

## **Joint Statement on the Draft African Charter on the Protection of Family, Sovereignty, Religious and Cultural Values.**

### **Preamble**

We, members of communities and grassroots organizations working to protect and advance the fundamental human rights of all persons in Kenya:

**Reaffirm** that the core obligation of governments and states is to uphold equality, human dignity, and non-discrimination for all persons.

**Recall** that sexual and reproductive health and rights are grounded in internationally recognized principles of human dignity, bodily autonomy, equality, and freedom from discrimination.

**Express concern** that the draft Charter is misleading in its assumption that there exists a single universal moral or cultural code shared uniformly across all 54 African countries. African societies are diverse in culture, religion, legal systems, and social realities.

**Regret** that the process of developing the draft Charter lacked inclusivity, transparency, and meaningful consultation with diverse stakeholders, including grassroots communities, women, young people, sexual and gender minorities, and civil society organizations.

**Further regret** that although the draft Charter invokes the principle of sovereignty, several of its provisions undermine constitutional protections and progressive legal frameworks adopted by many African states.

**Express concern** that the draft Charter threatens to undermine hard-won continental commitments, including the Maputo Protocol, which remains one of Africa's most progressive and binding legal instruments on the rights of women and girls.

**Note with concern** that the draft Charter is heavily influenced by narrow religious and ideological perspectives rather than objective, rights-based, and evidence-informed approaches consistent with regional and international human rights standards.

### **1. On Sexual and Gender Minorities**

#### **A. Historical and Cultural Realities**

We reject the narrative that sexual and gender diversity is “un-African” or a foreign import. Historical evidence demonstrates that diverse forms of gender expression and same-sex relationships existed in many African societies long before colonialism. In several communities, such practices were socially recognized and sometimes connected to social organization, inheritance, kinship preservation, and community continuity.

#### **B. Non-Discrimination and Human Dignity**

The draft Charter promotes exclusion and discrimination by failing to recognize or meaningfully protect persons with diverse sexual orientations and gender identities. Such exclusion fuels stigma, violence, social isolation, and threats to life and wellbeing, contrary to the African philosophy of Ubuntu, which emphasizes shared humanity, dignity, and coexistence.

We have already witnessed the harmful consequences of punitive laws and discriminatory policies across the continent, including increased violence, mental health challenges, social exclusion, and threats to livelihoods for LGBTQI+ persons.

We further draw attention to progressive legal developments across Africa that affirm constitutional protections for sexual minorities, including judicial decisions in Botswana, Mauritius, Namibia, and Kenya affirming rights to dignity, privacy, equality, and freedom of association.

In Kenya, the Supreme Court affirmed that the constitutional right to association extends to LGBTQ+ communities, recognizing that these communities are part of Kenyan society and entitled to constitutional protection.

We therefore reject attempts to reverse the progressive trajectory toward equality and inclusion and reject retrogressive laws that seek to reverse the progress we have made as a continent that many African countries are increasingly embracing.

### **C. Gender Diversity and Social Realities**

The Charter's narrow framing of identity exclusively around "man" and "woman" fails to reflect the lived realities of many Africans today. Across the continent, legal, institutional, and social conversations increasingly recognize that human identity and family structures are more diverse than binary definitions alone. In fact, Kenya has expressly through the Courts recognized the rights of intersex persons and this paves way for dignity in our communities.

A Charter intended to protect human dignity should not erase or exclude people whose identities fall outside traditional gender categories.

### **2. On Family Diversity**

We contest the assumption within the draft Charter that African understandings of family are homogeneous across the continent.

African societies differ significantly in language, culture, religion, politics, geography, and social organization. Historically and presently, families in Africa are formed in diverse ways, including through adoption, foster care, kinship networks, child-headed households, migration, blended families, and chosen families.

Reducing family solely to heterosexual marriage and biological reproduction ignores these lived realities and undermines the dignity and protection of many existing family structures within African communities.

A truly African Charter must recognize and respond to the diversity of African families rather than impose a singular ideological definition.

### **3. On Bodily Autonomy and Comprehensive Sexuality Education**

We are deeply concerned by the way the draft Charter dismisses bodily autonomy and misrepresents Age Appropriate Comprehensive Sexuality Education (CSE).

In underserved communities across Nairobi and other parts of Kenya, evidence-based sexuality education has contributed positively to public health outcomes by equipping young people with accurate information, critical decision-making skills, and knowledge about consent, healthy relationships, prevention of sexually transmitted infections, and prevention of unintended pregnancies.

We have witnessed how access to information has contributed to:

- Reduced gender-based violence and sexual violence;
- Improved attitudes among young men and boys toward women and girls;
- Reduced teenage pregnancies; enhanced school retention and transition of adolescents girls
- Greater awareness of reproductive health services; and
- Increased capacity among young people to make informed and responsible decisions.

We reject the false and misleading narrative that Comprehensive Sexuality Education (CSE) sexualizes children. CSE is fundamentally about health, safety, dignity, consent, and informed decision-making. Abstinence, personal responsibility, and healthy relationships are all recognized components of comprehensive sexuality education.

Ignoring the realities that many adolescents are sexually active or vulnerable to exploitation does not protect them; rather, it increases their vulnerability to violence, unsafe abortion, sexually transmitted infections, and preventable health risks.

We therefore condemn attempts within the draft Charter to undermine or weaken progressive efforts toward evidence-based sexuality education and reproductive health protections.

#### **4. On Treaty Adherence and Public Participation**

We note with regret that although the draft Charter claims to defend African sovereignty, the process leading to its development lacked meaningful national-level public participation and consultation.

In Kenya, public participation is a constitutional principle and an essential component of legitimate policymaking. The failure to conduct broad consultations with communities, civil society, young people, women's rights groups, and marginalized populations fundamentally weakens the legitimacy of the Charter.

We also regret that the language of the draft Charter fails to reflect the realities of contemporary African societies. Restricting recognition solely to binary notions of gender excludes many persons who already exist within our communities and whose dignity and rights deserve equal protection.

African human rights instruments should expand dignity and inclusion, not restrict them.

#### **5. On Child Rights and Consent**

We express concern regarding provisions within the draft Charter that appear to require consistent parental consent for adolescents and children to access sexual and reproductive health services.

Such an approach fails to recognize the complex realities many children face across African societies, including child-headed households, adolescent parenthood, orphanhood, displacement, abuse, and situations where parental or guardian support may be absent or unsafe.

Rigid consent requirements risk creating barriers to lifesaving healthcare and information for vulnerable children and adolescents.

Child rights are human rights. Access to healthcare, dignity, protection, information, and bodily autonomy should not be denied solely because a child cannot obtain parental consent in difficult or exceptional circumstances.

Policies concerning children must prioritize the best interests, safety, dignity, and evolving capacities of the child in accordance with constitutional and international human rights principles.

#### **Conclusion**

We call upon African states, regional bodies, civil society organizations, and communities to reject regressive and exclusionary approaches that undermine human dignity, equality, bodily autonomy, and non-discrimination.

Africa's strength lies in its diversity, resilience, and commitment to shared humanity. Any continental Charter seeking legitimacy must reflect the lived realities, constitutional

values, and human rights aspirations of all African peoples — not only the perspectives of a select ideological minority.

Statement endorsed by:

