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QUESTION

1. Termination of pregnancy

A 30-year-old lawyer, Charity, is happily married and has good income. She has just discovered that she is pregnant. She does want children at some point but has also just been nominated for promotion at work. She knows she would not get the promotion if she told her boss she was pregnant.

She decides that, at this time in her life the promotion is more important than her having a baby. She consults her general practitioner (GP) a few weeks later, having finally decided that she would like to have an abortion. She asks the GP about whether she has a right to an abortion.

The question now is:

- a. What are the grounds for a lawful termination of pregnancy?
- b. Does the potential father have any legal rights in this decision?

ANSWER

(1a.) The legal issue here pertains to whether Charity can carry out a lawful abortion based on the circumstances of her case.

Abortion is the expulsion of an immature product of conception (embryo or foetus) from uterus of a woman. In Nigeria it is criminalised under **sections 228, 229 and 230 of the Criminal Code**, making abortion illegal.

But like most principles in law there are exceptions, meaning that there are certain circumstances where the act of abortion is permitted. Such circumstances include:

- a. where the continued pregnancy would endanger the mother's life (**section 297 of the Criminal Code**) – this means that the continuation of the pregnancy would carry a greater risk on the mother than if the pregnancy was terminated;
- b. where the child would be born seriously handicapped – a situation where the child would suffer physical or mental abnormalities if the child were to be born would be an exception to the laws against abortion;
- c. where the pregnancy is a result of rape – if rape was what resulted in the pregnancy then the woman would be allowed to abort it;
- d. when the pregnancy is terminated by a registered legal medical practitioner.

The pregnancy should however not have exceeded its twentieth (20th) week before the abortion takes place as this can complicate the procedure, thereby endangering the mother's life. Also the twenty-week period also serves as a mark that the foetus has reached a stage where most of its tissue and some organs are developed.

These are some of the grounds which abortion would be acceptable.

(1b.) To answer the question on whether a potential father has a right to a woman's decision to abort we have to first examine if there are laws on this.

There is no law explicitly stating the rights of a potential father when it comes to the issue of abortion. This situation does not just exist in Nigeria alone, in many other jurisdictions such as the USA, abortion rights do not extend to the father but the mother alone.

Most cases pertaining to abortion between two parent parties involve the potential father seeking for the woman to abort the pregnancy while the mother seeks to keep the baby. This

is most likely the reason men do not have a right or say over a woman's autonomy to abort or keep a child.

In summary, Miss Charity will not be permitted by law to go ahead with the abortion as her situation does not fall into any of the exceptions given under the law (which have been listed above) and thus the abortion, if done will be an unlawful one.

In the case where she could for some reason fall under one of the exceptions, say the continuation of her pregnancy was proved to cause damage to her mental and physical health then the pregnancy should not have surpassed its twentieth week and should be done by a registered medical practitioner.

The potential father however is not given a provision under law where he would have a right to make his wife keep the child where she does not want to.