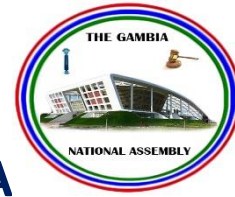




REPUBLIC OF THE GAMBIA

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 WOMEN'S
(AMENDMENT) BILL, 2020**

October 2020

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1. Honorably members 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 - 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. Support Staff

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

1.3. Subject Matter Specialists

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 '**Women's (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 21st 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 Women's (Amendment) Bill, 2020 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. THE PROPOSED WOMEN’S (AMENDMENT OF DISCRIMINATORY LAWS) BILL, 2019

Proposed Women’s Act (Amendment) Bill, 2020

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

NATIONAL ASSEMBLY

WOMEN’S (AMENDMENT) BILL, 2020

A BILL ENTITLED

[]

AN ACT to review and amend the provisions of the Women’s 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 Women's (amendment) Act, 2020.

2. Amendment of the Women's Act 2010

The Women's Act (In this Act referred to as "the Principal Act") is amended as set out in this Act.

3. Amendment of Section 15

Section 15 is amended by-

a) inserting immediately after subsection (1) a new sub-section (2) as follows -

"(2) For the purposes of the special measures provided in sub-section (1), it shall be mandatory for every public institution, authority or state-owned enterprise to ensure that -

(a) for political and public offices, a minimum of thirty percent of all offices, position and appointments are reserved for women;

(b) for educational placement and school enrolment, including award of scholarships, bursaries, and such other allocations, a minimum of fifty percent is reserved for women among eligible candidates; and

(c) in all other cases, a minimum of thirty percent is reserved for women",

b) by renumbering sub-sections (2) and (3), as sub-sections (3) and (4) respectively.

4. Amendment of Section 43 (1)

Section 43 (1) is amended as follows:

a) by inserting a new sub-section (5) immediately after sub-section (4), as follows -

(5) "In determining the equitable share of joint property derived from a marriage under sub-section (4), a court shall take into consideration -

(i) property accumulated by joint industry of husband and wife during marriage;

(ii) contributions made by a woman in developing and improving upon property acquired prior to the marriage; and

(iii) contributions made by a woman in raising and caring for the family throughout the marriage.”

5. Amendment of Section 44

Section 44 is amended by adding a new paragraph (d) in sub-section (1) as follows-

“not be compelled, for whatever reason, to marry a relative of her late husband”, and

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

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 women's (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 evidence of witnesses

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

In its written evidence, the Ministry of Women, Children and Social Welfare, on Section 15 (2) (c), emphasised that the 30% of the reservation being made for women should be eligibility.

On Section 43 (1), the Ministry indicates that two new paragraphs (IV & V) are added under section 4, immediately after paragraph (III), stating the following:

(IV) A woman who is married with more than one child, is entitled to the husband's property with equal rights.

(V) A woman who is married without a child for a period of 10 -15 years, is entitled to the husband's property with equal rights.

The provision is talking about gender and not socio-economic status
Private to be included

The Ministry is recommending for the inclusion, in the Act, of the interpretation of the word 'eligibility' to mean "a woman with the required academic qualifications and or experience".

The Ministry noted that it is in support of all the other proposed amendments in the Women's Act.

2. Ministry of Basic and Secondary Education (MoBSE)

The Ministry is in support of the proposed amendment on 15 (2):

(b) for educational placement and school enrolment, including award of scholarships,

bursaries, and such other allocations, a minimum of fifty percent is reserved for women among eligible candidates; and

(c) in all other cases, a minimum of thirty percent is reserved for women",

It is also in support of all the other proposed amendments.

3. Ministry of Finance and Economic Affairs.

The representative of the Ministry of Finance and Economic Affairs in a written submission on 5 (2) (a) states that it agrees with this proposed amendment as women are either under employed or being neglected when it comes to certain opportunities such as decision making positions where their voices could be heard as well the equity and other privileges in terms of employment.

It is in support of all the other amendments.

Network Against Gender Based Violence (NGBV)

The Network, in its written evidence, indicated support for Section 15 (2) (a), (b) and (c) but also recommending that 'eligibility' should be the condition with the justification that it is not only having women in decision making positions but that they should be competent. It added that this is also to ensure gender equity and mainstreaming of gender in in decision making at the national and regional levels.

It supports all the other amendments.

Other witnesses

The other witnesses in their oral presentations are all in support of the proposed amendments in the Women's Act.

Amendment of Section 43 (1)

2. Conclusions and Recommendations of Committee

WOMEN'S (AMENDMENT) BILL, 2020

A BILL ENTITLED

[]

AN ACT to review and amend the provisions of the Women's 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 Women's (amendment) Act, 2020.

- Observation/Conclusion

The Committee observes that the witnesses are in agreement with the preamble of the Women's (Amendment) Bill, 2020

- Committee's Recommendation

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

2. Amendment of the Women's Act 2010

The Women's 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 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.

