

**REPORT OF THE JOINT COMMITTEE
ON HEALTH, WOMEN, CHILDREN,
DISASTER, HUMANITARIAN RELIEF
AND REFUGEES AND TRADE,
NEPAD, REGIONAL INTERGRATION
WTO, WB AND LDC OF THE
NATIONAL ASSEMBLY OF THE
GAMBIA
ON THE FORCED LABOUR
(AMENDMENT) BILL, 2020**

October 2020

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1. MEMBERSHIP OF THE JOINT COMMITTEE

1.1. Members of the National Assembly Joint Select Committee of Health, Women, Children, Disaster, Humanitarian Relief and Refugees and Trade NEPAD, Regional Integration WTO, WB and LDC.

1. Hon. Ousman Sillah - Co-Chairperson (Health, Women and Children)
2. Hon. Muhammed Mahanera - Co-Chairperson (Trade)
3. Hon. Fatoumata Jawara - Member (Health, Women and Children)
4. Hon. Billay G. Tunkara - Member (Trade)
5. Hon. Musa Amul Nyassi - Member (Health, Women and Children)
6. Hon. Amadou Camara - Member (Health, Women and Children)
7. Hon. Saikou Marong - Member (Health, Women and Children)
8. Hon. Momodou S. Ceesay - Member (Trade)
9. Hon. Kaddy Camara - Member (Health, Women and Children)
10. Hon. Alhagie Sowe - Member (Trade)
11. Hon. Ya kumba Jaiteh - Member (Trade)
12. Hon. Omar Darboe - Member (Health, Women and Children)
13. Hon. Omar Ceesay - Member (Trade)
14. Hon. Lamin F.M. Conta - Member (Trade)
15. Hon. Abdoulie Ceesay - Member (Trade)
16. Hon. Kebba Jallow - Member (Trade)
17. Hon. Sulayman Saho - Member (Health, Women and Children)
18. Hon. Ndey Yassin Secka - Member (Health, Women and Children)
- 19.

1.2. Secretaries

1. Sarata Bojang - Secretary (Health, Women and Children)
2. Fatou Gibba - Secretary (Trade)
3. Mr. Modou Sillah - Secretary (Trade)

1.3. Subject Matter Specialist

1. Mr. Bai Ibrahim Jobe - SMS (Trade)

2. ACKNOWLEDGEMENT

The Members of the Joint Committee on Health, Women, Children, Disaster, Humanitarian Relief and Refugees and Trade NEPAD, Regional Integration WTO, WB and LDC 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 '**Forced Labour (Amendment) Bill, 2020**' at the plenary on 22nd 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 06th 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 Joint Committee, comprising the two select committees on Health, Women, Children, Disaster, Humanitarian Relief and Refugees and Trade, NEPAD, Regional Integration WTO, WB and LDC.

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

Immediately following the committal of the Forced Labour (Amendment) Bill, 2019 to the Joint Committee "for detailed investigation and report..." as per Standing Order 68 (2), the two Committees convened 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 Joint 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. THE PROPOSED FORCED LABOUR (AMENDMENT) BILL, 2020

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NATIONAL ASSEMBLY

FORCED LABOUR (AMENDMENT) BILL, 2020

A BILL ENTITLED

[]

AN ACT to review and amend the provisions of the Forced Labour 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 Forced Labour (amendment) Act, 2020.

2. Amendment of the Forced Labour Act 1934

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

3. Repeal of Section 15

Section 8 is repealed

4. Introduction of New Section 7A

The Forced Labour Act is amended by inserting a new section 7A, as follows –

"7A. Notwithstanding sections 6 and 7 –

(a) a woman shall not be subjected to any labour –

(i) during pregnancy;

(ii) that is hazardous to her health; or

(iii) likely to affect her reproductive health;

(b) a child shall not be subjected to any labour that is exploitative or hazardous to his or her health and safety.”

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

6.1. The two committees held a Joint Committee meeting on 29 September, 2020 to discuss and agree on the approach to be adopted for the proceedings as well as to identify the relevant stakeholders to be consulted as witnesses. 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 for a rotational or co-chairpersonship for all the proceedings and presentation to the plenary of the two joint reports on the Labour (Amendment) Bill, 2020 and Forced Labour (Amendment) Bill, 2020. It was also agreed that each of the two committees should have a quorum of its members to form a quorum for the Joint Committee.

The procedure adopted by the Joint Committee was provided for by Standing Orders 69, 104, 105, 106, 107, 108 and 109.

