



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

PARLIAMENTARY DEBATES

[HANSARD]

OFFICIAL HANSARD REPORT

SECOND ORDINARY SESSION

THURSDAY 25TH JUNE, 2020

SESSION – 2020



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

PARLIAMENTARY DEBATES

[HANSARD]

OFFICIAL HANSARD REPORT

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Third Meeting of the Session of the Fifth Assembly
Of the Second Republic of The Gambia.
Proceedings of the Sitting Thursday 25th June of the House,
2020

CONTENT:

1. PRAYERS

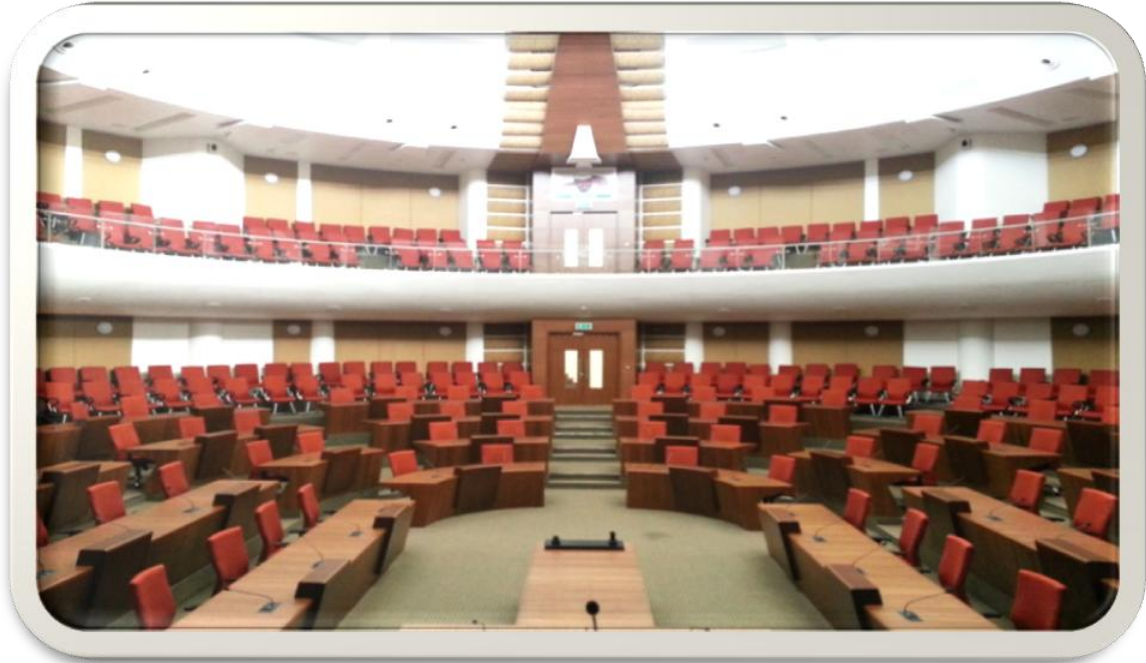
- 2. Correction and approval of the record of Votes and Proceedings of the National Assembly sittings of Wednesday 24th June 2020.**

3. LAYING OF PAPERS AND REPORTS

- i. Report of the Select Committee on Education, Training and ICT on Access to Information Bill 2019 by the Hon. Chairperson of the Committee**
- ii. Report of the Standing Committee on Human Rights and Constitutional Matters on the Constitution (Amendment) Bill, 2019. [by: Hon. Vice Chairperson of the Committee]**
- iii. Report of the Standing Committee on Human Rights and Constitutional Matters on the Mutual Legal Assistance in Criminal Matters Bill, 2019. [By: Hon. Vice Chairperson of the Committee]**

4. MOTION:

- iv. Be it resolved that this august Assembly do consider and approve: The Motion to Amend the Standing Orders of the National Assembly [2019 Edition] [By: Hon. Sidia S. Jatta, Chairperson Standing Orders Committee]**



THE CHAMBERS OF THE NATIONAL ASSEMBLY OF THE GAMBIA

OFFICIAL HANSARD REPORT OF THE PROCEEDINGS OF THE HOUSE

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

Thursday 25th June, 2020

1. PRAYERS

[The Speaker, Hon. Mariam Jack Denton, Read the Prayers]

[The House met at 10:00am in the New Assembly Building, Reginald Pye Lane, Banjul.]

[The Speaker, Hon Mariam Jack Denton, in the Chair]

2. Correction and approval of the Record of Votes and Proceedings of the National Assembly sittings of Wednesday 24th June 2020.

THE SPEAKER: Thank you very much. Honourable Members, the record of Votes and Proceedings of the National Assembly Sitting of Wednesday 24th June, 2020 is before us for correction and approval. Can any Honourable Member please move that the said Record of Votes and Proceedings be considered and approved?

HON. KAJALI FOFANA [JARRA WEST]: Thank you Madam Speaker. I rise to move that the Record of Votes and Proceedings of the National Assembly Sitting of Wednesday 24th June, 2020, be corrected and approved.

HON. ALHAGIE DARBOE [LOWER FULLADU WEST]: Thank you very much Madam Speaker. I rise to second the Motion.

THE SPEAKER: Thank you, it has been moved and seconded that the Record of Votes and Proceedings of the National Assembly Sitting of Wednesday 24th June, 2020 be approved. Any issues, observations or corrections from Honourable Members, starting with page 1? We concisely say from page 1, 2,3,4,5 up to 9 is a reproduction of the questions on the Order Paper. Are we together? Okay, then we start the actual correction from page 9.

HON. SUWAIBOU TOURAY [WULI EAST]: Page 8, question No. 109, 2020, the third line. The way they spelt the "impress", it should have been "imprest", instead of "ss" "impress" you need to correct that.

HON. FAKEBBA N.L. COLLEY [KIANG WEST]: In attendance No. 7, I was absent yesterday.

HON. BABA GALLEH JALLOW [SANNEMENTERENG]: No.28 under attendance Honourable Abdoulie Ceesay was absent yesterday.

THE SPEAKER: Honourable Abdoulie Ceesay I think asked some supplementary questions yesterday? Oh! It was day before yesterday. Thank you.

HON. OUSMAN TOURAY [SABACH SANJAL]: Yes, on the attendance still, No. 38 Honourable Assan Touray was absent. I also do not see Honourable Lamin J. Sanneh in the list of present nor absent and I believe he was absent as well.

THE SPEAKER: Lamin J. Sanneh is on page No. 9 on No. 12.

HON. KAJALI FOFANA [JARRA WEST]: Page 10 attendance, No. 35 Honourable Kajali Fofana was absent with permission.

THE SPEAKER: You were absent yesterday?

HON. KAJALI FOFANA [JARRA WEST]: Yes of course, I was not here yesterday.

HON. ALHAGIE DARBOE [LOWER FULLADU]: No. 3 Bills, if you go to the third paragraph, where you have in accordance with clause 65 of the Standing Orders, the Honourable Speaker invited "Her Excellency", instead of "the Her Excellency".

HON. OUSMAN TOURAY [SABACH SANJAL]: If you go to the questions for March 2020 second paragraph, the question was orally answered by the Honourable Minister which I think should be H.E the Vice President. Equally, if you go to the second question the same thing is repeated.

[Question Proposed, Put and Agreed to]

[The correction and approval of the Records of Votes and Proceedings of the National Assembly Sitting of Wednesday 24th June, 2020 be approved with amendments].

3. LAYING OF PAPERS AND REPORTS

I. Report of the Select Committee on Education Training and ICT on Access to Information Bill 2019 By: Honourable Chairperson of the Committee.

THE SPEAKER: Honourable Members we would recall that the Motion for the Second Reading of the Bill entitled Access to Information Bill, 2019 was moved by the Honourable Attorney General and Minister for Justice on Thursday 05th December, 2019. The Motion was seconded on the General Merits and Principles of the Bill and sealed. Thereafter, the Bill was referred to the Assembly Business Committee for committal and the ABC [Assembly Business Committee] **committed** the said Bill to the Select Committee on Education, Training and ICT for scrutiny and to report back to the plenary. The Committee is today scheduled to table its report before the Assembly. Once the report is tabled, debated and adopted, next stage of the Bill, which is the Consideration Stage, will be scheduled accordingly at another appointed day. I will therefore invite the Honourable Chairperson of the Select Committee on Education, Training and ICT to table the report of the Committee. Thank you.

HON. YAYA GASSAMA [KIANG EAST]: Thank you Honourable Speaker. I rise to delegate my Vice Chairperson, the Honourable Member for Upper Saloum to lay the report.

HON. ALHAGIE MBOWE [UPPER SALOUM]: Thank you very much Honourable Chairperson and thank you very much Honourable Speaker. I rise to present the report of the Select Committee on Education, Training and ICT on the Access to Information Bill, 2019.

Introduction, I think the Honourable Speaker has read the relevant clauses from the Standing Orders and I will just continue from the second paragraph.

That the Select Committee was tasked to review the Bill, consult relevant Stakeholders and report back to the plenary its findings and recommendations on the Draft Bill. The Committee engaged some key stakeholders in relation to the Bill, and noted their opinions and recommendations. The stakeholders that were engaged included the Minister of Information, Communication and Infrastructure, The Gambia Press Union, who are real sponsors of this Bill. The Gambia Federation for the disabled, Westminster Foundation for Democracy and representatives from different media institutions.

If you go to page 3 you will see the various stakeholders but first, I just want to tell the plenary how we arrived at this report. We had a methodology and at first, we drafted a work plan and in the work plan, we identified the various stakeholders that we really needed to consult. Then the second part was to meet with the various stakeholders so that we can understand their concerns and also take their recommendations into consideration. The stakeholders are shown on page 3.

The Committee's Findings and Conclusions

Having considered all the views, concerns and recommendations of individuals and stakeholder institutions, the Committee herein presents the following recommendations and Access to Information Bill, 2019 for consideration and adoption by the plenary.

1. That the objects and reason of the original Bill be maintained, and this is worded as follows:
“The Bill seeks to provide framework for ordinary Gambians to access public records and information held by public authorities or by persons providing services for them, to provide the procedure to obtain access to that information. In line with the international standards, the Bill also provides necessary exceptions to the right of access that should be limited and specific. Thus, the Bill protects the privacy of individuals with respect to personal information about themselves held by public bodies, medical records and communication with legal practitioners as well as security on sensitive information of law enforcement and the defense of a state. The Bill provides for the setting up of an Independent Commission to ensure that decisions on the disclosure of Government information should be reviewed independently”. The Committee recommends the original, which is the old objects and reasons, to be maintained instead of the new one that was brought by the Honourable Minister.
2. That the guardianship of the Bill will be the Minister for Justice.
3. Access to Information must be all-inclusive, taking into account people living with disability and that information or reports shall as well be user friendly to cater for people with disability. We have taken note of the recommendations from the model law and Access to Information for Africa that was prepared by the African Commission on Human and People’s Rights.
4. “Requesters” in the Bill means a person, group, institution and federation because if you look at the Bill, it is actually referring to individual or so, so what happens if an institution makes a request. That is the reason why that definition should be changed to mean institutions, federations and groups that should be added to the individual so that you can have a complete meaning of the requestor.

5. In section 27 [3a] we recommend for that to be extended to read “an attack against the state by a Gambian or foreign element”. We believe this particular section is fall short of the entire people that may act on it that is Gambian or a foreign element, so we wanted that to be added on that particular section.
6. Section [38] refers to the “EXTENT OF THE EXEMPTION” to be deleted. The reason is to avoid giving the Minister sweeping powers. Where the need for exemption arises in the future, approval should be sort from the National Assembly in the form of an Amendment Bill. If you live it blank it means they have the authority to make extension on their own and we do not want that to happen. So we want if any kind of extension is to be made let it come back to the National Assembly in a form of an Amendment Bill for us to act on that.
7. On the establishment of a Commission on Access to Information, we recommend that to be assigned to an already existing Commission like the National Human Rights Commission.
8. Section 42[1], procedure for the appointment of Members of the Commission can be directly derived from the qualification and criteria laid down in the National Human Rights Commission Act 2017, that was approved by this plenary.

Section 5[1] of the National Human Rights Commission Act 2017 states: “The President shall, after consultation with the Public Service Commission, appoint the members of the Commission...” Subsection [2] of the Act indicates that, “the President shall appoint the members of the Commission, who shall include at least two women from amongst persons. So our Committee recommends that part to be also added on this particular Act.

- a. A person of high moral and proven integrity who have so distinguished themselves in their respective fields as to command

the respect of the public; and be well versed in and proven records of respect for human rights.

9. Sub section 2 [d] be added to section 43 as “Any person who has conflicts of interest cannot be a member of the Commission”. That was missing in the new Act, we want this to be added.
10. Punishment for “Offences” in section 76 to be increased to a fine of D250, 000 or 2 years imprisonment or we leave it with the judges to decide, because what we saw in there really is just a chicken change.
11. Section 79, ‘Annual report and audited financial statement’ to the Honourable Minister and the National Assembly. We want that to be added because we also need to have a report, whichever committee is responsible for this institution need to have a copy of those annual reports. So we wanted the National Assembly also to be added on that particular section.
12. Section 80 [regulations] to stop at subsection [1] instead of the additional ones which we believe is not really very necessary.

Recommendations:

1. The Committee recommends that the duties and responsibilities of the proposed commissioners be placed under a special directorate at the National Human Rights Commission with the same rights and responsibilities.
2. The directorate to be staffed with the appropriate personnel to be able to perform their duties in accordance with this Act.
3. The Access to Information Bill, 2019 were recommending in totality with these amendments. We have suggested for that to be passed. We would like to acknowledge the Members of the Select Committee for their support

and also the support of The Gambia Press Union as well of the Ministry for Justice and MoICI.

On that note Honourable Speaker, I beg to move.

THE SPEAKER: Thank you very much. That is the report, any seconder?

HON. SUNKARY BADJIE [FONI BREFET]: Thank you very much, Honourable Speaker. I rise to second the Motion. Furthermore, let me seize this opportunity to thank the Committee for doing quite a very good job. What entices me most about this report is the methodology used and I want to refer you to page 3 as stakeholders who were consulted. To enrich a document, the involvement of stakeholders is needed so that they can put in their contributions to add value to the document and that is exactly what the committee has done.

