



**National Assembly, New Assembly Building,
Reginald Pye Lane, Banjul, The Gambia**

PARLIAMENTARY DEBATES

[HANSARD]

**OFFICIAL HANSARD REPORT
FIRST SESSION – SECOND MEETING
TUESDAY 16th MARCH, 2021**

SESSION – 2021



**National Assembly, New Assembly Building, Reginal Pye Lane,
Banjul, The Gambia**

PARLIAMENTARY DEBATES

[HANSARD]

OFFICIAL HANSARD REPORT

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Second Meeting of the Session of the Fifth Assembly
of the Second Republic of The Gambia.
Proceedings of the Sitting of Tuesday 16th March 2021

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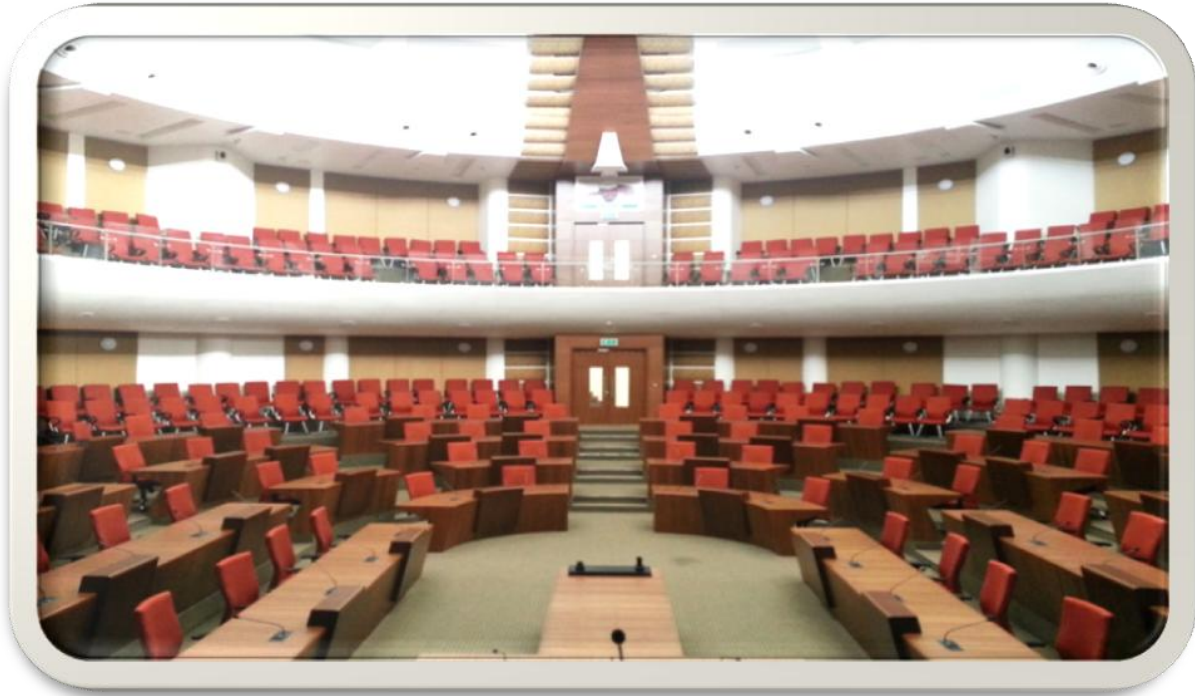
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**THE CHAMBERS OF THE NATIONAL ASSEMBLY OF THE GAMBIA
OFFICIAL HANSARD REPORT OF THE PROCEEDINGS OF THE
HOUSE**

**SECOND SESSION – SECOND MEETING
OF THE FIFTH ASSEMBLY
OF THE SECOND REPUBLIC**

TUESDAY 16th MARCH, 2021

1. PRAYERS

[The Deputy Speaker, Hon. Momodou Lamin Sanneh, Read the Prayers]

[The House met at 11:00 a.m. In the New Parliament Building, Reginald Pye Lane, Banjul].

[The Deputy Speaker, Hon. Momodou Lamin Sanneh, in the Chair]

The House was called to Order.

2. Record of Votes and Proceedings of The National Assembly Sitting of Monday 15th March 2021

THE SPEAKER: Thank you Clerk. Honourable Members, Records of Votes and Proceedings of the National Assembly Sitting of Monday 15th March 2021 is before us for correction and approval. Can any Honourable Member please move that the said Records of Votes and Proceedings be considered and approved?

HON. OUSMAN TOURAY [SABACH SANJAL]: Thank you Honourable Speaker and good morning to everybody. I rise to move that the Records of Votes and Proceedings of the National Assembly Sitting of Monday 15th March be considered and adopted.

THE SPEAKER: Any seconder please?

HON. ALHAGIE S.B SILLAH [NIANI]: Thank you, I rise to second the Motion.

THE SPEAKER: Thank you, it has been moved and seconded that the Records of Votes and Proceedings of the National Assembly Sitting of

Monday the 15th March 2021 be approved. Any issue, observation from Honourable Members?

[Question proposed]

HON. ASSAN TOURAY [BAKAU]: Page 1, "Statements by the Honourable Ministers", instead of "statements" "statement" and "ministers" "minister" page number 4.

THE SPEAKER: Noted, any other observation?

HON. SUWAIBOU TOURAY [WULI EAST]: Thank you Honourable Member, you know the "statements by" is the caption, that is "statements by ministers" it should always be there. It could be two ministers, three ministers but that is the caption that is there...

HON. SAINY TOURAY [JARRA EAST]: Yes, thank you Honourable Speaker, page 1 "oral ministerial statement, implementation and monitoring of the annual budget" this was never made Honourable Speaker, I think it should be indicated, thank you.

THE SPEAKER: Noted, any observation from any Honourable Member?

HON. OUSMAN TOURAY [SABACH SANJAL]: Yes, let me take you to number 16 and 21, I do not think those people were present yesterday.

THE SPEAKER: Thank you

HON. SAMBA JALLOW [NIAMINA DANKUNKU]: Honourable Chair, if you look at page 2, where you have "the establishment of the

parliamentary friendship group between Morocco and Gambia”, that one was withdrawn, it was not adopted.

THE SPEAKER: That is the Order Paper, but it has been withdrawn.

HON. OUSMAN TOURAY [SABACH SANJAL]: Yes, let me rectify, it is number 21, I was made to understand that was here, Honourable Member for Latrikunda.

THE SPEAKER: Noted.

HON. OUSMAN TOURAY [SABACH SANJAL]: Yes page 5 second to last paragraph, let me just read and put my correction there “Honourable Speaker informed the Assembly that the Honourable Minister of Finance” it should be “for Finance” not “of” “Finance.

HON. OMAR CEESAY [NIAMINA EAST]: Honourable Speaker, I think it is “of” and not “for.” If you look at when they are making their abbreviation, normally they use “of” and not “for.” So, it is “Honourable Minister of Finance” and not “for Finance”.

THE SPEAKER: Noted, thank you.

HON. BAKARY NJAI [BUNDUNGKA KUNDA]: Thank you, I think the year mentioned all over is 2020 when it should be 2021, like number 3 at the end of the sentence which reads “Sitting of Tuesday 15th December 2020,” and it goes on to the next paragraph too, almost at the end.

THE SPEAKER: Ok noted.

HON. SUWAIBOU TOURAY [WULI EAST]: Yes, Page 7 on the last paragraph first line “the Honourable Speaker granted the request and cautioned” we should put “but” to read as “the Honourable Speaker granted the request but cautioned, that is how it should be to show contrast.

THE SPEAKER: Noted, any other observations?

HON. BILLAY G. TUNKARA [KANTORA]: Thank you very much Honourable Speaker, I think they are right, the issue we are reporting is about what transpired last Sitting in December, so the record here is correct and should be 2020 instead of 2021, thank you.

THE SPEAKER: Noted, thank you any other observations?

HON. AMADOU CAMARA [NIANIJA]: Yes, Page 8 under the paragraph “question put and agreed to,” let me just read if not you will not understand. “It has been moved and seconded that this Honourable Assembly do consider the agreement between the government of the Republic of The Gambia and DCAF - Geneva Centre for Security Sector Governance for the Establishment of DCAF Field Office in The Gambia.” It seems like it should be “field office” because that is how it is stated on the Order Paper. So, wherever it appears, we should put “field office” instead of only “field”, thank you.

THE SPEAKER: Thank you, noted.

HON. SUWAIBOU TOURAY [WULI EAST]: The last paragraph first line which says: “At this juncture, the Honourable Speaker invited

Honourable Members” we add “ed” on the word “wish” to read as “who wished to take part” because we are reporting, it should be in the past, thank you.

THE SPEAKER: Thank you, noted.

HON. SAINÉY TOURAY [JARRA EAST]: Thank you Honourable Speaker, on the motion which reads “be it resolved that this august Assembly do stand adjourned” the “august” should be in capital and “be it resolved” should be in italics and capital letters.

THE SPEAKER: Thank you.

HON. AMADOU CAMARA [NIANIJA]: Page ten, the sentence before “question put and agreed to” where you have the motion seconded by the Honourable Member for Foni Berefet, it should be “spoke on the motion,” then if you go to the ensuing debate, you should remove his name there and start with Honourable Ndey Yassin Secka as number 1, thank you.

THE SPEAKER: Noted, any other observations?

HON. SAINÉY TOURAY [JARRA EAST]: Honourable Speaker, I am on records for always highlighting this error. If you go to page 10, it says “be it resolved” all in small letters for the purpose of consistency we have to adopt one, thank you.

HON. SUWAIBOU TOURAY [WULI EAST]: Page 14 on the first line, which reads: “Honourable Members who wish to partake” you add “ed” to the word “wish.”

THE SPEAKER: Noted.

HON. AMADOU CAMARA [NIANIJA]: In the ensuing debate, I seconded the motion and spoke on it, there is no need to put my name on the ensuing debate list, thank you.

THE SPEAKER: Noted.

HON. SUWAIBOU TOURAY [WULI EAST]: Page 17, where it says, "be it resolved that this august Assembly do stand adjourn" we should add "ed" to the word "adjourn" and then the paragraph before the phrase "at this juncture," the Honourable Speaker thank", "ed" should be added to the word "thank" to read as "the Honourable Speaker thanked everyone".

THE SPEAKER: Noted, thank you.

[Question Proposed, Put and Agreed to]

[That the Records of Votes and Proceedings of the National Assembly Sitting of Monday 15th March 2021, be approved with amendments]

3. LAYING OF PAPERS AND REPORTS

- i. Report of the Joint Committee of PEC/ Environment and Sustainable Development and NGO Affairs on the Petroleum Commission Bill, 2020 [By: Hon. Chairperson of the Joint Committee]**

THE SPEAKER: Honourable Members, if you could recall that the motion for the Second Reading of the Bill entitled Petroleum Commission

Bill 2020 was moved by the Honourable Minister of Petroleum and Energy on Friday 17th July, 2020. The motion was seconded and debated on the General merit and principle of the Bill, thereafter, the Bill stood referred to the Assembly Business Committee [ABC] and the Joint Committee on PEC/ Environment, Sustainable Development and NGO Affairs for further scrutiny and report back. The Committee today is scheduled to table its report before the Assembly. Once the report is tabled, the debate and adoption of the next stage of the Bill will be considered accordingly at an appointed date.

I would, therefore, invite the Honourable Co-Chairperson of the Joint Committee on PEC/ Environment, Sustainable Development and NGO Affairs to table the report of the Committee.

HON. SAINY TOURAY [JARRA EAST]: Thank you Honourable Speaker. This joint report will be ably presented by Member for Serrekunda on behalf of the Joint Committee. Honourable Speaker, you will recall that this Bill, the petroleum Bill was referred to the Joint Committee of [PEC] Public Enterprises Committee and Environment, Sustainable Development and NGO Affairs for further scrutiny. The Committee did justice to the work and you are coming to know that, as and when our presenter presented on our behalf. Without much ado, it is my pleasure Honourable Speaker at your request to invite the Co-Chair-Member for Serrekunda to speak on our behalf, thank you.

HON. HALIFA SALLAH [SERREKUNDA]: Thank you very much co-Chair, thank you very much Honourable Speaker. We did work together with efficiency and effectiveness to prepare the report on time.

Honourable Speaker, this is the report of the joint committee of the Standing Committee on Public Enterprises and the Select Committee on Environment Sustainable Development and NGO Affairs of the National Assembly on the Petroleum Commission Bill 2020.

Honourable Speaker, we did prepare the report taking into consideration the format which deals with acronyms, content, members who participated in the exercises, acknowledgement, introduction, mandate, methodology, proceedings, witnesses, scrutiny, evidence, consideration, and recommendations.

We have annex [1] Rationalization, harmonization, validation, adoption, and presentation of the consolidated version of the petroleum Commission Bill 2020. We have annex [2] which deals with the minutes of the joint committee- Public Enterprises and Environment sustainable Development and NGO Affairs.

Honourable Speaker, the Honourable Members who participated in the Exercise are as follows:

- | | |
|----------------------|-------------------------------|
| Hon. Sainey Touray | - Co-Chairperson, |
| Hon. Halifa Sallah | - Co-Chairperson, |
| Hon. Alagie Jawara | - Vice Chairperson/PEC, |
| Hon. Yaya Gassama | - Member, |
| Hon. Saikou Marong | - Member, |
| Hon. Suwaibou Touray | - 1 st Rapporteur, |
| Hon. Omar Ceesay | - Member, |

Hon. Salifu Jawo - Member,
Hon. Bakary Njie - 2nd Rapporteur,
Hon. Amadou Camara - Member,
Hon. Madi M.K. Ceesay - Member,
Hon. Alhagie S. Darbo - Member,
Hon. Muhamed Magassy - Member,
Hon. Ousman Touray - Member,
Hon. Kajali Fofana - member,
Hon. Kebbe K. Barrow - Member,
Hon. Muhammed Ndow - member,
Hon. Momodou Camara - Member,
Hon. Birom J.S Sowe - Member.

[Point of Observation]

HON. ALHAGI S.B SILLAH [NIANI]: On the list of the Honourable Members, Honourable Momodou Camara appears twice.

HON. ALAGIE JAWARA [LOWER BADDIBU]: It should be Honourable Amadou Camara and Honourable Momodou Camara.

HON. ALHAGI S.B SILLAH [NIANI]: No, Amadou Camara is there but Momodou Camara is also there.

HON. HALIFA SALLAH [SERREKUNDA]: Thank you very much but those things can come afterwards.

THE SPEAKER: Noted.

HON. HALIFA SALLAH [SERREKUNDA]: We will be looking at the report at the end and take note of all observations.

Honourable Speaker we did engage Subject Matter Specialists in the persons of the following:

Dr David Tommy,

Justice Amienata L.R Ngum

Mr. Foday Bojang.

The support staff are,

Fatoumata Keita - Committee Clerk,

Mr Lamin Bamba - Research Officer

Mr Modika Bah - Research Officer.

Honourable Speaker, we the Members of the Joint Committee wish to register our appreciation to the Clerk of The National Assembly for providing the support staff that gave their best, as necessity dictated, to enable the Joint Committee to attain its goal. The Subject Matter Specialists have had their inputs where and when necessary. The Minister of Petroleum and Energy and his team displayed tremendous commitment, consistency, humility and professionalism in defending what is defensible, while acknowledging all gaps matched with options to redress them, they were able to address all the concerns of the Committee Members and showed remarkable diligence in incorporating any recommendation that is fit for purpose.

The Joint Committee is indebted to the witnesses who took their time to scrutinize the Bill, clause-by-clause and satisfactorily demonstrated their competence, enthusiasm, professionalism, forthrightness, and objectivity in giving valuable evidence which enriched the report and content of the Bill.

Honourable Speaker, the Fifth Assembly of the Second Republic, sitting of Thursday, 02nd July 2020 during the Third Ordinary Session of the 2020 legislative year, witnessed the introduction of a Bill entitled "Petroleum Commission Bill, 2020."

On the second reading of the Bill dated 17th July, 2020, the Members debated on the merits and principles of the Bill. At the conclusion of the debate, the Minister of Petroleum and Energy gave his reply. The question was then put for the Bill to be read a second time and the motion was carried. The Bill was read for the second time and was referred to The Assembly Business Committee for Committal to the relevant Committee/Committees as dictated by Standing Order 68. The Assembly Business Committee remitted the Bill to a Joint Committee comprising the Public Enterprises Committee and the Select Committee on Environment, Sustainable Development and NGO Affairs, of the National Assembly.

The Joint Committee convened its inaugural meeting on 05th October 2020 to strategize and identify the way forward to fulfil its mandate as prescribed by Standing Orders 69, 107, 108, and 109 which provide the procedural guidelines to perform its task.

According to Standing Order 107, the Joint Committee had the option to allow one of the Committees to dispose of the Bill in accordance with Standing Order 108 or agree to sit concurrently in accordance with Standing Order 109 or propose the establishment of a Joint Select Committee to carry out the task as provided for under Standing Order 110.

The question was put, and the members choose to sit concurrently. The Chairpersons of the two Committees consulted and agreed to the principle of rotational occupancy of the seat of Chairperson and Vice Chairperson throughout the performance of their duties as provided for under Standing Order 109, Paragraph 3 b.

The meetings were Co- Chaired by Honourable Sainey Touray and Honourable Chairperson of the Select Committee on Environment, Sustainable Development and NGO Affairs and Honourable Halifa Sallah the Chairperson of the Public Enterprise Committee, on a rotational basis.

The Joint Committee considered it prudent to call the mover of the Bill and his team as the first witnesses to provide evidence on the Bill. It also charged the researchers with the task to gather more information regarding the Acts governing the Petroleum sectors in other jurisdictions for comparative analysis. The Joint Committee drew a list of relevant stakeholders that should be consulted to give information on the subject matter.

On Tuesday, 6th October, 2020 the Joint Committee held its first meeting with the mover to spell out the ground rules of the review exercise of the Petroleum Commission Bill, 2020 by the Joint Committee.

It was conveyed to the mover that the Joint Committee, had the duty as prescribed by Standing Order 69 to examine the details of the Bill, clause-by-clause, take evidence and gather proposals for amendments from relevant stakeholders which will be shared with the mover for consensus building on an amended version of the Bill, which would also be included in its report to the National Assembly for consideration.

An understanding was reached that, as the Joint Committee proceeds with the review process, proposed amendments would be conveyed to the mover for consideration. It was intimated to the mover that he had the duty to incorporate the amendments agreeable to him in the original Bill. This would be followed by the preparation of a consolidated version of the Bill by incorporating the proposed amendments for final review during a rationalization, harmonization and validation meeting aimed at finalizing and building consensus on a version of the Bill with its proposed amendment that would be conveyed to the Assembly for consideration.

After the inaugural meeting with the mover, the Joint Committee invited witnesses, gathered evidence, teased out the proposals for amendment and facilitated the preparation of a final text of the Bill incorporating all the proposed amendments.

This report indicates the mandate of the Joint Committee, provides a summary of the evidence gathered from the witnesses, projects all the proposals for amendments and attaches a text of the Bill incorporating all the proposed amendments for easy reference by members in scrutinizing the Bill, clause-by-clause for approval or otherwise, at the Consideration Stage.

Mandate: In accordance with Standing Order 69, the mandate of the committee is as follows:

- a) Identify witnesses, hold proceedings, and gather evidence on the clauses and schedule of the Bill:
- b) Record the opinion of the Committee on each clause and schedule of the Bill focusing on any proposed amendment.
- c) Present amendments in the order in which they stand in the Bill
- d) Present a report comprising a summary of the evidence gathered from the witnesses, the opinion of the committee on the clauses of the Bill and the amendments proposed as incorporated in a final text with minutes and related documentary evidence attached.

Methodology: The Joint Committee adopted the following methodology to gather evidence.

- a) Called witnesses to testify
- b) Called for submission of documentary evidence
- c) Convened meeting to rationalize and harmonize proposal for amendments

d) Convened meeting to validate the Bill with its proposed amendments

Proceedings: The Joint Committee engaged the following witnesses to gather evidence:

WITNESSES

- Hon. Fafa Sanyang - Minister of Petroleum and Energy,
- Lamin Camara - Permanent Secretary [MoPE],
- Jerreh Barrow -Commissioner [MoPE],
- Kissima Bittaye - State Counsel [MoJ],
- Momodou B. Sarr - Adviser to the Minister [MoPE],
- Ms Kanni Touray - Deputy Commissioner [MoPE],
- Lamin Fatty - PPP [MoFEA],
- Famara Darboe - Director [MoFWR],
- Mr Omar SM. Gibba - Deputy Permanent Secretary [MoFWR],
- Momodou Mbye Jabang -Permanent Secretary [MECCNAR],
- Musu kebba Sonko -Executive Director [MoLs],
- Yaya F. Barrow - Managing Director [GNPC],
- Yero Jallow - Deputy Managing Director [GNPC],
- Ms Cany Jobe Taal -Director of Exploration and Production [GNPC],
- Madam Aja Mariama Bah - Senior Legal Officer [GNPC],
- Lamin Manneh - Geo Science Manager [GNPC],

Malick Bah - Director of Technical Service [NEA],
Lamin B. J. Samateh - [NEA],
Nyallow Barrow - [Commissioner Department of Labour],
Mr Sidat B. Sanneh -Deputy Commissioner [Department of Labour],
Mr Alieu Jawo -Assistant Director [Geological Department],
Mansour Jobe -Director of Legal and Investigation [NAHRC], Ms
Sara Conateh -Director, Program &Operations [GCCCI], Bubacarr Saho
- Project Manager [GCCCI]

The Joint Committee relied on the testimonies of witnesses to review the details of the Petroleum Commission Bill, clause-by-clause, taking due notice of any input aimed at adding value to the content of the Bill. Cross references were made to ensure that the content of the Bill was brought into conformity with The Constitution of the Republic, 1997, The Public Enterprise Act 1993 and The Public Finance Act 2014.

Summary of Evidence: The Petroleum Commission Bill has five Parts, 27 Clauses and 1 Schedule. The Object of the Bill is to provide a regulatory framework for the management and development of petroleum activities in the Upstream and Midstream sectors of the industry in order to ensure optimum exploration, development, production and utilization of petroleum resources to optimally facilitate the socioeconomic development of The Gambia and the enhancement of the general welfare of the people.

The evidence gathered indicated the vacuum left in the interpretation of what constitute the Upstream and Midstream sectors of the Petroleum exploration, development, production and utilization process and related matters, which are the main concerns of the Bill. The Joint Committee got sufficient evidence to enrich the content of clause 1.

The factors which necessitate the proposed establishment of a Petroleum Commission have been fully explored and revealed as incorporated in clause 2. The monitoring and regulatory role of the Commission as well as the policy implications and desired outcome are clearly embedded in Clause two and three which define the strategic objectives and functions. The evidence gathered had added value in improving the content.

