

Unit 8: The Role of Parliamentary Committees and HIV/AIDS

Learning Objectives

What is the role of parliamentary committees in the response to HIV/AIDS?

After studying this unit, you should be able to:

- Have a better understanding of the functions of parliament and the use of parliamentary committees;
- Understand the role of a parliamentary committee on HIV/AIDS;
- Obtain key recommendations on how to improve the effectiveness of parliamentary committees in the response to HIV/AIDS

Introduction

Parliamentary committees provide greater freedom for in-depth analysis and debate making it possible for Members of Parliament and ultimately the parliament itself to perform the core functions of law making, oversight and representation. A handful of countries such as Uganda, Lesotho, Tanzania and Zambia have now established parliamentary committees on HIV/AIDS which are responsible for drafting new legislation to address HIV/AIDS, and reviewing, amending and improving other government legislation and regulations related to HIV/AIDS. In the majority of other parliaments, parliamentary committees on health have also been tasked with the review of HIV/AIDS policies and legislation and a number of parliaments have struck sub-committees to study the issue of HIV/AIDS in greater detail. Canada and South Africa are examples of countries where national parliaments have created sub-committees on HIV/AIDS.

This unit will explore the role of parliamentary committees in reviewing and amending legislation with a particular focus on HIV/AIDS. The unit discusses the rationale for creating specific committees responsible for HIV/AIDS as well as the need for a multi-sectoral approach whereby other parliamentary committees, such as those responsible

for trade, healthcare, international development and so forth, should also be involved in scrutinizing the impact of legislation and policies on HIV/AIDS.

What are Parliamentary Committees?

A parliamentary committee consists of a group of elected Members of Parliament (MPs) or Senators (or both in the case of joint committees) appointed by one or both Houses of Parliament. Parliamentary committees represent all political parties elected to the plenary chamber. Most parliamentarians, apart from cabinet members, will sit on one or more committee. Through its committees parliament obtains information from government agencies and advice from experts on the legislative matters under investigation. These parliamentary committees are smaller working groups in which much of the in-depth work of parliament is carried out. (Please see the module on Parliamentary Committees in this series for more on the subject.)

The purpose of parliamentary committees is mainly to conduct inquiries into specified matters including taking submissions, hearing witnesses, sifting through evidence, discussing matters in detail, and formulating reasoned conclusions. By concentrating on specific tasks or subjects, committees can specialize where parliament in plenary cannot. Committees are often organized to mirror the government ministries and each committee will focus on legislative matters related to their area of specialization, such as health, trade and commerce, foreign affairs, defense, environment and so forth.

An important function of committees is to scrutinize government activity including legislation, the conduct of public administration and policy issues. Committees may oversee the expenditure of public money and may call the government or public service organizations to account for their actions.

Public consultation is also an important element of committee work (see Unit 7). Through its committees parliament can be better informed of community problems and attitudes. Committees provide a public forum for the presentation of the various views of individual citizens and interest groups by holding public hearings, inquiries and calling

witnesses from the government, private and public sectors to provide information on a variety of issues.

Box 1

Malawi Reviews HIV & AIDS Legislation through Public Consultation

In January 2007, a special Law Commission on HIV and AIDS legislation was appointed to review existing laws in Malawi that have an impact on the HIV/AIDS pandemic, as well as to develop a law on HIV/AIDS that includes effective implementation and enforcement mechanisms. In doing so, the Commission was to take the Constitution of the Republic of Malawi, the National Policy on HIV & AIDS and other national policy instruments in consideration, as well as Malawi's obligations under international and regional conventions, treaties and protocols on HIV/AIDS and Human Rights, such as:

- the Universal Declaration of Human Rights
- the International Covenant on Civil and Political Rights
- the International Covenant on Economic, Social and Cultural Rights
- the Convention on the Elimination of All Forms of Discrimination Against Women
- the Convention on the Rights of the Child
- the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women
- the Southern Africa Development Community Declaration on HIV & AIDS
- the Abuja Declaration on HIV/AIDS, Tuberculosis and Other Related Infectious Diseases
- the Tunis Declaration on HIV/AIDS and the Child in Africa
- the United Nations General Assembly Special Session Declaration of Commitment on HIV/AIDS, in light of the HIV & AIDS pandemic

During the review process, the Commission has held consultative meetings with key stakeholders and relevant bodies in all the regions of Malawi. These meetings and the review has resulted in a report and a draft legislation on HIV and AIDS, which is yet to be tabled in the National Assembly of Malawi.

