



Laws on abortion in Kenya

Abortion is a sensitive and contentious issue - with religious, moral and political dimensions. It is also a public health concern globally and in Kenya.

Does the Constitution of Kenya permit abortion?

Article 26(4) provides that:

Abortion is permitted if, in the opinion of a trained health professional, there is need for emergency treatment, or the life or health of the mother is in danger, or if permitted by any other written law.

Does the Constitution permit post abortion care?

Article 43(2) provides that:

No person may be denied emergency medical treatment. This includes post-abortion care, that is medically given to women for treatment of abortion complications.

Who qualifies for access to safe abortion services?

In accordance with the Constitution, The Health Act 2017, and the National Guidelines on the Management of Sexual Violence 2014, a woman:

- In need of emergency treatment; or
- Whose pregnancy poses a danger to her life; or
- Whose pregnancy resulted from rape, incest, defilement or sexual assault; or
- Whose health is in danger. The Health Act 2017 defines health as a complete state of physical, mental and social wellbeing and not merely the absence of disease.

What is the legal right and duty of a registered and licensed medical professional?

- Inform a woman when she qualifies for safe abortion;
- Perform safe abortion where a woman qualifies for one;
- Has a right not to be harassed when offering safe abortion services; and
- Has a right to conduct timely and effective referrals when he/she cannot perform the abortion.

Are medical professionals compelled to perform safe abortion services?

The Constitution allows freedom of religion, thought and belief. Any registered and licensed medical professional who has an objection is not under a legal duty to do so BUT must refer the woman in a timely and effective manner to an alternative medical professional who does not object.

Does the law allow backstreet abortion?

No. Safe abortion must be conducted only by a registered and licensed medical professional using proper equipment, correct techniques, in a functional and well equipped health facility and only in the circumstances permitted above. Persons who violate the law are liable to punishment.