

**BUILDING EQUITABLE, PEOPLE-CENTRED NATIONAL
HEALTH SYSTEMS:
THE ROLE OF PARLIAMENT AND PARLIAMENTARY
COMMITTEES ON HEALTH IN EAST AND SOUTHERN
AFRICA**

**A literature review commissioned by the Health Systems
Knowledge Network**

Godfrey Musuka & Innocent Chingombe

This paper was written with the aid of grants from the World Health Organisation, Geneva, Switzerland and the International Development Research Centre, Ottawa, Canada. The paper forms part of the work of the Health Systems Knowledge Network established as part of the WHO Commission on the Social Determinants of Health and was carried out in co-operation with the Regional Network for Equity in Health in east and southern Africa (EQUINET). The views expressed in this paper are those of the authors and do not necessarily represent the decisions, policy or views of WHO, IRDC, Commissioners, the Health Systems Knowledge Network or EQUINET and this paper is not a formal EQUINET discussion paper.

TABLE OF CONTENTS

Acknowledgments.....	4
List of acronyms.....	5
Executive summary	7
1. Introduction.....	9
1.1 Aims of the paper	10
1.2 Methodology	11
1.3 Limitations of the paper.....	11
1.4 Organization of the paper.....	11
2. Parliament's work before reforms and the Nature of Parliamentary reforms	12
3. Current roles of parliaments in relation to policy, law and financing of government action on health.....	16
3.1 The legislative and representative roles Of parliament and its portfolio committee on health/HIV and AIDS	16
3.2 The role of Parliament on National Budget.....	17
3.3 Ratification of treaties, conventions and protocols	18
4. How parliaments can influence policy and law Relevant to the social determinants of health	20
4.1 Role of parliaments on addressing the negative impact of the social determinants of health and the building of equitable national health systems	20
4.1.1 Call for the end of rhetoric	20
4.1.2 Call for social action	22
4.1.3 Consider resource allocation	22
4.1.4. Working with the executive arm of government to address the negative impact of the social determinants of health and promotion of more equitable health systems	23
4.1.5 Supervisory role of parliament on the executive arm of the government	23
4.1.6 Networking with other parliamentary groups	23
4.1.7 Civil society engagement	24
5. Parliamentary portfolio committee systems as 'watch dogs' and legislative vehicles for acting on health across government and for promoting and achieving equity	26

6. Parliamentary relations [networking] and alliances and how these have promoted (or inhibited) action on equity.....	31
7. Conclusion	34
7.1 Lessons learnt	34
7.2 Constraints	35
8. Recommendations	36
9. References	37
10. Terms of reference of the literature review	41

ACKNOWLEDGEMENTS

We would like to thank the Health Systems Knowledge Network for providing funding for this review. We would also like to extend our gratitude to the Centre for Health Policy of the University of the Witwatersrand, Johannesburg and TARSC, Harare for co-ordination support. Our other gratitude goes to Dr Rene Loewenson, Hon B Chebundo and Ms A Mukono for their support during the development of this document. Any shortcomings of this report, however, remain our own.

LIST OF ACRONYMS

AIDS	Acquired Immune Deficiency Syndrome
AWEPA	Association of West European Parliamentarians for Africa
BONEPWA	Botswana Network for People Living With HIV/AIDS
CAPAH	Coalition of African Parliamentarians Against on HIV/AIDS
CBO	Community Based Organization
CEDAW	Convention on the Elimination of All forms of Discrimination Against Women
CHESORE	Centre for Health, Science and Social Research
CHGA	Commission on HIV and AIDS Governance
COCEPWA	Coping Centre for People Living With HIV/AIDS
CPA	Common Wealth Parliamentary Assembly
CSA	Centre for Study of AIDS
CSDH	WHO's Commission of Social Determinants of Health
CSO	Civil Society Organization
CWGH	Community Working Group on Health
EAA	East African parliamentary assembly
EALA	East African Legislative Assembly
ECAMA	The Economic Association of Malawi
EGI	Ethical Globalization Rights
EQUINET	The Southern Africa Regional Network for Equity in Health
GEGA	Global Equity Gauge Alliance
HIV	Human Immunodeficiency Virus
ICRW	International Centre for Research on Women
ICW	International Community of Women Living with HIV and AIDS
IDASA	Canadian Parliamentary Centre
IPA	International Parliamentary Associations
KIPI	Kenyan Industrial Property Institute
MDGs	Millennium Development Goals
MEJN	Malawi Economic Justice Network
MoH	Ministry of Health
MoHCW	Ministry of Health and Child Welfare
MP	Member of Parliament
NAPCH	National Assembly Portfolio Committee on Health
NATF	National AIDS Trust Fund
NDI	National democratic Institute
NGO	Non-Governmental Organisation
PMTCT	Prevention of Mother to Child Transmission of HIV/AIDS
PRSP	Poverty Reduction Strategic Papers
PWHA	People Living With HIV/AIDS
SADC PF	Southern Africa Development Community Parliamentary Forum
SADC	The Southern African Development Community
SCN	State Certified Nurse
SEAPACOH	Southern and East Africa Parliamentary Alliance Of Committees on Health, for Equity in Health
STI	Sexually Transmitted Infection
TAPAC	Tanzania Parliamentarians AIDS Coalition
TARSC	Training and Research Support Centre

UNDP United Nations Development Programme
UNGASS United Nations General Assembly Special s Session on
HIV/AIDS
UNICEF United Nations Children's Education Fund
WHO World Health Organisation

EXECUTIVE SUMMARY

The Health Systems Knowledge Network of the WHO Commission on the Social Determinants of Health in co-operation with the Regional Network for Equity in Health in east and southern Africa (EQUINET) commissioned a desk review of the role of parliaments and parliamentary portfolio committees on health in building equitable and people centered national health systems. This review presents evidence from published literature, and other secondary evidence in the east and southern African regions on the following areas;

- Parliament work on health before the reform programmes as well as the nature of the reforms implemented,
- Current roles of parliament in government in relation to policy, law and financing of government action on health as well as the manner in which parliaments can and have influenced policy and law relevant to the social determinants of health,
- The role and experiences of parliamentary portfolio committee systems as 'watch dogs' and legislative vehicles for promoting and achieving equity, and
- The relations (and alliances) built by parliaments with technical institutions, civil society and the executive and how these relationships and alliances have promoted (or inhibited) action on equity.

Use was made of general search engines (Google and Yahoo), health specific archives (Pubmed, Scilit), as well as the list of servers PHA-Exchange, and the EQUINET database to identify the documents for the review. Articles reviewed included archival research, published articles, document reviews and reports. However, for resource and logistical reasons, there was little usage of literature which is not on the internet especially from out of Zimbabwe.

Parliaments in southern and eastern Africa relate principally to citizens, political parties, and the executive and between individual members and their parties. Parliament is a key institution for promoting health equity through its representative, legislative and oversight roles. Before the parliamentary reforms parliaments played a small role in promoting health equity and ensuring that the voice of the citizenry to be heard. All their meetings were also closed to the public, unless declared open by the committee. Relationships between the civil society organizations, Parliaments and the State were often marked by suspicion and misunderstanding as parliaments could not effectively make the Executive accountable for its activities (mainly budget and policy implementation issues).

The emergence of strong Civil Society Organizations (CSOs) in the East and Southern Africa in the past fifteen years has built public awareness of their rights and entitlements, and compelled Parliaments or legislatures, most of whom lacked knowledge and experiences of their new roles, to be more receptive and responsive in handling the needs and demands of the electorate, hence instituting reforms in their operations. These reforms are meant to provide opportunities for parliaments to increase their capacity and expertise in addressing challenges posed by different stakeholder groups

within a country. Many East and Southern countries, beginning with South Africa in 1994, have set up portfolio committees to track the activities of government sectors such as health, education, mining, agriculture and transport among others. Meetings of such committees offer an opportunity to scrutinize and report on the activities of the State.

As 'watch dogs' parliamentary portfolio committees, have a role of monitoring national budget performances and ensuring that the national budgets address key health issues affecting everybody in the country. The parliamentary portfolio on Health and Child Welfare in Zimbabwe, for example, engages consultants to assist in analysing the budget bids and estimates of expenditure, and also in other issues such as legislation and policy analysis. Even when support for budget analysis is provided, improvements in equitable allocation may be difficult to ensure due to the falling real incomes across most of the East and Southern African regions and the hyper -inflationary environment in the case of the contemporary Zimbabwe. In Malawi, for instance, despite additional allocations from the national supplementary budget in 2004, to the Ministries of Health, Education and Agriculture, these allocations were all on the decrease in real terms and are less equitable than before. The proportion of health expenditure to total recurrent expenditure, which was at 11% in 2003/4 financial year dropped to 7.1% in the 2004 financial year (MEJN & ECAMA, 2004).

Many parliaments in the Southern and East African region are now sharing experiences and information on best practices through interaction with such Parliamentary groupings as the SADC Parliamentary Forum (SADC PF), The East African Assembly (EAA), the East African Legislative Assembly (EALA), the SADC Parliamentary Health Committees Alliance for Equity in Health (SEAPACOH) and the Common Wealth Parliamentary Association (CPA). Relevant expertise and information is also being availed to parliaments by non-governmental organizations (NGOs) and networks operating in these countries.