The witnesses pondered on the management architecture and emphasized the necessity for the Board and management to manifest competence and professionalism in all their undertakings in the service of the Commission. The witnesses expressed concerns on how to prevent political interference and evidence was adduced on the probable ways of shielding the Commission members from undue political interference in the performance of their duties as reflected in the content and proposed amendments covering clause 6 to clause 16.

A key issue that was buttressed by witnesses is the inclusion of local content in the Bill in terms of interpretation and operational focus in order to ensure optimum participation of Gambians and Gambian companies in sustainable petroleum activities for sustainable socio - economic development that would enable the country and the people to derive maximum benefits from the Upstream and Midstream sectors.

In that regard, witnesses considered the indispensability of building a viable and adequately resourced National Petroleum Company, through financial endowments and requisite training, to promote and safeguard national interest in the Upstream and Midstream sectors as well as provide a support base for the participation of private Gambian companies.

In the same vein, witnesses concurred that the Commission should not be deprived of public financial support if necessary but should have its resource base anchored on credible self-financing sources of income and schemes resting on pillars of transparency and accountability in financial management. Clauses 17 to 21 and the proposed amendments aim to provide the desired financial architecture.

Finally, the witnesses envisaged that the Commission would be a monitoring and regulatory body overseeing the proper development of the Upstream and Midstream sectors that must make binding decisions which may be subjected to appeal but should be free from any political interference. The laws governing its decisions, the regulations guiding compliance with the rules of engagement in the sector and the schedule mapping out the method of public disclosure of operational activities are proposed in clauses 22 to 27 and the First Schedule of the Bill.

SRCUTINY, CONSIDERATION, FINDINGS, OPINION, AND RECOMMENDATIONS

Opinion of the Committee on Clause 1,

Clause 1 under Part 1 Preliminary -Short Title - Evidence:

The Committee observes that the intention is to have the Bill enacted in 2020, this is why the short title of the Bill reads: "This Act may be cited as the Petroleum Commission Act, 2020."

Consideration: Since the Bill is to be enacted in 2021, if passed in 2021, it is considered necessary to amend clause 1 of the Bill, the "Short Title" by removing the year 2020 in the Bill and insert the year 2021.

Advice: It is proposed that Clause 1 as amended and incorporated in Annex 1 stands as part of the Bill.

Opinion of the Committee on Clause 2

Interpretation - Evidence:

The Joint Committee received evidence that key operational concepts or terminologies concerning activities in the petroleum sector are either absent or inadequately captured in the clause on Interpretation.

Consideration: The Joint Committee marked the absence of the following key concepts connected to petroleum activities under the Interpretation clause in the Bill: Licensee, Midstream, Petroleum Act, and Upstream.

The mover of the Bill concurred and undertook to include the interpretation of the above-mentioned terms in the Bill incorporating the proposed amendments as recommendation for adoption by the Assembly.

Furthermore, the Joint Committee observed that the following terms are not adequately defined in the Bill: Financial Year, Government, Local

content, Petroleum Activities, Petroleum data, Petroleum resources, Petroleum reserves, Reconnaissance Exploration

The mover of the Bill concurred and undertook to provide the definitions as proposed in the version of the Bill incorporating the proposed amendments.

Advice: It is proposed that clause 2 with amendment, as presented in the version of the Bill incorporating all the amendments stands as part of the Bill.

Opinion of the Committee on Clause 3

Clause 3 -Establishment of the Petroleum Commission

Evidence: The evidence adduced confirmed the importance of establishing such a Commission before the activities on petroleum exploration and development. Production evolved and flourished to an unmanageable scale without enacting a law on petroleum governance as has happened in other jurisdictions, to their detriment.

Consideration: The Joint Committee considered the consensual opinion as valid and did not register any proposal for amendment that could be considered to be in line with current or better practice. It is proposed that clause 3 without amendment stands as part of the Bill.

Clause 4 - Objectives of the Commission

Evidence: Witnesses observed that it was not the role of the Commission to implement policies in general for the sustainable

development of the petroleum sector, but to monitor and regulate the sector and ensure compliance with the Act, regulations, Licenses, permits and related policies.

Consideration: The Committee considered the objectives and observed that the Commission should focus on its key function of monitoring and regulating petroleum activities in the Upstream and Midstream sectors aimed at enhancing sustainable socio-economic development of the country and safeguarding local content by ensuring compliance with the Act, regulations, Licenses, permits and related policies.

Advice: It is proposed that Clause 4 with amendments stands as part of the Bill as incorporated in Annex 1.

Clause 5 -Functions of the Commission

Evidence: In safeguarding local content, the witnesses expressed the desire for a more equitable sharing of responsibility to market petroleum data as well as to secure benefit from the earnings to promote the sustainability of local content initiatives.

It was given in evidence that other countries have enactments promoting local content including supporting national enterprises and nationals to participate in their petroleum midstream and upstream industry.

It was observed that a national oil company that represents government's participating interest in licenses has a shared responsibility to promote and market petroleum data which is the basis for investment by license holders who serve as partners.

Consideration: Members considered all the concerns, but the evidence did not factor any proposed amendments. It is proposed that Clause 5 without amendments stands as part of the Bill as reflected in Annex 1.

Clause 6 -Establishment of the Board of the Commission

Evidence: It is evident that contrary to Section 175 of the Constitution, the Bill seeks to grant the President the power to appoint the members of the Board in consultation with the Minister and the Public Service Commission. The Constitution limits the consultation exercise to the PSC. The witnesses gave the reasons why the composition should include a social and environmental specialist. Witnesses who expressed the aim to protect fish stocks against threats in developing the upstream and midstream sectors, proposed for the Geoscientist to be replaced by a marine biologist.

Evidence was laid as to who the “one other person” should be in the list of members. The GCCI, had a strong position that, as the representative body of the private sector in The Gambia since 1967, it should be represented in the Board. According to the evidence given, the GCCI is the champion for local content advocacy and does engage government on daily basis to express opinions that inform policy, legislation, and regulation. They deem it fit to have the GCCI represented as a member of the board of the petroleum commission.

It was further observed that since the composition of the Board allows the membership of a private person, it is recommended that employees of private and/or international license holders and contracting companies,

shareholders of private/international entities operating in or providing services to the petroleum sector be disqualified from holding Board appointments to avoid conflicts of interest.

Consideration: The Committee considered Clause 6 and eventually, consensus was built to retain the services of a Geo scientist while adding the service of a Social and environmental specialists. The consideration to appoint Board members is also to be in line with the Constitution. The President may take note of the proposal of the GCCI and the other cautionary remarks when appointing the one other person, especially the need to balance the gender divide in the composition of the Board.

Advice: It is proposed that Clause 6 with amendments stands as part of the Bill as incorporated in Annex 1.

Clause 7 - Functions of the Board

Evidence: The witnesses indicated that the Commission is a regulatory authority and not a policy making authority, and wherever the function of policy making is expressed or implied, it should be qualified.

Consideration: The Committee made observations that the policy making power of the Commission should be limited by law to the internal operational directives of the Commission rather than the general policies of the sector, which is the responsibility of the Ministry.

Advice: It is proposed that Clause 7 with amendments stands as part of the Bill as incorporated in Annex 1.

Clause 8 - Tenure of office of Members

Evidence: The witnesses did raise concern regarding the tenure of Non-ex-officio and ex-officio members. The proposal is in evidence that the non - ex-officio members be required to serve a term of three years, renewable only once.

An additional provision was proposed for the post of Secretary to the Board to arrange the meetings of the Board, keep a record of the proceedings of the Board and perform such other duties as the Board or the Director General may direct.

Consideration: The Committee considered the content of the clause and the substance of the recommendation but had no input.

Advice: It is proposed that Clause 8 without amendments stand as part of the Bill as incorporated in Annex 1.

Clause 9 -Vacation of Office

Clause 9 -Constitutes the Vacation of Office

Evidence: The clause charges the Director General to inform the President of a vacancy in the composition of the Board through the Minister and the President to find a replacement within reasonable time.

Consideration: The Committee observed that it is the Director General and not the Minister who informs the President of any vacancy in the Board and such notification and any subsequent appointment are not time bound.

The mover and team concurred with the proposed amendments which seek to give seven days to the Director General to inform the Minister of

any vacancy, 14 days to the Minister to convey the information to the President and 45 days to the President to fill the vacancy.

Advice: It is proposed that Clause 9 with amendments stands as part of the Bill as incorporated in Annex 1.

Clause 10 - Meetings of the Board

Evidence: It was revealed that the Public Enterprise Act provides for a quorum of five members instead of a simple majority as stated in the Bill.

Consideration: The Committee observed the need for the Bill to be brought into conformity with the Constitution and the Public Enterprise Act. The mover concurred.

Advice: It is proposed that Clause 10 with amendments stands as part of the Bill as incorporated in Annex 1.

Clause 11 - Disclosure of Interest

Evidence: The witnesses did not raise any adverse concerns.

Consideration: The Committee considered the clause dealing with disclosure of interest before participation in Board deliberations and the implication of not doing so. It is proposed that the person making any disclosure of interest should not remain seated during the deliberations of the Board in respect to the matter.

Advice: It is proposed that Clause 11 with amendments stands as part of the Bill as incorporated in Annex1.

Clause 12 - Establishment of Committees

Evidence: The witnesses did buttress the importance of local content and the need for a participatory approach in promoting it.

Consideration: The Committee considered the clause and concurred with the concerns of the witnesses.

Advice: It is proposed that Clause 12 without amendments stands as part of the Bill as incorporated in Annex 1.

Clause 13 - Remuneration and Expenses of Members of the Board

Evidence: The witnesses did not raise any concerns.

Consideration: The Committee considered the content but had no input.

Advice: It is proposed that Clause 13 without amendment stands as part of the Bill as incorporated under Annex 1.

PART III – THE DIRECTOR GENERAL AND STAFF OF THE COMMISSION

Clause 14 - Appointment of the Director General

Evidence: Evidence was laid as to whether the Management of the Commission should be led by a Commissioner or Director General and whether the Director General is to be designated as head of the Commission. The witnesses conceive the Director General as the Chief Executive Officer of the Commission.

It was observed that Clause 14[2b] does indicate that the Director General should hold qualifications and be experienced in matters relevant

to the principal functions of the Commission but did not qualify the standards expected to be met.

Consideration: The Committee observed that the clause indicating that the Commission is headed by a Director General could be misleading. It proposed terms that defines role. It also noted the qualification and experience required for appointment of Director General must be stipulated. The proposed amendment calls for no less than five years working experience in matters dealing with the functions of the Commission and an advanced degree in the sector.

Advice: It is proposed that Clause 14 with amendment, as incorporated in Annex 1 stands as part of the Bill.

Clause 15 - Functions of the Director General

Evidence: The witnesses did raise concerns of competence and professionalism.

Consideration: It was observed that the functions could be enlarged to merit consideration in appointment. The importance of adding the responsibility of exercising direction in the implementation of the Act and regulations and facilitating appropriate guidelines and regulations for the operationalization of the permits and Licenses was highlighted.

Advice: It is proposed that clause 15 with amendment, as incorporated in Annex 1, stands as part of the Bill.

Clause 16 - Staff of the Commission

Evidence: The witnesses did not raise any concerns.

Consideration: The Committee did observe that the Board should undertake to provide guidelines for the appointment of staff of the Commission in line with standards set with the guidance of the Public Service Commission, as required by the Constitution

Advice: It is proposed that clause 16 without amendments, as incorporated in Annex 1, stands as part of the Bill.

PART IV – FINANCIAL PROVISIONS

Clause 17 - Funds of the Commission

Evidence: It was revealed that a trend is developing as a matter of state policy for Public Enterprises to generate their own revenue from their own sources of funding instead of relying on monies appropriated by an Act of the National Assembly.

It was observed that monies paid to the Local Content Fund could be a major source of funding for the Petroleum Commission.

Consideration: The Committee saw the need to amend clause 17 to make the provision designed to derive funds from the consolidated fund discretionary instead of being mandatory, as originally put in the Bill. The management of funds for training by the Ministry was also questioned and the mover and team agreed to transfer its management to the Commission while the Minister provides regulations to ensure accountability.

Advice: It is proposed that clause 17 with amendments, as incorporated in Annex 1, stands as part of the Bill.

Clause 18 - Expenses of the Commission

Evidence: The witnesses had no comments to advance

Consideration: The Committee did not have any input in its consideration of the Clause.

Advice: It is proposed that Clause 18 without amendment, as incorporated in Annex 1, stands as part of the Bill.

Clause 19 - Annual Estimates

Evidence: The witnesses did not make any observation on this clause.

Consideration: The Committee had no additional input.

Advice: It is proposed that clause 19 without amendment, as incorporated in Annex 1, stands as part of the Bill.

Clause 20 - Accounts and Audit

Evidence: It was evident that it was not tenable for statement of accounts to be submitted to the Auditor General, three months before the end of a financial year as stated in the Bill and indicated in clause 20.

Consideration: The Committee observed the need for amendment of the clause to bring it into conformity with the Public Enterprise Act, so that statement of Accounts would be submitted three months after the end of each financial year.

Advice: It is proposed that Clause 20 with amendments, as incorporated in Annex 1, stands as part of the Bill.

Clause 21. Annual Report

Evidence: The Bill seeks to mandate the Commission to submit annual reports to the National Assembly without any stipulation of a timeframe which is at variance with Section 175 of the Constitution.

Consideration: The Committee observed the divergence of clause 21 with the provisions of Section 175 of the Constitution and sought for compliance with the Constitution and The Public Enterprise Act in framing the clauses. The mover and team concurred with the view and undertook to put the necessary amendments in place to ensure that activity reports and financial statements of the Commission are submitted to the National Assembly within three months of the end of its financial year

Advice: It is proposed that Clause 2 with amendments, as incorporated in Annex 1, stands as part of the Bill.

PART V – MISCELLANEOUS

Clause 22 - Protection of Members and Staff of the Commission

Evidence: The witnesses did indicate that the clause which aims to protect Commission members and staff from suits and prosecutions seems to insulate members of the board from individual responsibility and dilutes accountability.

Consideration: It was observed that giving immunity to members and staff of the Commission in the exercise of their lawful duty is susceptible to scrutiny by the courts when the lawfulness of any action is in question. The clause may need further scrutiny to provide protection without the possibility of abuse.

Advice: It is proposed that Clause 22 without amendment stands as part of the Bill as incorporated in Annex 1.

Clause 23 - Compliance with Decisions of the Commission

Evidence: The witnesses did not raise any objections.

Consideration: It is observed that the licensees and subcontractors have the duty to abide by the lawful decisions of the Commission since they have the right to appeal if they are aggrieved by any questionable decision in terms of lawfulness.

Advice: It is proposed that Clause 23 without amendment, as presented in Annex 1, stands as part of the Bill.

Clause 24 - Review of decision

Evidence: It is observed that powers of the Minister to review complaints from persons aggrieved by a decision of the Commission and even set aside the decision of the Commission could lead to undue political interference. It was proposed that a complaint panel be established to deal with complaints.

Consideration: The setting up of a special Committee of independent eminent persons to review complaints of a person aggrieved by a

decision of the Commission was proposed to be a better option. The mover of the motion concurred.

Advice: It is proposed that Clause 24 with amendment, as incorporated in Annex 1, stands part of the Bill.

Clause 25. Relationship with other Entities

Evidence: The witnesses did not raise any concern.

Consideration: The provision is considered to reflect the desirability and inevitability of building genuine relationships in the performance of the functions of the Commission.

Advice: It is proposed that Clause 26 stands part of the Bill without amendment, as provided for in Annex 1.

Clause 26 - Regulations

Evidence: The witnesses had no objection to the power of the Minister to make regulation.

Consideration: The Committee is of the opinion that all regulations are classified as subsidiary legislation which are subjected to review by the relevant Committee of the National Assembly under Standing Order 80.

Advice: It is proposed that clause 26 stands as part of the Bill without amendment, as provided for in Annex 1

Clause 27 -Inconsistency with other Laws

Evidence: It was received in evidence that the provision as framed could lead to many interpretations and the automatic ousting of all law

relating to licensing in the upstream and midstream sectors without proper impact assessment of the implications to relevant sectors.

Other institutions feel that this provision will be used to usurp their powers.

They want to replace the phrase "licensing in the upstream and midstream" with the phrase "regulation of the upstream and midstream".

Consideration: It was observed, and the mover of the Bill concurred that the Bill is not centred on licensing, but on regulation of the upstream and midstream sectors. Hence, Clause 27 was reviewed accordingly.

Advice: It is proposed that Clause 27 with amendment as incorporated in Annex 1, stands as part of the Bill.

Honourable Speaker, that was the exercise that this Committee had undertaken to be able to guide this National Assembly as it moves to the next phases after the committee stage [consideration stage]. The co-chairs will be leading the National Assembly regarding the amendments that were recommended so that as we read clause by clause at the consideration stage, the co-chairs will be intervening to make proposals of the amendment. We accept that, the work has been done and concurrence had been achieved with the Minister and in that regard, we should not have much difficulty at the consideration stage. That is the objective of the Committee stage to help the National Assembly prepares itself for the consideration stage. In that regard Honourable Speaker, I beg to take my seat.

THE SPEAKER: Thank you very much Mover. Any seconder?

HON. ALHAGIE H. SOWE [JIMARA]: Honourable Speaker, I rise to second the Motion and I will take this opportunity to thank the select committee for the good job they did to this report. Thank you very much.

HON. HALIFA SALLAH [SERREKUNDA]: The committee observed divergence of clause [21] with the provision of section [175] of the Constitution and sought for compliance with the Constitution and the Public Enterprise Act in framing the clauses. The mover and team concurred with the view and undertook to put the necessary amendments in place to ensure that the activity report and financial statement of the commission are submitted to the National Assembly within three months to the end of the financial year.

Advice: It is proposed that clause [2] with amendments as incorporated within Annex 1, to stand as part of the Bill.

Miscellaneous Part [5]

Clause 22- Protection of Members and Staff of the Commission

Evidence: That was also subjected to review and the Members considered the evidence. The witness did indicate that the clause which is aimed at protecting the Commission Members and staff from suits and

prosecutions seems to insulate Member of the board from individual responsibility and dilutes accountability.

Consideration: it was observed that, giving immunity to Members and staff of the Commission in the exercise of their lawful duty is susceptible to scrutiny by the court, when the lawfulness of any action is in question. The clause may need further scrutiny to provide protection without the possibility of abuse.

Advice: It is proposed that clause [22] without amendment as incorporated within Annex 1 to stand as part of the Bill.

Clause [23], Compliance with the Decision of the Commission

Evidence: The witness did not raise any objections.

Consideration: it is observed that the licensees and subcontractors have the duty to abide by the lawful decisions of the commission since they have the right to appeal, if they are aggrieved by any questionable decision in terms of lawfulness.

Advice: It is proposed that clause [23] without amendment, as incorporated in Annex [1] to stand as part of the Bill.

Clause [24] Review of the Decision

Evidence: It is observed that powers of the Minister to review complaints from person aggrieved by a decision of the Commission and even set aside the decision of the Commission, could lead to undue political interference. It was proposed that a complaint panel be established to deal with complaints.

Consideration: The setting of a special committee of independent eminent persons, to review complaints of individuals aggrieved by the decision of the Commission was proposed to be a better option. The mover of the motion concurred.

Advice: It is proposed that clause [24] with amendments, as incorporated in Annex 1, to stand as part of the Bill.

Clause [25] – Relationship with other Entities

Evidence: The witness did not raise any concern.

Consideration: The provision is considered to reflect the desirability and inevitability of building genuine relationships in the performance of the functions of the Commission.

Advice: It is proposed that clause [26] stands part of the Bill without amendment as provided for in Annex 1.

Clause [26] - Regulations

Evidence: The witness has no objection to the power of the Minister to make regulation.

Consideration: The committee is of the opinion that all regulations are classified as subsidiary legislations which are subjected to review by the relevant committee of the National Assembly under Standing Order [80].

Advice: It is proposed that clause 26 stands as part of the Bill without amendment, as provided for in Annex 1

Clause 27 Inconsistency with other Laws

Evidence: It was received in evidence that the provision as framed could lead to many interpretations and automatic ousting of all laws relating to licensing in the upstream and midstream sectors without proper impact assessment of the implications to relevant sectors

Other institutions feel that this provision will be used to usurp their powers.

They want to replace the phrase “licensing in the upstream and midstream” with the phrase “regulation of the upstream and midstream”.

Consideration: It was observed that, and the mover of the bill concurred that, the bill is not centered on licensing in particular but on regulation of the upstream and midstream sectors. Hence, clause 27 was reviewed accordingly.

Advice: It is proposed that clause 27 with amendment, as incorporated in Annex 1, stands as part of the Bill.

Honourable Speaker, that is the exercise that this committee had undertaken to be able to guide this National Assembly as it moves to the next face after the committee stage, and that is the consideration stage, and the co-chairs will be leading the National Assembly regarding the amendments that are recommended, so that as we read clause-by-clause at the consideration stage, the co-chair will be intervening to make proposal of the amendments, We accept that the work has been

done, and concordance had been achieved with the Minister. In that regard, we should not have much difficulty at the consideration stage, that is the objective of the committee stage, to help the National Assembly to prepare itself for the consideration stage.

In that regard Honorable Speaker, I beg to take my seat.

THE SPEAKER: Thank you very much mover. Any seconder?

HON. ALHAGIE H. SOWE [JIMARA]: Thank you very much Honourable Speaker. I rise to second the motion and I would like to take this opportunity to thank the select committee for the good work they did for this report.

THE SPEAKER: It has been moved and seconded, that this Honourable Assembly do consider the report of the Public Enterprise Committee, Environment, Sustainable Development, and NGO Affairs on the Petroleum Commission Bill 2020.

[Question Proposed]

Any Honourable Member who wishes to take part in the debate may do so by raising your constituency tag.

HON. AMUL MUSA NYASSI [FONI KANSALA]: Thank you very much Honourable Speaker. I may not dwell too long on the subject matter before us, reason being that, when the Co-Chair of the Joint Committee was making the presentation, I was with him and I believe the revisiting of our Standing Orders, which was done by the committee was actually a step in the right direction. Looking at the approach in terms of reviewing

what comes before us by committing it to the relevant committee, have really added value to the work we do in the National Assembly.

Honourable Speaker, we will not dispute that since we started committing various reports and bills to relevant committees, those committees in question have always been doing a thorough job by inviting the relevant stakeholders to add value to their work. So, one can conclude that when a report from a committee is laid before us, represents the views of the entire population because each of the stakeholders is representing a segment of the society. So, it is widely consultative.

