recently, official policy allowed schoolgirls to return to school after giving birth without restriction – although this policy was not always observed in practice.¹⁰⁹

¹⁰⁷ Constitution of South Africa Act 108 of 1996, section 9(3): "The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including...pregnancy."

¹⁰⁸ Section 8(f).

¹⁰⁹ In 2001, a Human Rights Watch report cited several cases of South African girls who were forced to leave school when they became pregnant:

Human Rights Watch interviewed a number of pregnant girls about how pregnancy had impacted their access to education. Human Rights Watch talked with two girls who said they were told to leave their prior schools after their pregnancies were discovered. One student told Human Rights Watch, "my teacher told me I must stay at home, I can't come to school being pregnant." DM reported her school's response to her pregnancy as follows:

The school found out I was pregnant when my father told the principal. I'd told my teacher and she said 'you are not supposed to be here pregnant.' The principal told my father, 'we don't need girls like yours, we don't need girls who are pregnant.'

DM remained under the impression that "it is a rule of the school that pregnant girls cannot attend." While DM had been unaware of her rights, "I was having no choice in the matter, if they would have let me I'd have stayed." She did perceive her treatment as unfair. She complained, "Boys who make girls pregnant aren't asked to leave school."

NS, who was asked to leave school because of her pregnancy, also thought she had no right to remain in school-that it was public policy for pregnant students to leave school:

One of my friends told me 'it is the rule of the school' that pregnant girls must stay home. I know this to be true because other girls I know from my school who fell pregnant stayed home. I think the education department should change the rules.

Some girls were uncertain as to whether they would continue their studies or be allowed to return to their former schools: "I don't know if I'll continue my studies, I'm thinking about whether to continue and do matric." Most girls expressed an intention and desire to return to school; a few expressed apprehensions about returning to their old schools for fear of ridicule, while others were not sure they would be wanted. One girl explained: "I've heard of so many girls who haven't been allowed back. I'm scared. I think I have a 50-50 chance of being accepted back."

It is striking that students who have raped their female classmates go to school without interruption, but should a girl get pregnant she must worry about her educational prospects.

Human Rights Watch, *Scared at School: Sexual Violence Against Girls in South African Schools*, 2001, www.hrw.org/reports/2001/safrica/. See also N Masuku, "Pregnant Schoolgirls Must Go," *Agenda*, No. 37, 1998 at pages 37-38.

In November 2006, the government put forward for discussion a proposal for a new policy based on the following components:

- continuation of school after compulsory maternity leave of 6 weeks
- a requirement that pregnant schoolgirls attend antenatal classes
- a requirement that pregnant schoolgirls provide monthly clinical records to the school's head as proof of pregnancy and a medical report after the birth stating that they are physically fit to return to classes
- assignment of a nurse and a social worker to schools with large numbers of pregnant pupils
- record-keeping requirements for all schools on teen pregnancies
- provision of counselling for teen parents by the school
- exclusion of pregnant teens from all strenuous sporting activities
- criminal charges of statutory rape against fathers where the pregnant schoolgirls are under age 16.

A committee tasked with examining gender equity in education suggested that crèches be set up in school to support young mothers in continuing their education, but the Minister of Education reportedly rejected this proposal on the grounds the provision of child care facilities is not a function of her ministry.¹¹⁰

The National Teachers Union in South Africa reportedly took the position that young girls in schools should not be treated differently from any other pregnant woman in South Africa, in the sense that they should be entitled to maternity leave comparable to that available to working mothers.¹¹¹

A slightly different policy, similar to that which was ultimately enacted, was circulated to provincial education officials in South Africa for comment in early 2007. Some of their responses indicated that many believe that a policy on teen pregnancy should be punitive in nature, to discourage “permissiveness” and to send out a message that teen pregnancy is not something to celebrate.¹¹²

¹¹⁰ P Govender, “Maternity leave for SA’s pregnant pupils”, *Sunday Times*, 26 November 2006, citing proposals compiled by the Department of Education in South Africa.

¹¹¹ “‘Maternity leave’ for South African schoolgirls mooted”, *Khaleej Times* online, 5 November 2006.

¹¹² P Govender, “Teen moms to be forced to take years off school”, *Sunday Times*, 27 May 2007, citing a document sent by the South African Ministry of Education to the provincial education authorities for comment.

A new South African policy, “Measures for the Prevention and Management of Learner Pregnancy,” was announced in June 2007. The plan is to implement the policy gradually, applying it to 8 000 schools in 2008, and then to 16 000 schools in 2009. The Department of Education is planning to conduct a study on the impact of the policy in 2010.¹¹³

The policy is noteworthy for incorporating a section on prevention (which will be discussed in detail below) and for discussing the responsibilities of all the relevant role-players – including students, parents, schools and education officials. Minister of Education Naledi Pandor summed up the approach of the new policy as follows:

These measures encourage teenagers to abstain from sex, but they also provide a framework for the management of schoolgirl pregnancies. They emphasise that pregnant schoolgirls have a right to education and cannot be expelled from school because they are pregnant, but they also set out guidelines for managing pregnancies so that the learning environment for other learners is not compromised.¹¹⁴

The new policy states that boy and girls pupils who are mothers and fathers may request or be “required” to take a leave of absence “to address both pre-and post-natal health concerns” as well as the “initial caring for the child”. No minimum period of leave is specified, but it is recommended that new mothers should not return to school in the year they gave birth – and the policy states that “an absence of up to two years may be necessary”.

This aspect of the policy has inspired the most attention and confusion. When asked about this in Parliament, the Minister of Education replied:

No pre-determined period is specified for this purpose, since it will depend entirely on the circumstances of each case. However, it is the view of the Department of Education that learners as parents should exercise full responsibility for parenting, and that a period of up to two years may be necessary for this purpose. No learner should be re-admitted in the same year that [she] left school due to a pregnancy. Learners may request or be required to take leave of absence from school, so as to address pre-and post-natal health concerns, as well as to care for the newborn baby.¹¹⁵

¹¹³ Department of Education, Strategic Plan 2007-2011, at page 56.

¹¹⁴ Address by the Minister of Education, Naledi Pandor MP, at the National Youth Commission conference on “Young Women and Development”, Johannesburg, 30 August 2007, www.education.gov.za/dynamic/dynamic.aspx?pageid=306&id=5525.

¹¹⁵ Department of Education Media statements: *The Minister of Education, Naledi Pandor MP, answers oral questions in the National Assembly*, 5 September 2007, www.education.gov.za/dynamic/dynamic.aspx?pageid=310&id=5580; see also “Pregnant pupils: Two-year ban?”, 9 May 2007, www.24.com/news/?p=saa&i=662841.

It was also reported in the press that Deputy Minister of Education Enver Surty emphasised that caring and supporting a child should be the responsibility of both parents:

“If the girl learner gives birth, the boy learner has a responsibility to also take care of the child. It’s not only a maternal duty but it’s a paternal duty as well. You can’t now say that the girl learner is going to be punished and has a responsibility of bonding with the child and that the boy learner has no responsibility at all with regards to the child,” he said.

Surty said that although there would be instances where the boys are asked by their schools to take time off to care for their babies, this would depend on the merits of the case.

“It would depend on case to case basis, but it might well be that the girl learner, because of breastfeeding, will spend more a longer time with the child,” he said.

He said that the intentions of the guidelines were not to punish but rather to ensure that learners took responsibility for their actions.

However, it remains unclear how the department plans to enforce this, or to deal with young fathers who refuse to co-operate.¹¹⁶

excerpt from:

**Measures for the Prevention and Management of Learner Pregnancy
Department of Education, Republic of South Africa, 2007**

The Management of Unplanned Pregnancies at Schools

15. In cases where prevention measures fail and learners do fall pregnant, the education system is obliged to manage the situation by balancing the best interests of the individual against those of other learners, educators, the school and its community. The aim of this management plan is therefore to help and support the learner who is pregnant, to guide the father of the child, if he is also a learner, regarding his responsibilities, as well as to assist other learners, staff members and parents who are affected by the pregnancy.
16. In the first instance, every case must be dealt with confidentially. Parents or guardians should only be informed and involved after consultation with the learner involved, although confidentiality is not an option when the learner or others are at risk.
17. An inclusive approach to education outlines our commitment to the provision of educational opportunities for learners who experience or have experienced barriers to learning, or who are at risk because of the inability of the education and training system to accommodate their special learning needs.
18. The guiding principle of these management interventions must therefore be an appropriate response in order to safeguard the educational interests of the learner. Each situation should be assessed and evaluated on a regular basis.

¹¹⁶ S Ngalwa, “Pandor makes move on school pregnancy”. 30 May 2007, www.iol.co.za/index.php?set_id=1&click_id=105&art_id=vn20070530101115613C355429.

19. In the event of a learner becoming pregnant, the following procedures are recommended, with consequent roles and responsibilities for learners, educators, schools and provincial Departments of Education.

Learners

20. A learner who is pregnant, or has reason to believe she may be pregnant, should immediately inform someone in the school, preferably a senior educator designated by the principal. The designated educator or educators should take responsibility for the implementation and management of these measures, on behalf of the school. A learner who is aware that another learner is pregnant must also immediately inform the school.
21. Wherever possible, and as soon as possible, the learner should be referred by the school to a health clinic or centre, and provide to the school, on a regular basis, a record of attendance. Health professionals should provide advice to the learner regarding termination of pregnancy options, and any other necessary information.
22. Learner must be sensitised to the fact that there are no medical staff to handle the delivery of babies at school, and the potential health risks and trauma to the mother, newborn child and the rest of the school community arising from a hidden pregnancy, or if the child is delivered at school. The learner (and the father, if a learner) may therefore request, or be required to take, a leave of absence from school, including sufficient time to address both pre- and post-natal health concerns, as well as the initial caring for the child. No pre-determined period is specified for this purpose, since it will depend entirely on the circumstances of each case. However it is the view of the department of Education that learners as parents should exercise full responsibility for parenting, and that a period of absence of up to two years may be necessary for this purpose. No learner should be re-admitted in the same year that they left school due to a pregnancy.
23. Before returning to school, the learner must produce a medical report declaring that she is fit to resume classes. The learner must also be made aware that, after childbirth, the rights of the newly born baby must be protected, and she should be able to demonstrate to the school that proper arrangements have been made for the care and safety of the child.
24. A school should avoid any action that may constitute unfair discrimination against a pregnant learner. However the pregnant learner should also understand that some members of the school community might not readily accept and be supportive of their situation because of the value systems to which they subscribe

Parents and guardians

25. Parents and guardians may not be absolved from their responsibilities regarding their pregnant child, and have to take the lead in working with the school to support and monitor their child's health and progress. Parents and guardians should therefore ensure that the school is timeously informed about the condition of their child, ensure that she attends a health clinic, and that reports are communicated to the school.
26. Parents or guardians should take steps to ensure that as far as is possible their child receives her class tasks and assignments during any period of absence from school, and that all completed tasks and assignments are returned to the school for assessment.

Schools

27. Schools should strongly encourage learners to continue with their education prior to and after the delivery of the baby. Educators should therefore continue offering educational support to the learner, within reasonable limits, and in whatever ways possible given the particular context.
28. In addition, schools should strive to ensure the existence of a climate of understanding and respect in regard to unplanned pregnancies, and should put in place appropriate mechanisms to deal with complaints of unfair discrimination, hate speech or harassment that may arise. These may include:
 - name-calling of a sexual nature, or jokes demeaning the dignity of a person, self-image and concept;
 - written or graphic discrimination in the form of notes or suggestive material relating to the pregnant learner; and
 - breaking confidentiality in a condemning or judgmental manner.
29. Where possible, learners, after giving birth, should be afforded with advice and counselling on motherhood and child rearing. The Life Orientation educator, counsellor, or psychological services staff member if available, or any other suitable person, should offer the mother, and the father, if also a learner, counselling on their roles and responsibilities as parents. Schools should inform the Department of Social Development about pregnant learners, and where applicable, assist in registering these learners for child grants. They may also refer the learners to relevant support services, such as social workers or NGOs operating in the community.
30. Schools should ensure that a record of learner pregnancies is maintained, and that reports are submitted to the relevant authorities in the provincial Department of Education. Schools should also ensure that if informed of alleged cases of rape (including statutory rape), as defined in the Sexual Offences (Act No. 23 of 1957), they report the case to the police.

Provincial Education Departments

31. Provincial Education Departments must provide every school with a copy of these Measures, and ensure their compliance. They should also strive to ensure educators and managers are equipped to deal with the many challenges related to learner pregnancy. Schools should also ensure that parents are adequately informed about these measures.
32. Provincial Education Departments are requested to ensure that monitoring tools capture the rate of pregnancy in schools, so as to evaluate the effectiveness of these measures and any other intervention programmes. Departments are also encouraged to consult with the Departments of Health and Social Development in order to have a professional nurse or social worker assigned to service a cluster of schools.

7.4 Laws and policies in Spanish-speaking countries

Some of the most progressive policies on schoolgirl pregnancy are found in developing countries in the Spanish-speaking world, where there appears to be an increased trend to enshrine the rights of pregnant students and young mothers in legislation rather than merely in policy.

Chile

In Chile, there is recent legislation which states explicitly that pregnancy and motherhood cannot be used as a basis to prevent girls from enrolling or remaining in educational establishments.¹¹⁷

Concerns about discrimination on the basis of pregnancy were highlighted by several court cases, one of which reached an international forum (see boxes below). Although the government had a regulation in place which expressly forbade schools which received state funding from cancelling a girl's enrolment on the grounds of pregnancy, private schools were not always obliged to adhere to this rule. To address this problem, and to make the legal protection stronger and more lasting in effect, Chile elevated its regulatory ban on expulsion on the grounds of pregnancy to the status of a law which is clearly applicable to all schools.¹¹⁸

The new law was passed in 2000 and came into force in 2004. It states that pregnant girls or young mothers cannot be turned away by public or private schools when they attempt to register, and cannot be expelled even if their attendance rates are low due to their circumstances.¹¹⁹ The law has more recently been supplemented by rules which allow pregnant students to file complaints if they suffer discrimination. Also, since 2005, scholarships have been awarded to help young student mothers with childcare while they remain in school. This approach appears to have been helpful, as a 2005 study of students

¹¹⁷ The right to education: Report submitted by the Special Rapporteur on the right to education, Mr. Vernor Muñoz Villalobos, UN Economic and Social Council, E/CN.4/2005/50, 17 December 2004, at paragraph 81 (citing Law No. 19979). Other sources refer to Law N°19688, published in the Official Gazette on 5 August 2000, which modified Law No 18.962 with respect to the right of pregnant students or nursing mothers. See, for example, Japan International Cooperation Agency, Chile: Country Gender Profile, Final Report, October 2006, www.jica.go.jp/english/global/gend/back/pdf/e06chi.pdf; Economic Commission for Latin America and the Caribbean, Social Panorama of Latin America – Social Agenda: National Youth Programmes in Latin America, 2004, www.eclac.org/publicaciones/xml/1/20391/PSI-2004_Cap5.pdf and the Inter-American Commission on Human Rights case referred to in the following footnote.

¹¹⁸ Chile's report in terms of the UN Convention on the Rights of the Child, 10 October 1999, Committee on the Rights of the Child, CRC/C/65/Add.13, 25 June 2001, www.hri.ca/fortherecord2002/documentation/tbodies/crc-c-65-add13.htm.

¹¹⁹ G González, Education – Chile: No More Discrimination Against Pregnant Students, Inter-Press Service, <http://ipsnews.net/interna.asp?idnews=22783>

up to the age of 19 years showed that 22 000 female students were mothers and 11 000 male students were fathers.¹²⁰

Chile: The case of Mónica Carabantes Galleguillos

Mónica Carabantes Galleguillos was a student at a subsidized private school “Andrés Bello” in the city of Coquimbo, Chile. In February 1997, she learned that she was pregnant, yet began her third year of middle school during the following month. Her parents brought the situation to the attention of the school’s director, who promised support and “arrangements appropriate to the case”. However, on 15 July 1997, the director informed them that their daughter could complete the current school year at the “Andrés Bello” school but that her enrolment could not be renewed for the following school year.

The Carabantes family filed a complaint with the Regional Office of the Ministry of Education, requesting that educational authorities take the appropriate administrative or judicial measures. On 24 July 1997, the Carabantes family also sought a court order against the “Andrés Bello” school, asking the court to find that Miss Carabantes had been arbitrarily and illegally deprived of her constitutional rights”, inasmuch as her pregnancy was the basis for not renewing her enrolment, in violation of the right to equality before the law enshrined in Article 19(2) of the Political Constitution of Chile. They also cited a government circular which provided:

“Students who change their marital status and/or become pregnant, will complete their school year in the same establishments as regular students. The general procedural criteria indicated in Section III of this circular shall apply. The following year, such students may continue their studies in their same establishments or in day schools, evening schools, or night schools.”

While this court case was underway, the attitude of the school authorities reportedly became considerably more hostile toward Miss Carabantes, to such an extent that she was expelled during an examination for having appeared while seven months pregnant. The school director maintained that this action was consistent with the institution’s internal regulations and appropriate in view of “the infraction against ethical and moral standards that students in the establishment, given their age, should follow as a general rule”. On 24 December 1997, the Court of Appeals of La Serena rejected the Carabantes family’s request for assistance, relying on the internal regulations of the private school in question which prohibited re-enrolment of student mothers in the year after they gave birth. The Supreme Court of Justice upheld this ruling on 18 February 1998.

On 18 August 1998, the matter was brought to the attention of the Inter-American Commission on Human Rights, alleging that the Republic of Chile was responsible for the decision of the courts not to punish abusive interference in the private life of Miss Carabantes. The theory put forward was that the State was internationally responsible in terms of the American Convention on Human Rights for protecting against abusive interference with an individual’s private life, and for ensuring the right to equal protection of the law. The petitioners also alleged that the government had violated its general obligation to ensure the rights set forth in the Convention by means of appropriate domestic legal measures. The international dispute was resolved by means of a “friendly settlement”, in which the government of Chile undertook to provide a scholarship to Miss Carabantes for her higher education, and also to

¹²⁰ Committee on Elimination of Discrimination against Women, Anti-discrimination committee commends women’s empowerment agenda of Chile’s first female president as it considers country’s fourth periodic report, General Assembly WOM/1580, 16 August 2006, www.un.org/News/Press/docs/2006/wom1580.doc.htm.

take steps to disseminate recent legislation (Law N° 19688) amending the Education Act, which contains provisions on the rights of pregnant students or nursing mothers to have access to educational establishments.¹²¹

Chile: No More Discrimination Against Pregnant Students by G González

SANTIAGO, 10 March 2004 (IPS) – Ruth Muñoz told IPS she was kicked out of her private high school in the Chilean capital when she became pregnant at the age of 16.

Although she was able to complete her secondary education in a special school for teenage mothers created with United Nations support, that is not the norm for pregnant drop-outs in this South American country of 16 million, most of whom never make it back to school.

The roughly 10 000 pregnant teenage girls who leave high school in Chile every year will now be protected by a new clause in the law on education that prohibits any kind of discrimination against them. The new clause will go into effect in April, Education Minister Sergio Bitar announced this week.

Teen pregnancy has been a source of conflict in the Chilean educational system due to the expulsion of pregnant girls from private high schools, mainly affiliated with the Catholic Church.

While serving as Minister of Education from 1990 to 1994, today's President Ricardo Lagos, a moderate socialist who heads the centre-left ruling coalition, made it impossible for public schools to expel pregnant girls. But the measure was not extended to private schools. The lack of uniform, binding regulations applying to the entire educational system made it impossible to force private schools to reinstate pregnant students who had been expelled, even when the parents turned to the courts.

In one such case, the parents of Carolina Jara, 16, and Nataly Catalán, 15, filed a lawsuit invoking constitutional clauses that guarantee the right to education and prohibit discrimination. The two girls had their registration cancelled by the Blas Cañas Commercial Institute in Santiago, which is linked to the Catholic University, because they were pregnant. The school authorities did not overturn the decision, despite the legal action taken by the parents.

