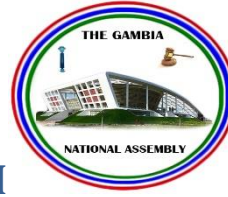




REPUBLIC OF THE GAMBIA

National Assembly, New Assembly Building, Reverend Pye Lane
Banjul, The Gambia



**REPORT OF THE
SELECT COMMITTEE ON
HEALTH, WOMEN,
CHILDREN, DISASTER,
HUMANITARIAN RELIEF
AND REFUGEES OF THE
NATIONAL ASSEMBLY OF
THE GAMBIA
ON THE DOMESTIC
VIOLENCE (AMENDMENT)
BILL, 2020**

October 2020

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1. MEMBERSHIP OF THE COMMITTEE

1.1. Members of the National Assembly Select Committee on Health, Women, Children, Disaster, Humanitarian Relief and Refugees

- | | | |
|-----------------------------|---|-------------|
| 1. Hon. Ousman Sillah | - | Chairperson |
| 2. Hon. Fatoumata Jawara | - | Member |
| 3. Hon. Musa Amul Nyassi | - | Member |
| 4. Hon. Amadou Camara | - | Member |
| 5. Hon. Saikou Marong | - | Member |
| 6. Hon. Kaddy Camara | - | Member |
| 7. Hon. Omar Darboe | - | Member |
| 8. Hon. Sulayman Saho | - | Member |
| 9. Hon. Bakary Camara | - | Member |
| 10. Hon. Ndey Yassin Secka | - | Member |
| 11. Hon. Momodou L.K Sanneh | - | Member |
| 12. Hon. Dawda K. Jawara | - | Member |

1.2. Support Staff

- | | | |
|------------------|---|-----------|
| 1. Sarata Bojang | - | Secretary |
| 2. Isatou Sonko | - | Secretary |

1.3. Subject Matter Specialists

- | | | |
|----------------------|---|-----|
| 1. Sekou O. Dibba | - | SMS |
| 2. Aminata L.R. Ngum | - | SMS |
| 3. Dr. Ayo Palmer | - | SMS |

2. ACKNOWLEDGEMENT

The Members of the Select Committee on Health, Women, Children, Disaster, Humanitarian Relief and Refugees wish to acknowledge the positive response of all the stakeholder institutions from government, non-governmental organisations and civil society who were invited to participate in the consultations. Their position papers and presentations reflecting their views and recommendations had really enriched the exercise and its outcome. The participation of the Permanent Secretaries, Deputy Permanent Secretaries of the relevant ministries, the Directors and Assistant Directors of concerned departments, Executive Directors and Programme or Unit heads of NGOs and CSOs, senior officials, among others have been very instrumental in the consultations with their ideas and passion to achieve results.

It would therefore not be an exaggeration to conclude that without their invaluable participation and contributions in the process, as stakeholders in the promotion and protection of the rights of women and children, it would not have been easy for the Committee to complete and present this report for the consideration of the Assembly. They provided the evidence or information needed for inclusion in the amendment bill.

The Committee is obliged to express appreciation to the Office of the Clerk for providing the efficient support staff and logistics which enabled the Committee to carry out exhaustive consultation with all relevant stakeholders.

INTRODUCTION

After being handed over a copy of the Bill entitled the '**Domestic Violence (Amendment) Bill, 2020**' at the plenary on 22 June 2020 by the Attorney General and Minister of Justice, the Clerk of the National Assembly read aloud the short title which was deemed to be the First Reading, in accordance with Standing Order 65 of the National Assembly (Revised Edition, 2019).

On 7 July 2020, the National Assembly plenary, following the conclusion of the second reading of the Bill, which witnessed a debate on its principles and merits by the honourable National Assembly Members, referred the said proposed legislation to the Assembly Business Committee (ABC), in accordance with Standing Order 68 (1). Consequently, the ABC committed the said Bill for consideration to the relevant committee which is the Select Committee on Health, Women, Children, Disaster, Humanitarian Relief and Refugees, as provided for by Standing Order 68 (2).

In accordance with Standing Orders 68 (2), 69 (1) and (2), 97 (1) and (3) (b), the Select Committee on Health, Women, Children, Disaster, Humanitarian Relief and Refugees was tasked to review, consult and report to the plenary its findings and recommendations on the draft Women's (Amendment) Bill, 2020.

Immediately following the committal of the Domestic Violence (Amendment) Bill, 2019 to the appropriate Committee "for detailed investigation and report..." as per Standing Order 68 (2), the Select Committee immediately set itself to work by convening a planning meeting to adopt the methodology or approach to undertake in order to accomplish the task in accordance with the requirements of the Standings Orders. The Committee agreed to hold consultations and thus identified the key stakeholders from government and non-state institutions and organisations to be engaged to get their views and recommendations on the proposed Bill for consideration and incorporation in its report to the National Assembly.

4. MANDATE

Standing Order 69 requires the Committee not to discuss the principles of the Bill but its details in terms of the clauses. It is thus mandated as follows:

- a) List out witnesses, hold proceedings and take evidence from witnesses.
- b) Record the opinion of the Committee on each clause and schedule of the Bill and apprehend any amendment recommended.
- c) Present Amendments in the order in which they stand in the Bill.
- d) Present a report incorporating the summary of the evidence of the witnesses, the opinion of the Committee on the clauses and attach relevant records of minutes of its proceedings.

5. METHODOLOGY

Since Clause 66 (1) (b) requires a Committee, at the Committee Stage of the process, to engage in “detailed investigation” when considering a Bill committed to it, the Select Committee called witnesses from the identified institutions and organisations. This was after when each of them was provided with a copy of the Bill and thus asked to review and present a written report or position paper on their views and recommendations, if any, for the consideration of the Committee.

After holding the formal meetings at the National Assembly with the stakeholders from Government Ministries, Departments and Agencies (MDAs), Non-Governmental Organisations (NGOs) and Civil Society Organisations and platforms to present and discuss their written reports, the Committee convened a meeting to review and conclude on the positions and validate the Report.

6. DOMESTIC VIOLENCE (AMENDMENT) BILL, 2020

ISSN 0796 - 028X

Supplement “B” to The Gambia Gazette No. 12 of 16th March 2020

NATIONAL ASSEMBLY

DOMESTIC VIOLENCE (AMENDMENT) BILL, 2020

A BILL ENTITLED

[]

AN ACT to review and amend the provisions of the Domestic Violence Act found to be discriminatory against women and girls in The Gambia in furtherance of The Gambia’s international obligations and in line with the Constitution and for connected matters.

ENACTED by the President and the National Assembly.

1. Short title

This Act may be cited as the Domestic Violence (amendment) Act, 2020.

2. Amendment of the Domestic Violence Act 2013

The Domestic Violence Act (In this Act referred to as “the Principal Act”) is amended as set out in this Act.

3. Amendment of Section 36

The Principal Act is amended in sub-section (2) of Section 36 by inserting a new paragraph (d) as follows:

“(d) ensure that the rights of the complainant are not prejudiced by an out of court settlement.”

OBJECTS AND REASONS

This amendment is the first of its kind in Africa for being the trail blazer for the recognition, observance and the domestication of international obligations and commitments relating to women’s rights into domestic laws. Since the enactment of the Women’s Act 2010, significant strides have been made to enforce the law and to protect women in line with the provisions of the Act. Section 25 of the Women’s Act recognised the need for periodic review of legislation every ten years to ensure further compliance with our international obligations as enshrined in the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), and the Protocol to the African Charter on Human and People’s Rights on The Rights of Women in Africa, (The Protocol). This amendment is intended to amend and repeal the provisions of this Act that are discriminatory against women as mandated by section 25 of the Women’s Act.