Honourable Speaker, like I said early on, I may not belabor because we will go to the next level where the two committees through the leadership of the Co-Chairpersons will be guiding the business of the day accordingly.

On that note, I want to say thank you very much to the work of the Joint Committee, this was expected but again, it is not a surprise because that was the reason why the plenary had the confidence to commit this Bill in your hand, I thank you.

HON. ASSAN TOURAY [BAKAU]: Honourable Speaker, I have not got much to say but then, I had an observation of which I would like a clarification from the presenter of the report. In the report, I have not seen where the nomination or the membership of the commission should be done. So, I would like the mover of the report to clarify that issue and there is an indication in the report that there should be an immunity for

Commission Members but then, I still want an explanation of how that immunity should be done for commission Members.

HON. SAINÉY TOURAY [JARRA EAST]: Honourable Speaker, thank you very much for giving me the floor. I do not have much to say other than to thank our able presenter on our behalf for a job well done.

Honourable Speaker, you will agree with me that, this report was thoroughly investigated, and it was thoroughly dissected by the Joint Committee.

Honourable Speaker, at this juncture, allow me to register our profound gratitude to our able stakeholder who also participated in making this report what it is today.

Honourable Speaker, the Minister of Petroleum and Energy have contributed immensely to making this report as it is. We must thank them for their professionalism and the level of maturity they have displayed during our discussion.

Honourable Speaker, I also want to thank all the Members of the Joint Committee for the wonderful work they have done, the time and the interest they have injected in making sure that this report is tabled today.

Honourable Speaker, I also want to thank the office of the Clerk through the Speaker and our various committees namely: FPAC Committee and the Select Committee of Environment plus our indefatigable Committee Clerk in the person of Fatoumatta Keita for a job well done.

Honourable Speaker, with these few remarks, I will take my seat and await the positive interventions or queries of Honourable Members thank you very much.

HON. SULAYMAN SAHO [CENTRAL BADDIBU]: Thank you Honourable Speaker, the report before us is a very good report and it is timely and I believe the committee that are mandated to scrutinize the Bill, as well as the stakeholders for appearing as witnesses, did a tremendous work.

Honourable Speaker, by looking at the objectives of the Bill which is to provide the regulatory framework for the management and development of petroleum activities in the upstream and the midstream sector of the industry, to ensure optimum exploration, development, production, and utilization of Petroleum resources, in order to optimally facilitate the socioeconomic development of The Gambia and the enhancement of the general welfare of the Gambian People.

Honourable Speaker, the objective is self-explanatory and there are lot of things that are happening in the Petroleum industry. So, having a law to serve as a guide so that the resources benefit the poor people, I think that is the right step in the right direction.

Honourable Speaker, if you look at the Bill on page 10, it indicated the key issue that was buttressed by witnesses for the inclusion of local content in the bill, in terms of interpretation and operational focus to ensure optimum participation of Gambians and Gambian companies in sustainable petroleum activities for sustainable socio- economic

development that would enable the country and the people to derive maximum benefits from the upstream and midstream sectors.

Honourable Speaker, I want the mover of the motion or the person who laid the report to help this August Assembly, because we do not see how our local companies, local people or partners are involved. How are they protected in the Bill? Where can they also participate in the economic activities or competition? We need to see it in the Bill, not only to be reported. If it is there, let him help me because I have not seen it anywhere. The other one is on page 15, where it says; "evident was laid as to who the one other person should be in the list of members." The GCCI, had a strong position as the representative body of the private sector in The Gambia since 1967, and should be represented in the board. According to the evidence given, the GCCI is the champion for local content advocacy and does engage government daily to express opinions that can inform policy, legislation, and regulation. They deemed it fit to have the GCCI represented as a member of the board of the Petroleum Commission.

I believe the committee should have accepted what has been advanced by GCCI, and they should have been part of the board because if you look at their mandate, what they do as far as petroleum is concerned, they should also have a voice. So, if you look at the consideration made by the committee, they leave it open for the President to nominate somebody to be part of it in terms of gender. I am not comfortable with that, as I believe this House can unanimously recommend GCCI to be represented in the board. So, I do not know whether it would work well

in the other laws, but there is no problem as far as the laws are concerned. I think GCCI should be part of the board.

So, these are some of the observations that I had, and I want to thank everybody for participating in making this bill a draft.

HON. SUNKARY BADJIE [FONI BREFET]: Honourable Speaker, mine is a small proposal, if I refer the Honourable House to page 16 Clause [9]; Vacation of Office, I would propose, the replacement of Membership of the board by the Minister and the President should be within a reasonable time, and I do not know whether the committee would like to propose a timeline, given that, what is deemed as reasonable to one party would not be reasonable to the other party. But if this is not the normal trend, I will propose a timeline, that is my recommendation. I just want to thank the committee for a job well-done.

HON. MAHTARR M. JENG [LOWER NUIMI]: Honourable Speaker, I doubt whether my intervention would have anybody to bear me witness that, in the establishment of both Members, indigenous people have been involved and selected. It looks as if the establishment of all board is centered on the fact that, you must be a literate to be able to qualify you as a Member of the board. Why not we go further, because we are talking of local content and these resources do not belong to those people, it belongs to the nation which is composed of people who have "tubar" knowledge and the ones who do not have that knowledge and are part and parcel of this nation. Why do we not start considering them even if they are not literate. some of them can be literate in Arabic. may I put that suggestion so that the Petroleum Commission or the Select

Committee, whatever form it may be taking, would start considering putting in local people even if they are going to be taking from Wuli or from Njamanria or wherever, let them be member of the board.

HON. DAWDA KAWSU JAWARA [UPPER FULLADU WEST]: I just want to add my voice to my colleagues for thanking the two committee that have spent time to go into this bill deeper than I thought they have done. We are dealing with an issue here, which can either be a blessing or curse to the country in the future. Petroleum and Petroleum products have affected the socioeconomic and political fabrics of some countries to the extent beyond repair. From the onset, I expressed my appreciation for the establishment of a commission that is going to help the oversight body to carry out a function that needs expertise and experience, as institution like the National Assembly would not be able to conduct certain oversight on such issues. Therefore, having a commission, specifically looking into regulating this industry is something Gambia needs to do long before this product come to the surface. So, I applaud the government and the Minister for a job well done. I would also like to commend the committee for this insightful and extensive exercise on scrutinizing every single provision of the Bill, and to be honest, we can all look at this report and say for certain that there is no one page that is left untouched. Therefore, I want to thank everybody who have participated so far. I am looking forward to the committee level so that we can also have our little inputs in finalizing this enactment, thank you.

HON. SAIKOUBA JARJU [BUSUMBALA]: Honourable Speaker, I will be very brief. First of all, let me thank the committee for a job well done. We saw the work that they did and where they have problem. It is very clear that they have done a very good job. Although, the report is very bulky, it is readable and easy to understand. My concern as people's representative, referring to my constituency where you have some boreholes that are dug in certain communities, but those communities are not supplied with water. So, I want to be enlightened more on the aspect of local content, then I relate it to the communities. This oil is going to be extracted from the communities, from the lands that belong to the communities. So, what would be the benefit of such communities once the production and exploitation of this mineral resources start? That is why, I gave this example of the issue of boreholes in my Constituency which may not be correct, but as it is the case in Nigeria, the region that the oil is coming from is the most underdeveloped. So, I want to ask as to what would be the benefit of a community that is endowed with mineral resources to be exploited for the betterment of this country, what would be the benefit in the case of Mandinary for example which is part of it? This is my question, thank you very much.

HON. Fafa Sanyang [Minister for Petroleum]: Thank you very much Honourable Speaker. I noted some questions and I hope I will get all of them right. The first question was from the Member for Bakau, I did not actually understand his question, did he say nomination of the committee or nomination of the board? I really did not fully get his question. He also made mention of the instrument of immunity, and I

think that is a legal matter, virtually all lawyers of this nature have that kind of immunity. So, I did not fully understand your question, but when it comes to the other question from Central Baddibu, concerning the matters of the local content, I can explain. Local content itself, is a whole matter that requires more policy and regulations. This particular law is establishing a commission that will coordinate everything including local content. So, the plan is what we discussed at the level of the committee. Local Content will itself come up as a whole act and a policy that will expand the benefit to the people who participate in the industry. We have even started sensitizing the private sectors in collaboration with the Invest Africa to assess the scope and capacity of private sector involved in the petroleum activities. So, when it comes to the issue of local people being part of the board, that will come at another level. Local people's participation comes into different levels depending on where they participate. For example, in Service Activity Survey, the sizeable ship will buy food commodities, vegetables, then local content is to get the supplier from the country, from those people who are selling goods to be able to participate in providing that kind of services. So, it is from the regulatory body providing services in actual petroleum dealing or exploration development and production.

So, this Bill is establishing the commission that will coordinate all that. So, local content itself is very academic now, and all countries are going towards development that is also in line with ECOWAS protocol, and ECOWAS is also helping the countries to develop local content. Local content is very key in all the industries, although, there is this concern

about resource curse or Dutch disease. it is also debatable. Resource curse, as you can see in the petroleum and certain industries is having effects on people's lives and even security, which is true not only for petroleum, but also any country that is resourceful, of course, depending on how it is managed. We have also seen countries where these resources have been put to maximum use for example, in the case of UAE and other countries that are also developing, Ghana, for example, is doing very well now on the petroleum resources. So, we also try to learn from experience, and People give examples of other countries, where, it has been a problem. Moreover, instances where Dutch Disease prevails, it always affects the economy, and the productive sector is neglected because of the flow of money as had happened in many countries too. So, we must learn, that is actually what we have decided together. So, if you get the resources and you know how to use it, utilize it to the optimum, since resources are there for the people, it depends on the people to be able to make use of resources. So, these are the concerns that we have, and that is why we are considering the instruments. We should get our institutions and laws ready, as we told the committee. We are also coming up with the Revenue Management Policy Act. So, all these instruments will help prevent fears of Dutch disease or resource curse. There is a question also regarding the committee on GCCI, and I think we have deviated. GCCI has more role, even more than this one because if you look at it, there is a Petroleum Commission and a GNPC Act. So, GCCI has a role in all these, virtually in everything. But we have a provision for activities of private sectors and that private sectors can be members of GCCI. There are people from the private sector that are

members of the board. So, even though, you put on a strong case against it, we have already considered this at the committee level, and I think some of the committee members will keep to this. I think everything has been discussed at the committee level, and I think that is so far what I have. But the local content is what I am emphasizing here. Local content is not only the concern of this Assembly, but also the concern of the government, the Ministry, ECOWAS and African Union.

Local content is now a concern everywhere and we are to go along with the ECOWAS standard, but it must be on policy that is what I believe. It is not only a clause in the petroleum law, but it is also a clause in the local content, local participation and in the licenses, but that is not enough, I think we should go beyond that, to have more policy on local content. It is too important to only be on a clause here and there, I think there should be policy on that.

THE SPEAKER: Thank you Honourable Minister for that clarification. May I now call on the mover Honourable Co- Chairperson to respond to the issues raised on the report and conclude the debate?

HON. HALIFA SALLAH [SERREKUNDA]: The Honourable Minister said, there is a question from the Member for Bakau, regarding the composition of the board, which is already highlighted in the Bill itself and that is Clause 6 (six); comprising a chairperson, the Director General, scientists, a legal practitioner, Permanent Secretary of the Ministry and one other person including the social and environment specialist. These are the recommendations we have made by adding the social and environment specialist. Essentially, if you accept our recommendations,

you will be adding the social and environmental specialist and that will be the composition of the board. That is the reality and I do not know whether you have any objection to that.

Now the issue of immunity is provided for in the Bill in Clause (22), and as we will do the review when we come to the consideration stages, we can advance that now so that it becomes clearer, and we will not have much problem. What it is saying is that "an action sued, prosecuted or other proceeding, shall not be brought or instituted against a member of the board or staff of the Commission personally". That is the word, you cannot sue them personally. So, why is that the case? Well, it is already clear because Clause [3] is actually telling you that there is established an Act of the Petroleum Commission So, the Commission is established, and it is saying that the Commission is a body cooperate with perpetual subsection and common seal and may sue or be sued in this cooperate name. So, you can sue the commissioner, but you cannot sue somebody personally who is acting on behalf of the Commission. I think that is the essence and that is why the immunity is given. It is not giving immunity to the Commission but then you cannot sue somebody personally because that person is acting in the cooperate name of the Commission. I hope that is clear.

In terms of the Member for Foni Berefet, well, Clause [9] is already clear, what you said is what the Bill is saying, but if you look at Clause [9] after the review, we made recommendations and our recommendations is already read for you and I hope that you will accept our own recommendations which is saying that, Clause [9]: "The committee

observed that it is the Director General and not the Minister who informs the President of any vacancy in the Board and such notification and any subsequent appointment are not time bound". That is what we observed in the Bill and that is also the shortcoming of the Bill. We are saying that the mover and the team concurred with the proposed amendments which seek to give seven days to the Director General to inform the Minister of any vacancy, 14 days to the Minister to convey the information to the president and 45 days to the president to fill the vacancy. So, in that regard, that is precisely what we have seen as a lacuna, and that is the recommendation we are making to fill the gap.

The Honourable Member for Central Baddibu, did emphasize what the committee observed, we brought the argument of the GCCI right there so that, all of you can review, and whatever we do finally, will be the law. But we left it because of the other observations made and You can see that the two observations were made. GCCI is strongly saying that 1967 up to now represents local content but other recommendations are saying that, we must be careful in terms of who becomes a member because such a person should not represent certain cooperate interest. So, we have to balance issues here, are we going to put GCCI there institutionally, which means that the institution selects who would represent, guide, decide and say no, you cannot select this person or that, or are we going to leave this to be a guiding principles in selecting that one person, and then the person selecting will lay emphasis on holding consultations with GCCI and all those that matter to ensure that one person represents the interest of the private sector. That is why the

committee did not venture too far because we do not have concrete information about that, and in law making, you must be very careful that you do not tie yourself to something that is ambiguous. That is why the Committee did not penetrate, we are not expert on that. So, we leave it and the Minister also recommends what is there. So, we can only challenge that if we have something better, but we did not. So, in that regard, that is the answer for that one. I believe, this is where the main concern is, and I cannot remember any other divergent views.

So, in that regard Honourable Speaker, I believe that we have put the issues as clearly as we could, and we proposed that the Member adopts this report as proposed by the committee thank you very much. I also wish to emphasize the cooperation between the Co-Chairs and the two Committees, the diligence shown in our work method and the development of our clerical staff in the building up the base for writing report. I believe that, if we continue this team approach, we will achieve quite a lot during our tenure, and we hope that those – I am not sure that whether our partners, the stakeholders are invited, especially GCCI, they emphasized that when we hold such meetings they should be invited. I only hope that we have not forgotten to do what they proposed, but if we have strong apology to them, they have really spent time to be with us to speak with their hearts and minds. We will continue to hold them dear in the work that we do and if we fail this time, we will not fail next time in ensuring that they are here to listen to the very evidence they gave us, which enabled us to come up with this report thank you very much.

THE SPEAKER: Thank you very much Co-Chair.

[Point of Observation]

HON. SULAYMAN SAHO [CENTRAL BADDIBU]: Thank you Member for Serrekunda. Honourable Speaker, I did agree with the Member for Serekunda that in law making, you do not limit yourself, you have to open up in case of anything. But I just want to remind the House, if you could remember, when we are looking at The Women Enterprise Fund Bill, the institutions that are so much linked to the fund or have a hand in dealing with women particularly the Women Federation, we did consider that federation to be part of the Board Members. Now for GCCI, this is an institution that has a lot to deal with commerce when it comes to the economy, and I believe having them as Board Members will make it representative and will also help a lot. So, I am still appealing to the whole House to really look at this critically, because if they are not represented and we leave it like that, somebody else might be chosen somewhere which might not really represent the commercial area, that is my stand.

HON. HALIFA SALLAH [SERREKUNDA]: Anyway, it is good that we are open about it. Honourable Speaker, the next stage is the consideration stage, and each Member will have the right when we get to the clause to make a proposal. There are three days between the committee stage and consideration stage, and if any Member wishes to send anything for review regarding a particular clause, I am sure the

members will consider and vote for it. We are just stating the position of the committee but that is not final. It is the position of the Assembly that matters ultimately because when we vote, what we vote for is what is going to be there and the Member will have at that material time, the opportunity to argue his case not now anyway, but it is good that we are interacting to prepare ourselves for that.

THE SPEAKER: Let me seize this opportunity to thank everyone for their participation.

[Question Proposed, Put and Agreed to]

Be it RESOLVED THAT THIS AUGUST Assembly do adopt.

[The Report of the joint committee on PEC and Environment, Sustainable Development and NGO Affairs on the Petroleum Commission Bill, 2020]

The next stage is the consideration stage of the bill and is now scheduled as per the agenda of the session.

1. [Report of the Select Committee on Health, Women, Children Disaster, Refuges and Humanitarian Relief on the Gambia Nationality and Citizenship Amendment Bill 2020 by the Honourable Chairperson of the Committee]

THE SPEAKER: Honourable Members should recall that, the motion for the second reading of the Bill entitled the 'Gambia Nationality and Citizenship Amendment Bill 2020', was moved by Honourable Minister of Justice on Thursday the 16th July 2020. The motion was seconded and debated on the general merit and the principle of the Bill, ensuring accordingly thereafter, the Bill stood referred to the Assembly Business

Committee for comital to the ABC Committee. The said Bill was committed to the Select Committee on Health, Women, Children, Disaster, Humanitarian Relief for scrutiny and report back. The Committee is scheduled to table the report today before the Assembly. Once the report is tabled, debated, and adopted, the next stage of the Bill which is the consideration stage will be scheduled accordingly at the appointed time. I would therefore invite the Honourable Chairperson of the Select Committee on Health, Women, Children, Disaster, Humanitarian Relief and Refugees to table the report of the Committee.

HON. OUSMAN SILLAH [BANJUL NORTH]: Honourable Speaker, considering that the Committee is supposed to be presenting series of reports before the plenary, this Committee is being tasked to present the report on behalf of the committees.

HON. SULAYMAN SAHO [CENTRAL BADDIBU]: Honourable Speaker, you have already done the introduction, and I would not waist time on that. I will go to the mandate of the Committee, Standing Order [69] requires the Committee not to discuss the principle of the Bill in detail in terms of its clauses, it is for those mandated. As for us, we should listen to witnesses, take evident from witnesses, hold proceedings, and record the opinion of the Committee on each clause and schedule of the Bill. We should also apprehend any amendments recommended, arrange the amendments in order, according to how they stand in the Bill, present a report and in cooperate the summary of the evidence of the witnesses, the opinion of the Committee on the clauses, and attach relevant record of minutes of its proceedings.

Methodology

Since Clause 66 [1] [B], requires a committee at the committee stage of the process to engage in detailed investigation when considering a Bill committed to it, the Select Committee called witnesses from the identified institutions and organizations. This was done after each of them was provided with the copy of the Bill and thus asked to review and present a written or position paper on their views and recommendations if any, for the consideration of the Committee.

Now after holding the formal meeting at the National Assembly with the stakeholders from government ministries, departments, agencies, NGOs, and civil society organizations to present and discuss their reports, the Committee convened a meeting to review and validate the report and the position paper.

The Gambia Nationality and Citizenship Amendment Bill 2020 seeks to review a provision of the Labor Act found to be discriminatory against women and girls in the Gambia. It is very much important to the Gambia's international obligations which is also in line with the Constitution, and for connected matters, selected by the President and the National Assembly.

Now, I will go to the sections, section 9 [3] repeal; which reads as follows: "for the purpose of this section, a woman who has been married shall be deemed of full age".

Objects and Reasons

This amendment is the first of its kind in Africa for being the trail blazer for the recognition, observance and the domestication of international obligations and commitments relating to women's rights into domestic law. Since the enactment of the Women's Act 2010, significant strides have been made to enforce the law and to protect women in line with the provisions of the Act. Section 25 of the Women's Act recognized the need for periodic review of legislation every ten years to ensure further compliance with our international obligations as enshrined in the convention on the elimination of all forms of discrimination against women. [CEDAW], and the protocol to the African Charter on Human and People's Right on The Right of Women in Africa. This Amendment is intended to amend and repeal the provisions of this Act that are discriminatory against women as mandated by Section 25 of the Women Act.

The Planning Meeting

The Select Committee held a meeting on the 29th September 2020 to identify the relevant stakeholders to be consulted and to plan and adopt a road map for the engagement.

Proceedings

The following witnesses or stakeholders from government, non-governmental organizations and civil society participated in the consultation on the Gambia Nationality and citizenship [Amendment] Bill, 2020.

Witnesses

1. Mrs. Rohey Bittaye Darboe, - permanent Secretary Ministry of
Women Children & Social Welfare
2. Siaka Marong, - Ministry of children and social
welfare
3. Mr. Kisssima Bittaye, - State Counsel, Attorney General's
Chamber and Ministry of Justice
4. Fanta Bai Secka - Ministry of Health
5. Lamin B. Fatty - Ministry of Justice
6. Naffie Sissoho Bangura - Ministry of Justice
7. Abdoulie Colley - Ministry of Justice
8. Mustapha Drammeh - Ministry of Basic and Secondary
Education
9. Mariama A.M Sallah - Ministry of Basic and Secondary
Education
10. Isatou S. Jallow - Ministry of Basic and Secondary
Education
11. Juldeh Ceesay - Ministry of Finance and Economic
Affairs
12. Adama M. Jeng - GALGA
13. Mariama K. Sanyang - The Girls Agenda
14. Roya Namati - Paradise Foundation
15. Fatou Faye - Paradise Foundation
16. Isatou Deu Dawaneh - National Women Council
17. Fallu Sowe - Network Against Gender Based Violence
18. Mariama John - Network Against Gender Based Violence
19. Ousman Ceesay - Network Against Gender Based Violence

Members of the Committee in Attendance

1. Hon. Ousman Sillah - Chairperson
2. Hon. Fatou K. Jawara -Vice Chirperson
3. Hon. Amadou Camara - Member
4. Hon. Musa Amul Nyassi - Member
5. Hon. Kaddy Camara - Member
6. Hon. Ndey Yassin Secka - Member
7. Hon. Omar Darboe - Member
8. Hon. Saikou Marong - Member
9. Sarata Bojang - Secretary

Oral and Written Evidence of Witnesses:

Office of the Vice President

The position of the written submission of the office of the Vice President, is that the repealed Act is very discriminatory against women on renunciation of citizenship by reason of dual citizenship or nationality. It indicated that the Act defines a minor as a person who has not attained the age of twenty-one years, adding that this shall construe that a person shall for the purpose of this Act be full age, if he or she has attained the age of twenty-one years and of full capacity if he or she is not of unsound mind. The position further states that there is a contradiction when it comes to renunciation of citizenship as women are deemed of full age, if they have been married regardless of their age and which it deems unfair. It also argued that this does not consider girls

who are forced into marriage at a young age who could be forced to renounce their citizenship as they could not take mature decisions.

