

Seminar for East and Southern African Parliaments



National Assembly of the
United Republic of Tanzania

Preventing and responding to violence against women and girls: From legislation to effective enforcement

Dar es Salaam, 5-7 December 2012

Organized by
The Inter-Parliamentary Union (IPU) and the National Assembly of the United Republic
of Tanzania



Inter-Parliamentary
Union

Conclusions of the regional seminar for East and Southern African parliaments on “Preventing and responding to violence against women and girls: From legislation to effective enforcement”

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Representatives of the parliaments of Angola, Lesotho, Malawi, Namibia, Sudan, Uganda, United Republic of Tanzania and Zambia, as well as representatives of national and international organizations, met in Dar es Salaam, the United Republic of Tanzania, from 5 to 7 December 2012, for a regional seminar on violence against women. The seminar was jointly organized by the Parliament of the United Republic of Tanzania and the Inter-Parliamentary Union.

The inaugural addresses by Ms. Anne S. Makinda, Speaker of the National Assembly, and Ms. Nthoi Motsamai, member of the Executive Committee of the Inter-Parliamentary Union and member of the National Assembly of Lesotho, set the tone for the seminar.

Participants appreciated the quality and relevance of all the experts' presentations, in particular the wide range of experiences shared. They stated that the frank and instructive nature of the contributions made for a thought-provoking and inspiring session. They all looked forward to returning to their respective countries, invigorated by the knowledge that their fellow parliamentarians across the region were indeed championing this cause.

The seminar enabled participants to acknowledge the fact that violence against women is a global challenge that spares no country. They reviewed the different forms of violence against women and girls in the region and their negative consequences. Of particular relevance were issues related to early marriage, beating of wives and children, violence against women and HIV/AIDS, female genital mutilation, rape, and human trafficking. Delegates discussed in detail the root causes and factors of violence against women: entrenched unequal power relations between men and women that foster violence and its acceptability, aggravated by cultural and social norms, economic dependency, poverty and alcohol consumption, to name but a few. The IPU resolution on access to health as a basic right, adopted in Kampala, allowed participants to discuss the particular needs of pregnant women and girls, and women with disabilities in the context of maternal and child health issues and highlight the interconnections between these issues and the broader one of violence against women.

Ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) meant that States were bound to take all necessary measures to prevent and combat violence against women and girls. Nevertheless, the participants noted the gap between national legislation and the international legal instruments to which they had subscribed. They also noted that countries in the region were not all at the same stage of implementation, with some countries further ahead than others.

Participants agreed that a legal framework was essential to addressing violence against women. Existing statutory and customary laws should be reviewed in their entirety to resolve contradictions and fill

loopholes. Participants felt that a strong and comprehensive framework should include preventive and protective measures, support for survivors and children, redress for victims and holding perpetrators to account, measures on enforcement and monitoring mechanisms, and provisions for adequate and regular funding.

However, participants underscored the fact that even the best legislation could not stand on its own. Effective implementation required educational and sensitization work in the community, a functional judiciary and law enforcement system, the adequate training of law enforcement officials, and heightened awareness among the medical community of the special requirements tied to the treatment and handling of survivors of violence.

Beyond its human and emotional costs, violence against women has considerable economic and financial costs to survivors, families, communities, and governments. Investing in preventive measures and actions is more constructive and less costly than remedying its consequences.

Parliaments should tackle violence against women through their legislative, oversight and awareness-raising functions. Participants stressed the importance of building cross-party alliances through, for instance, parliamentary committees and women's or gender caucuses, and of collaborating closely with the executive, civil society, international organizations, the media and traditional and religious leaders to optimize results.

Participants recognized that, because of their role models as fathers, husbands, brothers and sons, men and young boys should be part of the solution and thus be involved in eliminating violence against women. If men felt involved, they would help promote changes in attitudes among other men.

Recommendations

During the seminar, the participants were divided into working groups to examine different legislative frameworks to deal with violence in all its manifestations: domestic violence, violence against women and HIV/AIDS, female genital mutilation and child marriage. For each of these topics, the seminar recommended a series of priority measures with a view to developing appropriate legislation and ensuring its implementation.

The following is a non-exhaustive list of measures proposed by participants for parliaments to respond effectively to violence against women and girls. They should be read along with the working group reports annexed hereto. Parliaments should:

- Bring national laws in line with the international legal instruments to which their country has subscribed, monitor the implementation of those instruments and promote the ratification of the CEDAW Optional Protocol and of the Maputo Protocol;
- Adopt solid and comprehensive legislation on violence against women, in particular on domestic violence, centred on prevention, prosecution and sanctions, and protection and assistance for survivors;
- Exercise their oversight role to ensure effective law and policy enforcement through appropriate mechanisms (gender budgeting, data collection, research capacity, questions to relevant ministries);
- Scrutinize budget proposals to ensure adequate funding and long-term sustainability of programmes to tackle violence against women;
- Ensure that all actors involved in effective law enforcement - magistrates, security forces, attorneys, health care providers, social workers, civil society, etc., are appropriately trained;
- Organize education and awareness-raising activities at the community level, with the involvement of NGOs, paralegals, health care providers, hospitals, and law enforcement officials;
- Promote the inclusion of gender equality modules in school curricula;
- Establish in individual parliaments a parliamentary group of dedicated legislators to champion the cause of preventing and responding to violence against women in the country and the region; and

- Establish a monitoring system to periodically assess the implementation and effectiveness of legislation on violence against women.

The participants congratulated the experts on their presentations, which had struck a chord, and undertook to take into account the proposals made with a view to taking effective legislative action to end violence against women and girls.

They thanked the National Assembly of the United Republic of Tanzania and the Inter-Parliamentary Union for organizing the seminar.

