

**THE FIRST REPRODUCTIVE JUSTICE MOOT COURT COMPETITION**  
ORGANISED BY COMMUNITY WORKING GROUP ON HEALTH  
AND  
HOSTED BY UNIVERSITY OF ZIMBABWE  
**30 MAY 2025**

HYPOTHETICAL CASE BEFORE  
**THE HIGH COURT OF NYAMHIKA**  
IN THE MATTER BETWEEN  
**TADIWA DUBE**

**FIRST APPLICANT**

And

**PRO-CHOICE AFRICA**

**SECOND APPLICANT**

V

**MINISTER OF HEALTH AND CHILD CARE**

**RESPONDENT**

**THE FACT SHEET**

1. Nyamhika is a landlocked developing country in Southern Africa. Since gaining independence in 1980 after decades of colonial rule, Nyamhika has experienced significant political and economic instability, including multiple hyperinflation, chaotic land reform, and widespread poverty. These challenges have severely impacted the socio-economic fabric, with women disproportionately affected by economic hardships due to systemic gender inequalities.
2. Nyamhika's legal framework is influenced by its colonial past, featuring strict abortion laws that permit termination of pregnancy only in cases of rape, incest, risk to the woman's life, or severe fetal impairment. Economic hardship is not currently a recognised legal ground for abortion.
3. Despite advocacy by civil society organisations, the Nyamhikan government is reluctant to liberalise abortion laws, citing moral, cultural, and religious concerns. This issue has fueled national debates on reproductive justice, women's autonomy, and the state's role in addressing socio-economic inequality.
4. Tadiwa Dube is a 19-year-old university student in Nyamhika. She is unemployed and entirely dependent on financial aid to fund her education. For Tadiwa, University was supposed to be her escape, the golden ticket out of the cycle of poverty that had defined her life in Nyamhika. But the reality was a constant, exhausting struggle. The financial aid, when it did arrive, barely covered tuition and the meagre rent. Food was a luxury, textbooks a distant dream she shared with classmates who were slightly better off. Her family, back in a rural village, had nothing to offer but prayers and worry.

5. The whispers started subtly at first - girls with new phones, expensive weaves, and weekend trips that Tadiwa could only imagine. They seemed to glide through campus life, untouched by the constant anxiety over the next meal or the looming threat of being de-registered for unpaid fees. Tadiwa, with her worn clothes and perpetually hungry eyes, was invisible to most, a ghost haunting the lecture halls.
6. One evening, huddled in the common room trying to study by the flickering fluorescent light, she overheard a conversation. hushed tones, mentions of "hook-ups," "blessers," "chills" and "easy money." Her heart pounded, a mix of fear and a desperate, shameful curiosity. She dismissed it immediately. That wasn't her. She was here to study, to build a future through hard work.
7. But the hunger grew sharper, the pressure more intense. She missed classes because she couldn't afford the transport fare. She borrowed notes, feeling the weight of obligation pressing down on her. A minor illness sent her into a panic – how would she afford the clinic visit, let alone medication?
8. Then came the day the landlord posted the eviction notice. Three days. Three days to find the overdue rent or be thrown out onto the street. Panic seized her, cold and absolute. She called everyone she knew – distant relatives, former teachers – but the answer was always the same: "There is nothing we can do, mwanangu (my child)."
9. Despair was a heavy cloak, suffocating her hope. She walked aimlessly around campus, the vibrant life of other students a cruel mockery of her desperation. Before she had tried to sell sweets in the classroom, tried to bake cookies, she even did laundry for her classmates. But the money she earned from all this was a pittance. It could barely buy data to download the materials that she required from the internet for her assignments.
10. And then she saw her – a girl from her class, always impeccably dressed, stepping out of a sleek car with an older man. Their interaction was brief, a quick exchange, a smile, and the glint of something small passing between their hands.
11. The girl, whose name was Tanaka, saw Tadiwa and paused. She approached, her expression softening slightly. "Tadiwa? Are you okay? You look troubled."
12. Tadiwa, tears welling in her eyes, mumbled about the eviction notice. Tanaka listened, her gaze knowing. She didn't offer sympathy or platitudes. Instead, she spoke softly, directly;  
"There are ways, Tadiwa. Ways to make the money you need. It's not easy, it's not what we dreamed of, but sometimes... sometimes it's the only way to survive here."
13. She didn't explicitly say the word, but Tadiwa understood. The "blessers," the "chills." Tanaka's eyes held a weariness that mirrored the exhaustion Tadiwa felt deep in her bones. It was a path born not of desire, but of desperate necessity.
14. Tanaka didn't pressure her. She simply gave Tadiwa a small, folded piece of paper with a number on it. "Think about it," she said, her voice low. "If things get too hard... this is an option."

