

When is a Child Not a Child: The Case of Teenage Mothers Receiving Child Support Grant in South Africa

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ABSTRACT Primary care-givers who qualify for social assistance can receive child support grants in respect to the children below the age of 18 years in South Africa. Such a grant would normally continue until the child becomes a major. The aim of this research is to look at the eligibility of the teenage parents in benefiting from the grant. It further intends to answer the question whether a teenage mother above 16 years of age should retain the 'child' status for the purposes of receiving the child support grant or should they alternatively be automatically disqualified from receiving the grant by virtue of themselves becoming full-fledged mothers. The study relied on secondary data. The findings indicate that there are loopholes in the law dealing with social assistance. As such it recommends legislative review on the issue of termination of the child support grant.

INTRODUCTION

Section 27 (1) (c) of the South African Constitution (1996) provides that, "Everyone has the right to have access to social security, including, if they are unable to support themselves and their dependants, appropriate social assistance." This provides a fair and just legal foundation to the framework of social assistance. It serves as a constitutional guarantee to everyone to receive social security. The clause gives rights and obligations, pertaining to social assistance, as it potentially give everyone the right of access to social assistance. The term 'social security' does not have a uniform definition, but the one that has been accepted and followed in South Africa is the one from the White Paper on Social Welfare (1997); which provides the following concerning the issue:

"Social security covers a wide variety of public and private measures that provide cash or in-kind benefits or both, first, in the event of an individual's earning power permanently ceasing, being interrupted, never developing or being exercised only at an unacceptable social cost and such a person being unable to avoid poverty and secondly in order to maintain children..."

It is clear from the above provision that the term social security is broad. As such, it is divided into social insurance and social assistance. Social insurance is a form of social security de-

signed to protect the income-earners and their families against a reduction in or loss of income as a result of any exposure to risks. However, for the purposes of this work, the researcher will only concentrate on social assistance, with specific reference to the child support grants. According to the Committee of Enquiry (2002), social assistance may be defined as a state-provided basic minimum protection which aims to relieve poverty which however is subjected to the qualifying criteria and is rendered on a non-contributory basis. In South Africa, social assistance is mainly in the form of social grants. A child support grant is one of the social grants provided by the state and it can be defined as a monthly income support to adults in need, who care for the children who are under the age of 18. According to the Social Assistance Act 13 of 2004, parents and primary caregivers qualify for the child support grant if their children are below the said age.

It is pertinent to note that sometimes children who are subject to the child support grant become pregnant before reaching 18 years of age. The question that follows then is that of the eligibility of the child support grant to the teenage mothers. This study will focus only on the teenage mothers to the exclusion of the teenage fathers since it is mainly the female teenagers with adult partners who give birth to children at an early stage compared to their male counterparts. Mothiba and Maputle (2012) con-

firmed that forty-eight percent of the respondents had partners who were 21 years and above; forty three percent had partners between 19–20 years and nine percent had partners between 16–18 years. The vast majority of the teenagers became pregnant by partners who were older than they were.

Aims and Objectives

The main objective of this research is to discuss the eligibility of the teenage mothers who receive a child support grant, and bear children who are also in need of the same grant. The aim of the research is to investigate whether such teenage mothers, above the age of 16 should not be regarded as their own children's primary care givers, and as such be excluded from benefiting from the grant but instead only have their children benefiting under the child support grant.

Child Support Grant as Provided for by the Social Assistance Act

As a way of heeding to the constitutional obligations of achieving reasonable legislative measures and progressive realization of the rights, the Social Assistance Act was born. The Social Assistance Act (herein after referred to as the Act) aims at providing a legal framework of the social grants in South Africa. It provides for *inter alia*, the following: different social grants that the government offers, rules relating to the eligibility of such grants, and the administration of social assistance.

S4(a) of the Act states that the Minister of Social Development should, with the concurrence of the Minister of Finance, out of the money appropriated by the Parliament for that purpose make available, a child support grant. Section 5 of the Act goes on to outline the requirements for the eligibility for social assistance. Amongst the requirements outlined, is the freedom of the Minister of Justice to prescribe more or reduce the requirements for one to qualify for social assistance. The only specified requirement for one to qualify for a child support grant is that the receiver must be the primary care giver of the child.

