

FOETAL ALCOHOL SYNDROME PREVENTION AND HUMAN RIGHTS

21ST NATIONAL FAMILY PRACTITIONERS CONFERENCE

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„THE TAP HAS TO BE TURNED OFF“

Statements by DDG Cupido at the World Foetal Alcohol Syndrome Day 2009:

The mother needs to be responsible for that baby she is carrying.

"The child's rights in that instance would supersede the rights of the individual," Cupido said.

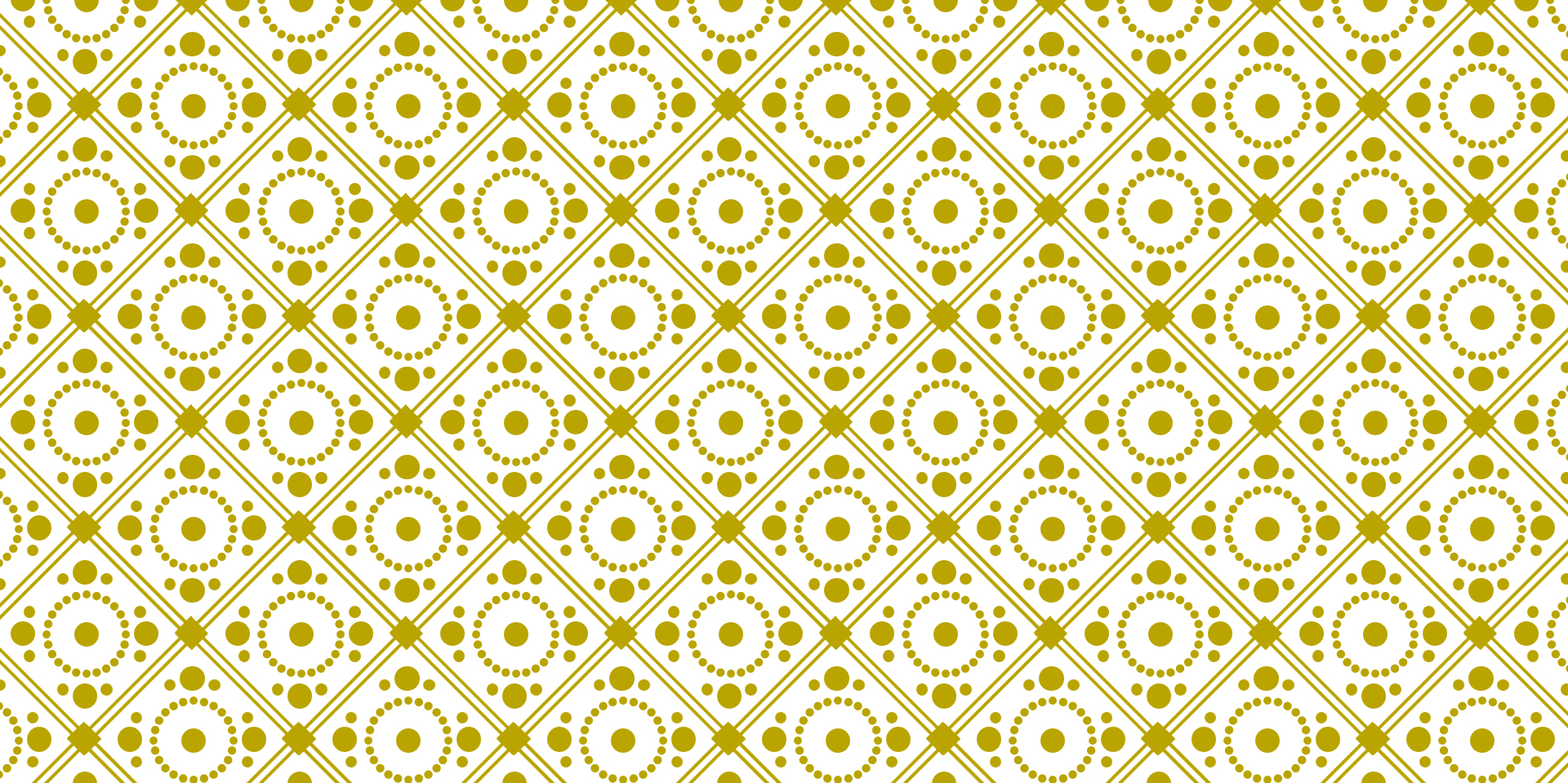
Just as it was a criminal offence to smoke in a car while transporting a child younger than 12, so too should it be a criminal offence to drink alcohol while pregnant.

