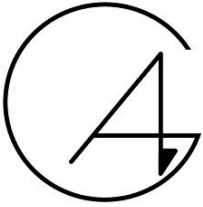


**ATISHA GHELA & ASSOCIATES
ATTORNEYS AT LAW**

PORTFOLIO

Atisha Ghela

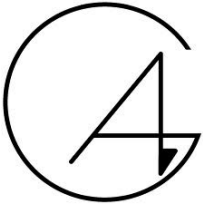


PROFILE OF ATISHA GHELA – LLB - NATAL

Personal note and journey:

I hail from very humble beginnings having been born in Gandhi's settlement (an informal settlement in Phoenix) and raised in Phoenix under the Group Areas Act where I completed my matric in 1998. Having completed my law degree in 2002 from the University of Natal – Durban I went on to immediately commence practicing law as a candidate attorney and joined Attorneys Anand Nepaul as a candidate attorney in June 2002. At the same time I registered for the Practical Legal Training Course . That meant that as a young 22year old I would do the usual tasks of a candidate attorney by day and try to be attentive at class during night lectures. In August 2003 I had successfully completed all four board exams and was admitted as an attorney in November 2003. My brief portfolio of the various firms I was employed at and the various areas of law I practiced at is addressed further hereon. In 2013 after dealing successfully with a matter for my then employer I went home on a Friday afternoon and said "what if I started a practice." By the Monday I had made the necessary applications and research and on 13th March 2013 the doors to Atisha Ghela & Associates opened. 10 years on we are a very well established all female firm in the Umhlanga prescient.

Atisha Ghela



SUMMARY OF PRACTICE

Atisha Ghela is the principal of the practice and has over 20 years of legal experience. She previously practiced at Attorneys Anand Nepal and MacRobert Inc Attorneys. She joined IBV International Vaults as the in house legal advisor in 2010 and ventured into her own practice in 2013. We are a solely female run boutique law firm in Umhlanga. The firm currently services and advises clients from Switzerland, France, London, Dubai, Vietnam, Australia, Nigeria and India

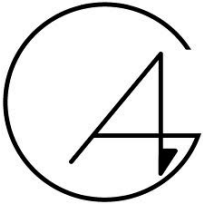
AREAS OF PRACTICE :

- Commercial Law & Litigation (Business forms / Contracts / Trademarks)
- Family Law (Divorce /Custody /Separation)
- Estate planning (Wills / Trusts /and Winding up of Estates)
- Property law (Leases /Transfers /Evictions)
- AML Compliance Law Globally
- International Law of Contracts

COURTS OF PRACTICE

- All Courts in South Africa
- International Courts through law firms in various jurisdictions

Our motto is to deliver value to our clients by providing effective and efficient legal advice and representation.



EXPERIENCE

March 2013 – Current

ATISHA GHELA & ASSOCIATES

SOLE PRACTITIONER

All Female Law practice with less than 5 lawyers

Umhlanga, Durban

April 2010 – current

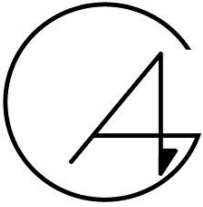
INTERNATIONAL BANK VAULTS (INTERNATIONAL PRIVATE COMPANY)

Group Legal Advisor and Executive Committee Member

Duties:

Perform function as a senior legal advisor with the following key functions:

- risk analysis and management for vault management nationally and internationally
- ensuring global compliance for IBV Gold the precious metal aspect of the business
- preparing PAIA manuals for the company and insuring all information is handled correctly
- drafting client contracts,
- drafting all communications to clients
- managing and overseeing debt collection processes
- engaging and instructing outside Counsel and attorneys for litigious matters
- attending to all statutory compliance
- managing trademarks and patents for business
- full HR support and management
- business insurance, from acquiring correct cover to submitting claims and referrals to Ombudsman dealt with AON
- managing company's leases
- drafting credit applications, joint venture contracts and supplier agreements



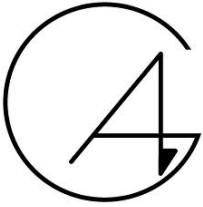
- attending to drafting and managing all company's disclaimers, indemnities
- staff training
- general day to day management