But the new clause, announced on the occasion of International Women's Day on Mar 8, will put an end to such incidents.

The reform of the education law sponsored by Bitar indicates that pregnant girls or young mothers cannot be turned away by schools when they attempt to register and cannot be expelled, even if their attendance rate is below 85 percent.

Private schools must also make it possible for young mothers to nurse their babies, and pregnant teenagers must be allowed to adapt their school uniforms as needed and cannot be excluded from graduation ceremonies or other public acts, according to the new rules.

"Our main task is sex education, to prevent teen pregnancy. But once we have that in place, our responsibility is to make it possible for the girls to continue studying," said the education minister.

Chile's educational system includes eight years of primary or basic education and four years of secondary education. According to surveys carried out in 2000, 10 percent of the students who drop out of secondary school do so because of pregnancy.

¹²¹ Inter-American Commission on Human Rights, *Mónica Carabantes Galleguillos v. Chile*, Case 12.046, Report No. 33/02, Inter-Am. C.H.R., Doc. 5 rev. 1 at 521 (2002). //www1.umn.edu/humanrts/cases/33-02.html or www.cidh.org/annualrep/2002eng/Chile12046.htm.

The latest census, from 2002, found that 12 percent of 15 to 19-year-old girls in Chile were mothers, and that seven of every 10 pregnant teenagers drop out of school. Although a portion of the pregnant girls are expelled, others drop out voluntarily due to fear of social stigma and of being ostracized by their peers.

“Once my belly began to show, a lot of people started looking at me and making snide remarks. Instead of supporting you in your problem, they make it worse. If you get on the bus, they look at you funny when you pay the student fare,” Ruth Muñoz told IPS.

Muñoz was able to continue her studies throughout her pregnancy in the ‘Liceo Unidad Operativa de Educación y Capacitación’, a high school for pregnant teenagers set up on the northside of Santiago as part of a project supported by the United Nations Population Fund (UNFPA).

Most students who drop out due to pregnancy never go back to school, because of the responsibilities of raising a child and the need to find a job, since so many of them become single mothers.

Carolina Opazo, who works behind the sales counter at a music store, told IPS that five years ago, when she was four months pregnant, she left her private high school in the last year of classes. “I had to leave school to give birth to my son Javier. Once he was born, the farewell to my studies became final. The only solution would have been to have an abortion, but I never even considered that possibility,” said Opazo, 21.

The new clause that will put an end to discrimination should also help reduce the number of abortions.

Although abortion is illegal in Chile in all cases, an estimated 200,000 clandestine abortions are practiced every year.

Inter-Press Service, 2004, <http://ipsnews.net/interna.asp?idnews=22783>

Costa Rica

Costa Rica provide protection and support to pregnant teenagers and adolescent mothers through a 1997 law entitled “Law for the Protection of Adolescent Mothers”, which creates an “Inter-Institutional Council for the Care of Adolescent Mothers”.¹²² Council membership includes several government ministries as well as non-governmental organisations which were managing programmes for adolescent mothers. The Council is tasked to meet monthly and to develop annual plans of action for institutions with programmes aimed at adolescent mothers.¹²³ The original aims of the Inter-Institutional Council were as follows:

- a) promoting preventative, educational, informative and capacitating programmes on the implications of pregnancy in adolescence, aimed at high school students and Costa Rican families;
- b) coordinating, supporting, assessing and contributing to the improvement of the activities of public and private organisations in favour of adolescent mothers;

¹²² Law No. 7735 of 19 December 1997, as amended through Law No. 8312 of 30 September 2002 (which amends articles 1, 4, 5 and 12).

¹²³ Law No, 7735, Article 8, as amended by Law No. 8312.

- c) coordinating academic programmes with the Ministry of Public Education at national and international level, the contents of which consider study topics for adolescent mothers; furthermore, promoting capacitation courses aimed at this group with the aim of incorporating them in educational centres, in the professional or vocational environments; to this effect, coordinating with the National Institute for Learning;
- d) propitiating and supporting communal participation and adopting the necessary means for strengthening family unity, with the aim of attending to adolescent mothers both during the pre- and post-natal process, whenever the pregnancy has not been the product of an incestuous relationship;
- e) promoting the integral care of adolescents in clinics, medical centres and communities;
- f) facilitating paid labour for the adolescent mother;
- g) recommending the construction of temporary shelters for adolescent mothers who cannot count on the support of their families and requesting that they be included in the corresponding budgetary headings.¹²⁴

The 2002 amendments to the law extended the aims to ensure out-of-school youth as well as learners were targeted in programmes aimed at adolescent mothers, and added the aim of promoting responsible attitudes towards pregnancy in both boys and girls.¹²⁵

The law also mandates that “care centres” throughout the country should focus on five categories of service to adolescent mothers:

- a) integral care programmes for adolescent mothers provided by a professional team including a psychologist, a social worker and a doctor, working under the supervision of the Inter-Institutional Council.
- b) free prenatal and post natal assistance to adolescent mothers.
- c) training and orientation programmes aimed at sensitizing adolescent mothers and their families about the implications of their maternity
- d) information sessions on sexual education aimed at adolescent mothers with the aim of avoiding additional unplanned pregnancies.
- e) inputs aimed at equipping adolescent mothers to adequately care for and educate their children.¹²⁶

¹²⁴ Id, Article 4, as translated from Spanish into English by Candice Zimny for the Legal Assistance Centre.

¹²⁵ Law No. 8312, amendments to Article 4, as translated from Spanish into English by Kate Barth for the Legal Assistance Centre.

The law sets forth clear responsibilities for various government agencies with respect to adolescent mothers:

- a) The Costa Rican Social Security Fund will give free medical attention to adolescent mothers who request it and to their children, even though they are not members....
- b) The National Institute for Learning... will give vocational courses aimed at this population.
- c) The Ministry of Public Education will offer all the required facilities with the purpose of adolescent mothers completing their basic education. To carry out this provision, these mothers will be permitted to do evening classes or baccalaureate programs without taking age into account.
- d) The Ministry of Works and Social Services will create a special employment grant for adolescent mothers of more than fifteen years.
- e) The remaining governmental institutions which manage programmes of social wellbeing, will, as a priority, grant benefits to adolescent mothers who request them.¹²⁷

The 2002 amendments expanded these duties to add a new emphasis on alleviating poverty in this target group, by providing adolescent with vocational skills where necessary and taking steps to improve their chances of finding employment. The 2002 amendments also increased the emphasis placed on programmes aimed at the personal and social empowerment of adolescents in general.¹²⁸

The Costa Rican law thus gives very practical and concrete content to the notion of support for pregnant teenagers, and to the adolescent population in general

Guatemala

In 2001, Guatemala enacted a landmark “Social Development Law”, which created a National Reproductive Health Program and a Policy and Programme on Social Development and Population. This law calls for sexuality education in all the country’s educational centres to help prevent unintended pregnancies and sexually-transmitted infections among adolescents.¹²⁹

¹²⁶ Law No, 7735, Articles 9-10, paraphrased and summarised.

¹²⁷ Id, Article 12.

¹²⁸ Law No. 8312, amendments to Article 12.

¹²⁹ Decree of the Congress 42-2001 of 26 October 2001, www.segeplan.gob.gt/docs/pdesa/document/LDS2001.pdf.

One of the key principles cited by the law is that “gender equity, understood as the equality of rights for women and men, responsible fatherhood and motherhood, reproductive health and a healthy maternity” is a basic right and “should be promoted by the State”.¹³⁰ “Responsible fatherhood and motherhood” are described as “the basic and inalienable right of a person to decide freely and in an informed, truthful and ethical way the number of his/her children and the age gap between them, and when to have them, as well as the duty of the fathers and mothers in educating and giving adequate attention to the requirements for their children’s integral development”. This is understood as requiring the inputs of “public health, social care and free education” from government.¹³¹

Within the overall social development framework, there is a three-pronged approach to advancing the right to education:

1. The matter of population at all levels and modalities of the national education system, including at least subjects related to: development, population, health, family, quality of life, environment, gender, human sexuality, human rights, multi-culturalism and inter-culturalism, parenthood, responsible motherhood and reproductive health.
2. Designing, promoting and making accessible to all people, specific information and sexual education programmes for promoting healthy ways of life of the people and families, aimed at the prevention of unwanted pregnancies, pregnancies in adolescence and the prevention of infections by sexual transmission, in all the centres and levels of education of the country.
3. Pregnant adolescents should not be expelled from nor limited in access to formal and informal education programmes.¹³²

Panama

In 2002, Panama enacted a law entitled “Law to guarantee the health and education of the pregnant adolescent”, which has the stated objectives of guaranteeing the pregnant adolescent the right to health care, continuation in the educational system and legal protection as required.¹³³

More specifically, the law entitles the adolescent to receive medical examination and treatment, social and psychological counselling, and legal information during pregnancy,

¹³⁰ Article 4, as translated from Spanish into English by Candice Zimny for the Legal Assistance Centre.

¹³¹ Article 15.

¹³² Article 29.

¹³³ Law No. 29 of 17 June 2002, article 1-2, based on translation from Spanish into English provided to Legal Assistance Centre by Matthias Schmidt.

childbirth and the period of 6 to 8 weeks following childbirth. Medical attention must be free if the adolescent cannot afford to pay. All medical facilities, both public and private, have a duty to inform pregnant adolescents of their legal rights, and the same information must be given to the teen's parents, guardians or other accompanying adults. Each medical facility must forward records about the guidance given to the pregnant teenager to the Ministries of Health and Education, If the documentation of the case indicates that the pregnancy may result from a criminal offence (such as rape), the documentation must be sent to the proper authorities for possible prosecution of the offender.¹³⁴

The law is also very specific on the forms of educational support which must be provided:

The Ministry of Education will take the appropriate administrative measures, so that the pregnant adolescent, or the adolescent who impregnated a minor, should they be studying at primary or secondary level, will receive the academic supervision and advice from the corresponding academic office such that a professor of the same educational institution where they are studying can be designated to be responsible for the supervision of their academic advancement.

The pregnant adolescent shall be provided with a system of modules or any other adequate methodology that guarantees the completion of the course, which shall be supervised by professors from the same institution where she is studying, in case she is unable to regularly attend classes due to medical reasons related to her pregnancy or childbirth.

The Ministry of Education shall provide the information and necessary training so that the faculty and student body of schools where under-age pregnancies are reported can be educated on sexual and reproductive health, with the aim of preventing attitudes of rejection (bullying) and discrimination.

This Ministry guarantees that the pregnant adolescent will be able to continue her education, in a manner that is decent and free of discrimination during the pregnancy, and that she can participate in all educational and recreational activities, permitting her condition, without risk to her health.¹³⁵

Panama's law has the strongest enforcement mechanisms of any law or policy examined. Any public servant who denies a pregnant adolescent the benefits guaranteed by the law is subject to a fine and to disciplinary sanctions tailored to the seriousness of the offence, while the directors of any educational institution which fails to comply with the legal

¹³⁴ Articles 3-4, 8-9.

¹³⁵ Articles 5-7, as translated from Spanish to English by Matthias Schmidt for the Legal Assistance Centre.

guarantees will be sanctioned for misconduct in terms of the laws on education.¹³⁶ Implementation of the law is also monitored by a designated ministry, in conjunction with all of the ministries whose services are implicated, and an annual report on implementation and results must be tabled in Parliament.¹³⁷

Puerto Rico

In Puerto Rico, a law establishing a “bill of rights” for pregnant students was enacted in 2004.¹³⁸ The background, as articulated in the “Statement of Motives” which forms a preamble to the Bill, was the high incidence of teenage pregnancy – with 1 out of every 5 children being born to teenage mothers at that stage – and concerns about the discrimination against pregnant teens in schools:

One of the greatest problems pregnant teenagers face is discrimination in their schools (if they are students) by the teachers, counsellors, directors and other staff members. The schools often consider teenage pregnancy to be an offence because it goes against their philosophy and regulations and believe it to be a bad example which will cause a proliferation of teenage pregnancies. In the case of the public schools, this situation is even more worrisome since the government provides free education and our Constitution does not establish conditions for our teenagers to be able to study, as we have pointed out. On the other hand, we have received information indicating that many teachers, counsellors and directors urge pregnant teenagers to attend school at night or even to drop from the regular teaching curriculum.

Therefore, the Legislature decided to reaffirm “that the public policy of the Government cannot be one of discrimination against those students of our Public Education System who become pregnant”, and that the government had a duty to provide pregnant learners “with the tools that will allow them to reach their full development as students with equal rights and to ensure that they receive from the government agencies all the services they need due to their pregnant condition”.

The “Bill of Rights of the Pregnant Student” focuses on the government’s obligation to provide positive forms of support, including counselling on health and social issues and on parenting skills, with special emphasis on how to combine mothering with continuing as a “regular student” in the public education system. The Department of Education is tasked

¹³⁶ Article 10.

¹³⁷ Article 11.

¹³⁸ Act No. 220 (H.B. 1596) of the 7th Session of the 14th Legislature of Puerto Rico: “AN ACT to establish the Bill of Rights of the Pregnant Student”, approved 21 August 2004.

with providing teachers or tutors as needed to enable the schoolgirl to complete the course curriculum of the year in which she gives birth. The pregnant schoolgirl is also entitled to government support in respect of health issues and social issues which might interfere with her ability to continue her education.¹³⁹ To advance public awareness of these rights, the law also requires general circulation of the Bill of Rights by the Department of Education, including publication in a national newspaper for two consecutive days.¹⁴⁰

Puerto Rico “Bill of Rights of the Pregnant Student”

The Constitution of the Commonwealth of Puerto Rico establishes that there shall be a public education system that shall not discriminate on account of race, colour, sex, birth, social origin or condition, or political or religious ideas. To guarantee the essential equality of all human beings, it is hereby declared that every pregnant student, without impairment to the laws in effect, shall be entitled to:

1. Enjoy a tranquil and peaceful environment, and the respect to her right to intimacy and dignity and to not being a victim of bodily or emotional harm or of psychological pressures due to her pregnancy in all school premises of the public education system of the country;
2. Receive professional advice, aid and counselling through available programs and by personnel trained in the planning and the consequences of teenage pregnancy, the medical conditions and the possible changes in her health she may experience during that period and on how to develop optimum family and community relations according to her situation, as well as on the rights, responsibilities and duties she must assume as a mother, with special emphasis on ensuring that she will be able to remain as a regular student of the public education system;
3. Receive from the Department of Education, if available and as needed, emergency medical or therapeutic assistance, tutors or teachers for the various courses so that she may capably meet the curriculum requirements as so finish her school year;
4. Receive any financial aid and guidance on government subsidy programs or alternatives that will allow her to achieve her full social development and that of her family unit and to continue participating as a regular student of the education system.
5. The establishment of effective coordination to access the resources of the Department of the Family to attend to possible social, family or community problems that have led to her pregnancy or that may affect said pregnancy or her studies;
6. The establishment of effective coordination to access the resources of the Department of Health to follow-up and provide proper care for her pregnant condition so that her capacity as a student of the school curriculum is not affected.

Act No. 220 (H.B. 1596) of the 7th Session of the 14th Legislature of Puerto Rico, 2004, section 1, certified translation from Spanish to English by the Government of Puerto Rico

¹³⁹ Section 1.

¹⁴⁰ Section 2.

Colombia

As noted above, in 1998 the Supreme Court of Colombia established an important precedent by finding that school regulations which penalised pregnant schoolgirls by suspending them from regular schooling and rerouting them into tutorials violated fundamental rights to equality and education and must be altered to allow pregnant girls to continue normal schooling.¹⁴¹

Subsequent court cases in Colombia have reaffirmed and expanded on this right. For example, a case decided in 2000 found that it was not permissible for a school to deny admission to a single mother as this deprived her of her right to education and equal opportunity.¹⁴² Another 2000 case made a similar finding regarding the restriction of a pregnant student to part-time education. The court held that, although the part-time education offered to the student did not completely deny the student the enjoyment of the right to education, it nevertheless created a situation that tends to stigmatise pregnant schoolgirls and discriminate against them in favour of the other students. It was thus a violation of the right to education and the freedom of personal development.¹⁴³

Thus, Colombian jurisprudence has continued to expand on the legal protections for pregnant schoolgirls in the wake of the ground-breaking 1998 decision.

¹⁴¹ UN Commission on Human Rights, Progress report of the Special Rapporteur on the right to education, Katarina Tomaševski, submitted in accordance with Commission on Human Rights resolution 1999/25, E/cn.4/2000/5, 1 February 2000. The Colombia case referred to is Supreme Court of Colombia, *Crisanto Arcangel Martinez Martinez y Maria Eglina Suarez Robayo v. Colegio Ciudad de Cali*, No. T-177814, 11 November 1998.

¹⁴² Decision T-789 (2000), as summarised in Committee on the Elimination of Discrimination, against Women. Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms Discrimination against Women, Combined fifth and sixth periodic reports of States parties: Colombia, CEDAW/C/COL/5-6, 11 April 2005, [www.unhchr.ch/tbs/doc.nsf/0/d157ac683f87ee4ac125722c0054de25/\\$FILE/N0531208.pdf](http://www.unhchr.ch/tbs/doc.nsf/0/d157ac683f87ee4ac125722c0054de25/$FILE/N0531208.pdf). See also Decision T-012 (1999).

¹⁴³ Decision T-1531 (2000), *ibid.*

8. THE CHALLENGE OF PREVENTION

Prevention is an important component of any approach to adolescent pregnancy, but prevention is also a complex task.

Sexual activity begins early for most Namibian teens. National health statistics gathered in 2000 indicate that about half of girls aged 15-19 were sexually active, as well as about two-thirds of the boys in that age group; 6% of girls and 12% of boys reported first sexual intercourse by age 15.¹⁴⁴ These statistics had not changed considerably by 2006-07, when 5% of girls and 12% of boys reported first intercourse by age 15.¹⁴⁵

Looking more specifically at school children, Ombetja Yehinga Organisation conducted a survey in 2003 in schools in the Kunene and Erongo Regions. Of the 474 learners questioned in Kunene, half of them said that they have had sex using a condom, and a quarter reported that they have had unprotected sex, with some learners being sexually active as early as Grades 3 and 4. The responses in Erongo region were similar.¹⁴⁶

Recent studies of adolescent sexual and reproductive health in three regions of Namibia (Karas, Oshana and Ohangwena) canvassed youth opinions about the factors which lead to teen pregnancies:

Karas

Adolescents interviewed cited the following as factors leading to teen pregnancy:

- pregnancy as being “fashionable”, or a way for a girl to show she is a woman
- peer pressure
- economic difficulties which lead to transactional relationships
- lack of parental love and guidance
- failure of parents to discuss sex with their children
- condoms which break
- lack of recreational activities for youth
- alcohol abuse.¹⁴⁷

¹⁴⁴ *Namibia Demographic and Health Survey 2000* at page 84.

¹⁴⁵ *Namibia Demographic and Health Survey 2006-07: Key findings* at page 4.

¹⁴⁶ *OYO Young Latest and Cool*, Vol 3 No 1: Teenage pregnancy, unwanted pregnancy and abortion, 2004.

¹⁴⁷ M Gebhardt et al, *Socio-Cultural Research on Adolescent and Youth Sexual and Reproductive Health: Karas Region*, UNAM/UNFPA, 2004 at pages 65-66.

