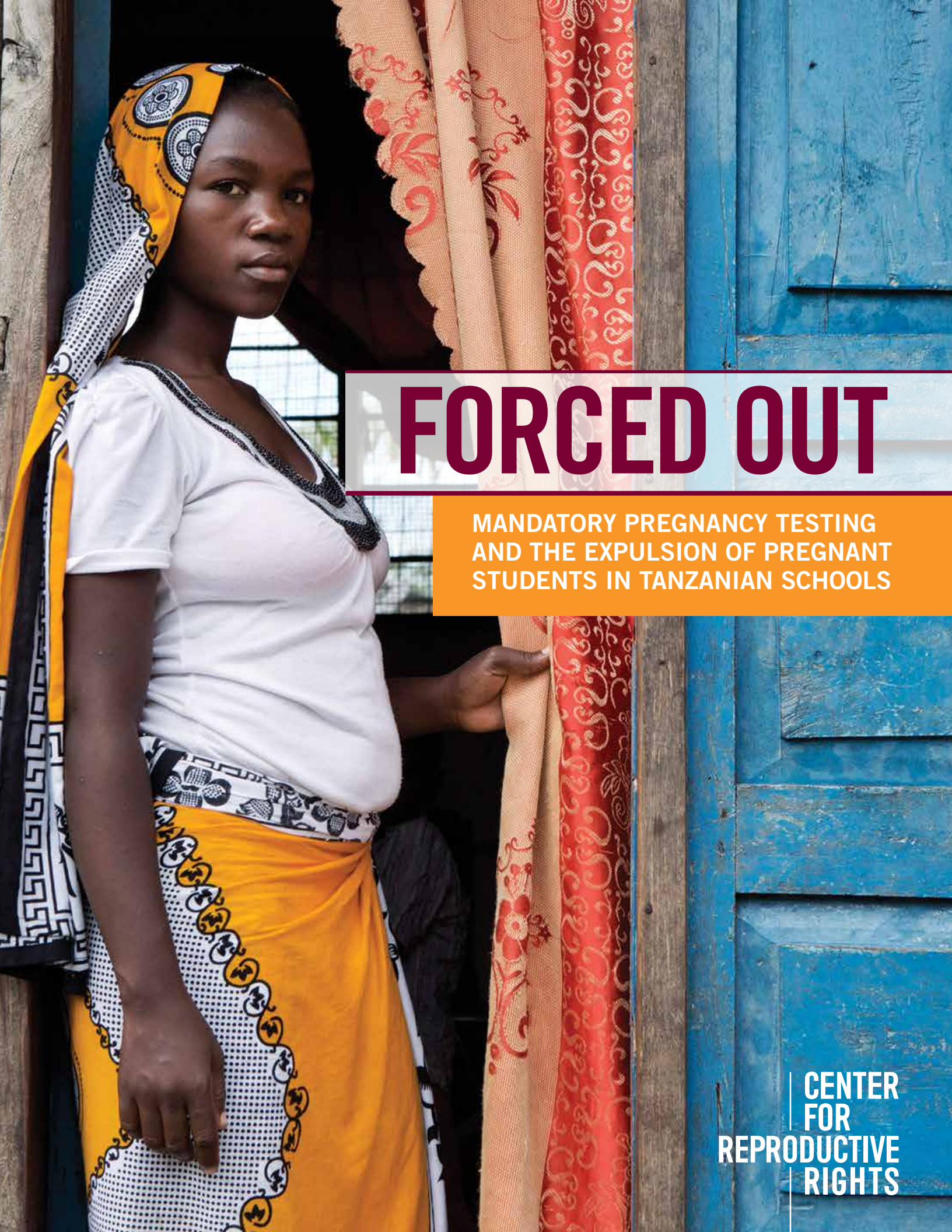

FORCED OUT

MANDATORY PREGNANCY TESTING AND THE EXPULSION OF PREGNANT STUDENTS IN TANZANIAN SCHOOLS

CENTER FOR REPRODUCTIVE RIGHTS

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FOREWORD

Since the 1990 World Declaration on Education for All, both education and gender equality have been recognized as fundamental requirements for development. Yet, over 20 years later, Tanzania has made slow and uneven progress towards the goals set for 2015 in the Dakar Framework for Action. Tanzanian adolescent girls and women do not have the same educational opportunities and life chances as their male counterparts.

Despite considerable progress towards gender parity in universal primary education in Tanzania in recent years, gender gaps in primary and secondary schools remain high. Enrolment and performance rates in primary school are lower for adolescent girls than boys. Adolescent girls are also not transitioning to secondary school at the same rates, nor are they remaining enrolled, graduating, or performing in secondary school at the same rates and levels as adolescent boys.

As this report's findings show, a key reason for this gender disparity are school practices that discriminate against adolescent girls, such as pregnancy testing in schools and the expulsion of pregnant students. FAWE Tanzania, as an organization focused on girls' empowerment and education, has long advocated for pregnant students' access to education. In our work, we have seen firsthand the powerful impact that education can have on adolescent girls' lives and witnessed the devastating effects of their being denied that opportunity because of pregnancy.

The findings of this report provide concrete and compelling evidence of the harms involved in discriminating against pregnant students. They show how disempowering such discrimination can be for all adolescent girls—not just those who fall pregnant while in school. FAWE welcomes these findings and believes that all stakeholders working for gender equality in education will benefit from the information contained in this report.

FAWE Tanzania strongly believes that empowering girls and women through education brings immense benefits not only at the individual level but at community and country levels, too. Through the education of women and girls, livelihoods are improved for entire communities and civic education and liberties are enhanced. Educated girls become educated women with the knowledge, skills, and opportunities to play a role in governance and democratic processes and to influence the direction of their societies.

Preventing pregnant adolescents from continuing with their education has a significant impact on the personal lives of these adolescent girls and their families. Moreover, the early end to their education is also a serious economic, social, and political loss for our country. Ensuring that pregnant adolescents remain in school would therefore not only be of enormous importance to adolescents and their families but would also allow us to realize our full potential as a nation.

We hope that this report will serve as a call to action to the Tanzanian government and key stakeholders. If we are to realize the dream of education for all, we must ensure that all adolescent girls are able to access education and are educated in a gender-sensitive school environment, without discrimination of any kind.

Neema Kitundu
National Coordinator, FAWE Tanzania

ACKNOWLEDGMENTS

We are immensely grateful to the adolescent girls and young women who shared their experiences with us. Without their strength and candour, this report would not have been possible.

Alisha Bjerregaard, legal adviser for Africa at the Center for Reproductive Rights (the Center), conducted extensive research for the report and is the report's author. The interviews used in this report were conducted by Ms. Bjerregaard from the Center; and by **Erin Evers**, **Sharanya Kanikkannan**, and **Rupali Sharma**, student members of the Allard K. Lowenstein International Human Rights Clinic at Yale Law School, under the supervision of **Allyson McKinney**, Cover-Lowenstein International Human Rights Fellow, and **James Silk**, clinical professor of law. Ms. Bjerregaard and **Elisa Slattery**, former regional director for Africa at the Center, conceptualized the report.

Forced Out benefited from the invaluable insights of **Laura Katzive**, program officer at Wellspring Advisors, who reviewed the draft and provided critical feedback. We are also grateful to **Asina A. Omari**, assistant lecturer in law at the University of Dar es Salaam, and **Fulgence T. Massawe**, head of the legal aid unit at the Legal and Human Rights Centre, for their review of and helpful input on the legal and policy analysis in Section Two of this report. **Neema Kitundu**, National Coordinator, and **Sophia Komba**, programme officer, of FAWE Tanzania reviewed and provided invaluable comments on the report's recommendations.

At the Center, several people contributed to the realization of this report. **Lilian Sepúlveda**, global legal program director; **Evelyne Opondo**, regional director for Africa; **Melissa Upreti**, regional director for Asia; **Johanna Fine**, legal adviser and manager for projects and operations; and **Onyema Afulukwe**, legal adviser for Africa, reviewed and provided editorial comments on the draft report. **Selome Argaw**, legal consultant for Africa, and **Drew Aiken**, legal fellow for Africa, provided invaluable research and fact-checking support. **Meghan Clark-Kevan**, legal assistant for the Europe and Africa programs, fact- and cite-checked the report and provided vital support in finalizing the report for publication. **Carveth Martin**, senior creative and designer, designed the cover and provided art direction and assistance with design; **Pascale Kahwagi** from Alarm Sarl designed the layout. **Sarah Elliott**, freelance photographer, took many of the featured photographs. **Morgan Stoffregen** copyedited the report.

Special thanks are also due to the many people and organizations from Tanzania who kindly helped us arrange the interviews and, in some cases, generously shared their knowledge with us. We are particularly grateful to the following individuals: **Josephine Mwankusye**, executive director, and **Zelda Mongi**, trainer on sexual and reproductive health and vocational skills, at Chama Cha Uzazi na Malezi Bora Tanzania; **Neema Kitundu**, coordinator, and **Sophia Komba**, programme officer, at FAWE Tanzania; **Winifrida Rutaindurwa**, gender focal point at the Ministry of Education and Vocational Training; and **Fausta Musokwa**, policy analyst for human rights and good governance at HakiElimu. While there are far too many to name here, we are very much indebted to the teachers, school officials, health care providers, government officials, lawyers, and human rights advocates who generously shared their time, knowledge, and experiences with us.

GLOSSARY

Adolescents: The World Health Organization defines adolescents as people between the ages of 10 and 19.

Coercive pregnancy testing: Pregnancy testing occurring in a context in which consent is not voluntarily or freely given because it is required as a precondition for admission to school.

Exclusion: Mainland Tanzanian regulations define exclusion as the refusal of admission or readmission of pupils to school.

Expulsion: Mainland Tanzanian regulations define expulsion as the permanent removal of a pupil from school.

Forced or preemptive dropout: The act by which a pregnant student drops out of school because she (or her family) recognizes, or a school official makes clear, that expulsion from school on the basis of pregnancy is inevitable. This term may also refer to a situation where a pregnant student is forced to drop out by her family to enter into an early marriage.

Harmful, or discriminatory, gender stereotypes: Beliefs about the attributes, characteristics or roles of men and women that are based on the idea of the inferiority or superiority of either of the sexes and which may manifest themselves in discriminatory laws, regulations, customs, and practices.

Mainland Tanzania: The United Republic of Tanzania is a unitary republic comprising mainland Tanzania and Zanzibar. There are two central governments, the Union Government and the Zanzibar Revolutionary Government, each with their own executive, judiciary, and legislature. Consequently, mainland Tanzania and Zanzibar have distinct laws and policies. This report focuses on the laws, regulations, policies, and practices specific to mainland Tanzania.

Mandatory, or forced, pregnancy testing: Pregnancy testing carried out in a custodial context, in which the student is under the school's control and supervision, the student's consent is neither obtained nor sought, and the student has no meaningful opportunity to decline. In this regard, adolescent girls are effectively powerless to contest the practice.

Primary school (Standards 1–7): Mainland Tanzania's primary school system consists of seven years of education, from Standard 1 through Standard 7. Students enrol in primary school at around seven years of age. Primary school is "a right for all children in Tanzania and so is fee-free and compulsory." The government is the largest provider of primary education in Tanzania, accounting for 97% of enrolment in 2012.[1]

Secondary school (Forms 1–6): Mainland Tanzania's secondary school system consists of two sequential cycles. The first cycle is a four-year Ordinary Level (O-Level) secondary education, while the second cycle is a two-year programme of Advanced Level (A-Level) secondary education. The O-Level cycle begins around age 14 with Form 1 and continues through Form 4; A-Level comprises Forms 5 and 6.[2] Unlike primary school, secondary school is not compulsory. The government is the largest provider of secondary education, accounting for 77% of all secondary schools[3] and 85% of student enrolment in Forms 1–6 in 2012.[4]

EXECUTIVE SUMMARY

Every year, thousands of adolescent girls in mainland Tanzania undergo the humiliating practice of forced pregnancy testing in school, sometimes as often as once per month. Adolescent girls found to be pregnant are immediately expelled. Over 55,000 female students have been forced out of mainland Tanzanian schools in the past decade, solely because they are pregnant.

School and government officials frame these practices as efforts to prevent adolescent pregnancy. However, rather than provide adolescents with the tools to make informed decisions around sex and reproduction, forced pregnancy testing and pregnancy-related expulsion seek to regulate and control adolescent girls' sexuality. In this sense, these practices are analogous to other harmful practices to which Tanzanian adolescent girls are routinely subjected, including forced, early marriage and female genital cutting.

Government and private primary and secondary school administrators throughout mainland Tanzania believe that these practices are required by law or policy. However, national laws and policies do not mandate either practice. In fact, quite the opposite is true—mainland Tanzania's legal and policy framework offers strong protections against discrimination on the basis of sex, which by definition includes pregnancy-related discrimination. Yet, the mainland Tanzanian government has done little to dispel this widespread belief among primary and secondary schools and instead appears to condone both practices. Government efforts to address pregnant adolescents' access to education have, to date, been piecemeal and incremental.

This report documents the numerous rights violations stemming from these practices and the impact of these practices on adolescent girls. Although this report focuses on mainland Tanzania, the practices of mandatory pregnancy testing and the expulsion of pregnant adolescents from school are not unique to mainland Tanzania. Until recently, Zanzibar likewise expelled pregnant students from primary and secondary schools; however, in 2006 the government promulgated a new education policy allowing for pregnant students' continued education.[5] In addition, similar practices have been documented in educational institutions throughout the continent, including in Ghana,[6] Kenya,[7] Nigeria, Sierra Leone, Uganda and Zimbabwe.[8] Adolescent girls in many of these countries thus have experienced, and continue to experience, rights violations comparable to those detailed in this report.

Mandatory pregnancy testing in schools and the expulsion of pregnant students from primary and secondary school are not new practices in mainland Tanzania. Research and interviews indicate that they have been in place for over 50 years and that they began prior to independence. Although much research and advocacy has been done around the expulsion of pregnant students in mainland Tanzania, the related issue of mandatory pregnancy testing has not received the same attention. This report offers the first comprehensive look at both of these practices from a human rights perspective, placing them in a broader framework of adolescents' sexual and reproductive rights.

The findings of this report are particularly relevant at a time when the mainland Tanzanian government is in the midst of finalizing a new education policy, with accompanying implementation guidelines from the Ministry of Education and Vocational Training, that would enable adolescent girls' return to school following pregnancy. After years of advocacy by Tanzanian organizations and statements from human rights bodies repeatedly calling on Tanzania to prohibit discrimination against pregnant students, the government appears poised to set forth a clear framework that would facilitate pregnant students' continued education.

These measures are a critical step in the right direction. However, some of the provisions in the draft implementation guidelines reflect a continuing punitive and coercive approach to adolescent pregnancy in schools, as opposed to one based on human rights. For example, the guidelines state that a female student would have only one readmission opportunity following pregnancy, implying that a second pregnancy, regardless of the circumstances, would result in expulsion. The guidelines would further require schools to conduct periodic pregnancy tests on female students. They would also mandate that a pregnant student disclose the male responsible for her pregnancy.

In addition, the guidelines would require the suspension of a pregnant student. During this forced leave, the student would be required to breastfeed her newborn child for at least six months. She would then be granted a specific window, between six to twelve months after giving birth, in which to return to school. A student's return would be conditioned on her first obtaining a medical doctor's approval. A male student who "impregnates" a female student would also be suspended and would be readmitted together with the suspended female. The guidelines do not provide guidance to schools regarding the continued education of adolescent girls who miscarry or who choose to procure an abortion or have their child adopted.

These provisions are punitive, coercive and reflect harmful gender stereotypes. This report documents how mandatory pregnancy testing in schools violates adolescent girls' fundamental human rights. It further highlights the rights violations associated with efforts to force pregnant adolescents to disclose the names of the individuals who impregnated them. Lastly, and most importantly, the findings of this report make clear that adolescents have the same fundamental human rights as adults and should not be subjected to coercive practices concerning their sexuality or reproduction.

A policy framework consistent with respect for human rights requires a flexible, individualized approach to the continuation of a pregnant student's schooling. This is in contrast to a "reentry policy" approach, taken by the proposed guidelines, which typically provides for the forced removal of the pregnant student from school, at a time determined by the school, and her conditional return to school following pregnancy. A continuation policy instead requires that a pregnant student's withdrawal from school, whether temporary or permanent, and her return to school after pregnancy be based on a voluntary, noncoerced decision made by the pregnant student based on her particular circumstances. This option of a voluntary, nondisciplinary, and individualized leave from school should apply equally to a male student who becomes a parent while in school.

A rights-based approach recognizes that education is a fundamental right and that pregnant students must therefore be accommodated and treated with dignity. They are entitled to the same educational opportunities as other students. Arbitrarily limiting this right to exclude students who become pregnant a second time while in school is inconsistent with this framework. Singling pregnant students out for discriminatory or punitive treatment is in violation of their constitutional and statutory rights, as well as their rights under international human rights law. Adolescent girls' right to education must be respected, protected, and fulfilled, along with their rights to dignity, privacy, health, information, life, liberty, nondiscrimination, and freedom from cruel, inhuman, or degrading treatment.

Background to This Report

The information in this report is based on research and interviews conducted by the Center for Reproductive Rights between January 2011 and June 2013, and by interviews conducted by students from Yale Law School's Allard K. Lowenstein International Human Rights Clinic in January 2011. The Center conducted fourteen in-depth interviews with adolescent girls and young women who had been forced out of primary or secondary school for pregnancy or had undergone coercive or mandatory pregnancy testing in school, or both. In addition, more than 26 interviews were conducted with key stakeholders—including teachers, headmasters, government officials, health care providers, and rights advocates—in the areas of education, children's rights, and health.

The Center also reviewed laws, regulations, policies, guidelines, and circulars pertaining to education, school health, and adolescent health. School-level joining forms for primary and secondary schools were reviewed as well. Finally, the Center collected and reviewed statistics and studies on education and adolescents in Tanzania.

Report Findings

Key Finding: There Is No Legal Mandate for These Practices

Interviews conducted for this report reveal that there is a widespread belief among teachers, school administrators, and education officials in mainland Tanzania that pregnancy testing in schools and the expulsion and exclusion of pregnant students are required or authorized under the law. However, our research reveals that neither practice appears to be mandated by any law, regulation, or policy. In fact, Tanzanian laws and policies promote and protect adolescent girls' rights to education, health, nondiscrimination, and privacy—rights that both these practices clearly violate.

Key Finding: These Practices Are Part of a Larger Pattern of Controlling Adolescent Sexuality

In addition to the perceived legal imperative to implement these practices, school and local government officials mandate pregnancy testing and expel pregnant students with the aim of controlling adolescent girls' sexuality and ensuring conformity with social norms. These norms dictate that unmarried adolescent girls should not be having sex.

Regular mandatory pregnancy testing in school makes female students aware that they are being constantly monitored by school officials. It instils a fear of premarital sex and pregnancy by stigmatizing these events and periodically reminding adolescent girls of their serious repercussions. Forced pregnancy testing also seeks to prevent pregnant students from hiding their pregnancy status and thereby terminating their pregnancies undetected—an act that also contravenes social norms. Pregnant students are thus forced to carry their pregnancies to term.

Expulsion, in turn, is both punitive and a form of social control. In addition to punishing students for premarital sex and consequent pregnancy, it is a strategy to remove pregnant students from the school environment in order to ensure that they do not "spoil" other female students and cause them to similarly engage in socially proscribed sexual activity. Further, expulsion forces adolescent girls into an exclusive motherhood role, at the expense of educational goals, as part of a broader set of harmful gender stereotypes concerning the social roles and capacities of adolescent girls and women. In this way, forced testing and pregnancy-related expulsion are analogous to other harmful practices that seek to control adolescent girls' sexuality, including early, forced marriage and female genital cutting.