In September 2008, the National Assembly established a specific HIV and AIDS Committee. HIV/AIDS related issues were previously handled by the Health and Population Committee. The new Committee has asked the special Law Committee on HIV and AIDS legislation to present its report in order to better appreciate the issues that were raised during the consultative meetings before Parliament is to vote on the new legislation. Parliamentarians from the HIV and AIDS Committee have also been interacting with stakeholders like the Malawi Human Rights Commission, the Malawi Network of People Living with HIV and other civil society organizations for further input on the HIV legislation.

Source: www.lawcom.mw; Janet Mswayo, SADC PF Desk Officer Malawi

Parliamentary committees enable parliamentarians to undertake tasks that would be impossible to do in the large, formal setting of the plenary chamber. By having smaller groups of parliamentarians meet to review specific legislation or policy issues, committees become a forum for more intense scrutiny of legislation, in depth research

and analysis and debate, which would not be possible in a large setting. Common parliamentary committee tasks, such as researching cases or inquiry, gathering evidence from experts groups or individuals, sifting through every clause of a draft bill and drawing conclusions and amendments, are more effectively carried out by small groups of MPs or Senators.

The other advantage of committees is that more than one committee can be meeting at the same time enabling many more investigations and legislative reviews to be conducted. Each committee has its own defined area of operation so that parliamentarians can build a level of expertise and comfort to review technical legislative issues in a given area.

Box 2

Why are Parliamentary Committees Important?

Parliamentary committees:

- Are non-partisan and represent all political parties;
- Have extensive powers to consult the government and the public through public hearings and investigations;
- Have more time to review legislation and conduct in-depth studies to consider each clause and propose amendments;
- May oversee the expenditure of public money and can call the government to account for their actions and spending;
- Are the forum for parliamentarians to access a wide range of community and expert views leading to better informed policymaking;
- Provide a public forum for the presentation of the various views of individual citizens and interest groups.

Types of Committees

Parliamentary committees have emerged as vibrant and central institutions of democratic parliaments. Parliaments across the globe set up their own rules on how committees are established, the composition, the mandate and how chairpersons are to be selected.

Most parliamentary committees have **certain features in common**. These include:

- A focal point for legislation and oversight in specific policy areas;

- Not a decision-making body, except with respect to its own internal proceedings;
- No standing independence of the legislature;
- Reports and conclusions from deliberations are delivered to the parliamentary plenary body with recommendations for decision and vote.

Parliamentary committees are established for a variety of reasons. The number, the focus and configuration of committees will differ from country to country. Parliaments may set up the following types of committees:

1. **Permanent committees:** Appointed for the full life of a parliament and usually re-established in successive parliaments after each election;
2. **Select or temporary committees:** Appointed for a short period of time, normally to study a specific issue after which the committee is dissolved;
3. **Joint committees:** Committees in bicameral legislatures which draw their membership from and report to both chambers of a parliament, enabling MPs and senators to work together on the same issue;
4. **Committee of the whole:** Occurs when the entire membership of a parliament forms itself in a committee, often chaired by the speaker, to investigate a matter of concern.

Parliamentary Committees as Focal Points for HIV

Parliamentary committees are tasked with areas of specialization and will focus their deliberations on specific issues related to that field of inquiry. The committee responsible for dealing with HIV/AIDS issues becomes the parliamentary focal point on HIV. Parliamentarians sitting on those committees can become better informed and better equipped to analyze and debate issues surrounding HIV legislation and policies through several means.

There are different models for HIV/AIDS focal points in parliament: full parliamentary committees on HIV (for example, countries such as Uganda, Lesotho, Tanzania and Zambia), sub committee to the health committee (for example Canada and South Africa), or a social welfare committee with responsibilities for HIV (for example Kenya,

Senegal and Cambodia). The most common is a focus on HIV in a committee that deals with other social welfare aspects such as health, education, etc.