Ohangwena

Boys and girls in this region said that the males responsible for learner pregnancies included older schoolboys, older boys who have finished school and older men, including soldiers, “men working in offices” and “adult men old enough to be the girl’s father”. Men who impregnate girls can be forced to pay two head of cattle or N\$1200. As a result, boys said that some parents are happy when their daughters become pregnant and will encourage her to name the richest man as the father if there are multiple sex partners. Boys generally felt that girls have sex or become pregnant as a way to get money. However, it was also reported that both the boy and girl involved in a pregnancy will be beaten, and that the girl may be chased away from home and forced to go and live with the boy’s parents. Parents interviewed in this region attributed learner pregnancies to love of money (rather than poverty), insufficient parental control and alcohol abuse.¹⁴⁸

Oshana

Girls identified “loose morals, peer pressure and the effects of sugar daddies” as key factors behind teen pregnancies. They also maintained that some girls were ill-informed about the risk of pregnancy from sexual activity. They said that boys sometimes “do not accept” the use of condoms.

Boys attributed the problem mainly to peer pressure, and to the failure of nurses at the local hospital to supply adolescents with condoms. They also cited the influence of sex as seen in films and television programmes, girls’ lack of information about contraception and asserted that some girls become pregnant on purpose as a way to obtain payment of damages (N\$1200 or a cow) from the boy’s family. Their suggestions for reducing teen pregnancy included:

- better education about the uses and benefits of contraceptives and increased availability of contraceptives to teens, especially in rural areas
- educational workshops for teenagers
- more parental discussion of sex-related matters with their children, especially on the consequences of sexual acts
- more parental acceptance of boyfriends, so that couples have no need to meet in secret.¹⁴⁹

¹⁴⁸ C Nengomasha et al, *Socio-Cultural Research on Adolescent and Youth Sexual and Reproductive Health: Ohangwena Region*, UNAM/UNFPA, 2004 at pages 85-87.

¹⁴⁹ T Shapumba et al, *Socio-Cultural Research on Adolescent and Youth Sexual and Reproductive Health: Oshana Region*, UNAM/UNFPA, 2004 at pages 64-ff.

8.1 The influence of the school environment

As noted above, the relationship between teen pregnancy and educational levels is circular, as women who have at least some secondary schooling tend to begin child-bearing at a later age, while on the other hand early pregnancy mitigates against the completion of secondary schooling by the teen mother.¹⁵⁰ However, around the world, fertility rates generally fall as the level of education rises.¹⁵¹ Comparative data from Demographic and Health Surveys in several countries in sub-Saharan Africa reveal two significant trends:

- Adolescent girls aged 15-17 are less likely to be sexually active if they are still in school.
- Adolescent girls who are currently enrolled in school are more likely than those who are out of school to use contraception if they are sexually active.¹⁵²

This indicates that school attendance by girls is already one step towards preventing early pregnancy. As one South African analyst succinctly put it, “while some girls get pregnant and leave school, most girls leave school and get pregnant”.¹⁵³

Yet pregnancy amongst school-going adolescents has increased in sub-Saharan Africa in recent years, partly because of the expansion in school attendance by girls combined with a steady decline in the age of puberty associated in part with improved nutrition – there are simply more African girls now in school for longer periods after they have reached puberty than there were in the past.¹⁵⁴

¹⁵⁰ See *Namibia Demographic and Health Survey 2000*, Table 3.7.

¹⁵¹ “Higher levels of women’s education are strongly associated with both lower infant mortality and lower fertility, as well as with higher levels of education and economic opportunity for their children.” Educational empowerment, www.unfpa.org/gender/empowerment.htm; “It is estimated that one year of female schooling reduces fertility by 10 percent. The effect is particularly pronounced for secondary schooling.” Reducing women’s fertility rates, <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTEDUCATION/0,,contentMDK:20298916~menuPK:617572~pagePK:148956~piPK:216618~theSitePK:282386,00.html#why>.

¹⁵² CB Lloyd & BS Mensch, *Marriage and Childbirth as Factors in School Exit: An Analysis of DHS Data from sub-Saharan Africa*, Policy Research Division Working Paper No. 219, New York: Population Council, 2006 at page 5; see also M Grant & K Hallman, *Pregnancy-related School Dropout and Prior School Performance in South Africa*, Policy Research Division Working Paper No. 212, New York: Population Council, 2006 at page 4.

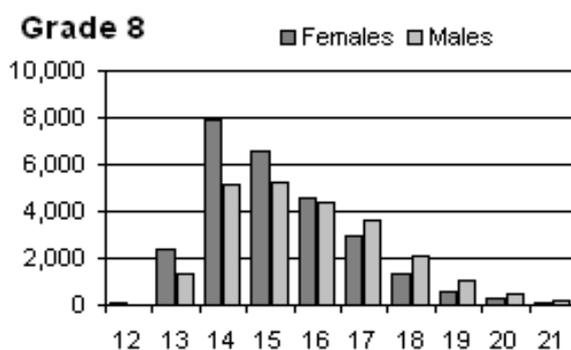
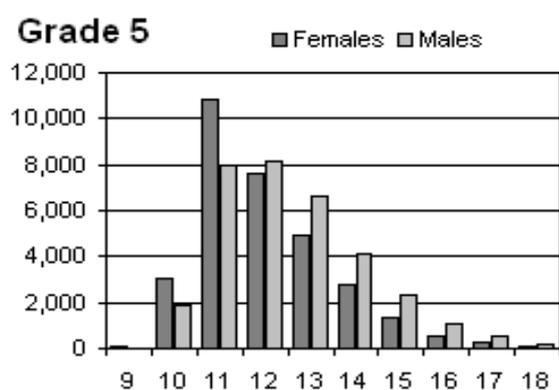
Namibia’s *Demographic and Health Survey 2000* found no significant correlation between educational levels achieved and age of first sexual intercourse, but apparently did not differentiate between sexual activity by teens in school as compared to those out of school at the time of first intercourse.

¹⁵³ D Harrison, “Three ways to reduce teen pregnancy in South Africa”, www.hsrc.ac.za/Document-2679.phtml (undated).

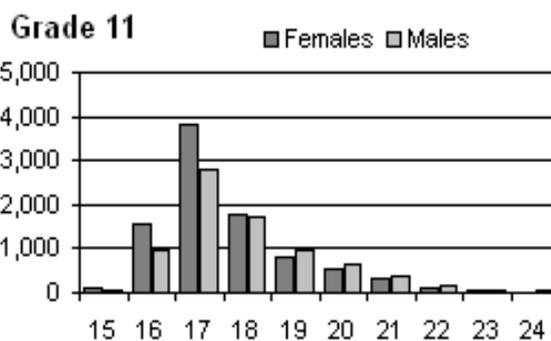
¹⁵⁴ See CB Lloyd & BS Mensch, *Marriage and Childbirth as Factors in School Exit: An Analysis of DHS Data from sub-Saharan Africa*, Policy Research Division Working Paper No. 219, New York: Population Council, 2006 at page 3; M Grant & K Hallman, *Pregnancy-related School Dropout and Prior School Performance in South Africa*, Policy Research Division Working Paper No. 212, New York: Population Council, 2006 at page 3.

Another contributing factor is that girls in some parts of Africa do not start school at the appropriate age, meaning that they are older in their secondary school years and thus more likely to become sexually active.¹⁵⁵ Even where girls do start school at the appropriate age, the necessity of repeating grades because of unsatisfactory progress may still result in higher age for grade than expected. In Namibia, the 1992 Demographic and Health Survey found that only 31% of primary school students were in the appropriate grade for their age. Overall, 56% of the male primary school students and 45% of female students were overage for their grade. The percentage of males who were over-age ranged from 38% in Grade 1 to 73% in Grade 5 and for females from 30% in Grade 1 to 61% in Grade 6.¹⁵⁶

Namibian statistics for 2007 indicate that there are still many male and female learners who are older than appropriate for their grades – overall 18% of learners are overage. This is an even greater problem for male students than for females (as shown in the charts below). This factor increases the chances that learners of both sexes will become sexually active before completing their education.¹⁵⁷



Source: EMIS Education Statistics 2007, charts accompanying Table 26.



¹⁵⁵ See, for example, CB Lloyd & BS Mensch, Marriage and Childbirth as Factors in School Exit: An Analysis of DHS Data from sub-Saharan Africa, Policy Research Division Working Paper No. 219, New York: Population Council, 2006 at page 13.

¹⁵⁶ Namibia DHS EdDATA Education Profile, 1992, www.dhsedata.com/, at page 1. Students are considered to be “on time” if they are at or are one year older than the official age for the grade and “over age” if they are two or more years older.

¹⁵⁷ Charts from Education Management Information System (EMIS), *Education Statistics 2007*. Windhoek: Ministry of Education, accompanying Table 26.

The quality of the school environment and the success of the education programme are also relevant. A 2001 study in Kenya found that girls who attended schools where they felt that they received equal treatment with boys were less likely to engage in sex than those who attended schools with less perceived sexual equality.¹⁵⁸ Other studies found that girls with poor school performance were significantly more likely than better students to become pregnant.¹⁵⁹ A 2006 study in South Africa similarly found that girls who were doing poorly in school (as measured by temporary withdrawal or having to repeat grades) were more likely to become pregnant and to drop out as a result of the pregnancy than girls with more positive school progress.¹⁶⁰ It may be that girls who must repeat grades simply remain in school for longer periods, which enhances their risk of falling pregnant. However, it would also seem that girls who feel valued and hopeful about their futures are more likely to delay child-bearing.

This connection between pregnancy risk and lack of hope for the future has been noted in the South African context:

Youth from backgrounds of higher socio-economic status generally have higher expectations of their own success and futures and thus have a much greater incentive to prevent unwanted pregnancy, which could negatively impact upon this. Conversely teenagers who grow up in poverty and have been subjected to dysfunctional schools may feel they have less to lose by becoming pregnant and so are less motivated to prevent pregnancy. They are also more likely to find that they have short term goals that are met by pregnancy. Their socio-economic disempowerment compounds their lack of power as a result of their gender and social position and makes it more likely that they are already struggling at school, less likely to get information and be treated well in services, and are more vulnerable to abuse by boyfriends or other men.¹⁶¹

This indicates that empowering girls to believe that they have some hope of future success is an important component of pregnancy prevention.

¹⁵⁸ CB Lloyd & BS Mensch, Marriage and Childbirth as Factors in School Exit: An Analysis of DHS Data from sub-Saharan Africa, Policy Research Division Working Paper No. 219, New York: Population Council, 2006 at page 5, citing CB Mensch et al, "Premarital sex, schoolgirl pregnancy and school quality in rural Kenya", *Studies in Family Planning* 32(4): 285-301, 2001.

¹⁵⁹ See, for example, **Kenya**: Schoolgirl Pregnancy in Kenya: Report of a Study of Discontinuation Rates and Associated Factors, Nairobi: Ministry of Health, Division of Family Health/GTZ Support Unit, 1988; **South Africa**: M Grant & K Hallman, Pregnancy-related School Dropout and Prior School Performance in South Africa, Policy Research Division Working Paper No. 212, New York: Population Council, 2006.

¹⁶⁰ M Grant & K Hallman, Pregnancy-related School Dropout and Prior School Performance in South Africa, Policy Research Division Working Paper No. 212, New York: Population Council, 2006.

¹⁶¹ R Jewkes, R Morrell, N Christofides, Teenage pregnancy: rethinking prevention in South Africa (draft), at pages 11-12.

Another area of focus in respect of pregnancy prevention should be the school hostel environment. A 2002 study of girls' education in the Rundu area found that "most government-run hostels were seen as unsafe for girls":

Often the locks on doors are not working or vandalised, and provide easy access to men from outside and male learners. Cases of rape were also attributed to unsafe hostel accommodation.

In addition to the adverse physical conditions at schools the insufficient supervision at hostels compounds the scenario: "Teachers do not check what is going on at hostels" was a common observation by learners. Also, some male teachers with hostel supervision tasks are said to prey on female learners, and engage in sexual relationships with girls.

While disciplinary supervision was found extraordinarily inadequate, the research also found a near total absence of leisure activities outside extracurricular activities at hostels. Organising games, competitions, clubs or similar pursuits to keep learners busy especially at weekends, does not appear to feature as a duty of hostel supervisors or supervisory teachers.

Some girls who had the means to so, or had relatives nearby, reported that they consciously left the hostel at weekends, ie the time when they felt most vulnerable to sexual harassment.¹⁶²

In order to play a positive role in preventing pregnancy, schools must be safe and secure environments where students feel protected against sexual harassment and coercion.

8.2 Contraceptive use & adolescent-friendly health services

In Namibia, knowledge of modern contraceptive methods is high amongst all women, with about 99% of all sexually-active women being aware of some modern method of contraception.¹⁶³ Teens tend to rely on male condoms and injectable contraceptives, but the level of use does not match the level of knowledge. The *Demographic and Health Survey 2000* reported that only about half of all sexually-active teens between the ages of 15 and 19 were currently using any modern method of contraception. The survey suggested that this may result from a lower frequency of sexual activity or a desire to begin child-bearing.¹⁶⁴

¹⁶² S Felton & C Haihambo-Muetudhana, *Girls Education in Rundu Educational Region: A report on a field assessment*, Windhoek: Ministry of Basic Education/UNICEF, 2002 at page 17.

¹⁶³ See *Namibia Demographic and Health Survey 2000* at pages 57-59 and *Namibia Demographic and Health Survey 2006-07: Key Findings* at page 5.

¹⁶⁴ *Namibia Demographic and Health Survey 2000* at pages 62-63. The full report of the 2006-07 survey was not available at the time of writing this report for comparison, and the *Key Findings* did not include information on contraceptive use by this specific age group.

However, there are many other complex factors which could also influence why adolescents do not apply their knowledge with respect to both safer sex practices and pregnancy prevention. For example, recent Namibian studies of risky sexual behaviour by adolescents in Karas, Ohangwena and Oshana regions cited the pressures of sugar-daddy/sugar-mummy relationships which are engaged in for material gain, the fact that girls are pressured to agree to sex without a condom by boys who believe that condoms will decrease their sexual pleasure, and inaccurate information about sexuality issues.¹⁶⁵ This is a large topic which goes far beyond the scope of this paper, but it is clear that an educational policy addressing this issue can be only one strand of a multiplicity of interventions needed for prevention of teen pregnancy.

Namibia's *National Policy for Reproductive Health* (2001) gives particular attention to adolescent-friendly reproductive health services. As the Forward to the policy states:

Adolescent Reproductive Health and Sexuality have been neglected areas in Namibia. This is attributed to numerous taboos and myths resulting from limited communication between parent and child, teacher and learner, as well as adolescent and health worker. More crucially, the community at large is not prepared to discuss sexuality issues.¹⁶⁶

The guiding principles of the National Policy are:

- a) Reproductive Health is a basic human right for every Namibian.
- b) Namibians should have equal and equitable access to Reproductive Health services whenever required.
- c) Adolescents have the right to all information on sexual and reproductive health, and access to quality adolescent friendly services.

¹⁶⁵ These studies recommended the strengthening and expansion of sexual and reproductive health programmes to many young people countrywide, training of parents, traditional healers and teachers on sexual and reproductive health issues and expansion of adolescent-friendly health services to all health facilities in the country. UNFPA/UNAM, *Socio-Cultural Research on Adolescent and Youth Sexual and Reproductive Health*, 2004, reported on in P Kuteeue, "Namibians persisting with 'risky' sexual behaviour: Unam study", *The Namibian*, 14 July 2004.

See also HIV/AIDS Strategic Information Report: A Baseline Household Analysis of Residents from Gobabis, Grootfontein, Omaruru, and Otjiwarongo & A Midterm Household Analysis of Residents from Oshikuku, Onipa, and Rehoboth, Centre for Communication Programs Johns Hopkins Bloomberg School of Public Health, May 2006; D LeBeau et al, *Taking Risks, Taking Responsibility: An anthropological assessment of health risk behaviour in northern Namibia*, Ministry of Health and social Services, Windhoek, 1999.

In South Africa, one recent study of pregnant teens included the following analysis of failure to make use of contraceptives even where they are available: "The fact that many young people who become pregnant have access to suitable facilities but do not utilize them, is due to experimentation, rebellion and a certain degree of risk-taking behaviour, as well as unresolved emotional issues regarding sexuality". The same study noted that "Responsible sexual behaviour is based on openness rather than repression and on teaching youngsters that saying no is more grown up than assuming that everybody does it." FPR de Villiers & J Kekesi, *Social Interaction of Teenage Mothers During and After Their Pregnancy*, 46(2) *SA Fam Pract* 21-24 (2004) at pages 23-24.

¹⁶⁶ Ministry of Health and Social Services, *National Policy for Reproductive Health*, 2001 at page ii.

- d) All stakeholders should have the necessary knowledge and skills to be able to offer the required quality services.
- e) People should not be denied services based on prejudice or biased tendencies.
- f) Community involvement in the planning, provision and monitoring of Reproductive Health services is crucial and will be encouraged.¹⁶⁷

One key strategy of the Policy is to “establish and promote adolescent friendly health services at all levels of health care system including community”.¹⁶⁸ During a recent Parliamentary debate, the Deputy Minister of Health acknowledged that the reproductive health services provided by the state in the past neglected the sexual and reproductive needs of young people, but reported that the Ministry is now attempting to address this by involving young people as peer counsellors and by training health workers on how to address the needs of adolescents more sensitively. She also reported that counselling services for pregnant teens are being intensified.¹⁶⁹ The Ministry of Health and Social Services gave the following overview of adolescent-friendly health services in 2008:

In response to the diverse health needs of young people, the Ministry of Health and Social Services initiated an Adolescent Friendly Health Services (AFHS) approach in collaboration with WHO, UNICEF and UNFPA in 2002. Adolescent Friendly Health Services are services rendered to young people in a supportive environment by providers that understand the needs and issues of adolescents and with the involvement of the young people themselves. The initiative has been operating in 12 out of 34 health districts.¹⁷⁰

However, the good intentions on this issue should not obscure the fact that there is not yet full realisation of the ideal on the ground. For example, in a 2002 study of girls education in the Rundu area, respondents reported that the degree of “adolescent friendliness” of the local health services depended primarily on the attitude of individual nurses.

Girls stated that some nurses accused them of sleeping with their (the nurses’) husbands, or told them to go home and return with their parents. Some would even shout at female learners and exposed them in front of other patients as ‘on the lookout for AIDS’. Nonabrasive nurses were said to advise girls that they should consider abstaining from sex until they were older.

¹⁶⁷ Id, Chapter 3.2.

¹⁶⁸ Id, Chapter 3.4(b).

¹⁶⁹ Hansard, National Assembly, 23 October 2007 (Hon Haingura).

¹⁷⁰ Republic of Namibia, Ministry of Health and Social Services, United Nations General Assembly Special Session (UNGASS) Country Report for Namibia 2008, Reporting Period April 2006 – March 2007, at page 18.

Other nurses and clinics were said to be very helpful with advice, and were prepared to come to schools to explain about physical body changes during adolescence as well as different types of contraceptives.¹⁷¹

Some girls in this study also said that they could not easily access contraceptives because the nearest clinics were too far away.¹⁷²

Similar feedback was given in studies of the sexual and reproductive health of adolescents conducted in three regions in 2004. In Karas, adolescents reported that local health care providers were unfriendly and failed to observe confidentiality, sometimes refusing to provide them with services.¹⁷³ In Ohangwena, adolescents reported that unfriendly attitudes discouraged them from approach health care facilities. Girls said that female health care providers were particularly unfriendly and spend most of their time telling stories. There was also a concern about the lack of confidentiality on the part of health care providers.¹⁷⁴ Similar issues were cited in Oshana.¹⁷⁵

This indicates that there is a role for teachers and school guidance counsellors to play in bridging the gap, to provide an alternate and possibly more accessible source of information and advice on reproductive health and contraception for adolescents.

The *National Policy for Reproductive Health* also pledges cooperation with the Ministry of Education on the following objectives:

- Strengthen existing school health services by introducing the school health promoting initiative in all schools and integrate Reproductive Health issues into the life science curriculum.
- Provide counselling services for children and adolescents in schools on Reproductive Health.
- Provide safe learning environment (no sexual harassment of learners by teachers or vice versa).
- Collaborate with MOHSS in the training of school teachers on Reproductive Health issues.