Key Finding: These Practices Obscure a Broader Failure to Protect Adolescent Girls' Rights

These disciplinary practices are understood by many government officials, school officials, health care providers, and communities as an effort to prevent adolescent pregnancy; however, punitive measures serve only to obscure and ignore the underlying realities that cause adolescent girls to become pregnant in the first place. Rather than reduce adolescent pregnancy, forced pregnancy testing and expulsion for pregnancy serve only to disempower adolescent girls and unjustly deny their access to education.

Over 44% of adolescent girls in mainland Tanzania have either given birth or are pregnant by the time they turn 19. Many of these pregnancies are unplanned or unwanted. They occur because adolescents have limited access to information that would allow them to prevent and plan for pregnancy and to make informed decisions around sexuality and reproduction.

Across the board, schools—lacking guidance and leadership from the Ministry of Education—fail to provide their students with comprehensive sexuality education. Many students report that they do not have the information they need to prevent pregnancy. Adolescent girls also experience overt discrimination and denial of services from health care providers, on the basis of their age and marital status, when they attempt to seek sexual and reproductive health services and information from health care facilities.

This lack of access to information and services occurs against a backdrop of unwanted sexual experiences for many adolescents. Rates of sexual violence against adolescent girls are high, including in schools and by teachers. Poverty forces girls into coerced and unwanted sexual relationships in order to meet basic needs and the cost of education. Finally, the early and forced marriage of girls, sometimes as young as age 12, inevitably leads to early pregnancy.

The realities underlying unwanted and unplanned adolescent pregnancies in mainland Tanzania demonstrate that the issues documented in this report are about far more than pregnancy-based discrimination in schools and the denial of pregnant adolescents' right to education. They reflect a broader failure to protect adolescents' human rights in general, including their rights to health, information, freedom from violence, and freedom to marry at a time of their choosing. Punishing pregnancy, or the capacity to become pregnant, deliberately fails to recognize the myriad human rights violations that lead to unwanted pregnancies among adolescents in mainland Tanzania.

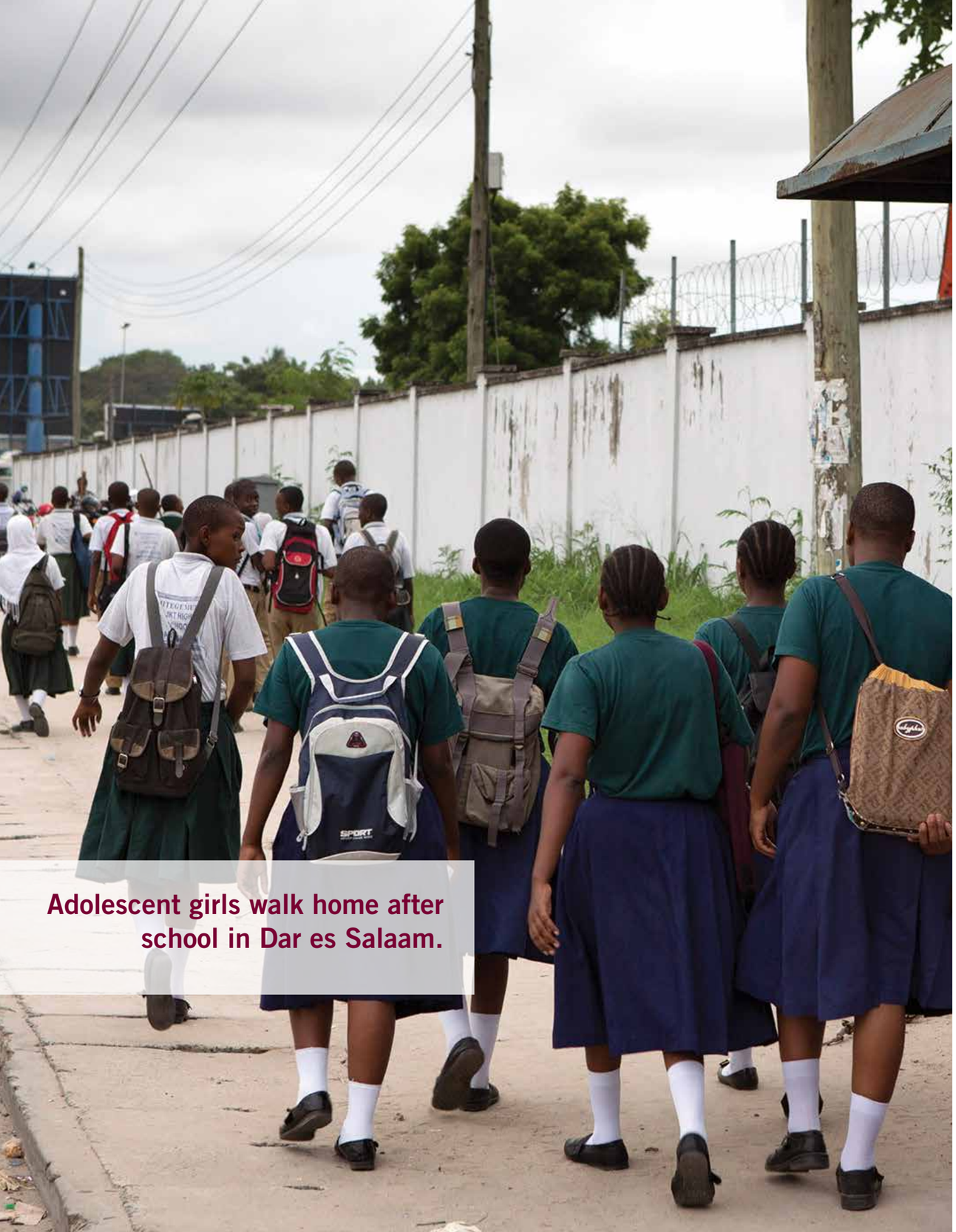
Key Finding: The Practices of Coercive and Mandatory Pregnancy Testing in Schools Violate the Rights of All Adolescent Girls

Where schools engage in the coercive or mandatory pregnancy testing of female students, the testing is typically carried out simultaneously on all adolescent girls in a particular grade or school. The rights violations and impact associated with testing are thus experienced by all female students, not just those found to be pregnant.

Coercive pregnancy testing occurs immediately prior to school admission in an effort to ensure the exclusion of pregnant students before they matriculate. Coercive testing is problematic because consent is not voluntarily or freely given—this is because pregnancy testing is required as a precondition for admission to school. Although a student could technically refuse to undergo a pregnancy test, in many cases doing so would leave her with no meaningful alternative for her education.

Forced, or mandatory, pregnancy testing occurs after matriculation, during the school year, anywhere from once a month to once a year. It is done to aid the process of expelling pregnant students from school. Mandatory pregnancy testing is additionally problematic because it occurs in a custodial context, in which the student is under the school's control and supervision. Schools and health care providers refrain from providing female students with any information or counselling before, during, or after the testing. The students' informed consent is neither obtained nor sought by the health care provider or the school, and there is no meaningful opportunity to decline. As a result, adolescent girls are effectively powerless to contest the practice.

Health care providers and school officials also routinely violate adolescent girls' rights to confidentiality of test results and to privacy. Providers do not appear to ask for the adolescents' consent before disclosing their test results to school officials. Providers also fail to give adolescent girls information about the possible consequences of the testing or the fact that their confidentiality may not be guaranteed. School officials may then further disclose a student's positive test results to teachers, school administrators, the pregnant adolescent's parents, and fellow students without her consent, sometimes prior to informing the adolescent herself.



Adolescent girls walk home after school in Dar es Salaam.

In addition, the most common testing method used by schools and health care providers seems to be a physically invasive manual procedure, which involves a teacher or health care provider pinching, squeezing, and kneading a female student's abdomen and sometimes her breasts to determine pregnancy. Many interviewees described this procedure as painful. They also reported that they were not given the option to choose between this manual procedure and a urine pregnancy test. Pinching or squeezing an adolescent girl's breasts to determine pregnancy is not an accepted medical practice; further, manual testing in any form is not an effective screening procedure for pregnancy prior to the second trimester. Nonetheless, it is preferred by schools because, unlike a urine pregnancy test, it can be performed free of charge. The use of this method for purely financial reasons reflects the punitive and disciplinary nature of forced testing.

The practices of coercive pregnancy testing and mandatory pregnancy testing in schools thus violate a number of adolescent girls' fundamental human rights, including their rights to nondiscrimination; to be free from torture and cruel, inhuman, or degrading treatment; to physical and mental integrity; to dignity; to health; to be free from gender-based violence; to personal liberty; to privacy; and to education.

Key Finding: Punishing Adolescent Girls for Pregnancy Goes Beyond a Denial of their Right to Education

Between 2003 and 2011, over 55,000 adolescent girls in Tanzania were forced to drop out of or were expelled from primary and secondary schools due to pregnancy. Although not mandated by any law, policy, or regulation, expulsion for pregnancy—as well as the denial of readmission to government schools for students who have been expelled for pregnancy—is a near-universal practice in mainland Tanzania.

A student found to be pregnant is immediately expelled and forgotten—no efforts are made to assist her. Adolescent girls and education officials interviewed for this report stated that neither schools nor health care providers offer support or counselling to pregnant adolescents, even in cases of sexual violence. Government and private schools also fail to offer pregnant students medical care or to refer them to health care facilities for antenatal care or counselling. The pregnant student's health and well-being are not taken into consideration. Instead, the focus is on ensuring her removal from the school.

Should schools engage in any follow-up after determining that a student is pregnant, their efforts appear to focus exclusively on passing the matter over to law enforcement, perhaps in order to comply with government laws and rules, which mandate that any person who impregnates a pupil in primary or secondary school commits an offence. Police may then detain, interrogate, or arrest a pregnant adolescent girl in an effort to identify the male who caused her pregnancy.

Arresting, detaining, or imprisoning a pregnant adolescent on this basis is unlawful and a violation of numerous fundamental human rights. It also further stigmatizes adolescent pregnancy. This behaviour indicates that law enforcement—in addition to schools—blame the adolescent girl for her pregnancy and therefore believe her to be less deserving of the protections afforded other members of society.

Pregnant adolescent girls expelled from or forced to drop out of school are then permanently excluded from government schools. According to government officials and educators, these students may not be readmitted to a government school—whether the same one they had attended or a different one—after giving birth. Private schools or vocational schools are the students' only options. Most adolescent girls and their families are unable or unwilling to pay for private school, leaving vocational school as the only realistic alternative. In this way, many pregnant adolescents are shut out of formal schooling.

The exclusion or expulsion from primary or secondary school due to pregnancy can be devastating for a pregnant adolescent. She faces stigma from family, friends, and her community; the possibility of forced marriage; limited employment prospects; and the challenge of supporting herself and possibly her child. In addition, she may also be afraid of giving birth.

The expulsion of pregnant students allows schools and government institutions to ignore the very real challenges that adolescents face when they become pregnant. Pregnant adolescents are more likely than pregnant women to experience poor reproductive health outcomes during pregnancy, during delivery, and after giving birth. For adolescents who have been expelled from school, the potential for poor health outcomes may be even greater, because they may have limited social support to obtain the services that they need.

Key Finding: Gender-Based Stereotypes Fuel Discriminatory Practices

Forcibly testing adolescent girls for pregnancy and expelling pregnant students are punitive practices that discriminate against female students on the basis of sex and pregnancy. Discriminatory stereotypes concerning adolescent girls' and women's social roles both permit and reinforce these practices.

Various reports document a school environment in mainland Tanzania that marginalizes and discriminates against adolescent girls. Whereas adolescent boys are expected to finish their education and seek employment, adolescent girls' economic and social value is often derived from their contribution to household chores and their successful marriage. This fact is reflected in reports of teachers sending adolescent girls to their houses to perform domestic chores during the school day, as well as higher rates of corporal punishment for adolescent girls, rationalized by some as being part of their socialization into becoming respectful and obedient wives and mothers.

In particular, the stereotyped notion that "motherhood" and being a student are fundamentally incompatible appears pervasive. Schools, reflecting broader social norms, dictate that motherhood is an all-encompassing role—one that adolescent girls must devote themselves to entirely. Pregnant or parenting adolescent girls are thus not entitled to continue with their education. In this regard, expulsion for pregnancy is not just about punishing adolescent pregnancy but about forcing adolescent girls into an exclusive role as "mother." Expulsion for abortion and forced testing in an effort to prevent abortion further reinforce this social mandate.

Key Conclusion: Discriminatory Treatment of Adolescent Girls Violates Their Fundamental Human Rights

The discrimination and abuse documented in this report constitute serious violations of adolescent girls' fundamental human rights protected under national, regional, and international law. Fundamental human rights that the Tanzanian government is obligated to guarantee include the right to equality and nondiscrimination; the right to dignity; the right to be free from torture and cruel, inhuman, or degrading treatment; the right to education; the right to privacy; the right to liberty and security; the right to health; the right to information; and the right to life. The violations described in this report demonstrate that Tanzania is not honouring its domestic and global commitments to respect, protect, and fulfil these rights.

In addition, pregnant adolescent girls' continued access to education has been recognized as central to protecting children's human rights. The African Charter on the Rights and Welfare of the Child, which Tanzania has ratified without reservations, recognizes that discrimination against pregnant adolescent girls greatly affects their ability to access education. It affirms that states parties must take "all appropriate measures to 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."[9]

Human rights treaty-monitoring bodies, or committees, which monitor a state's compliance with its international human rights obligations, have echoed these human rights obligations. For example, in its 2012 concluding observations for Tanzania, the committee that monitors compliance with the International Covenant on Economic, Social and Cultural Rights recommended that Tanzania "take steps to . . . urgently address the high dropout rate from both primary and secondary education, including by abolishing mandatory pregnancy testing and prohibiting expulsions due to pregnancy."[10]

Recommendations

We urge the Tanzanian government to address the pervasive discrimination against adolescent girls in schools by prohibiting the practices of coercive and mandatory pregnancy testing, as well as the exclusion and expulsion of pregnant students. We call on the government to create a comprehensive policy framework, in line with our earlier recommendations, that would allow pregnant and parenting students to continue with their education.

We also strongly urge the Tanzanian government to address the root causes of unwanted and unplanned adolescent pregnancies. Necessary steps include providing comprehensive, evidence-based sexuality education in schools; removing discriminatory barriers to adolescents' access to reproductive and sexual health information and services by ensuring the widespread provision of adolescent-friendly reproductive health services; and strengthening protections against sexual violence, particularly in schools.

The Tanzanian Parliament should also strive to strengthen Tanzania's human rights framework by domesticating conventions already ratified and by lifting reservations made to ratified conventions.

METHODOLOGY AND STRUCTURE OF THE REPORT

Methodology

The information in this report is based on research and interviews conducted by the Center for Reproductive Rights between January 2011 and June 2013. Interviews for the report were also conducted by law students from Yale Law School's Allard K. Lowenstein International Human Rights Clinic (the Lowenstein Clinic) in January 2011.

In late 2012 and early 2013, the Center conducted in-depth interviews with 14 adolescent girls and young women who had been forced out of primary or secondary school for pregnancy or had undergone coercive or mandatory pregnancy testing in school, or both. The interviews were conducted in Dar es Salaam and Mafinga, Tanzania, with the assistance of a Kiswahili-English translator. Interviewees were identified through a vocational school and an education-advocacy organization. To protect the interviewees' confidentiality, this report does not use their real names.

These adolescent girls and young women range in age from 16 to 23. Some are still in secondary school and shared their perceptions on the issues of mandatory pregnancy testing and the expulsion of pregnant students. Others became pregnant while in primary or secondary school and, as a result, were expelled, excluded, or forced to drop out.

The interviewees attend or used to attend a range of primary and secondary schools: private, government, day, boarding, religious, and secular. These schools are located throughout the country, including in Iringa, Kilimanjaro, Pwani, Dar es Salaam, and Morogoro regions. Some of the interviewees are from rural areas while others have spent their whole lives in urban settings.

Of the interviewees forced out of or expelled from school due to pregnancy, only one has been able to return to formal schooling. The rest are either at home and unemployed or have attended a short vocational training course and are seeking full-time work. Some of them have managed to find part-time work. None of them are married. All of them come from or live in low-income households.

The Center also conducted in-depth interviews with teachers, advocates, health care providers, and government officials in Tanzania in 2011 and 2013, with the aim of better understanding the legal and policy context in which these practices occur. In addition, in early 2011, students from the Lowenstein Clinic conducted in-depth interviews with government officials, advocates, teachers, and school administrators. In all, more than 26 interviews were conducted with key stakeholders in the areas of education, children's rights, and health. The names of stakeholders interviewed have been withheld, except where explicit permission to use an individual's real name was received.

Finally, the Center reviewed government laws, regulations, policies, guidelines, and circulars pertaining to education, school health, and adolescent health. The Center also reviewed school-level "joining" forms for primary and secondary schools. Statistics and studies on education and adolescents in Tanzania were likewise obtained and reviewed in order to provide a broader context and to supplement the information gleaned from interviews and news reports.

The stigma surrounding adolescent pregnancy and adolescent girls who are forced out of school due to pregnancy is immense. Identifying adolescent girls and school officials willing to speak about this issue was a significant challenge during the research phase and inevitably influenced the number of individuals ultimately interviewed. In addition, government-issued documents in Tanzania are difficult to obtain, making research on legal and policy aspects all the more challenging.

Scope and Structure of the Report

This report focuses on how the practices of coerced and forced pregnancy testing in primary and secondary schools, along with the exclusion and expulsion of pregnant students, violate the rights of adolescent girls. The report focuses on these practices in mainland Tanzania exclusively; it does not address the situation in Zanzibar, which has its own legal and policy framework. The report is also limited in that it explores these practices only at the primary and secondary school level, although coercive pregnancy testing and exclusion for pregnancy appears to be occurring in higher education as well.

The report opens with a discussion of the key human rights violations that lead to unplanned or unwanted pregnancies among adolescents in Tanzania. Section Two seeks to clarify the legal and policy framework governing coercive and mandatory pregnancy testing in schools and the expulsion of pregnant students. Section Three discusses the practices of coerced pregnancy testing and forced pregnancy testing in primary and secondary schools. Section Four then documents and analyses the expulsion, forced drop out, and exclusion of pregnant adolescent girls from school. Finally, Section Five provides an overview of the regional and international legal implications of the rights violations identified in the report.

Recommendations to key stakeholders—based on input from Tanzanian advocates, students, adolescent girls who have been pregnant while in school, and school and government officials—are included at the end of the report.

Maria's Story

It was towards the end of the year, and 13-year-old Maria—like all her friends from primary school—was anxiously awaiting the results of her national Primary School Leaving Examination. The results would determine whether she would continue to secondary school the following year. Positive exam results were not the only thing that would allow her to continue her education, however: Maria also needed to obtain money for the school fees she would incur as a student in a government-run secondary school in Iringa.

In anticipation of her future financial needs, Maria had begun working for a family in town, cleaning and cooking. Maria's mother and father had both passed away, and she lived with her stepmother, who could not afford to pay Maria's secondary school fees.

A few weeks into the position, Maria's employers asked her to stay in and care for their house while they went away for a few days. During this time, while alone in their house, Maria was raped by the family's other employee, a caretaker for the property. She did not know the man who raped her—not even his name.

The caretaker threatened to kill her if she told anyone what had happened. Alone and afraid, she told no one, not even her family; nor did she seek help from the police or a health care provider. When her employers returned, Maria told them—without any explanation—that she could no longer work there, and she left. "I was scared that the [caretaker] would come back and kill me," said Maria.