Other provisions outlined by the Act for eligibility for the social child support grant also

apply to other types of social grants (these are stated in S5 (2) of the Social Assistance Act, although not specifically mentioned under child support grant, they apply to all forms of social assistance), and they include the following:

- That the applicant must be a South African citizen or a permanent resident
- Additional prescription by the Minister of Social Development on the following matters:
 1. Income threshold,
 2. Means test,
 3. Age limits, disabilities and care dependency,
 4. Proof of and measures to establish or verify identity, gender, age, citizenship, family relationships, care dependency, disabilities, foster child and war veterans' status,
 5. Forms, procedures and processes for applications and payments,
 6. Measures to prevent fraud and abuse.

Termination of Child Support Grant

The fact that the child support grant is meant for children below the age of 18 years means that the grant would be terminated once the child has reached that age (the Minister of Social Development however, made an announcement in June 2014 that the child Support Grant was to be extended to 21 years for those children who still needed support and were still at school or continuing with their studies). Even if a parent or a caregiver is still financially eligible, payments will stop when the child turns 18. Regulation 28(2) of the Government Notice R898 (2008) stipulates other grounds for termination of the child support grant to include death of the child, if the child is no longer in the custody of the primary care-giver, if the primary care-giver ceases to be a refugee (only applicable to refugees), and if the child is admitted in a state-funded institution.

It is worth noting that the law is silent on the issue of the teenage mothers and their eligibility for the child support grant.

METHODOLOGY

The study relied on secondary data wherein the following sources were consulted: books, cases, statutes and journal articles to analyse, interpret and even give a legal opinion pertaining to the matter at hand.

RESULTS AND DISCUSSION

The main research question is: *whether children above the age of 16 years who become parents while being beneficiaries of the child support grant continue benefiting from the grant or the grant is terminated and the new child becomes the only beneficiary of the child support grant, if eligible?*

In presenting the findings of this study, five main findings from the literature will be presented and discussed, and these are:

1. The dilemma of teenage mothers benefiting from the child support grant (When is a child not a child?)
2. The distinction between teenage mothers below the age of 16 and those above
3. General legislative empowerment and autonomy of children above the age of 16
4. Who is a child's primary care giver?
5. Inconsistencies in the law dealing with children

The Dilemma of Teenage Mothers Benefiting from the Child Support Grant (When is a Child Not a Child?)

It is clear from what has been said concerning the laws regulating the child support grant that the grant is given to the parents or the primary care givers who are not able to support their children, and such children should be below 18 years of age. It is pertinent to point out again that the law is silent on the issue of the teenage mothers and their eligibility for the child support grant. The writer therefore intends to analyse the position of the law relating to the teenage mothers (above the age of 16 but below 18) receiving the grant. The article will only concentrate on the recipients of the child support grant who give birth to children who are also eligible for the grant.

Since termination of the child support grant normally takes place when a child reaches the age of 18, it follows that the children normally receive the grant until they turn 18. The questions which then follow are: what then happens to the teenagers who get pregnant and give birth while they are still benefiting from the grant? Do their parents or the primary care-givers continue receiving the grant on their behalf even though they would now be parents? Do they benefit from the child support grant simulta-

neously with their new born children who in most circumstances would also qualify for the grant? Should the grant only be given in respect to the new born child with the results that the teenage mother above the age of 16 would no longer be eligible for the child support grant?

Presently, according to the South African law, all the primary care givers of the children below the age of 18 are eligible to receive the child support grant if they pass the Means test. Collins English Dictionary (2003) defines a Means test as a test involving the checking of a person's income to determine whether he/she qualifies for financial or social aid from the government. This implies that teenagers who become parents before they reach 18 years of age would continue benefiting from the grant if they were eligible for the grant before they became parents. Consequently, the government might find itself having to fend for both a fully-fledged mother and the child through the child support grant.

This, according to the researcher may be seen as double dipping as well as a loophole in the law as it fails to address such an issue. As such, one may suggest that when a teenager above the age of 16 (since the law gives the teenagers above 16 years most of the responsibilities given to adults and they are at that stage capable of even taking full responsibilities over their own children) becomes a parent, the law should be clear that such a teenage mother would stop benefiting from the child support grant, thereby allowing the new born child to be the one benefiting, if eligible.