"It must be legislated. Women should be prohibited from drinking (while pregnant) by law," he said.

<https://www.iol.co.za/news/south-africa/call-for-ban-on-pregnant-drinking-625573>

OVERVIEW

- Context of FAS in South Africa
- Limitations of human rights in the interest of public health
- A rights-based approach to health
- The socio-ecological model as a framework to guide interventions for FAS



CONTEXT



THE EPIDEMIOLOGY OF FAS AND FASD

Authors	Setting	Year	Methods	Findings
May et al., 2000	Wellington, rural W Cape	1997	Active case ascertainment involving screening of first grade school children	40.5-46.4/1000
Te Water Naude et al., 2000	Stellenbosch, rural W Cape	1997	Active case ascertainment involving screening of first grade school children	59.0/1000
Viljoen et al., 2005	Wellington, rural W Cape	1999-2000	Active case ascertainment involving screening of first grade school children; included only full blown FAS	65.2-74.2/1000
May et al., 2007	Wellington, rural W Cape	2002	Active case ascertainment involving screening of first grade school children; included FAS and pFAS	68-89.2/1000
Viljoen and Craig, 2003	Urban Gauteng	2001	Active case ascertainment involving screening of first grade school children	19-26.5/1000
Urban et al, 2008	Northern Cape (towns)	2001-2002	Active case ascertainment involving screening of first grade school children; included FAS and PFAS	FAS: 67.2/1000; pFAS: 20.8/1000; De Aar: 119.4/1000 (FAS, pFAS combined)
May et al., 2016	Wellington, rural W Cape	2010 - 2012	Active case ascertainment involving screening of first grade school children	FAS: 59 – 79/1000 FASD: 170 – 233/1000

CONTEXT (I)

- Dop system
- Easy access to alcohol
- Shebeens
- Self-regulated advertising



CONTEXT (II)

- Poverty, unemployment, low paid menial jobs

“[a]ll population-based studies on FASD in South Africa have indicated that the highest rates are found among women who live on the poorest rural farms where the living conditions are the worst, nutrition of the women is poorest, and weekend binge drinking is a regular practice.”

May et al “Maternal Risk Factors for Fetal Alcohol Spectrum Disorders – Not As Simple As it Might Seem” *Alcohol Research & Health* 2011, 34(1):15-26.

STEREOTYPES

„Girls are falling pregnant to get a grant“

„Pregnant women drinking on purpose to cause child to have a disability to access disability grant“

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„Girls are falling pregnant to get a grant“

Child Support Grant

Care Dependency Grant

„Pregnant women are drinking on purpose to cause the child to have a disability to access the disability grant“