7. Planning Meeting

The Select Committee held a meeting on 29th September, 2020 to identify the relevant stakeholders to be consulted and to plan and adopt a Road Map for the engagements. During the deliberations, members identified the stakeholders to be consulted from the state and non-state institutions/organisations i.e. NGOs and civil society. The

meeting agreed to hold sessions at the Assembly with the institutions to get their views and recommendations of the stakeholders on the proposed Women's Act (Amendment) Bill, 2020 for the consideration of the Committee in its report.

These consultations are in accordance with Clause 69 paragraph 2 of the Standing Orders which states *"A Committee to which a Bill is committed shall consider and take evidence on the provisions of the bill and report its opinion thereon to the Assembly."*

8. PROCEEDINGS

(8.1) WITNESSES

The following witnesses or stakeholders from government, non-government organisations and civil society participated in the consultation on the Women's (Amendment) Bill, 2020.

1. Mrs. Rohey Bittaye-Darboe, Permanent Secretary Ministry of Women, Children and Social Welfare
2. Siaka Marong, Ministry of Children and Social Welfare
3. Mr. Kissima Bittaye, State Counsel, Attorney General's Chamber and Ministry of Justice
4. Fanta Bai Secka, Ministry of Health
5. Lamin B. Fatty, Ministry of Health
6. Naffie Sissoho Bangura, Ministry of Justice
7. Abdoulie Colley, Ministry of Justice
8. Mustapha Drammeh, Ministry of Basic and Secondary Education
9. Mariama A.M Sallah, Ministry of Basic and Secondary Education
10. Isatou S. Jallow, Ministry of Basic and Secondary Education
11. Juldeh Ceesay, Ministry of Finance & Economic Affairs (DPS)
12. Adama M. Jeng, GALGA
13. Mariama K. Sanyang, The Girls Agenda
14. Roya Namati, Paradise Foundation
15. Fatou Faye, Paradise Foundation
16. Isatou Deu Sawaneh, National Women Council
17. Fallu Sowe, Network Against Gender Base Violence
18. Mariama John, Network Against Gender Base Violence
19. Ousman Ceesay, Network Against Gender Base Violence

(8.2) MEMBERS OF THE COMMITTEE IN ATTENDANCE

- | | | |
|---------------------------|---|------------------|
| 1. Hon. Ousman Sillah | - | Chairperson |
| 2. Hon. Fatouma K. Jawara | - | Vice-Chairperson |
| 3. Hon. Amadou Camara | - | Member |
| 4. Hon. Musa Amul Nyassi | - | Member |
| 5. Hon. Kaddy Camara | - | Member |
| 6. Hon. Ndey Yassin Secka | - | Member |
| 7. Hon. Omar Darboe | - | Member |
| 8. Hon. Saikou Marong | - | Member |
| 9. Sarata Bojang | - | Secretary |

8.3. Consideration, Scrutiny, Findings and Recommendations

In his welcoming and introductory remarks, the Chairperson commended the stakeholders for responding to the invitation to come and serve as witnesses.

The Chair informed the witnesses/stakeholders that the Hon. Minister for Justice had tabled a series of bills before the Assembly which were committed to the Committee on Health, Women, Children, Disaster, Humanitarian Relief and Refugees for further scrutiny and to report its findings and recommendations to the Assembly for consideration and approval. He noted that the Civil Marriages (Amendment) Bill 2020 was one of the Bills committed to the Committee.

Giving a background history on the Bills, the Chairperson informed the meeting that they were initially consolidated into one, and committed to the Health Committee but later withdrawn by the Ministry of Justice (person in charge of the bills). Subsequently, he said the Bills were later separated and brought back to Parliament in June, 2020 for consideration.

According to the Chairperson, the Committee is mandated to make relevant amendments to the bill. Detailing the methodological approach of the Joint Committee in scrutinizing the Bills, the Chairperson argued that the Committee would be adducing evidences both oral and written from witnesses to enable it to come up with appropriate recommendations.

Furthermore, the Chairperson reminded the meeting about Standing Order 101 of the National Assembly which clearly states the powers and remits of Committees.