Gambia Immigration Department

Gambia immigration Department in its written submission argues that the Bill is necessary simply because apart from the discriminatory or the adverse effect characterized by section 9 [3] against women and girls in the country, it is also inconsistent with section 2 and 17 of the Nationality and Citizenship Act Cap 16:01. It indicated that if enacted, the Bill will further address the apparent inconsistency or conflict centered around the provisions on the interpretation of a minor and the required age to be eligible to acquire National identification, ID card. It provides the example that if X [female] got married as an underage i.e. below 18 years, and by virtue of 9 [3], she is deemed to be of full age and capacity. However, it added that Section 17 of the same Act makes X ineligible to acquire an ID card until she attains the age of 18.

Finding and Recommendations of the Committee

The Gambia Nationality and Citizenship Amendment Act, 2020.

1. Short title

This Act may be cited as The Gambia Nationality and Citizenship Amendment Act, 2020.

- **Observation/ conclusion**

The Committee observes that the witnesses agree with Clause 1 on the short title of the Bill

- **Committee's Recommendation**

The committee recommends that Clause 1 on the Short Title stands part of the Bill.

HON. SULAYMAN SAHO [CENTRAL BADDIBU]: The Gambia Nationality, I think that one needs to be corrected. Now, The Gambia Nationality and Citizenship Act, referred to as the Principal Act is amended as set out in this Act.

Observation and conclusion

The Committee observed that the witnesses agree with Clause 2 to stand part of the Bill.

Committee's Recommendation

The Committee recommends that Clause 2 should stand part of the Bill.

Repeal of Section 9 [3]

Observation and Conclusion

The Committee observed that witnesses are in full support of the repeal of Section 9 [3].

Committee's Recommendation

The Committee recommends to the repeal of section 9 [3] from The Gambia Nationality and Citizenship Act which reads as follows "for the

purpose of this section, a woman who has been married shall be deemed of full age”.

Observation and Conclusion

The Committee observed that the witnesses are all in support of the repeal and amendment of section 9 [3] to read as above.

Committee’s Recommendation

The Committee recommended for the repeal and amendment of Section 9 [3] to read as follows:

For the purpose of this section, a woman who has been married shall be deemed of full age.

Objects and Reasons:

This amendment is the first of its kind in Africa for being the trailblazer for the revolution, observance and the domestication of international obligation and commitment relating to women’s rights into domestic laws. Since the enactment of the Women’s Act 2010, significant strides have been made to enforce the law and to protect women in line with the provisions of the Act. Section 25 of the Women’s Act recognizes the need for periodic review of the legislation every 10 years to ensure further compliant with our international obligations as enshrined in the convention on the elimination of all forms of discrimination against women [CEDAW] and the protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa. This amendment is intended to amend and repeal the provisions of this Act that are

discriminatory against women as mandated by Section 25 of the Women's Act.

Observation and Conclusion:

The Select Committee recommended for the objects and reasons to be re-drafted for it to capture the specific nature of the issue the Bill is intended to address as required by Standing Order 64(1)(a) which states that 'every bill shall be accompanied by a memorandum sign by the person in charge of the bill containing a statement of the objects and reasons of the Bill including the nature of the issue the Bill is intended to address''.

It was agreed by the Committee that the task of redrafting the Bill to ensure that it is specific to the propose amendment was assigned to the draft team counsels from the Ministry of Justice, so I thank you for your kind attention.

THE SPEAKER: Thank you. Any seconder? Sabach Sanjal the floor is yours.

HON. OUSMAN TOURAY [SABACH SANJAL]: Thank you very much Honourable Speaker. I rise to second the motion and I do not have much to say maybe, just to seek for little clarification because when I look at the proposed amendment Section 9[3] for easy reference, I think the original section should be quoted so that it will be easily referenced, because some of us did not even have the Parent Act here, so that is why I just see at my level. Thank you very much for giving me the opportunity.

THE SPEAKER: Thank you.

[Question Proposed]

THE SPEAKER: Any Honourable Member who wishes to take part in the debate may do so by raising your constituency tag. Honourable Member for Banjul North, the floor is yours.

HON. OUSMAN SILLAH [BANJUL NORTH]: Thank you very much Honourable Speaker. I also want to thank the presenter who presented on behalf of the Committee. I only want to add our recommendations for the attention of this plenary regarding the short title. This report was supposed to be laid last year 2020 and we recommended that we maintained 2020, but since we are now in 2021, we are proposing that we indicate 2021 as a recommendation of the Committee, for Members to take note.

Apart from that, I think the presenter did well in presenting this report. Of course, he may be able to respond to Honourable Member for Sabach Sanjal. Well, I think the first part of the report indicates what amendment we are seeking to effect, so I think that has been taken care of and then according to the presenter, the Committee agreed that since it is not contentious as far as witnesses are concern, we just go by it and then go by what is being proposed by the Minister. On that note, I want to thank the presenter and Honourable Members.

THE SPEAKER: Thank you Honourable Member for Banjul North. Honourable Member for Serrekunda, the floor is yours.

HON. HALIFA SALLAH [SERREKUNDA]: Thank you very much Honourable Speaker. The consultative exercise helps the population to know what the Assembly is doing and what laws are meant to do. They are meant to guide society, preventing what harms them, promoting what serves them and prohibiting what harms them and ensuring that we protect what serves them. So essentially, the promotional and protection dimension is what has given rise to the review of all those laws that may be harmful to the interest of women, and by extension men and the society as a whole. So, this particular one is about full age. What constitutes full age and apparently, if you say that once a woman is married, they must be of full age. Apparently, that is not the view of most of those who were consulted on matters of that age, and full age should be properly defined according to law.

Therefore, this definition that is in the Act itself, The Gambia Nationality and Citizenship Act must be repealed, and to do it, should be in conformity with the Constitution and other laws especially the law that says that you cannot get an ID card until you are 18 years. So, if this provision is there, it means that there will be some ambiguities in terms of interpretation by those who are enforcing the law. So, in that regard, the recommendation of the Committee is in line with what will serve the interest of women and the national interest. So, it should really get our support thank you.

THE SPEAKER: Thank you Honourable Member for Serrekunda, I think he is last on my list. If no Honourable Member is coming, then I will call the Honourable Minister of Justice. The floor is yours Honourable Minister.

HON. DAWDA A. JALLOW [ATTORNEY GENERAL AND MINISTER FOR JUSTICE]: Thank you Honourable Speaker. I will just take this opportunity to thank the Members of the Committee and by extension the entire plenary. There is not much of issues in this regard, except as the Member for Banjul North has indicated that the short title of course will change to reflect the current date. Apart from that, we appreciate the work of the Committee and we thank you very much. There is not much Honourable Speaker for my intervention, thank you very much.

THE SPEAKER: Thank you Honourable Minister. May I now call on the Honourable Chair or the mover to respond to the issues raised on the report, Honourable Chair.

HON. SULAYMAN SAHO [CENTRAL BADDIBU]: Thank you Honourable Speaker. I think we have to thank various Honourable Members who spoke in favor of ensuring that we do not have the old laws because these laws are so discriminatory, and they are not promoting the welfare of women. So, we thank the Honourable Members of this House who stood in solidarity with us to ensure that we eliminate all forms of discrimination against women, thank you.

[Question Proposed, Put and Agreed to]

[For adoption of the report of the Select Committee on Health, Women, children, Disaster, Refugee, Humanitarian Relief on the Gambia Nationality and Citizenship Amendment Bill 2020]

THE SPEAKER: I thank you. The next stage is the Consideration Stage of the Bill and is now scheduled as per the agenda of the session. Clerk, you may proceed.

Report of the Select Committee on Health, Women, Children, Disaster, Refugees and Humanitarian Relief on the Births, Deaths and Marriages Registration (Amendment) Bill 2020 by the Honourable Chairperson of the Committee.

THE SPEAKER: Thank you Clerk. Honorable Members would recall that the motion for the Second Reading of the Bill entitled Births, Deaths and Marriages Registration (Amendment) Bill, 2020 was moved by the Honourable Attorney General and Minister of Justice on Thursday the 16th July 2020. The motion was seconded and debated on the general merit and the principle of the bill

Accordingly, thereafter, the bill stood referred to the ABC Committee for committal to the Select Committee on Health, Women, Children, Disaster, Refugee and Humanitarian Relief for scrutiny and report back. The Committee today scheduled to table the report before the Assembly. Once the report is tabled, debated, and adopted, the next stage will be the Consideration Stage and would therefore be scheduled accordingly. I now invite the Honourable Chair of the Select Committee on Health, Women, Children, Disaster, Refugees and Humanitarian Relief to table the report of the Committee, Honourable Chair.

HON. OUSMAN SILLAH [BANJUL NORTH]: Thank you very much Honourable Speaker. With regards to the same consideration as of the

previous report, the Honourable Member for Nianija who a Member of the Select Committee is also is being tasked to present this report on the Birth, Death and Marriage Registration (Amendment) Bill 2021 on behalf of the National Assembly Select Committee on Health, Women, Children, Disaster, Refugees and Humanitarian Relief.

THE SPEAKER: Thank you, Honourable Member for Nianija the floor is yours.

HON. AMADOU CAMARA [NIANIJA]: Thank you very much Honourable Speaker and thank you very much Honourable Chair. I rise to move that the report of the Select Committee on Health, Women, Children, Disaster, Refugee and Humanitarian Relief of the National Assembly of The Gambia on the Births, Deaths and Marriages Registration (Amendment) Bill be considered.

Honourable Speaker, as highlighted by the previous report from the said Committee, Members of the Committee as listed here below:

- | | | |
|------------------------------|---|----------------------------|
| Honourable Ousman Sillah | - | Chairperson |
| Honourable Fatoumatta Jawara | - | Vice Chairperson, |
| Honourable Saikou Marong | - | 1 st Rapporteur |
| Honourable Sulayman Saho | - | 2 nd Rapporteur |
| Honourable Amadou Camara | - | Member |
| Honourable Musa Amul Nyassi | - | Member |
| Honourable Bakary Camara | - | Member |

Honourable Omar Darboe - Member
Honourable Kaddy Camara - Member
Honourable Ndey Yassin Secka - Member
Honourable Momodou L.K Sanneh - Member
Honourable Dawda Kawsu Jawara - Member

The support staff are:

Mrs. Sarata Bojang - Secretary
Ms. Isatou Sonko - Secretary

Subject matter specialists:

Aminata L.R. Ngum

Dr. Pama

Honourable Speaker, going through the introduction as previous reports and the acknowledgement, I want to beg the indulgence of the Assembly to skip and go straight to the Committee procedure.

Methodology

The procedure we took is in line with the mandate of the Committee as highlighted in Standing Orders 69, which requires the Committee not to discuss the principles of the Bill, but its details in terms of clauses. It is thus mandated as follows: These are the witnesses, hold proceedings and take evidence from witnesses, record the opinion of the Committee on each clause and schedule of the Bill and apprehend any amendments recommended, present amendments in the order in which they stand in

the Bill and present a report which we are doing today incorporating the summary of the evidence of witnesses, the opinion of the Committee on clauses and attach relevant records of minutes of its proceedings.

The methodology we took was in line with Clause 66 [1] which requires a Committee at the Committee Stage of the process to engage in detailed investigation when considering a bill committed to it, the Select Committee called witnesses from identified institutions and organizations. This was after when each of them was provided with a copy of the Bill and thus asked to review and present a written report or position paper on their views and recommendations, if any, for the consideration of the Committee. After all, the internal meetings at the National Assembly with stakeholders from government ministries, departments and agencies, non-governmental organizations that is NGOs and civil society organizations, provided the platform for these institutions to present and discuss their written reports. The Committee convened a meeting to review and validate the report.

Going to the Committee work proper as highlighted in the report on page 7, we reviewed and amended the provisions of the Births, Deaths and Marriages Registration Act found to be discriminatory against women and girls in the Gambia in furtherance of The Gambia international obligations, and in line with the Constitution and connected matters.

It was enacted by the President and the National Assembly, but the Committee observed that the witnesses agree with the preamble of the Births, Deaths and Marriages Registration (Amendment) Bill and the Committee recommends that the preamble to stand part of the Bill.

Subtitle

This Act maybe cited as the Birth, Death and Marriage Registration (Amendment) Act 2020.

Observation and Conclusion

The Committee observes that the witnesses agree with clause 1 on the subtitle of the Bill and the Committee recommends that Clause 1 on subtitle stands part of the Bill.

The other part that was the amendment of the Births, Deaths and Marriages Registration Act 1886, the Births, Deaths and Marriages Registration Act referred to as the Principal Act is amended as in this Act, and the Committee observes that the witnesses agree that Clause 2 should stand as part of the Bill.

Going further, Section 16 is repealed and replaced as follows:

The parent of a child to give notice of birth within 30 days

1. The parent of a child, shall within 30 days after the birth of the child, give notice of the birth either verbally or in writing to the Registrar or Deputy Registrar of the district or place in which the birth occurred.
2. A person who fails to comply with subsection 1 commit an offence and is liable to conviction which attracts a fine of not exceeding 500 dalasi or in default of payment of the fine, to imprisonment without hard labour for a term not exceeding 1 month.

The Committee's observation and conclusion on that were:

The Committee observed that all the witnesses are in support of the repeal of Section 16 and its replacement. However, some of the witnesses are proposing a further amendment of Section 16[2] by maintaining the fines but relieving the custodial sentence and substituting it with the fine to enable convicts to acquire birth certificates. A witness even proposed for the fine to be 1000 dalasi instead of 500 dalasi, while others suggested the fine to be within the range of 2000 – 5000 dalasi. As for the representative of the Ministry of justice, the custodial sentence cannot be removed. It was also proposed by witnesses that the word parent in section 16 be changed to father or mother of a child as it is too broad and can mean a caretaker. The representative of the Ministry of justice advised that the imprisonment term as stipulated in section 16[2] be maintained.

Recommendations of the Committee

The Committee agrees with the proposed amendments to stand part of the Bill.

4. Repeal of Section 17: Section 17 of the Act is repealed.

The witnesses are in support of the repeal of Section 17.

The Committee recommends for the repeal of section 17 as proposed in the Amendment Bill.

5. Amendment of Section 18,

Section 18 is amended by:

1. Deleting the words immediately after both father and mother of a child born, the words 'whether in' or 'out of wedlock'.

Observation and Conclusion from the Witnesses

Section 18 was agreed by the witnesses to be deleted as proposed in the Amendment Bill.

Recommendations of the Committee

The Committee recommends for the amendment of Section 18 as proposed by the Amendment Bill.

6. A repeal and replacement of Section 19.

Section 19 is repealed and replaced as follows:

19 [1] where a child is born to parents who are not married at the time of birth.

- A. The Registrar or Deputy Registrar shall not enter in the register, the name of any person as father of the child unless at the joint request of the mother and of that person acknowledging himself to be the father of the child.
- B. If the person alleged to be the father of the child refuses to acknowledge himself to be the father of the child, the Registrar or Deputy Registrar shall not enter in the register the name of that person unless a paternity order is obtained from the children's court confirming the father of the child.

Notwithstanding Subsection 1

- A. where the person alleged to be father of the child fails to acknowledge himself to be the father of the child or;
- B. The mother of the child does not provide the name of the father, the registrar or deputy registrar shall at the request of the mother register the birth of the child with the particulars of the mother.

Observations and Conclusion from the Witnesses

The witnesses support the repeal and replacement of Section 19[1]. It is also proposed that the Registrar or Deputy Registrar can seek for paternity order from the Children’s Court in the case where the father is refusing to acknowledge himself as the father of the child.

Recommendations of the Committee

Having review the arguments, the Committee recommends for the repeal and replacement of Section 19. It further recommends for the insertion of a new provision of Section 19[3] to read *(that part is missing)*.

Objects and Reasons

That is the last part of the Bill. This amendment is the first of its kind in Africa and it is the trail blazer for the recognition, observance and domestication of international obligations and commitments relating to women rights into domestic laws. Since the enactment of the women Act 2010, significant strives have been made to enforce the law and to protect women in line with the provisions of the Act. Section 25 of the Women Act recognize the need for periodic review of legislation every 10 years to ensure further compliance to international obligations as

enshrined in the Convention on the Elimination of all forms of Discrimination Against Women, that is the CEDAW, and the protocol to the African Charter on Humans and Peoples Right on the Rights of Women in Africa. This amendment is intended to amend and repeal the provisions of this Act that are discriminatory against women as mandated by Section 25 of the Women Act.

Observations and Conclusion from the witnesses

The Committee recommends for the objects and reason to be redrafted for it to capture the specific nature of the issue that the Bill is intended to address as required by standing orders 64 sub clause 1[A] which states "every Bill shall be accompanied by memorandum signed by the person in charge of the Bill, obtaining a statement of the objects and reason of the Bill including nature of the issues the Bill is intending to address". It was also agreed by the Committee regarding the task of redrafting the objects and reason to ensure that it is specific to the proposed amendments to be assigned to a team of draftsperson counsels from the Ministry of Justice. Below is the version of the objects and reason redrafted by a legal draftsperson of the Ministry of Justice which the Committee recommends for adoption, and that does it. Honourable Speaker thank you very much.

THE SPEAKER: Thank you Honourable Member for Nianija. Any seconder? Honourable Member for Sabach Sanjal.

HON. OUSMAN TOURAY [SABACH SANJAL]: Thank you very much Honourable Speaker and thank you presenter. I rise to second the

motion. Honourable Speaker, I just have few points to raise. This is a very good improvement, but I have some issues regarding the repeal and replacement of Section 16. Honourable Speaker, I observed that the Committee is making it mandatory for parents to notify the Registrar or Deputy Registrar if a child is born in a particular area, and it also carries fines or even to the level of imprisonment if convicted. I just want to say, if that is to be taken up, Honourable Speaker, you need to also consider sensitizing the populace because if you look at our communities, they are not used to this kind of attitude. That being the case, if this is enacted and adopted, I think before proper implementation, proper sensitization should be done. That is a concern I have

The other issue I have is about the parent, for example when a child is born without a parent for example out of wedlock, the registrar should not insert any name and this law is trying to eradicate discrimination. As far as I am concerned, if somebody has given birth to a child and the father does not accept it and the mother does not identify a father, now you register the child with the particulars of the mother, but the paternity life of the child will not be known. So, if the child matures, how will that child feel in the society? I think we should have an alternative to solve that problem. That is a concern I also have Honourable Speaker; I do not know how we will come with a solution to that problem.

The last point I have is substituting parent to father. Ok, that is very good but specifically, if you want to specify you can just say father and mother, but at certain instances parent will be very ideal because the example I cited here, if for example, the child is born by somebody and

there is no father identified, the grandfather of that child can be a parent to that child and can be used as the adopted father. So, this is why parent is also crucial here. I do not know what the rationale behind this is. Apart from that Honourable Speaker, I only see some little typos which is not very much of a problem. So far, that is my concern and thank you very much.

THE SPEAKER: Thank you Honourable Member. I now put the question

[Question proposed]

THE SPEAKER: Any Honourable Member who wishes to take part in the debate may do so by raising your constituency tag. Honourable Member for Serrekunda the floor is yours.

HON. HALIFA SALLAH [SERREKUNDA]: Thank you very much Honourable Speaker. The amendments appear to be trivial, but they are not because the Constitution makes certain things mandatory that we are ignoring. If you look at Section 29 of the Constitution, the rights of a child which also can be found in the Children's Act, it says "Children shall have the right from birth to a name, right to acquire a nationality and, subject to legislation enacted in the best interest of the children, to know and be cared for by their parents". Children under the age of 16 are entitled to be protected from economic exploitation and so on, but ultimately save from all forms of social harm. A juvenile offender who is also kept in custody shall be kept separately from all offenders, so age does matter, and it starts with the registration of birth because how do you determine age if birth is not actually registered. The report is clear,

and the Bill is also clear that parents are obliged within 30 days to ensure that they report about the birth of the child for the Registrar to register that child. This is where the Member for Sabach Sanjal said it is important. The administration of the Act itself to ensure that the facilities are there for the actual registration to take place. So, to make a law and not provide easy route for the parent to be able to report and get the child registered will be a miscarriage of justice. The structure on the ground for registration that will not add additional burden of cost to the parent should be found.

Secondly, there is a distinction between parent and the mother and child, which the two provisions seek to make. When the parent is known meaning in marriage setup, then the parents will be responsible for the actual report depending on the definition of parent. But the second distinction is where the child is born out of wedlock, and that has been a great neglect in that regard, and this is making it very clear that the father should be known and they could go and make the declaration, and in making the declaration, the name of the father could be captured. But where the father is not known, then the mother will take responsibility of exercising that duty to report and get the child registered. So, in a way, the Bill is seeking to fill the gaps, and this is what we need to do if we are to progress as we discover the gaps, then we must pass legislation no matter how small, how minute to fill the gaps. Thank you.

THE SPEAKER: Thank you Honourable Member. Honourable Member for Busumbula, the floor is yours.

HON. SAIKOUBA JARJU [BUSUMBALA]: Thank you very much Honourable Speaker, sorry for that. I want to thank the Committee for doing a good job. They made the work easier for us and as I always say, nothing is perfect as far as parliamentarians are concerned, because anything you bring, we must always have an observation to make. The object of the Bill is to do away with discrimination, that is understood, discrimination against women, but do the mover or anybody else in the Committee factor that, trying to avoid this one can also create another discrimination based on the facilities of the country and the Office of the Registrar that you are talking about. Regarding the issue of registration within 30 days, I am thinking of communities in the upcountry where access to health center, access to this social and public offices is a problem, and you bring a law that within 30 days they have to register or face a fine, could be a problem. Yes, you want to avoid discrimination on women, but you are also trying to create another discrimination on other people that are deprived of those facilities. I would want to know whether that has been considered when the repeal was being done. For example, will the Office of the Registrar be available in every community where it will be needed, is it accessible or will it be accessible to every woman that needs to register a birth? This is my question because if it is only going to be centralized in the urban areas, then those in the rural areas are going to be deprived.

The second point is, I want to concur with the Committee that even in Islam, I believe when a child is born out of wedlock, unless the man agrees to be the father, the child remains the child of the mother. So,

there should not be any discrimination in that. I totally agree that if the child is born out of wedlock, and there is no claim or confirmation from anybody as father, I agree that the child should be registered in the mother's details or particulars. Apart from that, I want us to consider the other side of discrimination. Women who are to register their children in deprived communities where the Office of the Registrar is not easily available to them, do you think they will be able to meet the 30 days duration? Thank you very much.