¹⁷¹ S Felton & C Haihambo-Muetudhana, *Girls Education in Rundu Educational Region: A report on a field assessment*, Windhoek: Ministry of Basic Education/UNICEF, 2002 at page 23.

¹⁷² Ibid.

¹⁷³ M Gebhardt et al, *Socio-Cultural Research on Adolescent and Youth Sexual and Reproductive Health: Karas Region*, UNAM/UNFPA, 2004 at page 87.

¹⁷⁴ C Nengomasha et al, *Socio-Cultural Research on Adolescent and Youth Sexual and Reproductive Health: Ohangwena Region*, UNAM/UNFPA, 2004 at page 111.

¹⁷⁵ T Shapumba et al, *Socio-Cultural Research on Adolescent and Youth Sexual and Reproductive Health: Oshana Region*, UNAM/UNFPA, 2004 at pages 139-40.

- Strengthen existing and where possible expand multi-purpose youth centres (MPYC) for counselling adolescents in and out of school.
- Promote the Reproductive Health related development of youth /adolescents in and out of schools.
- Provide information on Reproductive Health issues to adolescents.
- Training of youth officers on Reproductive Health issues so that they in turn train others.
- Make MPYC available for MOHSS officials to orientate them to youth activities.
- Provide condoms to adolescents.¹⁷⁶

The prevention aspect of the learner pregnancy policy on prevention should dovetail with these objectives.

8.3 Pregnancy as a result of unwanted sex

One factor which must not be underestimated is the effect of gender violence on school-girls; many pregnancies may be the result of forced sex rather than free choice or risky sexual behaviour.

Recent police statistics indicate that just over one-third of all victims of rape and attempted rape are under age 18, with the vast majority of juvenile rape victims being female.¹⁷⁷ The rape of children is also particularly likely to go unreported. A study of child rape in Windhoek, Namibia and Mpumalanga, South Africa cited a range of barriers to the reporting of child rape:

The findings suggest that children are often frightened to tell adults when they have been abused. With good reason, they feared accusations of lying, blame and verbally and physically violent reactions (including death threats) to themselves and others. Perhaps more difficult to understand was a lingering fear of harming someone they loved – even if had abused them, and guilt arising from feeling that they should have spoken out earlier or even because they enjoyed some aspects of the abusive situation such as the attention, gifts or compliments.¹⁷⁸

¹⁷⁶ Ministry of Health and Social Services, *National Policy for Reproductive Health*, 2001, Chapter 4.6.1-4.6.2. At the time when the policy was drafted, these points of collaboration were divided between the Ministry of Basic Education, Sport and Culture and the Ministry of Higher Education, Youth and Employment Creation.

¹⁷⁷ National NamPol statistics for 2003-05, as reported in Legal Assistance Centre, *Rape in Namibia: Full Report*, 2007, at page 8. This includes both rape and attempted rape. The age of the victims was not recorded nationally prior to 2003.

¹⁷⁸ R Jewkes et al, *Child Sexual Abuse and HIV: Study of Links in South Africa & Namibia*, Medical Research Council, Pretoria, June 2003, at 33.

Thus, it is extremely unlikely that the statistics on reported child rape are a true representation of the incidence of this problem in Namibia.

Consider the following recent Namibian research findings on early sexual experiences as a product of coercion:

- **A 1996 study reported that respondents “mentioned the regular occurrence of incest. They said that many girls were molested and raped by their uncles, fathers, brothers and grandfathers. They said these cases hardly even came to public attention as the mothers of such girls would usually live in fear of their husbands or male relatives and would ‘not make a case’.”¹⁷⁹**
- **A 2001 survey of women in Windhoek found that of those women who reported that their first intercourse occurred before age 15, one-third said that this first sexual encounter was physically forced upon them and another one-third said that they were coerced into having sex against their will in some other manner. More than half of the women who first had sex between the ages of 15 and 17 said that they were coerced, usually with forms of coercion other than outright physical force. Overall, regardless of the age of first sexual experience, about half of the women interviewed in this study said that their first sexual encounter took place against their will.¹⁸⁰**
- **A 2006 UNICEF study based on responses from 1000 persons in three regions (Kavango, Omaheke and Ohangwena) found that 1 out of 4 respondents aged 10-14 (25%) and 15% of respondents aged 15-24 had experienced one or more forms of sexual abuse. In the 15-24 year-old age group, 268 out of 532 respondents (about 50%) said that they had already had sex, with the average age for first sexual intercourse being 15. Of these, more than 18% engaged in sex because they were forced to, and 6% were paid or offered a gift. One-third had sex for the first time with a person older or much older than themselves, with this being much more likely to have been the case with females (42%) than with males (17%).¹⁸¹**

More to the point, 19% of the 265 girls aged 15-24 in the UNICEF study had already been pregnant – ***with a shocking 40% of these pregnancies resulting from forced sex.***¹⁸²

¹⁷⁹ H Becker & P Classen, “Violence Against Women and Children: Community Attitudes and Practices”, 1996 (unpublished paper prepared for the Women and Law Committee of the Law Reform and Development Commission, based on interviews in Windhoek and Mariental).

¹⁸⁰ Ministry of Health and Social Service, *An assessment of the nature and consequences of intimate male-partner violence in Windhoek, Namibia*, 2004, at 26.

¹⁸¹ UNICEF, *Knowledge, Attitudes, Practice and Behaviour (KAPB) Study In Namibia: Key Findings* (hereinafter “UNICEF KAPB Study 2006: Key Findings”), August 2006 at pages 6-8 and 19; UNICEF, *Knowledge, Attitudes, Practice and Behaviour Study: Report by Research Facilitation Services* (hereinafter “UNICEF KAPB Study 2006”), August 2006.

¹⁸² UNICEF KAPB Study 2006: *Key Findings* at page 9:

The prevalence of “sugar daddy” relationships in Namibia is also a factor, since pregnancies are more likely in situations where schoolgirls are having sexual relationships with older men.¹⁸³

“Sugar daddy/mommy” is the name given to a man/woman (economically active) with a certain social status, usually having cash, a car and a cell phone, and engaging in sexual relationships (mostly extra-marital) with young girls/boys. In most cases sugar daddies/mommies make promises to girls/boys but do not keep them. They attract girls/boys with gifts and have sex with them. After some time they lose interest and do the same with other girls/boys. Many teenage boys/girls are easy targets and exploited. Principals and teachers need to break the silence about sugar daddies/ mommies, and in classrooms discuss the pros and cons of sugar daddies/mommies. Girls and boys should be informed that sugar daddies/mommies are not necessarily the answer to their problems or the safest way to a better life. If a learner makes the choice to enter into a relationship with a sugar daddy/mommy, he/she must know about the risks and possible results (including pregnancy, HIV infection, AIDS and possible death in a few years).¹⁸⁴

The 2002 study of girls’ education in the Rundu area provided a particularly insightful analysis of the factors at play in girls’ sexual relationships with older men:

- **Girls’ materialistic aspirations:** Girls themselves as well as other respondents opine that many girls actively seek out a working man as sponsor who can satisfy their needs for ‘social life’, including fashion articles, cosmetics, drinks etc. According to girls themselves, having an adult sugar daddy is also a way of ascertaining their independence and freedom.
- **Peer pressure:** Securing or giving in to an adult boy friend has become almost a custom, and girls who can not boast a boyfriend with money, or presents by him, feel left out.
- **Poverty:** Girls themselves and community members reason that a minority of girls resort to ‘sponsors’ because this is the only way they can meet their basic needs such as food, clothes and shelter, and sometimes those of their siblings or families.

Pregnancy among the 15-24 year olds merits some attention. In this age group 18.9% (50 out of 265) of women have been pregnant before, of which 60% was the result of voluntary sex while 40% was due to forced sex. In 78% of the cases, the mother and father were in a relationship at the time of pregnancy. In 56% of the cases the father was either older or much older than the mother, and in 32% of cases they were of the same age.

¹⁸³ See, for example, *UNICEF KAPB Study 2006: Key Findings* at page 9: the father was either older or much older than the mother in respect of 56% of the 15-24 year olds who had been pregnant.

¹⁸⁴ UNESCO, *HIV and AIDS in Education: A Resource Manual for Inspectors and Advisory Teachers*, undated, www.nied.edu.na.

- **Lack of parental responsibility:** Some respondents among teachers attributed the fact that girls start early sexual relationships to the lack of information they receive from their parents. In one focus group it was also noted that parents fail to take sufficient interest in their daughters, and do not control them. They voiced the opinions that parents or relatives did not query how the girl had acquired expensive new possessions (bought for them by the sponsor), thus tacitly condoning such relationships.
- **Coercion / sexual harassment:** Sexual harassment including rape was said to take place at hostels, particularly at weekends when hostels are not sufficiently supervised. The perpetrators may be men from outside the school, or male learners. Another variant of coercion was reported from teachers who threaten to fail a female learner they have set their eyes on in exams, unless she accedes to his wishes.

Some informants indicated that girls from urban settings were more prone to sugar daddy relationships. At least some learners said they had observed that their peers from very rural areas did not care as much for 'social life' as those from town, ie had less materialistic aspirations. On the other hand, teachers who engaged in relationships with girls were sometimes observed to seek out rural girls as 'easy prey'.¹⁸⁵

A recent news article noted that some parents in the Rundu area "regard forced marriages of their children as a quick way out of poverty and see education as a waste of time as they would rather see their offspring looking after livestock than be in a classroom".¹⁸⁶

Pressure to marry

In one of the instances, a stranger came to one homestead at Mavanze and was accommodated by one peasant family. After a day or so, he told his hosts he was looking for a wife and his hosts said that should not be a problem because they have many girls in their homestead from which the stranger could make his choice. One of the school-going girls targeted for forced marriage had to flee from her parents...

These poverty-stricken parents marry off their girl children so that their daughters will have a better life but many of them end up becoming sex slaves and 'baby-bearing machines'. And the other motive for these forced marriages is that the parents would have a son-in-law who would give them a constant supply of maize, salt, sugar and loose change.

excerpt from **Chrispin Inambao**,
"School Girls Forced Into Marriage", *New Era*, 13 July 2008

¹⁸⁵ S Felton & C Haihambo-Muetudhana, *Girls Education in Rundu Educational Region: A report on a field assessment*, Windhoek: Ministry of Basic Education/UNICEF, 2002 at page 20.

¹⁸⁶ C Inambao, "School Girls Forced Into Marriage", *New Era*, 13 July 2008.

Another form of pressure can come from teachers. Between 1995 and 2002, the Ministry of Basic Education expelled 114 male teachers for impregnating schoolgirls.¹⁸⁷ The full extent of this problem may never be known, as it is hard for a learner to point fingers at a teacher. While some people blame the school girls in such situations for “seducing” the teachers, it must be recognised that this is an unequal power relationship in which the teacher is in a position of trust and responsibility with respect to the learners.

Difficulties of power and proof

The United Nations High Commissioner for Refugees in Namibia (UNHCR), the Namibia Red Cross Society (NRCS) and some residents at Osire have confirmed reports from the sprawling refugee camp that teenage pregnancy among school-going girls, involving some teachers, is rife. Located about 230 kilometres outside Windhoek, the Osire Refugee Camp is home to over 20 000 African refugees, the bulk of them from war-torn Angola.

Girls as young as 14 years have been “expelled” from Osire Primary School after they were allegedly impregnated by some unscrupulous members of the teaching staff who reportedly get away with this improper behaviour by paying “bribes”.

Bribes amounting to several hundreds of Namibian dollars are usually paid to the parents of the impregnated girls and in all the cases the bribed parents, who usually come from rural, peasant backgrounds, drop the cases after they have received the payoff money...

Alexander Meroro, the Relief Project Co-ordinator for the NRCS, who is stationed at Osire, on Friday revealed that the majority of the victims are aged between 14 and 17, and that the suspected teachers usually bribe other refugees to take the blame for the pregnancy.

In some cases the parents, after initially complaining bitterly to authorities that their daughters have been impregnated by teachers, will later change their statements and say the “culprit” is the teacher’s “brother” following the payment of bribes.

In some cases the NRCS and other officials at the camp have been informed by the refugees that the case has been resolved “traditionally” and that no further action should be taken against the teachers.

These dubious, unofficial “settlements” have made it virtually impossible to apprehend the culprits, who are on the pay-roll of the Ministry of Basic Education, Sport and Culture, and Meroro complained: “When you investigate you don’t come up with concrete information. It is really difficult.”

The Ministry of Basic Education sent a three-person investigating team to the refugee camp for one day to investigate these reports. According to the team, the pregnancies in question were traced to other refugees and to a male nurse. Some refugees alleged that the investigation was not sufficiently thorough, but Ambrosius Agapitus, Regional Director for Basic Education for the regions in question, insisted that each of the cases had been probed “individually and thoroughly”.

So far a total of 15 cases of teen pregnancy have been detected and some of the girls who have given birth have gone back to school already, while the ones who are still pregnant have yet to return to classes, said Agapitus, who stressed “they are still going to be allowed back.”...

¹⁸⁷ *The Namibian*, 20 August 2001, quoting Ministry Public Relations Officer Veive Kanguuehi.

Some of the teenagers who had to drop out of school after falling pregnant are orphans whose parents perished in the Angolan war and who are among the most vulnerable at the camp.

Meanwhile, Agapitus commended the social workers at the camp. "Social workers have been working very hard to rehabilitate the girls. All of them have gone back to school except those who have not yet given birth," he said.

Chrispin Inambao, "Teen pregnancies soar at Osire", *The Namibian*, 25 June 2001 and "Teachers cleared of blame for Osire teen pregnancies", *The Namibian*, 12 July 2001

Even where there is no overt coercion, girls may still feel powerless to negotiate sexual behaviour or contraceptive use if they do not feel they are equal partners in a sexual relationship. This inequality is obvious in relationships with richer, older men or men in positions of authority, such as teachers, but it can also be present in relationships with boys of their own age because of persisting gender inequalities in society.¹⁸⁸ For example, it was noted in a study of adolescent sexual behaviour in the Ohangwena Region that "the notion that a girl or a woman cannot refuse sex develops at an early age".¹⁸⁹

This problem and its impact on teen pregnancy has also been noted in South Africa:

Gender power inequities... are prominent in youth relationships and have a major impact on their form. Coerced first sexual intercourse is common... The context of high levels of coerced sex conveys important messages about gender power dynamics. These are reinforced by very high levels of reported experiences of physical violence by partners and often substantial age differences between teenage girls and their male partners. These power inequities reduce women's ability to influence the timing and circumstances of sex, and to regard their body, and sexuality, as domains over which they could exert control. This was critically important in influencing the frequency of sex as well as their likelihood of using contraception or condoms, and thus their vulnerability to pregnancy.¹⁹⁰

This high incidence of coerced sex, unequal sexual relations between adolescents and older partners (sometimes teachers) combined with peer pressure and sometimes even parental pressure all re-enforce other arguments against applying a punitive policy to pregnancy learners, since many schoolgirls are coerced or pressured into risking pregnancy against their will.

¹⁸⁸ See, eg, T Shapumba et al, *Socio-Cultural Research on Adolescent and Youth Sexual and Reproductive Health: Oshana Region*, UNAM/UNFPA, 2004 at page 133-34.

¹⁸⁹ C Nengomasha et al, *Socio-Cultural Research on Adolescent and Youth Sexual and Reproductive Health: Ohangwena Region*, UNAM/UNFPA, 2004 at page 107.

¹⁹⁰ R Jewkes, R Morrell, N Christofides, Teenage pregnancy: rethinking prevention in South Africa (draft), at page 7 (citations omitted).

It also highlights the fact that approaches to prevention must not assume that the female sexual partner is always able to exercise choice and free will. The UNICEF study made the following recommendations on this point:

For the majority of males the first sexual encounter is voluntary. It is therefore a choice made by the individual rather than it being forced on him. Young males especially, should therefore be encouraged to delay sexual debut. Females in this age group are more likely than males to have their first sexual encounter with someone older and/or being forced into it. Therefore, younger females should be made aware of this aspect and be encouraged to try and make their own choices too.¹⁹¹

The individual right to sexual autonomy needs to be highlighted in lifeskills programmes, as well as mutual respect for sexual partners. Girls need to be shown how to avoid placing themselves in situations of sexual vulnerability, such as by accepting gifts from older men, and boys need to be taught that “no means no”, and that girls have an absolute right to say no. These seemingly simple messages will not be easy to impart, given the fact that they contradict some persisting cultural norms which continue to view women as being subordinate to men in sexual matters.

8.4 Alcohol abuse

The UNICEF study highlighted the connection between alcohol and risky sexual behaviour. The study found that 15-24 year olds consume alcohol on a regular basis, and start drinking fairly early (at the age of 15). One-fifth of this age group uses alcohol daily or up to six times week. Furthermore, almost 27% had participated in sexual activities while under the influence of alcohol. Alcohol increases the probability of having taken one or more sexual risks which could lead to HIV (and thus also to pregnancy) more than threefold.¹⁹²

The connection between alcohol and risky sexual behaviours is already part of HIV education programmes and interventions such as ‘My Future My Choice’. This could be bolstered by school-sponsored evening activities which provide entertainment options for students in an alcohol-free environment.

¹⁹¹ UNICEF KAPB Study 2006 at page 111-12; see also UNICEF KAPB Study 2006: Key Findings at page 23.

¹⁹² UNICEF KAPB Study 2006: Key Findings at pages 21, 23; UNICEF KAPB Study 2006 at page 95. Alcohol abuse was also cited as a factor in teen pregnancies in the studies of adolescent sexual and reproductive health in Karas, Ohangwena and Oshana cited in this report.

Interestingly, a 2002 study of girls' education in the Rundu area noted that parents, students and school officials interviewed all cited alcohol abuse by teachers as a problematic issue, in that intoxicated teachers not only neglected their teaching duties, but were also more prone to also solicit sex from female learners.¹⁹³

8.5 Relationships with parents

Parental attitudes and teenagers relationships with their parents are another complex factor in the mix of influences which affect teen pregnancy.

There seems to be a common attitude that traditional social control over the sexual behaviour of teenagers by the extended family is less effective than in the past. For example, in a recent discussion of baby-dumping, a number of MPs expressed the opinion that cultural change coupled with new rights and freedoms has resulted in less parental control over children, which leads to more sexual activity and pregnancy at a young age.¹⁹⁴

This concern is belied to some extent by the 2006 UNICEF study of teens in Kavango, Omaheke and Ohangwena, which measured parental monitoring with four items: *knowing where children are after school, children having to call when late; knowing where children are if out; and knowing who children are with when out.* By these measures, parental monitoring was relatively high for 15-24 year olds, and particularly so for children in school. Somewhat surprisingly, this type of monitoring also *increased* as the children progressed to higher grades.¹⁹⁵

This study also found that teenagers generally felt a sense of closeness with their parents. Furthermore, about 37% of the 10-14 year olds and about 58% of the 15-24 year olds reported having discussions with their parents about how to avoid pregnancies – although discussions concerning sex were more far likely to take place with children who have left school than for those still in school, perhaps because parents of school-going children expect these topics to be covered in school.¹⁹⁶ Another concern is that discussions about how to avoid pregnancy take place much more commonly with female children than with male children, suggesting that parents and caregivers still believe that responsibility for preventing pregnancy lies exclusively with women.¹⁹⁷

¹⁹³ S Felton & C Haihambo-Muetudhana, *Girls Education in Rundu Educational Region: A report on a field assessment*, Windhoek: Ministry of Basic Education/UNICEF, 2002 at page 16.

¹⁹⁴ Hansard, National Assembly, 26 September 2007; 10 October 2007; 11 October 2007.

¹⁹⁵ *UNICEF KAPB Study 2006: Key Findings* at page 15; *UNICEF KAPB Study 2006* at pages 77-79.