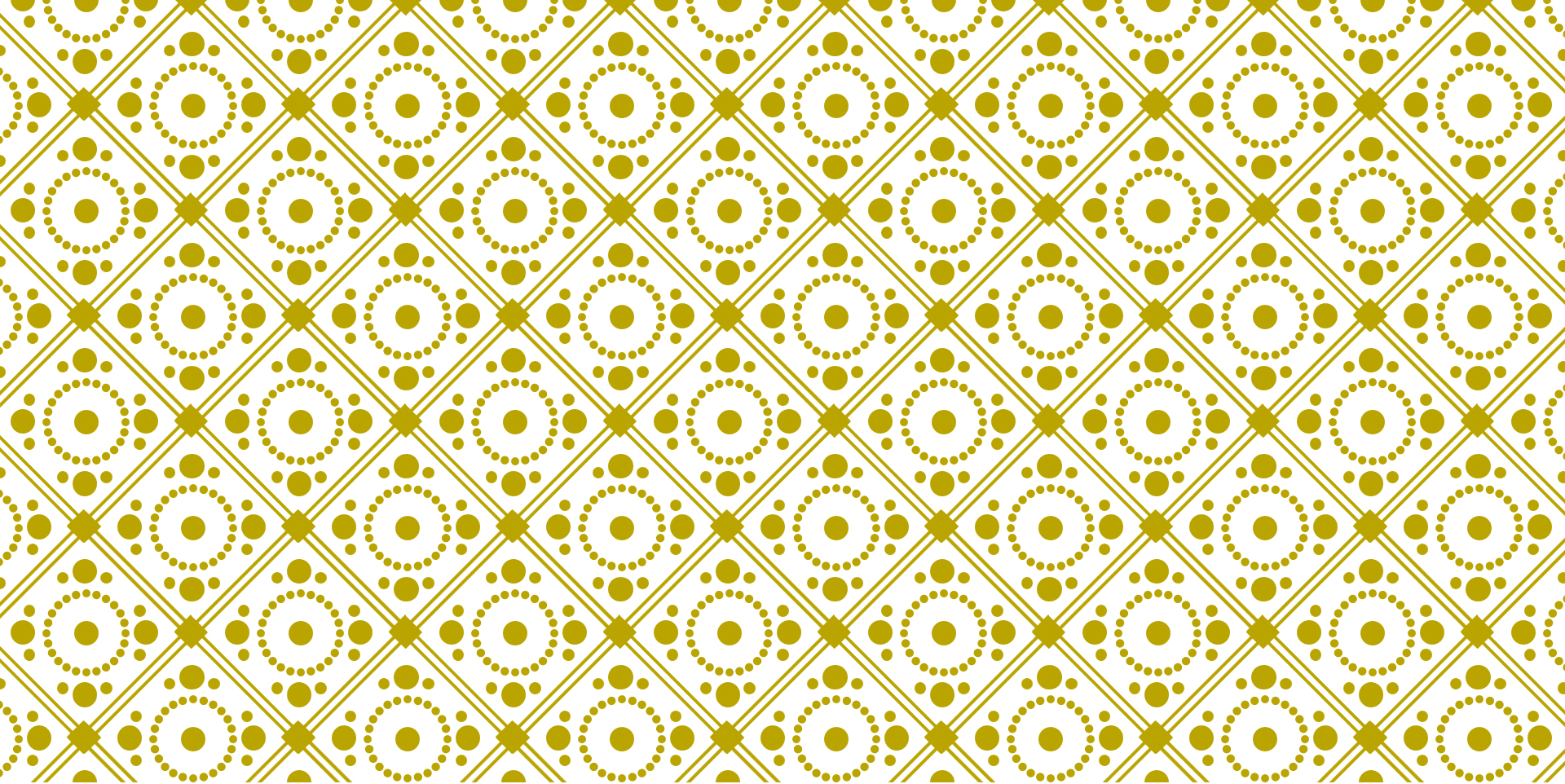
RISING TEENAGE PREGNANCIES TO ACCESS GRANT?

- South Africa has high levels of teenage pregnancy compared to high income countries
- But: Teenage pregnancy rates are not rising, but levelling off and/or declining
- Declining trend in teenage fertility before and after the introduction of the CSG
- Teenagers are under-represented among grant beneficiaries, relative to their contribution to the national fertility rate.

INTENTIONAL DRINKING TO ACCESS CARE DEPENDENCY GRANT?

“FARR colleagues have interviewed thousands of pregnant women and mothers of children with FASD to date and have not come across one single mother who reported that she ‘drank on purpose to cause disability in her child so as to qualify for a disability grant’.”