REPORTS OF THE WORKING GROUPS

The following are the main points that emerged from the expert presentation made during the workshops and the ensuing discussions:

1. Working Group 1 - Domestic violence

The group highlighted the following priority measures with a view to developing appropriate legislation on domestic violence and ensuring its implementation:

1. Focus the definition on physical violence and fear of imminent harm, and less on psychological and economic violence.
2. Disallow third-party intervention in applications for protective/restraining orders.
3. Provide protective orders as a civil rather than a criminal remedy.
4. Provide for predominant aggressor determination; provide appropriate training for police to make determination.
5. Prohibit mediation in domestic violence; only the victim should be allowed to benefit from protective orders.
6. Provide remedies for the victim, including eviction; protective order should include child victim support.
7. Never require independent evidence and psychological assessments for the issuance of protective orders.
8. Prohibit the use of prior warnings to perpetrators.
9. Resolve conflicts with customary or religious laws that favour victim's human rights and gender equality.
10. Provide funding and training for implementation.

ACTION	OBSTACLE	OVERCOME OBSTACLE	PRIORITY	IMPACT
1. Special court for domestic violence	<ul style="list-style-type: none"> • Traditional culture: acceptance of domestic violence as a private matter • Lack of financial and human resources • Lack of social workers and legal counsel 	<ul style="list-style-type: none"> • Political will to provide resources • Sensitized politicians are needed to pass the law 	High	High - Will make drastic changes to reduce domestic violence
2. Issue temporary protective order immediately	<ul style="list-style-type: none"> • Practicability • Lack of expertise • Police corruption 	<ul style="list-style-type: none"> • Training of police • Resources • Participation of civil society 	Medium	Medium
3. 4 hrs- 7day for hearing and final order	<ul style="list-style-type: none"> • Lack of financial and human resources • Untrained and insensitive judges 	<ul style="list-style-type: none"> • Allocate adequate resources • Education 	Medium	High – Need to be implemented
4. Education for implementation - Public - Police - Traditional leaders	<ul style="list-style-type: none"> • Lack of financial and human resources • Culture – traditional leaders like to maintain their status 	<ul style="list-style-type: none"> • Have a law in place • Education 	Medium	High - Each incident will be reported and police will take action immediately
5. Community to report violence to police	<ul style="list-style-type: none"> • Fear of the police • Long procedure • Time-consuming • Threat/fear of neighbours or relations 	<ul style="list-style-type: none"> • Education and sensitization • Simplify law processes • Political will 	High	High
6. Pass law			High	High

2. Working Group 2 - Violence against women and HIV/AIDS

The group highlighted the fact that violence against women and HIV/AIDS were two mutually reinforcing pandemics that were still difficult to counter because of the following challenges:

- Taboo and culture of silence
- Lack of implementation or absence of legislation
- High poverty level that affects the ability of women to make decisions
- Lack of institutions and services for assistance to victims of gender-based violence
- Low level of education of women and lack of awareness of their rights and laws to protect them
- Lack of political will and leadership in tackling HIV/AIDS and domestic violence in some countries

The group identified the following priority actions for parliaments with a view to overcoming these challenges:

1. Undertake law reform to criminalize violence against women and abuse.
2. Enact laws on violence against women and HIV/AIDS or review and amend existing laws.
3. Build capacity of all parliamentarians on preventing gender-based violence.
4. Promote women in decision making positions/bodies.
5. Raise awareness about cultural/gender norms and roles and change attitudes and behaviour.
6. Involve men in efforts to eliminate violence against women and HIV/AIDS.
7. Ensure the establishment of special police units trained to deal with victims of domestic violence and sexual violence.
8. Engage with constituents to help them understand how gender-based violence, discrimination and poverty put women and girls at a greater risk of HIV.
9. Hold government to account vis-à-vis its promises.
10. Promote women's empowerment and economic security.
11. Build networks and alliances.
12. Mobilize and allocate resources to implement programmes in constituencies to stop violence against women and HIV/AIDS.
13. Improve the research units in parliaments, notably on gender issues.
14. Ensure that all HIV/AIDS-related laws and policies are gender-sensitive and adopt a human rights approach.

3. Working Group 3 - Female genital mutilation (FGM) and child marriage

The group highlighted a series of priority measures with a view to tackling female genital mutilation (FGM) and child marriage.

In this regard, the group considered that members of parliaments should:

1. Meet with traditional leaders, religious leaders and clan leaders to discuss the harmful consequences of FGM and child marriage.
2. Meet with local practitioners to discuss how to end FGM and identify alternative livelihoods for them.
3. Visit health facilities in their constituency and elsewhere.
4. Visit school in their constituency to raise awareness of gender equality, human rights and the consequences of harmful traditional practices.
5. Ensure that the ministry of education includes modules on gender equality, human rights and the consequences of harmful traditional practices in school curricula.
6. Inform other stakeholders involved in implementing legislation and policies about FGM and early marriage.
7. Establish budget lines in parliament in order to organize meetings and visits.

8. Request the ministry in charge of community development, gender and children to spearhead a national campaign against FGM and child marriage.
9. Secure State funds and ask the government to explore with donors the possibility of obtaining funding to fulfil the national priority to end FGM and child marriage.
10. Work with civil society organizations and the media to raise awareness of and address FGM and child marriage.
11. Discuss FGM and child marriage in parliament, in plenary, in committee work and through women's caucuses.
12. Establish a core group on FGM and child marriage within parliament.
13. Push for the review of the marriage act and for a clear definition of the minimum age for marriage equal for women and men.
14. Ensure that the Constitution addresses harmful traditional practices.
15. Provide oversight for implementation and sustainability of programmes to combat FGM and other harmful traditional practices.