Maria's exam results arrived, and she was accepted into the nearby government-run secondary school. About three months into the school year, the school undertook its first round of unannounced, mandatory pregnancy testing. Neither Maria nor her stepmother were informed that there would be pregnancy testing at the school; further, the school did not request Maria's or her stepmother's consent before performing the test.

All of the female students in Maria's class were told to assemble in a school building. One by one, they were called into a classroom, where the school nurse and a female teacher awaited them. Each girl, including Maria, was told to lie down on the desk, open the buttons on her shirt, and loosen her skirt waist. Maria felt that refusing to be tested was not an option:

"If you said no, they would force you to do it."

The school nurse then proceeded to pinch and squeeze Maria's stomach and breasts. Maria remembers that it hurt.

After everyone had been through this process, the matron called Maria back to the classroom. The matron, teacher, and headmaster were all present. They informed her that she was pregnant.

Maria was shocked. She had had no idea that she was pregnant. They asked her if she had ever had sex. Maria told them about the rape. Based on her story, they speculated that she was about three months pregnant. The headmaster then informed Maria that she was expelled from school. Maria also had not known that a student could be expelled for being pregnant. She was stunned.

Her older sister, who, in addition to her stepmother, also served as Maria's guardian, was then phoned and asked to come to the school. The headmaster informed Maria's sister that Maria was pregnant, and asked her to question Maria, in their presence, about how she became pregnant. They appeared not to trust Maria, wanting to see if she would tell her sister the same story about having been raped. Maria again explained what had happened to her.

The headmaster advised Maria and her sister to return to the former employer's home and explain what had happened, to "see what they say." The sisters did as he suggested and went to the home. Upon their arrival, however, they discovered that the family and the caretaker had relocated. To this day, they have been unable to find them. No other follow-up or investigation into the sexual assault has been undertaken.

Maria moved in with her sister following her expulsion from school. In the meantime, the headmaster explained to the other students, during a school-wide assembly, that Maria had been expelled for being pregnant. Maria feels that he should not have done that; this information should have been kept confidential.

Maria's sister took her to a health clinic to ensure that she received the necessary medical care; the school offered no counselling or health-related advice or referrals. Sitting at home, in the months leading up to delivery, Maria was devastated. She was scared by the prospect of giving birth and hoped to be able to deliver normally.

Maria eventually gave birth to a daughter—fortunately, without complications. Maria's sister then returned to the school to request that Maria be allowed to reenrol, now that she was no longer pregnant. The school refused.

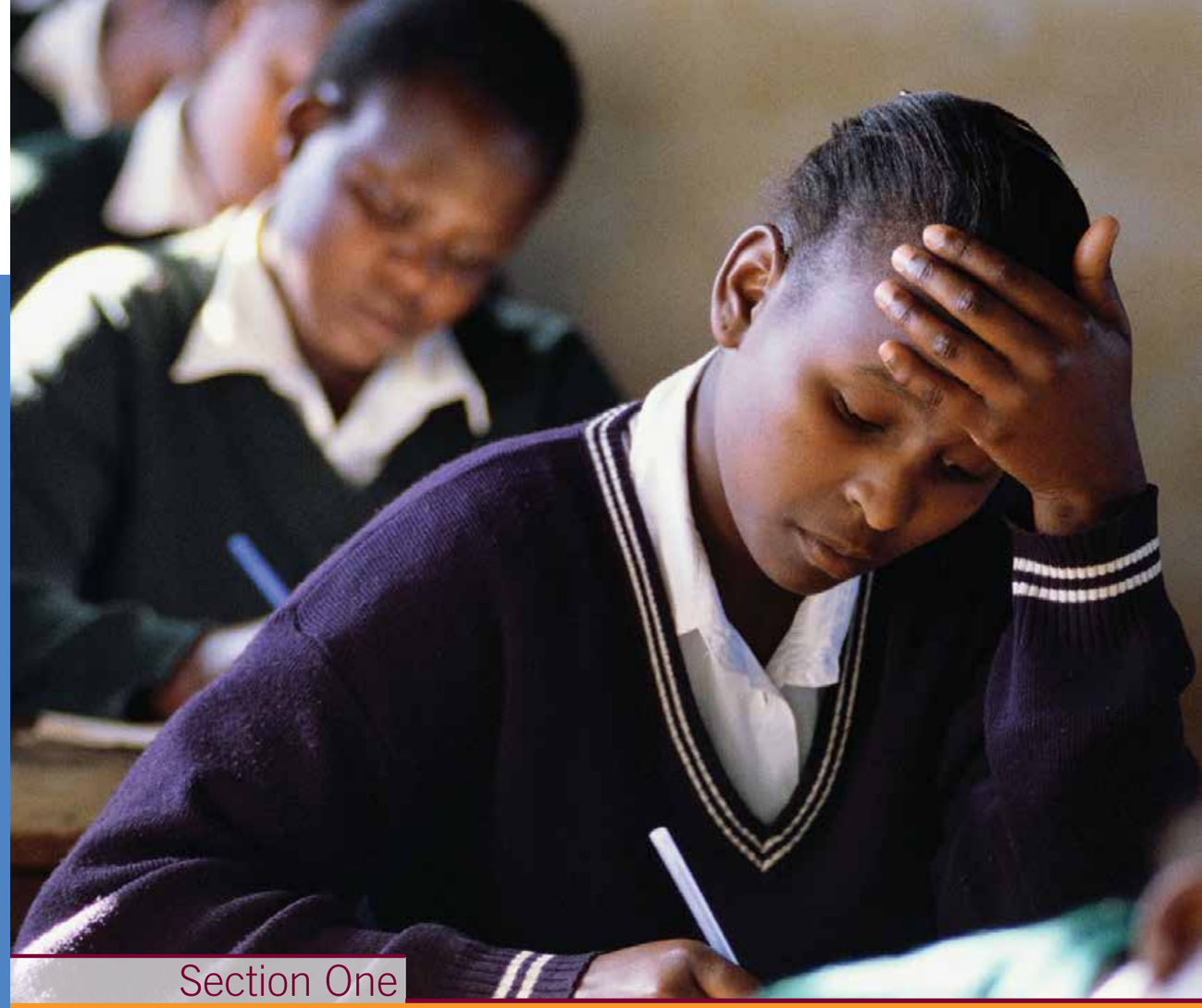
By chance, a nonprofit organization learned of Maria's story and offered to sponsor her tuition for a private school. Such sponsorship is incredibly rare for adolescent girls who have been expelled for pregnancy in Tanzania; generally, these students are unable to return to formal schooling due to the prohibitive costs associated with private school. Government-run schools will not admit students who have been pregnant.

Maria is now 16 and in Form 4. Her current school is not aware—at least officially—of what happened to her or that she has a daughter. If asked, the headmaster would deny that the school has "such kind of girls." However, Maria knows of classmates who have also been previously expelled for pregnancy. Most were expelled from a government school, and their parents are paying to send them to this private school.

Her current school, like her former school, carries out a similar process of mandatory manual pregnancy testing about three times a year. Neither school provides sexuality education to its students. To date, Maria does not know how to prevent a pregnancy.

Maria would like to become a doctor. She is also determined for her daughter to receive a good education. She would like to see reproductive health education offered in schools and recommends that if a teacher finds out that a student is pregnant, the teacher should listen to the student's story and give her a chance to return to school.

Maria explains, "Not all students get pregnant because they want to, so schools should think before they expel girls."[11]



Section One

A FAILURE TO RESPECT, PROTECT AND FULFIL:

HUMAN RIGHTS VIOLATIONS LEADING TO UNPLANNED OR UNWANTED PREGNANCIES AMONG ADOLESCENTS IN MAINLAND TANZANIA[12]

Tanzania "has one of the highest adolescent pregnancy and birth rates in the world."[13] Over 44% of adolescent girls in Tanzania have given birth or are pregnant by the age of 19.[14] Many of these pregnancies are unplanned or unwanted.[15] The absence of sexuality education in schools; lack of access to contraception and adolescent-friendly reproductive health services; high rates of sexual violence, poverty, and early marriage; and lack of access to safe abortion services are key, and often interrelated, factors leading to unplanned or unwanted pregnancies among adolescents in Tanzania.

Before discussing forced pregnancy testing and expulsion for pregnancy in schools, it is important to understand the context in which adolescent girls are having sex and becoming pregnant. Punishing pregnancy—or the capacity to become pregnant—deliberately fails to recognize the myriad human rights violations that lead to unplanned or unwanted pregnancies among adolescents in mainland Tanzania.

The Absence of Comprehensive Sexuality Education in Schools Limits Knowledge on How to Prevent Pregnancy

> *Sex as a topic is not included in the school's syllabus, so the teachers don't talk about it in schools. . . . We had so many unanswered questions and misconceptions about sex and some girls just experimented it with no caution.*
>
> —Members of a girls' empowerment club in a Tanzanian secondary school[16]

> *I didn't know how to use contraception and didn't have the idea of using it. I just [had sex] once and then I got pregnant.*
>
> —Sophia, 19 years old, forced to drop out during her last year of secondary school due to pregnancy[17]

Although government guidelines and policies state that sexuality, or "life skills," education should be part of primary and secondary school curricula in Tanzania,[18] students rarely receive any meaningful instruction on sexual or reproductive health in schools.[19] As a result, adolescent girls and boys are denied critical information that would allow them to make informed decisions about sexuality and reproduction.

Further, sexuality education, when offered, appears limited largely to abstinence-based messaging. According to one official from the Ministry of Education and Vocational Training, "In the education sector, we are insisting on abstinence" for primary and secondary school students.[20] Comprehensive sexuality education—which would include explicit information on sex, reproduction, and contraception—is not typically offered in schools. Of the adolescent girls interviewed for this report, not one indicated that her school provided such education.[21]

As a result, many of the adolescent girls we interviewed said that they were unaware how to prevent pregnancy while they were in primary and secondary school.[22] Even in after-school youth empowerment clubs, students reported having no meaningful discussions around contraception or comprehensive methods for pregnancy prevention; the focus of sexuality-related discussions in these clubs also appears to be on abstinence.[23]

Comprehensive Sexuality Education in Schools: Key Human Rights Standards

Comprehensive sexuality education is essential for individuals to be able to prevent unwanted pregnancies;[24] to protect themselves from health risks, such as sexually transmissible infections;[25] and to make informed decisions around sexuality and reproduction. International human rights bodies have repeatedly urged governments to make sexuality education a core component of primary and secondary school curricula.[26] In order to do so effectively, states should comply with the following minimum standards set forth by human rights bodies and key United Nations (U.N.) agencies:

- Sexual and reproductive health education should be made a **mandatory and robust component of primary and secondary schooling**,[27] as well as vocational schooling.[28]
- According to the World Health Organization, it is critical that sexuality education be started in primary school, because adolescent girls "in the first classes of secondary school face the greatest risk from the unexpected consequences of sexual activity . . . ."[29] Teaching sexuality education in primary school also reaches students who are unable to attend secondary school.[30]
- **Sexuality education should be taught as an independent subject rather than being incorporated into other subjects.**[31]
- Sexual and reproductive health education programmes **must be scientifically accurate**[32] **and comprehensive**, covering topics of pregnancy prevention; unsafe abortion; the spread and prevention of HIV and other sexually transmitted infections; and family planning and contraception,[33] including emergency contraception.[34]
- This means that curricula should include explicit information on reproduction and contraception. Contraceptive methods should be "described, their modes of action explained, and their advantages and disadvantages openly discussed—including with respect to the prevention of [sexually transmitted infections]."[35]
- Not only have abstinence-only approaches to education been deemed ineffective in the protection of young people's health,[36] but they also fail to meet states' human rights obligation to provide comprehensive sexual education.[37]
- **Instruction on comprehensive sexuality education should be included in teacher-training programmes** to ensure that instructors are adequately trained to provide comprehensive information in a safe learning environment.[38] This requires the development of curricular materials that do not perpetuate harmful and discriminatory stereotypes[39] and that pay special attention to issues of gender and diversity.[40]
- **Comprehensive sexuality education must be taught in a safe learning environment**, where individuals are able to participate free from discrimination, harassment, and violence.[41]

The Tanzanian government has failed to ensure the provision of comprehensive sexuality education in primary and secondary schools in a number of ways. At present, there is no national sexuality education curriculum in mainland Tanzania[42] and therefore no clear guidance for schools or teachers on what the subject covers and how it should be taught.

Instead, the sexuality education provided in Tanzanian schools is implemented in a piecemeal and limited fashion. Rather than receiving dedicated and comprehensive attention as a stand-alone subject in primary and secondary school, sexuality education—referred to as "life skills"—is incorporated into existing subjects, such as biology, civics, languages, and work skills.[43] The government's failure to prioritize the subject within school curricula is cited by teachers as a key challenge to their ability to effectively teach this subject.[44] Students have also stated that the "classes given are too short" to be truly informative and have expressed a desire for "teachers [to] go into more depth on the subject."[45]

In addition, the material covered in schools is not particularly comprehensive.[46] For example, one study found that the topic of family planning in the biology syllabus for secondary school failed to mention contraception.[47] This is consistent with other reports and evidence revealing a focus on abstinence-based messaging in schools. As one secondary school teacher explained, lessons in school "talk about how to avoid pregnancy by avoiding sexual relationships."[48]

Similarly, the Ministry of Education's guide for school counsellors, which seeks to have schools impart "life skills" to students, focuses exclusively on abstinence-based messaging. For example, the guide states that "early sex among adolescents" and "[s]ex outside marriage is strictly prohibited,"[49] and it explains that teenage pregnancy can be prevented by encouraging students not to engage in "sexual activities" and telling adolescent girls to "[s]ay no to any boy or man pressurizing you to engage in sexual act."[50] The guide does not discuss contraception as a means to prevent pregnancy. Even in the section dedicated to sexually transmitted infections and HIV/AIDS, the counsellor is instructed simply to "[l]ead a discussion on the need to refrain and abstain from sexual intercourse as a method of preventing [sexually transmitted infections]."[51]

Moreover, at times, the material provided by government-issued resources is misleading and scientifically incorrect. For example, a comprehensive review of training materials conducted for the Ministry of Health and Social Welfare found that the Ministry of Education's teaching materials concerning HIV/AIDS inaccurately state that "contraception causes infertility, promiscuity and prostitution."[52]

Further, the information that is provided is not conveyed early enough. Sexuality education is typically offered at the secondary school level; primary school students receive little, if any, information on sexual and reproductive health.[53] Yet primary students may be as old as 15 years of age—well past the onset of puberty and the first sexual experience for many adolescents.[54] In fact, many female students in Tanzania are married or become pregnant towards the end of primary school or during the transition between primary and secondary school.[55] A number of the adolescent girls interviewed for this report became pregnant in or just before primary school, or in the early months of their first year of secondary school.[56] Furthermore, the number of students matriculating to secondary school in Tanzania in general is quite low,[57] meaning that primary school is often the only opportunity to impart sexual and reproductive health information to adolescents.

In addition to weaknesses in school curricula and syllabi, there are considerable shortcomings in teacher training.[58] The majority of teachers appear to lack training in how to teach sexuality education or are not given the resources to do so,[59] further affecting the content and quality of the information imparted. This lack of training, combined with many teachers' inherent discomfort with discussing issues of sex and sexuality with students, means that some teachers attempt to avoid teaching the subject altogether or teach in ways that are confusing to students.[60]

According to a Standard 7 student, "Most of the time when our teachers talk about sex they talk in a hidden way such that we find it hard to understand."[61]

Further, as one adolescent girl, who had been pregnant while a student, explained in a 2010 report on student pregnancies:

> *Teachers always teach us in parables while threatening us without telling us all about early pregnancy. Believe it or not, many of us did not know what we were doing. Some of us just believed that a girl cannot get pregnan[t] before reaching the age of 18, the age of which we are told, one is considered to be mature in Tanzania.*[62]

Finally, as this report documents, female students are not provided a safe learning environment, free from discrimination and violence, in which to learn about sex and reproduction. Instead, sexual violence is routinely perpetrated against female students by teachers. Moreover, forced pregnancy testing in schools and expulsion for sex or pregnancy are discriminatory practices, which suggest condemnation of adolescent girls' sexuality prior to marriage. This educational environment does not meet the necessary standards of a safe learning environment in which to provide effective and comprehensive sexuality education.

Attempts to rectify this gap have been unsuccessful. Government efforts to introduce a sexuality education curriculum in primary schools in 2006 to address "a sharp rise in underage pregnancies and the soaring primary school dropout rate" met with strong resistance from religious leaders, "forc[ing] minister of education Margeret Sitta to withdraw the planned curriculum."[63] To date, the government has not renewed its efforts to introduce this curriculum in schools.[64]

The consequences of a lack of comprehensive and accurate sexuality education in schools are clear. The Tanzanian Ministry of Health itself acknowledges that most adolescents either lack "access to appropriate information" or "obtain information on [sexual and reproductive health] from unreliable sources."[65] As a result, adolescents' "patchy [. . .] knowledge of issues related to sexual and reproductive health . . . predispose[s] them to early sexual activities that may lead to unplanned/unwanted pregnancies and sexually transmitted infections . . . ."[66]

Discrimination and a Lack of Adolescent-Friendly Services Inhibit Adolescents' Contraceptive Access

> *We are scolded by health staff at local health centres because they think we should not be needing HIV tests or advice on pregnancy, as a result we often decide not to return.*
>
> —Findings from a youth-led study on young people's perceived challenges in the area of sexual and reproductive health in Tanzania[67]

In addition to challenges in accessing relevant information on sexual and reproductive health, adolescent girls face considerable barriers to accessing family planning and other reproductive health services in health care facilities. These barriers go beyond the general challenges of stockouts of family planning methods[68] and financial barriers to access[69] that many women in Tanzania face. Adolescent girls must also overcome additional obstacles to accessing services, including age-related discrimination and stigma and a widespread absence of adolescent-friendly services across the country. Not surprisingly, contraceptive use among adolescent girls in Tanzania remains minimal: only 10.7% of sexually active women aged 15–19 report using any method.[70]

Despite two decades of policy statements from the Tanzanian government affirming adolescents' right to access family planning services and information without discrimination,[71] discriminatory barriers to access persist. Many individual providers in Tanzania, motivated by personal biases and beliefs, restrict women's and adolescent girls' access to contraceptive methods on the basis of age or marital status, regardless of the fact that no medical, legal, or policy grounds exist for doing so. Tanzanian government policy explicitly acknowledges that provider biases negatively affect clients' ability to make informed choices about contraception and contribute to the country's low contraceptive prevalence rate.[72] Nevertheless, providers continue to limit women's and adolescent girls' access to these services.

In a 2000 study by the Guttmacher Institute, between 79% and 81% of medical aides, midwives, maternal and child health aides, and auxiliary staff (medical providers most commonly found in rural areas) in mainland Tanzania reported imposing an age restriction for birth-control pills, and more than one-third of providers reported imposing an age restriction for condoms.[73] The mean minimum age barrier was approximately 14–15 years old, preventing many adolescents from accessing nearly all forms of contraception.[74] In addition, 20% of providers reported imposing restrictions based on a woman's marital status,[75] further preventing unmarried adolescents from protecting themselves against unwanted pregnancies.