The Distinction Between Teenage Mothers Below the Age of 16 and Those Above

For the purposes of this study, the researcher divides the teenage mothers into two categories: Those between the ages of 13 and 16 and those above 16 but below 18 years of age. The reason for this division being that children below the age of 16 lack capacity to consent to and even understand the consequences of sexual acts whereas those above the age of 16 have got full capacity to consent to the said activities.

One may argue that the teenage parent still qualifies to be called a child as long as she is below the age of 18, since the Children's Act 38 of 2005 defines a child as a person below the age of 18 years. However, it is the researcher's opin-

ion that cases of eligibility for the child support grant by the teenage mothers above the age of 16 qualify as an exception; and this should be made so as to promote consistency in the law. In other words, the teenage child above the age of 16 may be treated as a major for the purposes of eligibility for the child support grant. Support for this submission can be found in the Constitution's limitation clause (Section 36). Currie and De Waal (2013) contend that the limitation reflects the principle that rights and freedoms are not absolute; as such this clause sets out specific criteria for the justification of restrictions of the rights in the Bill of Rights. Additionally, S27 of the Constitution provides that everyone has a right of access to social security and that the Constitution gives the right to each and every person to access social assistance. This view was endorsed in the case of *Khosa and others v Minister of Social Development and others*; which was heard together with the case of *Mahlale and Others v Minister of Social Development and others* 2004 (6) SA 505 (CC). These cases which came before the Constitutional Court, involved among others, destitute non-South African children who were below the age of seven. The applicants would have qualified for social grants had they been South African nationals. They argued that their exclusion from the social grants contravened the constitutional provision that 'everyone' had the right of access to social security. The argument was that the applicants were eligible to receive the child support grants by virtue of the use of the term, "everyone", as provided by the country's highest law. As such, excluding the applicants from receiving social grants was not only unjust but unconstitutional. The court relied on different provisions including section 28 of the Constitution (the children's rights) to reach the decision that the applicants were eligible to receive the social grants in South Africa. The Constitutional Court stated that, "... the denial of support in such circumstances to children in need trenches upon their rights under section 28(1) (c) of the Constitution."

The decision in the cases of *Khosa* and *Mahlale* did not mean that the constitutional provision that "everyone" had a right of access to the social grants is immune from the limitation clause. A lot of cases which have been brought to the court challenging the government for not providing necessary social assistance had the

limitation clause as one of the reasons for the decision. In most of the cases, the applicants relied on the fact that the constitution gives 'everyone' the right of access to social security. However, the courts' reasons for decision in most of those cases were based on the fact that section 27 (1) does not endow people with an exclusive right but with a right that can be limited like any other right.

James (2012) argued that socio-economic rights include what may be termed as 'internal modifiers'. These restrict the scope in which the rights can be imposed. Thus the rights seem to be subject to "two limitation clauses" because the general limitation clause in section 36 applies to every right in the Bill of Rights. The Constitutional Court has however, not applied section 36 in most of the socio-economic rights cases, but has instead exclusively depended on the internal modifiers provided for in section 26(2) and section 27(2).

The case of *Soobramoney v Minister of Health (KwaZulu-Natal)* 1998 (1) 765 (CC) became one of the first socio-economic rights cases where the limitation clause was used. The case concerned an unemployed man who was in the final stages of a chronic renal failure and needed an ongoing dialysis treatment but was turned away by the hospital. Even though the applicant had a right of access to health care services, he was turned away because the state did not have enough resources. The Constitutional Court held that; "...the guarantees of the Constitution are not absolute but may be limited in one way or another... One of the limiting factors to the attainment of the Constitution's guarantees is that of limited or scarce resources. In the present case the limited hemodialysis facilities, inclusive of hemodialysis machines, beds and trained staff constitute the limited or scarce facilities..." The *Soobramoney* case is an evidence of the limitation of a constitutionally quoted right to health care. The gravamen of the principle laid down in this case is that the staff may genuinely not be able to deliver the socio-economic rights to the entire indigent community of South Africa. It is therefore the researcher's humble suggestion that the limitation clause may be used to exclude teenage mothers above the age of 16 from simultaneously benefiting from the child support grants with their children. This kind of a limitation may be seen as relevant especially considering the rationale behind the in-

ternal limitation based on the availability of the resources. This is evident that due to its limited resources, South Africa is not able to meet all the needs of the indigent people through social assistance; as such any form of double-dipping from the system should be limited. A lot of resources could be saved if this kind of a limitation could be applied to the child support grants so that they could be limited to the children below the age of 18 to the exclusion of the teenage mothers above the age of 16 who not only perceive the significance of their consequences but also have the capacity to become responsible care givers to their children.