1. INTRODUCTION

Equity in health implies addressing differences in health status that are unnecessary, avoidable and unfair (EQUINET, 2000). Social determinants of health¹ (social conditions) are social forces acting at a collective level, shape individual biology, individual risk behaviours, environmental exposures, and access to resources that promote health. There is a graded relationship between social position and health status that affects people of all levels of the social hierarchy (EQUINET, 2003).

Parliament, perhaps more than other institutions, is about relationships-principally with citizens, but also with and among political parties, with the executive, and between individual members and their parties. Generally what happens in parliament is of interest to the citizens as it affects the evolution of these relationships at least as much as it reflects the authorities, rules, procedures and resources.

Parliament is thus a key institution for addressing social determinants of health (SDH) for the promotion of health equity through its multiple functions of representation, oversight and legislation on behalf of their constituents.

In simple terms, representation means acting on behalf of particular person/s, and doing the best one can to secure, protect and promote their interests. In order to adequately represent the voice of communities they represent, MPs need to engage with civil society and the people (Sekgoma *et al.*, 2006).

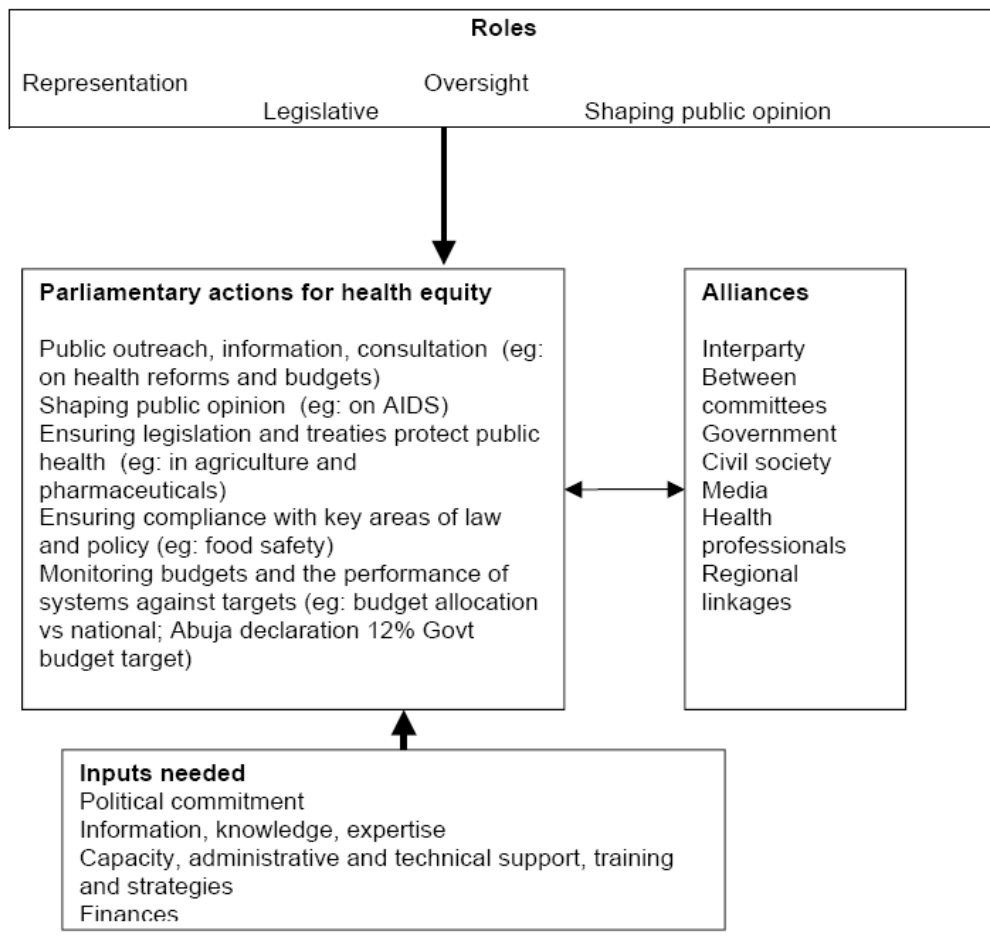
Oversight refers to a culture of accountability and transparency (Sekgoma *et al.*, 2006). Parliament is thus accountable to the electorate; citizens have an opportunity to be heard by parliament through presentations during public hearings of Parliamentary Portfolio committees (Musuka, 2005a). To perform their oversight role effectively, parliamentarians have to take into account the needs of the people, the State's budget, the constitutional framework and the political environment of the country (Sekgoma *et al.*, 2006).

The legislative function of parliament entails the enactment of laws that provide for the interests of all people in a particular country. In most countries, the executive presents proposals of changes in laws or new laws to parliament for consideration which Parliaments may approve amend or reject.

Mataure (2003) also describes these parliamentary roles or functions in detail (see figure 1 below).

¹ The social determinants of health refer to both specific features of and pathways by which societal conditions affect health and that potentially can be altered by informed action. Examples are income, education, occupation, family structure, service availability, sanitation, exposure to hazards, social support, racial discrimination, and access to resources linked to health

Figure 1: Parliamentary roles in health equity (From Mataure, 2003)



1.1 Aims of the paper

This paper will present available evidence and country cases from East and Southern Africa, on the role of parliaments and parliamentary portfolio committees on health in building equitable and people centered national health systems. It focuses on the following;

- Parliament work on health before the reform programmes as well as the nature of the reforms implemented
- Current roles of parliament in government in relation to policy, law and financing of government action on health as well as the manner in which parliaments can and have influenced policy and law relevant to the social determinants of health
- The role and experiences of parliamentary portfolio committee systems as ‘watch dogs’ and legislative vehicles for promoting and achieving equity
- The relations (and alliances) built by parliaments with technical institutions, civil society and the executive and how these relationships and alliances have promoted (or inhibited) action on equity

1.2 Methodology

Use was made of the general search engines (Google and Yahoo), health specific archives (Pubmed, Scilit), as well as the list of servers on PHA-Exchange and the EQUINET database to identify the documents for the review. Unstructured Interviews with key informants were also conducted.

1.3 Limitations of the paper

Although significant amount of effort was put into trying to cover and follow up evidence and country cases from all the countries in the region of study, the authors acknowledge that some critical evidence and cases cited in the paper have not been followed through to their logical end of how or what has resulted after a particular health committee tabled its report in parliament. In addition authors have not been able to determine the results the parliamentary deliberations and how they contributed to the improvement of health systems knowledge in the Southern and East African region.

Due to financial and time limitations the authors were not able to verify information found on the internet with the Presiding Officers (Speakers) or staff of parliaments in the Southern and East African region. Key informant interviews were conducted with respondents from Zimbabwe alone due to the limited time period as well as limited financial resources.

It should be noted that the Health Systems Knowledge Network in co-operation with the Regional Network for Equity in Health in east and southern Africa (EQUINET).and the Association of Parliamentary Committees on Health for East And southern Africa is also commissioning specific case studies from the region, as well as consulting with parliamentarians, in order to supplement the information in this document.

1.4 Organization of the paper

This paper is divided into ten sections, with the first section introducing the paper. The second section covers the parliaments' work on health before the reforms and the nature of the parliamentary reforms. The third section deals with the current roles of parliaments in government in relation to policy, law and financing of government action on health. The fourth section of the paper deals with how parliaments can influence policy and law relevant to social determinants of health. The fifth section of the paper discusses the roles of the parliamentary portfolio committees as 'watchdogs' and legislative vehicles for acting on health across government and promoting and achieving equity. In the sixth section, the paper analyses the parliamentary relations and alliances and how these have promoted (or inhibited) action on health equity. The seventh section of the paper covers the conclusion to the paper and the lessons learnt. Recommendations made by the authors are covered in section eight of the paper. Section nine contains the list of all references that were reviewed by the authors. The last section of the paper contains the terms of reference for the literature review.

2. PARLIAMENT'S WORK ON HEALTH BEFORE REFORMS AND NATURE OF PARLIAMENTARY REFORMS

Before the institution of parliamentary reforms, most of the East and Southern African parliaments operated through departmental committees. Zimbabwe for instance had four departmental committees namely; Service Ministries, Technical Ministries, Security Ministries and the Finance and Economic, Development Ministries. The departmental committee on Service Ministries was responsible for Health, Education and Social Welfare amongst others. This departmental committee only managed to produce one report on health matters during its five-year term from 1995 to 1999. (Parliament of Zimbabwe, 2001).

In South Africa, the committee system has undergone various transformation stages. Before the tricameral system came into being in 1983, the House itself normally dealt with bills. They were rarely referred to the committees for consideration. Ad hoc committees were also appointed from time to time to address matters of public interest. Committees came to play an important part in the legislative process of South Africa between the periods 1983 and 1994 (Mataure, 2003). During this period, bills were referred to the committees for consideration and report before the second reading. Thirteen joint standing committees were set up, consisting of all three Houses (which were constituted on racial lines). Each committee had twenty-three members, who included eleven members from the House of Assembly, seven from the House of Representatives and five from the House of Delegates. Ministerial portfolios of South Africa were combined in a similar way to the Zimbabwe departmental committees. A committee could ask for submissions on the subject of its inquiry and hear interested parties, mostly representative bodies rather than individuals. Meetings were also closed to the public, unless declared open by the committee. Relationships between the civil society organizations, parliaments and the State were often marked by suspicion and misunderstanding as parliaments could not effectively make the Executive accountable for its activities (mainly budget and policy implementation issues)².

