



## **PRESS STATEMENT- For immediate release**

**26<sup>th</sup> March 2015,**

**NEPHAK applauds and welcomes Kenya High Court judgment to render section 24 of the HIV and AIDS Prevention and Control Act 2006 (HAPCA) unconstitutional.**

**NAIROBI-** The National Empowerment Network of People Living with HIV/AIDS in Kenya (NEPHAK) commends the high court of Kenya on a ruling that renders section 24 of HIV and AIDS prevention and control Act 2006 unconstitutional.

The judgment made on 18<sup>th</sup> March 2015 safeguards the rights of people living with HIV and their families and is a progressive step towards processes aimed at decriminalizing HIV transmission.

The AIDS law project (ALP) an NGO and one of NEPHAK Key human rights partners had petitioned the court to render section 24 of HAPCA unconstitutional broad and vague with potential to discriminate against PLHIV, Women living with HIV and members of Vulnerable groups. The petition challenged that the law Section 24 [found here](#) fails to explain the extent of 'sexual contact' terming it unclear. The law also failed to state with certainty and precision how the targets of the section are expected to conduct themselves and in respect to whom.

Women living with HIV have been particularly weary of section 24 of HAPCA as it potentially puts them at risk for lawsuits especially in their pursuit to have babies; a fundamental reproductive right.

In his remarks after reading the judgment The NEPHAK Executive Director applauded the progressive ruling terming it "a victory for WLHIV who can now have children without fear of facing lawsuits." He added that the move will go a long way in reducing stigma and punitive actions meted upon PLHIV, positively influence uptake of HIV prevention and treatment interventions and promote retention to care and adherence to ART. "I hoped that other offensive and punitive sections of related acts also be expunged." He said.

NEPHAK will continue to work with stakeholders and partners in ensuring that PLHIV and their communities are informed and aware of the value of human rights in the achievement of country goals and targets to address the HIV epidemic.

NEPHAK strongly believes that the progressiveness of the legal system in ensuring that every person enjoys the provisions of human rights within the constitution has played a big role in this ruling and thanks everyone involved in the process towards realizing this very positive and favorable judgment and urges other countries to borrow a leaf from this experience.

**ENDS**

For Further Comments Contact:

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## **ABOUT NEPHAK**

NEPHAK is a national network that unites over 1,500 groups of people living with HIV and those affected by TB, & AIDS through post-test clubs, support groups, community based organizations, non-governmental organizations and PLHIV networks.

**[Link to the Judgment and Section 24 of HAPCA 2006\(PDF version\)](#)**

1. Link to the High Court Judgment:

[http://nephak.or.ke/wp-content/uploads/2015/03/Petition\\_97\\_of\\_2010-Judgment-Aids-Law-Project-v.-A.G.pdf](http://nephak.or.ke/wp-content/uploads/2015/03/Petition_97_of_2010-Judgment-Aids-Law-Project-v.-A.G.pdf)

2. Link to Section 24 of HAPCA 2006.

<http://nephak.or.ke/wp-content/uploads/2015/03/SECTION-24-OF-HAPCA-2006.pdf>