

Malawian High Court Affirms Child Survivors' Right to Access Safe Abortion Under Malawi's Laws

Summary of the Case

The High Court of Malawi on 28th October 2025 delivered a landmark judgment in *AC (a minor) v The Attorney General and Others*, affirming that a child survivor of sexual violence has the right to access a safe abortion under the Gender Equality Act (GEA).

The case involved a 13-year-old girl who became pregnant after sexual abuse. When her parents sought a safe termination of pregnancy at a health center, the clinician refused, claiming abortion was illegal. The girl experienced serious emotional distress until she later received lawful medical care at Queen Elizabeth Central Hospital.

The Court found that the clinician's refusal, and the failure by both the Ministry of Health and the Human Rights Commission to act within their mandates, violated the claimant's sexual and reproductive health rights guaranteed under the GEA. It noted that the 2020 Standards and Guidelines for Post-Abortion Care were unclear about how health workers should manage cases involving child survivors of sexual violence.

The Court granted all the reliefs sought, including:

- A declaration that the refusal to provide safe abortion care to the girl was a violation of her rights and the Gender Equality Act and other relevant laws;
- An order that the Ministry of Health must revise the 2020 Post-Abortion Care Guidelines within 180 days to provide clear directions for lawful access to safe abortion for child survivors;
- Health workers must be trained to provide such services and to inform survivors of their rights;
- The Human Rights Commission must investigate and monitor compliance with the law; and
- Monetary compensation be awarded to the girl for the pain and suffering caused by the violation of her rights.

This is the first judicial decision in Malawi confirming that the Gender Equality Act provides a domestic legal basis for access to abortion care in cases where a child becomes pregnant because of sexual violence.

Nyale Institute's Reaction

Nyale Institute for Sexual and Reproductive Health Governance (Nyale Institute) welcomed the ruling as a historic victory for children's rights, reproductive justice, and health governance in Malawi. The Executive Director, Dr Godfrey Kangaude, said the judgment affirms that no child survivor of sexual violence should be forced to continue a pregnancy against her will, and that government institutions have a duty to ensure clear, compassionate, and lawful care.

Nyale Institute commended the courage of the young claimant and her family for taking on a matter that others have shied away from.

The strategic planning and organizing around the case was led by Dr Godfrey Kangaude, who is also a Research Associate in the Department of Psychology at Rhodes University (Critical Studies in Sexualities and Reproduction). The case was filed and litigated by Mlauzi Legal Solutions.