I want further clarification on page 5, section 6 Extent of the Exemption. The Committee recommends the approval to be shown through a Bill through the National Assembly. For me actually, in the event of an emergency, imagine if National Assembly is in Recess or Sittings, how much time would that emergency situation be until that time that the particular Bill is amended or brought to National Assembly for necessary amendments to take care of that exemption. So that is my worry, probably the Committee should go further to recommend an alternative that should save time in terms of making certain exemptions in the events of emergencies. On that note, I give 100% support to the report.

[Question Proposed]

HON. SIDIA S. JATTA [WULI WEST]: Thank you very much. I am a Member of the Committee, in the first place I do not know whether it is in my pigeon hole but I do not have the report that you were reading. What was contentious in our last meeting was not completed in my presence because I had to go and Chair the meeting of the Foreign Affairs Committee. The contentious issue as far as I am concerned is who is to administer the Act. The Committee is suggesting

Human Rights Commission, an oversight institution. They are supposed to exercise oversight on the administration of this particular Act. They cannot be the administering authority. That was my position in the Committee but I left them to debate it. The conclusion in my absence was that the debate between Ombudsman and Human Right Organizations, both of them are oversight institutions. They cannot be administering authority because you cannot be a judge and a jury at the same time.

The proper authority to administer this Act is the Ministry of Information, not Human Right Organizations and if you do give the authority to the Human Right Organizations or the Human Right Commissions, I think we will be making a mistake because for me they cited other situations in other countries. We have to take into consideration that certain things are responding to local demand circumstances, but in our situation here the Human Rights Commission cannot administer this Act. If they do, they will be having troubles themselves, because they cannot be administering and also exercising oversight over themselves. That is my position.

HON. FATOUMATTA NJAI [BANJUL SOUTH]: Thank you very much Madam Speaker. I think the Honourable Member for Wuli West has just taken the words out of my mouth because that was what I was going to say as well but then he just mentioned it.

Madam Speaker, I am not blaming the Committee, I am blaming the Selection Committee. If you look at the composition of the Members of this Committee, there is only one female out of 17 which represents 5%. Madam Speaker, if we have such Bills for example committed to such Committees and they look at their compositions, they should look within the Assembly and co-opt certain people to sit. This is a very important Bill that was referred to the Committee.

Madam Speaker, we needed a diverse selection of people to consider this. I am not accusing anybody of not doing good work, but I do not think this report is to

my expectation. I expected a lot more than this. I was so excited to come and look at this report. I am not feeling well but nonetheless, I said I would come because we are going to discuss a very important issue. I expected a lot more, if it was left to me alone this Bill will be referred back to the Committee and co-opt some Members of the Human Rights Committee to have a thorough look again because, to be honest with you Madam Speaker, they have taken time but there was some lack of expertise looking at the Bill. This is a very critical Bill and they have missed out on a lot and that the Access to Information Bill is very important.

Madam Speaker, they have not even looked at ways of accessing. In this day and age, access to information should have been recommended that anything that comes out should have been legally made to be digital as well. We all know the problems people face when it comes to access to information and it is not only limited to The Gambia, it is worldwide. The way information is changing in the world, is not a joke. I do not think this report is good enough, I am not an expert but looking at this I am totally disappointed. I am not blaming anybody; I am blaming us because we should have consulted experts. If I heard them, they said they have consulted stakeholders. Madam Speaker when you consult stakeholders, they should not be individuals, they should have consulted institutions; institutions that are known. This Bill is not something that we should pass hastily, there are lives of people that depend on this. Information is key, it is not something that we should play with.

Madam Speaker, so I cannot say that I will support this report. There is no substance in this report, it should be looked at again. Thank you.

THE SPEAKER: Thank you very much. My observation is that the Honourable Member should have confined herself to the report but with regards to the composition of the Committee, the Plenary approved this. So if somebody is of the view that it should be expanded, it should come back to the Plenary for

inclusion or alternatively, it was referred to Committee for Plenary to support or co-opting of other Members but that issue cannot be dealt with now. Thank you.

HON. SULAYMAN SAHO [CENTRAL BADDIBU]: Thank you very much Honourable Speaker for giving me the floor. Madam Speaker, I would like to thank the Committee for the job done. This is now overdue, as the world is moving, The Gambia needs to move with the world. Information is the food of the mind, information is right. Madam Speaker going through the report, we can see to it that most of the key areas were addressed but still I have the following observations to make. I want to thank them for the recommendation they have made on the object of the Bill. We must feel the importance or the need for the Bill which is highlighted. In the Committee's findings, they recommended that it should be under the guardianship of the Ministry of Justice. I for one, I am in support of that Madam Speaker, as the Committee was tasked to make research to consult other people and I think this is the best practice according to the report during their consultations. They have seen this happening elsewhere in other countries, so I for one, I am in support of that.

Madam Speaker, the report also talks about inclusiveness wherein we have disabilities who are also catered, so they are not denied of their fundamental rights. They are also part of it, they must have access to this information, so therefore it should not be only with a rating record and other appliances could be used. It could be e-mail, or it could be a voice message, so we should not stick to one medium of communication.

Madam Speaker, under page 4 still, the committee's findings where they say requester should name the institution, federation or group and they went further to say in the Bill requester means a person, group or institution who request access to information, under this act or any person acting on behalf of the group requesting information. I do not see the idea or the rationale here, can you make a connection. If you recommend a requester to mean institutions, in that recommendation you should have individuals or persons.

Madam speaker going to page 5 where you have the President's appointment of the Commission Members, it has been highlighted that they recommended at least two women to be part of the Commission. I am also recommending that the Disability Bill should be catered for at least we should be specific on the representation in the Commission.

Madam Speaker going to the policeman or the offences, the committee recommended that D250, 000 or 2 years imprisonment, to me I still believe that it is on the high side. We want to decongest our prisons, so you cannot just because of information ask people to pay D250, 000, we cannot afford it. The affordability is not there so we have to be lenient, we cannot afford it, so I am recommending D100, 000 or six months.

Madam Speaker, the timeframe of notification, the Committee did not highlight it in the report. I do not know if it was an oversight but if I could remember it was 21 days. That was too much because information is highly needed, so if we give a long duration of time it can harm or affect the development that we want to do. So information is to facilitate the process so that we have efficient governance in the system, so once we have this kind of a time frame it will impede our development or our progress.

In the application, I wish it to be extended to both private and public bodies. I do not know if the mover of the motion can highlight that. The protection of disclosure of information, the people disclosing this information should be protected. I did not hear this from the Mover of the Motion but I will want the person disclosing this information to be protected. I do not think it is anywhere to be found in the Revised Bill, so I think we need to recommend that.

Madam Speaker as I said earlier on, this is timely, and it was part of our 2016 campaign promises. It was part of the campaign promises and it is high time we work on these promises. Information is key, information should be accessible. So on that note, I am appealing to the Honourable Members, in order to make

Gambia Information free for Gambians to move, let the past not be repeated, where people hide information, where people are victimized for giving good information. So the Bill is in the right direction, is there to shape our democracy, it is there to champion our human rights. So on that note, I want to appeal to all the Honourable Members to give our blessings to such a Bill with Amendments. Thank you.

THE SPEAKER: Thank you very much Honourable Member, but before I call on Honourable Member for Banjul North, I just wish to remind Honourable Members that during my communication I did indicate that the Bill was read and the merits and principles of the Bill are actually debated on before it was referred. So now we are debating on the report and also the Bill. So please if we can just confine our interventions on the Report and the Bill. Thank you.

HON. OUSMAN SILLAH [BANJUL NORTH]: Thank you very much, Honourable Speaker, I want to start by acknowledging the efforts made by the Committee. They are tempted to work on the assignment given to them to review, engage stakeholders and come back to the Plenary to give us a report as to the way forward with regards to the Bill. They have done those efforts in consulting, had meetings, discussed and presented their report to us. I want to say that I was expecting more from the report than what is presented.

They have engaged stakeholders as they have indicated, but what I have not seen here is what has been the position of the stakeholders? I think it would have been very helpful if that was reflected on the report so that we would know the position of the stakeholders who have been consulted regarding the Bill.

We are dealing with an issue that concerns all of us, a fundamental right, this is long overdue. It should have been in place since the beginning of this dispensation in 2017. Of course, the excuse is that they have been engaged in consultations, but I believe it is never late since we have it now but if you look at the report, in terms of the establishment of the Commission, I will agree that the

Human Right Commission is not the best place to lodge the Commission, Ombudsman likewise. I think we need an independent body that would be executing this Bill when it becomes an Act. I would also recommend that I have engagements with some of the stakeholders, The Gambia Press Union in particular and that is the reason why I have said that I have not seen their concerns. The Gambia Press Union and the other relevant stakeholders reflected on the report and that is one of the challenges.

So there are two ways, either we commit this report back to the Committee again to further engage because they still have some concerns and we are legitimated. The Gambia is not operating in isolation, we are not an island. We are living within the world and these issues are best practices that we can learn from. Some countries have started this long time ago, they have been experiencing challenges, they have been experiencing progress in terms of access to information, right to information, right to seek information, right to receive information which is fundamental. So I believe the engagement is still not late, that is one of the suggestions, that we either commit this back to the Committee to re-engage them, get their views factored and then come back, or this Committee can agree on making these changes, some of the concerns that they have highlighted. I believe the best way to go is to re-engage them again. Let us get another report, a more detailed report, a more comprehensive report that would factor in their concerns, they still have concerns.

In terms of standards generally, the Bill is positive, the effort is positive, and the executive is accepting to have this Bill in place. To have this law in place is commendable but when doing things let us do it right. Since we have best practices elsewhere, I would rather recommend that we reengage them, get their views and some of those points, because there are issues around access, issues around exemptions, and even the punishment for me I believe is on the high side. The punishments that are being recommended, of course blocking information is denying of rights and that should be considered serious, but

sometimes is encouraging. I know the tarries are important, having stiff penalties serve as deterrence, but in this case, I believe the penalty is on the high side that can also be revised. On the whole Madam Speaker, I believe since rights [Access to Information] are not absolute, absolute is subjected to parameters that also need to be further engaged to agree on those parameters, like confidentiality. What is in the law, what is transparent in the law, what is acceptable and what is reasonable in a democratic society, I think these are broadly the parameters. Since we are discussing the report, we are not going outside of the report and the report is not giving us much to discuss. As far as I am concerned, I do not know whether I want to move the Motion at this stage but let me just allow others to also give their take. I will recommend that this report be committed to the Committee again and then ask them to reengage and before the end of this Second Session, they come back since this law is urgent, so that is my recommendation. I task them to reengage and then take their concerns into consideration and reflect that in any report that they are bringing back. Thank you very much.

HON. OMAR CEESAY [NIAMINA EAST]: Thank you very much, Honourable Speaker, I would start by saying of course I am in support of the report from the Committee and I would emphasize that there is no law that is 100% excellent or perfect. I suppose that is the case then we would not have laws that are made to be amended, but at times the situation will determine. At times the experience, the challenges you encounter along the way will determine whether there is a need for you to amend a portion of the Bill you have made already or not, and we are giving this a trial. Honourable Members because in doing so there we will be able to trace out the challenges, lacunas, gaps that are within the Bill in terms of execution. In doing so we are always mandated and the people or authorities responsible will have the chance to always come up with amendments if they feel that this is not actually satisfactory, but the fact of the matter is if laws were perfect, then there will be no amendment before this Honourable Assembly. That

is why we are having amendments all the time. Honourable Members, I want us to take note of that.

I do not claim expertise, the Committee Members also, of course, are not claiming any authority as long as the report and Bill are concerned but I believe authorities that are responsible, the stakeholders that of course have input as long as the Bill is concerned. If not all but most of them were engaged, most of them gave their submission as long as the Bill is concerned because they are not experts in this that is why the experts are invited to give their submission. To my understanding, even though it is not clearly stated that they agreed, in my opinion, I believe coming up with this report, clearly indicates that obviously, they have agreed that is why the Committee has to come up with this report. Those of you who are not satisfied, who are expecting so many things to be cooperated in this report, here is the chance. There is nothing stopping any individual to come up with what you were expecting to be captured in this report. I think here is the chance where one can always give your submission. The Committee Members are open to capturing anything that you feel is irrelevant as for the law. This is what we actually expect but if you are telling us we are not satisfied and at the end of the day you cannot give us any submission or any input to be incorporated in this report, then you are getting us into limbo. We are not getting anywhere. This is how I am understanding things. So the submission of any individual is important if you feel that it is relevant as per the report before us.

Honourable Members, Honourable Speaker, Access to Information in any country is always celebrated. If we have such in this country like other parts of the world and who are doing well and even whereas those who are not doing well in this are seeing how best they can amend, rectify or correct their mistakes in terms of accessing information. In terms of governance, accountability and transparency it is very important, and this Bill would help in trying to achieve transparency and accountability. If you entrust people to do a particular job for you, there is a

need for information regarding the job that they are doing within that office, which is what the report and Bill is talking about. So with me, I am in support of this, the only worry I have is the Commission that is to be established upon approving here, because the experience we have seen, we do not always set Commissions for the sake of setting the Commission, we set institutions and Commissions to have them function and you cannot have these institutions functioning when there are no resources in order to support them. Some of the Commissions we have in this country, always have insufficient resources to have their operations done.

We have seen the rights of the Human Rights Commission that we are mentioning here, it is already established but they have this challenge and here we are also coming up likely with another Commission. What will be the financial implication, do we have what it takes to have these people operate as expected? This is the only worry I have but if the authority responsible can guarantee that of course they would have the support.

Honourable Speaker for me I am in support of this and here is the chance that we can always come together and give our submissions for them to be captured if we feel the relevance to this particular report or Bill. Thank you very much Honourable Speaker.

THE SPEAKER: let us give everybody a chance so that we can have as many views as possible.

HON. HALIFA SALLAH [SEREKUNDA]: Thank you very much Honourable Speaker, we are charged with the responsibility of reviewing the report submitted by a Committee, charged with the responsibility of scrutinizing considering and advising this Assembly on the merits of the Access to Information Bill clause by clause so that if there is any need for a review of those clauses to enrich them we will do so when we come to consider the Bill clause by clause.

Honourable Speaker, the Committee has completed its work and has submitted its observations after scrutiny. On page 4, it is observed that the object and reasons that are already embodied in the Bill should actually be retained, that is the essence. Section 101[2] requires a Bill to have an explanatory memorandum, indicating policy, detects that it intends to address, and any issue that may advance the sector that it is supposed to guide. Their position is that we should retain the objects as stipulated that is paragraph one.

Paragraph 2, the guardianship of the Bill would be the Ministry of Justice. Here, Honourable Speaker, this Parliament must begin to understand the bounds of its powers. Every Authority has powers that are circumscribed by law, and you cannot exceed those powers. Unless we realize this, we will not be fit for purpose.

Section 76 of the Constitution is very clear, and we must never lose sight of this path. It states that the Executive power of The Gambia is vested in the President and subject to the Constitution shall be exercised by him or her either directly or through the Vice President, Ministers or Officers responsible to him or her. So portfolios are prescribed by the President and you do not tell the President what portfolio he is going to assign to his Ministers. It is very clear under section 81 of the Constitution which states administration of Ministries where the Vice President or Minister has been charged with the responsibility for any Ministry. Who charges the Minister, it is the President who does that. So what Ministries do is not the responsibility of this body, it is the responsibility of the Executive that is why in many instances in drafting you do not say Minister of, you say Minister for the time responsible for the Administration of a given thing, because that can change.

So Honourable Speaker, I believe that paragraph 2 has exceeded the bounds of our powers and has no basis in terms of the recommendations. We go to paragraph 4, here the essence is to deal with the interpretation clause of the Bill. Looking at the interpretation clause of the Bill, Honourable Speaker, it is simply

telling on page 5 that “request” means an application made under section 12. A “requester” means a person who requests access to information under this Act, or any person acting on behalf of the person requesting access. I know we have been given two brands of the Bill, I hope I am reading from the appropriate one. I have to consult and see whether what I brought in this Chamber is actually the right one but essentially this is what it is saying.

[POINT OF OBSERVATION]

HON. ALHAGIE MBOWE [UPPER SALOUM]: Observation, if you can allow me. I think it looks like the Honourable Member is not actually using the updated version. The one in red is not the updated version, the updated version is the one in green. So if you are reading from the red version, you are not reading the right one. Thank you.

HON HALIFA SALLAH [SERREKUNDA]: Thank you very much, send me the updated one as quick as possible. This is the updated one, that is what I am told. I have consulted with the office and I hope... *[Interruption]*.

THE SPEAKER: My way of explanation, the green one actually is the one that was withdrawn and replaced by the red bound one. So are we all together? Do you have the red one everybody? Okay. Thank you.

HON. HALIFA SALLAH [SERREKUNA]: Thank you Honourable Speaker. Then I am reading from the right document. I do not want to mislead the House that is why I had to raise it and from what I have Honourable Speaker, page 5 is that requester means a person who requests Access to Information under this Act or any person acting on behalf of the person requesting access. What I have seen in terms of the report, it is actually saying requester should mean institution, federation and groups and then in this Bill it says that requester means a person, group or institution who request, so that is why I could not see this element in what I have. What is stated here essentially covers individual and groups, so I cannot see the need. Well, we can be more detailed and talk

about federation, group but I believe that is sufficient but is not an issue as I do not see any need to deal with that element, but we can deal with that clause by clause when we come to that level.

Honourable Speaker, then paragraph 5[6], to deal with the issue of attacks and subversion etc. clause 27[3a] which I examined is actually talking about denial of request base on certain conditions. It says that section 27 [3] subversive or hostile activities means an attack against the state by a foreign element. Our Committee wants that to include attack against the state by a Gambian or foreign element. They would want us to add Gambian. Looking at the clause, it goes further than that. Subclause 3[b] says that acts of sabotage or terrorism aims at the people in the state or a strategic asset of the state whether inside or outside the state. So I am not sure whether that does not cover Gambians per se and they needed to tell us specifically why the first element focuses on foreign element. I believe the drafters would be in a better position to indicate why it is so crafted, but it seems that "The Gambians" is embodied in sub paragraph [B].

Honourable Speaker, paragraph 6 deal with EXTENT OF THE EXEMPTION, let us look at what clause 38 say. Clause 38, EXTENT OF THE EXEMPTION, says that the exemption in this part is not exhaustive and may from time to time be expanded by the Minister. Well I am sure when we go to clause by clause some of this language will not exhaustive, that seems more like literature than law, but essentially we can clean up that. The essence of saying no remove it totally and for any attention to come by way of an amendment to the Bill, would be somewhere not in line with what is standard way of implementing Acts. Standard way of implementing Acts is that you have the Parent Act and the regulations and generally the regulations will take care of these elements of extension. Nonetheless our Standing Orders seeks to be having other subsidiary legislations, so it is very important there. I would agree that we should extend that subject to confirmation by the National Assembly or regulations now, it worth empowering any Minister to have any powers. As of now we must always put in terms of

subsidiary legislations subject to confirmation by the National Assembly. I believe that would cover that element.

Honourable Speaker, then we proceed to clause 7 of the report. That is on the establishment of the Commission. They recommend assigning the responsibility to the Commission like the National Human Rights Commission. Well, if we look at clause 48 of the Bill itself, Honourable Speaker, it is already clear the Independence of the Commission says the Commission shall be independent and autonomous. How can you put it under the jurisdiction of any other authority? We are talking about an independent and autonomous commission and therefore we cannot talk about such a commission being integrated otherwise we should amend their Act and forget about all this and inject all the other responsibilities in that Act, otherwise, it will not make real drafting sense. So Honourable Speaker that cannot be and we must not even entertain it.

So Honourable Speaker, we have seen the recommendations and clause 9. Well first of all in terms of section 5 [1] of the National Human Right Commission that is given to us as an example and clause 8, which talks about the procedure of appointment, well, again the procedure of appointment is clearly stipulated in the Constitution, and we cannot reinvent it anyway. Section 175 of the constitution provides for how Public Enterprises should actually be established; these are the public bodies that are outside of the public service. Section 175 [2] says that the Members of the Board of Directors or other governing bodies of a public enterprise shall be appointed by the President after consultation with the Public Service Commission. In that regard, they should be selected from among persons of integrity, competence and maturity of judgement. So essentially, we can add anything else, we can add whether one woman to anything else can be added but that cannot be waved. It is something that must be there, that power cannot be abrogated. After emphasizing power in the Bill, we can add any other thing that will ensure that we achieve the aim for which it is said and the same thing in fact when we come to deal with the Bill clause by clause you will see

some of the issues in terms of the Chief Executive. All those are already stipulated by the Constitution and if we want to add we can add but we cannot subtract. So we will deal with that when we deal with the issue.

Honourable Speaker, then the last element here is in terms of punishment, well we are here to debate, the issue of offence and issue of punishment must be looked at from a Human Rights perspective. The world is moving away from punitive action into helping people to be rehabilitated to do what is right. So substantive justice helps the individual to move away from what is wrong and do what is right. So, do we become very punitive that we lose the essence of justice? So our minds must really be restricted towards pushing people to do what is right and then not the punitive dimension. I believe that is a debate among us when we come to the punishment clause by clause, we will know exactly what to do.

Honourable Speaker, I conclude then from that angle that is based on the recommendations. What had been made essentially is for us to place the duties of the Commission under the Human Rights. I think No.1 is clearly not tenable and No. 2, the staff, if we look at clause by clause is our duty now to ensure that it is staffed with people that have the competence and that will be able to serve the purpose for which they are appointed. In terms of the last recommendation that we should move with the amendment and pass it, well, we will move clause by clause Honourable Speaker and we will definitely clean it up and try to do our best to ensure that what we have will be in line with international standards.

Then so Members have observed Honourable Speaker that consultation has been done if the Committee comes back to us and said they have done sufficient consultation regarding the clauses. Clause by clause with all institutions and they are satisfied with all the other elements. What they have not covered with the report we should be able to move on and consider the Bill, but if by virtue of what the Members have said can see that it is important to call institutions that are primarily interested and go through them for those institutions to identify the

clauses that are still not agreeable to them and they want to report that then that will guide us when we come to review the clauses for ensuring that we delete anything. We are the law makers, nobody makes the law here, we make the law, so what is of essence is that at the end of the day the product is what we want it to be. Thank you very much.

THE SPEAKER: Thank you, the Committee has taken note of those observations.

HON. BILLAY G. TUNKARA [KANTORA]: I just wanted to observe that already the merits and principles have been debated and what is really of essence is to go into the proposed amendments made by the Committee. First of all, I would like to thank the Committee. I think the Member for Serrekunda adequately dealt with the issue of punishment and offences, however, we understand that maybe the Committee is of the rationale, that offences when committed the punishment has to be severe in order to deter the offender not to do it again. However, in this modern democracy of course the issue of Human Rights has to be considered.

Secondly, the issue of administration of the Bill, I think I am in line with the Member for Wuli West that you cannot be a Judge and a Jury at the same time. So basically, it has to be under the purview of the Minister of Communication, Information to administer. Of course, we have some interaction with Members giving justification that the reason why they proposed the Human Rights Commission is that it is obtained in Ghana and other countries, however, that was not a strong debate. What can be practised in Ghana could be wrong as time, so basically not what is really obtained outside countries or elsewhere might be seen as best practice and is liable to changes, amendments and we could even do it better than Ghana if you follow the right procedure.

The issue of disability as alluded by the Member for Central Baddibu, yes, if the plenary does wish to really incorporate that to extend the membership that shows the vibrancy of our democracy and our Human Rights lessons as far as

this generation is concerned. So basically, I am also with the view that if it is possible, we also consider it because we just passed the disability Bill here. So institutions are also structured in that line to be disability friendly and basically, it creates room for their participation in this entire process. Those are the few words I want to add and also do hope that the recommendations are there and the mover accepted so that we can expedite the process and see how best we could arrive at a conclusion. Thank you so much for your indulgence.

THE SPEAKER: Thank you very much, Honourable Member. Can I just get confirmation from your intervention with regards to the disability Bill, what did you say about the disability Bill?

HON. BILLAY G. TUNKARA [KANTORA]: Thank you very much. As I said that the disability Bill is before us here for consideration and which will give us room to cater for them in terms of this democratic dispensation. However, once it is passed of course it shows that issue of inclusiveness is obtained, and therefore its position will be also structured to be disability friendly so that this portfolio given to them could be something to enjoy.

THE SPEAKER: Thank you. I thought as much but I just had a different version which I wanted to confirm from you. Thank you very much.

HON. BAKARY NJIE [BUNDUNGKA KUNDA]: Thank you very much Honourable Speaker for giving me the floor. I would like to thank the Chairperson of the Committee and all the Committee Members for their hard work.

Honourable Speaker, it is often said, no matter how hard a hen works it is difficult to realize that it is sweating. This Committee worked very hard to come up with this report, they had series of engagements, they make sure that all stakeholders have input on this Bill. They met several times with all the stakeholders, and they even met us just last week to make sure that there is no

stone that is not turned. In essence, they try to do as much as possible to do justice to this Bill.

Honourable Speaker, it is said that public property should remain public, nobody can doubt the fact that this Bill is very important and is long overdue. This Bill is to address or combat corruption, promoting good governance including effective governing, effective public participation in government decision making. Once these things are absent in governance then people will go and do wrong things and go away with them. We all know what was going on and is still going on in some parts of our institutions. Some government or public offices, if the information seekers go and seek information from them like the journalist sometimes, they are being... *[Interruption]*

THE SPEAKER: Honourable Member sorry, I did indicate earlier that we had passed this stage of the merits and principles of the Bill, can we concentrate on the report and the provisions of the Bill if you can so that they will be able to take note of all those observations. The general principles and merits of the Bill had already been debated upon. Just my way of guidance. Thank you.

HON. BAKARY NJIE [BUNDUNGKA KUNDA]: Honourable Speaker, if you allow me to land, I think that is what I am trying to do. Honourable Speaker, you see all the recommendations given in this report were just not merely out of the blue or not that the Committee Members just sit down and come up with these recommendations. These kinds of recommendations came as a result of interactions with all the stakeholders. All the stakeholders that needed to be engaged were engaged and from those meetings, this is where these recommendations came from.

If we all go through it thoroughly, we will understand that whatever it is in this report it is a result of these stakeholders. Most of the issues that were mentioned came up during the consultation with all those stakeholders, we have looked at all the sides of ... *[interruption]*.

THE SPEAKER: You see, being a Member of the Committee, you could have allowed other Honourable Members to make their observations and then you respond to the issues. I may be wrong; it appears as if you are giving us the rationale and these are issues that have not been raised yet. Let us allow non-Members of the Committee to make their interventions and then I will give you a second chance. Thank you.

HON. SAIKOU MARONG [LATRIKUNDA SABIJI]: Thank you Honourable Speaker for giving me the floor. Let me also join the rest of the Members to acknowledge the job of the Select Committee on Education, Training and ICT on the Access to Information Bill 2019.

Honourable Speaker, if you look at their report, I am quite satisfied with what they come up with by looking at the methodology. Key among them, if you look at the second bullet point where they said meeting with the stakeholders, this is key and then looking at the stakeholders that they have involve from 1 up to 15, I think this is quite encouraging. This is what we expect from a committee when presenting a report.

Honourable Speaker, some Members were just complaining about the inputs of stakeholders. What some people were talking about, I think it might be the Committee that has inculcated all their views to come up with this report. Though is quite not a big report as we may expect it but with all that I am okay with it. There is no need to come with a bulky report when you think that you can just summarize it to a very simple one.

Honourable Speaker, I have a few observations on the report, if you look at the Committee findings or conclusions on page 11, section 79 Annual Reports and Audited Financial Statement to Honourable Minister and the National Assembly, there is no timeframe. It is quoted, we want to know because if we look at the 1997 Constitution, section 175 [5] gives you a timeframe of 3 months. At the end of any financial year, the report should be submitted but here they have not

given us any timeframe. So when we go to the Committee level, I think these are some of the issues that we can look at to come up with a timeframe when this report is to be submitted.

The rest of the observations have already been done and then when we get to the floor of the Parliament, I think we would add what is necessary and remove what is not necessary. On that note Honourable Speaker, I also like to join my colleagues to give my support to this Bill, because this is very key. Thank you.

HON. SUWAIBOU TOURAY [WULI EAST]: Thank you very much Honourable Speaker. I Just want to also give my support to the report, with only very few observations on the recommendations. Like recommendation 1, as it has already been said, an independent body cannot be under another institution. I think we should discourage that. When it comes to the exemptions, even though we know accused persons have a right to appeal and can even go to court when they are denied their right, under this Bill if you look at the issue of Access to Information is very varied and times are changing. They are evolving to give a blanket power to a Minister to continue expanding those exemptions. So, I am also with the Committee that whatever those exemptions are we should consider them as subsidiary legislation and they should come to us for scrutiny.

Also, Honourable Speaker when you look at section 51, it has given some powers to the Executive Secretary to formulate rules and procedures and to control, direct and administer the Commission. We should expect a lot of rules here and I do not know what he/she is going to put there but is safer to consider them as subsidiary legislation that they should come here for us to look at. Those are some of the observations I have. I thank you until we get to the Committee of the Whole House.

HON. ALHAGIE S. DARBO [BRIKAMA NORTH]: Thank you very much Madam Speaker. As a Member of the Committee, I think my job would be perhaps to do some clarification before the mover of the Motion. I think the

contentious issue would be on having the Commission under the Ministry of Justice and also as a special directorate under the National Human Rights Commission. Specifically, these were the two reasons why our last consultative meeting was conveyed and there we reported all the relevant stakeholders that were invited. Then their position on the said issues was put to The Gambia Press Union. The National Human Rights Commission will have a more speedy process when the Commission is under them. It should be based on a situation that is well structured to handle it not on the basis of the cost that may be incurred. It can be a specific unit or directorate under the National Human Rights Commission perhaps for a period that was the position of the National Human Rights Commission.

The Ministry of Information, Access to Information is seen as Human Rights in itself and if we are to have the information as a Commission under Human Rights to them is important to do it once and for all but not just for a period. They have no objection and for the Human Rights Commission itself, the mandate of the Information Commission is similar to Human Rights in the aspect of information accessing. That is one point and to them by default Human Rights Commission will play an important role in Access to information. Therefore, they also concurred that it can be a department or unit or directorate under National Human Rights Commission.

Human Rights Commission does not provide oversight to Information Commission that was the fundamental clarification. The representative of the Ministry of Justice made that the relationship is not a vertical relationship but a horizontal relationship and that it is possible to have it under Human Rights Commission which is legally possible to have the Information Commission under National Human Rights Commission. That it will not take anything away from the importance of the Commission and there is no problem to have the Information Commission under the Ministry of Justice.

Therefore, if there is a need for any necessary amendment to have it under that, what we can do is to provide that, and these are the positions of these relevant stakeholders. It was unfortunate as Honourable Member for Wuli West highly put when he raised a concern, he stepped out for another meeting but before the responses from those stakeholders he was not around, but when he left these were the reasons that were advanced and that made the Committee Members to be convinced that we do not want to create a Commission just for the sake of Commission.

We have seen Commissions that are redundant, this is a Commission from the start and it should be functioning effectively. There are issues surrounding information, those issues should be effectively handled. If there is a well-structured Commission, that can do that, let us have it. As time goes on when there is a need to have it under its own, there are provisions for necessary amendment, but for a start, Gambia Press Union is more comfortable for it to be under the Human Rights Commission based on the structure of the National Human Right Commission. I thank you.

HON. ABDOULIE CEESAY [OLD YUNDUM]: Thank you Honourable Speaker. I will be very brief in my submission. I am also a Member of the Committee and the Member for Brikama North has stated almost everything that we wanted to clarify. We are dealing with the Access to Information Bill, I know it will help us to have an amendment during the Committee Stage and nothing is exempting us from doing that. So many speakers have said perhaps the report has some certain issues, but one thing I wanted to note is the report was not done in isolation, it was done in consultation with stakeholders. One clarification I need from the mover or maybe during the Committee stage is we are talking about the Bill to be under the Human Rights Commission. When we were asking the question, the custodians of the Bill were between the Minister for Justice and Minister of Information and Communication, and later it was said that Minister

for Justice will be the custodian of the Bill and now Human Right Commission is going to be the institution that is going to oversee the implementation of the Bill.

During the amendment, I think the Plenary can change that from the original Bill to have Human Rights Commission instead of an Independent Commission to be established as alluded to by my friend the Member for Niamina East that establishing new Commission we have to consider the financial burden on the country. That is also giving us a problem, in fact, it might not happen because before you established the commission you know these things are going and is part of the reform as well. So why not we amend it and have it under the Human Rights Commission instead of establishing an Independent Commission for the implementation of the Bill. Honourable Speaker, I just wanted to do that. Thank you so much.

HON. MUHAMED MAGASSY [BASSE]: Madam Speaker, thank you very much. It is good that the Committee has done what was assigned to them. I am a Member of the Committee. Honourable Speaker, it is only one thing that was missing, and I do not know where the Member for Wuli West was at that moment if he could not defend that during the work process. We should remember that the most stakeholder to consult should be [ANFEU] Adult and Non-Formal Education Unit. This unit is responsible to provide basic literacy and numeracy in national languages to all people who did not have the chance to go to school. So, I think if the Member of Wuli West were there that day he would have guided the Committee to have ANFEU as a stakeholder to work together with them, so that those who have that opportunity to read in their national languages will be also able to get access to the same information reading in their language and understand it. So, therefore, I will be happy with the Member for Wuli West if he was the mover of the Motion, unfortunately, he is not, but I think the mover of the Motion will take care of these portions. On that note, I want to thank you and beg to resume to my seat.

HON. FOTUOMATTA K. JAWARA [TALLINDING KUNJANG]: Thank you very much Madam Speaker for giving me the floor. I just have one intervention that I would like to add to the Bill. The Bill was speaking about Access to Information, and we are not against those in the system like journalists, but we are against those who are assassinating people's character. One may become poor but do not lose anything, but if you lose your integrity that is a great case for concern. So, I think this thing also needs to be looked into. The amount of fine on the character of assassination is not a huge amount, compared with losing your character and you are absolutely nothing. Thank you.

HON. ALFUSAINY CEESAY [SAMI]: Thank you very much Madam Speaker for giving me the floor and I am also part of the Committee. Honourable Members, this Committee has done a very good job for the simple fact that before we arrive to this stage as it is stated in the report, we have consulted so many stakeholders pertaining to this issue which is Access to Information Bill. Anything that you see, it is not our own input, it is the input of the experts. In fact, independent experts were consulted with regard to this. We arrive at this conclusion that the Ministry for Justice to be the custodian of this Bill. We all know this when we were at the meeting that Access to Information Bill to be under Human Rights Commission because it is a Human Right issue. As other speakers said, before we establish another commission and it is not functioning, why not we put it under one commission. We can look at the resource constraint to know what we have to be able to run the commission. It is in the Bill that if they should be an independent body, yes, we know that they are still there but looking at the resource constraint and you know that there is another body that can handle it why not put it under. In fact is it going to be a separate body.

[POINT OF OBSERVATION]

HON. HALIFA SALLAH [SERREKUNDA]: Honourable Speaker, it is just an observation, and he has allowed me. If a Bill is brought and the Motion is moved

by the Executive, we cannot recraft the Bill. I have quoted the clause. If they want to recraft the Bill, they take it, they remove it from us and go and recraft it and bring it to us. The recommendation is for us to pass not to withdraw. So, what is being said is we cannot recraft the Bill, we can either pass or reject it. So technically, I am telling you and you can write what I am saying. I am saying, according to what you are given, this is an autonomous and independent institution. The finance is what they bring, what we do is for us to approve or not approve ultimately in a Budget Session.

HON. ALFUSAINY CEESAY [SAMI]: Thank you very much. Madam Speaker, if you look at the Bill, section 38, it is clearly stated that in terms of expanding, it is the Minister but upon discussion with stakeholders, we decided that it is important after they consult the National Assembly. When we look at the Bill, there it is only the Minister which has that right. So, if you look at the new draft that is not yet discussed, it is given after the appointment. It is after taking to the National Assembly to do the confirmation, so I think this one also is in line. We are not giving power to the Minister; we are giving powers after any appointment. Let it come to the National Assembly and National Assembly will confirm it. Honourable Speaker to be candid, the Committee has done a very good job and I thank all the Members, the Subject Matter Specialists, the support staff and everybody who participated in this report. On that note, I thank you very much.

HON. DEMBO K.M. CAMARA [ILLIASSA]: Madam Speaker, I think I will make the shortest intervention. I support the Bill simply because if you go to the content, it is very satisfactory. They have come to defend the rights of the people. If you allow me, I will describe the portion, the Bill also will provide access to information thus should be limited to a person. It is going to also protect the property of the individual. At the same time on No. 10 page 5, the punishment, Madam Speaker it is mentioned that if you are trying to defame somebody's character, the fine is D250,000 or 2 years imprisonment. Madam

Speaker as far as the individual is concerned, if you lose a human value, you are no more a human being. For that being the case, I am recommending the D250, 000 should be D500, 000 and 5 years imprisonment. That is my recommendation. Thank you.

HON. MOMODOU L.K. SANNEH [DEPUTY SPEAKER]: Thank you very much Madam Speaker for giving me the floor. I think the Committee has done a very good job because it looks like an enquiry was set and all stakeholders were consulted. I think that is a move in the right direction. Madam Speaker, I want the mover to clear my doubts on this issue of stakeholders. On page 24 of the Access to Information Bill 2019, I saw an economic interest of the State. The Ministry of Finance, I believe, should be part of the stakeholders. Now, on the same page 24, No. 30, the law enforcement agents, I am with the opinion that they are not part of the stakeholders and that they have been consulted. I want the mover to make clarity on that. Thank you very much.

HON. BAKARY NJIE [BUNDUNGKA KUNDA]: Thank you. I will stand down because after communicating with the mover, I think he will do justice to respond to issues. Thank you.

THE SPEAKER: You wanted the floor. So any more interventions? No! In that case, I will invite the Honourable Vice-chairperson to respond to the various issues that have been raised, clarify and wind up the debate. Thank you.

HON. ALHAGIE MBOW [UPPER SALOUM]: Thank you very much Honourable Speaker and thank you very much Honourable Members for the valuable information that you have given with regards to this report.

THE SPEAKER: I just want to point out that we are dealing with the report, we will still have an opportunity to consider the Bill clause by clause, part by part when we get to the consideration stage. Thank you.

HON. ALHAGIE MBOW [UPPER SALOUM]: Thank you again Honourable Speaker and Members for the valuable information you have given with regards to this report laid before you today. I will attempt to respond individually but sometimes there are cross-cutting issues. I will just give one answer and also the Honourable Member for Brikama North I owe you lunch for really clarifying certain issues.

The first one I would like to talk about is the consultations and I want to be very clear here. In our opinion, I believe we have made very strong consultations. I remember this Bill is sponsored by GPU and they were really represented all along. The Secretary General and their information officer were there and in fact, on the first day we did the consultation, lots of Media Houses were also present. During that consultation process, we went through the Bill page by page and in fact asked for their comments and concerns. So, this report we are giving you today only captures their concerns. What we agreed on has been put aside because we were trying to be innovative. So, anything that you have not seen here they have actually agreed, we were just trying to be innovative and also just to save us time and paper not to include page by page or clause by clause. Their concerns and anything else we have agreed with are being captured.

So, the notion that, well it is an opinion, but the fact of the matter is we have done a lot of consultations and what we are seeing came from those stakeholders. We as a committee attempted to clarify and, in some instances, the Ministry of information and communication was also there.

In one of the areas about not creating a new Commission let me clarify," from the pace of MoICI, it is their wish not to have a new Commission but to put it under another Commission that is already established". That is the wish of the Ministry that actually this Bill is actually mandated to oversee.

Again, like the Honourable Member for Serrekunda has mentioned, it is the responsibility of the Executive to decide what they want to do. So, when they say

is their wish for this to happen, again we let them do it and that is their wish but just to ensure that we are very fair we have asked GPU and other stakeholders their concerns. They do not have an issue with it and that is the reason why we wrote what we wrote. On the punishment, GPU said no objection on that, the only concern they brought was to support the Bill. They were saying it because they understand the financial implication of creating a new Commission. Remember last year we have actually created a new agency [Gambia Information and Communication Agency] and until now I can tell you that the board is not still constituted. So, to put this under the National Human Rights Commission will help in various ways. This thing is a Human Rights issue and again, they can start the work immediately. Let us remember one thing from Solicitor General, who confirmed as the Member for Brikama North said, the National Human Rights Commission is not overseeing any other Commission. They have a mandate and other Commissions also have their own mandates. Basically, is really vertical not horizontal like you mentioned so they are not overseeing any other commission. They have their own mandate and other Commissions have their own mandate, so they are not responsible to any other Commission.

However, he said part 5 of the Bill, has to be redrafted because what we put there is very clear that we are going to create this. He said if that is going to be the case, then he has to redraft that, so once we come back here to review clause by clause then he can bring in what is going to replace that particular section so that we do not have any ambiguity.

The Solicitor General also representing the Ministry of Justice was very clear that he does not have any issue at all. In fact, he gives an example as what happens in Ghana, the Ombudsman, the Anti-corruption, and also this Access to Information is all under one umbrella. They said is actually normal in any other part of the world that actually happens and where you go sometimes the anti-corruption agency together with Ombudsman in some jurisdiction, they are

together, so he does not see any issue why we cannot put these things together. And the National Human Rights Commission also were there and he was there actually, and he also did not have any issue with that.

Another area about what the Member for Banjul South did mention that the composition of the Committee, well that is not our mandate. The Composition of our Committee was put in Plenary here and we all voted yes so really there is nothing we can do about that. The Members like female representation, again I do not need to talk about that because the Speaker has already mentioned that, so I think we can maybe take another level. So, she is also saying that the stakeholders lack expertise but unfortunately, he or she did not tell us exactly what kind of expertise she was expecting. I really do not know, so really, I cannot answer that question that she was talking about. We felt the most important people there are the stakeholders that will be dealing with this Bill, those are the people we invited so really since she is not here, I cannot dwell more into what she was really looking for. Under the circumstances also, we have a representation from the people living with disability who also happen to be a magistrate, so we thought that was enough. She did mention that we should have consulted with institutions, not individuals. I am a bit surprised here because institutions are made of individuals, so if we invite Gambia Press Union and they send in the Secretary General and the media officer, I think that is enough. So I really do not know what she was talking about so I will just move on to another one.

Now in terms of the Member for Central Baddibu and lots of other Members believe the fine is too high. Well, the fine is not really a way of making money by the government but is just a deterrent. In fact, when we go through the model law of Access to Information for Africa from the AU, in fact, they have not indicated any prison term. What that tells you where a person without reasonable cause refuses to refuse a request, has not responded to a request within the time specified, has vexatiously denied the request, has given incorrect

incomplete information or misleading, or obstructs in any manner the release of information, the oversight mechanism or the appropriate court may impose a financial penalty that is where they stop. They have not indicated any penitential term or anything like that. So when we come to the floor of the House to look at this clause by clause, we can change that. That is all within our hands.

The Member has also referred to us about section 80 of the Bill, which I think is about the regulations. The Minister made regulations but again like the Member for Serrekunda said it should be subject to the approval of the Committee that we recommend.

Member for Banjul North, I think I have covered the consultation part. I need not to go back to those ones but again is not really too late if there is any other concern from GPU that you are aware of and we are not aware of, or perhaps I have not covered it well. When you come to the floor you can bring it up, it can be debated, and we can change anything that we want to change on this Bill.

The Member for Niamina East, I think overall, he was just referring to the amendments, but I must say on this section, we are trying to run away from giving the blanket exception to any Minister that comes on any time. What we are saying is the exemption that is given in this Bill, for now, we are saying is enough. However, in the future, if they want to give anything which is very reasonable under the circumstance, they can bring it in a form of an Amendment Bill and I think that is really reasonable enough.

I think the Member for Serrekunda has covered most of the issues but except for one area which in fact was mentioned by another Member.

The recommendation is on page 4 "Requester", what we have is in addition to what is already in the Bill, it should read; a person, institution, federation, or group inclusive in addition to what is already there.

The Member for Latrikunda Sabiji also did mention a timeframe. It is already there, you will give a timeframe on which you should submit those reports and if you did not then there are some penalties. Generally, it is about 21 days that they have to give to those requests.... *[Interruption]*.

HON. HALIFA SALLAH [SEREKUNDA]: I think the timeframe he is talking about is the submission to the National Assembly is within three [3] days of the end of each financial year. You know that is stipulated by the Constitution. I think that is why he mentioned it.

HON. ALHAGIE MBOW [UPPER SALOUM]: Thank you for that clarification Honourable Member for Serrekunda. I think that is right and that particular section may be when we get back to clause by clause we can amend it to march what we have in the 1997 Constitution under Public Enterprises. It is very clear about the number of months that is needed to submit this information to the Minister and to the National Assembly as well. So, when we get to the Committee of the Whole House to amend it clause by clause, that can be actually added.

The Deputy Speaker mentioned other stakeholders like Law Enforcement Agencies and the Minister for Finance. Well, you are quite right, in the Bill, they are also stakeholders especially the Minister for Finance, these are things dealing with budgeting etc. but the Minister for Finance is not actually responsible to make a budget for any other Ministry. The other thing he does is to collate what came from other Ministries after the budget consultation process, where he gives some budget lines, and they also know what they can do and what they cannot do. So, in this sense we are saying probably the Ministry responsible for this Bill would have consulted with the Ministry of Finance in terms of the budget or in financial needs of the Committee.

The police, we really did not see the need but perhaps you are right. We could have consulted them, but we are really very certain in case somebody refuses to

give access to information that they requested, there are legal procedures that we actually have to follow and in dealing with which people that attempt to create any kind of issue in destroying pieces of evidence and stuffs like that. There could be some other legal/law frameworks that we can actually work on to solve that issue but perhaps you are quite right, we should have consulted with them to get their input.

Honourable Speaker, I think have covered most of the issues but essentially I just want to tell Honourable Members that this..... *[Interruption]*

HON. MUHAMED MAGASSY [BASSE]: Honourable Speaker, let me help the Member, if you go to page 4; *where you have "access to information must be all-inclusive taking into account people living with disability"*.

From that point I am proposing not only people living with disabilities but also national language, illiterate and why don't you have a consultation with adult and non-formal education unit for them to be able to direct you on that domain. Thank you.

HON. ALHAGIE MBOW [UPPER SALOUM]: Thank you very much Honourable Member for Basse who happens to be a Member of the Committee. Thank you for bringing that up, but these are some of the things that we actually bring on the floor when approving this clause by clause in the Committee of the Whole House.

I think outside that in general, the issues we actually mentioned here essentially are just issues that were brought forward to us by the stakeholders. So, the other areas we have not touched in the Bill are comfortable with them. That is the reason why we have not touched any of those things but during the consultation we went page by page and clause by clause and they actually highlighted what they wanted us to say.

[Point of Clarification]

HON. HALIFA SALLAH [SEREKUNDA]: Just observation or clarification and that is section 38. You are saying to delete that completely but if you look at clause 80, it is saying that; “the Minister may make regulations for carrying into effect the purposes of the provisions of this Act”. That is generally the standard that you have on the Parent Act for any substantive issues that may come you move by the way of regulations, so what you are recommending is to come up with another amendment because that is what you are recommending. It is like the amendment is bringing another Bill, so that is what we need to decide should you come up with another Amendment Bill which is what is stated herein in your recommendation. However, you already agreed, and I think that provision should go with confirmation, once we have confirmation so any other regulation that comes must come for confirmation.

Now, in terms of the annual report, you know in the annual report Minister is two [2] months according to public enterprise and to the National Assembly three [3] months after the end of the financial year, so I think we concur.

HON. ALHAGIE MBOW [UPPER SALOUM]: Thank you very much Honourable Member for Serrekunda for pointing those things out. Essentially these are the kind of things we can actually change to be consistent with the 1997 Constitution and I think once we get to the Committee of the Whole House, these are things we can change along the way. On that note, I want to thank everybody and all the stakeholders for attending this presentation of our report. Thank you.

THE SPEAKER: Thank you very much Honourable Vice Chairperson, Members of the Committee and Honourable Members for all the interventions, suggestions and proposals.

[Question Proposed, Put and Agreed To]

[Report of the Select Committee on Education, Training and ICT on the Access to Information bill, 2019 has been adopted with amendments]

The next stage of the Bill will be the consideration stage and it will be scheduled as per the agenda for the Session.

II. REPORT OF THE STANDING COMMITTEE ON HUMAN RIGHTS AND CONSTITUTIONAL MATTERS ON THE CONSTITUTION (AMENDMENT) BILL, 2019. [BY: HON. VICE CHAIRPERSON OF THE COMMITTEE]

THE SPEAKER: Again, Honourable Members, we will recall that the Motion for the Second Reading of the Bill entitled the Constitutional Amendment Bill, 2019 was moved by the Honourable Attorney General and Minister for Justice, on Tuesday 3rd of December 2019. The Motion was seconded and the debate on the General Merits and Principles of the Bill in short, thereafter, the Bill was referred to the Assembly Business Committee for committal and the committee committed the said Bill to the Standing Committee on Human Rights and Constitutional Matters for scrutiny and to report back to the plenary.

The Committee is therefore scheduled today to table its reports before the Assembly and once the report is tabled and debated and adopted, the next stage of the Bill which is the Consideration Stage will be scheduled accordingly at another appointed date. I will now invite the Honourable Vice chairperson of the Standing Committee on Human Rights and Constitutional Matters of the National Assembly to table the report of the Committee.

Thank you.

HON. SUWAIBOU TOURAY [WULI EAST]: Thank you very much, Honourable Speaker, for allowing me to present this report.

Introduction:

Honourable Speaker, the Committee has twelve [12] Members you can see the names of those Members and we have a very strong supporting staff.

Honourable Speaker, the Constitutional Amendment Bill, 2019, has been referred to the Human Rights and Constitutional Matters Committee for scrutiny and consideration.

The Committee convened on several occasions to discuss the Bill and subsequently invited the Ministry of Justice to clarify some issues, observations and concerns.

During those Sessions, Honourable Members made reference to the 1997 Constitution, the Draft Constitution and other Constitutions from Commonwealth countries such as Kenya and Zimbabwe. The amendment intends to replace section 139 [4] of the 1997 Constitution with a new provision.

Observation

The Bill was introduced by the Attorney General and Minister for Justice. In justifying the amendments, he said; many magistrates are qualified to be appointed as Judges of a High Court but section 139 [4] of the 1997 Constitution make that impossible. Currently, a magistrate is only qualified under the said section if he/she serves as **Principal Magistrate** for five years, and the position of Principal Magistrate in each administrative court is only one. This limits the possibility of other magistrates even with more than 5 years experience from having the opportunity to be eligible for appointment. The provision of section 139 [4] and the Proposed Amendment are provided below.

Section 139 [4] of the 1997 Constitution reads:

"A person shall be qualified to be appointed as a judge of a high court if he/she holds or has held office as a Principal Magistrate or master in The Gambia, or an office, which in the opinion of the Judicial Service Commission, enjoys a comparative jurisdiction in a common law country, in each case for not less than five years, or if he/she has practised as a legal practitioner before a court having

unlimited jurisdiction in civil and criminal matters in a common law country for not less than five years in court."

The proposed amendment of section 139 [4] reads:

"A person shall be qualified to be appointed as Judge of the High Court if he/ she has qualified to practice as a Legal Practitioner in a common-law Jurisdiction for not less than five years in court."

After careful consideration of the amendment, the committee observes that:

1. The amendment has the potential of compromising the standard of Judges.
2. The amendment made reference to qualification only and omitted experience.
3. A legal practitioner is only required to possess a qualifying certificate and not necessarily practice.
4. The standard introduced by the amendment is quite different from what obtains in Commonwealth Countries such as Kenya and Zimbabwe.

Based on the observations, the Ministry of Justice was invited to respond to the observations of the Committee on the Proposed Amendment.

On the 13th of March 2020, the Ministry of Justice was represented by the Director of Drafting who was asked the following questions.

1. What are the justifications for introducing a lower standard compared to the standard under section 139 [4] of the 1997 Constitution?
2. Why is an experience in legal practice omitted in the Amendment? In Kenya 10 years of legal experience is required [s. section 166 [2] and [5]] and in Zimbabwe 7 years is required [s. section 179].
3. From which jurisdiction is this Constitutional Amendment Bill derived?
4. Does the necessity of promoting magistrate to judges justify the lowering of standards?

5. Whether the 5 years' requirement for both magistrates and legal practitioners is sufficient? The Draft Constitution of The Gambia and Zimbabwe's Constitution demand at least 7 years' experience while in Kenya it is 10 years.

Response

Now the response we get from the Director of Drafting at the Ministry of Justice is that the objective of the Constitutional Amendment Bill is to enable the easy appointment of magistrates to judges. He confirmed that the exclusion of experience in legal practice must have been an oversight as that was not their intention. Thus the Committee advised the Ministry to redraft the amendment in such a way that experience in legal practice will be an additional requirement.

Recommendation and Conclusion

After a thorough consideration of the Constitutional (Amendment) Bill 2019, the committee recommends that the proposed amendment should be revised and re-drafted in a manner that experience in legal practice would be part of the requirement for the appointment of Magistrates or legal practitioners to judges.

Thus, the Committee recommends this Draft.

"A person shall be qualified to be appointed as a judge of a High Court if he/she holds or has held office as a magistrate for not less than five years, or if he or she has practiced as a legal practitioner before a Court having unlimited jurisdiction in civil and criminal matters in a common law country for not less than five years in Court."

Honourable Speaker, this is our recommendation, and we will be thanking all the Members of the Committee for the period they have spent on this work. We are also thanking our secretaries, our legal staff for working on this document, for a very long time we sat over it many times before we come to this conclusion.

I thank the Speaker as well; she has always been with us during this process. I thank you for the time.

THE SPEAKER: Thank you very much Honourable Member. Any seconder?

HON. OUSMAN TOURAY [SABACH SANJAL]: Madam Speaker I so second and I want to make few points on the report.

As a Member of the Committee, I do not think I have much to say because the report has already spoken for me. The necessity of having it re-drafted is being explained, my take is to have a good law. This is part of the scrutiny we need, and I think my Honourable Members will go through and see the substance in what the Committee decided and coming with their views and recommendation in the report, with that I thank you and beg take my seat.

[Question Proposed, Put and Agreed to]

THE SPEAKER: Now Honourable Members who wish to take part in the debate may do so by raising their tag.

HON. SIDIA S. JATTA [WULI WEST]: Madam Speaker, I think this report's recommendations are loadable and they are very thoughtful. Every amendment such as the one in question fundamentally should aim at improving and bettering what is there. It should improve the quality and not deter from the quality. The need to have judges should not have motivated the Drafters of these Bill to reduce from the quality that is necessary for us to have judges for our High Court, and I agree with the recommendations of the Committee.

I think they have made our task easy, so I do not have much to say about this report because I think they have said everything in a conclusive way. Thank you very much Madam Speaker.

HON. MUSA AMUL NYASSI [FONI KANSALA]: Honourable Speaker, I will choose not to say anything because I will be repeating exactly what the

Honourable Member for Wuli West said. In that vein, what I will have to say is to comment the Committee for a job well done. Thank you.

HON. HALIFA SALLAH [SEREKUNDA]: Thank you very much Honourable Speaker. The Assembly gave this responsibility to a Committee on Human Rights and Constitutional matters to scrutinize, consider and advise on the Amendment Bill. Section 139 [4] states that; *"A person shall be qualified to be appointed as a judge of a High Court if he or she holds or has held office as a Principal Magistrate or master in The Gambia"*. This means that if you do not hold such a position which is an Administrative Position within the Judicial Service, requiring years before somebody hires and another person occupies. It means that the person can be there for 30 years and as long as one has not held that position of Principal Magistrate or Master, you will never be qualified to be appointed as a Judge.

Whiles the contrary is that if you unjudged that in each case if he/she practices as a legal practitioner before a Court having unlimited jurisdiction in civil and criminal matters in common law country for not less than 5 years, you will still be qualified to be a Judge. So, this is discriminatory in effect, that the person who occupies the bench, serving for thirty something year will still not be qualified to be a Judge while somebody will simply be practicing as a legal practitioner, avoiding the bench will be qualified to be a Judge. Clearly, that is discriminatory and therefore, to cure that discrimination is the object of the amendment and that amendment reads;

"A person shall be qualified to be appointed as a judge of High Court if he/she has qualified to practice as a legal practitioner in a common law jurisdiction for not less than 5 years."

Here the attempt is to cure a defect, and to cure the defect one has to equalize all those people who are qualified to practice. Our Committee has looked at this and asked themselves the question: Has that really cured the problem? It

appears it has cured the problem but our Committee says it creates another problem because it negates actual practice and simply dwells on qualifications. In other to address that they did their work and came to the conclusion that says this defect could be cured without creating another defect which will lead to a judiciary without people with actual practice, being the basis of their occupancy of a particular responsibility.

So, Honourable Speaker, the recommendation given by our Committee is that; *a person shall be qualified to be appointed as a Judge of a High Court if he or she holds or has held office as a magistrate for not less than five years, or if he or she has practiced as a legal practitioner before a court having unlimited jurisdiction in civil and criminal matters in a common law country for not less than five years.*

So, in essence, it is integrating what is in the original provision of section 139 [4] that they should practice and ensure cures with this particular angle of ensuring that only Principal Magistrate and Master will be hired. Now those who occupy the bench for five years will also be qualified.

Honourable Speaker, there is actually no doubt that those two legs stand firm and no one can push that particular standing to be weakened anyway. So, in that sense, I strongly support the Committee's recommendation and I hope the Mover will eventually tell us the opinion of who the Drafters regarding this Draft and clearly if they do accept, we would have cured the defect they would have created by accepting their own draft and would have moved forward in term of progressive legislation. Thank you.

THE SPEAKER: Thank you very much. Anymore?

HON. KEBBA K. BARROW [MAJORITY LEADER & KOMBO SOUTH]: Thank you very much Honourable Speaker. I have to be very brief. I will also want to join my colleagues to thank the Committee, but I must also say that the Committee also needs to applaud the work of the staff of the National Assembly

in helping you to come up with this report. I know that a lot of research work has gone into this and our youths are being built up so I can see the good work of our new recruits that are coming into this. So on that note, I want to thank you for the job well done.

THE SPEAKER: Well maybe is not on the report, but I think he did, I stand to be corrected. Orally he did. I Think then we can have an amendment and let it be included forming part of the records. Thank you, anymore?

Thank you, very much Honourable Vice Chairperson and Members of the National Assembly, for the intervention. Now Vice Chairperson you want to respond? Probably just wind up the debate and maybe thank everybody.

HON. SUWAIBOU TOURAY [WULI WEST]: Thank you very much Honourable Speaker.

What I can say is to thank the Members for lending their support to the report. I think the question as to whether the Drafters accept or would accept, from our discussion they accepted our proposal and they said they are going to redraft it in that way. So, I do not think there is any business between us and them, but should they come back to give something else, we are still here we can always look at it.

The Majority Leader said, we should thank the staff, we thank the staff very well. Like I said they have done a lot of work. This thing has been written more than three to four times and we keep on editing the text until we arrived at this situation. So, we thank them very well for all the effort that they have done. A lot of research was done on it and like I said there were also legal personalities among us including the Speaker, so a lot of discussions was around this text have taken place. So, I thank you all for the time.

[Question Proposed, Put and Agreed To]

[Report of the Standing Committee on Human Rights and Constitutional Matters of the National Assembly on the Constitutional Amendment Bill, 2019 has been adopted without Amendments]

Now the next stage of the Bill is scheduled as per the agenda for the session and that is the Consideration Stage. Clerk, can we now proceed to the next report.

III. REPORT OF THE STANDING COMMITTEE ON HUMAN RIGHTS AND CONSTITUTIONAL MATTERS ON THE MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BILL, 2019. [BY: HON. VICE CHAIRPERSON OF THE COMMITTEE]

THE SPEAKER: Thank you very much. As usual, Honourable Members, you will recall that the Motion for the second reading of the Bill entitled Mutual Legal Assistance in Criminal Matters Bill, 2019 was moved by Honourable Attorney General and Minister for Justice on Thursday 5th of December 2019. The Motion was seconded and debated on the general merit and principles in short. Therefore, after the Bill was referred to the Assembly Business Committee for committal and the Committee committed the said Bill to the Standing Committee on Human Rights and Constitutional Matters for scrutiny and report back to the Plenary, the Committee is today scheduled to table its report before the Assembly.

Now once the report is tabled, debated and adopted, the next stage of the Bill, which is the Consideration Stage, will be scheduled accordingly to another appointed date. I will now invite the Honourable Vice Chairperson of the Standing Committee on Human Rights and Constitutional Matters of the National Assembly to table the report of the Committee. Honourable Vice Chairperson, thank you.

HON. SUWAIBOU TOURAY [WULI EAST]: Thank you very much Honourable Speaker.

This is another document which has come to us but because of the work that it involves we had to come back to the Plenary for adjustment, so that we will be able to do justice to the assignment.

Honourable Speaker, this Bill can improve the quality of the prosecution of criminal cases before courts of law as evidence found or existing in other countries can be accessed by Gambia only through request.

Also, the Bill can complement the work function of the Ministry of Justice and The Gambia Police Force for effective search, investigation and retrieving of evidence in other countries, so is mutual.

Finally, the Bill legislates on a new domain, and it is not in conflict with the Extradition Act. The Extradition Act deals with physical transmission of a culprit/accused person from one country to the other whereas the Mutual Legal Assistance Bill deals with the transmission of evidence or witnesses from one country to the other.

Observation

The Committee was on the structure of the Bill by focusing on its grammar, spellings and punctuations. It is also observed by the Committee that there are two sections in the Bill numbered 38, two parts marked part II. In addition, the section and paragraphs are not properly arranged. If you go through the actual Bill you will see those problems there.

The Bill further observed that the heading of section 13 needs to be revised and the provisions of section 12[9] are mixed with section 12[8] of the Bill. The Committee recommends section 12 [9] of the Bill to be placed into a separate paragraph.

Finally, section 14 [1] of the Bill makes reference to section 14 but the intention was to refer to section 13. Therefore, the Committee recommends that section 14 should be amended to section 13 under section 14 [1] which shall now read; *"The Minister may make arrangements in relation to the keeping in the custody of a person who is in The Gambia pursuant to a request under section 13"*.

Section 8[2] of the Bill, which deals with request for assistance by foreign country, the country requesting for assistance shall accompany the request with a document. We shall specify the nature of the criminal offence for which the request relates. The time frame and the name of the authority making the request should be indicated. The compliance to these conditions by the requesting state under section 8[2] of the Bill is mandatory because the word used is "shall". Therefore, section 8[3] which provides that failure to comply with the condition under section 8[2] should not be a ground for refusal of request has negated the meaning of "shall" above. If you follow that section, you will see there was "shall" that makes it mandatory. It is recommended that section 8[3] be deleted instead and revised.

Part III of the Act has two sections [9] and [10] dealing with procedures for request of evidence. The provision of section 10 [1] reads; *"For the purpose of criminal proceedings in the foreign country, the Minister may, subject to such terms and condition as he or she may determine, authorise the taking of evidence or the production of the documents...."*

The Committee observed that the condition that governs the grant of request are specified under section 8[2]. Therefore, such conditions cannot be subjected to the discretion of the Minister. The Committee recommends that the clause; "As he or she may determine" be substituted with "As specified in the act". Instead of leaving the discretion to the Minister, we go by the Act.

Moreover, it was observed that section 12[4] is similar to section 12[2], section 12[5] is similar to section 12[3], section 13[2] is similar to section 13[1] and

section 23[2] is also similar to section 23[1]. The Ministry of Justice was invited to dilate on these sections. The Solicitor General told the Committee that the sections have some differences, combining them may cause some inconveniences. The Committee agreed with the justification advanced by the Solicitor General that instead of putting all of them together they should separately stand by themselves.

The Committee further observed that the Minister for Justice can authorize a police officer under section 12[1] of the Bill to apply for a research warrant. Thus, it should be mandatory for such officer to act. In that regard, the Committee recommends that the word "May" in the provision of section 12[2] be substituted with "shall". The section will now read; *"The police officer shall lay before a magistrate..."*

Part VIII of the Bill starts from section 35 to 38. One major concern has been observed under section 38. This section gives the Minister absolute power to make subsidiary legislations. The Committee recommends section 38 to be drafted in a way that will give effect to Standing Order 80, Revised Edition 2019. The intention of the Standing Order is to give the Parliament control over subsidiary legislations. In that regard, section 38 of the Bill should be drafted as follows;

Section 38

1. The Minister may make regulations prescribing matters-
 - a) Required or permitted by this Act to be prescribed; or
 - b) Necessary or convenient to be prescribed for carrying out or giving effect to this Bill.
2. The regulation made under sub-section (1) shall-
 - a) Be laid before the National Assembly, accompanied by an explanatory memorandum setting out in detail the policy and

principles of the subsidiary legislations, the defects for which it is intended to remedy and the necessity for its introduction;

b) Be published in the Gazette at least 14 days before it is laid.

Finally, it was observed by the Committee that the Minister responsible for the administration of this Act is the Minister for Justice. This is provided for under section 2 of the Bill which reads; *"Minister" means the Attorney General and Minister for Justice.*

Since the Bill has significant bearing on foreign and diplomatic relations of the Gambia, the Committee recommends that the Minister under section 2 of the Bill should include Minister for Foreign Affairs. That is our suggestion, thus, the above section should now read; *"Minister" means the Attorney General and Minister for Justice in Consultation with Minister for Foreign Affairs.*

RECOMMENDATION

The Committee recommends this Bill with amendments and corrections observed. The Committee also recommends to all other Committee's dealings with Bills to give effect to Standing Order 80.

Honourable Speaker, if you look at the annexe is Members of the Committee, we are all there, you can see them. Everybody has played a part in this and it took a long time, if only we can come to conclusion on this to deal with all the misconceptions, all the issues that were raised. The supporting staff, you can see Table Office, the Senior Legal Officer as well, played a key role in preparing this report of course with our contributions, editing and so on.

OUR WITNESSES

The Solicitor General and Legal Secretary spent almost a full day with us and of course with the technicians at the Ministry to deal with all these clarifications.

So I thank the plenary for the time and the fact that they have given us this important assignment and thanks to the administrators for printing. We printed this over and over so that we can go over and over to edit it. Thanks to the speaker for allowing me to present this report.

THE SPEAKER: Thank you very much Honourable Vice-Chairperson. Any seconder?

HON. SULAYMAN SAHO [CENTRAL BADDIBU]: I so second the Motion Madam Speaker. The report laid by the Standing Committee on Human Rights and Constitutional Matters on the Mutual Legal Assistance in Criminal Matters Bill.

Madam Speaker, the Committee did a tremendous job by looking at the report almost all the salient points there have been considered and they have done justice by going into detail making some proposals to the amendments. Like where you have "me" to make "shall" mandatory and where they also referred to the Standing Order 80 which talks about putting the Constitution into consideration to make any subsidiary legislation and where human rights will be factored in. So, in short, they have done justice to the document Madam Speaker.

I urge on my Honourable colleagues to give our blessing to the report and I thank the Committee once again for the effort done which all their stakeholders involved.

[Question Proposed, Put and Agreed to]

THE SPEAKER: Honourable Members who wish to take part in the debate may do so by rising your tags.

HON. SAINÉY TOURAY [JARRA EAST]: Madam Speaker, thank you very much for giving me the floor. I will be very brief Madam Speaker. Let me, first of all, thank the Standing Committee on Human Rights and Constitutional Matters for a job well done.

Madam Speaker, I have read the report and I am very much satisfied in the layout. Madam Speaker if you look at the reports, they have spoken very high points as far as I am concerned. The spirit of teamwork and wider consultation are all seen in the report.

The Committee has consulted the stakeholders that ought to be consulted and I think that has enabled the committee to have very good issues and very good recommendations for the plenary. Madam Speaker, the long and short of this Mutual Legal Assistance Criminal Matters Bill is meant to improve our Criminal Justice System, it is meant to address some of the ills that are inherent in our Criminal Justice System. Thank God the Committee has satisfactorily dealt with some issues. As human beings we are not perfect and our institutions too are not perfect, so there is bound to be lacunas and voids in our way of doing things.

If I heard well, Madam Speaker, most of the voids or the vacuums have been adequately filled by the Standing Committee on Human Rights and Constitutional Matters and I want to commend them for a job well done.

Matters pertaining to Criminal Justice System borders on our lives and livelihood as well. If attempts are made with strengths that they made, I think they ought to be commended. I want to thank you for a job well done and I hope this amendment will go a long way in addressing some of the ills that are inherent in our Criminal Justice System. Thank you very much.

THE SPEAKER: I did ask, any interventions? I think Honourable Members will agree with me that I did ask. Now he is raising his tag but earlier on I did not see it. Any other Member, we can take more interventions but let us just record it.

HON. HALIFA SALLAH [SEREKUNDA]: Thank you very much, Honourable Speaker, I raised my tag, but I raised it in a hesitant manner because of my position.

THE SPEAKER: I am glad that you clarify that.

HON. HALIFA SALLAH [SEREKUNDA]: Honourable Speaker, I was battling with my consent since we have said we already dealt with the merits of the Bill. I was trying to find out how I can put my opposition to it in such a manner that would not also infringe on what we should do, that is consider the report and consider any section mentioned in terms of the Bill.

Honourable Speaker, if they have an object, I would have loved to see what the Committee says about that. The Bill proves mutual assistance within the Republic of The Gambia and other countries. Honourable Speaker countries do not have the same judiciary system, criminal law is about due process and tyrants exist all over the world. Honourable Speaker, there is no limit and here we are dealing with a Minister refusing or accepting, so the might of the executive is what comes there.

In any request that is made, here we are talking about a collection of evidence, we have our laws, who says you should not maintain the detention of somebody for more than 72hours, so what happens is the whole process. Where gross injustice could be done and this is not new, many people as I said, I do not want to go back to the merit. Honourable Speaker, maybe what I will do is simply say that I would have wanted the Committee to really look at the nature of such legislation and ask ourselves whether a sovereign Republic should really have such legislation. My position is that this Bill should be rejected outright.

THE SPEAKER: Anymore? Thank you. Honourable Vice Chairperson can you please respond.

HON. SUWAIBOU TOURAY [WULI EAST]: Thank you very much, Honourable Speaker. I thank the Plenary for the support, the only contentious Member that is relating to whether a sovereign country should go into this mutual assistance. Well, we have raised this issue with the Ministry, and this is mutual assistance, helping each other. We have or will we have assistance from other countries,

and will other countries need assistance from us? I could remember raising this particular issue during the meeting. This is also on a case-by-case basis, it is left with us to decide whether we will have mutual assistance with this country or we will not have, that is also left to The Gambia, is not a force.

Because I raised whether other countries have also ratified the same. All countries have theirs according to the information and before we go into having assistance with anybody, we should look at what they have, how they want to do it, so that if it is in our interest we go into it, if it is not in our interest then we do not have to go into it. So, is entirely left to The Gambia to decide who and who we will be entering into this type of assistance. That is all I can say, but hopefully, when the Minister comes, he may be also dilate on this. We have not seen anywhere, where we can desecrate from the sovereign of this country as far as the Bill is concerned. That is why we have accepted the proposal. So, I thank everybody for the time. Thank you very much.

THE SPEAKER: Thank you very much Honourable Vice Chairperson and Members of the Committee. Honourable Members, now I put the question.

[Question Proposed, Put and Agreed To]

[Report of the Standing Committee on Human Rights and Constitutional Matters of the National Assembly on the Mutual Legal Assistance in Criminal Matters Bill, 2019 has been adopted]

The next stage [Consideration Stage] of the Bill is now scheduled for a later date as par the agenda that has been circulated.

III. MOTION: Be it Resolved that this august Assembly do consider and approve: The Motion to amend the Standing Orders of the National Assembly [2019 Edition] [By: Hon. Sidia S. Jatta, Chairperson Standing Orders Committee]

HON. SADIA S. JATTA [WULI WEST]: Madam Speaker, allow me to come back again to lay before this Assembly the proposed amendments of our Standing Orders. When we first laid the amendments before you some time ago, they were debated, and suggestions were made. The Committee decided to go back to the drawing table to consider your suggestions and tidy the proposed amendments. I think you all have copies of the proposed Amendments.?

Standing Orders [2019 Edition] of the National Assembly [Amendment] Motion,

1. A Motion to amend the Standings Orders [2019 Edition] of the National Assembly in accordance with Clause 110[2] of the Standing Orders

2. Amendments of the Standing Orders

The Standing Orders [2019 Edition] of the National Assembly [in this Motion referred to as "the Standing Orders"] is amended as set out in this motion.

3. Amendment of Standings Order 16

Standing Order 16 [voting] is amended by-

- a. Deleting the letter "[b]" in sub-paragraph 13;
- b. inserting after paragraph [14], the following new paragraph [15]- "In any instance where the Constitution requires a fixed majority to decide on a question, the Assembly shall not proceed to a vote on that question unless and until a number of Members equivalent to such fixed Majority is present at the time for voting."

4. Amendment of Standing Order [53]

Standing Order 53 [Motion which may be made without notice] is amended by-

- a. Inserting the words "or motion" immediately after the word "Bill" in paragraph [e];

b. Replacing the number "9" with number "13" in paragraph [1].

The Honourable Member for Brikama North had some problem but we had a discussion with him and then he now sees what exactly it is meant.

5. Amendment of Standing Order 61

Standing Order 61 [Debate of Motion and Amendment] is amended by-

a. Inserting after paragraph [1], the following new paragraphs [2] and [3]-

[2] The Assembly may, on a Motion made by the Assembly Business Committee in accordance with this Standing Order, impose a limit in respect of debating any particular Motion or Bill that allotting a limited period of time for such debate or by limiting the time during which Members may speak in such debate or by imposing both such limitations.

[3] A motion for limiting debate under this Standing Order may be made without notice, Provided that such motion shall not be made in the course of the debate to which refer unless it is moved after adjournment of such debate and before the debate is resumed.

6. Amendment of crossheading [other Orders]

Standing Orders [other orders] is amended by-

Inserting immediately before sub-heading 143 [Visiting Dignitaries] the following new subheading and paragraphs-

[143] Members traveling outside The Gambia

[a] in an official capacity, shall give notices to the Speaker to that effect

[b] in a private capacity that affects his/ her official functions, shall give notice to the Speaker to that effects.

[c] or in any other capacity, may give notices to the Speaker to that effect indicating [1] The purpose and destination intended to be visited. [2] The date of

intended travel and period of absence. [3] The telephone contact and post, postal or physical address of their stay during the period of absence. [4] All information subject submitted under the Standing Order shall be kept in a register which the Clerk shall maintain for that purpose and shall not be disclosed to any person without the permission of the Speaker.

7. Amendment of Standing Order 97 crossheading [Remit of all Committees]

Standing Order 97 [Remit of all Committees] is amended by inserting immediately after subheading 97 [Remit of all Committees] the following new subheadings and paragraphs-

98. Vote of no confidence in the Chairperson or Vice Chairperson and Head of Delegations to International Institutions.

[1] a Committee or delegation made by resolution supported by majority of its members passed a vote of no confidence on the Chairperson, Vice-Chairperson or Head of Delegation, on the grounds to be specified in paragraphs 3 of this Standing Orders and such resolution shall be reported to the Committee of Selection which shall as soon as it is practicable, arrange for the election of a new Chairperson, Vice-Chairperson or Head of Delegation from among Members of the Committee or Delegation as the case may be.

[2] The Members desiring to make a resolution under paragraph one, shall serve the Chairperson, Vice-Chairperson or Head of Delegation with a written notice and may, if they constituted a majority, request the Clerk to call for a meeting at the expiry of three days after the giving of such notice.

[3] A vote of no confidence on the Chairperson, Vice Chairperson or Head of Delegation under paragraph 1, may only be initiated on the following grounds;

- a. Abuse of the position or violation of any provision of this Standing Orders.
- b. Incompetence, including impartiality of judgment.

c. Conduct herself/himself in a manner which brings or is likely to bring his/her position or the Committee into contempt or disrepute.

d. Dishonestly or any other action or factors which impedes the effective operations of the Committee.

99. Reports of Committees

[1] The Report of the Committees shall be signed by the Chairperson on behalf of the Committee provided that if the Chairperson is absent or is not readily available, the Vice Chair shall sign and in the absence of both the Chairperson and the Vice Chairperson, the Committee shall nominate another Member to sign the report.

2] A Committee shall adopt its report in a meeting attended by majority of its Members before it is tabled at the Assembly.

Minister's Report

[1] Within thirty days of a resolution of the Assembly or adoption of any Report of a Committee, the Minister under whose portfolio the matter raised in the report or contained in the assurance or resolution fall, shall provide the report to the Assembly.

[2] A Minister who fails to submit a report under this Standing Order, shall be deemed to be in contempt of the Assembly within the meaning of section 75 [6] of the Constitution, [misconduct in office]

8. Correction of the Referencing and Numbering

All the referencing, cross-referencing and numbering in the Standing Orders affected by this Amendment motion to be reflected and corrected by the Clerk accordingly.

Objects and Reasons

The amendment motion seeks to amend the Standing Orders to National Assembly [2019 Edition], to grant further independent authority to Honourable Members of the Assembly in the conduct of its businesses and also harmonize the recent precedents of the Assembly and for Matters connected.

The amendment also seeks to provide no clarity and procedure on the powers of Members in electing and removing [vote of no-confidence] Chairpersons, Vice Chairpersons of Committee and the Heads of Delegation. It places an obligation on Ministers to provide updates to the Assembly on any report or resolution adopted by the Assembly.

Honourable Speaker, I beg to move.

THE SPEAKER: Thank you very much. Any seconder?

HON. ALHAGIE MBOW [UPPER SALOUM]: Thank you, Honourable Speaker. I rise to second the Motion and I want to take this opportunity to thank the Standing Orders Committee for really listening to the Members of this Parliament. I think section 108[1] 1997 Constitution is really very clear. It gives parliamentarians the responsibility to regulate its own procedures and I think this is exactly what the committee is doing.

Honourable Speaker, I have two areas that I wanted the mover of the Motion to help me understand. The first one is on page 1, amendment number 3, which is saying a Motion for limitation of debate under this Standing Orders may be made without notices. Also if you look at our current Standing Orders, clause [53] is also indicating motions that do not need notices. So, I am not too sure whether clause 61 or 53 is the appropriate place to put it, I wanted him to explain to me why they prefer to put it under clause 61 instead of clause [53] that gives a kind of motion that you can make without notice.

On page 3, Ministers Report, No. 1, within 30 days of resolution of the Assembly or adoption of any report of a Committee, the Minister under whose portfolio, the

matter raised in the report or contain in the assurance or resolution shall provide a report to the Assembly. It is not very clear about what it really meant?. Are you talking about the report or the response? This year they indicated a report to the Assembly, so I am not sure if this choice is the right one, is it a report or a response. So, I really need clarification. I am okay with the amendments, but these are the two areas that I wanted more explanations from the Chairperson. Thank you very much

THE SPEAKER: Thank you very much. It has been moved and seconded that this Honourable Assembly do consider the Motion to amend the Standing Orders of the National Assembly [2019 Edition].

[Question Proposed]

Any Honourable Member who wishes to take part in the debate may do so now and I call on the Honourable Member for Brikama North.

HON. ALHAGIE S. DARBO [BRIKAMA NORTH]: Honourable Speaker, Chairperson of the Committee, I rightly indicated after the debate that I did a consultation with him and the Secretary to the Committee. Clarification was made on the point that I observe under Standing Order 53 that is supposed to be amended. I will say there is no numbering, but number 9 is reflected under paragraph 1 and that is what is requested to be changed to number 13. Standing Order number 9 is referring to the vacancy in the position of the Speaker, where 13 is referring to the adjournment. So, that was a wrong numbering in the Standing Orders that they are trying to correct. It is well noted, correct and it is in line.

Honourable Speaker, during the course of the debate, there was a concern on the Vote of no Confidence on the Chairperson, Vice Chairperson and suggestions were made for grants to be established. I think there had been some developments and grants are provided as to what should result to the need for passing resolution to remove the Chairperson and Vice Chairperson. Perhaps, if I

got the Honourable Member for Jarra East right, his concern was, the ordinary Members.

If you go to amendment 99 (1) to 3(2), on the signing of the report of the Committee, I think suggestion when further to say, in the absence of the Chairperson, The Vice-Chairperson can come and in the absence of both the Chairperson and the Vice-Chairperson, we take the high ranking in the Committee instead of opening it to any Member, we give chance to rapporteurs. I think this is the only observation as far as I could recall. On that, I thank the Committee for capturing all the observations that were made by the plenary.

HON. SULAYMAN SAHO [CENTRAL BADDIBU]: Honourable Speaker, I think the Standing Orders Committee did a great job because by looking at the recommendations put up by the Honourable Members on the floor of the National Assembly here, most of the issues raised are addressed very well.

Notwithstanding I have a concern on the amendment of Standing Order 61, Debate of Motion and Amendment, which is amended by inserting after paragraphs 1, 2 and 3. Honourable Speaker, as far as I am concerned there is no need for the amendment of this particular Standing Order. As it is, I am really comfortable with it, because I think Members should be given the liberty to express themselves. Sometimes you might have a very important Motion to debate on or issues to discuss and do you know we have distractors? Sometimes some people come only to distract, if such motions are available, they can come up with those motions to limit people to talk on essences. So, what I am saying is to leave it as it is, where it is stated with your permission, "when the motion has been moved and seconded in the Assembly, the Speaker shall put the question thereon to the Assembly in the same terms as the motion, the debate may then take place upon the question and may continue so long as any Member wishes to speak, who is entitled to do so. Subject to any time allocations applied by the Assembly Business Committee".

Sometimes you might like to convince the House on something but if you are not given time, you cannot. We have been seeing some time, the mover himself will be hot or in high gear to put up a case. So, if this thing is available, unless I am not well enlightened about, it I see it as a restriction. So, I think Members should be given that opportunity to be able to dwell more on the issue. That is my own understanding unless the mover enlightens me more on the need for it.

Now coming into the situation where a Chairperson is not present or the Vice Chairperson and the rapporteur. In a situation where you do not have the rapporteur where will you move? In some Committees rapporteurs are not functional. Some of the Committees in fact have declined totally, saying once secretaries are there, they are not going to do any work. So, for me, we make it open. That is my observation.

HON. SAINÉY TOURAY [JARRA EAST]: Madam Speaker, thank you very much for giving me the floor. I attended the meeting of the Standing Orders Committee at the instance of the Chairperson. When I was looking for my good friend and Colleague Honourable Saho, I bumped into them where they were having a meeting and the Chairperson welcomed me. I must thank the Chairperson for that.

Honourable Speaker, I am very much satisfied with the recommendations of this report. It goes without saying, seeing is believing and he who wears the shoe knows where it pinches. I was there so I can give an eyewitness account.

Madam Speaker, I have no problem with this report as far as I am concerned. The only problem I have is [Laughing] I am seeing these Standing Orders as a plan of action for members of this august Assembly. The essence of having a plan is to allow the plan to regenerate into action then it becomes a good plan. If a plan is there and the plan is not catalysed into action, it is as futile as it is non-existent.

When you have Standing Orders, you have a Constitution., They must be obeyed in toto, that is the long and short of it. Many a time Members will be in contravention of clause 26 [2] and 29 [4] of the Standing Orders, which reads 29[4] "It shall be out of order to use offensive and insulting language about Members of the Assembly." This is self-explanatory. In essence, what this clause is telling us is that the activities of this National Assembly should be characterized by temperate language as opposed to intemperate language.

Honourable Speaker, I think Members will take cognizance of this and I keep saying if laws for regulation are printed on letters of gold and you fail to execute them to the letter, they have no use. It goes without saying charity begins at home. What is very important and quite significant as National Assembly Members, we may be seen as pacesetters. If we are seen as pacesetters, others will emulate us and copy us. We are human beings, at times some people fail to raise up and address the Speaker inadvertently, that is human but some as I always said are perpetual in terms of abusing. I think we should be mindful of such things because when you make rules and regulations, you must not be found wanting in terms of violating them. If an outsider violates, we may use the operandi of this House that will not be seen as something great but if an insider violates, that might be tantamount to a great violation. So I believe all of us be cognizant and remind ourselves always that we are here to serve and we will serve diligently.

Honourable Speaker, I raise an alarm with regards to the grounds for removal of Chairpersons. Most of my colleagues jokingly thought that I was afraid, no, I was not afraid. In fact, I am trying to help my opposite numbers, Chairpersons and Vice-Chairpersons, because a rule for one is a rule for all. I believe all of us will do our utmost best to make sure we lift live up the to expectation but we can only lift live up the to expectation Madam Speaker, if you we respect these documents that is termed as the Bible and the Quran [Constitution and Standing Orders]. This is very comprehensive, and we are the authors of this document.

So, it is therefore expected for us to respect the contents that are embedded in this document.

Honourable Speaker, it must not be difficult for us to give respect to this document, because we are the architect. So, who is to be blamed when the document is thrown? Our very self. I think the best thing for us to do, is to rise to the occasion and hold it firm so that this document will be given its meaning. I hope that will be done because the Assembly is composed of men and women of integrity, men, and women of sharp intellect and profound ability, and I hope you will not let me down. Thank you.

HON. ALFUSAINY CEESAY [SAMI]: Honourable Speaker, I would like to thank the Standing Orders Committee for a job well down. I also want to look at page 1 No. 5 which is an amendment of Standing Order No [61] No. 1, 2 and 3. I want to look at No. 2 which is limiting the time for the intervention of the National Assembly Members to a particular Bill or Motion. I think the way it is, it should be like that so that Members will be able to express their views. We should not be in a rush just to put a timeframe and say yes, this is the timeframe even if you do not put your ideas across, we will close. I think we should do things correctly, there should not be any timeframe. If the Member is not putting things in order, it is the duty of the Speaker to put him or her in the right place, to say that yes you are deviating, concentrate on this, this is what we are discussing. I think that is the right thing rather than limiting the intervention of Members.

Honourable Speaker, I would want the mover to please explain these two things for me; page 2 No. 143, traveling outside The Gambia. Number 1[a], in an official capacity, shall give notice to the Speaker to that effect. Yes, we know that when we are on a Sessions and you want to go, you know that it is the duty of the Assembly that processes that. B, in your private capacity that affects his/her official function, should give notice to the Speaker at that effect. I want the mover to explain because these two things you are giving "shall", so what

about in an event you are going for a private thing and you do not inform the Speaker. I want that area to be explained... [Interruption].

Honourable Speaker, on the same page, Standing Order [98] Vote of no confidence for the Chairperson and Vice-Chairperson. As others have put it, we have Members here who are in a particular Committee, and they are not attending those Committee Meetings and there was something that happened here, and we are not talking about that. We have to be transparent in anything that we are doing. This office does not belong to anybody, it belongs to all of us. We all want to see this country move forward but anything that we are doing let us consult each other. We are not anti to anybody but if I am with you in whatever you are doing, I will put in the picture to know that yes this is actually what is happening. The issue of the Chairperson should come to this House so that we can debate about it, but it was not debated. We just see things like this, and it is still going on. After the Chairperson, the Vice Chairperson, there is the rapporteur and you said there is a report that indicated if the Chairperson is not there the Vice Chairperson took over and thereafter any other Member while the rapporteurs are there. The reason why the rapporteurs are not functioning is simply that they are not given their dues. If you put a sort of encouragement for the Chairperson and you leave the rapporteur, do you think they will perform? They will not perform Madam Speaker, let us see and put something for them and see whether they will not perform, they will perform. Therefore, when there is a report, if the Chairperson is not there and the Vice Chairperson is there, let them give it to the Vice or to the Rapporteurs but we cannot just leave it open like that and say any other person. What is their function then? Because we do not give them something that is why they are relaxing. Let us give them something to do so that they can also participate to reach up to expectation.

Honourable Speaker, I think I have exhausted all my points. Thank you.

THE SPEAKER: You see, speaking for five minutes, you can say a lot in five minutes, you see you got carried away. [Laughing]

HON. SUWIBOU TOURAY: [WULI EAST]: Thank you Honourable Speaker, I have only two issues, about rapporteurs. I believe rapporteurs [take notes] play a very important role in meetings. I am the rapporteur of the Committee on Environment., I take every note and engage in report writing and my Chairperson can attest to that. So, rapporteurs are engaged in all aspects of report writing and a lot of editing. If you do a job as a rapporteur, you do a lot of work. So, I think this Assembly should recognize them, we should not just put them there, but we should recognize them so that they play their role. I am not talking about the money aspect but at least the signing of a report, I think should be given to them in case the Chairperson or the Vice chairperson is not present.

Also in 98 [2](d)], I believe should be read as "dishonesty" instead of "dishonestly".

THE SPEAKER: Any other intervention?

HON. OMAR CEESAY [NIAMINA EAST]: Honourable Speaker, I just need one clarification regarding the issues of traveling. If any Member is traveling within or outside the country whether, in an official mission or a private mission, I do not know the means in which one can use in other order to relate that communication in the way in which we are doing it. Now is to test the individual or if there is any specific email that one can use, because sometimes writing a document while you have an emergency issue going out somewhere when actually you were supposed to come on a Sitting and you could not come. Would there be a specific email that one can use to relate such information in case there is that emergency and you do not have the opportunity to write or drop a letter to office of the Speaker? Thank you.

THE SPEAKER: I then invite the Chair of the Standing Orders Committee.

HON. SIDIA S. JATTA [WULI WEST]: Thank you Madam Speaker. I forgot to say so but I think I will begin my responses by first thanking the Member for

Jarra East and Member for Baddibu Central. They were co-opted when we were having our last meeting. They participated very actively in the discussions, and we are very grateful to you for that.

Honourable Speaker, the issues raised by almost everybody on the amendment of 61 is the time. There are many occasions in which we speak here, we speak on substantive motion and on other matters which are not necessarily substantive as for example speaking on a Budget or a Bill. I do not think that is what the reference is about but there is also a provision in the Standing Orders where your time is limited, for example when Ministers come here for questioning. The whole intention here is to render the work of this Assembly effective and efficient. We must know that this Assembly operates in a different way from other Assemblies. In Ghana, for example, they do not sit for every three months; they sit every month throughout. So, they have lot of time to talk and lot of time to work. We are here for the whole of this month, to deal with all these matters and the time is very short. The matters that we are dealing with in one month is too much. So, in some cases, why it is not necessary for me to speak for 15, 10, 30, or even in an hour. I used to speak for two hours in that Assembly on certain matters and somebody else speaks almost three hours on some other matters. If you feel that [because we are just trying to see how efficient we can do things in this Assembly] we should not speak as we want, because sometimes we do speak unnecessarily. I am very sorry to say that we speak unnecessarily. Sometimes we hear somebody saying well I do not have much to say I agree with this, sit down then! [Laughing]. That is what we are trying to avoid. Like Madam Speaker has just said in 5, 3 minutes I can say almost everything that I want to say in substances. So, it is up to us to consider. Do you want to spend the whole day here on a matter which we can be deal with within an hour? Sometimes we spend hours on something that we can deal with within only one hour, just think about it yourself. So, it is up to you to

decide. Do you want us to stay here the whole day when you should be there just for one and a half hours? It is up to you.

The Honourable Member for Upper Saloum, I understand what you have said. I think it is not a report but the Minister responding to that report is what we mean. So, we will change the wording there.

Now this question of signing the report, you talked about rapporteurs, I am very sorry to say, I am a chair of two Committees and a Vice-Chairperson of one. I am a Member of other Committees, none of these, does a rapporteur does what he or she is expected to do.

The Honourable Member for Wuli East is different, I know what he said is correct, he does it, but he is one out of all the others. I have not come across anyone who does what he said he is doing, and I know he is doing it. Rapporteurs complained that they are not being given anything so they will not do anything that is what they are saying. The essence of the rapporteur is to take notes intact. In my first year, I was a rapporteur for five years for the Education Committee. I was writing the report in collaboration with a secretary. He/she will write, I will also write, we compare our notes and then compile them to have a report. That is the essence of it but here that is not happening. So, the issue of signing is very simple. The Chairperson, Vice-Chairperson, or any Member of the Committee, what problem do we have with that, functions of a rapporteur is part of that? A rapporteur is part of any Member of the Committee, particularly when he/she is doing his/her job efficiently, automatically everybody will say okay the rapporteur can sign but if they are not, they are like anybody in the Committee, no difference. So, for us, any Member of the committee is enough.

I agree with the Member for Jarra East, you do not make laws/rule for the idea of making laws, we make laws/rules to guide us to actions, to help us not to commit errors, do what we are doing in an efficient way. If we make them without respecting them or you do not read them, because these Standing

Orders should be read to understand them. There is an interconnection among others; like the interconnection between standing Order 53 [c] and 97. If you just sign 53 [c] and 97, that is the end of it, you are making your mistake like somebody was arguing the other day wrongly and the Speaker corrected him. So, I think we need these laws for us to embrace them, to read them to know them. In fact, the correct thing is when you are saying Point of Order, you must cite an order for which you are going to base yourself, but you just cannot jump and say Point of Order. No! "Je s'pas com sa", it cannot be like that. Like lawyers in Court, they always back themselves with citations from authorities. You can't just say this, you must back it up and then that means you are convincing me to accept what you are saying but you have no basis or mutual understanding to attack me, I will attack you also. So, I agree with him 100% that, we have two fundamental documents, the constitution should be our Bible, the Standing Orders must be our Bible so that when you cite something nobody will attack you unnecessarily, you will always hammer him or her. When the Minister of Agriculture was here, you know she hammered the Member's head, the Honourable Member for Sandu also hammered the Member for Lower Nuimi. She [Minister] was telling the Members that I know it better than you, so this is what we must not allow.

On the issue of traveling, we must read and try to understand what we read. It is very clear, what we are saying here. When you are traveling in your official capacity no problem because you cannot go without them. It is them who prepare everything, your ticket, your arrangements, the office of the Clerk does everything for you. So you cannot go without notice that is automatic and it is obligatory.

The other thing is when you are traveling and it affects your official functions. I will give you an example, yesterday afternoon you did not see me here. Did you? I did not just jump out, I took permission from the Honourable Speaker because one of my Constituency wives passed away in the hospital and my question was whether the dead body was going to be taken to Wuli or going to be buried here.

So, I took permission, it was private but it affects my function officially. So, I had to take permission that is what we mean. It is obligatory for me, I cannot just jump out of this parliament, that is very rude. It means I am irresponsible, I am not even a Member, that is an insult to the Assembly itself, just to walk out and think you are free to go. No! There is somebody here who is exercising authority over us as far as our presence is concerned. So, you must take permission from that person, if you said the Speaker, is because the Speaker is the authorizing person. The law said you must get permission from him/her.

The third one is, you are in your home Baddibu Central or Salikenne for example, there is no Session but you want to travel. You had a good mind and say well, I am traveling but anything can happen, let me just inform the office where I am going so that in case they need me or somebody needs me through them, they will give that person the correct information about me, that is what we mean. It is not obligatory, if you do not like it, do not do it but the other two are "shall", you must. I could not have gone out here yesterday without informing her prior, because I was here officially but where I was going is private to me. The two connived, the one affects the other so I must get permission and the authority says you can go even though you are in Session, but this is important. That is what it means. You cannot have a problem with that for 100% sure. Basically, your queries centred on these main points here... [Intervention]

[Point of Observation]

THE SPEAKER: I think he was just telling us that you need to cite... [Laughing]

HON. SULAYMAN SAHO [BADDIBU CENTRAL]: Honourable Speaker, if you look at Standing Order 46 where we have the question for written answer. I want to remind Honourable Jatta whether there is a need for us to be given written answers because I could remember previously that had helped us to prepare ourselves in the Supplementary Question rather than the Minister's coming up with the Oral Answers. Previously, there used to be a part for written

answers and these written answers helped us to prepare ourselves with the Supplementary Question. I thought we can still include that in the Minister's response to provide us with written answers. I think that should be part of these recommendations. I could remember during the meeting we really talked about it, I do not know whether it was an oversight.

THE SPEAKER: You just introducing a new element as per the Standing Orders.
[Laughing]

HON. SIDIA S. JATTA [WULI WEST]: The Honourable Member thinks he is very cute, but currently, there are three ways of asking questions or even more if my memory serves me well. What you are talking about is one and there is another one, you can write written questions to a Minister with written answers to you even out of Session and he or she is bound to answer within 10 days. Now the current practice is, you ask your questions but in fact, when you are writing your question, it is said Oral Questions, it is a contradiction in any way. It is not an Oral Question because you write and you read. That is how we call them but to be franked you write your answer and the Minister comes, he or she writes their answers and reads it, because for me they read their answers. They come here with prepared answers with them. I was complaining the other day because if you go by language to say oral question, it means I just come and stand and say Minister so and so without any written question. I said why is it that your experiment is failing? The teaching of National Languages, why is it failing? And they speak without paper, he will also stand and say, it is failing because we do not have money or we do not have qualified personnel that I understand to be Oral Question. So, afterwards, they give you their answers after the process. So, you are free again to look at those answers and that is why writing in question is important. If you look at the answers and you feel that there is a lacuna in the answers, you can write a written question to the Minister concerned and he or she is bound to write to you back and send it with written answers. It is up to you again, if you think that is not satisfactory to you, well

you can come up with whatever you have but for me, I have no problem with it. The only problem I have is when we said oral when it is written, there is no orality there.

THE SPEAKER: I think we are being overgenerous with the Honourable Member.

HON. SIDIA S. JATTA [WULI WEST]: Yes! The Honourable Member for Niamina East, you see there are many ways of informing. The other one is obligatory, you know that if you are traveling you do not even need to inform them because they already know. It is them who informed you that you are traveling, they arrange that, but if you are here like we are in Session now, you want to go and you want permission to go, you have to write or if you can physically go and speak to the Speaker fine, if you cannot you have your telephone, you can send an email and you can also write in whatever means you can. In fact, you must get an answer permitting you to go where it is obligatory. Where it is optional, you are private, you have no Session, you are in Niamina East and you want to go to Wuli, if you like you can say okay Clerk I want to inform the Speaker that I am traveling to Wuli or you take your telephone to send a Whatsup or whatever. Where even if you do not get an answer, it cannot prevent you from going. Is not necessarily taking permission but you are informing them of your whereabouts. The other two, are you are seeking permission which is obligatory. I want you to understand these three things. The second one you must get permission, the third one is just information so that they know where you are in case somebody wants you or needs so that the office will know where to contact you. The two are the same, you must get permission, the last one is just information. It is not a question of asking them to permit you to move about then they will be tampering with your freedom of movement. Have I answered your question?

THE SPEAKER: Thank you very much Honourable Chairperson and thank you very much, Honourable Members.

[Question Proposed, Put and Agreed to]

The Motion to amend the Standing Orders of the National Assembly 2019 Edition has been adopted]

Adjournment

[The House stands adjourned until Monday 29th June 2020, at 10:00 a.m. Prompt].