August 2007 – March 2010

ANAND NEPAUL ATTORNEYS, DURBAN

(A) Supreme Court, High Court and Magistrates Court Litigation

- I am the senior Professional Assistant at this firm, which is a sole proprietary. The Director is Anand Nepal an Attorney who served as a co-director at Masipa Nepal Incorporated.
- I am a Specialist Civil and Commercial litigation attorney. I concentrate on mainly high court and Supreme Court litigation.
- I attend to drafting of all documents and vetting of contracts
- Interpretation of new legislation and case law
- I am also a specialist matrimonial law and Family law practitioner
- Medical malpractice claims. I have a specialised interest in the field of medical law and personal injury matters. I am currently dealing with several malpractice claims against and on behalf of medical practitioners and hospitals. I have a thorough knowledge of assessing claims in respect of liability and quantum.
- I have also attended and conducted several inquests which stemmed from medical malpractice.
- I have represented Medical and Dental practitioners at their professional conduct inquiries and meetings with the Health Professions Council of South Africa



April 2006 – August 2007

MASIPA NEPAUL INC, DURBAN

(A) Supreme Court, High Court and Magistrates Court Litigation

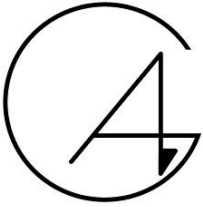
- Specialist Civil and Commercial litigation attorney
- Drafting of all documents and vetting of contracts
- Interpretation of new legislation and case law
- Matrimonial Law and Family law
- Medical malpractice claims. I have represented Medical and Dental practitioners at their professional conduct inquiries and meetings with the Health Professions Council of South Africa

(B) CCMA Representation

- Represented client's of **SCORPION LEGAL PROTECTION** at the CCMA Masipa Nepaul having been placed on the panel of Scorpion Legal Protection
- Represented client's at the conciliation and arbitration stages as a specialist labour attorney o.b.o Scorpion Legal Protection
- I have conducted several arbitration's myself
- I have an excellent working knowledge of labour law legislation.

(C) KWAZULU NATAL LAW SOCIETY

- Masipa Nepaul Attorneys were placed on the KwaZulu Natal Law Society panel in 2006. I was appointed by the firm to attend to these matters.
- Most of the matters referred to me by the Law Society were in respect of Applications for the Suspension and Strike Off, of legal practitioners who are members of the Society.
- These Applications which were brought out of the Natal Provincial Division were as a result of attorneys failing to abide by the Rules of the Law Society governing Attorneys practise.
- I had a 100% success rate in finalising the matters in the Society's favour with costs.



May 2004 – February 2006

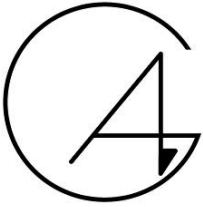
MACROBERT INC – DURBAN

- I joined this firm in May 2004 as a Professional Assistant.
- At this practice I attended to matters primarily from only one client i.e the **Medical Protection Society of London**
- This is an organisation that indemnifies medical and dental practitioners against malpractice claims all over the world including South Africa.
- At this firm I represented medical and dental practitioners at the High Court and Magistrates Court level against civil and criminal medical malpractice claims
- I also represented medical and dental practitioners at inquiries conducted by the Health Professions Council of South Africa

June 2002 – November 2003

ANAND NEPAUL ATTORNEYS, DURBAN

- I served my articles of clerkship with this firm
- Here I learnt the fundamental principles of legal practice.
- Here I was under the wing of Director Mr Anand Nepaul, a prominent attorney in the Durban area who specialises in criminal and civil litigation.
- It was under the guidance of this principal that equipped me with the necessary skills which enabled me to pass my boards exams and get admitted as an attorney all in the space of one year.



CURRENT APPOINTMENTS AND RECOGNITIONS

- 1. LIPCO (law for all) Panel Attorneys**
From 2014 to current

- 2. Trustee : Khulisa Foundation Trust**
NPO

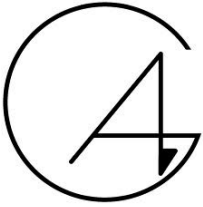
- 3. NEWS 24**
Legal Expert

- 4. SAFM RADIO**
Legal Expert

- 5. Member of 1860 Pioneers Foundation**
NPO

- 6. SAWLA member**

- 7. WOZA AFRICA**
Nominee category small business
Awardee 1st Runner up for Family Law



ARTICLES & PUBLICATIONS



indianspice Premier Indian Lifestyle Website

Spice People: UKZN's Atisha Ghela



With an LLB qualification from UKZN's School of Law as a solid foundation, Ms Atisha Ghela is confident her recently established legal firm, Atisha Ghela & Associates Attorneys at Law, will succeed.

