

KENYA

The Constitution of Kenya, 2010

Part 2—Rights and Fundamental Freedoms

Right to Life

26. (1) Every person has the right to life.

(2) The life of a person begins at conception.

(3) A person shall not be deprived of life intentionally, except to the extent authorised by this Constitution or other written law.

(4) Abortion is not permitted unless, 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.

Source: http://www.kenyalaw.org/kl/fileadmin/pdfdownloads/Constitution_of_Kenya__2010.pdf

Kenya Penal Code, 1930 (as amended through 2014)

158. Attempts to procure abortion

Any person who, with intent to procure miscarriage of a woman, whether she is or is not with child, unlawfully administers to her or causes her to take any poison or other noxious thing, or uses any force of any kind, or uses any other means whatever, is guilty of a felony, and is liable to imprisonment for fourteen years.

159. The like by woman with child

Any woman who, being with child, with intent to procure her own miscarriage, unlawfully administers to herself any poison or other noxious thing, or uses any force of any kind, or uses any other means whatever, or permits any such thing or means to be administered or used to her, is guilty of a felony, and is liable to imprisonment for seven years.

160. Deleted by Act No. 3 of 2006, Second Sch.

~~Any person who unlawfully supplies to or procures for any person any thing whatever, knowing that it is intended to be unlawfully used to procure the miscarriage of a woman whether she is or is not with child, is guilty of a felony, and is liable to imprisonment for three years.~~

210. Infanticide

Where a woman by any wilful act or omission causes the death of her child being a child under the age of twelve months, but at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent on the birth of the child, then, notwithstanding that the circumstances were such that but for the provisions of this section the offence would have amounted to murder, she shall be guilty of a

felony, to wit, infanticide, and may for that offence be dealt with and punished as if she had been guilty of manslaughter of the child.

214. When child deemed to be a person

A child becomes a person capable of being killed when it has completely proceeded in a living state from the body of its mother, whether it has breathed or not, and whether it has an independent circulation or not, and whether the navel- string is severed or not.

227. Concealing birth

Any person who, when a woman is delivered of a child, endeavours by any secret disposition of the dead body of the child to conceal the birth, whether the child died before, at or after its birth, is guilty of a misdemeanour.

228. Killing Unborn Child

Any person who, when a woman is about to be delivered of a child, prevents the child from being born alive by any act or omission of such a nature that, if the child had been born alive and had then died, he would be deemed to have unlawfully killed the child, is guilty of a felony and is liable to imprisonment for life.

239. Failure to supply necessaries

Any person who, being charged with the duty of providing for another the necessaries of life, without lawful excuse fails to do so, whereby the life of that other person is or is likely to be endangered or his health is or is likely to be permanently injured, is guilty of a felony and is liable to imprisonment for three years.

240. Surgical operation

A person is not criminally responsible for performing in good faith and with reasonable care and skill a surgical operation upon any person for his benefit, or upon an unborn child for the preservation of the mother's life, if the performance of the operation is reasonable, having regard to the patient's state at the time, and to all the circumstances of the case.

Source: The Republic of Kenya, Laws of Kenya, Penal Code, Chapter 63, Revised Edition 2014 [2012].
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