1. Consideration and scrutiny

Oral and written evidences of witnesses

Ministry of Women, Children and Social Welfare (MoWC&SW)

In its oral evidence, the Ministry of Women, Children and Social Welfare indicated that, as the sponsors of the Bill, it is not asking the court not to entertain out-of-court settlement but not to compromise the rights of the complainant/victim of domestic violence.

Ministry of Justice (MoJ)

The representatives of the Ministry maintain that the amendment of the Domestic Violence Act is appropriate. They noted that the courts are mandated not to pass judgment or make rulings that jeopardise the rights of the victim of domestic violence.

Ministry of Finance and Economic Affairs (MoFEA)

The representative of the Ministry of Finance and Economic Affairs indicated in both its oral and written position does not object to out of court settlement but insisted that it should not jeopardise the rights of the victim.

Ministry of Trade

National Women's Council

The Chairperson of the Council noted that domestic violence is a lifetime problem for survivors. She said the women have been negotiating since time immemorial, adding that they cannot continue negotiating and that it ought to stop.

Personnel Management Office (PMO)

Sometimes out of court settlement can be entertained as litigation is expensive, may take a long time and lead to family break-ups. There is need for psycho-social support (PSS) for victims or survivors of domestic violence.

Network Against Gender Based Violence (NGBV)

The Network supports the amendment. It is dealing with a case of domestic violence in the courts. The Bill is coming to protect victims of domestic violence who are both men and women. The court to ask victim to express position

Child Protection Alliance (CPA)

Supports the amendment of laws that are in place but enforcement is the challenge. The amendment is not disallowing out of court settlement. cases like rape cannot be settled out of court. Gambia is a signatory of many conventions that promote the rights of women and protect them against gender-based violence. against

- Committee's Recommendation

The Committee recommends that the preamble stands part of the Bill.

1. Short title

This Act may be cited as the Domestic Violence (amendment) Act, 2020.

- Observation/Conclusion

The Committee observes that the witnesses are in agreement with Clause 1 on the Short Title of the Bill

- Committee's Recommendation

The Committee recommends that the Clause 1 on the Short Title stands part of the Bill.

2. Amendment of the Domestic Violence Act 2013

The Domestic Violence Act (In this Act referred to as "the Principal Act") is amended as set out in this Act.

- Observation/Conclusion

The Committee observes that the witnesses are in agreement with Clause 2 to stand part of the Bill

- Committee's Recommendation

The Committee recommends that the Clause 2 should stand part of the Bill.

3. Amendment of Section 36

The Principal Act is amended in sub-section (2) of Section 36 by inserting a new paragraph (d) as follows:

"(d) ensure that the rights of the complainant are not prejudiced by an out of court settlement."

- Observation/Conclusion

The Committee observed that the witnesses are in support of the amendment.

- Committee's Recommendation

The Committee recommends for the proposed amendment to stand part of the Domestic Violence (Amendment) Bill, 2020.

OBJECTS AND REASONS

This amendment is the first of its kind in Africa for being the trail blazer for the recognition, observance and the domestication of international obligations and commitments relating to women's rights into domestic laws. Since the enactment of the Women's Act 2010, significant strides have been made to enforce the law and to protect women in line with the provisions of the Act. Section 25 of the Women's Act recognised the need for periodic review of legislation every ten years to ensure further compliance with our international obligations as enshrined in the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), and the Protocol to the African Charter on Human and People's Rights on The Rights of Women in Africa, (The Protocol). This amendment is intended to amend and repeal the provisions of this Act that are discriminatory against women as mandated by section 25 of the Women's Act.