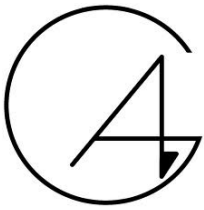
Ghela, who has 10 years of law practice behind her since graduating in 2002, said her new business was situated at the Gateway Shopping Centre in Umhlanga.

'My qualification has liberated me as a woman – I am independent, driven and focused. I am motivated by the different roles and responsibilities granted to me during my schooling years which generally focused around representing others,' said Ghela.

Contact Ms. Ghela on atisha@ghelalaw.co.za

Our Firm

Atisha Ghela & Associates, Attorneys at law are now in private practice. Atisha Ghela is the principal of the practice and has over 10 years of legal experience. She previously practiced at Attorneys Anand Nepal and MacRobert Inc Attorneys. She further went on to join IBV International Vaults as the in house legal advisor.



Atisha Ghela - Mother - with son Yuvaan



Atisha Ghela - Businesswoman



Atisha Ghela - Wife - with husband Thrishaal and little Yuvaan

Presenting Atisha Ghela & Associates – Attorneys at Law

“I really love everything about my profession – it is ever-changing and seriously challenging” by Atisha Ghela

She is beautiful, successful and professional. Atisha Ghela is an emerging Gateway attorney with a big heart and a serious sense of integrity. Atisha has been practicing law for over ten years and she knows exactly how to handle most complex legal issues. She is wholly committed to her profession.

Atisha is just 33 years old, married to an accomplished chartered accountant Thrishaal and has an eighteen-month-old son Yuvaan, whom she admits, is her life. Atisha always wanted to be an attorney, she completed her LLB Degree at the University of Natal in 2002 and was admitted as an attorney in 2003.

“I have always wanted to be able to use my skills and knowledge to assist others to be mindful of their rights and

how to protect those rights.” Atisha tells The Bugle. She admits however that law is nothing like what we see in the movies and TV series, “its tough out there.” She assures me, “As an attorney you have to keep abreast of current affairs, you have to keep your eye on the news developments, political and social matters.”

Atisha presents a serious figure – it’s hard to imagine that this Bollywood star lookalike is as fierce in the courtroom as she is in her business affairs, having recently launched her new offices in Gateway. She is adamant that her practice will be successful because she is bringing not just her expertise but also her ethics and her effectiveness.

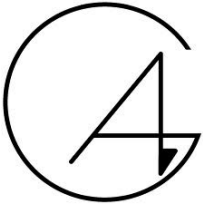
“I really love everything about my profession – it is ever-changing and seriously challenging” said Atisha, “I am

strongly motivated to move forward in my life, I love the contests and the fact that everyday I learn something new and I can make a difference in somebody else’s life.”

Atisha’s passion and determination to be successful is blatant, “My goal is to offer advice and legal representation to my clients, which is efficient and effective. I intend to offer professional support to all my patrons.”

Atisha Ghela specialises in general law, concentrating mainly on civil and commercial litigation, family law, personal injury matters, medical legal matters, consumer law, property law, wills and estates and collections.

For more information contact Atisha Ghela and Associates on atisha@webmail.co.za or visit website www.ghelalaw.co.za



UKZN Online Volume: 7 Issue: 30

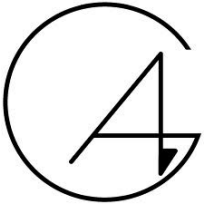
LAW ALUMNUS OPENS LEGAL PRACTICE



Ms Atisha Ghela. With an LLB qualification from UKZN's School of Law as a solid foundation, Ms Atisha Ghela is confident her recently established legal firm, Atisha Ghela & Associates Attorneys at Law, will succeed. Ghela, who has 10 years of law practice behind her since graduating in 2002, said her new business was situated at the Gateway Shopping Centre in Umhlanga. 'My qualification has liberated me as a woman - I am independent, driven and focused. I am motivated by the different roles and responsibilities granted to me during my schooling years which generally focused around representing others,' said Ghela. 'I believe we have a beautiful country with very clear and democratic laws and regulations. That in itself makes practising law straightforward and uncomplicated,' said Ghela.

