



**LAW MAKING PROCESSES AND THE ROLE OF CIVIL SOCIETY: AN
EXAMINATION OF THE REGIONAL AND NATIONAL TRENDS IN
REGULATION OF REPRODUCTIVE HEALTH**

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CONCEPT NOTE

1. BACKGROUND AND INTRODUCTION

Civil society organizations (CSOs) are traditionally known as “watchdogs”, they are mandated to act in the interest of citizens and residents by ensuring that the government acts within the law and in the interest of its constituents. Because of this, CSOs are an important channel in the enactment of legislation. While CSOs are not directly involved in enacting, their participation is crucial in ensuring that legislation passes constitutional muster and is compliant with international law requirements.

In this regard, CSOs can perform numerous functions including: t, legislative analysis and advocacy for legal reform; building social capital and enabling citizens to identify and articulate their values, beliefs, civic norms and democratic practices;, mobilizing particular constituencies, particularly the vulnerable and marginalized sections of masses, to participate more fully in politics and public affairs; and finally, participate in the legislative drafting process through submission of memorandum and presentations at public hearings.

CSOs can employ different strategies to influence the legislative process these include: education, persuasion, collaboration, litigation and confrontation. The education strategy is one where the CSOs attempt to give the governments, the society and other organizations information, analysis and legislative alternatives. CSOs are not limited if

this avenue is chosen because it seeks for collaborative learning, and breaks away from traditional roles of watchdog to more nuanced ones such as partners. The main aim however remains to maintain pressure on the government for legislative reform that is cognizant of the Constitution, national values and international obligations. While education, persuasion and collaboration are important avenues civil society must be willing to go beyond amicable means if the interests of the people dictate that it does and pursue avenues such as litigation and confrontation.

2. THE NEED FOR TRAINING

Civil society plays a crucial role in the legislative process and because of this it is necessary to ensure that CSOs have the capacity to meaningfully participate in bill making and have their voices heard. In the advent of the Constitution of Kenya the legislative landmark has changed significantly. Kenya now has different governments and the country's regional and international obligations adds an additional sphere for consideration in the legislative process. Therefore, mindful that legislation is being passed at county, national and regional level, it is necessary to ensure that civil society remains abreast of legislation in these spheres.

Currently there are a number of bills currently being taken through the legislative process that offer an opportunity for CSO participation to meaningfully participate in and influence the reproductive health landscape both regionally, nationally and within counties:

- i. The East Africa Sexual and Reproductive Health Bill dated January 20, 2017 seeks to provide a framework for: sexual and reproductive health, protection of children, adolescents and young persons from sexual abuse and other forms of exploitation, provision for assisted reproductive technology and the prohibition of harmful cultural practices. This Bill is a follow-up of the implementation of the Maputo Protocol Plan of Action's Policy Statement.
- ii. Reproductive health bill 2014: the Constitution provides that everyone has the right to the highest attainable standard of health including reproductive health care. Kenya has domesticated the provisions of international instruments it has ratified and because the Constitution provides that all ratified instruments form part of our law. Kenya is a signatory to various regional and international human rights instruments – the International Covenant on Economic, Social and Cultural Rights, Convention on the Elimination of All Forms of Discrimination Against

Women, the African Charter on Human and Peoples' Rights, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa among others. Kenya is also among the countries that made commitment at the International Conference on Population and Development in Cairo in 1994 as well as the Fourth World Women's Conference in Beijing in 1995. In recognition of these provisions, the Reproductive Health Bill seeks to regulate reproductive health and provide for aspects such as surrogacy, in vitro fertilization, termination of pregnancy, contraceptives, comprehensive sexuality education etc.

- iii. The Nakuru County has drafted a Maternal, New Born and Child Health bill which provides a useful guidance for the county to set priorities relevant to its context and mobilize collective effort involving both levels of government, development partners, civil society and private sector to enhance maternal, child and new born health. Overall, the bill responds to the urgent need to maximize the constitutionally mandated right to access maternal, new born and child health services.

3. TRAINING OBJECTIVES

The training seeks to achieve following specific objectives:

- a. To introduce participants to the current legislative bills on reproductive health at county, national and sub-regional levels;
- b. To introduce participants to the basic concepts of bill making processes at the East Africa Legislative Assembly; and
- c. To explore avenues within which Kenyan civil society participation can boost the content of the current EAC Sexual and reproductive bill.

4. EXPECTED OUTCOMES

The following are the outcomes that are expected as a result of this training:

- a. Increased knowledge, skills and competence of CSOs in the bill making process.
- b. Appreciation of the role civil society has to play in the legislative process.
- c. Comprehensive understanding on the East Africa Community Sexual and Reproductive Health rights bill, Reproductive Health care bill, Nakuru Maternal newborn and child bill.

5. METHODOLOGY

The training will be a participatory learning process which will include structured power point presentations and question and answer sessions. The facilitators include a wide pool of distinguished county, national and regional assembly members and legal professionals.

6. VENUE AND DATES

The one day workshop will be held at Four Points by Sheraton Hotel on 17th May 2017.