THE SPEAKER: Thank you Honourable Member for Busumbula. Honourable Member for Niani, the floor is yours.

HON. ALHAGIE S.B. SILLAH [NIANI]: Thank you very much Honourable Speaker. I just want to clear my doubt. We are on the report of the Bill that is stating about the registration of the child or about the child's father, but there are incidents also where, if the newly born baby is found somewhere you cannot even know the mother neither the father, and somebody happened to pick it, so where should we categorize the registration of that child? So that is my concern because it can happen, thank you.

HON. SPEAKER: Thank you Honourable Member. Honourable Member for Sami the floor is yours.

HON. ALFUSAINY CEESAY [SAMI]: Thank you Honourable Speaker for giving me the floor. Honourable Speaker, I also want to thank the Committee for the good job that they have done. But Honourable Speaker if my mind can recall, during our time, we travelled all the way

from the provinces to come to Banjul to look for birth certificate. I know as other Speakers have mentioned, if you go to most of the health centers, they have people that are registering those children in order for them to have this birth certificate. But as others have said, if you look at where some of these health centers are, some of the women when they deliver at home, it would be a problem. If they deliver at the hospital or at the health center, it is going to be very easy for them to have access to this facility. So, lot of consideration and sensitization should be done before it is made a law. As far as I am concerned, 30 days is too small, 2 years would have been better because where some people are, it would be difficult if it is going to be made a law. Let them go round and register kids rather than making it a law within 30 days and failing which would attract a fine of D500. This is the only issue that I have, and it needs to be looked at before it becomes a law. Thank you very much Honourable Speaker.

THE SPEAKER: Thank you Honourable Member for Sandu, the floor is yours.

HON. MUHAMMED MAHANERA [SANDU]: Thank you very much Honourable Speaker. I also want to join my colleagues on the same issue. Honourable Speaker, as alluded to by some Honourable Members, I only have some few questions that is before the tabling of this bill, and that is whether the Honourable Minister gets the statistics of how many children were born in hospitals for the past 2 years and how many children were born in our homes?

Honourable Speaker, in our area Sandu, we have only one health center that is Diabugu and you have villages that are as far as 10 -15 kilometers away from Diabugu, and there are homes Honorable Speaker where they do not have even a bicycle and when somebody delivers there, to have access to Diabugu health center becomes a nightmare. So, to peg it at 30 days is very short. Again, records have shown that when laws are being made, we tend to forget about the rural people, and which should not be the case. The Gambia is not only Banjul, KMC or West Coast, we have regions beyond that. We have CRR, we have URR, and we all know the health disparities within those regions.

Honourable Speaker, when you go to Sami and Wuli, there are villages that need health center, and for the past 56 years, we are struggling with health disparities and dilapidated health systems. So, there are children who are born in their homes and stay for 2 months, without reaching a hospital due to mobility. The Member for Nianija can attest to the fact that, certain communities find it very difficult to have that opportunity with the nurses to check their children. Now if you peg it at 30, honestly Honourable Speaker, people in the rural area will suffer a lot. So, Honourable Minister, looking at the accessibility to hospitals, you will agree with me that there is a problem.

There are hospitals in rural areas that do not have ambulance. What they do when a woman is sick or is in labour, you must get a horse or donkey cart to transport that patient, which is very sad. So, my question is if you have the data before coming with this bill, then that will give us an informed decision. As far as I am concerned, the thirty-day duration

would be discriminatory. In the rural areas, it is not the same as in the urban areas. Thank you very much.

THE SPEAKER: Thank you Honourable Member for Sandu. Honorable Member for Lower Saloum the floor is yours.

HON. SAINÉY JAWARA [LOWER SALOUM] Honourable Chair, I have withdrawn and wait for the response.

THE SPEAKER: Lower Saloum is the last on my list any other Honourable Member? Ok Foni Kansala, the floor is yours.

HON. MUSA AMUL NYASSI [FONI KANSALA]: Thank you very much Honourable Speaker. Honourable Speaker, the beauty is that no one is disputing the fact that there is need for such a law in place. Just like the Honourable Member for Serrekunda rightly quoted, we are trying to enact what is embedded in the Constitution because I believe it is mandatory for every Gambian to know your identity and one way of knowing your identity is having a document, and there is no document far more important than a birth certificate. Therefore, it is important that all births are registered. I want to agree with the Honourable Member for Sami and Sandu because they have justified the reason. It will be difficult for this one-month time frame to be a law across the length and breadth of the country. Like I said earlier on, we are not disputing the need for the registration, but the concern here is the proximity of certain communities to the nearest facility. I think the Committee is taking note of it. We are lucky that the Attorney General is before us with the technicians. So, I believe when we come to the last stage, this is where

we can discuss to reach an agreement. But the fact that everybody agrees, there is need for such a law in place, I think that will save the time that we will spend when it comes to the last stage of the implementation process or adoption process. On that note, I equally want to thank the stakeholders who were widely consulted and by extension, the mover of the motion, the Honourable Member for Nianija, on behalf of the Committee. Thank you very much Honourable Speaker, and I beg to take my seat.

THE SPEAKER: Thank you very much Honourable Member for Kansala. Honourable Member for Niamina west the floor is yours.

BIROM J.S. SOWE [NIAMINA WEST]: Thank you Honourable Speaker, I would also like to thank the Committee for coming up with this laudable Bill. It is a good idea, but I want to concur with my colleagues, that 30 days duration for the registration is very small for those people considering the facilities around and the cultural aspect. For example, if a woman gives birth, we all know, she is confined within a week before the formal christening and even after depending on the woman. So, take out one week or more from 30 days, it is small. We the men are not affected mostly, and all these things are being taken care of by the women. So, considering the period and the health facilities in some areas within The Gambia. I think we need to take note of that aspect.

Moreover, why not then we task the health workers, the health officers who are given mobility and fuel to do it. I could remember, during my early childhood time, they used to mobile and register people at their

villages and communities. They are given the facilities, it is their job, it is the responsibility of parents to register their kids, but it is the job given to health officers to go round and do it since they are paid salary. In my own perspective, I think we task the health officer to go round rather than saying that within 30 days we have to meet them for the registration. Thank you so much.

THE SPEAKER: Thank you Honourable Member for Niamina West. Honourable Member for Banjul North, the floor is yours.

HON. OUSMAN SILLAH [BANJUL NORTH]: Thank you very much Honourable Speaker. This report has generated intense but very interesting issues. I think the presenter will respond to the concerns raised. But I just want to repeat that, this report was supposed to be presented in 2020 and now, we are in 2021. So, the short title has to change from 2020 to 2021, that is the first point.

The second point is that it is also a duty as National Assembly Members, representatives of the people, to ensure that we sensitize the population that this Bill seeks to promote a right that every child must have a nationality. So, we must take it as a responsibility to tell our constituencies that any child who is born should be registered to protect and promote that right. No child should be childless. Regarding how to go about it, whether the health workers should be going around or not, I think it is acknowledged by the last speaker that, it is the duty of parents to register their children. So, we must insist and emphasized that, it is their duty to do this. Of course, the facilities must be prepared to ensure that parents are registered. Health workers and the field workers should

be going round to communities so that newly born babies can be registered.

We are going to the Committee stage, there we can do horse trading, but we must also bear in mind that it is our duty to tell the population that they should register their children so that there should not be any nationless child in this country. On that note Honourable Speaker, thank you.

THE SPEAKER: Thank you very much Honourable Member for Banjul North. Any other Honourable Member? No other Honourable Member, then let me now call on the Honourable Attorney General and Minister of Justice to respond to some of the issues raised by the Honourable Members.

HON. DAWDA A. JALLOW [ATTORNEY GENERAL AND MINISTER FOR JUSTICE]: Thank you Honourable Speaker. The concern raised by the Member for Sabach Sanjal is the same concern raised by the Members for Niani, Sami, Sandu and Niamina which is the fear of enforcement of the provisions as well as the difficulty of implementing it in the rural areas. Honourable Member for Serrekunda also asked for government to make sure that facilities are made accessible to people so that you do not make criminals out of innocent people. Of course, when you make laws that have punitive measures, I think we have a responsibility. We might not be the line Ministry that will be implementing this, but like the Member for Banjul North says, by the time we get to Committee Stage, we would have engaged the line Ministry adequately to make sure that the objective that we tend to

achieve, government should also come half way to meet the citizens in the middle way so that while the parents are endeavoring to execute their duties and their responsibilities to have the children registered, government also need to meet them half way in order that undue hardship is not placed on the poor parents.

But of course, these provisions are made bearing in mind the rights of the children as well. So, it is a balancing situation but of course the intention is never to create criminals out of your folks or out of the rural people. So, I am quite sure that the provision is there to instill some form of fear to induce compliance, but in my own thinking at this stage, until we get to a point where the facilities are all there and people are reluctant to take advantage of it, I think that is the only time when people can be punished for non-compliance. But where a situation exists, where parents will have to work kilometers to make sure these registrations are done, I do not think they will be punished for it. We have a responsibility as NAMs like the Member for Banjul North said to also help in the sensitization and present the advantage of such provisions for the people. Children need to be registered. The 30 days duration, I do not think is entirely new. It has been in the old legislation. Remember we are just amending; we are not creating new laws. So, this provision has been there, but I do not think we have ever seen anybody being arrested and prosecuted under it. They are there because people just need to know that they must do these things. We will be mindful of that anyway. We will see how it will be implemented.

The idea coming from the Member for Niamina is quite interesting. If the Public Health Officers in the districts can trek their districts monthly and make sure they move with the register itself and go into communities and register as many children as possible and give them their registration certificates, if this can be possible, it will go a long way in solving the problem.

The Member for Sabach Sanjal also made mentioned of whether we can find an alternative to the issue of paternity, I am not too sure if I understand clearly, but what we are seeking to do under these amendments is simple and clear. Where a child is born out of wedlock, I think that is where your concern is, there are two scenarios, if there is a voluntary father.

Of course, nobody questions that, registration should be made simple. The only problem is that, there is a dispute of paternity. If a mother is pointing a finger to somebody to be the father of a child and that person is denying being the father, of course, in the absence of a proof of paternity, you cannot impose paternity on a man where there is a dispute over delivery that took place out of wedlock. So, in that situation, there are other laws that deal with paternity dispute that is the Children's Act which deals with that kind of situation. So, if they should go to check for paternity and have it confirmed medically and scientifically, then the courts do make orders in confirming paternity or parentage and such an order can now be relied on by the Registrar or Deputy Registrar to enter the name of the man as a father pursuant to a concluded court matter, where a court order is available. In the absence of that, this amendment

is saying that you only enter the particulars of the mother which is available.

Of course, this brings us to Niani that raised an issue of where both mother and father is not known. I am not too sure because it has escaped my mind. It is good that it is coming up at a time before the amendment is passed. We will look into that unlikely scenarios, but it is a possibility, maybe a child is found, and nobody knows both the mother and the father, and the child is entitled to be registered. To have a child registered is one of their first right which is linked to name, nationality, and other things. So, of course such a child must be registered. So, what do we do? We will look at that closely. I should believe the Children's Act envisaged such children. So, we will look at it and we will look at what to do in such situation, and how to register such children.

The Member for Busumabala also emphasized the issue of access, we will bear that in mind. I think the rest of the comments basically are almost the same as that of the members for Niani and Sami. The issue of the 30 days was also raised as to whether it is going to be 30,45 or 60 days when it gets to the Consideration Stage. At some point, you need to put deadline, we do not want a child to keep growing without being registered anyway. So, whether it is going to be 30, 45 or 60, we want it to be days, we do not want it to be years for a child to be registered. So, we will all look at it together, the experts will still be consulted before we can agree on a specific date.

Precisely, I thank the Committee and the Plenary for all the contributions, especially the Honourable Member for Serekunda, who said that, in

some of these amendments, you will see that sometimes we only amend a section or 2. With respect to specific bills, they might look minute, but in reality, these are huge changes in our law books and that is the reason why our development partners have spent so much resources and expertise to make sure that we search for such discriminatory provisions in the laws and make sure that we change them.

Honourable Member for Busumbala, made mentioned of religious position, but I must add as I explained earlier in addition to what you said in The Gambia. If there is a court order on paternity, that court order will be respected, slightly different from the sharia position that you shared. If you refuse paternity in an out-of-wedlock childbirth situation, there are DNA tests that can be ordered by the courts and if these scientific results prove that you are the father, the courts will impose paternity on you and that is acceptable in our laws, and you will be the father on record.

Thank you very much.

THE SPEAKER: Thank you Honourable Attorney General and Minister for Justice. May I now call on the mover of the report to respond to the issues raised by the Honourable Members.

HON. AMADOU CAMARA [NIANIJA]: Thank you very much Honourable Speaker, Honourable Minister and all the Honourable Members who made their contributions.

First of all, I just want to make few rectifications on the missing part that was the proposed amendment for Section 19(3), it reads as: The

Register or Deputy Registrar can seek for paternity order from the Children's Court in the case where the father is refusing to acknowledge himself as the father of the child. That is the proposed new amendment that I said earlier was missing.

I am also from provinces, from an area that have difficulties in terms of access to these things, and I have worked in this area. I have been Assistant Registrar based in Kuntaur. I have done a lot of registrations in this regard, but I think what National Assembly Members do not understand is the process of registration in this country. How it is done is that, if your child is born at home or at the health facility, if it happens to be at the facility, it is simple, just take the details of that child and do the registration. I can tell you with certainty that, there are birth certificates registered years back, and are still in the offices, but neither the father nor the mother have come to pick them. So, all these things are issues, therefore, sensitization is very key.

Where people have concern on this document is when their kids are going to school or have travel opportunities. If you go to villages, you will realize that they do not keep this document in safe places. Sometimes you need a birth certificate, you must go to the health center to register them again. So, it is a concern and I think it is the responsibility of all of us to make sure that these issues are addressed because birth certificate is the foundation of any document indicating nationality.

There can also be community registrations, for instance, if your child is born at home which we are discouraging now as health personnel, we

want every child to be born at the facility under the supervision of by skilled nurse/doctor. But if it happens that, you are born at home, we have these structures there which we called traditional birth attendants now renamed as the community birth companions. They do take these details such as the date and time for the records, and whenever you are going for your routine vaccination or immunization, which we normally do every month, you take along those details and are recorded in the register and your child will be registered.

All these are ways or means of making the registration process easier. and also, sometimes as the Honourable Member for Niamina West said, these health officers also do go on community registration, for instance they will go to a particular community on a particular day and sensitize all that area, and then choose another day to do some community registration and whoever does not have birth certificate, will be registered. You will just be asked to bring all the necessary documents such as the Alkali's attestation and then the registration is done. Another day will be scheduled thereafter, to deliver the birth certificates to their owners.

But the bottom line is that people are not taking this seriously, especially parents. We are not aware, or I do not know is the main problem, and we need to do a lot of things about it, because back in the early 2000s, there was a project that UNICEF came up with, that every child under 5years should be registered free of charge. They committed a huge amount of money and conducted series of campaigns nationwide to make sure public health officers go round to every community, register

all those children that are under 5 free of charge which is continuing. I think it is an understanding between them and the Ministry of Health.

Despite this opportunity offered by UNICEF, still now, people are not coming on board. They only need this when they are grown up and start going to school, that is the time when registration becomes a priority. that trend should change, and I think coming up with these measures though difficult to implement, but I think it is a measure that we can take up and see whether we can at least increase on the registration of births and deaths.

Regarding the issue of death, I do not talk about that because any person who dies in The Gambia unless and until you have something in the country, that is the time you see people coming up to request for death registration, but even that one is virtually low. In my entire service for nearly 5 years, I can even count the number of deaths I registered, but for birth, that one is much better, but people are not coming on board.

Regarding the concern raised over access to facilities in the rural areas, as I said, every facility in the country has an Assistant Registrar that is responsible for the registration process. They go to the various district Chiefs and Alkalos and tell them to sensitize their people to take up this exercise seriously and make sure that all their children are registered at the right time.

I think that is it, for the others, the Honourable Minister has responded like those born out of wedlock. I think the Honourable Minister has shed light on that. So, on that note, thank you very much.

THE SPEAKER: Thank you very much Honourable Member, the mover of the report. I now put the question:

[Question Proposed, Put and Agreed to]

[That the Report of the Select Committee on Health, Women, Children, Disaster, Refugees and Humanitarians Relief and Births, Deaths and Marriages Registration (Amendment Bill, 2020) has been adopted]

The next stage, the consideration stage of the Bill, is now scheduled as per the agenda of the session.

Report of the Select Committee on Health, Women, Children, Disaster, Refugees and Humanitarians Relief on the following Bills:

III. Domestic Violence (Amendment) Bill, 2020 (By: Hon. Chairperson of the Committee)

THE SPEAKER: Honourable Members will recall that the motion for the second reading of the Bill entitled Domestic Violence (Amendment) Bill 2020 was moved by the Honourable Attorney General and Minister for Justice on Friday 17th July. The motion was seconded and debated on

the general merit and principle of the Bill. Accordingly, the Bill was referred to the Assembly Business Committee for committal. The said Bill was then referred to the Select Committee on Health, Women, Children, Disaster, Refugees and Humanitarians Relief for scrutiny and report back.

The Committee today scheduled to table its report before the Assembly. Once the report is tabled, debated, and adopted, the next stage of the Bill, which will be the consideration stage, will be scheduled accordingly as per the appointed date.

I will now, invite the Honourable Chairperson of the Select Committee on Health, Women, Children, Disaster, Refugees, and Humanitarians Relief to table the Report of the Committee.

HON. OUSMAN SILLAH [BANJUL NORTH]: Thank you very much Honourable Speaker. I wish to inform this Assembly that the National Assembly Member for Tallinding who the Vice Chairperson of the Select Committee is also is being tasked to present the report of the Committee on the Domestic Violence (Amendment) Bill, 2020. Thank you.

HON. FATOU K. JAWARA [TALLINDING KUNJANG]: Thank you very much for the opportunity. I will go straight to the membership of the Committee.

Members of the National Assembly Select Committee on Health, Women, Children, Disaster, Humanitarian Relief and Refugees are:

1. Hon. Ousman Sillah - Chairperson
2. Hon. Fatou K. Jawara - Member
3. Hon. Musa Amul Nyassi - Member

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|-----------------------------|---|------------|
| 4. Hon. Amadou Camara | - | Member |
| 5. Hon. Saikou Marong | - | Repertoire |
| 6. Hon. Kaddy Camara | - | Member |
| 7. Hon. Omar Darboe | - | Member |
| 8. Hon. Sulayman Saho | - | Repertoire |
| 9. Hon. Bakary Camara | - | Member |
| 10. Hon. Ndey Yassin Secka | - | Member |
| 11. Hon. Momodou L.K Sanneh | - | Member |
| 12. Hon. Dawda Kawsu Jawara | - | Member |

1.2 Support Staff

- | | | |
|------------------|---|-----------|
| 1. Sarata Bojang | - | Secretary |
| 2. Isatou Sonko | - | Secretary |

1.3 Subject Matter Specialists

- | | | |
|---------------------|---|-----|
| 1. Sekou O. Dibba | - | SMS |
| 2. Aminata L.R Ngum | - | SMS |
| 3. Dr. Ayo Palmer | - | SMS |

ACKNOWLEDGEMENT

The Members of the Committee on Health, Women, Children, Disaster, Humanitarian Relief and Refugees wish to acknowledge the positive response of all the stakeholder institutions from government, non-governmental organizations and Civil Society who were invited to participate in the consultations. Their position papers and presentations reflecting their views and recommendations had really enriched the

exercise and its outcome. The participation of the Permanent Secretaries, Deputy Permanent Secretaries of the relevant Ministries, the Directors and Assistant Directors of concerned Departments, Executive Directors and Unit Heads of NGOs and CSOs, Senior Officials, among others have been very instrumental in the consultations by sharing their ideas to achieve results.

It would, therefore, not be an exaggeration to conclude that without their invaluable participation and contributions in the process, as stakeholders in the promotion and protection of the rights of women and children, it would not have been easy for the Committee to complete and present this report for the consideration of the Assembly.

The Committee is obliged to express appreciation to the office of the Clerk for providing the efficient support staff and logistics which enabled the Committee to carry out exhaustive consultations with all relevant stakeholders.

INTRODUCTION

After being handed over a copy of the Bill entitled 'Domestic Violence (Amendment) Bill, 2020' at the plenary on 22nd June 2020 by the Attorney General and Minister for Justice, the Clerk of the National Assembly read aloud the short title, which was deemed to be the First Reading, in accordance with Standing Order 65 of the National Assembly (Revised Edition, 2019).

Following the conclusion of the second reading of the Bill, the National Assembly Plenary, on the 7th July 2020, witnessed a debate on its

principles and merits by the Honourable National Assembly Members, and then referred the said proposed legislation to the Assembly Business Committee (ABC), in accordance with Standing Order 68 (1). Consequently, the ABC referred the said Bill to the relevant committee, which is the Select Committee on Health, Women, Children, Disaster, Humanitarian Relief and Refugees, as provided for by Standing Order 68 (2).

In accordance with Standing Orders 68 (2), 69 (1) and (2), 97 (1) and (3)(b), the Select Committee on Health, Women, Children, Disaster, Humanitarian Relief and Refugees was tasked to review, consult, and report to the plenary its findings and recommendations on the draft Women (Amendment) Bill, 2020.

Immediately following the committal of the Domestic Violence (Amendment) Bill, 2019 to the appropriate committee “for detailed investigation and report...” as per Standing Order 69(2), the select committee immediately set itself to work by convening a planning meeting to adopt the methodology or approach to undertake in order to accomplish the task in accordance with requirements of the Standing Orders. The Committee agreed to hold consultations and thus identified the key stakeholders from government and non-state institutions and organizations to be engaged, to get their views and recommendations for consideration and incorporation in its report to the National Assembly.

I will skip the mandate of the committee and go to the methodology.

METHODOLOGY

Since Clause 66 1(b) requires a committee, at the committee stage of the process, to engage in “detailed investigation” when considering a bill committed to it, the Select Committee called witnesses from the identified institutions and organizations. This was after when each of them was provided with a copy of the Bill, and thus asked to review and present a written report or position paper on their views and recommendations, if any, for the consideration of the Committee.

After holding the formal meetings at the National Assembly with the Stakeholders from Government Ministries, Departments and Agencies (MDAs), Non-Governmental Organization (NGOs) and Civil Society Organizations to present and discuss their written reports, the Committee convened a meeting to review and conclude the position papers and validate the report.

6. Domestic Violence (Amendment) Bill, 2020

A BILL ENTITLED

AN ACT to review and amend the provisions of the Domestic Violence Act found to be discriminatory against women and girls in The Gambia in furtherance of The Gambia’s international obligations and in line with the Constitution and for connected matters.