'Our focus is on property law, family law, commercial litigation, wills and estates, labour law, personal injury matters and general collections. 'While achieving professional and personal success as a mother and wife are very important to her, she also feels the need to nurture law students so that they will be equipped with practical experience. 'I would love to see the practice grow from strength to strength and for university students currently pursuing their law degrees to spend time with me to get a feel of what legal practice is all about,' said Ghela.

author email : jumo@ukzn.ac.za



DRUM MAGAZINE: What Happens To Your Child When Both Parents Die At The Same Time?

By [Atisha Ghela](#) February 14, 2014 [No Comments](#)

<https://www.netwerk24.com/huisgenoot/Nuus/wat-gebeur-met-jou-kind-wanneer-albei-ouers-gelyk-sterf-20170528>

If Both You And The Father Of Your Children Had To Die Today, What Would Become Of

Your Children? This Is A Question We Rarely Ask Ourselves But One Of Great

Importance. There Are Different Consequences Depending On Whether You Have A Will

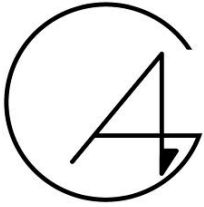
Or Not, And If You Haven't Done So Yet, You Should Get Your Affairs In Order Today.

Appoint a legal guardian Atisha Ghela, founding partner of Atisha Ghela and Associates, says a legal guardian is someone who steps into the shoes of the parent and assumes the parenting role in every facet, just like the parents did. She explains that if parents didn't specify legal guardians for the day-to-day care of their children, the high court will do so as it automatically acts as upper guardian of children in need of care. In many cases relatives step in and assume the role of caregiver, but if they weren't specified by the parents, they have to apply to the high court to become the children's legal guardian.

What happens if there are no relatives?

According to the Child Care Act, if both parents die without a will and there are no relatives or next of kin, the commissioner for child welfare of the area the child lives in will, through a magistrate, appoint someone to take care of the child.

What is the difference between a natural and legal guardian?



Ghela explains that if parents leave a will nominating someone to care for their children, these people are considered natural guardians. However, these guardians still need to apply to the high court for legal guardianship. She adds that even though it's not compulsory by law to appoint guardians, it's definitely in the child's best interest. "Parents have to think this through carefully and nominate someone in their will in the event they both pass away at the same time."

What about godparents?

It's important to note your child's godparents aren't automatically legal guardians. As with any other relative or nominated guardian, they too would need to apply to the high court.

Who do you entrust your children to?

When you choose a natural guardian, you need to make sure it's someone you trust to take care of your children in the way you would, if not better. Ghela emphasises the importance of choosing someone both you and your children are comfortable with.

"The guardian must be able to provide for the basic necessities of the child and create a holistic environment that is conducive to the best interests of the minor child."

She also advises you tell the people you nominated of your decision. If it comes as a surprise after your passing, they could refuse their appointment as legal guardians and this could lead to a multitude of problems for your children.

Make sure your children are provided for

Death can come at any time and it's rarely expected. You don't know the financial strain your child's guardian will face when you die so make sure to leave enough funds to assist them in raising your child.

"It is important for parents to create a testamentary trust or call for their executor [the person in charge of carrying out your wishes as per your will] to create a trust upon their death in favour of the minor children," Ghela says. She emphasises the trustee of the aforementioned trust is only authorised to administer assets and not to be the legal guardian – there's a clear distinction in their appointed duties.

Here's help

All of this may seem quite complex but the bottom line is that in order to make the best plans for your child you need to have a will.

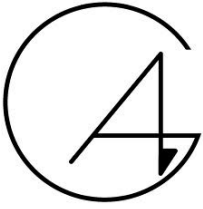
For more information and legal counsel contact Atisha Ghela of Atisha Ghela & Associates Attorneys at Law:

Tel: 082-356-3576

Fax: 086-539-2479

Email: atisha@ghelalaw.co.za

-Shandukani Mulaudzi



Jan 25, 2022

Alienated from your child? A father asks for help

- Co-Parenting
 - Fathers' rights
 - Parent Plan
 - Parental Alienation Syndrome
- Parenting

SHARE:

The mother of my child is refusing to give me access despite paternity test. What do I do?

Reprinted from [Parent24](#), by Athenkosi Mndende – 2022-01-20



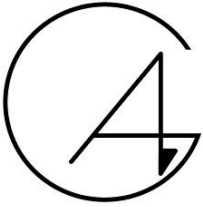
parental alienation

Many **parents** email us with heavy hearts stating that they are being alienated from their **children**.