The emergence of strong Civil Society Organizations (CSOs) in East and Southern Africa in the past fifteen years has compelled parliaments or legislatures to be more receptive and responsive in handling the needs and demands of the electorate (Mataure, 2003). This has mainly been a result of their awareness building to the public of their rights and entitlements. In other countries like South Africa, where members of parliament (MPs) are elected in office through participatory democracy, their lack of knowledge and experience in their new roles prompted the development of processes for participation of activists as well as the public at large in the legal and policy changes (Klugman and Varkey, 2001).

² Regional Initiative of parliamentary Committees on Health in East and Southern Africa, meeting report, Kafue Gorge Hotel, Zambia; 24-25 January 2005

In efforts to be more efficient and effective, many parliaments in the SADC region have embarked on, or are planning to institute, reforms in their procedures, practices and systems. These reforms are meant to provide opportunities for parliaments to increase their capacity and expertise in addressing challenges, within their oversight, legislative, representative and budgetary roles, posed by different stakeholder groups within a country.

Many SADC countries have since set up portfolio committees to track the activities of government sectors such as health, education, mining, agriculture and transport among others. Such committees generally examine expenditure administration and policy of government departments and other matters falling under their jurisdictions as parliament may, by resolution, determine. The members of such committees are appointed by the Standing Rules and Orders Committee, from one or both Houses of Parliament, and such appointments usually take into account the expressed interests or expertise of the Members and Senators and the political and gender composition of parliament. Each select committee is also known by the portfolio determined for it by the Standing rules and Orders Committee (Parliament of Zimbabwe 2005, Government of Uganda, 1995; Government of Kenya, 2001; Mataure, 2003; Burman, 2005; Canadian Parliamentary Centre & Riksdag web, 2005).

The main responsibilities of such portfolio committees include-

- (a) Considering and dealing with all bills and statutory instruments or other matters which are referred to it by or under a resolution of the House or by the Speaker;
- (b) Considering or dealing with an appropriation or money bill or any aspect of an appropriation or money bill referred to it by these Standing Orders by or under resolution of this House; and
- (c) monitoring, investigating, enquiring into and making recommendations relating to any aspect of the legislative programme, budget, policy or any other matter it may consider relevant to the government department falling within the category of affairs assigned to it, and may for that purpose consult and liaise with such department; and,
- (d) considering or dealing with all international treaties, conventions and agreements relevant to it, which are from time to time negotiated, entered into or agreed upon (Parliament of Zimbabwe 2005, Government of Uganda, 1995; Government of Kenya, 2001; Mataure, 2003; Burman, 2005; Canadian Parliamentary Centre & Riksdag web, 2005).

For the purpose of exercising and performing their functions, such committees are empowered to:

- (a) Summon any person to appear before it to give evidence on oath or affirmation;

- (b) Summon any person to appear before it to produce any documents required by it;
- (c) Receive representations from interested parties;
- (d) Decide whether to permit oral evidence or written submissions to be given or presented before it by or on behalf of an interested party;
- (e) Determine the extent, nature and form of its proceedings, as well as the evidence and representations to be given or presented before it, and,
- (f) Exercise such other powers as may be prescribed, or assigned to it by any law, the Rules or resolutions of the House

Meetings of such committees offer an opportunity to scrutinize and report on the activities of the state (Musuka, 2005a). Many of the parliamentary reform programmes in East and Southern Africa have often been accompanied by specialist professional support and specific budgets for the work of the portfolio committees (Mataure, 2003). A study on the discussions in the Malawian National Assembly, for example, recommended that the effectiveness of MPs can be enhanced if their portfolio committees got technical support from the government ministries, non-governmental agencies and other partners (Yiwombe & Muula, 2004).

Parliaments in the Southern and East African region are sharing experiences and information on best practices through interaction with such organizations as the SADC Parliamentary Forum (SADC PF), the East African Assembly (EAA), the East African Legislative Assembly (EALA), the Commonwealth Parliamentary Association (CPA) and the SADC Southern and East African Parliamentary Alliance of Committees on Health, for Equity in Health (SEAPACOH). Relevant expertise and information is also being availed to Parliaments by non-governmental organizations (NGOs) such as the National Democratic Institute-Malawi (NDI), the Training and Research Support Center (TARSC), the Public Affairs and Parliamentary Support Trust (PAPST) as well as networks like the Southern African Regional Network on Equity in Health (EQUINET), the Global Equity Gauge Alliance (GEGA), Coping Centre for People Living With AIDS (COCEPWA), Botswana Network for People Living With AIDS (BONEPWA) and the Centre for Health, Science and Social Research in Zambia (CHESSORE).

South Africa pioneered the portfolio committee system in the Southern African region in 1994. Since the introduction of the system, the South African portfolio committees have performed a number of functions including oversight of the government on financial matters, for example public accounts, consideration of legislation and consideration of international agreements and conventions.

In Zimbabwe, parliamentary reforms ushered in a new concept of committees in 2000, referred to as the Portfolio Committees, which shadow a particular Ministry or a department in government (Parliament of Zimbabwe, 2006). Currently there are twelve portfolio committees, with Health and Child Welfare (HCW) included. Between September 2000 and August 2003, the HCW portfolio committee managed to produce three budget reports and one specialized report. This achievement is in contrast to only one report on health matters produced by the predecessor departmental committee on Service Ministries during its five-year term from 1994 to 1999 (Parliament of Zimbabwe, 2001).

After reforms, the Tanzania parliament is organized into fifteen standing committees and select / ad hoc committees. Select or ad hoc committees are those that are constituted by the Speaker to consider and report on specific matters and disband as soon as they have completed their work on the matters. The committee on social services is responsible for health issues. (Parliament of Tanzania, 2006). The Tanzanian Parliamentarians AIDS Coalition (TAPAC) was also established in April 2001. Its activities are focused on mobilizing parliamentarians to effectively carry out their roles at the local and national levels in support of HIV and AIDS programmes (TAPAC, 2006). The formation of TAPAC thus marks the commitment of the core group of Tanzanian parliamentarians to mobilize their fellow MPs and constituents to address the HIV and AIDS epidemic. It also represent the first of its kind in Tanzania, where a group of policy and decision makers have come together to address problems associated with HIV and AIDS. Members of parliament are in key positions to affect how the national effort to battle the epidemic is directed, as well as fostering increased actions at the local council level (TAPAC, 2006).

3. CURRENT ROLES OF PARLIAMENTS [IN GOVERNMENT] IN RELATION TO POLICY, LAW AND FINANCING OF GOVERNMENT ACTION ON HEALTH

3.1 Legislative and representative role of parliament and its parliamentary portfolio committees on Health / HIV & AIDS

One of parliament's main functions is to make good laws that provide benefit to everybody in the country. The executive is often in a hurry to legislate, leaving parliament with the responsibility of ensuring maximum stakeholder participation in the law-making process of the country. Many countries that have instituted the portfolio committee system perform this role through their portfolio committees, with health committees responsible for health issues. One of the key functions of the Parliamentary Portfolio Committee on Health or HIV and AIDS is to review, analyze and scrutinize health legislations through clear defined processes.

When the executive arm of government (the Ministry of Health) submits a health bill to parliament, it stands referred to the appropriate committee which must consider it first. The bill can be in a form of a new law or a revision of existing laws, this process being referred to as compulsory referral to a committee (Mataure, 2003). These bills are debated in the parliamentary Portfolio Committee by parliamentarians from all the political parties represented in that committee.

In order to promote the voice of communities and organizations the sessions of the portfolio committee use public hearings to allow interested civic groups, individuals, professional and technical agencies to make representations before it. In most East and Southern African countries once the portfolio committee has heard presentations on a proposed bill they produce a report with recommendations based on the committee's considerations of the presentations by the various stakeholders. The report of the parliamentary portfolio committee is tabled by the chairperson of the committee [in the plenary session] to all the members of the parliament in session for debate. After individual members of parliament have been given an opportunity to debate the proposed bill and the report of the Parliamentary Portfolio Committee on Health/ HIV & AIDS, parliamentarians either approve or reject the bill through sufficient consensus or through majority vote (Musuka, 2005b & Sekgoma *et al*, 2006).

The above described functions are similar to most parliaments and their Parliamentary Portfolio Committees' on Health/ HIV & AIDS in the East and Southern African region.

For example, the Government Hospital Management Bill and the proposed Amendments Bill for the Public Health Act proposed by the government of Zimbabwe were found by the Parliamentary Portfolio Committee on Health to be flawed and needed amendments in order for it to reflect changing socio-economic and political circumstances in the country. It was also noted that the

Act needed to be reviewed to ensure that it provided for enhanced stakeholder participation in the health system, promoted health equity, addressed HIV and AIDS and use simpler and clearer language (Parliament of Zimbabwe, 2003).

The Parliamentary Portfolio Committee on Health conducted public hearings on the draft bill in several provinces of Zimbabwe. This exercise afforded both the Committee and the public an opportunity to make contributions and table recommendations before the bill was finally drafted and published in the government gazette. The recommendations forced the Government to withdraw the Bill for reconsideration (Mataure, 2003).

In June 2004, the Parliament of Angola, through its portfolio committee responsible for health, passed a new HIV and AIDS legislation that guarantees the rights of PLWHA and outlines necessary measures for prevention, treatment, and care of HIV and AIDS. In the process, every ministry as well as NGOs and PLWHA were consulted. Members of the Women's Parliamentary caucus were also very active in promoting the new legislation to address the epidemic. The Namibian legislators have also recently enacted legislation to support manufacture of affordable ARVs locally (Sekgoma *et al.*, 2005).