ENACTED by the President and the National Assembly

1. Short Title

The Act may be cited as the Domestic Violence (Amendment) Act, 2020.

2. Amendment of the Domestic Violence Act 2013

The Domestic Violence Act (in this act referred to as “the Principal Act”) is amended as set out in this Act.

3. Amendment of Section 36

The principal Act is amended in Sub-section (2) of Section 36 by inserting a new paragraph (d) as follows:

“(d) Ensure that the rights of the complainant are not prejudiced by an out-of-court settlement.”

OBJECTS AND REASONS

The amendment is the first of its kind in Africa for being the trail blazer for the recognition, observation, and domestication of international obligations and commitments relating to women’s rights into domestic laws. Since the enactment of the Women’s Act 2020, significant strides have been made to enforce the law and to protect women in line with the provisions of the Act. Section 25 of the Women’s Act recognized the need for periodic review of legislation every ten years to ensure further compliance with our international obligations as enshrined in the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), and the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa. This amendment is intended to amend and repeal the provisions of the Act that are discriminatory against women as mandated by section 25 of the Women’s Act.

7. PLANNING MEETING

The select committee held a meeting on 29th September 2020 to identify the relevant stakeholders to be consulted, and to plan and adopt a road map for the engagements. During the deliberations, members identified the stakeholders to be consulted from the state and non-state institutions/organizations i.e. NGOs and Civil Society.

The meeting agreed to hold sessions at the Assembly with the institutions to get the views and recommendations of the stakeholders on the proposed Women's Act (Amendment) Bill, 2020 for the consideration of the committee in its report. These consultations are in accordance with Clause 69 paragraph 2 of the Standing Orders which states "*A committee to which a bill is committed shall consider and take evidence on the provisions of that bill and report its opinion thereon to the Assembly.*"

8. PROCEEDINGS

(8.1) WITNESSES

The following witnesses or stakeholders from government, non-government organizations and civil society participated in the consultation on the Women's (Amendment) Bill, 2020.

1. Mrs. Rohey Bittaye Darboe – Permanent Secretary Ministry of Women, Children and Social Welfare
2. Mr. Siaka Marong – Ministry of Children and Social Welfare
3. Mr. Kissima Bittaye – State Counsel, Attorney General's Chamber and
Ministry of Justice

4. Fanta Bai Secka – Ministry of Health
5. Lamin B. Fatty – Ministry of Health
6. Naffie Sissoho Bangura – Ministry of Justice
7. Abdoulie Colley – Ministry of Justice
8. Mustapha Drammeh – Ministry of Basic and Secondary Education
9. Mariama A.M Sillah – Ministry of Basic and Secondary Education
10. Isatou S. Jallow – Ministry of Basic and Secondary Education
11. Juldeh Ceesay – DPS, Ministry of Finance and Economic Affairs
12. Adama M. Jeng – GALGA
13. Mariama K. Sanyang – The Girls’ Agenda
14. Roya Namati – Paradise Foundation
15. Fatou Faye – Paradise Foundation
16. Isatou Dea Sawaneh – National Women Council
17. Fallou Sowe – Network Against Gender Based Violence
18. Mariama John – Network Against Gender Based Violence
19. Ousman Ceesay – Network Against Gender Based Violence

(8.2) MEMBERS OF THE COMMITTEE IN ATTENDANCE

1. Hon. Ousman Sillah – Chairperson
2. Hon. Fatou K. Jawara - Vice Chairperson
3. Hon. Amadou Camara - Member

4. Hon. Musa Amul Nyassi - Member
5. Hon. Kaddy Camara - Member
6. Hon. Ndey Yassin Secka - Member
7. Hon. Omar Darboe - Member
8. Hon. Saikou Marong - Member
9. Sarata Bojang - Secretary

(8.3) Consideration, Scrutiny, Findings and Recommendations

In his welcoming and introductory remarks, the Chairperson commended the stakeholders for responding to the invitation to come and serve as witnesses.

The Chair informed the witnesses/ stakeholders that the Hon. Minister for Justice had tabled a series of bills before the Assembly which were committed to the Committee on Health, Women, Children, Disaster, Humanitarian Relief and Refugees for further scrutiny and to report its findings and recommendations to the Assembly for consideration and approval. He noted that the Civil Marriages (Amendment) Bill, 2020 was one of the bills committed to the Committee.

Giving a background history of the Bill, the Chairperson informed the meeting that they were initially consolidated into one and committed to the Health Committee but later withdrawn by the Ministry of Justice (person in charge of the Bill).

Subsequently, he said the bills were later separated and brought back to Parliament in June, 2020 for consideration.

According to the Chairperson, the Committee is mandated to make relevant amendments to the Bill, detailing the methodological approach of the joint committee in scrutinizing the bills. The Chairperson argued that the Committee would be adducing evidence both oral and written from witnesses to enable it to come up with appropriate recommendations.

Furthermore, the Chairperson reminded the meeting about the Standing Order 101 of the National Assembly which clearly states the powers and remits of committees.

1. Consideration and Scrutiny

Oral and Written Evidence of Witnesses

Ministry of Women, Children and Social Welfare (MoWC&SW)

In its oral evidence, the Ministry of Women, Children and Social Welfare indicated that, as the sponsors of the Bill, it is not asking the court not to entertain out-of-court settlement but not to compromise the rights of the complainant/victim of domestic violence.

Ministry of Justice (MoJ)

The representatives of the Ministry maintained that the amendment of the Domestic Violence Act is appropriate. They noted that the courts are mandated not to pass judgement or make rulings that jeopardize the rights of the victim of domestic violence.

Ministry of Finance and Economic Affairs (MoFEA)

The representative of the Ministry of Finance and Economic Affairs indicated in both its oral and written position that it does not object to out-of-court settlement but insisted that it should not jeopardize the rights of the victim.

National Women's Council

The Chairperson of the Council noted that domestic violence is a lifetime problem for survivors. She said the women have been negotiating since time immemorial, adding that they cannot continue negotiating and that it ought to stop.

Personnel Management Office (PMO)

Sometimes out-of-court settlement can be entertained as litigation is expensive and may take a long time and lead to family break-ups. There is need for Psychosocial Support (PSS) for victims or survivors of domestic violence.

Network Against Gender-Based Violence (NGBV)

The network supports the amendment. It is dealing with a case of domestic violence in the courts. The Bill is coming to protect victims of domestic violence who are both men and women. The court to ask victim to express position.

Child Protection Alliance (CPA)

Supports the amendment of laws that are in place, but enforcement is the challenge. The amendment is not disallowing out-of-court settlement.

Cases like rape cannot be settled out of court. Gambia is a signatory of many conventions that promote the rights of women and protect them against gender-based violence.

Paradise Foundation

Fatou Faye of paradise insists that out-of-court settlement of domestic violence cases should not be entertained as it impacts negatively on the victims or survivors and psychologically traumatize the children. She said violence is often repeated and is almost always against women. She calls for mandatory psycho-social support for perpetrators.

Summary of Evidence

- Domestic Violence Offence should not be compromised. They should be taken to court.
- Suggestion for some of the domestic violence that can be settled at home to be settle in the family level than taking it to court.
- The effects of domestic violence are the traumas, therefore all domestic violence-related offences should not be negotiated at family level.
- The Committee should also consider men in this provision as domestic violence offence involves men too.
- To involve social workers when escorting the perpetrator to avoid interference from family members.
- Suggestion for psychosocial support for the perpetrator to come from the community and
- Propose to develop a policy on what should be done.

2. Conclusion and Recommendations of the Committee

Domestic Violence (Amendment) Bill 2020

AN ACT to review and amend the provisions of the Domestic Violence Act found to be discriminatory against women and girls in The Gambia in furtherance of The Gambia's international obligations and in line with the Constitution and for connected matters.

Observations/Conclusion

The Committee observes that the witnesses agree with the preamble of the Domestic Violence (Amendment) Bill, 2020.

Committee's Recommendation

The Committee recommends that the preamble stands part of the Bill.

1. Short Tittle

This Act may be cited as the Domestic Violence (Amendment) Act, 2020.

Observations/Conclusion

The Committee observes that the witnesses agree with Clause 1 on the short title of the Bill

Committee's Recommendation

The Committee recommends that Clause 1 on the short title stands part of the Bill.

2. Amendment of Domestic Violence act 2013

The Domestic Violence Act (in this Act referred to as “the Principal Act”) is amended as set out in the Act.

Observations/Conclusion

The Committee observes that the witnesses agree with Clause 2 to stand part of the Bill.

Committee’s Recommendations

The Committee recommends that Clause 2 should stand part of the Bill.

2. Amendment of Section 36

The Principal Act is amended in Sub-section (2) of Section 36 by inserting a new paragraph (d) as follows:

“(d) Ensure that the rights of the complainant are not prejudiced by an out of court settlement.”

Observation/Conclusion

The Committee observed that the witnesses are in support of the amendment.

Committee’s Recommendation

The Committee recommends for the proposed amendment to stand part of the Domestic Violence (Amendment) Bill, 2020.

Observations/Conclusion

The Committee recommends for the objects and reasons to be redrafted to capture the specific nature of the issue the Bill is intended to address as required by Standing Order 64 (1)(a), which states:

“(1) every bill shall be accompanied by a memorandum signed by the person in charge.”

On that note I beg to move.

THE SPEAKER: Thank you Honourable Member, the mover of the motion. Any seconder?

HON. BILLAY G. TUNKARA [KANTORA]: Thank you Honourable Speaker for giving me the floor. I would like to thank the Committee for a job well done. I equally want to thank the Honourable Member for that wonderful presentation of the report to the plenary.

Honourable speaker, we have seen the rationale behind this particular Bill, and if you look at the section they intend to repeal, it is all geared towards bringing sanity in our environment and also instill discipline in our society. I am of the conviction that laws are meant to change our behaviors, laws are meant to make sure that one must know where to act and when to act and how to act? Regarding the Domestic Violence Bill, committees face serious challenges in terms of so much confusion relating to family negotiation. People have seen that their fundamental human rights are being violated, and by virtue of the social and religious nature of our country that tend to interfere and make victims to succumb to pressure. These are against fundamental human rights.

However, I would like the mover to explain to me better as to how this legislation is envisaged to be enacted. Sometimes we appreciate the efforts of the ADR [Alternative Dispute Resolution] which always encourages negotiations at the level of the family. This is also a good

practice that is recommended in terms of settling disputes to maintain the unity in our society.

Having said that, I am in full support of the Bill that is before us here for repeal knowing the number of cases we receive on daily basis. Even at the level of our constituencies, it is also incumbent upon us to help our community to sensitize them that if you take it for granted that, you have so much power and can beat somebody, and your family will always come over to negotiate at the expense of the victim, I want to tell you that those days are gone. So, I am in full support of this particular legislation and would like to urge every one of us here that when we go back to our people, we enlighten them more that gone are the days when you take advantage of out-of-court settlement.

If you do anything that is cruel, you should be ready to face the full force of the law. I remember our Honourable Minister of Interior did quote that:

"If you do not want to respect the laws, be ready to be consumed by those laws"

When the society is now informed that such measures are put in place whereby nobody can go free after committing an offense or crime, people will take the law seriously. So, on that note Honourable Speaker, I want to thank the Committee and the mover of the motion for this wonderful Bill.

[Question proposed]

THE SPEAKER: Any Honourable Member who wishes to take part in the debate may do so by raising his/her constituency tag.

HON. SAIKOUBA JARJU [BUSUMBALA]: Thank you Honourable Speaker and the mover of the report who is the MP of the day in her cultural attire.

Honourable Speaker, the intention of the Bill is to eradicate discrimination against women and girls in the society, but I also want the mover of the Bill to also understand that, in as much as, they are trying to eradicate discrimination, I hope they would not also create problems in the society. Given that the formation of the society starts from the family and problems are unavoidable. So, I would want to know whether they have put family issues into consideration when drafting the Bill.

If I am allowed, I want to explain. If you say domestic violence, there are many provisions in the Parent Act, and I want to suggest a categorization of domestic violence that can go to court as opposed to those that should not go to court, because the process of litigation is tedious and expensive and then the court might not be available to everyone in all societies. So, I am suggesting if there could be a categorization of all sorts of domestic violence that would help differentiate them in terms of those that could be compromised and settled at family level, and those that should be taken to court. It would be easier for Honourable Members to give their support without hesitation knowing fully well that the family unity is not jeopardized.

Our culture and religion encourage the settlement of disputes at the level of the family, especially for married couples who happened to be blessed with children. That is why the categorization of the domestic violence is important.

Regarding the issue of going to court, have you also considered the availability of court facilities and the cost of litigation to every Gambian at the time of their need? So, Honourable Speaker, I want the mover to react to them before I give my blessing. Thank you.

HON. OUSMAN SILLAH [BANJUL NORTH]: Thank you very much Honourable Speaker. I would like to repeat that the short title of the Amendment should read 2021.

We have heard the Honourable Member for Busumbala, but I want to tell you that the Amendment is not seeking to dismiss out of court settlement. I think the Honourable Attorney General and Minister for Justice will come and explain. What it is saying is that, when a domestic violence case is being settled out of court, it should not prejudice the right of the victim. If the victim is physically numb, that is an instance that cannot be settled out of court, the law must take its course. The IFD victim is dead, or is handicapped physically, I do not think any elected Executive will support that to be settled out of court because the perpetrator is an uncle, a brother, or a grandfather. It is even saying that victims of violence can also be male, a mother, a grandmother, harming an in-law. So, these are the instances that the Bill is talking about, but it must not under any circumstance compromise the right of the victim. It should proceed and the court and the law should take its course. So, this is what the Bill is talking about.

There are so many instances as we have been told by the witnesses who by the way are activists. Even the Ministry that had been dealing with cases of this nature, sometimes the perpetrator is someone we live with

and every time seeing him/her, can psychologically traumatize the person. Sometimes there may even come and boast that, yes! I did it to you and next time will be worse because it has been settled out of court. You are seeing your perpetrator every time which will serve as a reminder of how he/she victimized you, that is really traumatizing. So, these are the instances that the law does not want to see being settled out of court.

In fact, I cannot see any instances here, personally, being a victim of domestic violence, my conviction is that, it should not even be settled out of court, no case of domestic violence should be settled out of court. This is my personal position but as I indicated, the law as it is, is not precluding an out-of-court settlement, but for me that is my personal conviction. Domestic violence perpetrators should be taken to court and the law takes its course. Thank you very much.

HON. ALHAGI S.B SILLAH [NIANI]: Thank you very much Honourable Speaker. We as lawmakers, we must always practice what we have already adopted. If you go to the local chiefs, they charge you, they say it is the National Assembly Members who have already made this law. I have seen a portion on page 7, and I think that one is more suitable, that is:

- The suggestion that some of the domestic violence should be settled at the family level than taking it to court.

So, I think in most cases, whatever happens in our constituencies and it is taken to the police, what normally happens is that, Honourable

Members are always notified for possible intervention to ensure easy settlement of that circumstance with the police.

Why not we differentiate the type of violence as Honourable Member for Banjul North said. Domestic violence varies in magnitude, some can be compromised while others cannot be tolerated. Sometimes families would like to strike a compromise at the family level over a particular violence, but when it reaches the police, they tend to take advantage of the situation and insist that the case must be pursued so that justice can take its course.

HON. SUWAIBOU TOURAY [WULI EAST]: Thank you Honourable Speaker, I think the issue we are dealing with is more for the courts to decide. If for example, a case has arrived at the court, the provision is saying that the court should look at it to see whether this thing can be settled out of court or it should not be settled out of court. If it is to be settled out of court, it should not be at the detriment of the victim. I think that is what it is trying to say.

If for example, a man has beaten his wife and the wife filed a lawsuit against him, if the parents said that now, the case be settled out of court, it should be the duties of the court to assess the case to establish whether it should be settled out of court or not, but it should not in any way be prejudiced against the right of the complainant. I think that is what the Bill is saying. So, it is optional, and it is for the court to decide. If the situation is too aggregative and that the person involved is lacerated, wounded all over the body and even disabled, then the court will have to decide otherwise and reject the out-of-court settlement,

even if the parents say the case should be out of the court. I think that is what we are looking at. Thank you.

HON. SAIKOU MARONG [LATRIKUNDA SABIJI]: Thank you very much Honourable Speaker. I think if you look at this amendment that we are trying to do, this is where we also want to be at par with the international standard. We all do complain the women's right, when you talk about the women's rights, this is part of it. We need to protect them and the best way to protect our women is to have the right legal frameworks in place, and I believe this is part and parcel of it.

Honourable Speaker, in The Gambia here, we have one problem, that is the "**maslaha**" syndrome that we have in our society. Our girls and women, when you talk about domestic violence, we all know how things are in our society. Every day, you go to police stations, there is a series of cases against our women then all of a sudden, they will say let us just settle it at the family level and I do not think this is going to help. So, when we have this type of a law, at least this is going to empower our women and we the men as well, because looking at some men, for example the Honourable Member for Sumbala, who is having about four girl-children. So, to protect those girls, I think it has to start from us, the National Assembly. We should come with a right legal framework that is going to protect the rights of the women in our society. So, we are appealing to the Honourable Members for them to support this. If you want to protect the right of our women, this is exactly what we need to do.

The “**Maslaha**” syndrome should be removed from our communities and we all have to face the reality. Thank you very much.

HON. HALIFA SALLAH [SEREKUNDA]: Thank you very much Honourable Speaker. Looking at the comment from the Ministry of Justice, that representative of the Ministry maintains that the amendment of the Domestic Violence Act is appropriate. They noted that the courts are mandated not to pass judgement or rulings that jeopardize the rights of victims of domestic violence.

Well, I was looking at the responsibility of the court under Section 24 of the Constitution, *which states that: ‘any court or other adjudicating authority established by law for the determination of any criminal trial or matter, or for the determination of the existence or extent of any civil right or obligation, shall be independent and impartial.’*

So, as a matter of principle, they must maintain that independence and impartiality. So, I am not sure whether the idea is to tell the court anything other than providing a law which ensures that, the rights of the complainants are not prejudiced by out of court settlements. It means that it is a question of equity, looking at what the complainant is entitled to, if the courts were to preside and decide, and another authority under our authority may be with the responsibility of helping the poor because not all matters can go to the court, otherwise the courts will be so overburdened that, at the end of the day, time itself will be the actual doer of injustice. In order to prevent the courts from being overburdened, it is to have out of court settlements.

[The House Resumes]

Report of the Select Committee on Health, Women, Children Disaster, Refugee and Humanitarian Relief on Skin Bleaching, Prohibition Repeal Bill 2020, (By the Hon. Chairperson of the Committee).

THE SPEAKER: Thank you very much Clerk, Honourable Members will recall that the motion for the second reading of the Bill entitled Skin Bleaching Prohibition Repeal Bill 2020 was moved by the Honourable Attorney General and Minister for Justice on Thursday the 16th July 2020. The motion was seconded and the debate on the general merits and the principle of the BILL shared accordingly. The Bill was then referred to the Assembly Business Committee for committal to the relevant committees. The said Bill was referred to the Select Committee on Health, Women, Children, Disaster Refugee and Humanitarian Relief for scrutiny, and report back to the plenary. The Committee today scheduled to table the report before the Assembly and once it is tabled, debated and adopted, the next stage of the Bill which is the consideration stage, will be scheduled accordingly at the appointed day. I will now invite the Hon Chair of the Select Committee on Health Women, Children, Disaster Refugee and Humanitarian Relief to table the report of the Committee.

HON OUSMAN SILLAH [BANJUL NORTH]: Thank you very much Hon Speaker, I want to announce that the select committee On Health, Women, Children, Disaster, Refugee And Humanitarian Relief and wants to make history today, and by extension the National Assembly to make history, by giving the opportunity to a member of the committee who

has disability challenges, but because of technology, that disability can be overcome. We want to task Honourable Ndey Yassin Secka, Nominated Member, and also member of the select committee to lay the report of the select committee on the Repeal of the Skin Bleaching Prohibition Bill 2021, by using brail to do the presentation, so we ask for your indulgence, thank you.

THE SPEAKER: Hon Ndey Yassin the floor is yours.

HON. NDEY YASSIN SECKA [NOMINATED]: Thank you very much Honourable Speaker, without going back to the list of the witnesses, to avoid repetition, I think I will go straight to the selected committee members in attendance, and remember, it is the Skin Bleaching Prohibition 2021, instead of 2020. It is 2021 as alluded to by the Chair of the Committee.

The following Honourable Members were in attendance:

- Hon. Ousman Sillah - Chairperson
- Hon. Fatoumatta K Jawara - Vice chairperson
- Hon. Amadou Camara - Member
- Hon. Musa Amul Nyassi - Member,
- Hon. Kaddy Camara - Member
- Hon. Ndey Yassin Secka - Member
- Hon. Omar Darboe - Member
- Hon. Saikou Marong - Member

Sarata Bojang - Secretary

Isatou Sonko - Secretary

Consideration, Scrutiny, Findings and Recommendations.

In his welcoming remarks, the Chairperson of the Committee commended the stakeholders for responding to the invitation to come and serve as witnesses. He informed the witnesses, stakeholders that, the Hon Minister for Justice has introduced series of Bills before the Assembly that were committed to the committee for further scrutiny, and report its findings and recommendations to the Assembly for consideration and approval. According to him, the Skin Bleaching Prohibition Act Cap: 1308 laws of the Gambia 2009, is among the Bill under the scrutiny of the Committee. The Chair noted that although skin prohibition Act Cap1308 laws of the Gambia 2009 repeal Bill, was rejected at the second reading and the ABC committed it to the committee for scrutiny and report back to the plenary for consideration.

Evidence of witnesses: When the witnesses were invited to present their evidences, almost all of them except, the Child Protection Alliance (CPA) were in support of the repeal, emphasizing that although, the practice of skin bleaching has some negative health, cultural and social implications, it is nonetheless, a matter of choice for the CPA and its concern, is the influence it can have on children and its attendant health implications.

It was argued by those in support of the repeal that, it is a piece of legislation that can never be enforced effectively. If there is any attempt

by the police enforcement, it will likely be discriminatory on the basis of selective justice, and can lead to social stigmatization and strife.

The witnesses added that the law has been in place since 2009, but never implemented. There were few unsuccessful attempts, which were merely public shows. They, therefore, concluded that the law cannot be implemented and thus should have no place in the statutory books. The recommendations from the majority, is for the law to be repealed as proposed by the Executive, which is responsible for its enforcement. So my fellow National Assembly Members, as you are aware that the repeal is proposed by the Executive, I see no reason why I should crave your indulgence to support this Bill.