Box 3

The Social Affairs, Gender and Environment Committee (CASGA) in Mozambique

Until recently, the parliamentary committee responsible for HIV/AIDS in Mozambique was the Commission for Social, Gender and Environmental Affairs (CASGA), which has an average membership of 250 MPs. Not only does this committee have a large number of members, it also has a long list of responsibilities, making it difficult for the committee to work effectively in the name of HIV/AIDS prevention and care. CASGA was responsible for HIV/AIDS in addition to:

- Education
- Culture
- Youth
- Sports
- Gender
- Protection of the family, children and promotion of women's issues
- Protection and promotion of the environment
- Protection and promotion of cultural patrimony
- Promotion of employment
- Protection of employees
- Social security
- Reallocation and protection of demobilized soldiers
- Population
- Protection of people with disabilities
- Religious activities

In 2007 the Mozambique parliament created a parliamentary committee focused on HIV/AIDS exclusively.

Source: *Parliament, Politics and AIDS, 2006*

Research undertaken by institutions such as the National Democratic Institute and IDASA in southern and eastern Africa have demonstrated that the majority of parliamentary committees have not been very active or shown strong commitment to investigating HIV/AIDS issues. Some of the reasons for this lackluster performance include the fact that health committees or social affairs committees have several other issues to review as part of their mandate and may not have sufficient time or resources to undertake fuller investigations on HIV/AIDS. While there are no strict rules on how parliamentary committees are composed, the common practice is to have representation on committees similar to the party representation in the parliament itself. It is therefore

common that committee members are assigned to the specific committees by political party leaders. This may result in that some members are not necessarily part of committee because of their interest or dedication to a specific issue, but to create a political balance. This in turn can influence the effectiveness of a committee. Another impediment stems from the fact that a number of legislatures do not have sufficient staff support for committees which deprives MPs and senators of the administrative and research support they require to effectively undertake legislative reviews and investigations (Parliaments, Politics and AIDS, 2006).

The limitations of many parliamentary committees responsible for HIV/AIDS has led organizations such as the Southern Africa Development Community Parliamentary Forum (SADC-PF) to advocate for all their member parliaments to establish separate parliamentary committees on HIV/AIDS in order to enhance and formalize the way in which parliaments address the pandemic. Establishing specific committees on HIV/AIDS in every parliament would raise the importance of the issue, strengthen parliamentary oversight of HIV/AIDS expenditures and enhance information sharing about best practices within and between parliaments. Currently the following SADC member countries have established a spelect committee to address HIV/AIDS: Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania and Zambia. In other member countries, such as Angola, Democratic Republic of Congo (DRC), Namibia, South Africa and Zimbabwe, HIV/AIDS is still primarily addressed by the Health or Social Development committees. However, the National Assembly of DRC has established a specific unit within the Assembly, consisting of political and administrative staff, that has a role to inform, educate and sensitize the MPs, parliamentary staff in order for them to be better equipped to address HIV/AIDS.

The number of parliamentary committees for HIV/AIDS (and sub-committees on HIV/AIDS) is growing as parliaments recognize that HIV is more than a health issue, in addition to recognizing that it requires significant attention and commitment from parliament to ensure adequate legislation, policies and budgetary allocations are in place in support of prevention, care, and treatment programs.

The creation of HIV/AIDS parliamentary committees achieves the following:

- **A focal point** in parliament for matters related to HIV/AIDS to be addressed;
- A chairperson with **strong dedication** to the fight against HIV/AIDS;
- **Development of skills** and technical capacity of committee members in HIV policy analysis to raise the level of debate and analysis by parliament on HIV/AIDS;
- A forum for **public consultation and testimonies** from people infected or affected by the disease;
- A forum to **investigate government** actions and national HIV/AIDS programs;
- **Raise the profile of HIV/AIDS** with other parliamentarians by submitting committee recommendations to plenary and advocating for greater consideration of HIV/AIDS issues in other committees.

Box 4

The Ugandan Parliamentary Standing Committee on HIV/AIDS

In August 2002 Uganda was one of the first parliaments to create a specific parliamentary committee on HIV/AIDS. This committee has been instrumental in the development of strong HIV/AIDS legislation and policies in Uganda. The Chair of this committee Dr. Elioda Tumwesigye has become a leader and role model for other parliamentarians and is involved in a number of parliamentary programs to raise awareness about the role of parliament in the fight against HIV/AIDS.