- Observation/Conclusion

The Committee recommends for the Objects and Reasons to be redrafted in order for it to capture the specific nature of the issue the Bill is intended to address as required by Standing Order 64 (1) (a), which states:

“(1) Every Bill shall be accompanied by a memorandum signed by the person in charge of the bill containing a statement of the objects and reasons of the Bill, including

-

(a) the nature of the issue the Bill is intended to address;”

9. ANNEXES

1. Minutes

LAST MINUTES OF THE SELECT COMMITTEE ON HEALTH WOMEN, CHILDREN, REFUGEES, DISASTER AND HUMANITARIAN RELIEF

Date: 13th October, 2020

Time: 11:00am

Venue: Committee Room1

In-Attendances

1. Hon. Ousman Sillah - Chairperson
2. Hon. Fatoumata K. Jawara - Vice-Chairperson
3. Hon. Amadou Camara - Member
4. Hon. Musa Amul Nyassi - Member
5. Hon. Kaddy Camara - Member
6. Hon. Ndey Yassin Secka - Member
7. Hon. Omar Darboe - Member
8. Hon. Saikou Marong - Member

Secretaries

1. Sarata Bojang - Secretary
2. Isatou Sonko - Secretary

Witnesses

1. Mrs. Rohey Bittage Darboe - Ministry of Children & Social Welfare (PS)
2. Siaka Marong - Ministry of Children and Social Welfare
3. Fanta Bai Secka -Ministry of Health
4. Lamin B. Fatty - Ministry of Health
5. Naffie Sissoho Bangura -Ministry of Justice
6. Abdoulie Colley -Ministry of Justice

- | | |
|------------------------|--|
| 7. Mustapha Drammeh | - Ministry of Basic and Secondary Education |
| 8. Mariama A.M Sallah | - Ministry of Basic and Secondary Education |
| 9. Isatou S. Jallow | - Ministry of Basic and Secondary Education |
| 10. Juldeh Ceesay | - Ministry of Finance & Economic Affairs (DPS) |
| 11. Adama M. Jeng | - GALGA |
| 12. Mariama K. Sanyang | - The Girls Agenda |
| 13. Roya Namati | - Paradise Foundation |
| 14. Fatou Faye | - Paradise Foundation |
| 15. Isatou Deu Sawaneh | - National Women Council |
| 16. Fallu Sowe | - Network Against Gender Base Violence |
| 17. Mariama John | - Network Against Gender Base Violence |
| 18. Ousman Ceesay | -Network Against Gender Base Violence |

1. prayers
2. Introduction/Opening Remarks
3. Review of the Domestic Violences Offences, (Amendment) Bill, 2020
4. A. O. B

Prayers:

The meeting was called to order by the Hon. Ousman Sillah, Chairperson of the Select Committee, and individual silent prayers were observed.

Introduction/Opening Remarks:

The Chairperson of the Committee welcome everyone to the meeting and highlighted on the purpose of the consultative meeting.

The Chairperson informed the meeting that the said bills were referred to the select Committee on Health for further scrutiny and report back to the plenary.

The Chairperson also informed the meeting that the Committee would garner evidences both oral and written from Witnesses to accord them the opportunity to act and make inform decisions.

The Chairperson also reminded the meeting of the relevant clauses 65,66,67,68,69, and 101 of the Standing Orders of the National Assembly which clearly states the powers and remits of Committees.

He then opened the floor for discussion.

Domestic violence Amendment bills 2020

Amendment of Section 36

The principal Act is amended in subsection (2) of section 36 by inserting a new paragraph (d) as follows

“d) ensure that the rights of the complainant are not prejudiced by an out of court settlement.”

All the witnesses are in agreement with the Amendment.

Comments from stakeholders

- Domestic violence offence should not be compromised. They should be taken to court.
- Ps trade suggested that some of the domestic violence that can be settled at home to be settled in the family level than taking it to court.
- The effects of the domestic violence are the trauma therefore all domestic violence Offence should not be negotiated at family level
- For the Committee to also consider men in this provision as domestic violence Offence involves men too
- To involve social worker when escorting the perpetrator to avoid family members interference
- suggested for psychosocial support for the perpetrator will come from the community and
- Propose to develop a policy on what should be done
- New suggestions from the Ministry