In conclusion, the Committee has considered the unanimous positions advanced by the witnesses. I could not agree more with their conclusion, that this law is unenforceable and discriminatory. The Committee is further convinced by the agreement advanced by the witnesses that an enforceable and discriminatory law is not fit for purpose, as such, it is recommended at the level of plenary to reconsider and repeal the Skin Bleaching Act Cap 1308 laws of the Gambia 2009.

Thank you.

HON. AMADOU CAMARA [NIANIJA]: Thank you very much Honourable Speaker, and my colleague Nominated Member Honourable Ndey Yassin Secka. I rise to second the motion and as a member of the Committee, I also want to crave the indulgence of this august Assembly to let us go by the recommendations of the Committee, as the task was

given to us and we have engaged and consulted widely. I think it is better we just revoke this because this law is definitely not enforceable.

[Point of Clarification]

HON. HALIFA SALLAH [SERREKUNDA]: Hon Speaker, the issue is a report to be reviewed, so, even if people say no, and you look at Standing Order 66, you will see that, this is different from a constitutional amendment, which has specific provisions in the Constitution requiring certain steps. Standing Order 66 says: "the stages of the Assembly consideration of a Bill shall be mandatory and it goes to all the stages." it must go to all other stages, if we do not agree at the third reading, you reject it, but the stages must be followed unless it is a bill dealing with a constitution.

THE SPEAKER: Thank you for that clarity, Honourable Member for Serekunda.

[Question Proposed]

Any Honourable Member who wishes to take part in the debate may do so by raising his/her constituency tag.

HON. MUHAMMED MAHANERA [SANDU]: Thank you very much Honourable Speaker for giving me the floor. Before I start the debate proper, I just want to remind the Assembly that, a similar motion like this was tabled in the Assembly in 1996, but it was rejected. I thank the Honourable Members who has voted against it and make sure that anything of such, should not be entertained in this country.

Honourable Speaker, there is a purpose for human beings to be created. These are not my words but from our creator. Allah states (quotes) from a clear Hadith that, "skin bleaching to change your color different from the color that your creator has given to you is haram".

ii) He further says clearly that, "the act of bleaching will harm you." There are so many implications, as you are either trying to establish a relationship or you are trying to promote prostitution. Honourable Speaker, for the purpose of emphasis, Allah did not even say, do not do it, He says do not go near it. When you look at the health aspect of skin bleaching, you will see the reason why Yahya Jammeh did not promote or allow the importation of skin bleaching products in this country.

The products are toxic, they are harmful to the environment and to our health as well. There are so many elements that are mixed to produce these products. One of them is nebulin which is toxic and can damage your skin, by affecting the melanin.

Honourable Speaker, there is no religion that promotes skin bleaching, and if we do, we are going against the will of God, that is the fact. Yes, we have the power as National Assembly Members, but our creator is more powerful than us. Even if we regard the Bill to be discriminatory against women and girls in the Gambia, in furtherance of the Gambia's International obligation, I believe that nothing could be more obligatory on us than the duties we owe the Almighty Allah. Although, we are sometimes obliged to dance to the tune of the international community because we depend on them, we should not value our international

partners more than our creator. The fact of the matter is that, skin bleaching is against our religion and the norms and values of our society.

Statistics from research have shown that 40% of African women do skin bleaching. They never say skin bleaching is in America or the UK. In fact, there are countries that ban the importation of skin bleaching cream. If the Bill is endorsed, it is a matter of collective responsibility, but as far as I am concerned, I will never support skin bleaching.

Honourable Speaker, if we allow this, the effects would not only be on the adults but on the school going children as well. There will be no control over the children again and they will abuse the use of the products at a tender age. The effects become more terrible when one is sick and has to undergo operation. In such situation, one is at the mercy of Allah because the skin bleaching cream would have affected the melanin element of the skin which could pose a lethal health hazard that can lead to death. This is something that we Muslims, should not allow despite International pressure or obligation. You can hardly believe that the cabinet of a predominantly Muslim nation should even sit over this or to bring this kind of BILL to this Assembly. I want to appeal to Honourable Members to look at the issue very critically because if something is coming to destroy the Muslim Ummah, it is the responsibility of the followers to arrest it immediately. It is important to bear in mind that if Allah is administering punishment, it is always collective regardless of whether you are a Muslim or not, it falls on everyone.

Our mission in this world is very short, if you have 60 years you ought to thank God because the life expectancy is very low nowadays. I think we have pertinent issues rather than this Bill. If you look at the development situation of this country, it is scary. There are people here without water for 56 years, we have all these priorities, so Hon Speaker those issues could be material problem to discuss than skin bleaching, Thank you very much.

HON. SAINY TOURAY (JARRA EAST): Honourable Speaker thank you very much, I rise to express my strong condemnation with regards to this motion tabled before us. Honourable Speaker allow me to first and foremost felicitate the presenter for what I call a historic presentation. As alluded to by the Chair of the Health Committee, history was indeed made in this chamber. We call it innovation if you like it. Honourable Speaker for the first time, since the coming of being of the fifth Assembly, and the second Republic, this is the first of its kind for a report to be presented via kaki application, that is the brail through your fingers and this is quite historic, and I believe fervently that it will go in the archives of our history for having laid such a giant scale.

Honourable Speaker, to come to the issue under discussion, which is the report of the Select Committee on Health, Women, Children, Disaster, Humanitarian Relief and Refugees on the Repeal of the Skin Bleaching Prohibition Bill 2021 as opposed to 2020. There are indeed lessons to be learnt here, I will not feel ashamed.

[Point of Order]

HON. SAINÉY TOURAY: Based on what authority Honorable Member for Lower Baddibu?

HON. ALAGIE JAWARA [LOWER BADDIBU]: 67[2] second reading says: "If the motion is carried, the Clerk shall read aloud the short title of the Bill and shall declare it to have been read a second time. Honourable Speaker I stand to be corrected but I think on the 16th of July 2020, this Bill was here before us and it was voted out. So, could you go back to the record and see before we proceed, to see what we are doing is in line with the Standing Orders.

THE SPEAKER: Thank you very much, Hon Member for Serrekunda

HON. HALIFA SALLAH [SERREKUNDA]: Honourable Speaker, do we continue to repeat? Could all members go to Standing Orders 66, supposing the bill does not mean that it will still not proceed. It will proceed, and we can reject it at the third reading. It does not say we amputate the process, the process continues.

HON. ALHAGIE JAWARA [LOWER BADDIBU]: Honourable Speaker, I just want to confirm for the purpose of the record, whether this Bill is voted out on the 16th of July or not .

HON. SULAYMAN SAHO [CENTRAL BADDIBU]: I want the Member for Lower Baddibu to understand that the Bill that we are looking at is a new Bill, if you have an old Bill that has been thrown out, it is not this Bill.

HON. ALHAGIE JAWARA [LOWER BADDIBU]: I just want to make an observation.

HON SAINÉY TOURAY [JARRA EAST]: Honourable Speaker thank you for your generosity, we pride ourselves when we are referred to as fair colored or fair in complexion.

HON. ALHAGIE JAWARA [LOWER BADDIBOU]: Honourable Speaker, I believe if the Bill is rejected, and it is coming back again it has to be a new Bill, so I believe this should be the first reading, but it cannot just come to be the second reading, because it is rejected at the second stage.

THE SPEAKER: Honourable Member for Lower Baddibou, what is your proof that, this Bill is rejected? This Bill is not rejected.

HON SIDIA JATTA [WULI WEST]: Honourable Speaker, I always say we must be an example, we must be role models to be copied. Is it logical that a rejected bill was referred to a committee? How is that possible? My friend let us not waste our time.

THE SPEAKER: Honourable Member for Jarra East, can you please proceed.

HON. MOMODOU CAMARA [FONI BINTANG KARANAI]: Honourable Speaker, I think even the report itself said that, the Skin Bleaching Prohibited Laws of the Gambia was rejected at the second reading.

HON. HALIFA SALLAH [SERREKUNDA]: Honourable Speaker, the procedure is very clear, and we should not really confuse ourselves. Standing Order 67 says: "On a motion being moved that, the Bill be read a second time and the general merits and principles of the Bill may be

debated” and then it goes further, if the motion is carried, the Clerk shall read aloud the short title of the Bill and shall declare it to have been read for the second time, this is the procedure. Now, if it is rejected, what do we do? That is the question. Go to 68, It says if the Bill has been read for a second time and referred to the Assembly Business Committee for committal to a committee, now the key here is 66 which is our guide. What should be done? It says that following the first reading, the stages in the Assembly’s consideration of a Bill shall be, second reading, committee stage, consideration stage, third reading shall be mandatory. Unless you have something stated here to the contrary, which says that you throw it out, then tell us where it says that, when it is rejected you throw it out. If it is not there then, we should follow the stages, and at the consideration stage you may reject it.

This is different from a constitution, the Constitution specifically said, at the second reading, you must have three quarter majority, that is the supreme law, but that is not the situation in ordinary bills. Please, unless you have something to tell us, quote the section that says we should throw it away.

THE SPEAKER: Thank you very much Honourable Member for Serrekunda for that clarity, we can now proceed.

HON SAINEY TOURAY [JARRA EAST]: Thank you very much Honourable Speaker after a series of interruptions. One is proud when one is referred to as fair colored, and one is not happy when one is referred to as being black or dark. Honourable Speaker, this sounds ironical.

Honourable Speaker, I will be proud even if I am as black as an ebony is dark black because I am an African. I will be very proud if am referred to as being black as an ebony. We have a problem, I do not know what we are going to tell the likes of Kwame Nkrumah, Patrick Lumumba, these great African men and women of dignity when we meet in the other part of the world. Honourable Speaker, it is high time for Africans to value themselves. You see, life is not about putting on beautiful dresses, but life is based on values, it is values that make a man, and I think it is high time for Africans to respect our own values.

Honourable Speaker, I had stay in the United States of America, but I have never seen even a white lady bleaching or even thinking of bleaching or trying to apply colors that would make her to look dark. I have never seen it, if you have seen one you can help me. Here we have our African sisters, African brothers, I do not want to be biased, but we have men who are also toning their skins as well. It is not only women, you have men who are in the habit of toning their skin. Honourable Speaker, I think it is very unfortunate as Africans. Coming to the health implications of skin bleaching, thank God my better half is a nurse, I have an iota of understanding of health.

Honourable Speaker, the skin is divided into different regions or layers. The top layer is what is called the epidermal layer, under the epidermal layer you have the dermis. It is very soft and delicate, if one applies bleaching agents or creams on your skin, it destroys your skin. I think before I come down a bit to the religious aspect, I will first deal with the health aspect.

Honourable Speaker, it beats my imagination as an African that some people think they are too dark, they are too black not knowing that you are insulting our color. They would say you are ugly and dark in the local language. Those things are derogatory remarks against our selves. Hardly have you seen a white man, or a white lady using derogative language against herself or himself.

Honourable Speaker, if you look at our composition, the way we are made as human beings, one of the greatest artist, the best of the artist, best of the best is God, and the moment Man was created, God exulted himself, praised himself and assigned one of the best artist in the world over, this is a food for thought, but still people are bent on eroding their skins. Health implications are disregarded which I think, is a cause for concern and need to be addressed. If need be, a national conference be conducted so as to deal with the pros and cons of the skin bleaching issue.

Honourable Speaker, there are lot of things that are a matter of choice, but we disliked them for example, stealing could be a matter of choice, but we disliked it, if I stand here and talk loudly, or I scream here, it will be seen as something out of the ordinary, but it is a matter of choice, or is it a positive matter of choice. We have to understand and appreciate the dichotomy that exists between good and bad, or that which is appreciable or that which is not appreciable.

Honourable Speaker, there are certain things we do in a society, sociologist, psychologist, will refer you as a social deviant, they will term you as somebody who deviated from the Norms and Values of that

society, therefore, it is important for us to be called social deviant, because it means they have done something that is at cross-purpose with social Norms and Values.

Honourable Speaker, I could vividly remember that, I said this here when I was going to Muslim High school. I wrote an article which was captioned, "skin bleaching culture or commerce". Honourable Speaker, no one will tell you that skin bleaching is culture, we all know it is alien, we do not know it at all, talk less of the health implications.

Coming to the Religious dimension of skin bleaching, Honourable Member for Sandu made a great presentation, he mentioned some verses from the Holy Quran, it appeared good. I can say almost all religious beliefs speak against skin bleaching. if you go to the scriptures of the Christians, they will not say skin bleaching is good, if you go to the Islamic scripture, you will never find it good there. So, that which is bad is bad, that which is good is good, that is the law of nature. Anything that has to do with skin bleaching, it is bad, diabolical, devilish and dangerous, there is no two way, it is just bad. I think we need to help our sisters, if we want to empower our children, especially the girls and our wives. We must tell them right away. There is nothing like saying it mildly, the truth of the matter is that, skin bleaching is bad because you are destroying your own skin and looking down upon yourself and could even make you feel embarrassed.

It is easy to establish whether madam x is bleaching or not. You see just look at the elbow, the knee cap and the ankle, you know that this guy is not a white person, she is as black as an ebony. The irony is that, the

moment you stop bleaching, you become even darker than the ebony. The responsibility is on all of us to discourage our sisters from the act of bleaching.

Honourable Speaker, I have never been an advocate for skin bleaching and I will continue to speak against it vehemently as I live. I cannot understand the rationale of eroding your skin, instead of being what you are from creation. It is important to know that the greatest artist is the Almighty Allah and whatever color or form He gives you, is perfect.

Honourable Speaker, it does not require much intelligence to know that, even if a woman puts herself in a bleaching pan, she can never be white or being considered as a white person. The funny thing about the whole process is that, once you start doing it, and for some reason or the other, you decided to leave it, you even get darker than your previous color. It is nothing less than a transition from the frying pan to the fire.

Even the health implication alone is enough ground to do away with skin bleaching. It is good to always remember hereafter and desist from all things that are prohibited, because one day we will all leave this world. So, I am appealing to my sisters to please have a second thought, that will be very helpful to them. Thank you very much.

THE SPEAKER: Thank you very much Honourable Member for Jarra East. May I now call on the Honourable Member for Busumbala

HON. SAIKOUBA JARJU [BUSUMBALA]: Thank you very much Honourable Speaker. I want to join my colleagues to thank the presenter of the report Nominated Member Ndey Yassin Secka that, the Health

Committee has nominated you to lay the report on their behalf. Obviously, we are very happy, we want to thank her on that.

Honourable Speaker, I think I would not want to waste the time of the Assembly, I still want to maintain my previous position on the first reading of the bill that, I would never support it based on the justification advanced by the Executive. It is not our duty to implement it, if they cannot implement it, that is the end.

But Honourable Speaker, I want to take the House to the committee's report and compare it with other reports. The reports that we discussed listed some institutions that were consulted, and that they have agreed on the details of the Bill, but on the other one, it is only the agreement of CPA that was indicated. So, that means, we do not have the consensus of institutions to back the repeal of the Bill. So, I want to support the justification of the CPA that, it will have an impact on our school children, especially girls. It also has health, social and religious implications as highlighted by the Honourable Members for Sandu and Jarra East. I am against the repeal of the Bill based on the justification being put forward by the Executive. As far as I am concerned, it is discriminatory and difficult to enforce, and if a law cannot be enforced, it is as good as death. That being the case Honourable Speaker, I am against the repeal of it at this stage. Thank you very much.

HON. MOMODOU CAMARA [FONI BINTANG]: Thank you very much Honourable Speaker. Allow me to thank the Nominated Member Ndey Yassin Secka for the good job she has done in presenting the report. I also want to join my colleagues who are not in support of the Bill.

Honourable Speaker, I think when the Bill was brought here before us, we spoke at length about it, and was rejected, now it is back again.

Honourable Speaker, they said that the Bill is enforceable, I think they want to enforce it that is why. I did not know the reason why they want to repeal skin bleaching.

The Honourable Member for Sandu has quoted some Quranic verses emphasizing clearly that Allah did not want skin bleaching. Do we want to say that what is written in the sacred book is wrong? It is equal to that because Allah decided to make you black and you say no, I must be white. I think we should make progress.

Honourable Speaker, I think these creams we are talking about, in terms of applying them, is a matter of choice, but being a matter of choice, does not make them right. Stealing is a matter of choice, why can they allow people to steal? As representatives, we have the duty to protect our people, especially our sisters and mothers, even our brothers because some men do bleach. We should not encourage it because the chemicals used to make these creams are dangerous. You will never see white men making creams that will make them black, we can all attest to that. We should accept that black is beauty. So, I am not in support of it, thank you very much.

HON. DEMBO KM CAMARA [ILLIASSA]: Thank you very much Honourable Speaker. I will be brief because my Honourable colleagues from Sandu and Jarra overlapped what I wanted to say.

Honourable Speaker, I just want to ask the Justice Minister as to why he wants us to repeal the Skin Bleaching Bill? That is my question, and why are they concerned about skin bleaching? What is the reason behind it? As far as I am concerned, talking about it amounts to an insult. We are insulting ourselves and mocking the Almighty God, that is the bottom-line. I think there are so many issues that are very important and more urgent. I think there are other pertinent issues that could be subject of discussion at the level of the Assembly, rather than skin bleaching. I do not want to waste the time of the House, I just want the Minister to respond to my questions, thank you.

HON. SAIKOU MARRONG [LATRIKUNDA SABIJI]: Thank you Honourable Speaker for giving me the floor. Let me also thank Honourable Ndey Yassin Secka for the brilliant presentation that she did.

Honourable Speaker, I think the issue we are talking about is very simple and straight forward. As a committee, the message we are sending is that, skin bleaching should just be a matter of choice for our women, which simply means that, we should not impose it on them. If you talk about Africa, one thing we have not understood is that, the Pan Africanism we are claiming about is a concept. It is not that bleaching is going to take away Pan Africanism from you. It is not because it is a concept. We must have that concept developed to understand what it means as an African.

Honourable Speaker, looking at bleaching, how would you identify it? Can you just meet with somebody on street and say madam y or madam

x is bleaching? This is what we want to know. Some people are saying that maybe, your elbows could indicate it.

Honourable Speaker, I think the Assembly should remember during our committee engagement with stakeholders, they all understood what it means. We do not have to have a law, we cannot dictate how our women should be, it is just a matter of saying let us go to the school or simple as that. Let us talk to our children, let us sensitize them to understand all what we are saying. All what we can do is just to appeal to the National Assembly Members by telling them, please let us just repeal this since it has been there for a long time and has never been acted upon. Let us allow the women to take care of themselves. Let them do what they want to do with their skin. Thank you very much.

[Question Proposed]

That an Honourable Member to move a Motion for the House to sit beyond 6 o'clock to complete today's business.

HON. BILLAY G. TUNKARA [KANTORA]: I rise to move Honourable Speaker

THE SPEAKER: Any seconder?

HON. SUWAIBOU TOURAY [WULI EAST]: I rise to second the motion.

THE SPEAKER:

[Question Proposed, Put and Agreed to]

That the House sit beyond 6 o'clock to complete the business of the day.

HON. SULAYMAN SAHO [CENTRAL BADDIBU]: Thank you Honourable Speaker. I would like to join my colleagues to thank Honourable Ndey Yassin Secka for the wonderful job.

Honourable Speaker, I was not in support of the bill initially, but today I am in full support of the Bill. The reasons are as follows: Honourable Speaker, democracy is built on foundations, and one of those foundations are choice. Choice is essential in democracy. Honourable Speaker, we must reflect on the days when this law was made in this country. What was the impact it created? Laws are there to remedy situations, to change for the good of everybody. But here, we made a law that, in fact, made our women to be more vulnerable to harassment at check points, do you understand that? Honourable Members are looking at it from the Pan African point of view. This is not about Pan Africanism. Honourable Member for Jarra East should understand that, today, we are not Pan Africanist by looking at our costumes that we put on nowadays.

[Point of Order]

THE SPEAKER: Honourable Member for Wuli East, you drew his attention to a point of order, what is your point of order please?

HON. SUWAIBOU TOURAY [WULI EAST]: Honourable Speaker, let the Honourable Member address the Speaker, not the individual.

HON. SULAYMAN SAHO [CENTRAL BADDIBU]: Thank you Honourable Member for Wuli East. Honourable Speaker, Members of the House must understand that, our women should be at liberty to choose. We are not saying that they go for skin bleaching, nobody is asking women to go for skin bleaching, we are not saying that. But the law is discriminatory, there are people who are affected by the law that is why we are saying we leave it up. It is your choice if you do not want your wife to bleach, stop it that is your problem. We cannot say, we have to stop the law, what are the justifications Honourable Speaker? I want the Honourable Members to understand that this law is discriminatory, and we have looked at the laws that were discriminatory and we repealed them. But this kind of law, we cannot allow it to prevail.

Now what I want to appeal to the Honourable Members not to go out of context. Do you understand that we are all Africans? We love Africans, but is it that only people with black color live in Africa? So, when we are talking about skin bleaching, we should look at it from a different point of view. this is a matter of choice. Personally, I do not need any preaching from anybody because we are not at a mosque or a religious center. Everything I do is between me and the Almighty Allah. The point that we are making is, how to live as modern men and women. Our thinking should be global democracy. You cannot live as if you are in an Islamic State, The Gambia is a secular state. If your religion says do not bleach, then you should not do it. We are saying that the dignity of women should be maintained, and I have seen where a woman was

harassed on board a vehicle, accusing her of bleaching. Honourable Members, let us open our minds and understand each other, thank you.

HON. ABDOULIE CEESAY [OLD YUNDUM]: Thank you Honourable Speaker, allow me to thank the Committee of Health for a good team work.

Honourable Speaker, I have few things to highlight with regards to this Bill. If we are associating this Bill with a matter of choice and the violation of human right, then, we are violating the rights of the people in the country daily, because our young people in the country smoke cannabis which is a matter of choice, but they are arrested when caught in the act. So, it cannot be associated with choice.

The law is the law and we are all equal before it. Therefore, we must implement it. We cannot just come to the National Assembly and say our women have to be free by way of choice to bleach their skins. I think we are in order, it should not be there.

If we associate it with choice, it justifies the repeal, and as such, they should stop arresting young people for smoking cannabis, which is a matter of choice as well.

Honourable Speaker, I think we do not have to waste much time on the Bill. As far as I am concerned, I am not in support of it. I want it to be the way it is, because in the country, we have also seen men bleaching, even if we are not implementing the law, they are doing it. So, I think we have to take the right decision not to repeal this particular Bill, let us leave it as it is and then, we move as a country.

HON. HALIFA SALLAH [SEREKUNDA]: Thank you very much Honourable Speaker. We are here to carry out a task for our people and whatever we do must be in the interest of the people.

We cannot defend the indefensible, and we must look at all issues based on context. We assigned a committee a responsibility to review the Bill entitled Skin Bleaching Prohibition Repeal Bill. The objective is to repeal a law that prohibits skin bleaching, and the way to enforce it is to arrest, charge and convict, therefore, the person you convict becomes a criminal. Is that what we want? Why has it been impossible to implement it? Because the wives of the VIPs, wives of religious leaders and respectable people have also been bleaching their skins. Do you anticipate arresting all these people and taking them to court? If you are talking about religion, you must be honest enough to answer that question.

it has been impossible to really implement the law because even the wives of those who crafted it have been engaging in it, despite the fact that, everybody knows skin bleaching damages the skin and could even cause cancer.

THE SPEAKER: Sorry Honourable Member for Serrekunda for the interruption. Honourable Member for Illiassa please stop disturbing. Honourable Member for Serrekumda you can go ahead.

HON. HALIFA SALLAH [SERREKUNDA]: Honourable Speaker, I am Speaking on the point that we are selected as National Assembly Members so that they come here and look at our genuine concerns and help us to address them. I am sure if members were to come up with a

legislation in the form of a Private Member's Bill, to band the importation of skin bleaching creams. Most likely, you will get 100% support because you are attacking the problem at the root as opposed to attacking the victim who is using it to beautify her appearance.

Beauty is a culture, conceptualize by society and people adopt themselves to what is considered to be beautiful. We are saying that we consider those people doing this act that harm their bodies as victims who need to be rescued, but we do so in the right manner.

We must be very careful in linking our convictions to law, otherwise we will mislead the whole nation because we are not talking about promoting skin bleaching. We are not promoting those values. We are saying that government decided to promulgate a law, enact a law and find itself incapable of implementing it because we cannot implement it selectively.

HON. SUWAIBOU TOURAY [WULI EAST]: Thank you very much Honourable Speaker. We are already told that this law has been here for many years, but it could not be implemented. If we want to implement it, we have to do it selectively, and that is what we do not want. We do not want a law that is discriminatory.

There are laws that stop production of bleaching products, importing bleaching products, where are those laws? The fact that all those laws are not there, we just want to punish the person who uses the product. That is not fair. They do not want to stop the importation, the production

or the sale of it, therefore, they cannot stop the use of It. As far as I am concerned, it amounts to double standard and hypocrisy.

HON. BILLAY G. TUNKARA [KANTORA]: Thank you very much Honourable Speaker for giving me the floor. We are confronted with a bill that seeks to address the issue of health hazard. However, I do not want to be carried by sentiment or by religion. If I am to use my religious belief, would it not be at the detriment of others? I thought it wise because not everybody believes in my faith. There are some people who believe in other religious denominations. I think the only solution to the problem is for the state to ban the importation, since it is difficult to implement, that is why they want a repeal of the Bill. The government should have made research and assessment before bringing it to the National Assembly. They fully understood that the problem lies on the importation because no bleaching product is being produced in this country. There is need for collaboration with the Ministry of Trade to control the entry of these products, and I think provisions had been made to address the issue. We are all aware that banning bleaching alone is not enough, you must address the real cause. That is why the Act is very specific that, there must be a ban on its importation, and Section 5 recommends prosecution of those found in possession of such items in their shops, should face the court of law.

There is no need to repeal it, let us maintain as it is and create more advocacy by talking to the Custom Officers at the entry points, talk to the Ministry of Trade to really double their efforts in terms of the interceptions of these products. I really recommend that because already

there is a problem, and only the government have solution to it, which is basically to enforce the ban on importation of these products.

So, for that reason, I would recommend us to enforce the primary legislation [the Act] as it is and forget about the repeal, thank you.

[Point of Observation]

HON. SULAYMAN SAHO (CENTRAL BADIBU): I want the Honourable Member for Kantora to understand that this Bill is -----

THE SPEAKER: Who are you observing?

HON. SULAYMAN SAHO: No, I am making an observation

THE SPEAKER: On who?

HON. SULAYMAN SAHO: To the entire procedure.

HON. BILLAY G. TUNKARA: Honourable Speaker, out of order, who is he observing?

HON. SULAYMAN SAHO: Are you the Speaker?

THE SPEAKER: Honourable Member for Central Badibu are raising a point of order or u want to observe?

HON. SULAYMAN SAHO: No! I want to make an observation with your permission, it is a discussion.

THE SPEAKER: Honourable Member for Central Badibu, I am sorry you are not permitted.

HON. ALHAGIE MBOW [UPPER SALOUM]: Thank you very much Honourable Speaker. I want to equally thank the Committee for coming

up with this report which is really going to help our committees and the Plenary to make an informed decision.

Honourable Speaker, I want to lay a foundation because in the 1997 Constitution, Section (100) tells us exactly who can bring bills or motion in this parliament here.

If you go to Section 76 of the 1997 Constitution, it also tells you who can oversee when Bills are enacted here, which is the Executive. Primarily, our role really is law making and once those are enacted and assented to by the president, then it is the responsibility of the Executive to enforce those laws.

Honourable Speaker, we are sitting here today, and a member of the Executive coming back to us telling us that, the law we have enacted, they are unable to execute it. Our responsibility, essentially, was to make the law, but they come back to us saying that, they cannot implement the law that we have enacted. So, the issue we have here on the table Honourable Speaker, is very simple because the Committee came out with a report indicating that during the consultation, majority of the people said that, the law needs to be repealed, and we also understand the medical implication involved in skin bleaching. If you talk about skin bleaching, drinking alcohol is the worst, and there is no law against drinking alcohol. So, when somebody tells me about religion, I respect that, but let us understand one thing, we have more than one religion in the country, we have Islam, Christian and non-believers. Are we making laws for a religion? I do not believe so. Essentially, if we are making laws, we must be cognizant of the fact that, we live in a society consisting of

both Muslims, Christians and non-believers. We must not make laws for a special religion, instead, we should embrace all the religions we have in the country.

Honourable Speaker, I think the report is very clear, this is about choice, but the implementation is a problem. So, if we have a law that we cannot implement properly, where do we stand? I think that is exactly the issue. I agree with those who say that, the Minister should go back and create another law that is enforceable. I do not have problem with that, but the way it is right now, they cannot, and I think it is very clear. We know exactly what is happening in the country. Some National Assembly Members will be in trouble today when they get home. let us not play double standard here. I am telling you a fact, when you are doing things let us do it the way it is. The reason why some of these women are doing skin bleaching because of us. Do you think they will do that for themselves? Let us be very fair to our people and to ourselves.

I think it is very important that we listen to the Minister because if I can remember, the last time when he said this thing came by way of decree. I will agree if he is going to come back with a comprehensive law that is enforceable and would also tell people about the dangers of what they are doing, unless and until we have laws that are enforceable and understandable by people, I will not support it.

Honourable Speaker, I think we are sent here not to make favor to anybody. I think it is very clear when it comes to the actual Bill itself. It will tell you exactly what you can do and what you cannot do in terms of

importation. and what you cannot do in terms of importation. **They listed 4 items that nobody is allowed to import, those items include bleaching creams, but there are other creams that women are using that do not contain those elements. How will you enforce that?** How would you know, or do we have any lab in the country that could test a cream and establish whether it contains a chemical or not? Do we have that here? Let us be realistic. If we cannot do it, let us do away with these laws and encourage them to bring laws that we can enforce. I think that is the best thing. On that note, I beg to take my seat. Thank you

HON. ALFUSAINY CEESAY [SAMI]: Thank you very much Honourable Speaker for giving me the floor. I should not talk on the issue for the simple fact that, I have made my decision the other time. Notwithstanding, I have heard from various speakers, there is nobody here who is saying that skin bleaching is good, health wise, no one agreed. We all agreed that, it is not good. So, something which we know that it is not good, and there is no religion here which will tell you that skin bleaching is good.

I will not support the repeal. It has so many implications. When we make it open, our students will be victims of circumstance. There are so many things that are mentioned here by speakers including smoking cannabis and stealing. They do not repeal those things, why are they specifically saying Skin bleaching? There is nobody who is above the law. We have to remember that, one day we will face the creator who will ask us how we execute our duties.

There is no one above the law, if my wife happens to do skin bleaching, I am the one responsible for it. I will set example from that, so that others will follow. As a leader, we have to show good examples. If we want to make it a law, let all of us go back to our constituencies and have discussion with our people about skin bleaching. If they say they want it, then we come back and repeal it, other than that, we can create problem tomorrow, and they are going to blame us, thank you.

THE SPEAKER: Thank you Honourable Member, Honourable Minority Leader is your turn now and you are the last on my list.

HON. SAMBA JALLOW [NIAMINA DANKUNKU & MINORITY LEADER]: Thank you Honourable Speaker for giving me the floor. If you listen to almost all the people who gave their submission about skin bleaching have shared the same opinion that it is not good. That is generally accepted but I am looking at it in a different perspective. Looking at the health implication, Honourable Speaker, anything that can cause abnormality on your skin is not good.

Skin bleaching can cause cancer, and when a woman is nursing a baby, the suckling child can be affected. We want fair colored ladies but not those that bleach.

When a woman bleach to a certain level, you cannot face her because a bad odor is emitted. As far as I am concerned, I will not support this one. It is therefore, our responsibility as the representatives of the people not to legislate this law that will create health implication for the people.

Honourable Speaker, I have looked at the report and the witnesses invited when making such laws. I think the religious leaders too should have been invited, but I know they disregarded them.

THE SPEAKER: Honourable Member for Serrekunda you want to come in.

[Point of Observation]

HON HALIFA SALLAH: [SERREKUNDA]: I just want to observe and he has allowed me. I just want to ask the Honourable Member, having seen the health danger the suckling child is exposed to by the bleaching mother, is that mother liable to arrest or conviction? How do we fight that? I think that is the real issue.

HON. SAMBA JALLOW [NIAMINA DANKUNKU & MINORITY LEADER]: No, if you look at it, the law has been there for years now, but they are saying they cannot implement it. It is a little bit complicated and they know the reason why they cannot implement it. There is something that is depriving them from enforcing it.

Honourable Speaker, the other issue is that schools are sending students school because of skin bleaching. So, if we legalize skin bleaching, we are giving our school children the leeway to practise bleaching.

Let us not try to create confusion within the society, and we must look at this law critically. Sometimes, it surprises me when people say they practise skin bleaching for beauty purposes. In fact, it does more harm than good to your body. So, we need to look at this law critically

otherwise, we will legislate something that will affect our people in the long run.

Honourable Speaker, I want to know the reason why religious leaders are not invited during the consultation. They should have been invited, because they are stakeholders.

HON SPEAKER: Thank you Honourable Minority Leader, Honourable Member for Wuli West is your turn.

HON. SIDIA S. JATTA [WULI WEST]: Thank you Honourable Speaker, the National Assembly is supposed to make laws to guide and protect people. So, Members are supposed to be broad minded and should desist from being emotional and sentimental. You should be free from all these things to be able to make law to serve the people. You made a law that has been in existence for years and you are being told that it is not applicable, so it is just lying there like a photo, and they are still insisting that it should be there..... [**inaudible**]

HON. SPEAKER: Honorable Member for Lower Saloum, it is now your turn.

HON. SAINY JAWARA [LOWER SALOUM] Honourable Speaker, having heard from the previous speakers, I want to reserve my opinion, but I would also like the Honourable Minister to convince me about the issue, so that I will know my position, thank you.

HON. SPEAKER: Thank you Honourable Member for that. The Honourable Member for Banjul North is last on my list before I call on the Honorable Attorney General and Minister for Justice.

HON. OUSMAN SILLAH [BANJUL NORTH]: Thank Honorable Speaker very much, I do not think there is much to debate about, because there is nobody here who is promoting skin bleaching and that is very clear. It will be very dishonest for any National Assembly Member to go outside and say that some National Assembly Members were promoting skin bleaching. That is not the issue here, this is something that has been in place and is still in place. Has skin bleaching been stopped in the country? That is what they are talking about. The law is still in place and people are still bleaching their skins, for twenty-five (25) years, and those who are supposed to be enforcing it are telling us that, this is something that we cannot enforce.

In the previous session, when the second reading was done, a proposal was made that if you want to stop skin bleaching, let us increase the taxation on the products, this is what we are doing and that is the request. Let us identify all those products and then impose high tax on them. This can help and that is the best way to fight skin bleaching.

The Gambia is a secular state, and no one should come here to pretend as if you are more religious than others. It is important when Members stand here to speak, they should speak on behalf of the entire Gambians.

We are elected through our various constituencies because that is in the Constitution. It is only the president whose mandate stretches everywhere, but for National Assembly Members, you cannot have all those eligible voters in the Gambia to vote for a National Assembly Member, that is more the reason why the country is divided into constituencies. None of us is elected to serve a constituency here, we

are all elected to serve the Gambia. By the way, I even want to move a motion because what I have seen on the screen here is wrong. And it is the first time that I am seeing it. I am Ousman Sillah, I should be Banjul North not PDOIS. That is what I have seen, and it is abnormal. It has to be rectified, it is just a mistake, but it is very important. When we stand, we say Member for Banjul North because I am representing the Gambia not PDOIS. None of us here is representing political parties that sponsored your candidature. We are representing the Gambia here, so this thing has to be rectified. We are here representing the Gambia.

HON. SPEAKER: Honorable Member for Banjul North, your point is noted, and the technician will take care of it, thank you.

HON. OUSMAN SILLAH [BANJUL NORTH]: Ok thank you, we are representing all, even those who do not believe that we have taken oath. We were sworn-in to serve Gambia and serve Gambians, so it is double standard for someone to come here and stand as if you are promoting one religion or agenda, you are not even worthy of being called a National Assembly Member. So we really have to stop playing to the gallery and be really committed to serving our country. It is important to know that we are here to argue and convince each other.

It has been said that we should not be sentimental, we should not allow to be controlled by emotions. In fact, it is because of emotions that the law cannot be implemented. The Committee did consult stakeholders, and somebody asked whether the religious leaders were invited.

The Christian council and the Supreme Islam council was before us to serve as witnesses. And for some reason, they did not come when we were considering the Bill, but they were invited. In fact, this is not even religious and their failure to come should not have any impact on the legality of the Bill.

Honourable Speaker, As stated by the report, it is pointless to have a law that cannot be implemented. Such a law is as good as death and are just for cosmetic purposes. They should not be in our stock of books. The concerns here is human rights because once you start implementing them, it will amount to selective justice.

You will be going after those who do not have high profile people in courts to protect them. They go after those that are not connected to the so-called top brass which is hypocrisy to the highest level.

THE SPEAKER: Honourable Member for Banjul North, please can you withdraw that statement?

HON. OUSMAN SILLAH [BANJUL NORTH]: Honourable Speaker, I have withdrawn it, but I am not referring to anyone, I mean the practice. I can see the passion, but this is a law that is not serving the people, and as such, it cannot be enforced. It was also suggested that we go and sensitize the people as there are so many things that people are doing that are more hazardous than skin bleaching.

Honourable Speaker, I think the Committee have engaged witnesses. It was a marathon engagement and we had about, nine bills to consider and this was one of them. It was the witnesses and the Executive who

told us that, the country is better of repealing the Bill than having it in our laws. That is the reason why the members of the Committee were convinced, and thus recommend for the Assembly to accept the repeal.

HON. LAMIN J. SANNEH [BRIKAMA SOUTH]: Thank you very much Honourable Speaker. I think the report before us is an interesting report and it is not going to be possible for all of us to have the same opinion when it comes to this issue. As far as I am concerned, one thing we need to have at the back of our minds is that, this body is here to legislate the law when it comes to the full implementation, it is the responsibility of the Executive, and if they are not doing it, we need to put them to task. What we need to understand is that, we are all representing our constituencies and the country at large. So, the supreme interest of our electorates should be our priority. We need to understand that the society has a moral teaching, which is very key here. It is not only about the immorality of this Act, but also the health implication. This Bill was enacted by Parliament with the intention of being implemented. I think we should have maintained and push it to the Executive for implementation.

This is what is important rather than creating an avenue where it can go out of hand. We should understand that, there are lot of issues surrounding this thing and it is not only limited to our senior women folk, but also at the level of the school. We need to understand that, the law we are making is not for the Assembly here, it is for the entire country. Let us put the Executive to task to make sure that they enforce it. If anybody feels that there are other issues that are really affecting us, let

them come out with a bill, that is the essence of the National Assembly. We are here to legislate laws that will preserve us as human beings. That is our moral responsibility.

There are lot of Legislations that people are breaking, so that should not be an issue here as far as I am concerned. I am totally against this Bill. I am urging my National Assembly Members not to be used as scapegoats. Thank you so much Honorable Speaker.

HON. MADI MK. CEESAY [SERREKUNDA WEST]: Thank you Honorable Speaker, I want to congratulate the Nominated Member for presenting the report before the plenary. I also want to be on record that I am against the repeal of the Bill. Having said that, I also want to express my disappointment with the Health Committee. I thought they would put on their health lenses to look at the issue properly, but unfortunately, they did not. This is not a matter of religion or any other thing. Basically, it is on health reasons that I am opposing the repeal of the Bill. There are other things that people are doing which are also harmful to their health, for example smoking. I agree with most speakers. The late Honourable Samba Sallah had once come to the chamber with a Private Member Bill, and that is working well for us. if there is any other member that feels, there can be another approach to this, which may be a better solution than repealing it, nobody is stopping anybody from doing that. Honourable Members can come with their own Private Member Bill or better still, the Executive could have come with that as well, but they did not. The only reason advanced by the state is that, they cannot enforce it. That is not our problem, it is their problem. Our

mandate is to make laws not to enforce them, it is very clear. They could have come with an alternative as a solution. So, personally, I am not taking that, and I am against the repeal of the Bill. I urge my Honourable colleagues to vote against it when it comes to the right time.

Honorable Speaker, this Parliament is not a classroom for lectures. Every one of us, is either elected by our people or nominated by the president based on competence. We cannot all see things the same way. Let us just express our divergent views, and no need to lecture each other. I will conclude that I am against the repeal. A law for one is a law for all. I disagree with some comments saying that, they cannot enforce the law, because some of their wives, family members or their high-ranking people are victims of the practice. A law is a law. Whether you are a president or a famer, when it becomes a law, it should be respected. Thank you.

THE SPEAKER: Thank you Honourable Member for Serrekunda West, you are last on my list. I will now call the Honorable Attorney General and Minister for Justice to respond to concerns raised by the Honorable Members.

HON. DAWDA A. JALLOW [ATTORNEY GENERAL AND MINISTER FOR JUSTICE]: Thank you very much Honorable Speaker, if this was a normal bill introduced in the Assembly, I wonder whether it would have passed. The Parliament is not the creator of the Bill. This was a decree number sixty-five (65) 1995, and it came into force on the 1st of January 1996. There was no parliament in place at the time.

I did not know if it was a normal bill that goes through normal parliamentary scrutiny. Notwithstanding, our Constitution has adopted some of these decrees and they form part of the laws of the Gambia, we are here trying to repeal them.

Another thing is the incapability of implementing the legislation, it is not entirely, and I think I mentioned this the first time when we were doing the first reading. It is not entirely an inability on the side of the state, but the perceived chaos that it might create in society if we want to implement this law, it is something that needs to be thought about. I do not know whether you are seeing the practicality of what I am trying to say. The main exhibit before the court to prove that a person has bleached his/her skin, will be the body of the accused. It is the body that has to be examined. I do not know of any offence where they could subject the body of the accused. Even for assault-related crimes, a medical report has to be provided, but for skin bleaching, the only way is to take the accused to the box and take a closer look at her.

So, there is a whole lot of practical difficulty in dealing with this offence. You are technically telling us it is a law, that came into being without any parliamentary consideration whatsoever, and now you are telling us to arrest people and prosecute them for something that is almost practically impossible to prosecute. From the enforcement point of view, it is going to be very difficult to enforce.

Some of you are comparing it with drugs-related offence, but even the offence of drug is not the use of drug that is prohibited, it is the possession of drug that is prohibited, not the use of it. If you find

somebody intoxicated with cocaine, you do not have to arrest him/her. You only make arrest, if you found a quantity of cocaine with them. I respect both side of the debate, but the law is grossly discriminatory against our sisters.

I appreciate those who are suggesting that we need to come up with legislation probably to prohibit the importation of the products or even consider raising their taxes, as they do with cigarettes to discourage its importation and things like that. These are positive thoughts that we will continue to entertain in respect of the outcome of the Bill. But I think I can only provide this general response to avoid responding to specific issue because some of the issues that are raised are moral or religious in nature, and I do not think I will be able to respond to moral augments. This law is considered criminal and is part of our criminal statutes, it is even contained in volume three (3) and most of you know that our criminal statutes are contained in volume three (3) so, it is purely a criminal law. Do we intend to keep it as part of the criminal statutes and criminalize it and then arrest everybody suspected of skin bleaching?

HON. DAWDA A. JALLOW [ATTORNEY GENERAL AND MINISTER FOR JUSTICE]: It is difficult on the state, but our role is only to come and present the case and make it known. I think with this, I beg to take my seat. Thank you very much.

HON. SPEAKER: Thank you Honourable Attorney general and Minister of Justice. I now call the Honourable mover of the Report.

HON. NDEY YASSIN SECKA [NOMINATED]: Thank you Honourable Speaker, the Honourable Minister and all my colleagues for this debate. Although, it is not favorable to some, but I thank those who support it and hope that at the end, most of my colleagues will support this. Nobody is saying that skin bleaching is good, it is a matter of choice and even if I want I will bleach my skin, and no one will arrest me. But why should I waste my time on something that has no use. If we also say that we increase the tax for these products, there are other imported items such as mentholated rob, medicated cream that people mixed together and apply it at night and put on nylon bags. How do you expect their skins to be? There are medications that are good for the body and if you have rashes (skin reaction), you can use it, but people are using it for skin bleaching and many other creams. As I said earlier on, that cigarettes and skin bleaching are a matter of choice. Sometimes if you ask victims, they would tell you to pray for them to leave.

So, my fellow august Assembly Members, let us sit and think. Nobody is saying that skin bleaching is good, but we should tell our people that skin bleaching is not good. I think we should think wisely and act wisely and do what we should do, so that tomorrow we will leave a good legacy. Thank you.

THE SPEAKER: Thank you Honourable Member, the mover of the report. Let me thank everyone for their contributions. I now put the question.

[Question Proposed, Put and Agree to]

[That the Report of the Select Committee on Health, Women, Children, Disaster, Refugee and Humanitarian Relief on Skin Bleaching Prohibition Repeal Bill 2021 has been adopted]

The next stage is the consideration stage which is now scheduled as per the agenda of the session.

[Adjournment]

[Question Proposed Put and Agree to]

[The House stands adjourned until Wednesday 17th March, 2021 @ 10:30am prompt]