Similarly, a 2003 study on youth-friendly services in Tanzania found that youth identified negative provider attitudes as a barrier to accessing sexual and reproductive health-related services.[76] Tanzanian providers interviewed for the same study acknowledged that they had "their own personal bias against providing adolescents with contraception or felt that young people should not be sexually active, thus hindering services to the youth."[77]

The most conservative health personnel—and the most likely to impose discriminatory and medically baseless restrictions on young or unmarried women's access to contraception—are often in rural areas.[78] Unsurprisingly, rural areas also have higher rates of teenage pregnancy in mainland Tanzania.[79] In 2005, the Ministry of Health acknowledged that "[a]vailable

reproductive services are adult-centred thus making them less accessible to adolescents. For that reason, adolescents especially those in rural areas, constitute an underserved group."[80]

The provider discrimination described above stems from a pervasive social stigmatization of adolescent sexuality in Tanzania.[81] According to one study, Tanzanian communities believe that adolescents should not have access to services because they should not be having sex, and that providing access to information and contraception would only "promot[e] promiscuity among th[is] age group."[82] Instead, adults—particularly married adults—are seen as the only legitimate beneficiaries of family planning services. The government, fearful of "community opposition," has historically done little to address these stereotypes and ensure adolescent-focused service provision.[83]

Adolescent-friendly sexual and reproductive health services are meant to improve adolescents' access to information and services[84] by being "accessible, acceptable and appropriate to adolescents."[85] In recent years, the Tanzanian government has acknowledged the need for such services and has made repeated commitments to provide them.[86] For example, in its 2010 National Adolescent Reproductive Health Strategy 2011–2015, the Ministry of Health states that adolescents need access to targeted services and information to "help them . . . make informed decisions."[87] Nonetheless, government policy documents,[88] as well as numerous studies, reveal that adolescent-friendly services continue to be generally unavailable in Tanzania.

A 2008 study by the nongovernmental organization UMATI, cited in the government's National Adolescent Reproductive Health Strategy 2011–2015, found that "only 30 percent of service delivery points . . . in the country meet the national standards for [adolescent-friendly reproductive health services, or] AFRHS."[89] Further, "60 percent of health care providers had not received orientation on provision of information and counseling to adolescents, and only 11 percent had been trained on sexual and reproductive health rights of the adolescents and AFRHS."[90] In addition, the study concluded, resources and facilities related to adolescent-friendly reproductive health services were limited.[91]

Similarly, a 2010 study carried out in Mtwara found no adolescent-friendly health services in the entire region. It further revealed:

> *A government official reported that [such services] do not exist virtually anywhere in Tanzania and that there has been no budget line in the MTEF (Medium Term Expenditure Framework) for adolescent health in the past two years. There are guidelines and standards for [adolescent-friendly health services] . . . but reportedly no implementation of the services.*[92]

Another study in the same region echoed these findings, confirming a complete absence of youth-friendly services in the region and a general lack of privacy and confidentiality within services for adolescents.[93]

Faced with discrimination and a general lack of available and accessible adolescent-friendly services, adolescents' opportunities to speak with health care providers about contraception and sexual and reproductive health are constrained in Tanzania. These human rights violations affect contraceptive uptake and prevalence among adolescents and fuel high rates of adolescent pregnancy.

Sexual Violence against Adolescent Girls is Pervasive, including in Schools and by Teachers

According to an authoritative 2009 national study, spearheaded by the United Nations Children's Fund (UNICEF) Tanzania, "Nearly 3 out of every 10 females aged 13 to 24 in [mainland] Tanzania reported experiencing at least one incident of sexual violence before turning age 18."[94] This same study found that among those females who had their first sexual experience prior to age 18, "nearly one third (29.1%) . . . reported that their first sexual intercourse was unwilling, meaning that they did not want it to happen and were forced, pressured, tricked or threatened to engage in sexual intercourse."[95] As the study authors concluded, "Thus, for a sizable percentage of . . . female children in Tanzania, their first sexual intercourse was unwanted and forced or coerced in some way."[96] [See Maria's Story, p. 22.]

A substantial proportion of this sexual violence occurs in or on the way to school. In fact, this was the second most common context in which sexual violence against children was found to occur in mainland Tanzania.[97] According to the same UNICEF study, "Nearly 4 in 10 females [who had experienced childhood sexual violence before they turned 18] reported that at least one incident took place on school grounds or while traveling to or from school."[98] Further, 15% of the adolescent girls surveyed reported an "authority figure" (the vast majority of which were male teachers) as the perpetrator of the sexual violence.[99]

This data on sexual violence is corroborated by other studies and journalistic accounts, as well as by Tanzanian human rights advocates. Adolescent girls are vulnerable to sexual harassment and violence when they walk long distances (sometimes up to 20 kilometres) to school[100] through often isolated areas[101] or when they attempt to access transportation to or from their school.[102] Unsurprisingly, a 2010 national-level study undertaken by the Tanzania Media Women's Association found that taxi drivers, truck drivers, drivers of personal cars, commuter bus conductors, and motorcyclists were involved in student pregnancies.[103] To avoid long daily commutes, some female students rent rooms in dormitories or hostels close to their school. These hostels are co-ed and sometimes unsafe, leading to further incidences of sexual violence.[104]

Sexual violence by teachers towards students has also been widely documented in Tanzania.[105] A recent study by ActionAid on adolescent girls and education in mainland Tanzania recorded "many narratives [from adolescent girls] . . . of coerced and forced sex by teachers or male pupils."[106] The study noted that "girls are particularly vulnerable when . . . carrying out chores in male teachers' houses."[107] Adolescent girls in another study further explain that teachers may "harass [female students] who reject their sexual intentions" and that these students are fearful of saying no because they may "be failed by the teacher if they reject him."[108] One headmaster interviewed for this report, who had taught in both government and private schools, indicated that teachers are "trading grades for sex."[109]

Often, teachers face few or no legal or professional repercussions for such criminal behaviour;[110] in fact, school officials sometimes shield from accountability teachers who have "impregnated"[111] students.[112] In general, legal accountability for perpetrators of sexual violence against adolescent girls is limited in mainland Tanzania.[113] [See Section Four, p. 97.]

In addition to the mental and physical trauma associated with sexual violence, adolescents also face the possibility of pregnancy. Many adolescent girls and women could avoid unwanted pregnancies by using emergency contraception (EC), a safe and effective means of preventing pregnancy following unprotected sex.[114] Although national guidelines state that EC should be made available to survivors of sexual violence, including adolescent girls,[115] studies show that it is not available in public clinics and hospitals.[116] In 2007, USAID concluded that EC was not accessible in Tanzania.[117] In addition, evidence from the 2010 Tanzania Demographic and Health Survey suggests that very few people (less than 12% of men and women) have knowledge of EC.[118]

Further, due to a lack of access to safe abortion services in Tanzania, an adolescent who becomes pregnant as a result of sexual violence has limited options; she is typically forced to carry her pregnancy to term and is then expelled from or forced out of school.[119] Yet it is in the very pursuit of her education—on her way to or from school or as she studies within the school premises—that an adolescent girl may be sexually assaulted. In this respect, schools fail these students twice: they fail to protect them from violence and then fail to uphold their right to education.

Poverty Forces Adolescent Girls into Unequal Sexual Relationships and Leaves Them Vulnerable to Sexual Violence

> *When I went to school, my parents only supported me with 200 shillings [US$0.13]. This was not enough for me to have breakfast and lunch. My friends had a boyfriend and had money and could buy chips, tea, chicken. So I decided to find someone to support me. And that's how I got pregnant. He was 20 years old and I was 16. I didn't know how to prevent pregnancy, this was not taught in school.*
>
> —Chika, 18 years old, who passed her exams but never matriculated to secondary school due to pregnancy[120]

Although public-sector primary education is supposed to be free in mainland Tanzania,[121] the indirect costs associated with schooling are often prohibitive for many families.[122] In addition to contributing money towards school infrastructure, students must also pay for uniforms, books, lunch, and transportation. There are no public school buses[123] or school meal programmes.[124]

Secondary school, whether public or private, is not free in Tanzania. Students must pay matriculation fees, as well as various other fees determined by the school. Due to the long distances that students, especially those living in rural areas, must often travel to attend the nearest secondary school, there may also be fees associated with paying for housing in a dormitory or hostel close to the school. In addition, teachers often offer mandatory classes after hours or on weekends and require students to pay for these extra "tuition" sessions, further adding to students' financial burden.[125]

All of these costs mean that access to education in Tanzania is challenging for those with limited economic resources. In 2011 alone, close to 4,000 students (5.4%) dropped out of primary school,[126] and over 10,500 students (13.86%) dropped out of secondary school[127] due to a "lack of basic needs," defined to include shelter, food, clothing, and stationery.[128] An additional 2,871 secondary students (3.79%) in 2011 dropped out due to a lack of school needs specifically.[129]

In practice, this also means that adolescent girls from poorer families are often coerced into entering into sexual relationships, typically with older men who have financial means, in exchange for money or commodities that will allow them to meet their basic needs and remain in school.[130] A UNICEF study found that, in mainland Tanzania, "1 in 25 females aged 13 to 17 years have been given money or goods in exchange for sex."[131] Students have also reported being forced by relatives "to have sex with them as a condition to being given basic needs."[132]

Reports of coerced sex in exchange for basic needs abound. A school may be up to 20 kilometres away from a student's home.[133] If a student or her parents lack the money for transportation, which is often the case,[134] she may be forced to resort to having sex with the conductor or bus driver of a private-sector bus to get to school.[135] One government official in Morogoro explained, "There are several cases of girls falling pregnant by bus drivers and conductors 'just because they offer them seating space in public transport.'"[136]

Alternatively, some students may be "forced to rent rooms in the neighbourhood" near the school.[137] The cost of these dormitories or hostels can be prohibitive,[138] and many female students take up boyfriends to help them meet this financial burden.[139] This was the case for Rehema, who became pregnant as a result.[140] [See Rehema's Story, p. 36.]

In addition, many students go without food during the school day because they cannot afford to buy breakfast or lunch[141] and because schools do not have "school feeding" programmes[142] despite a 1996 government commitment to do so.[143] Some female students from low-income families thus resort to sex in order to obtain food.[144]

Adolescent girls who enter into sexual relationships as a result of these situations often face power imbalances due to age differences and economic dependency, and are therefore unable to negotiate safe sex.[145] This, in turn, contributes to high rates of adolescent pregnancy.[146] UNICEF Tanzania states that "adolescent girls in poorer households [in Tanzania] remain most likely to become pregnant by the time they reach 19 years."[147]

This data suggests that many of the adolescent girls expelled for pregnancy are thus likely to come from economically disadvantaged backgrounds. These same adolescent girls also have the least likelihood of being able to continue their education once expelled, as the only viable option is private schools, which they cannot afford.[148] In addition, adolescent girls living in poverty are the least likely to have access to safe abortion, resulting in recourse to unsafe abortion, which may place their health and lives at risk.[149] They are also most likely to be faced with the prospect of forced, early marriage.

Rehema's Story

Rehema was 16 years old and in Form 2 when she found out that she was pregnant. She was a day student at a government-run secondary school in Iringa and rented a room in a hostel near school.

"Due to the economic crisis and staying at the hostel, I had a boyfriend who was helping me to pay for the room. Because of that life, I ended up pregnant. I didn't know how to prevent pregnancy," explains Rehema.

Rehema did not receive any sexuality education in school.

When the school matron realized that Rehema was pregnant, she advised her "not to come back to school" after the holiday break. If the headmaster found out that Rehema was pregnant, the matron told her, she would be expelled. By telling Rehema to drop out, the "matron was protecting [me]," explains Rehema. Rehema recalls that six other students were also pregnant at that time—two were expelled and four, like her, were advised by the matron not to return to school, to avoid formal expulsion. The matron said that they could try to "join another school, but not that school." Instead, a "private school."

Rehema went to her mother's house in Dar es Salaam for the duration of her pregnancy; she had planned to return to school after giving birth.

"But after delivery, I didn't get support from my family or anyone to go back to [a private] school."

Rehema explains that, at the time, she had not been aware that she could have returned to a more affordable government school if she had obtained an official transfer letter from her old school.

Regardless, the likelihood of obtaining such a letter was slim. She would have had to account for her absence, and the school would not have issued the letter if its administrators knew that Rehema had left due to pregnancy.

Rehema says that her mother was upset about what happened. She "was crying all day. She accepted me back but was affected and crying." Other people "discriminated against me. They called me a prostitute. This made me feel bad," recalls Rehema, herself crying. She thought about terminating the pregnancy, but her friend advised against it "because [she] could die" from an unsafe abortion. Access to safe abortion services is limited in Tanzania, particularly for those who cannot afford to pay substantial fees.

After giving birth, Rehema got a job selling bread at a bus station. She lived at home with her mother, grandfather, and child. At the age of 4, her child died.

Years later, she learned about a youth centre offering free vocational training to adolescent girls who had left school due to pregnancy, and took a hotel services course. At first it was hard to find work, but she eventually obtained a part-time job at a hotel in town, cooking food.

Rehema is now 23. She continues to live with her mother and grandfather. She would still like to return to school. If she had a secondary school certificate, instead of the primary school certificate she now has, she believes that she could get a better job or even be self-employed.

Rehema offers these recommendations to the government: "Recruit professional health workers to provide information on reproductive health to girls in schools," and, "when a girl gets pregnant, let her continue with her studies."[150]

Forced, Early Marriage Leads to Adolescent Pregnancy

> *Some students may be pregnant on [their] return [to school] after holidays because they were forced to marry.*
>
> —Headmaster, private secondary school, Dar es Salaam[151]

Approximately 40% of adolescent girls in Tanzania are married by the age of 18.[152] Forced, early marriages occur largely for economic reasons: "Depending on cultural practices, the bride's family may benefit through the bride-price or the groom's family through dowry."[153] Adolescent girls may also be forced into early marriages by parents or guardians "to reduce the risk of pregnancy outside of marriage"[154] and avoid the "shame" associated with premarital, adolescent pregnancy. In some areas, poverty and tradition result in adolescent girls as young as 12 being married to men often twice their age.[155]

Early and forced marriage can have devastating physical, economic, social, and psychological consequences for adolescent girls; married adolescent girls in Tanzania commonly report experiencing emotional, physical, and sexual violence.[156] According to the 2010 Tanzania Demographic and Health Survey, 20% of married adolescent girls are forced to engage in sexual activity against their will.[157] The power imbalances due to substantial age disparities between adolescent girls and their spouses mean that adolescent girls are unable to negotiate safe or protected sex.[158]

Furthermore, contraceptive use among married adolescents is low, for high bride prices place immense pressure on adolescent girls to begin childbearing.[159] As a result, females who marry early have a strong likelihood of becoming pregnant at a young age. The Tanzanian government recognizes early marriage as a key contributing factor to high rates of adolescent pregnancy.[160]

In addition to carrying negative implications for an adolescent girl's health and well-being, early marriage has serious consequences for her ability to continue her education. Many adolescents are forced by their families to drop out of school to be married.[161] And under mainland Tanzanian law, married students also face the possibility of expulsion based on marital status alone.[162] Married adolescent girls who do manage to stay in school[163] then face the very real possibility of pregnancy and consequently pregnancy-related expulsion.

Mainland Tanzania's legal regime "relating to marriage and permissible sexual relations within marriage [is] unclear and contradictory."[164] On the one hand, the Tanzanian government has recognized the link between early marriage, pregnancy, and the denial of adolescent girls' right to education. To address this issue, the Ministry of Education has introduced rules and circulars providing for "penalties for those who marry or impregnate school girls."[165]

However, at the same time, the government has maintained a conflicting legislative framework that condones and legalizes child marriage. Mainland Tanzania's Law of Marriage Act provides that the minimum age for marriage is 18 for males and 15 for females. Although the law requires adolescent girls who marry before the age of 18 to obtain parental consent,[166] "that does not in any way protect a girl from an early marriage."[167] The law also permits marriage as early as 14 with court approval.[168] Customary and religious laws further "seem to recognize the possibility that girl children may be married before they reach puberty and without their consent."[169]

This contradictory and punitive approach does little to address adolescent girls' access to education. By introducing penalties for parents or guardians who "marry off their primary or secondary school daughter" and for men who marry a girl in primary or secondary school[170] while at the same time legally sanctioning child marriage, the government provides an incentive for parents or guardians to simply refrain from enrolling or keeping adolescent girls in secondary school to avoid any penalties. Further, by legally condoning the expulsion of adolescent girls from school on the basis of marriage, the government officially sanctions the exclusion of married adolescents from the educational system. In this way, the failure to clearly prohibit early marriage for adolescent girls both contributes to pregnancy in schools and exacerbates the denial of their right to education.

These laws concerning the minimum age for marriage discriminate against adolescent girls and violate a number of their fundamental human rights. They further make addressing early marriage and its consequences extremely challenging.[171] Tanzanian activists have long demanded legislative reform of the Law of Marriage Act to raise the minimum age for marriage for females to 18.[172] Human rights bodies have also repeatedly recommended that Tanzania adopt a single minimum age for marriage (18 years old for both males and females) in line with internationally acceptable standards.[173] However, to date, the Tanzanian government has failed to take concrete steps to amend what it acknowledges to be a discriminatory piece of legislation.[174]

Lack of Access to Safe Abortion Services Leaves Pregnant Adolescents without Choices

Due to a severe lack of access to safe, affordable abortion services in mainland Tanzania, adolescent girls carrying unwanted pregnancies are typically faced with two undesirable options: forced pregnancy or unsafe abortion. Many simply carry unwanted pregnancies to term and face the attendant health and social consequences,[175] including expulsion from school. For adolescent girls who wish to continue their education, risking their lives and health to procure an unsafe abortion may be their only alternative. Even then, continued schooling is not guaranteed. [See Abortion and Expulsion, p. 98.]

Many adolescents are willing to take this risk. Studies show that, in Tanzania, "one-third of incomplete abortion cases that turn up in health facilities involve adolescents, and one in five of the girls involved are students."[176] According to a 2003 country evaluation report, nearly one-third of all hospitalized cases of unsafe or incomplete abortions in Tanzania are women under 20.[177] Not only do unsafe abortions put women at risk of health complications, but they also contribute to significant rates of maternal death among Tanzanian adolescents.[178] Methods of unsafe abortion in Tanzania include the ingestion of dangerous substances, such as herbs and roots; "blue," a concentrated household cleaning product; quinine; and ashes dissolved in water.[179] They also include the vaginal insertion of herbs, roots, and other sharp objects.[180]

Limited access to safe abortion services is the result of an unclear legal and policy environment and restrictive interpretations of mainland Tanzania's abortion law by government officials and health care providers, among others.[181] As a result, health care providers do not receive abortion training, equipment for service provision is in short supply,[182] and women and providers lack access to information about the circumstances under which one may qualify for a safe and legal abortion in mainland Tanzania.[183]

The service is therefore essentially unavailable for most women and adolescent girls. Wealthier individuals (who can afford safe services from private-sector providers) and those living in urban areas, where safe services can more easily be found,[184] are often the only women with meaningful access to safe abortion services. However, most pregnant adolescents, due to socioeconomic constraints, are unlikely to be able to obtain a safe abortion.[185]

Among the adolescent girls interviewed for this report who were faced with unwanted pregnancies, many had considered procuring an abortion. However, for a variety of reasons, all of them were forced to carry their pregnancies to term. Some decided against a termination because they did not have access to safe services and feared they would die from an unsafe procedure.[186] One said that she could not afford the cost of an abortion.[187] Two attempted to induce an unsafe abortion by drinking a strong, homemade mixture; however, neither achieved her goal. Both of them ended up vomiting profusely but did not terminate their pregnancies.[188] All of these adolescent girls were ultimately forced to leave school due to pregnancy.

Adolescent Pregnancy and HIV

The high number of pregnancies among female students is a clear indicator that adolescent girls are having unprotected sex, leaving them vulnerable to sexually transmitted infections, including HIV. Poverty and high rates of early marriage and sexual violence against adolescents mean that adolescent girls are frequently engaging in coerced or forced sex with older men—who have generally been sexually active for years—and thus increasing their risk of HIV exposure and transmission.[189] In mainland Tanzania, HIV prevalence is higher for adolescent girls than for adolescent boys.[190]

It is in this context—of often coerced and violent sexual relationships, and of extremely limited access to information and services to prevent or terminate unwanted pregnancies—that adolescents in mainland Tanzania are subjected to coercive or mandatory pregnancy testing and exclusion or expulsion from schools for pregnancy. Although framed by government and school officials as part of an effort to prevent adolescent pregnancy, these punitive practices fail entirely to address the underlying human rights violations leading to adolescent pregnancy in Tanzania. Rather than prevent pregnancy, these practices simply prevent access to quality education.

