

Sexual Offences Bill Advocacy Training Workshop Summary

Overview

On 10- 11 April 2018, LAW conducted a two-day advocacy training workshop on the Sexual Offences Bill with the support of World Vision, Save Somali Women and Children and the Somali NGO Consortium. The meeting was both requested and attended in large numbers by members of Somali civil society, who have been advocating for the passage of the Bill for over four years. Their objective was to come together to review the Bill, ensure it is the strongest possible piece of legislation for the Somali context, and agree on concrete ways forward to pass and implement the Bill by the end of the 2018. The outcome of the workshop was clear recommendations for minor but important amendments to be made to the Bill; agreement that a letter of support that also proposes these recommendations should be made to the Ministry; and the adoption of an action plan, with clear roles and responsibilities for each attending civil society organisation in continuing to push for the passage and implementation of the Bill.

Objectives of the workshop

At the beginning of the workshop, participants were asked to share their expectations for what outcomes would come from the event. These were compiled into five main themes and put on the wall for participants to see. Participants then used different sized stickers to prioritise their objectives from most to least pressing. This exercise resulted in the adoption of the following objectives, in order of priority:

1. To plan and coordinate joint advocacy around the Bill;
2. To understand key challenges in passing the Bill;
3. To understand the contents of the Bill and its relation to current Somali law;
4. To address major controversies in the Bill;
5. To know where the Bill is currently in terms of its progress towards becoming law.

Suggesting amendments to the Bill was not originally listed as an objective of the workshop. However, the first day of the workshop required the participants to go through each section of the Bill in detail, both to better understand its provisions as required by objective (3), above, and to identify controversial sections and therefore the challenges in passing them, as required by objectives (2) and (4). In these sessions, participants pointed to places in which the Bill was inconsistent, could be strengthened, or could be made better suited to the Somali context. Compiling these suggestions and deciding how to have them included in the final Bill also therefore became a driving objective of the workshop.

Summary of revisions suggested by workshop participants

Heightened protections for survivors

- The current Bill distinguishes between ‘rape’ and ‘sexual assault by penetration’, with sentences of 10- 25 years and 7- 15 years respectively. These offences should be

combined into a single offence of rape and that the punishment should be 10- 25 years.

- The Bill should specify that there should be no cost for making a complaint to the police, no cost for obtaining a medical certificate, and either no or very reduced fees for bringing a case coming under the purview of the Act to court.
- An explicit right to protection of survivors and witnesses should be included in the section on the rights of the injured party.

Clearer duties for police and prosecutors

- It should be made clearer that where police and prosecutors fail to discharge their duties under Section 35 or 36 of the Bill due to negligence on their part, they will be charged with obstruction of justice under Section 37 of the Bill. There should also be a clause added to Section 35 and 36 giving police and prosecutors an explicit obligation to prevent or ignore attempts by external actors to intervene in or resolve the case. Finally, the definition of obstruction of justice should explicitly cover the acts of anyone who tries to prevent a survivor from reporting their case to the police.
- If a member of the police is accused of the offence or of failing to investigate the offence, a survivor or their representative should be able to make a complaint directly to the Attorney General's office.

Protections for vulnerable populations relevant to the Somali context

- The current Bill makes abuse of authority an offence and includes a definition of vulnerable populations. To make these sections representative of the power imbalances that are most common in the Somali context, the definition of vulnerable populations should be expanded, for example to include female heads of household. The listed examples of positions of power in Section 33 should also be expanded, for example to include armed men in uniform. The full list of requested amendments will be included in the suggested version of the Bill which will follow this letter.
- The Bill must include an article which criminalises the practice of entering into 'temporary marriages' with vulnerable populations purely for sexual purposes, which is a common form of exploitation in Somalia. The suggested amendment will be included in the suggested version of the Bill which will follow this letter.
- The list of potential 'coercive environments' in Section 2(2)(f) should be expanded to include clan conflicts.