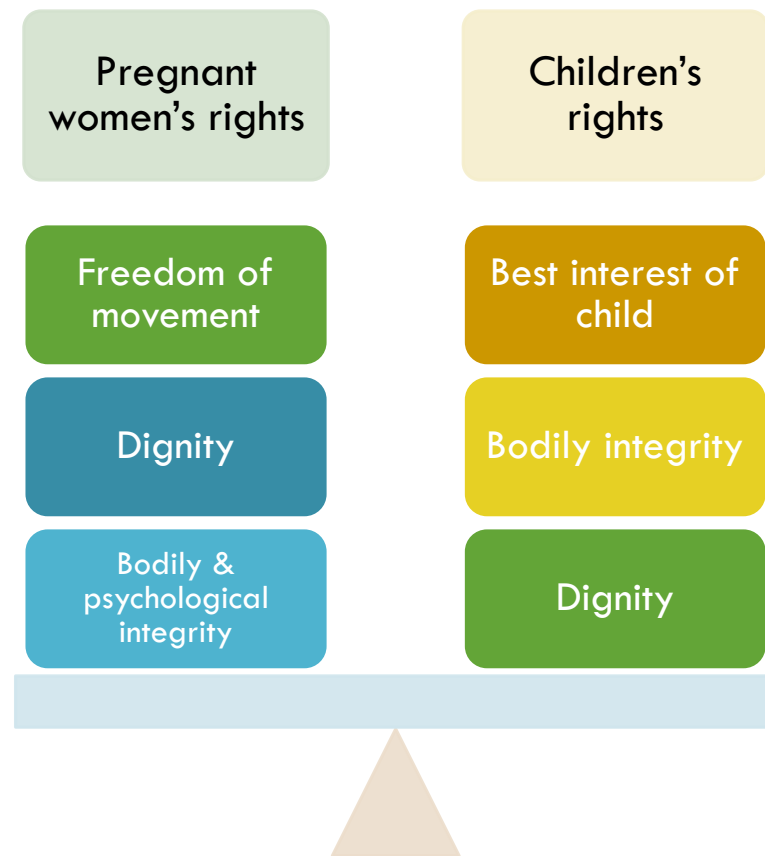
Leana Olivier, the head of the Foundation for Alcohol Related Research (FARR)



LIMITATION OF HUMAN RIGHTS



LIMITATION OF HUMAN RIGHTS



WHEN IS IT VALID TO LIMIT HUMAN RIGHTS IN THE INTEREST OF PUBLIC HEALTH?

- Restriction is provided for and carried out in terms of law
- Legitimate objective – pressing public need
- Strictly necessary in democratic society to achieve objective
- No less intrusive and restrictive means available to achieve same objective
- In its implementation, the limitation is not arbitrary, unreasonable, or discriminatory

CAN WE CRIMINALISE DRINKING DURING PREGNANCY?

- Law - what would this law look like?
 - Zero tolerance, i.e. criminalisation of one drink?
 - 'Case finding' of pregnant women difficult, particularly in first 3 months
 - Response from criminal justice system – can we finalise a case within remaining 6 months?
 - What is the penalty - fine or imprisonment? Babies born in prison – and then?
- Legitimate objective
- Strictly necessary to achieve objective
- Will this law achieve the objective?
 - What and whose human rights are being violated/protected by this policy?
- Other less intrusive/restrictive ways to achieve objective