Section Two

"NO OFFICIAL POLICY": CLARIFYING THE LEGAL AND POLICY FRAMEWORK GOVERNING SCHOOL-MANDATED PREGNANCY TESTING AND THE EXPULSION OF PREGNANT STUDENTS

The legal and policy framework governing both pregnancy testing in schools and the expulsion of pregnant students in mainland Tanzania is unclear and confusing. Our research has revealed that neither practice appears to be mandated by any law, regulation, or policy. In fact, Tanzanian law and policy promote and protect adolescent girls' rights to education, health, nondiscrimination, and privacy[191]—rights that both of these practices clearly violate.

Nonetheless, there is a widespread belief among teachers, school administrators, and education officials in mainland Tanzania that these practices are required by law. This may be, in part, because the government is aware of these longstanding practices and, rather than prohibit them, appears to condone them.[192] The expulsion of pregnant students is a near-universal practice, while mandatory or coercive pregnancy testing is practiced extensively in both primary and secondary schools.

This section analyses the key laws, regulations, policies, and guidelines relevant to pregnancy testing in schools and expulsion for pregnancy, with the aim of clarifying the legal and policy framework governing these practices in mainland Tanzania. The analysis is applicable to both government and private schools, although it is worth noting that the vast majority of primary and secondary schools in mainland Tanzania are government schools.[193]

School-Mandated Pregnancy Testing

Interviews with government officials and teachers reveal a belief that pregnancy testing is authorized, or even mandated, by government policies or rules[194] or by local government authorities.[195] Some interviewees suggested that the testing mandate is found in individual school rules or curricula.[196] In an effort to determine whether such a mandate existed, we reviewed relevant laws, policies, regulations, circulars, guidelines, and school rules, in addition to interviewing a number of education and school officials. Our research revealed a general lack of clarity about the authority for mandatory pregnancy testing and no explicit reference in any written document to the practice of pregnancy testing in primary or secondary schools.[197]

National Legal and Policy Framework

Our research disclosed no national-level law, policy, or regulation that mandates or explicitly authorizes pregnancy testing in schools in Tanzania. In fact, none of the education-related legal or policy documents that we reviewed mentions pregnancy testing. The absence of any written reference or authorization for pregnancy testing was further confirmed by a legal officer at the Ministry of Education.[198]

The Education Act[199] and relevant subsidiary legislation or regulations[200] made pursuant to it make no mention of pregnancy testing in schools. The regulations on health in schools are crafted in broad terms, mandating "that teachers and pupils get regular health checkups by Health Officers with regard to personal health and cleanliness"[201] and that "medical examination in respect of pupils, teachers and non-teaching staff is conducted once every year."[202] They do not mention what those examinations or check-ups should include or entail.

Furthermore, our research uncovered no circulars, policies, or guidelines issued by the Ministry of Education mandating that female students undergo pregnancy testing either prior to admission or during the school year.[203] The national Education and Training Policy, mainland Tanzania's foundational policy document on education, does not mention pregnancy testing.[204]

In this light, school-mandated pregnancy testing is neither a national legal requirement nor a policy requirement. Instead, it appears to be carried out at the discretion of individual schools and local governing authorities. This understanding of the practice was confirmed in interviews with multiple officials from the Ministry of Education.[205] Winifrida Rutaindurwa, the gender focal point at the Ministry of Education, clarified, "It's individual schools or individual districts [that decide whether to undertake pregnancy testing]. The schools have their own rules and regulations."[206]

Although mainland Tanzania's national legal and policy framework is silent on the practice of pregnancy testing, the Ministry of Education appears to implicitly condone the practice. Rutaindurwa elaborated:

> *The government is okay with the testing because it's still restricting that pregnant girls cannot go back to school. So if the government finds that any school is doing the pregnancy test, there is nothing wrong with it. Sometimes the districts themselves decide that all the girls should be tested for pregnancy. They do this in order to reduce pregnancy.*[207]

Newspaper accounts indicate that mandatory pregnancy testing is, in fact, being implemented across the board in certain districts and regions. One district commissioner in Handeni referred to a district "programme of having all secondary schoolgirls undergoing pregnancy tests every month."[208] This programme appears to have been initiated by the Handeni District Council. It is not clear how schools were informed of the programme or whether it applies to private schools as well as government ones.

Another news account indicates that the Kagera regional commissioner issued a directive ordering pregnancy testing to be carried out in schools every three months and that the commissioner instructed "District Commissioners, District Executive Directors and school headmasters to ensure the directive is implemented."[209] Again, it is not clear whether the directive was issued verbally or in writing, whether the testing is to occur at the primary school level or the secondary school level, or whether the directive applies to government and private schools alike. We were unable to find direct written confirmation of either of these blanket testing policies.

Regardless, these local government initiatives are not supported by a national legal or policy framework promoting or mandating pregnancy testing in schools.

School-Specific Rules and Regulations

Some interviewees insisted that the mandate for school-based pregnancy testing could be found in school rules and regulations. In Tanzania, school rules and regulations are determined by school committees or boards, which are responsible for a school's management,[210] often in collaboration with the head teacher. Such rules are specific to a particular school and are typically found in its "joining instructions," a document outlining school requirements that prospective students receive prior to admission. Parents, and sometimes students, are required to sign the joining form and agree to its conditions when submitting the school application or admission packet.[211] Our review of a number of joining instructions for primary and secondary schools found no reference to the practice of mandatory pregnancy testing during the school year.

In fact, the only written reference to pregnancy testing that we uncovered appeared in the medical examination forms found in schools' joining instructions. All students must fill out a medical examination form prior to matriculation.[212] Because there is no standardized, government-issued medical examination form, schools have latitude in determining the content of this form. Some—though not all—of the medical examination forms reviewed for this report specified that a pregnancy test is required.

These forms did not indicate the consequences of a positive or negative pregnancy test, although interviews revealed that pregnant students are excluded from admission. [See Section Three, p. 55.] However, even in schools requiring a pregnancy test prior to admission, no mention was made—whether in the medical examination form or elsewhere in the joining instructions—of subsequent pregnancy tests following admission.

Conclusion

In sum, our research revealed no government document mandating or authorizing school-based pregnancy testing. The only mention of pregnancy tests occurred in medical examination forms in some schools' joining instructions, which are to be filled out before admission. Based on this information, it does not appear that students (or parents) are informed prior to matriculation of the practice of mandatory pregnancy testing in schools; nor, by extension, is their consent for this practice sought. This conclusion is consistent with adolescent girls' and other interviewees' statements that consent is neither sought nor obtained from students or parents for pregnancy testing in school.

Most significantly, not only is the practice of mandatory pregnancy testing neither legally authorized nor mandated, but it also clearly violates a number of fundamental human rights, as well as key provisions of the Tanzanian Constitution. Further, this practice is at odds with policy statements made by various branches of the Tanzanian government. [See Section Five, p. 133.]

Expulsion and Exclusion of Pregnant Students

Nearly every government official, school official, teacher, student, and rights advocate interviewed for this report stated that Tanzanian law required the exclusion and expulsion from school of pregnant students. These actors cited a variety of sources for this statement, including the Education Act, education regulations, and the national education policy.[213] In addition, most journalistic accounts of the practice refer to it as being required by law. However, as with pregnancy testing in schools, our research revealed no national-level law, regulation, or policy explicitly requiring the expulsion of pregnant students.

National Laws and Regulations

Tanzania's Education Act makes no mention of the grounds for expelling students from school. It states simply that the Minister for Education "may make regulations . . . to prescribe the conditions of expulsion or exclusion from schools of pupils on the grounds of age, discipline or health."[214] The 2002 Education (Expulsion and Exclusion of Pupils from Schools) Regulations prescribe these conditions, laying out the circumstances in which a student may be excluded or expelled under the law.[215]

The regulations "apply to all primary and post-primary schools"[216] in Tanzania and grant authority to school committees (primary level) and school boards (post-primary level) to order the expulsion or exclusion of a student.[217] These regulations, which have the "the force of law,"[218] state that the

> *expulsion of a pupil from a school may be ordered where—*
>
> *a) the persistent and deliberate misbehaviour of the pupil is such as to endanger the general discipline or the good name of the school; or*
>
> *b) the pupil has committed a criminal offence such as theft, malicious injury to property, prostitution, drug abuse or an offence against morality whether or not the pupil is being or has been prosecuted for that offence;*
>
> *c) a pupil has entered into wedlock.*[219]

The regulations state no other grounds for expulsion. Because these regulations are currently the only law in Tanzania authorized "to prescribe the conditions of expulsion or exclusion" of students, it follows that the aforementioned grounds are the only ones on which expulsion may be legally ordered.

In addition, the use of the word "may" (i.e., expulsion "may be ordered where . . .") is significant. Under Tanzanian law, "where in a written law the word 'may' is used in conferring a power, such word shall be interpreted to imply that the power so conferred may be exercised or not, at discretion."[220] Thus, the above list grants school committees and school boards the power, to be exercised at their discretion, to expel pupils on these grounds. In other words, these bodies are *not required* to expel a student on the basis of any of the above grounds.

Expulsions, therefore, are at the discretion of the school and cannot be said to be mandated by the government. Instead, the question is whether school-specific decisions to expel a student for pregnancy are authorized under the aforementioned grounds. The absence of a specific mention of pregnancy in these regulations strongly indicates that they are not intended to authorize expulsion on this basis.

An analysis of the text of these provisions further suggests that they do not provide authorization for expulsion on grounds of pregnancy. For example, some have interpreted the "persistent and deliberate misbehaviour" grounds in subsection (a) to authorize expulsion on the basis of pregnancy. However, it is not clear how pregnancy alone would be evidence of "persistent and deliberate misbehaviour." Even if the "misbehaviour" at issue is the act of having sex, this act need not be persistent or deliberate to result in pregnancy. As evidenced by adolescents interviewed for this report, pregnancy can result from a single sexual encounter or from violent and nonconsensual sex, or both. Justifying the expulsion of all pregnant adolescents on this regulatory ground, therefore, is without foundation.

Others have suggested that expulsion on the basis of pregnancy is authorized under subsection (b) because adolescent sexual activity, of which pregnancy is unmistakable evidence, is a criminal offence—specifically, an "offence against morality." However, chapter XV of Tanzania's Penal Code, which sets out all offences against morality, does not list female adolescent sexual activity as an offence. In fact, under the Penal Code, a female minor is not criminally liable for any sexual activity or sexual intercourse that she engages in prior to turning 18.[221] Further, the status of "being pregnant" is certainly not a criminal offence under this section. As a result, justifying the expulsion of pregnant students on this ground is unfounded.

In addition to expounding on grounds for expulsion, the regulations address the circumstances warranting exclusion from school. They specify that a student "may" be excluded, or refused admission or readmission to school,[222] where "the delay in the pupil reporting for admission to the school is inexcusable" or "the physical or mental health of the pupil is such as to make it undesirable for the pupil to be admitted to the school."[223] These are the only two grounds for exclusion specified in the regulations.

Again, the use of the word "may" must be understood as deliberate and as conferring discretion on the school committees and school boards. Further, the regulations do not define the circumstances in which it would be "undesirable" for a student to matriculate. It is thus up to these bodies to determine the health grounds on which students might be excluded. However, excluding female students on the basis of pregnancy is in clear violation of Tanzania's legal obligations prohibiting discrimination and promoting the best interests of the child.[224]

Finally, the regulations state that a head of school is permitted to make recommendations to school committees and boards regarding the expulsion or exclusion of a student. Where the school head chooses to do so, "such recommendation shall be contained in a written report setting out the full circumstances in which the recommendation is made and the report shall be accompanied by a copy of all relevant extracts from the record" concerning the student's physical or mental health.[225] These bodies may then either accept or reject the head of school's recommendation.[226]

It is possible that some heads of schools are interpreting this requirement—that all recommendations for exclusion or expulsion include health-related records—to require pregnancy testing before they can recommend exclusion or expulsion based on pregnancy. However, pregnancy is not specified as a basis for expulsion or exclusion in these regulations, and, accordingly, pregnancy testing cannot be justified as an effort to comply with the law on expulsion.

In addition, the exclusion rules provide no grounds for prohibiting students who have dropped out or been expelled due to pregnancy from readmission to school.[227] In fact, the regulation on exclusion makes no mention of denying readmission to students who have been previously expelled on any grounds.[228] Consequently, the argument that the law does not permit pregnant adolescents to return to a government school after giving birth is without foundation. Consistent with this understanding, Tanzanian government officials have acknowledged that there is "no official policy preventing girls from returning to school after giving birth."[229]

Regardless of one's interpretation of the grounds for expulsion, the regulations specify that an expulsion or exclusion order may be appealed, within 45 days of the decision, to the appropriate appeal board.[230] Notably, interviewees for this report stated that appealing an expulsion decision is considered impossible and thus never attempted.[231]

The 2009 Law of the Child Act, Tanzania's other key piece of legislation relevant to this issue, makes no mention of the expulsion of students from school. However, it does provide for a child's right to nondiscrimination on the basis of gender, age, health status, and other status.[232] Further, it states that the "best interest of the child shall be the primary consideration in all actions concerning a child," even those actions undertaken by administrative bodies.[233] These provisions offer strong protections for pregnant students to be able to continue with their education.

Although the Law of the Child Act does not address pregnancy-based expulsion, it does attempt to address the issue of student pregnancies. It amends the Education Act by adding the following text: "Any person who impregnates a pupil of primary or secondary school . . . commits an offence" and is liable to a fine and imprisonment greater than that set out for the other offences listed.[234] This reinforces the Ministry of Education's 2003 education rules, which provide for penalties for persons who "marry or impregnate a school girl."[235] The Law of the Child Act also amends the Penal Code to state that "whoever being on the management or staff of . . . schools . . . takes advantage of his position and commits rape on a girl or women" is liable to imprisonment for life. [236]

National Policies and Guidelines

National policies do not appear to discuss the expulsion of pregnant students. In particular, the Ministry of Education's Training and Education Policy makes no reference to the expulsion of pregnant students.[237] In fact, our research revealed only one document from the Ministry that discusses student expulsion—the Kiongozi cha Mkuu wa Shule ya Sekondari Tanzania,[238] or Guidelines for Secondary School Head Teachers in Tanzania. This document was issued in 1997, prior to the enactment into law of the 2002 expulsion regulations.

This document is not a policy but rather a set of guidelines for secondary school principals and head teachers. Many interviewees referred to this document when stating that the government required the expulsion of pregnant students.[239] However, these guidelines neither mandate the expulsion of pregnant students nor have the force of law. Further, this document applies exclusively to secondary schools.

In his preface to the guidelines, the minister of education acknowledges their limitations, stating that they are "just guidelines" and that head teachers should use their discretion to "make decisions [that take] into consideration the real situations of their schools."[240] The minister also expresses his "great hope" that school heads will find the guidelines "helpful" and that they will use them "as a reference point for administrative issues."[241]

Chapter six of the guidelines outlines "Important Rules and Regulations for Secondary Schools."[242] Within this chapter, there is a section entitled "Mistakes that Can Cause Expulsion from School," which lists 13 errors that can lead to expulsion.[243] These mistakes include promiscuity, rape, and homosexuality; criminal offences; marrying; getting pregnant or impregnating someone within or outside the school; and aborting a pregnancy.[244]

Significantly, the guidelines word this section "mistakes that *can* cause expulsion from school,"[245] as opposed to using the word "must" or "shall." Consistent with the preface, this implies that a head teacher has the discretion to decide which of the "mistakes" will be included in the school-specific rules and regulations. Thus, in contrast to what many policymakers, teachers, and advocates asserted in interviews, these guidelines do not obligate schools to expel adolescent girls for pregnancy.

In addition, these guidelines were issued five years before the current regulations on expulsion came into force. Presumably, the Ministry of Education was aware of its preexisting guidelines when drafting the 2002 regulations. The regulations include many of the same grounds for expulsion listed in the guidelines, such as theft, malicious destruction of property, drug abuse, and marriage; yet, they do not mention pregnancy as a ground for expulsion. It seems fair to assume that this omission was deliberate. The government had the opportunity to legally mandate expulsion for pregnancy and did not do so.[246]

National Circulars

Circulars are administrative orders[247] issued by the chief education officer or commissioner of education as part of their responsibility concerning "the general management and administration of all schools,"[248] both government and private.[249] Our research revealed no government education circulars mandating or authorizing students' expulsion on the basis of pregnancy; however, some ministry circulars address related issues.[250]

For example, a 2004 ministry circular focuses on the punishment of "those who marry or impregnate school girls."[251] It notes that early marriage and pregnancy are factors preventing adolescent girls from completing their studies and affirms that "education is a fundamental right for every citizen of the United Republic of Tanzania."[252]

Significantly, the 2004 circular makes no mention of any disciplinary action to be taken against pregnant primary or secondary students. Instead, it states that "all school age children must be enrolled, attend and finish the level of education they enrolled to."[253] To fulfil that goal, "the government has decided to take action against all that are causing girls to interrupt their studies."[254]

In 2012, the Ministry of Education issued additional circulars concerning the expulsion of students prior to national examinations. The circular currently in effect states:

> *The Ministry of Education and Vocational Training directs that no student can be expelled from school/college in the year of their candidature for national examinations for Standard VII, Form IV and Form VI. Instead alternative punishment should be given to the students in order to avoid disturbances to the students themselves and their parents or guardians. Only for criminal offences, can a Committee/Board expel a student from school/college.*[255]

The expulsion of a pregnant student from her final year of primary or secondary school is thus prohibited by order of the Ministry of Education. It is too soon to tell whether this order is being implemented in practice. Notably, this directive does not prohibit the expulsion of a male student found to have impregnated a female student, in violation of criminal law.

School-Specific Rules and Regulations

As described above, each school has its own set of rules, devised by the school committee or school board[256] in collaboration with the head teacher and teacher's council.[257] Thus, individual schools determine the nature and content of their rules. Of the school rules reviewed for this report, many share similar, though not identical, grounds for expulsion; none of them copy verbatim the grounds found in the guidelines discussed above.

Some of the school rules explicitly mention pregnancy as grounds for expulsion;[258] others state that sexual activity more broadly *could be* grounds for expulsion.[259] Some rules mandate expulsion in cases of sexual activity.[260] Marriage[261] and abortion[262] are also mentioned as offences resulting in expulsion in some schools. Thus, despite the absence of legal authorization, it is clear that at the individual school level, pregnancy—whether in and of itself or as unmistakable evidence of sexual activity—may be grounds for expulsion.