8. PROCEEDINGS

1. Witnesses:

The following witnesses or stakeholders from government, non-government organisations and civil society participated in the consultation on the Forced Labour (Amendment) Bill, 2020:

- | | | |
|---------------------------------|---|--------------------------------|
| 1. Mrs. Rohey Bittaye Darboe | - | PS (MOWCSW) |
| 2. Mr. Landing Sanneh | - | President (GALGA) |
| 1. Mr. Nfamara Kuyateh | - | Secretary (PSC) |
| 2. Mr. Landing Samateh | - | Chairman (PSC) |
| 3. Mr. Lamin F. J. Jawara | - | PS (PSC) |
| 4. Mr. Lamin Daffeh | - | MOTIE |
| 5. Mrs. Awa Jobarteh | - | MOTIE |
| 6. Mr. Nyallow Barrow | - | Commissioner (Dept. of Labour) |
| 7. Mr. Basiru Secka | - | MOTIE |
| 8. Mr. Abdou Saïdy | - | Dept of Labour |
| 9. Mr. Pateh Baldeh | - | NGBV |
| 10. Mr. Ousman Ceesay | - | NGBV |
| 11. Mrs. Isatou Dem | - | Women Council |
| 12. Council Kissima Bittaye | - | MOJ |
| 13. Mrs. Naffie Sissoko Bangura | - | MOJ |
| 14. Mr. Muhammed Dibbasey | - | SHFG |

8.2. Scrutiny, Consideration, Findings and Recommendations on the Forced Labour (Amendment) Bill, 2020

On Thursday, 8th October, 2020, the Joint Committee convened its session with witnesses on the Forced Labour (Amendment) Bill, 2020 at the Auditorium of the National Assembly, which is a bigger meeting space, in order to accommodate the COVID 19 requirement of physical distancing, considering the expected high turnout of participants.

The invitation of witnesses is provided for by Standing Order 69 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.”

Hon. Muhamed Mahanera, Chairperson of the Select Committee on Trade NEPAD, Regional Integration, WTO, WB and LDC and Co-Chair of the Joint Committee, chaired the session which considered the Forced Labour (Amendment) Bill, 2020.

In his welcoming and introductory remarks, the Chair told the witnesses that this session on the Forced Labour (Amendment) Bill, 2020 is going to follow the same procedure as the previous one on the Labour (Amendment) Bill, 2020.

The Chair proceeded to read out the Forced Labour (Amendment) Bill, 2020 and then invited the witnesses to take turns in presenting their respective oral positions to be followed by submissions of their written position papers which will form part of the final report of the Joint Committee.

The following are a summary of the oral evidences of the witnesses on the proposed introduction of a new Section 7A of the Forced Labour Act which states:

“3. Introduction of New Section 7A

The Forced Labour Act is amended by inserting a new section 7A, as follows –

7A. Notwithstanding sections 6 and 7 –

(a) a woman shall not be subjected to any labour –

- (i) during pregnancy;
- (ii) that is hazardous to her health; or
- (iii) likely to affect her reproductive health;

(b) a child shall not be subjected to any labour that is exploitative or hazardous to his or her health and safety.”

8.3. EVIDENCE OF WITNESSES

MINISTRY OF WOMEN, CHILDREN AND SOCIAL WELFARE

The Ministry is in support of the insertion of a new section 7A in the Forced Labour Act.

MINISTRY OF TRADE, INDUSTRY, REGIONAL INTEGRATION, AND EMPLOYMENT AND THE DEPARTMENT OF LABOUR

Both the ministry and department are in support of the proposed amendment but also clarified that the bill does not refer to communal work, domestic work and apprenticeship.

MINISTRY OF JUSTICE (MOJ)

The State Counsel and Legal Draftsperson noted that the word “Labour” should be qualified with the word “Forced” preceding it.

Gambia Chamber of Commerce and Industry (GCCI)

GCCI in its position paper supports the proposed amendment bill.

Labour Unions

Although, three trade union organisations namely the Gambia Trade Union Congress, Gambia Trade Union Movement and Gambia Press Union were written to for position papers on the proposed amendment, the Joint Committee did not receive any response up to the time of finalising and validating this report.

The Honourable Members of the Joint Committee were also invited by the Chair to make comments and or seek for clarifications.

9. Review and Validation Meeting

Following the conclusion of the consultation with the witnesses, the Joint Committee, on Wednesday, 21 October, 2020, convened a review and validation meeting on the evidences provided and finalised on its recommendations and report.

10. CONCLUSIONS AND RECOMMENDATIONS OF THE JOINT COMMITTEE

Having discussed and considered all the oral and written evidences from the witnesses on the Forced Labour (Amendment) Bill, 2020, the Joint Committee agreed on the following Observations and Recommendations:

1 - Short Title

This Act may be cited as the Forced Labour (amendment) Act, 2020.

- Observation/Conclusion

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

- Joint Committee's Recommendation

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

2. Amendment of the Forced Labour Act 2007

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

- Observation/Conclusion

The Joint Committee observes that the witnesses are in agreement with Clause 2 of the Bill.

- Joint Committee's Recommendation

The Joint Committee recommends for Clause 2 to stand part of the Bill.

3. Introduction of New Section 7A

The Forced Labour Act is amended by inserting a new section 7A, as follows -

"7A. Notwithstanding sections 6 and 7 -

(a) a woman shall not be subjected to any labour -

(i) during pregnancy;

(ii) that is hazardous to her health; or

(iii) likely to affect her reproductive health;

(b) a child shall not be subjected to any labour that is exploitative or hazardous to his or her health and safety.”