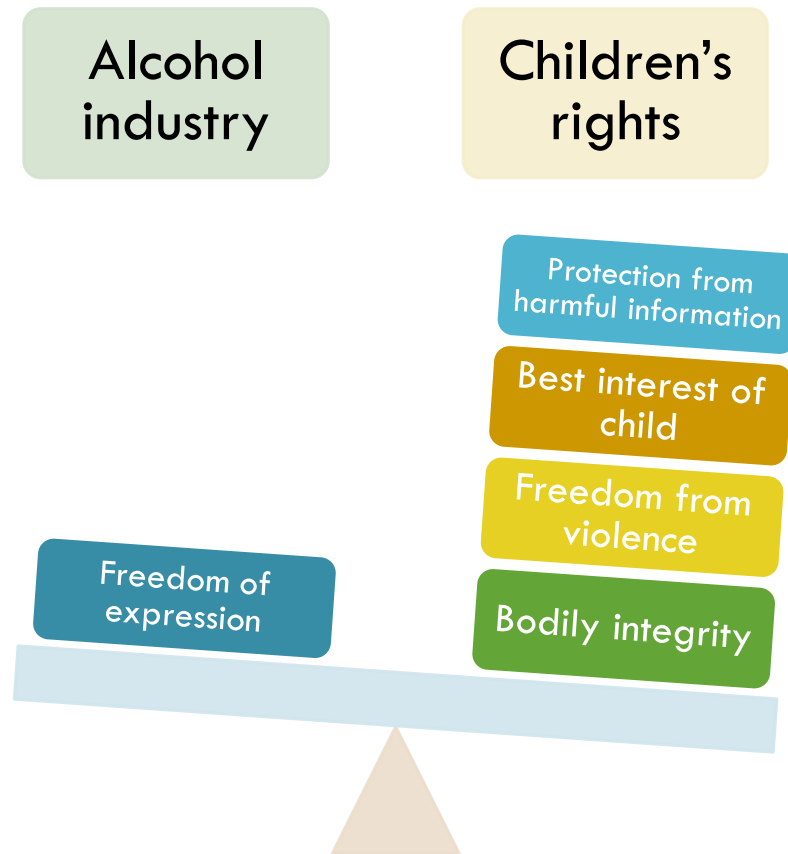
CONTROL OF MARKETING OF ALCOHOLIC BEVERAGES BILL

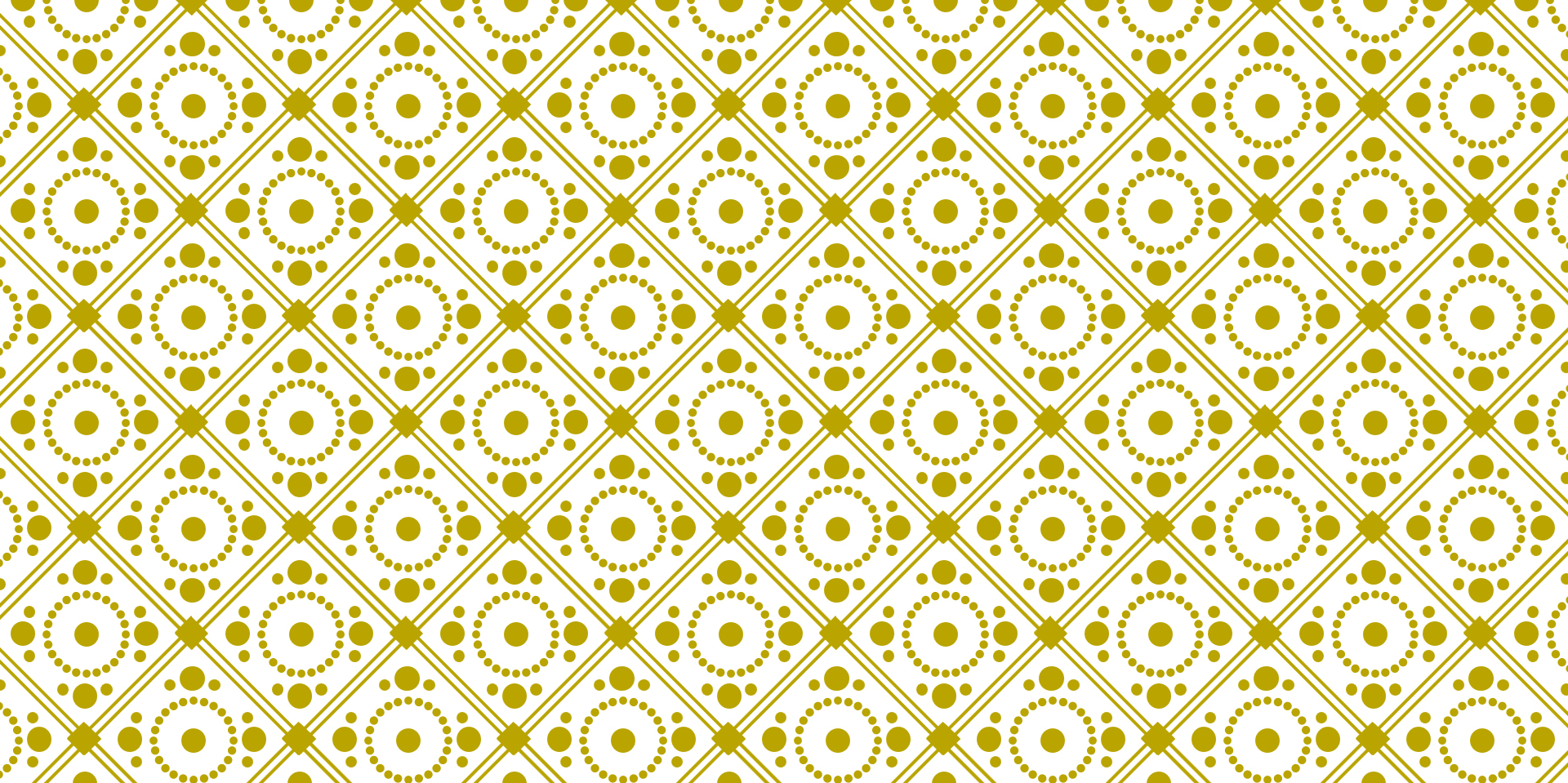
- Drafted in 2012
 - Prohibits advertising and marketing of alcoholic beverages except at point of sale
 - Prohibits any sponsorship associated with alcoholic beverages
 - Prohibits any promotion of alcoholic beverages