Parental alienation happens when one parent refuses the other parent **access** to their child for no specific or real reason. Parental alienation can be damaging to the child and the alienated parent.

Here, a reader who is being alienated from his child despite DNA tests confirming that he is the father is asking us for advice on getting **custody** of the child before it's too late.

I was never married. My girlfriend walked out because wedding agreements could not be met to her liking. Seven months after she walked out on me, she gave birth to my child, as tests clearly showed.



I tried to recover things, but that didn't work. It's been 4 years that I have been struggling to get the mother of my child to sign a **parenting plan**.

I long to see and get custody of my child.

My lawyer wants to 'wait until she heads to court', but that could be a long time from now and even too late. What help and advice can you provide me with, please?

- Anonymous

Durban-based attorney **Atisha Ghela** from Atisha Ghela & Associates told us:

"My approach is to be a proactive parent when it comes to issues about minor children, especially where one parent is being denied fair contact with the minor child by the other parent. It appears from the reader's query that he seeks custody of the child. The Children's Act of 2005 makes provisions for care and contact, and the words custody and access are no longer used. Both parents have joint guardianship or decision-making rights over their minor child. The parent with whom the child stays more permanently and considers it being her permanent home is considered the primary residence of the child. The non-primary resident parent will have contact (access) via a structured Parental Plan or Order of Court".

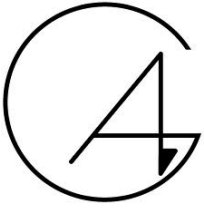
She also advised that the reader should approach the Children's Court in the area where the minor child resides immediately and seek the enforcement of his rights in respect of the minor child by applying for the registration of a Parental Plan.

Ghela says that the Children's Court has its seat at all Magistrates Courts and is a very approachable institution.

"Parties can appear in person unrepresented, but they are allowed representation as well," she says.

She says that the High Court also has similar jurisdiction over minor children. Therefore, it is best that the reader discusses his options with his advisor and take action immediately.

She says that the wait and see approach will only further prejudice his time with the child.



I WAS NEVER CALLED ON BOARD': SCHOOL PUT MINOR'S IMAGE ON A NOTICE BOARD WITHOUT PARENT'S APPROVAL

MARCH 11, 2022



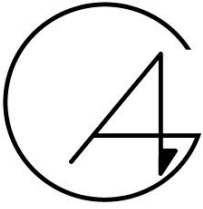
Can a school put my child's pictures on a school noticeboard without asking for permission? Photo: Getty Images

One frustrated **mom** emailed us asking for **legal advice** about what happened to her **child** at school. She tells us that she plaited her baby girl's hair, not knowing that hairpieces weren't allowed at her **school**.

What happened is that a certain teacher entered the class and took a photo of her child. After that it was put on the notice board and the mom 'was never called on board' about the matter. The child felt humiliated about the whole situation.

The mom is assuming that her child's hairstyle was not appropriate for the school according to how the teacher acted.

But the unfortunate part is that she was never called to school or given a letter explaining what was wrong with her daughter's hairpiece because "I would have unplaited her there and then."



Now, she wants to know if the POPI Act applies in this case and what legal steps she should take against the school or the teacher for doing this.

Read: [‘It’s hard to let go’: How to forgive someone who has caused you deep pain](#)

“When a parent admits his or her child to a school, it is on the proviso that he/she and the child together acknowledges and will abide by the school’s Code of Conduct or disciplinary code,” Durban based Attorney Atisha Ghela from Ghela and Associates tells us.

“However, in saying that a breach of a Code of Conduct cannot allow a teacher to act unreasonably or unlawfully as it appears to be in this scenario,” she adds.

Ghela believes that the appropriate way to have dealt with the matter was for the teacher to call upon the parents and point out the proper dress code in terms of the school’s code of conduct.

“And then place the child on some demerit or disciplinary actions like time outs, detention, suspension from sports teams, school community service, etc.,” she adds.

Ghela says that the teacher should not have taken matters into their own hands and physically reacted.

“The parents have a right to deem the conduct of the teacher as an assault and lodge a complaint to the school head and Department of Education head as well lay criminal charges for assault, and possibly seek damages from the teacher for pain and suffering due to the child’s dignity being impaired,” adds Ghela.