General Legislative Empowerment and Autonomy of Children Above the Age of 16

A number of statutes in South Africa acknowledge sound judgment and understanding of the choices and the consequences of children who are 16 years and above. This kind of an understanding has also been displayed by other states. For example, the Patient's Rights in New Brunswick (2014) stipulates that the Medical Consent of Minors Act grants a teenager 16 years and above equal right to give permission to health care treatment as an adult. This includes consenting to dental treatment, surgery and any other treatment. The fact that teenagers above the age of 16 are given the right to consent to medical procedures shows that they are considered to be capable of making decisions affecting their lives.

In support of what has been said, there are provisions in the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 (herein after referred to as the Sexual Offences Act) which acknowledge a certain degree of responsibility on the teenagers above 16 years. Sections 15 and 16 of this Act only criminalize sexual acts with the children below the age of 16 (as statutory rape). Persons between 17 and 18 years are allowed to freely engage in sexual activities. Brand (2013) contends that 16 years is the consent age for sexual activities, it is the threshold age at which a person may legally choose to engage in sexual intercourse.

Engaging in sexual activities with a child below the age of 16 amounts to statutory rape regardless of whether the child consented to the activities or not. Children below the age of 16 can only sexually engage with each other and

not with teenagers above the age of 16. It is therefore clear that legislation is based on the premises that only children below the age of 16 fail to understand the essence and the consequences of engaging in sexual activities even though they may have willingly engaged in the said activities (thus their engagement with each other is merely allowed as it has been argued in the *Teddy bear* case that it is developmentally significant in their growth). Corollary to this, people above the age of 16 albeit teenage hood, comprehend the meaning and the consequences of engaging in sexual activities. As such, they should be expected to take full responsibilities of their actions. Brand (2013) further argues that young people in the 12 to 16 age group, as a category straddling childhood and adulthood, are presumed to be unable to take care of themselves or assume adult responsibilities.

It is clear that the reason behind the distinction between two categories of teenagers lies behind legal protection. A lot of inferences may be drawn from the protection given to the children below the age of 16 not having the capacity to consent, one of those inferences may be that such children as has been pointed out by Brand D (2013), 'are unable to take care of themselves and cannot assume adult responsibilities'. The restriction of such a protection till the age of 16 implies that children above the age of 16 who choose to engage in sexual activities lose the protection afforded to their counterparts below 16 years since such children are deemed and expected to be able to take care of themselves and assume adult responsibilities. Consequently, it is the researcher's view that there might be a need to exempt such 'responsible' teenagers from benefiting from the child support grant once they opt to engage in adult activities. Child support grants may continue for teenage mothers below the age of 16 since the law acknowledges that such children lack capacity to consent to sexual activities and the law goes an extra mile by even criminalising such an act and punishing an adult offender who engages in sexual activities with them. The only acceptable sexual involvement for such children is the one between them and other adolescents. On the other hand, young people above the age of 16 but below the age of 18 should lose the protection and benefits afforded to the children in the same situation as them but below the age of 16 if they become parents. The child support

grant which the child above the age of 16 but below 18 would have been receiving if eligible for will have to also lapse with the legal protection afforded to them if they decide to become parents. Such a grant should just be given to the teenager's child if it qualifies for it. The main reason behind such discrimination would be that just as the state acknowledges maturity, understanding and responsibility on the second category of teenagers, if they decide to have children then the law should let them become their children's primary care-givers. Child bearing may then be used as an exception to the rule that the child support grant should be paid in respect of the eligible children below the age of 18.