After consultation with CSOs the Namibian parliament has also been instrumental in the adoption of the 'Namibian Charter on HIV and AIDS' which are national guidelines on human rights to protect people living with HIV and AIDS from discrimination. After extensive consultations the same parliament also passed the Combating of Rape Act of 2000 and the Combating Domestic Violence Act of 2003. On the protection of children born out of marriage, the Children Status Act was passed in 2006 (Parliament of Namibia, 2006).

The South African NAPCH has demonstrated evidence of the legislative role of parliaments in health issues. It processed and amended three pieces of health legislation in 2002, namely, the Medicines Control Amendment Bill, Medical Schemes Amendment Bill and the Occupational Diseases in Mines and Works Amendment Bill. All the three bills were amended following recommendations and inputs from stakeholders during the public hearing organized by the committee. The above cases demonstrate the facilitative role of parliaments in promoting public input to legislation and also promoting equity criteria (accessibility, policy consistency, inclusion of major health priorities) in review of legislation (Mataure, 2003).

3.2 The National Budget role of Parliament

Parliamentarians, as representatives of the people, are responsible for considering the national budgets presented by the Executive to ensure that the national budgets address key health issues affecting everybody in the country. However, parliaments are usually involved in the budget process at very late stages when they can only adjust the budget either upwards or downwards within the votes, but without altering the overall figure for each

vote provided by the Executive. In Ghana for example, parliament is not involved in early stages of the budget cycle. It only gets involved in the process from the day the budget is presented in the House by the Minister of Finance and referred to the various subject matters Committees for examination and report. According to the country's constitution, parliament can only cut or re-allocate the allotments, but it cannot vary it upwards (Obimpeh, 2005).

In Tanzania the budget is an area of government process that continues to mystify a large majority of civil society and thus remains a hurdle for civil society to effectively hold the government accountable on both finance and issues of policy implementation. As a result, the budget document remains difficult to obtain and understand for the majority of Tanzanians, a factor that has resulted in their failure to understand issues on government spending (Tanzania Natural Resources Forum, 2004).

Apart from contributing to the formulation of the national budgets, portfolio committees in the East and Southern Africa, also have the role of monitoring budget implementation by their respective governments. In Zimbabwe, for instance, the quarterly reviews of national budget performance have enabled the parliament and its portfolio committees to enforce Executive accountability on the use of public funds and execution of public programmes. (Parliament of Zimbabwe, 2006).

Although public expenditure on health as a percentage of national Gross Domestic Product (GDP) has been increasing globally over the past fifteen years in high-income countries, for low-income countries, especially those in sub Saharan Africa, there has been a reduction in public expenditure during the same period. Currently actual expenditure on health in most East and Southern African countries falls short of the costs of a package of minimum necessary health services as estimated by the former Director-General of the WHO (US\$60) (EQUINET, 2004; Labonte, 2004; Mukono, 2004 & Sachs, 2004).

In Malawi, for instance, despite additional allocations from the national supplementary budget in 2004, to the Ministries of Health, Education and Agriculture, these allocations were all on the decrease in real terms and are less equitable than before. The proportion of health expenditure to total recurrent expenditure, which was at 11% in 2003/4 financial years, dropped to 7.1% in the 2004 financial year (MEJN & ECAMA, 2004)

3.3 Ratification of Treaties, conventions and protocols

Parliaments also have the duty of ensuring that international treaties, protocols, conventions or agreements serve the interests of the people. When governments sign such treaties, conventions, and protocols or enter into agreements with other states or organizations, parliaments have a role or power to accept or reject such treaties or agreements by accepting or refusing to ratify them. No treaty or agreement signed by government can come into

force in a democratic country without ratification by its parliament. In South Africa, for example, requests for approval of treaties are referred to the relevant portfolio committees, which then conduct exhaustive investigations before reporting to the House. In Zimbabwe, it is a requirement that after ratification, provisions of those agreements have to be domesticated, i.e. incorporated into the laws of Zimbabwe. Swaziland, as well, is in the process of finalizing two bills in line with Trade Related Aspects of Intellectual Property Rights (TRIPS), (The Patents of Intellectual Property Rights, and Medicine Bills), a reflection of the concerns that developing countries have about the implications of agreements on TRIPS (Parliament of Swaziland, 2006).

4. HOW PARLIAMENTS CAN INFLUENCE POLICY AND LAW RELEVANT TO THE SOCIAL DETERMINANTS OF HEALTH

African governments, including those of East and Southern Africa, through their parliaments have endorsed numerous international declarations, conventions, treaties and communiqués that enhance interventions to reduce the negative impact of the social determinants of health. These include amongst others the Maseru and Abuja Declarations, the African Protocol, CEDAW, the Beijing Platform for Action, the Millennium Development Goals (MDGs), the WHO 3-by-5 Strategy, the United Nations General Assembly Special Session on HIV/AIDS, the Commission on HIV/AIDS and Governance (CHGA), and the SADC HIV/AIDS Strategic Framework and Programme of Action. At the national level, governments have outlined their commitments on key health issues such as HIV/AIDS interventions in National AIDS Strategic Plans and policies and more broadly in the Poverty Reduction Strategy Papers (PRSPs).

Whilst endorsement of these numerous international declarations, conventions, treaties and communiqués shows political commitment of East and Southern African parliaments and their executive arms of government, most countries in the region have failed to successfully address the negative impact of the social determinants of health. For example, only one person in ten in Africa in need of antiretroviral treatment was receiving it in mid-2005. In addition, there were 4.9 million new infections in 2005, the vast majority occurring in low and medium income countries. At this rate of new infections, the Millennium Development Goals of halting and reversing the spread of HIV by 2015 will be unattainable and the world will only move farther away from 'Universal Access'³.

4.1 Role of parliaments on addressing the negative impact of the social determinants of health and the building of equitable national health systems

Parliaments and their parliamentary portfolio committees on health and HIV/AIDS have a key role in highlighting the failures and resource gaps of governments in the region in addressing the negative impact of the social determinants of health and creation of more equitable and people-centred national health systems through the mechanisms outlined below.

4.1.1. Call for the end of rhetoric

Parliaments and their Portfolio Committees on Health should call for Heads of State and governments in the region and international funding partners to move beyond the 'rhetoric' to actually implementing programmes on the ground that assist the attainment of agreed goals.

³ UNGASS Report, May 2006, New York

In Malawi, for example, the National Assembly, between 1999 and 2004, discussed and promised a number of options for dealing with the problems facing the Malawians. However, no evidence exists to suggest that these debates were followed up or implemented. A minister in the Office of the President was quoted as saying;

“...as I have stated before, vulnerable areas are already well known to the Ministry of Poverty and Disaster Management. However, instead of universal food aid programmes, the department is putting in place safety nets programme, comprising direct welfare transfers to the most vulnerable people; those who are chronically ill due to such ailments as HIV/AIDS and other serious disorders....”

Although the Minister made this statement in July 2003, there was no later confirmation that such a programme had been implemented by the government by August 2004. The Malawi Ministry of Health also promised that either wire or brick fences were to be constructed around health facilities in the country in response to one MP's complaint. The MP had complained that Chimbanga Health Centre needed to be protected. However, despite the promise by the Ministry of Health, many health centres in Malawi remain unprotected by the suggested means (Yiwombe & Muula, 2004).

Another case in point is the 13th point of the Abuja Declaration which states that ‘We recognise that the epidemic of HIV/AIDS, Tuberculosis and Other Related Infectious Diseases constitute not only a major health crisis, but also an exceptional threat to Africa's development, social cohesion, political stability, food security as well as the greatest global threat to the survival and life expectancy of African peoples. These diseases, which are themselves exacerbated by poverty and conflict situations in our Continent, also entail a devastating economic burden, through the loss of human capital, reduced productivity and the diversion of human and financial resources to care and treatment’⁴. In addition, a key objective of the New Partnership for Africa's Development is “ to adapt pro poor strategies and address the negative impacts of the social determinants on Health through promotion of peace and stability, democracy, sound economic management, promote people centred development and to hold governments accountable in terms of the agreement” (Bond, 2005). Parliaments and their portfolio committees have a role in holding the executive arm of government to task over such commitments as the one above. Parliamentary networks such as SEAPACOH and the Coalition of Parliamentarians on HIV/AIDS (CAPAH) should push the agenda on the social determinants of health within regional fora such as SADC-PF, the East African Legislative Assembly, and the AU and hold their governments to account of commitments they have made in creation of more equitable health systems.

⁴ 13th point of the Abuja declaration signed by African Heads of State and governments in 2001.

4.1.2. Call for social action

Periods of significant gains in health in the East and Southern African region have been a product of social action for increased investment in the health sector. There is need for parliamentarians to work together with civil society organizations to advocate for more changes that improve the lot of resource-poor communities. A case in point is that of the amendment of the intellectual property law of Kenya. Kenyan civil society, medicine distributors, government and some public health conscious MPs have made submissions to the Kenyan patent-granting body, the Kenya Industrial Property Institute (KIPI), arguing that the anti-poor and anti-equity amendments be dropped. These amendments would have significantly increased the costs of many medicines: these costs are often paid out-of-pocket by Kenyans themselves, most of whom are already struggling to manage the high cost of living ((HAI Africa, 2006). There is also a great need for parliament and its MPs to show political commitment and leadership at all levels in order for national HIV/AIDS interventions against the epidemic to be effective (Tanzania Prime Minister's Office, 2001).

