**Joint Statement: Kenyan Civil Society Organizations Celebrate Court Decision Striking Down Restrictive Clause on Abortion and Prioritizing Women's Reproductive Health**

On October 2, 2025, the High Court of Kenya struck down Paragraph 12 of Clause 3.4.1 of the National Reproductive Health Policy 2022–2032, which sought to limit access to safe and legal abortion by requiring, in addition to the health and life of the mother, that the highest attainable standard of health of the foetus be prioritised before services can be provided. The court found that the clause contradicts Article 26(4) of the Constitution of Kenya, 2010 and would put women and girls in need of reproductive health services at risk.

The judgment confirms that access to safe and legal abortion is a constitutional right when, in the opinion of a trained health care professional, there is need for emergency treatment, where the life or health (including physical, mental and social well-being) of the pregnant woman is in danger, or when permitted by any written law. This means that the health of the foetus cannot be independently prioritized over the life or health of the pregnant woman. This judgment centers on the reproductive health and dignity of women and girls and speaks to the lived realities and needs of those who seek safe and legal abortion services.

This decision is very important in Kenya, where unsafe abortion remains a major public health challenge, contributing significantly to maternal morbidity and mortality and a continued violation on the right of the highest attainable reproductive health care for women and girls.

This decision is especially important in Kenya, where unsafe abortion remains a major public health challenge contributing significantly to maternal morbidity and mortality. It also represents a continued violation of women's and girls' right to the highest attainable standard of reproductive health care. According to data from the African Population and Health Research Centre, up to 14% of unintended pregnancies end in unsafe abortion, which result in a range of life and health threatening complications.[1] By striking down paragraph 12 of Clause 3.4.1, the Court has prevented the introduction of an arbitrary

[1] APHRC Policy Brief (October 2023) Unintended Pregnancies, Unsafe Abortion and Maternal Mortality in Kenya available at chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://aphrc.org/wp-content/uploads/2023/11/Kenya-Policy-Brief-layout-1.pdf.

and unconstitutional barrier to safe and legal abortion care, ensuring that the existing constitutional protections remain intact.

The petition, filed by young women and civil society actors Rachael Mwikali, Esther Aoko, AYARHEP Kenya, and KELIN, raised a number of concerns with the policy direction taken by the Ministry of Health in the National Reproductive Health Policy. Katiba Institute and the Kenya Obstetrics and Gynecological Society (represented by the Centre for Reproductive Rights) participated in the litigation as interested parties.

While we welcome this victory, several unresolved gaps in the National Reproductive Health Policy remain critical for the full realization of sexual and reproductive health and rights (SRHR). These include meaningful public participation in the creation of the policy, adolescents' access to reproductive health care and services without mandatory parental consent, access to assisted reproduction and mandatory testing of HIV.

We remain steadfast in our resolve to continue advancing reproductive rights in Kenya through advocacy, litigation, and community mobilization until the full promise of the right to the highest attainable standard of reproductive health care is fully realized.

**Signed by:**

CENTER *for* REPRODUCTIVE RIGHTS

KENYA OBSTETRICAL AND GYNAECOLOGICAL SOCIETY

RHN Reproductive Health Network Kenya

ZAMARA FOUNDATION

MSI KENYA REPRODUCTIVE CHOICES

NIGEE

SUPERB

WOMEN COLLECTIVE KENYA

TICAH Trust for Indigenous Culture and Health

FEDERATION OF WOMEN LAWYERS HAKI ZA AKINA MAMA FIDA KENYA | 40 Years OF ADVANCING WOMEN'S RIGHTS

Network for Adolescent and Youth of Africa NAYA

Usawa HEALTH FOUNDATION

PHR Physicians for Human Rights

women's LINK worldwide