3. Amendment of Section 15

Section 15 is amended by-

- a) inserting immediately after subsection (1) a new sub-section (2) as follows -

"(2) For the purposes of the special measures provided in sub-section (1), it shall be mandatory for every public institution, authority or state-owned enterprise to ensure that -

(a) for political and public offices, a minimum of thirty percent of all offices, position and appointments are reserved for women;

(b) for educational placement and school enrolment, including award of scholarships, bursaries, and such other allocations, a minimum of fifty percent is reserved for women among eligible candidates; and

(c) in all other cases, a minimum of thirty percent is reserved for women",

- b) by renumbering sub-sections (2) and (3), as sub-sections (3) and (4) respectively.

Observation/Conclusion

The witnesses are in support of the proposed amendment above with the insertion of the word 'eligible' before the word 'woman' as a qualification to stand part of the Bill.

Recommendation of Committee

The Committee recommends for the Section 15 (2) (a), (b) and (c) and the renumbering of sub-sections (2) and (3) as sub-sections (3) and (4) to stand part of the Bill.

4. Amendment of Section 43 (1)

Section 43 (1) is amended as follows:

- a) by inserting a new sub-section (5) immediately after sub-section (4), as follows -

(5) “In determining the equitable share of joint property derived from a marriage under sub-section (4), a court shall take into consideration –

(i) property accumulated by joint industry of husband and wife during marriage;

(ii) contributions made by a woman in developing and improving upon property acquired prior to the marriage; and

(iii) contributions made by a woman in raising and caring for the family throughout the marriage.”

Observation/Conclusion

The Committee observes that the witnesses are in support of the amendment of Section 43 (1) by inserting a new sub-section (5) after subsection (4).

Recommendation of the Committee

The Committee recommends for the proposed amendment above to stand part of the Bill.

5. Amendment of Section 44

Section 44 is amended by adding a new paragraph (d) in sub-section (1) as follows-

“not be compelled, for whatever reason, to marry a relative of her late husband”,
and

Observation/Conclusion

The Committee observes that the witnesses are in support of the amendment of Section 44 by adding a new paragraph (d) sub-section (1) above.

Recommendation of the Committee

The Committee recommends that amended Section 44 (d) and subsection (1) above to stand part of the Bill.

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;”

9. ANNEXES

1. Minutes of Meetings

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

- | | | |
|----------------------------|---|------------------|
| 9. Hon. Ousman Sillah | - | Chairperson |
| 10. Hon. Fatouma K. Jawara | - | Vice-Chairperson |
| 11. Hon. Amadou Camara | - | Member |
| 12. Hon. Musa Amul Nyassi | - | Member |
| 13. Hon. Kaddy Camara | - | Member |
| 14. Hon. Ndey Yassin Secka | - | Member |
| 15. Hon. Omar Darboe | - | Member |
| 16. 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 |

Agenda

1. Prayers
2. Introduction
3. Review of Women’s (Amendment) Bill, 2020
4. A.O.B.

Prayers:

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

Introductory/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.

Women (Amendment) Bill, 2020

Sections to be amendment

1. Section 15 is amended by: -

“Inserting immediately after subsection (1) a new subsection (2) as follows”-

(2) for the purposes of the special measures provided in subsection (1), it shall be mandatory for every public institution, authority or state-owned enterprise to ensure that-

(a) for political and public offices, a minimum of thirty percent of all offices, positions and appointments are reserved for eligible women.

(b) for educational placement and school enrolment, including award of scholarships, bursaries and such other allocations, a minimum of fifty percent is reserved for women among eligible candidates and

(c) in all other cases, a minimum of thirty percent is reserved eligible women

(b) by renumbering subsection (2) and (3) as subsection (3) and (4) respectively.

Section 41 is amended as follows: -

(A)By inserting a new subsection (5) immediately after subsection (4), as follows-

(5) in determining the equitable share of joint property derived from a marriage under subsection (4), a court shall take into consideration-

- I. Property accumulated by joint industry of husband and wife during marriage
- II. Contributions made by a woman in developing and improving upon property acquired prior to the marriage and
- III. Contributions made by a woman in raising and caring for the family throughout the marriage.

Amendment of Section 44.

2. Section 44 is amended by added a new paragraph (d) in subsection (1) as follows

“Not be compelled, for whatever reason, to marry a relative of her late husband

Both the Witness agreed with the Amendments and the following comments were made

- For the word Eligible to be interpreted
- The 30% of the reservation being made for women should be based on eligibility
- The Gambia being a country which has a majority of its population practicing polygamy. If a man has more than one wife who all contributed one way or the

other in the acquisition and development of a property, how shall the court treat that, when one of the wives has an issue with the husband?

It was recommended that in such a situation, the *cadi* court could be allowed to handle Muslim marriage issues as these are always treated out of court unless when they go beyond its jurisdiction.

- Two new paragraphs (IV & V) are added under subsection 4, immediately after paragraph (III). Stating the following:

(IV) a woman who is married with more than one child, is entitled to the husband's property with equal rights

V) a woman who is married without a child for a period of 10 – 15 years, is entitled to the husband's property with equal rights.

2. Position Papers