CAN WE LIMIT ALCOHOL MARKETING TO PROTECT PUBLIC HEALTH?

- Restriction is provided for and carried out in terms of law
- Legitimate objective – protect children’s health (high rates of FASD; violence against children; children consuming alcohol)
- Strictly necessary in democratic society to achieve objective
- Will this law achieve the objective?
 - What and whose human rights are being violated/protected by this policy?
- No less intrusive and restrictive means available to achieve same objective
- In its implementation, the limitation is not arbitrary, unreasonable, or discriminatory

LIMITATION OF ALCOHOL INDUSTRIES' RIGHTS





A RIGHTS-BASED APPROACH TO HEALTH



WHAT ARE RIGHTS ABOUT?

- Human rights entitle human beings to be treated in a certain way (e.g. with dignity, equally, etc.)
- Human rights are claims that individuals have simply on the basis that they are human
- Having a human right implies a duty on a third party – generally the state, but sometimes also private entities

GOVERNMENTS OBLIGATIONS

Government has to:

- **Respect**
 - not interfere/not violate human right
- **Protect**
 - prevent third parties from violating human rights
- **Promote**
 - educate people about human rights
- **Fulfil**
 - take action to facilitate the enjoyment of human rights

SECTION 28 OF THE CONSTITUTION

Every child has the right -

- to a name and a nationality from birth;
- to family care or parental care, or to appropriate alternative care when removed from the family environment;
- to basic nutrition, shelter, basic health care services and social services;
- to be protected from maltreatment, neglect, abuse or degradation;
- to be protected from exploitative labour practices
- ...
- A child's best interest are of paramount importance in every matter concerning the child.

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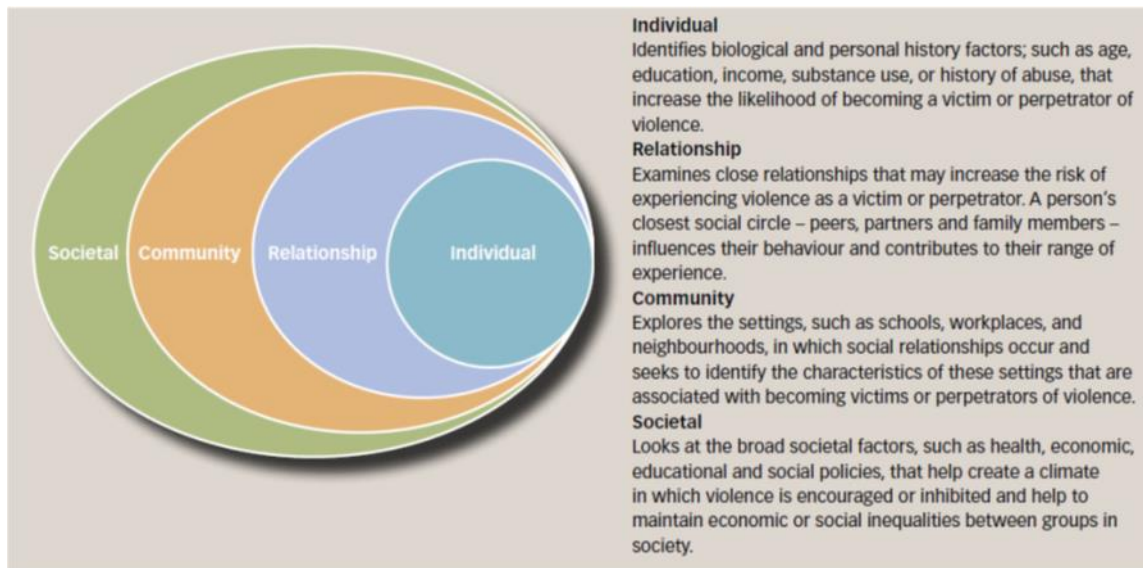
PREGNANT WOMEN'S RIGHTS

- **Right to dignity**
- **Right to bodily and psychological integrity**, which includes the right
 - (a) to make decisions concerning reproduction;
 - (b) to security in and control over their body; and
 - (c) not to be subjected to medical or scientific experiments without their informed consent
- **Right to information**
 - any information held by the State; and
 - any information held by another person and that is required for the exercise or protection of any rights

PREGNANT WOMEN'S RIGHTS (CTD)

- Right to have access to social security, incl. social assistance if unable to support themselves and their dependants
- Right to have access to health care services, including reproductive health care
 - The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights

SOCIO ECOLOGICAL MODEL



Source: Centres for Disease Control and Prevention (undated) *The Social-Ecological Model: A Framework for Violence Prevention*.
Atlanta, GA: CDC

INDIVIDUAL LEVEL

- Biological: Maternal age; number of previous pregnancies; parity; body size/BMI
- Psycho-social: depression, low self-esteem, low self-efficacy
- Behavioural: Quantity & frequency of drinking; timing of drinking; nutrition



EVIDENCE ON INTERVENTIONS

- **Training of providers to reduce risk of alcohol exposed pregnancy**
- **Motivational interviewing with cognitive behavioural therapy**

RELATIONSHIP LEVEL

- Domestic violence and lack of support from partner

“Women’s drinking behaviour, and therefore fetal alcohol spectrum disorder, occurs within, and is affected by, a broad familial, cultural, and social context. Partners who show little to no support during pregnancy and who might also misuse alcohol, become violent, and demand that their pregnant partner drink with them, share responsibility for the outcome.”

Jonsson et al “The international charter on prevention of fetal alcohol spectrum disorder” *The Lancet*, 2014(2):e135-e137.

COMMUNITY LEVEL

- Community norms around alcohol
- Universal prevention approaches in 2 Northern Cape sites (local media; health promotion at health facilities; CHWs; training providers; etc)
 - 30% decline in FAS/PFAS rates over 2 year period;
 - Improved knowledge amongst women;
 - Changes in drinking behaviours only detected in the PFAS group

SOCIETAL INTERVENTIONS

Target access & consumption

Marketing of alcoholic beverages

- Legislation to restrict marketing, sponsoring and promotion of alcohol

Licencing & compliance

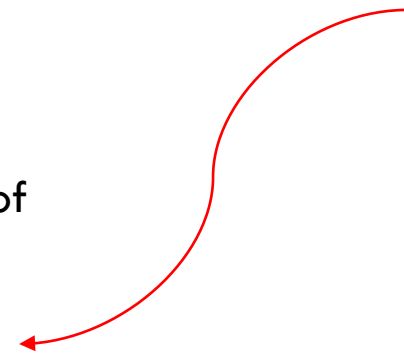
- Enforcement of minimum purchase age regulations
- Not selling to intoxicated persons
- Shebeens operating without the restrictions of licensed outlets