The Ugandan Committee on HIV/AIDS is mandated to:

1. Coordinate HIV/AIDS activities of Parliament and provide a link between Parliament with the Uganda Aids Commission in combating the epidemic in Uganda;
2. Scrutinize the HIV/AIDS policies and monitor and evaluate activities of nation and local government and other bodies aimed at combating HIV/AIDS;
3. Examine and make recommendations on relevant Bills and other matters relating to HIV/AIDS; and
4. In cooperation with the Uganda Aids Commission and the Ministry responsible for health, initiate relevant Bills and motions required for combating the epidemic in Uganda.

The Ugandan HIV committee has conducted numerous field investigations in Uganda to determine the impact of the disease on various communities. In 2006, the chair of the committee tabled a report in parliament that revealed that 60% of new HIV infections in Uganda were reported among married couples. The report revealed that the disease was shifting from the young unmarried to the older married individuals. The committee's report also reiterated the need for vigilance and leadership from politicians. Since its creation in 2002, the committee has been delivering a status report on HIV/AIDS in the country to the parliament in plenary.

The Ugandan HIV/AIDS parliamentary committee has played a very strong role in maintaining HIV/AIDS in the public eye as well as a priority issue within parliament. In March 2008 the committee was instrumental in organizing the recognition of HIV/AIDS champions that have played a role in the fight against HIV/AIDS over the last 25 years. The committee developed the list of those to be recognized and motions were passed in parliament on March 12, 2008 to recognize each of the individuals.

Source: <http://allafrica.com/stories/200803051001.html>

How HIV/AIDS Parliamentary Committees Can Be More Effective

The effectiveness of a parliamentary committee depends on a number of factors, these include:

- A clear mandate, roles and responsibilities of the committee;
- The size of the committee –if a committee is too large or too small it renders it ineffective;
- The skills and leadership of the chairperson in managing activities and mediating between conflicting interests of members;
- Quality of committee staff and resources available to the committee;
- Consensus-building –the multiparty nature of parliaments necessitates effective consensus building and a non-partisan approach to committee work.

Committee Leadership

The leadership of a committee can determine whether the committee will be effective and relevant to the parliamentary process. The Committee Chairperson plays a key role in the effectiveness of the Committee. The most important personality in the committee is the chair because of the chair's role in presiding over meetings and ruling on procedural and administrative issues. The Chair also serves as the official representative of the committee in the parliamentary chamber and will answer oral questions on behalf of the committee in plenary.

Committee work is time consuming and requires a fair amount of time and dedication on the part of its members. The Chair has additional duties that add to the level of commitment required. Such a commitment becomes easier to accept when a

parliamentarian is passionate and interested in the issue. In the case of parliamentary committees on HIV/AIDS, it certainly helps to have a Chair who is committed and involved in the fight against HIV/AIDS and who understands the need for parliamentary action on this issue.

Committee Staff Support

Parliamentary committees are normally supported by staff who are usually assigned by the Secretary General or Clerk of the parliament to serve the committees. Their core function is related to procedural issues or research and analysis, but in practice and depending on the country, their role may extend well beyond this. Committee staff ensures that committees perform their role taking evidence from witnesses, scrutinizing legislation and conducting inquiries.

In addition to basic administrative and clerical support that committees require, there is also the need for specialized researchers who can provide in depth analysis and conduct research to provide information to Members. In the case of HIV committees, it is beneficial for members to have on staff researchers who have experience in public health issues, human rights and have strong knowledge of the national HIV/AIDS commission and national HIV/AIDS strategies.

Strong Oversight Role of Committees

Parliaments are responsible for ensuring accountability and transparency from the government. Parliamentary committees are the organs within the parliament who are most involved in oversight activities of the executive in order to curb corruption and ensure the proper implementation of national programs and disbursement of funds.

Traditionally the Finance and Public Accounts Committees are the two parliamentary committees tasked with overseeing how government spends monies and collects revenue. The Finance committee reviews and proposes recommendations for the adoption of the national budget while the public accounts committee conducts investigations into how money from the previous budget was spent.

With regard to HIV/AIDS, it is imperative that committees such as the Finance and Public Accounts Committees scrutinize how government proposes to allocate funds to HIV programs and how well these funds are utilized in implementation. Furthermore, the HIV/AIDS committee can play a pivotal role in bringing to the attention of the other committees areas of concern that may require further investigation. Although the financial committees spend more time on oversight than the committees responsible for policy areas, all parliamentary committees have an oversight role to play and must be involved in investigating government action.

Participation and Outreach

Consultation and public involvement in the work of parliamentary committees is considered to be one of the prerequisites for parliamentary transparency and representation. This allows for the views and opinions of the members of the public to be heard. Parliament may use the communication with the public to gain a clearer and more accurate view of the public's needs and aspirations.

One of the most effective ways for parliamentary committees to engage the public is through public hearings where witnesses can appear before the committee to provide comments, recommendations and critiques of a piece of legislation, government program or more general policy issues.

Box 5

Parliamentary Enquiry on the International Guidelines on HIV/AIDS and Human Rights

In 2001, the United Kingdom All-Party Parliamentary Group (AAPG) on AIDS undertook a parliamentary inquiry to investigate how the United Kingdom's Government was ensuring its policies and laws respected the *International Guidelines on HIV/AIDS and Human Rights*. The investigation included several hearings and testimonies from experts and interest groups and led to the publication of a report which highlighted 'the major failures of the UK Government to address the impact of its laws and policies on those infected with, affected by and vulnerable to HIV and AIDS'.

The UK All-Party Parliamentary Group on AIDS was established in 1986 and its goal is to raise awareness of HIV in Parliament and to improve the quality of policies and programs in the UK's response to HIV/AIDS.

Source: *Taking Action Against HIV, 2007*

For HIV committees, public hearings become an important forum to consult marginalized groups such as people living with HIV/AIDS, women's groups or groups representing prisoners, injecting drug users and other members of society who are unlikely to have easy access to decision makers to share their views and opinions. HIV committees can consult with experts as well to find out the latest information on prevention methods such as microbicides, efforts for HIV vaccines and other key information that can influence the decisions of parliament with regard to the funding needs for HIV programs and legislation required for new regulations.

Linkages and Cooperation

Parliamentary committees can often benefit from strong working relationships with other watchdog institutions that also play a role in policymaking and oversight. For instance, public accounts committees are likely to have regular exchanges with the national audit authorities. In the case of HIV committees, the relationship with National AIDS Councils is key. National AIDS Councils are the lead government agencies tasked with the development and management of a country's National AIDS Strategy and working with government ministries, civil society and private sector to implement HIV/AIDS programs and policies. National Aids Councils [lead and coordinate prevention efforts as well as care and support services for those infected and affected](#). The National AIDS Councils have expertise and information required by parliamentarians to effectively legislate and oversee HIV policies and regulations. Parliamentarians are also key representatives of the AIDS Councils as they provide a forum to ensure that HIV needs and requirements are heard and that budgetary allocations for the councils and their programs are met. This mutually beneficial relationship ensures that both organizations have access to key resources, information and decision-makers. In Ghana, the formal linkage between Parliament and the National AIDS Commission has been taken one step further, the Ghana AIDS Commission (GAC) Act stipulates that parliament oversees the functions of the GAC and provide for the Director General of the GAC to submit reports directly to parliament. At the moment, this appears to be the only formal and direct oversight relationship existing between a National AIDS Council and parliament.

Parliamentarians can also benefit from cooperation with civil society groups, including associations of people living with HIV and human rights groups that closely monitor the impact of HIV/AIDS on various sectors of the community. Parliamentarians have limited time to conduct research, investigations and field visits. By forging linkages with civil society groups, parliamentarians gain access to expertise and research as well as grassroots information to better understand the impact of HIV/AIDS at a community level (see Unit 7).

Box 6

The Malawi Budget and Finance Committee and Civil Society Cooperation

In Malawi, parliament's Budget and Finance Committee has targeted a limited number of HIV health care programs to be prioritized in both the country's Poverty Reduction Strategy Paper (PRSP) and in the country's national budget. The committee and the Malawi Health Equity Network (MHEN), a network of NGOs involved with healthcare issues, worked together to monitor government performance with regard to expenditures on the targeted HIV care programs. The committee lobbied government to ensure that such priority poverty expenditures (PPE) for HIV would be integrated into the larger monitoring and evaluation system of the PRSP review. The committee tracked allocations for PPEs from the Ministry of Finance through the Ministry of Health.