S15(1) and S16(1) criminalise sexual activities between an adult and the children below the age of 16, whereas subsections 2 of section 15 and 16 introduces a statutory offence resulting from sexual activities between children and further states that in such a case both children would be prosecuted. This statutory offence between children, has, however, been addressed and declared unconstitutional in the case of *Teddy Bear Clinic for Abused Children and Another v Minister of Justice and Constitutional Development and Another* 2014 (2) SA 168 (CC). The two sections were found to be inconsistent with the Constitution and invalid to the extent that they imposed criminal liability on the children under the age of 16 years. It is however, clear from the judgment that the subsections on the statutory rape against the children by adults still stands. Also, the case only addressed sexual activities in children below the age of 16. This confirms the contention that children above 16 years have the capacity to consent to sexual acts. Of interest to the researcher, is the definition of the word 'child'. For the purposes of sections 15 and 16 a child is defined as any person between the ages of 12 and 16. The reason for the lower limit to be set at 12 is that children below that age cannot legally give consent. One may wonder as to whether the Sexual Offences Act contradicts with the Children's Act's definition of a child. However, the researcher opines that the Sexual Offences Act is well in line with the Children's Act, the definition used for the purposes of sections 15 and 16 of the 2007 Sexual Offences Act is just an exception. It is the researcher's view that it was necessary for the said legislation to have two separate definitions in respect of a child as there are some activities

that when engaged in influence loss of protection and benefits accorded to other children. It is again, the researcher's contention that there is a need of such an exception when dealing with the threshold age for eligibility for the child support grants.

The Children's Act defines a child as a person below the age of 18. It also provides that the biological mother of a child, whether married or unmarried, has full responsibility and rights over her children. However, S19 (2) says that, "if the biological mother of a child is an unmarried child who does not have guardianship in respect of the child; the guardian of the child's biological mother is also the guardian of the child". This provision was made to protect the children of the children from poor, uninformed and irresponsible care of their young mothers. It is however, the researcher's opinion that the same rule that applied in distinguishing the actions and sexual consent of the children between 12 and 16 years to those of the children above 16 but below the age of 18 must apply. The state has in many cases shown faith and trust in the decisions made by the young people over the age of 16 years. They have been allowed to partake in most of the adults' activities like applying for an ID (S15 of Identification Act 68 of 1997), opening and operating a bank account (S87 (1) of Banks Act 94 of 1990, S88 (1) Mutual Banks Act 124 of 1993), the right to make a valid will (S (4) of the Will Act 7 of 1953), to live alone and so on. The Social Assistance Act also requires that a primary care giver must be 16 years or older in order to apply for any child grant. This implies that a teenage mother, of 16 years and above, can be the primary care giver or may be eligible to apply for a child support grant for her child since she qualifies for the ID application at that time and it was confirmed by Goldblatt and Liebenberg (2004) that the primary care giver must produce an ID when making an application for the grant.

Young people above the age of 16 are legally capable of taking care of their own children since they not only qualify as primary care givers but also as heads of child-headed households. Teenage mothers are basically caregivers by the virtue of them being mothers to their children. Rapeta (2013) argues that teenage mothers struggle to balance their dual responsibilities of motherhood and school work. This shows that teenage mothers are not passive players in the day-to-day caring for their children; they are mostly

involved in their children's life. It also shows that the teenage mothers above the age of 16 are capable of doing what any mother could do. As such, they should at that stage be exempted from continuing to personally benefit from the child support grants, instead be allowed to take up the role of a primary care giver to their children.

For the purposes of receiving a child support grant, the teenage mothers above the age of 16 may be likened to emancipated minors. The researcher acknowledges the difference between the two scenarios; however, intends to use legal emancipation as an analogue to the issue at hand. Garner (2009) defines emancipation as the act by which a person who was under another's power and control is freed. In this issue at hand, it can be said that teenagers above the age of 16 are freed from the parental control on matters related to their sexual activities. This provision may be seen as tacit emancipation of the concerned minors. Tacit emancipation takes place when the capacity of a minor to act without parental consent is 'expanded' to include certain major areas that will enable him or her to be viewed by the law as a major. Teenagers above the age of 16 are given the capacity to consent to sexual acts; the law views them as majors on that aspect. In other words, minors above 16 years have their capacity to act without their parents' consent expanded to involve matters affecting their sexual life. As such, they should be allowed to take full responsibility of the consequences that come along with the mentioned capacity. In this case, this should involve allowing them to become primary care givers to their children and consequently forfeiting the rights and benefits enjoyed by the minors without the capacity to act. This would involve even forfeiting their rights to benefit from the child support grant for themselves. Since the law regards minors above the age of 16 as majors in engaging in sexual activities, it would only promote consistency in the law if such minors could be tacitly emancipated for all provisions and consequences related to sexual acts.