Pricing & taxation

- „ad valorem“ vs. „volumeric taxation“

Social assistance & job creation

Target structural drivers

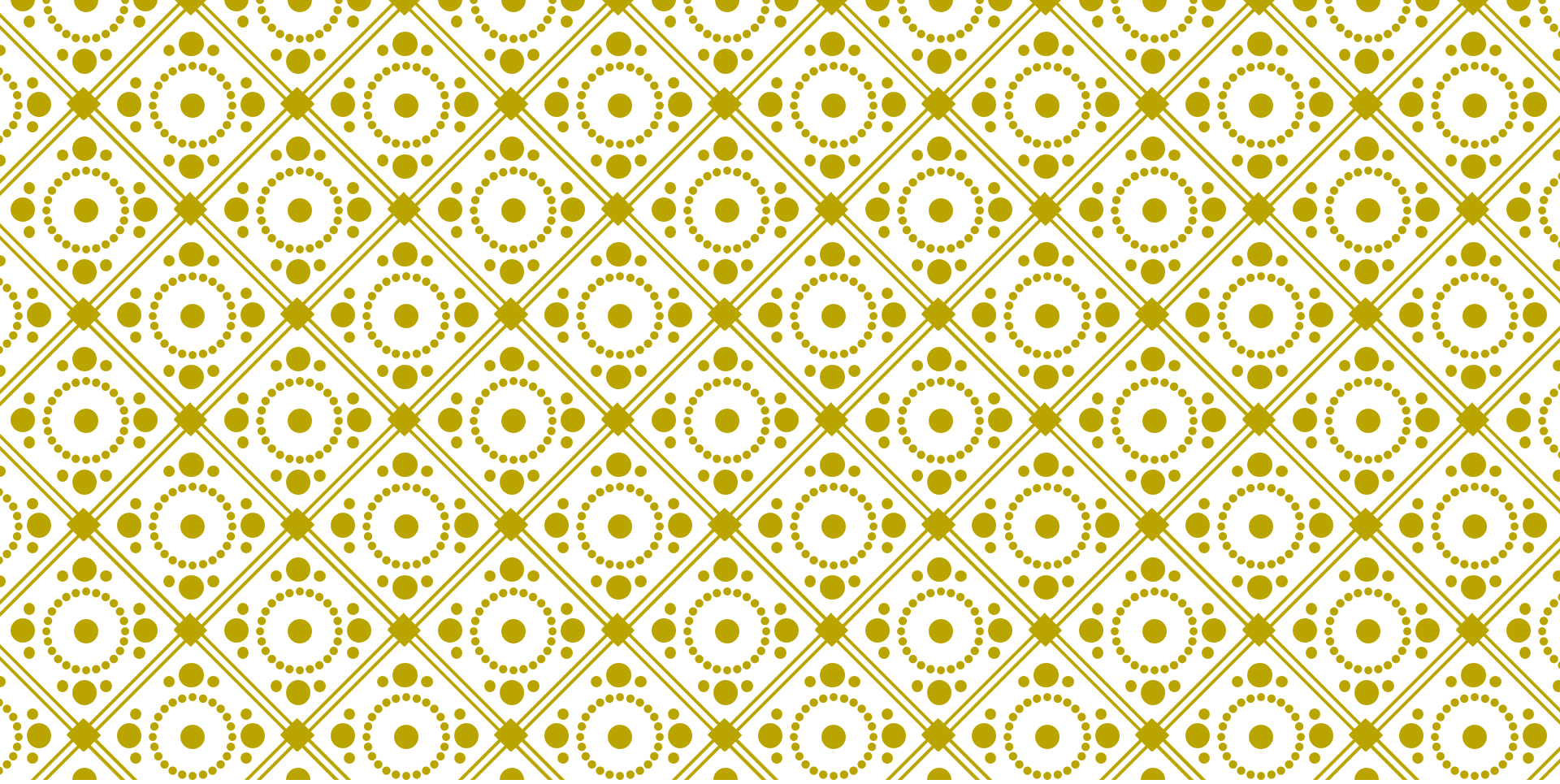


ROLE OF HEALTH SYSTEM

- Promoting access to contraception
- Improving access to TOP
- Education on alcohol during pregnancy, FAS and FASD
 - e.g. counsel expectant mothers or women preparing to fall pregnant on the dangers of alcohol consumption during pregnancy
- Screening for alcohol exposure in pregnancy

WHOLE GOVERNMENT APPROACH

- Health system has an important role to play in preventing FAS
- **But** complex health problems such as FAS require multipronged interventions from the health system and other tiers of government
- Rather than limiting individuals' human rights, we should consider how a rights-based approach to health can promote good health and can prevent conditions such as FAS



THANK YOU.

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