4.1.3. Consideration of resource allocations

Parliament and its parliamentary committees have a key opportunity to address the negative impacts of the social determinants of health through national financial resource allocation. Parliament is responsible for considering the national budget presented by the Executive. Parliament has the powers to accept or reject the budget. Parliaments in East and Southern Africa have the power to choose those budgets that attempt to address inequities in health inputs through use of a needs-based allocation formula, universal provision of, and accessibility to, health care resources and in health outcomes and key social determinants of health. The Kenyan parliament has debated and adopted the Sessional Paper on the National Social Health Insurance in Kenya aimed at promulgating pro-poor mechanisms which can be adapted to improve their access to health care. This sessional paper proposes to change the focus of health insurance from being a worker-based scheme to a national scheme for all Kenyans. This would involve mandatory contributions and participation for all employees, the informal sector, and civil service members and government payment of contributions for the poor (Parliament of Kenya, 2004). In the case of South Africa there is need for the parliament and its Parliamentary Portfolio Committee on Health to call for the modification of the current resource allocation formula that does not take adequate account of inherited backlogs that continue to disadvantage some provinces. A more equitable formula, which will increase the resources available to underserved provinces and facilitate improved quality of care, is required (Ntuli *et al*, 2003).

4.1.4. Working with the executive arm of government to address the negative impact of the social determinants of health and promotion of more equitable health systems

Parliaments in the region are in a key position to enhance process and decision making to support development of policies that address and monitor the implementation of policies that are pro-poor and promote the creation of more equitable national health systems and deal with the negative impact of the social determinants on health (EQUINET, 2003). In recognition that health was not determined by medical reasons alone, but by a host of social determinants including poverty, malnutrition, poor sanitation, illiteracy, lack of clean water, inadequate housing and unfair trade terms, the Kenyan government in June 2006 announced the formation of a national commission on the social determinants of health. This is a key opportunity for the parliament of Kenya and its committees to take part in the process of developing a plan of action to deal with the negative impact of the social determinants of health (HAI Africa, 2006).

4.1.5. Oversight role of parliament on the executive arm of government

Many SADC Parliaments, through Committees are now undertaking site visits to verify information and carry out inspections on implementation of government programmes and are interacting with stakeholders. The South African NAPCH, for example, undertook a visit in 2002, to Guguletu and Khayelitsha Day Hospitals to inspect the pilot sites on programs for the Prevention of Mother to Child Transmission of HIV and AIDS (PMTCT). The Committee urged that Clinic Committees and Hospital Boards be established as a matter of urgency to facilitate improved governance of the State health facilities. The Zimbabwe parliamentary Portfolio committee on Health and Child Welfare has over the last five year conducted numerous site visits to government facilities to monitor implementation of programmes (Mataure, 2003).

4.1.6. Networking with other parliamentary/stakeholder groups

Parliamentary networking entails building of linkages and relationships between parliaments, parliamentary bodies, non-state players and government officials in the areas of health and health equity issues. Such interactions are very crucial in exchanging ideas on developing health equity strategies as well as fighting important public health problems such as the HIV/AIDS pandemic at the parliamentary Portfolio Committee level.

The Zambian Committee on Health and Community Development, for example, through sponsorship from the United Nations Children's Fund undertook a comparative study visit to Senegal on HIV and AIDS in 2002 to better understand how other countries were dealing with the health service delivery and the social determinants of health (National Assembly of Zambia, 2002). The visit enabled the Committee to come up with a detailed programme of action on how to deal with the pandemic.

In 2002 again, the Zambian Committee, with the assistance from the Centre for Health, Science and Social Research (CHESSORE), an NGO that is a member of the Global Equity Gauge Alliance (GEGA), also visited the South Africa Health portfolio committee and exchanged ideas on the concept of equity in health (Mataure, 2003).

Following its collaboration with the CHESSORE and GEGA, the Zambian Committee on Health and Community Development adopted the following programme of activities with the Equity Gauge of Zambia in 2003;

- Travel to Chama and Chingola Districts for feedback sessions on district priorities with those respective District Equity gauges, and to visit district health facilities
- Conduct a Zambia Health Budget Analysis meeting.
- Holding of a Benchmarks Workshop involving the Cameroonian, Malawian, Zambian and South African Equity Gauges that focused on an approach to monitor improvements in health systems called the Benchmarks for Fairness for health Reform.
- National Launch of the Equity Gauge of Zambia, to increase sensitization to equity issues and increase public participation
- A study tour of Chile and Ecuador, where the Equity Gauges are very active

4.1.7. Civil Society engagement

Many parliaments that have embarked on the reform process have emphasized the need to involve civil society in the activities of parliament, both in the legislative process and in the operations of committees. One of the most effective ways of giving voice to communities with a direct interest in equity issues is the use of public hearings. Hearings can be held in both rural and urban centers and allow all sections of the public to be heard. Parliamentary portfolio committees on health have partnered with CSOs to highlight deficiencies in health care delivery and the need to address the social determinants of health (Musuka, 2005a).

In 2002, the South African NAPCH held public hearings on a number of issues that included the budget, the Choice on Termination of Pregnancy Act and a variety of other Bills. These hearings provided evidence of disparities between provinces in the quality of health services. The national and provincial hearings revealed that the transformation in the public health system was progressing steadily. Notably, access to health services had improved dramatically, and with improvement in accountability and the reporting system, primary health services were being made available universally.

Health districts had been established and their development was progressing at varying paces depending on capacity. The Committee was however concerned about the slow progress towards the achievement of the inter-provincial equity as well as the under spending on nutrition and HIV/AIDS.

The committee was also alarmed by the slow performance of four provinces in the delivery of key services. The National Health Department's lack of authority to provide input on provincial global budgets was also seen as a stumbling block towards the attainment of better health service delivery.

In response, the Committee recommended the development of mechanisms to improve inter-provincial equity as well as the strengthening of primary health care services and mechanisms to improve the referral system.

HAI Africa and EQUINET, as part of the Health Civil Society Network, helped facilitate a national civil society meeting in Kenya to see how CSOs can contribute to the work of the WHO's Commission on Social Determinants on Health. Parliaments, their portfolio committees and members of parliaments as individuals should be invited to such meetings where they can interact with CSOs representing various disciplines such as water, sanitation, gender issues, medicines, HIV & AIDS, family planning, urban settlement and trade, and as partners develop strategies to target the negative impact of the social determinants of health (HAI Africa, 2006).

In Zimbabwe the parliamentary Portfolio Committee on Health has engaged civil society/stakeholders in its activities like participation in the formation of the health budget and monitoring the Ministry of Health and Child Welfare's compliance with demands. In addition the committee, together with civil society organizations, participates in outreach programmes, public hearings on health matters including legislation review, and other important issues like the use of the National AIDS Trust Fund (NATF). Stakeholders have also been open to lobbying the committee for issues they think need to be addressed by the Executive through the committee at any time (Mukono, 2004). A case in point is good working relationship between the Community Working Group on Health (CWGH), a local CSO, and the Parliamentary Portfolio Committee on Health and Child Welfare (London, 2003).

5. PARLIAMENTARY PORTFOLIO COMMITTEE SYSTEMS AS ‘WATCH DOGS’ AND LEGISLATIVE VEHICLES FOR ACTING ON HEALTH ACROSS GOVERNMENT AND FOR PROMOTING AND ACHIEVING EQUITY

As ‘watch dogs’ parliamentary portfolio committees have a role in monitoring national budget performances and ensuring that the national budgets address key health issues affecting everybody in the country. In Zimbabwe for instance, the Portfolio Committee on Health and Child Welfare carries out the following activities in collaboration with the key stakeholders:

- January to May – consultation with stakeholders on proposals for the next fiscal year. The Committee usually consults the civil society organizations involved in health issues like the Community Working Group on Health (CWGH) and other different associations of health providers as well as medical associations.
- June to August – analysis of quarterly budget performance of the Ministry.
- August/September – consider Ministry’s bids sent to Treasury to determine the extent to which the Ministry has addressed stakeholders’ concerns.
- October/November – after the Budget presentation in Parliament, evaluation of the extent to which the Treasury accommodated the Ministry’s submissions. The Committee also reprioritizes activities as per Treasury allocations and report to the House. During this same period, the Committee also participates in the National Budget Workshop.

During the period 1999-2004, the Executive consistently presented the national budget before parliament for consideration. However, Treasury was always unable to provide adequate funding to meet the requests of the Ministry of Health and Child Welfare. Even when support for budget analysis was provided to the Zimbabwean Parliamentary Portfolio Committee on Health, improvements in equitable allocations were difficult to ensure due to inadequate allocations. Although studies have shown that the Ministry’s allocations have increased nominally by 15% and 10% in the 2000/01 and 2001/2 fiscal years respectively, this increase was insufficient to mitigate the adverse impact of the country’s hyperinflationary environment and translates into real reductions across most areas of expenditure (Musuka, 2005a).

A key omission that was evident throughout the study period is allocation for anti-retroviral treatment. This is particularly important because in 2002 Zimbabwe declared HIV and AIDS a national emergency and launched a National Aids Trust Fund financed by a 3% levy on income tax. The Zimbabwean government plans to extend free anti-retroviral treatment to some 171 000 people by the end of 2005. However, this ambition is not matched with efforts to recruit or retain health professionals to conduct this roll-out or the budgeting of funds to buy the antiretroviral drugs (Musuka, 2005a).

Hon. Chebundo, MP for Kwekwe during a parliamentary session, best expressed this in saying:

"I am perturbed by the absence of specific allocations of to anti-retroviral drugs Of course we have got EU fund that comes through NAPHARM but what is our role in terms of allocating to a very key issue that is affecting this country –AIDS itself)." Hon B Chebundo The Hansard, Parliament of Zimbabwe. Vol 30, No 6, 27th October 2003

During the deliberations in parliament the executive through the Minister of Finance or the Leader of the House (Minister of Parliamentary Affairs) responded to the issues expressed by the MP by referring to budgetary limitations and lack of donor support for such programmes (Musuka, 2005a).

In South Africa as well, the Portfolio Committee on Health in collaboration with the South African Equity Gauge Project has made recommendations for a stronger equity component in the formula for allocating global budgets to provinces and also for reviewing provincial processes that determine resource allocations for the health sector within provinces (Mataure, 2003).

In addition, as 'watch dogs', parliamentary portfolio committees have the role of making inquiries and recommendations on various health equity issues affecting the electorate. The parliamentary portfolio committee of Zimbabwe for example, enquired into the operations and activities of the country's Health Ministry at all levels, i.e. headquarters, provincial, district and the rural health centers. The committee presented its findings and recommendations to parliament in March 2001. One major finding of the inquiry was that rural health centers were under-staffed and were being run by unqualified personnel. People in the rural areas were thus exposed to low quality or no health service at all, since better-qualified personnel preferred to work in urban centers where living conditions are more attractive. The committee recommended that training of State Certified Nurses (SCNs) be reintroduced to improve staffing in the rural centers. The Ministry of Health accepted this recommendation, and the training has since started at selected Mission and district hospitals (Parliament of Zimbabwe, 2002). Presently all health institutions in Zimbabwe are manned by at least one trained nurse (Parliament of Zimbabwe, 2006). Although this development could result in an improvement in the quality of care at health institutions in the country, this development has been negatively affected by the shortage of essential drugs at such centres due to a shortage of foreign currency (Parliament of Zimbabwe, 2006).

The Zambian portfolio committee on Health, Community Development and Social welfare undertook an analysis of the HIV and AIDS situation in 1999, in collaboration with both the Government and NGO stakeholders. Concerned with the rising HIV/AIDS statistics, the Committee undertook a performance review of the Government policy on HIV/AIDS in 2000. The Committee also undertook a comparative study visit to Senegal on HIV and AIDS (National Assembly of Zambia, 2002).

Arising from this, the committee made recommendations that would see greater participation of MPs in health matters that relate to HIV/AIDS. The recommendations contained in the Committee's report to Parliament in November 2002 included the following, among others:

- Government, through the National Assembly, should consider facilitating the establishment of reproductive health activities encompassing HIV/AIDS/STI prevention and control in all constituencies.
- In order to sensitize the labour force, trade unions, in conjunction with the Zambia Federation of Employers and Chamber of Commerce and Industry, should incorporate HIV/AIDS prevention and control activities in their programmes at work places.
- Religious leaders should openly talk about the HIV/AIDS problem and advocate for fidelity, abstinence and care of the afflicted. Parents should also be encouraged to spend more time with their families
- In order to sensitize school children to the danger of HIV/AIDS, government should consider introducing sex education encompassing HIV/AIDS in the school syllabus.
- Government should regulate social activities that are suspected of promoting the spread of HIV, such as the sale of alcohol, and opening and closing times of bars and nightclubs.
- The government, NGOs and community-based organizations (CBOs) should work together to set up telephone hotlines, and to provide free information and counseling to the public.
- The Government and all stakeholders should as a matter of urgency approach international drug companies and funding agencies to negotiate for a significant reduction in the cost of anti-retroviral drugs to improve accessibility among those in need.
- Regulations that prohibit the distribution of condoms in prisons should be removed, as there does not seem to be any feasible way of halting the spread of diseases in prisons.
- MPs and other decision-makers should strengthen their knowledge about the HIV/AIDS situation in Zambia, including awareness of the main opportunities and challenges faced by the country.
- A short booklet that summarizes the key human rights challenges in the fight against HIV/AIDS should be developed to inform the wide decision-making audience.
- Government should consider hiring experts to look at the existing laws in Zambia and to develop laws that would address gaps in protection of the rights of the PLWHAs, dealing with willful transmission of HIV, prevention of HIV transmission, that prohibit cultural practices that facilitate the transmission of HIV (i.e. sexual cleansing); and establish a national system for monitoring the progressive development of HIV/AIDS related legislation

Most of these recommendations have been taken on board by the Zambian Central Board of Health.

The Swazi legislators, through their HIV/AIDS Committee, have identified existing policy and legislative gaps in the country. To this end, a

Parliamentary Action Plan has been developed. As a result, a number of motions have also been raised and adopted by Parliament calling upon the Executive arm of the government to formulate a number of appropriate policies, such as the OVC Grant, Children, Gender, Health, HIV and Food security among others (Parliament of Swaziland, 2006).

Another role of parliamentarians as “watch dogs”, is to ensure that gender issues that create health inequity are addressed. Gender refers to the differences between men and women that are socially constructed, changeable over time and that have wide variations within and between cultures⁵. These differences also vary over different political and economic settings and help to determine women’s access to rights, resources and opportunities. Gender differences are at the core of a number of social, economic and political factors that drive the HIV and AIDS epidemic. Gender analysis and mainstreaming must therefore be used by parliamentarians in addressing HIV and AIDS issues (Sekgoma et al/2006). Gender analysis is a tool that uses sex and gender as an organizing principle or way of conceptualizing information. Gender mainstreaming on the other hand refers to a process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in any area and at all levels (Sekgoma et al 2006).

An example of the process that seeks to enhance the role of parliamentarians in addressing the gendered nature of HIV and AIDS is the Parliamentarians for Women’s Health Project. This is a group of parliamentarians working to improve women and girls’ access to health care and services, including HIV and AIDS prevention, care and treatment, within a three year initiative from 2005 to 2007. This group is composed of parliamentarians from Botswana, Kenya, Namibia and Tanzania. Partners in the project include the International Center for Research on Women (IRCW), European Parliamentarians for Africa (AWEPA), the Center for the Study of AIDS (CSA) of the University of Pretoria, International Community of Women Living With HIV/AIDS (ICW), and Realizing Rights: the Ethical Globalization Initiative (EGI). The project focuses on women and girls mainly because in many parts of Africa, the needs of women and girls are woefully underserved, particularly HIV and AIDS prevention, care, support and mitigation. Parliamentarians are best placed to promote gender sensitive policies and significantly address gender constraints by developing supportive actions in their constituencies (Sekgoma et al, 2006).

In South Africa, after the 1994 reforms, parliament passed the Choice on Termination of Pregnancy Act that was gazetted on the 1st of February 1997. This Act provides for abortion on request up to twelve weeks, and under a broad set of circumstances, in consultation with a health worker, up to twenty weeks. Minors below eighteen years do not require parental consent. Under this law, trained midwives can do abortions. Extensive public hearings preceded this Act, dealing with whether there was a need to develop a new law (Klugman, 2000). Eventually, the new Act replaced the Abortion and

⁵ SADC PF, The SADC MPs companion on gender and development in Southern Africa (2002)100

Sterilization Act of 1975 which allowed abortion in very limited circumstances leaving over 250 000 women and girls carrying out illegal abortions every in South Africa (Klugman, and Varkey, 2001). The new Act has thus broadened the number of women and girls who can access legal and safe abortion.

6. PARLIAMENTARY RELATIONS AND ALLIANCES AND HOW THESE HAVE PROMOTED (OR INHIBITED) ACTION ON EQUITY

The parliamentary reforms in East and Southern Africa provided authority for parliamentary committees to play key roles in all parliamentary functions and has permitted the involvement of public interest groups and non-state health experts to present evidence in parliament (Musuka, 2005). As such many SADC parliaments, through their portfolio committees, have established good working relationships with the public, other parliaments in the region, NGOs and technical partners. Parliamentarians have sought information, technical advice, evidence and capacity building to strengthen their role, while civic and professional organizations have sought to link with the representative, legal and budgetary authority of parliament. Parliaments in Kenya, Tanzania, Malawi, South Africa, Zambia and Zimbabwe have already built strong linkages and relationships with professional, non-state players in the health sector and government officials in the area of health and healthy equity issues.

The parliamentary reforms have resulted in improved relationship/interactions between East and Southern African parliaments and the parliamentary bodies such as the SADC Parliamentary Forum, the East African Parliamentary Assembly, and the Commonwealth Parliamentary Assembly (CPA) on the area of parliament in policy, law and budget processes and the implementation of national pro-equity policies. The SADC PF, for example, organized a workshop for parliamentary portfolio committees on health from the region, on the role of parliaments in combating HIV and AIDS. The workshop urged parliamentarians to work together with their governments in setting up new priorities for development in the light of the challenge posed by HIV and AIDS. At the same workshop, a Standing Committee on HIV/AIDS for the region was also set up.⁶ The CPA is also another interaction platform for most East and Southern African parliaments through seminars and workshops. The Association hosted four workshops for parliamentarians in the regions in 2005 alone, in which countries like South Africa, Lesotho, Kenya, Cameroon and Tanzania, among others, participated⁷.

Key technical organizations that have provided parliaments and their portfolio committees on health with much needed training and technical support are the regional Network for Equity in Health in Southern Africa (EQUINET) and the Global Equity Gauge Alliance (GEGA). These networks have supported parliaments through collection and analysis of pro-health equity evidence and capacity building and funding to support the activities of the SADC Parliamentary Health Committees Alliance for Equity in Health (SEAPACOH) (Mataure, 2003).

⁶ Namibia Institute for Democracy and SADC PF (2002); Regional Workshop on the Role of Parliamentarians in Combating HIV and AIDS held in Windhoek, 21-23 February 2002.

⁷ 20th SADC PF Plenary Assembly Session, Lesotho National Report, Mozambique 2006

SEAPACOH was officially launched by MPs and Parliamentary clerks from key Southern African Development Community countries and Kenya at a meeting of parliamentary Committees on Health in Lusaka, Zambia, on the 26th of January 2005. This meeting was hosted by EQUINET, GEGA, the SADC Parliamentary Forum and IDASA.

The objectives of SEAPACOH are that:

- ⇒ Parliamentary committees on health strengthen their alliance with national organisations to support work on equity in health, working with health equity networks in EQUINET and equity gauges in GEGA;
- ⇒ Parliamentary committees in southern Africa co-operate regionally as a key constituency in EQUINET, and use regional co-operation to mobilize and support work on equity in health to reinforce country level work and to strengthen skills, share ideas and experiences, build common platforms on health issues and tap resources that exist across the region;
- ⇒ EQUINET involve MPs in their various areas of activity on equity in health in the region;
- ⇒ the Parliamentary committees on health explore the option of forming an SADC association of parliamentary committees on health as has been done by the public accounts committees; and
- ⇒ the Parliamentary committees on health in Southern Africa and EQUINET liaise with SADC in this work and keep the SADC Parliamentary Forum informed.

To achieve the above objectives, SEAPACOH has set-up a programme of work for the three-year period 2005-2007. The parliaments are involved in:

- Equity oriented parliamentary budget analysis;
- Reviewing and debating on trade and health with government and civil society;
- Linking with health civil society to promote community participation in health; and
- Sharing best practices and experiences in HIV & AIDS legislation.

EQUINET has also continued to involve parliamentarians in its various areas of theme work (trade and health, participation and health, health rights, AIDS and health systems) and has brought parliaments as a specific constituency into network-wide activities including training and policy engagement. This interaction has enhanced cross-fertilization of ideas and built stronger legislators.

Recently, another coalition/association of parliamentarians was formed in Johannesburg, South Africa called, the Pan African Coalition of African Parliamentarians on HIV and AIDS (CAPAH). This coalition receives technical support from IDASA's Governance and AIDS Programme (GAP) and the Canadian Parliamentary Centre (IDASA, 2006). This is an independent network of parliaments from the African continent dedicated to working together on HIV and AIDS efforts. It endeavors to prioritize the monitoring of the response to HIV and AIDS at national, regional and pan-African levels of governance (IDASA, 2006).

These new coalitions have promoted the achievement of health equity in the region by creating a forum for the exchange of best practices amongst MPs and their respective parliaments.

Charters that promote the rights of health care users have been widely adopted by several East and Southern African parliaments, with the objective of improving the quality of health care for the poor in particular. The Malawi Patient's' Rights Charter, for instance, originated from participative research amongst the key stakeholder groups in that country. The charter was presented to the Parliamentary Portfolio Committee on Health in the Malawian parliament in 2001. Because at that time the practice of public presentation to a particular committee was a novel development for Malawi, both parliamentarians and civil society groups were in a steep learning curve as to the usefulness of public access to parliamentary processes. This process helped to improve relations between parliament and civil society and assisted parliamentarians in interpreting complex policy issues on health (London, 2003)

The Namibian parliament as well, through the Committee on Human Resources, Social Development, has been collaborating with NGOs and the United Nations Agencies on HIV and AIDS and Vulnerable Children over the past few years. This collaboration has helped to strengthen leadership and the commitment of parliamentarians and government on HIV and AIDS responses, gender, women and children's issues. The main collaborating agencies included AWEPA, ICW, CSA, UNDP, UNICEF and EGI (SADC PF, May 2006).

Such interactions have also been very crucial in the exchange of ideas on developing strategies to fight the HIV/AIDS pandemic at the parliamentary portfolio committee level. These regional networks for parliamentarians have enabled them to exchange ideas on tackling key health questions such as HIV and AIDS at the parliamentary and political party levels. EQUINET has also provided induction courses for members of parliamentary portfolio committees without a health background on public health and health equity issues.

7. CONCLUSION

The work of parliaments, mainly through the portfolio committees responsible for health in the East and Southern African region, illustrates the potentially valuable role of these committees in health equity. Using evidence and case studies from the East and Southern African parliaments that have instituted parliamentary reforms, this paper has highlighted the manner in which the pre-reform parliaments functioned as well as the functioning of the post-reform parliaments in health matters. Generally, the pre-reform parliaments were closed to the public unless declared open by the departmental committee. There was no interaction between the parliament and the public or stakeholders, as such; relationships between parliament, civil society and other stakeholders in health were marked by suspicion. Professional and civic organizations working on health equity did not understand the parliamentary processes to effectively support parliament activities or even work with them.

However, with the institution of the parliamentary reforms, many parliaments in the East and Southern African region have opened up to the public so that civil society participates and makes contributions to the activities of parliaments. Many parliaments are now sharing experiences and information on best practices through interaction with such international parliamentary associations as the SADC Parliamentary Forum (SADC PF), the East African Assembly (EAA) and the Commonwealth Parliamentary Association (CPA), mainly through workshops and Seminars. The SADC PF hosted a workshop for members of the portfolio committees on health from the SADC region that addressed the roles of MPs in combating HIV and AIDS. The CPA also hosted three seminars for parliamentarians in 2005 which drew participants from countries that included Cameroon, Lesotho, Mozambique, Malawi and Tanzania among others. Relevant expertise, information and financial support on health equity matters are also being made available to parliaments by non-governmental organizations. Currently, a number of development and health projects are successfully being implemented through the collaboration between parliaments and NGOs, in countries like South Africa, Namibia, Uganda, Zambia and Zimbabwe, among others in the East and Southern African region.

7.1 Lessons learnt

Parliaments are in charge of their rules of procedure; as such, they have an opportunity of transforming themselves into more effective institutions. As noted in the paper, the current parliamentary reform process in East and Southern Africa has transformed many parliaments in this region into being more responsive and open to the electorate.

Parliaments can review international treaties before they are signed and can tap the resources of civil society and academic institutions towards this.

Parliaments have an opportunity of enacting laws that can effectively address social determinant of health issues through the incorporation of stakeholder participation in the law-making process.

Parliaments also have the opportunity of monitoring and providing oversight to the implementation of treaties, laws and commissions through methods such as site visits and public hearings.

Parliamentarians are best placed to promote gender sensitive legislation and policy and significantly address the gender-related problems by supporting development systems that are sustainable.

7.2 Constraints

A number of constraints face parliaments:

1. Parliaments are confronting equity issues at a time when health resources are diminishing, the challenges to equity are growing and the technical and financial resources are very limited.
2. The Executive and other state officials do not share information with the legislature at a planning stage. As an example, parliaments may only be involved in the budget processes at very late stages when it will be difficult, if not impossible, to make changes that incorporate health equity and social determinant of health issues.
3. At times it is difficult for a member of the ruling party to decide against their political party positions.
4. Parliament's role is not to govern. It can only make recommendations that the Executive can accept or reject making it difficult for some of their health equity or social determinant of health recommendations to be considered.
5. Although parliaments have become more open to public participation, this participation is generally not equitably distributed. Due to resource constraints and the inaccessibility of some areas, it is often only those people living in the urban and better accessible areas that have the opportunity to engage parliaments.

Although some of the constraints are formal and relate to parliamentary functioning, others can be overcome through a number of ways. Widening the application of the current mechanisms emerging from parliamentary reforms, for instance, would spread the current good practice in the region. Continued networking with technical institutions and civil society has the potential of strengthening information and technical support.

8. RECOMMENDATIONS

Civil society organizations need to support capacity-building in parliaments, through their parliamentary portfolio committees and individual members of parliament, on the impact of the social determinants of health on the health of individuals and communities.

Parliamentary networks such as SADC-PF and CAHA should work closely with key institutions such as the WHO's Commission on the Social Determinants of Health (CSDH) to draw the impact of the social determinants of health to the attention of the world's governments, civil society and international organizations.

Parliaments, their parliamentary portfolio committees and members of parliament should advocate for national and regional level policy-makers and managers of key state and non-state organizations and departments to include the health equity agenda and apply the social determinants of health lens in their programming.

There is a need to develop a national legislative and resource allocation framework directed at dealing with the social determinants of health.

Parliaments and their Parliamentary Portfolio Committees should continuously conduct comprehensive 'health checks' to ensure that their countries do not commit to anti-poor treaties that are destructive to the national health equity agenda such as the GATS commitments.

9. REFERENCES

- Bond P [Editor] (2005). Fanon's warning: A civil society reader on the New Partnership for Africa's Development, 2nd Edition, Africa World Press, Inc., Asmara, Eritrea.
- Burman Ingrid (2005). Personal communication, November 2005.
- Canadian Parliamentary Centre (2005). Backgrounder: The new Member of Parliament and committees.
- Cleary S and Thomas S (2002). 'Mapping health services trade in South Africa; University of Cape Town, paper presented at the Trade and Industrial Policy Strategies 2002 Annual Forum.
- East African Legislative Assembly (2003). Report of the Working Visit of a delegation of Members from the EALA to the NORDIC Council on June 1-7 2003, Arusha, Tanzania.
- East African Legislative Assembly (2005). Official report of the Proceedings of the East African Legislative Assembly, 49th Sitting-First Assembly: Second meeting-Fourth Session.
- EQUINET (2000). 'Turning values into practice: Equity in health in Southern Africa,' *EQUINET Policy Series 7. EQUINET*: Harare.
- EQUINET (2003). Parliamentary Alliances for Equity in Health in Southern Africa, Johannesburg, August 20-22 2003.
- EQUINET (2004). Reclaiming the State: Advancing people's health, challenging injustice, EQUINET Policy Series number 15.
- EQUINET, GEGA and SADC-PF (2005). Meeting Report: Regional Initiative of Parliamentary committees on health in east and southern Africa, Zambia, January 2005.
- Government of Kenya (2001). Constitution of the Republic of Kenya, Nairobi, Government Printers.
- Government of Uganda (1995). Constitution of the Republic of Uganda, Kampala, Government Printers.
- HAI Africa (2006). Health Action international Africa, network update, issue 4: July/August 2006.
- HEPS & PANOS (2003). In defence of national interest: A report on Uganda's reform process for industrial property legislation.
- IDASA (2006). Parliamentary oversight, HIV and AIDS: Recommendations and decisions of the regional meeting, Johannesburg, February 2006.

Klugman, B. (2000). 'Empowering women through the health policy process: the making of the health policy in South africa', Presser H. and Sen G. (eds) Women's Empowerment and Demographic Processes: Moving Beyond Cairo, Oxford University Press, 2000: 95-118

Klugman B and Varkey S (2001). 'From Policy development to policy implementation: The South African Choice on Termination of Preegnancy Act'. In Klugman , B and Budlender, D. (eds) Advocating for Abortion Access: Eleven Country Studies, The Johannesburg Initiative, Women's Health Project, School of Public Health, University of the Witwatersrand, 2001: 251-282

Labonte R, Schrecker T, Sanders D & W Meeus (2004). Fatal Indifference; The G8, Africa & Global Health, UCT Press, Cape Town.

London L, (2003). "Can human rights serve as a tool for equity?" EQUINET Policy Series 14. EQUINET/ School of Public Health and Family Medicine, University of Cape Town: Cape Town, South Africa.

Manfredo Marroquin; Case Study: Gatemala-Why is Parliament Important for our democratic future; www.worldbank.org/wbi , accessed 20th of July 2006.

Mataure M (2003). Parliamentary Functions and Reforms and their application in promoting Health Equity in Southern Africa EQUINET Discussion Paper 16, Harare Benaby Printers.

MEJN & ECAMA (2004), Civil Society contribution to the 2003/4 Supplementary Appropriation Bill: Submission to Members of Parliament of the National Assembly by the MEJN & ECAMA, Lilongwe, Malawi.

Mukono, A (2004). State, Parliamentary and Civil Society Struggles for Health, in Reclaiming the State: Advancing People's Health, Challenging Injustice, Abstract Book, Regional Conference on Equity in Health in Southern Africa, June 8-9 2004, Durban, South Africa.

Musuka G (2005a). Descriptive analysis of debates on health equity matters in the Zimbabwean National Assembly, Research Paper commissioned Southern African Regional Network for Equity in Health (EQUINET) January 2005

Musuka (2005b). The Swedish Parliamentary Social Committees (socialutskottet) and its engagement with stakeholders on health issues, Research Visit report, November 2005.

National Assembly of Zambia, (2002). Report on the HIV/AIDS Study Tour of the Committee on Health, Community Development and Social welfare for the First Session of the Ninth National Assembly.

Ntuli A, Ijumba P, McCoy D, Padarath A& L Berthiaume (2003). "HIV/AIDS and health sector responses in South Africa: Treatment access and equity: Balancing the act" EQUINET Discussion Paper Number 7 EQUINET and OXFAM GB: Harare.

Obimpeh S, (2005). Parliament and the budget cycle-The Ghananian case study: www.worldbank.org/wbi , accessed 20th of July 2006.

Parliament of Lesotho (2006). National report on the 20th SADC Parliamentary Forum Plenary Assembly Session: Mozambique, June 2006.

Parliamentary of Kenya (2004). Sessional Paper No.2 on National Social Health Insurance in Kenya, Nairobi, Kenya.

Parliament of Namibia (2006). Report of the 20th SADC Parliamentary Forum Plenary Assembly Session, Mozambique June 2006.

Parliament of South Africa (1999). Procedural Guide for Committee Section; Parliament of South Africa; First Edition, South Africa.

Parliament of Swaziland (2006). Report for the 20th SADC Parliamentary Forum Plenary Assembly Session: Mozambique, June 2006.

Parliament of Tanzania (2006), Types of Parliamentary Committees, [http://www. Parliament.go.tz/bunge/Committeetype.asp](http://www.Parliament.go.tz/bunge/Committeetype.asp), 17 July 2006

Parliament of Zimbabwe (1999). Strengthening Parliamentary Democracy in Zimbabwe: Final report of the Parliamentary reform Committee: Parliament of Zimbabwe: Volume 2: Implementation proposals and Summary evidence, Harare, Zimbabwe.

Parliament of Zimbabwe (2001). First Report of the Portfolio Committee on Health and Child welfare; Parliament of Zimbabwe (S.C. 4-2001), Harare, Zimbabwe.

Parliament of Zimbabwe (2002). Report of the Portfolio Committee on Health and Child Welfare on AIDS Activities; Parliament of Zimbabwe (S.C 7-2002), Harare, Zimbabwe.

Parliament of Zimbabwe (2003). Report on the Legislative Analysis Workshop for the Parliamentary Committee on Health and Child Welfare held in Nyanga from 27-31 January 2003; Parliament of Zimbabwe (Unpublished).

Parliament of Zimbabwe (2006). Report of the portfolio committee on Health and Child Welfare on the half year budget performance of the Ministry of Health and Child welfare and the National AIDS Council, 5 October 2006; Parliament of Zimbabwe (Unpublished).

Prime Minister's office (2001), The National Policy on HIV/AIDS; The United Republic of Tanzania, Dar es Salaam, Tanzania

Riksdag web, http://www.riksdagen.se/templates/R_Page_4415.aspx /
20 November 2005

Sachs J (2004). "Doing the sums on Africa", The Economist available on www.unmilleniumproject.org/documents/JDSEconomistMay202004.pdf. Accessed 20th July, 2006.

SADC PF (2006). Report of the Campaign towards Universal Access to HIV prevention, Treatment, Care and Support: The Namibian Experience, Windhoek, Namibia, May 2006.

SADC PF (2005). Report of the 19th Plenary Assembly of the SADC Forum held at Gaborone, Botswana from 8 -16 December 2005.

Sekgoma B, Afuba MD, Eba PM (2006). SADC PF Handbook on Gender, Human rights and HIV and AIDS.

Standing rules and orders of the Parliaments of Botswana, Lesotho, Malawi, Namibia, South Africa, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.

Tanzania Natural Response Forum (2004), Demystifying the Budget Process in Tanzania: A seminar to promote Civil Society Advocacy, December 7-8, 2004

TAPAC (2006), The Tanzanian Parliamentarians AIDS Coalition. www.tapac.org, 27th July 2006

TARSC (2003). Report of a review meeting on Equity issues in HIV/AIDS, health sector responses and treatment access in southern Africa, Harare, February 19 2003.

Yiwombe Z & Muula A (2004), Content Analysis of debates in the National Assembly; A Case Study of Malawi, EQUINET Student grant report

Zimbabwe Parliamentary debates Volume 27.# 57 27th March 2001.

Zimbabwe Parliamentary debates Volume 30.# 6 27th October 2003.

Zimbabwe Parliamentary debates Volume 31.# 13 26th October 2004.

10. ANNEX 1: TERMS OF REFERENCE OF LITERATURE REVIEW

Where the evidence allows, you should address the following:

Provide a comprehensive but succinct review of relevant secondary evidence of published grey literature, on the role of parliaments and parliamentary committees on health in east and southern Africa in building equitable, people-centered national health systems. Specifically outline through available evidence:

- Parliament work on health before the 'Parliamentary Reform Programmes' were introduced in the Southern and East Africa regions and the nature of the reforms implemented;
- The current roles of parliament in government, particularly in relation to policy, law and financing of government action on health, and the manner in which parliaments can and have influenced policy and law relevant to the social determinants of health;
- The role and experience of parliamentary portfolio committee systems as 'watch dogs' and legislative vehicles for acting on health across government and for promoting and achieving health equity; and
- The relations (and alliances) built by parliaments in the process with technical institutions, civil society, and the executive and how these relationships and alliances have promoted (or inhibited) action on health equity.

Outline the knowledge base used in preparing the review and clarify how searches for information were done.

Some suggestions for papers/sources of information:

This will draw on secondary evidence, i.e. published literature and experience from all regions, and especially from East and Southern Africa. It will use the August 2003 paper prepared by PAPST and will complement this with other sources.