Who is a Child's Primary Care Giver?

The Social Assistance Act defines a primary care-giver as, "a person older than 16 years, whether or not related to a child, who takes primary responsibility for meeting the daily care needs of that child." This definition is evidence

that the law acknowledges that a person above the age of 16 years is capable of taking care of a child. Such a person need not be the biological parent of the child. The primary caregiver of the child is the one responsible for application and receipt of a child support grant in respect of the child he or she is taking care of. It is the researcher's humble contention that the law should thus allow a 16 year old parent to assume the responsibilities of a primary caregiver upon their children unless otherwise declared unfit. This would mean that once the 16 year old parent assumes the responsibilities of a care-giver upon her child, the law will have to clearly state that such a person ceases to personally benefit from the child support grant. It seems too difficult to comprehend that the law would regard a 16 year old mother unable to take care of her own child whereas it acknowledges and allows another 16 year old child in a different scenario as capable of becoming a primary care giver to any other child. Allowing and declaring the teenage parents above 16 years to become primary care-givers of their children would bring consistency to the law.

Inconsistencies in the Law Dealing with Children

Teenage pregnancy occurs when children between the ages of 13 and 19 get pregnant. Section 27(1) (a) of the Constitution states that, "everyone has the right to have access to health care services, including reproductive health care." Coetzee (2012) contends that reproductive rights were defined at an International Conference on Population and Development that was held in Cairo in 1994 as follows:

"As... Certain human rights that are already recognised in national laws, international Human rights documents and other relevant UN consensus documents. These rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. They also include the right of all to make decisions concerning reproduction free of discrimination, coercion and violence. Full attention should be given to promoting mutually respectful and equitable gender relations and particularly to

meeting the educational and service needs of adolescents to enable them to deal in a positive and responsible way with their sexuality.”

This implies that teenagers are also sexual beings with reproductive rights since the right applies to ‘everyone’. Section 12 (2) (a) of the Constitution, emphasizes reproductive rights by stating that ‘Everyone has the right to bodily and psychological integrity, which includes the right to make decisions concerning reproduction’. Teenagers have a constitutional right to choose when and how they would want to have children. This right includes even the right to terminate pregnancy. The Choice on Termination of Pregnancy Act 92 of 1996 provides that a pregnancy may be terminated upon the request of a woman during the first 12 weeks of her pregnancy. The same Act clearly defines a ‘woman’ as any female of any age. In other words, the law allows even teenagers to terminate their pregnancies if they want to. S5 (3) of the Termination of Pregnancy Act further stipulates that teenagers will only be advised to consult with their parents before the termination of pregnancy is conducted on them. The legislation does not, however, make parental consent a prerequisite for the termination of pregnancy by the minors. This implies that refusal or failure by a teenager to seek advice would not stop the termination of pregnancy. Based on this, one can conclude that there are a lot of inconsistencies in the legislation dealing with the children. However, having a clear legislative provision on the eligibility of benefiting under the child support grant for teenage parents above the age of 16 may help address some of these inconsistencies and uncertainties.

CONCLUSION

In answer to the interrogative posed at the beginning of this paper- when is a child not a child, this paper expresses the view that for the purposes of the child support grant a child is no longer a child who qualifies to benefit from such a grant if being 16 years and above has become a mother and a recipient of such grants qua mother and thus can no longer receive the grant qua child. This is to avoid what we shall term here ‘double enrichment’. Such a position would also ensure that the grants are made available to other ‘more needy’ children and other indigent people of South Africa.