¹⁹⁶ *UNICEF KAPB Study 2006: Key Findings* at pages 16-17.

¹⁹⁷ *UNICEF KAPB Study 2006* at pages 77-79.

8.6 Relationships with teachers

Teachers are also a potential source of positive information and influence. The UNICEF study found that after parents and grandparents, “teachers are the most important adults in any school going child’s life. Given that these children spend at least half their days in the presence of teachers, the potential influence of teachers is enormous and this could be positive or negative.”¹⁹⁸ Most children surveyed felt that they could go to a teacher if they had a problem.¹⁹⁹

On the other hand, although children turn to teachers for help in situations of abuse, it is particularly disturbing to note that school teachers may be the culprits in some of the forced sex:

There were several cases in Namibia of children who were abused by teachers. This clearly represents an abuse of power. Cases of schools being slow to respond were discussed and it is particularly worrying that teachers could have been kept in the classroom after complaints of rape had been made to the police. In one case the principal indicated that the complaint should have been brought to him before it went to the police, with a clear implication that he might then have tried to prevent a legal case. On the other hand, teachers were the most commonly cited people to which abused children disclosed. This is a very important position and teachers in both settings need to have information and preparation to be able to appropriately respond in this situation. School education programmes run by Childline were discussed as being successful in Namibia and clearly there are opportunities for prevention and case detection in schools which would benefit from greater resources.²⁰⁰

¹⁹⁸ UNICEF KAPB Study 2006: Key Findings at page 17.

¹⁹⁹ Id at pages 17-18.

²⁰⁰ R Jewkes et al, *Child Sexual Abuse and HIV: Study of Links in South Africa & Namibia*, Medical Research Council, Pretoria, June 2003.

South Africa shares the problem of teachers engaging in sexual abuse of learners. The following story came from a standard nine student in KwaZulu-Natal who called Childline in 1999 for assistance. She had become pregnant after her teacher coerced her into a sexual relationship and had to leave school as a consequence.

[RH] called very distressed. She mentioned that she was sexually abused by a teacher at school. He threatened her that if she refused him he would fail her or have her expelled from school. The abuse continued until she fell pregnant last year. She had a baby at the beginning of the year-but it died immediately after birth. While she was pregnant the teacher came to pay the guardians for damages and to keep them quiet about this incident. The principal of the school is aware of this but has not done anything to help the child. [RH] would like to go back to school but the same teacher has been threatening to kill her if she comes back to school. He is presently threatening her for telling people that he was the father of the baby. She would like someone to help her. Her parents/guardians are aware of this but are unable to protect her.

Human Rights Watch, *Scared at School: Sexual Violence Against Girls in South African Schools*, 2001, www.hrw.org/reports/2001/safrica/

The Code of Conduct for the Teaching Service makes no particular reference to learner pregnancy, but stipulates that a teacher “may not become involved in any form of romance or sexual relations with a learner or sexual harassment or abuse of a learner”. Teachers are also tasked to promote gender equality.²⁰¹ Failure to comply with the Code of Conduct constituted misconduct and must be dealt with in terms of Namibia’s Public Service Act.²⁰² This means that the misconduct could lead to suspension followed by an enquiry, with the ultimate result being reprimand, a fine, transfer to another post, a reduction in salary or rank, and possible dismissal, depending on the recommendation of the disciplinary committee which considers the case.²⁰³ Depending on the seriousness of the infringement of the Code of Conduct, the teacher in question may also “be given the necessary counselling and advice and opportunity to correct his or her behaviour”.²⁰⁴

Statistics from the Ministry of Education on misconduct cases dealt with during 2005-2007 show that sexual harassment/sexual relations with learners/impregnation of learners is the largest single category of misconduct. It was also the form of misconduct most likely to result in the dismissal of the teacher.

MISCONDUCT CASES DEALT WITH BY MINISTRY OF EDUCATION				
Year	Total cases of misconduct	Cases of sexual misconduct	Total dismissals	Dismissals based on sexual misconduct
2005	159	30	14	7
2006	152	34	20	9
2007	105	24	17	11

Source: Ministry of Education 2008.

The implementation of sanctions against teachers who violate this provision should be strictly implemented, and the statistics provided give some indication that this is the case. However, there are reports that some teachers who have caused pregnancies have compromised the parents of the girl by offering settlements in the form of cash or foodstuffs to discourage the parents from pursuing the matter with the Ministry of Education. It is impossible to know how many instances of sexual misconduct by teachers go unreported.

²⁰¹ Code of Conduct for Teaching Service, Government Notice No. 15 of 6 February 2004 (Government Gazette 3144), regulation 64 (2), Part A. Teacher and Learner.

²⁰² Id, regulation 64 (3).

²⁰³ Public Service Act 13 of 1995, Part III.

²⁰⁴ Code of Conduct for Teaching Service, regulation 64 (4).

It is a very serious breach of trust and responsibility for a teacher to be intimately involved with a learner. It should be noted that if the school girl is under the age of 16 and the teacher more than three years older, the teacher has committed a crime in terms of the Combating of Immoral Practices Act and should be prosecuted; if the school girl is under the age of 14, the crime is rape.²⁰⁵

Ideally, the culprit teacher, in addition to being charged with a criminal offence if the girl is under the age of 16, ought to be barred from having any further direct contact with learners. Simply put, the teacher should be barred from teaching. Further, the Ministry of Education should have a registry for teachers who have been found guilty of such behaviour for reference purposes, to prevent accidental re-hiring of such teachers for any post involving direct contact with children.

8.7 School programmes on sexuality

There are two current programmes aimed at enhancing children's lifeskills in relation to relationships and sexuality: the "Window of Hope" programme aimed at 10 to 14 year olds, and the "My Future My Choice" (MFMC) programme aimed at youth aged 15 to 24 years. Both are structured as after-school activities, with out-of-school youth being able to participate in the MFMC programme along with school-going youth.

"Window of Hope" is designed to help children in the targeted grades to develop lifeskills such as communicating, decision-making, care-giving, identifying and managing emotions, building self-esteem, resisting peer pressure and building healthy relationships. "My Future My Choice" makes use of peer educators and covers similar topics adapted for older audiences. It includes segments on contraception and on the consequences of early pregnancy.

Since the beginning in 2004, the "Window of Hope" programme has trained teachers covering 80% of schools on Junior Windows (grades 4-5) and 64% of schools in Senior Windows (grades 6-7). In 2006 MFMC covered approximately 50% of secondary schools, with coverage rising to almost 80% in 2007. Between 1997 and 2007, MFMC reached nearly 200 000 youth. The target is at least 15 000 youth each year.²⁰⁶

²⁰⁵ Combating of Immoral Practices Act 21 of 1980; Combating of Rape Act 8 of 2000.

²⁰⁶ Republic of Namibia, Ministry of Health and Social Services, United Nations General Assembly Special Session (UNGASS) Country Report for Namibia 2008, Reporting Period April 2006 – March 2007, http://216.239.59.104/search?q=cache:K2NizGuB4IAJ:data.unaids.org/pub/Report/2008/namibia_2008_country_progress_report_en.pdf+namibia+window+of+hope+preg&hl=en&ct=clnk&cd=4&gl=na, at page 17. See also "Opening the Window of Hope", US-AID Namibia newsletter NAWA 26, 14 July 2004, www.usaid.gov/na/news26.htm and "Namibia Interview – My Future My Choice", Rick Olsen, UNICEF Project Officer, 2001, www.unicef.org/lifeskills/index_9006.html.

After-school programme opens a 'Window of Hope' for children dealing with HIV/AIDS

by A Lewnes

OKALONGO, Namibia, 7 March 2006:

Eleven-year-old Fenni is one of 27 students at the Okalongo Primary School in northern Namibia participating in a new and unique after-school programme called Window of Hope. The programme helps 10 to 14-year-olds increase self-esteem and acquire knowledge and skills to protect themselves against HIV and develop compassion for those living with the disease.

One of the initiative's major goals is to empower children to deal with HIV/AIDS in their personal lives, in school and in the wider community.

"I never used to know the difference between a good touch and a bad touch," says Fenni. "I didn't know how to say no to bad things, but now I do."

The critical years

Window of Hope recognizes that early adolescence – when young people are just beginning to engage in risky behaviours, but before damaging patterns have become established – provides a critical window of opportunity to deliver prevention messages and prepare young people for the challenges posed by HIV/AIDS.

Reaching children in primary school also makes practical sense. About 94 per cent of primary school-age children in Namibia are enrolled in school, compared with only about half of all 14 to 18-year-olds.

Launched in 2004 by the Ministry of Education with UNICEF support, the Window of Hope programme can serve up to 30 children at a time and generally meets once a week in each participating school. All primary schools are required to offer Window of Hope as a voluntary after-school activity.

The programme curriculum runs over a period of four years, engaging and educating children with games, stories, songs, information sharing, partner and group work, role playing, artwork and visualization exercises. Practical skills and information for the prevention of HIV are integrated into regular school subjects such as science, health and social studies.

Providing vital information

The northern regions of Namibia – including Omusati Region, where Okalongo is located – have the highest HIV prevalence in the country. Many of the children at Okalongo Primary School have suffered the pain of losing parents and other relatives to AIDS after long illnesses.

Still, some children know very little about the disease. "I had heard about AIDS, but I never thought it was real," says 12-year-old Nestor.

Others have knowledge that is unclear or incomplete. "I never knew how a person could get infected," says 11-year-old Hilani. "I thought it was the same as other diseases. Now I know how it gets into the body and kills the immune system by destroying cells."

In a culture where most parents never discuss sexuality with their children, Window of Hope is providing vital information to children who might otherwise be left in the dark.



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A boy at the Okalongo Primary School in northern Namibia draws a picture as part of the after-school Window of Hope programme, which helps 10 to 14-year-olds prepare for the challenges posed by HIV/AIDS.

Healthy decisions

In just a few months, Ndapewoshali Nefungo, the facilitator of Window of Hope at Okalongo Primary School, has seen the children in the programme transform. “In the beginning, some of the children were very shy and didn’t want to talk about themselves or about how they feel,” she says. “But gradually they became more confident and learned to be assertive and communicate much more clearly.”

Building self-confidence is an important part of the Window of Hope curriculum, helping students make healthy decisions for themselves and their future.

“Children don’t learn in school that their life has value and that they can say no,” says Coordinator Melissa Welp of the Regional AIDS Committee for Education in Omusati. “They don’t learn these things far enough in advance. So when they’re in a situation where they have to say no, they’re unprepared.

“Window of Hope teaches them how to respect one another and treat each other appropriately,” added Ms. Welp. “It develops a culture of respect between genders.”



© UNICEF ESARO/2005/Lewnes

An adolescent boy hugs his brother in Namibia’s Omusati Region, where the orphaned siblings live with three other brothers and sisters. The number of child-headed households in the region is reportedly increasing, due to the high prevalence of HIV/AIDS.

www.unicef.org/infobycountry/namibia_31512.html

In 2007, the Ministry reported:

Components of the Window of Hope HIV Prevention course were incorporated into the revision of two mainstreamed school subjects namely Natural Science and Health and Social Studies for grades 6 and 7. The Government implemented the programme from January 2007. The teachers guides for mainstreamed life skills programmes for grades 11 and 12 were redesigned and improved. Pre-service training institutes for teachers will incorporate these programmes during the 2007/2008 year.²⁰⁷

The 2006 UNICEF study found that MFMC participants on average have been sexually active for a shorter time (3.3 years) than non-participants (4.3 years), and consumed alcohol slightly less frequently, although condom use did not differ significantly between programme participants and non-participants.²⁰⁸

Another assessment found:

²⁰⁷ Republic of Namibia, Ministry of Health and Social Services, United Nations General Assembly Special Session (UNGASS) Country Report for Namibia 2008, Reporting Period April 2006 – March 2007, http://216.239.59.104/search?q=cache:K2NizGuB4IAJ:data.unaids.org/pub/Report/2008/namibia_2008_country_progress_report_en.pdf+namibia+window+of+hope+preg&hl=en&ct=clnk&cd=4&gl=na, at pages 17-18.

²⁰⁸ UNICEF KAPB Study 2006: Key Findings at page 22.

MFMC has been shown to be effective in reducing risk behaviour. Educating youth about HIV/AIDS, and teaching them skills in critical thinking, decision-making, conflict resolution, communication, negotiation, and coping with emotions or stress, can improve their self-confidence and ability to make informed choices. The involvement of young people in the implementation and monitoring of activities has been a key to the success of the programme.²⁰⁹

One drawback however is that the intended approach is not necessarily consistent with what is happening on the ground. For example, the 2002 Rundu study found that the aspects of the lifeskills education which were supposed to be incorporated into the formal curriculum were being neglected because learners did not have to be tested on these topics for promotion to the next grade.

Teachers were also asked how girls' issues such as reproductive health, HIV/AIDS, pregnancy were covered during formal lessons. They usually referred to Science, Life Science and Life Skills. However, five of the schools sampled indicated that these issues did not feature in teaching at all. It is disconcerting however that according to general perceptions as well as informants from the Regional Directorate the subject of life skills is effectively never taught, as it is a non-promotional subject. Therefore, the most institutionalised strategy targeting adolescent issues and HIV/AIDS awareness is not implemented in many schools.²¹⁰

Commitment to the continuation of such initiatives is already incorporated into the National Policy on HIV-AIDS for the Education Sector:

All educational institutions should identify the most appropriate staff and/or external facilitators and systems to ensure that sexual health, HIV/AIDS and life skills education are effectively delivered to all learners and students. Life skills and sexual health programmes such as "My Future My Choice" offered by non-governmental and civil society organisations may be used to supplement life skills and sexual health education offered in educational institutions. Because of the sensitive nature of the learning content, the persons selected to offer this education should be specifically trained and supported by the support staff responsible for life-skills, sexual health and HIV/AIDS education in the particular educational institution. The persons responsible for this education should feel at ease with the content, should be role models with whom learners and students can easily identify,

²⁰⁹ R Olson et al, "My future is my choice – Namibia's life skills programme through peer education": International Conference on AIDS (2004, Bangkok, Thailand), *Int Conf AIDS* 2004 Jul 11-16 (New York: UNICEF), quote from abstract no. E10434.

²¹⁰ S Felton & C Haihambo-Muetudhana, *Girls Education in Rundu Educational Region: A report on a field assessment*, Windhoek: Ministry of Basic Education/UNICEF, 2002 at page 23.

and should facilitate the participation of learners and students during their education on life-skills, sexual health and HIV/AIDS. All educators should also be informed by principals and educator unions of courses for educators to improve their knowledge of, and skills to deal with, HIV/AIDS. All educators should also be given reasonable opportunities to attend such courses.²¹¹

These programmes are an obvious avenue for intensified attention to the problem of teen pregnancy, as well as the dissemination of information about a new school policy on pregnancy among learners. It should be noted in this regard that the “My Future is My Choice” facilitator manual cites the following “education problems” as possible consequences of early pregnancy: “girl and boy get expelled from school, girl and boy lose the opportunity to finish education as they have to support their family”.²¹² Once a new policy on learner pregnancy is adopted, the correct policy should be incorporated into the MFMC materials to avoid confusion and unnecessary discouragement of pregnant learners.

There is also scope for cooperation with non-governmental groups on this topic. For example, learner pregnancy has been one of the topics focused on by the Ombetja Yehinga Organisation (OYO), which works with youth in Khomas, Erongo and Kunene regions and produces a bi-monthly magazine on issues of youth and sexuality.²¹³ OYO has also worked with local youth to produce a film on learner pregnancy entitled “5 Minutes of Pleasure”. Childline/Lifeline also gives school presentations in some schools which combine factual information about reproduction with information about gender equality and good relationships. As another example, the Otjituuuo Youth Association joined forces with the Red Cross to hold reproductive health training sessions in their village near Grootfontein during 2007, after several reports of teen pregnancy amongst local girls.²¹⁴

8.8 Possible policy interventions on prevention

Encouraging learners to abstain from sex until they are older, or to engage in responsible sexual activity if they are sexually active, is an objective which cuts across many sectors. A policy on learner pregnancy should certainly address prevention, but with a focus on what

²¹¹ Article 2.15.

²¹² Youth Health and Development Programme, Government of the Republic of Namibia & UNICEF, “My Future is My Choice”: Extra Curricular Life Skills Training Manual, November 1999, Activity 5.

²¹³ The topic of teenage pregnancy was tackled in the magazine in 2004: “Unwanted Pregnancy, Teenage Pregnancy and Abortion”, January 2004, Vol. 3, No. 1.

²¹⁴ *The Namibia Youthpaper*, 13 March 2007.

schools can do on prevention rather than broader multi-sectoral interventions which are already the subject of other policies (such as the *National Policy for Reproductive Health*).

Of the policies from other countries which were examined, only South Africa's has an extensive focus on prevention. The South African policy is headed with the motto "Choose to wait for a brighter future". The Introduction to the South African policy emphasises prevention, with abstinence as the key message:

In the first instance, and above any other measure, a clear and consistent message should be communicated that children should abstain from engaging in sexual intercourse. There are many reasons for this, especially the risk of sexually transmitted diseases, including HIV and AIDS, as well as the negative impact of a pregnancy on the future life chances for girls. In this respect, it must be noted that childhood pregnancies have a far greater impact on girls than on the boy fathers. Educators, parents, guardians and the public should therefore strongly advise learners to avoid early sexual encounters.²¹⁵

As a matter of principle, "the Department of Education strongly advocates abstinence from sexual activity among learners", and "programmes emphasizing abstinence, targeting both boys and girls, should be in place in all public schools."²¹⁶

However, it also appears to recognise that this approach on its own is ineffective, as it states further that

It is our intention to provide an environment in which learners are fully informed about reproductive matters and have the information that assists them in making responsible decisions.²¹⁷

It identifies several strategies to be employed:

The Measures are firmly anchored within a prevention context – the prevention and reduction of pregnancy, as well as HIV and other sexually transmitted infections – in order to promote learning, development and healthy lifestyles for all learners. Therefore the measures highlight the importance of sexuality education, HIV and AIDS education programmes, and peer education among learners.²¹⁸

²¹⁵ Measures for the Prevention and Management of Learner Pregnancy, Department of Education, Republic of South Africa, 2007, Introduction: Context and Purpose, paragraph 3.

²¹⁶ Id at paragraph 7.

²¹⁷ Id at paragraph 2.

²¹⁸ Id at paragraph 5.

Following on this Introduction, the policy includes a specific section on “The Prevention of Learner Pregnancy”, which is reproduced in full in the box below.

excerpt from:

**Measures for the Prevention and Management of Learner Pregnancy
Department of Education, Republic of South Africa, 2007
The Prevention of Learner Pregnancy**

10. The Department of Education strives to ensure that learners, both boys and girls, are educated about the likely outcomes of engaging in sexual activity, and to assist young people to make choices that protect their health and support their access to educational opportunities. Schools should provide programmes to ensure that all children, whatever their situation, receive information and guidance to:
 - encourage them to attend school every day;
 - stay on in school;
 - practice healthy lifestyles, and
 - make appropriate and informed decisions about activities that will impact on their future health and educational prospects.
11. Prevention programmes should be offered in collaboration with NGOs and other agencies, and should provide information and education that builds upon the learner’s own knowledge, skills, values and attitudes. As a targeted prevention measure, schools should provide special guidance and support to vulnerable or troubled learners, who are most at risk.
12. The National Curriculum Statement provides for comprehensive Life Skills programmes in the Learning Area Life Orientation, which is compulsory from Grade R to 12. Life Skills Education is a programme that deals with topics that effect each and every learner and educator. Life Skills programmes include the following topics:
 - Human sexuality;
 - Developing and maintaining self esteem;
 - Interpersonal and decision-making skills, including communication skills, negotiating abstinence, assertiveness, and dealing with peer pressure;
 - Teenage pregnancy, including contributory factors, consequences, and prevention;
 - Sexually transmitted diseases; and
 - Sexual abuse, including the “touch continuum”, gender-based violence, incest, and rape.
13. While some of these topics may be difficult to teach, because of the sensitive nature of the issues addressed, it is important that suitable educators are prepared to do so, and are equipped to deal with any issues which affect learners. Peer education as an approach must be emphasized and incorporated in any intervention programme, due to its proven ability as a method to tackle such issues in an open manner, and to change both attitudes and behaviour. Importantly also, successes must be identified and celebrated in order to reinforce behaviour changes among learners.

