



*Joint Sector Statement: Operationalize the Bill of Rights and Facilitate Access to Sexual and Reproductive Health and Rights*

For Immediate Release

July 5, 2020

We, the undersigned **25** Civil Society Organizations working on human rights in the country, are alarmed by the recent statements by religious groups, allied professional groups and individuals claiming that abortion is illegal in Kenya. This is NOT true. **Abortion is legal in Kenya to the extent permitted by the Law.** We are also concerned and condemn the threats being issued to Kenyans who are standing up in support of women and girls' sexual and reproductive health rights, including the right to access safe abortion **as stipulated by the law.** We feel that the main motive of these statements and threats is to erode the gains we have made as a country in so far as these rights are concerned. These statements, claims and threats by these groups are also designed to stop the full operationalization of the legal frameworks that grant these rights, and in the process, deny women their SRHR and access to information and services on the same, including safe abortion services.

It is instructive to note that the narrative being peddled is not correct as envisaged in the 2010 Constitution and it is unfortunate that it comes as the country marks the 10<sup>th</sup> anniversary of the enactment of this document. We also note with concern that these groups are also against the provision of comprehensive education and information on sexual and reproductive health to adolescents, despite the evidence that shows an increase in the number of unintended pregnancies that has been made worse during the COVID-19 pandemic.

We therefore take this opportunity to enlighten Kenyans that sexual and reproductive health and rights are grounded in our constitution specifically under Article 43 (1) (a) which provides for the right to health including reproductive health care and Article 26 (4) which provides for the right to access safe abortion services where the life or health of the pregnant woman is in danger or in the event of an emergency. Pursuant to a decision of the High Court in Constitutional Case No. 266 of 2015, women and girls who suffer sexual violence can also access safe abortion services if in the opinion of a trained health provider their life or health is in danger. These provisions extend to adolescents whose needs and rights are further elaborated in the Adolescents Sexual and Reproductive Health Policy that was enacted by the Ministry of Health in the year 2016.

We remind Kenyans that the Constitution is not self-implementing and policy and legislation are required to be enacted to breathe life into its provisions. At the moment, we lack comprehensive laws, regulations, guidelines, and standards, as well as corresponding competency-based training, to guide health professionals to effectively provide sexual and reproductive health information and services, and to enable women and girls to access their sexual and reproductive health rights.

We commend the steps being taken to create a comprehensive legal framework and urge all of us to support members of Parliament and the Executive who are working to ensure that women and girls reap the results of the constitutional order that we fought for. We condemn in the strongest terms possible, acts of intimidation targeting state and public officers that are constitutionally obligated to develop laws and policies that will ensure enjoyment of rights. Specifically, we condemn the threats that are allegedly being issued against the life of Senator Susan Kihika who has taken the bold step of working on a legislation on reproductive health and rights. We also condemn threats and harassment against human rights defenders working with state institutions to ensure full enjoyment of SRHR in the country. These threats have no place in a society that adheres to constitutionalism and the rule of law.

We therefore:

1. Appeal to the government to ensure that it complies with its human rights obligations to ensure that sexual and reproductive health and rights are respected, protected and fulfilled.
2. Urge the Ministry of Health, in line with the decision in the case of JMM – High Court Constitutional Case No. 266 of 2015, to ensure the full implementation of the Standards and Guidelines for Reducing Maternal Mortality and Morbidity from Unsafe Abortions and the National Training Curriculum for training health providers on the same. Specifically, we appeal to the Ministry of Health to ensure that health providers receive relevant training to enable them offer abortion and other reproductive health services to women and girls who qualify for these services.
3. Urge the Ministry of Health to ensure the provision of accurate information on sexual and reproductive health and rights through an elaborate public education, sensitization and awareness program that will dispel myths, misconceptions, misinformation and untruths regarding sexual and reproductive health and rights which are guaranteed in our Constitution.
4. Appeal to the Ministry of Health and the Ministry of Education to finalize, launch and implement a comprehensive curriculum on sexual and reproductive health and rights targeting in and out of school adolescents.
5. Invite the Inspector General of Police to investigate the allegations of threats being issued against Senator Kihika for playing her constitutional role.
6. Invite the Kenya National Commission on Human Rights (KNCHR) to probe and hold to account all peddlers of misinformation on Sexual and Reproductive Health as this constitutes a violation of the right to freedom of expression and access to information.

7. Urge religious leaders to play a positive role in promoting constructive dialogue on sexual and reproductive rights including by providing correct information to the public in regard to what the Kenyan constitution provides while discussing sex education, abortion and other related sexual reproductive rights.

Signed:

1. Amnesty International Kenya
2. ANMA Kenya
3. Bunge la Wamama Mashinani
4. Center for Reproductive Rights
5. Centre for Study of Adolescence Kenya
6. Defenders Coalition
7. Deutsche Stiftung Weltbevölkerung (DSW Kenya)
8. Epic Youth Group
9. The African Women's Development and Communication Network (FEMNET )
10. The Federation of Women Lawyers in Kenya (FIDA Kenya)
11. Grassroots Women Initiative Network Kenya
12. Ipas Africa Alliance
13. Kenya Ethical and Legal Issues Network on HIV & AIDS
14. Kenya Obstetricians and Gynecologists Society
15. MAMA Network
16. Mid Rift Human Rights Network
17. Network of Adolescents and Youth in Africa
18. Planned Parenthood Global
19. Reproductive and Maternal Health Coalition
20. Reproductive Health Network Kenya
21. Reproductive Health Services
22. SheDecides Kenya
23. Trust for Indigenous Culture and Health
24. WA-WA, Homabay
25. Youth Health Organization