- Observation/Conclusion

The witnesses have emphasised that need to insert the word “Forced” to precede and qualify the word “Labour”. The Joint Committee agreed with the proposition for the insertion of the word “Forced” to precede and qualify the word “Labour”.

- Joint Committee’s Recommendation

The Joint Committees recommends for Clause 7A to stand part of the Bill including the insertion of the word “Forced” before the word Labour”.

4. 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 Joint Committee observed that the Objects and Reasons are too broad and not specifically addressing the proposed amendment as required by Standing Order 64 (1).

- Joint Committee’s Recommendation

The Joint 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;”

This task of redrafting the Objects and Reasons was assigned to the team of counsels from the Attorney General and Minister of Justice.

MINUTES OF THE JOINT MEETING BETWEEN THE SELECT COMMITTEES ON HEALTH, WOMEN, CHILDREN, DISASTER, HUMANITARIAN RELIEF & REFUGEES, AND THE SELECT COMMITTEE ON TRADE, NEPAD, REGIONAL INTEGRATION, WHO, WB AND LDC.

Date: 8th October, 2020
Time: 11:00am
Venue: Auditorium

ATTENDANCE:

Honourable Members of the Joint Committee in attendance:

- | | | |
|----------------------------|---|-----------------|
| 1. Hon. Ousman Sillah | - | Co-Chairperson |
| 2. Hon. Muhammed Mahanera | - | Co- Chairperson |
| 3. Hon. Fatoumata Jawara | - | Member |
| 4. Hon. Billay G. Tukanra | - | Member |
| 5. Hon. Musa Amul Nyassi | - | Member |
| 6. Hon. Amadou Camara | - | Member |
| 7. Hon. Momodou S. Ceesay | - | Member |
| 8. Hon. Omar Darboe | - | Member |
| 9. Hon. Alhagie Sowe | - | Member |
| 10. Hon. Kaddy Camara | - | Member |
| 11. Hon. Ndey Yassin Secka | - | Member |
| 12. Hon. Sulayman Saho | - | Member |
| 13. Hon. Ya Kumba Jaiteh | - | Member |
| 14. Hon. Abdoulie Ceesay | - | Member |
| 15. Hon. Lamin F. M. Conta | - | Member |
| 16. Hon. Kebba Jallow | - | Member |

Subject Matters Specialist:

- | | | |
|-------------------------|---|-----|
| 1. Sekou Omar Dibba | - | SMS |
| 2. Mr. Bai Ibrahim Jobe | - | SMS |

Secretaries:

- | | | |
|------------------|---|-----------|
| 1. Sarata Bojang | - | Secretary |
| 2. Fatou Gibba | - | Secretary |

Witnesses:

- | | | |
|------------------------------|---|-------------------|
| 3. Mrs. Rohey Bittaye Darboe | - | PS (MOWCSW) |
| 4. Mr. Landing Sanneh | - | President (GALGA) |
| 15. Mr. Nfamara Kuyateh | - | Secretary (PSC) |
| 16. Mr. Landing Samateh | - | Chairman (PSC) |
| 17. Mr. Lamin F. J. Jawara | - | PS (PSC) |
| 18. Mr. Lamin Daffeh | - | MOTIE |
| 19. Mrs. Awa Jobarteh | - | MOTIE |

| | | |
|---------------------------------|---|--------------------------------|
| 20. Mr. Nyallow Barrow | - | Commissioner (Dept. of Labour) |
| 21. Mr. Basiru Secka | - | MOTIE |
| 22. Mr. Abdou Saidy | - | Dept of Labour |
| 23. Mr. Pateh Baldeh | - | NGBV |
| 24. Mr. Ousman Ceesay | - | NGBV |
| 25. Mrs. Isatou Dem | - | Women Council |
| 26. Council Kissima Bittaye | - | MOJ |
| 27. Mrs. Naffie Sissoko Bangura | - | MOJ |
| 28. Mr. Muhammed Dibbasey | - | SHFG |

FORCED LABOUR (AMENDMENT) BILL 2020

Introduction:

This session was chaired by the Co-Chairperson of the Committee, Hon. Muhammed Mahanera, also gave a brief background on what is expected from both the Members and the Witnesses. He then opened the floor for discussion.

Introduction of a new Section 7A:

The Forced Labour Act is amendment by inserting a new Section 7A, as follows:
 “Notwithstanding section 6 and 7, it is recommended that:

(a) a woman shall not be subjected to any labour during pregnancy instead of having during pregnancy in roman figure (i), that is hazardous to her health; or likely to affect her productive health

(b) a child shall not be subjected to any labour that is exploitative or hazardous to his or her health and safety.”

All the Witnesses agreed to the Amendments

Further Comments:

- The Committee recommends for the word “labour” to be define as Forced Labour.
- The object and reasons to be reviewed by the Ministry of Justice and other key stakeholders.

The Meeting was adjourned until further notice.

Signature.....
 Chairperson (Health)

Signature.....
 Chairperson (Trade)

Signature.....

Sarata Bojang
Secretary (Health)