Conclusion

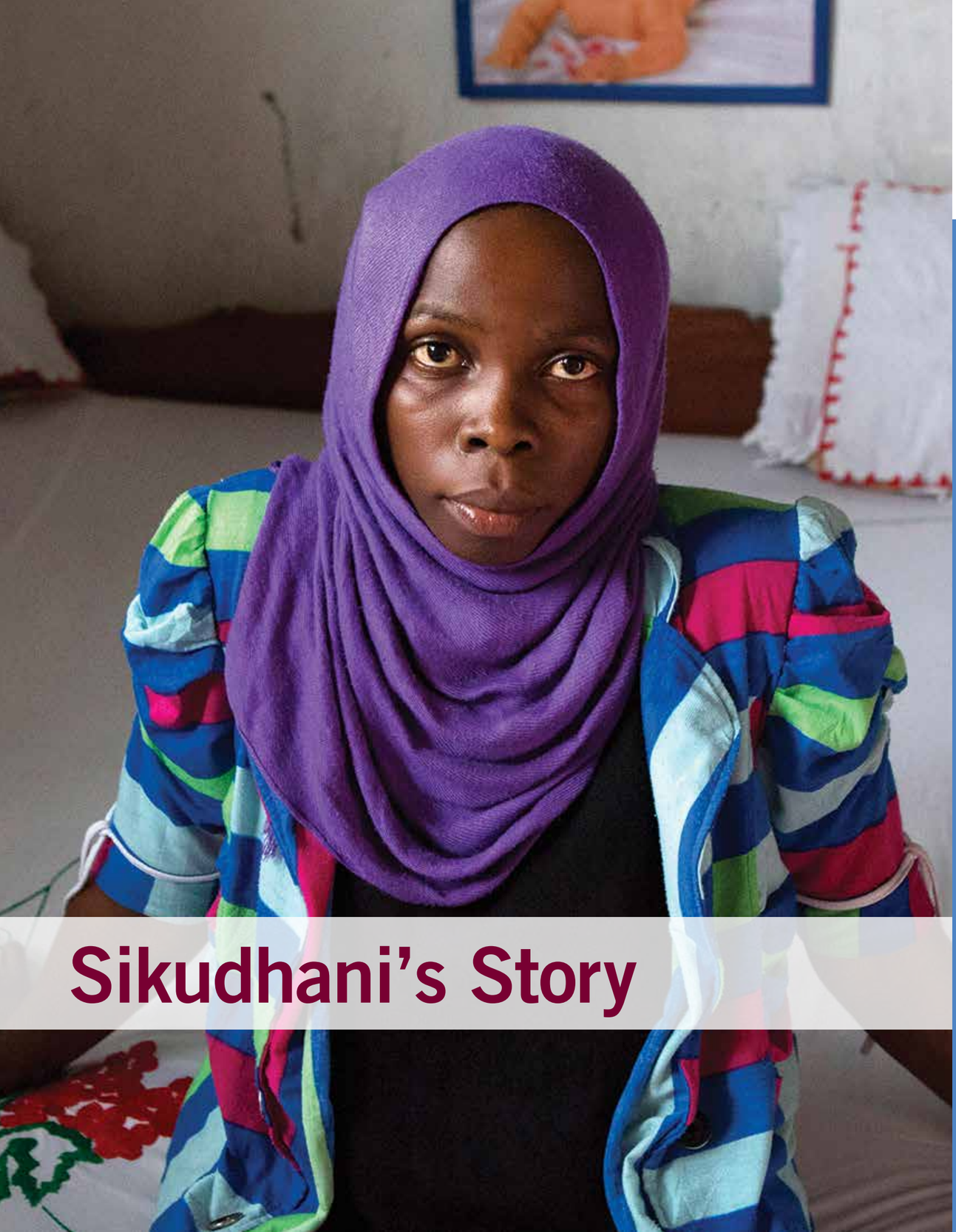
In Tanzania, pregnancy-based expulsion is not mandated by any national law or regulation. The only official document referencing pregnancy as a potential ground for expulsion is the Guidelines for Secondary School Head Teachers in Tanzania; however, the guidelines do not mandate expulsion for pregnancy. Instead, pregnancy is listed as one of many possible "mistakes" that may warrant expulsion, and the head teacher is left to decide whether to include this mistake in his or her school-specific rules and regulations. Further, given that the guidelines predate the Ministry of Education's expulsion regulations—and that these regulations have the full force of law, while the guidelines do not—the more recent regulations should be understood as the authoritative source on expulsion. Consequently, pregnancy should not be understood as a legally authorized ground for expulsion from schools in Tanzania.

In fact, as with the practice of mandatory pregnancy testing, the practice of expelling adolescent girls from school on the basis of their pregnancy status violates a number of fundamental human rights, as well as key provisions of the Tanzanian Constitution. It is also at odds with policy statements made by various branches of the Tanzanian government. [See Section Five, p. 133.]

Section Three

HARMFUL PRACTICES:

MANDATORY AND COERCIVE PREGNANCY TESTING IN PRIMARY AND SECONDARY SCHOOLS



Sikudhani's Story

Harmful Practices means all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education and physical integrity. . . . States Parties shall prohibit and condemn all forms of harmful practices which negatively affect the human rights of women and which are contrary to recognised international standards.

—***Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa***[263]

Sikudhani was 18 years old and in Form 1, her first year of secondary school, the first time she underwent pregnancy testing in her private school in Dar es Salaam. She remembers how the female students were called to assembly and then divided into groups according to their class year. The students were not told in advance why they had to gather in the assembly lounge; the testing came as a surprise.

In the assembly hall, five female teachers were seated in a row of chairs. The school's assistant mistress announced that the students would be undergoing "a check-up," instructing them to line up and stand, one by one, before each of the seated teachers. They were to be tested for pregnancy. Until that moment, Sikudhani had not known that the school carried out pregnancy tests. Her parents had not been informed, either. "I was surprised when this happened, I didn't know what was going on," she remembers.

Sikudhani's understanding was that the testing was mandatory—she had never heard of anyone refusing to be tested.

"Everybody has to accept," she says. She was never asked for her consent, written or oral. "They don't ask permission. They just do it."

The students took turns standing in front of each of the five seated teachers, where they were subjected to the pinching, pressing, and squeezing of their abdomens and breasts. Sikudhani recalls having to lift up her shirt to expose her stomach. She also had to open her shirt buttons to allow the teachers to see her breasts. She remembers seeing a teacher feel one student's pulse at the wrist and throat. The student's pulse was racing, which caused the teacher to suspect that she might be pregnant and therefore nervous; the student was sent to a classroom for a urine pregnancy test.

Sikudhani explains that students suspected of being pregnant on the basis of this manual pregnancy testing are required to do a urine test. The urine sample is obtained in the school bathroom and the test is done in a classroom. The test results are not shared with the student. If the result is positive, the student's parents are summoned to school and informed of their daughter's pregnancy.

Sikudhani says that mandatory pregnancy testing was routine in her school, occurring every three months, for the duration of secondary school.[264]

Sikudhani's experience is not unique. Mandatory pregnancy testing is a common practice in primary and secondary schools across mainland Tanzania. Schools engage in both mandatory and coercive pregnancy testing to identify pregnant adolescent girls and to ensure their expulsion and exclusion from school; little, if any, effort is made to provide them with health care or support.

School-related pregnancy testing in mainland Tanzania takes two forms. The first is coercive pregnancy testing, which occurs immediately prior to school admission in an effort to ensure that pregnant adolescent girls do not matriculate. The second is forced, or mandatory, pregnancy testing, which occurs during the school year and is done to aid the process of expelling pregnant students from school.

Coercive and Forced Pregnancy Testing Defined

Coercive pregnancy testing refers to testing that occurs in a context in which consent is not voluntarily or freely given. This is because pregnancy testing is used as a precondition for admission to school. Although a student could technically refuse to undergo a pregnancy test, in many cases doing so would leave her with no meaningful alternative—in other words, she would have to forfeit her opportunity for further education.

Forced, or mandatory, pregnancy testing refers to pregnancy testing carried out in a custodial context, where the student is under the school's control and supervision. Consent is neither obtained nor sought, and there is no meaningful opportunity to decline. In this context, adolescent girls are effectively powerless to contest the practice.

As discussed in the previous section, neither of these practices is mandated or authorized by any national law, regulation, or policy. Instead, pregnancy testing is undertaken at the discretion of each individual school, district, or region. For example, it does not necessarily follow that schools that require testing upon admission also engage in forced testing during the school year.[265] In addition, in contrast to the near-universal practice of pregnancy-based expulsion, not all schools engage in pregnancy testing, whether coerced or forced.

This section explores the practice of school-based pregnancy testing in Tanzania, discussing where, when, and how such testing occurs and highlighting some of the key harms and rights violations stemming from this practice. Although coercive or mandatory pregnancy testing in schools and the expulsion of pregnant students are clearly related practices, many of the harms associated with forced or coerced pregnancy testing are unique. In other words, such testing violates female students' fundamental human rights, regardless of whether they are subsequently expelled or excluded on the basis of pregnancy.

Coercive Pregnancy Testing Prior to Admission

In mainland Tanzania, prior to enrolling in primary and secondary schools,[266] as well as some colleges and universities,[267] students are required to submit a medical examination form that must be completed by a government-employed health care provider.[268] The form is not standardized and varies by school,[269] although there do appear to be some shared core components of the form. However, since each school is free to create its own medical examination requirements,[270] some forms have more extensive requirements than others.

In general, the form requires the prospective student to undergo a medical exam to document whether he or she has any key communicable diseases (such as tuberculosis, yellow fever, or typhoid); chronic diseases (such as epilepsy, diabetes, or heart disease); or allergies or asthma.[271] The form may also request information regarding immunizations and the results of hearing and eye tests.[272] Sometimes, this form requires a pregnancy test.[273]

The pregnancy test requirement appears to occur solely in forms for secondary schools, colleges, and universities.[274] It does not seem to appear on any primary school medical examination forms.[275] According to a nurse at a government health centre, who regularly fills out these forms, the test is paid for by the prospective student or her family and is therefore typically a urine pregnancy test, in contrast to the palpation method often used during mandatory pregnancy testing.[276] At the bottom of the form, the provider must indicate whether the student is physically "fit" or "unfit" for admission to the school. The forms generally do not indicate what criteria would lead to a designation of "unfit."

The rationale behind the preadmission medical examination appears to be twofold—to prevent the spread of infectious diseases[277] and to ensure that the school is aware of any health problems that a student might have, in order to provide appropriate care and treatment to the student.[278] Headmasters, teachers, and an official from the Ministry of Education interviewed for this report confirmed that if a medical exam reveals tuberculosis, for example, the applicant would need to obtain treatment prior to matriculating. The applicant would then be allowed to join the school and would receive special care once admitted.[279]

However, the rationale behind the pregnancy test appears to be exclusively to prevent admission—if a girl is found to be pregnant, she will not be admitted to the school.[280] According to a teacher from a government-run secondary school in Dar es Salaam, "Almost all schools have this policy."[281] In fact, the same teacher explained, in her school, pregnancy is the *only* medical condition that would result in a designation of "unfit" for admission: "Only pregnancy would result in not being admitted. With other diseases, it's a matter of giving special care to the student."[282]

As discussed in the previous section, the legal and policy framework on permissible grounds for exclusion from school is worded very broadly. It makes no mention of pregnancy and certainly does not explicitly authorize exclusion on these grounds.[283] Nonetheless, schools appear to be discriminatorily interpreting pregnancy as a "physical health" condition that makes it "undesirable for the pupil to be admitted to the school."[284]

As mentioned above, completing the medical examination form is not optional.[285] As one joining instruction form states, "No student will be admitted to school without meeting all the admission requirements."[286] Thus, in cases where pregnancy testing is required for admission, the practice is coercive, even when the health care provider obtains the student's consent. This is because female students have no meaningful alternative: they either submit to a pregnancy test or are denied access to that school.

In particular, for students who cannot afford private school or who have no nearby government-run alternative, the government school they seek to attend may be their only option. If that school demands a pregnancy test prior to admission, female students have no choice but to submit to a test if they wish to obtain formal schooling.

Mandatory Pregnancy Testing during the School Year

Primary and secondary schools in mainland Tanzania engage in mandatory pregnancy testing during the school year as well. This type of forced pregnancy testing in schools has been occurring throughout the country for over 50 years.[287] As with coercive testing, forced pregnancy testing is not conducted for therapeutic purposes; no effort is made on the part of the school to provide medical care to pregnant students. Instead, the primary goal of mandatory pregnancy testing is disciplinary—to identify and expel pregnant students.

Again, as with coercive pregnancy testing, this practice is not mandated or authorized by any law, regulation, or policy, and it appears to be carried out at the discretion of individual schools and local government authorities.[288] As a result, school-based pregnancy testing is not a standardized practice—who tests and is tested, as well as where, when, and how the testing is performed, varies.

Nonetheless, where mandatory pregnancy testing occurs, certain problematic characteristics of the practice are universal. Our interviews indicated that informed consent for testing is rarely, if ever, obtained from the student or parent. Positive test results are also routinely disclosed to teachers, school administrators, and the pregnant student's parents without her consent, sometimes prior to informing the student herself.

It is important to emphasize that the forced nature of such pregnancy testing stems not only from providers' failure to obtain students' informed consent but also from the fact that schools do not provide students with the opportunity to decline testing. Schools do this by deliberately failing to give students information about or advanced warning of the testing. More generally, by maintaining a disciplinary school environment that prohibits dissent, schools effectively ensure that adolescents are powerless to contest the practice.

Overall, mandatory pregnancy testing serves to disempower adolescent girls and reinforce the stigma and fear surrounding female adolescent premarital sex and pregnancy.

The Extent and Frequency of the Practice

Although not universal, the practice of forced pregnancy testing in schools appears to be pervasive.[289] Interviews for this report revealed that forced pregnancy testing is taking place in private[290] and government schools,[291] religious schools,[292] primary[293] and secondary schools,[294] and boarding[295] and day schools.[296]

The testing is also geographically widespread, occurring in urban and rural schools in regions throughout mainland Tanzania[297]—from Dar es Salaam,[298] Tanzania's largest city, to Iringa,[299] Kilimanjaro,[300] Pwani,[301] Kagera,[302] Ruvuma,[303] Mtwara,[304] Mwanza,[305] Tanga,[306] and Morogoro.[307] Our research and interviews revealed that testing begins as early as Standard 4 and 5,[308] when students are approximately 11 years of age, and continues through Form 6,[309] when students are typically 19 years of age.

In fact, some districts or regions have blanket pregnancy testing policies for all schools. In March 2012, the Kagera regional commissioner issued a directive ordering female students in the Kagera Region to undergo pregnancy testing every three months.[310] News reports did not specify whether the directive applied to all female students in the region or only those in certain grades or age groups.[311] Similarly, the Handeni district commissioner publicly stated in 2012 that the district requires all female secondary school students to be tested for pregnancy on a monthly basis.[312]

The frequency of such testing varies by school and, as reflected above, by region or district. Sometimes testing is motivated by a teacher's or school official's suspicion that a particular student may be pregnant.[313] Adolescent girls are often monitored at school for signs of pregnancy;[314] teachers and other school officials will look to see if their appearance or demeanour changes[315] or if they show other potential signs of pregnancy, such as nausea or vomiting.[316] As one teacher explained, "There are signs [the teachers] see in the class; they suspect someone. One teacher says they suspect a student and then we test [all the female students]" after obtaining the approval of the head teacher.[317]

Although universal testing of all female students in a particular grade or school appears to be the most common response to a suspected pregnancy, interviewees also reported individual students being taken aside and tested based on teacher suspicion.[318] Sometimes an individual student may go to a teacher for help and end up being forcibly tested. For example, Ashura became worried after she had not menstruated for five months. After seeking help from her teacher, the teacher immediately took Ashura to the hospital for a pregnancy test.[319] Ashura's trip to the hospital occurred between rounds of universal testing by the school. [See Ashura's Story, p. 112.]

In other cases, the school or local government determines that it will undertake routine testing, regardless of suspicion.[320] Our interviews indicate that schools routinely test twice a year,[321] often when students return from vacation to begin a new term.[322] School officials believe this to be the most likely time for students to engage in sexual activity and become pregnant. Some schools also test four times a year, either every three months[323] or at the beginning and end of each school term or semester.[324] Interviewees also reported being tested three times a year[325] and once a year.[326] Testing may also occur as often as once a month.[327]

The practice of forced pregnancy testing in schools is geographically widespread. Our interviews revealed that it occurs in urban and rural schools in regions throughout mainland Tanzania, including in Dar es Salaam, Iringa, Kilimanjaro, Kagera, Morogoro, Mtwara, Mwanza, Pwani, Ruvuma, and Tanga.

Some schools employ a mixture of both of these tactics—suspicion-based and routine testing—by which they require testing during the school year but base the frequency of such testing on teacher suspicion.[328] As one teacher explained, "The teacher must do it, whether they suspect someone or not. They can do it once or if they suspect someone they can do it up to three times per year."[329]

As with suspicion-based testing, routine testing is most often carried out as a collective or universal exercise. Thus, irrespective of the "trigger" for the pregnancy testing, all female students in a school or class are typically tested at the same time.[330]

Mandatory Pregnancy Testing as a Form of Social Control

The school plays an important role in the life of many adolescents, as the venue for learning, development and socialization.

—U.N. Committee on the Rights of the Child [331]

Universal pregnancy testing is likely done, in part, for practical reasons—testing all adolescent girls periodically, as a general screening measure, will more effectively identify any pregnant students than will stand-alone, suspicion-based testing. However, by testing all adolescent girls in a particular class or school, and not just those suspected of being pregnant, mandatory pregnancy testing in schools operates as a behavioural control mechanism. It is an effort to regulate and control adolescent girls' sexual and reproductive lives, in line with broader societal norms.

Periodic forced pregnancy testing in school signals to adolescents that they are being constantly monitored. Testing seeks to instil a fear of premarital sex and pregnancy in female students by stigmatizing these events and reminding adolescent girls of their serious repercussions. In addition, regular mandatory pregnancy testing attempts to "insulate" female students from the "bad influence" of adolescent girls who do become pregnant by identifying them and removing them from school at the earliest possible opportunity. This, according to interviews with government and school officials, avoids a potential "contamination effect" of adolescent pregnancy and pre-marital sexual activity in schools.[332]

The early detection of pregnancy through testing is also a mechanism to prevent pregnant students from having recourse to abortion,[333] which would further contravene strong societal norms. One nurse explained the importance of testing all female students on the same day: "They could get an abortion if [the provider] comes back to finish the next day." She explained that "abortion is wrong, so [you] want to prevent them from doing it."[334]

By removing pregnant students from the school system and compelling them to carry their pregnancies to term, schools effectively force them into an exclusive role of "motherhood" at the expense of other life goals. This type of gender stereotyping is discriminatory and a violation of a number of fundamental human rights. [See Discriminatory Stereotypes, p. 90; Section Five, p. 115.]

The practice of mandatory pregnancy testing in schools reflects the broader social context in which adolescent girls in Tanzania live. It is but one of the many forms of social control over adolescent sexuality and reproduction in Tanzania, including the practices of forced, early marriage and of female genital cutting.

The Mechanics of Pregnancy Testing: Manual Testing and Urine Tests

Forced pregnancy testing in mainland Tanzania consists of either a manual testing procedure[335] or a urine pregnancy test.[336] Sometimes, both types of tests are used—if a manual test indicates a possible pregnancy, a urine pregnancy test is then performed to provide more conclusive results.[337] The most common testing method used, however, seems to be the physically invasive manual palpation procedure,[338] which many interviewees described as painful.[339]

The pregnancy test is usually administered by the school nurse or matron[340] or a health care professional from a government-run facility.[341] In some instances, interviewees described teachers[342] carrying out manual testing.

When the test is administered by a government-employed health care professional, that person may come to the school to do the testing[343] or students may be taken to a nearby hospital or dispensary to be tested.[344] If performed by a school nurse, the testing occurs in the school itself,[345] sometimes in a classroom.[346]

Violations of the Right to Privacy

When students in Tanzania are taken to the hospital for testing, they are wearing their school uniforms. As a result, and given that this is typically the only reason for female students to be brought to the hospital together,[347] it is clear to everyone at the health care facility that the adolescent girls are there for pregnancy testing.[348]

As one Tanzanian woman recounted in a news article:

> *When I was in secondary school, we used to be taken for pregnancy tests either at the beginning of the term or any time someone was suspected of being pregnant. We would be fished out of class and driven to the general hospital in town in the school truck. School girls in uniform used to be a common sight in public hospitals. Everyone knew what they were there for.*[349]

Manual Pregnancy Tests

Sophia, a 19-year-old from Mafinga, described a typical school-based manual testing experience at her secondary school: "You are called by a female teacher by class—Form 1A, 2A—to go report to a certain block. They call the [female] students' names according to the attendance register, one by one."[350] She explained that each student is directed into a classroom, where a nurse matron and one female teacher are waiting.