Must read: [What can I legally do to get images of a minor removed from social media? Experts reply](#)

“Everyone has the right to freedom and security, including the right to be free from all forms of violence, not to be tortured, treated or punished in a cruel, inhuman or degrading way, according to Section 12(1) of the Constitution of South Africa while Section 28 (1) also protects children from maltreatment and degradation,” says Ghela.

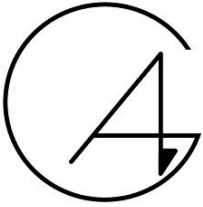
“The South African Schools Act also does not condone abuse and corporal punishment, in that S10(1) suggests that no person may administer corporal punishment as against a pupil and anyone who breaches these provisions will be charged and be guilty of a criminal offence,” adds Ghela.

Ghela further explains that the South African jurisprudence goes further in that the Children’s Act also prohibits any behaviour that could cause harm to a child, whether physical or emotional.

She says that the act of taking a photograph of the child pinning the hairpiece on the notice board, assumingly without the child’s consent or the mother’s permission is equivalent to unlawful conduct.

“What the teacher did falls against the ambit of the POPI Act, which is designed to protect persons’ personal information, including learners,” added Ghela.

“I would strongly advise the parents to discuss the matter with higher authorities, including the Department of Education and South African Police Services,” she says.



Legal expert explains what to do when you can no longer afford child maintenance

Compiled by Athenkosi Mndende

The monthly payment of maintenance is a headache for many families, as some parents struggle to meet their obligations in the midst of the pandemic, job losses and other stressors. Many readers email us asking for advice regarding [child](#) maintenance and we offer legal insight where possible.

A father wrote to us to say that while he has been able to pay a total of R17 500 per month towards his child's monthly expenses, the lockdown happened negatively affected his business. He can no longer afford the same amount and wants to know what he can do to bring down the costs.

He wrote to explain his situation in detail, and we asked a Family Law specialist for advice. Read his mail here:

“Hi, my child is 6 and starting Grade 1. The child was born out of wedlock, and I was against the birth. The mother expects unreasonable maintenance.

I pay:

- School – R8250/ month
- Maintenance – R5000/ month
- Hospital plan – R2000/ month
- Medical savings – R2000/ month

Business is tough due to Covid-19, and she does not understand. I am 55, and my pension is suffering. Where do I stand with the above to get matters reduced?

Thank you,

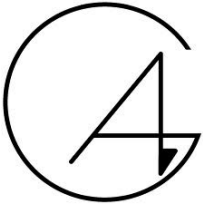
A struggling father”

The duty to maintain

[News24](#) sought advice and guidance from Durban-based attorney Atisha Ghela, who specialises in family law.

“Maintenance is a joint obligation of both parents regardless if their child was born out of wedlock or if one parent did not want the child to be born,” Ghela told us.

“The general provision is that a child is entitled to reasonable maintenance to provide for their daily living expenses. The duty to maintain is based on blood relationship, adoption or when parties are married to each other,” she added.



“Reasonable maintenance refers to necessary expenses including food, clothing, housing, and paying for proper education. A parent’s right to contact the child is different and is entirely separate from maintaining. So the mere fact that the father was against the child’s birth bears no merit. He bears the duty to maintain,” said Ghela.

Both parents’ income

“Maintenance in South Africa is based on the needs vs means test. Even if the minor child’s needs are reasonable expenses, it is possible that the other parent does not have the means to pay and therefore cannot afford to pay,” Ghela told us.

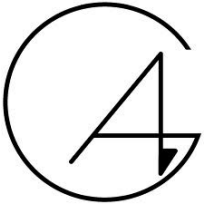
“Our courts consider both parents’ income and expenses jointly when a contribution to maintenance is needed. A parent cannot and will not be expected to pay more than what they need to live reasonably,” added the legal expert.

“Suppose a party can no longer afford to pay their agreed amounts or luxuries they once provided for the minor child as maintenance. In that case, they can approach the Maintenance Court in their area for a variation of an existing maintenance obligation, or they can apply afresh for an order to be made on the amounts they can afford,” she said.

“One can request that the amount paid for maintenance be varied, i.e. increased or decreased, either because it has become insufficient or because one can no longer afford to pay the amount currently. One will need to submit a complete statement of income and expenditure and a statement explaining the reasons for the application to the maintenance officer appointed,” she added.

https://www.news24.com/parent/family/relationships/finance_legal/legal-expert-explains-what-to-do-when-you-can-no-longer-afford-child-maintenance-20220121

Tagged [childdivorcemaintenance](#)



CAN SCHOOLS INSIST ON A FULL TERM'S PENALTY FEE IF A PARENT WITHDRAWS A CHILD WITHOUT THE PROPER NOTICE?

