

**EAST AFRICAN COMMUNITY
EAST AFRICAN LEGISLATIVE ASSEMBLY**



COMMITTEE ON GENERAL PURPOSE

**REPORT ON THE WITHDRAWAL OF THE EAST AFRICAN COMMUNITY SEXUAL AND
REPRODUCTIVE HEALTH RIGHTS BILL, 2017 FROM THE HOUSE**

**Clerk's Chambers
EALA Headquarters, 3rd Floor
EAC Headquarters
Arusha – TANZANIA**

11th February 2021

1.0 INTRODUCTION

The Treaty for the Establishment of the East African Community (EAC) bestows upon the Assembly three cardinal functions: Legislation, Oversight and Representation. The Assembly, to a reasonable extent exercises its legislative function through its Committees. The Committee on General Purpose is charged with among others, matters related to health, gender, population and Development and the Budget function.

Annex 5 (f) of the Rules of Procedure of the Assembly provides for the specific functions of the committee on General Purpose, which include but are not limited to, oversight of the work of the EAC and Sectoral Committee emanating from the following provisions of the treaty, though not restricted or limited to them.

- a) Chapter Sixteen – co-operation in the Development of Human Resources Science and technology;
- b) Chapter Twenty One - Health, Social and Cultural activities.
- c) Chapter Twenty two - enhancing the role of women in socio-economic Development; and
- d) the budgeting scrutiny function.

2.0 BACKGROUND INFORMATION

The EAC Sexual and Reproductive Health Rights (SRHR) Bill, 2017 was introduced on the floor of the House by Hon. Dr. Odette Nyiramilimo. The Bill was read for the first time on 28th January 2017 and referred to the Committee on General Purpose of the 3rd Assembly.

The Bill is premised on Article 118 of the Treaty for the Establishment of East African Community, which provides for cooperation in health and promoting the management of health delivery systems and better planning mechanisms to enhance efficiency of health care services, harmonization of national health polices and regulation in order to achieve quality health in the Community and cooperating in the development of specialized health training, health research, reproductive health, pharmaceutical products and preventive medicine.

Furthermore, Article 6 (d) of the Treaty for the Establishment of the East African Community provides for good governance including adherence to the principles of democracy, the rule of law, accountability, transparency, social justice, equal opportunities, gender equality as well as the recognition, promotion and protection of human and peoples' rights in accordance with the provision of the African Charter on Human and Peoples' Rights.

The Bill seeks to implement the East African Community Sexual and Reproductive Health Rights Strategic Plan, which seeks to compliment the Partner States Sexual and Reproductive Health Rights as well as their reproductive health community fertility strategies by providing a strategy direction towards universal access to sexual and reproductive health services for all.

The Bill therefore, intends to, among others:

- i. Provide a framework for the protection and advancement of sexual and Reproductive Health Rights to all.
- ii. Promote safe motherhoods across the region for maternal new born and adolescent mortality rates.
- iii. Prevent harmful practices such as child marriage, female genital mutilation, and retrogressive practices during initiations and circumcision of boys, prevent unwanted pregnancies, risky abortion and sexually transmitted infections including HIV and AIDS and ensure quality sexual reproductive health care, education and services for citizens of the East African Community.

3.0 PROCESSING OF THE BILL

Whereas the Committee of General Purpose of the 3rd Assembly carried out public hearings on this Bill from 22nd to 28th February 2017, the tenure of the Third Assembly came to an end before the Second and Third Reading of the Bill. To that effect, upon inauguration, the Fourth Assembly passed a resolution to, among others, save, retain and continue with the same Bill. Since Hon. Dr. Odette Nyiramilimo had ceased being a member of the Assembly, the Committee on General Purpose took it up as a Committee Bill.

In exercising its legislative mandate, on 23rd – 28th January 2020, the Committee on General Purpose held a stakeholders' workshop in Bujumbura to review the Bill. During the workshop, the Committee and stakeholders unanimously agreed that the Bill has gaps which needed to be addressed.

It was further noted that that if the views of stakeholders and Partner States were to be incorporated, the form and content of the Bill would substantially change. It was therefore resolved that the Bill be withdrawn from the House, and the process of redrafting it commences with a view to incorporating the concerns of stakeholders and other emerging issues.

4.0 GAPS IN THE BILL

During the review of the Bill, the Members of the Committee and stakeholders observed, among others, the following gaps/areas of contestation gaps in Bill:

1. The Language of the Bill is not aligned with the domestic laws of Partner States, the Maputo Protocol and international instruments like International Conference on Population and Development (ICPD).
2. The Bill provides for Surrogacy, Assisted Reproduction, and In Vitro Fertilization (IVF) which are against some cultures in the EAC Partner States.
3. The reproductive health rights of adolescents and young people beyond just HIV protection is absent.
4. The Bill has unethical issues and varying understanding of abortion services in the EAC region. The grounds for access to safe abortion vary in different countries in EAC.
5. Male involvement in Sexual Reproductive Health Rights is completely absent from the Bill.
6. The Bill does not provide for the Sexual and Reproductive health rights for elderly, Menstrual Hygiene for young girls, E-Health (health professionals, access to technology), and specialization.
7. There is a missing link analyzing the SRHR issues affecting Men. There are biological, cultural and religious SRHR issues which include among others; Infertility as a dual problem, Men being vulnerable on access to HIV treatment, Sexual dysfunction.

8. There is a missing link of SRHR for elderly beyond 55 in the Bill. Ensuring availability of SRH services for men and women beyond 55 years is very crucial for women in menopause, Prostate issues for men, sexual dysfunctions, reproductive organ cancer (testicular, ovarian, breast among others). Therefore, all men and Women from the ages 12 to 55 should be considered.
9. The Bill has a missing link to Culture and Religion. It was noted that more than 80% of African population belong to a religion – but their interpretation of issues like abortion, Family planning, fertility is different and this requires more engagement with regards to interpretation of above issues. Family Planning is known and talked about in all religions. Cultural practices like widow inheritance, Widow cleansing and sexual practices and rituals which might be harmful.

5.0 RECOMMENDATION/WAY FORWARD

Given the gaps and areas of contestation in the Bill, it is the considered view of the Committee that the House does not proceed with the Second and Third Reading of the Bill. In accordance with Rule 33 (1) and (2) of the EALA Rules of Procedure, the Committee would like to:

1. Implore the House to allow the Committee to withdraw the EAC Sexual Reproductive and Health Rights Bill, 2017 Bill from the House.
2. Notify the House that after the withdrawal of the Bill, the Committee will commence the process of redrafting the Bill taking into account the concerns of stakeholders.
3. Further inform the House that, at an appropriate time, a Member or the Committee shall seek leave of the House to introduce a Private Member's Bill.