> *When you get [to the classroom], they tell you that you will be tested. They ask you to lie on the desk. . . . They don't put down a sheet or anything, you just lie on the desk. They release your clothes but you don't undress fully. . . . The nurse matron does the testing by pinching [your] stomach and breasts. It hurts.*[351]

Martha, a student at the same school, told of a similar experience: "They always use the same block for the testing. There is a desk in the room and they say to lie on the table and untie your buttons and release your skirt. Then they press and knead on your stomach and breasts and pinch your nipples." Martha said that "sometimes it pains" and wondered if they could "change and find another way to do the testing."[352]

Joyce, another student at the school, said that "the nurse matron pushes hard on the stomach and on the breasts. She does it hard. You get some pain." She explained, "They don't ask for consent or permission for the testing. If it was up to me I would say no, because it's painful when the nurse is doing it."[353]

Manual pregnancy testing does not seem to be done in a uniform manner. While some adolescent girls described a health care professional palpating their abdomens, or palpating their abdomens and squeezing their breasts, others spoke of abdominal palpation combined with a visual assessment. Ashura, a former secondary school student from Iringa, said, "They pinch and prod the stomach and then you take off your top and they look to see if your breasts are swollen but they don't touch the breasts. And you don't take off all your clothes, just the top."[354]

Health care providers described similar testing procedures. A nurse who has performed pregnancy tests on students in her government-run clinic in Dar es Salaam explained that the adolescent girls must remove their clothes in order to do the pregnancy assessment. She will then look at students' breasts and abdomens and palpate their abdomens.[355] Another nurse at a different government-run clinic in Dar es Salaam reported that, with students, she typically "palpate[s] the pubic area" and looks for enlargement of the breasts and abdomen, as well as darkening of the nipples, to determine pregnancy.[356]

Palpation of the abdomen is a standard component of antenatal care, used to determine gestational age after the twelfth week of pregnancy.[357] Palpation of the abdomen is not a sensitive or accurate test for diagnosing a new pregnancy, however, and is incapable of detecting a pregnancy prior to the second trimester.[358] According to an obstetrician/gynaecologist at the national referral hospital in Tanzania, the use of abdominal palpation to determine pregnancy among students in schools is "not standard practice" and is not provided for in guidelines from the Ministry of Health or Ministry of Education and Vocational Training: "If a woman comes to the health facility asking [for a] pregnancy test, she will receive a urine [pregnancy] test."[359]

Manual pregnancy testing appears to be motivated by schools' preference to keep the costs of testing to a minimum. Schools that opt for urine-based pregnancy tests, whether in school or at the local hospital, must use their own budget to pay for the tests, with the approval of the school committee or board.[360] In contrast, manual pregnancy testing by government providers or teachers is free.[361] For this reason, the manual testing procedure may be particularly popular in underfunded government schools.[362] Providers interviewed for this report confirmed that it is rare for them to administer urine pregnancy tests because of the associated costs for schools.[363]

Lastly, all health care providers interviewed for this report agreed that squeezing or pinching a woman's breasts or nipples is never appropriate or medically indicated to determine pregnancy.[364] Such treatment would not be experienced by a woman or girl voluntarily requesting a pregnancy test in a clinic or hospital. This approach, used by some providers (and teachers) to detect pregnancies among students, is an indication that pregnancy testing is being used as a disciplinary measure to "find pregnant girls"[365] and not to provide quality health care.

Urine Pregnancy Tests

Urine pregnancy tests may also be used to test female students for pregnancy during the school year. Sometimes a school may require a urine pregnancy test to confirm the results of a manual procedure.[366] Joyce explained her school's procedure as follows: "If you are safe and not pregnant, you just leave after the [manual pregnancy] test. If they sense that you are pregnant you remain in the [class]room and they take you to the hospital"[367] for a urine test.

This combined approach of manual and urine testing acknowledges the limited accuracy of manual testing and allows for a more reliable determination of pregnancy. It also allows a school to keep its costs down by minimizing the purchase of urine tests for use in a smaller number of cases.

Some schools, by contrast, use urine pregnancy tests exclusively. Where this is the case, the testing seems to take place at a local hospital.[368] Exclusive urine-based pregnancy testing may have serious budgetary implications for schools,[369] potentially draining funding from other basic educational necessities.

Without Consent: The Forced and Disciplinary Nature of School-Based Pregnancy Testing

The students, teachers, and health care providers interviewed for this report were unanimous in their observation that students' consent to undergo pregnancy testing is neither sought nor obtained. This failure to obtain consent occurs at two levels—health care providers do not obtain informed consent from students prior to testing, and schools do not seek consent from students during the school year.

Consent to a medical intervention must be both informed and voluntary. The violations around consent, documented in this report, can thus be separated into two key, interrelated components. The first is a deliberate failure to provide information to students about the testing, which prevents students' decisions from being informed. The second is an equally deliberate failure to seek students' consent for the testing procedure and to therefore ensure that the testing is voluntary. These failures, or rights violations, are perpetrated by health care providers and school employees alike.

The Right to Informed Consent

The international human rights framework and Tanzanian laws, regulations, policies, and health care professionals' codes of conduct mandate that patients provide their informed consent to health care providers before undergoing health care procedures.[370] Nonconsensual medical treatments, particularly those that lack a therapeutic purpose, are in clear violation of a patient's rights to health, self-determination, freedom from discrimination, freedom from nonconsensual experimentation, security and dignity of the human person, freedom of thought and expression,[371] and freedom from cruel, inhuman, and degrading treatment,[372] among other rights.

Elements of Informed Consent: Informed and Voluntary

In the context of health care, informed consent is consent obtained freely, without threats or improper inducements, after appropriate disclosure to the patient of adequate and understandable information, in a form and language understood by the patient.[373] Patients should receive information that is

- clear about the purpose of the treatment;
- detailed about the possible benefits of treatment[374] and alternative modes of treatment, including those less intrusive;
- clear about the potential risks of treatment,[375] including "possible pain or discomfort, risks and side-effects of the proposed treatment;"[376] and
- offered by properly trained personnel.[377]

The U.N. Special Rapporteur on the Right to Health has further clarified that "[i]nformed consent is valid only when documented prior to a medical procedure and provided voluntarily, meaning without coercion, undue influence or misrepresentation. . . . Undue influences include situations in which the patient perceives there may be an unpleasant consequence associated with refusal of consent."[378]

Adolescents' Right to Informed Consent

International human rights law recognizes the "evolving capacity" of a child to make decisions in the exercise of her or his rights.[379] The Convention on the Rights of the Child (CRC) establishes that this "evolving capacity" should be understood in light of a child's age and maturity. Article 12 of the Convention requires states parties "to assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child."[380] This assessment of maturity must be made on a case-by-case basis and cannot be a presumption based on age or education level.

More specifically, the Committee on the Rights of the Child (Children's Rights Committee), the U.N. body that oversees compliance with the CRC, has called on states parties

> *[t]o ensure that adolescents have access to the information that is essential for their health and development and that they have opportunities to participate in decisions affecting their health (notably through informed consent and the right of confidentiality), to acquire life skills, to obtain adequate and age-appropriate information, and to make appropriate health behaviour choices . . . .*[381]

The Committee has indicated that the informed consent of adolescents "of sufficient maturity" is both required and sufficient to proceed with treatment.[382]

The Committee has further stated that "[c]hildren, including young children, should be included in decision-making processes, in a manner consistent with their evolving capacities. They should be provided with information about proposed treatments and their effects and outcomes."[383] All decisions should be made in the best interests of the child.[384] In addition, children "incapable of exercising mature medical judgment . . . may nevertheless be entitled to give or withhold their assent" to treatment.[385]

South Africa's guidelines for HIV counselling and the testing of children provide clear guidance on assent: "Assent refers to the willingness of a child to be tested, usually expressed verbally to the healthcare provider. It is obtained by explaining in a manner appropriate to the child's age and stage of development why and how testing will be conducted. . . . The healthcare provider should document that the child has given assent."[386]

Thus, regardless of the adolescent's or child's maturity or capacity to consent, children should be given information on the nature of the treatment and provided an opportunity to express their views. Recognizing "that children's evolving capacities have a bearing on their independent decision-making on their health issues," the Children's Rights Committee has emphasized that "[i]t is therefore essential that supportive policies are in place and that children, parents and health workers have adequate rights-based guidance on consent, assent and confidentiality."[387]

Understanding Mandatory Pregnancy Testing through the Lens of HIV Testing

Tanzania's legal and policy framework governing informed consent and confidentiality for medical screening procedures is most developed in the realm of HIV testing. It is therefore instructive to look briefly at the policies and laws governing HIV testing in Tanzania and to consider the practice of mandatory pregnancy testing in this context.

National policies mandate that HIV testing for all persons be voluntary, informed, and confidential.[388] Under Tanzania's National Policy on HIV/AIDS, "Informed consent following adequate counselling shall be obtained from the person before HIV testing can be done."[389] The policy further states that "[a]dolescents have the same rights to confidentiality and privacy as well as informed consent."[390]

In addition, Tanzania's National Guidelines for Voluntary Counselling and Testing explain the following:

> *Informed consent is deliberate permission given by a client to a health care provider to proceed with the proposed HIV test procedure. This permission is based on an adequate understanding of the advantages, risks, potential consequences and implications of an HIV test result, which could be either, positive or negative. The permission is exclusively the choice of the client and should never be implied, presumed or coerced.*[391]

Finally, the HIV and AIDS (Prevention and Control) Act mandates that "[a] person shall not be compelled to undergo HIV testing."[392] The use of the term "person" means that this provision is intended to be applicable to both children and adults.[393] The Act further provides that "[a]ny health practitioner who compels any person to undergo HIV testing . . . commits an offence."[394]

Thus, in Tanzania, the forced or coerced HIV testing of adolescents is prohibited and even criminalized. Under Tanzanian laws and policies, an individual has the fundamental right to provide or withhold her or his informed consent prior to being tested for HIV.

Pregnancy testing, whether in schools or in health care facilities, should be approached from the same rights-based framework. The forced or coerced pregnancy testing of adolescents is a violation of their fundamental human rights.

Lack of Information and Counselling

According to our interviews with adolescent girls, health care providers typically provide no counselling or information—whether in advance of or during the testing—on why students are being tested or what the testing process or procedure entails. In addition, students who are about to undergo a manual testing procedure are not given information on less intrusive modes of treatment or the opportunity to opt for a physically noninvasive urine pregnancy test.[395]

When we asked Ashura whether the health care provider testing her said anything to her before or during the testing, she replied, "When you come into the [exam] room, the doctor says you are welcome and I want to check you. The doctor didn't say to check what, she just said lie on the bed."[396] The doctor provided Ashura with no other information.

Providers confirmed that they typically greet each student, ask a few medical-history questions concerning the date of the student's last menstrual period and whether she is sexually active, carry out the test, and then dismiss the student. Providers also explained that they, in collaboration with school administrators, decide whether to administer a palpation test or a urine pregnancy test—they do not consult with the students themselves.[397]

Similarly, schools withhold information about the testing process or procedure, sometimes deliberately leaving students unaware of when the testing will even occur. Many students did not learn of the practice of mandatory testing in their schools until the first time they were tested. Schools sometimes also fail to explain the consequences of the test; students may therefore not be aware of how a positive test result might affect their schooling. [See Section Four, p. 81.]

Martha recounted that when she was tested, both a nurse and school teacher were in the room but neither spoke to her: "They don't say anything while it's happening or afterwards. If there is a sign of pregnancy, they mark something next to your name . . . ."[398] According to Neema, the nurse and teacher overseeing the test do not discuss or explain the procedure: "[We] are just told to lie down and be tested."[399]

Students also reported receiving no information on pregnancy prevention or contraception when being tested for pregnancy. According to one health care provider, providers do not discuss family planning with students during the test because "this is discussed in schools."[400] Instead, if providers tell the students anything, they usually simply warn students against teenage pregnancy.

Anna, a Form 4 student, described her testing experience:

> *During the testing, [the teacher and nurse] don't explain what they are doing or why. They talk about the effect of early pregnancy on health and that we should wait until we grow up to get pregnant. They explain that if you get a pregnancy while you're young, you can experience something when you grow up—your health will be affected. They say you will develop health problem[s] on your reproductive organs.*[401]

Just as schools fail to provide comprehensive sexuality education, both schools and health providers also fail to provide meaningful information to students in connection with pregnancy testing that would help students make informed choices about sex. The focus of the exercise instead seems to be to instil a fear of pregnancy in female students, in addition to ensuring that pregnant students are identified and expelled.

Lack of Consent

> *Consent is never discussed. There is no opportunity to say no.*
>
> —Acting commissioner of education, Ministry of Education, discussing the mechanics of pregnancy testing in schools[402]

Health care providers not only fail to provide adolescent girls with the information necessary to make an informed decision about pregnancy testing; they also fail to obtain their consent. None of the female students interviewed for this report indicated being asked for her consent, whether verbal or written, by the health care provider prior to being tested for pregnancy during the school year.

Health care providers confirmed this in their interviews as well.[403] As one nurse explained, "[We] don't ask for consent from the student because it's a command from the school. In the clinic, you have to ask for consent but for students there is no consent because you are asked [to test] by the school."[404] The nurse emphasized that because the school—not she—is the one initiating the testing, she must comply with the teacher's request to test the students and "find pregnant girls" because "it's part of [her] job." She also acknowledged that "the majority would not like to be tested."[405] As discussed in this section and in Section Five, the failure to obtain a student's informed consent and to verify that the procedure is voluntary violates a number of fundamental human rights and contravenes core ethical and legal obligations undertaken by health professionals.

Similarly, schools decline to seek the informed consent of their students or the students' parents to perform the procedure. Instead, they make clear that the testing is mandatory for all female students, without exception. According to our interviews with adolescent girls who had undergone testing, not only is consent not a consideration, but schools often attempt to eliminate any opportunities for opposition to testing. As a result, the testing typically occurs without advance warning, in order to ensure that students do not—and cannot—avoid the testing.[406]

The involuntary, nonconsensual nature of the testing also underscores the discriminatory and disciplinary intent behind the practice of pregnancy testing. Schools are not undertaking pregnancy tests in order to provide health care or offer other forms of support to pregnant students. Rather, they test students in order to effectively comply with pregnancy-related expulsion policies and enforce disciplinary rules.

Requesting a student's consent to enforce discipline, from the school's perspective, is inconceivable. School and government officials believe that students have a duty to submit to testing. As one Ministry of Education official explained, "There is no consent because [being pregnant] is something which is restricted."[407] School administrators and public officials were similarly dismissive of the notion that consent might be obtained from the student or parent prior to testing.

One secondary school teacher recalled her own experience undergoing testing as a student:

> *They do it like a surprise. They say it's time to test and then they go for testing the same day. They call all the girls and put them in one room and then they lock you in there so you can't escape. . . . No one ever said no to the test. It is impossible to say that.*[408]

Adolescent girls interviewed for this report who had undergone testing in recent years shared similar stories of forced pregnancy testing in school. According to 19-year-old Hamida who attended school in Pwani region on the coast: "The headmaster tells [the female students] it's time to be tested. You are not asked, you must be tested. . . . When they take you to the classroom [to be tested], you must do it."[409]

Similarly, 17-year-old Joyce from Mafinga implied that a refusal to be tested would be considered unacceptable and met with corporal punishment.[410] Ashura, a 19-year-old who attended a secondary school in rural Iringa region, said that she had heard of one girl refusing to be tested for pregnancy. "The teachers said that she . . . must do it, it is a school regulation." The girl was then tested.[411]

Most adolescent girls and women who had undergone testing, as well as education officials and advocates, described the testing as "a surprise." School officials, recognizing that some students might not be willing to submit to pregnancy testing, deliberately fail to give them advance warning about when the testing will be carried out. A biology and geography teacher who oversees testing in her government-run secondary school explained why schools do not seek consent: "We don't ask for the students' consent—if you ask them, they escape. We [also] don't tell the parents about the testing."[412]

Typically, a teacher, headmaster, or headmistress will walk into a classroom unannounced and tell the adolescent girls to stand up and go to a particular classroom for testing. Anna, a 16-year-old in Form 4, explained how, in her school, a teacher enters the classroom and says that it is time for testing. "The teacher just calls [the students] forward and says follow me. [She doesn't] explain where we are going, just takes us to the room."[413] Sikudhani's story also illustrates this tactic. In her school, students are told to gather in assembly—and only then does the school announce that testing is to be carried out, effective immediately.[414] [See Sikudhani's Story, p. 52.]

Some schools—particularly those that carry out the testing in a hospital and not on school premises—will not even reveal to the students where they are going or why. For example, 18-year-old Chika explained that in her government-run primary school in Dar es Salaam, the headmaster informs students about a week in advance that they will be going to the hospital. He does not explain the purpose of the visit. "The school arranges for the trip. They bring buses to take [the female students] to the hospital. It's every girl in Standard 6 and 7," she said.

Only when the students arrive at the hospital and are gathered into a waiting room does the headmaster explain that they are there to undergo pregnancy tests.[415]

Tatu described a similar testing experience at her government-run primary school in Morogoro:

> *We came early in the morning for regular activities and studies and when we are in class, the class teacher came and said that today all girls, take your hoes, we are going to the hospital to dig there and put out the grasses. But it's an ambush. When we get to the hospital, the teacher says now put down your hoes and I want to show you where to dig. When we go [where the teacher indicates], the teacher says go one by one [into an examination room in the hospital]. When we enter the room we meet a nurse who gives us a bottle to put our urine in and then [we] come back with our urine to test. . . . Then we take our hoes and go back to school. . . . They don't ask for consent or permission for the urine test. It's an ambush order. The teacher is too harsh—all children must do it. No one thinks they can say no.*[416]

Custodial Context: Constraints on Autonomy to Contest Forced Testing

> *No one has ever refused to take the test. If they did, the teacher would suspect that the girl was pregnant and take further action. Maybe take them to the hospital or take them by force to be tested.*
>
> —Anna, Form 4 student at a government-run secondary school in Iringa[417]

To fully understand the disciplinary nature of coerced and forced pregnancy testing in schools, and adolescent girls' powerlessness to decline such testing, it is important to place the testing in a broader context. In general, due to age disparities and the custodial nature of schools, adolescent girls in primary and secondary school face significant power imbalances in their interactions with teachers and school officials, and they have limited autonomy and capacity to assert themselves. In Tanzania, this power dynamic is further reinforced by two key characteristics of the school environment: an emphasis on obedience and discipline, and the prevalence of physical punishment.

In this context, coercive or mandatory pregnancy testing is simply one of many forms of physically invasive, disciplinary measures that adolescent girls must endure in their journey through the educational system. Given the potential repercussions, declining or refusing to be tested is not a meaningful option for adolescents.

Obedience and Discipline

> *Students [are] required to be role models of respect and discipline wherever they are.*
>
> —"Important Rules and Regulations for Secondary Schools," Ministry of Education[418]

Primary and secondary school students in Tanzania are expected to be respectful, obedient, and unquestioning of school authority. School rules and regulations are typically comprehensive and strict, and disciplinary measures for infractions are wide-ranging, often involving corporal punishment. The Ministry of Education's "Important Rules and Regulations for Secondary Schools" state that respect, deference, and obedience towards teachers and elders is required of all students.[419] The same rules underscore that students must "remain silent at all times while in the classroom,"[420] indicating the hierarchical dynamic between teacher and student.