MARCH 11, 2022

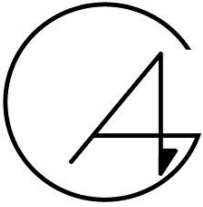


“One may fail strictly on a full recovery of a full term’s notice, but a month’s notice penalty may be more reasonable.” Photo: Getty Images

- Some parents were forced to withdraw their children from school during the pandemic.
- We asked a legal expert, Atisha Ghela, if it is reasonable for schools to charge penalties.
- She says that when making decisions concerning breaching the school contract, the children’s best interests must be considered first.

The Covid-19 pandemic forced some **parents** to withdraw their **children** from school, sometimes due to health and safety issues, and some for financial reasons. In some cases, the family may have kept the child at home and not given the school the required term’s notice, or paid the required withdrawal fees.

Now, some **schools** are threatening to take legal action to force the parents to pay the outstanding fees, but parents want to know if the pandemic, as a state of emergency and force majeure, is enough to release them from this obligation.



News24 sought legal advice from Durban-based Attorney Atisha Ghela of **Atisha Ghela and Associates**, who told us that first parents must differentiate between public and private school. “There is a clear distinction in what public and private schools can and cannot do. Public schools are regulated by law, and private schools are governed by a body known as ISASA,” she said.

“Whilst private schools are bound by and rely heavily on the contract entered into with parents on behalf of their learners, a recent decision at the Constitutional Court makes decisions regarding a breach of a school contract not entirely favourable to a school,” Ghela added.

She said that the court held that children are individual right holders, and processes that concern them, especially with school contracts, must include them, just like Section 28 clause 2 of the Constitution protects children’s right to be heard and participate in decisions affecting their lives.

For this reason alone, Ghela said that when schools make decisions concerning breaches of contract for payment or the like, the child’s interests must be considered first.

Read | Can a school really charge a penalty fee for moving a child to another school?

“In circumstances where children are already withdrawn from the school, yet the parents do not place proper notices, then one needs to look carefully at the circumstances surrounding that removal,” said Ghela.

If the child was removed from school to attend a different school, then “the previous school must sign off a transfer to another school, so it is likely that the previous school consented to the transfer yet chose to recover the notice period after that,” added Ghela.

Ghela said that one would have to turn to the Consumer Protection Act to establish a fair and reasonable cancellation/penalty for early withdrawal.

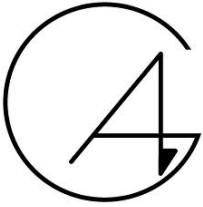
But, keep in mind that the service provider’s interest in losing revenue to pay teachers must be balanced with the fact that many parents lost their jobs or their businesses suffered because of the pandemic.

Ghela motivated that one may fail strictly on a full recovery of a full term’s notice, but a month’s notice penalty may be more reasonable.

“The Consumer Ombudsman or court in applying the Consumer Protection Act to a private school’s contract may rule that a full term’s notice is unreasonable and far too onerous,” said Ghela.

She warned that this is not a one-size-fits-all approach, and each matter will be decided on its individual factors before determining what is fair and reasonable.

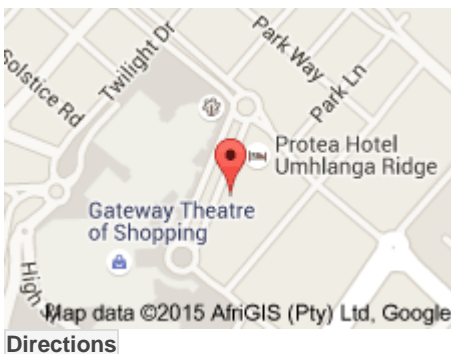
“The one thing the pandemic has taught us is that in every facet of our lives, clear communication from the beginning is key,” said Ghela.



She added, “Parents and consumers are encouraged to speak to their schools early to make payment arrangements and to always act in the interests of the child in making decisions to withdraw from a school and terminate a school contract.”

She advised that before taking litigious steps to enforce their contractual rights, schools must be mindful of minimising the adverse impact of a pupil’s rights.

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