RECOMMENDATIONS

Persons above the age of 16 even though still referred to as children, the law acknowledges that there are certain acts in which they are exempted from being regarded as children. Also, the same children, the law acknowledges that they are capable of becoming primary caregivers. As such, it is hereby recommended that the laws dealing with social assistance expressly exclude teenage parents above the age of 16 from benefiting from the child support grants. In other words, the researcher recommends that becoming a parent at the age of 16 and above should be one of the grounds for the termination of the child support grant.

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REFERENCES

- Brand D 2003. Sugar, Spice and Criminalised Consent: A feminist perspective of the legal framework regulating teenage sexuality. *South African Journal on Human Rights*, 29(2): 399-428.
- Butterfield J 2003. Collins English Dictionary. 8th Edition. Collins. From <<http://www.collins-dictionary.com/dictionary/english/means-test>> (Retrieved on 19 August 2016).
- Coetzee SA 2012. Pregnant learners’ sexual rights: A constitutional perspective. *Southern African Public Law Journal*, 27(2): 488-508. Committee of Inquiry 2002. Transforming the Present- Protecting the Future. Report of the Committee of Inquiry into a Comprehensive System of Social Security for South Africa. From <<http://www.cdhaarmann.com/Publications/Taylor%20report.pdf>> (Retrieved on 4 March 2016).
- Currie I, De Waal J 2013. *The Bill of Rights Handbook*. 6th Edition. South Africa: Juta and Company.
- Garner AG 2009. *Black’s Law Dictionary*. 9th Edition. Minnesota, United States: West Group.
- Goldblatt B, Liebenberg S 2004. Giving money to children: The state’s constitutional obligations to provide child support grant to child headed households: Current developments. *South African Journal on Human Rights*, 20: 151-164.
- James C 2012. *The Constitutional Court’s Approach to the Limitations Analyses in Socio-Economic Rights Cases*. Johannesburg: University of Witwatersrand.
- Khosa and Others v Minister of Social Development and Others: Mahlaule and Others v Minister of*

- Social Development and Others 2004 (6) SA 505 (CC)*. South Africa.
- Mothiba T, Maputle MS 2012. Factors contributing to teenage pregnancy in the Capricorn district of the Limpopo Province: Original research. *Curationis*, 35(1): 19-24.
- New Brunswick 2014. *Patient's Rights*. Fredericton: Public Legal Education and Information Service.
- Pressly D 2016. R3.3 Bn Plan to Extend Child Support Grant to 21. From <<http://www.fin24.com/Economy/R33bn-child-care-grant-extension-to-21-on-cards-20150316>> (Retrieved on 19 August 2016).
- Rapeta SJ 2013. Managerial Imperatives of Teen Motherhood in Public Secondary schools. Masters Dissertation: University of Pretoria. From <http://repository.up.ac.za/xmlui/bitstream/handle/2263/40448/Rapeta_Manerial_2013.pdf?sequence=1&isAllowed=y> (Retrieved on 17 March 2015).
- Soobramoney v Minister of Health (KwaZulu-Natal)* 1998 (1) 765 (CC). South Africa.
- South Africa 1953. *Will Act 7 of 1953*. Pretoria: Government Gazette.
- South Africa 1990. *Banks Act 94 of 1990*. Pretoria: Government Gazette.
- South Africa 1993. *Mutual Banks Act 124 of 1993*. Pretoria: Government Gazette.
- South Africa 1996. *Choice on Termination of Pregnancy Act 92 of 1996*. Pretoria: Government Gazette.
- South Africa 1996. *The Constitution of the Republic of South Africa Act 108 of 1996*. Pretoria: Government Gazette.
- South Africa 1997. *Identification Act 68 of 1997*. Pretoria: Government Gazette.
- South Africa 1997. *White Paper on Social Welfare*. Pretoria: Government Gazette.
- South Africa 2004. *Social Assistance Act 13 of 2004*. Pretoria: Government Gazette.
- South Africa 2005. *Children's Act 38 of 2005*. Pretoria: Government Gazette.
- South Africa 2016. *Regulation 28(2) of Government Notice R898 of 2008 (Amended by Government Notice R511 in Government Gazette 39978 of 6 May 2016)*. Pretoria: Government Gazette.
- Teddy Bear Clinic for Abused Children and Another v Minister of Justice and Constitutional Development and Another* 2014 (2) SA 168 (CC). South Africa.

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