15. Tadiwa took the paper, her hand trembling. She looked at the number, then back at the notice on her door, then at the bleak future stretching before her. The path she had envisioned, paved with education and hard work, seemed to crumble before her eyes, replaced by a dark, uncertain road. In that moment, standing alone in the harsh light of her reality, the line between survival and sacrifice blurred irrevocably. The number felt heavy in her palm, a terrible key to unlocking a door she never wanted to open.
16. Tadiwa stared at the small, folded paper in her hand. The number seemed to burn against her skin. The eviction notice on her door felt like a countdown to disaster. Sleep offered no escape; her dreams were filled with images of her belongings piled on the street, her future dissolving before her eyes. For two days, she wrestled with her conscience, with the values she had been raised with, with the shame that coiled in her gut. But the gnawing fear of homelessness, of her education ending abruptly, of returning to a life with no prospects, was a relentless tide that eventually drowned out her reservations.
17. On the third day, hours before the landlord's deadline, her hand trembled as she dialed the number. A gruff, older male voice answered. He didn't introduce himself, simply asked who was calling. Tadiwa, her voice barely a whisper, said Tanaka had given her the number. A brief pause, then a series of curt questions: Was she clean? Was she discreet? Was she available tonight?
18. She mumbled yes to each question, her mind numb. He gave her an address for a lodge on the outskirts of the city and a time. He would pay the cab. The call ended abruptly. Tadiwa felt a wave of nausea wash over her, but beneath it was a sliver of desperate relief. The rent. She could pay the rent.
19. The first meeting was a blur of fear and discomfort. The man, older and imposing, barely made eye contact as he handed her a wad of cash – more money than she had seen in months. He was impatient, his words few and transactional. The encounter was brief and clinical, leaving Tadiwa feeling hollow and dirtied. It was her first time. He dropped her near campus afterwards, melting back into the night without a backward glance. She didn't know his real name, only the scent of his expensive cologne and the weight of the money in her pocket. He told her she could call him "Chairman". All their subsequent encounters followed a similar pattern, always at different lodges, anonymous and detached.
20. A few weeks later, during one of these sterile meetings, the Chairman offered her significantly more money. Her eyes widened at the sum – enough to cover the next semester's fees and buy some much-needed groceries. The condition? No protection.
21. Tadiwa hesitated. She knew, vaguely, about the risks. But her knowledge was limited, overshadowed by the immediate, crushing need for money. She was young, naive, and utterly desperate. The lure of financial stability, of escaping the constant struggle, was overwhelming. He seemed healthy, confident. Maybe, just this once, it would be okay. Driven by a potent mix of desperation and a lack of comprehensive understanding of the potential consequences, she reluctantly agreed.

22. The extra money felt heavy, a tainted victory. She used it to secure her place at the university for another semester to buy food that lasted more than a day or two. But a seed of anxiety had been planted.
23. Weeks turned into a couple of months. Tadiwa started feeling unwell. A persistent nausea, an exhaustion that no amount of sleep could cure. Fear, cold and sharp, began to prickle at the edges of her consciousness. She bought a cheap pregnancy test from a small pharmacy far from campus.
24. The two lines that appeared felt like a death sentence. Pregnant.
25. Panic seized her. She had to tell him. The man who had paid for her time, who had offered the extra money for unprotected sex. She fumbled for the paper with his number, her hands shaking. She dialed. It rang once, twice, then went to voicemail. She tried again. And again. After several attempts, a message popped up: "The number you have dialed is not in service."
26. He had changed his number. Just like that. Vanished. She didn't know the Chairman's real name, where he lived, nothing. He was a ghost, leaving her alone with the terrifying reality of an unwanted pregnancy in a country where her only option for termination was illegal and dangerous, and where economic hardship offered no legal recourse. The lodges, the anonymity, the lack of a real name – it all came crashing down on her, revealing the brutal, isolating reality of her situation. She was trapped, her future now more uncertain than ever.
27. Pro-Choice Africa is a duly registered non-governmental organisation dedicated to advocating for and protecting the reproductive rights of women across the African continent. The organisation works to ensure that women have the autonomy to make informed decisions about their bodies and reproductive health, free from coercion, discrimination, and legal barriers. Pro-Choice Africa engages in legal advocacy, public awareness campaigns, and provides support services aimed at expanding access to comprehensive reproductive healthcare, including safe and legal abortion. They actively challenge restrictive laws and policies that limit women's reproductive choices, emphasising the link between reproductive rights and broader human rights, including dignity, equality, and health.
28. One afternoon, while searching online for any information – any glimmer of hope or help – Tadiwa stumbled upon an article about women's reproductive rights in Southern Africa. The article mentioned various organisations advocating for change and supporting women facing difficult pregnancies. One name stood out: Pro-Choice Africa.
29. She clicked on their website, her heart pounding. It spoke of dignity, autonomy, and access to healthcare. It felt like a lifeline in the vast, indifferent ocean of her despair. But fear held her back. What if they judged her? What if they couldn't help? What if contacting them put her in further danger?
30. For another day, she hovered over the contact page, the mouse cursor trembling. The alternative, however, was unthinkable. Continuing the pregnancy meant abandoning her education, facing unimaginable poverty, and raising a child alone with no support. An unsafe abortion was a terrifying gamble with her life and health.

