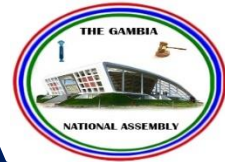




REPUBLIC OF THE GAMBIA

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



**REPORT OF THE JOINT COMMITTEE
ON HEALTH, WOMEN, CHILDREN,
DISASTER, HUMANITARIAN RELIEF
AND REFUGEES OF THE
NATIONAL ASSEMBLY OF THE
GAMBIA
ON THE GAMBIA NATIONALITY
AND CITIZENSHIP
(AMENDMENT) BILL, 2020**

October 2020

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1. HONOURABLY MEMBERS OF THE COMMITTEE

Members of the National Assembly Select Committee of Health, Women, Children, Disaster, Humanitarian Relief and Refugees in attendance

HON. Members of the Committee

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

1.2. Secretaries

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

1.3. Subject Matter Specialist

1. Sekou Omar 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 '**Gambia Nationality and Citizenship (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 16th 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.

Immediately following the committal of the Gambia Nationality and Citizenship (Amendment) Bill, 2020 to the Select Committee "for detailed investigation and report..." as per Standing Order 68 (2), a planning meeting was convened 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. THE GAMBIA NATIONALITY AND CITIZENSHIP (AMENDMENT) BILL, 2020

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NATIONAL ASSEMBLY

THE GAMBIA NATIONALITY AND CITIZENSHIP (AMENDMENT) BILL, 2020

A BILL ENTITLED

[]

AN ACT to review and amend the provisions of the 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 Gambia Nationality and Citizenship (Amendment) Act, 2020.

2. Amendment of the Gambia Nationality and Citizenship (Amendment) Act, 1965

The Gambia Nationality and Citizenship Act (In this Act referred to as “the Principal Act”) is amended as set out in this Act.

3. Repeal of Section 9 (3)

Section 9 (3) is repealed

Repeal of Section 9 (3)

Section 9 (3) reads as follows: -

For the purposes of this section, a woman who has been married shall be deemed of full age.

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 Gambia Nationality and Citizenship (Amendment) Bill, 2020:

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

(8.2) MEMBERS OF THE COMMITTEE IN ATTENDANCE

- | | | |
|-----------------------------|---|------------------|
| 1. 2. 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 |
| 9. Sarata Bojang | - | Secretary |
| 10. Isatou Sonko | - | Secretary |

(8.3) SCRUTINY, FINDINGS AND RECOMMENDATIONS

(i) ORAL AND WRITTEN EVIDENCES OF WITNESSES

1. Office of the Vice President (OVP)

The position of the written submission of the Office of the Vice President is that the repealed Act is very discriminatory against women on renunciation of citizenship by reason of dual citizenship or nationality. It indicated that the Act defines a minor as “a person who has not attained the age of twenty-one years”, adding that this shall construe that “a person shall for the purposes of this Act be of full age if he (or her) has attained the age of twenty-one years and of full capacity if he (or she) is not of unsound mind). The position further states that there is a contradiction when it comes to renunciation of citizenship as women are deemed of full age as long as they have been married regardless of their age and which it deems unfair. It also argued that this does not take into account girls who are forced into marriage at a young age who could be forced to renounce their citizenship as they could not take mature decisions.

2. Gambia Immigration Department (GID)

Gambia Immigration Department in its written submission argues that the Bill is necessary simply because apart from the discriminatory or other adverse effect characterised by Section 9 (3) against women and girls in the country, it is also inconsistent with Section 2 and 17 of the Nationality and Citizenship Act Cap 16:01.

It indicated that if enacted the Bill will further address the apparent inconsistency or conflict centred around the provisions on the interpretation of a minor and the required age to be eligible to acquire National Identification, ID card. It provides the example that if X (female) got married as an underage i.e. below 18 years, and by virtue of 9 (3), she is deemed to be of full age and capacity. However, it added that Section 17 of the same Act makes X ineligible to acquire an ID card until she attains the age of 18.

(ii) FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

THE GAMBIA NATIONALITY AND CITIZENSHIP (AMENDMENT) ACT, 2020

1. Short title

This Act may be cited as The Gambia Nationality and Citizenship (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 Gambia Nationality and Citizenship (Amendment) Act, 1965

The The Gambia Nationality and Citizenship 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 stands part of the Bill.

3. Repeal of Section 9 (3)

Section 9 (3) is repealed

- Observation/Conclusion

The Committee observes that the witnesses are all in support of the repeal of Section 9 (3).

- Committee's Recommendation

The Committee recommends for the repeal of Section 9 (3) from The Gambia Nationality and Citizenship Act.

Section 9 (3) reads as follows:

For the purposes of this section, a woman who has been married shall be deemed of full age.

- Observation/Conclusion

The Committee observes that the witnesses are all in support of the repeal and amendment of Section 9 (3) to read as above.

- Committee's Recommendation

The Committee recommends for the repeal and amendment of of Section 9 (3) to read as follows:

“For the purposes of this section, a woman who has been married shall be deemed of full age.”

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 Select 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;”

It was agreed by the Committee that this task of redrafting the Objects and Reasons to ensure that it is specific to the proposed amendment was assigned to the team of draftpersons/ counsels from the Ministry of Justice.