14. Prevention programmes should also involve parents and guardians through:

- their involvement in the governance of the school, and in the development of the school's Code of Conduct, with specific strategies to eliminate learner pregnancy;
- providing information and support through school newsletters, circulars and meetings;
- workshops on pertinent issues (effective parenting, values in education, identifying substance abuse preventing gender-based violence, as well as information on HIV and AIDS);
- creating links between the school and the community it serves, and supporting community activities;
- developing and sharing a common vision regarding the well-being of the community's children; and
- supporting healthy lifestyles through positive role modelling, encouraging learners to participate in sporting and cultural activities, and advocacy and awareness on the positive consequences of a healthy lifestyle.

The South African policy provides a useful model for Namibia on the topic of prevention.

Additional suggestions on this point can be found in the 2002 study of girls' education in Rundu, where learner pregnancy is particularly high. Some of the suggestions relate to encouraging girls who are struggling with their education, which can prevent them from feeling hopeless and thus becoming more vulnerable to an early pregnancy:

- Establish a system whereby teachers report on the performance of male and female learners and are supported in this through practical advice by subject advisers.
- Provide in-service training on gender-sensitive motivation techniques.
- Conduct remedial classes for slow learners.
- Establish separate male/female streams in subjects in which girls' performance is low.

Additional recommendations related to reproductive health information and counselling:

- Ensure that the subject of life skills is taught.
- Strengthen and expand coverage of peer education programmes.
- Designate female teachers at each school and support them as focal persons for gender issues for learners.
- Invite health and social workers to make presentations to girls and boys.
- Give organizations that deal with HIV/AIDS a platform in schools (for example, interaction between learners and HIV positive people).

There were also recommendations pertaining to the hostel environment:

- Strengthen and monitor hostel supervision system.
- Involve school boards and learner representative councils in hostel management.
- Institute leisure activities for learners at weekends.

Finally, to address the self-esteem of girls, it was suggested that there should be more involvement of mentors and role models:

- Women's organizations and church leaders to develop participatory activities with pilot groups of female learners.²¹⁹

A study commissioned by FAWENA also offered a number of suggestions pertaining to prevention, although its focus was policy implementation. It suggested:

- in-service training of principals and teachers on reproductive and health issues
- counselling students on adolescent sexuality and the consequences of irresponsible sexual behaviour, relationships, negative peer influences, self-confidence and self-esteem
- expose teachers and adult men who impregnate schoolgirls and take legal action against them where applicable.²²⁰

²¹⁹ S Felton & C Haihambo-Muetudhana, *Girls' Education in Rundu Educational Region: A report on a field assessment*, Ministry of Basic Education, Sport and Culture/UNICEF, 2002, at pages 26-27.

²²⁰ V Tjombonde, *Promoting Girls' Education through Re-entry Policy for Adolescent Mothers A Case Study to provide an in-depth review of the implementation of the Teenage Pregnancy Policy in Namibian schools*, Windhoek: FAWENA, 2002 at pages 23-25.

9. PROVIDING EFFECTIVE SUPPORT

9.1 Factors which influence return to school

As in the case of prevention, this question of how to encourage young mothers to continue their schooling is a complex one. Some of the same factors which may pre-dispose a young girl to risking pregnancy also mitigate against the continuation of schooling. Thus, a schoolgirl who drops out of school after becoming pregnant may do so not just “because of” the pregnancy, but as a result of a nexus of factors pertaining to her life situation.

As one report puts it, “the risk of early childbearing and school dropout may be influenced by common underlying factors, further muddling the association between these two events.”²²¹ Another study states:

Rather than pregnancy causing girls to drop out, the lack of social and economic opportunities for girls and women and the domestic demands placed on them, coupled with the gender inequities of the education system, may result in unsatisfactory school experiences, poor academic performance, and acquiescence in or endorsement of early motherhood.²²²

A pregnancy may serve as a catalyzing force for a girl who is contemplating drop-out as a result of some combination of financial issues, family obligations, lack of interest in school or lack of confidence in her ability to successfully complete her schooling.²²³ An early pregnancy may result from these concerns, or it may exacerbate them to the point that continuing school in the overall circumstances seems an impossibility. As one study expressed it, “although pregnancy and motherhood do not always interrupt a young woman’s education..., they introduce a new set of circumstances that influence future decisions related to schooling.”²²⁴

A 1999 study noted that research in various African countries indicates that school policies on the consequences of pregnancy are just one of many factors which affect the likelihood that a schoolgirl will return to school after giving birth. Her ability to return will also be affected by the extent of support she receives from parents or other relatives

²²¹ M Grant & K Hallman, *Pregnancy-related School Dropout and Prior School Performance in South Africa*, Policy Research Division Working Paper No. 212, New York: Population Council, 2006 at page 5.

²²² *Id.*, citing a 1995 study.

²²³ *Id.*

²²⁴ *Id.* at page 11.

who are willing to help her care for the child. Also, girls who have completed higher levels of schooling are more likely to be motivated to continue.²²⁵

In Botswana, children whose parents were angry about the pregnancy were less likely to return to school than those whose parents were more supportive, and children living with their parents were less likely to return to school after a pregnancy than children living elsewhere. Focus group discussions suggested that angry parents were more likely to insist that young mothers work to support their child during a period of mandatory absence from school, which would decrease the mothers' chances of returning. This parental attitude is also likely to be based in part of the family's economic position and capacity to support an additional dependent, and it is exacerbated by the fact that the fathers of the children in question often fail to provide maintenance.²²⁶

A 2005 South African study similarly came to the conclusion that the main factors that determine the future of schooling for a teen mother are the availability of child care and the socioeconomic status of the household.

... [O]ur analysis suggests that it is the ability to provide both sufficient financial support and child-care assistance simultaneously that matters. Nearly all the mothers who resumed their schooling had support from their own mothers or their sisters to help them with child care. One of the reasons these mothers are around in the household is the employment status of the girls' fathers. Out of the 15 girls with children who were currently enrolled, all of them had fathers in some form of steady employment. In most cases they also had full-time coresident mothers. Additionally, some of them also had financial support from their children's fathers, which could help free some financial resources to pay school fees.²²⁷

In Botswana, other factors affecting ability to return to school after a pregnancy included knowledge of the procedures for re-entry and ability to obtain required documentation (such as a birth certificate for the child).²²⁸ One very positive point from the Botswana study is the finding that one out of four girls who returned to school after giving birth made at least some academic progress after their return.²²⁹

²²⁵ D Meekers & G Ahmed, "Pregnancy-Related School Dropouts in Botswana", 71 *Population Studies*, Vol 53, No 2 (July 1999), at pages 196-97.

²²⁶ Id at page 205.

²²⁷ S Madhavan & KJA Thomas, "Childbearing and Schooling: New Evidence from South Africa", *Comparative Education Review*, vol. 49, no. 4, 2005 at page 464. Interestingly, every single one of the 21 young mothers involved in the South African study expressed a desire to continue or resume and, eventually, complete her secondary schooling. Id at page 465.

²²⁸ D Meekers & G Ahmed, "Pregnancy-Related School Dropouts in Botswana", 71 *Population Studies*, Vol 53, No 2 (July 1999), at page 205.

²²⁹ Id at page 207.

The UN Special Rapporteur on the Right to Education recommends support programmes for pregnant schoolgirls, suggesting that governments should “design and implement effective programmes to guarantee successful schooling of pregnant teenagers and adolescent mothers” and that “consideration should also be given to the possibility of providing food and childcare services during school hours”.²³⁰ The research cited above indicates that support beyond the school environment may also be necessary to enable learners to complete their schooling after becoming parents. In South Africa, the following general suggestions for supportive measures were put forward:

State provisions might come in the form of child-care grants, conditional on school enrolment. They might also include child-care centres located in the school, an increase in the amount of child-care grants to cover the cost of additional child care, and additional tutoring within schools to assist young mothers, particularly in the preparation for the matriculation exam. Social norms include the removal of stigma associated with giving birth while in school. These norms could be changed through peer networks, educators, and family members. Encouraging young men to take greater paternal responsibility would also ease the burden on young mothers.²³¹

9.2 Change in status and stigma

A 2002 FAWENA study found shame and stigma to be a problem. For example, a primary school girl in Kunene Region who became pregnant felt bad about embarrassing her parents. She felt that everyone was “talking about her” and that her teachers refused to accept her after her return. A girl from Otjozondjupa Region reported that she managed to conceal the fact that she was a mother, so that no one at her school knew. A young mother from Rundu reported that her fellow learners accused of her of many things because of her situation.²³²

The 2002 Rundu study found that male learners and teachers teased new mothers, such as by mockingly referring to them as “mother”. This factor may be responsible for the fact that

²³⁰ UN Commission on Human Rights, Girls’ right to education: Report submitted by the Special Rapporteur on the Right to Education, Mr. V. Muñoz Villalobos, E/CN.4/2006/45, 8 February 2006, at paragraph 133.

²³¹ S Madhavan & KJA Thomas, “Childbearing and Schooling: New Evidence from South Africa”, *Comparative Education Review*, vol. 49, no. 4, 2005 at page 467.

²³² V Tjombonde, *Promoting Girls’ Education through Re-entry Policy for Adolescent Mothers A Case Study to provide an in-depth review of the implementation of the Teenage Pregnancy Policy in Namibian schools*, Windhoek: FAWENA, 2002 at pages 20-22.

teenage mothers who do return to school in the Rundu area tend to go back to a different school rather than returning to their previous school.²³³

A small qualitative study from the Rundu area conducted in 2006 and published in 2007 gives more insight into this issue.²³⁴ This study involved in-depth interviews with four schoolgirl mothers who became pregnant between the ages of 17 to 20 years old and returned to school between the ages of 18 and 22 years old. It noted that girls who have given birth become adults in the eyes of some cultures, a change which is signalled in some communities by addressing mothers by their children's names instead of their own given names, such as "NyaNdesi" which means Ndesi's mother. Such a change is normally a matter of pride, but it can also be a basis for high expectations or for mockery when the young mother returns to school. For example, one principal pointed out that young mothers are particularly conscious of avoiding mistakes and that they are careful of what they say in the classroom because they are afraid that other learners will laugh at them or that teachers will make negative remarks about them. Several of the teen mothers interviewed agreed with this assessment. Examples of comments which might be made were: *"A mother can not behave like this"; "How can a mother give an incorrect answer?"; "Some of you are adult people and have children. You are not supposed to make noise"; "Why should a mother allow such behaviour to happen in the class?"*. One teen mother reported that said some of her teachers would make her feel bad if she requested a further explanation or asked for instructions to be repeated, saying things like: *"You see the problem of teaching mothers, they do not pay attention to the presentation, you are supposed to stay at home and look after your child or even better to get married"*.

This change in status is also perceived by some learners as meaning that teenage parents do not belong in the school environment any more, and some learners reportedly use negative words and names when referring to young mothers. One teen mother reported that fellow students might say things such as: *"We do not want to see an old woman in our class"*. At one school, a teacher observed that when a young mother is mixed with others for group work, then her fellow learners will let her work alone, as if they want to see if she can handle the work or not. The result of such attitudes can be feelings of isolation and rejection. Two teen mothers reported that their friends are now other young mothers, while one teen other said that she is alone and without a friend.²³⁵

²³³ S Felton & C Haihambo-Muetudhana, *Girls Education in Rundu Educational Region: A report on a field assessment*, Windhoek: Ministry of Basic Education/UNICEF, 2002 at page 21.

²³⁴ LM Shaningwa, *The Educationally-Related Challenges Faced by Teenage Mothers on Returning to School: A Namibian Case Study*, Masters thesis, Rhodes University, 2007.

²³⁵ Id at pages 34, 44-48.

One idea which could assist here is arranging regular meetings in which pregnant learners and learner parents can share and discuss the problems they experience and help each other to identify solutions. Another suggestion put forward is to set up special rooms at hostels where pregnant boarders can study together in private.²³⁶

It should be noted in respect of this issue that the Code of Conduct for the Teaching Service states that a teacher “may not in any form humiliate or abuse a learner (ie physically, emotionally or psychologically)” and “must respect the dignity and constitutional rights of every learner without prejudice, including the right to education, equality of culture and the right to privacy”. Teachers must furthermore “refrain from any form of discrimination” including discrimination on the basis of “health reasons”.²³⁷

Similarly, the General Rules of Conduct for Learners state that a learner at a state school “must respect the dignity, person and property of teachers, learners and members of the public”, with the possible sanctions including reprimand, additional tasks relating to the contravention, a consultation with the learner’s parents, written warnings and ultimately suspension or even expulsion.²³⁸

9.3 The burden of extra responsibilities

The 2006 Rundu study noted that young mothers who return to school shoulder the “double responsibility” of schooling combined with parenting. This was cited as a contributing factor to poor attendance by young mothers, especially with respect to afternoon study, extra classes after school and extra-curricular activities. As one young mother in this study stated, *“If my child is sick I have to be there and look after her”*. However, an examination of the attendance registers indicated that absenteeism was not a major problem, with none of the four mothers who were the focus of the study having missed more than 14 days of school in the first two terms.²³⁹

The four mothers in this study were all highly motivated to complete their education. Two girls mentioned the difficulties they encountered while staying at home for a year, without financial support from their children’s fathers. As one of them said: *“I have*

²³⁶ Id at pages 56-57.

²³⁷ Code of Conduct for Teaching Service, Government Notice No. 15 of 6 February 2004 (Government Gazette 3144), regulation 64 (2), Part A. Teacher and Learner.

²³⁸ General Rules of Conduct for Learners, Government Notice No. 189 of 28 October 2002 (Government Gazette 2841), regulations 1(d) and 5.

²³⁹ LM Shaningwa, *The Educationally-Related Challenges Faced by Teenage Mothers on Returning to School: A Namibian Case Study*, Masters thesis, Rhodes University, 2007 at pages 44-45, 64.

realised that life is not easy for uneducated or unemployed people. I want to complete my education, be independent and take proper care of my child." Another young mother got no financial support from her child's father, but her mother helped both her and her child financially and helped care for the child. The fourth new mother was an orphan who found it very difficult to cope. All found that their exposure to life outside school and their desire to be able to provide for their children inspired them to take their second chance at school very seriously. One of them said: *"My dream is to move from "nobody" to become "somebody" in my life. Because currently I have nothing means that I am nobody but if I will complete my education and start working then I will be somebody to support myself and my child."*²⁴⁰

None of the young mothers in this study were getting any special support from the school to assist them with the challenges they faced, although some expressed a specific desire for guidance and counselling: *"We need encouragement from those female teachers who have had the same experiences and still completed their education."*²⁴¹ Nevertheless, when the researcher examined the young mothers' exercise books and examination results, she found that three of the four were completing their homework correctly and on time, and receiving satisfactory marks in comparison with their fellow students.²⁴²

One suggestion offered for easing the burden on learner mothers is to excuse them from extra-curricular activities (unless they are staying in the school hostel apart from their babies). Another suggestion is to try to schedule extra classes at times which can accommodate new mothers.²⁴³ It has been noted that parents should also be involved in assisting schoolgirl mothers with their burden of responsibility. Where they seem unwilling to help, schools could attempt to discuss the situation with them and try to convince them to be more supportive.²⁴⁴

9.4 Teacher counselling

The 2002 Rundu study found that most schools had a specific female teacher who counselled girls on issues pertaining to sexuality – either a teacher formally assigned to play this role by school management or someone who had taken on the task out of her own initiative:

²⁴⁰ Id at pages 50-51.

²⁴¹ Id at pages 56-57.

²⁴² Id at pages 58-59.

²⁴³ Id at pages 66, 85.

²⁴⁴ Id at page 66.

According to teacher respondents, many of these teachers had attended workshops on counselling, although none had had professional counselling training at college or university level – In a few schools, principals had assigned all female teachers to girls' issues, whereas in some schools girls were told that they should confide in the principal. Female learners found the teachers designated as focal persons generally understanding. In schools which had no female teaching staff, learners stated that they preferred to talk to learners.²⁴⁵

Similarly, the 2006 Rundu study noted that while there are some teachers assigned to do basic counselling to all learners, they are not well-equipped to help young mothers and need more training on this.²⁴⁶

Techniques for counselling and supporting pregnant learners and learner parents could be a topic of in-service training for school counsellors and selected teachers.

9.5 Other suggestions for support to learner mothers

A study commissioned by FAWENA also offered a number of suggestions pertaining to effective policy implementation and support for pregnant learners and learner mothers:

- use regional workshops to inform school inspectors and principals of the policy
- provide all school board members with copies of the policy upon their election
- require balanced representation of girls and boys on all student representative councils and involve the councils in implementing the policy on learner pregnancy
- designate one sympathetic, non-judgemental member of staff with whom the pregnant learner can discuss her situation; this staff member should also provide counselling or direct the learner to an appropriate counsellor
- summon the learner's parents to the school for counselling about the situation, and arrange to keep in touch with the family to monitor the situation and encourage re-entry to school
- provide or arrange counselling for schoolboy fathers
- provide or arrange counselling for teachers and other girls who are affected by the situation if necessary

²⁴⁵ S Felton & C Haihambo-Muetudhana, *Girls Education in Rundu Educational Region: A report on a field assessment*, Windhoek: Ministry of Basic Education/UNICEF, 2002 at pages 22-23.

²⁴⁶ LM Shaningwa, *The Educationally-Related Challenges Faced by Teenage Mothers on Returning to School: A Namibian Case Study*, Masters thesis, Rhodes University, 2007 at pages 57 and 85.

- encourage the learner to reveal the father's identity and provide advice to pregnant learners on how to claim maintenance from the baby's father if necessary
- involving parents, communities, NGOs and churches in providing innovative alternative educational programmes to girls who drop out of school
- provide "bridging centres" for young mothers where they can continue formal education while breastfeeding
- allow for flexible attendance by young mothers to give them every opportunity to complete their courses
- assist new mothers who do not return to school with training which could increase the future employment prospects.²⁴⁷

A useful suggestion from Botswana is that there should be curriculum packages for use during confinement and upon re-entry to school, to help young mothers keep up with the syllabus. It was also suggested that retired teachers could be used to assist students during their leaves of absence and after re-entry.²⁴⁸

It has been suggested that some young mothers should be exempted from paying school fees,²⁴⁹ although a better approach would be to ensure that young mothers know about the normal procedures for exemption should they qualify.

It would also be helpful for schools to initiate monitoring and follow-up to see if young mothers return to school after their babies are born.²⁵⁰

Liaison with NGOs and community groups could also facilitate effective implementation. For example, it is reported that Kenya's re-entry policy has been supported in practice by the efforts of the Forum for African Women Educationists, which has been instrumental in raising awareness of the re-admission policy and in mobilising communities to support young mothers in their efforts to return to school.²⁵¹ Perhaps FAWENA or other groups could play a similar role in Namibia.

²⁴⁷ V Tjombonde, *Promoting Girls' Education through Re-entry Policy for Adolescent Mothers A Case Study to provide an in-depth review of the implementation of the Teenage Pregnancy Policy in Namibian schools*, Windhoek: FAWENA, 2002 at pages 23-25.

²⁴⁸ MI Mokubung, National Education for All (EFA 2000) Country Report, Republic of Botswana, section 13.5

²⁴⁹ LM Shaningwa, *The Educationally-Related Challenges Faced by Teenage Mothers on Returning to School: A Namibian Case Study*, Masters thesis, Rhodes University, 2007 at page 57.

