



**REPUBLIC OF THE GAMBIA**

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

**REPORT OF THE STANDING COMMITTEE ON  
HUMAN RIGHTS AND CONSTITUTIONAL  
MATTERS**

**ON**

**THE CRIMINAL OFFENCES BILL 2023**

**NOVEMBER 2023**

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## ACKNOWLEDGEMENT

Scrutiny of this Bill was extremely demanding, tedious and time-consuming, as it demands extensive research and consultation. The Committee expresses its appreciation to the Office of the Clerk of the National Assembly for providing an outstanding pool of support staff ranging from Subject Matter Specialists, Clerks, Legal Officers and Researchers, and the logistics that enabled the Committee to carry out exhaustive consultations with all relevant stakeholders to deliver a report as stipulated by Standing Order 66 (2)(a).

It is important to note that this task would not have been completed without the tremendous efforts of the Committee during the Fifth Legislature, Chaired by the former Speaker, Mariam Jack Denton.

The Committee is impressed by the diligence of all the stakeholders invited and the external subject matter specialists who demonstrated professionalism in their presentations and recommendations to enrich the Bill in both content and form.

## INTRODUCTION

Honourable Speaker, I rise to table before this august Assembly, the report of the Standing Committee on Human Rights and Constitutional Matters on the Criminal Offences Bill 2022, for the consideration and adoption of the Plenary.

Hon. Speaker, following the first reading of the Bill on the 22<sup>nd</sup> of June 2020 and subsequently, its Second Reading on the 13<sup>th</sup> of July 2020, the Bill was referred to the Standing Committee for scrutiny and report to the Plenary. However, following the dissolution of the 5<sup>th</sup> Legislature and the subsequent composition of the 6<sup>th</sup> Legislature in 2022, the Bill was re-introduced by the Honourable Minister for Justice. It was then referred to the Committee to continue its scrutiny.

The Bill, as clearly reflected in the Objects and Reasons, seeks to align our criminal justice legislation with current trends by removing all provisions inimical to freedom of speech such as criminal defamation and sedition. In addition, the Bill also seeks to close a long-standing legal lacunae by expanding the criminal jurisdiction of Gambian courts to offences committed by persons outside the country and who thereafter enter The Gambia, instead of extraditing them for trial in a foreign state.

Honourable Speaker, Criminal law is fundamental in society because it provides deterrence, rehabilitation, punishment, protection, maintaining social order, and protecting individual rights and liberties.

In fulfilling its mandate, the Standing Committee reached out to the Ministry of Justice, the National Human Rights Commission, the Ministry of Interior, through the Office of the Inspector General of Police, the Gambia Bar Association, the Gambia Press Union, The Association of Non-Governmental Organizations, the Faculty of Law of the University of the Gambia, Female Lawyers Association of the Gambia, as well as a host of renowned legal practitioners across the country.

The Committee reviewed each of the clauses in the Bill, and we hereby present our recommendations and observations as detailed below:

## MANDATE

Like all other committees of the National Assembly, the Standing Committee derives its mandate from section 109 of the 1997 Constitution of the Republic of The Gambia and Standing Order 124 (2), which spells out the mandate of the Committee as follows:

*'It shall be the duty of the Committee on Human Rights and Constitutional Matters to scrutinize, consider and deal with matters relating to the Constitution and Human Rights'.*

## METHODOLOGY

During the review of this Bill, the Committee comprehensively adopted substantial methods such as;

- i. Consultation with stakeholders to seek their valuable opinions.
- ii. Review of documents/ position papers presented by the invited stakeholders, and;
- iii. Convene validation meeting, where the Honourable Members, and the Support Staff of the Committee sat to review the various submissions, further scrutinize the clauses, prepare and validate a report.



## OBSERVATIONS AND RECOMMENDATIONS BY THE COMMITTEE

### CHAPTER I - GENERAL PROVISIONS

#### PART I- PRELIMINARY

##### TITLE OF THE BILL

The Committee proposes the title to stand as part of the Bill with an amendment.

##### **RECOMMENDATION**

*The Committee proposes that the title of the Bill reads "**Criminal Offences Bill 2023**'*

#### PART II

The Committee proposes that Part II stands as part of the Bill with the following amendment:

##### CLAUSE 3 (INTERPRETATION)

##### **RECOMMENDATION**

*The Committee proposes that the following form part of the interpretation section of the Bill;*

- I. *"discipline forces" in paragraph 6 be defined as 'Armed and Security Forces'.*
- II. *"Minister" The Minister responsible for the Administration of 'Justice'*
- III. *"A Civil office"- should be properly defined and be in line with the constitution.*
- IV. *"Sexual act"- Consider the definition to be in line with the definition of the term in the Sexual Offences Act.*

#### PART III – TERRITORIAL APPLICATION OF THIS ACT

The Committee proposes that Part III stands as part of the Bill with the following amendment:

#### CLAUSE 4 (4, b) Extent of jurisdiction of courts of The Gambia

This section provides for the jurisdiction of courts of the Gambia, which extends to every place within The Gambia, including its territorial waters, and onboard aircraft and ships bearing the flag of The Gambia.

#### **RECOMMENDATION**

*The Committee proposes that Clause 4 (sub-clause 4, b) stands as part of the Bill with the following amendment:*

- I. *“is done by a person outside The Gambia who afterwards enters The Gambia”, instead of “...and afterwards”*

### PART IV - GENERAL RULES AS TO CRIMINAL RESPONSIBILITY

The Committee proposes that Part IV stands as part of the Bill with the following amendment:

#### CLAUSE 8 (Mistake of fact)

#### **RECOMMENDATION**

*The Committee proposes that Clause 8 stands as part of the Bill with amendment.*

- I. *Remove all the ‘commas’ in line 2.*

#### CLAUSE 9 (Presumption of sound mind)

#### **RECOMMENDATION**

*The Committee proposes that Clause 9 stands part of the Bill with the following amendment.*

- I. *Replace the word ‘which’ in line 2 to the word ‘that’.*

#### CLAUSE 11 (Intoxication)

#### **RECOMMENDATION**

*The Committee proposes that Clause 11 stands part of the Bill with the following amendments:*

- i. 11 (sub-clause 2, line 4) **‘he/she’** instead of **‘he’**
- ii. 11 (sub-clause 2, b, line1) the word **‘insane’** should be replaced with **‘unsound mind’**.
- iii. 11 (sub – clause 5) the word **‘produced’** should be replaced with **‘induced’**.

## Clause 15 (Necessity)

### RECOMMENDATION

The Committee proposes that the word '**evil**' in Clause 15 (1, b, in line 4) be replaced with the word '**harm**'.

## CLAUSE 25 (Duty to do certain acts)

### RECOMMENDATION

It is the opinion of the Committee that the provision is insufficiently drafted. therefore, the Committee proposes that it needs to be redrafted, or should be in a broken-down sentence because it is cumbersome to comprehend and interpret.

## CLAUSE 29 (Definition of accessories after the fact)

### RECOMMENDATION

- i. It is the opinion of the Committee that the title '**Accessories after the fact**' suffices, and that '**Definition of**' should be deleted.
- ii. Under Clause 29 (sub-clause 3, line 1), the article '**an**' should precede the word '**accessory**'

## CLAUSE 31 (Offences by corporations, societies, etc.)

### RECOMMENDATION

The Committee proposes that Clause 31 stands part of the Bill with the following amendment:

1. The word '**director**' in line 1 and '**directs**' in line 2 of clause 31b, should be followed by a comma.

## PART VII – PUNISHMENTS

The Committee proposes that this part stands as part of the Bill with the following amendment:

## CLAUSE 32 (Different kinds of punishments)

### RECOMMENDATION

The Committee proposes that Clause 32 stands part of the Bill **with** the following amendments:

- i. The title be redrafted as '**Types of Punishments**' instead of '**Different kinds of punishments**'

## CLAUSE 33 (Sentencing rules)

### RECOMMENDATION

The Committee proposes that Clause 33 stands part of the Bill with the following amendments:

- i. The subtitle be redrafted as '**Sentencing guidelines**' instead of '**Sentencing rules**'
- ii. The word '**rules**' in 28 (1 and 2) should also be replaced by the word '**guidelines**'.

## CLAUSE 34: (Imprisonment)

### **RECOMMENDATION**

The Committee proposes that Clause 34 stands part of the Bill with an amendment:

- i. The phrase '**hard labour**' in 34 (sub-clause 1, line 3) be expunged.

## CLAUSE 35 (Fines, costs and compensation)

### **RECOMMENDATION**

The Committee proposes that Clause 35 stands part of the Bill with the following amendment:

- i. That the phrase; '**but shall not be excessive**' at last line of Clause 35 (1, a) should be redrafted to determine the limit of '**excessive**'.

## CLAUSE 37 (Forfeiture)

### **RECOMMENDATION**

The Committee proposes that Clause 37 stands part of the Bill with the following amendments:

- i. That Clause 37 should be redrafted as;  
' (1) If a person is convicted of an offence under any of the following sections, namely, sections 79, 80,81, 95,96 and 97, the court may, in addition to or in lieu of any penalty which may be imposed –  
  
(a) order the forfeiture to the state of any property which has passed in connection with the commission of the offence; or  
(b) if the property cannot be forfeited or cannot be found, order such sum to be paid as the court shall assess as the value of the property'  
  
(2) Any property or sum forfeited by an order of the court shall be dealt with in such a manner as the Minister may direct'
- ii. That Clause 37 (sub-clause 3) be amended by deleting the word "so" immediately after the word *sum*.

## CHAPTER II – OFFENCES AGAINST PUBLIC ORDER

### PART VIII – TREASON AND OTHER OFFENCES AGAINST THE SOVEREIGN STATE

The Committee proposes that Part VIII stands as part of the Bill with the following amendments:

## CLAUSE 39 (Treason)

### **RECOMMENDATION**

The Committee proposes that Clause 39 stands part of the Bill with the following amendments:

- i. That Clause 39 (sub-clause 1, d, line 2), the word '**lawfully**' be replaced with the word '**unlawfully**'
- ii. That in Clause 39 (sub-clause 1, f, from line 4), the words '**coerce any other citizen of The Gambia into opposing the Government or otherwise into withdrawing or withholding his or her support from the Government**' be replaced with '**overthrow the government**'.

#### CLAUSE 41 (Spying)

##### **RECOMMENDATION**

The Committee proposes that Clause 41 stands part of the Bill, but the term '**enemy**' in Clause 41, sub-clause 1,a, should be defined in the interpretation section.

Additionally, the penalty stated under Clause 41, sub-clause 1, should be consistent with the penalty for the offence under section 3 of the Official State Secrets Act.

#### CLAUSE 44 (Inciting to mutiny)

##### **RECOMMENDATION**

The Committee proposes that Clause 44 stands part of the Bill with the following amendments:

- i. That the word '**to**' in the title of the clause be deleted, to read as '**inciting mutiny**'
- ii. That the word '**seduce**' in Clause 44, sub-clause a, line 1, be replaced by the word '**incite**'

#### Clause 45 (Inciting to sedition or to disobedience of lawful order)

##### **RECOMMENDATION**

The Committee proposes that Clause 45 stands part of the Bill with the following amendments:

- I. That the clause be further redrafted as:  
"A person who incites a member of the Gambia armed forces or the Gambia police force to-  
(a) **sedition; or**  
(b) **disobedience to any lawful order by a superior officer,**  
**commits an offence and is liable on conviction to imprisonment for five years."**
- II. That the punishment in the Gambia Arm Forces Act should be considered for consistency.

#### CLAUSE 46 (Inducing members of the armed forces or policemen to desert)

##### **RECOMMENDATION**

The Committee proposes that Clause 46 stands part of the Bill **with** the following amendment:

- i. That the penalty stated in clause 46 is commensurate with the penalty in section the Gambia Armed Forces Act.

## CLAUSE 47 (Aiding prisoners of war to escape)

### **RECOMMENDATION**

The Committee proposes that Clause 47 stands part of the Bill **with** the following consideration:

- i. That there is no law on parole in the Gambia. Therefore, parole, as stated in line 4 of the Clause should be defined in the interpretation section.

## CLAUSE 48 (Interpretation of sections 49 to 52)

### **RECOMMENDATION**

- i. That the term '**sedition words**' should be properly interpreted.
- ii. That the word '**sedition**' should be deleted entirely from the Bill.
- iii. That Clauses 48 to 52 be deleted from the Bill.

## CLAUSE 53 (Unlawful oaths to commit capital offences)

### **RECOMMENDATION**

The Committee proposes that Clause 53 stands part of the Bill with the following consideration:

- i. The penalty for this offence is unreasonable. Therefore, the Committee suggests that this offence be merged with the offence of incitement under section 45 of this bill **Inciting to sedition or to disobedience of lawful order**.

## CLAUSE 56 (Unlawful drilling)

### **RECOMMENDATION**

The Committee proposes that Clause 56 stands part of the Bill with the following amendments:

- i. That the Minister stated in Clause 56, sub-clause 1, a, line 1, should be specified. Thus, the Minister responsible for Defence shall suffice.
- ii. That the misspelt word '**pf**' in Clause 56, 1, b, line 3, should be spelt as '**of**'

## CLAUSE 57 (Wrongfully inducing a designated boycott)

### **RECOMMENDATION**

- i. The Committee suggest that the entire clause 57 should be deleted, as it violates the principle of fundamental human rights.

## CLAUSE 58 (Incitement to violence and hate speech)

### **RECOMMENDATION**

The Committee proposes that Clause 58 stands part of the Bill with the following amendment:

- i. That the punishment specified under Clause 58, sub-clause 2, which reads as: '**for five years**' be amended to '**not exceeding five years**'
- ii. That the definition of '**assembly**' in sub-clause 5, stated as "**assembly**" means a gathering of three or more persons be expanded to read as follows: "**assembly**" means a physical or virtual gathering of three or more persons'

## CLAUSE 59 (Watching and besetting)

### **RECOMMENDATION**

The Committee proposes that Clause 59 stands part of the Bill with the following amendments:

- i. That the word '**stalking**' should be added to the sub-title of the clause to read as follows: '**watching, besetting and stalking**'
- ii. That the last two words in sub-clause 3 of this clause which read as; '**charge so**' should instead read as '**so amended**'

## PART X – UNLAWFUL ASSEMBLIES, RIOTS AND OTHER OFFENCES AGAINST PUBLIC TRANQUILITY

The Committee proposes that Part X stands as part of the Bill with the following amendments:

### CLAUSE 63 (Punishment of unlawful assembly)

#### **RECOMMENDATION**

The Committee proposes that Clause 63 stands part of the Bill with the following amendment:

- i. That the phrase '**hard labour**' should be expunged.

### CLAUSE 64 (Punishment of riot)

#### **RECOMMENDATION**

The Committee proposes that Clause 64 stands part of the Bill with the following amendment:

- i. That the punishment/sentence for this offence should be stated, which is enshrined in the interpretation section of felony.

### CLAUSE 66 (Dispersal of rioters after proclamation made)

#### **RECOMMENDATION**

The Committee proposes that Clause 66 stands part of the Bill with the following amendments:

- ii. That the word '**reasonably**' should be included in sub-clause a), just before the word '**necessary**' in line 1.

## CLAUSE 68 (Preventing or obstructing the making proclamation)

### **RECOMMENDATION**

The Committee proposes that Clause 68 stands part of the Bill with the following amendments:

- i. That the subtitle of the Clause which read as '**Preventing or obstructing the making proclamation**' should instead read as '**Preventing or obstructing the making of proclamation**'
- ii. The punishments stated in line 3, which is ten years should be reduced to three years. And
- iii. The punishment stated at the end of the clause, which read as '**...imprisonment for five years**' should instead read as '**...imprisonment not exceeding five years**'.

## CLAUSE 69 (Rioters demolishing buildings, etc)

### **RECOMMENDATION**

The Committee proposes that Clause 69 stands as part of the Bill **with** the following amendments:

- i. The phrase '**A persons who...**' at the beginning of line 1, should instead read as '**Any person who...**'
- ii. In line 2, the words '**or begin to pull down or destroy**' should be expunged.
- iii. The punishment specified therein, which read as '**...for ten years**' should instead be '**...not exceeding ten years**'.

## CLAUSE 70 (Rioters injuring buildings, machinery, etc)

### **RECOMMENDATION**

The Committee proposes that Clause 70 stands part of the Bill with the following amendments:

- i. The word '**injuring**' in the subtitle should be replaced with '**damaging**'
- ii. The punishment specified for this offence, which is '**seven years**' should be reduced to '**five years**'

## CLAUSE 75 (Affray)

### **RECOMMENDATION**

The Committee proposes that Clause 75 stands part of the Bill with the following amendments.

- i. The punishment stated herein, which is '**six years**' should instead read '**not exceeding six years**' as well as community service and a fine should be considered.

## CLAUSE 76 (Challenge to fight a duel)

### **RECOMMENDATION**

The Committee proposes that Clause 76 stands part of the Bill with the following amendment.

- i. The word spelt as '**provoe**' in line 2 should instead be spelt as '**provoke**'.



## CLAUSE 78 (Assembling for the purpose smuggling)

### **RECOMMENDATION**

The Committee proposes that Clause 78 stands part of the Bill with the following amendments:

- i. The word **'of'** should be inserted in the subtitle between the words **'purpose'** and **'smuggle'** to make it read as **'Assembling for the purpose of smuggling'**
- ii. The fine stated as punishment for this offence, which reads **'...to a fine of one hundred thousand dalasis or to imprisonment for one year'** should instead read as **'...to a fine not exceeding one hundred thousand dalasis or to imprisonment for one year'**

## CHAPTER III – OFFENCES AGAINST THE ADMINISTRATION OF

### LAWFUL AUTHORITY

#### PART XI – ABUSE OF OFFICE

The Committee proposes that this part stands part of the Bill with the following amendments:

## CLAUSE 79 (Official corruption)

### **RECOMMENDATION**

The Committee proposes that Clause 79 stands as part of the Bill with the following amendments:

- i. That the word **'or'** be inserted on line 3, Clause 79, b, before the phrase **'to upon'**. This will make it read **'or to upon'**.
- ii. That the punishment for the offence, as stated **'...a fine of one hundred thousand or imprisonment for seven years or to both'** should be changed to **'...a fine of one hundred thousand and imprisonment for not less than ten years'**.

## Clause 80 (Public officers accepting bribe)

### **RECOMMENDATION**

The Committee proposes that Clause 80 stands as part of the Bill **with** the following amendments.

- i. The words **"beyond his or her proper pay and emoluments"** in clause 80, line three should be expunged.
- ii. That the punishment for the offence committed should instead be **"not less than one hundred thousand dalasis and not more than 10 years imprisonment"**

## CLAUSE 86 (Personating public service)

### **RECOMMENDATION**

*The Committee proposes that Clause 86 stands as part of the Bill with the following amendments:*

- i. That the word 'Service' in the subtitle of the clause be replaced with the word 'Servant'. This shall make the subtitle read as; '**Personating Public Servant**'*
- ii. That the words '...of his employment' in sub-clause 'a', line 3, should read as; '...of his or her employment'.*
- iii. That the comma after the word 'misdemeanor' in the final sentence of the clause should be expunged.*

## CLAUSE 87 (Threat of injury to public servant)

### **RECOMMENDATION**

*The committee recommends that this section be redrafted as it appears incomprehensible.*

## PART XII – OFFENCES RELATING TO THE ADMINISTRATION OF JUSTICE

The Committee proposes that this part stands as part of the Bill with the following amendments:

## CLAUSE 96 (Compounding felonies)

### **RECOMMENDATION**

*The Committee proposes that Clause 96 stands as part of the Bill with the following amendment:*

- i. That the word 'for' should be inserted after the word 'asks' in line one of the clause, to make it read as; 'A man who asks for...'*

## CLAUSE 97 (Compounding penal actions)

### **RECOMMENDATION**

*The committee recommends for a clarification on the word '**compounds**'.*

## CLAUSE 98 (Advertisements for stolen property)

### **RECOMMENDATION**

*The Committee proposes that Clause 98 stands as part of the Bill with the following amendments:*

- I. That the subtitle of the clause should read as: '**Advertisements for stolen or lost property**'*
- II. That the words '**person who in relation to stolen or lost property**' just after the subtitle of the clause, replace the words '**A person who**'*

- III. That the article 'the' before the word 'return' in sub-clause 98, a, should be replaced with the word 'its' and the following words after the word 'return' should be expunged: '**of any property which has been stolen or lost,**'
- IV. The words '**the property**' should be inserted after the word '**bought**' in line 2 of subclause b, the word '**it**' to be inserted after the word '**on**' in line 3, the statement '**any stolen or lost property**' in line 3, and the statement '**or any other sum of money**' in line 4, should be deleted.

This shall make the clause read as follows: "**publicly offers to return to a person who may have bought the property or advanced money by way of loan on it, the money so paid or advanced, or reward for the return of such property; or**".

## PART XIV – MISCELLANEOUS OFFENCES AGAINST PUBLIC AUTHORITY

### CLAUSE 102 (Aiding prisoners to escape)

#### RECOMMENDATION

The Committee proposes that Clause 102 stands as part of the Bill with the following amendment:

- I. That the punishment proposed herein should be reconsidered since the offence is a felony.

### CLAUSE 108 (Disobedience of statutory duty)

#### RECOMMENDATION

The Committee proposes that Clause 108 stands as part of the Bill with the following amendment:

- i. Replace the word '**Legislature**' in line 6, with '**National Assembly**'

### CLAUSE 109 (Disobedience of lawful orders)

#### RECOMMENDATION

The Committee proposes that Clause 109 stands as part of the Bill with the following amendments:

- i. The word '**in**' in line 3 should be replaced with the word '**on**'

## CHAPTER IV – OFFENCES INJURIOUS TO THE PUBLIC IN GENERAL

### PART XV – OFFENCES RELATING TO RELIGION

The Committee proposes that this part stands as part of the Bill with the following amendment:

#### CLAUSE 113 (Uttering words with intent to wound religious feelings)

##### **RECOMMENDATION**

*The Committee proposes that Clause 113 stands as part of the Bill with the following amendment:*

- I. That an option of a fine and a community service should be considered as a punishment.*

### (PART - XVI – OFFENCES AGAINST MORALITY)

The Committee proposes that this part stands part of the Bill with the following amendments:

#### CLAUSE 114 (Male person living on earnings of prostitution or persistently Soliciting)

Having examined Clause 114 and reviewed the evidence presented before it, the Committee propose the following amendments.

##### **RECOMMENDATION**

- i. That the word ‘prostitution’ in line 1, should be defined. Additionally, the letter ‘s’ in the ord ‘soliciting’ should be changed to a small letter.*
- ii. In Clause 114, subclause 1, the word ‘male’ should be replaced with the word ‘man’, which will make the clause read as ‘A man who-’*

#### Clause 116 (Suspicious premises)

##### **RECOMMENDATION**

*In subclause a, that ‘women or girl’ in line 2 be replaced with the word ‘a person’*

#### Clause 118 (Attempts to procure abortion)

##### **RECOMMENDATION**

*The Committee proposes that Clause 118 stands as part of the Bill with the following amendment:*

- I. That the punishment proposed should be reduced to two years.*

## CLAUSE 119 (Attempts by woman with child to procure her own abortion)

### **RECOMMENDATION**

The Committee proposes that Clause 119 stands as part of the Bill with the following amendment:

- I. That the punishment proposed should be reduced to two years.

## CLAUSE 124 (Indecent practices between males)

### **RECOMMENDATION**

The Committee proposes that Clause 124 stands as part of the Bill with the following amendment:

- i. That the punishments proposed in clause 1 and 2 should be reduced to one year.

## CLAUSE 125 (Incest by male)

### **RECOMMENDATION**

The Committee proposes that Clause 125 stands as part of the Bill **with** the following amendments:

- i. That the title of the clause and the content should be amended to include both male and female.
- iii. That the punishment proposed in sub-clause 1 should be increased from five years to ten years, considering the gravity of the offence.
- iv. That the punishment proposed in sub-clause 5 should be reduced from **twenty-one** to **eighteen years**.

## CLAUSE 126 (Incest by females)

### **RECOMMENDATION**

Having reviewed the proposals received, and proposed amendments in the previous section, the Committee proposed that Clause 126 should be **deleted**.

## PART XVII - OFFENCES RELATING TO MARRIAGE AND DOMESTIC OBLIGATIONS

The Committee proposes that this part stands as part of the Bill with the following amendment:

## CLAUSE 130 (Fraudulent pretence of marriage)

### **RECOMMENDATION**

The Committee proposes that Clause 130 stands as part of the Bill **with** the following amendments:

- i. That the word 'person' in line 1 should be replaced with the word 'man'*
- ii. That the punishment proposed, which is 'ten years' should be reduced to five years*

#### CLAUSE 133 (Desertion of children)

#### RECOMMENDATION

The Committee proposes that Clause 133 stands as part of the Bill **with** the following amendments:

- i. That the word 'it' in line 3 should be replaced with **him or her**.*

#### CLAUSE 136 (Child stealing)

#### RECOMMENDATION

The Committee proposes that Clause 136 stands as part of the Bill **with** the following amendments:

- i. That in sub-section 1, b, the word 'it' in line 3 should be replaced with **him or her**.*

### PART XVIII – NUISANCES AND OFFENCES AGAINST HEALTH AND CONVENIENCE

The Committee proposes that this part stands as part of the Bill with the following amendment:

#### CLAUSE 137 (Common nuisance)

#### RECOMMENDATION

The Committee proposes that Clause 137 stands as part of the Bill **with** the following amendments:

- i. In sub-clause 137, 1, the punishment proposed should be amended to read as '**...to a fine of twenty thousand dalasi and community sentence**'*

#### CLAUSE 138 (Gaming houses)

#### RECOMMENDATION

The Committee proposes that Clause 138 stands as part of the Bill **with** the following amendments:

- i. That a comma should be inserted between the word '**house**' and '**room**' in sub-clause 1, b*
- ii. Line 3 in the same clause, the word '**purpose**' be followed by the word 'of'*
- iii. That in line 3 of clause 1, c, the word 'purposes' be followed by the word 'of'.*

#### CLAUSE 139 (Betting houses)

##### RECOMMENDATION

The Committee proposes that Clause 139 stands as part of the Bill **with** the following amendments:

- i. That the Gaming and Betting Act should be referenced to correlate with this clause*
- ii. That the words 'purposes following' in sub-clause 1, should be replaced with 'following purposes'*

#### CLAUSE 140 (Lotteries)

##### RECOMMENDATION

The Committee proposes that Clause 140 stands as part of the Bill **with** the following amendment:

- i. That the word 'authourity' in line 1 of sub-clause 2 is misspelt, and should be spelt as 'authority'*

#### CLAUSE 142 (Traffic in obscene publications)

##### RECOMMENDATION

The Committee proposes that Clause 142 stands as part of the Bill **with** the following amendments:

- i. That a comma should be inserted after the word 'distribution' in sub-clause 1, a, line 2*

#### CLAUSE 143 (Idle and disorderly persons)

##### RECOMMENDATION

*The Committee proposes that Clause 143 be deleted*

#### CLAUSE 144 (Rogues and vagabonds)

##### RECOMMENDATION

*The Committee proposes that Clause 144 be deleted*

#### CLAUSE 145 (Wearing of uniform without authority prohibited)

##### RECOMMENDATION

The Committee proposes that Clause 145 stands as part of the Bill **with** the following amendments:

- i. *That the punishment for the offence should be reduced from twenty-five thousand dalasi to ten-thousand dalasi and in default, three months imprisonment (in sub-clause 1), and five thousand dalasi and in default, three months imprisonment (in sub-clause 3)*

#### CLAUSE 146 (Negligent act likely to spread infection of disease dangerous to life)

##### RECOMMENDATION

The Committee proposes that Clause 146 stands as part of the Bill **with** the following amendments:

- i. *That due to the gravity of the offence, the categorization should change from **misdemeanor** to **felony** and the punishment be inserted just after the word, which shall then read as ‘...and is liable on conviction to a sentence of not less than five years and not more than ten years and a fine of five thousand dalasi’.*
- ii. *That the word ‘be’, after the phrase ‘reason to’ in line 2 should be deleted*

#### CLAUSE 147 (Adulteration of food or drink intended for sale)

##### RECOMMENDATION

The Committee proposes that Clause 147 stands as part of the Bill **with** the following amendments:

Two sub-clauses be inserted;

- i. Sub-Clause a, *“commits felony and is liable on conviction to a fine of one hundred thousand dalasi or an imprisonment of five years’*. This means that the offence should be changed from misdemeanor to felony.
- ii. Sub-Clause b, *‘if the offence is committed by corporate body a fine of five million and revocation of their Trade and Business license’*

#### CLAUSE 150 (Sale of adulterated drugs)

##### RECOMMENDATION

The Committee proposes that Clause 150 stands as part of the Bill **with** the following amendments:

*That the offence be changed from misdemeanor to felony, and the punishment to be the same as the punishment proposed in clause 147.*

- i. *Two sub-clauses be inserted;*



- ii. Sub-Clause a, *“commits felony and is liable on conviction to a fine of one hundred thousand dalasi or an imprisonment of five years”*. This means that the offence should be changed from misdemeanor to felony.
- iii. Sub-Clause b, *‘if the offence is committed by corporate body a fine of five million and revocation of their Trade and Business license’*

#### CLAUSE 151 (Fouling water)

##### RECOMMENDATION

The Committee proposes that Clause 151 stands as part of the Bill **with** the following amendments:

*That the offence be changed from misdemeanor to felony, and the punishment to be the same as the punishment proposed in clause 147.*

- i. Two sub-clauses be inserted;
- ii. Sub-Clause a, *“commits felony and is liable on conviction to a fine of one hundred thousand dalasi or an imprisonment of five years”*. This means that the offence should be changed from misdemeanor to felony.
- iii. Sub-Clause b, *‘if the offence is committed by corporate body a fine of five million and revocation of their Trade and Business license’*

## CHAPTER V – OFFENCES AGAINST THE PERSON PART XIX – MURDER AND MANSLAUGHTER

The Committee proposes that this part stands as part of the Bill with the following amendment:

#### CLAUSE 155 (Manslaughter)

##### RECOMMENDATION

The Committee proposes that Clause 155 stands as part of the Bill **with** the following amendments:

- i. *That the definition under the current Criminal Code be retained.*
- ii. *That a new subsection be added that shall read; ‘A person who commits the felony of manslaughter is liable on conviction to imprisonment for life’.*

#### CLAUSE 156 (Murder)

##### RECOMMENDATION

The Committee proposes that Clause 156 stands as part of the Bill **with** the following amendments:

- i. The sentence '*and upon conviction, shall be sentenced to life imprisonment*' should be added to the clause, after the word 'murder'.

#### CLAUSE 157 (Punishment of murder)

##### **RECOMMENDATION**

The Committee proposes that Clause 157 be deleted

#### CLAUSE 158 (Punishment of manslaughter)

##### **RECOMMENDATION**

The Committee proposes that Clause 158 be deleted

#### CLAUSE 162 (Diminished responsibility)

##### **RECOMMENDATION**

The Committee proposes that Clause 162 stands as part of the Bill **with** the following amendments:

*That a comma be inserted after the word made, in line 1 of sub-clause 3*

### **PART XX – INFANTICIDE**

The Committee proposes that this part stands as part of the Bill with the following amendment:

#### CLAUSE 167 (Infanticide)

##### **RECOMMENDATION**

The Committee proposes that Clause 167 stands as part of the Bill **with** the following amendments:

*That the phrase 'is liable' in line 2 of the sub-clause 167, sub clause 2, should be deleted since it has been repeated in the sentence.*

### **PART XXI – OFFENCES CONNECTED WITH MURDER AND SUICIDE**

The Committee proposes that this part stands as part of the Bill with the following amendment:

#### CLAUSE 176 (Attempting suicide)

##### RECOMMENDATION

The Committee proposes that Clause 176 stands as part of the Bill **with** the following amendments:

- i. That a new clause should be inserted to read as:  
*'The court which convicts the person shall also make such order for psycho-social support for him or her as it may consider necessary'.*

#### PART XXII – OFFENCES ENDANGERING LIFE AND HEALTH

The Committee proposes that this part stands as part of the Bill with the following amendment:

#### CLAUSE 180 (Suffocation of infants)

##### RECOMMENDATION

The Committee proposes that Clause 180 stands as part of the Bill **with** the following amendments:

*That the word 'drug' be inserted after the word 'drink' in line 6. The statement shall read '**under the influence of drink or drug**'*

#### CLAUSE 182 (Preventing escape from wreck)

##### RECOMMENDATION

The Committee proposes that Clause 182 stands as part of the Bill **with** the following amendments:

*That the sequence of the numbering of the sub-clauses be corrected.*

#### CLAUSE 196 (Danger or obstruction in public way or line of navigation)

##### RECOMMENDATION

The Committee proposes that Clause 196 stands as part of the Bill **with** the following amendments:

*That the punishment for the offence commitment should be reduced from one hundred thousand to fifty-thousand dalasi.*

#### CLAUSE 199 (Assault on persons protecting wreck)

##### RECOMMENDATION

The Committee proposes that Clause 199 stands as part of the Bill **with** the following amendments:

*That the numbering of the clause be corrected to 199, instead of 299.*

#### CLAUSE 203 (Assault of person executing a lawful duty)

##### **RECOMMENDATION**

The Committee proposes that Clause 203 stands as part of the Bill **with** the following amendments:

*That the punishment for the offence be extended to 'a fine or both'*

#### CLAUSE 213 (Forms of slaving-dealing)

##### **RECOMMENDATION**

The Committee proposes that Clause 213 stands as part of the Bill **with** the following amendments:

*That the words 'with or without hard labour' should be deleted.*

#### CLAUSE 215 (prohibition against bringing, receiving, lodging etc of a Slave)

##### **RECOMMENDATION**

The Committee proposes that Clause 215 stands as part of the Bill **with** the following amendments:

*That the section referenced here should be 213, instead of 214.*

#### CLAUSE 219 (Intimidation)

##### **RECOMMENDATION**

The Committee proposes that Clause 219 stands as part of the Bill **with** the following amendments:

- i. That the word 'to' after the word 'violence' in line 1 of sub-clause a, should be expunged.*
- ii. That the punishment proposed for this offence be increased from twenty-thousand dalasi to fifty-thousand dalasi and from an imprisonment term of three months to one year.*

#### CLAUSE 224 (Funds, etc., held under direction)

##### RECOMMENDATION

The Committee proposes that Clause 224 stands as part of the Bill **with** the following amendments:

*That words 'held under direction' in the title of the clause should be replaced with 'received by agents for sale'*

#### CLAUSE 231 (Penalty for stealing of cattle, etc.)

##### RECOMMENDATION

The Committee proposes that Clause 231 stands as part of the Bill **with** the following amendments:

That the punishment for this offence be reduced from seven years, and read as:

*'a fine not less than one hundred thousand dalasi and imprisonment for not less than three years'.*

#### CLAUSE 232 (Stealing vehicle)

##### RECOMMENDATION

The Committee proposes that Clause 232 stands as part of the Bill **with** the following amendments:

That the punishment for this offence be reduced from ten to five years, but include a fine. Thus, the clause shall read as: *'If the thing stolen is a vehicle, the offender is liable to a fine not less than one hundred thousand dalasi and imprisonment for five years..'*

#### CLAUSE 235 (Stealing by clerks and servants)

##### RECOMMENDATION

The Committee proposes that Clause 235 stands as part of the Bill **with** the following amendments:

*That the pronoun 'her' in line 3 should be replaced with 'she'.*

#### CLAUSE 236 (Stealing by directors or officers of companies)

##### **RECOMMENDATION**

The Committee proposes that Clause 236 stands as part of the Bill **with** the following amendments:

*That the punishment proposed for the offence under this clause should be increased from imprisonment of seven to twelve years.*

#### CLAUSE 238 (Stealing by tenants or lodgers)

##### **RECOMMENDATION**

The Committee proposes that Clause 238 stands as part of the Bill **with** the following amendments:

*That the punishment proposed under this section be reduced from imprisonment of seven years, a fine or three years imprisonment.*

#### CLAUSE 246 (Fraudulently dealing with minerals in mines)

##### **RECOMMENDATION**

The Committee proposes that Clause 246 stands as part of the Bill **with** the following amendment:

*That the punishment proposed in this section be increased from five to ten year-imprisonment.*

### **PART XXVIII – ROBBERY AND EXTORTION**

The Committee proposes that this part stands as part of the Bill with the following amendment:

#### CLAUSE 256 (Demanding property with menaces)

##### **RECOMMENDATION**

The Committee proposes that Clause 256 stands as part of the Bill **with** the following amendments:

*That the clause, both in the title and content should be redrafted to include blackmail.*

#### CLAUSE 260 (Breaking into building and committing felony)

##### **RECOMMENDATION**

The Committee proposes that Clause 260 stands as part of the Bill **with** the following amendments:

*That the word 'and' at the end of line 3 should be expunged.*

#### CLAUSE 264 (Criminal trespass)

##### **RECOMMENDATION**

The Committee proposes that Clause 264 stands as part of the Bill **with** the following amendments:

*The word 'three' in sub-clause b, line 2, should be replaced with the word 'thereon'*

### **PART XXX – FALSE PRETENCES**

The Committee proposes that this part stands as part of the Bill with the following amendment:

#### CLAUSE 270 (Obtaining credit, etc., by false pretences)

##### **RECOMMENDATION**

The Committee proposes that Clause 270 stands as part of the Bill **with** the following amendments:

*That the punishment proposed for this offence should be increased from one to three years.*

#### CLAUSE 273 (Fortune telling)

##### **RECOMMENDATION**

*The Committee proposes that this clause should be deleted.*

#### CLAUSE 277 (Receipt or possession of property stolen abroad)

##### **RECOMMENDATION**

The Committee proposes that Clause 277 stands as part of the Bill **with** the following amendments:

*That the word 'is' in line 3 of sub-clause 2 should be replaced with the word 'in'*

CLAUSE 281 (Directors and officers of corporations or companies fraudulently appropriating property, or keeping fraudulent accounts or falsifying books or accounts)

**RECOMMENDATION**

The Committee proposes that Clause 281 stands as part of the Bill **with** the following amendments:

*That the punishment should be increased from seven to ten years.*

CLAUSE 283 (Fraudulent false accounting)

**RECOMMENDATION**

The Committee proposes that Clause 283 stands as part of the Bill **with** the following amendments:

*That the punishment should be increased from seven to ten years.*

**CHAPTER VIII – OFFENCES RELATING TO COIN**

The Committee proposes that this part stands as part of the Bill with the following amendment:

CLAUSE 313 (Definitions)

**RECOMMENDATION**

The Committee proposes that Clause 313 stands as part of the Bill **with** the following amendments:

Consider replacing the term ‘Order in Council’ in line 2 of the definition of coin with Executive Order.

**CHAPTER IX – PERSONATION**

The Committee proposes that this part stands as part of the Bill with the following amendment:

CLAUSE 333 (Personation in general)

**RECOMMENDATION**

The Committee proposes that Clause 333 stands as part of the Bill **with** the following amendments:

*The word ‘on’ should be inserted after the word ‘liable’*

OBJECT AND REASONS

**RECOMMENDATION**



*That the name of the current Attorney General and Minister of Justice, who re-introduced the Bill to the 6<sup>th</sup> Legislature, should replace the name of the former Attorney General and Minister of Justice.*

## CONCLUSION

Parliament in a democracy is the fundamental pillar in the promulgation of criminal law. Criminal laws protect, serve, and limit human actions and to help guide human conduct. It simply helps to safeguard the lives and properties of individuals in a state. That said, while giving the Committee's blessings to this important Bill, it is important for the Executive and the Legislature to ensure that this, as well as the Criminal Procedure Bill, is regularly reviewed to respond to emerging issues.

I beg to move!

## APPENDIX 1

### LIST OF HON. MEMBERS

1. Hon. Madi M.K. Ceesay - Chairperson
2. Hon. Seedy S.K. Njie - Vice Chairperson
3. Hon. Fatoumatta Njai - Member
4. Hon. Suwaibou Touray - Member
5. Hon. Yahya Sanyang - Member
6. Hon. Abdoulie Ceesay - Member
7. Hon. Muhammed Kanteh - Member
8. Hon. Bakary K. Badjie - Member
9. Hon. Birom J.S. Sowe - Member

### Subject Matter Specialist (SMS)

1. Mrs. Haddy Dandeh Jabbie
2. Mr. Karu O. Sallah

### Support staff of the Committee

1. Mr. Kalipha M.M Mbye - Deputy Clerk Legal Affairs
2. Mr. Marabi S. Hydara - Director of Committees
3. Mr. Sidiki Kabbah - Director of Legal Affairs
4. Mr. Mamadou A.M Bah - Senior Ass. Committee Clerk
5. Ms. Isatou Sonko - Committee Clerk
6. Ms. Mary T Mendy - Research Officer
7. Mr. Lamin M Dibba - Senior Legal Officer
8. Mr. Toney F. Mendy - Senior Table Office

### List of Witnesses

1. Hussein Thomasi - Solicitor General (Ministry of Justice)
2. Onome Obuotor - Parliamentary Counsel MoJ
3. Lamin S Camara - Senior Counsel Private Bar
4. Emmanuel Joof - Chairperson - National Human Rights Commission
5. Njundu Drammeh - Commissioner NHRC
6. Abdoulie Sanneh - Commissioner Gambia Police Force

- |                             |   |
|-----------------------------|---|
| 7. Neneh M.C Cham           | - Member General Legal Counsel          |
| 8. Dr. Saikou kawsu Gassama | - Executive Secretary (NHRC)            |
| 9. Matilda Mendy            | - Dep. executive secretary (NHRC)       |
| 10. Mansour Jobe            | - Director of legal (NHRC)              |
| 11. Mam Ndeban Jobe         | - Director of Programs (NHRC)           |
| 12. Fatou Sulay Penn        | - Senior State Counsel (MoJ)            |
| 13. Sering Bamba            | - Senior State Counsel (MoJ)            |
| 14. Kissima Bittaye         | - Senior Legislative Draftsperson (MoJ) |
| 15. Fatou L Njie            | - Legislative Drafter (MoJ)             |
| 16. Sheikh Omar Jabbie      | - State Counsel prosecutor (MoJ)        |
| 17. Alieu Gibba             | - State Counsel (MoJ)                   |
| 18. Lamin Trawally          | - Legal Officer, Pros& Legal Affairs    |
| 19. Maria Saine             | - Legal Officer (NHRC)                  |
| 20. Christine Boissy        | - RMO NHRC                              |
| 21. Fatoumata Touray        | - OC Pros & Legal Affairs (GPF)         |
| 22. Jeremiah Akigbbgun      | - Superintendent (GPF)                  |
| 23. Alpha Badjie            | - IC SK Pros, (GPF)                     |
| 24. Mariama Sowe            | - Pupil Barrister (MoJ)                 |