31. Finally, driven by sheer desperation, she took a deep breath and clicked the email link. She typed haltingly at first, the words catching in her throat. She wrote about being a student, about her financial struggles, about the unwanted pregnancy, and about the father who had vanished. She didn't go into explicit detail about the circumstances, the shame still too raw, but she conveyed the urgency and her profound need for help. She ended the email with a plea for advice, for guidance, for any possible way out of her impossible situation.
32. She sent the email and waited, every minute feeling like an hour. Doubt gnawed at her. Had she done the right thing? Would they even respond?
33. The reply came the next morning. It was kind, empathetic, and non-judgmental. It acknowledged her difficult situation and offered a meeting at their offices, assuring her of confidentiality and support. Reading the compassionate words, Tadiwa felt a fragile flicker of hope ignite within her. It was a small step, a terrifying step, but for the first time in weeks, she didn't feel completely alone. Gathering what little courage she had left, Tadiwa made the call to schedule the meeting, her voice still shaky but infused with a desperate resolve to seek the help she so desperately needed.
34. Following her initial contact, Ms. Tadiwa Dube attended a scheduled meeting with representatives from Pro-Choice Africa. The meeting commenced with a comprehensive counselling session conducted by a qualified professional affiliated with the organisation. This session provided Ms. Dube with a safe and confidential space to articulate the circumstances leading to her unwanted pregnancy, the significant socio-economic challenges she faces as a student reliant on financial aid with no family support, and the profound distress caused by her current situation. The counsellor provided emotional support and assessed the immediate and long-term impacts that continuing the pregnancy would have on her education, financial stability, and overall well-being.
35. Subsequent to the counselling, Ms. Dube received a detailed legal consultation from a legal practitioner associated with Pro-Choice Africa, specialising in human rights law. The legal advisor reviewed the pertinent legal framework governing the termination of pregnancy in Nyamhika. It was formally explained to Ms. Dube that, under the existing legislation in Nyamhika, termination of pregnancy is strictly limited to specific grounds: rape, incest, risk to the woman's life, or severe fetal impairment. Crucially, the legal advisor confirmed that economic hardship, despite its severe impact on an individual's life, is not currently recognised as a lawful ground for the termination of pregnancy under these laws.
36. Given the apparent lack of a legal pathway for Ms. Dube to access safe and legal abortion based on her circumstances within the existing statutory framework, Pro-Choice Africa proposed a strategic legal intervention. The organisation expressed its intention to file an urgent application before the High Court of Zimbabwe. The objective of this application would be to challenge the constitutionality of the current legal provisions that preclude termination of pregnancy on grounds of severe socio-economic hardship, arguing that such restrictions violate fundamental rights enshrined in the

- Constitution of Zimbabwe, including the rights to dignity, privacy, equality, and socio-economic security.
37. Pro-Choice Africa formally offered to provide full legal representation and cover all associated costs of this litigation. They indicated that for the petition to proceed effectively and to highlight the direct impact of the law, it would be most impactful if Ms. Dube were willing to be cited as the Applicant in the case. The legal advisor explained the potential implications of being a party to such a high-profile constitutional challenge, including the possibility of public scrutiny, but also emphasised the potential for the case to set a significant legal precedent that could benefit other women facing similar circumstances. Ms. Dube was given time to consider this proposition.
  38. Tadiwa accepted to be an applicant, leading to the lawyer filing an urgent constitutional court application in the High Court where the Applicants are seeking an order declaring specific provisions in the Termination of Pregnancy Act to be unconstitutional on the basis that they do not allow abortion in circumstances as that provided for by Tadiwa. The applicants seek an interim order allowing Tadiwa to terminate her pregnancy. They further want the matter to be eventually referred to the Constitutional Court for confirmation of the unconstitutionality of the Act.
  39. The government is vehemently opposed to the application. They maintain that economic hardship is not a recognised legal ground for the termination of pregnancy under the current laws of Nyamhika, which are strict and permit abortion only in limited, specified circumstances.
  40. The state argues that it has a legitimate interest in protecting potential life, and that expanding the grounds for abortion to include economic considerations would undermine this fundamental societal interest.
  41. Further, The government is concerned that allowing economic hardship as a ground for abortion could lead to policy uncertainties and potentially open the door to a wide range of subjective claims, making the law difficult to administer.
  42. The government's reluctance to expand abortion laws is also rooted in prevailing moral, cultural, and religious concerns within Nyamhikan society.
  43. The Judge President upon receiving the application has considered it to be urgent, and after a case management meeting with the lawyers of all the parties, it was agreed that the matter would be heard in two weeks time. At the hearing, Tadiwa would be six weeks pregnant. The Judge President urges the parties to address all standard preliminary issues in their heads of arguments before proceeding to the merits. The parties are to file their heads of argument within a week. At the hearing both sides will speak for 25 minutes and will both have an extra 5 minutes for rebuttals.

#### **INSTRUCTIONS:**

**Working in threes, prepare heads of argument for both the Applicants and the Respondent. Applicant's heads of argument should include the draft order sought. The Heads of Argument should not exceed 3000 words including footnotes and must have a bibliography.**

**Assume that the laws of Nyamhika are identical to those of Zimbabwe.**