²⁵⁰ Id at page 85.

²⁵¹ Id at page 27, citing M Nyambura, *Regional Ministerial consultation on closing the gender gap in education: Curbing drop out*, Uganda: Kenyatta University, 2000.

9.6 Technical issues

There are some technical issues which need to be addressed to ensure that there are no barriers which could prevent or complicate a learner's continuation of education after pregnancy.

Age restrictions

One potential problem pertaining to re-admission may be that the interruption of the pregnant learner's education could result in her being too old for re-admission. The regulations issued in terms of the Education Act 16 of 2001 state:

A person who is older than 21 years of age may not be admitted to any grade in a state school, unless such person had already been enrolled in a state school the previous year and was promoted to the next grade, but rather be admitted to an adult education referred to in section 67 of the Act or proceed with his or her education with a private education institution.²⁵²

To avoid confusion or differences of interpretation, this regulation should be amended to allow for the re-admittance of a learner after a leave of absence consistent with the policy on learner pregnancy even if she has reached the age of 21.²⁵³

Transfers

For many pregnant learners, transfer to another school after the baby's delivery may be the most desirable option. The regulations issued in terms of the Education Act 16 of 2001 require the authorisation of the Permanent Secretary for learner transfers in cases where a school has been closed, divided, reclassified or combined, or in situations where a child in need of special education is transferred from an ordinary state school to a special state school.²⁵⁴ Transfers in other situations are not addressed by this regulation. In fact, the general regulation on admission indicates that the approval of the Permanent Secretary is *not* required for other transfers from one state school to another.²⁵⁵ However, it appears that

²⁵² Regulations made under the Education Act, 2001, Government Notice No. 186 of 28 October 2002 (Government Gazette 2841), regulation 23(5).

²⁵³ See LM Shaningwa, *The Educationally-Related Challenges Faced by Teenage Mothers on Returning to School: A Namibian Case Study*, Masters thesis, Rhodes University, 2007 at pages 73-74.

²⁵⁴ Regulations made under the Education Act, 2001, Government Notice No. 186 of 28 October 2002 (Government Gazette 2841), regulation 25.

²⁵⁵ See Regulation 23(4)(b) which makes an exception to the requirement of approval by the Permanent Secretary in situations where a child was already admitted to one school earlier in the year and "is only being transferred to another school".

there may be some confusion on the procedures for transfer of a learner after delivery of a child, so this issue should be clarified in the revised policy.²⁵⁶

9.7 Other options for continuing education

If a young mother is unwilling or unable to return to formal schooling, then she should be supported to locate other suitable options.

Interviews with 26 young mothers in the Rundu Educational District who had dropped out of school and failed to return revealed that not one of these young women was attending Namibia College of Open Learning (NAMCOL) or any other alternative education institution. Reasons given for this were that the NAMCOL centres were too far away, that the fees were too high or that it was not possible for learners who have not completed primary school to enrol in NAMCOL. However, all of these 26 young mothers expressed a desire to complete their education.²⁵⁷

The 2006 study in Rundu also found that NAMCOL was not considered by many to be a good alternative to returning to school. Some teachers felt that the learners in question were young and still in need of teacher supervision, while others noted that the young mothers still needed peer interaction. None of the four young mothers interviewed for this study were enthusiastic about the NAMCOL option. One said: *“School is the best place to continue with my education because I learn from my fellow learners.”* Another echoed this, saying: *“I think even though we are mothers, we are still young people and we want to be with our fellow young learners.”* A third young mother said that evening classes and non-formal alternatives would be harder to juggle with her responsibilities at home. The fourth young mother pointed to the expense entailed: *“NAMCOL is too costly, thus not all young mothers can afford to do all six subjects either for grade 10 or grade 12 in order to proceed to the next level.”*²⁵⁸ The parents of these young mothers tended to agree that secondary school was the best place for their daughters to continue their education, with one noting that young mothers still have the right to be among other young people.²⁵⁹

These observations and opinions indicate that, while NAMCOL and other adult education options may be suitable for some new mothers, they should not be viewed as an equivalent substitute for re-admission to a state school.

²⁵⁶ See LM Shaningwa, *The Educationally-Related Challenges Faced by Teenage Mothers on Returning to School: A Namibian Case Study*, Masters thesis, Rhodes University, 2007 at page 71.

²⁵⁷ S Felton and C Haihambo-Muetudhana, *Girls' Education in Rundu Educational Region: A report on a field assessment*, Ministry of Basic Education, Sport and Culture/UNICEF, 2002, at page 11.

²⁵⁸ LM Shaningwa, *The Educationally-Related Challenges Faced by Teenage Mothers on Returning to School: A Namibian Case Study*, Masters thesis, Rhodes University, 2007 at pages 49-50.

²⁵⁹ Id at page 50.

9.8 Some models for support

Botswana: Diphhalana Project

In Botswana, the Diphhalana Project Centre which was established in 1996 has been cited as a useful model for innovative intervention.

This project is a governmental initiative supported by UNICEF and linked to Pekenene Community Junior Secondary School in Mahalapaye. Through Diphhalana, distance learning modules allow learners who are on “maternity leave” to continue their studies. When they return to school, the project provides a day-care centre for babies at the school. Student mothers who return to class can visit their babies at the crèche during breaks and breastfeed them. The father, if he is at school, has to share the responsibility of looking after the baby. The programme also provides training on parenting responsibilities presented by community members and teachers, for pregnant teens and adolescent mothers and fathers. The approach is to treat the pregnancy as a mistake rather than a “crime”.²⁶⁰

One important component of the programme has been the effort to reduce stigma. For example, the head teacher notes that efforts are made to integrate pregnant learners so that they do not appear different or abnormal:

We don't want them to wear maternity dresses because if they are wearing maternity dresses then it will be a public thing like she is pregnant why is she wearing something that's different from others, because they wear uniform like everyone else. So we just say buy uniform... If it is small we ask the parents to buy bigger to accommodate them as they grow. We also in class are careful as to how

²⁶⁰ The right to education: Report of the Special Rapporteur, Vernor Muñoz. Addendum: Mission to Botswana: 26 September to 4 October 2005, UN Commission on Human Rights, E/CN.4/2006/45/Add.1, 17 March 2006 at paragraph 52; “Equals”, Newsletter for Beyond Access: Gender, Education and Development, Issue 7, July/August 2004, www.ungei.org/beyondaccess/files/beyondaccess_equals_no07.pdf. E Unterhalter et al, Scaling up girls' education: Towards a scorecard on girls' education in the Commonwealth, *Beyond Access Project*, Institute of Education, University of London and Oxfam GB, 2005, <http://k1.ioe.ac.uk/schools/efps/GenderEducDev/Where%20are%20we%20scaling%20up%20from%20FINAL%20FINAL.pdf>, section 3.

The EFA 2000 Country Assessment: Botswana, Part I, www.unesco.org/education/wef/countryreports/botswana/rapport_1_1.html at section 3.6, notes that the main focus of the Basic Education for Pregnant Students Project (Diphhalana for short) is providing lifeskills education, in view of the fact that pregnant girls are at a higher risk not only of falling pregnant again, but of contracting STDs including HIV/AIDS. It comments:

Diphhalana has proved to be a useful project in as far as providing a supportive learning environment to young mothers, and other material support for their babies. However, it will be difficult to replicate this model elsewhere on a more sustainable basis because of the cost implications. Lessons learned from it should be used to design a more sustainable programme.

they are being treated. We treat them as normal as we don't make any special conditions for them. We try and accommodate them and support them.²⁶¹

The programme also makes use of sensitisation workshops for pupils and teachers, and it is reported that initial opposition has decreased. According to the head teacher:

A change of mindset was needed – change of attitude of teachers and students to accept that there can be someone who is pregnant who can go on in that school and they can help that person throughout supporting because previously if someone falls pregnant there would be those you know teachers not feeling comfortable teaching someone who's like that. [But now] It is our way of life we are just positive about it. We don't even think we are different from the rest of the school. We have embraced it. It's our way of life. Even the boys have accepted it.²⁶²

Some parents and government officials initially feared that the initiative might encourage pregnancies because of the lack of a punitive element, but these fears proved to be unfounded.²⁶³ In fact, a teacher at the school reports that the policy of requiring hands-on involvement by learner fathers has helped to discourage boys from engaging in irresponsible sex:

The boys thought that they were saying I won't be caught making a girl pregnant. Because the policy was that if a boy here makes a girl pregnant then the baby is at the centre. Then during break both him and the girl will go and check on the baby ...that was deterrent enough you know.²⁶⁴

However, while public tolerance of the project has increased, it still fails to garner complete community support. A 2001 UNICEF evaluation report found that:

Pekenene students were targeted and abused by some members of the community, notably working men, because their school was 'known to have a facility that takes care of their babies.' The community had not participated, as was hoped, in fundraising, and there had been a tendency to rely on UNICEF for funds. The report

²⁶¹ Unterhalter et al, *Scaling up girls' education: Towards a scorecard on girls' education in the Commonwealth, Beyond Access Project*, Institute of Education, University of London and Oxfam GB, 2005, <http://k1.ioe.ac.uk/schools/efps/GenderEducDev/Where%20are%20we%20scaling%20up%20from%20FINAL%20FINAL.pdf>, section 3.

²⁶² Ibid.

²⁶³ "Equals", Newsletter for Beyond Access: Gender, Education and Development, Issue 7, July/August 2004, www.ungei.org/beyondaccess/files/beyondaccess_equals_no07.pdf.

²⁶⁴ Unterhalter et al, *Scaling up girls' education: Towards a scorecard on girls' education in the Commonwealth, Beyond Access Project*, Institute of Education, University of London and Oxfam GB, 2005, <http://k1.ioe.ac.uk/schools/efps/GenderEducDev/Where%20are%20we%20scaling%20up%20from%20FINAL%20FINAL.pdf>, section 3.

noted ‘indifference...on the part of the district leadership’ and a ‘lack of involvement ‘in the project ‘at grass roots level.’ It was suggested that this might stem from a feeling that the Project, because it was restricted to one school in the district, did not benefit the community more generally.²⁶⁵

Nevertheless, it has been noted that “Diphhalana illustrates that adventurous approaches in public policy, whilst often evoking strong feelings, can sometimes shift private perceptions”.²⁶⁶

Although this project has proved extremely effective, it would reportedly be expensive to replicate.²⁶⁷

Botswana: Diphhalana

The Diphhalana initiative in Botswana is an example of a flexible learning programme that caters for a particular type of vulnerable learners – girls who get pregnant during their course of learning. Pregnant schoolgirls at Pekenene School are allowed to return to school after giving birth, for as long as they wish. Previously Botswana law only allowed re-entry by such girls in certain circumstances, and where this happened, girls had to wait for a year after birth. During maternity leave, schoolwork and other resources are sent to girls’ homes and the school has developed a curriculum with some distance education modules that learners can attend from home, without attending formal school. This makes it possible for pregnant girls to continue learning from home instead of being marginalised as is normally the norm in most systems within the region. When they are certified fit to return to school by a doctor, they return with their babies. The school has crèche facilities, which can take babies as young as 4 months, and nappies and milk are provided. At break and lunchtimes the young mothers breast-feed their children. The Diphhalana project requires that the father, if he is at school, shares the responsibility of looking after the baby at break and lunchtimes, so that he can develop a sense of responsibility (Unterhalter et al, 2004).

Through the Diphhalana intervention, the double frustration brought about by getting pregnant prematurely and being rejected by the school system is greatly alleviated; hope is restored and a sense of being accepted by the society is instilled into the beneficiary learners. Such learners are likely to apply themselves conscientiously after the experience of childbearing and may realise great academic achievements in their lifetime. The benefits of providing such safety nets to the individual girl and her baby and to the wider society are immense. By making use of distance education support materials, keeping communication links with pregnant learners from their homes and giving them support, and providing extra facilities like crèches at school, the Diphhalana initiative shows how flexibility in delivery modes and adopting a different conception

²⁶⁵ Ibid, citing Mafela, Kwape, Galebotswe, Radipati and Wilis, *Evaluation of Diphhalana*, UNICEF, Gaborone: UNICEF, 2001.

²⁶⁶ “Equals”, Newsletter for Beyond Access: Gender, Education and Development, Issue 7, July/August 2004, www.ungei.org/beyondaccess/files/beyondaccess_equals_no07.pdf.

²⁶⁷ EFA 2000 Country Assessment Botswana, Part I, www.unesco.org/education/wef/countryreports/botswana/rapport_1_1.html at section 3.6.

of school from the traditional one can cater for some of the vulnerable children in developing societies. In most of the sub-Saharan countries, many girls terminate their education prematurely due to pregnancy and the Diphilana initiative is an example of good practice in terms of mitigating the effects of this problem on these vulnerable learners.

This initiative is also unique in that it demonstrates how concerns across a range of social sectors – health, education and social welfare – can be integrated to provide an imaginative response to the issue of schoolgirl pregnancy, one of the prevalent causes for dropping out of school amongst school girls, particularly those who live without adult care givers and who come from poor families.

Ephraim Mhlanga, South African Institute for Distance Education (SAIDE),
Review of innovation in interventions to increase access to education and attainment,
SOFIE Opening Up Access Series No 2, 2008, www.ioe.ac.uk/SOFIE/publications/MhlangaReviewPaper.pdf

Jamaica: Programme for Adolescent Mothers

In Jamaica, where teen pregnancy is a serious problem, a programme run by the Women's Centre of Jamaica Foundation works to support and motivate adolescent mothers to continue their education through its Programme for Adolescent Mothers. The programme operates from 7 centres and 6 outreach stations, which offer the following services to pregnant girls and young mothers:

Education services: National policy requires girls to leave school during their pregnancies, so the centres help pregnant girls to strengthen their academic capabilities and prepares them to return to formal schooling. If the pregnancy occurs in the last year of high school, the programme provides tutoring to prepare them for their final examinations. The centres also provide skills training to help women who will not return to school become more employable.

Nutrition information and support: Pregnant teens and their parents receive information about the importance of proper nourishment for the health of both mother and child. Participants also receive a daily cooked lunch, while those in severe need are also supplied with breakfast.

Day nursery: Each centre operates a nursery where the babies of teen mothers are cared for while the mothers attend educational programmes. This facilitates breast-feeding. The nurseries also work with young mothers and fathers to teach them good parenting habits.

Counselling: The centres provide extensive individual and group counselling aimed at building self-respect, exploring emotional problems, increasing understanding of sexual and reproductive health and encouraging family planning. Special counselling

and parenting programmes are also provided for teen fathers, as well as the parents of teen mothers and teen fathers.²⁶⁸

It is reported that large numbers of programme participants have returned to secondary school, with some even going on to complete tertiary education and qualifying as teachers, doctors, lawyers or other professionals. Evaluations of the programme have shown that programme participants are far more likely than other teen mothers to complete their education, find jobs and earn higher pay. These evaluations have also noted a low occurrence of second adolescent pregnancies in programme participants. The good results appear to continue into the next generation, with all children born to the programme's early participants in school, and with not a single pregnancy occurring amongst the children of participants who have already reached adolescence. The programme is also credited with broader positive impacts, by reducing negative social attitudes towards teen mothers and contributing to an overall decrease in the rate of teen pregnancy from 31% of all births in 1977 to 23% of all births in 1997.²⁶⁹

Women's Centre of Jamaica – adolescent mothers return to school

In 1978, the Women's Centre Programme for Adolescent Mothers was established in Jamaica, in response to a high level of adolescent pregnancy. The programme focused on 12-17 year-old girls who had dropped out of school due to pregnancy. The Centre helped them to continue their education, and encouraged them to



Adolescent girls in school at a WCJF centre.

return to school after the birth of their babies and to delay a second pregnancy. In 1991 the programme became the Women's Centre of Jamaica Foundation (WCJF), operating under the auspices of a government ministry. The WCJF focuses on education, training and developmental counselling, improving levels of employment and productivity and delaying further pregnancies. By April 2004 more than 30 000 girls had been assisted at seven WCJF centres and six outreach stations. Girls deepen their understanding of reproductive health and learn how to care for themselves and their babies. After two terms most return to school.

A 1996 study showed that half the girls who had been through the programme had only one child. The average spacing to a second child was 5.5 years. A 1997 evaluation found that the programme had reached 51% of girls who gave birth under the age of 16. School-age children of girls who had been through WCJF were all in school and, of the daughters who themselves had reached adolescence, none had become pregnant.

The Jamaica Education Code has been changed to allow pregnant and parenting adolescents to continue their education. The centre prepares final year girls for their school examinations and has been approved by the Ministry of Education as an examination centre. Girls say that WCJF taught them to value themselves and their babies. One said: "The Women's Centre really changed my life. (It) taught me to think 'You are a woman. You have a child. You have a goal.'"

"The programme helps the adolescent to delay the second pregnancy. It provides day care nurseries where mothers can leave their children while they continue with school or occupational activities."

DR SHEILA CAMPBELL-FORRESTER,
WESTERN HEALTH AUTHORITY, JAMAICA

Sources: McNeil P. 1999. *Preventing second adolescent pregnancies by supporting young mothers*. Dr Sheila Forrester, Regional Director, Western Health Authority, Montego Bay, 2003. Personal interview. Family Health International 1996 Case Study of the Women's Centre of Jamaica Foundation. Mrs Beryl Weir, Executive Director, Women's Centre of Jamaica Foundation, 2004. Personal correspondence.

²⁶⁸ P McNeil, "Women's Centre, Jamaica: Preventing Second Adolescent Pregnancies by Supporting Young Mothers", Family Health International, 1999. www.fhi.org/en/Youth/YouthNet/Publications/FOCUS/Project_Highlights/womenscentrejamaica.htm

²⁶⁹ Ibid. See also www.jamaica-kidz.com/womenscentre/. The sidebar on this programme appeared in World Health Organisation/UNFPA, *Pregnant Adolescents: Delivering on Global Promises of Hope*, 2006, at page 26.

10. SOME SPECIFIC ISSUES TO CONSIDER

10.1 Abortion, “baby-dumping” and infanticide

Although we do not have information on the link between restrictive school policies on pregnancy and abortion in Namibia, studies in other African countries show that young girls may turn to abortion in order to stay in school – even where this is illegal.

A 2006 study in sub-Saharan Africa emphasised the connection between abortion and schoolgirls’ concerns about their ability to continue their education and abortion.

In most African countries, girls whose pregnancies are detected are required to leave school, at least temporarily. While in some countries rules have been liberalized to provide for the possibility of re-entry, the fraction of new mothers returning to school tends to be low. Thus, there is a high cost associated with becoming pregnant while in school. A pregnant schoolgirl typically must make one of two choices: either discontinue her education and go ahead with the pregnancy, or undergo an abortion that is usually illegal, and therefore potentially unsafe, in order to remain in school. Boys who get girls pregnant do not face these same risks and choices.²⁷⁰

Surveys in Kenya, Nigeria and Zambia have indicated that fear that a pregnancy would disrupt education was one of the main reasons young women cited for seeking abortions.²⁷¹ A 2002 study in Cameroon found that being in school increased a pregnant girl’s odds of seeking an abortion sevenfold, despite the fact that abortion is illegal. Another study of girls who had completed at least one year of Catholic secondary school in Cameroon found that almost 70% of those who reported having had abortions were still enrolled in school at the time of the pregnancy.²⁷² Similarly, in South Africa, one study found that many young women who had been pregnant as teenagers had contemplated or attempted abortion.²⁷³

²⁷⁰ CB Lloyd & BS Mensch, *Marriage and Childbirth as Factors in School Exit: An Analysis of DHS Data from sub-Saharan Africa*, Policy Research Division Working Paper No. 219, New York: Population Council, 2006 at page 3.

²⁷¹ *Id* at page 5.