Meanwhile, at a grassroots level, MHEN monitored targeted programs to ascertain whether funds allocated to essential drugs, healthcare workers and to increase healthcare salaries actually reached the intended beneficiaries.

Source: *Survey of Legislative Efforts to Combat HIV/AIDS in the SADC Region, 2004*

Leadership by Example

A parliamentary HIV committee plays the lead coordination and dissemination role for HIV/AIDS. An active parliamentary committee on HIV/AIDS will engage in initiatives to promote awareness and understanding of HIV issues among their colleagues and within the wider context of Parliament. Many parliamentary HIV committees around the world are leading the organization of AIDS Day events as well as information sessions in parliament to sensitize other colleagues about the key policy issues surrounding HIV. Parliamentary committees on HIV/AIDS can also be involved at a grassroots level; when they conduct investigations or constituency visits, they use this time to break the silence

about stigma and discrimination and can also share information with people about the rights of people living with HIV/AIDS and services available to them.

The HIV committee can also be a leader in ensuring that the internal policies and procedures of parliament protect and promote the HIV-related human rights of all parliamentary staff. The committee can investigate the following to determine whether actions are required to improve policies or develop new procedures.

- Are there workplace policies prohibiting HIV-related discrimination?
- Do they actively recruit people living with HIV?
- Is voluntary and confidential HIV counseling and testing easily accessible to staff?
- Do health benefits include coverage for HIV-related treatment?
- Is reasonable accommodation (e.g. flexible or reduced working hours) available to persons with disabilities, or people living with conditions that are periodically disabling (including HIV)? (Taking Action, 2007)

The Need for a Multisectoral Approach to HIV among Committees

Consensus is growing that parliaments require a focal point on HIV/AIDS, preferably in the form of a parliamentary committee or sub-committee on HIV/AIDS. Such a focal point would ensure that a group of parliamentarians could dedicate themselves to the study of key policy, legislative and budgetary issues related to the fight against HIV/AIDS. However, there is also strong recognition that a multisectoral approach is required to respond to the crisis.

From a parliamentary perspective, a multisectoral approach leads to more involvement of all parliamentary committees on HIV/AIDS. While the HIV parliamentary committee becomes the central committee that investigates all areas of HIV concern, each of the other parliamentary committees should have a mandate to review legislation, regulations or departmental budgets to consider HIV. For instance, the parliamentary committee responsible for labor issues has a responsibility to ensure employment legislation in the country protects people living with HIV/AIDS from wrongful dismissal

and discrimination. Likewise, the committee responsible for gender and/or children also has a role to play in HIV as it would oversee all legislation related to domestic violence, protection of AIDS orphans and ensure that the legal framework protects the rights of women and children affected or infected by HIV. Because of the impact of HIV on all sectors of life, whether commerce and trade, education, public health, labour and migration issues, or international development, the need for all parliamentary committees to study how new legislation or regulations contribute to the fight against HIV/AIDS is crucial.

The parliamentary committee on HIV/AIDS can serve as the coordinator with regard to the multisectoral approach by investigating how other committees are considering HIV/AIDS as part of their committee work. In much the same way that gender-based analysis has been introduced in legislative work committees can introduce HIV impact analysis in their reports on various draft laws and regulations. Including such analysis ensures that each committee analyzes whether a specific law or regulation will contribute to the fight against HIV/AIDS.

Unit 8: Questions

Please answer each of the following questions. If you are taking this course in a group you may then meet to discuss your answers.

1. What are the key functions of parliamentary committees? What types of committees exist in your parliament?
2. Does your parliament have a specific committee responsible for HIV/AIDS? Is this committee also responsible for other policy areas? If there is no specific HIV/AIDS committee, which committees are mainly involved in addressing HIV/AIDS in your Parliament?
3. Identify some actions a parliamentary committee can undertake in order to strengthen Parliament's response and contribution to the fight against HIV/AIDS?
4. How can parliamentary committees benefit from cooperation with other government and non-governmental actors working on HIV/AIDS?

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www.sadccitizen.net/aids/new/

Suggestions for further reading: