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QUESTION 1:

GROUNDS FOR LAWFUL TERMINATION OF PREGNANCY

Abortion is an intentional expulsion of the product of conception any moment from conception up until the birth of the child. In Nigeria, there are strict provisions against termination of a pregnancy by the woman or any other person. The provision against abortion is generally found in the Criminal Code Act (sections 228-230) and in the Penal code Act (section232). The law state that where a person intends to procure miscarriage of a woman by poison, noxious thing or with force of any kind, the person is guilty of a felony and is liable to imprisonment to 14 years; however where the woman herself causes or attempts to cause the miscarriage by any of the ways stated above, she is guilt of a felony and is liable to imprisonment for 7 years . The penal code is in *pari materia* with the criminal code to the extent that both the woman and the person who intends to procure the miscarriage are both liable to imprisonment for 14 years.

No general rule is immune from exception. There are certain situations where termination of a pregnancy would be considered lawful in Nigeria. They include;

* The criminal code provides in section 297 for an exception to illegality of abortion in Nigeria. The section provides that a person is not criminally responsible for performing in good faith and with reasonable care a surgical operation on an unborn child for the purposes of preserving the mother’s life….” This provision explains that therapeutic abortion is therefore an exception to the illegality of abortion in Nigeria.
* It shall also be lawful and legal when a pregnancy is terminated by a registered practitioner if two registered practitioners are of the opinion formed in good faith that
1. The continuance of the pregnancy would put the life of the pregnant woman at risk or would injure the mental, physical health of the pregnant woman
2. That the child would suffer substantial risk such as mental or physical abnormalities such as being seriously handicapped when born.
* Where the pregnancy is as a result of rape or incest.

Making reference to the case of Charity, the reason for her intention to terminate her pregnancy does not fall within the exception provided by law and as such, if she decides to terminate the pregnancy herself or with the help of someone else, they would be guilt of a felony and would be liable to 7 years and 14 years imprisonment respectively by virtue of sections 228&229 of the Criminal code and section 232 of the penal code.

QUESTION 2

DOES THE POTENTIAL FATHER HAVE ANY LEGAL RIGHT IN THIS DECISION

Every patient has a right to autonomy which is the right to think, act and decide without external influences. Procreative autonomy is the woman’s right to terminate pregnancy. It is basically the right to decide to have or not to have children, as well as when and how to have them. A woman’s procreative autonomy basically entails the right to make autonomous decisions about her body and reproductive functions, including her right to terminate or continue a pregnancy.

Respecting a woman’s procreative autonomy would mean that the woman has the right to decide what to do with her pregnancy without any interference. However, due to the fact that she is a married woman and by virtue of that her and her husband are one, he has a legal right to have a say in what happens to the baby. The potential father, which according to the scenario is Charity’s husband has a right to partake in the decision.