In addition, the absolute authority of the school while children are in its custody is stressed; according to the Ministry of Education's rules mentioned above, students must "respect all workers in their school as their guardians."[421] Insubordination is prohibited—students may be expelled for "striking, inciting . . . or disrupting peace and security" or for "[d]eliberately refusing to be punished."[422]

School-specific rules build on the Ministry's guidance. For example, in two government secondary schools, school rules state that students could be expelled "without warning or regardless of past behaviour [for] refusing to obey orders or penalties issued by the head teacher."[423] Mandatory pregnancy testing is typically carried out via a head teacher's order.[424]

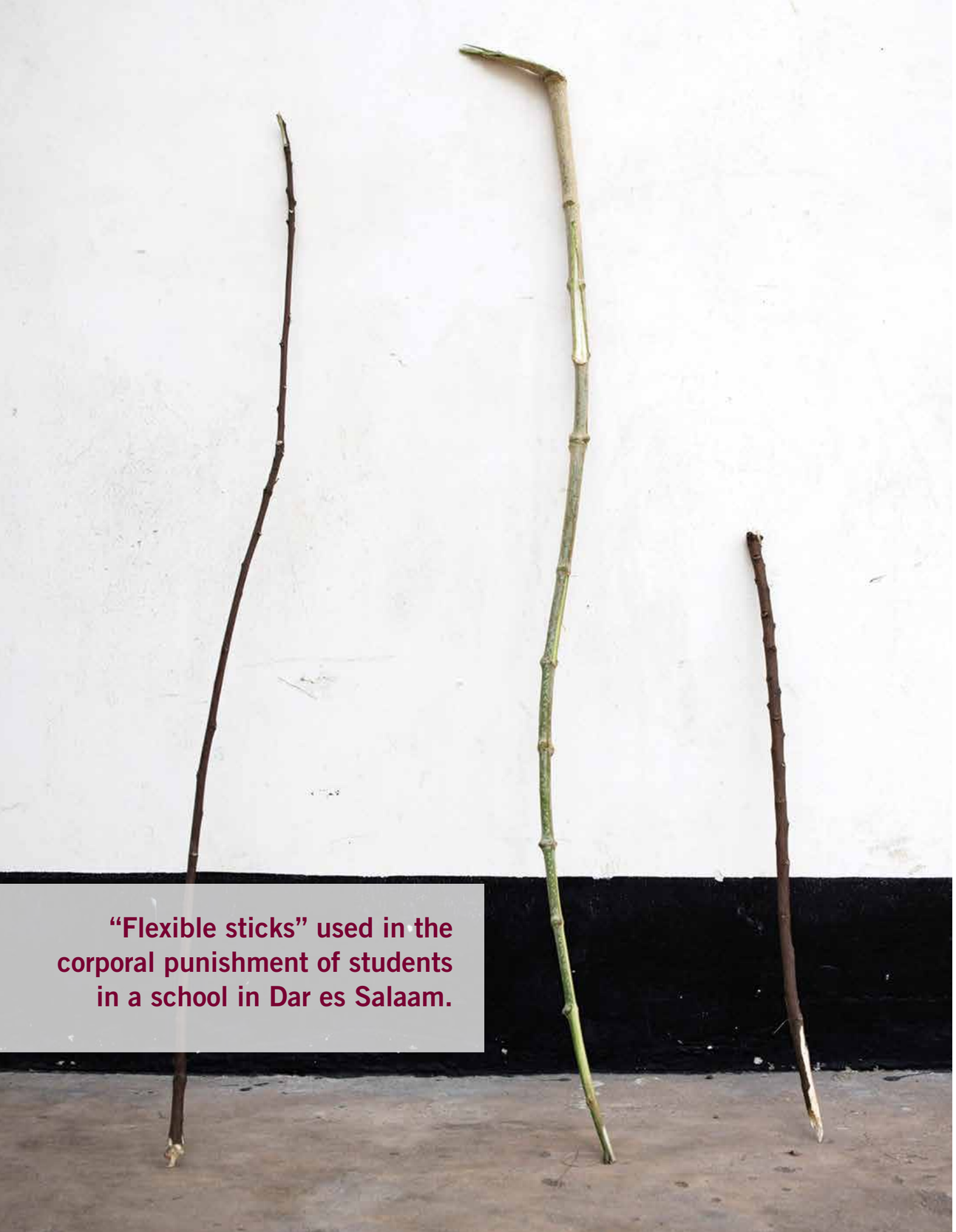
Similarly, in one private secondary school, "[s]howing disrespect to teachers"[425] results in instant expulsion. Though "disrespect" is not defined, refusal to comply with a teacher's order to undergo mandatory pregnancy testing may be sufficient. The school's rules further state that "a student will be required to abide by any other rules or regulations that may be introduced by the school administration from time to time, otherwise she faces total expulsion."[426] These broader disciplinary rules complement those specifically prohibiting "immoral" behaviours, such as sex, abortion, marriage, "sharing [a] bed or lesbian behaviour," and even attempting or planning to commit suicide—all of which also result in instant expulsion.[427]

School-specific rules sometimes seek to control and regulate nearly all aspects of student behaviour.[428] Questioning a school-mandated practice in this context would not—and does not—occur to most students. As one lawyer from the Women's Legal Aid Centre in Tanzania explained, adolescent girls do not complain about the testing except to say that the exam physically hurt. "Girls just thought [that] this is a school procedure, so you have to abide by it."[429]

Similarly, when a senior official in the Children Development Division at the Ministry of Community Development, Gender and Children was asked whether a female student has the opportunity to consent or decline to be tested for pregnancy in school, she responded, "Not in this country." She emphasized that children have duties in addition to rights and that these duties include the duty to obey those in authority.[430]

Punishment

The emphasis on obedience and discipline goes hand in hand with the widespread prevalence of violence in school. In addition to gender-based sexual violence in and around schools [see Section One, p. 33], physical violence by teachers against students is widespread. Fear of this violence is strong and contributes significantly to truancy and dropouts;[431] it also serves as a serious deterrent to dissent.



"Flexible sticks" used in the corporal punishment of students in a school in Dar es Salaam.

A key finding of a 2007 study on the views of children on education in Tanzania was "the major role that punishment plays in children's experience of school."[432] Corporal punishment, as a means of enforcing discipline in schools, is both legal and pervasive in Tanzania.[433] Although current government regulations establish some limits on how it is administered—the maximum number of strokes to be administered by a "flexible stick" at one time is four, and only the head teacher or a designated teacher is permitted to carry out the punishment[434]—in practice, "this rule is not widely adhered to."[435]

According to another study, 52.6% of adolescent girls and 50.8% of adolescent boys in mainland Tanzania have been punched, kicked, or whipped by a teacher. Further, 78% of adolescent girls and 67% of boys report having been punched, kicked, or whipped more than five times.[436] A look at school disciplinary rules gives further context to these statistics by demonstrating how even the smallest infractions may result in physical violence. For example, in one school, "[r]oaming around during class hours and preparation time without genuine reason" results in three strokes, as does "[c]oming out late from the dormitory."[437] Spilling food in the dining hall can result in one stroke, as can "[s]habby dressing."[438]

Given this overall experience of discipline in school,[439] adolescents' capacity to challenge a school disciplinary practice, such as forced pregnancy testing, is highly constrained. In practice, there is no effective way to decline to be tested, or even to signal opposition to the testing, without facing additional punishment. This was made clear in 17-year-old Joyce's response to being asked what would happen if she refused testing: "If you want to be beaten, then you say no. We just have to do it."[440]

Violations around Adolescents' Rights to Privacy and Confidentiality of Test Results

Health care providers and school officials routinely violate adolescent girls' rights to confidentiality of test results and to privacy in the context of mandatory pregnancy testing. Chika's story is illustrative—she was not told anything about her test results by the nurse who manually tested her for pregnancy at a nearby public hospital. Instead, the nurse relayed the results directly to the headmaster and assistant headmistress of the school. Chika did not learn of her pregnancy until the following day, at a meeting with the headmaster.[443] [See Chika's Story, p. 78.]

Under international human rights law[444] and national professional codes of conduct,[445] health care providers are obligated to seek a patient's consent before disclosing confidential health information to third parties. For example, the nurses' and midwives' code of professional conduct states that all nurses and midwives have a duty to respect "clients' wishes regarding the sharing of information with their family and others" and obtain consent if asked to "disclose information outside the team [involved in delivery of care] that will have personal consequences for patients or clients."[446]

Adolescents' Rights to Privacy and Confidentiality

In its General Comment 4, concerning adolescent health, the Committee on the Rights of the Child outlines states' human rights obligations concerning adolescents' rights to privacy and confidentiality in the context of health care:

> *In order to promote the health and development of adolescents, States parties are [] encouraged to respect strictly their right to privacy and confidentiality . . . . Health-care providers have an obligation to keep confidential medical information concerning adolescents, bearing in mind the basic principles of the Convention. Such information may only be disclosed with the consent of the adolescent, or in the same situations applying to the violation of an adult's confidentiality.*[441]

Echoing these international human rights obligations, the Tanzanian Ministry of Health's Standards for Adolescent Friendly Reproductive Health Services require that "providers guarantee privacy, confidentiality and respect while providing services to adolescents."[442]

Despite these obligations, providers routinely fail to give adolescent girls information about the possible consequences of pregnancy testing or the fact that their confidentiality may not be guaranteed. In addition, providers do not appear to ask for students' consent before disclosing their test results to school officials. In fact, providers seem to have no direct contact with the students after performing the test; none of the female students we interviewed reported being directly informed of her test results by the health care provider.

According to Ashura, following her urine test at the nearby hospital, "I was released and left, and [once I had gone] the doctor told the teacher I was pregnant."[447] Later that day, the teacher informed Ashura of the results and took her to see the headmistress. The news came as a surprise, for Ashura had not known that she was pregnant; Ashura had also not known that pregnancy was grounds for expulsion. The headmistress then gave Ashura a letter of expulsion, addressed to her parents, explaining that the grounds of expulsion were pregnancy.[448] Other adolescent girls interviewed for this report likewise recounted that they had not known they were pregnant until being informed by their teacher or headmaster, after which point they were summarily expelled.[449] [See Maria's Story, p. 22.]

Tatu had a similar experience. She was tested at a nearby district hospital, along with her female classmates from Standard 5 through 7. She explained what happens once a student is directed into the examination room by her teacher:

> *A nurse gives you a bottle to put your urine in and then you come back with your urine to test. You give the [urine] specimen to the teacher and the teacher gives it to the nurse. And when we finish there, the teacher takes the results, positive or negative, and writes down the names with the results. Then [after everyone has been tested]. . . we go back to school. We don't get the results until it's time to go home [from school, at the end of the day].*[450]

Health care providers interviewed for this report confirmed that they provide the test results directly to the teacher accompanying the students during the testing exercise.[451] According to one health care professional, providers are not allowed to give the test results directly to students: "It's not the students who wanted to test. The teacher initiated the test, so she needs the results."[452] Other providers interviewed reiterated this explanation.[453]

This lack of direct communication between provider and student following the pregnancy test means that health care providers typically do not provide pregnant students with information concerning their health care options,[454] including information on family planning, sexually transmitted infections, and appropriate pregnancy-related services.[455]

In addition, by failing to discuss results with students following their pregnancy test, providers acknowledged that they also have no opportunity to determine whether the pregnancy was the result of sexual violence and, if so, to provide the necessary care.[456] As one nurse explained, "If it was another client, we may probe further, to see if they were raped, [for example]. But with students, we don't do that. We just determine if they're pregnant."[457]

Some health care providers explained that when they provide the test results to the teacher, they advise the teacher to bring the pregnant students back to the clinic for antenatal care. These providers thus recognize the need for counselling and information but seem to believe that they are not well placed to provide it. For example, one provider explained that she does not provide students with their test results because the student may not be ready to learn that she is pregnant. She said that informing the student directly may cause her to "escape, do unsafe abortion. The pregnancy is always unwanted. They need counselling first. Some students may become pregnant unknowingly, you don't know how she will receive the news." Therefore, the teacher will discuss the issue with the student's parents in order to determine "the way forward," the provider said. "Because [the students] will be expelled, the parents [will] take the students home and deal with it."[458]

Indeed, pregnant students may need multiple forms of social support from family, school, and friends. However, this does not absolve health care providers of their professional responsibility to provide information and counselling directly to a client, regardless of the client's age or maturity. Further, as discussed in the next section, the assumption that schools will provide support to pregnant students is unfounded—schools similarly fail to provide information and counselling to pregnant students, leaving them to obtain appropriate health care services on their own. [See Pregnant Adolescents' Vulnerability to Poor Reproductive Health Outcomes, p. 92.]

Once the teacher or school official is made aware of which students are pregnant, she then often shares this information with other school employees, the student's parents, or other students. She does not ask for the pregnant student's consent to do so, compounding the violations of the student's rights to confidentiality and privacy. In this way, an adolescent girl may be the last to know the results of her own pregnancy test.

For example, as described earlier, often the headmaster or headmistress will be informed about a positive test result before the student herself. In addition, sometimes a student's parents or guardians are sent a letter of summons asking them to come to the school, at which point the student and her parents are notified together.[459]

Lastly, sometimes a student's pregnancy test results are shared with other teachers and staff[460] or students in the school. This disclosure may be overt—for example, in Maria's case, the results were announced during a school-wide assembly. [See Maria's Story, p. 22.] It may also occur indirectly, due to the school's failure to maintain privacy when disclosing test results. For example, in Tatu's school, those who have been tested for pregnancy stay behind at the end of the school day to be told their results. As Tatu explained, "They choose all the girls that were pregnant and they tell them that they are pregnant. The assistant head teacher tells you. Then they give you a letter to give to your parents."[461] By singling out certain students from a larger group and giving them a letter, it is apparent to all the students tested that day whose test results were positive.

Adolescent girls who test negative for pregnancy do not seem to be given any information about their test results by the school or health care provider. If a female student is not issued a letter or informed that she is pregnant, it is assumed that her result was negative.

The Impact of Mandatory Pregnancy Testing on Adolescent Girls

Mandatory pregnancy testing is a disempowering and degrading practice that discriminates against adolescent girls on the basis of their sex. It offers no health benefit to adolescent girls—on the contrary, the rights violations experienced during testing may potentially deter them from seeking reproductive health services in the future. Forced pregnancy testing serves only to perpetuate harmful stereotypes and stigma, underscoring for adolescent girls that they have limited control over their bodies and lives. [See Mandatory Pregnancy Testing as a Form of Social Control, p. 60.]

For example, the forced nature of the testing, along with the fact that it can occur without warning, intentionally produces a sense of fear and anxiety in adolescent girls. The practice effectively conveys to adolescent girls that they are under constant surveillance for signs of pregnancy. As the gender focal point at the Ministry of Education explained, "If they know that they will be tested, then they will be afraid . . . . It instils some sort of fear."[462] With periodic testing, students know that they cannot hide a pregnancy or covertly procure an abortion, "so it keeps them afraid of getting pregnant."[463]

Further, the deliberate withholding of information concerning the purpose of the testing, the testing process, and students' test results is disempowering. The failure to obtain consent, combined with the physically invasive, painful, and degrading nature of manual testing—the most common form of pregnancy testing—emphasizes to adolescent girls their lack of autonomy and bodily integrity. As Joyce related, "Testing is bad. If you don't do it, they think you're pregnant. If you do it, it hurts."[464]

For students who are pregnant, testing further denies them access to education and seeks to prevent them from making a decision regarding whether to carry their pregnancies to term. This again reflects a larger pattern of enforcing social controls over adolescent girls' sexual behaviour, bodies, and life choices, while at the same time failing to acknowledge the realities of why adolescent girls become pregnant in the first place.

In addition, health care providers' and school administrators' joint involvement in pregnancy testing reinforces the message that female adolescent sexuality outside of marriage must be controlled and condemned.[465] This discriminatory practice thus feeds into and reinforces harmful gender stereotypes concerning motherhood and the further diminished value of adolescent girls who become pregnant outside of marriage and as minors. [See Discriminatory Stereotypes, p. 90.]

Moreover, mandatory pregnancy testing reinforces other forms of gender-based discrimination and violence in schools. As discussed earlier, adolescent girls are subjected to high rates of corporal punishment and sexual violence in schools, even as compared to boys. The marginalization of female students in classrooms, including through stereotyping, is also commonplace. Pregnancy testing—particularly manual pregnancy testing, which is physically invasive and can be painful—contributes to adolescent girls' understanding of themselves as somehow inferior or deserving of violence.

Notably, boys' sexuality is not subject to such controls, nor do boys suffer analogous human rights abuses. Boys are not similarly physically monitored, forcibly investigated, subjected to violations of their physical integrity and privacy, prevented from making decisions about their reproductive lives, or expelled for engaging in sexual activity.

Coercive and forced pregnancy testing thus serves to instil fear, reinforce stigma, and disempower adolescent girls at a crucial time in their growth and development, when they should instead be encouraged to feel self-confident and empowered.

Chika's Story

Chika was enrolled in a government-run primary school in Dar es Salaam the first time she was forced to undergo a pregnancy test in school. She was tested throughout Standards 6 and 7, beginning at age 15.

She remembers that the headmaster was the one who decided when it was time to test for pregnancy. He would announce a week in advance that all the female students would be going to the hospital, but he would not say why "because then girls will avoid it." The school would hire buses to take female students in Standards 6 and 7 to the hospital for testing. The school's headmaster and assistant headmistress would accompany them to the hospital.

Chika recounts her most recent pregnancy testing experience in school. When the students arrived at the hospital, the headmaster stated that they were there to do pregnancy tests and that whoever was found to be pregnant would be expelled. The students were ushered into a waiting room and then called, one by one, to an examination room to be tested.

A nurse awaited Chika in the exam room and told her to lie on the table. The nurse then palpated Chika's abdomen with her fingers, and Chika "was feeling pain."

The nurse did not ask for Chika's consent to undertake a manual pregnancy test. The nurse then used a stethoscope on Chika's stomach to see if she could hear a foetal heartbeat. Afterward, Chika was told to return to the waiting room—the nurse never gave her the test results.

Once everyone had been tested, the students returned to school. Later that day, Chika was given a letter to take to her parents, telling them to come to school the following day to meet with the headmaster.

As she arrived to school the next day with her father, she suspected that she was pregnant "because I saw other students who had gotten the letter and were pregnant."

Chika had been sleeping with a 20-year-old man who would "support her" to buy lunch during school. Her parents had been giving her only 200 Tanzanian shillings (US$0.13) a day for food, which was not enough for breakfast and lunch. Her friends had had boyfriends and could afford lunch during the school day. Chika had decided to find someone to help her to buy food, too.

She had not known how to prevent pregnancy. This was not taught in school, she says.

"The problem I got happened because of the economic status of my family. That is why I relied on boys to get money. My parents didn't have funds to support me and so I entered into a sexual relationship."

At the meeting with the headmaster, Chika was informed of her pregnancy. No counselling or health care referrals were offered by the school.

Because Chika had been close to finishing primary school when she discovered that she was pregnant, the headmaster agreed to allow her to return to sit for the leaving examination, which would allow her to graduate. When she returned to school for the exam a few weeks later, she felt "ostracized," and noted that her friends no longer wanted to be friends with her.

Chika passed the exam and tried to go to secondary school, she remembers, crying quietly. However, her family did not have the funds to support her to go to private school, and, even if they did, there was no one to care for her child while she was in school. She says, "I feel sad. Because I think if I didn't get pregnant I would be with my friends in secondary school now."[466]