²⁷² *Ibid.*

²⁷³ CE Kaufman, T de Wet & J Stadler, *Adolescent Pregnancy and Parenthood in South Africa*, 32 (2) *Studies in Family Planning* 147-160 (June 2001).

Pregnancy and motherhood in teenage girls are also common motives for discrimination in education; worse, when pregnancy is a disciplinary offence teenagers risk expulsion from school and are forced to consider abortion if they wish to continue their studies.

Girls' right to education: Report submitted by the
Special Rapporteur on the right to education, **Mr. V. Muñoz Villalobos**,
UN Economic and Social Council, E/CN.4/2006/45, 8 February 2006, at paragraph 76

Anecdotal evidence indicates that there may be a link between educational policies and abortion in Namibia as well. Consider the following comments from students for the Ombetja Yehinga Organisation youth magazine in 2004:

My friend was 18 years old. She fell pregnant in 2000, I did not know at the beginning, but eventually I found out. I was afraid of asking her. One day, I found her crying. I could not ask her why she was crying. She wrote her story on a piece of paper and gave it to me. She wrote everything: how she became pregnant and who the father was. She wanted my advice on how to abort... She told me she was already six months pregnant. I told her abortion was too dangerous. I told her not to abort. She was stressed about school. We were in Grade 10, and you know how important the Grade 10 exams are. I told her she could still sit for the exams, since they were coming soon, and go back to her family afterwards to give birth. Now, she is staying with her parents and her two year-old daughter. I am so proud she followed my advice...

learner at Mureti Senior Secondary School

Schoolgirls don't know what to do if the principal says they must leave school once they are pregnant. That is why they go for abortions. They want to go on with their schooling.

learner at Omatjete Primary School

Because I want to go back to school and don't want to ruin my future or lose my education, or get another disease performing a traditional abortion, I will go to the hospital and see a doctor. I cannot abort myself or ask my parents to do it: we do not have the skills and we have never done it before. I will go to the hospital to get an abortion. The doctor will have to help me so that afterwards I can go back to school.

learner at Alpha Combined School

Teenage pregnancy is bad because if you are at school you will have to drop out. It is not behaviour that shows respect to your parents. They might even beat you and say bad things about you. You don't need to be treated like that, and you may even think of abortion or suicide.

learner at Otjondeka Primary School

Many of the learners writing inputs for the magazine said that they would consider abortion if they became pregnant, while several reported that they had actually resorted to this option themselves. In discussing motivations for abortion, learners cited not only fears of having to leave school, but also shame, embarrassment, stigma, worries about not being able to support the child financially, not knowing how to look after a baby, and lack of emotional support from their parents or the baby's father.²⁷⁴

While no data exists on the number of Namibian school girls who have procured abortions in order to remain in school, the anecdotal evidence indicates that some have certainly done so. Abortion in Namibia is illegal except in very narrowly defined circumstances and the possibility of girls in such situations resorting to backstreet abortions with dire health consequences or even fatalities is very real.

Restrictive school policies may also lead to baby-dumping or infanticide, although there are as yet no studies which document the extent of this connection.²⁷⁵

Thus, assertions that a long enforced leave of absence for learner parents is in the interests of the newborn child are mistaken, as extremely restrictive policies may simply mean that there will be no newborn child to care for.

10.2 The difficulty of being gender-neutral

Simply applying the same rules on pregnancy to schoolgirls and schoolboys is not very effective, as practice shows in Namibia and other countries. For one thing, the schoolgirl's pregnancy will eventually become obvious while the father's involvement will not usually be evident. Another issue is that the father is more likely to be an older man who is out of school than a fellow learner.²⁷⁶

Girls are often reluctant to identify the father, whether he is a fellow learner or someone outside the school. For example, one study in the Rundu region found that "most girls who fall pregnant try to protect the identity of the fathers of their babies, especially if these are learners or teachers, because they too would have to leave the school."²⁷⁷ In a 2004 study in Oshana Region, some people interviewed said that teenage girls are sometimes

²⁷⁴ *OYO Young Latest and Cool*, Vol 3 No 1: Teenage pregnancy, unwanted pregnancy and abortion, 2004.

²⁷⁵ D Hubbard, "Baby-dumping and Infanticide", Legal Assistance Centre, Monograph No. 1, 2008 at page 9.

²⁷⁶ See, for example, *UNICEF KAPB Study 2006: Key Findings* at page 9.

²⁷⁷ S Felton & C Haihambo-Muetudhana, *Girls Education in Rundu Educational Region: A report on a field assessment*, Windhoek: Ministry of Basic Education/UNICEF, 2002 at page 20.

impregnated by professionals such as teachers or police officers, and paid not to reveal the father's identity.²⁷⁸

An assessment of this problem in Botswana noted several reasons for reluctance to name fathers:

Although Botswana has strict child support laws and maintenance payments are deducted from the father's wages, Kesenye said most girls refuse to identify the father. Similar reactions are reported by the Young Christian Women's Association, which helps teenage mothers return to school by providing transport and day care. "Very rarely do young women tell us who is the father," said Loatile Seboni, YWCA national executive director.

Poor girls and their parents don't dare challenge older, wealthier men. Some are unfamiliar with the law and the legal system; some fear an adultery law that allows a spouse to sue the lover of his or her unfaithful spouse.....

Virginia Moribi fell pregnant the first time she had sex at 19 and quit high school, as was then the rule. She did not take the father of her child to court, as she feared he would use muti (witchcraft) to harm the baby.

This reticence to name the father has allowed men to avoid responsibility. "Patterns of braggadocio, denial and abandonment emerge as typical male responses to unintended pregnancy and childbearing," noted the Ministry of Health's Adolescent Sexual and Reproductive Health Implementation Strategy 2003.²⁷⁹

The point is that simply stating that the same rules will be applicable to pregnant learners and the boys responsible for those pregnancies is not a sufficient method to achieve gender equality on this topic. Even if the fathers are schoolboys, there will not be symmetry in the consequences of the pregnancy for both social and biological reasons. In order to achieve gender equality with respect to learner pregnancies, the only option is to provide support to the female learner so as to minimise the negative consequences of the pregnancy.

²⁷⁸ T Shapumba et al, *Socio-Cultural Research on Adolescent and Youth Sexual and Reproductive Health: Oshana Region*, UNAM/UNFPA, 2004 at page 73.

²⁷⁹ "Botswana: Baby steps in bringing down teen pregnancy", 11 November 2005, www.iolhivaid.co.za/index.php?fSectionId=1838&fArticleId=2991141

11. PROPOSALS FOR REVISING NAMIBIA'S POLICY

11.1 Key principles

Right to education

Both Namibian law and international law require that the policy on learner pregnancy must allow the pregnant learner to continue her education. The right to education has been interpreted at the international level as including the right of a learner not to be discriminated against or “disciplined” because of pregnancy, and the United Nations Commission on Human Rights has called upon all UN members to eliminate obstacles which limit access to education by pregnant girls.

Support rather than punishment

While teenage pregnancy should be discouraged, a punitive policy on pregnancy in schools is not appropriate. One argument against a punitive policy is the fact that sexual activity by young girls in Namibia is very often not a matter of free choice on their part. In some cases young girls become pregnant due to a lack of education from both parents and schools. To punish children for a failure in the system is not fair. Even where the sexual activity which led to the pregnancy was fully understood and consensual, this does not justify punishment in the form of exclusion from school. Applying a policy which could have the result of discouraging the young mother from continuing her education is likely to disadvantage the innocent new baby as well, instead of allowing increased educational attainment by the young mother to raise the chances that the new baby will grow up well-equipped to make better choices. Furthermore, where a punitive policy is in place, this may even be a factor in depriving the unborn child of a chance at life, if it operates to encourage abortion, baby-dumping or infanticide.

Some believe that a policy on learner pregnancy must be punitive in nature to discourage risky behaviour. However, it is just as likely that learners who witness firsthand the difficulties faced by pregnant learners and young mothers who are trying to complete their education will be inspired not to make the same mistake. No matter how supportive a learner pregnancy policy is, it cannot remove the difficulties and challenges of adolescent

parenthood. Indeed, the FAWENA study found that some young mothers vowed to actively discourage other girls from taking this route when they returned to school.²⁸⁰

Deterrence through an emphasis on prevention

The current policy lacks any emphasis on prevention. It is possible to deter pregnancy and risky sexual behaviour without resorting to punishing those who have already made mistakes. Positive approaches to deterrence are likely to be much more effective in any event.

11.2 Points of concern in current policy

The following points and gaps in the current policy are particular points of concern:

(1) Prevention

While prevention of teenage pregnancy is a large task which requires multi-sectoral involvement, the policy on learner pregnancy should include steps which schools can take towards prevention. Both girls and boys need to be targeted with such initiatives.

(2) School attendance tied to visibility of pregnancy: “That a pregnant girl should be allowed to attend regular classes at least until her pregnancy is visibly clear”

This clause is vague and stands to be abused or misinterpreted as it leaves it to the discretion of the school authorities to decide when to send a girl home.

The visibility of a pregnancy differs from woman to woman due to genetic and hormonal differences. In a scenario where one girl is likely to be visibly pregnant at three months while another is not visibly pregnant at six months, the former is likely to be suspended while the other girl continues to attend class. Furthermore, even the design of the uniform at different schools could affect the application of this policy, as some uniform styles could reveal pregnancy sooner than others.

The clause also raises the question of why the visibility of the pregnancy is used as a benchmark at all. There is no suggestion in the policy that the reason for the suspension should be kept secret, so this point is clearly not included to protect the

²⁸⁰ One girl in the Otjozondjupa Region said that she became involved in debating societies upon her return to school, where she encouraged others not to become pregnant, while a girl in Rundu said that she warns her fellow learners to finish school before having to take on the life-long responsibility of parenting. V Tjombonde, *Promoting Girls' Education through Re-entry Policy for Adolescent Mothers: A Case Study to provide an in-depth review of the implementation of the Teenage Pregnancy Policy in Namibian schools*, Windhoek: FAWENA, 2002 at pages 21-22.

privacy of the pregnant student. It has been suggested that a girl who is visibly pregnant and is allowed to remain in school is likely to be a bad influence on other learners, who might be encouraged to experiment with sex. There is no concrete evidence for such an impact. On the contrary, as discussed above, the presence of a visibly pregnant girl in a classroom is just as likely to inspire her peers to ensure that they do not find themselves in a similar situation. Some parents, upon hearing about one such pregnancy, may also take the opportunity to teach their children about sex education and the consequences of teenage pregnancy.

Pregnant learners should be allowed to continue with their classes until it becomes medically advisable for them to stop going to school. If there is an early suspension based on medical grounds, it would be ideal to have a medical report attached to the suspension letter, to provide factual support for the suspension.

- (3) **The one-year-out-of-school requirement: “That, as a temporary guideline, girls who fall pregnant should be allowed to return to normal schooling after spending at least a year with the baby”**

This time period is unnecessarily long and therefore punitive in nature. The duration of one year does not make sense given that *working* mothers are expected to return to their jobs after only *three months* of maternity leave. Yet a teenage mother in school is probably more likely than a working mother to be living in an extended family environment where others may be willing to assist with child care.

The argument by the Ministry of Education during the case of Utjua Karuaihe that this one-year leave requirement balances the right to education with the right of a child to know and be cared for by its parents is not a reasonable basis for the continued application of the clause and is based on a misunderstanding of the constitutional right. The constitutional rights of children have not been found to mitigate against three months of maternity leave for working mothers, and the application of the same right in the UN Convention on the Rights of the Child clearly involves broad concepts of “care” not necessarily based on physical presence.

Furthermore, according to local clinical psychologist Dr. Shaun Whittaker, while attachment between a caregiver and a child is important to the healthy development of the child, this attachment becomes more pronounced by the end of the child’s third year and continues over time. Attachment is also not limited to mother-child but can involve other people like a grandmother or father. Furthermore, child bonding is based on the quality of the time spent with the child rather than the quantity of time; as Dr Whittaker puts it, “A few minutes of quality time is worth

much more to a baby than, for example, being with a depressed and inexperienced young caretaker for the whole day".²⁸¹

The time lapse between the birth and re-admission to school should be flexible, based on the needs and wishes of the new mother and her baby, or in the case of the schoolboy father, upon his actual involvement in parenting. The norm for learners should be guided by the norm of three months of maternity leave for working mothers, which is designed to facilitate safe delivery as well as breast-feeding and bonding. This time period should be flexible, depending on the point in the school calendar at which the birth occurs, and the wishes and child care arrangements of the learner in question. The goal should be to allow re-admission of a young mother to school as soon as possible without compromising the health and well-being of the child, while allowing young mothers the *option* of taking leave from school for up to one year *if they wish*.

Because a teenage mother is likely to suffer low self-esteem as a result of the unexpected responsibility of motherhood and the social stigma attached to teenage pregnancy, she stands to lose interest in education during an enforced one-year absence. Teenage mothers need to be supported and assisted to do improve their life chances by completing their education. This can be accomplished by means of a more flexible re-admission policy. Pregnant learners should also be assisted to keep pace with their schoolwork by completing assignments at home insofar as possible during any period of absence.

As noted above, some girls might seek to abort the child rather than stay out of school for a year. Some girls may keep their pregnancy secret to avoid embarrassment and discrimination, with the result that they miss out on ante-natal care and thereby put themselves and their unborn child at risk. A policy which emphasises support rather than punishment would be the best way to avert such possibilities.

Another problem with the one-year waiting period is that financial hardship or parental pressure may induce the new mother to seek work during her one-year absence from school. Even an adolescent mother who is not obliged by financial necessity to work may still seek employment, to access an independent income or to provide a more stimulating social environment after having been abruptly sent from a diverse school environment surrounded by peers to a home life that is likely to be more restricted. A young parent who finds employment is unlikely to quit work to return to school at the end of the year. Furthermore, this eventuality defeats the current policy's stated purpose of encouraging the young mother to spend more

²⁸¹ *Big Issue*, June 2005.

time with her new baby, and illustrates that parent-child bonding is not an issue that can be forced by law or policy.²⁸²

(4) Consequences for schoolboy fathers: “That the same conditions should apply to the schoolboy who is held responsible for the pregnancy”

The policy on teenage pregnancy stipulates that the schoolboy who is responsible for the pregnancy must stay out of school for a year, just like the girl. As in the case of girls, this forced absence may work to discourage such boys from continuing with their schooling later on. The policy may also work to discourage girls from identifying the father publicly, which in turn may deprive them of the chance to obtain assistance with child care or financial support.

It may be assumed that the suspension will instil a sense of fatherly responsibility in the boy. But how this is to be achieved is undefined. It is unlikely that the boy will be assisting with the care of his baby during the one-year period of suspension, in the context of a society where few adult fathers play such a role. This requirement therefore appears to be simply punitive, as in the girl’s case.

The ideal situation would be to empower the young father to acquire an education so that he can eventually get a job and help support the child, and to encourage schoolboy fathers through counselling to accept the responsibilities of fatherhood.

We would suggest that a teenage father should, like the teenage mother, be allowed to return to school after a maximum absence of three months, with adjustments possible depending on the point in the school year at which the birth takes place. Like the young mother, the young father should be given support to keep up with his schoolwork during this period. He should also be encouraged to play an active role in caring for his child.

(5) Teachers responsible for schoolgirl pregnancies

It is suggested that the Policy on Learner Pregnancy should supplement the Code of Conduct for the Teaching Service by setting forth the specific consequences for a teacher who impregnates a learner. Such conduct on the part of a teacher should be severely punished. The current framework allows for a range of possible sanctions, ranging from mild to severe, without specifying any particular sanctions for

²⁸² “... young mothers need financial support to provide for their babies. Because the fathers of the children often do not contribute to the costs, many young mothers are solely responsible for providing for their babies. The need to provide for them may pressure drop-out schoolgirls to enter the labour market instead of going back to school. D Meekers & G Ahmed, *Pregnancy-Related School Dropouts in Botswana*, 71 *Population Studies*, Vol 53, No 2 (July 1999), pages 195-209.

particular forms of misconduct, thus leaving open the possibility that the teacher in question might be treated leniently. Greater clarity on this point should close the door to the possibility of teachers trying to duck responsibility for such behaviour by claiming that they were “seduced”, by emphasising that the teacher is the one who in the position of trust and responsibility.

(6) Pregnancies caused by rape or incest

In some cases, a learner may fall pregnant as a result of rape or another form of coerced sexual intercourse – such as sexual contact between a learner under the age of 16 with someone more than three years older. In such cases, the schoolgirl should be given counselling and all possible support, to ensure that she does not feel punished in any way for a crime committed against her. A girl in this situation should be informed about the option of laying a charge with the police, but supported regardless of whether or not she chooses to do this.

Namibia’s Abortion and Sterilization Act authorises abortions in cases of rape and incest, but given the low levels of public awareness of the Act and the bureaucracy involved in acquiring authorisation for the abortion from a magistrate, many girls are unlikely to procure a legal abortion. If the school learns of a pregnancy resulting from rape or incest while the pregnancy is still in its early stages, the girl in question should be informed of the option of obtaining a legal abortion and supported if she makes this choice. Of course, some girls may opt not to abort a pregnancy resulting from rape or incest, and this choice should be also respected and supported.

Information on adoption procedures should also be made available.

(7) The role of school authorities

The policy on teenage pregnancy needs to be communicated effectively to all stakeholders, and it needs to be implemented consistently at all schools. The steps for communicating and implementing the policy should be clearly spelled out. The role of schools in providing counselling and support for pregnant learners and learner parents also needs to be spelled out, with a specific duty to take steps to address the problems of stigma and discrimination by teachers and other learners.

(8) The role of parents

Parents should be encouraged to participate in preventative strategies against early sex and teenage pregnancy. In many cultures in Namibia, talking about sex is a taboo and through school structures parents can be encouraged to be more open with their children.

When a schoolgirl becomes pregnant, her parents or guardians should be invited to meet with the school guidance teacher for supportive counselling. In the course of this counselling, the school should encourage parents/guardians to support their child in continuing his or her education. It should also be explained to parents that it would be an offence not to allow the child to continue school if he or she is still subject to the legal requirements for compulsory schooling. Parents or guardians of older children should be encouraged to consider options such as NAMCOL or TUCSIN if the learner in question is not comfortable with the option of either returning to the previous school or transferring to a different school.

Parents should also be helped to understand the broader implications of the failure to encourage a child to complete his or her education, by awareness-raising on the many benefits of education. It should be explained that completion of education by a young parent is likely to minimise his or her dependency on the parents for support in the future.

(9) Monitoring implementation of the policy

The policy needs to include some monitoring mechanism to ensure that it is being implemented consistently at all schools throughout the country. It should be mandatory for all schools to provide data on the number of learner pregnancies per year, the steps taken in respect of the learners involved and whether or not the learner parents returned to the same school or transferred to another school. If a learner parent has not returned to the same or a different school, there should be efforts at tracing and follow-up. This data should be compiled and made available by the Ministry of Education to relevant stakeholders and members of the public on an annual basis, as an indicator of whether or not efforts to prevent and manage learner pregnancy are being implemented effectively.

(10) Incorporation into the Education Act

The policy on teenage pregnancy should ultimately be incorporated into Namibia's Education Act to give it the legal weight that it deserves. In the case of Utjua Karuaihe, it was argued that the decision by her school to suspend her was illegal as it was based on a policy that was not founded on any law. Furthermore, any policy that is not properly based in law may be taken less seriously when it comes to implementation. The revised policy could be added to the regulations promulgated under the Education Act, in the same way as the Code of Conduct for the Teaching Service and the General Rules of Conduct for Learners at State Schools.

12. CONCLUSION

Teenage pregnancy in Namibia is high on the list of impediments to the attainment of education, especially for girls. While the current policy has played a positive role in facilitating the readmission of girls who become pregnant, there is still room for improvement. The current policy should be further revised to make it fully consistent with the right to education, and to further enhance gender equality in Namibia.

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